Uncertain tax position reporting
What it means for the retail enterprise

As the new disclosure regime in Internal Revenue Service (IRS) pronouncements moves closer to a complete phase in, large business corporations should be proactive in shaping their tax planning to address their reporting requirements. The regulations require large business corporations — those with assets greater than $100 million in 2010 — to report their uncertain tax positions (UTPs) on their federal corporate income tax returns.

The impact of tax return reporting of UTPs can be wide ranging and may include (1) an increased demand on tax professional resources; (2) requirements for new or enhanced controls and procedures; and (3) the need for additional information. Many taxpayers are also concerned with the potential impact the UTP reporting may have on the IRS audit cycles.

To navigate this shifting landscape, you need a trusted advisor to assist in addressing uncertain items, and potentially reducing uncertainty through the use of IRS programs, planning, analysis, and documentation. Deloitte can help.

Who must file

Beginning with 2010 tax returns, a corporation must file Schedule UTP with its federal income tax return if it:

- Files Form 1120, U.S. Corporation Income Tax Return; Form 1120 F, U.S. Income Tax Return of a Foreign Corporation; Form 1120 L, U.S. Life Insurance Company Income Tax Return; or Form 1120 PC, U.S. Property and Casualty Insurance Company Income Tax Return;
- Has assets equal to or exceeding $100 million (IRS states that will be phasing to $10 million by 2014);
- Issued an audited financial statement that covers all or a portion of the corporation's operations for all or a portion of the corporation's tax year (or if a related party has done so); and
- Has one or more tax positions that must be reported on Schedule UTP

Passthrough and tax-exempt entities are not covered under the current proposal but may be required to file Schedule UTP in the future.

Broad range of issues impact potential UTP reporting

In general, the UTP reporting requirements are consistent with financial statement reporting. However, due to concerns surrounding implementation of the new requirement that such UTPs are also required to be reported on filed tax returns, some corporate taxpayers may decide to take steps to reduce uncertainty relating to specific issues.

In order to assess the new reporting obligations, corporate taxpayers in the retail industry should possess a thorough understanding of how fundamental business activities affect their tax liability. Among the categories of retail tax issues that can potentially result in a UTP, the following should be considered for additional analysis; inventory, unicap, fixed assets, transfer pricing, and recent merger and acquisition activity.

Develop a road map for addressing the impact of UTP reporting

Deloitte's tax professionals can advise and assist your organization to prepare for the new reporting regime. Our tax specialists can help you:

- **Reduce uncertainty.** Deloitte can advise and assist your organization with analysis of your current accounting methods or assist you with gathering documentation of existing accounting methods. What's more, we can provide you with advice and assistance in

UTPs to be disclosed

The IRS final schedule requires disclosure of two categories of UTPs:

- UTPs for which a company has recorded a reserve in its audited financial statements; and
- UTPs for which no reserve is recorded because the taxpayer expects to litigate the position

requesting an IRS ruling or help you submit prefiling agreements with the IRS, which allows for issue resolution with the IRS prior to filing of tax returns.

- **Manage examinations.** Deloitte's tax professionals can help your organization manage alternative dispute resolution activities using the latest methodologies, such as IRS prefiling agreements and Industry Issue Resolution (IIR). Prefiling agreements are part of a program in which the taxpayer identifies an issue and presents it to the IRS for resolution before the tax return is filed. IIR is used to resolve frequently disputed issues that affect a significant number of taxpayers.
- **Improve your tax department infrastructure.** Deloitte can provide advisory services addressing the resources, processes, and technology needed to streamline and enhance the use of data or simply update your organization's current tax department infrastructure.
- **Prepare Schedule UTP.** Deloitte can assist your organization to prepare its first year filing of Schedule UTP, determining which UTPs should be disclosed, and draft the concise description for your review of each UTP, as required by the IRS.
- **Communicate tax compliance risk.** Deloitte can assist you with clarifying the tax impact of business risks — and helping you strike a balance with rewarded and unrewarded risk.

Deloitte's integrated approach to our clients

Our strengths include:

- A solid and sustained track record in tax advisory services to the retail industry
- A national team of retail industry professionals dedicated to our retail clients
- The deep resources of one of the largest tax practices in the United States
- Tax services that range from general compliance support to tax technical niche services
- Access to the specialized and extensive resources of Deloitte, its U.S. affiliates, and the member firms of Deloitte Touche Tohmatsu Limited and their affiliates

The Deloitte difference

As the retail industry evolves and expands, effective tax planning has become pivotal to remaining competitive.

Deloitte brings a collaborative, integrated approach to the complexities of the retail tax landscape. Our professionals come from both tax and the retail backgrounds, so they have an understanding of the issues you face. Because of our long history of work with the retail sector, this understanding runs deep.

But we bring more to the equation than tax knowledge. Our global perspective and experience enable us to support retailers in the increasingly multinational marketplace — from navigating new markets to negotiating multiple tax authorities. Our information technology acumen gives us the background to help companies align technology with tax compliance and planning. And our commitment to service means that we are client-driven and focused on client satisfaction.

Learn why the retail industry considers Deloitte a thought leader and trusted service advisor.

For more information

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