

December 3, 2004

Mr. Lawrence W. Smith  
Director, TA&I - FSP  
Financial Accounting Standards Board  
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P. O. Box 5116  
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Letter of Comment No: 17  
File Reference: FSPFAS109

**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:

We are pleased to comment on 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 Act) (FSP FAS 109-b or the Proposed FSP).

We commend the staff for addressing, in such an expeditious manner, a current practice issue that affects a broad spectrum of U.S. enterprises.

We support the issuance of FSP FAS 109-b. However, we believe that the Proposed FSP could be improved if the staff were to consider our recommendations in the balance of this letter.

The reference in paragraphs 5 and 6 of the FSP to "additional time" is unnecessary. Rather than framing the issue in reference to additional time, we suggest that the issue be framed within the context of Statement 109 and Opinion 23 and be clearly tied to the company's plan and management's assertion regarding its intention to repatriate earnings of foreign subsidiaries in the foreseeable future as follows:

5. An issue has arisen as to the application of Statement 109 and Opinion 23 because of the Act's potential effect on an enterprise's plan for reinvestment or repatriation of foreign earnings. Specifically, how should an enterprise apply Statement 109 and Opinion 23 if, at the end of a financial reporting period, an enterprise has not completed its determination of the Act's effect on its plan for reinvestment or repatriation of foreign earnings?

**FASB Staff Position**

6. An enterprise can evaluate the tax effects of the Act or any other factor in order to determine its effect on the company's existing Opinion 23 plan. At any point in time that it becomes apparent that some or all of the undistributed foreign earnings will be repatriated, the company should record deferred taxes in the period of change. In other words, the fact that the enterprise is evaluating the effect of the Act on its plan is not, in and of itself, inconsistent with a conclusion that the enterprise has overcome the presumption of repatriation of foreign earnings.

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We appreciate your consideration of our comments. If you have any questions concerning our comments, please contact Tim McKay at (415) 783-5366 or Chuck Lischer at (203) 761-3777.

Yours truly,

Deloitte & Touche LLP