



Letter of Comment No: 66
File Reference: 1215-001
Date Received: 9/12/05

September 12, 2005

Technical Director
File Reference 1215-001
Financial Accounting Standards Board
401 Merritt 7, P.O. Box 5116
Norwalk, Connecticut 06856-5116

Re: File Reference 1215-001

Dear Sir/Madam:

The Accounting Principles Committee of the Illinois CPA Society (Committee) appreciates the opportunity to provide its perspective on the Exposure Draft of the Proposed Interpretation, *Accounting for Uncertain Tax Positions an Interpretation of FASB Statement No. 109* (the "Interpretation").

The Committee is a voluntary group of CPA's from public practice, industry and education. Our comments represent the collective views of the Committee members and not the individual view of the members or the organizations with which they are affiliated. The organization and operating procedures of our Committee are outlined in Appendix A to this letter.

Our comments are as follows:

Issue 1: We are unclear as to the unit of accounting for purposes of assessing tax positions. The first example in Appendix A suggests that taxpayers evaluate each individual R&D project. That is a significant task for companies having hundreds of projects. We believe the Board's intent is to require companies to assess their broader tax policies and positions over an entire class of tax attributes rather than to require the micro-management of these matters. We believe the interpretation should stay at higher levels than individual deductions or projects.

Issue 2: We agree with the Board's conclusion that each tax position should be evaluated individually on its merits. However, we believe the overall tax balances recognized in the financial statements should be reflective of management's best estimate of the tax that will ultimately be paid and, accordingly, should be reflective of the outcome that will be achieved in total. Taxpayer and taxing authority regularly engage in a bargaining process that involves not only the technical merits of any position, but the broader enforcement aims of the taxing authority. Taxpayers and taxing authorities engage in a broader

strategy to achieve their often competing objectives resulting in bargained positions that do not mirror the likely individual position outcomes were they each to be evaluated solely on technical merits. A taxing authority will often take issue with positions that would clearly be settled in favor of the taxpayer or yield on issues that would likely be settled in its favor in order to bargain for other positions that it believes are more important to it in a wider sense.

The Board's observation that "...the law is subject to significant and varied interpretation and...diverse accounting practices have developed resulting in inconsistency in the criteria used to recognize, derecognize, or measure benefits related to uncertain tax positions" is also indicative of the variety of outcomes that arise as each taxpayer bargains with each taxing authority. The judgments that surround current practice are also reflective of individual taxpayer willingness to pursue matters with respect to taxing authorities. This is probably not different from the diversity in practice that attends the estimation of many other liabilities, particularly those related to matters that may ultimately be settled only through litigation. Many things in business are reflective of the aggressive or passive natures of individual company's managements and can not be reduced to a lowest common denominator. What one may determine to fight, and perhaps win in court, another may choose to settle despite a high likelihood of success.

Issue 3: We do not agree with the dual recognition approach. We agree with the comments expressed in paragraph B46 that this process will lead to a systematic overstatement of deferred tax liabilities. The interpretation as written appears to be biased towards a worst-case scenario as opposed to a reasonable or best estimate of the amounts that will ultimately be settled with tax authorities. It appears to us that the interpretation almost mandates the creation of a "cookie jar" and, as a result, will give aggressive management the ability and the license to manipulate its earnings.

Issue 4: We agree with the Board in so far as current practice requires each taxpayer to assess its exposures with respect to tax authorities at each reporting date. We believe this is already current practice to the extent that facts and circumstances are routinely considered by taxpayers in preparation of their financial statements.

However, paragraph 8 appears to require that an issue that is not in fact raised in an audit by tax authorities will not achieve the probable threshold until the expiration of the statute of limitations. Management must continue to assume the matter will be detected on audit (even if it has not been in the past) and it will not have been settled (having not been identified). "Closing" a tax year does not appear to be a consideration.

Issue 5: We do not agree with the dual threshold approach. We do not believe it is consistent with the broader principles of FASB Statement No. 5. The proposed interpretation's focus on assets leads to numerous questions around the resultant liabilities that arise because of the operation of rule. For example, paragraphs A2 through A11 do not address the liability that results when a tax refund is effectively received as a result of the position taken on the return with respect to the R&D credits. Liabilities are

adequately addressed by FASB Statement No. 5. The operation of the dual threshold in this proposed standard appears to be at odds with the principles of Statement No. 5.

Issue 6: We agree in part with the Board's conclusion, however, as noted in Issue 2 above, we believe that the amounts recorded by management should reflect its best estimate of that which will ultimately be paid to taxing authorities. This would require that the tax position be evaluated at an overall level as well as an issue level and that issues that may not be at the "probable" level be considered in arriving at the best estimate of the amount to be recorded in the financial statements.

Issue 7: We agree that benefits and liabilities that arise other than from taxable temporary differences should not be classified with deferred taxes. We believe that this is already the more common and the preferable treatment in financial statements. We further believe that a taxpayer who is able to determine that a tax position will be settled within one year (or the operating cycle) is probably not dealing with "uncertain" positions but with positions that have already been bargained with taxing authorities and are in fact pending settlement.

Issue 8: We agree.

Issue 9: We do not agree with the Board's decision not to address interest and penalties. We believe the Board should spend additional time considering this interpretation and then spend the time necessary to deal with interest and penalties.

Issue 10: We do not agree with detailed disclosure of tax positions by taxpayers. Disclosure of tax returns is not required. Accordingly, we fail to see the information needs that are being satisfied with disclosure of tax positions taken.

Issue 11: We do not agree with the effective date. We believe this is a fundamental change in accounting for income taxes that is worthy of greater debate than has thus far occurred. Companies and their auditors will need to assess these changes across multiple jurisdictions. Additionally, if the standard is issued with a focus on low level units of accounting, significant time will necessary to assess tax positions at those lower levels.

The accelerated deadlines for public companies for filing year end financial statements plus the interaction of changes in controls over financial reporting needed to implement the changes resulting from the adoption of the interpretation should not be taken lightly by the Board. Changes in accounting principles should not be matters that are undertaken in the fourth quarter in the current accounting environment as they not only increase the pressure on companies already dealing with complex accounting matters, but also increase the likelihood of financial statement restatements in a time when user confidence is already eroding.

We believe the transition provisions for tax accounts as of the date of adoption should be identical to those ultimately specified for subsequent changes to tax assets and liabilities recorded under this interpretation.

The Illinois CPA Society appreciates the opportunity to express its opinion on this matter.
We would be pleased to discuss our comments in greater detail if requested.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Fuehrmeyer, Jr.", written in a cursive style.

James L. Fuehrmeyer, Jr., Chair
Accounting Principles Committee

APPENDIX A
ILLINOIS CPA SOCIETY
ACCOUNTING PRINCIPLES COMMITTEE
ORGANIZATION AND OPERATING PROCEDURES
2005- 2006

The Accounting Principles Committee of the Illinois CPA Society (Committee) is composed of the following technically qualified, experienced members appointed from industry, education, government and public accounting. These members have Committee service ranging from newly appointed to more than 20 years. The Committee is an appointed senior technical committee of the Society and has been delegated the authority to issue written positions representing the Society on matters regarding the setting of accounting standards. The Committee's comments reflect solely the views of the Committee, and do not purport to represent the views of their business affiliations.

The Committee usually operates by assigning Subcommittees of its members to study and discuss fully exposure documents proposing additions to or revisions of accounting standards. The Subcommittee ordinarily develops a proposed response that is considered, discussed and voted on by the full Committee. Support by the full Committee then results in the issuance of a formal response, which at times, includes a minority viewpoint.

Current members of the Committee and their business affiliations are as follows:

Public Accounting Firms:

Large (National Firms):

James L. Fuchrmeyer, Jr., CPA	Deloitte & Touche LLP
Brian L. Heckler, CPA	KPMG LLP
John A. Hepp, CPA	Grant Thornton LLP
Steven C. Johnson, CPA	McGladrey & Pullen LLP
Lisa M. Koblinski, CPA	Ernst & Young LLP
Kirsten M. Lescher, CPA	Plante & Moran, PLLC
J. Christopher Rabin, CPA	Altschuler, Melvoin & Glasser LLP
Mark K. Scoles, CPA	Grant Thornton LLP
Reva B. Steinberg, CPA	BDO Seidman LLP
John M. Stomper, CPA	Deloitte & Touche LLP
Joan Waggoner, CPA	Blackman Kallick Bartelstein LLP

Medium (more than 40 employees):

Marvin A. Gordon, CPA	Baygood & Rose Chartered
Ronald R. Knakmuhs, CPA	Miller, Cooper & Co. Ltd.
Laurence A. Sophian, CPA	Ostrow, Reisin, Berk & Abrams, Ltd.

Small (less than 40 employees)

Walter J. Jagiello, CPA	Walter J. Jagiello, CPA
Kathleen A. Musial, CPA	Benham, Ichen & Knox LLP
Roger L. Reitz, CPA	Cray, Kaiser Ltd., CPAs
John A. Rossi, CPA	William F. Gurrie & Co., Ltd.

Industry:

Peter J. Bensen, CPA	McDonald's Corporation
Melinda S. Henbest, CPA	The Boeing Co.
James B. Lindsey, CPA	TTX Company
John H. Wolter, CPA	Retired/Natural Gas Pipeline Company of America

Educators:

David L. Senteney, CPA	Ohio University
Leonard C. Soffer, CPA	University of Illinois at Chicago
Charles A. Werner, CPA	Loyola University

Staff Representative:

Paul E. Pierson, CPA	Illinois CPA Society
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