



December 3, 2008

Russell G. Golden
Director of Technical Application and Implementation Activities
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

File Reference: Proposed FSP FIN 48-c

Dear Mr. Golden:

The Accounting Principles Committee of the Illinois CPA Society (Committee) appreciates the opportunity to provide our perspective on the proposed FASB Staff Position to delay the effective date of FIN 48, *Accounting for Uncertainty in Income Taxes*, for certain nonpublic enterprises, including nonpublic not-for-profit organizations.

The Committee is a voluntary group of CPAs 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.

The Committee supports this proposal. We agree that guidance on the application of FIN 48 to pass-through entities and not-for-profit organizations is necessary for these entities to implement FIN 48. This guidance will also be beneficial to not-for-profit organizations that did not meet the definition of a nonpublic enterprise (e.g. conduit bond obligors), and were required to adopt FIN 48. In addition, the Committee restates its support for the Board's review of FIN 48 in an effort to amend disclosure requirements for non-public entities.

The Committee supports a deferral for all nonpublic enterprises as defined in FASB Statement 109, Accounting for Income Taxes. We agree with the Board's conclusion that a partial deferral for some, but not all, nonpublic entities would be confusing for users, preparers and auditors. We understand that tax paying entities have had up to a two year deferral to understand and apply FIN 48. However, some pass-through entities and some not-for-profit organizations are tax paying entities also. Even though they already pay taxes, such as state taxes or Unrelated



Business Income Tax, they are looking for implementation guidance on other issues that FIN 48 would have them consider. Pass-through entities and not-for-profit organizations that do not already pay taxes are looking for implementation guidance on the kinds of issues a FIN 48 analysis should include.

As a committee, we support the request of the PCFRC that nonpublic entities be exempt from applying FIN 48 in its entirety. As noted in our January 18, 2008 comment letter (enclosed herein), we do not believe the FIN 48 model of liability determination or disclosure is appropriate for most nonpublic entities. However, since the Board has decided otherwise, we agree that the Board's decision to modify the disclosure requirements of FIN 48 will be beneficial for nonpublic enterprises. We commend the Board for listening to the voice of the PCFRC and nonpublic entity financial statement users.

The *Notice to Recipients* of FSP FIN 48-c also included a request for specific examples of problems that pass-through and non-profit entities will encounter. Appendix B lists some circumstances where we believe such issues will arise.

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.

John A. Hepp, CPA

Chair, Accounting Principles Committee



ILLINOIS CPA SOCIETY...

APPENDIX A ILLINOIS CPA SOCIETY ACCOUNTING PRINCIPLES COMMITTEE ORGANIZATION AND OPERATING PROCEDURES 2008-2009

The Accounting Principles Committee of the Illinois CPA Society (Committee) is composed of the following technically qualified, experienced members appointed from industry, education 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:

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John M. Becerril, CPA

Gloria M. Evans-Melton, CPA

Melinda S. Henbest, CPA

James B. Lindsey, CPA

Michael J. Maffei, CPA

Laura T. Naddy, CPA

Anthony Peters, CPA

Educators:

James L. Fuehrmeyer, Jr. CPA

David L. Senteney, CPA

Leonard C. Soffer, CPA

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Paul E. Pierson, CPA

Grant Thornton LLP

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Blackman Kallick LLP

Selden Fox, Ltd.

Frost, Ruttenberg & Rothblatt, P.C.

Miller, Cooper & Co. Ltd.

Walter J. Jagiello, CPA

BIK & Company LLP

Cabot Microelectronics

National Council of State Boards of Nursing

The Boeing Co.

TTX Company

GATX Corp.

Gaming Capital Group

McDonald's Corporation

University of Notre Dame

Ohio University

University of Chicago

Illinois CPA Society



APPENDIX B

Examples of unusual situations where additional guidance regarding FIN 48 may be necessary

- 1. US based S corporations that own foreign-based C corporations. Reporting on the consolidated group would appear to exclude the effects of FIN 48 if that were the only reporting involved. However, if the subsidiaries were to report, they would need to consider any effects of FIN 48. A question to be addressed is: If there are supplemental consolidating schedules, would there need to be a FIN 48 analysis for the foreign subsidiaries?
- 2. Groups of companies that includes pass-through entities as well as "C" corporations. For example, a group of "C" corporations that is combined or consolidated could create an LLC that only owns the other entities. If the FIN 48 applicability is determined solely at the highest level, this could eliminate applicability of FIN 48 whereas a similar group that did not create an LLC would have to apply the FIN. A similar situation could arise where an LLC holding company is used to acquire an operating entity (as in an LBO or similar acquisition) which happens to be a "C" corporation. If that group reports at the operating level, FIN 48 could apply but if reporting at the Holding company level, FIN 48 would not apply.
- 3. Pass-through entities that opt to be taxed as "C" corporations in states other than their home states. For example, many entities that are taxed by California opt for "C" status to lessen the filing requirements on their owners. However, even with only a portion of their net income taxed in these states, and considering nexus filing issues and penalties and interest, it is possible for the liability for unrecorded tax liabilities to add up quickly for an entity that is a pass-through for federal purposes but not necessarily for state purposes.
- 4. Pass-through entities with general state nexus issues.
- 5. Non-for-profit organizations that are issuers solely due to falling under the parameters of FSP 126-1.



January 18, 2008

Russell G. Golden
Director of Technical Application and Implementation Activities
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

File Reference Proposed FSP FIN 48-b

Dear Mr. Golden:

The Accounting Principles Committee of the Illinois CPA Society (the "Committee") appreciates the opportunity to provide its perspective on the Proposed FASB Staff Position FIN 48-b, *Effective Date of FASB Interpretation No. 48 for Nonpublic Enterprises*.

The Committee is a voluntary group of CPAs 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.

The Committee agrees with the Board's decision to postpone implementation of FASB Interpretation 48 ("FIN 48"). The Committee also believes that the detailed disclosure requirements for public enterprises should not be required of nonpublic and not-for-profit enterprises. The Committee wishes to express its disappointment with the amount of time it took to issue this Proposed Staff Position. Given the time of the year and the expressed intent of the FSP, it appears it could have been issued in under six weeks.

The Committee believes that there are additional issues that the Board should address prior to the effective date of the pronouncement for nonpublic enterprises.

1. The deferral of the effective date of FIN 48 applies to all nonpublic entities. Concern is expressed regarding those entities which are public solely due to the provisions of FSP 126-1, particularly those entities that are not-for-profit entities that are "public enterprises" under this pronouncement. Given the not-for-profit nature of such entities, we believe the requirements of FIN 48 are particularly onerous. Should FIN 48 apply to a not-for-profit that is a "public enterprise" due to FSP 126-1, we believe recognition and disclosure requirements for such enterprises should mirror those of not-for-profit entities rather than "public enterprises."

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- 2. The Committee wishes to elaborate on its belief that there should be less stringent disclosure requirements for nonpublic enterprises than for public enterprises. The reasoning is two-fold:
 - a. The additional information in the disclosure is costly to prepare for many smaller, non-publicly held enterprises.
 - b. The additional information required to be disclosed is based on income tax returns filed or to be filed by the enterprise. In the public realm, this may be a reasonable requirement based on broad and dispersed ownership of the entity. However, for a nonpublic entity, ownership is often a small group, who, along with a lender, would be the primary users of the financial statements. In the nonpublic arena, such users would have access to the income tax returns of the entity and would be able to form and draw their own conclusions in this area.

Such a differentiation in disclosure requirements is not unheard of in accounting literature. For example, fair value disclosures under SFAS 107 differ for public and nonpublic entities. As stated in our original comment letter from September 2005, "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."

- 3. The Committee believes that the cumulative probability determination of the liability for unrecognized tax benefits will be a burdensome requirement for most nonpublic enterprises. For example, it may require the engagement, at significant cost, of additional accounting experts to assist in the determination of the FIN 48 liability in order for the entity's auditor to remain independent. We continue to believe that a more rational and reasonable approach to determining the liability is the SFAS 5 model, being reflective of management's best estimate of the tax that will ultimately be paid and should be reflective of the outcome that will be achieved in total.
- 4. The requirements of FIN 48 may necessitate otherwise untaxed entities to determine they may have been aggressive (for lack of a better term) in taking tax deductions so that, if they were taxable entities, they would report a liability for unrecognized tax benefits. However, as these entities are not taxed themselves, it is unclear how such potentially disallowed tax deductions should be reported in the financial statements of such entities. It seems as if the FASB is going to rely on further education in the areas of income taxes in general and SFAS 109/FIN 48 in particular in determining how such items should be reported. The Committee believes the FASB should provide guidance in this area.

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- 5. The Committee requests the Board to consider additional guidance for the following section of the FSP, from paragraph 7:
 - "...provided the enterprise has not yet issued financial statements or other information to third parties, including financial statements or information for any interim period, for that fiscal year (emphasis added)."

We believe this wording states that an entity which issued internal financial statements developed on its computer system, without outside accountant or auditor input, without a cash flow statement or complete set of disclosure, would be carved out of the FSP's exclusion. We do not believe this corresponds to the stated intent of the FSP, namely:

- a. Paragraph 1: "The deferred effective date is intended to provide those enterprises with the necessary time to apply the provisions of (FIN 48)."
- b. Paragraph 3 indicates certain provisions of the FSP were made "to avoid complexity."

Given that an entity required to provide regular internal financial statements to its lenders would more likely be one of the smaller enterprises considered above, the Committee believes this section of the FSP should be further expanded and that the Board should consider scoping such enterprises from the requirements of FIN 48 for the deferral period.

We appreciate the opportunity to offer our comments.

Sincerely,

John A. Hepp, Chair Accounting Principles Committee

APPENDIX A ILLINOIS CPA SOCIETY

ACCOUNTING PRINCIPLES COMMITTEE ORGANIZATION AND OPERATING PROCEDURES

2007-2008

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Virchow Krause & Company, LLP Crowe Chizek and Company LLC

BDO Seidman LLP

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Walter J. Jagiello, CPA BIK & Co., LLP

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