

HEADLIGHTS

A PUBLICATION
OF THE AutoCPAGroup

WWW.AUTOCPA.COM
1-800-4AUTOCPA

RECENT ATTACK ON LIFO

Recently, a tax bill was proposed that began an onslaught of allegations against the usefulness and necessity of LIFO (last-in, first-out). This bill attempted to give Americans a \$100 gas rebate that would have been paid for by the repeal of LIFO for taxpayers. Fortunately, this bill, which was backed by Senate Majority Leader Bill Frist, was withdrawn. However, the fight is not over.

The Senate Finance Committee is currently meeting to discuss if LIFO is appropriate for tax and generally accepted accounting purposes or if it can be repealed completely. Proponents of the repeal have cited many disadvantages of the LIFO method, including conformity with international standards and the usage of LIFO for unwarranted tax benefits.


In his June 13, 2006, testimony, George A. Plesko, professor at the University of Connecticut School of Business, attempted to explain the advantages and disadvantages (focusing more on the disadvantages) of LIFO to the Senate Finance Committee. Dr. Plesko briefly described the application of

LIFO to inventory and some of the advantages of using this approach. The main advantage indicated by Dr. Plesko was that LIFO “matched the current inventory costs to the current sales of the firm” for financial reporting. This is one of the key concepts that needs to be followed for the statements to be reliable.

The main tax benefit that he listed was the ability to create a large tax benefit due to higher cost of

sales. Since LIFO assumes that the inventory most recently purchased is the first to be sold, the cost of sales would be higher in the current inflationary market. Since the company is deducting current costs instead of historical costs, the firm will most likely receive a tax benefit from

using LIFO. The income reported on its financial statements would be lower than with FIFO (first-in, first-out), but according to Dr. Plesko, “Given

please turn the page 



**Jay Goldman,
CPA
Walpert &
Wolpoff, LLP**

AUTUMN 2006

**SAFEGUARDS FOR
DEALERSHIPS**

**“TO BE OR NOT TO BE”
AN LLC**

the choice to choose an inventory accounting method that reduces tax liabilities, even with the consequences of reporting lower earnings to shareholders, many firms find the tax benefits dominate.”

The testimony then turned to the disadvantages of LIFO related to international standards and companies manipulation of purchasing policies in order to receive increased tax benefits. First, the United States is one of the only countries to use the LIFO method for financial reporting purposes. International accounting standards prohibit the use of LIFO. Dr. Plesko believes that international accounting and U.S. accounting should be “harmonized” and, if done, the only benefit for using LIFO for tax purposes would be the deferral of income taxes by companies who are on LIFO. Therefore, he believes that LIFO should be disallowed for tax purposes as well as to create better consistency between “book income” and “tax income.”

Additionally, he testified that the use of LIFO “creates an initiative to purchase unneeded inventory to avoid recognizing the additional taxable income

that would result from selling inventories valued at less than current market price.” The main question with this argument would be, “Does the cost of storing this ‘unneeded inventory’ outweigh the benefit related to the LIFO adjustment included in cost of sales?” After all, the main thrust of the attempt to repeal LIFO is to generate more income from taxes for the government. If companies purchase this unneeded inventory, it is still income on the vendor’s tax return creating additional taxable income and government revenues.

These are only a few of the disadvantages that Dr. Plesko pointed out. The attack on LIFO is not over. Committees are meeting periodically to discuss its applicability and necessity. Many auto dealers would be greatly impacted if LIFO was repealed, creating higher taxable income and greater tax expense. If you would like to write a letter to your senator or representative expressing concern, please contact your local AutoCPA Group member for a sample letter related to these issues. ✍

SAFEGUARDS FOR DEALERSHIPS

Carl Woodward, CPA
Woodward & Associates

As most dealers know, new laws went into effect in 2003 regarding the safeguards and privacy of customer information. I have found many, if not most, dealers still have not put into effect policies and procedures to see that they are in compliance.

Consider performing the following compliance checks at your dealership. They only take a few minutes.

1 Walk the dealership showroom first thing one morning and inspect all salespersons’ desks and work areas, looking for any documents that contain customer information other than the customer’s name. In many cases, violations will be found.

2 Inspect the finance person’s office along with the sales manager’s work areas and offices looking for any documents that contain customer informa-

tion other than the customer’s name. Violations usually will be found.

Solution: Take the documents and make the employees explain to you why this happened and how they will control it in the future.

3 Inspect all computer terminals in the dealership when no one is at them. See if passwords are required and if someone has left them online so that anyone could look for confidential information. In many cases, violations will be found.

Solution: Put some kind of notice on the computer for the users to come and meet with you so you may explain the violation. If the violation persists, you may have to take away their ability to use the computer without direct supervision.



4 See if you are able to obtain access to the accounting office before or after normal accounting office hours and if you can obtain confidential information, whether in sight or inside the desks and filing cabinets in the office.

Solution: All information should be kept in locked desks and filing cabinets, or the accounting office

itself should always be locked during off-hours or when no one is in it.

The above are just a few of the self-compliance checks that need to be done for a new-vehicle dealership. Please take the time to see how you score in your self-audit. ↗

“TO BE OR NOT TO BE” AN LLC

Just as tax laws change, so too do the choices for business entity types when starting a new dealership venture. More and more, the limited liability company (LLC) is becoming the entity of choice, not just for real estate entities of dealers but for their operating entities as well.

LLCs are hybrid entities blending the attributes of corporations and partnerships. Basically, an LLC affords the advantages of limited liability and pass-through taxation like S corporations. An additional benefit of LLCs, however, is that the design features of LLCs are much more flexible, like partnerships. Types of LLCs include Single Member LLC (an LLC with only one member) and the standard LLC (an LLC with more than one member).

Single member LLCs are disregarded for tax purposes and treated as if they were sole proprietorships with limited liability. Dealers starting a new venture will generally not want to set up a single member LLC. Most dealers starting a new dealership entity will establish multimember entities. There are several ways to accomplish this, even if you do not have a business partner. For multimember LLCs, the members can choose to be taxed as a partnership or corporation, whether the LLC will be member-managed or manager-managed and how duties will be apportioned among the members.

The LLC is easily formed by filing articles of organization with the proper state authorities and paying all fees. Requirements vary among states. Before initiating any filings, it is always important to make sure you are aware of special rules that may be applicable in your state. Also needed to

properly structure your LLC is an operating agreement and organization minutes of the LLC.

Advantages of an LLC versus other forms of entities include

- ✓ Limited liability of its members—unless personal guarantees are given by members;
- ✓ Pass-through taxation—basically, the earnings of an LLC are treated like the earnings of a partnership;
- ✓ Greater flexibility in structuring the LLC—ownership interests and voting rights can be divided in unconventional ways, unlike S corporations;
- ✓ Potential increase in basis over S corporations—members of an LLC taxed as a partnership obtain additional basis for their share of LLC debts; and
- ✓ Several classes of membership units—an S corporation may only have one class of stock.

As with anything, there are also several potential disadvantages of forming an LLC including

- ✓ Limited transferability—no one can become a member of an LLC by transfer without the consent of the majority interest members;
- ✓ Limited duration—generally, LLCs have finite lives, although some states now allow LLCs to exist in perpetuity;

**Alison Jacobs
Albin, Randall & Bennett**




please turn the page ↗

"TO BE OR NOT TO BE" AN LLC

(continued from page 3)

✓ The earnings from LLCs taxed as partnerships are usually subject to a self-employment tax (unlike S corporations); and

✓ "Alter-ego liability"—this is a judicial doctrine that can hold a member of an LLC liable for the debts of the company when it believes the company is merely an alter ego of its shareholders.

Before you choose an entity type to form, contact your **AutoCPAGroup** tax professional for suggestions and insight into which entity type will best suit your goals and objectives, and what special state issues you will need to consider. 

For assistance, please call 1-800-4AUTOCPA or see our website at www.autocpa.com. Headlights is prepared by the **AutoCPAGroup** for the clients of its members. We are required by IRS Circular 230 to inform you that the advice contained herein (including all attachments) was not intended or written to be used for the purpose of avoiding any penalties that may be imposed under Federal tax law and cannot be used by you or any other taxpayer for the purpose of avoiding such penalties. © 2006 Headlights

Managing Editor

Anna M. Cooley, *WPI Communications, Inc., Springfield, NJ*

Associate Editors

Aaron Winiarz, *Aaron Winiarz, CPA, Dayton, NJ*

Jim Tanner, *Heider, Tanner & Dirks, Denver, CO*

Advisory Board of CPAs

- | | |
|--|--|
| Kevin Allison
<i>Peterson Sullivan, P.L.L.C.
Seattle, WA</i> | Jeffrey Jensen
<i>Jensen & Keddington, P.C.
Salt Lake City, UT</i> |
| John Bachle
<i>Sartain Fischbein & Co., CPAs
Tulsa, OK</i> | Donald Kretschmar
<i>Henry & Horne, LLP, Tempe, AZ</i> |
| Wayne Bond
<i>Dwight Darby & Co., Tampa, FL</i> | Daniel R. McCall
<i>Daoro, Zydel & Holland
San Francisco, CA</i> |
| Jerry Bressler
<i>Mountjoy & Bressler, LLP
Covington, KY</i> | Joseph Monahan
<i>Weisberg, Molé, Krantz & Goldfarb, LLP
Hicksville, NY</i> |
| Stephen deBlois
<i>Welch & Company, LLP, Ottawa, ON</i> | Greg Porter
<i>Porter & Company, Greensboro, NC</i> |
| Robert Deering
<i>Pomares & Co., LLP, Sacramento, CA</i> | Ken Rosenfield
<i>Rosenfield & Company, P.A.
Orlando, FL</i> |
| John Dobson
<i>Thom-Dobson-Womack, Inc.
Oklahoma City, OK</i> | Reed Spangler
<i>Simpson & Osborne, Charleston, WV</i> |
| Jay Goldman
<i>Walpert & Wolpoff, LLP, Baltimore, MD
Washington D.C., Virginia Area</i> | Dan Thompson
<i>Boyer & Ritter, Harrisburg, PA</i> |
| Gerry Green
<i>Green & Miller, P.C., Corinth, TX</i> | Mike Vaughn
<i>Lattimore Black Morgan & Cain, P.C.,
Brentwood, TN</i> |
| Barton Haag
<i>Albin, Randall & Bennett
Portland, ME</i> | Diane Weinhold
<i>Rogers, Clem & Co.
Irvine, CA</i> |
| Susan Harwood
<i>Hulsey, Harwood & Co., Monroe, LA</i> | Carl Woodward
<i>Woodward & Associates
Bloomington, IL</i> |
| John Hayes
<i>Hausser & Taylor, Cleveland, OH</i> | |
| Dick Heider
<i>Heider, Tanner & Dirks, Denver, CO</i> | |