

December 1, 2004

Mr. Lawrence W. Smith
Director of Technical Application and Implementation Activities
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

Re: Proposed FASB Staff Position No. FAS 109-b, *Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004*

Dear Mr. Smith:

PricewaterhouseCoopers LLP appreciates the opportunity to respond to the proposed FASB Staff Position No. FAS 109-b, *Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004* (the "Proposed FSP"). We commend the FASB for its efforts in responding so rapidly to the concerns that were identified related to this unprecedented legislative development and for proposing a practical solution for preparers that is in the best interests of the capital markets. We also appreciate the open communication between the Staff and our professionals in developing the Proposed FSP.

We have the following comments and observations for your consideration.

In general, we agree with the overall conclusion in the Proposed FSP that it would be appropriate to provide companies with additional time to evaluate the effects of the Act on their plans for reinvestment or repatriation of foreign earnings, and thus defer the requirement to apply paragraph 12 of APB Opinion No. 23, *Accounting for Income Taxes—Special Areas*, (APB 23) until such time that companies have completed their evaluations.

We recommend, however, that paragraph 9 of the Proposed FSP be omitted from the final FSP or clarified. That paragraph paraphrases the requirements of paragraph 12 of APB 23, thereby requiring a liability to be recognized when it is "apparent that a portion of the undistributed foreign earnings will be repatriated," even though the company has not yet completed its determination of the impact of the repatriation provision. We are concerned that some might interpret paragraph 9 to mean that companies would be required to record a tax liability for the low end of a range of potential repatriation amounts with additional amounts accrued in later periods as they complete their reinvestment plans. From our observation of the Board's discussions related to the Proposed FSP, it appeared that members of the Board and staff may have had differing views on this point. In our view, the guidance in paragraph 9 is inconsistent with the overall intent of the Proposed FSP to permit companies additional time to complete their



evaluations, and with the specific language in paragraph 8 of the Proposed FSP that requires an enterprise to apply Statement 109 in the period in which it determines the impact of the repatriation provision.

We generally support the proposed disclosure requirements as well as the requirement to separately disclose the effect on income tax expense for the period when amounts have been recognized. We note that if paragraph 9 is eliminated, as per our recommendation, the requirement in paragraph 11(d) would no longer apply. In any event, we believe that the final FSP should not be prescriptive as to where the tax effects should be presented within the financial statements. Accordingly, we recommend eliminating the proposed requirement (presently set out in paragraphs 11(d) and 12(a) of the Proposed FSP) that the effect be presented in the same place that the company discloses current and deferred tax expense.

We appreciate the opportunity to express our views on the Proposed FSP. If you have any questions regarding our comments, please contact Brett Cohen (973-236-7201) or Pat Durbin (973-236-5152).

Sincerely,

PricewaterhouseCoopers LLP