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Vice President and Controller

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Technical Director – File Reference 1215-001
Financial Accounting Standards Board
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Sent via email to director@fasb.org, File Reference 1215-001

Re: Proposed Interpretation: Accounting for Uncertain Tax Positions

Lockheed Martin Corporation welcomes the opportunity to provide comments on this exposure draft (ED). Lockheed Martin is a publicly traded corporation principally engaged in the research, design, development, manufacture and integration of advanced technology systems, products and services. We reported sales of \$35.5 billion in 2004.

We commend the FASB for taking on yet another difficult project, and share its objective of more relevant financial statements. However, we believe the approach required by the ED is conceptually inconsistent with existing literature, as well as with the tentative decisions reached in the current Conceptual Framework project. In addition, the proposed methodology for estimating how individual income tax issues will be resolved does not conform to how such matters are administratively negotiated and dispositioned in actual practice, leading to a valuation process that is not representationally faithful to expected results. Finally, we believe the enactment of the ED as proposed will result in the unintended consequence of unrealistically large income tax liabilities on the balance sheet, distorting the income statement for the periods in which the liabilities are first established and in which the tax return is settled and the excess liabilities reversed.

Our first point concerns the ED's approach of bifurcating income tax benefits and liabilities and treating them as if they were completely disparate items, rather than as essentially two sides of the same coin: the estimated comprehensive income tax liability. We further believe that it is more appropriate to view tax uncertainties as a contingent liability issue, rather than as an asset

valuation matter. Accordingly, we believe the FAS 5 model regarding contingent liabilities should apply.

In describing current practice, Paragraph B5 of the ED states: “Frequently, the realizability of any current or deferred tax benefit is evaluated and a valuation allowance is recorded using the more-likely-than-not criteria of Statement 109.” We believe this is an appropriate yardstick. However, the ED’s proposed approach is inconsistent with the document it is purportedly interpreting. Furthermore, the substantive effect of a different criterion for the evaluation of tax benefits and tax liabilities seems to us to be inconsistent with the concepts of faithful representation and neutrality (as contrasted with conservatism) embraced by the FASB in its ongoing Conceptual Framework project.

Regarding our second point, as the Summary section on Page iv of the ED points out, “in some cases, the law is subject to significant and varied interpretation and whether a tax position will ultimately be sustained may be uncertain.” In our experience, these uncertainties are often ultimately resolved with the taxing authorities through an administrative procedure involving a negotiated settlement. Rather than upholding or denying an asserted position on an issue in its entirety, such negotiations often result in the issue being settled for some fraction of its asserted amount, and sometimes by a basket of issues being included in a comprehensive settlement. The “probable” criterion for tax benefit recognition espoused in the ED, with its implicit all-or-nothing, issue-by-issue presumption, does not reflect the most likely scenario for realization, and therefore valuation, in our view. The result of using this methodology does not faithfully represent the underlying economic reality. Obviously, we also object to the administrative burden imposed by the ED that gets us to this unsatisfactory answer.

Our third point follows from the second. We believe the ED as proposed would result in an underrecognition of tax benefits, and therefore an overstatement of tax liabilities, on the balance sheet. Income tax expense would be misstated in both the year the liability was first overstated and again in the year the excess liability was reversed. Using the terminology from the Conceptual Framework project, the financial statements would be less relevant. We believe a tax benefit recognition criterion lower than “probable” (as defined in the ED), along with a methodology that would allow for a comprehensive “best estimate” calculation, would more appropriately reflect the substance of the underlying economic activity.

We have the following additional comments concerning some of the numbered issues in the ED.

Issue 3 Initial Recognition

As mentioned above, we disagree with the ED’s provision that tax benefit recognition is dependent upon the ultimate sustainment being probable. Our concerns include: the misapplication of asset recognition criteria to what is arguably a contingent liability issue; the imprecision of the practical definition of “probable” (greater than 70%? Greater than 80-85%?); the fact that probability as defined may not be attainable (“Will” or “Should” opinions may be

based on significantly lower thresholds, historical experience and management judgment may not be precisely quantifiable as to probability); and the cost related to obtaining opinions of tax counsel to meet the quantifiably probable standard.

We further believe that the “dual threshold” approach for tax benefit recognition and derecognition adds unnecessary complexity and costs, and has little conceptual basis.

Issue 6 Measurement

We believe the best estimate of the amount that would be sustained should include consideration of probability as one of its components. We do not believe a best estimate can be obtained by first eliminating benefits in their entirety that do not meet the ED’s definition of probable, and thus do not agree with the “two-step” approach.

Issue 7 Classification

While we understand the concepts considered by the FASB in reaching its decision on classification of non-current book-return differences, we do not believe further disaggregating income tax amounts to a fourth different balance sheet account (current tax payable, current deferred asset or liability, long-term deferred asset or liability, and now other long-term liability) improves the financial statements. We believe that users of the financial statements would not find the classification of such a liability as part of deferred taxes to be misleading, and may in fact welcome the simplicity of presentation when compared with the alternative.

Issue 11 Effective Date

As mentioned in our general comments above, the title “interpretation” belies the magnitude of the changes in practice prescribed by the ED. We believe the proposed effective date, year-end 2005 for those whose fiscal year is the calendar year, provides insufficient time for practitioners to undertake these changes (including, in some cases, the need to engage tax counsel to provide additional “should prevail” opinions), and is even less adequate should the FASB further revise the final document based on the input it receives during the comment period.

Thank you for considering our comments during your further deliberations.

Sincerely,

/s/ Martin T. Stanislav
Vice President and Controller