

BarZvi & BenDov

LAW OFFICES

Transfer Pricing
Associates

FIN 48

Transfer Pricing

YOUR BRIDGE TO WORLDWIDE TRANSFER PRICING SERVICES

EUROPEAN
CEO

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AWARDS

2011

INTRODUCTION TO FIN 48

FASB Interpretation No. 48 (Accounting for Uncertainty in Income Taxes, currently codified at ASC 740-10) is an official interpretation of United States accounting rules, which requires businesses to analyze and disclose income tax risks. It came into effect in 2007 for publicly traded entities, and is currently in effect for all entities adhering to US GAAP.

FIN48 establishes a threshold condition that a tax position must meet for any part of the benefit of that position to be recognized in financial statements. Under FIN 48, tax benefits (e.g. deductions, credits) from uncertain tax positions that reduce an enterprise's current or future income tax liability are reported in its financial statements only to the extent each benefit is recognized and measured under a two-phased process: (a) The Recognition Phase: the enterprise determines whether it is more likely than not that a tax position will be sustained upon examination based upon technical merits and knowledge of all facts by the tax authorities; and (b) The Measurement Phase: a tax position that meets the more-likely-than-not threshold is measured to determine the amount of benefit to be recognized in the financial statements.

FIN 48 AND TRANSFER PRICING

Transfer pricing is also subject to the FIN 48 rule, and the same assessment process applies to the intercompany pricing positions an organization has adopted (whether on purpose or in fact).

Bar-Zvi & Ben-Dov, together with U.S. based experts from Transfer Pricing Associates, have developed a transfer pricing risk assessment methodology which incorporates an evaluation of the available transfer pricing support for the intercompany transactions, in light of the transfer pricing regulations and guidance in the relevant jurisdictions, and the identification of potential risks in cases where it is determined that a lack of supporting transfer pricing documentation may lead to income adjustments if the intercompany transactions were to be audited by the tax authorities.

FIN 48 TAX OPINIONS

The outcome of any such examination by Bar-Zvi & Ben-Dov is a legal opinion which the enterprise can incorporate in its financial reports, regulatory filings, or any other internal or external report which relates to the company's tax management. In case an intercompany transaction which is identified as having a cumulative probability of less than 50% of being sustained upon examination, and which cannot be retroactively firmly reasoned according to applicable transfer pricing regulations, a calculation of potential reserve impacts is performed, based on the cumulative probability analysis of alternative scenarios which may be considered by the tax authorities.

ABOUT US

Bar-Zvi & Ben-Dov is a boutique law firm specializing in transfer pricing and corporate law. Our experts have both legal and financial backgrounds, and held high ranking financial positions in private and public companies. Bar-Zvi & Ben-Dov are the Israeli partners in the global Transfer Pricing Associates network, which encompasses partners in more than 40 countries, and are thus able to provide services all around the globe, with local sign-offs where required. The firm prides itself of its unparalleled 100% success rate in tax audits worldwide.

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