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Via e-mail to director@fasb.org

Financial Accounting Standards Board
Technical Director
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FedEx Corporation respectfully submits this letter of comments on the July 14, 2005 Proposed Interpretation of Financial Accounting Standards Exposure Draft, Accounting for Uncertain Tax Positions, an interpretation of FASB Statement 109. FedEx fully supports FASB's objectives to ensure that financial statements issued to the public faithfully represent the economic transactions of an enterprise and increase comparability and uniformity in the reporting and recognition of tax benefits for uncertain tax positions. However, we believe that, instead of furthering these objectives and increasing the usefulness of financial statements to shareholders and other users, the FAS 109 Exposure Draft would actually do the opposite.

If adopted, the Exposure Draft will lead – we believe for most public companies – to systematic and artificial overstatements of tax liabilities, followed by a subsequent reduction of those liabilities over time. These increases and reductions will add unnecessary volatility and uncertainty to public company financial statements. Public companies will be forced to issue disclaimers in their financial statements that their tax liabilities are artificially overstated and will likely be recovered in future periods. This will lead to less investor confidence in the reliability of public company financial statements. In our opinion this will be less valuable to our shareholders and other users of our financial statements than the approach currently employed.

Large, complex, and sometimes multiple, tax items are evaluated and resolved by taxpayers and tax authorities, often after lengthy negotiations or litigation, considering factors such as risk of litigation, tax authority course of conduct with other taxpayers, convoluted interaction of the tax laws of jurisdictions all across the U.S. and the world, unique factual patterns, etc. The Exposure Draft, by requiring a 70% - 75% or higher probability threshold for each individual tax item oversimplifies reality and attempts to "formulize" an approach in the interest of limiting management discretion.

The establishment of tax reserves under any approach, including the impairment approach, is by no means an exact science and, by its nature, involves estimates and the reliance by company management on its tax and accounting experts. However, by imposing an arbitrary probability threshold and limiting management's ability to rely on the estimates and expertise of its experts, the Exposure Draft will instill less, not more, certainty and validity in the tax contingency numbers reported by management.

We urge the Board to reconsider the strict application of the two-step approach outlined in the Exposure Draft and, instead, use a more realistic approach such as the impairment method which will provide shareholders with a more accurate picture of a company's aggregate tax posture. Furthermore, it is our belief that the public accounting profession will be excessively conservative in applying the provisions of paragraph 12 of the Exposure Draft which will result in the derecognition of a significant amount of tax benefits that will ultimately be recovered. In that respect, we believe the Board should provide additional guidance as to what magnitude of difference between tax benefits expected and those taken on a return would indicate that the probable recognition threshold has not been met.

In addition to our preceding overarching comments, we have the following specific comments on certain of the proposals deliberated in the Exposure Draft, assuming the Board were to retain its two-step asset approach.

Paragraph 9: Use of past history to determine whether probability threshold is met

Paragraph 9 of the Proposed Interpretation states that whether the probable recognition threshold is met for a tax position is a matter of the facts and circumstances of that position evaluated in light of all available evidence. The paragraph provides four examples of specific facts and circumstances that, absent opposing evidence, may demonstrate a probable level of confidence. One item of positive evidence noted in Paragraph 9(c) is the presence of similar positions in prior year tax returns that have been obviously presented in the tax returns and have been either accepted or not disallowed or challenged by taxing authorities during the examination. The application of this item is unclear and thus we request that the Board consider including an example such as the following in its final release.

Example: A company takes a position on its tax returns that is thoroughly reviewed and challenged on audit by the tax authority. The interpretation of the tax law surrounding this position varies such that, based solely on the technical merits of the position as developed in the law to date, the 70% - 75% "probable" threshold cannot be met. However, as a result of the unsettled state of the law and risks of litigation from both the taxpayer and tax authority standpoints, the company and the tax authority have, over several audit periods, consistently agreed to settle the issue on a 50/50 basis.

Based on Paragraph 9(c) of the Exposure Draft, under the circumstances described in this example, the company should treat its position as having been accepted by the taxing authority to the extent of 50%. As such, the company should treat the 50% acceptance as a "probable" benefit and should record such a benefit with respect to the same tax position claimed on subsequently-filed tax returns. To remove all doubt about this, however, we

recommend that the Board include this example in its final release and/or otherwise confirm its conclusion.

Issue 5: Derecognition of a previously recognized tax position once it is determined that it is more-likely-than-not that the position will not be sustained on audit.

We believe the derecognition approach on a more-likely-than-not basis should also apply to uncertain tax positions that have been recognized prior to the adoption date. That is, as of the adoption date, if a tax benefit has been previously recognized by a company, it should not be derecognized as a result of the adoption of FAS 109 unless the item fails the more-likely-than-not test.

Issue 9: Interest

The Board concluded that it would not consider the income statement classification of any related interest in the proposed interpretation since it was not considered when FAS 109 was issued. However, to promote consistency in practice we feel that any interest required to be recognized should not be considered a component of income tax expense and thus should be reported in the appropriate above-the-line classification. The final standard should be explicitly state this.

Issue 11: Effective Date

The Exposure Draft, and the new approach it entails, is controversial and will generate much debate. Given the importance of these matters to public companies and the credibility and reliability of their financial statements, this debate should be exhaustively vetted and should not be truncated in the interest of pushing through a new Statement in the near-term. Even if the conceptual framework of the Exposure Draft could be agreed upon in the near-term, there are still numerous technical areas of uncertainty that must be debated, corrected and/or clarified, and addressed. In addition, if a two-step asset approach is ultimately adopted, this will represent a major departure from the impairment approach and will require difficult, at best, changes in accounting practices and disclosures. For all of these reasons, we therefore urge that the Board delay the effective date until at least the end of calendar year 2006.

We appreciate the opportunity to contribute to the development of FAS 109 and thank you for your consideration of our comments.

Sincerely,

Michael D. Fryt
Corporate Vice President, Tax
FedEx Corporation