

Letter of Comment No: 98
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Financial Accounting Standards Board 401 Merritt 7
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RE: Technical Director – File Reference 1215-001 – Exposure Draft on Uncertain Tax Positions

Dear Sirs:

Carnival Corporation & plc ("Carnival" or the "Company") appreciates the opportunity to comment on the proposed interpretation on Accounting for Uncertain Tax Positions, an interpretation of FASB Statement No. 109 ("Exposure Draft"). By way of background, Carnival Corporation & plc is the world's largest cruise company and is comprised of 12 brands, including AIDA Cruises, Carnival Cruise Lines, Costa Cruises, Cunard Line, Holland America, P&O Cruises Australia, P&O Cruises UK and Princess Cruise Line.

Tax Laws and Regulations

Carnival's operations, similar to most large international companies, are subject to income tax laws and regulations that are complex and subject to varying interpretations. In addition, because tax laws and regulations are constantly changing, many of them will not have been the subject of regulatory audits or judicial or other interpretations, and thus their probable interpretation may not be known for extended periods of time.

"Probable" level of confidence

The Exposure Draft requires that a tax benefit be recorded only if the underlying tax position is probable of being sustained under audit by the relevant tax authority based on the technical merits of the position. The Exposure Draft provides four examples of factors that, in the absence of opposing evidence, may demonstrate a probable level of confidence as follows:

- Unambiguous tax law,
- An unqualified should prevail tax opinion from a qualified expert,
- Similar positions in prior year's tax returns have been accepted or not disallowed during an examination, and

 Legal precedent is available from similar position taken by other taxpayers, where analogy is appropriate.

If we apply these factors in cases where new tax law or regulations are in effect it is unlikely that companies will be able to record the tax benefits related to a new tax law or regulation unless the law or regulation is "unambiguous." Without controlling precedent it will be impossible to obtain an unqualified "should prevail opinion" from a qualified expert. In addition, in these circumstances, no prior income tax returns addressing these tax positions have been examined or legal precedent argued to support a "probable" determination. Accordingly, companies will continue to find themselves in a position of having to forgo recording tax benefits for a number of years until demonstrable evidence exists to support a "probable" conclusion. As a consequence millions of dollars of expenses will be recorded for liabilities that more likely than not will never have to be paid.

The natural result from application of the Exposure Draft concepts will be an artificial relative increase in a company's provision for income taxes following new legislation or significant regulations. This artificial increase will persist during the years for which the statute of limitations on assessments remains open. Once the statute of limitations passes and assuming the uncertain tax position is not audited, a company would be recording a new provision for the uncertain position in the current year while reversing the accrual attributable to the same position taken in a year outside the statute of limitations. Thus, in the absence of an assessment, the Exposure Draft creates, as a general matter, a three to five year "bubble" in the tax provision. In addition, if the uncertain tax position is determined to be acceptable, a company would no longer provide a current year tax provision, but would reverse all previous year's uncertain tax liabilities in one year, thus resulting in a large "out of period" income tax benefit.

We concur with your requirement that tax benefits should not be recognized, merely due to the uncertainty of a tax audit where the position is more likely than not to not be upheld. However, the overwhelming evidence suggests that in substantially all income tax audits the arguable issues are resolved via settlement, so even if it is assumed that the issue will be detected, it is probable that these tax uncertainties will be settled for a smaller negotiated amount as the issues involved are not "black and white."

Accordingly, the Exposure Draft would result in requiring companies to record liabilities for amounts that probably will never be paid. A liability for this type of tax uncertainty does not meet the definition of a liability in Concepts Statement No. 6, which states (1) that a liability entails settlement by probable future transfer or use of assets on occurrence of a specified event, and (2) the responsibility obligates an entity, leaving it little or no discretion to avoid the future sacrifice. As stated above, it is "probable" that the full amount of the liability will never be paid. On the other hand, if the tax position is aggressive and cannot meet a more likely than not threshold, no benefit should be recognized regardless of the risk of audit defection.

Carnival believes that it is unduly burdensome on all businesses to have to achieve a "probable," or 70% to 75% threshold, especially in situations where the tax law is ambiguous, tax experts are reluctant to provide "should prevail" opinions in today's litigious environment and the applicable laws or regulations are new and untested. The Exposure Draft will consistently result in the understatement in net income in these circumstances. It will also be highly likely that companies who have been audited by their taxing authorities will be able to meet these probability thresholds, whereas companies in the same industry, with the same deductions, who are not a party to these regulatory audit decisions, will continue to have to recognize these tax expenses, thus reducing comparability between financial statements to a greater degree than what already exists as a result of the estimations made within the financial statements.

Finally, the adoption of this Exposure Draft may very well put U.S. businesses at a competitive disadvantage compared to businesses in other countries, especially when dealing in tax areas that are regulated by complex, ambiguous, new and untested tax laws.

Measurement

We believe that it is more reasonable to also apply the "best estimate" approach, discussed under the Exposure Draft's "measurement" principles, for both the recognition and the measurement of tax uncertainties. In situations where aggressive tax positions have been taken, the greater than 50% threshold of a more likely than not criteria would not be met and, accordingly, these types of deductions would not be allowed. To just take a best estimate approach in measuring the liability, while ignoring the best estimate to determine if the position should be recorded in the first place, is to add a level of conservatism to financial reporting that is not fully consistent with international financial reporting standards ("IFRS"). IFRS has not adopted a tax uncertainty statement similar to the Exposure Draft and, accordingly, U.S. GAAP financial statements will not be comparable with financial statements issued under IFRS.

Accrual of interest

We believe that if the final statement ultimately requires companies to record liabilities for tax uncertainties based on a "probable" threshold, the requirement to record interest and penalties merely adds to the recording of excessive expenses and liabilities, which are more likely than not ever required to be paid. This artificial increase in interest will also persist during the years for which the statute of limitations on assessments remains open.

On the other hand, if one of the Exposure Draft's purposes is to try to maintain comparability, we do not believe companies should be allowed to choose where to classify interest expense. If amounts recorded truly represent interest on borrowings from the government, as the Exposure Draft states, then companies should be required to record these amounts as interest expense in order to enhance comparability.

Cost of compliance

The cost of complying with this Exposure Draft will be significant, as companies may find it necessary to continually utilize high-cost outside professional tax advice to provide "should prevail" opinions, when other evidence does not exist.

Effective date

Given the limited time between the issuance of a final interpretation and its proposed effective date, the complexities surrounding the interpretations of tax laws and regulations, the implementation of the new share based compensation standard, the implementation of international financial reporting standards and the accelerating SEC reporting deadlines, we believe the Exposure Draft, if adopted, should be effective for the first annual balance sheet after December 15, 2006, instead of December 15, 2005. This will enable companies to fully assess the impact of the interpretation and work with professional advisors in determining whether "should prevail" opinions can be obtained, which is especially important when new tax laws and regulations are constantly being issued throughout the world.

Carnival appreciates the opportunity to participate in the FASB's considerations with respect to accounting for tax uncertainties. If you have any questions regarding this response, please contact me at (305) 599-2600 (extension 65755).

Very truly yours.

Larry Freedman

Vice President - Finance and Controller