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Texas Society of Certified Public Accountants

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LOOKING AHEAD TO 2021

By TXCPA Chairman Jerry Spence, CPA-Corpus Christi

Share Your Thoughts

I'd love to hear your feedback and answer your questions. Drop me a note at chairman@tscpa.net.

Happy New Year! At times, it seemed like 2020 would never end. Yet here we are, a new year with new opportunities.

We already know 2021 will bring many changes – changes to how many return to work and school; changes to how we continue to navigate the impact of COVID-19 relief on our clients and employers as we prepare for another busy season; and potential changes on the horizon in Texas as the Texas Legislature begins their 87th session this month.

TXCPA is here to help members work through all that lies ahead in 2021. Here are just a few ways you can stay ahead of the coming changes with TXCPA's support.

Stay in touch. TXCPA offers a variety of ways for you to stay in-the-know about the latest professional updates. Be sure the details in your member profile are accurate so you don't miss any critical alerts. TXCPA's social media channels also provide quick, short and timely updates. Be sure to follow the Society on Facebook, LinkedIn, Twitter and Instagram.

Get informed. With so many changes in 2020 and more to come in 2021, TXCPA CPE is a must for staying informed! Attend a Federal Tax Update webcast and you'll be ready to answer the tough questions for your clients as you move into tax season. Subscribe to the TXCPA Passport and enjoy one year of unlimited short, informative webcasts on your schedule.

Be involved. Involvement helps you maximize your member benefits. You have flexible options for involvement. You can participate in a chat on TXCPA Exchange, join a committee, volunteer with your chapter, or get engaged in TXCPA's advocacy efforts.

The best place to start is by attending our 2021 Advocacy Day and Midyear Meeting on January 26-27! We'll be gathering in a virtual environment and we'd love to "see" you there! Watch your member communications for details and register to be a part of a great program.

When we work together as a profession, we are stronger and more successful. I look forward to working with you in 2021 and beyond. Best wishes for a safe, healthy and productive year ahead!

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AICPA ISSUES EXPOSURE DRAFT ADDRESSING STAFF AUGMENTATION ARRANGEMENTS

By Don Carpenter, MSAcc/CPA

The Professional Ethics Executive Committee of the American Institute of CPAs (AICPA) re-issued an exposure draft for comment titled *Staff Augmentation Arrangement* in September 2020 that updates a draft originally released in December 2018.

Staff augmentation is commonly referred to as loan staff arrangements. Such arrangements are not uncommon in today's environment of lean staffing and are certainly not limited to accounting and tax functions. The reliance on contract (non-employee) services occurs most commonly in accounting or tax functions when non-routine projects such as the implementation of new accounting pronouncements require additional manpower to gather and analyze information.

The need for specific expertise such as during impairment testing or acquisition accounting might also require supplemental temporary staff. To address these gaps in staffing, it is not unusual for companies to turn to their audit firm given the long-term relationship and the efficiencies that naturally result from familiarity with permanent staff and existing systems.

However, use of attest firm personnel raises significant issues with regard to auditor independence. Without these safeguards, the attest firm could find itself effectively auditing the work of its own staff. To avoid this obvious conflict, the exposure draft delineates a list of safeguards that must be observed to preserve auditor independence. Please see Figure 1 for a list of the safeguards.

In addition, the services performed cannot include any activities prohibited by the Independence Rule (ET sec. 1.200.001). Specific areas are highlighted in the guidance that closely follow the non-audit services

listed in the Sarbannes-Oxley Act of 2002 (SOX). These non-audit services include:

- Management responsibilities, such as policy, strategic direction, direction of employees or implementation of internal control;
- Advisory services;
- Appraisal, valuation and actuarial services;
- Benefit plan administration;
- Bookkeeping, payroll and other disbursements;
- Business risk consulting;
- Corporate finance consulting;
- Executive or employee recruiting;
- Forensic accounting;
- Systems design or implementation;
- Internal audit;
- Investment management;
- Tax services.

Within these categories, attest firms can provide services to clients if threats to independence are reduced to an acceptable level, which requires that appropriate safeguards are put in place by clients to avoid impairment to independence. To safeguard independence, client management must:

- Assume management responsibilities;
- Oversee the services with a qualified designated individual;
- Evaluate the adequacy of the services performed; and
- Accept responsibility for the results.

The threat to independence is accretive, meaning that it increases as the firm provides more non-attest services to a client. Therefore, the sum of the work provided rather than each assignment must be considered.

The gravity of using audit firm personnel is reinforced further by the SOX requirements surrounding filling permanent positions by clients with individuals formerly employed by the attest firm. Generally, a one-year cooling off period is required if the role involves financial oversight. Furthermore, the client's audit committee should consider the impact on auditor independence of any hires from the audit firm.

Once the audit firm has cleared the independence hurdle for non-attest services, specific requirements then apply for staff who provide the augmentation staffing. The firm personnel on loan must be under the direction of a member of the client's staff (preferably senior management) who has appropriate skill, knowledge and/or experience to determine the nature and scope of the activities provided by the loan staff. In addition, this individual must oversee the activities and evaluate the adequacy of the services and the results provided.

It is very tempting for audit firms to eye the opportunities provided, but gaps may exist in expertise and staffing of their clients to generate lucrative billings and enhance the training and development of promising professionals within the firm. It is also no surprise that companies turn first to their audit firm when in need of additional manpower or expertise. The relationship that develops in a well-managed audit engagement generates trust and a confidence in the professional skills of the firm. The firm's familiarity with the client's processes, procedures and systems also results in an efficiency that cannot be easily matched by loan staff from other sources.

Because it is in the mutual interest of both the client and audit firm to maintain independence, both parties should assume that staff augmentation from the attest firm is a last resort and should only be considered in the most extreme circumstances. Companies are well advised to maintain relationships with other professional service firms from which to source assistance when the need arises. And the unique position of the audit team allows them to offer advice and assistance in their role of auditor without compromising their independence, which is so critical to the integrity of their audit opinion.

Figure 1.

Safeguards for Auditor Independence

The arrangement is being performed due to an expected situation that would create a significant hardship for the client to make other arrangements.

The arrangement is not expected to reoccur.

The arrangement is performed for only a short period (presumably not to exceed 30 days).

The audit firm personnel on loan do not participate in, or influence, an audit engagement covering any period that includes the arrangement.

ABOUT THE AUTHOR:

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ON YOUR MARK, GET SET, GO??

By Kenneth Besserman, JD, TXCPA Director of Government Relations and Special Counsel

By the time this article appears in *Today's CPA* magazine, we will have weathered a tumultuous few months of post-election turmoil, COVID-19 spikes, and the approval and beginning of the distribution of multiple vaccines to battle the pandemic, while looking ahead to the inauguration of President Joe Biden. All of this happened just in the last couple of months of a whirlwind 2020. With the election behind us, the new presidential administration in front of us and the pandemic still amongst us, 2021 will also be an interesting year for the Texas Legislature.

The 87th legislative session is shaping up to be one of the most interesting sessions in recent memory. Texas has seen oil busts, savings and loan scandals, national financial crises come and go, and redistricting battles that have significantly interrupted budgets and legislative sessions. But the COVID-19 pandemic has made many of the past disruptions fail in comparison. The uncertainty of COVID has interrupted, stalled and shut down legislative sessions around the country.

When the legislative session begins, the Senate and House will adopt COVID-19 protocols and policies to allow the legislature and public to function amidst the pandemic. Beyond session operations, all eyes will be on the legislature to see how they respond to the state budget, business concerns during and post pandemic, school openings and remote learning, and many other issues.

The biggest takeaway from the 2020 election in Texas is that the vaunted, much anticipated Blue Wave never materialized. Not only did it not materialize, the Blue Wave was held so firmly in check that because of redistricting that is on the horizon, it may be many election cycles before Democrats will have an opportunity to capture a significant number of House and Senate seats.

Prior to the election, the Texas Senate was comprised of 19 Republicans and 12 Democrats. The election saw all members of the Senate, except one, who were up for reelection return to the Senate and two new senators – Cesar Blanco (D-El Paso) and Sarah Eckhardt (D-Austin) – retain those seats for their party. In San Antonio, Senator Pete Flores (R-San Antonio) was defeated by Rep. Roland Gutierrez (D-San Antonio), thereby making the Senate party split 18 Republicans and 13 Democrats.

After a general election that saw the Republicans maintain their 83-67 majority in the Texas House, Representative Dade Phelan (R-Beaumont) has been voted in as Speaker of the House. Phelan's accession to the speakership brings a new tenor and style to the House. In November 2020, Phelan convened a bipartisan group of legislators to develop House policies and protocols to address how the House would operate during the 2021 session – everything from how the legislature will operate to how open, accessible and transparent the Texas Capitol, committee hearings and legislative offices will be.

It is too early to determine how the important legislative issues – budget, business liability for reopenings, redistricting, pandemic-related school instruction – will be resolved. Likewise, it will take time for the House, Senate, staff, lobbyists and general public to become acclimated to operating in a different environment.

One of the big takeaways that has come of the pre-session conversations is that all parties – legislators, lobbyists, interest groups – need to pare back their wish list of legislation or must-needs because in all likelihood, far fewer bills will be heard in committee, debated on the floor, or signed into law. Interestingly, since bill filing began on November 9, there has been a 15% increase of bills filed compared to the 2019 session. While unexpected, it is thought that legislators may be filing more bills in order to be on record in support of an issue knowing that most bills will not pass during the session.

Session Amidst a Pandemic

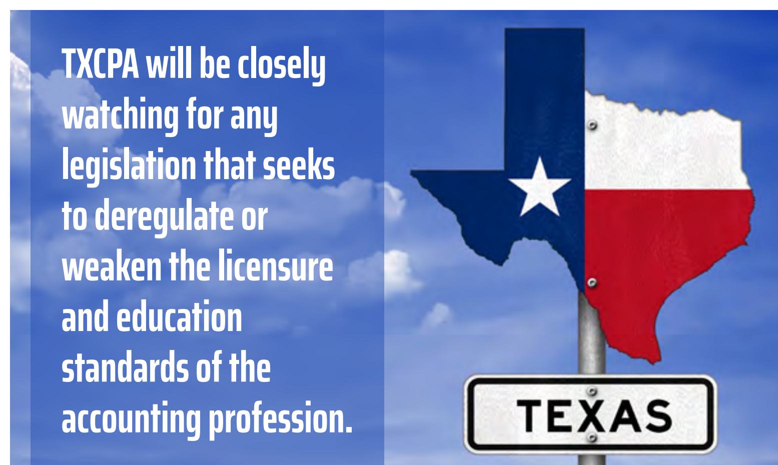
At the time of this writing in December 2020, both the House and the Senate are working on COVID-related policies for session operations. While formal policies and rules will not be finalized until the legislature convenes, there is some broad agreement about some operations. The first 60 days of the session will see very few committee hearings other than Senate Finance and House Appropriations meetings on the state budget.

Opening day of the session, usually packed with guests and visitors, will be much shorter in duration and with far fewer guests and the public able to see opening day in person. There is discussion about mandating masks for those in the Capitol. In addition, witnesses and those attending committee hearings may have to register in advance to attend hearings and also be tested for COVD-19 before entering the building.

The state budget is always the most important issue that the Texas Legislature tackles every session. The past few sessions, Texas has seen enormous budget surpluses and large budget deficits. From the financial crisis to drops in oil prices to property tax reform, the legislature has seen many good times and some bad times. The COVID pandemic has had a significant impact on the state budget and legislators will have to address those budget impacts.

Comptroller Glenn Hegar has been closely monitoring the state budget and in July 2020, he issued a revised budget estimate based on the impact of the pandemic up to that point. "We went from a $3 billion surplus in the current two-year budget to what now is estimated to be a $4.6 billion deficit. Now, part of that is going to be lessened because state leadership instructed agencies to reduce their expenditures," Hegar said. "That probably saves about $1 billion, which is not taken into account for the $4.6 billion deficit because those dollars are retained in the treasury."

Over the 2020 summer months, the state had an unexpected increase in sales tax collections, which may lessen the budget deficit that legislators will see in January 2021. This is good news; however, the fall months of 2020 saw sales tax collections decrease year over year, causing further strain on the state budget. At the start of



the 2021 legislative session, Hegar will issue his biennial revenue estimate detailing the state's financial condition, projected revenues and the projected budget deficit. As of late 2020, the Comptroller's office has indicated that while a budget deficit is certain, and there may be some budget cuts, it will be manageable and not as severe as in past budget tightening sessions.

Texas may be in a better position than many other states because of the substantial balance in the Economic Stabilization Fund (also known as the Rainy Day Fund). The Comptroller's office is predicting that by the end of the current budget cycle (August 2021), there will be approximately $9 to $10 billion in the Rainy Day Fund. There may be some willingness by members of the legislature to use some of the Rainy Day Fund to shore up the deficit.

In addition, the Comptroller's office has indicated that there are several billion dollars of federal COVID funding that the state has received that may be able to be used to offset either local or state budget issues. State leaders are working with the federal government to allow those federal funds to be used for other purposes.

Additional federal stimulus legislation has been bottlenecked in Congress for many months. At the time of the writing of this article (December 2020), there has been some positive movement in Congress to pass another stimulus bill. One of the biggest sticking points is the issue of business liability for reopenings during the pandemic. That provision has been pulled out of the latest version of the stimulus bill in order for the provisions that have much bipartisan agreement to be debated and passed.

Get Involved With TXCPA's Key Person Program

Grassroots political action is a vital element of TXCPA's governmental affairs efforts and the Key Person Program is just one of the ways members can get involved with the grassroots action in Texas. Key Person volunteers provide their assigned legislator with important information on tax and accounting related issues, act as a spokesperson for the profession and help TXCPA achieve important legislative objectives. This is especially important as we head into the 2021 Texas Legislative session. Watch this video to hear fellow members explain how getting involved with TXCPA's advocacy efforts can be easy, fun and rewarding!

Business liability protections will also be addressed during the 2021 session. At least two dozen states have passed various forms of business liability protection – from protections for health care workers and first responders to protections for schools to limits on who may sue to legal defenses for businesses that reopen according to CDC and local regulations.

Many Texas business groups, associations, and employee groups are developing legislative solutions that are seeking to protect the health and safety of employees returning to work and businesses trying to do the right thing. The governor has stated that this issue is vital to the business climate and economy of the state. TXCPA will be part of those discussions and we will keep you informed of the progress and bill language.

Beyond the budget and business liability issues, redistricting will likely take up much of the attention of the legislature. Redistricting is the most partisan and political issue that the legislature faces. With Texas predicted to gain three Congressional seats, and the Texas House of Representatives and Senate firmly in Republican control, the vast majority of seats in the newly drawn Congressional map will continue to favor Republicans.

Generally, the legislature receives the federal census numbers in the spring of a regular session, and then the legislature draws maps and votes on maps during the session. In these uncertain times and with some reports that the census numbers may not be received until June or July 2021, the legislature may not be able to address redistricting during the regular session.

The state House and Senate maps could be debated in a special session after the 2021 session, in the 2023 regular session, or there may be an effort to move the issue directly to the Legislative Redistricting Board – a body composed of the lieutenant governor, speaker of the House, attorney general, comptroller and general Land Office commissioner – who are constitutionally mandated to draw state House and Senate maps if the legislature is unable to do so. Congressional maps will likely be drawn by a federal court, after the legislature attempts, as in past redistricting cycles.

Another issue that will be the focus of the session is the governor's emergency powers. Legislators from both parties and across the political spectrum have questioned the legal authority that the governor is using to suspend, amend, and waive rules and regulations during the pandemic. There have been proposals to amend the Texas Disaster Act to rein in the governor's authority under the Act or to expressly define what the governor can and cannot do under the Act.

In addition, there are proposals to set up emergency or disaster boards or commissions and giving those bodies certain powers to address issues during a declared disaster or emergency. The Texas Disaster Act has largely been untouched in over a generation, so there is a good chance that the legislature will make some changes this session in how future emergencies and disasters are handled.

CPA and Accounting Issues in the 2021 Session

The TXCPA Legislative Advisory Committee and Executive Committee approved the 2021 Legislative Priorities in the

fall of 2020. The Government Relations staff will focus on those priorities during the session and make sure that your voices are heard in the Capitol. Those priorities include:

- Sales tax on professional services;
- Proper and rigorous regulatory oversight of the accounting profession (opposing the deregulation of the accounting profession);
- Extending the fingerprinting deadline for CPA licensees beyond August 2021;
- Tax reform (monitoring all tax changes – whether tax rates, deadlines or new taxes – proposed by the legislature); and
- Business liability issues.

The 2021 session may see issues that will touch the accounting profession and all businesses. The state budget is under significant stress because of lower sales tax collections during the pandemic. While Texas is expected to fare better than other states, there will be pressures on legislators to make cuts, raise revenues and find ways to help citizens, employees, employers, cities, and other entities that have struggled to make ends meet during the pandemic.

There has been legislation in other states that has sought to impose sales taxes on professional services and to remove or cut back professional licensing standards and requirements. National licensing organizations and state professional societies have taken an active role in lobbying state legislatures about the importance of rigorous licensing regimes as a way to protect the public from unscrupulous actors. TXCPA will be closely watching for any legislation that seeks to deregulate or weaken the licensure and education standards of the accounting profession. The Society feels strongly that proper licensing and certification of professions is necessary to ensure that the public is protected and public confidence in the profession is maintained.

Stay tuned for regular legislative updates during the 2021 session and requests from our Government Affairs team to engage in key issues and important legislation. If you are interested in advocacy and our Key Persons program, please reach out and we will get you involved.

About the Author: Kenneth Besserman, JD, is TXCPA's Director of Government Relations and Special Counsel. Contact him at kbesserman@tscpa.net.

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TXCPA's Advocacy Day and Midyear Board and Members Meeting

TXCPA's next Advocacy Day and Midyear Board of Directors and Members Meeting will be going virtual this year. Make plans to attend on **Tuesday and Wednesday, January 26-27**. The meeting is sponsored by CPACharge. The meeting will begin with our Advocacy Day program to help kick-off the 87th Texas legislative session.

Learn about the meeting format and options for participation.

Tax Season Resources for Members

Take advantage of TXCPA resources this tax season! The online, members-only TXCPA Exchange is a great place to ask questions, get advice, provide feedback and expand your professional network. You can log in and join the Tax Issues community to participate in the conversation and discuss your tax questions.

Timely updates on tax topics are also available on the Federal Tax Policy Blog. The blog provides important information and valuable commentary from the TXCPA Federal Tax Policy Committee.

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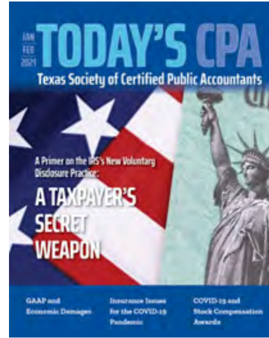

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The editors of *Today's CPA* magazine are seeking articles for consideration in upcoming issues. The magazine features articles and columns that focus on issues, trends and developments affecting CPAs in various facets of business.

We are soliciting technical submissions in all areas, including taxation, regulation, auditing, financial planning, ethics and corporate governance, information technology and other specialized topics.

If you would like to submit an article for consideration or to learn more, please contact Managing Editor DeLynn Deakins at ddeakins@tscpa.net or Technical Editor Brinn Serbanic, CPA, CFP™, at technicaleditor@tscpa.net.

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TXCPA created the promotional campaign – The CPA Advantage – to help CPAs, future CPAs and our chapters promote Texas CPAs to the public. The online digital toolkit provides a variety of helpful resources to assist members in growing their firms or companies, differentiating their services, and increasing awareness of the CPA profession.

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COVER STORY

A Primer on the IRS's New Voluntary Disclosure Practice: A TAXPAYER'S SECRET WEAPON

By Jason B. Freeman, JD, CPA, and
Matthew L. Roberts, JD, LLM

The United States' system of federal taxation is a voluntary one. As such, taxpayers are generally required to voluntarily file an annual income tax return and pay any associated tax liabilities.[i]

Generally, this system has worked well. But, as with any voluntary tax system, there are inevitably instances in which taxpayers attempt to circumvent the system, such as through non-filing, non-reporting or the non-payment of tax. Willful instances of these latter reporting deficiencies can present risks of serious civil penalties and, in some instances, even risks of criminal prosecution.

However, the IRS offers several administrative programs that in some situations may reduce, or even eliminate, criminal and civil penalty exposure for noncompliant taxpayers.[ii] Perhaps the oldest and most widely known is the IRS's voluntary disclosure practice.

Although the practice and its requirements have varied over time, its basic premise has remained the same: noncompliant taxpayers may come forward voluntarily to resolve their outstanding tax issues – and, in the process, reduce their risk of criminal prosecution – provided they disclose the noncompliance, cooperate and otherwise meet the requirements of the program. The taxpayer must, however, come forward in a "timely" manner; that is, before they are on the IRS's radar.

Because the IRS's current voluntary disclosure practice has undergone significant changes in the last few years, this article provides an overview of the practice as it currently stands.

The November 20, 2018 Memorandum

From 2009 through 2018, the IRS effectively maintained a dual voluntary disclosure system. Taxpayers with foreign tax compliance issues were generally eligible to take advantage of the IRS's formal Offshore Voluntary Disclosure Program (OVDP). Taxpayers with only domestic issues were generally eligible for the IRS's domestic voluntary disclosure practice.

The OVDP, a widely successful program, was terminated on September 28, 2018.[iii] With the end of the OVDP, and having drawn nearly a decade of insights from the OVDP and its predecessors, the IRS coordinated a significant overhaul and standardization of its voluntary disclosure practice. As part of that effort, on November 20, 2018, the IRS issued a Memorandum announcing updates to its voluntary disclosure practice (the Memorandum).[iv] Significantly, the Memorandum applies to all voluntary disclosures, whether domestic or offshore, submitted to the IRS after September 28, 2018.[v]

The Memorandum sets out significant new guidance for the voluntary disclosure practice going forward. For example, the Memorandum requires that taxpayers submit a voluntary disclosure using a redesigned Form

agreement between the IRS and the taxpayer as to the proper tax liability.[xii] Moreover, for willful FBAR penalties, the IRS indicates that it will continue to utilize the existing penalty structure under I.R.M. pt. 4.26.16 and I.R.M. pt. 4.26.17.[xiii]

In addition, the Memorandum indicates that penalties for failure to file information returns (e.g., Forms 5471, 8938, 8865) will not automatically be imposed; however, the Memorandum also indicates that the IRS examiner will have the discretion to take into account the applicability of other penalties in making this determination.[xiv]

Revised Form 14457 and Voluntary Disclosure Program Process

In April 2020, the IRS released a revised version of the Form 14457, Voluntary Disclosure Practice Preclearance Request and Application. The revised Form 14457 also includes extensive instructions, most of which incorporate the guidance contained in the Memorandum.

14457.[vi] Form 14457, which can be submitted to IRS Criminal Investigation (IRS-CI) either by fax or mail, provides IRS-CI with significant identifying information, helping them determine whether a taxpayer's submission is "timely" and whether to grant the taxpayer "preclearance" to move forward with the disclosure process.[vii]

If preclearance is granted, the Memorandum instructs the taxpayer to submit additional information regarding the noncompliance on a subsequent section of the same Form 14457 to determine whether the taxpayer will be "preliminarily accepted" into the program.[viii] After preliminary acceptance, the taxpayer is advised that IRS-CI will forward the voluntary disclosure letter and any attachments to IRS LB&I in Austin, Texas for case preparation and examination.[ix]

For penalties, the Memorandum instructs IRS examiners to generally impose one fraud penalty under I.R.C. § 6663 or one civil penalty under I.R.C. § 6651(f) for fraudulent failure to file for the tax year with the highest tax liability.[x] However, the IRS examiner also has the discretion to impose either of these fraud penalties for more than one year "based on the facts and circumstances of the case."[xi]

For example, the Memorandum indicates that the IRS could impose more than one fraud penalty if there is no

Requirements to Make a Voluntary Disclosure

The instructions to the Form 14457, read in conjunction with the IRS's Internal Revenue Manual (IRM), provide taxpayers with guidance on the requirements to make a voluntary disclosure. Thus, tax practitioners should have a thorough understanding of these requirements prior to attempting to submit a voluntary disclosure.

Consistent with its historical voluntary disclosure practice, the instructions and IRM indicate that the IRS will only accept a voluntary disclosure if the disclosure is truthful, timely and complete.[xv] The truthful concept requires little in the way of explanation. However, the concepts of a timely and complete disclosure are discussed below.

Revisions to the Internal Revenue Manual

Only recently, the IRS revised its IRM to take into account changes to the voluntary disclosure program.[xliii] Many of these changes were made to incorporate the Memorandum and revised Form 14457 and instructions, which have been discussed in this article. However, tax practitioners should take caution of the IRM's reminder that the voluntary disclosure program provides no substantive or procedural rights to taxpayers.[xliv]

The IRM also reminds taxpayers that they are unable to rely on the fact that similarly situated taxpayers may not have been recommended for criminal prosecution. Any IRS-CI determinations, including determinations concerning timeliness, completeness, truthfulness, rejection and revocation decisions, are not subject to any administrative or judicial review or appeals process.[xlv]

Under the instructions to the Form 14457 and the IRM, a disclosure is considered timely if the taxpayer submits it before the IRS has:

- Commenced a civil examination or criminal investigation;
- Received information from a third party (e.g., informant, other governmental agency, John Doe summons, etc.) alerting the IRS to the noncompliance; or
- Acquired information directly related to the specific noncompliance from a criminal enforcement action (e.g., search warrant, grand jury subpoena, etc.).[xvi]

Stated differently, if the IRS is already in possession of information that has revealed the tax noncompliance, the taxpayer will not be able to make a voluntary disclosure under the timeliness requirement.

The instructions to the Form 14457 and the IRM also provide additional clarity on the meaning of a complete disclosure. Significantly, the Form 14457 itself cautions taxpayers to "[c]omplete all fields" and in the event a field cannot be completed, the taxpayer is further warned to attach a statement explaining why.[xvii] In addition, the IRM provides that a disclosure will not be considered complete if the willful noncompliance narrative portion of Part II of the Form 14457 does not contain all of the elements addressed in the instructions to the Form 14457.[xviii] Accordingly, taxpayers are generally advised to disclose as much information as possible to avoid having the disclosure deemed incomplete.

The instructions to the Form 14457 and the IRM further communicate to the taxpayer that a successful disclosure requires the taxpayer to cooperate with the IRS in several material respects during the disclosure process. For example, the taxpayer must cooperate with the IRS in determining the proper tax liability and compliance reporting requirements.[xix] Moreover, the taxpayer must cooperate with the IRS in investigating any professional enablers who aided in the noncompliance.[xx]

In addition, the taxpayer must submit all required returns, information returns and reports for the disclosure period.[xxi] Finally, the taxpayer must make good faith arrangements with the IRS to pay in full the tax, interest and any penalties determined by the IRS to be applicable.[xxii]

The instructions and the IRM caution taxpayers that the IRS will not accept a voluntary disclosure if the taxpayer has illegal source income.[xxiii] For these purposes, income is considered illegal even if it is legal under state law, provided it is illegal under federal laws.[xxiv]

Preparation and Submission of Part I of Form 14457

The first step to submit a voluntary disclosure is to obtain preclearance from IRS-CI.[xxv] To do so, the taxpayer must prepare and submit Part I of Form 14457.[xxvi] The primary purpose of preparing and submitting Part I of the Form 14457 to IRS-CI is to assist IRS-CI in determining whether the taxpayer meets the initial requirements of the voluntary disclosure program.[xxvii]

Generally, Part I can be broken down into three segments. First, Part I asks for identifying information of the taxpayer and related parties, including any entities. More specifically, Part I asks the taxpayer to identify all entities (corporations, partnerships, etc.) that were in any way related to the noncompliance during the disclosure period at issue. In addition, Part I asks the taxpayer to identify all entities owned or controlled (or beneficially owned) by the taxpayer during the disclosure period, either directly or indirectly.

Second, Part I asks the taxpayer to provide essentially "yes" or "no" answers to whether the taxpayer or related party has been notified of any intent to commence a civil or criminal investigation, either by the IRS or another government authority.[xxviii] Moreover, Part I asks the taxpayer to answer "yes" or "no" as to whether the taxpayer has information to believe the IRS has obtained information concerning the taxpayer's tax liability and also whether the taxpayer or any related party has income from illegal sources.

Third, Part I asks the taxpayer to list all domestic and foreign noncompliant financial accounts owned or controlled (beneficial or otherwise) by the taxpayer for the relevant disclosure period. This includes the account number and the date the account was opened and closed. Generally, the IRS's determination to preclear a taxpayer to make a voluntary disclosure can take a minimum of 30 days but in some instances may take longer.[xxix]

Preparation and Submission of Part II of Form 14457

After IRS-CI reviews Part I of the Form 14457 and indicates to the taxpayer that the taxpayer has been precleared, the taxpayer has 45 days to complete Part II of Form 14457.[xxx] However, if the taxpayer needs additional time, the taxpayer can generally request an additional 45-day extension.[xxxi] To complete Part II of the Form 14457, the taxpayer will need the case control number, which is provided by IRS-CI after submission of Part I of the Form 14457.[xxxii]

Part II of the Form 14457 asks the taxpayer to submit essentially three parts of information:

- An estimated total annual unreported income amount and the highest aggregate account or asset values of offshore accounts or assets, if applicable, for the disclosure period;
- Information on any professional advisors' involvement in the noncompliance; and
- A noncompliance narrative.

Because the disclosure must be truthful and complete and because the taxpayer must sign this part under penalties of perjury, Part II requires careful attention, particularly with respect to the willful narrative.

For the willful narrative, the taxpayer must provide a thorough discussion of all Title 26 and Title 31 willful failures to report income, pay tax, and submit all required information returns and reports. The taxpayer must also provide in this narrative an explanation of the roles the professional advisors had in the noncompliance. As indicated above, a failure to complete the narrative in

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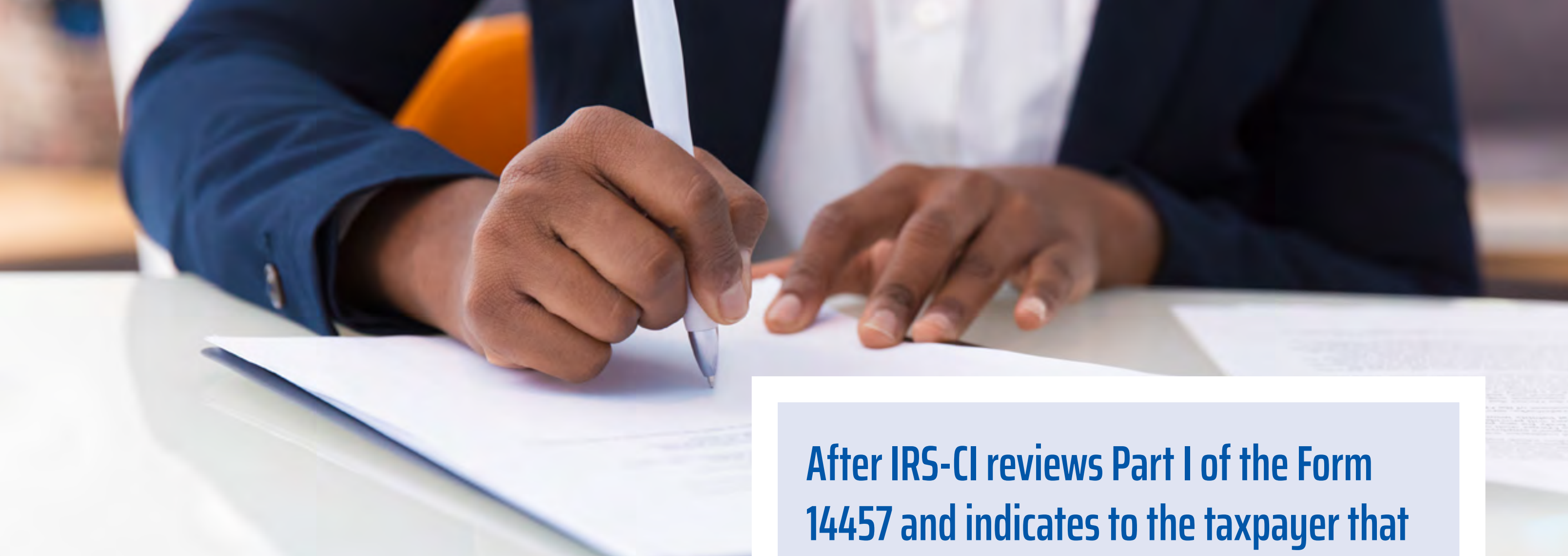

After IRS-CI reviews Part I of the Form 14457 and indicates to the taxpayer that the taxpayer has been precleared, the taxpayer has 45 days to complete Part II of Form 14457.[xxx]

accordance with the instructions to the Form 14457 may result in the disclosure being deemed incomplete.

In signing Part II under penalties of perjury, the taxpayer also agrees that he/she will continue to cooperate with the IRS, including in assessing any income tax liabilities and making good faith arrangements to pay any tax, interest and penalties associated with the voluntary disclosure.[xxxiii] The instructions to Form 14457 also explain that cooperation may include:

- Promptly and fully responding to all information document requests;
- Submitting to interviews and providing access to related party witnesses;
- Providing statute extensions or waivers as necessary for tax and tax-related issues;
- Providing delinquent or amended returns, information returns, supporting documents, workpapers, etc.;
- Providing bank secrecy waivers for offshore cases; and
- Resolving all compliance matters covered by the disclosure by agreement.[xxxiv]

If the taxpayer believes that he/she is unable to pay the tax in full, the instructions to the Form 14457 advise the taxpayer to disclose this on the form and to also submit a proposed payment arrangement and completed Collection Information Statement with the form.[xxxv] The IRS cautions that the burden is on the taxpayer to establish inability to pay, to the satisfaction of the IRS, based on full disclosure of all assets and income, domestic and foreign, under the taxpayer's control.[xxxvi]

Should the taxpayer fail to fully cooperate with the IRS examiner, the instructions further warn that the examiner may request IRS-CI to revoke the taxpayer's preliminary acceptance.[xxxvii] Moreover, in these instances, examiners can expand the scope of the examination to include all tax years involving willful tax noncompliance, resulting in the assertion of all applicable penalties to the maximum extent permitted under the law.[xxxviii]

IRS Examination

The instructions to Form 14457 communicate to the taxpayer that in the event preliminary acceptance of the disclosure is granted (i.e., successful review of Part II), then IRS-CI will forward the taxpayer's case to civil examination.[xxxix] Accordingly, an IRS examiner assigned to the case will contact the taxpayer with an initial contact letter.[xl]

Generally, at this stage, the examiner will request from the taxpayer any delinquent or amended returns and information returns in addition to any other substantiation and records related to the returns.[xli] The instructions caution taxpayers that the voluntary disclosure process is not complete until taxpayers have come into compliance and made good faith arrangements with the IRS to pay the full tax, interest and penalties.[xlii]

Consider the Facts and Circumstances

The IRS's revised voluntary disclosure program provides opportunities for tax practitioners to assist their noncompliant clients in avoiding criminal prosecution. Accordingly, the wise tax practitioner will carefully explore whether a potentially eligible taxpayer meets all the requirements of the voluntary disclosure program and whether the program is a good fit for the client.

In order to make these decisions, tax practitioners should carefully consider the facts and circumstances of the taxpayer's individual case. CPAs should, however, always remain mindful that the accountant privilege does not apply in the criminal context. Given that discussions with clients about a possible voluntary disclosure often involve

potentially incriminating facts, CPAs should almost always seek to involve legal counsel when the privilege is an important consideration.

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FOOTNOTES

[i] I.R.C. § 6012.
[ii] Currently, these programs include the Streamlined Filing Compliance Procedures, the Delinquent FBAR Submission Procedures and the Delinquent International Information Return Submission Procedures.
[iii] IR-2018-176, available at https://www.irs.gov/newsroom/irs-offshore-voluntary-compliance-program-to-end-sept-28.
[iv] IRS Memorandum for Division Commissioners, Nov. 20, 2018.
[v] Id. at 2.
[vi] Id. at 2-3.
[vii] Id. at 3.
[viii] and [ix] Id.
[x] Id. Taxpayers would not be precluded from requesting a reduced accuracy-related penalty under I.R.C. § 6662 instead of the fraud penalty, but the Memorandum indicated that the granting of such requests would be "exceptional."
[xi, xii] Id.
[xiii] Id. Generally, the willful FBAR penalty will be limited to 50% of the highest aggregate balance of all unreported foreign financial accounts during the disclosure period. See IRM pt. 4.26.16.6.5.3 (Nov. 6, 2015). IRS examiners are given discretion to increase or reduce the penalty.
[xiv] Form 14457, at 7.
[xv] Id.
[xvi] Id.; also see IRM pt. 9.5.11.9(7) (Sept. 17, 2020).
[xvii] Form 14457, at 3.
[xviii] IRM pt. 9.5.11.9.1(5). The IRM also cautions taxpayers that if they fail to complete the narrative successfully, they will not be given an opportunity to supplement their submissions. See id.
[xix, xx, xxi, xxii] Form 14457, at 3; IRM pt. 9.5.11.9(6).
[xxiii, xxiv] Form 14457, at 3; IRM pt. 9.5.11.9(5).
[xxv] IRM pt. 9.5.11.9.1(2) (Sept. 17, 2020).
[xxvi] Id.
[xxvii] Id.
[xxviii] The IRM refers to any "yes" response as a potentially "disqualifying factor." See IRM pt. 9.5.11.9.4 (Sept. 17, 2020).
[xxix] Form 14457, at 11.
[xxx] Id. at 13; also see IRM pt. 9.5.11.9.1(4) (Sept. 17, 2020).
[xxxi] Form 14457, at 13; also see IRM pt. 9.5.11.9.1(4).
[xxxii] Form 14457, at 3.
[xxxiii] Id. at 5.
[xxxiv] Id. at 9.
[xxxv] Id. at 10.
[xxxvi] Id.
[xxxvii] Id. at 11.
[xxxviii] Id.
[xxxix] Id. at 7.
[xl, xli, xlii] Id.
[xliii] IRM pt. 9.5.11.9 (Sept. 17, 2020).
[xliv] IRM pt. 9.5.11.9(4) (Sept. 17, 2020).
[xlv] Id.

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FEATURE

GAAP AND Economic Damages

By Stuart Miller, Ph.D., and
Dave Douglass, CPA, CFA

In litigation disputes, it is not uncommon for damages experts to rely on financial information from one party or multiple parties. The information produced may be audited or unaudited.

In the United States, a company's financial statements are often prepared in accordance with U.S. Generally Accepted Accounting Principles (GAAP). Attorneys, judges and other interested parties who are aware of GAAP, but unfamiliar with its purpose, may seek to understand whether the expert's damages methodology "applies" or is "consistent with" GAAP.

In this article, we review the purpose of GAAP and clarify the nexus between GAAP and the analysis of litigation damages in the United States. With certain exceptions, such as where the financial statements themselves are a basis for the dispute (e.g., allegations of accounting fraud), it is not the expert's role to "apply" GAAP or perform an analysis that is "consistent with" GAAP. This is because GAAP is a reporting standard applicable to the preparation of financial statements, while an expert will typically take financial statements as an input to which standard damages methodologies are then applied.

Accounting Overview

Generally Accepted Accounting Principles are a collection of commonly followed accounting rules and standards for financial reporting. The purpose of GAAP is to allow the users of financial statements to be able to understand the financial condition of entities subject to GAAP, and to provide transparency in financial reporting and consistency from one entity to another.[1] GAAP rules vary by country, which has historically made it difficult (without performing adjustments) to compare closely

an entity subject to one country's GAAP to an entity subject to another country's GAAP.

As a result, there has been an impetus globally to adopt International Financial Reporting Standards (IFRS) developed by the International Accounting Standards Board (IASB). Such an adoption would make comparisons significantly easier.[2] Currently, 120 countries have adopted IFRS in whole or in part, but for the foreseeable future, the U.S. will still be using its GAAP, as no decision has been made on a timeline to adopt IFRS.[3]

Since July 2009, the Financial Accounting Standards Board (FASB) has been the official source of nongovernmental U.S. GAAP.[4] U.S. GAAP is required by the U.S. Securities and Exchange Commission (SEC) for companies whose stock is publicly traded in the United States.[5] Additionally, adherence to U.S. GAAP is often viewed favorably by private company investors (and other users of financial statements) and can be a requirement of lenders and acquirers, even if the subject company would not normally be required by law to conform to GAAP. Generally, auditors of financial statements subject to U.S. GAAP indicate as part of their audit opinion whether the financial statements conform to GAAP:

> In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of X Company as of [at] December 31, 20XX, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.[6]

However, as we explain in the following section, GAAP does not necessarily, and in general does not, apply to the determination of economic damages.

Application (or Nonapplication) of GAAP to the Determination of Economic Damages

The Federal Judicial Center's *Reference Manual on Scientific Evidence (Reference Manual)* identifies five categories of damages measures:

- Expectation;
- Reliance;
- Restitution;
- Statutory; and
- Punitive.[7]

The *Reference Manual* states that when measuring economic damages, "the goal … is to find the plaintiff's loss of economic value from the defendant's harmful act."[8] A relevant question is whether the practitioner's pursuit of this goal needs to be done in a matter that is "consistent with GAAP." In most cases, the practitioner will rely on financial information provided by the parties in the determination of economic damages.

As discussed earlier, unless a party's financial records are the basis for the dispute, the damages analysis is conducted independent of GAAP. The reason, again, is that GAAP standardizes financial reporting so that financial statements are comparable across companies.

GAAP is not a methodology for the calculation of economic damages. As others have summarized, an "expert opinion in litigation, while invariably rooted in the financial books and records of the disputing party or

The purpose of GAAP is to allow the users of financial statements to be able to understand the financial condition of entities subject to GAAP, and to provide transparency in financial reporting and consistency from one entity to another.[1]

parties, is not an auditor's opinion on financial statements and may therefore be exempt from GAAP and GAAS."

> Practitioners need to understand the distinction between auditors' opinions and expert opinions. GAAP and generally accepted auditing standards (GAAS) relate to the preparation and examination of a company's financial statements. An auditor's opinion as a result of an audit, review or compilation engagement addresses whether – in the opinion of the auditor – the financial statements fairly present the results of the company in all material respects. An expert opinion in litigation, on the other hand, while invariably rooted in the financial books and records of the disputing party or parties, is not an auditor's opinion on financial statements and may be therefore exempt from GAAP and GAAS.[9]

The fact that GAAP itself is not a damages calculation methodology does not absolve the practitioner from undertaking reasonable efforts to confirm the validity of the data relied upon. While the "validity of data is ultimately a matter of judgment ... [v]alidation of data turns in part on commonsense indicators of accuracy and bias."[10]

The *Reference Manual* provides "a list, in rough order presumptive validity, of data sources often used in damages measurement."[11] In this list, the first category of information is official government publications and databases. The second and third items listed are a "company's audited financial statements and filings with the Securities and Exchange Commission" and a "company's accounting records maintained in the normal course of business."[12]

This is not surprising, as a company's SEC filings, such as form 10-Ks, are signed by its CEO and CFO as to their accuracy[13] and a company's audited financial statements are typically based on its accounting records maintained in the normal course of business. Thus, while practitioners should evaluate the reasonableness of the information they rely on, practitioners do not routinely evaluate whether the underlying data they rely on was prepared following GAAP. This typically would be duplicative of the work performed by the company's auditors and accountants and outside the scope of the expert's engagement, which is presumably to reach an expert opinion on damages.

The fact that GAAP itself is not a damages calculation methodology does not absolve the practitioner from undertaking reasonable efforts to confirm the validity of the data relied upon.

In certain instances, it may fall to an expert to apply GAAP and/or GAAS. Such instances may include disputes as to the accuracy of the financial statements, where the plaintiff files suit against firm management for not reporting financial statements to auditors in accordance with GAAP, or purchase/sale disputes in which one party questions the accuracy of prior financial statements that may impact the determination of a post-closing working capital adjustment.[14]

Outside of these and related scenarios where the statements are in dispute, the practitioner typically relies on the financial information provided in performing the calculation of economic damages.

Best practices for the determination of economic damages are beyond the scope of this article; however, the determination of economic damages itself is neither consistent with nor inconsistent with GAAP. The nexus of GAAP and economic damages occurs when the expert relies on data as an input that has or has not been prepared in accordance with GAAP.

In the lost profits context, the determination of but-for revenues, incremental costs, and other considerations such as prejudgment interest and the application of taxes is performed in a manner that is agnostic to GAAP.

Similarly, in an intellectual property context, the determination of a reasonable royalty rate is based on considerations such as comparable license agreements, cost savings, available non-infringing alternatives

and profitability attributed to the patented invention, and is also agnostic to GAAP.

For experts on damages in litigation, application of GAAP and other topics requiring deep insight, contact the authors of this article or visit www.thinkbrg.com.

Role of the Damages Expert

In summary, GAAP is directed toward the preparation of a company's financial statements and facilitates comparison of financial performance across companies and

GAAP itself is not a methodology for the determination of damages.

With certain exceptions, it is not the role of the damages expert to "apply GAAP" or perform a damages analysis that is "consistent with" GAAP. This is because frequently (though not always), the expert's analysis relies on a party's financial statements as an input.

If the financial information relied on is not in dispute and the expert reasonably believes the information to be accurate, it generally does not fall to the damages expert to apply GAAP.

ABOUT THE AUTHORS

Dr. Stuart Miller is an associate director in BRG's Dallas office. He has over eight years of experience working with and assisting attorneys and clients in the evaluation of damages in litigation disputes. He has experience analyzing claims for damages in commercial litigation, intellectual property disputes and class action cases. He has supported testifying experts in their

For experts on damages in litigation, application of GAAP and other topics requiring deep insight, contact the authors of this article or visit www.thinkbrg.com.

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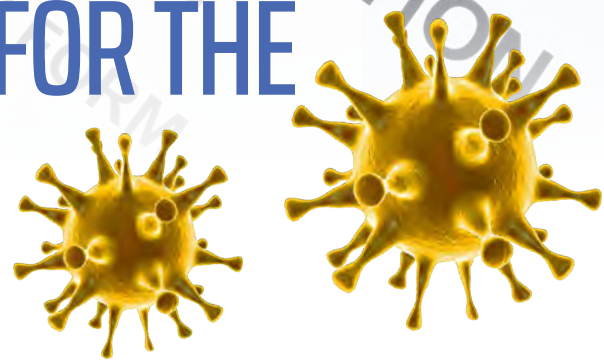
FOOTNOTES

[1] CFA Institute, *US GAAP: Generally Accepted Accounting Principles*, available at https://www.cfainstitute.org/en/advocacy/issues/gaap.
[2] In addition to simplifying comparisons across entities, the adoption of IFRS would simplify the financial reporting of international companies subject to multiple accounting jurisdictions and with subsidiaries located across the globe.
[3] AICPA, "IFRS FAQs," IFRS Resources (2020), available at https://www.ifrs.com/ifrs_faqs.html#q1.
[4] FASB, "Implementing New Standards," available at https://www.fasb.org/jsp/FASB/Page/LandingPage&cid=1175805317350.
[5] SEC Division of Corporation Finance, *Financial Reporting Manual*, Section 1410, p. 48.
[6] AICPA Reports on Audited Financial Statements, AU §508.04, p. 2152.
[7] Mark A. Allen, Robert E. Hall and Victoria A. Lazear, "Reference Guide on Estimation of Economic Damages," in *Reference Manual on Scientific Evidence*, Third Edition (2011), at p. 433.
[8] Id., p. 429.
[9] Elizabeth A. Evans and Roman L. Weil, "Serving as a Financial Expert in Litigation," in Roman L. Weil, Daniel G. Lentz and Elizabeth A. Evans (eds.), *Litigation Services Handbook: The Role of the Financial Expert*, Sixth Edition, Chapter 2 (see 2.6), Hoboken, NJ: John Wiley & Sons, Inc. (2017).
[10] Allen, Hall and Lazear (2011), at 484.
[11] Ibid.
[12] Ibid.
[13] SEC Rule 13a-14(a)/15d-14(a), Certification of Chief Executive Officer, and Rule 13a-14(a)/15d-14(a), Certification of Chief Financial Officer.
[14] Evans and Weil (2017), see 2.7.

FEATURE

INSURANCE ISSUES FOR THE COVID-19 PANDEMIC



By Ben Morgan and Sheri Wilson

COVID-19 has left many organizations that were growing and thriving a short time ago with the challenge of figuring out how to keep their doors open and their employees paid. After several months of federal, state and local mandates, closures and shelter-in-place orders began to relax in early June. However, as new cases of COVID-19 took a sharp rise in the fall, many businesses faced additional shutdowns. The civil unrest and violent protests that many cities across the country experienced posed an additional threat, with physical harm and actual loss and destruction of business property taking place.

Organizations and business owners alike have turned to their insurance coverage looking for answers to the financial struggles brought on by both COVID-19 and the civil unrest that was experienced by much of the country in 2020. Coverages such as business interruption, civil authority, ingress/egress and protection/preservation of property have all been thrust into the spotlight by local and national news outlets.

These reports only muddy the waters about what relief might be available within an organization's insurance policies.

To brighten the spotlight, many states began to have their own interpretation of the insurance wording, trying to force claims related to COVID-19 to be paid out. For example, California introduced a bill that put the burden of proof on insurers, instead of the insured, requiring the insurer to pay out on many claims for which they may not have collected premium for a specific type of risk, such as COVID-19. New Jersey introduced Bill A-3844, forcing insurers to cover losses from COVID-19 on all small businesses with less than 100 employees that had a business interruption coverage policy in place from March 9, 2020.

Like California and New Jersey, six additional states introduced bills addressing coverage for business interruption claims due to COVID-19. Most were met with fierce opposition from the insurance industry and from many lawmakers on both sides, who expressed their concerns regarding the long-term economic impacts such bills could have on the insurance industry.

As of this writing, most courts have sided with the insurers and upheld the language written in the policies. However, the list of claims and lawsuits being filed against insurers continues to grow, including such companies as Ralph Lauren, which sued FM Global (insurer) for $700 million for their business income losses.

Understanding Business Interruption Insurance

With the global spotlight focused on business interruption (BI) coverage over the past several months, what is

the fact and fiction regarding what business interruption coverage is designed for? What, if anything, can and should an organization do in the event it feels it has suffered a loss due to COVID-19 or as a result of the recent civil unrest events around the country?

It is important to understand that BI insurance does not stand alone and is not a mutually exclusive coverage, but rather is attached to a property insurance policy. A property policy, by design, is generally placed to make sure that the assets of a business are insured against loss or destruction, commonly referred to as "direct physical loss or damage."

If a loss such as a fire, lightning strike, windstorm, hail event or flood causes damage to the insured asset, the economic or business revenue generated by the asset could be impacted as well. It is this impact to business revenue generation that property insurance business interruption provisions intend to address for the policyholder.

Since BI coverage is part of a property policy, the losses must be measured according to some generally accepted practices of measuring a loss. A policyholder (insured) sustains a loss and the property policy is activated. The documentation required for recovery is as follows:

1. Event of physical loss or damage;
2. To whom the loss occurred and the location of the insured;
3. Insured peril or event of physical loss or damage;
4. No policy exclusions apply;
5. Insurance company representatives measure the loss.

These steps are commonly called the Chain Rule and at each step, the situation is evaluated. If insureds make it to Step 4 above, they are very close to being made financially whole from the event.

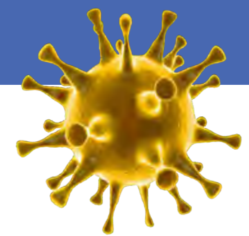
How CPAs Can Help

If clients come to you as their trusted advisor, how do you help? First, ensure they are reaching out concurrently with their insurance broker to get any claim reported and to assist them with understanding what coverages they purchased in the last renewal term. Then, get to work collecting all the right documents.

Accounting documents that will be needed to support a recoverable financial loss include:

- Monthly profit and loss statements in months prior to the closure;
- The strategic operating budget (to include sales and production forecasts);
- Monthly inventory reports;
- Monthly production reports;
- General ledgers;
- Cost accounting reports; and
- Invoices and purchase orders pertaining to the COVID response by the business.

> **...many states began to have their own interpretation of the insurance wording, trying to force claims related to COVID-19 to be paid out.**



Why the long list? The calculation of any business interruption or other time element insurance loss event is a measurement of costs that are fixed in nature and continue in the absence of any income, the measurement of any loss of profit, and the measure of any extraordinary expenses that are related to the event.

Any costs that vary with sales or revenue, or costs that are not typically incurred during closures, are not considered in the calculations. The recurring statement that insurance companies articulate is that "business interruption recovery is supposed to do for the policy holder what their business would have done had no loss occurred." The policy cannot make an insured in better condition than it was prior to the loss.

What makes COVID-19 so unique is that many of the coverages in the policies, such as BI, ingress/egress, acts of closure from civil authority rulings and others, require that an event of physical loss or damage precedes or "triggers" the other coverages that are within the policy.

Go back again to Step 4 above and consider a policy that has an exclusion for contamination or virus. This exclusion, if well written, can serve to throw out all the other coverages under the policy.

If not well written or otherwise vague, the exclusion can leave the door open for insured businesses to access the full breadth of coverage. The exclusions and their wording are the components that are being litigated, argued, worked around, and otherwise the focus for COVID-19 BI coverage.

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CPE ARTICLE

COVID-19 and Stock Compensation Awards

By Josef Rashty

CURRICULUM: Accounting and Auditing

LEVEL: Intermediate

DESIGNED FOR: CPAs in industry and public practice

OBJECTIVES: To gain an understanding of the complexities related to modification of stock compensation awards

KEY TOPICS: COVID-19 and stock compensation awards, including non-qualified stock options, incentive stock options, restricted stock units and employee stock purchase plans

PREREQUISITES: None

ADVANCED PREPARATION: None

The COVID-19 outbreak has wreaked havoc in the financial markets around the globe. Many economists predict that Western economies, including the U.S. and Europe, that dropped sharply early on will follow with a painful slow recovery.

As a result, many companies evaluate their existing compensation arrangements to determine if any specific terms, conditions or estimates have been affected, and they may decide to modify their employees' compensation and benefit arrangements. This may be more prevalent in companies with beaten-down stocks, like airline and hospitality industries.

The spread of the pandemic has created conditions often accompanied with a general economic downturn, including financial market volatility and erosion of market value, increasing unemployment, layoffs and furloughs, and other restructuring activities.

The COVID-19 crisis is redolent of the economic uncertainty surrounding the U.S. financial crisis during the past few decades. Many in the current workforce in the U.S. have been through the previous two economic downturns in recent years (the Dot-com stock market

Table 1
Characteristics of Stock Compensation Awards

Type of Awards	Employer Deductible	Employee Taxable	Employer Taxable
Statutory awards	No	No	Yes
Non-statutory awards	Yes	Yes	No

bubble of 2000 and the subprime mortgage market meltdown of 2008) and recall that economic contractions during these periods led to salary cuts for executives and many other employees – often followed by new stock compensation grants. This may actually benefit some employees in the long run since lower share prices at grant times usually offer the prospect of large gains when stock markets rebound.

This article is a compendium of several plausible scenarios for modification of four frequently and widely used stock compensation awards: non-qualified stock options (NQSOs), incentive stock options (ISOs), restricted stock units (RSUs) and employee stock purchase plans (ESPP). The objective is to canvass and deliberate on several common occurring possibilities, but it does not claim to be an overarching source for any possible modification of stock compensation awards plans. Thus, it exhorts readers to research the accounting literature and guidance applicable to their particular situation for customary practices.

Tax Implication of Stock Compensation Awards

Types of Stock Compensation Awards

There are two types of stock awards from a tax perspective: statutory awards and non-statutory awards. Table 1 summarizes the characteristics of these two types of stock awards.

Non-statutory stock awards (e.g., nonqualified stock options and restricted stock units) often create deferred tax assets (DTAs) upon recognition of compensation expense. Companies affected by current market conditions related to the COVID-19 pandemic may incur unexpected and significant losses and as a result, they may need to assess their ability to realize their DTAs prior to expiration.

Realizability of DTAs

The 2020 Coronavirus Aid, Relief, and Economic Security Act (CARES Act) has included temporary changes to income and non-income-based tax laws: for example, it eliminates the 80% of taxable income limitation by allowing net operating losses (NOLs) to offset taxable income in 2018, 2019 or 2020, and allows companies to carry back their NOLs for five years for the NOLs originated in these years. Realizability of DTAs depends on companies having sufficient taxable income and their ability of carry backs and carry forwards under the strictures of the tax law and regulations.

Realizability of Windfall Profit

The windfall tax profit is the incremental tax benefit that exceeds the previously deferred tax assets recognized for a particular award (ASC 718-640-35-2). FASB requires the application of "with and without" approach for the exercise of equity awards, whereby the windfall profit is considered realized and recognized for financial statement purposes if and only if an incremental benefit is provided after the company has considered and allocated all other available tax benefits (e.g., NOLs).

Disqualifying Disposition of Statutory Awards

Disqualifying disposition (the disposition of awards prior to the end of the holding period specified in Section 423 of the Internal Revenue Code) changes the statutory status of awards to non-statutory. Under Section 423 of the IRC, disqualifying disposition is the legal term for selling, transferring or exchanging statutory awards before satisfying their holding-period requirements (i.e., holding the awards for at least two years from date of grant and one year from date of exercise).

One type of statutory stock awards is ISOs, where employers generally do not receive a tax deduction on employees' exercise of their options. Internal Revenue Code Section 423 also designates qualified employee stock purchase plans (ESPPs) as statutory grants. ESPPs, similar to ISOs, do not provide a tax deduction for employers. Statutory stock awards change their statutory status upon disqualifying disposition of the awards and companies treat disqualified statutory compensatory awards similar to non-statutory awards for accounting purposes.

Table 2
Types of Modification Under ASC 718

Type of Modification	Compensation Expense	Basis for Recognition
Type I Modification Probable-to-probable ASC 718-20-55-111 and 55-112	Companies record it either under original terms or modified terms	Grant date fair value plus incremental fair value, if any (cumulative compensation cost)
Type II Modification Probable-to-improbable ASC 718-20-55-113 through 55-115	Companies record it either under original terms or modified terms	Grant date fair value plus incremental fair value, if any (cumulative compensation cost)
Type III Modification Improbable-to-probable ASC 718-20-55-116 and 55-117	Companies record it as if awards are vested under the modified terms	Modification date fair value
Type IV Modification Improbable-to-improbable ASC 718-20-55-118 and 55-119	Companies record it as if awards are vested under the modified terms	Modification date fair value

Modification of Stock Awards

COVID-19 has caused significant volatility in stock prices and as a result, many companies may decide to modify their stock award programs. They can make changes to vesting period, performance and/or market conditions. Upon making changes to the terms or conditions of existing compensatory awards, companies must assess if that change results in modification accounting (ASC 718-10-20). Companies record any incremental value of the new (or modified) awards as compensation costs on the modification date (for vested awards) or over the remaining vesting period (for the unvested awards).

Changes made to a service, performance or market condition generally require modification accounting. Companies apply modification accounting when either the fair value, vesting conditions or the classification of the award are not the same immediately before or after the modification (718-20-35-2A through 35-9). Companies should not apply modification accounting if all the following are the same immediately before and after the modification:

- Fair value;
- Vesting conditions;
- Classification (as either liability or equity instruments).

ASC 718-20-35-2A states that if any of the above conditions does not apply, companies should apply modification accounting, wherein equity-classified or liability-classified awards are treated as exchange (or repurchase) of the original awards for new awards of equal or greater value. When companies cancel certain awards and accompany the cancellation by a concurrent grant or offer to grant, they should account for the transaction as modification. Table 2 summarizes the types of modification under ASC 718.

Stock Options

There are generally two types of stock options: non-statutory stock options (NQSOs) and statutory stock

Table 3
Journal Entries for Illustration 1

Year 1

	Debit	Credit
Stock compensation	$300	
Additional paid-in capital (APIC)		$300
100 NQSOs at $6 BSM fair value divided by two		
DTA	$30	
Deferred tax benefits		$30
Taxes at 10% for $600 stock compensation		

Year 2

Since the modification is Type III modification (improbable-to-probable), the fair value of the new options at modification is the new basis for expense recognition.

	Debit	Credit
Stock compensation	$700	
APIC		$700
100 NQSOs at $7 BSM fair value		
DTA	$70	
Deferred tax benefits		$70
Taxes at 10% for $700 stock compensation		
APIC	$300	
Stock compensation		$300
Deferred tax benefits	$30	
DTA		$30
Reversal of Year 1 journal entries since the original awards are cancelled and forfeited		
Cash	$800	
APIC		$800
Exercise of 100 NQSOs at $8 (assuming no par value)		
Deferred tax benefits	$70	
DTA		$70
Reversal of previously booked DTAs for Year 2		
Taxes payable	$90	
Tax expense		$90
10% tax on exercise of $100 NQSOs at $9 ($17 less $8). There is a windfall (an excess tax benefit) of $20 ($90 less $70) that will be reflected in earnings.		

Employer deduction equals to employee's income of $900 (based on intrinsic value – the difference between the stock price and exercise price).

options (ISOs). NQSOs are flexible and companies grant them to both employees and non-employees. NQSOs are generally taxable to employees and tax deductible for employers, whereas ISOs are not taxable to employees until the underlying stock is sold and non-tax deductible for employers; however, ISOs must meet certain statutory requirements to qualify for such favorable tax treatment (discussed in more detail earlier in this article).

Non-Qualified Stock Options

NQSOs are non-statutory stock compensation awards. IRC Section 83(h) provides that upon the transfer of property (transferring the stock awards) in connection with the performance of services, the employer (or the grantor) claims a tax deduction under IRC Section 162. The amount of employer's tax deduction equals the amount that the service providers or grantees (employees or non-employees) include in their gross income. The following illustration reflects the tax treatment and modification accounting of NQSOs.

In Illustration 1, Entity A grants to one of its sales executives 100 NQSOs at-the-money with two-year cliff vesting. The grant date stock price and exercise price are both at $10 and its BSM fair value is $6. Entity A accounts for forfeitures on an actual basis and there was no forfeiture for this grant. The grant has a performance condition, in addition to its time provision, that the sales executive must achieve a $4 million goal in sales at the end of Year 2.

At the beginning of Year 2, the stock price declines to $8 and economic conditions deteriorate. Entity A lowers the performance goal from $4 million (considered improbable) to $2.5 million (considered probable), reduces the exercise price from $10 to $8 (a Type III improbable-to-probable modification), and cancels the original awards and issues new grants.

All options fully vest at the end of Year 2, and the employee meets the performance goal. The employee exercises (but does not sell) 100 NQSOs at $8 exercise price when price per share was $17 at the end of Year 2. The BSM fair value of options was $7 after modification and it was nil before modification. Tax rate is 10%. The journal entries in Table 3 reflect the above transaction.

Table 4
Journal Entries for Illustration 2

Year 1

Stock compensation	$250	
APIC		$250

100 ISOs at $5 BSM fair value divided by two

Year 2

Since the modification is the Type I modification (probable-to-probable), grant date fair value plus incremental fair value (cumulative compensation cost) is the basis for recognition. Thus, $7 (BSM fair value after modification) less $1 (BSM fair value before modification) = $6 (incremental compensation cost). $6 (incremental compensation cost) plus $5 (original fair value) = $11 (cumulative compensation cost).

Stock compensation	$300	
APIC		$300

Expense adjustment for 50 ISOs vested at the end of Year 1 at $6 (incremental compensation cost)

Stock compensation	$550	
APIC		$550

50 ISOs vested at the end of Year 2 at $11 (cumulative compensation cost)

Cash	$800	
APIC		$800

Exercise of 100 ISOs at $8 exercise price (assuming no par value)

There is no tax deduction for Entity A if the employee holds on to options for the statutory period; otherwise, if the employee sells the stock for $1,700 a few days later, ISOs will be treated like NQSOs and tax deductible for the employer and taxable to the employee (ordinary income) for $900 ($1,700 less $800) and Entity A records the following journal entry:

Taxes payable	$90	
Tax expense		$90

10% tax on disqualified disposition of $100 ISOs at $9 ($17 less $8).

In this scenario, Entity A has a compensation expense for $1,100 and a tax deduction for $900; thus, there is a tax shortfall for $20 ($200 times 10%) that will be reflected in earnings.

Incentive Stock Options

In addition to complying with the statutory holding-period requirement, ISOs must satisfy a slew of other conditions, such as: they must be granted only to employees; the life of the grant may not be longer than 10 years; options must be exercised within three months of employees' termination; and several other conditions.

Illustration 2 reflects accounting for ISO modification.

Entity A grants one of its sale executives 100 ISOs at-the-money with two-year graded vesting (50% vesting at the completion of each year). The grant date stock price is $10 and its BSM fair value is $5. Entity A accounts for forfeitures on an actual basis and there was no forfeiture for this grant. The grant has a performance condition, in addition to its time provision, that the sales executive must achieve a $2 million goal in sales at the end of each year.

At the beginning of Year 2, the stock price declines to $8 and economic conditions deteriorate. Entity A lowers the performance goal for the second year from $2 million (considered still to be probable) to $1 million (considered to be most likely probable) and it also reduced the exercise price from $10 to $8 (a Type I probable-to-probable modification).

The executive achieves the performance goal at the end of Year 1 and as a result, 50 ISOs were fully vested but not exercised. The remaining 50 options were fully vested at the end of Year 2 since the executive met the Year 2 performance goal. The employee exercises (but does not sell) 100 ISOs at $8 when the price per share was $17 at the end of Year 2. The BSM fair value of options after modification was at $7 and before modification was at $1; therefore, the incremental fair value was $6. The journal entries in Table 4 reflect the above transaction.

Restricted Stock Units

Restricted Stock Units (RSUs) are stock awards that an employer grants to its employees provided that certain vesting conditions are met. RSUs are not transfer of shares at grant date, but merely a promise to deliver

Table 5
Journal Entries for Illustration 3

Year 1			Year 2		
Stock compensation	$5,000		Stock compensation	$7,400	
APIC		$5,000	APIC		$7,400
At the end of Year 1, 500 RSUs are vested and transferred to employees (1,000 RSU divided by 2 times $10). There is no par value for the shares granted.			*Vesting of 900 RSUs: At the end of Year 2, 500 RSUs are vested and transferred to employees (1,000 RSUs divided by 2 times $10 = $5,000), plus 400 RSUs vested and transferred to employees (400 RSUs times $6 = $2,400). There is no par value for the shares granted.*		

Table 6
Journal Entries Assuming No Section 83(b) Election

Year 1		
Tax liability	$750	
Tax expense		$750
Tax expense at 10% of $7,500 (500 shares times $15 – share price at the end of Year 1)		
Year 2		
Tax liability	$810	
Tax expense		$810
Tax expense at 10% times $8,100 (900 shares times $9)		

Total expenses for RSUs were $12,400 that would have created $1,240 DTA in Year 1 and Year 2. The actual taxes are $1,560 ($810 plus $750) and include a windfall (excess tax benefit) of $320 ($1,560 less $1,240).

stock awards at a future date. RSUs may have dividend rights while not vested, but usually they do not have any voting or dividend rights prior to vesting. RSUs are non-statutory stock awards and deductible by employers for tax purposes.

Illustration 3 reflects accounting for RSU modification.

Entity A grants 1,000 RSUs to its employees at the beginning of Year 1 when the price of stock is at $10 per share (intrinsic value). The awards have two-year graded vesting period with 50% annual vesting in each anniversary. Applicable tax rate is 10%. The price of the stock drops from $15 (at the end of Year 1) to $6 per share at the beginning of Year 2.

Entity A decides to maintain the grants as they are since they retain their values partially despite the decline in stock price; however, it grants an additional 400 RSUs at $6 per share (intrinsic value) at the beginning of Year 2 to offset the steep decline in the price of the shares at the end of Year 1. The additional RSUs have the same vesting period as the original RSUs (50% immediately vested and the remaining will vest at the end of Year 2).

This modification is a Type I probable-to-probable modification since the original RSUs get vested at the end of the second year despite the sharp decline in market price of Entity A's shares and maintain some of their original values. Entity A calculates its forfeiture based on the actual rate and does not have any forfeited awards. The basis for expense recognition in this type of modification is grant date fair value plus incremental fair value (cumulative compensation cost), if any. The price of stock was $9 at the end of Year 2.

Accounting Under ASC 718

RSU stock compensation expense is based on grant-date fair value and number of shares that vest over a service period. The journal entries in Table 5 reflect the above transaction.

U.S. Taxation

Employers have a tax deduction equal to employees' income when taxed. Employees are subject to tax at vesting based on stock price on that date; however, under IRC Section 83(b), if they elect, they can be taxed based on RSUs' grant date original fair value. The journal entries in Table 6 on the previous page assume no Section 83(b) election.

Employee Stock Purchase Plan

ESPPs are designed to promote employee stock ownership by providing employees with a convenient means to acquire their employers' shares. It is a contractual promise that permits acquisition of shares on a future date under the terms and conditions that the contract establishes at the grant date.

The acquisition of shares typically occurs through payroll deduction whereby employees set aside a certain percentage of their compensation (usually over one year or less) to purchase their employer's stock. The employer then uses the amount withheld to acquire the company's stock from the market at a discounted price at the end of the period and submit the shares to the employee.

There is a safe harbor level of 5% for the discount that an employer could offer an employee without the ESPP being considered compensatory. If considered compensatory, the fair value of the entire award related to the plan may be included in the calculation of share-based payment compensation cost (ASC 718-50-25-1(a)(2)).

The discount typically applies to the lesser of the beginning or ending of the offering period stock price. In this scenario, if the stock price declines significantly, the employees still benefit since they acquire the stock at the end of the period low price; however, if the stock price is in a free fall mode, they may not benefit if the price continues to decline after they acquired the stock.

Companies usually allow enrolled employees in an ESPP plan to withdraw their contributed funds prior to the end of the offering period for various reasons, including possible termination or emergency. Some companies even allow employees to reduce their contribution percentage during the period. In these scenarios, the employees can potentially avoid losses if they act timely.

A broad decline in the company's share price, due to COVID-19 or other reasons, may not impact the participants of an ESPP plan, since the employees (who are usually the only participants) can always reduce or stop their contributions to an ESPP plan. If the share price continues its decline, the risk can still be avoided if the employees sell the shares immediately subsequent to their acquisition.

Classification of Stock Awards

The classification of an award as equity or liability is an important aspect of the accounting for share-based arrangement: liability-classified awards are remeasured to fair value in each period until the reward is settled, whereas equity-classified awards are measured at grant date fair value with no subsequent remeasurement. Topic 718 requires companies to account for the following stock awards as liability-classified awards:

- Awards with cash-based settlement or repurchase features, such as share appreciation rights (SARs) with a cash-settlement feature, are liability-classified awards;
- Awards that vest or become exercisable based on the achievement of a condition other than service, performance or market condition;
- ASU 2016-09 requires that for awards with a net-settlement feature, if the amount that is withheld is in excess of the grantee's maximum individual statutory tax rate in the applicable jurisdiction, the entire award would be liability-classified.

Modification of stock compensation awards from equity to liability is rare, but could have severe implications since it requires the employers to remeasure the stock compensation cost in each period. For example, if a company changes the performance condition of its stock compensation awards from achieving a certain performance goal to availability of a medicine or vaccine for COVID-19, it has made its stock compensation awards exercisable based on the achievement of a condition

other than service, performance or market condition. In this scenario, the awards may be reclassified as liability.

Accounting for Stock Compensation Awards

COVID-19 started a turmoil in the relatively staid world of accounting by creating a confluence of issues that companies have to grapple with in the next several years. One consideration is compensation accounting and in particular, accounting for stock compensation awards.

Many companies have reduced the salaries of their executives and employees as the COVID-19 pandemic swept across the economy. These salary deductions often get offset by additional stock compensation grants to neutralize the compensation reversal that, until early 2020, was at its peak due to a record bull market in a robust economy.

Companies' comportment to salary reductions differ: some may decide to modify or enhance their stock compensation plans to retain and motivate their employees and attract new hires, and some may disregard the economic impact of downturn on their employees' compensation plans and pursue other means to remedy their employees' compensation losses.

Changes to stock compensation plans have ramifications and companies need to consider the relevant accounting implications before embarking on such projects. It is imperative that companies take into account the provisions of ASC 718 and its recent amendments, as well as the CARES Act and other tax legislation related to stock compensation awards.

Finally, financial planning and forecasting is particularly challenging at the time of COVID-19 and its vicissitudes. Companies need to consider the possible resurgence of infections in parts of the country followed by extended economic shutdowns and business restrictions and disruptions. The majority of economists expect a "swoosh" shape recovery (resembling the Nike® logo), with an economic decline at the beginning followed by a slow gradual recovery.

Additional stock compensation expense due to plan modifications, as well as the realizability of DTAs due to deteriorating economic conditions, may impact the future earnings and earnings per share (EPS) of companies materially. These economic impacts require proper disclosure and analysis in the periodic financial reporting of companies.

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CPE ARTICLE: COVID-19 AND STOCK COMPENSATION AWARDS

By: Josef Rashty

Today's CPA offers the self-study exam for readers to earn one hour of continuing professional education credit. The questions are based on technical information from the preceding article. If you score 70 or better, you will receive a certificate verifying you have earned one hour of CPE credit – granted as of the date the test arrived in the TXCPA office – in accordance with the rules of the Texas State Board of Public Accountancy (TSBPA). If you score below 70, you will receive a letter with your grade.

1. The article argues that the spread of the pandemic has created the following condition(s):
a. General economic downturn
b. Financial market volatility
c. Layoffs and furloughs
d. All of the above

2. The disqualifying disposition changes:
a. The non-statutory status of awards to statutory
b. The statutory status of awards to non-statutory
c. Both a and b
d. Nothing at all

3. Which of the following awards is considered statutory awards?
a. ISOs
b. ESPPs
c. NQSOs
d. Both a and b

4. The basis of recognition for Type III modifications (improbable-to-probable) is:
a. Grant date fair value plus incremental fair value, if any
b. Modification date fair value
c. Grant date fair value based on BSM
d. Either b or c

5. ISOs must be exercised within __________ of employees' termination.
a. Three months
b. 10 years
c. One month
d. Three years

6. RSUs _________ dividend rights while not vested.
a. May have
b. Do not have
c. Always have
d. None of the above

7. RSUs are __________ by employers for tax purposes.
a. Non-deductible
b. Reportable
c. Deductible
d. Ignored

8. Under IRC Section 83(b), if elected, RSUs can be taxed based on their:
a. Grant date original fair values
b. Vesting date fair value
c. Market values a day prior to vesting
d. Market values a day after vesting

9. The acquisition of ESPP shares typically occurs through:
a. A loan
b. Cash payment upon acquisition
c. Payroll deduction
d. Advance payment by employers

10. Liability-classified awards:
a. Do not exist
b. Are remeasured to fair value in each period until the reward is settled
c. Are not remeasured
d. Are measured as frequently as possible

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$635,000 gross. NE San Antonio metro area CPA firm. 53% tax, 56% ind./44% bus., 47% write-up/payroll, staff in place and seller available to assist with transition. TXC1069

$290,000 gross. E/SE Texas CPA firm. Primarily tax (70%), high-quality clientele, solid fee structure, turn-key opportunity. TXN1451

$365,000 gross. Grayson Co. CPA firm. (68%) tax, (24%) accntng, (9%) consulting, staff in place, loyal client base, turn-key opportunity. TXN1471

$449,000 gross. SW Arlington CPA firm. 55% tax, 32% accntg, 11% misc., strong fees, quality client base, turn-key location, experienced staff in place. TXN1474

$209,000 gross. NE Texas CPA firm. 70% tax, 30% acctng, ideal size for marketing-oriented buyer to tap existing client base and grow substantially. TXN1491

$640,000 gross. N. Dallas CPA firm. 56% tax, 44% acctng, experienced staff in place, strong fee structure, high-quality and diverse client base. TXN1492

$266,000 gross. East Texas EA firm. 67% tax, 33% acctng, quality client base, experienced staff in place, turn-key opportunity. TXN1497

$364,000 gross. Hurst CPA firm. 89% tax, 11% accounting services, turn-key practice with experienced staff and primed for new owner and smooth transition. TXN1498

$525,000 gross. Northern Collin Co. CPA firm. 57% tax, 29% bkkpg, 10% payroll, 5% misc., turn-key, cloud-based operation, tenured staff and loyal client base. TXN1508

$367,000 gross. Abilene CPA firm. 65% tax, 28% acctng, 9% payroll, quality clients, knowledgeable staff in place, strong fee structure, turn-key opportunity. TXN1509

$787,000 gross. East Texas (Tyler/Longview) CPA firm. Accntng (32%), tax (47%), audits (10%), misc. (11%), loyal client base, experienced staff and strong fee structure. TXN1510

$514,000 gross. Mansfield CPA firm. Predominantly tax (95%), excellent cash flow of approx. 65%, loyal client base, strong fee structure, turn-key opportunity. TXN1511

$1,060,000 gross. North Texas CPA audit practice. Specializes in two niche industries, strong fees and excellent cash flow near 50%, highly desirable area, turn-key. TXN1517

$288,000 gross. Texarkana EA firm. Tax prep 73%, accounting 20%, tax planning/rep 7%, strong fees, experienced staff, quality client base, primed for growth. TXN1519

$61,000 gross. The Colony bkkpg firm. Revenues from mthly/qrtly bkkpg and payroll services, quality clients, strong fees and cash flow near 80%, somewhat portable. TXN1520

$270,000 gross. Burleson CPA firm. 51% tax, 37% acctng/bkkpg, 12% misc., strong cash flow over 50%, staff in place, turn-key opportunity. Available after 4/15/20. TXN1521

$168,000 gross. Hurst CPA firm. Revenues almost entirely from tax, efficient paperless systems, solid fee structure in place, turn-key practice primed for new owner. TXN1522

$580,000 gross. Beaumont-Port Arthur area CPA firm. Nearly 50/50 tax and acctng, great fee structure and support staff in place, desirable location for lease or purchase. TXS1219

$540,000 gross. Greenway-Galleria area CPA firm. Tax 62%, acct/bkkpg 37%, consult 1%, excellent turn-key location, seller available to help with transition. TXS1220

$305,000 gross. SE Texas CPA firm. Tax 60%, bkkpg 40%, turn-key practice with staff in place, friendly clients, owner available to assist through tax season. TXS1232

$1,811,000 gross. League City area CPA firm. Tax 53%, bkkpg 31%, consulting 16%, strong fees, sophisticated client base, excellent staff, turn-key practice. TXS1235

$734,000 gross. Kingwood/Humble area CPA firm. Tax 67%, bkkpg 29%, consulting 32%, audit 1%, staff in place, prime location, long-term and loyal client base. TXS1239

$825,000 gross. N. Houston area CPA firm. Tax 48%, bkkpg 38%, consulting 14%, trained staff, sophisticated business clientele, turn-key office, prime location. TXS1241

$67,000 gross. Mid Valley area tax and accounting firm. Bkkpg 72%, tax 28%, friendly client base, turn-key office in ideal location, seller available for transition help. TXS1244

$350,000 gross. W. Houston CPA firm. Prime location, great mix of tax, bkkpg and acctng services, staff in place and seller available to assist with transition. TXS1245

$1,050,000 gross. West Houston CPA firm. Tax 66%, audit/reviews 22%, bkkpg 12%, excellent cash flow, long-term clientele, experienced staff, office available. TXS1246

$209,000 gross. Houston CPA firm. Tax 75%, bkkpg 8%, other 17%, somewhat portable within Houston area, nice fee structure, great cash flow, little annual turn over. TXS1247

$292,000 gross. Lubbock CPA firm. Acctng 10%, tax 90% (61% ind., 28% bus., 11% other), great cash flow over 73%, consistent annual revenues, seasonal employee. TXW1023

$1,512.850 gross. West Texas CPA firm. 53% tax (returns are 70% ind./23% bus./7% other), 35% write-up/comp, 12% audit/reviews, cash flow near 52%, experienced staff in place, location available for lease or purchase, owners available for transition. TXW1025

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