



April 27, 2011

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Proposed Statement of Statutory Accounting Principles No. 101, Income Taxes, A Replacement of SSAP No. 10R and SSAP No. 10.

The NAIC Task Force of the American Institute of Certified Public Accountants appreciates the opportunity to comment on the Proposed Statement of Statutory Accounting Principles No. 101, *Income Taxes, A Replacement of SSAP No. 10R and SSAP No. 10*.

Our comments are focused on the proposed requirements in paragraph 30.c. of proposed SSAP No. 101 relative to scheduling reversals of deferred tax assets and deferred tax liabilities to determine the admissibility of deferred tax assets. Although our focus is on paragraph 30.c., we also believe that modification of the introductory language of paragraph 30 is necessary to provide appropriate guidance regarding DTA / DTL offset.

As outlined in paragraph 26 of proposed SSAP No. 101, a statutory valuation allowance is required:

... if, based on the weight of available evidence, it is more likely than not (a likelihood of more than 50%) that some portion or all of the gross DTAs will not be realized. The statutory valuation allowance adjustment, determined in a manner consistent with paragraphs 20 through 25 of FASB Statement No. 109, shall reduce the gross DTAs to the amount that is more likely than not to be realized ..." (footnotes omitted)

The evidence sought is with respect to future taxable income. FASB ASC 740-10-30-18 (paragraph 21 of FASB Statement No. 109) identifies four sources of future taxable income that may be considered when conducting a valuation allowance assessment. One of these sources is future reversals of existing taxable temporary differences (reversing DTLs). As with all sources of evidence, the "weight" assigned to particular types of evidence regarding the realizability of DTAs is, most appropriately, determined by the ability to objectively verify the evidence. In this regard, existing taxable temporary differences and related reversal patterns generally carry more weight than, for example, projections of future taxable income. Factors that may negatively impact reversing DTLs as a source of future taxable income include taxable temporary differences without identifiable reversal patterns (so called "indefinite lived intangibles") and tax character mismatch (ordinary versus capital).

Having adopted guidance identical to the U.S. GAAP guidance, the determination of the adjusted gross deferred tax asset defined by statutory accounting principles, thus, already encompasses consideration of the tax character, timing of reversals of temporary differences and tax planning strategies (as discussed in FASB ASC 740-10-30-18 [paragraph 21 of FASB Statement No. 109]), among other items, in making an assessment that it is more likely than not that the asset will be realized. As with US GAAP, this determination precludes the use of DTAs that would not be expected to be realized, thus definitionally precluding duration mismatch.

The proposed language in the last sentence of paragraph 30.c. of proposed SSAP No. 101, would appear to require detailed scheduling of the reversal of each temporary difference in order to assess whether the timing of the reversal of each DTA occurs within a five-year period of reversals of DTLs against which the DTA could be “matched up” for offset (same tax character). This detailed scheduling could be required for an extended period, presumably for as long as five years after the last expected reversal of a DTA that exists as of the balance sheet date for which financial statements are being prepared. It would appear that this scheduling is at least as detailed as what would have been required under FASB Statement No. 96, *Accounting for Income Taxes*; scheduling was not carried forward to FASB Statement No. 109.

As indicated earlier, we believe the valuation allowance requirement in paragraph 26 of proposed SSAP No. 101 already requires general consideration of the tax character and timing of reversal of temporary differences sufficient to support the conclusion that DTAs are more likely than not to be realized. That consideration typically does not require detailed scheduling of reversals of temporary differences. Therefore, we believe requiring detail scheduling in determining the DTAs offset by DTLs is not necessary.

This is consistent with the U.S. GAAP guidance as noted in FASB ASC 740-10-55-16 and 740-10-55-17 (FASB Statement No. 109, Q&A No. 2) which states:

... Where it can be easily demonstrated that future taxable income will more likely than not be adequate to realize future tax benefits of existing deferred tax assets, scheduling of reversals of existing taxable temporary differences would be unnecessary.

In other cases it may be easier to demonstrate that no valuation allowance is needed by considering the reversal of existing taxable temporary differences. Even in that case, the extent of scheduling will depend on the relative magnitudes involved. For example, if existing taxable temporary differences that will reverse over a long number of future years greatly exceed deductible differences that are expected to reverse over a short number of future years, it may be appropriate to conclude, in view of a long (for example, 15 years) carryforward period for net operating losses, that realization of future tax benefits for the deductible differences is thereby more likely than not without the need for scheduling.

If it was not the intention of the NAIC to require detailed scheduling and assuming that the concern addressed in paragraph 30.c. of proposed SSAP No. 101 was, in fact, ultimate realization (on a more-likely-than-not basis) by the company of the DTAs, we believe modifications to the introductory language of paragraph 30 and to paragraph 30.c. are necessary. We suggest the following modifications to clearly state the maximum net admitted DTA, eliminate the appearance of an unnecessary ordering requirement, and remove explicit scheduling language. By making these suggestions, our intent is to reduce the potential for unneeded complexity in determining admitted DTAs.

Suggested revisions:

30. The net admitted DTA shall not exceed the excess of the adjusted gross DTA, as determined under paragraph 26e, over the gross DTL. For purposes of the preceding sentence, the Adjusted gross DTAs shall be determined based upon the subjected to a three-component admission calculation and admitted in an amount equal to the sum of paragraphs 30.a., 30.b., and 30.c.:


...

- c. The amount of adjusted gross DTAs, after application of paragraphs 30.a. and 10.b. that can be offset against existing gross DTLs. In making the assessment of the extent to which adjusted gross DTAs can be offset against DTLs, tThe reporting entity shall consider the character (i.e., ordinary versus capital) of the DTAs and DTLs such that offsetting would be permitted in the tax return under existing enacted income tax

laws and regulations. Additionally, the reporting entity shall consider the period of reversal. If the reversal period between the applicable DTA and STL under consideration for offset differs by greater than five years, admission based on offset is not allowed. pattern of the temporary differences, determined in accordance FASB ASC 740-10-55-13 and 740-10-55-14 (paragraphs 228 and 229 of FASB Statement No 109), to the extent necessary to determine that the amount of adjusted gross DTAs that are more likely than not to be realized. No offset would be permitted for DTLs for which no reversal pattern can be reasonably predicted, so called "indefinite lived intangibles." Consideration of reversal patterns is not intended to require detailed scheduling; the level of scheduling necessary, if any, will depend on the nature, source and relative magnitude of the temporary differences.

This comment letter was prepared by members of the AICPA NAIC Task Force and reviewed by representatives of the Planning Subcommittee of the Financial Reporting Executive Committee, who did not object to its issuance. Members of the Task Force would be happy to meet with members of the SAPWG and discuss our comments.

Yours faithfully,

A handwritten signature in cursive script that reads "Deborah H. Whitmore".

Deborah Whitmore, Chair

AICPA NAIC Task Force

