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3 park avenue, at 34th street, new york, ny 10016-5991
212.719.8300 • fax 212.719.3364
www.nysscpa.org

August 31, 2005

Financial Accounting Standards Board
401 Merritt 7, PO Box 5116
Norwalk, CT 06856-5116

By email: director@fasb.org

Re: Proposed FSP FAS 13-b – Accounting for Rental Costs Incurred during a Construction Period

To Whom It May Concern:

The New York State Society of Certified Public Accountants, the oldest state accounting association, represents approximately 30,000 CPAs that will implement the provisions proposed in the captioned FASB staff position. NYSSCPA thanks FASB for the opportunity to comment on its exposure draft.

The NYSSCPA Financial Accounting Standards Committee deliberated the exposure draft and prepared the attached comments. If you would like additional discussion with the committee, please contact Margaret Wood, chair of the Financial Accounting Standards Committee, at (212) 542-9528, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

President

Attachment

**NEW YORK STATE SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS**

COMMENTS ON PROPOSED FASB STAFF POSITION

FAS 13-b – Accounting for Rental Costs Incurred during a Construction Period

August 31, 2005

Principal Drafters

**Abraham E. Haspel
Sharon S. Fierstein
Edward P. Ichart
Mark Mycio
Margaret Wood**

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Ernest J. Markezin

**NEW YORK STATE SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS**

FINANCIAL ACCOUNTING STANDARDS COMMITTEE

**COMMENTS ON PROPOSED FASB STAFF POSITION
FAS 13-b “Accounting for Rental Costs Incurred during a Construction Period”**

The proposed FASB Staff Position (FSP) requires that the cost of renting property controlled by a tenant during the construction period should be charged to expense. The types of situations that may be affected by this proposed rule are:

1. Property is leased under a long- term ground lease for the purpose of either renovating an existing building or constructing a new building for the tenant’s own use or for renting to third parties.
2. Commercial space is leased and the tenant makes extensive alterations to the space for its own use or for renting to third parties.

It is not clear whether the proposed FSP addresses exclusively property rented for self - use or includes property to be sold or rented to third parties.

The proposed FSP supports its conclusion by stating: “*There is no distinction between the right to use a leased asset during the construction period and the right to use that asset after the construction period.*” Although there is no distinction between the right to use rented property both before and after the construction period, there is a great distinction between a period in which construction is taking place and the period in which the property is used for conducting operations.

SFAS 34 paragraph 9a and b requires construction period interest to be capitalized for assets constructed, both for an enterprise’s own use or for its sale/lease to third parties. SFAS 67 applies only to assets developed exclusively for sale or rental to others.

Since existing accounting literature recognizes that there is a distinction between the period during construction and the period after construction, it is therefore necessary to examine if there are similarities between rental costs and those expenses that are currently required to be capitalized during construction.

SFAS 67 requires that taxes and insurance costs incurred during the construction period be capitalized as property cost. Rental cost during the period of construction is analogous to the cost of real estate taxes and insurance because all such costs are period costs which are known, recurring in nature and may be incurred both before and after the construction

period. All such costs relate to taking physical possession of the leased property, which may be incurred in advance of the leased property being ready for its intended use.

SFAS 34 similarly requires that interest cost be capitalized for qualifying assets (as defined) that require a period of time to get them ready for their intended use. While interest costs generally relate to the construction costs of the leasehold improvements, they share the same periodic nature as rental cost, taxes and insurance. Additionally, interest costs may continue to be incurred after the construction period, similar to the other types of costs discussed above, when construction loans are refinanced in the form of permanent mortgages.

Based on the above analysis, there are no meaningful conceptual differences among rent, interest, property tax and insurance costs that would indicate that such costs should be handled in different manners during the construction period. As a result, rental cost incurred by a tenant during the related construction period should be capitalized and not expensed as required in the proposed FSP.

This FSP should clarify whether it applies exclusively to self-use property and excludes leased property to be rented or sold to others.

We recognize that the Board has delayed addressing the capitalization of construction period insurance and taxes for self-use property as stated in paragraph 35 of SFAS 34. A recent attempt by the Board to provide guidance in this area is the Exposure Draft, *Accounting in Interim and Annual Financial Statements for Certain Costs and Activities Related to Property, Plant, and Equipment*, dated June 29, 2001. The Exposure Draft in paragraph 4(d)(2) states that paragraph 2(a) of SFAS 67 is replaced by the following: “*Certain costs and activities related to real estate developed by an enterprise for use in its own operations, including rental of real estate property pursuant to an operating lease. AICPA Statement of Position 02-XX, Accounting for Certain Costs and Activities Related to Property, Plant and Equipment provides guidance on accounting for those costs and activities*”. Paragraph 32 of the AICPA Statement of Position 02-XX states: “*In the case of real estate, costs incurred for property taxes, insurance, and **ground rentals** should be capitalized, for the portion of the property under construction, during the time that activities that are necessary to get the asset ready for its intended use are in progress.*” To avoid confusion, we suggest that the question of capitalizing insurance, property taxes and, by analogy, rental costs should not be addressed piecemeal through this very narrow FSP.

We, therefore, make the following recommendations:

1. That the Board issue guidance in a separate pronouncement as to the proper method of accounting for all costs related the construction of self-use assets.
2. That rental costs of leased long-lived assets acquired for rental or sale to others should be capitalized during the period of construction consistent with FAS 67.