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Letter of Comment No: 7
File Reference: FSPFAS109

Dear Ladies and Gentlemen:

RE: Comment on FSP FAS 109-b.

I am submitting on behalf of Ball Corporation the following comments with regard to FSP FAS 109-b. We are requesting certain clarification on disclosure requirements and interim reporting under the staff proposal.

Disclosure Requirements

Concerning disclosure requirements, paragraph 11.b. states that the range of reasonably possible amounts that is being considered for repatriation as a result of the repatriation provision and the related potential range of income tax effects of such repatriation shall be disclosed.

The company has concern with a potential disclosure requirement as it relates to 2005 earnings. Please clarify if it is a given that in the financial statements and Form 10-K for the calendar year 2004 that a company is only required to disclose amounts related to the reported and prior years. Our interpretation is that the FASB expects disclosure in the 2004 Form 10-K of all possible distributions under the repatriation provision in the American Jobs Creation Act of 2004, including any possible distributions of 2005 earnings.

While in a Form 10-K filed timely for the calendar year 2004 the registrant should be able to disclose the range of amounts intended to be distributed for the years ended 2004 and prior, there should be no disclosure requirement for the possible repatriation amount of 2005 earnings which have not yet occurred. Our primary concern is disclosing earnings estimates for our foreign operations for 2005 in the 2004 financial statements.

It would seem more appropriate in the 2004 Form 10-K to disclose management's intent, if so determined by that time, to distribute the earnings for 2005 without providing any forecast of the potential amount of distribution. In the quarterly 2005 Form 10-Q's, disclosure could be made in Management's Discussion and Analysis on the impact on the effective rate for the year based upon the intended distribution of 2005 earnings (see discussion below).

Interim Reporting

FSP FAS 109-b appears to address annual reporting only. For example, interim reporting does not currently require the disclosure of the current versus deferred income tax provision as discussed in paragraph 11.d. Clarification should be made as to which disclosure requirements in paragraphs 11.a. - d. would be required, if at all, on an interim basis. As discussed above, it seems more appropriate for the calendar year 2005 that taxes be provided on 2005 earnings under APB 23 paragraph 12, taking into consideration the final guidance from FSP FAS 109-b, and should be taken into account on an interim basis in determining the best estimate of the effective tax rate to be applicable for the full fiscal year in accordance with APB 28 paragraph 19. This would be consistent with current practice.

If a tax provision is not made until 2005 for years 2004 and prior in accordance with FSP FAS 109-b paragraphs 6-9, clarification should be given as to whether this tax provision should be recorded on a discrete period basis or should be considered under APB 28 in determining the best estimate of the 2005 annual effective rate. Similarly, if the provision on any distribution of 2005 earnings is not recorded until the second or third quarter, clarification should also be made on whether this is a discrete period item or to be included in the overall determination of the effective tax rate for 2005 under APB 28. Our recommendation is that the tax provision for the 2004 and prior years would be a discrete period item and that the 2005 amount should be taken into consideration under APB 28 for the 2005 effective rate. Proper disclosure can be made in the Management's Discussion and Analysis filed with Form 10-Q regarding the impact on the 2005 annual effective rate based upon the intended distribution of 2005 earnings. Similarly, any discrete period provision would also be disclosed.

Please feel free to call me at 303-460-5237 if there are any questions or if some clarification of our comments is needed. Thank you for your consideration. We appreciate the opportunity to comment.

Regards,

Douglas K. Bradford
V.P. & Controller