September 7, 2005

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

Proposed Interpretation

Accounting for Uncertain Tax Positions, an interpretation of
FASB Statement No. 109

Dear Sirs/Madams:

We appreciate the opportunity to comment on the above proposed Interpretation. BB&T Corporation and its subsidiaries offer full-service commercial and retail banking and additional financial services such as insurance, investments, retail brokerage, corporate finance, treasury services, international banking, leasing and trust. With over $105 billion in assets, BB&T Corporation is the nation's ninth largest financial holding company.

We commend the FASB on its efforts to clarify accounting for uncertain tax positions and improve financial reporting. However, as discussed below, we do not support finalizing the Interpretation as it is currently proposed.

Issue 1: This proposed Interpretation would broadly apply to all tax positions accounted for in accordance with Statement 109, including tax positions that pertain to assets and liabilities acquired in business combinations. It would apply to tax positions taken in tax returns previously filed as well as positions anticipated to be taken in future tax returns.

We agree that a single standard should apply to all tax positions regardless of whether they are tax positions taken in prior tax returns, positions anticipated to be taken on future tax returns, or positions that pertain to assets and liabilities acquired in business combinations. The application of a single standard would enhance the consistency of an enterprise’s accounting for income taxes.
Issue 2: The Board concluded that the recognition threshold should presume a taxing authority will, during an audit, evaluate a tax position taken or expected to be taken when assessing recognition of an uncertain tax position.

We agree that the recognition threshold should presume a taxing authority will, during an audit, evaluate the tax position taken or expected to be taken when assessing recognition of an uncertain tax position.

Issue 3: The Board decided on a dual threshold approach that would require one threshold for recognition and another threshold for derecognition. The Board concluded that a tax position must meet a probable (as that term is used in Statement 5) threshold for a benefit to be recognized in the financial statements.

We disagree with the dual threshold approach. The dual threshold approach would introduce additional subjectivity and reduce comparability of financial statements. We believe the adoption of a single standard for recognition and derecognition would provide more useful and understandable information to the financial statement reader. In addition, we believe the adoption of a single standard for recognition and derecognition would be simpler to apply for preparers of financial statements.

We support a single recognition and derecognition threshold for uncertain tax positions based upon the “substantial authority” standard articulated in U.S. Treas. Reg. §1.6662-4(d). We believe adoption of this standard would better achieve the Board’s objective of improving consistency in the criteria used to recognize, derecognize, or measure benefits related to uncertain tax positions. The substantial authority standard provides a more objective standard since it requires that the weight of authorities supporting the position be substantial in relation to the weight of authorities supporting contrary treatment. Application of this standard is more objective, would achieve better comparability in reporting income tax expense, and is more closely aligned to the reporting of tax positions on the enterprise’s income tax returns. Consistent with the Board’s position regarding Issue 2, the substantial authority standard does not consider the possibility that a tax return will not be audited or, if audited, that the tax position will not be raised on audit. Proper application of FASB Statement No. 109 already requires a substantial time investment. Since the substantial authority standard is the standard that generally must be met to avoid the imposition of federal tax penalties for substantial understatements of tax, this standard is likely to be more consistent with the income tax return filing position. The tax return filing position is an objectively verifiable basis for measuring income tax expense and calculating current and deferred tax assets and liabilities.

We believe that the probable recognition threshold coupled with the measurement criteria proposed by the Board will systematically overstate an enterprise’s income tax expense because the benefit claimed for a tax position on an income tax return is generally partially allowed or settled for a lesser amount than originally claimed rather than disallowed entirely. Based on a taxing authority’s published guidance, a written settlement offer from the taxing authority, or industry experience, an enterprise may have
strong support for its best estimate of the benefit from a tax position. We believe that an enterprise should not be precluded from recognizing its best estimate of the benefit from tax positions in its financial statements even if there is a substantial variance between the benefit claimed on the tax return and the benefit to be reflected in the financial statements. While fair value may be the most reliable measurement attribute for uncertain tax positions, we agree with the Board that time value of money considerations associated with fair value measurement would unduly complicate the accounting for income taxes. Therefore, we agree with using a recognition threshold, but we believe the applicable threshold should be “substantial authority.”

If the Board intends to adopt a “probable” recognition threshold, then we believe the probable threshold should be applied to the enterprise’s best estimate of the benefit to be received from the tax position. That is, an enterprise would recognize a benefit in its financial statements for its best estimate of the portion of the benefit claimed on the applicable tax return that is probable of being sustained upon audit. We believe this application of the probable recognition threshold would result in more accurate accounting and reporting of the effects of uncertain tax positions. We have a concern with the statement in paragraph 12 that states “The difference between the best estimate amount recognized in the financial statements and an amount claimed or expected to be claimed on the tax return shall be evaluated to determine whether the magnitude of that difference is sufficient to indicate that the probable threshold has not been met.” We believe that the best estimate, as contemplated by FASB Statement No. 5, should be used. In addition, there is a strong likelihood that auditors will use this same statement to require that the entire benefit from a tax position be derecognized when an enterprise reduces its best estimate of the amount of a previously recognized tax position that is probable of being sustained on audit to 50% or less based on an assertion that the magnitude of the difference between the revised best estimate amount and the tax return amount indicates the “more likely than not” threshold has not been met.

We appreciate the efforts to provide additional guidance on what “probable” means in the context of tax positions. Paragraph 9 of the proposed Interpretation lists a few examples of specific facts and circumstances that, in the Board’s view, may, in the absence of opposing evidence, demonstrate a probable level of confidence. One example is “an unqualified should prevail tax opinion from a qualified expert for which all conditions are objectively verifiable.” While we acknowledge that obtaining such an opinion would provide support for including the benefit from a tax position in the financial statements, it is very time-consuming and prohibitively expensive to obtain a should prevail tax opinion from a qualified expert for any but the largest transactions entered into by the largest enterprises. We believe the third and fourth examples provide a more practical basis for including the tax benefit of an uncertain tax position in the financial statements.

Business combinations further complicate the application of FASB Statement No. 109. It is often difficult to determine the appropriate current and deferred income tax assets and/or liabilities to be recognized following a purchase combination even after the acquiring enterprise has reviewed the acquired enterprise’s income tax returns and the work papers supporting them. If the financial statement recognition threshold is
substantially different from the tax return filing position, it will be much more difficult to determine whether the acquired enterprise’s tax positions have met this threshold. The proposed Interpretation does not indicate whether an acquiring enterprise may rely on the acquired enterprise’s assertion that the probable recognition threshold has been met and if so, for how long it may rely on that assertion. It may take a significant amount of time for the acquiring enterprise to perform its own analysis of all of the acquired enterprise’s tax positions to determine whether, in its judgment, the probable threshold has been met, and if so, what its best estimate of the impact of the tax positions should be.

**Issue 4:** The Board concluded that a tax position that did not previously meet the probable recognition threshold should be recognized in any later period in which the enterprise subsequently concludes that the probable recognition threshold has been met.

We agree that a tax position that has not previously met the applicable recognition threshold should be recognized in any later period in which the enterprise subsequently concludes the threshold has been met.

**Issue 5:** The Board concluded that a previously recognized tax position that no longer meets the probable recognition threshold should be derecognized by recording an income tax liability or reducing a deferred tax asset in the period in which the enterprise concludes that it is more likely than not that the position will not be sustained on audit. A valuation allowance as described in Statement 109 or a valuation account as described in FASB Concepts Statement No. 6, *Elements of Financial Statements*, should not be used as a substitute for derecognition of the benefit of a tax position.

Consistent with our position regarding Issue 3, we believe an enterprise should derecognize a previously recognized tax position in the period in which the enterprise concludes there is no longer substantial authority for the position. We agree that a valuation allowance or valuation account should not be used as a substitute for derecognition of the benefit of a tax position.

**Issue 6:** The Board concluded that once the probable recognition threshold is met, the best estimate of the amount that would be sustained on audit should be recognized. The Board concluded that any subsequent changes in that recognized amount should be made using a best estimate methodology and recognized in the period of the change.

We agree that once the applicable recognition threshold has been met, the best estimate of the amount that would be sustained on audit should be recognized. We also agree that
any subsequent changes in that recognized amount should be made using a best estimate methodology and recognized in the period of change.

**Issue 7:** The Board concluded that the liability arising from the difference between the tax position and the amount recognized and measured pursuant to this proposed Interpretation should be classified as a current liability for amounts that are anticipated to be paid within one year or the operating cycle, if longer. Unless that liability arises from a taxable temporary difference as defined in Statement 109, it should not be classified as a deferred tax liability.

We agree that the liability arising from the difference between the tax position and the amount recognized and measured pursuant to this proposed Interpretation should be classified as a current liability for amounts that are anticipated to be paid within one year or the operating cycle, if longer. We also agree that unless that liability arises from a taxable temporary difference, it should not be classified as a deferred tax liability.

**Issue 8:** The Board concluded that, consistent with the guidance in paragraph 194 of Statement 109, a change in the recognition, derecognition, or measurement of a tax position should be recognized entirely in the interim period in which the change in tax judgment occurs.

We agree that, consistent with the guidance in paragraph 194 of Statement 109, a change in the recognition, derecognition, or measurement of a tax position should be recognized entirely in the interim period in which the change in tax judgment occurs.

**Issue 9:** The Board concluded that if the relevant tax law requires payment of interest on underpayment of income taxes, accrual of interest should be based on the difference between the tax benefit recognized in the financial statements and the tax position in the period the interest is deemed to have been incurred. Similarly, if a statutory penalty would apply to a particular tax position, a liability for that penalty should be recognized in the period the penalty is deemed to have been incurred. Because classification of interest and penalties in the income statement was not considered when Statement 109 was issued, the Board concluded it would not consider that issue in this proposed Interpretation.

We disagree with the Board's conclusion regarding the accrual of interest since it is not based on the economic amount of interest expected to have been incurred. We believe a more appropriate basis for the accrual of interest is the difference between the tax position and the best estimate of the amount that would be sustained on audit regardless of whether a financial statement recognition threshold has been met. Accrual of interest on the difference between the tax benefit recognized in the financial statements and the
tax position is more likely to be appropriate if the financial statement recognition threshold is “substantial authority” rather than “probable.” If a statutory penalty would apply to a particular tax position, we agree that a liability for that penalty should be recognized in the period the penalty is deemed to have been incurred. The standard that must generally be met to avoid substantial understatement penalties for U.S. federal income tax purposes is the substantial authority standard, which lends additional support for the adoption of this same standard for financial statement recognition of the benefit of a tax position.

Due to the diversity in accounting practices regarding the classification of interest and penalties in the income statement and the resulting lack of comparability of income tax expense, we believe the Board should address this issue in the proposed Interpretation. We support inclusion of interest and penalties on tax liabilities in income tax expense since we believe this classification leads to better matching of the nature of the expense (i.e., the interest and penalties are paid to the same governmental entity that imposed the underlying tax and such amounts are essentially additions to the tax).

**Issue 10:** The Board concluded that loss contingencies relating to previously recognized tax positions should be disclosed in accordance with the provisions of paragraphs 9-11 of Statement 5. The Board also concluded that liabilities recognized in the financial statements pursuant to this proposed Interpretation for tax positions that do not meet the probable recognition threshold are similar to contingent gains. Therefore, those liabilities should be disclosed in accordance with the provisions of paragraph 17 of Statement 5.

We believe the current disclosure requirements are adequate and appropriate.

**Issue 11:** The Board concluded that this proposed Interpretation should be effective as of the end of the first fiscal year ending after December 15, 2005. Only tax positions that meet the probable recognition threshold at that date may be recognized. The cumulative effect of initially applying this proposed Interpretation would be recognized as a change in accounting principle as of the end of the period in which this proposed Interpretation is adopted. Restatement of previously issued interim or annual financial statements and pro forma disclosures for prior periods is not permitted. Earlier application is encouraged.

We disagree with the proposed effective date since we do not believe there will be sufficient time between the date the Interpretation is adopted and the proposed effective date to permit large enterprises to fully analyze all tax positions in accordance with the Interpretation as proposed. We estimate it would take approximately six months to apply the provisions of the proposed Interpretation as originally issued. We would encourage the Board to take time to review all the comments it receives on the proposed Interpretation and reconsider its position.
We believe the standard should be applied in a consistent manner for tax positions taken prior to and subsequent to the date this Interpretation is adopted. Under the proposed Interpretation as drafted, only tax positions that meet the probable recognition threshold at the effective date may be recognized or continue to be recognized upon initial adoption of this Interpretation. This standard creates a higher threshold for continued recognition of tax positions taken prior to adoption of the Interpretation than for positions initially taken after adoption of the Interpretation. If the Board intends to adopt a dual threshold approach, we believe that previously recognized tax positions should continue to be recognized upon adoption of the Interpretation unless the enterprise concludes that it is more likely than not that the tax position would not be sustained on audit.

We agree with the Board’s conclusions on transition and that the use of a cumulative effect adjustment is appropriate.

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We would be pleased to discuss our comments with the Board members or the FASB staff in further detail.

Very truly yours,

[Signature]
John F. Watson
Corporate Tax Director

[Signature]
Henry R. Sturkie, III
Senior Accounting Policy Manager