THE MAIN DISH

Summer 2012

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National Restaurant Association's Financial Officers and Tax Executives Study Group Meeting

By Brian Campbell, CPA

During the last week of June, my Tax Partner, Brad Dimond, and I attended the National Restaurant Association's Financial Officers and Tax Executives Study Group Meeting. In the next few paragraphs, I will highlight a few of my takeaways from the financial officer's side of the study group.

The finance breakout sessions began with a panel of restaurant lending and financing professionals from the Small Business Administration, GE Capital and Wells Fargo. One bit of information highlighted was the loan program offered by the SBA. This program is an extension of its 504 program and allows companies to refinance up to $5 million at an interest rate of 5% with a term of 20 years. This program, however, only lasts until September 27, 2012.

Next, we discussed PCI DSS compliance. PCI DSS compliance provides a baseline for security for accepting payment by credit or debit cards."Over the past few years, many restaurants have become PCI DSS compliant. This is an ongoing program that requires consistent monitoring and improvement. Being PCI compliant creates a level of protection around cardholder's data. This protection consists of the credit card number, name and expiration date, but does not encompass social security numbers and other cardholder data. All organizations, regardless of size, must comply and also need to continually validate compliance on a periodic basis as non-compliance can cost your restaurant thousands of dollars in fines and penalties.

Another area discussed focused on mobile payments, which will soon be a reality for all. Mobile payments result in increased security for consumers. Consumers will no longer have to hand over their credit card to a server, who then disappears to a POS terminal for a few minutes, resulting in the credit card being out of sight of the owner. One thing to keep in mind regarding mobile payments is that if you are considering a new POS system, perhaps you should consider holding off and/or researching mobile payments more in depth as mobile payments may take the place of your POS system 5-7 years from now.

Next, the study group's discussions moved to the advantages of using payroll cards. Over one-half of the attendees were using payroll cards. The positives of using payroll cards include saving money, saving time, it is green friendly and you do not have to worry about escheatment issues. If you decide to go with payroll cards, be sure you do your research on which pay card provider you should use, as there are many out there and you want to be sure you are getting the most cost efficient and reliable provider.

The last topic I will discuss are GAAP updates. There are only a few changes applicable for this year. These involve a change in the presentation of comprehensive income, a change in the way to assess whether goodwill is impaired and a more consistent application of fair value measurement. Current projects that the FASB is working on include leases and accounting for financial instruments. As I know everyone is concerned about the lease issue, and whether they will be required to capitalize leases, I will try to give you a few more details. Currently, the FASB will be coming out with an updated exposure draft on accounting for leases. They will be accepting comments on this exposure draft throughout the year with finalization probably in 2013. These will then become applicable in either 2013 or 2014. It appears that the exposure draft will require leases (both equipment and real estate leases) to be capitalized unless one of the two items is applicable: 1. the lease term is insignificant to the overall life of the asset or 2. the present value of the lease payments is insignificant to the overall fair value of the equipment. As you can see, the analysis being proposed is subjective and requires judgment. If you would like to further discuss any of the above items, please do not hesitate to contact me.

If you have any questions Brian can be reached at (480) 839-4900 or BrianC@hhcpa.com.



Tappas

According to Mintel Menu Insights, double-sided menus will be one of the biggest trends for the rest of the year offering a healthy vs. indulgent or expensive vs. inexpensive options.

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According to Stephen Hahn-Griffiths, the Chief Strategy Officer of Chicago-based advertising agency Leo Burnett, 2012 is the year for stay-at-home dads, grandparents as caregivers, and women as decision-makers, meaning restaurants have to capitalize on their message.

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According to QSR, emphasizing a "homemade" approach to differentiate from competitors is the way to go since consumers see credibility and authenticity associated with the homemade claim.

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News from the Tax Executives Study Group

By Bradley Dimond, CPA

Like last year, I just attended the Tax Executives Study Group sponsored by the National Restaurant Association. Since I dragged my Audit and Accounting Partner, Brian Campbell, along with me this year, I can focus my attention solely to tax. There is a lot to cover and not enough room to squeeze it all in so we will skip some of the update information received applicable to multi-state taxpayers (except to say that state audits of all varieties – sales tax, property tax and income tax are increasing rapidly), state unclaimed property updates (not as big of a deal with respect to gift cards in AZ) and employee benefits updates.

Speaking of employee benefits, though, the Supreme Court decision on the constitutionality of the PPACA (you may know it as "ObamaCare") came down while the conference was in session. I'll spare you the gory details of the legal reasoning (the individual mandate is a tax!) and just tell you that the Court validated the law. We will provide a fuller analysis of the law and its impact in our Fall issue of the Main Dish. Another major development was the Treasury's recent issuance of the capitalization and repair regulations (the regulations are both Temporary and Proposed). These regulations have been in development a long time with two prior versions proposed and withdrawn. This version will likely stick with some minor tweaks upon going final. A couple of important items to note for the industry, the regulations appear to be favorable towards deducting periodic remodel/refresh costs as repairs rather than capitalizing and depreciating those costs over time. In addition, the regulations alter the definition of a "unit of property" as it relates to a building by dividing the building into both its structural elements and the major subsystems (such as HVAC, plumbing, etc). Therefore, if say 25% of a building's HVAC units are replaced, there could be a good position to deduct those replacements as repairs. There is also some favorable language regarding routine maintenance of personal property if such maintenance is expected to occur more than once during the property's useful life. On the down side, there was an indication that restaurants need to be capitalizing some overhead costs to inventories under the Uniform Capitalization rules. This is a time consuming effort that generally adds to the costs of compliance and will be of minimal benefit to the Treasury since most restaurants carry low inventories.

Some new guidance came out recently regarding the IRS's view on auto-gratuities/service charges. The government believes that such charges, while taxable to employees as wages, do not count as "tips" for purposes of the FICA Tip Credit under Section 45B. Since this may require operators to re-program their systems, the IRS will allow compliance to begin effective January 1, 2013. There was also a request for comments and at least one attorney/presenter at the conference thought the IRS's view was wrong on this issue, so … stay tuned.

Finally, there was some discussion surrounding tax reform and the expiration of the Bush tax cuts. Obviously, the outcome of the elections will play a major role in what this might look like. There seems to be momentum building to undertake a major tax reform/simplification effort. Since this would likely take quite a while to work its way through the legislative process, there is a strong possibility that the current "status quo", which is scheduled to expire at the end of this year, will be pushed out one more year. In other words, current preferential rates for long term capital gains, dividends, etc., and lower tax brackets could continue for another year while major reform is contemplated. Please don't take this to the bank just yet…

If you have any questions Bradley can be reached at (480) 483-1170 or BradD@hhcpa.com.