



RETAIL INDUSTRY LEADERS ASSOCIATION

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Technical Director
File Reference No. 2019-500
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: Comments on Proposed Accounting Standards Update (Revised) – Income Taxes (Topic 740):
Disclosure Framework – Changes to the Disclosure Requirements for Income Taxes

Dear Members of the Board:

The Retail Industry Leaders Association (“RILA”), on behalf of its members, is pleased to respond to the *Proposed Accounting Standards Update (Revised) – Income Taxes (Topic 740): Disclosure Framework – Changes to the Disclosure Requirements for Income Taxes*, issued on March 25, 2019 (the “Exposure Draft”). By way of background, RILA is the U.S. trade association for leading retailers. RILA members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs, and more than 100,000 stores, manufacturing facilities, and distribution centers domestically and abroad. The comments below reflect the input and views of RILA’s Financial Leaders Council and its Tax Committee, which are comprised of senior retail finance and tax executives.

The Exposure Draft proposes to (i) add, (ii) modify, and (iii) eliminate certain disclosure requirements pertaining to income tax reporting. The stated objective of the Exposure Draft is to improve the effectiveness of disclosures in the notes to financial statements by facilitating clear communication of information required by GAAP that is most important to users of financial statements. In this regard, while the Exposure Draft would eliminate certain disclosure requirements that the Board no longer views as cost beneficial or relevant, should the Exposure Draft be adopted, RILA members believe that the additional and modified disclosure requirements set forth in the proposed standard would continue to be overly complicated, costly, and burdensome with little or no offsetting benefit. In addition, the Exposure Draft would create significant potential for further confusion related to a company’s income taxes.

We appreciate the opportunity to comment on the Exposure Draft and offer our specific comments below.



Question 1: Would the amendments in this proposed Update that add or modify disclosure requirements result in more effective, decision-useful information about income taxes? Please explain why or why not. Would the proposed amendments result in the elimination of decision-useful information about income taxes? If yes, please explain why.

RILA members do not believe that the proposed amendments that add or modify disclosure requirements would result in more effective, decision-useful information about income taxes.

As a preliminary matter, we note that for public companies, some of the new or modified disclosure requirements proposed in the Exposure Draft would require the disclosure of information that is already disclosed under the current SEC regulations. For example, and as noted in paragraph BC21 of the Exposure Draft, SEC Regulation S-X 210.4-08(h)(1) already requires the disaggregation of pretax income by jurisdiction. While incorporating these requirements into GAAP would not, in and of itself be objectionable, requiring footnote disclosure of information already publicly available would not provide more effective, decision-useful information about income taxes to users of financial statements. Similarly, many companies already disclose income taxes paid on a quarterly basis in the statement of cashflows and, as a result, some of the proposed disclosure requirements would result in the unnecessary disclosure of duplicative information.

Although some of the other new or modified disclosures proposed in the Exposure Draft would require the disclosure of additional information, much of this information would be of limited benefit to users of financial statements. Moreover, requiring the disclosure of income taxes paid during the reporting period disaggregated between federal, state, and foreign income taxes would likely create confusion and not provide clarity. This is because cash taxes paid in a given period do not equate to a company's deferred tax asset or liability, income tax expense, or, in most instances, to the tax liability reported on income tax returns for the period.¹ Income taxes paid during a given reporting period frequently include amounts related to the income tax liability of other reporting periods. For example, cash taxes previously paid may be refunded or applied to subsequent periods due to the carrying back of losses or credits for income tax purposes or due to the trueing up of estimated tax payments that are required to be made.

Similarly, additional taxes for a period may be paid in a subsequent reporting period once a tax examination is concluded. These events may occur many years after the period to which the taxes relate. For interim periods, the same is true.

¹ We note that the information reported on a company's income tax return is extremely sensitive and confidential and is also considered protected competitive information. This information is recognized as so confidential, in fact, that the law bars any officer or employee of the United States and others from disclosing taxpayer return information, except in expressly sanctioned and limited circumstances. 26 U.S. Code § 6103. A violation of this statute can result in the imposition of criminal fines, imprisonment for up to 5 years, or both. 26 U.S. Code § 7213.



As an example, most companies make periodic estimated income tax payments based on an annualized approach. A fiscal January year-end retailer would make its fourth quarter January 15 estimated payment based upon the first nine months of annualized income. With most retailers earning the majority of their income during the fourth quarter holiday season, the balance due for the fiscal year ending in January would be made on May 15 when companies file their tax extension returns. As a result, RILA members do not believe that the additional or modified disclosures are appropriate or would provide more useful information to the users of financial statements and could only create additional confusion.

RILA commends the Board for eliminating burdensome requirements that, in the opinion of RILA members, do not provide decision-useful information about income taxes. The current requirements pertaining to the disclosure of (i) information regarding the nature and range of reasonably possible changes in the balance of total unrecognized tax benefits within 12 months of the reporting date and (ii) the cumulative amount of each type of temporary difference that results when a deferred tax liability is not recognized due to the exceptions to comprehensive recognition of deferred taxes related to subsidiaries and joint ventures do not provide decision-useful information to users of financial statements. Consequently, the proposed elimination of such requirements would not result in the elimination of decision-useful information about income taxes.

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

In general, RILA members are concerned that the proposed disclosure requirements, in addition to not providing decision-useful information and likely creating confusion, could also present operability issues due to the resource constraints of reporting entities. As entities prepare financial statements, the entities' relevant groups or departments are already required to devote substantially all of their time to meet financial reporting deadlines. Requiring the disclosure of additional information pertaining to income taxes would materially increase the workload of these departments during what is already a time-constrained portion of the year.

Other facts also make the proposed disclosure requirements inoperable. For example, the proposed disclosure requirements pertaining to loss carryforwards would present operability issues where multiple currencies are at issue at differing points in time. In addition, RILA agrees with the comment noted by others, that certain of the proposed disclosure requirements could present auditability issues because the required information might not be available prior to the financial reporting deadlines. As an additional, overarching concern, requiring the disclosure of additional detail that we believe would not provide decision-useful information would also unnecessarily increase the time and fees associated with external auditor review of financial statements.



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

RILA members believe that the proposed disclosure requirements could impose significant incremental costs for reporting entities with little or no corresponding benefit and a real potential for creating confusion. See also our response to Question 2.

Question 4: One of the proposed amendments would require entities to disclose pretax income (or loss) from continuing operations before intra-entity eliminations disaggregated between domestic and foreign, which initial feedback indicated would reduce diversity in practice. Would this proposed amendment be operable? Should the Board specify whether the disclosed amounts should be before or after intra-entity eliminations? Why or why not?

If this requirement is adopted, the Board should specify that the disclosed amounts should be *after* intra-entity eliminations. As noted in paragraph BC21 of the Exposure Draft, “the sum of domestic and foreign income (or loss) from continuing operations before intra-entity eliminations would not equal the amount presented on the income statement.” This discrepancy could create confusion for users of financial statements, and would require additional explanation for the discrepancy, all of which would increase costs with no corresponding benefit.

The Board’s reasoning for the proposed amendments is stated in paragraph BC21 of the Exposure Draft - “the amount before intra-entity eliminations would have a more direct relationship with income tax expense (or benefit).” However, the Board provides no support for this statement, which RILA members believe is incorrect. In practice, the amount *after* intra-entity eliminations is more relevant to the determination of income tax expense (or benefit). Failure to take into account intra-entity eliminations would be akin to counting those items twice.

Question 5: Would a proposed amendment to require disaggregation of income tax expense (or benefit) from continuing operations by major tax jurisdiction be operable? Would such a proposed amendment result in decision-useful information about income taxes? Why or why not?

A proposed amendment to require disaggregation of income tax expense (or benefit) from continuing operations by major tax jurisdiction would present operability issues and not provide decision-useful information. As noted in our responses to Questions 2 and 3, requiring the disclosure of additional detailed information would add to the substantial workload already associated with the preparation of financial statements, and would increase the costs associated with auditing such financial statements. Moreover, this information might not be available prior to the financial reporting deadlines, presenting auditability issues.



A proposed amendment to require disaggregation of income tax expense (or benefit) from continuing operations by major tax jurisdiction would not result in decision-useful information about income taxes. As noted in paragraph BC24 of the Exposure Draft, this information would be of limited benefit to users due to the manner in which such information is often compiled.

Question 6: The proposed amendments would modify the existing rate reconciliation requirement for public business entities to be consistent with SEC Regulation S-X 210.4-08(h). That regulation requires separate disclosure for any reconciling item that amounts to more than 5 percent of the amount computed by multiplying the income before tax by the applicable statutory federal income tax rate. Should the Board consider a threshold that is different than 5 percent? If so, please recommend a different threshold and give a basis for your recommendation.

In light of current federal income tax rates, the 5 percent threshold is too low. As tax rates have fallen, the materiality threshold set forth in the Regulation has likewise declined. For example, in 1980, when the corporate tax rate was 46 percent, the Regulation required the disclosure of any item that increased or decreased the effective tax rate by 2.3 percent (5 percent times 46 percent) or more. Prior to 2018, the corporate tax rate was 35 percent. The Regulation thus required the disclosure of any item that increased or decreased the effective tax rate by 1.75 percent (5 percent times 35 percent) or more. As of the date of this letter, the corporate tax rate is 21 percent. The Regulation thus currently requires the disclosure of any item that increases or decreases the effective tax rate by 1.05 percent (5 percent times 21 percent) or more, which is less than half of the threshold as at 1980. To address this issue, RILA members encourage the Board to consider two alternative proposals explained in more detail below.

First, the Board could consider using a fixed rate (for example, 1.75 percent) that would not vary based upon the statutory rate in effect at the time. Use of a fixed rate would provide a consistent level of disclosure as compared to historical rate reconciliation tables. This would eliminate the need to disaggregate and/or aggregate previous years' data, but would still provide a transparent, consistent view of the items impacting the effective tax rate from period to period.

Alternatively, the Board should consider a threshold that is higher than 5 percent. For example, a 10 percent threshold would be more appropriate than the current 5 percent threshold to reduce the scope of the items included in the rate reconciliation, and corresponding burden associated therewith, to items that are more likely to be of some interest to the users of financial statements.

RILA members believe that use of a fixed threshold or an increase in the threshold would not eliminate any decision-useful information. Finally, whatever option is ultimately chosen by the Board, RILA members believe that the SEC, likewise, should consider increasing the threshold set forth in Regulation S-X 210.4-08(h) or adopting a fixed percentage.



Question 7: Are there any other disclosures that should be required by Topic 740 on the basis of the concepts in Chapter 8 of Concepts Statement 8, as a result of the Tax Cuts and Jobs Act, or for other reasons? Please explain why.

At this time, it would be inappropriate to require additional disclosures as a result of the Tax Cuts and Jobs Act (the “TCJA”). It is possible that, after technical corrections to the TCJA are enacted, additional Treasury Regulations are promulgated, and/or additional guidance from the Internal Revenue Service is published, requiring additional disclosures may be appropriate. However, RILA does not believe that modifications to GAAP related to the TCJA are necessary or appropriate at this time.

Question 8: Are there any disclosures that should be removed on the basis of the concepts in Chapter 8 of Concepts Statement 8, as a result of the Tax Cuts and Jobs Act, or for other reasons? Please explain why.

As with Question 7, above, RILA members believe that at this time, it would be inappropriate to remove disclosures as a result of the TCJA.

Question 9: The proposed amendments would replace the term “public entity” in Topic 740 with the term “public business” entity as defined in the Master Glossary of the Codification. Do you agree with the change in scope? If not, please describe why.

Our members generally indicated that they would not be affected by the change in scope. We commend the Board for taking steps to simplify the Codification, and generally agree with this aspect of the Exposure Draft.

Question 10: Should the proposed disclosures be required only for the reporting year in which the requirements are effective and thereafter or should prior periods be restated in the year in which the requirements are effective? Please explain why.

The proposed disclosures should only be required prospectively from the year in which the requirements are effective. Requiring prior periods to be restated would only impose additional costs on entities without providing decision-useful information.



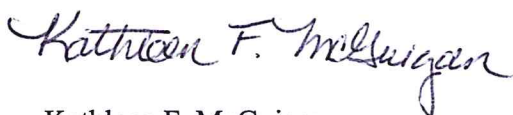
Question 11: How much time would be needed to implement the proposed amendments? Should the amount of time needed to implement the proposed amendments by entities other than public business entities be different from the amount of time needed by public business entities? Should early adoption be permitted? Please explain why.

Early adoption of the proposed amendments should be permitted. To the extent the final amendments require less granularity than the proposed amendments, less time would be required to implement the amendments. As discussed above, the proposed amendments would require excessively detailed disclosures, which would substantially increase the amount of time necessary to implement the amendments and would not provide decision-useful information. If the Board moves forward with the proposed amendments as written or with minimal modifications, companies will need at least a two-year implementation period to establish appropriate processes for gathering, vetting and drafting required disclosures.

* * *

In conclusion, we believe that while the Exposure Draft appropriately eliminates certain disclosure requirements that provide little, if any, decision-useful information, the Exposure Draft as a whole would not result in more decision-useful information. Instead, it would simply be costly and burdensome with little or no offsetting benefit. We thank you for the opportunity to comment on this proposal. Please do hesitate to reach out to me if you need any additional information on this issue.

Sincerely,



Kathleen F. McGuigan
EVP & Deputy General Counsel
Retail Industry Leaders Association

