

Letter of Comment No: 39

File Reference: 1215-001

Date Received: 9/12/05



General Motors

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September 12, 2005

Technical Director  
Financial Accounting Standards Board  
401 Merritt 7  
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Subject: Comments on the Proposed Interpretation of Accounting for  
Uncertain Tax Positions – File No. 1215-001

Dear Sir/Madam:

General Motors Corporation would like thank the Financial Accounting Standards Board for your time and attention in addressing the current diversity in practice of accounting for uncertain tax positions. Overall, we agree that clearer guidance around this topic will be helpful in achieving common reporting practices. However, as noted below, we do not believe that the process detailed in the Proposed Interpretation on Accounting for Uncertain Tax Positions dated July 14, 2005 is consistent with current standards in achieving that goal.

Asset versus Impairment Approach

Although the Proposed Interpretation recommends the asset approach, we believe the impairment approach, under SFAS 5, will better achieve common reporting practices. The impairment approach provides consistent guidelines for all balance sheet contingencies and is not limited to tax-related assets. The added complexity of further differentiating tax-related balance sheet items will make financial statement analysis more difficult for shareholders and industry analysts.

Recognition Threshold

Consistent with the SFAS 5 impairment approach, we ask that the Board consider changing their proposal to adopt the “probable” threshold. Under the impairment approach, management can ensure that reserves are established when it is more likely than not that a tax position will not be sustained. The “probable” recognition threshold will likely undermine management’s best estimate of a tax position’s actual outcome and result in inflated recognition of expense only to be reversed in subsequent periods as open tax years are closed.

### Initial Recognition

In general, we agree that the recognition threshold should presume the taxing authority will review and evaluate an uncertain tax position. However, it should be a rebuttable presumption as it may be possible that unusual circumstances could give rise to a result that is not practical or reflective of the actual situation. Therefore, it is appropriate for the interpretation to give corporations the ability to rebut this presumption, but only in those rare cases where application of the presumption would produce results inconsistent with the intent of FAS 109.

### Measurement

When dealing in a highly judgmental area as uncertain tax positions, we agree that applying a "best estimate" approach to measure the value of the tax benefit will provide for the highest level of accuracy. We would also like to comment that the Proposed Interpretation provides a good distinction between recognition and measurement. This is demonstrated particularly well in the "Valuation versus Validity"-example provided in Appendix A. However, the example concerning the research and experimentation credits (Paragraphs A2-A11) is confusing and, in our view, arrives at the wrong conclusion. We recommend adjusting the example to break out the recognition step into two sub-steps: 1) determine whether the activity qualifies as a research activity under IRC §41(d) and 2) determine whether the corporation has incurred expenses in connection with that activity are qualifying expenditures under IRC §41(b). If it is probable that the research activity will qualify and have some amount of qualifying expenditures, this should satisfy the probable standard. At this point, management can measure the value of the deductions based on prior audit experience as noted in paragraph A8.

Applying this standard to the example provided in the Proposed Interpretation would yield the following result. The example does not state that Projects 3 and 4 are not qualified, but does state that a large percentage, but not all of the expenses are potentially nonqualifying. Qualified expenditures for a qualified activity should not be tainted by the fact that a substantial portion of the expenditures for the project are potentially nonqualifying. Therefore, all projects should satisfy the probable standard, and a tax benefit of \$5M ( $\$5M \times 90\% + \$5M \times 10\%$ ), equal to management's best estimate of qualifying expenditures, should be recognized. The result in the proposed interpretation is only correct if Projects 3 and 4 are not qualified activities.

### Effective Date & Transition

We request that the Board strongly consider postponing the proposed effective date until year-end 2006. General Motors, like many other corporations, operates in hundreds of jurisdictions throughout the world with various filing combinations and multiple open tax years. Each of the positions in each of the jurisdiction's returns in all open tax years will need to be reassessed and the final position as well as the financial statement impact reviewed with our external auditors. Finally, the change in process requires a worldwide review and adjustment of our control environment around accounting for uncertain tax positions including updating documentation under Sarbanes-Oxley. It will be extremely difficult to implement the final standard, as yet unreleased, by year-end 2005.

We agree that the cumulative effect related to the adoption of this standard should be reported as a change in accounting principle. However, if the Board ultimately requires the use of the "probable" recognition threshold, we believe that requiring all uncertain tax positions to meet the probable threshold as of the implementation date is not consistent with the Proposed Interpretation. We believe that it would be more appropriate to derecognize an asset only if the position has fallen below the more likely than not standard required for derecognition.

Summary

In issuing the final Interpretation, we respectfully request that the Board consider the applying the impairment approach, under SFAS 5, and reconsider changing the "probable" threshold to "more likely than not". We also ask that the Board strongly consider deferring the implementation date to year-end 2006. Given adequate time to implement this Interpretation, we can ensure the development of proper controls throughout the corporation in addition to attaining thorough review by external auditors.

Again, we appreciate the Board's attention to this issue. I am available to discuss this with you at your convenience to address any questions.

Respectfully,

/s/ Peter R. Bible

Peter R. Bible  
Chief Accounting Officer

cc: Ronald Feick, Assistant General Tax Council, General Motors Corporation