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September 12, 2005

Technical Director
Financial Accounting Standards Board
401 Merritt 7
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File Reference: 1215-001 – Accounting for Uncertain Tax Positions

Dear Director:

We are writing to express our disagreement with certain proposals included in the exposure draft on accounting for uncertain tax positions. We believe that these proposals are overly conservative and would lead to overstated tax reserves. We also believe that given the delays in issuing the exposure draft, there is insufficient time for meaningful analysis and debate to allow for implementation by December 15, 2005. We recommend that the implementation date be deferred.

The exposure draft requires recognition of the financial statement impacts of a tax position only when it is "probable" of being sustained on audit by taxing authorities based solely on the technical merits of the position. It is presumed that the tax position will be examined by the taxing authority.

The word probable is not specifically defined but it is equated to a "should prevail" tax opinion from a qualified tax expert. We do not believe that there is a consistent interpretation of the word "should" in tax opinion letters. This is particularly true when obtaining tax opinions in countries outside of the United States. We have had one example where we obtained a tax opinion from a qualified expert in another country that said we "would likely" prevail on a tax position in that country. The tax expert was reluctant to put a numerical probability on the outcome, as estimating the outcome of tax positions is not an exact science. However, he did venture that our tax position had twice as likely a chance of prevailing as not (i.e., 66 2/3%). Our auditors have suggested to us that under the proposed rules, we would not be able to record the transaction in accordance with this opinion. This is because the tax opinion did not contain the word "should" and upon further discussion with the expert, he did not indicate a level of confidence greater than 70%.

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We suggest that the wording in the proposed interpretation be changed to remove the reference to a "should prevail" opinion. More general guidance around the meaning of the opinion should be given to avoid focusing on specific words. Other appropriately worded opinions should be allowed to be used by companies to support their positions.

Although the exposure draft does not give specific guidance around the quantification of the probability that would equate to "probable", we understand the auditing profession is interpreting this to mean 70-75%. We believe this is too high a number. Many positions will not even be examined by tax authorities, and the outcome of other will be negotiated without going to court. The exposure draft does not allow companies to factor this into their assessment and still requires over 70% confidence their position would prevail if it did go to court. We believe this is too high a hurdle and will result in large tax reserves being recorded, only to have them reversed later.

We suggest that as long as a company has a tax opinion from a qualified expert, that is sufficient to protect the company from penalties, the company be allowed to record the transaction in accordance with the opinion. The auditors should be allowed to rely on this opinion. A tax opinion from a qualified expert should be sufficient evidence and not subject to being overruled by the company's auditors. Auditors tend to have an overly conservative bias and may force companies to record tax reserves at a level that is higher than warranted.

Thank you for giving us the opportunity to comment.

Yours truly,

NOVA CHEMICALS

Patrick D. Jewison
Vice President and Controller

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