September 12, 2005

Technical Director
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, Connecticut 06856-5116

Re: Exposure Draft
   Proposed Interpretation
   Accounting for Uncertain Tax Positions, an interpretation of FASB Statement No. 109
   File Reference No. 1215-001

Dear Sir or Madame,

We are pleased to provide you with our comments on the Financial Accounting Standards Board’s Exposure Draft of a Proposed Interpretation on Accounting for Uncertain Tax Positions, an interpretation of FASB Statement No. 109. The proposed Interpretation, which was issued on July 14, 2005, is intended to clarify the accounting for uncertain tax positions, in accordance with FASB Statement No. 109, Accounting for Income Taxes.

Alcan’s Corporate Profile

Alcan is a global leader in aluminum production, engineered products and packaging, with predominant positions in the major market regions of the Americas, Europe and Asia. Today, Alcan has more than 470 facilities in 55 countries and regions with some 70,000 employees. With its head office in Montreal, Canada, Alcan is a public company traded on the Toronto, New York, London, Paris and Swiss stock exchanges with 2004 revenues of US$24.9 billion. Following the spin-off of Novelis on January 6, 2005, Alcan’s pro forma third-party sales and operating revenues for 2004 were US$19.5 billion.

As Alcan operates on a global basis, the Company is subject to national and local laws and regulations that vary from one jurisdiction to another. Our policy is to comply with the laws wherever we do business, as documented in our “Worldwide Code of Employee and Business Conduct”, which governs all employees and directors. Alcan, in all cases, strives to comply with the object and spirit of the over 100 tax regimes it deals with and conduct its tax activities in an above board, open and transparent manner. Like all companies, from time to time, a certain component of Alcan’s provision for taxes may include various amounts that reflect the effect of potential differences of opinion between Alcan and the relevant taxing jurisdictions or differences between the amounts provided for in the accounts and positions adopted when filing a tax return. Accordingly, the proposed Interpretation is of particular interest to Alcan and we support the FASB’s efforts to restore a sense of balance to the measurement of such positions. However, we believe that a much simpler approach is warranted for the recognition and measurement of uncertain tax positions.
Summary of Alcan’s Comments and Recommendations

The reason cited for issuing this proposed Interpretation is that FAS 109 does not explicitly prescribe a confidence threshold to be met in order for the benefit of an uncertain tax position to be recognized. The underlying cause of uncertain tax positions is that tax laws themselves are uncertain in their application, subject to significant and varied interpretation and dynamic in nature, since the tax authorities and the courts are continuously being asked to opine on the application of the laws. However, we do not believe that, by providing the criteria as described for the recognition, derecognition and measurement of uncertain tax positions, the proposed Interpretation would result in increased comparability in financial reporting of income taxes. The proposed Interpretation requires a probable level of assurance, which is a high threshold involving significant judgment, in order to recognize the benefit from an uncertain tax position. Although Alcan subscribes to this standard, the task of identifying, evaluating and tracking tax positions at this high level of assurance will be challenging. We believe that there would be a reduction in comparability in reporting income tax expense due to the lower level of consensus about an uncertain tax position. The proposed Interpretation will not change the underlying cause of uncertain tax positions, but will increase the complexity of the tax accounting process. Management will be asked to make a judgment about the sustainability of uncertain tax positions to a level of precision that only the courts can, in many cases, decide. As a result, we do not believe that the Interpretation should be adopted as proposed. In addition, the dual standard for recognition and derecognition of tax benefits will add additional complexity and will result in decreased comparability in the reporting of income taxes. We believe that, in a complex environment such as the application of tax laws to specific facts and circumstances, a “more likely than not” level of assurance would be easier to apply and understand for both the recognition and derecognition of uncertain tax positions and would enhance the reliability and comparability of the financial statements, as explained below.

In addition, we recommend that the proposed Interpretation be aligned with International Financial Reporting Standards (IFRS) in order to ensure comparability of financial information reported by companies worldwide that issue financial statements in accordance with either IFRS or U.S. GAAP.

Issues Raised by the Board in the Exposure Draft

The Notice for Recipients of This Exposure Draft sets forth 11 issues and requests comment on the resolution of the issues. Our comments address those issues as well as recommend changes and improvements to increase consistency and comparability of accounting for uncertain tax positions.

1. Scope

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. Do you agree with the scope of the proposed Interpretation? If not, why not?

We agree that the proposed Interpretation should apply to all tax positions listed above. In addition, positions anticipated to be taken in future tax returns should be clearly evidenced at the time by documentation and objectively verifiable actions.

2. Initial Recognition – Detection Risk

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. (Refer to paragraphs B12–B15 in the basis for conclusions.) Do you agree? If not, why not?
We disagree that, in assessing the probability of tax positions, it should be presumed that the tax position will be examined by the relevant taxing authority. During the course of a tax audit, numerous issues are raised by the taxing authority. Based on past experience, management is in the best position to assess which positions the taxing authority will examine. It is the nature of the relationship between the company and the taxing authority that contributes to the varied interpretation of the tax law and it is through discussion and often negotiation that uncertainties are resolved. In order to reflect the best estimate of the tax provision in the financial statements, it is necessary that the tax audit process be taken into account. Otherwise, to presume that all positions will be examined by the taxing authority could result in an overstatement of tax liabilities and expense, particularly where such a high measurement threshold is required. Also, there appears to be an inconsistency with the policy for the measurement of the tax liability as measurement requires management to estimate the amount that will be sustained on audit. This implies that management, based on its experience, must make a judgment about the amount that will be ultimately accepted by the taxing authority.

3. Initial Recognition — Dual Threshold Approach

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. (Refer to paragraphs B16–B21 in the basis for conclusions.) Do you agree with the dual threshold approach? Do you agree with the selection of probable as the recognition threshold? If not, what alternative approach or threshold should the Board consider?

We do not agree with the dual threshold approach, which bases recognition on a "probable" level of assurance and derecognition on a "more likely than not" level of assurance. We believe that, in an environment as complex as tax law, that is subject to significant interpretation and judgment, it is difficult for a reader to fully comprehend the significance of the two levels of assurance. In addition, the dual threshold approach will reduce the comparability of a company's tax liabilities between years. A benefit from an uncertain tax position would be initially recorded provided that it meets a "probable" level of assurance. However, in future years, if the position meets a "more likely than not" but not a probable level of assurance, no further benefit would be recognized but the original benefit would not be reversed. This will result in inconsistencies in the treatment of similar tax issues over time, as well as, a lack of comparability at a particular point in time between companies with a similar tax issue.

We do not agree with the selection of probable as the recognition threshold. We believe that, in the current tax law environment, a "more likely than not" level of assurance (a likelihood of more than 50%), which takes into account the company's past experience, would be easier to apply and understand for the both the recognition and derecognition of uncertain tax positions and would enhance the reliability and comparability of the tax provisions. A probable level of assurance, which involves significantly more judgment, would result in a reduction in comparability in reporting income tax expense due to the lower level of consensus reached on any particular uncertain tax position. The requirement for an unqualified and independent "should prevail" tax opinion in order to meet a probable level of assurance, is not practical on a timely basis because of the difficulty in reaching consensus and will only lead to additional and unnecessary costs and delays. A "more likely than not" level of assurance is consistent with the recognition of a valuation allowance relating to deferred tax assets. Also, a probable level of assurance is not defined in the GAAP literature but is assumed to represent a likelihood of 70% to 75%. Using a probable level of assurance, tax liabilities and expense will be initially increased significantly and subsequently, the reserves reversed as the statute of limitations expires or tax audits concluded, thereby, increasing volatility in the income statement.

We believe that, provided that the positions taken in the tax return reflect a "more likely than not" level of assurance, and, absent explicit and objective evidence to the contrary, the tax return as filed should be the basis for tax accounting under FAS 109. Unlike other assets and liabilities, income taxes are subject to audit by the very counterparty to whom the taxes are owed. Further, the tax return, together with related correspondence confirming the filing, provides objective evidence of amounts owed or due. A "more likely than not" level of assurance infers that the tax position at least meets the substantial authority threshold (for U.S. federal taxes) to avoid statutory penalties for underpayment of taxes. This approach
would simplify the tax accounting process and reduce complexity and confusion by having one set of tax accounting records. If a "more likely than not" level of assurance is not met, then a provision for uncertain tax positions should be recorded based on the guidance contained in FAS 5, Accounting for Contingencies, which states that a liability should be recognized only if it is probable that one or more future events will occur confirming the fact of the loss and the amount of the loss can be reasonably estimated.

During the period from the date the tax return is filed to the expiry of the statute of limitations and/or the conclusion of the tax audit, only objectively verifiable triggering events (for example, an assessment is or is expected to be issued by the taxing authority that differs from the tax return as filed) should require a change in the recognition or measurement of the tax liability. In the year that the statute of limitations expires or the tax audit concluded or as disputed issues are clarified or resolved, the tax provision should be adjusted accordingly. This policy would ensure that the tax provision in any particular year is adjusted when the best available data is known.

In addition, using a "more likely than not" level of assurance will reduce the number of uncertain tax provisions that need to be identified, evaluated and documented in order to meet the specific accounting requirements, with a corresponding reduction in compliance and audit costs.

4. Subsequent Recognition

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. (Refer to paragraph B22 in the basis for conclusions.) Do you agree? If not, why not?

We disagree. As explained in our response to issue #3 above, during the period from the date the tax return is filed to the expiry of the statute of limitations and the conclusion of the tax audit, only objectively verifiable triggering events (for example, an assessment is or is expected to be issued by the taxing authority that differs from the tax return as filed) should require a change in the recognition or measurement of the tax liability. In the year that the statute of limitations expires or the tax audit concluded and or as disputed issues are clarified or resolved, the tax provision should be adjusted accordingly. This model would ensure that the tax provision in any particular year is adjusted when the best available data is known.

5. Derecognition

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. (Refer to paragraphs B23-B25 in the basis for conclusions.) Do you agree with the Board’s conclusions on derecognition of previously recognized tax positions? If not, why not?

Please see our response to issue #4.

6. Measurement

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. (Refer to paragraphs B9-B11 and B26-B29 in the basis for conclusions.) Do you agree with the Board’s conclusions on measurement? If not, why not?
We believe that management’s best estimate of the liability that will ultimately be accepted by the taxing authority is the appropriate basis for measurement. The best estimate would reflect the company’s overall tax position and past experience and would incorporate management’s judgment with respect to litigation and likely settlement. We believe that, subject to explicit evidence to the contrary, the tax return as filed should be the basis for accounting for the tax effects of decisions taken in the relevant period. Again, in order to record a change in measurement prior to the expiry of the statute of limitations or the conclusion of the tax audit, there should be a triggering event, such as an assessment by the taxing authority that differs with the position taken in the tax return or the resolution of a court case based on similar facts. We believe that with a “more likely than not” level of assurance, a change in the best estimate of the amount of benefit expected to be sustained, prior to ultimate resolution, would be infrequent.

7. Classification

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. (Refer to paragraphs B30–B35 in the basis for conclusions.) Do you agree with the Board’s conclusions on classification? If not, why not?

We agree in principle. However, because of the difficulty in determining when the liability will be ultimately settled, we recommend that all such liabilities be classified as current.

8. Change in Judgment

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 judgment occurs. (Refer to paragraph B36 in the basis for conclusions.) Do you agree with the Board’s conclusions about a change in judgment? If not, why not?

We believe that, except for objectively verifiable triggering events such as an assessment by the taxing authority that differs with the position taken in the tax return or a court decision, the liability should be adjusted only after the expiry of the statute of limitations or the clear conclusion of the tax audit. For specific triggering events, a liability should be recorded in the interim period in accordance with FAS 5, Accounting for Contingencies.

9. Interest and Penalties

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. (Refer to paragraphs B37–B39 in the basis for conclusions.) Do you agree with the Board’s conclusions about recognition, measurement, and classification of interest and penalties? If not, why not?

We agree. Alcan classifies interest costs relating to income tax assessments as income tax expense. Provided that the benefits recognized from uncertain tax positions meet the substantial authority threshold, an accrual for penalties should not be required.
10. Disclosures

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. (Refer to paragraph B40 in the basis for conclusions.) Do you agree with the disclosure requirements? If not, why not?

We agree. In addition, disclosure as to which years are still open to adjustment and which closed would be useful to the readers of the financial statements in assessing the risk of future cash outflows.

11. Effective Date and Transition Rule

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. (Refer to paragraphs B41-B43 in the basis for conclusions.) Do you agree with the Board’s conclusions on effective date? If not, how much time would you anticipate will be necessary to apply the provisions of this proposed Interpretation? Do you agree with the Board’s conclusions on transition? If not, why not?

We disagree with the Board’s conclusions on effective date. If the proposed Interpretation is approved by the FASB as described, a significant amount of time would be required to determine and document all uncertain tax positions on a company-wide basis, compute the cumulative effect of accounting change, make changes to the current tax accounting processes and comply with section 404 of the Sarbanes-Oxley Act. We recommend that the effective date be six months to a year after the Interpretation is finalized. We agree with the Board’s conclusions on transition.

Conclusion

Alcan is pleased to have had the opportunity to comment on the proposed Interpretation. If you have any questions concerning our response, please do not hesitate to call the undersigned.

Yours very truly,

Thomas J. Harrington
Vice President and Controller

Michael O’Connor
Chief Tax Officer

Cc:

Michael Hanley
Executive Vice President and Interim Chief Financial Officer

John Campbell
PricewaterhouseCoopers