



Project **Agenda decision**

Topic **IAS 12 *Income taxes*—Classification of tonnage taxes**

Introduction

1. In March 2009, the IFRIC published a tentative agenda decision not to add to its agenda an issue to provide guidance on whether a tax based on tonnage capacity can be considered to be an income tax in accordance with IAS 12.
2. The IFRIC received four comment letters from respondents.

Summary of comments from respondents

3. Three of the respondents agree with the decision not to add the issue to the IFRIC's agenda. The fourth one disagrees with the decision¹.
4. All three comment letters that support the IFRIC's decision suggest clarifying the agenda decision in a variety of ways, namely:
 - (a) removing the reference to gross versus net amount²,
 - (b) clarifying the tonnage tax scheme the agenda decision refers to³.
5. Given that the majority of respondents agree on the decision not to take the issue to the IFRIC's agenda, the staff recommends that the IFRIC confirm its tentative agenda decision, after considering whether the tentative wording should be amended before being finalised (see proposed agenda decision wording in Appendix A).

¹ Danish Shipowners' Association

² D&T

³ E&Y, PwC

This paper has been prepared by the technical staff of the IASCF for discussion at a public meeting of the IFRIC.

The views expressed in this paper are those of the staff preparing the paper. They do not purport to represent the views of any individual members of the IFRIC or the IASB. Comments made in relation to the application of an IFRS do not purport to be acceptable or unacceptable application of that IFRS—only the IFRIC or the IASB can make such a determination.

Decisions made by the IFRIC are reported in IFRIC *Update*.

Interpretations are published only after the IFRIC and the Board have each completed their full due process, including appropriate public consultation and formal voting procedures. The approval of an Interpretation by the Board is reported in IASB *Update*.

Staff recommendation

6. As regards the comment in paragraph 4(a), the staff disagrees with deleting the reference as this wording directly derives from a previous IFRIC final agenda decision. Moreover, the staff believes that the reference to gross versus net amounts provides useful guidance on the definition of profit that is ‘the residual amount that remains after expenses [...] have been deducted from income’ as defined in the IFRS’s Glossary of Terms.
7. However, one of the comments noted in paragraph 4(b) was concerned that based on this comment about gross versus net amounts, a tax based on a notional income amount would be considered to be in the scope of IAS 12. As a result, the staff proposes to state in the agenda decision that a notional income derived by a formula from tonnage capacity is not actual taxable profit.
8. To address the other comment noted in paragraph 4(b), the staff proposes to include within the agenda decision a broader description of the various existing tonnage tax regimes. As a consequence of this diversity, the staff recommends that the agenda decision note that judgement is required in assessing whether a tax described as a tonnage tax is an income tax in accordance with IAS 12.

Recommendation and question - wording of the agenda decision

Does the IFRIC agree with the staff recommendation to confirm its decision not to add the issue to its agenda?

Does the IFRIC agree with the staff recommendations to amend the wording of the tentative agenda decision to address comments received based on the discussions in paragraphs 6- 8?

Does the IFRIC have any comments on the proposed wording of the final agenda decision in Appendix A?

Appendix A

A1. The staff proposes the following wording for the final agenda decision (new added text is underlined and deleted text is struck through from the tentative decision).

IAS 12 *Income taxes*—Classification of tonnage taxes

The IFRIC received a request for guidance on whether a tax based on tonnage capacity can be considered to be an income tax in accordance with IAS 12. The IFRIC noted that the term ‘tonnage tax’ is applied to a variety of tax regimes. In some jurisdictions, shipping companies are permitted to choose to be taxed based on either tonnage transported or tonnage capacity instead of based on the standard corporate income tax regulations. In those jurisdictions, this choice is irrevocable. In other jurisdictions, tonnage capacity is used to determine a notional income to which the standard corporate tax rate is applied; the tax charge is payable even if the entity actually has a loss. In still other jurisdictions, tonnage taxes are integrated with, rather than being an alternative to, the standard corporate tax regime; the tonnage tax is simply an advance payment for income taxes.

Accordingly, the IFRIC noted that determining whether a tax described as a tonnage tax is an income tax in accordance with IAS 12 requires judgement. The IFRIC has previously noted that IAS 12 applies to income taxes, which are defined as taxes that are based on taxable profit and that the term ‘taxable profit’ implies a notion of a net rather than a gross amount. Taxes either on tonnage transported or tonnage capacity are based on gross rather than net amounts. Taxes on a notional income derived from tonnage capacity are not based on the entity’s actual taxable profit.

Consequently, the IFRIC noted that such taxes would not be considered to be income taxes in accordance with IAS 12 and would not be presented as part of tax expense in the statement of comprehensive income. However, the IFRIC also noted that, in accordance with paragraph 85 of IAS 1 *First Time Adoption of International Financial Reporting Standards Presentation of Financial Statements*, an entity subject to tonnage tax would present additional subtotals in that statement if that presentation is relevant to an understanding of its financial performance.

IASB Staff paper

Given the requirements of IAS 12, the IFRIC did not expect significant diversity in practice and decided not to add this issue to its agenda.