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From: Kathy Christensen [kathy@ahacpa.org]
Sent: Thursday, January 24, 2008 11:26 PM
To: news@ahacpa.org
Subject: AHACPA Newsletter 01/25/2008



LASS REVIEWING FOR 1099/W-2 PAYROLL ISSUES

We have received reports that LASS has been reviewing to ensure that lenders are complying with the requirements to pay loan officers as W-2 employees. The following is a copy of an email notice that outlines the problem and the required corrective action plan. It appears the reviews began on 6/30/2007 audits. We want everyone to be aware that LASS is actively reviewing for this issue based on the LASS submission. So be sure to follow the chart of accounts in the submission.

As you will see in the requested corrective action plan, LASS is requiring that all payroll taxes be restated to reflect W-2 status as well as all year end payroll reports be corrected and reissued. This is a major correction that will be difficult at best to achieve, so plan your audits accordingly.

HUD is completing a review of all LASS submissions as of and for the year-ended 6/30/07 that were automatically accepted by LASS without human review. I have completed my review of the LASS submission of XXXXXXXX Mortgage, Inc. (9999999-9) and have noted the following:

It appears that the company may not have paid its managers, loan officers, and underwriters on a W-2 basis, as required by Paragraph 2-12(C) of the HUD Mortgage Approval Handbook 4060.1 REV-2, which states:

“Branch Managers, Loan Officers and Underwriters. Loan officers (also known as loan originators) of FHA-insured mortgages must be employees of the mortgagee. Underwriters of FHA-insured mortgages must be employees of the mortgagee; its authorized agent; or, if the mortgagee is a loan correspondent, its sponsors. Managers, loan originators and underwriters may not be independent contractors or contract employees.”

The company had zero payroll tax expense recognized for the fiscal year under audit. HUD Mortgage Approval Handbook 4060.1 REV-2 is dated August 14, 2006. In Mortgage Letter 2006-30, HUD stated:

Paragraph 2-9(A) (HUD Mortgage Approval Handbook 4060.1 REV-2) requires that all employees' compensation be reported on Form W-2. HUD's guidance has always required FHA-approved lenders to use

employees rather than contract staff to perform critical loan functions. Paragraph 2-9 (A) provides specific guidance to mortgagees on type of documentation that will determine compliance with this requirement. To ensure that mortgagees have sufficient time to make changes to their employees' compensation reporting, FHA will not monitor this requirement until March 1, 2007.

Based on the above numbers, it appears to me that the company may have paid loan officers/originators on a 1099 basis.

Therefore, the following cures are required:

1. If not all managers, loan officers and loan officers/originators were paid on a W-2 basis for all compensation paid on or after March 1, 2007: an auditor's finding on the deficiency.
2. If not all managers, loan officers and loan officers/originators were paid on a W-2 basis for all compensation paid on or after March 1, 2007: a management-written corrective action plan stating that all payroll has been re-done for employee compensation paid on or after March 1, 2007, that required amended payroll tax returns have been filed, that all employee compensation in the future will be paid on a W-2 basis, and that corrected W-2s have been reissued to all company employees for tax year 2007.
3. If not all managers, loan officers and loan officers/originators were paid on a W-2 basis for all compensation paid on or after March 1, 2007: an auditor's hand-signed certification that all payroll has been re-done for employee compensation paid on or after March 1, 2007, that required amended payroll tax returns have been filed, and that corrected W-2s have been reissued to all company employees for tax year 2007.
4. If not all managers, loan officers and loan officers/originators were paid on a W-2 basis for all compensation paid on or after March 1, 2007: a revised, hand-signed auditor's report on compliance with specific requirements applicable to MAJOR HUD programs that states that the company was not in compliance with the HUD requirement to pay all employees on a W-2 basis.
5. If all managers, loan officers and loan officers/originators were paid on a W-2 basis for all compensation paid on or after March 1, 2007: an auditor's hand-signed explanation of the fact that no payroll tax expenses were recognized.

ACCOUNTING GUIDANCE FOR M2M PROJECTS

The Office of Assisted Housing Preservation (OAHP) has developed an interactive Excel Spreadsheet which summarizes accounting guidance specific to Mark-to-Market (M2M) and Demonstration projects. The spreadsheet (along with all of the OAHP accounting letters) are available at the following site: <http://www.hud.gov/offices/hsg/omhar/mhrowner.cfm> The spreadsheet can be accessed via the link entitled, "Excel Workbook."

- [Section 8 Renewal Policy Handbook](#)
- [OHAB Status Report](#) (pdf format)
- [OHAB Status Report](#) (Excel format)

OFFICE OF ASSET MANAGEMENT MEMO REGARDING LEASED NURSING HOMES

On **January 11, 2008** the Office of Asset Management issued a memorandum concerning financial statements for leased nursing homes. The memorandum states that due to technical problems lessee financial statements will not be required to be submitted electronically for the **December 31, 2007** fiscal year. Lessees with a regulatory requirement to submit financial statements must submit them in hard copy format to their local Multifamily Program Center. Financial statements for lessors must continue to be submitted electronically. For additional information please contact your local Multifamily Program Center.

CONTINUING PROFESSIONAL EDUCATION 2008

[PHA Conference](#)

June 5-6, 2008
Planet Hollywood

[Multifamily Conference](#)

December 8-9, 2008
Planet Hollywood

Other courses to be announced soon!

AHACPA CONTACT INFORMATION

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