Financial Accounting Standards Board

ORIGINAL PRONOUNCEMENTS

AS AMENDED

FASB Technical Bulletin No. 82-1

Disclosure of the Sale or Purchase of Tax Benefits through Tax Leases

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STATUS

Issued: January 27, 1982

Effective Date: None stated; Technical Bulletins issued prior to June 30, 1984, indicate only the date of issuance.

Affects: No other pronouncements

Affected by: Paragraph 4 amended by FAS 95, paragraph 152(h)
Paragraph 5 replaced by FAS 96, paragraph 205(aa), and FAS 109, paragraph 288(cc)
Paragraph 6 amended by FAS 145, paragraph 9(q)
Paragraph 7 amended by FAS 96, paragraph 204, and FAS 109, paragraph 287

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References

ARB No. 43, *Restatement and Revision of Accounting Research Bulletins,* Chapter 2A, paragraph 2
APB Opinion No. 11, *Accounting for Income Taxes,* paragraph 63
APB Opinion No. 22, *Disclosure of Accounting Policies*
APB Opinion No. 30, *Reporting the Results of Operations,* paragraph 26
FASB Statement No. 5, *Accounting for Contingencies*

Question

1. What disclosures are required for the sale or purchase of tax benefits through tax leases?

Background

2. The term *tax leases,* as used in this Bulletin, refers to leases that are entered into to transfer certain tax benefits as allowed by the leasing provisions of the Economic Recovery Tax Act of 1981. The tax benefits that can be transferred are deductions under the Accelerated Cost Recovery System and credits such as the investment tax credit and energy credit. Temporary Treasury regulations were issued on October 20, 1981, November 10, 1981, and December 28, 1981 that prescribe the conditions that must be met for a transaction to be characterized as a "safe harbor" lease for federal income tax purposes, thus enabling the parties to the transaction to transfer certain tax benefits between them.

3. The FASB issued an Exposure Draft of a proposed Statement, *Accounting for the Sale or Purchase of Tax Benefits through Tax Leases,* for public comment on October 29, 1981, and received over 160 letters of comment. At the December 16, 1981 Board meeting, the Board concluded that the provisions of that Exposure Draft should be revised and that it should be reexposed for public comment. In late December 1981, a need was identified for disclosure of transactions involving solely the sale or purchase of tax benefits through tax leases until the accounting issues related to those transactions are resolved.

Response

4. Opinion 22 requires disclosure of all significant accounting policies where alternative accounting principles or practices exist, including the methods of applying those accounting principles that materially affect the determination of financial position, cash flows, and results of operations. Because alternative accounting practices may exist until the FASB issues a final Statement addressing the sale or purchase of tax benefits through tax leases, the accounting policies or practices followed for those transactions should be disclosed in accordance with that Opinion. The disclosure should include the method of accounting for those transactions and the methods of recognizing revenue and allocating income tax benefits and asset costs to current and future periods.

5. Paragraph 47 of FASB Statement No. 109, *Accounting for Income Taxes,* requires that (a) the reported amount of income tax expense attributable to continuing operations for the year be reconciled to the amount of income tax expense that would result from applying domestic federal statutory tax rates to pretax income from continuing operations and (b) the estimated amount and the nature of each significant reconciling item be disclosed. Transactions involving the sale or purchase of tax benefits through tax leases may give rise to a significant reconciling item that should be disclosed pursuant to the requirements of Statement 109.

6. Paragraph 26 of Opinion 30, as amended by FASB Statement No. 145, *Rescission of FASB Statements No. 4, 44, and 64, Amendment of FASB Statement No. 13, and Technical Corrections,* requires disclosure of material events or transactions that are unusual in nature or occur infrequently as a separate component of income from continuing operations. If material and unusual or infrequent to the enterprise, the nature and financial effects of transactions involving the sale or purchase of tax benefits through tax leases should be disclosed on the face of the income statement or, alternatively, in notes to the financial statements in accordance with Opinion 30.

7. Disclosures in addition to those required by Opinions 22 and 30, and FASB Statement No. 109,

Accounting for Income Taxes, as discussed above also may be appropriate depending on the circumstances involved. For example, if significant contingencies exist with respect to the sale or purchase of tax benefits, disclosures in accordance with Statement 5 may be warranted. Also, as referred to in paragraph 2 of Chapter 2A of ARB 43, if comparative financial statements are presented, disclosure should be made of any change in practice that significantly affects comparability.

8. This Bulletin does not address the accounting for the sale or purchase of tax benefits through tax leases.

The Financial Accounting Standards Board has authorized its staff to issue FASB Technical Bulletins to provide guidance on certain financial accounting and reporting problems on a timely basis. Although Board members are provided with copies of proposed Bulletins prior to issuance, the Board does not approve them.