

STAFF PAPER

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IFRS Interpretations Committee Meeting

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and May 2014

Project	Items for continuing consideration
Paper topic	IAS 12 <i>Income Taxes</i> Recognition of current income tax on uncertain tax position— Proposed draft IFRIC interpretation
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Proposed draft IFRIC Interpretation X *Recognition of current income tax, the amount of which is uncertain***References**

- IAS 12 *Income Taxes*
- IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*

Background

- 1 There may be uncertainty in the amount of an entity's current tax. This could be because, for example, of uncertainty as to the meaning of tax law or to the applicability of tax law to a particular transaction or circumstance. The uncertainty could also arise because the amount of current tax depends on the results of a tax examination that are not known as at the reporting date.
- 2 Questions have arisen whether current tax liabilities and current tax assets, the amount of which is uncertain, shall be recognised in accordance with the principles of IAS 12 or of IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*. This [draft] Interpretation considers recognition of current tax assets and current tax liabilities, the amount of which is uncertain.

Scope

- 3 This [draft] Interpretation applies to current tax liabilities and current tax assets, the amount of which is uncertain. It provides guidance only on the recognition of current tax liabilities and current tax assets; it does not provide guidance on their measurement.
- 4 The term *current tax*, as used in this [draft] Interpretation, is defined in paragraph 5 of IAS 12.

Issue

- 5 This [draft] Interpretation addresses the issue of which Standard shall be applied to current tax liabilities and current tax assets, the amount of which is uncertain.

Consensus

- 6 An entity shall recognise current tax liabilities and current tax assets, the amount of which is uncertain, in accordance with the principles of IAS 12:
- (a) A current tax liability shall be recognised to the extent that current tax for current and prior periods is unpaid, [as described in paragraph 12 of IAS 12].
 - (b) A current tax asset shall be recognised when the amount of tax paid exceeds the amount of current tax due (or expected to be due) for current and prior periods, [as described in paragraph 12 of IAS 12].
The excess that shall be recognised, is determined as follows:
 - (i) the amount of tax paid is a certain amount; and
 - (ii) the amount of current tax due (or expected to be due) is determined in accordance with paragraph 46 of IAS 12.
 - (c) A current tax asset shall be recognised for the benefit relating to a tax loss that can be carried back to recover the current tax of a previous period when it is probable that the benefit will flow to the entity and the benefit can be reliably measured, [as described in paragraph 14 of IAS 12].

Effective date and transition

- 7 An entity shall apply this [draft] Interpretation for annual periods beginning on or after [date]. Earlier application is permitted. If an entity applies this [draft] Interpretation for an earlier period, it shall disclose that fact.
- 8 Changes in accounting policies resulting from the initial application of this [draft] Interpretation shall be accounted for retrospectively in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*.

Basis for Conclusions on [draft] IFRIC Interpretation X *Recognition of current income tax, the amount of which is uncertain*

This Basis for Conclusions accompanies, but is not part of, [draft] IFRIC X.

Introduction

BC1 This Basis for Conclusions summarises the IFRS Interpretations Committee's (the 'Interpretations Committee') considerations in reaching its consensus.

Background

BC2 The Interpretations Committee received a request for clarification of the recognition of a current tax asset, the amount of which is uncertain. The question relates to whether IAS 12 *Income Taxes* or IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* shall be applied to determine whether an asset, the amount of which is uncertain, is recognised. The request submitted describes the situation in which tax laws require an entity to make an immediate payment when a tax examination results in an additional charge, even if the entity intends to appeal against the additional charge. In such situations, the entity may expect, but may be not certain, to recover some or the entire amount paid.

BC3 The Interpretations Committee acknowledged existing diversity in practice in how entities recognise current tax liabilities and current tax assets in such situations. In response to that diversity in practice the Interpretations Committee decided to develop an Interpretation.

Scope

BC4 The request submitted related to a particular situation when an entity makes a payment to tax authorities in respect of an uncertain tax position. In analysing this issue, the Interpretations Committee concluded that the scope of the [draft] Interpretation should be broadened to include both current tax assets and current tax liabilities, the amount of which is uncertain, irrespective whether an entity made a payment to tax authorities. This is because the Interpretations Committee

thought that the recognition requirements should not depend on the timing and manner of settlement of the liability.

- BC5 The Interpretations Committee decided that the [draft] Interpretation should address only the recognition of current tax liabilities and current tax assets. It concluded that the [draft] Interpretation would not address issues relating to measurement because it thought that this would be too broad an issue for the Interpretations Committee to deal with on a timely basis.

Consensus

- BC6 The Interpretations Committee noted that IAS 12 addresses the accounting for income taxes and is therefore the relevant Standard for the accounting for income taxes, the amount of which is uncertain. It further noted that income taxes are specifically excluded from the scope of IAS 37 and so it is not appropriate to apply the guidance in IAS 37 to income taxes.

Current tax liabilities

- BC7 The Interpretations Committee noted that IAS 12 provides guidance on the recognition of current tax liabilities. In particular, paragraph 12 of IAS 12 states that current tax for current and prior periods shall, to the extent unpaid, be recognised as a liability.

Current tax assets

- BC8 The Interpretations Committee observed that according to paragraph 12 of IAS 12 if the amount already paid in respect of current and prior periods exceeds the amount due for those periods, the excess shall be recognised as an asset. The Interpretations Committee further noted that the main consequence of this requirement is that a current tax asset, the amount of which is uncertain, is recognised if the amount of cash paid (which is a certain amount) exceeds the amount of tax expected to be due (which is an uncertain amount).
- BC9 The Interpretations Committee also observed that paragraph 14 of IAS 12 gives guidance on the recognition of a current tax asset in circumstances when a tax loss is used to recover current tax of a previous period. The Interpretations Committee noted that in this circumstance IAS 12 requires an asset to be recognised when it

is probable that the benefit will flow to the entity and the benefit can be reliably measured.

Current tax expense

- BC10 The Interpretations Committee observed that application of a virtually certain threshold to an asset in the situation in which an entity makes a payment to taxation authorities in respect of an uncertain tax position would lead to a different tax expense being recognised in a particular period, depending on when the prepayment of uncertain tax is made. In its deliberations, the Interpretations Committee noted that recognition of current tax expense should not be affected by the timing of settlement of the corresponding liabilities. Consequently, the Interpretations Committee concluded that it was not appropriate to apply a virtually certain threshold to recognition of current tax.

Transition

- BC11 The Interpretations Committee proposed that the [draft] Interpretation shall be applied retrospectively. The Interpretations Committee noted that in order to apply this [draft] Interpretation retrospectively, the entity will need to have assessed the probability of the flow of economic benefits for those current tax assets. The Interpretations Committee noted that if an entity had previously applied the disclosure requirements in respect of contingent assets in accordance with paragraph 89 of IAS 37 to current tax assets; it would have assessed the probability of the flow of economic benefits for the disclosure requirements in IAS 37. Consequently the Interpretations Committee expects entities to have the information needed to apply the [draft] Interpretation retrospectively.