

## Accountants weigh in on regulations, reporting requirements

By CATHERINE LACKNER

Accountants are more than tax-numbers crunchers, local practitioners say; they are called upon for all sorts of advice.

“Often, it’s not a tax function,” said Manny Pravia, principal of Morrison, Brown, Argiz and Farra. “We advise clients through thick and thin. Everyone should have an advisor on their team.”

Ever-increasing regulation, reporting requirements and scrutiny are often the topics.

“The 2008 collapse and crisis have precipitated additional oversight,” he said. “The additional burden is bordering on overwhelming for some banks.”

The new regulations, known as Basel III because they were developed by the Bank of International Settlements in Basel, Switzerland, tightened requirements to make sure banks can withstand losses.

“Stress testing defines how close you are to the brink” of being overwhelmed if loans default, he explained. “They want you to stay really far from that brink.”

If banks, accountants and regulators want to be uber-conservative, they can test a bank’s health by theoretically reducing its asset side. “If you’re still smelling good, then you’re doing something right,” Mr. Pravia said. “It’s a pretend worse-case scenario.”

Tightened regulations bring additional scrutiny. “Regulators visit our clients routinely to make sure their assets are good.”

FATCA, the Foreign Account Tax Compliance Act passed in 2010, is an additional burden on banks, he said. “In effect, the IRS has now deputized public financial institutions as the front line” to find out if someone is hiding from taxation. The guiding principle is that it’s easier for the Internal Revenue Service to find and prosecute someone in the US than to do it abroad, he said. “They’re going to go after you instead of, or in addition to, them.”

Particularly affected are banks with international clients. “It’s similar to what has been out there, but on steroids,” Mr. Pravia explained. “When you open a bank account for a foreigner, there are seven or eight pages with selected boxes that need to be marked.”

The questions range from the person’s ownership stake in the entity producing the funds deposited, to whether any money should be withheld for taxes, and beyond, he said.

“It’s additional due diligence,” he said. His firm is sometimes called on to assist banks in complying with the law. “In case somebody knocks on their door, they have to be able to show they’ve done their due diligence.

Otherwise, they could be exposed to penalties.”

“There are core regulations banks have to follow, and they have to have programs and controls in place,” agreed Steven Klein, a partner in Preston, Robinson & Co. P.A. “The government publishes lists of countries that are prohibited sources funds,” including Iran and countries considered sponsors of terrorism. “You have to know your client.”

Tax reporting for international businesses and some US citizens can be also complicated and often misunderstood, Mr. Klein said.

“With all of the international business done in Miami, reporting is a big focus,” he said. Some people, particularly those who were born in the US but have lived and worked abroad years, don’t know that they have an obligation to report income earned in another country.

“They aren’t under the impression that they are truly Americans for tax purposes,” Mr. Klein said.

Offshore bank accounts are another misunderstood issue, he added. “A lot of people are not aware they have to report that income, and they have not re-

ported in many years. They are going to pay heavy penalties for non-disclosure of that information.” Reporting the income doesn’t automatically trigger a tax bill, he added.

“Disclosure is not all that complicated, so if there is foreign income, make sure its gets reported,” Alan Lips, also a partner in Preston, Robinson & Co. “And you don’t have to be wealthy” to be subject to the reporting requirement.

Many people have taken advantage of the Internal Revenue Service’s amnesty program, he added. “The biggest driving force is that if you come forward, the IRS takes criminal prosecution away. It’s a tremendous benefit.”

The taxing authority looks back a certain number of years to determine how much income is subject to tax and how much the government is owed, Mr. Lips said. “You have the opportunity to come forward and pay some sort of civil penalty.”

But having a game plan from the beginning is far preferable to dealing with the consequences of not having one, he added.

“This is an opportunity for us to do some great planning to make sure clients are in the most efficient structure,” he said, “so they pay the least amount of tax.”



Steven Klein



Alan Lips