

STAFF PAPER

3 November—4 November 2011

IFRS Interpretations Committee Meeting

Project	Review of tentative agenda decision from September 2011
Paper topic	IAS 12 <i>Income Tax</i> —Rebuttable presumption to determine the manner of recovery
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This paper has been prepared by the staff of the IFRS Foundation for discussion at a public meeting of the IFRS Interpretations Committee. Comments made in relation to the application of an IFRS do not purport to be acceptable or unacceptable application of that IFRS—only the IFRS Interpretations Committee or the IASB can make such a determination. Decisions made by the IFRS Interpretations Committee are reported in *IFRIC Update*. The approval of a final Interpretation by the Board is reported in *IASB Update*.

Introduction

1. Paragraph 51C of IAS 12 *Income Tax* contains a rebuttable presumption, for the purpose of recognising deferred tax, that the carrying amount of an investment property measured at fair value will be recovered through sale. The IFRS Interpretations Committee (the Committee) received a request to clarify whether that presumption can be rebutted in cases other than the case described in paragraph 51C of IAS 12.
2. The tentative agenda decision published in the September 2011 IFRIC Update on the issue ‘IAS 12 *Income Tax*—Rebuttable presumption to determine the manner of recovery’ addresses two aspects of the application of the rebuttable presumption in paragraph 51C of IAS 12:
 - (a) whether the presumption can be rebutted in cases other than the cases described in paragraph 51C of IAS 12 (**issue 1**); and
 - (b) whether, in the case in which the presumption is rebutted, the deferred tax should reflect recovery of the carrying amount entirely through use, rather than based on any ‘dual purpose analysis’ (**issue 2**). This issue was not raised in the original submission to the Committee.

3. In the tentative agenda decision it is noted that on:
 - (a) **issue 1** that the presumption in paragraph 51C of IAS 12 can be rebutted in other circumstances as well, provided that sufficient evidence is available to support that rebuttal; and on
 - (b) **issue 2** that the resulting deferred tax should reflect recovery of the carrying amount entirely through use, if the presumption is rebutted.
4. The Committee decided not to take the issue onto its agenda because it thought that the standard is clear and that diversity in practice on the rebuttal of the presumption should not emerge.
5. Our full analysis that was presented at the Committee meeting in September 2011 was set out in Agenda Paper 8, which can be found on the public website¹.

Comments received on the tentative agenda decision published in the September 2011 IFRIC Update

6. We have received 8 comment letters² with respect to the tentative agenda decision published in the September 2011 IFRIC Update on this issue. Four constituents³ supported the decision not to take the issue to the Committee's agenda. One⁴ of them thinks, however, that an annual improvement amendment is required in order for paragraph 51C of IAS 12 to have an unambiguous meaning. Two constituents⁵ do not object to the decision not to take the issue to the Committee's agenda. One constituent⁶ thinks that paragraph 51C of IAS 12 should be amended through the annual improvements process to clarify both issues and another

¹ <http://www.ifrs.org/NR/rdonlyres/F9E38AED-E0A0-46FE-A188-A8A481FB401B/0/081109AP8IAS12rebuttablepresumption.pdf>

² AASB, AcSB, BDO, DTT, EFRAG, EY, KPMG, PwC

³ AASB, EY, KPMG, PwC

⁴ EY

⁵ BDO, EFRAG

⁶ AcSB

constituent⁷ questioned whether an agenda decision is the best way to clarify both issues.

7. This range of views reflect the divergent opinions of the constituents on the following two issues:
 - (a) whether **issues 1 and 2** need to be addressed through an interpretation or the annual improvements process or whether an agenda decision is sufficient (**question 1**); and
 - (b) whether deferred taxes should reflect recovery of the carrying amount entirely through use, if the presumption is rebutted (**question 2**).

Question 1

8. All the constituents² agreed that the statement in the tentative agenda decision on **issue 2** (ie if the presumption is rebutted, the resulting deferred tax should reflect recovery of the carrying amount entirely through use), goes beyond the scope of an agenda decision. Most of them⁸ highlight that the current guidance in paragraph 51 and 51A of IAS 12 does not support the conclusion that deferred tax should reflect recovery of the carrying amount entirely through use, rather than based on any ‘dual purpose analysis’ if the presumption is rebutted. Instead, it requires entities to reflect the manner in which the entity expects to recover the carrying amount in the measurement of deferred taxes. Consequently, the manner of recovery determined according to paragraphs 51 and 51A of IAS 12 may be a ‘dual purpose analysis’ and not, by default, through use.
9. On **issue 1**, in contrast, views were mixed on whether it needs to be addressed through an interpretation or the annual improvement process or whether an agenda decision is sufficient. While five constituents⁹ agreed or did not object to the statement on **issue 1** in the tentative agenda decision, the other three constituents¹⁰ think that paragraph 51C of IAS 12 needs to be amended through

⁷ DTT

⁸ AASB, AcSB, BDO, EFRAG, KPMG, PwC

⁹ AASB, BDO, DTT, EFRAG, PwC

¹⁰ AcSB, EY, KPMG

the annual improvements process to clarify this issue. However, the constituents supporting an annual improvement amendment recommend it for different reasons:

- (a) One constituent¹¹ is concerned about the agenda decision being used to change practice or curtail diversity that may emerge, on the grounds that agenda decisions are not subject to the full due process.
- (b) For one constituent¹² it is not clear what *other circumstances* rebut the presumption. It explains that an asset is either recovered through sale or through use or a combination according to paragraphs 51 and 52 of IAS 12. Consequently, the constituent concludes that the rebuttal of the presumption can be achieved only by providing sufficient evidence of use, which is already required by paragraph 51C of IAS 12. The constituent recommends adding guidance on *other circumstances* to IAS 12 through the annual improvements process.
- (c) Another constituent¹³ noted that the distinction between ‘if’ and ‘if and only if’ is not applied consistently throughout IFRSs. For example, paragraph D6 of IFRS 1 *First-time Adoption of International Financial Reporting Standards* uses ‘if’ but is understood as meaning ‘if and only if’. Furthermore, the constituent thinks that rebutting the presumption in cases other than the case described in paragraph 51C of IAS 12 leaves entities who have been hoping to rely on a presumption of sale in exactly the same difficulty as before the standard was amended. The constituent thinks the purpose of the amendment would be thwarted because it would require an entity to demonstrate positively that there are no circumstances that require the presumption to be rebutted.

10. One constituent¹⁴ thinks that **issue 1** can be addressed through an agenda decision. The constituent is however concerned that without further guidance in which

¹¹ AcSB

¹² KPMG

¹³ EY

¹⁴ DTT

other circumstances rebuttal of the presumption in paragraph 51C of IAS 12 is envisaged, divergent interpretations may evolve in practice.

Question 2

11. Two constituents¹⁵ think that if the presumption is rebutted, then the measurement of deferred taxes should be based on the requirement of paragraph 51 of IAS 12 and reflect the manner in which the entity expects to recover the carrying amount and not, by default, by use. According to one¹⁶ of them, such an approach most closely reflects the economic substance of the arrangement and provides useful information.
12. One constituent¹⁷ notes that the statements in the tentative agenda decision that the resulting deferred tax should reflect recovery of the carrying amount entirely through use, is based on the Committee's understanding of the intention of the Board in amending IAS 12. As described in paragraph BC10 of the amendment to IAS 12 *Deferred Tax: Recovery of Underlying Assets* issued in December 2010, it was the Board's intention to reduce subjectivity in determining the manner of recovery of investment property measured at fair value. The constituent however questions whether this was in fact the intention of the Board when issuing the amendments. The constituent understood that the Board's motive for the amendment was to relieve entities that found it difficult to determine the manner of recovery of certain types of assets from the burden of doing so and not to prevent those entities that were able to determine the manner of recovery from doing so.

Other comments

13. One constituent¹⁸ notes that the tentative agenda decision makes reference to recovery of the carrying amount *entirely* through use. The standard instead refers

¹⁵ KPMG, PwC

¹⁶ PwC

¹⁷ EY

¹⁸ KPMG

to consuming *substantially all* of the economic benefits, as opposed to *entirely*.

The constituent notes that paragraph 51C of IAS 12 allows rebuttal of the presumption even if not *all* economic benefits are consumed through use.

Accordingly, the constituent thinks that the wording in the agenda decision should be consistent with the standard.

14. Finally, one constituent¹⁹ thinks that the tentative agenda decision could be read to require rebuttal when only a portion of the economic benefit that is embodied in the property is expected to be recovered through use and for deferred tax to then be calculated to reflect recovery entirely through use. The constituent thinks that this is not consistent with the requirements of paragraph 51 and 51A of IAS 12 or with the intention of the Board in amending IAS 12.

Staff response

Issue 1

15. We think that **issue 1** needs not to be addressed through an interpretation or the annual improvement process. An agenda decision is sufficient, because the standard is clear on this issue. The analysis that the presumption can be rebutted in cases other than the case described in paragraph 51C of IAS 12 is clearly derived from the standard. It is based on a precise use of language across IAS 12 (‘if’ versus ‘if and only if’), it aligns with the general literal sense of the word ‘presumption’ and paragraph 51C of IAS 12 does not provide an exclusive list of cases in which the presumption does not hold.
16. If one constituent instead argues that this language is not used consistently across all IFRSs, we think that this concern relates to a broader issue of consistent use of language across IFRSs and not only within one standard. We think that this broader issue goes beyond the scope of this project.
17. In addition, we do not think that further guidance on what *other circumstances* are should be given. It would conflict with the decision taken by the Board when developing the amendment not to give application guidance (see paragraph BC11 of IAS 12). In addition, *other circumstances* will result from making judgements

¹⁹ DTT

in applying the principles in paragraph 51 *et seq.* of IAS 12. Accordingly, we think that giving further guidance on what *other circumstances* are may limit judgement, and we have so far seen no need for such a limitation of judgement so far.

18. Furthermore, we do not agree that rebutting the presumption in cases other than the case described in paragraph 51C of IAS 12, thwarts the purpose of the amendment. We agree with the constituent that it requires an entity to carry out an analysis to determine that there are no circumstances that require the presumption to be rebutted. However, the purpose of the amendment is not to spare entities that work but to spare the entity the determination of the expected manner of recovery for investment property measured at fair value, if this determination turns out to be difficult to make and is therefore subjective.

Issue 2

19. We agree with the constituents that the statement in the tentative agenda decision that, if the presumption is rebutted, the resulting deferred tax should reflect recovery of the carrying amount entirely through use (**issue 2**) is de facto an interpretation. It is not reflected in the wording of the current standard but can only be derived from what was described as the Board's intention in paragraph BC10 of the amendment to IAS 12 *Deferred Tax: Recovery of Underlying Assets* issued in December 2010. In addition, excluding a 'dual purpose analysis' does not conform to paragraphs 51 and 51A of IAS 12.
20. Moreover, we do not think that the **issue 2** can be addressed through the annual improvements process or by an interpretation:
- (a) it cannot be subject to an interpretation because it contradicts the guidance in paragraph 51 and 51A of IAS 12 and would therefore not be resolving an issue within the confines of existing IFRSs; and
 - (b) it is neither clarifying nor correcting in nature because it would change the principles in paragraph 51 and 51A of IAS 12. In amending the principles in these paragraphs, however, the benefits of a 'dual purpose analysis' have to be balance against an analysis that is solely based on use and therefore contributes to consistency in accounting. Furthermore, one

constituent indicated that the motivation of the Board for amending IAS 12 needs to be analysed more thoroughly. In summary, this goes beyond the scope of the annual improvement process.

21. Accordingly, we propose to delete the two last sentences of the second paragraph of the tentative agenda decision.

Other comments

22. Moreover, we do not think that the tentative agenda decision could be read to require rebuttal when only a portion of the economic benefit that is embodied in the property is expected to be recovered through use and for deferred tax to then be calculated to reflect recovery entirely through use. The tentative agenda decision does not explain when the presumption is rebutted.
23. Finally, we agree that the final agenda decision should not make reference to recovery of the carrying amount *entirely* through use, but to recovery of *substantially all* of the carrying amount through use. This issue does not, however, require amending the agenda decision, because we are already proposing to delete the two last sentences of the second paragraph of the tentative agenda decision.

Staff’s recommendation

24. We recommend that the Committee should reaffirm that it will not take the issue onto its agenda and that it should proceed with the agenda decision, but with the amendments proposed in Appendix A to this paper.

Question to the Committee

Question—staff recommendation

Does the Committee agree with the staff’s recommendation not to take the issue onto its agenda and that it should proceed with the agenda decision, but with the amendments proposed in Appendix A to this paper?

Appendix A—proposed wording for agenda decision

- A1. We propose the following wording for the final agenda decision (new text is underlined and deleted text is struck through):

IAS 12 *Income Tax*—Rebuttable presumption to determine the manner of recovery

Paragraph 51C of IAS 12 contains a rebuttable presumption, for the purposes of recognising deferred tax, that the carrying amount of an investment property measured at fair value will be recovered through sale. The Committee received a request to clarify whether that presumption can be rebutted in cases other than the case described in paragraph 51C.

The Interpretations Committee noted that a presumption is a matter of policy in applying a principle (or an exception) in IFRSs in the absence of acceptable reasons to the contrary and that it can be rebutted when there is sufficient evidence to overcome the presumption. Because paragraph 51C is expressed as a rebuttable presumption and because the sentence explaining the rebuttal of the presumption does not express the rebuttal as ‘if and only if’, the Committee thinks that the presumption in paragraph 51C of IAS 12 can be rebutted in other circumstances as well, provided that sufficient evidence is available to support that rebuttal. ~~However, the Committee understands that the Board’s intention on introducing a rebuttable presumption in paragraph 51C was to remove the subjectivity in the determination of the expected manner of recovery in paragraph 51. As a result, the Committee thinks that, if the presumption is rebutted, the resulting deferred tax should reflect recovery of the carrying amount entirely through use, rather than be based on any dual purpose analysis.~~

The Committee thinks that the standard provides sufficient guidance~~is clear~~ and that diversity in practice on the rebuttal of the presumption should not emerge. Consequently, the Committee decided not to add this issue to its agenda.



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13 October 2011

Wayne Upton
Chairman
IFRS Interpretations Committee
30 Cannon Street
London EC4M 6XH
UNITED KINGDOM

Dear Wayne

**Tentative agenda decision IAS 12 *Income Tax* – rebuttable presumption
to determine the manner of recovery**

We wish to provide comment to the IFRS Interpretations Committee (the “Committee”) on the above tentative agenda decision (published in the September 2011 IFRIC Update). We disagree with the agenda decision, as published, for the reasons expressed below.

We are concerned that the wording of the tentative agenda decision goes beyond a rejection notice, and that constituents will view the Committee’s conclusions as a de facto interpretation of the accounting required by IAS 12 paragraph 51C. Further, we disagree with the conclusions expressed by the Committee in the rejection notice, and do not consider there is a basis in existing literature, including the Basis for Conclusions to IAS 12, to conclude that recovery is either entirely through sale or entirely through use when the presumption in paragraph 51C is rebutted.

Specifically, we are of the view that the requirement to follow the requirements of paragraphs 51 and 51A if the presumption is rebutted is clear. We are of the view that an entity applying the requirements of paragraphs 51 and 51A is not limited to recovery entirely through use, and consider that the application of a ‘dual purpose analysis’ is an appropriate method to apply the requirements of these paragraphs and is consistent with the fundamental principles upon which IAS 12 is based.

Accordingly, whilst we are supportive of the decision by the Committee not to add this issue to its agenda, we strongly recommend amending the tentative agenda decision along the following lines, as shown in marked-up text:

Paragraph 51C of IAS 12 contains a rebuttable presumption, for the purposes of recognising deferred tax, that the carrying amount of an investment property measured at fair value will be recovered through sale. The Committee received a request to clarify whether that presumption can be rebutted in cases other than the case described in paragraph 51C.

The Interpretations Committee noted that a presumption is a matter of policy in applying a principle (or an exception) in IFRSs in the absence of acceptable reasons to the contrary and that it can be rebutted when there is sufficient evidence to overcome the presumption. Because paragraph 51C is expressed as a rebuttable presumption and because the sentence explaining the rebuttal of the presumption does not express the rebuttal as ‘if and only if’, the Committee thinks that the presumption in paragraph 51C of IAS 12 can be rebutted in other circumstances as well, provided that sufficient evidence is available to support that rebuttal. ~~However, the Committee understands that the Board’s intention on introducing a rebuttable presumption in paragraph 51C was to remove~~

Tentative agenda decision

IAS 12 *Income Tax* – rebuttable presumption to determine the manner of recovery

~~the subjectivity in the determination of the expected manner of recovery in paragraph 51. As a result, the Committee thinks that, if the presumption is rebutted, the resulting deferred tax should reflect recovery of the carrying amount entirely through use, rather than be based on any dual purpose analysis.~~

The Committee thinks that the standard is clear and that diversity in practice on the rebuttal of the presumption should not emerge. Consequently, the Committee [decided] not to add this issue to its agenda.

If you require further information regarding any matters in this letter, please contact me or Nikole Gyles (ngyles@asb.gov.au).

Yours sincerely

A handwritten signature in black ink that reads "K.M. Stevenson". The signature is written in a cursive style with a long, sweeping underline.

Kevin M. Stevenson
Chairman and CEO

October 19, 2011

(by e-mail to ifric@ifrs.org)

IFRS Interpretations Committee
30 Cannon Street,
London EC4M 6XH
United Kingdom

Dear Sirs,

Re: Tentative agenda decision on IAS 12 *Income Taxes* – rebuttable presumption to determine the manner of recovery

This letter is the response of the staff of the Canadian Accounting Standards Board (AcSB) to the IFRS Interpretations Committee’s tentative agenda decision on the rebuttable presumption relating to investment property measured at fair value in paragraph 51C of IAS 12. This tentative agenda decision was published in the September 2011 IFRIC Update.

The views expressed in this letter take into account comments from individual members of the AcSB staff but do not necessarily represent a common view of the AcSB or its staff. Views of the AcSB are developed only through due process.

We agree with the Committee’s decision not to add this item to its agenda. However, we think that the wording of the tentative agenda decision is inappropriate because the second paragraph provides an interpretation of paragraph 51C of IAS 12. Further, we think this interpretation is incorrect and is in conflict with the requirement of IAS 12. As a result, we strongly urge the

Committee to consider whether paragraph 51C in IAS 12 needs to be corrected or clarified through an annual improvement instead of confirming the agenda decision.

We are most concerned with the following sentences in the second paragraph of the tentative agenda decision:

“...the Committee thinks that the presumption in paragraph 51C of IAS 12 can be rebutted in other circumstances as well, provided that sufficient evidence is available to support that rebuttal....the Committee thinks that, if the presumption is rebutted, the resulting deferred tax should reflect recovery of the carrying amount entirely through use, rather than be based on any dual purpose analysis.”

The agenda decision should not include the Committee’s views about the application of paragraph 51C in IAS 12 and how deferred tax should be determined when the presumption is rebutted. We are concerned that the Committee is attempting to resolve a specific issue and change practice through an agenda decision. If Committee members wish to curtail potential diversity that might emerge in practice and are uncomfortable that the staff’s view may be followed in the absence of additional guidance, the Committee’s should decide to develop an interpretation or recommend that the IASB amend paragraph 51C through the annual improvements project or a separate amendment. An agenda decision should not be used to change practice or curtail diversity that may emerge because agenda decisions are not subject to full due process.

Also, the tentative agenda decision is in conflict with the requirement in paragraph 51C to follow the measurement principle in paragraphs 51 and 51A if the presumption is rebutted. When the presumption is rebutted, paragraph 51 of IAS 12 requires the deferred tax to reflect the tax consequences that would follow from the manner in which the entity expects to recover or settle the carrying amount of the underlying asset. Therefore, an entity that expects to recover the carrying amount of an investment property partly through use and partly through sale is required by paragraph 51 to reflect deferred tax using a dual purpose analysis (and not by reflecting the tax consequences of recovering the carrying amount entirely through use as indicated by the tentative agenda decision). If the intention of adding paragraph 51C was to eliminate a dual

purpose approach, the last sentence of paragraph 51C needs to be amended to state clearly that, if the presumption is rebutted, the resulting deferred tax should reflect recovery of the carrying amount entirely through use.

Our other concerns regarding this tentative agenda decision are as follows:

- The Committee should avoid publishing an agenda decision stating that a standard is clear when Committee members hold divergent views as to its meaning. Even if a majority of Committee members agree with the staff view, the fact that several Committee members hold an alternate view demonstrates that the standard is not clear.
- It is inappropriate for the Committee to refer to the Board's intention in an agenda decision. Instead, the Committee should refer to the standard or the Basis for Conclusions (which might state the Board's intention). In this case, IAS 12 and its Basis for Conclusions do not clearly state any intention of the Board to restrict the use of the dual method approach when the presumption is rebutted.

Recommendation

We think that both views described in the staff agenda paper 8 from the Committee's September 2011 meeting are valid interpretations of paragraph 51C and the standard should be amended to clarify which view is correct:

- If the Board's intention was View A, paragraph 51C should be amended to include the words "for example."
- If the Board's intention was View B, paragraph 51C should be amended to include the words "if and only if."
- If the Board's intention was that the deferred tax should reflect the recovery through use when the presumption is rebutted (i.e., prevent a dual purpose analysis), paragraph 51C should be amended to state this requirement clearly.

We strongly urge the Committee to consider whether an annual improvement to correct or clarify paragraph 51C of IAS 12 is needed. However, should the Committee decide to confirm its tentative agenda decision, we think that the agenda decision should be restricted to referring to the IFRS literature that the Committee thinks should be considered and explaining which of the agenda criteria were not met. The Appendix reflects our recommendations and drafting suggestions.

We would be pleased to provide more detail if you require. If so, please contact me at +1 416 204-3276 (e-mail peter.martin@cica.ca), or Kathryn Ingram, Principal, Accounting Standards at +1 416 204-3475 (e-mail kathryn.ingram@cica.ca).

Yours truly,



Peter Martin, CA

Director,

Accounting Standards

Appendix

We suggest revising the tentative agenda decision to state the following:

IAS 12 Income Taxes—rebuttable presumption to determine the manner of recovery

Paragraph 51C of IAS 12 contains a rebuttable presumption, for the purposes of recognising deferred tax, that the carrying amount of an investment property measured at fair value will be recovered through sale. The Committee received a request to clarify whether that presumption can be rebutted in cases other than the case described in paragraph 51C.

The Committee noted that a presumption is a matter of policy in applying a principle (or an exception) in IFRSs in the absence of acceptable reasons to the contrary and that it can be rebutted when there is sufficient evidence to overcome the presumption. The Committee noted that paragraph BC10 explains that the Board introduced the rebuttable presumption in paragraph 51C “to reflect the entity’s expectation of recovery of the investment property in a practical manner that involves little subjectivity.”

The Committee thinks that diversity in practice on the rebuttal of the presumption should not emerge. Consequently, the Committee [decided] not to add this issue to its agenda.

We have shown our proposed revisions below:

IAS 12 Income Taxes—rebuttable presumption to determine the manner of recovery

Paragraph 51C of IAS 12 contains a rebuttable presumption, for the purposes of recognising deferred tax, that the carrying amount of an investment property measured at fair value will be recovered through sale. The Committee received a request to clarify whether that presumption can be rebutted in cases other than the case described in paragraph 51C.

The ~~Interpretations~~ Committee noted that a presumption is a matter of policy in applying a principle (or an exception) in IFRSs in the absence of acceptable reasons to the contrary and that it can be rebutted when there is sufficient evidence to overcome the presumption. ~~Because paragraph 51C is expressed as a rebuttable presumption and because the sentence explaining the rebuttal of the presumption does not express the rebuttal as ‘if and only if’, the Committee thinks that the presumption in paragraph 51C of IAS 12 can be rebutted in other circumstances as well, provided that sufficient evidence is available~~

~~to support that rebuttal. However, ¶~~The Committee noted that paragraph BC10 explains ~~understands that the Board's intention on introducing a~~ the rebuttable presumption in paragraph 51C was "to reflect the entity's expectation of recovery of the investment property in a practical manner that involves little subjectivity." ~~to remove the subjectivity in the determination of the expected manner of recovery in paragraph 51. As a result, the Committee thinks that, if the presumption is rebutted, the resulting deferred tax should reflect recovery of the carrying amount entirely through use, rather than be based on any dual purpose analysis.~~

The Committee thinks that ~~the standard is clear and that~~ diversity in practice on the rebuttal of the presumption should not emerge. Consequently, the Committee [decided] not to add this issue to its agenda.



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Mr Wayne Upton
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14 October 2011

Dear Mr Upton

Tentative agenda decision: IAS 12 *Income Taxes* - rebuttable presumption to determine the manner of recovery

We are pleased to respond to the IFRS Interpretations Committee's (the Committee) publication of the above tentative agenda decision.

While the circumstances described in IAS 12.51C may cover substantially all of the cases in which the presumption that the carrying amount of an investment property will be recovered through sale, we agree with the Committee's tentative decision that IAS 12.51C does not provide an exhaustive list of cases.

However, we do not agree with the tentative decision that:

'...the scope of the rebuttable presumption is that there is no possibility of bifurcating asset recovery between recovery through use and recovery through sale.'

While we note from the reference in the IFRIC Update that this may have been the intention of the IASB, this does not reflect the wording of the actual amendment made to IAS 12 which does not prohibit bifurcation. Consequently, we consider that it would be inappropriate for the Committee to issue an agenda decision which suggested a more restrictive approach; instead, it should simply refer to application of the requirements of IAS 12.

While circumstances in which bifurcation of asset recovery may not arise frequently, if an entity had a clear expectation of disposing of an investment property within a specified window of time in the future it would seem appropriate for this approach to be followed.

We hope that you will find our comments and observations helpful. If you would like to discuss any of them, please contact Andrew Buchanan at +44 (0)20 7893 3300.

Yours sincerely

BDO IFR Advisory Limited

BDO IFR Advisory Limited

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Mr Wayne Upton
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Email: ifric@ifrs.org

17 October 2011

Dear Mr Upton,

Tentative agenda decision: IAS 12: Income Tax – Rebuttable presumption to determine the manner of recovery

Deloitte Touche Tohmatsu Limited is pleased to respond to the IFRS Interpretation Committee's publication in the September 2011 *IFRIC Update* of the tentative decision not to take onto the IFRIC's agenda requests for Interpretations of IAS 12, *Income Taxes*, with respect to providing guidance on the rebuttable presumption in paragraph 51C of that Standard that the carrying amount of an investment property measured at fair value will be recovered through sale.

We agree that the Board's intention in amending IAS 12 was, as described in paragraph BC10 of the amendment, to reduce the subjectivity in determining the manner of recovery of investment property measured at fair value. We are not, however, convinced that the Committee's tentative decision is the best way of clarifying this objective. Specifically, we note the following.

- It is unclear in which 'other circumstances' rebuttal of the presumption in IAS 12.51C is envisaged. Without further guidance, this could lead to divergent interpretations of when rebuttal is appropriate as a result of the tentative agenda decision.
- As written, the tentative decision could be read to require rebuttal when only a portion of the economic benefits embodied in the property is expected to be recovered through use and for deferred tax to then be calculated to reflect recovery entirely through use. We do not believe that this would be consistent with the requirements of paragraphs 51 and 51A of IAS 12 or that this was the intention of the Board in amending IAS 12.
- The tentative decision attempts to conclude on both the question asked and on the related issue of whether a dual purpose analysis is acceptable if the presumption is rebutted. We believe that further consideration and due process would be required to reach a decision on the use of a dual purpose analysis and that a rejection notice is not the appropriate means to achieve this.

Accordingly, we recommend that the tentative agenda decision be amended to read as follows:

“The Committee thinks that the presumption in paragraph 51C of IAS 12 can be rebutted in other circumstances, provided that sufficient evidence is available to support that rebuttal, because paragraph 51C is expressed as a rebuttable presumption and because the sentence explaining the rebuttal of the presumption does not express the rebuttal as ‘if and only if’.

The Committee thinks that the standard is clear and, consequently, decided not to add this issue to its agenda.”

If you have any questions concerning our comments, please contact Veronica Poole in London at +44 (0)20 7007 0884.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'V. Poole', is positioned above the printed name.

Veronica Poole
Global Managing Director
IFRS Technical

14 October 2011

Mr Wayne Upton
Chairman
IFRS Interpretations Committee
30 Cannon Street
London EC4M 6XH
United Kingdom

ifric@ifrs.org

Dear Sir

Re: tentative agenda decision on IAS 12 *Income Tax* — rebuttable presumption to determine the manner of recovery

On behalf of the European Financial Reporting Advisory Group (EFRAG), I am writing to comment on the IFRS Interpretations Committee's ('the Interpretations Committee') response to a request to clarify whether the rebuttable presumption in paragraph 51C of IAS 12 can be rebutted in cases other than the case described in that paragraph.

This letter is submitted in EFRAG's capacity of contributing to the Interpretations Committee's due process. EFRAG addresses wordings for rejection published by the Interpretations Committee by exception.

EFRAG believes that the first part of the wording for rejection as published in the September 2011 IFRIC Update is factually accurate:

"The Interpretations Committee noted that a presumption is a matter of policy in applying a principle (or an exception) in IFRSs in the absence of acceptable reasons to the contrary and that it can be rebutted when there is sufficient evidence to overcome the presumption. Because paragraph 51C is expressed as a rebuttable presumption and because the sentence explaining the rebuttal of the presumption does not express the rebuttal as 'if and only if', the Committee thinks that the presumption in paragraph 51C of IAS 12 can be rebutted in other circumstances as well, provided that sufficient evidence is available to support that rebuttal. However, the Committee understands that the Board's intention on introducing a rebuttable presumption in paragraph 51C was to remove the subjectivity in the determination of the expected manner of recovery in paragraph 51 ..."

On the other hand, in the remainder of the wording for rejection, the Interpretations Committee provides an interpretation that is not directly based on the wording of the amendment to IAS 12:

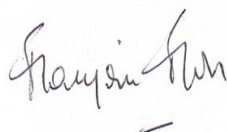
"... As a result, the Committee thinks that, if the presumption is rebutted, the resulting deferred tax should reflect recovery of the carrying amount entirely through use, rather than be based on any dual purpose analysis."

The Committee thinks that the standard is clear and that diversity in practice on the rebuttal of the presumption should not emerge. Consequently, the Committee [decided] not to add this issue to its agenda.”

In our view, the wording for rejection is in effect an interpretation. Rejection notices should not be written as though they were authoritative guidance and should not result in a change in accounting practice, as they are not subject to a full due process, and also not subject to an endorsement process in the European Union. Therefore, we believe that the Interpretations Committee should remove the sentence that states that ‘the resulting deferred tax should reflect recovery of the carrying amount entirely through use, rather than be based on any dual purpose analysis’, because this interpretation contradicts the measurement principle in paragraph 51 of IAS 12. In addition, the sentence describing the Interpretations Committee’s understanding of the Board’s intention, while reflective of paragraph BC10 of IAS 12, does not contradict the previous sentence in the wording for rejection. Therefore, we would recommend the Interpretations Committee to delete that sentence or to remove the word ‘however’ at the beginning of that sentence.

If you wish to discuss further, please do not hesitate to contact Isabel Batista or me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Françoise Flores', with a short horizontal line underneath.

Françoise Flores
EFRAG, Chairman

International Financial Reporting Standards
Interpretations Committee
30 Cannon Street
London
EC4M 6XH

17 October 2011

Dear IFRS Interpretations Committee members,

Tentative Agenda Decision - IAS 12 *Income Taxes* - rebuttable presumption to determine the manner of recovery

The global organisation of Ernst & Young is pleased to submit its comments on the above Tentative Agenda Decision as published in the September 2011 *IFRIC Update*.

The Interpretations Committee received a request for clarification whether the rebuttable presumption referred to in paragraph 51C of IAS 12 is rebutted only in the specific circumstance referred to in that paragraph, or in other circumstances as well. It was tentatively concluded:

'The Interpretations Committee noted that a presumption is a matter of policy in applying a principle (or an exception) in IFRSs in the absence of acceptable reasons to the contrary and that it can be rebutted when there is sufficient evidence to overcome the presumption. Because paragraph 51C is expressed as a rebuttable presumption and because the sentence explaining the rebuttal of the presumption does not express the rebuttal as 'if and only if', the Committee thinks that the presumption in paragraph 51C of IAS 12 can be rebutted in other circumstances as well, provided that sufficient evidence is available to support that rebuttal. However, the Committee understands that the Board's intention on introducing a rebuttable presumption in paragraph 51C was to remove the subjectivity in the determination of the expected manner of recovery in paragraph 51. As a result, the Committee thinks that, if the presumption is rebutted, the resulting deferred tax should reflect recovery of the carrying amount entirely through use, rather than be based on any dual purpose analysis.

The Committee thinks that the standard is clear and that diversity in practice on the rebuttal of the presumption should not emerge. Consequently, the Committee [decided] not to add this issue to its agenda.'

We agree with the Committee's decision not to add this item to its agenda. However, we are not convinced that IAS 12 is as clear as the draft decision suggests, and consider that it might in fact require at least an annual improvement amendment in order for the standard to have the unambiguous meaning that the Committee believes was intended.

More generally, we are concerned that this agenda decision, if finalised, would substantially negate the effect of last year's amendment. The background to the amendment was that some entities (in a very few jurisdictions) were finding it difficult to determine the manner of recovery of certain categories of assets. The amendment sought to resolve this difficulty by requiring preparers to assume recovery of the relevant categories of assets through sale except in one tightly-defined circumstance. In practical terms, this effectively meant that entities would almost always simply assume recovery through sale.

The tentative agenda decision in effect says that the presumption is rebutted in any circumstance in which it is appropriate to rebut it. This construction of IAS 12 paragraph 51C would, therefore, require an entity positively to demonstrate that there are no circumstances that require the presumption of recovery sale to be rebutted.¹ This would leave entities who have been hoping to rely on a presumption of sale in exactly the same difficulty as they were before the standard was amended.

We also believe that the Interpretations Committee placed too much emphasis on the fact that paragraph 51 prefaces the circumstance of rebuttal by 'if' rather than 'if and only if'. Distinguishing 'if' from 'if and only if' could have some unexpected consequences if the same distinction is logically made throughout all the IFRS literature.

For example: IFRS 1 paragraph D6 allows a first-time adopter to use a previous GAAP revaluation as the transition date carrying amount for PP&E 'if' (not 'if and only if') that valuation was comparable to either fair value or depreciated historical cost under IFRS, adjusted for a price index. As far as we are aware, this has hitherto been interpreted as allowing a previous GAAP revaluation to be used only if it approximates to one of the two named measures. If the strict semantic distinction between 'if' and 'if and only if' on which the current draft agenda decision relies were applied here, any previous GAAP revaluation would presumably be permitted to be used.

Finally, we are concerned by the Committee's view that 'deferred tax should reflect recovery of the carrying amount entirely through use, rather than be based on any dual purpose analysis'. This view is based on the Committee's understanding 'that the Board's intention on introducing a rebuttable presumption in paragraph 51C was to remove the subjectivity in the determination of the expected manner of recovery in paragraph 51.' We question whether that analysis captures the Board's true motive, which - in our view - was to relieve entities that found it difficult to determine the manner of recovery of certain types of asset from the burden of doing so. It was not, as we understand it, the Board's intention to prevent those

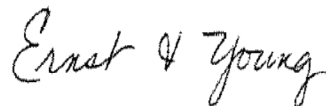
¹ Paragraph 51C says that the presumption is 'rebutted' (meaning that it must be rebutted where appropriate) not that it is 'rebuttable' (which would allow, but not require, the entity to rebut it).

entities that were able to determine the manner of recovery from doing so. For example, if an entity can reliably determine that it will rent out a property for ten years and then sell, we do not agree that it should be prohibited from measuring tax on that basis, but instead be required to measure it on an unrealistic assumption of either immediate sale or perpetual rental.

If our understanding of the Board's intention on the introduction of the rebuttable presumption is correct, the agenda decision of the Interpretations Committee would effectively be an interpretation or amendment of IAS 12 in which case we would have expected a normal due process, allowing constituents more time to respond.

Should you wish to discuss the contents of this letter with us, please contact Leo van der Tas at the above address or on +44 (0)20 7951 3152.

Yours faithfully

A handwritten signature in cursive script that reads 'Ernst & Young'.

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Mr Wayne Upton
Chairman
IFRS Interpretations Committee
30 Cannon Street
London
EC4M 6XH

Our ref MT/288

Contact Mary Tokar

17 October 2011

Dear Mr Upton

Tentative agenda decision: IAS 12 *Income Taxes* – Rebuttable presumption to determine the manner of recovery

We appreciate the opportunity to comment on the IFRS Interpretations Committee's tentative agenda decision in the September 2011 IFRIC Update relating to the rebuttable presumption in paragraph 51C of IAS 12.

We agree with the Committee's decision not to take this submission onto its active agenda. However, one of the statements made in the IFRIC Update appears to be unclear and in another statement the Committee seems to interpret the standard via an agenda decision. We are concerned that the current wording in the tentative agenda decision will result in confusion and increase the risk of diversity in practice.

Firstly, the agenda decision states that "if the presumption is rebutted, the resulting deferred tax should reflect recovery of the carrying amount *entirely through use*, rather than be based on any *dual purpose* analysis" [*emphasis added*]. We believe that if the presumption is rebutted, then the measurement of the deferred taxes should be based on the requirement of paragraph 51 of IAS 12 and reflect the manner in which the entity expects to recover the carrying amount and not by default through use. Accordingly, if the Committee continues with this wording, we believe that the Committee should explain the technical basis for this statement and the application of the requirement of paragraph 51 of IAS 12 in these circumstances.

Furthermore, in relation to this statement, we noted that whilst the agenda decision refers to the recovery of the carrying amount *entirely* through use, the standard refers to consuming *substantially all* of the economic benefits, as opposed to *entirely*. We believe that current guidance allows rebuttal of the presumption even if not *all* economic benefits are consumed through use. Accordingly, we believe that some redrafting is required to be consistent with the wording in paragraph 51C of IAS 12 to avoid any confusion in relation to this matter.



Secondly, the wording of the tentative agenda decision states that the Committee thinks that the presumption can be rebutted in *other circumstances*, i.e. circumstances other than the case of a business model aimed at consuming substantially all of the economic benefits as described in paragraph 51C, provided that there is sufficient evidence to support the rebuttal. We note that under paragraph 51C of IAS 12 the presumption is *sale* and under paragraphs 51 and 52 of IAS 12 an asset is recovered either through sale or through *use*. Therefore, it would appear that if the presumption is rebutted, then this rebuttal can be achieved only by providing sufficient evidence of *use*, which already is required by paragraph 51C. As a result, we do not understand what *other circumstances* the Committee is referring to in its tentative agenda decision. If the Committee believes that there are other circumstances, then it would be beneficial to clarify what these circumstances are, including examples, through the annual improvements process.

Please contact Mary Tokar or Thomas Schmid on +44 (0)20 7694 8871 if you wish to discuss any of the issues raised in this letter.

Yours sincerely

KPMG IFRG Limited

KPMG IFRG Limited



Mr Michael Stewart
Director of Implementation Activities
International Accounting Standards Board
30 Cannon Street
London
EC4M 6XH

17 October 2011

Dear Mr Stewart

Tentative agenda decision: IAS 12 Income taxes – rebuttable presumption to determine the manner of recovery

We are responding to your invitation to comment on the above tentative agenda decision, published in the September 2011 edition of IFRIC Update, on behalf of PricewaterhouseCoopers.

Following consultation with members of the PricewaterhouseCoopers network of firms, this response summarises the views of member firms who commented on the tentative agenda decision. 'PricewaterhouseCoopers' refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

We do not support the tentative agenda decision as drafted. We support the Committee's conclusion that this item should not be taken onto the agenda. We also support the Committee's conclusion that the presumption in paragraph 51C of IAS 12 Income Taxes can be rebutted in other circumstances, which is based on the guidance in IAS 12. However, the final two sentences of the tentative agenda decision contain an interpretation of IAS 12 that is not supported by the guidance in the standard. We do not believe the Committee should make interpretations or change current practice through agenda decisions, which are not subject to due process. The final two sentences of the tentative agenda decision should therefore be deleted.

We also disagree that if the presumption of recovery through sale is rebutted, the resulting deferred tax should reflect recovery of the carrying amount entirely through use. This is inconsistent with paragraphs 51C and 51A of IAS 12. Paragraph 51 C of IAS 12 states if the presumption is rebutted, the requirements of paragraph 51 and 51A shall be followed. Paragraph 51A states that an entity measures deferred tax liabilities and deferred tax assets using the tax rate and the tax base that are consistent with the expected manner of recovery or settlement. This guidance requires an entity to measure deferred tax assets and deferred tax liabilities using a dual manner of recovery if that reflects management's expectations. The approach required by paragraph 51A will most closely reflect the economic substance of the arrangement and provide useful information. We therefore suggest that the final two sentences of the second paragraph of the tentative agenda decision are deleted.



If you have any questions in relation to this letter please do not hesitate to contact John Hitchins, PwC Global Chief Accountant (020 7804 2497) or Tony de Bell (020 7213 5336).

Yours faithfully

PricewaterhouseCoopers

PricewaterhouseCoopers