From: Michael T Remus, CPA <mtremus@optonline.net>
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To: Comments
Subject: [EXT]: PCAOB Release No. 2023-003

the proposed standard would define "noncompliance with laws and regulations" as:

An act or omission, intentional or unintentional, by the company whose financial statements are under audit, or by the company's management, its employees, or others that act in a company capacity or on the company's behalf, that violates any law, or any rule or regulation having the force of law.

This would include certain tax positions that could reasonably have a material effect on the financial statements.

My concern is how does this new standard relate to pass thru entities for example Partnerships or Single Member LLC's.

For example

If an entity (partnership) purchases artwork and capitalizes it in accordance with Topic 958-360-25-2 on the financial statements, then deducts it on its tax return (Form 1065)
It would not have a material effect on the financial statements. The entity may have an uncertain tax position, but it would still not impact the financial statements in any way.

Also, a similar example would be deducting FINRA fines. These are clearly not deductible, Again, if the entity deducts these fines on its tax return it has no impact on the financial statements.

PCAOB standard AS 2110.11 does not require the auditor to look at the tax return when identifying and assessing the ROMM.

Generally, the auditor will have management confirm that to the best of its knowledge there are no uncertain tax positions on its tax return.

It appears the standard is forcing the auditor to review the tax return while not specifically requiring it in AS 2110.11

Questions:

69. Would requiring compliance for fiscal years beginning after the year of SEC approval provide challenges for auditors? maybe

If so, what are those challenges, and how should they be addressed? Specific guidance on the steps the auditor is required to perform concerning tax returns.

70. How much time following SEC approval would audit firms need to implement the proposed requirements? That would depend on the nature and extent of the specific guidance, and if it is only forward looking or if it applies to all open tax years.

Of course the above assumes the auditor does not prepare the tax return.

Thanks,

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