Recent Appointments Should Speed Guidance Rollout, Treasury Official Says

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The recent installation of Treasury Department officials in top positions will help speed the rollout of new guidance, Brandon Carlton, attorney-adviser in Treasury's Office of Tax Legislative Counsel, said September 26 as he and other government officials addressed administrative budget proposals and coming guidance in the tax accounting area.

"With more certainty in those positions, the folks who are making the policy calls know that they're actually going to be the person responsible for those policy calls," Carlton told an American Bar Association Section of Taxation fall meeting panel in Chicago. "It makes them a lot easier and smoother to make."

Carlton predicted that, because of the new leadership, guidance on capitalized transaction costs and success-based fees will move swiftly through Treasury, hopefully in the next several months.

Recent field attorney advice regarding accounting for gift cards has no impact on related guidance, Carlton said. "Those processes work independently," he said, adding that the advice was "interesting" but won't affect Treasury's work.

George Blaine, IRS associate chief counsel (income tax & accounting), addressed the controversy over the IRS's efforts to streamline the process for accounting method changes. "What the press says is true -- we are not going forward with that project," he said. Blaine said his personal opinion is that much of the debate on the issue was uncoordinated, which "was unfortunate," he said, adding that there is real disagreement about what a method of accounting is and what ruling protection means. "A method is a description about how you will treat things," he said.

When practitioners pressed him on the impact an LMSB directive on section 263A mixed-service costs might have, Blaine said, "[The directive] is not a legal conclusion." LMSB's position is simply an interpretation of the issue by the exam function, he said. (For LMSB-04-0809-033, see *Doc 2009-20905* or *2009 TNT 180-64*.)

Also discussed was the administration's budget proposal on the repeal of the last-in, first-out accounting method. The possibility of repeal is receiving much attention because of the $60 billion revenue score attached to the proposal, said Ellen McElroy of Pepper Hamilton LLP. Leslie Schneider of Ivins, Phillips & Barker said the proposal has had a mixed reception on Capitol Hill. When members of Congress are "educated on what repeal does, alarm bells go off," because lawmakers appreciate the significant damage to companies that LIFO repeal will cause, he said.

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When asked about possible repeal of the lower of cost or market (LCM) inventory accounting method, Carlton said that to soften the impact on taxpayers, legislation could have a delayed effective date well into the expected recovery period. LCM will not be preserved for retail method taxpayers, he said, adding, "The intent of the administration is for wholesale repeal of LCM with no portion preserved for a small segment of taxpayers."

Commenting on the IRS's recent Notice 2009-39 regarding accounting method change requests, Brenda Wilson, technical adviser, IRS Office of Associate Chief Counsel (Income Tax & Accounting), said the process began as addressing a few minor issues and that the result was much larger than expected. "We'll try not to do it again next year" right before the extended filing deadline, she said. However, there is a "bottomless pit of issues" the Service can address in the area, she said. (For Notice 2009-39, 2009-18 IRB 902, see *Doc 2009-8519* or *2009 TNT 70-9*.)

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