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PRIVATE CLUB PRACTICE GROUP

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A Message from Ned

A Road Map for the IRS?

This edition addresses a hot, new topic, "uncertainty in income taxes" and how it relates to the Private Club industry. In 2006, the Financial Accounting Standards Board (FASB) issued Financial Interpretation Number 48 (FIN 48) called "Accounting for Uncertainty in Income Taxes" and required implementation in 2007 by publicly held companies. Private clubs, both tax-exempt (501(c)(7)) and taxable (IRC 277) must adopt FIN 48 for years beginning after December 15, 2008, if they issue GAAP statements.

So what does this mean for your Club? It means that all private clubs must assess all income tax positions taken (note: this does not include payroll, sales, property, or excise taxes) for open tax years and determine whether it is more likely than not (more than 50% likely) that the positions will be upheld in an IRS audit. If the 50% confidence level is not present, then the Club must disclose the uncertain tax position in their financial statement footnotes. If the dollars are determined to be significant, the Club must record the additional income tax liability plus penalty and interest on the balance sheet AND **disclose the same footnote information on Form 990!** Taxable clubs don't have to disclose this information on their tax returns yet, but this will change soon.

Look like a Road Map for the IRS? Sure seems like the IRS is turning your outside CPA into a quasi IRS agent, doesn't it?

Please do not hesitate to call or email me if I can answer any specific questions related to FIN 48, or provide any additional information to help you analyze your tax position.

See you at the Club,

Ned McCrory, CPA
Principal, Private Club Practice Group
Batchelor, Frechette, McCrory, Michael & Co.

FIN 48 TIPS

- **Analyze the three open tax years of your Club (Federal and State) to assess uncertain tax positions.**
- **Meet with your CPA firm to address any FIN 48 issues early in the process so the issuance of year-end financial statements and tax returns is not delayed.**
- **Meet with your banker to assess the possibility of not implementing FIN 48 and having a GAAP departure on your financial statements.**

Left to right: Mitchell Stump, CPA of Club Tax Book and Ned McCrory, CPA, discuss FIN 48 issues at the June Club Controller's Conference in Orlando.

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Do You Have Any Uncertain Tax Positions?

Before you say, "But we are a tax-exempt private club, we don't have any tax issues," please keep reading:

- ✓ Is your Club doing anything that could result in IRS revocation of your tax-exempt status?
- ✓ Has your Club followed proper procedures and vetting of new members required to maintain tax-exempt status as a private club?
- ✓ Does your Club's level of non-member revenue from outside functions or overnight guest room rentals exceed the 15% limitation?
- ✓ Does your Club have revenue from "non-traditional" sources such as takeout food, outside catering, etc. at a level that would jeopardize your tax-exempt status?
- ✓ Did your Club utilize IRC Section 512(a)(3)(d) to exclude gain on sale of club property that likely would not be upheld in an IRS audit?

Before you dismiss this topic as being irrelevant to your Club, take the time to determine if your Club has any disclosure requirements and what steps could be taken to eliminate it in the future.