L·B·B BRIEFS FOR SMALLER REPORTING COMPANIES

M&A ACCOUNTING ISSUES - After several years on the sidelines, many companies are focusing again on mergers, acquisitions, and divestitures. For some of these companies, this is their first time applying the new standards on business combinations and noncontrolling interests. With this in mind, we highlight some topics that continue to surface in this area.

Contingent consideration or compensation? Buyers and sellers often design contingent consideration arrangements to resolve differences in how they value businesses. Other contingent payments, however, may compensate selling shareholders for future services.

Telling the difference between the two isn't always easy. Companies often need to apply judgment and consider the various factors in the business combinations guidance to determine the substance of an arrangement. In some situations, the answer may be straightforward: a contingent payment arrangement is compensation if the payment is automatically forfeited when employment terminates.

What's a business? While it may seem like old news, the expanded definition of a business continues to create challenges. The stakes are high due to differences in accounting between a business combination and an asset acquisition, including the treatment of transaction costs, acquired in-process research and development, and goodwill. Here are a few aspects of the new definition of a business that generate questions:

- In order to be considered a business, an integrated set of activities and assets needs to be *capable* of producing outputs and providing a return to investors. This means that even acquired groups that do not currently generate revenue are most likely businesses.

- In order to conclude that something is a business, an acquirer does not need to acquire all of the inputs and processes used by the seller. Instead, consider the nature of the missing elements, and whether a market participant has or could easily replace those elements. The acquirer's intended use for the acquired group should not affect whether the acquired group is considered a business.

Not surprisingly, the revised definition of a business means that many more transactions are now being accounted for as business combinations.

LOSS CONTINGENCY DISCLOSURES—PLENTY OF SCRUTINY

Loss contingency disclosures remain top of mind for preparers, auditors, and regulators alike. In fact, senior SEC officials continue to emphasize in public remarks and comment letters the need for companies to better comply with existing guidance.

Clearly, there is a lot going on in this area. During the second quarter of 2011, experts expect the FASB (in coordination with the SEC) to begin its evaluation of whether disclosures during the 2010 financial reporting cycle showed improvement from prior periods. The FASB will use this information to decide whether to continue its project to enhance disclosures of loss contingencies.

As a reminder, these disclosure requirements are equally applicable to interim reporting, so companies should carefully evaluate their loss contingency disclosures when preparing their first quarter 2011 filings.

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