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Sir David Tweedie
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31 July 2009

Dear Sir David,

Exposure Draft ED/2009/2 *Income Tax*

Deloitte Touche Tohmatsu is pleased to respond to the International Accounting Standards Board's (the IASB's) Exposure Draft ED/2009/2 *Income Tax* (referred to as the 'exposure draft' or 'ED').

We acknowledge the Board's objectives in its income tax project to address the significant practical and conceptual issues arising under IAS 12 *Income Taxes* and achieve closer convergence with United States Generally Accepted Accounting Principles (US GAAP).

However, we question whether these objectives have been met in the ED. We believe clear principles have not been established and articulated in the ED. Furthermore, many of the proposals are ambiguous or produce counterintuitive outcomes which are difficult to reconcile from a conceptual viewpoint.

It is difficult to understand the IASB's intention in developing the various 'rules' proposed in the ED, save perhaps an intention to simplify the current Standard by mandating a particular approach. However, we expect an IFRS based on the ED's current proposals will not be well accepted by constituents as these 'rules' will:

- produce outcomes that are inconsistent with the *Framework*
- not be representationally faithful of the economic substance of the underlying tax consequences expected, and
- be difficult to rationally explain.

In particular, we believe the starting point of the proposed calculation methodology, the definition of tax basis, and its reliance on an assumption of sale at the reporting date is flawed, does not produce meaningful outcomes and is unhelpful in addressing the issues commonly arising under IAS 12.

We believe that the existing 'management intention' approach should be retained and specific guidance be developed to eliminate existing uncertainties in applying the approach. In our view, this would provide more meaningful information to the users of the financial statements as it better reflects the actual future tax consequences an entity expects.

We also have concerns about the ED's probability-weighted average approach to measuring 'uncertain tax positions' as it is onerous and, in our view, inconsistent with the relevance and reliability characteristics of the *Framework*. The use of a probability- weighted approach to measure each individual item included in the tax return produces an outcome in respect of each item that rarely represents any particular expected outcome. Equally, the aggregate outcome arising from each of these items will rarely represent the overall outcome that the entity may expect in relation to the tax return as a whole. To address these concerns, we recommend the adoption of an 'expected outcome' approach based on the existing IAS 37 *Provisions, Contingent Liabilities and Contingent Assets,* measuring uncertainty on a unit of account which reflects the expected method of settlement with the taxing authority.

In addition, in some areas, the ED includes requirements which are explained as being purportedly *based* on US GAAP but do not always achieve full convergence in the areas with which they deal, including the core calculation methodology itself. In addition, the US GAAP approaches have been adopted and amended without appropriate justification from a conceptual viewpoint or full consideration of their efficacy in the various jurisdictions of the world. For instance, the exemption for deferred taxes associated with foreign subsidiaries and joint ventures may relieve complex application issues in respect of these entities, yet similar issues also arise with investments in domestic subsidiaries in many jurisdictions and similar relief is not provided.

We recognise there are a number of significant interpretational issues which remain unresolved in applying IAS 12 and diversity has arisen in practice in many areas. We also acknowledge that the requirements of IAS 12 can be difficult to interpret and apply and the variety of tax regimes globally adds additional complexity to the task of developing and implementing a global solution in this area. However, in light of the lack of clear principles, counterintuitive outcomes and the failure to meet the additional objective of achieving convergence with US GAAP, we do not believe the ED, in its current form, is an improvement on existing IFRSs.

The Financial Accounting Standards Board (FASB) withdrawing from this project eliminates some of the urgency around its completion and, accordingly, provides an opportunity for a more fundamental and comprehensive review of income tax accounting. The IASB's objective should be a conceptually superior and principles- based solution to accounting for income taxes which eliminates many of the current difficulties, is easier to interpret and apply, and has widespread constituent support.

Therefore, we recommend the IASB does not proceed with the proposals in the ED and instead commences a more thorough and comprehensive project. We appreciate this will result in a further delay in meeting the IASB's timetable in this area and suggest any particularly pressing issues are dealt with through the improvements process whilst the more comprehensive project is undertaken. We have commented throughout our response on a number of issues which annual improvements could redress.

Our detailed comments and answers to your questions on the exposure draft, along with other comments and suggested editorial changes, are included in the following appendices to this letter:

- Appendix 1 – Responses to specific questions on ED/2009/2 *Income Tax*
- Appendix 2 – Common areas of difficulty in applying IAS 12
- Appendix 3 – Jurisdictional and general examples where the 'sales basis' approach produces unusual outcomes
- Appendix 4 – Additional comments on the ED's proposals.

If you have any questions concerning our comments, please contact Ken Wild in London at +44 (0)20 7007 0907.

Yours sincerely,

Ken Wild
Global IFRS Leader

Appendix 1 - Responses to specific questions on ED/2009/2 *Income Tax*

Question 1 - Definitions of tax basis and temporary difference

The exposure draft proposes changes to the definition of tax basis so that the tax basis does not depend on management's intentions relating to the recovery or settlement of an asset or liability. It also proposes changes to the definition of a temporary difference to exclude differences that are not expected to affect taxable profit.

Do you agree with the proposals? Why or why not?

We do not agree with the proposal. In our view, the ED's approach, combined with the additional guidance and examples, produces counter-intuitive outcomes and is inconsistent with United States Generally Accepted Accounting Principles (US GAAP).

We would strongly prefer the existing 'management intention' approach be retained for determination of tax basis and specific guidance be developed to eliminate existing uncertainties in applying this approach.

We have included in Appendix 2 details of a number of issues arising under the existing IAS 12 and our recommendations for how these issues might be dealt with under the existing requirements.

Conceptual basis for 'sale or settlement'

The ED does not justify the basis for proposing to use the assumption of sale or settlement at reporting date, other than to note that this is consistent in most cases with practice under US GAAP and that the Board is aware of the difficulty in determining tax base where there are different tax consequences of selling or using an asset. In our view, the assumption of sale or settlement represents a 'rule' which will produce illogical outcomes under many of the various taxing regimes existing on a global basis.

It is difficult to justify the ED's approach under the *Framework* as it suffers from a similar conceptual flaw to that identified by the IASB in objecting to the 'simultaneous equation' method used to address the initial recognition exception under US GAAP (paragraph BC27 of the Basis for Conclusions on the ED). In other words, the application of the ED's requirements result in the recognition of deferred tax balances that do not necessarily represent assets and liabilities, but rather result from computational requirements.

It is also unclear why a 'sale' assumption is made when the going concern basis underlying standards and normal business practice would ordinarily mean many assets are recovered through 'use'. The sale or settlement assumption might only be rationally supported if measurement of all assets and liabilities was based on a full fair value model using 'exit' values.

The core principle of the ED is that an entity should recognise "tax payable or recoverable on taxable profit for *future* periods as a result of past transactions and events" (paragraph 1). Taxation systems commonly contemplate many different taxation events and taxing points, and the outcomes under those approaches can vary widely. The assumption of sale or settlement at reporting date reflects a taxation outcome based on a *hypothetical* transaction at the end of the *current* period. To require deferred tax accounting to be based on a hypothetical outcome will not reflect an entity's actual income tax exposure and is therefore not in accordance with the core principle of the ED.

The elimination of management intention when seeking to reflect the future consequence of an item is, in our view, a flawed approach, particularly when considered in light of other requirements of the ED which introduce management intention in other aspects of the tax calculation.

In our view, the current 'management intention' requirement in IAS 12 is not a conceptually flawed approach; the difficulty is in determining *how* management intention should be incorporated into measurement. We do not believe mandating a particular outcome is helpful in this regard. Instead, we recommend specific guidance be developed to eliminate existing uncertainties in applying this approach.

Temporary difference definition and guidance

There is substantial ambiguity around the definition and guidance for temporary differences in the ED.

The temporary difference definition in Appendix A to the ED explicitly references an amount "that the entity expects will affect taxable profit when the carrying amount of the asset or liability is recovered or settled". Paragraph 20 also refers to temporary differences "that are expected to increase [or reduce] taxable profit in the future".

It is not clear whether::

- the reference to 'expectations' is considered to refer to the initial calculation step in paragraph 10 of the ED and no further consideration of 'expectations' are necessary (paragraph 20 is referring to items not excluded by paragraph 10); or
- the reference to 'expectations' in paragraph 20 is considered to imply a *further* assessment of expectations by reference to the amount of the temporary difference arising from the sale or settlement assumption that is actually expected to give rise to an increase or reduction in tax payable in the future.

We note Illustrative Example 16 in the *Draft flow chart and illustrative examples* prepared by the IASB staff appears to imply the first approach. It shows a situation where an asset is acquired for $100 but the tax deductions available from use are $150, and from sale are $100. At the point in time the calculation is performed, the carrying amount of the asset has been depreciated to $80 and the deductions available on sale are $70, as a result of tax depreciation claimed reducing the deduction on sale. There are also different tax rates applying to use and sale.

The first step in the process is to consider whether a future tax consequence is expected from the way in which management intends to recover the carrying amount of the asset. Whether the asset is recovered through sale or by use, a net future tax consequence is expected and therefore a deferred tax calculation must be performed in applying paragraph 12(a) of the ED.

In the situation where the asset is expected to be used, the $10 (taxable) temporary difference arising from applying the sale assumption would not be expected to give rise to taxable profits. This is because there remains $120 of tax depreciation expected in the future ($150 total available depreciable tax basis less $30 tax deprecation taken to date) and only $80 of taxable profits from using the asset. The outcome under the 'use' scenario is actually a future tax benefit for the excess tax depreciation available in use, but the example results in the recognition of a deferred tax liability that will never crystallise as a tax payment in the future.

As noted above, the example appears to support the first interpretation above. The second possible interpretation above would introduce an 'extra' step into the deferred tax calculation, reducing the $10 initial temporary difference to nil where use is expected. The temporary difference would be reduced to nil as an increase in future taxable profit is not expected (i.e. in fact a net reduction in future tax is expected).

We highlight that even where the latter approach is applied, it does not result in the recognition of a deferred tax asset (the expected outcome), because the temporary difference resulting from the "sale basis" can presumably only be reduced to nil, rather than being adjusted to reflect the actual tax consequences expected to follow the use of the asset. Therefore, the second alternate approach only partially addresses the issues arising from the assumption of sale, which we have further illustrated in Appendix 2 to this letter.

Further, no guidance is provided regarding considerations that may be made in assessing the term "expected to affect taxable profit". Such ambiguity could lead to the notion that tax planning or future actions an entity may take may negate what would otherwise produce a temporary difference.

Accordingly, we do not support the approach adopted in the ED in relation to this matter and, as stated earlier, would instead prefer the retention of management intention approach.

Lack of convergence

One of the key stated objectives of the project is to achieve convergence with U.S. GAAP. However, this objective does not seem to have been achieved in the case of determining tax basis. The Basis for Conclusions notes that the proposed requirement to calculate tax basis with reference to the tax deductions that are available on sale or settlement is partially based on US GAAP requirements, but is "more specific". The difference in the level of specificity appears to be justified by the notion that "in most cases (the proposals) will result in a tax basis consistent with that used under US GAAP" (ED/2009/2.BC21).

In our view, the assumption of a sale or immediate settlement at reporting date is not explicitly required by US -GAAP, nor is this assumption routinely made when applying US GAAP. Instead, the 'revenue' (use) tax basis would be used in the calculation of deferred taxes where this approach is appropriate.

Additionally, the assumption of sale or settlement is not always made where entities are applying US GAAP to operations outside of the United States, e.g. subsidiaries of US listed corporations. Instead, the tax basis is determined by reference to local tax law and may result in the use of a 'use' deduction as the tax basis.

Recommendations

As noted in our covering letter, we strongly recommend the IASB does not proceed with the proposals in the ED relating to the definition of tax basis and instead commences a more thorough and comprehensive project on accounting for income taxes.

The IASB's objective should be to create a conceptually superior and principles based solution to accounting for income taxes which eliminates many of the current difficulties, is easier to interpret and apply, and has widespread constituent support. The development of a strong and coherent principle for deferred tax accounting will permit easier interpretation and application of the Standard.

A full review of income tax accounting will be a long-term project. In the meantime, we recommend the IASB undertake certain limited improvements to the existing IAS 12 through the annual improvements process. Our recommendations as to areas where improvements could be made to the existing IAS 12 to resolve issues commonly arising are outlined in Appendix 2.

In the event the Board decides to retain the ED's approach, we have included a number of additional comments and recommendations in Appendix 4.

Question 2 – Definitions of tax credit and investment tax credit

The exposure draft would introduce definitions of tax credit and investment tax credit. Do you agree with the proposed definitions? Why or why not?

Whilst we support the development of a definition of tax credit and investment tax credit, the scope of the proposed definitions is not clear. In particular there is limited guidance on the difference between tax credits, investment tax credits, 'special deductions', 'rebates', 'tax holidays' and other types of tax incentives and benefits. Accordingly, we do not feel that the proposals in this area are complete.

For example, we recommend the following additional matters be considered further in developing the definitions:

- investment tax credits can arise in relation to many types of assets, including intangible and financial assets – accordingly, limiting the definition to depreciable assets is too narrow
- the conditions around tax credits/investment tax credits often require more than just the purchase of an asset and it is unclear how these impact the definition, e.g. retention of acquired assets for a period of time
- in some cases, tax credits/investment tax credits given may be 'clawed back' if certain tax events occur, e.g. the sale of the asset and it is unclear how these claw back provisions should impact the accounting for such credits
- there is limited guidance on the difference between tax credits, investment tax credits, 'special deductions', 'rebates', 'tax holidays' and other types of tax incentives and benefits.

The final Standard should clarify the above matters and provide examples where appropriate.

We also strongly recommend the IASB develop guidance on how all forms of tax credits, including investment tax credits, are accounted for as there are many possible approaches under the hierarchy in IAS 8 *Accounting Policies, Changes in Estimates and Errors.* We are aware of the following possible treatments for investment tax credits:

- a current tax amount only, with no impact on deferred taxes
- an adjustment to the deferred tax calculation, either by adjusting the tax base or changing the expected tax rate
- accounted for as government grants by analogy to IAS 20 - this produces a substantially different recognition outcome to other alternative treatments.

The lack of clarity on the accounting for other tax incentives and benefits is problematic and results in divergence in treatment under IAS 12. Furthermore, tax credits are sometimes refundable or non-refundable – what is the appropriate accounting in such circumstances? Accordingly, we believe it is insufficient to provide a definition of 'tax credit' and 'investment tax credit' without providing guidance on the recognition and measurement of such items.

Question 3 – Initial recognition exception

The exposure draft proposes eliminating the initial recognition exception in IAS 12. Instead, it introduces proposals for the initial measurement of assets and liabilities that have tax bases different from their initial carrying amounts. Such assets and liabilities are disaggregated into (a) an asset or liability excluding entity-specific tax effects and (b) any entity-specific tax advantage or disadvantage. The former is recognised in accordance with applicable standards and a deferred tax asset or liability is recognised for any temporary difference between the resulting carrying amount and the tax basis. Outside a business combination or a transaction that affects accounting or taxable profit, any difference between the consideration paid or received and the total amount of the acquired assets and liabilities (including deferred tax) would be classified as an allowance or premium and recognised in comprehensive income in proportion to changes in the related deferred tax asset or liability. In a business combination, any such difference would affect goodwill.

Do you agree with the proposals? Why or why not?

We do not support the proposed approach in the absence of a conceptual analysis of the role of income taxes in the determination of 'fair value'. We acknowledge the existing initial recognition exceptions in IAS 12 were themselves not developed on a conceptual and principle-based approach. Conceptually, we agree that there should not be an initial recognition exemption. However, the ED's proposals would not fundamentally change the different treatments arising for assets acquired individually or in a business combination. In addition in the majority of cases, the effect of the proposals is to retain these differences and treat items in the same way as present, although via a new and complex requirement that is subjective and difficult to apply. Therefore we would retain the existing simpler approach until such time as a principle is developed and applied to determine a conceptual approach to this issue.

In particular we do not support the approach suggested in the ED for the initial measurement of assets and liabilities that have tax bases different from their initial carrying amounts for the following reasons:

- entity-specific tax consequences will be the same as a general market participant in many cases, resulting in the full deferral of any temporary difference
- the arbitrary deferral of a premium or discount is counterintuitive and in many cases will not result in an initial outcome which is materially different from the existing IAS 12
- the new approach introduces a new level of complexity in the calculation process without substantially changing the outcome
- in cases where an entity-specific tax consequence is identified, the determination of fair values is subjective and arbitrary.

Furthermore, the ED does not adequately explain the notion of an 'entity-specific tax advantages' in a manner that can be easily applied by constituents, particularly where:

- there are numerous entities that might acquire the asset (e.g. a public company, a private company, participants in the same jurisdiction as the entity or not, various classes of companies, trusts, partnerships, tax-exempt entities, foreign entities, etc)
- elections can be made to change the tax base (e.g. the 'transfer' of a seller's tax base to the purchaser, election to consolidate for tax purposes, etc)
- tax structuring opportunities exist, e.g. the acquisition of assets directly or through a 'corporate shell' – the tax outcomes under each structure can be vastly different and this is a key issue both under IAS 12 and the ED.

Recommendations

The determination of fair value, the tax impact and how these amounts reconcile to an amount initially recognised is a long-running and fundamental issue. Accordingly, we recommend this issue would be better dealt with at a conceptual level as part of the Board's fair value measurement and conceptual framework projects.

As part of this review, we would also suggest the IASB consider the impact of the definition of 'fair value' and income taxes on impairment testing under the various impairment models in IFRS, including recoverable amount testing under IAS 36 *Impairment of Assets*.

Our additional comments in the event that the IASB ultimately decides to proceed with the proposals in this area can be found in Appendix 4.

Question 4 – Investments in subsidiaries, branches, associates and joint ventures

IAS 12 includes an exception to the temporary difference approach for some investments in subsidiaries, branches, associates and joint ventures based on whether an entity controls the timing of the reversal of the temporary difference and the probability of it reversing in the foreseeable future.

The exposure draft would replace these requirements with the requirements in SFAS 109 and APB Opinion 23 *Accounting for Income Taxes—Special Areas* pertaining to the difference between the tax basis and the financial reporting carrying amount for an investment in a foreign subsidiary or joint venture that is essentially permanent in duration. Deferred tax assets and liabilities for temporary differences related to such investments are not recognised. Temporary differences associated with branches would be treated in the same way as temporary differences associated with investments in subsidiaries. The exception in IAS 12 relating to investments in associates would be removed.

The Board proposes this exception from the temporary difference approach because the Board understands that it would often not be possible to measure reliably the deferred tax asset or liability arising from such temporary differences.

Do you agree with the proposals? Why or why not? Do you agree that it is often not possible to measure reliably the deferred tax asset or liability arising from temporary differences relating to an investment in a foreign subsidiary or joint venture that is essentially permanent in duration? Should the Board select a different way to define the type of investments for which this is the case? If so, how should it define them?

We do not agree with the proposals for the following reasons:

- the rationale on which the partial retention of the exception is based is equally true for other subsidiaries
- the proposed exception is inconsistent with US GAAP and seeks to apply existing US GAAP guidance in a different way
- the exception is difficult to apply in practice without additional guidance.

Rationale for partial retention

The Basis for Conclusions in the ED notes "the Board concluded that the calculation of the amount of deferred taxes for permanently reinvested unremitted earnings of foreign subsidiaries and joint ventures is so complex that the costs of doing so outweigh the benefits" (paragraph BC43).

In our view, this same rationale can be applied to the calculation of deferred taxes arising in relation to domestic subsidiaries in many jurisdictions.

For instance, in Australia, entities that are part of a group that has consolidated for tax purposes 'retain' the tax bases of assets and liabilities on leaving the group (due to the parent selling an interest or otherwise). The group is required to perform an 'exit calculation' which determines the gain or loss arising on disposal of the subsidiary, which relies in part on the tax bases and accounting values of certain of the underlying assets and liabilities of the subsidiary disposed at the time they are disposed. These calculations are complex and onerous in many cases.

Accordingly, the determination of the tax basis of the investment (assuming the sale of the investment at the end of the reporting period) would require an 'exit calculation' to be performed at the end of each reporting period. In complex corporate groups, the determination of the outside basis difference in respect of each entity (or groups of entities) within the overall group at the end of each reporting period would be a complex and laborious task which would produce little in the way of useful information for the users of the financial statements because of the dynamic nature of the outside basis differences in these cases.

Inconsistency with US GAAP

The ED effectively creates two tests, an "essentially permanent in duration" test and a "foreseeable future" test, ostensibly to achieve consistency with US GAAP.

However, the term "essentially permanent" is not used in US GAAP in the way in which it is proposed under the ED. The "essentially permanent" concept is used in APB Opinion No. 23 *Accounting for Income Taxes—Special Areas* (APB 23) to determine the *nature* of an entity which may qualify for the exception. The APB 23 requirements provide additional guidance on how companies meet the "foreseeable future" test under FAS 109 where deferred tax *liabilities* arise.

The "essentially permanent" concept arises under APB 23 in the context of distinguishing between two types of corporate joint venture[1]:

(1) those "essentially permanent" in duration, and

(2) those having a life limited by the nature of the venture or other business activity.

The recognition exception for deferred taxes associated with corporate joint ventures is available only in relation to those corporate joint ventures of the first type. Where a corporate joint venture is of this type, any deferred tax liabilities arising in respect of the investment are essentially assessed by reference to a "foreseeable future" test similar to the existing IAS 12 test for investments.

APB 23 argues in relation to corporate joint ventures with a life limited by the nature of the venture, project, or other business activity (i.e. the second type noted above), it is a reasonable assumption that a part or all of the undistributed earnings of the venture will be transferred to the investor in a taxable distribution. Therefore, APB 23 provides guidance in these situations that the "foreseeable future" criterion in FAS 109 cannot be met for these types of corporate joint ventures.

The effect of the drafting of the ED elevates the importance of "essentially permanent" in duration and applies the concept not to the *nature* of the entity, but to *temporary differences* arising in relation to all investments in subsidiaries and joint ventures.

The guidance contained in paragraphs B5- B9 of the ED applies to deferred tax assets and liabilities, and is based on APB 23 concepts, but again this guidance is only applied in respect of deferred tax liabilities under US GAAP.

Furthermore, the "essentially permanent" test cannot be readily applied to <u>deductible</u> temporary differences arising from investments as it is difficult to envisage a circumstance where a deferred tax asset arising would meet the criteria to be "essentially permanent". For instance, if a subsidiary incurred losses, a deferred tax asset may arise representing an anticipated tax deduction

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[1] It is also noted that the US GAAP requirements apply in the context of *corporate* joint ventures, whereas the ED's proposals appear to apply to all "joint ventures", which is acknowledged may be anticipating the changed terminology in any IFRS arising from ED 9 *Joint Arrangements.*

or loss on reversal of the outside basis difference by reference to a notional sale or other transaction. Because future profits may 'reverse' the temporary difference (by increasing the carrying amount of the net assets of the subsidiary), the "essentially permanent" criterion cannot be met. Accordingly, a deferred tax asset would *always* be recognised for investments in subsidiaries and joint ventures, subject to any valuation allowance. This outcome occurs due to the ED's incorrect application of the "essentially permanent" concept from APB 23 and the ED's requirement for both tests to be met before the recognition exception could apply.

Applying the exception in practice

As currently expressed in the ED, the 'essentially permanent in duration' concept is unclear and insufficient guidance is provided on how the assessment is expected to be made. In practical terms, we believe whether a temporary difference is 'essentially permanent in duration' will effectively be assessed by considering whether a reversal is expected in the foreseeable future, particularly in light of our additional comments above regarding a lack of US GAAP convergence. Accordingly, we question whether the proposed wording is significantly better than the existing wording in IAS 12.

In common with IAS 12, there is little guidance in the ED as to how the recognition criterion is to be applied in practice. For instance, guidance on the following would be welcomed:

- the impact of anticipated future losses by a subsidiary on retained earnings in existence at the end of the reporting period, i.e. does this mean the "foreseeable future" criterion cannot be met
- how the reversal of amounts of other comprehensive income and equity reserves should be assessed, e.g. should outside basis differences indirectly arising as a result of changes in a subsidiary's hedging or revaluation reserves be presumed to be 'temporary' and ultimately reverse.

Furthermore, although the ED seeks to limit the exception to 'foreign' investments, it does not provide guidance on how a "foreign subsidiary" is to be determined. In particular:

- it is unclear whether the assessment of 'foreign' is made by reference to the immediate parent of each subsidiary or by reference to the reporting entity as a whole
- it is unclear how the 'foreign' concept should be applied where multiple levels of government exist in respect of the entity's operations, e.g. are European subsidiaries of a European entity consider 'domestic' subsidiaries regardless of the country in Europe in which they are domiciled? How are regional and state income taxes assessed?

If the Board ultimately decides to proceed with the exception only for 'foreign subsidiaries', we recommend that this term be defined using an easily applied principle. In this regard, we would recommend the term 'foreign' could be applied by reference to the primary taxing jurisdiction (in respect of each relevant income tax) for each subsidiary by comparison to the taxing jurisdiction of the immediate parent entity.

Recommendations

In light of the above analysis, we recommend:

- the recognition exception for investments be retained in its current form and wording
- additional guidance be developed to clarify how the existing IAS 12 recognition exception is to be applied in practice (our further comments on these matters can be found in Appendix 2).

Question 5 – Valuation allowances

The exposure draft proposes a change to the approach to the recognition of deferred tax assets. IAS 12 requires a one-step recognition approach of recognising a deferred tax asset to the extent that its realisation is probable. The exposure draft proposes instead that deferred tax assets should be recognised in full and an offsetting valuation allowance recognised so that the net carrying amount equals the highest amount that is more likely than not to be realisable against taxable profit.

Question 5A

Do you agree with the recognition of a deferred tax asset in full and an offsetting valuation allowance? Why or why not?

Subject to our comments below in relation to Question 6A, we agree with the proposal as it provides more meaningful information to the users of financial statements.

However, we recommend the IASB consider how valuation allowances against deferred tax assets should be treated in a business combination under IFRS 3(2008). The current recognition and measurement exceptions in respect of income taxes in paragraphs 24 and 25 of IFRS 3(2008) were cast in light of IAS 12 which does not have an equivalent valuation allowance requirement. IFRS 3(2008) establishes a general principle that valuation allowances should not be separately recognised in respect of acquired assets (such as financial assets) at the date of the business combination and accordingly, the application of the ED proposals in a business combination should be reassessed in light of this principle.

Question 5B

Do you agree that the net amount to be recognised should be the highest amount that is more likely than not to be realisable against future taxable profit? Why or why not?

We agree with the proposal. We note in many jurisdictions that the use of the term ‘probable’ under IAS 12 has been interpreted as meaning ‘more likely than not’. Therefore, we believe this change will assist in achieving global consistency in application of the requirements.

However, application of this proposal would benefit from further guidance, in particular with respect to the time horizon to be considered in determining recovery.

Question 6 – Assessing the need for a valuation allowance

Question 6A

The exposure draft incorporates guidance from SFAS 109 on assessing the need for a valuation allowance. Do you agree with the proposed guidance? Why or why not?

We agree with the proposed guidance.

However, we strongly suggest the IASB extend the guidance on how to assess the ‘more likely than not’ criterion where tax losses, tax credits or anticipated losses are able to be indefinitely carried forward under the operative taxation laws of a jurisdiction. In our experience, this has been an area of considerable debate and uncertainty under IAS 12.

Furthermore, the proposed guidance in paragraph B18 about how tax planning strategies are taken into account in the determination of the amount of a valuation allowance is unclear and arguably permissive. It is unclear whether the tax planning strategies must be *possible* or whether they must actually be *intended* to be undertaken by the entity. This approach can also be seen as inconsistent with the proposed treatment for a change in tax status, which requires the event to have happened before the tax consequences are recognised.

We recommend additional guidance be provided on these matters, particularly that a tax planning strategy must both be *feasible* and *intended to be taken* by the entity before it can be taken into account in the valuation allowance assessment.

Question 6B

The exposure draft adds a requirement on the cost of implementing a tax strategy to realise a deferred tax asset. Do you agree with the proposed requirement? Why or why not?

We agree with this proposal. In some cases, the cost of implementing a tax strategy to realise a deferred tax asset could be significant and excluding those costs from the determination of the profit to be generated by the strategy in assessing the need for a valuation allowance would overstate the net benefit expected.

We recommend, however, that guidance be provided to allow entities to differentiate between the costs of implementing a tax strategy to realise a deferred tax asset and other tax administration costs an entity might incur. In our view, the costs taken into account in the determining the valuation allowance should only be those costs which are direct and incremental to other tax administration costs the entity would ordinarily expect to incur.

The guidance should also clarify that when such costs are actually incurred for the execution or implementation of a tax planning opportunity, the costs themselves do not form part of income tax expense.

Question 7 – Uncertain tax positions

IAS 12 is silent on how to account for uncertainty over whether the tax authority will accept the amounts reported to it. The exposure draft proposes that current and deferred tax assets and liabilities should be measured at the probability-weighted average of all possible outcomes, assuming that the tax authority examines the amounts reported to it by the entity and has full knowledge of all relevant information.

Do you agree with the proposals? Why or why not?

We agree it is appropriate to assume that the tax authority will examine the amounts reported by an entity and have full knowledge of all relevant information when measuring current and deferred taxes. However, we do **not** agree with the measurement aspects of this proposal.

The use of a probability- weighted approach to measure each individual item included in the tax return produces an outcome in respect of each item that rarely represents any particular expected outcome. In other cases, uncertainties in respect of individual items included in the tax return will be expected to be settled with tax authorities on an ‘aggregate’ basis, i.e. in relation to the tax return as a whole. We find that this is common practice across many jurisdictions.

Income taxes are a complex area for many companies and we believe the measurement proposed by the ED is both onerous and, in our view, inconsistent with the relevance and reliability characteristics of the *Framework.*

Recommendation

We recommend that uncertainty in the measurement of income taxes should be determined using a basis largely consistent with IAS 37 *Provisions, Contingent Liabilities and Contingent Assets.*

Around the world, there are numerous approaches to the resolution of uncertainties by the relevant tax authorities. At one extreme, some tax authorities consider each tax amount (deduction or income) on its own merits and either allow it or not, without any scope of a negotiated settlement (i.e. a ‘binary’ outcome).

Conversely, other tax authorities will seek to review an entity’s tax affairs for a period or a number of periods and reach a negotiated settlement with the entity in relation to the various uncertainties in those periods.

In our view, the measurement of uncertainty in relation to income taxes should reflect the economic reality of this diversity.

Accordingly, we believe any final Standard resulting from the ED should clarify:

- uncertainty is measured by reference to a unit of account which reflects how the entity expects to settle its uncertain tax positions with the relevant tax authority in each jurisdiction in which it operates
- the amount ultimately recognised should reflect the possible outcome (on the basis of the unit of account) which is 'more likely than not' of actually occurring from that settlement process with the tax authority.

The following examples illustrate how this approach would be applied:

- in a simple tax uncertainty where, for example, each particular deduction will be individually considered by the tax authority and either sustained or not, this approach would result in measurement of the uncertainty at the level of each deduction and recorded at the most likely outcome (nil or the full amount of the deduction, whichever is more likely than not)
- if a taxing authority is expected to reach an negotiated settlement with the entity at an 'aggregate' level (e.g. the tax return as a whole), the measurement would reflect the aggregate settlement which is more likely than not of occurring at that aggregate level, i.e. considering the uncertainty in respect of the tax return as a whole, rather than individual assessments of outcomes that might occur in relation to each item included in the tax return.

We also believe this approach is consistent with the ED's approach to the determination of the valuation allowance for deferred tax assets, which also adopts a 'more likely than not' approach.

Other guidance and improvements

Additional guidance is also required in the following areas:

- the treatment of 'highly certain tax positions' – consideration should be given to not applying the uncertain tax position requirements to these items so as not to add undue burdens in documentation
- providing clarification and illustrative examples regarding transactions that cross tax jurisdictions, such as transfer pricing, the impact of "competent authority", and foreign exchange – the outcome in one area will have a 'flow on' impact in other areas
- how 'tax planning strategies' should be taken into account in assessing uncertainties – in this regard, guidance should be included on whether, and if so, how the impact of 'tax planning strategies' or elections available to the entity should be taken into account in the measurement of uncertain tax positions.

In addition, we strongly suggest additional guidance be included in relation to the recognition and measurement of income tax-related interest and penalties related to uncertain tax positions as the ED is currently silent on this matter. Additionally, where interest and penalties are presented together with income taxes, it is unclear whether any interest element that is itself deductible for tax purposes is included on a gross or net of tax basis.

Furthermore, the general disclosure requirements of the ED are unclear about exactly what disclosure the IASB is expecting entities to make in relation to uncertain tax positions. It is important that an appropriate balance is found in formulating the volume and detail of the final disclosures required. We recommend any final Standard clearly outlines the natures of the disclosures required. However, we strongly recommend any disclosures be made on an *aggregated* basis, not for individual tax deductions or other amounts where uncertainty exists.

Question 8 – Enacted or substantively enacted rate

IAS 12 requires an entity to measure deferred tax assets and liabilities using the tax rates enacted or substantively enacted by the reporting date. The exposure draft proposes to clarify that substantive enactment is achieved when future events required by the enactment process historically have not affected the outcome and are unlikely to do so.

Do you agree with the proposals? Why or why not?

We agree with this proposal.

Consistent with the Board's usual practice, we recommend that the references to specific jurisdictions in relation to this matter be removed, as any changes in procedures or laws in the cited jurisdictions may necessitate a revision to the Standard. Furthermore, there are other jurisdictions (i.e. other than the US) where it might also be appropriate to wait for enactment before reflecting a change in tax rate. Accordingly we recommend the Board delete the following sentence in the final Standard:

> *In the US tax jurisdiction, substantive enactment is only achieved on enactment.*

However, this does not preclude clarification in the form of 'hypothetical' examples illustrating common legislative processes (not mentioning any actual jurisdiction) from being included in the guidance that illustrates when a tax law is enacted or substantively enacted.

Question 9 – Sale rate or use rate

When different rates apply to different ways in which an entity may recover the carrying amount of an asset, IAS 12 requires deferred tax assets and liabilities to be measured using the rate that is consistent with the expected manner of recovery. The exposure draft proposes that the rate should be consistent with the deductions that determine the tax basis, i.e. the deductions that are available on sale of the asset. If those deductions are available only on sale of the asset, then the entity should use the sale rate. If the same deductions are also available on using the asset, the entity should use the rate consistent with the expected manner of recovery of the asset.

Do you agree with the proposals? Why or why not?

Consistent with our views on question 1, we disagree with this proposal.

The assumption of the sale rate in the circumstances cited is arbitrary and conceptually difficult to justify as it can produce a deferred tax balance that does not represent an actual tax outcome the entity could reasonably anticipate.

In the event the proposed requirements are retained, we would prefer additional guidance be provided on how to determine the appropriate rate to apply. The rationale for the requirements of paragraph B29, its interaction with requirements of paragraph 15(a) and its application, are difficult to understand and apply in practice. For example, in situations where the recovery of an asset is partially exempt from tax on sale, it is unclear whether the carrying amount of the asset should be *componentised* to achieve an outcome which is logical and reflective of the actual tax consequences expected. Further discussion on this can be found in Appendix 3.

Question 10 – Distributed or undistributed rate

IAS 12 prohibits the recognition of tax effects of distributions before the distribution is recognised. The exposure draft proposes that the measurement of tax assets and liabilities should include the effect of expected future distributions, based on the entity's past practices and expectations of future distributions.

Do you agree with the proposals? Why or why not?

We do not agree with this proposal. The impact of this proposal on an entity that is always expected to distribute a specified percentage of profits, possibly to meet a legal, constitutional, taxation or other requirement, may be easy to apply and understand. However, for other entities the proposals may be very onerous to apply and result in information that is not easily understand.

Many entities do not have a policy to distribute a fixed percentage of profit. In fact entities may commonly have a policy to deliver a constant growth rate of dividend per share year on year. So even though profits fall in one particular year the entity will, subject to any legal requirements, maintain the dividend level, and in other years of increased profits may not increase dividends.

To apply the proposals in the ED it would be necessary to forecast the profits for future years, determine the likely dividend level for each year and determine what percentage of profit that represented. A 'mixed' tax rate reflecting the proportion of profits to be distributed and retained would be determined for each year. (This assumes profits are paid out of profits generated in that particular year, but if losses are forecast in any year the determination is even more complicated.) There would be a different expected rate to apply each year because in one year say 30% of profits may be expected to be distributed and in the next 25%. To determine the deferred tax balances it would be necessary to schedule out the expected reversal of all temporary differences to apply the 'mixed' rate expected to apply for a particular year.

The resulting effective tax rate will be different from year to year. In addition to being very onerous to calculate, it will be difficult to explain the effective tax rate.

Recommendations

We believe that the current requirement to use the tax rate applicable to undistributed profits should be retained, with the requirement to disclose the impact of any distribution as this provides meaningful information to users.

The Board have indicated that this proposal was intended to result in more useful information for 'quasi-exempt' entities such as real estate investments trusts. In many jurisdictions such entities are required to distribute a certain level of profits in order to maintain their effective 'tax exempt' status. We agree that more useful information for these entities would be provided by not recognising a possible tax consequence that is not expected to occur, which the Board seeks to achieve by taking into account the effect of expected future distributions on the tax rate that is expected to apply.

However a similar outcome could be achieved by considering the loss of the effective 'tax exempt' status not as a change in the base tax rate but rather as a change in tax status which is only recognised in the event that the relevant tax requirements are not met and the entity's tax exempt status changes. This would also require deferred tax balances to reflect any conditions necessary to maintaining the entity's current tax status.

It is also noted that in some jurisdictions, more than just the tax rate is impacted by the loss of 'tax exempt' status. Failure to comply with the relevant requirements might also affect the entity's tax values, the manner in which transactions are taxed (e.g. on revenue or capital account, or how gains/losses are calculated), trigger a penalty payment based on the market value of assets, or other effects. It is unclear how these additional consequences of not paying a distribution should be treated under the ED's proposals. However, under the alternate approach suggested above, such effects would only be recognised in the event that the 'tax exempt' status was lost such that a change in 'tax status' occurred. Complimentary disclosures could be required for the entity to explain the entity's tax status, any key conditions that must be maintained to retain that tax status, and the consequences in the event that those key conditions are not met.

Question 11 – Deductions that do not form part of a tax basis

An entity may expect to receive tax deductions in the future that do not form part of a tax basis. SFAS 109 gives examples of 'special deductions' available in the US and requires that 'the tax benefit of special deductions ordinarily is recognized no earlier than the year in which those special deductions are deductible on the tax return'. SFAS 109 is silent on the treatment of other deductions that do not form part of a tax basis.

IAS 12 is silent on the treatment of tax deductions that do not form part of a tax basis and the exposure draft proposes no change.

Do you agree that the exposure draft should be silent on the treatment of tax deductions that do not form part of a tax basis? If not, what requirements do you propose, and why?

We do not agree with the ED remaining silent on this issue. The treatment of additional deductions is a difficult area and there is significant diversity in practice; accordingly, guidance would be useful. However, we do not believe that in all cases, deferring recognition of the deduction until it is claimed in the tax return is an appropriate recognition criterion for such items.

It can be difficult at a conceptual level to reconcile the difference between a special deduction and a tax credit in relation to assets and liabilities, as both produce an equivalent economic outcome in substance. In some cases, a special deduction or tax credit may have the effect in substance of reducing the effective tax rate applied, or expected to be applied, to a particular income tax year. In other cases, these items may effectively be a government grant for the acquisition of certain assets or the undertaking of certain expenditure. Elections available to the entity also impact the outcomes in many cases.

We recommend the Board develop guidance on accounting for these items and establishes clear principles, definitions and guidelines. This should include details as to how these items should be classified between tax credits, investment tax credits and 'special deductions' and, how each should be appropriately recognised and measured. Further information on our view regarding the treatment of tax credits can also be found in our response to Question 2.

Question 12 – Tax based on two or more systems

In some jurisdictions, an entity may be required to pay tax based on one of two or more tax systems, for example, when an entity is required to pay the greater of the normal corporate income tax and a minimum amount. The exposure draft proposes that an entity should consider any interaction between tax systems when measuring deferred tax assets and liabilities. (See paragraph BC89 of the Basis for Conclusions.)

Do you agree with the proposals? Why or why not?

Whilst we support the application of the proposed requirements in relation to tax systems where the rate of tax applied depends on a particular factor (such as the level of taxable income), we believe the wording of the requirements could potentially capture other arrangements where there are two quite distinct tax systems which are indirectly linked in some way.

For example, production taxes are paid as a form of additional tax on the profits of oil and gas companies in a number of jurisdictions. It is quite common for these taxes to be determined on a basis that is very different from 'normal' income tax (e.g. the upfront full deduction of capital expenditure) and additionally, the production taxes paid are usually deductible against 'normal' taxable profits. Where the production tax is considered to be an income tax, is it unclear how the proposals would be applied, i.e. should an 'aggregate' rate be determined and applied to the temporary differences arising, or should separate tax calculations be performed for each tax system?

Similar issues arise where income is subject to withholding taxes in one jurisdiction but income taxes in another or where the operations of branches are subject to more than one taxing authority. In these cases, it is unclear whether an entity is meant to calculate deferred taxes on an 'aggregated' basis, or whether separate calculations are required. Again, the practical application of an 'aggregated' approach is problematic because the taxing events, methodology and timing may be very different between the jurisdictions seeking to tax the activity.

We believe this requirement, if retained, should be clarified and limited in scope to make it clear when an 'aggregate' approach is required. Additional guidance needs to be given as to when two tax systems are sufficiently related to require the 'aggregate' approach.

Question 13 – Allocation of tax to components of comprehensive income and equity

IAS 12 and SFAS 109 require the tax effects of items recognised outside continuing operations during the current year to be allocated outside continuing operations. IAS 12 and SFAS 109 differ, however, with respect to the allocation of tax related to an item that was recognised outside continuing operations in a prior year. Such items may arise from changes in the effect of uncertainty over the amounts reported to the tax authorities, changes in assessments of recovery of deferred tax assets or changes in tax rates, laws, or the taxable status of the entity. IAS 12 requires the allocation of such tax outside continuing operations, whereas SFAS 109 requires allocation to continuing operations, with specified exceptions. The IAS 12 approach is sometimes described as requiring backwards tracing and the SFAS 109 approach as prohibiting backwards tracing.

The exposure draft proposes adopting the requirements in SFAS 109 on the allocation of tax to components of comprehensive income and equity.

Question 13A

Do you agree with the proposed approach? Why or why not?

We do not agree with the proposed approach. We believe 'backwards tracing' is conceptually superior to the US GAAP approach and recommend the approach in the existing IAS 12 be retained.

Question 13B

The exposure draft deals with allocation of tax to components of comprehensive income and equity in paragraphs 29–34. The Board intends those paragraphs to be consistent with the requirements expressed in SFAS 109.

Would those paragraphs produce results that are materially different from those produced under the SFAS 109 requirements? If so, would the results provide more or less useful information than that produced under SFAS 109? Why?

In light of support for the existing IAS 12 approach to this issue, we have no comment on this question.

Question 13C

The exposure draft also sets out an approach based on the IAS 12 requirements with some amendments. Do you think such an approach would give more useful information than the approach proposed in paragraphs 29–34? Can it be applied consistently in the tax jurisdictions with which you are familiar? Why or why not?

As noted above, we prefer the 'backwards tracing' concept to be retained. Whilst there are some practical difficulties in the application of those requirements under the existing IAS 12, we do not believe the practical difficulties are sufficient to warrant an approach which is difficult to support from a conceptual viewpoint.

However, we acknowledge that guidance may need to be given on how a valuation allowance is allocated between the components of the financial statements in the event the 'backwards tracing' requirements are retained.

Question 13D

Would the proposed additions to the approach based on the IAS 12 requirements help achieve a more consistent application of that approach? Why or why not?

In light of support for the existing IAS 12 approach to this issue, we have no comment on this question.

Question 14 – Allocation of current and deferred taxes within a group that files a consolidated tax return

IAS 12 is silent on the allocation of income tax to entities within a group that files a consolidated tax return. The exposure draft proposes that a systematic and rational methodology should be used to allocate the portion of the current and deferred income tax expense for the consolidated entity to the separate or individual financial statements of the group members.

Do you agree with the proposals? Why or why not?

We agree with the proposals, but we understand the limited nature of the proposals may result in calls for further guidance. Should this occur, we believe the Board should consider the impacts of any such guidance on different regimes so that sensible outcomes can be achieved in each jurisdiction. In particular, we believe that the proposals should *not* apply in jurisdictions where some group relief is permitted (e.g. the transfer of tax losses between entities in a group), but each entity is assessed separately for tax in the first instance.

Question 15 – Classification of deferred tax assets and liabilities

The exposure draft proposes the classification of deferred tax assets and liabilities as current or non-current, based on the financial statement classification of the related non-tax asset or liability.

Do you agree with the proposals? Why or why not?

We disagree with this proposal.

Temporary differences may 'reverse' in a particular period but be expected to be replaced with equivalent temporary differences by the end of the period. For example, accrued expenses may be deductible for tax purposes when paid, but a similar level of accruals are expected at the end of the next period. It is somewhat unclear whether the ED would require the amount to be classified as current to be determined by reference to the underlying accrual at the reporting date (so entirely shown as current), or the impact on future tax payments (which means only the any expected reduction net change in the deferred tax amount, if any, is shown as current)?

We also note the ED's calculation methodology of relying on the assumption of sale or settlement at the reporting date may not accord with the entity's expectations as to reversal of the related temporary differences. In these cases, it will be difficult to determine how much of the overall temporary difference should be classified as current because there may be no rational basis for making the determination, i.e. the temporary difference will bear no relationship to the current tax implications in the subsequent reporting period.

Accordingly, in light of the complicated nature of the calculations required and the lack of meaningful information provided by arbitrarily bifurcating amounts between current and non-current, we believe the existing IAS 12 approach should be retained.

Question 16 – Classification of interest and penalties

IAS 12 is silent on the classification of interest and penalties. The exposure draft proposes that the classification of interest and penalties should be a matter of accounting policy choice to be applied consistently and that the policy chosen should be disclosed.

Do you agree with the proposals? Why or why not?

We agree with the proposals, particularly in light of the ED's proposals for the measurement of uncertain tax positions. In many jurisdictions, uncertain tax positions are settled on a 'net' basis that includes the tax avoided and the associated interest and penalties and providing entities with the choice of presenting such settlements as a single amount in income tax expense avoids the need to undertake arbitrary allocations.

Question 17 – Disclosures

The exposure draft proposes additional disclosures to make financial statements more informative. Do you agree with the proposals? Why or why not?

The Board also considered possible additional disclosures relating to unremitted foreign earnings. It decided not to propose any additional disclosure requirements. Do you have any specific suggestions for useful incremental disclosures on this matter? If so, please provide them.

We generally agree with the disclosures proposed as we believe they provide relevant information for users.

Our concerns regarding the proposed disclosure requirements for uncertain tax positions are outlined in our response to Question 7.

In relation to unremitted foreign earnings, we believe the existing disclosure requirement around this item is itself onerous as the calculations required to determine the temporary difference is onerous in some cases (as discussed in our response to Question 4). Accordingly, we would prefer any disclosure in relation to unrecognised deferred taxes associated with investments be limited to a narrative of the nature of the tax exposure of the consolidated group and how any tax amount would be determined, without providing details of the amount of those temporary differences or deferred taxes.

The proposed disclosures in paragraph 48(g) are also of concern as the entity affected may not have access to the information necessary to collate the disclosures in some cases, i.e. where the tax bases are effectively dependent upon the tax status and elections of the investors in the entity.

Question 18 – Effective date and transition

Paragraphs 50–52 of the exposure draft set out the proposed transition for entities that use IFRSs, and paragraph C2 sets out the proposed transition for first-time adopters. Do you agree with these proposals? Why or why not?

We agree with the proposals, subject to our comments below.

In relation to the proposals for first-time adoption under IFRS 1, we believe it is appropriate to include the impact in opening retained earnings as to adjust other accounts would be too onerous and complicated. Taken in the context of the overall transitional adjustments an entity may make on applying IFRS 1, the impact of alternate approaches would not produce information that is more relevant and reliable than the pragmatic approach proposed.

Furthermore, the application of the proposed IFRS 1 exemption for pre-existing 'day 1' temporary differences that have arisen on the initial recognition of an asset or liability is unclear. The proposals require an entity to assume the asset was purchased for the amount determined under the measurement provisions of IFRS to remove the entity-specific tax effects. However, it is uncertain how the entity-specific tax effects in this context should be determined at initial recognition and whether it is, the net residual cumulative effect on the date of adoption, or something amount. We recommend a clear example be provided illustrating this requirement..

Appendix 2 – Common areas of difficulty in applying IAS 12

As noted elsewhere in this letter, we believe the proposed calculation methodology in the ED and its reliance on an assumption of sale at the reporting date is flawed, does not produce meaningful outcomes and is unhelpful in addressing the issues commonly arising under IAS 12. We would instead prefer the existing 'management intention' approach be retained and specific guidance be developed to eliminate existing uncertainties in applying this approach.

This appendix outlines some of the common issues arising under the existing IAS 12 and our recommendations as to how those issues might be resolved.

Scope

The ED provides limited additional guidance on the types of government imposts which are considered income taxes and so subject to the requirements of the ED. The recent IFRIC agenda rejection statement on this matter has been incorporated into the ED without any additional details as to how the guidance might be applied.

Notwithstanding the additional guidance, there are a number of government imposts which cause difficulty in this area, including:

- 'tonnage taxes' applied in lieu of income taxes (some lending themselves to an income tax analogy, while others are clearly not akin to income tax at all)
- withholding taxes on interest and royalties (which impact the effective tax rates of affected entities and may undermine comparability)
- resource rent taxes (which are a form of 'economic rent' but exhibit characteristics of an income tax)
- resource royalties and production sharing arrangements (which can mimic resource rent taxes in some cases).

We recommend the Board incorporate more guidance on how to determine whether particular imposts are income taxes.

Calculation methodology

We recommend the existing requirements of IAS 12 be modified to require, in jurisdictions where the recovery through use and sale are taxed under different income taxes with no interaction or offset (e.g. balancing adjustments), to require a 'split' of assets and liabilities into their component tax consequences and then apply an 'expected to affect taxable profit' test to each component. This approach would then separately reflect the actual expected tax consequences arising from the recovery or settlement of assets and liabilities, which in our view is more consistent with the objectives stated in the ED.

For example, if for a particular building there is no interaction of use and sale taxes, the carrying amount of a building would be bifurcated into the amount expected to be recovered through use (revenue) and the amount recovered through sale (capital). Each of these components would then be compared to the tax basis (future tax deductions or assessable amounts) expected in relation to that component and separate deferred tax calculations performed for each component.

This approach allows management intention to be more readily built into the deferred tax calculation and produces an outcome which better reflects the actual expected tax consequences from the recovery or settlement of assets and liabilities.

Where the asset or liability was expected to be fully recovered or settled only with one tax consequence, only one deferred tax calculation would be required, e.g. an asset expected to be fully used and recovered on 'revenue' account with would have a single revenue tax base.

We believe this approach produces an outcome that is more consistent with the objective of recording the tax payable or recoverable in future periods as a result of past transactions or events.

This is because the amounts recorded using this approach produce an outcome more closely reflecting the expected future tax cash flows and therefore provides a better basis for users to make informed decisions about the taxation consequences the entity expects.

We also believe this approach, together with our other recommendations elsewhere in this appendix, would assist to resolve many of the interpretational issues arising under the existing IAS 12.

Tax items effectively incorporated into goodwill or arising from tax 'step ups' to tax basis resulting from transactions not recognised under IFRS.

In many jurisdictions, tax deductions (often in the form of depreciation or amortisation) arise in relation to business combinations where a separate, or different, asset is not recognised when accounting for the business combination under IFRS 3 *Business Combinations.*

In these situations, the amount giving rise to the tax deduction is often effectively recognised as part of goodwill for accounting purposes. The question then becomes whether the benefit of the deduction should be recognised as:

- a separate deferred tax asset as part of accounting for the business combination, or
- 'attached' to the goodwill as part of the tax basis of the goodwill, which may impact the recognition of deferred taxes in future periods due to the recognition exception for goodwill.

Similar issues can also arise from 'statutory' mergers or demergers, re-domiciling of an entity and other transactions which are not accounted for under IFRS 3 but which affect the tax values of the entity's assets (sometimes referred to as a 'step up' in tax basis), liabilities and equity amounts. In some cases, the taxing authority may recognise an asset, liability or other deduction that is not recognised for accounting purposes.

In these cases, the question becomes how to account for the benefit of the 'step up', particularly for items not recognised for accounting purposes.

In our view, the most appropriate method of accounting for these items is to recognise a separate deferred tax asset as we believe it better reflects the economic substance of the nature of the deductions available.

The existing IAS 12 is unclear on this matter and we recommend the IASB provide guidance on this matter.

Investment properties

There is a lot of uncertainty around the calculation of deferred taxes arising in relation to investment properties are accounted for on the fair value basis under IAS 40 *Investment Properties*, and diversity has developed in practice.

The key issues arising are as follows:

- whether it is possible to assume the expected method of recovery is 'hold and then sell', i.e. none of the carrying amount of the investment property is expected to be recovered through 'use'
- how deferred taxes are to be calculated where investment properties are held in 'shell' structures that eliminate, or effectively indefinitely defer, taxes on sale.

We recommend the Board reconsider these two issues and develop a principle reflecting the substance of the future tax consequences expected.

The key issue in this area is how the concept of 'fair value' is determined where there are multiple tax consequences and potentially conflicting requirements between IAS 12 and other Standards (particularly IAS 40). The fair value determined on the application of IAS 40 is effectively a 'net of tax' fair value but IAS 12 would then seek to separately recognise the deferred tax consequences, potentially leading to double-counting. In other cases, the deductions available on use and sale can be quite different.

In light of these conflicts, we recommend the Board implement the following interim solution whilst the longer term income tax project proceeds:

- a rebuttable presumption be introduced that investment properties, as non-depreciated assets, be expected recovered fully through sale, unless the entity is able to illustrate otherwise, e.g. the investment property is being rented whilst awaiting redevelopment which involves the demolition of the structure
- the expected method of ultimate disposal should be reflected in the deferred tax accounting calculation, i.e. if the asset is expected to be sold in a 'shell' structure (effectively as an 'asset' rather than as a 'business'), the tax consequences of selling the investment property in that 'shell' structure be recognised as deferred tax
- any revenue deductions available be accounted for by applying the recommended calculation methodology outlined above.

This guidance would achieve consistency in application of the existing IAS 12, eliminate the potential conflict between IAS 12 and IAS 40 and result in an outcome best reflecting the actual tax consequences expected by the entity.

This approach is also superior to the 'assume sale at reporting date' approach in the ED as it provides a mechanism (through the 'rebuttable presumption') to avoid many of the unusual outcomes resulting from applying the 'rule' in the ED, and additionally reflects the actual tax consequences expected.

Intangible assets

Deferred tax issues arising in relation to intangible assets are in many ways similar to the investment property example noted above.

Common areas where interpretational difficulties arise include:

- intangible assets without tax depreciation available, but which yield taxable profits by being employed in the business, e.g. brand names
- intangible assets which are not amortised for accounting purposes as they are considered to have 'indefinite' useful lives, but which have tax depreciation available (sometimes referred to as 'black hole expenditure')
- intangible assets arising in business combinations that do not separately acquire a tax value (as the tax basis is effectively ascribed to the entity as a whole).

We do not believe the 'assume sale at reporting date' assumption proposed in the ED suitably rectifies these issues as it can result in outcomes that do not represent any actual tax consequence expected.

Instead, we recommend the Board implement the following interim solution whilst the longer term income tax project proceeds:

- the principles of SIC-21 be extended to intangible assets with indefinite useful lives, i.e. these assets are presumed to be recovered through sale and not use
- other intangible assets be assessed by reference to the amortisation calculation, i.e. the depreciable amount is recovered through use and the residual value through sale
- any revenue deductions available be accounted for by applying the recommended calculation methodology outlined above.

This guidance would achieve consistency in application of the existing IAS 12, eliminate the potential conflict between IAS 12 and IAS 38 and result in an outcome that best reflects the actual tax consequences expected by the entity.

Investments in subsidiaries

The determination of the 'outside basis difference' in relation to investment in subsidiaries can be problematic in practice. The carrying amount of investments can effectively be recovered in many ways (e.g. sale, liquidation, distribution, returns of capital). The determination of management intention and the various methods of recovery is problematic in cases where management intends to effectively 'hold' the investment indefinitely.

We do not believe recognising the tax consequences of sale in these circumstances (as is proposed by the ED) best reflects the actual tax consequences expected, unless the entity clearly intends to realise the carrying amount of the investment in this manner.

Instead, we would prefer the Board provide guidance on how an 'indefinite' intention to hold a subsidiary is taken into account when deferred tax accounting. In many cases, entities will utilise all available tax structuring opportunities to minimise the amount of tax that might ultimately be payable on disposal of a subsidiary, e.g. it is common in some jurisdictions for tax-free distributions to be paid for all retained earnings prior to disposal. We believe entities should be able to take these tax structuring opportunities into account when determining the amount of deferred tax to recognise, so long as those opportunities are currently available to the entity. To this end, we recommend the existing guidance on 'minimum' amounts of tax included in IAS 12 in relation to associates be extended to subsidiaries.

However, a further complication arises as a the result of the Board's recent amendments to IAS 27 *Consolidated and Separate Financial Statements* and IAS 18 *Revenue*, requiring all distributions to be recognised as revenue. These amendments have added additional uncertainty in how to recognise the tax consequences of investments in subsidiaries in separate financial statements as it might be argued the carrying amount of the investment cannot be recovered through 'distribution', even though such a distribution may directly lead to the recognition of an impairment loss on the application of the related amendments to IAS 36 *Impairment of Assets*. We recommend the Board consider these impacts and provide clear guidance on how deferred tax accounting should be performed for investments in separate financial statements.

Appendix 3 – Jurisdictional and general examples where the "sales basis" approach proposed by the ED produces unusual outcomes

We have identified a number of examples that illustrate the proposals in the ED can result in the recognition of deferred tax balances that do not reflect the anticipated tax consequence which triggered the deferred tax calculation under paragraph 12(a) of the ED.

The following are some examples of potentially counter-intuitive outcomes occurring as a result of the assumption of sale in determining the tax basis of an asset as proposed in the ED:

New Zealand

Capital gains in New Zealand are generally exempt from taxation. The assumption of sale requirement, combined with the 'rule' deeming the tax basis to be equal to carrying amount where sale would not give rise to taxable income, would mean no temporary difference arises in respect of these assets. Accordingly, no deferred tax would be recognised even though expected tax consequences arise through use.

However, some assets are permitted tax depreciation as the asset is being used and this depreciation is 'recouped' on sale, i.e. a taxable amount arises where the proceeds on sale exceed the tax written down value, but only to the extent of the original purchase price. In this case, the application of the ED's requirements is unclear (particularly the interaction of paragraphs 15(a) and B29 of the ED) and may lead to the recognition of a deferred tax liability even though the amount of any revaluation in excess of the original carrying amount is expected to be recovered in a tax exempt manner (i.e. sale). Our concerns about this treatment are explained further in Appendix 4 in our comments on the Illustrative Examples.

Hong Kong

The sale of certain properties in Hong Kong is exempt from taxation, but tax depreciation is permitted from ongoing use. Under the ED the tax basis would be set equal to carrying amount and no deferred tax would be recognised, even though a tax consequence would be expected in future periods from use of the asset.

Australia

Certain 'pre capital gains tax' assets in Australia are exempt from taxation on sale and on occurrence of other 'capital gains tax events', but income from ongoing use is taxable and some tax depreciation is permitted.

Additionally, the tax-consolidation regime in force in Australia has the effect of 'pushing down' the cost of a business combination to the underlying assets and liabilities acquired. The effect is that assets obtain a tax basis close to fair value but which is often on 'capital account' such that the deduction is only realised on sale (or if other tax events occur).

As with the other examples, no deferred tax is recognised, even though future tax is expected under paragraph 12(a) of the ED.

Canada

In Canada, there is a 'cumulative eligible capital' concept. Gains tax on the sale of cumulative eligible capital are inclusions in taxable income. In particular, only 2/3 of 75% of the gain is included in taxable income; therefore, is the remaining 25% considered to be a tax deduction for the purposes of computing tax basis? Furthermore, cumulative eligible capital might relate to certain intangibles which are rarely sold. Applying the exposure draft requirements will result in the acquiring entity recording a deferred tax liability that will approximate one-half of the company's actual tax exposure,

Additionally, the Canadian income tax mechanics could result in a partner paying less tax on the sale of its partnership interest as a whole rather than the partnership selling the underlying assets, despite the fact that the partner is directly exposed to the underlying tax consequences of the partnership's assets and liabilities; if the exposure draft is interpreted to require determination of tax basis on the assumption the partner will sell its partnership interest as a whole (rather than the underlying assets), it would often result in the partner recording deferred taxes that are lower than its actual tax exposure, considering the partner generally expects the partnership to use the underlying assets rather than sell them. .

United Kingdom

Under the UK tax system, many buildings, such as industrial buildings, do not receive any tax depreciation but costs and an indexed cost is deductible on ultimate sale of the building or if it becomes worthless as a 'negligible value claim'. In many cases, the building is used until it has negligible value, during which time taxable profits are generated as it is used. However, the application of the sale assumption under the ED will generally result in the recognition of a deferred tax asset for the full sales tax basis in excess of the carrying value, the reversal of which would produce a capital loss, which would, with possibly need a corresponding valuation allowance.

Recovery of the corporate shell versus underlying asset

In many jurisdictions, assets are commonly held and traded in 'corporate shells' or similar vehicles. There is commonly no history of the sale of assets disposed other than within the corporate shell and the tax consequences of doing so may either be unclear in the relevant jurisdiction, or alternatively the deductions permitted on sale may be punitive and never be expected in practice. However, the sale assumption would require these punitive consequences to be recognised as deferred tax.

Capitalised research and development costs taxable upon sale

A deduction for research and development is permitted in many jurisdictions. Commonly the expenditure is expensed for accounting purposes but deductible over a period of time (e.g. five years) for tax purposes, sometimes on an 'inflated' basis (e.g. deduction of 150% of expenditure). In some jurisdictions, in the event that the entity sells the research and development project to another party, the entitlement to deductions ceases and often the proceeds are fully taxable. In these cases, the 'assumption of sale' would produce a tax basis of nil. No deferred tax would be recognised even though the entity has a carried forward entitlement to tax deductions.

The ED includes specific guidance on how to determine the tax basis for items that do not have a carrying amount in the statement of financial position (paragraph 16). However, there is no clear justification as to why the assumption of sale or settlement at reporting date is not applied for these items.

Outside basis differences expected to reverse through distribution

In a number of jurisdictions, it is common for distributions paid from certain subsidiaries to their parents to effectively be non-taxable. When accounting for the investment in the subsidiary in the consolidated financial statements, the reporting entity may have the intention to fully or partially realise the investment using tax-free distributions.

Under the proposals in the ED, if the aggregate carrying amount of the net assets of the subsidiary is expected to be fully recovered through distribution (or another non-taxable transaction), it might be argued that the requirements of paragraph 10 would result in no deferred taxes being recognised.

Conversely, if the aggregate carrying amount of the net assets of the subsidiary are only *partially* expected to be recovered through non-taxable distributions and partially through a taxable transaction (e.g. taxable capital gain or taxable distribution), the requirements of paragraph 10 would not apply and a deferred tax calculation would be required to be performed[2].

Where a deferred tax consequence is expected, the tax basis used in the outside basis difference calculation would be determined by reference to sale. The deductions available on sale are likely to be different from those arising from 'use' (recovery through distribution) and accordingly, the sale rate might be applied to the entire temporary difference (applying paragraph B29 of the ED) and a deferred tax liability recognised for the full extent of the temporary difference.

This deferred tax liability might not represent an actual expected tax outcome because the temporary difference may be expected to reverse on revenue account partially in the form of a non-taxable distribution and partially in the form of a taxable transaction. This contrasts to the situation where the entire amount is expected to be recovered in a non-taxable manner on revenue account (even though sale *would* have a tax consequence) where no deferred taxes would be recognised.

Example 11 in the *Draft flowchart and illustrative examples* does not address this issue but notes that any taxes payable on a distribution declared should be recognised by the investor, even though the tax consequences of the distribution receivable relate to the parent's individual financial statements rather than the outside basis difference in relation to the subsidiary.

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[2] It is also noted that paragraph 19 of the ED might be read as implying that paragraph 10 does not apply to deferred taxes arising in respect of investments in subsidiaries and joint ventures. It is unclear whether this is the case and there is no other guidance on how temporary differences arising from outside basis differences on investments in subsidiaries and joint ventures are to be determined.

Appendix 4 – Additional comments on the ED's proposals

The following are additional comments and suggested editorial changes we would like the Board to consider in the event it chooses to proceed toward the finalisation of a Standard on income taxes.

Structure of the proposed Standard

The structure of the proposed Standard is not optimal.

To understand the key requirements, the main body of the Standard must be read in conjunction with the application guidance in Appendix B. In many cases, the Board's intention is unclear without reading the information contained in the Basis for Conclusions, meaning that too many basic principles are not contained in the body of the proposed Standard.

We recommend the Board reconsider the structure of any final Standard and incorporate the key requirements into the main body of the Standard. This may mean the majority of the existing content in Appendix B (application guidance) is either incorporated into the Standard itself or moved to the illustrative examples. Additionally, some of the information in the Basis for Conclusions and Illustrative Examples (prepared by staff) should be incorporated into the main body of the Standard where it is helpful in explaining the application of the proposed requirements.

Calculation methodology

In the event the ED's proposals are proceeded with, we recommend the following changes:

- remove the assumption of sale or settlement at reporting date and remain silent on this matter (same approach as US GAAP where the revenue tax basis can be used)
- remove the assumption of the sale rate where revenue and sale deductions are different
- clarify how the assessment of "temporary differences that are expected to increase or decrease taxable profit" is to be made
- consider using the terms 'basis difference' (carrying amount less tax basis) and 'temporary difference' (amount of the basis difference that is expected to increase or reduce taxable profits in the future), as this would appear to be easier to understand and apply
- provide additional justification for, and in-depth background to the Board's deliberations on, the selected calculation methodology and approach in the basis for conclusions.

Temporary differences arising on initial recognition

The operation of the premium or discount requirements where a temporary difference arises on initial recognition of an asset or liability outside of a business combination and without affecting comprehensive income, equity or taxable profit (paragraph B13(c) of the ED) requires further explanation and examples.

Example 7 in the *Draft flowchart and illustrative examples* accompanying the ED seeks to illustrate how the requirements of paragraph B13(c) of the ED is applied in practice. However, this example is not helpful as it does not illustrate a situation where the fair value to market participants differs from the amount paid for the asset.

We provide the following examples where this outcome occurs in practice:

- under Canadian tax law, in certain circumstances, the purchaser and seller can jointly elect for an asset to be deemed to be sold and purchased for an amount equal to the seller's pre-existing tax basis in order not to trigger taxes for the seller. A consequence of this is that the buyer gets a tax basis lower than that available to market participants. To compensate the buyer, the seller sells the asset to them at an amount less than it would if the asset been fully deductible to the buyer

- under Australian tax law, in certain purchases of assets from government entities, the tax depreciation permitted on the asset is determined by reference to the written down value of the assets in the seller's (i.e. the government) financial records, rather than the amount paid by the entity to acquire the assets. This generally has the effect of restricting the depreciation claimed on the purchased assets. However, where the assets are 'on sold' to third party, the third party purchaser will be permitted tax depreciation on the full purchase price.

Furthermore, the ED does not adequately explain how any premium or discount arising on the initial recognition of an asset should be accounted for after initial recognition. In particular, it is unclear how a premium or discount should be presented in the statement of comprehensive income, i.e. should 'amortisation' of the premium or discount be presented in deferred tax expense or income, apart from income taxes, or is an accounting policy choice intended. We suggest that additional guidance and an example be included to illustrate the required treatment.

The IASB will also need to consider the impact of the proposed approach on impairment testing under the various impairment models in IFRS, including recoverable amount testing under IAS 36 *Impairment of Assets.*

Tax elections

The ED does not provide any guidance on how tax elections should be treated and accounted for under its proposals. Tax elections are common in many jurisdictions and the outcomes under various elections may be substantially different.

In some cases, tax elections may be conditional, e.g. a concessional tax treatment that is conditional on distributing a particular portion of profit to stakeholders.

We recommend the IASB develops a definition of 'tax elections' and determines how these are to be accounted for, including whether, and if so, when an anticipated tax election should be taken into account in the measurement of current and deferred taxes.

In our view, a voluntary tax election that can be freely chosen by an entity should be reflected no later than the time the election is applied for (often with 'automatic' approval) or included in the tax return. However, in many cases, management would have made a firm decision to choose a particular election and it would therefore appear reasonable to permit current and deferred taxes to be reflected on this basis notwithstanding the tax return or application is yet to be made. This is particularly relevant in the case where a particular transaction has occurred but an election has not yet been formally made – current and deferred taxes cannot be calculated without anticipating the election.

It is also important that the concept of a change in tax status is differentiated from a tax election through the development of a clear principle on the nature of each item. For instance, in many jurisdictions, it is possible for an eligible consolidated group to elect to be taxed as a single entity. It is unclear whether moving from being taxed on an individual entity to consolidated basis should be considered a 'change in tax status' or a tax election.

Tax effect of equity and 'other' items

The ED is silent on the treatment of the tax-effect of equity items. In addition, paragraph 14 of the ED mentions "the tax basis of… other items" but provides no guidance as to what these "other items" might be or how the tax basis of those items should be determined.

In some cases, an equity item may have an anticipated future tax consequence that in our view should be recognised in the same way as for assets and liabilities. Examples include treasury shares and statutory 'taxable reserves' recorded in local GAAP accounts that can result in tax consequences if the treasury shares are reissued or the underlying item is realised through sale.

We recommend the ED incorporate appropriate requirements and guidance in relation to these matters.

Definition of tax deduction

The ED does not contain a definition of ‘tax deduction’, but the concept of ‘amounts deductible’ is used extensively in the ED in relation to the determination of the tax basis. We recommend the ED provide a definition of ‘tax deduction’ and provide guidance on what amounts should be considered a ‘deductible amount’

Definition of effective tax rate

Paragraph 43 of the ED defines the average effective tax rate. We recommend the Board consider whether this definition should be conformed with the equivalent requirements in IAS 34 *Interim Financial Reporting* or, alternatively, clearly explain any differences and the rationale for them.

Illustrative Examples

Example 15 in the *Draft flowchart and illustrative examples* accompanying the ED illustrates the outcome of applying the ED’s requirements in relation to certain assets where proceeds on sale in excess of an asset’s cost are not taxable. The example’s conclusion is that where the asset is expected to be used, the full amount of the temporary difference will give rise to a deferred tax liability.

We are unsure how to reconcile the outcomes in the example with the other requirements of the ED. Furthermore, we are unsure whether the outcomes in the example are as the IASB intends.

Paragraph 15(a) of the ED notes that where the recovery of an asset through sale does not give rise to taxable income, the tax basis is deemed to be equal to its carrying amount. This paragraph appears to establish a rule whereby amounts that are non-taxable on sale create an equal ‘deemed’ tax basis.

However, it is unclear to us whether this rule should be applied to a *component* of the carrying amount, which in the example would be the portion of the carrying amount of the asset which exceeds its original cost. No amount of the excess carrying amount above the original cost can create a tax consequence on sale (as it is exempt from tax) and if the rule in paragraph 15(a) was applied to this component would form part of the tax basis for the asset.

If the rule in paragraph 15(a) was applied, the deductions available to the entity from use (future depreciation) would be different from those available on sale (unclaimed depreciation plus the ‘deemed’ excess). Accordingly, the rule in paragraph B29 of the ED would not permit the recognition of a deferred tax liability on the basis of use as the assumption of sale would need to be applied both in the initial determination of the tax basis and also the measurement of the deferred tax liability arising. This would give rise to the recognition of a deferred tax liability of CU12 (40 temporary difference at 30% tax rate).

In the event the rule in paragraph 15(a) cannot be applied in this manner, the amount of tax recognised on applying paragraph B29 will depend on whether or not the deductions from use or sale are *exactly* the same. Only if these amounts are exactly equal will the rules in paragraph B29 give rise to the CU27 deferred tax liability illustrated. However, even a $1 difference in the amount of the deduction available from use or on sale would presumably trigger the requirement to reflect the sale consequences possible from the asset and lead to the recognition of a CU12 deferred tax liability.

The fact pattern outlined in the example applies in jurisdictions without a formal capital gains tax regime, such as New Zealand. Under the New Zealand tax system, some assets are permitted tax depreciation and some are not. The application of the above requirements produces vastly different outcomes on the basis of whether tax depreciation is available or not and whether the deduction available on sale is *exactly* the same as the deduction available from use. (Our concerns regarding the outcomes in the situation where no depreciation is available are highlighted in our response to Question 1).

It is unclear to us why the deferred tax outcome is so strongly linked to the existence of tax depreciation (or other allowances) from use, when ostensibly the ED purports to focus, albeit incorrectly in our view, on sale.

We suggest the IASB reconsider these requirements and their outcomes and, if they are retained, it will be necessary to clearly articulate in the final IFRS the rationale being applied and the principle justifying this accounting outcome.

Other matters

In the event that the proposals are proceeded with, we recommend consideration be given to the following additional matters noted elsewhere in this letter:

- the interaction of the removal of the ‘initial recognition exception’ with the requirements of IAS 36 *Impairment of Assets* (see our response to Question 3 in Appendix 1)
- the application of proposed exception in respect of foreign subsidiaries and joint ventures (see our response to Question 4 in Appendix 1)
- the treatment of valuation allowances against deferred tax assets that arise in the context of a business combination (see our response to Question 5A in Appendix 1)
- applying the ‘more likely than not’ criterion where tax losses, tax credits or anticipated losses are able to be indefinitely carried forward (see our response to Question 6A in Appendix 1)
- guidance on the nature of costs to be taken into account when calculating a valuation allowance against a deferred tax asset (see our response to Question 6B in Appendix 1)
- the recognition and measurement of interest and penalties and the nature of disclosures for uncertain tax positions (see our response to Question 7 in Appendix 1)
- the determination of the appropriate rate to apply in calculating deferred taxes (see our response to Question 9 in Appendix 1)
- differentiating between tax credits, investment tax credits and ‘special deductions’, and how each of these items should be accounted for (see our response to Question 11 in Appendix 1)
- the requirements around the determination of interaction of taxes need to be clarified and limited in scope, and additional guidance provided on when two tax systems are sufficiently related to require the ‘aggregate’ approach (see our response to Question 12 in Appendix 1)
- guidance on how to determine the split between the current and non-current presentation of deferred taxes (see our response to Question 15 in Appendix 1)
- the usefulness and/or onerous nature of particular disclosures (see our response to Question 17 in Appendix 1).