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TAX ALERT

UPDATE ON NEW IRS "CORPORATE ACTION" REPORTING REQUIREMENTS

As we outlined in our November Tax Alert (included), new rules require companies that take an "organizational action" that affects the basis of the company's stock to file an information return with the IRS and to furnish each stockholder with similar information. According to the rules, the IRS reporting is due within 45 days after the action, unless the action occurs in December, in which case the return must be filed by January 15 of the following year. The stockholder reporting is to occur by January 15 of the following year. These new rules apply to all organizational actions that occur after December 31, 2010. **For 2011 actions, the required due date for IRS reporting was modified so that all reporting is due by January 17, 2012.**

While the rules for actions that need to be reported on are broad, it would appear that the following actions would be included: **stock splits, stock dividends, cash distributions treated as return of capital, certain mergers, and certain acquisitions.**

The IRS form to be used for this reporting is Form 8937, which has not been finalized. There is a draft of the form issued, which is included with this alert. **Draft forms cannot be used for filing and can change prior to being finalized.** Draft instructions have also been issued and are also included with this email for your reference.

The regulations allow for a corporation to post Form 8937 information on its website, in a readily accessible format and in an area that is dedicated for this purpose. If this is done, the Form 8937 will not need to be filed with the IRS or with each stockholder. The web site information will need to be accessible to the public for ten years.

Given the January 17, 2012 deadline for all 2011 reporting and the fact that the IRS Form to be used has not yet been finalized, there is great uncertainty regarding this issue at the moment. As the rules stand currently, reporting is required either by using Form 8937 or by including the information on the corporation's website. **If the Form 8937 cannot be used, it would appear that the only way to satisfy the reporting requirement is to post the information on the company's website.**

The IRS is expected to finalize Form 8937 soon. We will keep you informed as to what happens and have included a copy of the draft form/instructions so you could see what the final form may end up looking like. Also, keep in mind that the rules and the normal due date, are in effect for 2012 actions. Therefore, unless the rules are changed, any 2012 organizational action will require IRS reporting within 45 days of such action.

We will continue to monitor this situation and keep you informed.

IRS CIRCULAR 230 DISCLOSURE

Pursuant to the Treasury Regulations, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and it cannot be used by any taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer.

Questions?

If you wish to discuss any of the above items, please contact Charles Marston or Rich Pacella at (724) 934-0344, or email at cmarston@srsnodgrass.com or rpacella@srsnodgrass.com