

Update to *IRS Wants a Roadmap*: IRS Announces Draft Schedule Coming in April for 2010 Tax Year

March 8, 2010

The Internal Revenue Service (IRS) is plowing forward with its plan to require most corporate taxpayers to disclose uncertain tax positions on a schedule to be filed with their federal tax return. On March 5, the IRS made an announcement further demonstrating its resolve to move ahead with the aggressive mandate announced on February 16 in [Announcement 2010-9](#). The announcement was discussed in Morgan Lewis' January 27 LawFlash "[IRS Wants a Roadmap: Proposes Broad Disclosure of Uncertain Tax Positions on Returns and Guts Restraint Policy on Tax Accrual Workpapers.](#)" In [Announcement 2010-17](#), the IRS made known that (1) a draft schedule is coming with a "target date" of early April; (2) it will apply to the 2010 taxable year; and (3) the comment period deadline has been extended from March 29, 2010 to June 1, 2010.

Draft Schedule Coming in April. The IRS is working on the "roadmap" schedule for taxpayers' unilateral disclosures of uncertain tax positions and indicated that the schedule will clarify some of the issues already brought to their attention, such as application of Announcement 2010-9 to pass-through entities and tax-exempt entities and the potential duplication of reporting with other forms (for example, Forms 8275 and 8275-R).

Uncertain Tax Positions to Be Disclosed in 2010 Tax Returns. Announcement 2010-17 states that uncertain tax positions must be disclosed in returns filed for tax returns starting with respect to the 2010 taxable year. The 2010 taxable year means the calendar year starting January 1, 2010 or any fiscal year starting in 2010.

June 1, 2010 Comment Period. The IRS extended the comment period on the Announcement 2010-9 proposal from March 29, 2010 to June 1, 2010. The major difference between the two deadlines being that by June 1, commentators will have the draft schedule and instructions to comment upon. Much can be said of the IRS's handling of this issue, but suffice it to say the issuance of the draft schedule is an aggressive move towards a pre-ordained issuance of the schedule. Hopefully this does not mean dismissal of taxpayer comments regarding the threshold issue of whether such a schedule is appropriate in the first place. For example, commenters might raise the question of whether such a schedule is a step toward tax simplification or toward an increase in the frequency of tax litigation. Given the myriad provisions within the Internal Revenue Code and regulations that lack absolute certainty and are inherently subject to multiple levels of interpretation, we think the answer to that question is certainly the latter.

Morgan Lewis's January 27 LawFlash, "IRS Wants a Roadmap: Proposes Broad Disclosure of Uncertain Tax Positions on Returns and Guts Restraint Policy on Tax Accrual Workpapers," is available at http://www.morganlewis.com/pubs/Tax_IRSRoadmap_LF_27jan10.pdf. IRS Announcement 2010-9 is available at http://www.morganlewis.com/documents/AdminProceduralMiscell_2010-9.pdf, and IRS Announcement 2010-17 is available at http://www.morganlewis.com/documents/ItemsOfGeneralInterest_2010-17.pdf.

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