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Ms. Susan Cospers  
Technical Director  
Financial Accounting Standards Board  
401 Merritt 7  
P.O. Box 5116  
Norwalk, CT 06856-5116

**Re: File Reference No. 2016-270-Income Taxes (Topic 740): Disclosure Framework – Changes to the Disclosure Requirements for Income Taxes**

Dear Ms. Cospers:

I appreciate the opportunity to comment on the FASB's income tax disclosure project. While I believe it has the potential to improve upon the information package supplied to investors, I believe it can be improved in several areas.

Income tax reporting has always been highly relevant to investors, and become increasingly important in the last ten years as firms have become ever nimbler in moving income and cash around the globe to minimize tax liabilities. These efforts have recently been met with more resistance from taxing authorities, and resulted in surprising confiscatory efforts by them. Surprises are anathema to investors, and the current tax disclosures do not help them gain the understanding they need to avoid surprises.

In the past several years, the FASB has been very active in trying to streamline disclosures and provide a framework for developing disclosures in its future standards. This project is an outgrowth of those efforts: the efforts to cull less useful disclosures have sometimes resulted in efforts to increase disclosures. In the exploration of changing disclosures, however, it is instructive to keep in mind one of the objectives of financial reporting expressed in Concept Statement No. 1:

“The objectives stem primarily from the informational needs of external users who lack the authority to prescribe the financial information they want from an enterprise and therefore must use the information that management communicates to them.” [Paragraph 28].

External users certainly lack the authority to prescribe the financial information they want about income tax disclosures and rely on the Board to act on their behalf. This is what concerns me about the exposure draft: rather than prescribe specific disclosures, it leaves much discretion to preparers. Paragraph 12 in the Basis for Conclusions contains the sum of my concerns:

“...Those amendments also would, among other things, clarify that a reporting entity may consider materiality when assessing disclosure requirements for both quantitative and qualitative information similar to any other accounting requirement. The amendments in the proposed Update on Topic 235 have been considered by the Board in developing the amendments in this proposed Update. That is, the amendments in this proposed Update:

- a. State that an entity need not provide required disclosures if they are immaterial
- b. Eliminate phrases such as “an entity shall disclose at a minimum,” which make it difficult to justify omitting immaterial disclosures
- c. Refer readers to Topic 235 (as would be amended by the guidance in the proposed Update on Topic 235) for discussion of the appropriate exercise of discretion.

Income tax disclosures are a perfect example of the kind of information that companies are loathe to disclose – and a perfect example of where bright lines of required disclosures are more likely to provide investors with information they can use, whereas disclosure standards allowing for wide discretion to managers will fail to do so. I urge the FASB to reconsider the path they have chosen to follow with regard to discretion and materiality in Topic 235.

The following are my responses to certain specific questions in the Exposure Draft.

**Question 1: Would the proposed amendments result in more effective, decision-useful information about income taxes?**

I believe the proposed amendments would result in a betterment of the current disclosures, if they result in more stringently required disclosures with less discretionary leeway. In the spirit of my remarks above, I would prefer to see non-negotiable thresholds required for all disclosures suggested in the proposal.

**Question 2: Are the proposed disclosure requirements operable and auditable? If not, which aspects pose operability or auditability issues and why?**

I believe the proposed requirements are both operable and auditable.

**Question 3: Would any of the proposed disclosures impose significant incremental costs? If so, please describe the nature and extent of the additional costs.**

I believe the proposed disclosures should not impose significant incremental costs. It would be very difficult to believe that the information to be required is not already in the command of the financial and tax reporting functions within a firm. There could be some incremental cost involved in assembling it for inclusion in financial statements for the first time, but it should not be excessive.

**Question 4: The Board is proposing that reporting entities disclose income taxes paid for any foreign country that is significant to total income taxes paid. The Board also considered requiring disclosure by significant country of income (or loss) from continuing operations before income tax expense (or benefit) and income tax expense (or benefit) from continuing operations but decided that this disclosure would be costly and potentially not beneficial in assessing prospects for cash flows related to income taxes (see paragraph BC22 of this proposed Update). Are there other costs or benefits that the Board should consider regarding these potential disclosures? Are there other country-level disclosures that the Board should consider that may be more cost beneficial?**

I support the Board's proposal to disclose income taxes paid for any foreign country, but I object to the test of "significance to total income taxes paid." I would prefer, as stated before, a reasonable percentage threshold that would trigger disclosure. I also would support the by-country disclosure of income or loss from continuing operations before income tax expense and the associated income tax expense, which the Board did not include in the proposed amendments.

I believe the by-country disclosures would matter greatly to investors. The reactions of specific governments to tax strategies are widely reported and can have effects on the earnings and cash flows of the affected firms. How can investors anticipate such events if they do not even have any granular information about the countries in which they operate?

In its basis for conclusions (paragraph 22), the Board appears sympathetic to the cost concerns raised by preparers that would be involved in this kind of disclosure, but not sympathetic to the needs of investors. The cost concerns may be a moot point: many large public multinational companies will be required to file by-country reports with the IRS, effective in 2017. If such information is going to be required, it could provide a cost-effective starting point for GAAP-based information to be included in the income tax disclosures.

**Question 5: The Board considered several disclosures on indefinitely reinvested foreign earnings (see paragraphs BC27–BC40 of this proposed Update). Is there other information that the Board should consider regarding these potential disclosures? Are there other disclosures about indefinitely reinvested foreign earnings that would be more cost beneficial?**

I understand that the Board is not considering the indefinite reinvestment exception in this proposal, but I would urge them to take it under consideration. Better accounting for the income earned, regardless of a firm's intention to pay taxes, might well obviate the need for improving disclosures surrounding indefinitely reinvested foreign earnings.

That said, I would suggest that the amendment should require more quantitative information about the cumulative amount of indefinitely reinvested foreign earnings. The balance at the end of the year is not extremely informative on its own. The only information investors get from it is a general sense of how actively a company may have pursued a strategy of indefinitely reinvesting foreign earnings – and a "general sense" does not indicate much adequate analytical work can be done. About the only thing that an investor can do with the existing – and surviving – disclosure of just the amount is to compare it to the previous year balance, and assume that the difference is the indefinitely reinvested foreign earnings for

the current year. That is a rather large assumption to make, because it can be affected by acquisitions, disposals, repatriations and changes in intention to indefinitely reinvest earnings.

I suggest inclusion of a rollforward schedule of the activity in the cumulative balance, for the last three years. The changes within it would synchronize activity with the income statement, showing the amount of untaxed foreign earnings for a given year that affected net income. Activities should also show changes in the balance due to acquisitions or disposals of subsidiaries, along with changes in reinvestment intentions and actual repatriations of earnings.

I would also support the disclosure of which countries account for the composition of the amount of cumulative indefinitely reinvested foreign earnings, whenever it exceeds 5% of the balance. As governments more aggressively seek taxes of companies whose strategies they challenge, it becomes more important for investors to know which countries a firm has operations so they can assess the sustainability and risks involved in the assumptions of indefinitely reinvested foreign earnings.

Lastly, I object to the continuance of the “practicability exception” related to the disclosure of estimated tax liability should there ever be a repatriation of indefinitely reinvested foreign earnings. It seems incredible that the financial and tax reporting functions within a firm would not be readily aware of such obligations. Such information would be useful for investors to know as tax policies evolve in the U.S. and elsewhere, in order to assess the risks involved in a firm’s tax policies. In practice, the “practicability exception” has resulted in rare disclosures.

**Question 8: Are there any other disclosure requirements retained following the review of Topic 740 that should be removed on the basis of the proposed Concepts Statement or for other reasons? Please explain why.**

I do not support the proposed amendment’s inclusion of information about the cash, cash equivalents, and marketable securities held by foreign subsidiaries. In the basis for conclusions (paragraph 38), the Board added this “because the disclosure would provide a data point that, in combination with other financial and tax disclosures, would give a user a sense of exposure to income taxes in the least costly and complex way.” I disagree, in that the balances can be shifted practically instantaneously the day before and after the reporting date, and can create the false impression of income earned in a particular locale. This is not even cash basis reporting; it’s the reporting of cash balances, which says nothing about earnings and cash flows – and that’s what is important to investors. I believe that this information can be quite misleading to investors, even if they think they want it, and would prefer to see more robust information about the by-country earnings and tax provisions.

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If you have any questions about my comments, please do not hesitate to contact me. Thank you.

Best regards,



Jack Ciesielski