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Letter of Comment No: 103
File Reference: 1215-001
Date Received: 9/12/05

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September 12, 2005

Ms. Suzanne Bielstein
Director – Major Projects and Technical Activities
Financial Accounting Standards Board
401 Merritt 7
Norwalk, Connecticut 06856-5116

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Dear Ms. Bielstein,

We would like to take this opportunity to comment on the Proposed Interpretation, "Accounting for Uncertain Tax Positions– an interpretation of FASB Statement No. 109." While we support the Board's efforts in attempting to address significant accounting issues, we believe the Proposed Interpretation should not be issued as drafted. We agree with the alternative views of two of the Board members that the Proposed Interpretation would not be an improvement in financial reporting, would be unduly complex, would be difficult to apply in practice, and would result in systematic overstatement of tax liabilities.

Overall

In our opinion, the Proposed Interpretation's perspective on uncertain tax positions is flawed. While the multiple components of income taxes consist of individual items that increase or decrease the overall tax liability, the concept of income taxes is that of an expense and a liability of the company, not an asset or receivable. Therefore, the recognition of income taxes is more appropriately evaluated within the context of liabilities rather than assets. As such, we believe uncertain income tax positions should be fully recognized (typically through a reduction of the income tax liability) based on a "substantial authority" threshold (the basis upon which a company can include an item in its tax return, sign and file, and expect to not be subject to penalties) and a liability should be established for the expected outcome if, based on the weight of available evidence, it is more likely than not that some portion of the positions will not be realized upon resolution with the taxing authority. Accounting pronouncements should facilitate the preparation of the most accurate financial statements based on the expected outcome (i.e. "best estimate" methodology) and not require hypothetical tax return calculations.

Measurement

We agree with the Board that the "best estimate" methodology will provide the most relevant information for users, but we disagree that a higher threshold for recognition of individual items that the Board identifies as tax assets (versus a reduction of liabilities) should be required when a "best estimate" methodology is used. Numerous amounts in financial statements are already recorded under GAAP using "best estimate" type of approaches, including income tax amounts under FAS 109. Paragraph 96 of FAS 109 states, "The Board believes that the criterion required for measurement of a deferred tax asset should be one that produces accounting results that come closest to the expected outcome, that is, realization or nonrealization of the deferred tax asset in future years. For that reason, the Board selected *more likely than not* as the criterion for measurement of a deferred tax asset. Based on that criterion, (a) recognition of a deferred tax asset that is expected to be realized is required, and (b) recognition of a deferred tax asset that is not expected to be realized is prohibited." We believe the recognition of individual items that reduce the income tax liability should be treated consistently in the same manner as tax assets identified in this paragraph. We believe that the Proposed Interpretation will not result in accounting results that come closest to the expected outcome.

Overstated Liabilities
The Proposed Interpretation will result in overstating liabilities because a tax benefit could be more likely than not of being sustained but not recorded since it does not meet the proposed "probable" threshold, resulting in a higher tax liability. Since it is more likely than not that the tax benefit will in fact be realized and the higher liability will be reversed, the proposed change does not accurately present the expected outcome of an uncertain tax position. The impact is increased volatility in tax expense and quarterly tax rates, not a reduction.

By its very nature, a dual threshold approach is going to be more complex than a single threshold approach. Further, an interpretation should apply the existing concepts in the standard that it interprets, and the existing concepts in FAS 109 have worked well. So fundamental is the difference between "probable" and the "more-likely-than-not" criteria which already exists in FAS 109 that it seems more appropriate for this proposal to be an amendment of FAS 109 rather than an interpretation.

Comparability
The Proposed Interpretation does not succeed in improving comparability among companies. As the Board acknowledged in paragraph B18 of the Proposed Interpretation, there is significant risk that a tax benefit will be recorded on one company's books and not on another's books even though their circumstances are the same. We do not believe that the stated benefits of a dual threshold overcome the non-comparability among companies.

One of the examples given that indicates a probable level of confidence was an unqualified *should prevail* tax opinion from a qualified expert. However, tax experts can differ in their interpretation of the confidence level required for a *should prevail* tax opinion just as opinions can differ on the definition of "probable." We believe diversity in practice would only continue, leading to financial statements that are not comparable across companies. Differences in opinion will likely lead to increased fees for impacted companies as well without an increased benefit.

Threshold and Examples in Paragraph 9
The examples in paragraph 9 of the Proposed Interpretation are too restrictive. Item 9.c. should delete the words "have been obviously presented in the tax returns and" so that it reads as follows, "Similar positions in prior years' tax returns that have been either accepted or not disallowed or challenged by taxing authorities during an examination." In addition, the list of examples should be broadened to address items that have not yet been subject to examination or not challenged; such as, state nexus issues when tax returns may not have been filed in a state because the company does not believe it has nexus or transfer pricing issues that have not yet been challenged by tax authorities, but the company believes it will fully or partially prevail on each of the positions taken. Again, these items should be provided for based on the expected outcome of each item.

Effective Date and Transition
We believe the proposed effective date of the first fiscal year ending after December 15, 2005 puts too heavy a burden on entities to comply. The complexity of the changes, if adopted as proposed, will require more time for companies to conform to the new rules and review their uncertain tax positions. Rushing the pronouncement's effective date will not alleviate the diversity in practice, a central goal stated in the proposal. An effective date of the first fiscal year beginning after December 15, 2005 would seem more reasonable.

Also, the Proposed Interpretation requires that existing tax positions meet the "probable" threshold as of the effective date. This is inconsistent with the derecognition requirements after the effective date, which allow a previously recognized tax position to remain on the books until it is more likely than not that the tax position would not be sustained on audit. We strongly believe recorded tax benefits as of the effective date should remain so long as the "more-likely-than-not" threshold is met.

Conclusion
The Proposed Interpretation should not be issued as drafted. Income taxes should be viewed from a liability perspective, not an asset, since the issue is about how much the company will ultimately pay the government for a tax year, not how much it will receive (ignoring estimated taxes paid toward the liability). If the Board moves ahead on this project, a tax benefit should be recognized when a position meets the minimum statutory threshold to avoid the payment of penalties ("substantial authority") and a liability should be established for the expected outcome if, based on the weight of available evidence, it is more likely than not that some portion of the position will not be realized upon resolution with the taxing authority.

We believe the "more-likely-than-not" threshold should be used consistently throughout FAS 109 rather than a dual threshold approach since this position already has authority within FAS 109. From this threshold, a best estimate could be used to produce the correct economic measurement of the tax benefit. This approach would produce the most accurate measurement of a tax benefit and thus would avoid a systematic overstatement of liabilities and volatility in tax rates that would result from reversal of excessive liabilities. Further, the effective date should be for fiscal years beginning after December 15, 2005.

We appreciate the opportunity to respond to the Board's Proposed Interpretation and trust that our comments will be seriously considered in future Board deliberations on this issue.

Sincerely,

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Cc: Walter J. Galvin
Executive Vice President & Chief Financial Officer

David C. Moon
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