

# Kevane mailbag

## July 30, 2015 – Issue 52

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<b>General Information</b> 	Join us in a series of four webcasts on <b>Value Added Tax</b> basics and their impact on your business operations. Click <a href="#">here</a> for more details.  <b>August 12</b> - General aspects <b>August 19</b> - Accounting methods, adjustments and debit/credit notes <b>August 26</b> - Filings, documentation and certificates <b>September 2</b> - Implementation process

# Audit Alert: FASB and IASB discuss principal versus agent analysis

*All decisions reached at Board meetings are tentative and may be changed at future meetings. Decisions are included in an Exposure Draft only after a formal written ballot. Decisions reflected in Exposure Drafts are often changed in redeliberations by the Board based on information received in comment letters, at public roundtable discussions, and from other sources. Board decisions become final after a formal written ballot to issue a final Accounting Standards Update.*

The FASB and the IASB held a joint videoconference [meeting](#) on June 22 to discuss implementation questions on the principal versus agent guidance in ASC 606 and IFRS 15, both titled *Revenue from Contracts with Customers*, which arose during a meeting of the Joint Transition Resource Group for Revenue Recognition.

The Boards tentatively agreed to propose amendments to ASC 606 and IFRS 15 to clarify the principal versus agent guidance, as summarized below. The Boards reaffirmed that the principal versus agent guidance in ASC 606 and IFRS 15 is based on the principle of control. The Boards tentatively decided to amend the guidance to clarify how to apply the control principle to services performed by another entity. The Boards proposed clarifying that an entity acting as a principal controls a right to a service to be performed by another party, which gives the entity the ability to direct the other party in providing that service to the customer on the entity's behalf in satisfying its performance obligation.

The Boards also tentatively agreed to clarify the unit of account for the principal versus agent evaluation by explaining that a “specified good or service” is a distinct good or service (or a distinct bundle of goods or services). In some circumstances, a “specified good or service” may be a right to an underlying good or service that will be provided by another party.

Finally, the Boards tentatively decided to amend the examples in ASC 606 and IFRS 15 that describe how to apply the principal versus agent guidance and to include additional examples.

See the full article at: <http://www.grantthornton.com/issues/library/newsletters/audit/2015/on-the-horizon/July/Jul-02.aspx#sthash.X6Di8Z9.dpuf>

Source: Grant Thornton, *On The Horizon*, July 2, 2015

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# Tax Alert: Tax amnesty period approved in the Municipality of Carolina

The Municipality of Carolina approved Ordinance No. 53, Series 2014-2015-60, providing an amnesty period for the payment of debts in arrears for Municipal License Tax, Municipal Sales and Use Tax and Municipal Fines. The amnesty period started on July 1, 2015 and will run through November 30, 2015.

There are various settlement alternatives depending on the applicable tax and the fiscal year in which the debt originated as follows:

## Municipal license taxes ("Patente municipal")

Fiscal years 2010-2011 through 2014-2015

The benefit is a full waiver of interest, surcharges and penalties if the taxpayer elects to pay the principal as a lump sum payment. If the taxpayer elects to enroll in a payment plan, 10% of the amount of accrued interest, surcharges and penalties owed will be added to the principal amount of the debt.

Fiscal years 2006-2007 through 2009-2010

If the taxpayer elects to pay in full, the benefit will be the full waiver of interest, surcharges and penalties, and 35% of the principal amount. If the taxpayer enrolls in a payment plan, the waiver of the principal will be reduced to 30%, but the accrued interest, surcharges and penalties owed will be waived.

Fiscal years 2005-2006 and earlier  
If the taxpayer elects to pay in full, the benefit will be the full waiver of interest, surcharges and penalties, and 55% of the principal amount. If the taxpayer enrolls in a payment plan, the waiver of the principal will be reduced to 50%, but the accrued interest, surcharges and penalties owed will be waived.

In any of the above cases, if the debts are already assessed, notified or in any way imposed by the Municipal Department of Finance and Budget, 25% of applicable interest, surcharges and/or penalties will be added.

## Sales and Use Tax

Assessed debts incurred on or prior before June 30, 2015 that are pending payment

The benefit is a payment of the principal amount due plus 25% of the applicable interest, surcharges and penalties.

Non-assessed debts incurred on or before June 30, 2015 that are filed and declared

The benefit is a full waiver of the interest, surcharges and penalties by paying the principal amount due.



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### Assessed debts without a principal amount due

The benefit is a payment of 25% of the applicable interest, surcharges and penalties.

The amnesty is not applicable to debts incurred after July 1, 2015.

### Municipal Fines

The amnesty is applicable to those charged prior to June 30, 2015, for which the benefit consist of paying 65% of the total amount owed. There are no payment plans available for the payment of municipal fines under the amnesty. The amnesty does not cover those fines issued after July 1, 2015.

### Eligibility

In order to be eligible for the amnesty, the taxpayer must file any previous unfiled Volume of Business Declarations and Monthly Sales and Use Tax returns applicable to the periods under the amnesty program and must have filed and paid the Volume of Business Declaration and the Monthly Sales and Use Tax returns for the fiscal year 2014-2015.

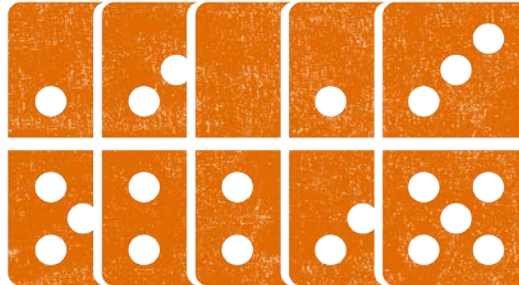
### Payment plans

The Director of Finance and Budget may approve payment plans for the payments of the Municipal License Tax and Sales and Use Tax under the current internal guidance provided in the Regulation issued for the Collection of Debts in Arrears of the Municipality of Carolina.

### Amnesty fees

Taxpayers who voluntary enter in the amnesty program must pay a nonrefundable **administrative fee** equal to 1% of the total debt, which shall not be less than \$50 and not more than \$500.

Also, taxpayers under a court proceeding or with cases under investigation for which a deficiency has been notified must also pay a **legal fee** equal to 10% of the total debt.



### Payment

All payments required as part of the amnesty program must be made in cash, debit or credit card, certify check or money order.

If a taxpayer does not agree with a particular debt, it must request reconsideration providing supporting evidence. The Municipal Finance Office will evaluate the claim and notify the result. In such notification is received after the amnesty period has ended, the taxpayer would still have a period of 30 days once the notification was sent to settle according to the terms of amnesty program.

**Please contact our Tax Department should you require additional information regarding this or any other tax issue; we will be glad to assist you.**

# Advisory Alert: Financial reporting during Chapter 11 reorganization

## Introduction

Tumultuous economic conditions and industry events can cause liquidity and other business challenges, forcing a company to seek protection under Chapter 11 of the Bankruptcy Code. As a means of reducing excessive debt, addressing major liabilities, and/or changing operational obligations, Chapter 11 provides a mechanism for a company to reorganize the business under a court-supervised process. This process, however, greatly increases the financial reporting requirements and, consequently, the resource demands on the debtor. Bankruptcy reporting entails three distinct areas of financial reporting and related work streams:

- (i) the initial bankruptcy reporting, which includes such items as the Statement of Financial Affairs (“SOFA”) and the Schedules of Assets and Liabilities (“Schedules”);
- (ii) ongoing bankruptcy reporting, in addition to the regular reporting obligations of the company, which includes items such as monthly operating reports (“MORs”) and other reporting that might be required/requested by the U.S. Trustee or other constituents; and
- (iii) reporting for the reorganized entity in the Plan of Reorganization (“Plan”) and Disclosure Statement, which may involve fresh start accounting principles. Financial reporting takes on new importance for an entity in Chapter 11 because it must provide all constituents and stakeholders with a clear view of past

and ongoing operations, as well as the entity’s potential future viability. In some cases, the initial filings and statements may provide the first indication of the extent of the company’s assets and obligations. While some of the required reporting may be similar to that which is prepared for entities that are not subject to bankruptcy proceedings, the audience for this reporting may be very different. For example, reports normally prepared for internal management or shareholders may now be disclosed to many interested parties, including creditors, customers, and potential acquirers.



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### Initial bankruptcy financial reporting

Certain financial reporting is required as part of the Chapter 11 petition. Some of this information is provided immediately, while other reporting (such as the SOFA and Schedules) can be filed within 15 days of filing the petition (or longer if an extension from the bankruptcy court is granted). The following is a summary of the financial reporting that is typically required in connection with a Chapter 11 filing:

- *Exhibit “A” to the Petition* – This is a brief outline of the financial condition of the business, listing total assets, total liabilities, information relating to the public trading of the debtor’s securities (including debt and equity), the nature of the entity’s debts (e.g., secured, unsecured, subordinated), a general description of the business, and a listing of insiders.
- *List of Creditors Holding 20 Largest Unsecured Claims* – This list contains the names of the debtor’s 20 largest unsecured creditors, excluding insiders. The list must also contain the creditors’ addresses; nature of the claim; whether the claim is contingent, unliquidated, disputed, or subject to setoff; and the amount of the claims.
- *List of Creditors* – This listing must include all of the debtor’s creditors by each class, including the amounts, character of each claim, securities and, if known, the name and address or place of business for each creditor. The list must also include whether a claim is contingent, unliquidated, disputed, or subject to setoff, when each claim was incurred, the consideration received, and other related data.

- *Corporate Ownership Statement and List of Equity Security Holders* – This list outlines all of the debtor’s equity security holders for each class and includes the number and kind of interests registered in the name of each holder, along with their last known address or place of business.
- *Schedules of Assets and Liabilities (“Schedules”)* – The Schedules are sworn statements of the debtor’s assets and liabilities as of the filing date. Organized in alphabetical order as Schedules A through J, they also include information about the debtor’s operations and obligations. It is critically important that these Schedules are as accurate as possible, as failure to provide accurate and thorough listings could cause a creditor’s claim to be exempted from a debt discharge when and if a Plan is later confirmed. Additionally, omission of material facts may be construed as a false statement or concealment. Further, the time and expense associated with addressing inaccurate or missing claims can be significant. See the table below for an overview of the Schedules of Assets and Liabilities.

Overview of the schedules of assets and liabilities	
<b>Schedule A</b>	Real property
<b>Schedule B</b>	Personal property
<b>Schedule C</b>	Property claimed as exempt
<b>Schedule D</b>	Creditors holding secured claims
<b>Schedule E</b>	Creditors holding unsecured priority claims
<b>Schedule F</b>	Creditors holding
<b>Schedule G</b>	Executory contracts and unexpired leases
<b>Schedule H</b>	Co-debtors
<b>Schedule I</b>	Current income of individual debtor(s)
<b>Schedule J</b>	Current expenditure of individual debtors(s)

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- *Statement of Financial Affairs (“SOFA”)* – The SOFA is a series of detailed questions about the debtor’s property and conduct. It primarily features questions that deal with financial information and, therefore, it is typically prepared by internal or independent accountants. The SOFA consists of 25 questions to be answered under oath. See the table below for an overview of the Schedules of Financial Affairs.

Overview of the statement of financial affairs	
1.	Income from employment or operation of business
2.	Income other than from employment or operation of business
3.	Payments to creditors
4.	Suits, executions, garnishments and attachments
5.	Repossessions, foreclosures and returns
6.	Assignments and receiverships
7.	Gifts
8.	Losses
9.	Payments related to debt counselling or bankruptcy
10.	Other transfers
11.	Closed financial accounts
12.	Safe deposit boxes
13.	Setoffs
14.	Property held for another person
15.	Prior address of debtor
16.	Spouses and former spouses
17.	Environmental information
18.	Nature, location and name of business
19.	Books, records and financial statements
20.	Inventories
21.	Current partners, officers, directors and shareholders
22.	Former partners, officers, directors and shareholders
23.	Withdrawals from a Partnership or distributions by a Corporation
24.	Tax consolidation group
25.	Pension funds

The debtor may also need to file additional reports or documents that may be required by local rules or by the U.S. Trustee.

### Ongoing reporting during reorganization

During the reorganization proceedings, financial reporting requirements are driven by the need to reflect the financial evolution of the bankrupt entity and to allow interested parties, including the U.S. Trustee, to monitor the debtor’s financial results. All financial statements must be detailed and must include thorough notes in order to provide interested parties with confidence in the underlying data. The debtor must continue to apply historical accounting methods but must clearly distinguish between items, events, and transactions directly associated with the reorganization and those associated with ongoing operations. The balance sheet must allow readers to determine pre- and post-petition debt, as well as the security positions among creditors.

A debtor must file several different reports while operating a business in Chapter 11. The nature of the reports and the timing of their issuance depend, to a certain extent, on local bankruptcy rules, the nature of the debtor’s reporting processes, and the extent to which ongoing losses are anticipated. However, all U.S. Trustee regional offices require that MORs be submitted to the bankruptcy court. These monthly operating reports are often prepared in accordance with generally accepted accounting principles and should clearly separate those activities related to normal business operations from those related to the Chapter 11 reorganization. This information allows interested parties to monitor both the business and the reorganization.

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The format and content of MORs may be dictated by the respective regional office of the U.S. Trustee, but generally, MORs will include an income statement, balance sheet, and some form of cash receipts and disbursements activity. MORs may also include select operating and financial data including, among others: accounts receivable detail and/or aging; accounts payable detail and/or aging; taxes paid and payable detail; copies of bank statements and/or bank reconciliations; status of payments to secured creditors, lessors, and other parties to executory contracts; insurance coverage details; and a schedule of amounts owed and paid to the U.S. Trustee. It is important to be aware that the local rules for many jurisdictions require information at a level of detail and/or timing that may be burdensome for the debtor to provide and, as such, negotiation with the U.S. Trustee for exceptions may be needed. See below for a sample statement of operations for a business in Chapter 11 reorganization.

Sample Statement of Operations for a business in Chapter 11 reorganization	
<b>Total revenue</b>	\$100,000
<b>COGS</b>	(40,000)
<b>Operating expenses</b>	(15,000)
<b>Interest</b>	(5,000)
<b>Earnings before reorganization</b>	40,000
<b>Reorganization items</b>	
<b>Loss on equipment disposal</b>	(30,000)
<b>Professional fees</b>	(20,000)
<b>Gain from debt forgiveness</b>	5,000
	(45,000)
<b>Loss before income tax and discontinued ops</b>	(\$5,000)

The debtor may also be required to provide additional regular reporting in accordance with a debtor-in-possession (“DIP”) financing agreement (e.g., rolling 13-week cash flow forecasts including variance analyses), or as requested by any of the official committees, such as the Official Committee of Unsecured Creditors.

### Accounting for the impact of the plan

As part of the reorganization process, a debtor must file a Plan and Disclosure Statement, which will be evaluated by the bankruptcy court and voted upon by creditors, before it can emerge from Chapter 11. A Plan is a debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time. The Disclosure Statement includes financial and other information that must prove adequate for creditors and shareholders to make an informed judgment when voting to accept or reject the Plan. Key financial components of the Disclosure Statement include:

- Description of assets available and their value;
- Summary of the debtor's plan for the business going forward, including the business plan and, in many cases, projected financial results;
- Claim information, including an analysis that outlines what creditors would receive in the event of a conversion to chapter 7 liquidation (commonly referred to as the Best Interest of Creditors test);
- A discussion of the accounting and valuation methods used in the Disclosure Statement; and
- Financial information necessary to allow a creditor to decide whether to approve or reject the Plan.

### Post-reorganization financial reporting

In some instances, a reorganized entity will qualify for “fresh start accounting.” Fresh start accounting provides an emerging entity with a “clean” balance sheet that is more reflective of the company's financial position upon its emergence from bankruptcy by revaluing the entity's balance sheet based on the value of the reorganized business and the fair value of the entity's post-confirmation assets and liabilities.

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An entity must meet two conditions to be eligible for fresh start accounting:

1. The reorganized value of the emerging entity immediately before confirmation of the Plan must be less than the sum of its post-petition liabilities and allowed claims. This is referred to as “balance sheet insolvency”; and
2. Immediately before confirmation of the Plan, holders of existing voting shares must retain less than 50 percent of the voting shares of the emerging entity.

Fresh start accounting will update the financial reporting to: (i) record debt discharge, exchange, or issuance of new debt, equity securities, or cash for pre-petition claims; (ii) record the exchange of new stock, if any, for pre-petition stock; and (iii) record the adoption of fresh-start reporting which eliminates any existing deficit.

The financial reporting requirements of an entity in Chapter 11 reorganization can be quite burdensome but are critically important in helping interested parties understand the financial condition of the debtor, as well as pave the way for the debtor’s successful emergence.



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Cornell, J. (2009, June 11). *What Information is Required in a Chapter 11 Disclosure Statement?*

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# Outsourcing Alert: Employee's social security number (SSN)

The Social Security Number (SSN) of an employee has nine digits, organized as follows: 000-00-0000. Employers are required to get each employee's name and SSN and to enter them correctly on Form 499R-2/W-2PR.

## Applying for a social security card

Any employee who is legally eligible to work in the United States and does not have a social security card can get one by completing Form SS-5, Application for a Social Security Card, and submitting the necessary documentation.

## Applying for a social security number

If you file a Form 499R-2/W-2PR on paper, and your employee had applied for a SSN, which is not available during the filing process, you must file Form W-2 entering "Applied For" in the space provided for the social security number.

If you are filing electronically, enter all zeros (000-00-000) in the social security number field. When the employee receives the SSN, file Copy A of Form W-2PRc, Corrected Wage and Tax Statement, with the Social Security Administration (SSA) to show the employee's SSN.

## Employee's name and SSN on records

Record the name and number of each employee as shown on the employee's social security card. If employee's name is not shown correctly on the card, for example, because of marriage or divorce, the employee should request an updated card from the SSA. Continue to report the employee's wages

under the old name until the employee shows you the updated social security card with the corrected name.

## Verification of social security numbers

Employers and authorized reporting agents can use the Social Security Number Verification Service (SSNVS) to instantly verify up to 10 names and SSNs (per screen) at a time, or submit an electronic file of up to 250,000 names and SSNs and usually receive the results the next business day.

For more information visit:

[www.socialsecurity.gov/employer/ssnv.htm](http://www.socialsecurity.gov/employer/ssnv.htm)  
<http://www.irs.gov/pub/irs-pdf/p179.pdf>

Application for a social security card - Form SS-5:

<http://www.socialsecurity.gov/forms/ss-5.pdf>

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