IFRS

STAFF PAPER

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IFRS® Interpretations Committee meeting

Project	**Presentation of Liabilities or Assets Related to Uncertain Tax Treatments (IAS 1)**
Paper topic	Agenda decision to finalise

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Introduction

1. The IFRS Interpretations Committee (Committee) received a submission about the presentation of liabilities or assets related to uncertain tax treatments recognised applying IFRIC 23 *Uncertainty over Income Tax Treatments* (uncertain tax liabilities or assets). The submitter asked whether, in its statement of financial position, an entity is required to present uncertain tax liabilities as current (or deferred) tax liabilities or, instead, within another line item such as provisions. A similar question could arise regarding uncertain tax assets.

2. In June 2019 the Committee published a tentative agenda decision. In that tentative agenda decision, the Committee concluded that, applying IAS 1 *Presentation of Financial Statements*, an entity is required to present uncertain tax liabilities as current tax liabilities or deferred tax liabilities, and uncertain tax assets as current tax assets or deferred tax assets.

3. The objective of this paper is to:

   (a) analyse comments on the tentative agenda decision; and

   (b) ask the Committee whether it agrees with our recommendation to finalise the agenda decision.

The IFRS Interpretations Committee is the interpretative body of the International Accounting Standards Board (Board). The Board is the independent standard-setting body of the IFRS Foundation, a not-for-profit corporation promoting the adoption of IFRS Standards. For more information, visit www.ifrs.org.

Structure of the paper

4. This paper includes:
   (a) comment letter summary;
   (b) staff analysis; and
   (c) staff recommendations.

5. There are two appendices to this paper:
   (a) Appendix A—proposed wording of the agenda decision; and
   (b) Appendix B—comment letters.

Comment letter summary

6. We received ten comment letters by the comment letter deadline. All comment letters received, including any late comment letters, are available on our website[1]. This agenda paper includes analysis of only the comment letters received by the comment letter deadline. These are reproduced in Appendix B to this paper.

7. Six respondents (the Accounting Standards Committee of Germany, Deloitte, the Institute of Chartered Accountants of Nigeria (ICAN), the Institute of Indonesia Chartered Accountants, Mazars and the Malaysian Accounting Standards Board) agree with the Committee's decision not to add the matter to its standard-setting agenda for the reasons outlined in the tentative agenda decision.

8. Two respondents (Fiat Chrysler Automotive (Fiat) and one respondent representing three organisations of preparers (ACTEO/AFEP/MEDEF)) disagree with the Committee's technical analysis and conclusions; they say the Committee's conclusion is not the only possible reading of the requirements in IFRS Standards. Fiat says publishing an agenda decision would 'result in standard-setting without the appropriate due process'.

[1] At the date of finalising this agenda paper, there were no late comment letters.

9. The Organismo Italiano di Contabiltà (OIC) says there is mixed practice on this matter and note that some entities disagree with the Committee's technical analysis and conclusions. David Hardidge says deferred tax liabilities are provisions and, in his view, entities should present any portion of the deferred tax liability that is measured applying the requirements in IFRIC 23 within the line item 'provisions'.

10. Fiat and ACTEO/AFEP/MEDEF say presenting uncertain tax liabilities or assets as current (or deferred) tax liabilities and assets does not provide relevant information. The OIC also says some entities share this view.

11. ACTEO/AFEP/MEDEF say presenting uncertain tax liabilities within current or deferred tax liabilities could expose companies in France to judicial and fiscal risks.

12. Three respondents (Fiat, ACTEO/AFEP/MEDEF and the OIC) suggest that the Committee undertake standard-setting to address this matter.

13. Respondents' comments, together with our analysis, are presented below.

Staff analysis

Disagreement with the Committee's technical analysis

Background

14. In its tentative agenda decision, the Committee observed that:

(a) uncertain tax liabilities or assets recognised applying IFRIC 23 are liabilities (or assets) for current tax as defined in IAS 12 *Income Taxes*, or deferred tax liabilities or assets as defined in IAS 12; and

(b) neither IAS 12 nor IFRIC 23 contain requirements on the presentation of uncertain tax liabilities or assets. Therefore, the presentation requirements in IAS 1 apply. Paragraph 54 of IAS 1 states that 'the statement of financial position shall include line items that present: …(n) liabilities and assets for current tax, as defined in IAS 12; (o) deferred tax liabilities and deferred tax assets, as defined in IAS 12…'.

15. Based on its analysis of the applicable requirements, the Committee concluded that, applying IAS 1, an entity is required to present uncertain tax liabilities as current tax liabilities (paragraph 54(n)) or deferred tax liabilities (paragraph 54(o)); and uncertain tax assets as current tax assets (paragraph 54(n)) or deferred tax assets (paragraph 54(o)).

Definition of current tax and deferred tax liabilities and assets

Respondents' comments

16. Fiat disagrees with the Committee's observation that uncertain tax liabilities or assets recognised applying IFRIC 23 are liabilities (or assets) for current tax as defined in IAS 12, or deferred tax liabilities or assets as defined in IAS 12.

17. Paragraph 5 of IAS 12 defines:

    (a) current tax as 'the amount of income taxes payable (recoverable) in respect of the taxable profit (tax loss) for a period'.

    (b) deferred tax liabilities as 'amounts of income taxes payable in future periods in respect of taxable temporary differences'.

    (c) deferred tax assets as 'amounts of income taxes recoverable in future periods in respect of (a) deductible temporary differences; (b) the carryforward of unused tax losses; and (c) the carryforward of unused tax credits'.

18. The respondent says:

    (a) entities do not take uncertain tax liabilities or assets into consideration when determining the tax payable on the tax return—any uncertain tax liabilities or assets are not part of the filed tax return. Accordingly, they cannot be considered part of current taxes payable (recoverable).

    (b) paragraph IE6 of Illustrative Example 1 accompanying IFRIC 23 states:

    > Accordingly, Entity A recognises and measures its current tax liability applying IAS 12 based on taxable profit that includes CU650 to reflect the effect of the uncertainty. The amount of

> CU650 is in addition to the amount of taxable profit reported in its income tax filing.

This paragraph could be read to imply that the effect of the uncertainty is reported outside of the amount of tax payable (recoverable) in the tax return and is, accordingly, not part of the current tax liability.

(c) uncertain tax liabilities or assets do not directly relate to deferred tax liabilities or assets because they do not necessarily represent the reversal of a taxable (or deductible) temporary difference or the carryforward of unused tax losses or unused tax credits.

19. The respondent says uncertain tax liabilities or assets do not clearly fit within the definition of current tax, deferred tax liabilities or deferred tax assets in IAS 12—accordingly, it is inconsistent to conclude that they should be presented within current or deferred tax liabilities or assets on the statement of financial position.

Staff analysis

20. We continue to agree with the Committee's observation that uncertain tax liabilities or assets recognised applying IFRIC 23 are liabilities (or assets) for current tax as defined in IAS 12, or deferred tax liabilities or assets as defined in IAS 12.

21. Paragraphs 21–28 of Agenda Paper 7 of the Committee's June 2019 meeting (June agenda paper) include our analysis on this matter. In particular, we note that:

(a) when there is uncertainty over income tax treatments, IFRIC 23 specifies how an entity reflects any effects of that uncertainty in calculating *current or deferred tax* in accordance with IAS 12. Paragraph 4 of IFRIC 23 states (emphasis added):

> 'This Interpretation clarifies how to apply the recognition and measurement requirements in IAS 12 when there is uncertainty over income tax treatments. In such a circumstance, an entity shall recognise and measure its *current or deferred tax asset or liability applying the requirements in IAS 12* based on taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates determined applying this Interpretation.'

(b) An entity therefore applies IFRIC 23 in determining taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates when there is uncertainty over income tax treatments. These amounts are in turn used to determine current/deferred tax applying IAS 12, which in turn flow through to be current/deferred tax liabilities if the amounts relate to the current or prior periods but are unpaid.

(c) IFRIC 23 requires an entity to reflect the effect of uncertainty in determining taxable profit, tax rates, etc. when it concludes that it is not probable that the taxation authority will accept an uncertain tax treatment (paragraph 11 of IFRIC 23). Consequently, the taxable profit on which current tax, as defined in IAS 12, is calculated is the taxable profit that reflects any uncertainty applying IFRIC 23. The definition of current tax in paragraph 5 of IAS 12 does not limit the taxable profit (tax loss) used in determining current tax to the amount reported in an entity's income tax filings. Instead, the definition refers to (emphasis added) 'the amount of income taxes payable (recoverable) in respect of the *taxable profit (tax loss) for the period*'.

Application of the presentation requirements in IFRS Standards

Respondents' comments

22. Some respondents disagree with the Committee's analysis of the applicable presentation requirements in IFRS Standards.

23. ACTEO/AFEP/MEDEF note that paragraph 54 of IAS 1 requires an entity to present in its statement of financial position line items for (i) liabilities and assets for current tax as defined in IAS 12; and (ii) deferred tax liabilities and deferred tax assets as defined by IAS 12. However, this means that these line items should include only items that meet the definition of current and deferred tax in IAS 12 (and exclude items that do not meet that definition). In their view, paragraph 54 should not be read to prevent an entity from presenting some other elements of income tax within another line item in the statement of financial position (such as provisions) if doing so would be more relevant. In particular, they say:

(a) paragraph 57 of IAS 1 states '[t]his Standard does not prescribe the order or format in which an entity presents items. Paragraph 54 simply lists items that are sufficiently different in nature or function to warrant separate presentation…'.

(b) paragraph 57(b) of IAS 1 states 'the descriptions used and the ordering of items or aggregation of similar items may be amended according to the nature of the entity and its transactions, to provide information that is relevant to an understanding of the entity's financial position…'.

(c) paragraph 58 of IAS 1 lists characteristics that an entity considers when assessing whether to present additional items separately. One of those characteristics is the timing of liabilities. Similarly, paragraph 29 of IAS 1 requires an entity to '…present separately items of a dissimilar nature or function unless they are immaterial'. Uncertain tax liabilities and assets are dissimilar in nature from other current (or deferred) tax liabilities and assets, given the degree of uncertainty regarding their existence, timing and measurement.

24. In addition, some respondents say paragraph 54(l) of IAS 1 (which requires an entity to present 'provisions' as a line item in its statement of financial position) does not restrict provisions included in the 'provisions' line item to only those that are within the scope of IAS 37. Provisions for employee benefits are often presented within the provisions line item even though paragraph 5(d) of IAS 37 excludes those provisions from the scope of IAS 37.[2] In addition, paragraph 5(b) of IAS 37 is worded to acknowledge that liabilities for income taxes can meet the definition of provisions.

25. ACTEO/AFEP/MEDEF say that because IFRIC 23 does not apply to the presentation of uncertain tax liabilities and assets, any part of the illustrative examples accompanying IFRIC 23 is irrelevant with respect to the presentation of those items.

[2] David Hardidge provides examples of entities that include employee benefits, and others that include some deferred tax liabilities, in the provisions line item in the statement of financial position.

Staff analysis

26. We continue to agree with the Committee's conclusion in the tentative agenda decision that, applying IAS 1, an entity is required to present uncertain tax liabilities as current tax liabilities or deferred tax liabilities; and uncertain tax assets as current tax assets or deferred tax assets. Paragraphs 29–39 of the June agenda paper outline our analysis in this respect.

27. We agree that neither IAS 12 nor IFRIC 23 contain requirements on the presentation of uncertain tax liabilities or assets. The tentative agenda decision specifically states:

> '…Neither IAS 12 nor IFRIC 23 contain requirements on the presentation of uncertain tax liabilities or assets. Therefore, the presentation requirements in IAS 1 apply…'.

28. The tentative agenda decision also makes no reference to the Illustrative Examples accompanying IFRIC 23.

29. Paragraph 54 of IAS 1 states:

> 'The statement of financial position shall include line items that present the following amounts: …
>
> (l) provisions; …
>
> (n) liabilities and assets for current tax, as defined in IAS 12 Income Taxes;
>
> (o) deferred tax liabilities and deferred tax assets, as defined in IAS 12; …

30. As explained in paragraphs 20–21 of this paper, we continue to think that uncertain tax liabilities or assets recognised and measured applying IFRIC 23 are current (or deferred) tax liabilities or assets as defined in IAS 12. Accordingly, applying paragraph 54(n) and paragraph 54(o) of IAS 1, we think an entity is required to present uncertain tax liabilities or assets as current (or deferred) tax liabilities or assets.

31. We disagree with the view that the requirements in paragraphs 54(n) and 54(o) of IAS 1 do not preclude an entity from presenting some elements of income tax within another line in the statement of financial position, such as provisions. In particular

paragraph 29 of IAS 1 states '…an entity shall present separately items of a dissimilar nature or function unless they are immaterial'. Paragraph 57 of IAS 1 states that '…paragraph 54 simply lists items that are sufficiently different in nature or function to warrant separate presentation in the statement of financial position.' Consequently, liabilities for current (or deferred) tax as defined in IAS 12 are sufficiently different in nature or function from other line items listed in paragraph 54 to warrant presenting such liabilities separately in their own line item (if material).

32. We agree that uncertain tax liabilities meet the definition of provisions. We also agree that the line item 'provisions' in the statement of financial provision can include more than just provisions within the scope of IAS 37 (for example, provisions for employee benefits) and we think the agenda decision does not change this conclusion. However, we continue to think entities cannot present uncertain tax liabilities with provisions. This is because paragraphs 54(n) and 54(o) of IAS 1 explicitly require the presentation of current (or deferred) tax liabilities in the statement of financial position separately from other liabilities. This is not the case for provisions for employee benefits—neither IAS 19 *Employee Benefits* nor IAS 1 require entities to present provisions for employee benefits separately from other liabilities. If uncertain tax liabilities were presented with provisions, we think an entity would not comply with the requirements in paragraphs 54(n) and 54(o).

Relevance of information

Respondents' comments

33. Fiat and ACTEO/AFEP/MEDEF say it is often more relevant, and thus consistent with IAS 1, to present uncertain tax liabilities and assets separately from other current (or deferred) tax liabilities and assets. ACTEO/AFEP/MEDEF say a financial statement user would expect a high level of certainty as to the future outflows in relation to the current (or deferred) tax liability line items—accordingly, it would provide more relevant information if an entity were to present uncertain tax liabilities with provisions (liabilities of uncertain timing or amount).

34. The OIC also says some entities are of the view that presenting uncertain tax liabilities separately from other tax liabilities that are more certain would provide relevant information.

Staff analysis

35. We agree that presenting uncertain tax liabilities or assets separately from other current (or deferred) tax liabilities or assets could (and, in some circumstances, would) provide information relevant to an understanding of an entity's financial position.

36. Paragraph 55 of IAS 1 states:

> An entity shall present additional line items (including by disaggregating the line items listed in paragraph 54), headings and subtotals in the statement of financial position when such presentation is relevant to an understanding of the entity's financial position.'

37. As explained in the June agenda paper, if an entity considers that presenting uncertain tax liabilities or assets separately from other current (or deferred) tax liabilities or assets is relevant to an understanding of its financial position, the entity would disaggregate the current (or deferred) tax liability line item into two line items, presenting uncertain tax liabilities separately from other tax liabilities. However, disaggregating liabilities for current (or deferred) tax does not mean that an entity could then aggregate uncertain tax liabilities with other items, such as provisions. As explained in paragraph BC30G of IAS 1, disaggregation is (emphasis added) 'often used to describe the process of *expanding* totals, subtotals, and line items *into further items*…'. Because paragraph 57 of IAS 1 states that the items listed in paragraph 54 are sufficiently different in nature or function to warrant separate presentation, we think aggregating uncertain tax liabilities with, for example, provisions would not comply with paragraph 29 (which requires separate presentation of items of a dissimilar nature or function unless they are immaterial).

Consequences of the agenda decision

Respondents comments

38. ACTEO/AFEP/MEDEF discuss the possible consequences of the agenda decision in the context of a general anti-abuse rule targeting abusive anti-tax avoidance schemes adopted in France in 2018. The respondent says French tax authorities could consider presenting uncertain tax liabilities as liabilities in the consolidated financial statements to be 'an acknowledgment of debt or the evidence of an intent that could be invoked against the entity in a tax dispute…'.

39. The respondent acknowledges that the Committee cannot deal with all local specificities, but says 'this legal and fiscal context argues in favour not only of differentiated presentation in the financial statements but also of particular provisions relating to sensitive information as can be found in the Standard IAS 37[3] and as already exists for contingent assets and contingent liabilities in paragraph IAS 12.88[4]'.

Staff analysis

40. We understand the concern raised by the respondent. However, as acknowledged, the Committee's role is to address the question asked considering the requirements in IFRS Standards. Outside of this context, the Committee has no means to specifically address consequences that might result from, for example, local laws or regulations.

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[3] Paragraph 92 of IAS 37 states: 'In extremely rare cases, disclosure of some or all of the information required by paragraphs 84–89 can be expected to prejudice seriously the position of the entity in a dispute with other parties on the subject matter of the provision, contingent liability or contingent asset. In such cases, an entity need not disclose the information, but shall disclose the general nature of the dispute, together with the fact that, and reason why, the information has not been disclosed.'

[4] Paragraph 88 of IAS 12 states: 'An entity discloses any tax-related contingent liabilities and contingent assets in accordance with IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*. Contingent liabilities and contingent assets may arise, for example, from unresolved disputes with the taxation authorities…'

Other comments

41. The following table summarises other comments raised by respondents together with our analysis of those comments.

Comments	***Analysis***
1. The ICAN suggests the Committee emphasise that an entity disclose the accounting policy for presenting uncertain tax liabilities and assets.	An entity applies the requirements in paragraphs 117–124 of IAS 1 in determining which accounting policies it discloses in its financial statements. Whether the accounting policy for the presentation of uncertain tax liabilities or assets is significant would depend on the facts and circumstances, and we see no particular reason to highlight these requirements in this agenda decision. Accordingly, we recommend no change to the tentative agenda decision in this respect.
2. David Hardidge suggests that if the deferred tax liability line item includes amounts measured and recognised applying IFRIC 23, then an entity's XBRL filing should have separate components rolling up to that tag.	As explained in paragraph 37 of this paper, we think an entity could disaggregate the current (or deferred) tax liability line item into two line items, presenting uncertain tax liabilities separately from other tax liabilities. We understand that the entity could make an extension (ie addition) to the IFRS Taxonomy[5] to facilitate this presentation.

[5] The IFRS Taxonomy has elements to capture financial reporting disclosures. The IFRS Taxonomy includes elements for presentation and disclosures requirements included in IFRS Standards and those commonly reported by entities.

Staff recommendation

42. On the basis of our analysis, we recommend finalising the agenda decision as published in IFRIC Update in June 2019 with no changes. Appendix A to this paper sets out the proposed wording of the final agenda decision.

Question for the Committee
Does the Committee agree with our recommendation to finalise the agenda decision set out in Appendix A to this paper?

Appendix A—proposed wording of the agenda decision

A1. We propose the following wording for the final agenda decision, which is unchanged from the tentative agenda decision except to remove the square brackets in the last paragraph (deleted text is struck through).

Presentation of Liabilities or Assets Related to Uncertain Tax Treatments (IAS 1 *Presentation of Financial Statements*)

The Committee received a request about the presentation of liabilities or assets related to uncertain tax treatments recognised applying IFRIC 23 *Uncertainty over Income Tax Treatments* (uncertain tax liabilities or assets). The submitter asked whether, in its statement of financial position, an entity is required to present uncertain tax liabilities as current (or deferred) tax liabilities or, instead, within another line item such as provisions. A similar question could arise regarding uncertain tax assets.

The definitions in IAS 12 of current tax and deferred tax liabilities or assets

When there is uncertainty over income tax treatments, paragraph 4 of IFRIC 23 requires an entity to 'recognise and measure its current or deferred tax asset or liability applying the requirements in IAS 12 based on taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates determined applying IFRIC 23'. Paragraph 5 of IAS 12 *Income Taxes* defines:

(a) current tax as the amount of income taxes payable (recoverable) in respect of the taxable profit (tax loss) for a period; and

(b) deferred tax liabilities (or assets) as the amounts of income taxes payable (recoverable) in future periods in respect of taxable (deductible) temporary differences and, in the case of deferred tax assets, the carryforward of unused tax losses and credits.

Consequently, the Committee observed that uncertain tax liabilities or assets recognised applying IFRIC 23 are liabilities (or assets) for current tax as defined in IAS 12, or deferred tax liabilities or assets as defined in IAS 12.

Presentation of uncertain tax liabilities (or assets)

Neither IAS 12 nor IFRIC 23 contain requirements on the presentation of uncertain tax liabilities or assets. Therefore, the presentation requirements in IAS 1 apply. Paragraph 54 of IAS 1 states that ‘the statement of financial position shall include line items that present: …(n) liabilities and assets for current tax, as defined in IAS 12; (o) deferred tax liabilities and deferred tax assets, as defined in IAS 12…’.

Paragraph 57 of IAS 1 states that paragraph 54 ‘lists items that are sufficiently different in nature or function to warrant separate presentation in the statement of financial position’. Paragraph 29 requires an entity to ‘present separately items of a dissimilar nature or function unless they are immaterial’.

Accordingly, the Committee concluded that, applying IAS 1, an entity is required to present uncertain tax liabilities as current tax liabilities (paragraph 54(n)) or deferred tax liabilities (paragraph 54(o)); and uncertain tax assets as current tax assets (paragraph 54(n)) or deferred tax assets (paragraph 54(o)).

The Committee concluded that the requirements in IFRS Standards provide an adequate basis for an entity to determine the presentation of uncertain tax liabilities and assets. Consequently, the Committee ~~[decided]~~ not to add the matter to its standard-setting agenda.

Appendix B—Comment letters

acteo Association pour la participation des entreprises françaises à l'harmonisation comptable internationale

afep

Mouvement des Entreprises de France MEDEF

The Chairman of the IFRS IC

Columbus Building, 7
Westferry Circus

Canary Wharf

London E14 4HD.

30 July 2019

Dear Ms Lloyd,

Re : Tentative agenda decision "**Presentation of Liabilities or Assets related to Uncertain Tax Treatments**

We are pleased to provide comments on the tentative agenda decision of the IFRS Interpretations Committee (IFRIC) regarding the presentation of liabilities or assets related to uncertain tax treatments.

We disagree with the conclusion that the texts are clear enough and that an agenda decision is sufficient to solve this issue for the following principal reasons:

- We believe that the Committee's reading of the different standards is not the only one possible;
- The presentation issue of Uncertain Tax Position is not specifically addressed by current standards and therefore any conclusion is by essence "interpretative" and deserves standard-setting activity;
- The information that would be provided if the Committee's decision were applied could be less useful for users;

- The proposed outcome exposes French companies to fiscal and judicial risks much more prejudicial compared to the benefits that might be perceived from the committee's decision.

We propose the following alternative reading

Since IFRIC 23 does not deal with the issue of the presentation of tax assets or tax liabilities, the principles of presentation remain those of IAS 12 and IAS 1.

IFRIC 23 was developed to provide guidance as to the application of IAS 12 when an entity is in a position of uncertainty about the tax treatment that will be accepted by the taxation authority. Paragraph 4, which defines the scope of the Interpretation, states that its purpose is to clarify the recognition and measurement of items in such circumstances and does not mention presentation at all. This restriction of the scope of the Interpretation was specifically commented upon by the Committee at the time of its consideration of the comments received on the draft Interpretation, and the Committee also opined that the requirements of IAS 1 were sufficient – see below the extract from the Committee's Agenda Paper from its September-2016 meeting. The original source of the proposed amendments was a question about the recognition of an "uncertain" tax asset. Moreover, the IFRIC had already noted diversity in practice in respect of measurement approaches in such circumstances, such as, for example, in the use of weighted averages or best estimates, the unit of account, etc. These are the issues that the Committee intended to resolve with IFRIC 23. There appears to have been no discussion about the presentation of uncertain tax positions on the balance sheet and no questioning of the practices in place.

Extract from the Agenda Paper of September 2016:

Issues

5 When there is uncertainty over income tax treatments, this Interpretation addresses:

(a) whether an entity considers uncertain tax treatments separately;

(b) the assumptions an entity makes about the examination of tax treatments by taxation authorities;

(c) how an entity determines taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates; and

(d) how an entity considers changes in facts and circumstances.

18	Presentation	A few respondents said that the Interpretation should address the presentation of tax liabilities, and in particular how to apply the current/non-current presentation requirements in IAS 1.	This was not previously discussed by the Interpretations Committee.	The Interpretation specifically relates to uncertain tax treatments. Therefore the presentation of current/non-current tax liabilities is not within its scope. We do not propose to address this wider comment as part of the project.
19	Presentation	An accounting firm suggested stating explicitly that an entity should not present the effects of uncertainties over income tax treatments as an asset or liability separately from current or deferred tax assets or liabilities.	This was not previously discussed by the Interpretations Committee.	We think that the requirements in IAS 1 are sufficient in this respect—IAS 1 specifies the minimum line items to be presented in the statement of financial position, and in paragraph 55 includes a principle for the presentation of additional line items—ie when presentation is relevant to an understanding of the entity's financial position. We do not propose to amend the draft Interpretation for this comment.

Since the Interpretation does not deal with the presentation in the statement of financial position, any parts of the examples which show the presentation of relevant items cannot be considered to be authoritative. These are simply a schematic illustration of the opposite side of the entries made to the profit and loss account to reflect the estimated impact on the current and deferred tax charges generated by the uncertain tax position. Examples of this sort cannot be interpreted to represent the sole reading possible of an issue of presentation which is not dealt with by this Interpretation.

Presentation requirements of IAS 12

The only guidance in IAS 12 relating to the presentation on the balance sheet of tax assets and tax liabilities is contained in paragraphs 70 to 76. This guidance deals only with the rules for offsetting tax assets and liabilities
IFRIC 23 does not modify the requirements of IAS 12 in respect of the balance-sheet presentation of tax assets and liabilities. In addition, IAS 12 does not provide any dedicated guidance for the balance-sheet presentation of uncertain tax positions. Hence any conclusion in an agenda decision is in essence interpretative.

Inconsistencies with IAS 37 scope exclusion

Paragraph IAS 37.5 states that "*When another Standard deals with a specific type of provision, contingent liability or contingent asset, an entity applies that Standard instead of this Standard."* Income tax is one of the specific examples provided in paragraph 5.b).
This has been read so far by many as meaning that some elements of IAS 12 are considered as having a "provision" characteristic and that, if they are to be recognised and measured according to specific standards, namely IAS 12, they may nevertheless be presented as "provision" in the statement of financial position. It is also the case for example for provisions on employee defined benefit plans representative of their unfunded status.

The fact that IAS 1 specifies in paragraph 54 that an entity should present assets and liabilities for current and deferred tax as defined by IAS 12 only means that such line should only include items within the scope of their definition in IAS 12. It does not specifically preclude an entity from presenting some other elements of income tax within another line within the statement of financial position, if it is considered as more relevant.

This interpretation seems to be reinforced by the way IAS 1.54 is written for those line items. Whereas paragraphs (n) and (o) explicitly refers to IAS 12, for current tax assets and liabilities, and deferred tax assets and liabilities respectively, paragraph (l) only mentions the word "provisions". We understand that, in conjunction with our reading of paragraph 5 of IAS 37, the intent of the Board has not been so far to preclude the line item "provisions" within the statement of financial position to incorporate elements of an uncertain nature whose recognition and measurement principles are dealt with in another standard (i.e. IAS 12 for income taxes and IAS 19 for employee benefits).
Hence, a change in the Board's intent should be dealt with by undertaking standard-setting activity. We think an IFRS IC agenda decision is not the proper tool according to the principles contained in the due process handbook.

Presentation requirements of IAS 1

Paragraph 54 of IAS 1 requires the presentation of line items for the amounts of "liabilities and assets for current tax" and "deferred tax liabilities and deferred tax assets".

Paragraph 57 specifies that the "standard does not prescribe the order or format in which an entity presents items. Paragraph 54 simply lists items that are sufficiently different in nature or function to warrant separate presentation…" Moreover, paragraph 57(b) states that the descriptions, the ordering and the aggregation of items can be amended to provide information that is relevant to the understanding of the entity's financial position.

In addition, paragraph 58 lists the characteristics that could lead an entity to judge that items should be presented separately. These include, notably, "the timing of liabilities".

Paragraph 29 of IAS 1 requires an entity to separate items of a dissimilar nature or function. These principles of aggregation (or disaggregation) are also reinforced in the project that the IASB is currently developing on the presentation of financial statements. In that project the principles of aggregation and disaggregation are notably based on the sharing of common characteristics by different items consistently with the principles of the new conceptual framework

In a similar vein, although IAS 37 paragraph 5(b) excludes from its scope provisions for income taxes addressed by IAS 12, it also excludes provisions for employee benefits addressed by IAS 19. Nonetheless, the presentation of these in a line item "provisions" in the balance sheet is a practice which is widespread today and yet has never been the cause of contention. The line "provisions" already aggregates elements which share the characteristic of having a very high degree of uncertainty related to them and requiring the exercise of judgement. The detail of the nature of the items included in this caption is laid out in the notes.
Furthermore, IAS 37 is a standard which prescribes the measurement and recognition criteria for provisions which are not dealt with by another, more specific, standard, but, in common with IAS 12, it does not deal with the balance-sheet presentation of the items it deals with.

Relevance and usefulness of the outcome

In reflecting on the application of the principles of IAS 1, and in the light of the current discussions of the IASB on the presentation of financial statements, we come to the following conclusions:

That it is often more relevant and understandable (and thus consistent with IAS 1), to separate the liabilities related to uncertain tax positions from other current and deferred tax liabilities whose amounts and timing are much more certain. Indeed, even though both are within the scope of IAS 12 for measurement and recognition purposes, the uncertain tax positions seem to us to be of a very different nature from that of tax liabilities (whether current or deferred).

In practice, when entities apply IFRIC 23 they start by determining the amount of the current tax liability in line with those elements declared in the tax computation. These amounts will correspond to the amount of tax declare in the tax return, and both the amount and the timing are certain. Deferred tax amounts, included DTA on tax losses, are arrived at by a process which is also derived from the amounts declared in the tax return. In contrast, the measurement of uncertain tax positions is often the result of a distinct calculation and management process. Even though the measurement method respects the requirements of IFRIC 23, nonetheless, the resultant liability is distinct since its amount and timing are far less certain than the current and deferred taxes. It would therefore not be relevant to present such elements in aggregation with current and deferred tax liabilities, for which the user would expect a high level of certainty as to the outcome. It seems to us, therefore, to, be reasonable to present elements with this higher level of uncertainty in a balance-sheet caption which is distinguished notably by its characteristic of uncertainty, that is, amongst the provisions.

Judicial and Fiscal Risk

The potential impact of the Committee's tentative decision should be examined in the specific context of the adoption in France in 2018 of a general anti-abuse rule targeted at abusive tax avoidance schemes deemed to be classified as a criminal offence (Law n°2018-898 of 23 October 2018). Pursuant to this law, situations where tax audits can result in a transfer of the case to the prosecutor's office have been widened. In particular, such transfer will now be automatic in the case of tax reassessments that are considered by the French tax authorities as an intent to minimise tax (i.e., on the basis of abuse of law or when a corporation incurs, for the second time in six years, penalties for bad faith) as soon as the avoided amount of tax is in excess of 100,000 €. In parallel, the range of cases where these penalties can be imposed has also been widened. Under these circumstances and as already pointed out by the ANC to the IFRS IC, presenting tax uncertainties as liabilities in the consolidated financial statements could be considered by the French tax authorities "as an acknowledgment of debt or the evidence of an intent that could be invoked against the entity in a tax dispute even if those uncertainties are eventually presented as a provision under local GAAP".

We understand that the Committee cannot deal with all the local specificities, but this legal and fiscal context argues in favour not only of differentiated presentation in the financial statements but also of particular provisions relating to sensitive information as can be found in the standard IAS 37 and as already exist for contingent assets and contingent liabilities in paragraph IAS 12.88.

If you require any clarification or information, please do not hesitate to contact us.

Yours sincerely,

ACTEO	AFEP	MEDEF
Patrice MARTEAU Chairman	François SOULMAGNON Director General	Agnès LEPINAY Director of economic and financial affairs

20 August 2019

Sue Lloyd
IFRS Interpretations Committee
Columbus Building
7 Westferry Circus
Canary Wharf
London E14 4HD
United Kingdom

Re: IFRS Interpretations Committee tentative agenda decision "Presentation of Liabilities or Assets related to Uncertain Tax Treatments"

Dear Ms. Lloyd,

We appreciate the opportunity to provide our comments on the IFRS Interpretations Committee ("IFRIC") tentative agenda decision regarding the presentation of liabilities or assets related to uncertain tax treatments, or uncertain tax positions ("UTP").

Fiat Chrysler Automobiles (FCA) designs, engineers, manufactures and sells vehicles and related parts, services and production systems worldwide. The Group operates over 100 manufacturing facilities and more than 40 R&D centers; and it sells through dealers and distributors in more than 135 countries. FCA's automotive brands include Abarth, Alfa Romeo, Chrysler, Dodge, Fiat, Fiat Professional, Jeep, Lancia, Ram and Maserati. The Group's businesses also include Mopar (automotive parts and service), Comau (production systems) and Teksid (iron and castings). In addition, retail and dealer financing, leasing and rental services in support of the Group's car business are provided through subsidiaries, joint ventures and commercial arrangements with third-party financial institutions. FCA is listed on the New York Stock Exchange and on the Mercato Telematico Azionario and reports under IFRS.

We disagree with the conclusion in the tentative agenda decision ("TAD") that IFRSs provide clear guidance on the presentation of uncertain tax liabilities and assets (or uncertain tax positions, "UTPs"). We believe that an alternate reading of IFRS reasonably result in a different conclusion and contribute to diversity in practice. An agenda decision would eliminate these alternatives and would essentially result in standard setting without the appropriate due process.

In our comment letter, we refer to UTPs as uncertain tax positions that cover both uncertain tax liabilities and uncertain tax benefits.

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Our disagreement with the TAD is based on the following reasons:

1. UTPs do not meet the definition of current or deferred tax assets or liabilities in IAS 12

IAS 12 defines *current tax* as the amount of income taxes payable (recoverable) in respect of the taxable profit (tax loss) for a period and defines *deferred tax assets* and *deferred tax liabilities* as the amounts of income taxes payable or recoverable in future periods in respect of taxable temporary differences, or carryfowards of unused tax losses or credits. UTPs are taken into consideration in determining the amount recorded as total tax expense recorded in the income statement; however, UTPs are not taken into consideration in determining the tax amount payable on the tax return. These amounts are, by definition, not part of a filed tax return, so therefore, cannot be considered as part of the amount of current income taxes payable (recoverable). In addition, the UTP included in tax expense does not directly relate to deferred taxes as it does not necessarily represent the reversal of a taxable temporary difference, carryforward of unused tax loss or credit. As UTPs do not clearly fit within the definitions of *current tax*, *deferred tax assets* or *deferred tax liabilities*, it is inconsistent to conclude that they should be classified within current or deferred tax assets or liabilities on the statement of financial position.

2. The guidance in IAS 1 is not sufficiently clear in determining how to present uncertainties related to taxes.

The recognition, measurement and presentation of UTPs were not explicitly addressed under either IAS 37 or IAS 12 and IFRIC 23 was issued to clarify that uncertainty over tax treatments, or UTPs, are to be recognized and measured under IAS 12. However, as the definition of IAS 12 does not explicitly include UTPs and presentation was not addressed by IFRIC 23, it therefore follows that one looks to IAS 1 to determine the appropriate presentation of UTPs. As UTPs do not meet the definition of current or deferred taxes as defined in IAS 12, UTPs are not specifically required to be presented separately as current or deferred taxes under IAS 1 paragraph 54(n) and 54(o).

Considering the uncertainty associated with a UTP, one could reasonably conclude it is similar to a provision accounted for under IAS 37. As such, one could reasonably interpret that UTPs are most appropriately presented along with provisions. We also note that IAS 1 paragraph 29 states that items of a dissimilar nature or function should be presented separately unless they are immaterial. We believe that UTPs are of a dissimilar nature to current and deferred taxes given the level of uncertainty regarding the timing as well as measurement.

We understand that one of the examples in IFRIC 23 (paragraph IE6 of Illustrative Example 1 accompanying IFRIC 23) has been used to support presentation of UTPs as current or deferred taxes; however, we believe there is an alternate way to

FCA
FIAT CHRYSLER AUTOMOBILES

interpret that example. The amount of the UTP is incremental to and distinct from the amount of taxable profit reported in the income tax filing. In this case the UTP represents the uncertainty related to a tax position and is reported outside of the amount of tax payable (recoverable) in the tax return; therefore, is not part of the current taxes payable (recoverable).

3. Presentation of UTPs within the current and deferred tax lines on the statement of financial position provides less useful and potentially misleading information.

The uncertainty in the timing and amount of UTPs is different to current and deferred taxes whose timing and amounts are much more certain. We believe that presentation of UTPs within provisions still meets the criteria of IAS 1 because under paragraph 57(b) similar items may be aggregated to provide information that is relevant to an understanding of the entity's financial position. As the presentation of UTPs is not prescribed within IAS 12 or IFRIC 23 and UTPs do not meet the definition of current or deferred taxes, the most relevant line item for UTPs to be presented is within provisions. If the UTPs are material, an entity provides further disclosure in the footnotes as required under IAS 1 paragraphs 122 and 125 through 129, which are also referenced in IFRIC 23 paragraph A4.

It is a reasonable interpretation of existing IFRS that UTPs should be classified and presented as a provision in the statement of financial position because UTPs do not meet the definition of current or deferred tax under IAS 12, there is uncertainty in both timing and amount inherent in the nature of UTPs and there are not specific requirements regarding presentation in either IAS 12 or IFRIC 23. We believe there is diversity in practice and that finalizing an agenda decision that indicates otherwise would result in standard setting without the required level of due process. We therefore do not agree with the tentative agenda decision.

If you have any questions or would like to discuss further, please do not hesitate to contact Jon Nelson at +44 207 766 0328.

Best regards,

Jon Nelson
Corporate Controller

Deloitte.

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20 August 2019

Sue Lloyd
Chair
IFRS Interpretations Committee
Columbus Building
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E14 4HD

Dear Ms Lloyd

Tentative agenda decision – Presentation of liabilities or assets related to uncertain tax treatments (IAS 1 *Presentation of Financial Statements*)

Deloitte Touche Tohmatsu Limited is pleased to respond to the IFRS Interpretations Committee's publication in the June 2019 IFRIC Update of the tentative decision not to take onto the Committee's agenda the request for clarification on presentation of liabilities or assets related to uncertain tax treatments.

We agree with the IFRS Interpretations Committee's decision not to add this item onto its agenda for the reasons set out in the tentative agenda decision.

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

Yours sincerely

Veronica Poole
Global IFRS Leader

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MAZARS

Mrs Sue Lloyd

IFRS Interpretations Committee

Columbus Building,
7 Westferry Circus, Canary Wharf

London E14 4HD
United Kingdom

Paris, 1 August 2019

Tentative Agenda Decisions – IFRIC Update November 2018

Dear Sue,

MAZARS is pleased to comment on the various IFRS Interpretations Committee Tentative Agenda Decisions published in the June 2019 IFRIC Update.

We have gathered all our comments as appendices to this letter, which can be read separately and are meant to be self-explanatory.

We would like to draw your attention to three issues that we think are worth considering:

- The Tentative Agenda Decision on the Lessee's Incremental Borrowing Rate is not conclusive as to whether IBR should reflect the payment profile of the lease. We believe that sufficient guidance exists in the standard and the basis for conclusions for the Committee to reach the conclusion that IBR should be consistent with the payment profile of the lease.

- The assessment of the lease term is the most important area of judgement in applying IFRS 16, and we observe that significant diversity exists in practice on that matter. This is a strong indicator that the standard needs clarifications, and we believe these clarifications cannot be provided through a simple agenda decision considering the interactions of the different paragraphs of the standard and inconsistencies between the standard itself and the corresponding basis for conclusions. That is why we urge the Committee and/or the Board to undertake a narrow-scope standard-setting project on the lease term. In the meantime, we believe the Committee should not issue any agenda decision because its conclusions would preempt the outcome of the debate to be held during the standard-setting process.

- By not considering the question of whether the amount of airline compensation for delays or cancellations recognised as a reduction of revenue should be limited to reducing the transaction price to nil, the Committee fails to address an area of significant diversity in practice. A conclusion on that issue would be of great help.

Should you have any questions regarding our comments on the various tentative agenda decisions, please do not hesitate to contact Michel Barbet-Massin (+33 1 49 97 62 27) or Edouard Fossat (+33 1 49 97 65 92).

Yours faithfully

Michel Barbet-Massin

Financial Reporting Advisory

Edouard Fossat

MAZARS

Appendix 5

Presentation of Liabilities or Assets Related to Uncertain Tax Treatments (IAS 1 Presentation of Financial Statements) — Agenda Paper 7

We agree with the Committee's analysis that liabilities and assets arising from the application of IFRIC 23 are tax liabilities and tax assets, whether current or deferred, as defined by IAS 12.

We also agree that presenting them within a line item such as provisions will be inconsistent with the requirements of IAS 1 paragraph 54.

We therefore encourage the Committee to finalise the Agenda Decision as tentatively drafted.

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(The Italian Standard Setter)
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United Kingdom
ifric@ifrs.org

18 July 2019

Re: IFRS Interpretations Committee tentative agenda decisions published in the June 2019 IFRIC Update

Dear Ms Lloyd,

We are pleased to have the opportunity to provide our comments on the IFRS Interpretations Committee ("the Committee") tentative agenda decisions included in the June 2019 IFRIC Update.

Our comments refer to the following issues:

- *IFRS 16 Lease Term and Useful Life of Leasehold Improvements*
- *IAS 1 Presentation of Liabilities or Assets Related to Uncertain Tax Treatments*
- *IAS 41 Subsequent Expenditure on Biological Assets*

Lease Term and Useful Life of Leasehold Improvements

The Committee concluded in its Tentative Agenda Decision that principles and requirements in IFRS 16 provide an adequate basis for an entity to determine the lease term of cancellable and renewable leases.

We disagree with the conclusion of the agenda decision. We believe that for this issue a standard setting activity is needed for the following reasons.

We are convinced that there are not enough element in the IFRS 16 to conclude on the submission with an agenda decision. The concept of penalty is not defined in the IFRS 16 so we do not think that there can be only one possible interpretation of it.

Moreover, we note that in determining the lease term the IFRS 16 requires two different assessments:

- A first assessment in paragraph B34 to determine the enforceable period; and
- A second assessment in paragraph B37 to evaluate whether the lessee is reasonable certain to exercise an option to extend or not exercise an option to terminate the lease.

In our view, considering the term penalty of paragraph B34 in a broader sense including, for example, the cost of abandoning or dismantling the non-removable leasehold improvements, seems to assimilate the assessment in paragraph B34 to the assessment required by paragraph B37. This could contradict the current thought process implicit in the Standard.

In addition, we note that such an interpretation of the term penalty would require the lessee to make an assessment that is almost impossible and easily challenged. Indeed, following the Committee's interpretation of the term "penalty" in determining the enforceable period of the lease term according to paragraph B34 a lessee will be required to:

- assess the possible lessor's economic disincentives;
- update yearly this assessment to reflect any changes in the economic disincentives of the lessor.

We find this assessment very costly complex and arbitrary, because it requires the lessee to guess the intention of the lessor regarding any kind of advantages and disadvantages that he can obtain by exercising or not the contractual options.

Finally, we believe that, in any case, the concept of penalty equally applies to all kinds of lease contracts that are within the scope of paragraph 18 of IFRS 16.

In summary we assume that in the light of the number of comments some more thoughts on the issue are needed and a clarification taking the form of an amendment to the standard is highly recommended.

Presentation of Liabilities or Assets Related to Uncertain Tax Treatments

The Committee concluded in its Tentative Agenda Decision that the requirements in IFRS Standards provide an adequate basis for an entity to determine the presentation of uncertain tax liabilities and assets.

We have some concern about this conclusion. Indeed, we have been informed that there is mixed practice on this issue and that many entities have usually presented liabilities related to uncertain tax treatments as provisions. In their view, paragraph 5 of IAS 37 says that liabilities related to uncertain tax positions are provisions that are recognized and measured according to IAS 12. IAS 12 does not address the presentation of these liabilities and thus they may be classified as provisions

These entities also note that IFRIC 23 does not address the presentation of uncertain tax liabilities and believe that it is more relevant to separate the liabilities related to uncertain tax positions from other tax liabilities that are more certain.

Consequently, we believe that the Committee should clarify this issue with an amendment.

Subsequent Expenditure on Biological Assets

We agree with the Committee's decision of not adding this issue to its standard-setting agenda, because we agree that a standard-setting activity on this matter would not result in an improvement to financial reporting that would be sufficient to outweigh the costs.

However, we believe that, from a theoretical point of view, the concept of capitalisation is more closely related to the cost measurement model and not to the fair value one. Indeed, in our view, fair value measurement reflects current selling prices and it may not reflect incurred expenditure.

Should you need any further information, please do not hesitate to contact us.

Yours sincerely,
Angelo Casò
(Chairman)

IKATAN AKUNTAN INDONESIA
(INSTITUTE OF INDONESIA CHARTERED ACCOUNTANTS)

Nomor : 1282/DSAK/IAI/VIII/2019 Jakarta, 20 August 2019

International Financial Reporting Standards Interpretations Committee
Columbus Building, 7 Westferry Circus
Canary Wharf, London
E14 4HD

Ref: Invitation to comment – Tentative Agenda Decision (TAD): Presentation of Liabilities or Assets Related to Uncertain Tax Treatments (IAS 1) – Agenda Paper 7

Dear IFRS Interpretations Committee members,

Dewan Standar Akuntansi Keuangan (DSAK) - The Indonesian Financial Accounting Standards Board, as part of Ikatan Akuntan Indonesia (IAI) - the Institute of Indonesia Chartered Accountants, is the national accounting standard-setter in Indonesia.

On behalf of DSAK IAI, I am writing to respond regarding on the TAD: Presentation of Liabilitites or Assets Related to Uncertain Tax Treatments (IAS 1).

Our detailed responses to the questions are attached in the Appendix to this letter below.

We hope that our responses could contribute to the Interpretation Committee's future deliberations. Should you have further concerns regarding our responses, please do not hesitate to contact us at dsak@iaiglobal.or.id.

Yours sincerely.

Djohan Pinnarwan
Chairman
The Indonesian Financial Accounting Standards Board
Institute of Indonesia Chartered Accountants

DSAK IAI RESPONSE

We agree with the Committee's analysis that by applying IAS 1 an entity is required to present uncertain tax liabilities as current tax liabilities (paragraph 54(n)) or deferred tax liabilities (paragraph 54(o)); and uncertain tax assets as current tax assets (paragraph 54(n)) or deferred tax assets (paragraph 54(o)).We also agree with the Committee's conclusion that the requirements in IFRS Standards provide an adequate basis for an entity to determine the presentation of uncertain tax liabilities and assets.

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NIGERIA
(Established by Act of Parliament No. 15 of 1965)

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JOHN I. EVBODAGHE, MBA, FCA

19 August 2019

ICAN/ED/R&T/AUG/2019

IFRS Interpretations Committee
Columbus Building
7 Westferry Circus
London E14 4HD
United Kingdom

Dear Sir,

RE: IFRS INTERPRETATIONS COMMITTEE TANTATIVE AGENDA DECISION

The Institute of Chartered Accountants of Nigeria (ICAN) has considered the above requests for comments on the Tentative Agenda Decisions and hereby submit comments as follows:

Presentation of Liabilities or Assets related to Uncertain Tax Treatments (IAS 1)

We agree with the position of the Committee not to make the presentation of liabilities or assets related to uncertain tax treatments a standard-setting agenda. The provisions of par. 54 (n) and 54 (o) as considered, are adequate guidance on their presentation. However, the committee may need to emphasize that entities clarify their presentation in their accounting policy.

Lease Term and Useful Life of Leasehold Improvements (IFRS 16 and IAS 16)

Adequate Provisions are already made in the standards and the Committee's decision not to add the matter to its standard-setting agenda is supported but to include more illustrative examples on the determination of lease term of cancellable and renewable leases.

Disclosure of Changes in Liabilities arising from Financing Activities (IAS 7)

We agree with the decision of the Committee that the disclosure requirements in Par. 44B-44E of IAS 7, together with the requirements in IAS 1 are adequate to meet the information needs of investors.

Subsequent Expenditure on Biological Assets (IAS 41)

We agree with the Committee's decision not to make subsequent expenditure on biological assets a matter to its standard-setting agenda. As relied upon by the Committee, Par. B62 of IAS 41 and the clarity in applying Par. 117-124 of IAS 1 are adequate on the reporting to by an entity.

Compensation for Delays or Cancellations (IFRS 15)

We agree with the position of the Committee that the principles and requirements in IFRS 15 provide an adequate basis for an entity to determine its accounting for obligations to compensate customers for delays or cancellations. However, we believe that the Committee should provide necessary guidance where the variable compensation (example- penalty imposed by legislation with respect to the contract) is higher than the purchase consideration or price.

Lessee's Incremental Borrowing Rate (IFRS 16)

We agree with the position of the Committee not to include the determination of incremental borrowing rate to its standard-setting agenda because the principles and requirements for this item are adequately spelt out in IFRS 16.

Yours faithfully,

for: Registrar/Chief Executive

Ben Ukaegbu, PhD, ACA
Deputy Registrar, Technical Services

MASB MALAYSIAN ACCOUNTING STANDARDS BOARD
LEMBAGA PIAWAIAN PERAKAUNAN MALAYSIA

20 August 2019

Ms. Sue Lloyd
Chair
IFRS Interpretations Committee
Columbus Building
7 Westferry Circus
Canary Wharf
London E14 4HD
United Kingdom

Dear Ms. Lloyd

IFRS Interpretations Committee Tentative Agenda Decisions

The Malaysian Accounting Standards Board (MASB) welcomes the opportunity to provide comments on the Tentative Agenda Decisions published in IFRIC Update June 2019.

Our detailed responses are enclosed in the Appendix to this letter.

If you need further clarification, please contact the undersigned by email at beeleng@masb.org.my or at +603 2273 3100.

Thank you.

Yours sincerely,

TAN BEE LENG
Executive Director

Unit 13A-1, Menara MBMR, No. 1, Jalan Syed Putra, 58000 Kuala Lumpur.
Tel : (603) 2273-3100 Fax : (603) 2273-9400 Email : masb@masb.org.my Website : www.masb.org.my

Appendix

Compensation for Delays or Cancellations (IFRS 15 *Revenue from Contracts with Customers*) - Agenda Paper 8

We agree with the Interpretations Committee's conclusion that compensation for delays or cancellations, as described in the request, is a variable consideration and an entity applies IFRS 15 paragraphs 50-59 accordingly.

However, we would like to request the Interpretations Committee to clarify whether the amount of compensation recognised as a reduction of revenue is limited to reducing the transaction price to nil. Without such clarification an accounting policy would have to be developed for compensation exceeding the consideration received, either as reduction of revenue or separate expense. In this regard, the clarification would improve financial reporting as entities would be applying the requirement consistently and therefore comparable financial results are provided to users of financial statements.

- **Fair Value Hedge of Foreign Currency Risk on Non-Financial Assets (IFRS 9 *Financial Instruments*) - Agenda Paper 4**
- **Lessee's Incremental Borrowing Rate (IFRS 16 *Leases*) - Agenda Paper 2**
- **Lease Term and Useful Life of Leasehold Improvements (IFRS 16 *Leases* and IAS 16 *Property, Plant and Equipment*) - Agenda Paper 3**
- **Presentation of Liabilities or Assets Related to Uncertain Tax Treatments (IAS 1 *Presentation of Financial Statements*) - Agenda Paper 7**
- **Disclosure of Changes in Liabilities Arising from Financing Activities (IAS 7 *Statement of Cash Flows*) - Agenda Paper 5-5A**
- **Subsequent Expenditure on Biological Assets (IAS 41 *Agriculture*) - Agenda Paper 9**

We agree with the Interpretations Committee's reasons set out in the respective Tentative Agenda Decision for not adding these items onto its agenda.

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Chair of the IFRS Interpretations Committee
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United Kingdom

IFRS Technical Committee
Phone: +49 (0)30 206412-12
E-Mail: info@drsc.de

Berlin, 19 August 2019

Dear Sue,

IFRS IC's tentative agenda decisions in its June 2019 meeting

On behalf of the Accounting Standards Committee of Germany (ASCG), I am writing to comment on the tentative agenda decisions taken by the IFRS Interpretations Committee (IFRS IC) and published in the June 2019 *IFRIC Update*.

We agree with most of the tentative agenda decisions. However, we do not agree with the conclusion and/or the reasons behind three of these.

Please find our specific comments in the appendix to this letter. If you would like to discuss our views further, please do not hesitate to contact Jan-Velten Große (grosse@drsc.de) or me.

Yours sincerely,

Andreas Barckow

President

Appendix – Detailed Comments

Tentative decision on IFRS 9 – Fair value hedge of FX risk on non-financial assets

We are not convinced that the IFRS IC's discussion and its findings help appropriately addressing the questions raised.

We have concerns with the IFRS IC's description where the FX volatility arises from in the different fact patterns (PPE, inventory, etc.). As per the tentative agenda decision, the (potentially designated) FX risk arises from pricing a non-financial asset "in one particular currency at a global level". In contrast, as per the Agenda Paper the non-financial assets are "routinely [be] denominated in a particular currency" or "purchased in an established market". As these are different, nonetheless precise, descriptions of FX market circumstances under which assets are to be translated into the functional currency, it remains unclear whether the condition in IFRS 9.6.5.2(a) is considered met under any of these circumstances. Depending on this, the wording might inadvertently narrow the fact patterns to which the IFRS IC's tentative decision would apply.

Tentative decision on IFRS 15 –Compensation for delays or cancellations

We do not fully agree with the tentative decision and conclusion in respect of the submitted fact pattern. Specifically, we would have appreciated a more holistic discussion that included variations of the fact pattern submitted or modified circumstances in order to better distinguish between situations where something is indeed a reduction of the selling price per IFRS 15 or separate obligations provided for under IAS 37. Without this, the tentative decision is not as helpful as it could be, as it does not illustrate potential legal or contractual rights and obligations that could distinguish between (a) compensations "still" being a variable consideration of the very same performance obligation and (b) those being a separate obligation, thus in the scope of IAS 37. Examples are distinguishing primary services vs. collateral services/obligations, low or non-performance vs. (penalty for) harm/damage, legal warranties vs. contractual guarantees, service-type warranties, product liabilities, etc. This said, we suggest the IFRS IC extend its discussion in this regard. This is of particular interest, as an agenda decision by the IFRS IC could affect service contracts in many different industries and not merely affect the airline sector concerned in the specific agenda item request.

Further, we question the appropriateness of not addressing the very important question of how to account for compensations that exceed the transaction price as we do believe this to be important in the fact patterns concerned, which is why it should not be ignored. Therefore, we request the IFRS IC to continue its discussion by considering and answering this follow-up question.

Given the broad relevance and complexity of this issue, we also suggest the IFRS IC re-consider whether clarifying IFRS 15 by way of an agenda decision is appropriate, esp. against the proposals in the revised Due Process Handbook.

Tentative decision on IFRS 16 – Lessee's incremental borrowing rate

We believe that the tentative decision and the explanation should be clarified. As the IFRS IC only states that "IFRS 16 does not **explicitly** require…" to determine the implicit borrowing rate based on a loan with a similar payment profile, it remains unclear whether, or under which circumstances, this is still implicitly required or not.

Since we understand IFRS 16 not to require an entity to revert to a loan with a similar payment profile, and in this respect agree with the tentative decision, we suggest that the word "explicitly" in the agenda's wording be deleted.

PO Box 1411
Beenleigh QLD 4207
20 August 2019

Ms Sue Lloyd
Chair IFRS Interpretations Committee
International Accounting Standards Board
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Online submission: https://www.ifrs.org/projects/work-plan/presentation-of-liabilities-or-assets-related-to-uncertain-tax-treatments-ias-1/comment-letters-projects/tad-presentation-of-liabilities-or-assets-related-to-uncertain-tax-treatments-ias-1/

Dear Sue

Tentative agenda decision—Presentation of Liabilities or Assets Related to Uncertain Tax Treatments (IAS 1)

I am pleased to make this submission on the Tentative Agenda Decision (TAD) Presentation of Liabilities or Assets Related to Uncertain Tax Treatments (IAS 1.

I have extensive experience in accounting advice on International Financial Reporting Standards across a wide range of clients, industries and issues in the for-profit, not-for-profit, private and public sectors.

My clients have included listed companies, unlisted and private companies, charitable and not-for-profit organisations, federal, state and local government departments and agencies in the public sector, and government owned corporations (government business enterprises). I also have some commercial, standard setting and academic experience.

I believe that deferred tax balances are provisions, and that the IAS 12 deferred tax balance (inclusive of IFRIC 23 adjustments) can be split into amounts disclosed as a deferred tax balance line item, and some included in provisions. I believe that companies can establish a reasonable basis for this split. I would expect appropriate disclosure for the basis of this split, and appropriate disclosure in the half-year financial reports.

My response covers:

1. Underlying issue
2. Other analogies in IFRS
3. Examples of companies splitting disclosures of deferred tax liabilities
4. Having a separate provision for uncertain tax positions
5. Observations on disclosures for a separate provision for uncertain tax positions
6. Taxonomy / XBRL issues

1 Underlying issue

I see the underlying issue as the introduction of IFRIC 23. While some may argue that nothing has changed with IAS 12 and presentation, there is no certainty that companies were not separately recognising a provision for uncertain tax positions before the issue of IFRIC 23. Below I refer to Rio Tinto that may have adopted that approach.

Also, in reality, things have changed. Companies must now recognise amounts (usually liabilities) for the inclusion of detection risk. Previously, companies would commonly recognise deferred taxes for the position they would argue to the taxing authority, if the issue were detected. Now, companies have to recognise an additional amount based on what they would settle for, having to assume that the taxing authority knows about the issue.

This amount relates not only to the current financial year, or future financial years, but also past financial years. The amount for past financial years may be large, particularly if the jurisdiction does not have a form of statute of limitations on tax issues.

Personally, I would have expected companies to try and hide this amount, However, it appears that in some jurisdictions, such as France, companies want to separately disclose this amount.

2 Other analogies in IFRS

Deferred tax liabilities meet the definition of a provision (IAS 37 paragraph 10):

> A *provision* is a liability of uncertain timing or amount.

Therefore, while deferred tax liabilities are recognised and measured under IAS 12 instead of IAS 37, it is still correct to describe deferred tax liabilities as a provision.

Similarly, employee benefits meet the definition of a provision. Therefore, while employee benefits are recognised and measured under IAS 19 instead of IAS 37, it is still correct to describe employee benefits liabilities as a provision.

Some companies in Australia include employee benefits within the provisions line item in the balance sheet. Therefore, if the argument is that the provisions line item cannot include items excluded from the scope of IAS 37, then standard setting should be undertaken to actually restrict including non-IAS 37 provisions in the provisions balance sheet line item.

I have included in Appendix 1 examples of classifying employee entitlements / benefits as provisions from some of Australia's largest companies - one from each of the big 4 auditors.

3 Examples of companies splitting disclosures of deferred tax liabilities

Listed companies in Australia with a 31 December year end are now adopting IFRIC 23. I am aware of two companies classifying, or appearing to classify, some IAS 12 deferred tax liabilities as a provision:

I have included details in Appendix 2. The companies are:

Unibail-Rodamco-Westfield (Headquarters in France)

URW reclassified some of the deferred tax balance to non-current provisions, but did not recognise an adjustment to retained earnings on adoption of IFRIC 23.

I could not identify the basis for the component reclassified.

Rio Tinto

Refers to a provision of uncertain tax positions, and may record that amount separately from the deferred tax liabilities line item.

4 Having a separate provision for uncertain tax positions

The main issue with having a separate provision for uncertain tax positions from other deferred tax liabilities is determining the basis for the separation.

One argument for not having separate components is that we do not generally separate other provisions for uncertainty. The counter argument is that both components are already included in provisions, so there would not be much point.

The difference for uncertainty for deferred tax liabilities is that there is usually a position that the company will take, that it will argue tooth and nail for, and it is the consequences of that position that it recognises the deferred tax liability for. Any extra for uncertain tax positions, such as the additional amounts required by IFRIC 23, are regarded as “extra”, and included for prudence (or because of IFRIC 23 requirements), but are not considered “real” liabilities.

I think this approach could be a reasonable basis for separating total deferred tax liabilities into two components.

5 Observations on disclosures for a separate provision for uncertain tax positions

Based on the limited review of two companies, my observations are:

- There was no clear disclosure of how the deferred tax liability balance measured in accordance with IFRIC 23 is split into the two components.

- In the half year financials, the companies do not appear to have provided a total of deferred tax liabilities as required by IAS 1 (via IAS 34), as part of the balance is included in another line item, i.e. provisions.

- To comply with IAS 1, I believe the balance of deferred taxes included in provisions needs to be separately disclosed in the half-year financials (subject to materiality)

6 Taxonomy / XBRL issues

I believe that if the deferred tax liabilities tag is defined to be the total deferred tax liabilities (inclusive of IFRIC 23 adjustments), then a company's XBRL filing should have the separate components rolling-up to that tag.

Yours sincerely,

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Appendix 1 - Examples of classifying employee entitlements / benefits as provisions from some of Australia's largest companies (one from each of the big 4 auditors).

Commonwealth Bank 2019 Annual Report
Auditor - PwC
https://www.commbank.com.au/about-us/investors/annual-reports/annual-report-2019.html
https://www.commbank.com.au/content/dam/commbank/about-us/shareholders/pdfs/annual-reports/CBA-2019-Annual-Report.pdf

CSL 2018 Annual Report
Auditor - EY
https://www.csl.com/investors/financial-results-and-information/annual-reports
https://www.csl.com/-/media/csl/documents/annual-report-docs/csl-ltd-annual-report-2018-full.pdf

Woolworths 2018 Annual Report
Auditor - Deloitte
https://www.woolworthsgroup.com.au/page/investors/our-performance/reports/Reports/Annual_Reports
https://www.woolworthsgroup.com.au/icms_docs/195396_annual-report-2018.pdf

BHP Billiton 2018 Annual Report
Auditor - KPMG
https://www.bhp.com/investor-centre/annual-report-2018
https://www.bhp.com/-/media/documents/investors/annual-reports/2018/bhpannualreport2018.pdf

Appendix 2 - Examples of companies classifying, or appearing to classify, some IAS 12 deferred tax liabilities as a provision:

Unibail-Rodamco-Westfield (Headquarters in France)

In the 2019 half-year report when it first adopts IFRIC 23 he company states:

> The first time application of IFRIC 23 has led to a limited reclassification of some liabilities related to (deferred) tax payments, leading to a decrease of the Deferred Tax Liabilities as included on the balance sheet, at the same time increasing by an equal amount the "Non-current provisions" and "Other current liabilities".

2018 Annual Report

https://www.urw.com/registrationdocument
https://images-urw.azureedge.net/-/media/Corporate~o~Sites/Unibail-Rodamco-Corporate/Files/Homepage/INVESTORS/Regulated-Information/Registration-Documents/EN/20190327-Registration-Document-2018_EN.ashx?revision=b6829d2b-7ecf-4c2e-8511-5576da960409

2019 Half-year Report

https://www.urw.com/en/investors/financial-information/financial-results
https://images-urw.azureedge.net/-/media/Corporate~o~Sites/Unibail-Rodamco-Corporate/Files/Homepage/INVESTORS/Financial-Information/Financial-Results/20190731-2019-Half-Year-Results-Financial-report_onlyEN.ashx?revision=fde6b823-158f-4838-a1f5-d8c006669bce

Rio Tinto

Rio Tinto refers to having a provision for uncertain tax positions, though it is unclear whether that provision is included in tax payable (current and non-current), deferred tax liabilities or provisions (other).

In the June 2019 half-year report, adopting IFRIC 23, Rio Tinto disclosed a change to using a weighted-average approach for uncertain tax position with a wide range of possible outcomes. Rio Tinto also noted that the introduction of IFRIC 23 did not result in any changes to the accounting policy for deferred tax. This indicates that the provision for uncertain tax positions is separate from deferred tax liabilities.

The auditors included the provisions for uncertain tax positions as a Key Audit Matter.

2018 Annual Report

https://www.riotinto.com/investors/downloads-16678.aspx
https://www.riotinto.com/documents/RT_2018_annual_report.pdf

2019 Half-year Report

https://www.riotinto.com/media/regulatory-news-and-filings-4996.aspx
1 August 2019 Rio Tinto 2019 half year results