Letter of Comment No: 32
File Reference: 1215-001
Date Received: 9/12/05

National Rural Utilities
Cooperative Finance Corporation

2201 Cooperative Way
Herndon, Virginia 20171
703-709-6700 | www.nrucfc.coop

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September 9, 2005

Mr. Robert Herz
Chairman
Financial Accounting Standards Board
401 Merritt 7, P. O. Box 5116
Norwalk, CT 06856-5116

RE: Comments on Exposure Draft of the Proposed Interpretation of Accounting for Uncertain Tax Positions, an Interpretation of FASB Statement No. 109

Dear Chairman Herz:

The National Rural Utilities Cooperative Finance Corporation (CFC) is a $20 billion cooperative founded to provide a source of private financing to about 930 electric cooperatives in 49 states, the District of Columbia, and American Samoa. With $15.5 billion outstanding to rural electrics, CFC is second only to the Federal government - Rural Utilities Service (RUS) - in total financing commitments to the industry.

We appreciate the opportunity to submit written comments on the interpretation of FASB Statement No. 109. The majority of our membership, and CFC itself, are exempt from Federal income tax. As a major lender to the industry, CFC is concerned that this proposed change would significantly impact the accounting policies of its membership.

In general, this interpretation appears to impose a higher standard on reporting entities than is required by the tax authorities. There are established guidelines for tax returns and disclosures, and these standards are already considered very high. The taxpayer is not supposed to take a position on a tax return unless it believes it "should" be allowed -- with a greater chance of winning a challenge than not.

Tax laws and regulations are among the most complicated of all laws and regulations and come to us not only through legislation and regulations, but also through case law, memorandums, field advices, and private letter rulings, and numerous other sources. While we have an entire tax code, federal regulations and case law to apply in assessing tax positions and calculating taxes, the IRS stipulates that each taxpayer's case is based on its own facts and circumstances.

When a taxpayer takes a position an IRS agent may disagree with, the situation could be resolved in the taxpayer's favor through arbitration or appeal. In addition, the taxpayer has the right to bring the matter before either a tax court or a circuit court. Circuit courts are not constrained by other circuit court decisions, so a tax matter may be decided one way in the 9th Circuit and an entirely different way in the 4th or any other Circuit. Taxpayers may "shop" the Circuit in which to bring their case when they believe a friendly decision may be reached in one circuit rather than another. Applying this standard as interpreted could lead companies to recognizing different tax positions under the same facts and circumstances based upon which Circuit Court they are located in.

Even when the IRS loses a court case, it may not acquiesce on the decision. So, while the IRS may not appeal a particular decision, it will continue to review similar situations until it finds another taxpayer's case that it decides to pursue through the court process in the hopes of getting the judgment it prefers.

Companies are already required to disclose to the IRS when they take a position that may be contrary to the tax code or regulations, based upon the company's own facts and circumstances.

This interpretation may result in additional costs to the cooperatives to obtain legal tax opinions that would normally not be required for its tax returns. If the cooperative obtains an opinion that supports its tax return, it may not be stringent enough to satisfy the FASB requirements. Auditors may require additional opinions from their own tax experts.

Following are comments on specific issues:

<u>Income Recognition</u>
Paragraph 9 states *"The appropriate unit of account for a tax position, and whether the probable recognition threshold is met for a tax position, is a matter of the individual facts and circumstances of that position evaluated in light of all available evidence. The following are examples of specific facts and circumstances that may, in the absence of opposing evidence, demonstrate a probable level of confidence:*

a. *Unambiguous tax law supporting the tax position*
b. *An unqualified* ***should prevail*** *tax opinion from a qualified expert for which all conditions are objectively verifiable*
c. *Similar positions in prior years' tax returns that have been obviously presented in the tax returns and have been either accepted or not disallowed or challenged by taxing authorities during an examination*
d. *Legal precedent from similar positions taken by other taxpayers, where analogy is appropriate, that have been favorably resolved through litigation with taxing authorities."*

In fact, most rural electric cooperatives may be unable to find such evidence to support tax positions because there has been little IRS activity in the segment to establish precedent.

Classification

Tax matters are not always decided in a timely manner. The INDOPCO decision was handed down in 1992 on a tax position taken on a return filed in 1978. It took the U.S. Treasury and IRS until 2003 to draft final regulations covering the capitalization of intangibles. In this situation, it took 14 years from the tax filing to taxpayer resolution, and 11 years from court ruling to regulatory guidance. To classify as current liabilities tax positions that have yet to be adjudicated may unnecessarily distort the working capital of the corporation, and may place cooperatives in violation of certain mortgage and loan agreement covenants Though CFC's loan documents do not use current ratio as a liquidity measure, or set minimum levels for covenant compliance, other lender agreements may use current ratio or some derivative thereof to measure borrower compliance.

Implementation Date

Implementation for fiscal years ending as early as December 31, 2005, may create a hardship for cooperatives because of the short time frame for compliance. We believe the implementation date should be, at the earliest, for fiscal years beginning after December 31, 2005.

CFC respectfully recommends that the FASB consider the comments outlined by the National Rural Electric Cooperative Association (NRECA) in its recent response to the exposure draft. Should you have question regarding this memorandum, please contact Lynn Midgette at703-709-6726, or Peggy Monaco at 703-709-2087.

Sincerely yours,

Lynn Midgette
Vice President, Portfolio Management

Peggy Monaco
Tax Supervisor