

STAFF PAPER

September 2017

IFRS® Interpretations Committee Meeting

Project	IAS 12 <i>Income Taxes</i> —Interest and penalties		
Paper topic	Agenda decision to finalise		
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This paper has been prepared for discussion at a public meeting of the IFRS Interpretations Committee (Committee). Comments on the application of IFRS Standards do not purport to set out acceptable or unacceptable application of IFRS Standards—only the Committee or the International Accounting Standards Board (Board) can make such a determination. Decisions made by the Committee are reported in IFRIC® Update. The approval of a final Interpretation by the Board is reported in IASB® Update.

Introduction

1. In March 2017 the IFRS Interpretations Committee (Committee) discussed interest and penalties related to income taxes (interest and penalties). This discussion resulted from comments received in response to the draft [Interpretation *Uncertainty over Income Tax Treatments*](#) (draft Interpretation).
2. The Committee redeliberated the proposals in the draft Interpretation at its meeting in September 2016. Having considered the feedback, the Committee decided that the Interpretation would apply to income taxes within the scope of IAS 12 *Income Taxes*, and would not specifically address interest and penalties (see [IFRIC Update](#) September 2016). Some Committee members, however, observed that the absence of specific requirements for interest and penalties has resulted in entities applying diverse reporting methods. Accordingly, the Committee decided to consider whether it should add a separate project to its agenda to address how an entity accounts for such interest and penalties.
3. [Agenda Paper 6](#) of the March 2017 meeting described research conducted on the topic of interest and penalties. This included feedback on the draft Interpretation, previous discussions by the Board and the Committee, research of publicly available data and a review of other accounting literature (US GAAP).

4. This research identified that entities typically apply either IAS 12 or IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* to interest and penalties. The research did not identify whether (a) the application of different Standards is the result of different tax legislation in different jurisdictions (and thus appropriately reflects underlying differences in the nature of interest and penalties) or (b) entities apply different Standards in similar situations. It also did not provide evidence that the diversity is widespread and has a material effect on the amounts that entities report.
5. That paper also discussed the implications of applying IAS 12 versus IAS 37, and outlined some possible standard-setting alternatives for the Committee to consider.
6. In the tentative agenda decision the Committee noted that:
 - (a) if an entity determines that amounts payable or receivable for interest and penalties are income taxes, then the entity applies IAS 12 to those amounts. If an entity does not apply IAS 12 to interest and penalties, then it applies IAS 37 to those amounts; and
 - (b) regardless of whether an entity applies IAS 12 or IAS 37 when accounting for interest and penalties, the entity would disclose information about those interest and penalties if it is material.
7. The purpose of this paper is to:
 - (a) analyse the comments received on the tentative agenda decision; and
 - (b) ask the Committee whether it agrees with the staff recommendation to finalise the agenda decision.

Comment letter summary and staff analysis

8. We received five comment letters, reproduced in Appendix C to this paper. Deloitte, KPMG and Mazars agree with the Committee's decision not to add the matter to its standard-setting agenda for the reasons outlined in the tentative agenda decision. However, they say that some aspects of the agenda decision require further clarity.
9. Two respondents, EY and ASBJ, disagree with the tentative agenda decision. Both respondents note they are aware of diversity in how entities account for interest and

penalties. Both therefore say that the Committee should add a project on interest and penalties to its standard-setting agenda.

10. Respondents' concerns, together with our analysis, are presented below.

Diversity in accounting for interest and penalties

Concern raised by respondent

11. EY and ASBJ note that they are aware of diversity in accounting for interest and penalties. ASBJ says this has resulted in some entities applying either IAS 12 or IAS 37 to interest and penalties in the same jurisdiction where the same tax legislation applies.
12. ASBJ says this can have an effect on the amount entities recognise for interest and penalties in their statements of profit or loss and financial position. It also says providing disclosure is insufficient in providing useful information in the financial statements. This contrasts with Mazars, which supports highlighting in the agenda decision the disclosure requirements in IAS 12 and IAS 37.
13. EY says diversity also affects the timing of recognition of assets for interest receivable and the measurement of liabilities for interest and penalties.

Staff analysis

14. In their responses to the draft Interpretation, EY and ASBJ both asked the Committee to address interest and penalties as part of the Interpretation. Their responses to the draft Interpretation cited the same reasons as those in their comment letters on the tentative agenda decision.
15. Further discussion with ASBJ indicated that the main effect of applying IAS 12 instead of IAS 37—and vice versa—relates to presentation in the statement of profit or loss. This aligns with our views outlined in [Agenda Paper 6](#) of the March 2017 meeting.
16. As noted in paragraph 3, we performed research on publicly available financial statements, which did not provide evidence that the absence of specific requirements on interest and penalties has resulted in material differences in the reporting of interest and penalties of a similar nature.

17. Since the March 2017 meeting we have been provided with additional research, the results of which are summarised as follows:

- (a) Review of IFRS financial statements—The researcher reviewed the financial statements of the 100 largest entities that prepare IFRS financial statements. This is similar to the review we performed before the March 2017 Committee meeting, and the results are also similar. The researcher found six entities that disclose an accounting policy for interest and penalties—all six present interest and penalties as income taxes. None of these entities disclose the amount of interest and penalties. The research also identified one entity that discloses an amount of ‘tax-induced interest’ as part of its disclosures on IAS 37 provisions.

- (b) Review of US GAAP financial statements—US GAAP Topic 740 *Income Taxes* contains requirements for interest and penalties. In particular, paragraph ASC 740-10-45-25 allows entities a choice of where to present interest and penalties in the income statement (ie as income tax or alternatively as an interest expense for interest and an expense for penalties). The researcher reviewed the financial statements of 26 large corporates that prepare US GAAP financial statements to assess the significance of interest and penalties. Six entities did not disclose the amount of interest and penalties. 18 of the other 20 entities present interest and penalties as income tax. The researcher’s results are presented in Appendix B to this paper. The researcher compared:
 - (i) the amount of interest and penalties recognised in profit or loss to the amount of income tax. On average the charge for interest and penalties represents 2% of the total income tax charge for the year, excluding one outlier of -23%.
 - (ii) the carrying amount of accrued interest and penalties to the disclosed amount of uncertain tax positions. On average the year-end liability for interest and penalties is 11% of the disclosed amount of uncertain tax positions. This excludes two outliers, for which the liability for interest and penalties is 40% and 186% of the uncertain tax positions.

- (c) Qualitative survey—The researcher also reviewed tax legislation in Australia, France, Greece, Italy, Spain and the US. The researcher found that tax authorities charge interest on amounts owed at between 3.5% and 9% per annum. This is typically calculated on a compound basis from the due date of the payment to the tax authorities. Tax authorities typically charge penalties when an entity fails to submit a tax return on time, fails to pay tax on time or when the tax return contains errors or omissions. Penalties can be fixed or can vary depending on (i) the entity’s willingness to co-operate with the tax authority, (ii) the existence of fraudulent behaviour, (iii) the entity’s past behaviour and (iv) the scope of transactions covered by the disputed tax amount. Variable penalties can range from between 10% and 270% of tax payable across these jurisdictions.
18. We consider these findings in reaching our staff recommendation in paragraphs 31-37 of this paper.

Scope of IAS 12

Concern raised by respondent

19. KPMG says the tentative agenda decision, as worded in the March 2017 [IFRIC Update](#), could pose significant challenges for entities. In particular it is concerned that the wording of the tentative agenda decision could be read to require an entity, as a first step, to determine whether interest and penalties are income taxes in the scope of IAS 12. KPMG says this causes the following challenges:
- (a) IAS 12 does not explicitly include interest and penalties in its scope, as acknowledged by the Committee when it discussed the topic;
 - (b) the definition of income tax—ie a tax based on taxable profit—does not refer to interest or penalties; and
 - (c) it is not clear how one could apply the principle of a ‘net amount’ (implied from the definition of income tax (see May 2009 [IFRIC Update](#))) to interest and penalties, which themselves are generally ‘gross’ amounts.

20. Deloitte suggests expanding the agenda decision to provide more information on how an entity determines whether an income tax is in the scope of IAS 12. It says an entity should make this determination based on the specific facts and circumstances that give rise to the interest and penalties (for example, interest and penalties might be in the scope of IAS 12 because they are in substance part of a larger uncertain tax position. In contrast, they might be in the scope of IAS 37 if they arise from late payment when there is no uncertainty regarding the amount of income tax payable).
21. As noted in paragraphs 11–12, EY disagrees with the tentative agenda decision. However, EY also says that if the Committee finalises the agenda decision, then it has suggestions for amendments to the draft wording. EY says the phrase ‘if an entity does not apply IAS 12 to interest and penalties, then it applies IAS 37 to those amounts’ in the tentative agenda decision could be read to imply that if an entity does not determine interest and penalties to be in the scope of IAS 12, then it either has an accounting policy choice between IAS 12 and IAS 37 or must apply IAS 37 in all circumstances. EY says that, in its view, an entity should consider the facts and circumstances pertinent to the situation in order to determine whether to apply IAS 12 or IAS 37. EY therefore recommends clarifying in the agenda decision that an entity should consider the requirements in paragraphs 7-12 of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* in making this determination.
22. In addition, when accounting for uncertain tax treatments, KPMG says it may be challenging to distinguish between the amount of tax and the amount of interest if the amount payable to (or receivable from) the tax authority is negotiated as a single amount, without distinguishing the portion that relates to interest and penalties.

Staff analysis

Whether to apply IAS 12 or IAS 37

23. Although neither IAS 12 nor IAS 37 explicitly mention interest and penalties, we think an entity would not generally refer to IAS 8 in determining its accounting policy for interest and penalties. We do not therefore recommend including a reference to IAS 8 in the agenda decision.
24. Income taxes are in the scope of IAS 12. Paragraph 2 of IAS 12 defines income taxes as including ‘all domestic and foreign taxes which are based on taxable profits’.

Paragraph 1 of IAS 37 states that IAS 37 applies to provisions, contingent liabilities and contingent assets, unless they are covered by another Standard. Paragraph 5(b) of IAS 37 specifically states that any provision an entity accounts for applying IAS 12 is not in the scope of IAS 37.

25. Because IAS 37 excludes from its scope any amounts to which IAS 12 applies, in our view an entity is first required to consider whether a particular amount payable (or receivable) for interest and penalties is in the scope of IAS 12—ie is an income tax as defined by that Standard. If an entity considers that a particular amount of interest or a penalty is not in the scope of IAS 12, then it applies IAS 37 to that interest or penalty.
26. In paragraph 6 of [Agenda Paper 6](#) of the March 2017 Committee meeting we provided a definition of interest and penalties. We understand that interest charges (or receipts) related to income taxes are generally intended to compensate the tax authority (or the entity) for the time value associated with the under (over) payment of income taxes. Penalties related to income taxes are generally charges levied on an entity, under income tax legislation, related to the underpayment or late payment of income taxes.
27. As noted in paragraph 38 of [Agenda Paper 6](#) of the March 2017 Committee meeting, we think that often identified amounts of interest and penalties may not meet the definition of income tax in IAS 12. This is because they are typically not based on taxable profits.

Assessing whether interest and penalties are income taxes

28. In considering whether an amount of interest or a penalty is in the scope of IAS 12, an entity considers whether the interest or penalty is a tax and whether that tax is based on taxable profits.
29. Two previous agenda decisions address the definition of an income tax. In [March 2006](#) the Committee discussed the scope of IAS 12, noting that because taxable profit is not the same as accounting profit, taxes do not need to be based on a figure that exactly matches accounting profit to be within the scope of IAS 12. In addition, as noted by KPMG in its comment letter, in [May 2009](#) the Committee published an agenda decision on tonnage taxes, which includes an observation that the term ‘taxable profit’ implies the notion of a ‘net’ amount rather than a ‘gross’ amount.

30. Taken together, we think these imply that to be in the scope of IAS 12 ‘taxable profits’ must be based on (net) profit or loss (or adjusted profit or loss) as specified by tax legislation. We think it is the notion of a net amount that identified amounts of interest and penalties may fail to meet. In addition, taxable profits do not necessarily have to be the same as an entity’s reported accounting profit.

Identifying interest and penalties

31. We acknowledge that in some situations it might be difficult to identify whether an amount payable to (or receivable from) a tax authority includes interest or penalties. For example, this might be the case when the total amount payable to a tax authority is negotiated as a single amount (as noted by KPMG). The research included in [Agenda Paper 6](#) to the March 2017 Committee meeting highlighted this, as did members of the Global Preparers Forum (GPF) at the GPF meeting in [March 2017](#).
32. Nonetheless, we do not recommend adding commentary on the identification of interest and penalties to the agenda decision. This is because to do so, in our view, would be interpretative in nature and would not be supported by existing requirements.

Staff recommendation

33. Having considered the research on publicly available financial statements described in [Agenda Paper 6](#) of the March 2017 meeting and the additional research summarised in this paper, we recommend that the Committee does not add this matter to its standard-setting agenda. We acknowledge that interest and penalties can be material for some entities, and that many entities incur interest and penalties. However, from the evidence obtained through our own research as well as the additional research provided to us, we think there is insufficient evidence of widespread material diversity in the amounts that entities report.
34. As noted in [Agenda Paper 6](#) of the March 2017 meeting, we think that if the Board or the Committee were to undertake standard-setting regarding interest and penalties, they could consider a narrow-scope amendment to IAS 12 to explicitly include interest and penalties related to income taxes within its scope. Such a narrow-scope amendment would not change the definition of income taxes in IAS 12, but instead

simply expand the scope of the Standard. We think this would be the simplest and most straight-forward way of addressing any diversity in reporting in this respect.

35. However, such a proposal may not be acceptable to stakeholders because:
- (a) as noted by Deloitte, some may view interest related to income taxes (in at least some circumstances) to be more akin to finance costs than tax expense—and penalties to be an operating expense, not a tax expense. The distinction between operating expenses, financing expenses and tax is an issue that stakeholders have raised on a number of Standards and projects.
 - (b) some may see little benefit in such a narrow-scope project when there are other identified questions regarding IAS 12, including its scope—see paragraph 36 below.
36. Questions on the definition of income taxes have arisen in the context of determining whether particular taxes are in the scope of IAS 12. Paragraphs 50 and 51 of [Agenda Paper 19A](#) of the Board’s May 2016 meeting noted that a tax is generally in the scope of IAS 12 if it is based on (net) profit or loss (or adjusted profit or loss) and is generally not in the scope of IAS 12 if it is based on revenue or other factors. However, the staff were informed that it is difficult to determine whether, for example, the following types of tax are in the scope of IAS 12—(a) tax based on revenue less some expenses, (b) tax based on an amount close to the amount subject to value added tax, (c) tax based on two or more systems.
37. The Board discussed these questions, as well as others that it had been informed about regarding IAS 12, as part of its 2015 Agenda Consultation. It decided to add neither a narrow-scope project to its agenda, nor a wider project on IAS 12. In our view, the information obtained regarding interest and penalties does not highlight that the accounting for interest and penalties is in greater need of improvement than, for example, the accounting for taxes more generally.
38. In summary, we continue to agree with the Committee’s tentative conclusion that a project on interest and penalties is not a higher priority than other projects already on the Board’s or Committee’s agenda, nor a higher priority than some other projects not on the Board’s or Committee’s agenda.

39. We recommend confirming the tentative agenda decision as published in the March 2017 [IFRIC Update](#). We recommend some editorial changes to bullet (a) to align the wording with that used in the basis for conclusions on IFRIC 23 *Uncertainty over Income Tax Treatments*. Appendix A to this paper sets out the draft wording for the final agenda decision.

Question for the Committee

Does the Committee agree with the staff recommendation to finalise the agenda decision outlined in Appendix A to this paper?

Appendix A—Proposed wording for final agenda decision

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

IAS 12 *Income Taxes*—Interest and penalties related to income taxes

IFRS Standards do not specifically address the accounting for interest and penalties related to income taxes (interest and penalties). Respondents to the draft IFRIC Interpretation *Uncertainty over Income Tax Treatments* said that entities apply either IAS 12 or IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* to interest and penalties.

In the light of this feedback, the Committee considered whether to add a project on interest and penalties to its standard-setting agenda.

On the basis of its analysis, the Committee concluded that a project on interest and penalties is not a higher priority than other projects already on the Board's or Committee's agenda. Consequently, the Committee ~~decided~~ not to add a project on interest and penalties to its standard-setting agenda.

Nonetheless, the Committee observed the following:

- a. if an entity ~~determines that~~ considers a particular amounts payable or receivable for interest and penalties ~~are to be an~~ income taxes, then the entity applies IAS 12 to ~~those~~ that amounts. If an entity does not apply IAS 12 to a particular amount payable or receivable for interest and penalties, then it applies IAS 37 to ~~those~~ that amounts;
- b. paragraph 79 of IAS 12 requires an entity to disclose the major components of tax expense (income); for each class of provision, paragraphs 84-85 of IAS 37 require a reconciliation of the carrying amount at the start and end of the reporting period as well as various other pieces of information. Accordingly, regardless of whether an entity applies IAS 12 or IAS 37 when accounting for interest and penalties related to income taxes, the entity would disclose information about those interest and penalties if it is material; and

- c. paragraph 122 of IAS 1 *Presentation of Financial Statements* requires disclosure of the judgements that management has made in the process of applying the entity's accounting policies and that have the most significant effect on the amounts recognised in the financial statements.

Appendix B—US GAAP financial statements information

Industry of preparer ¹	Accounting Policy		Balance Sheet			Profit and Loss Account		
	Interest	Penalties	Interest and penalties USD	Uncertain tax position USD	Comparison ²	Interest and penalties USD	Income tax USD	Comparison ³
Conglomerate	Interest expense	Income tax	833	4,692	18%	(109)	464	-23%
Technology	Income tax	Income tax	1,000	7,724	13%	(295)	(15,685)	2%
Manufacturing	Interest expense	Income tax	67	1,586	4%	3	(2,189)	0%
Technology	Income tax	Income tax	193	10,900	2%	Not disclosed	(1,095)	N/A
Retail Trade	Income tax	Income tax	117	924	13%	(41)	(2,180)	2%
Oil and gas	Interest expense	Operating expense	191	9,468	2%	(4)	(406)	1%
Oil and gas	Interest expense	Operating expense	54	381	14%	18	(12,973)	0%
Oil and gas	Income tax	Income tax	424	3,031	14%	(38)	(1,729)	2%
Oil and gas	Income tax	Income tax	13	7	186%	5	(609)	-1%
Oil and gas	Income tax	Income tax	70	936	7%	Not disclosed	(765)	N/A
Technology	Income tax	Income tax	67	1,710	4%	(9)	(1,425)	1%
Manufacturing	Income tax	Income tax	-	1,557	0%	Not disclosed	(306)	N/A
Technology	Income tax	Income tax	1,900	10,164	19%	(163)	(2,953)	6%
Pharmaceutical	Not disclosed	Not disclosed	343	857	40%	Not disclosed	(3,342)	N/A
Pharmaceutical	Income tax	Income tax	344	3,041	11%	(7)	(3,263)	0%
Pharmaceutical	Income tax	Not disclosed	771	5,826	13%	(72)	(1,123)	6%
Pharmaceutical	Income tax	Income tax	129	854	15%	(26)	(1,408)	2%
Technology	Income tax	Income tax	Not disclosed	Not disclosed	N/A	Not disclosed	(420)	N/A

¹ All financial statement information is from the entity's financial statements ended in 2016.

² Calculated as Interest and penalties / Uncertain tax position

³ Calculated as Interest and penalties / Income tax expense

Technology	Not disclosed	Not disclosed	Not disclosed	Not disclosed	N/A	Not disclosed	(1,311)	N/A
Manufacturing	Other income	Other income	Not disclosed	192	N/A	Not disclosed	(5,594)	N/A
Technology	Interest expense	Income tax	90	993	10%	(3)	(843)	0%
Manufacturing	Income tax	Income tax	Not disclosed	63	N/A	Not disclosed	(707)	N/A
Technology	Interest expense	Income tax	172	760	23%	(27)	(781)	3%
Pharmaceutical	Income tax	Income tax	0	2	2%	0	32	0%
Pharmaceutical	Income tax	Income tax	83	734	11%	(18)	(521)	3%
Pharmaceutical	Income tax	Income tax	25	118	21%	7	683	1%
Average					20%			0%
Average excluding outliers					11%			2%

Appendix C—Copies of comment letters

International Financial Reporting Standards Interpretations
Committee
30 Cannon Street
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19 April 2017

Dear IFRS Interpretations Committee members,

Tentative agenda decision - IAS 12 Income Taxes– Interest and penalties related to income taxes

Ernst & Young Global Limited, the central coordinating entity of the global EY organisation, welcomes the opportunity to offer its views on the above tentative agenda decision of the IFRS Interpretations Committee (the Committee) published in the March 2017 *IFRIC Update*.

The Committee discussed accounting for interest and penalties related to income taxes after “[r]espondents to the draft IFRIC Interpretation *Uncertainty over Income Tax Treatments* [had] said that entities apply either IAS 12 or IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* to interest and penalties.”

In light of the current lack of guidance and the diversity in practice that has been identified, we are disappointed by the Committee’s decision not to take on a project on interest and penalties. In our experience, the amounts of interest and penalties are often very significant. As noted in the Committee’s agenda paper, the diversity in current practice affects the timing of recognition of assets for interest receivable, the measurement of liabilities, and the presentation of interest and penalties in the statement of profit or loss. When IFRIC [23] on uncertain tax positions is issued, it may introduce further diversity in practice by widening the gap between IAS 12 / IFRIC [23] and IAS 37 recognition and measurement.

The Tentative Agenda Decision notes as the sole reason for not taking on the issue, that the Committee concluded that “...a project on interest and penalties is not a higher priority than other projects already on the Board’s or Committee’s agenda.” As such, we would be concerned that the relative priority of a project was used by the Committee as a criterion to decide whether to put an item on the agenda or address an item in an Interpretation, particularly as the IASB currently does not have an active income tax project. We accept that the ‘interest and penalty’ topic was not a formal submission to the Committee, but we believe that a number of respondents asking in their public comment letters for the topic to be addressed by the Committee is equivalent to a formal submission. This applies in particular now that the Committee has formally considered whether to add a project on interest and penalties to its standard-setting agenda in response to those comment letters.

We therefore ask the Committee to reconsider its Tentative Agenda Decision. Nevertheless, if the Committee decides not to change its tentative view, we do not agree with several other aspects of the Tentative Agenda Decision, as worded in the March 2017 *IFRIC Update*.

We agree that “if an entity determines that amounts payable or receivable for interest and penalties are income taxes, then the entity applies IAS 12 to those amounts.” However, we *disagree* with the subsequent sentence in the agenda decision, which states that, “If an entity does not apply IAS 12 to interest and penalties, then it applies IAS 37 to those amounts.” In our view, the wording of the Tentative Agenda Decision is insufficiently clear as it suggests that, with respect to interest and penalties that are outside the scope of IAS 12, entities either: (1) have a free accounting policy choice between IAS 12 and IAS 37; or (2) must apply IAS 37 in all circumstances.

We believe that entities should consider the facts and circumstances pertinent to the situation (e.g., where interest and penalties are tax deductible, it seems more appropriate to present them as part of expenses in arriving at profit before tax; and where interest and penalties are not themselves tax deductible, there is an argument for treating them as an IAS 12 income tax). We therefore recommend to clarify the wording in the Agenda Decision to note that an entity should consider the requirements of paragraphs 7 to 12 of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* in determining whether they should apply the requirements of IAS 12 or IAS 37 (e.g., “In all other cases, an entity should consider the requirements of paragraphs 7 to 12 of IAS 8 in selecting an appropriate accounting policy for interest and penalties”).

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

Yours faithfully

Ernst + Young Global Limited

Accounting Standards Board of Japan (ASBJ)

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22 May 2017

IFRS Interpretations Committee
International Accounting Standards Board
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United Kingdom


**Comments on the Tentative Agenda Decision Relating to
IAS 12 *Income Taxes*—Interest and penalties related to income taxes**

1. The Accounting Standards Board of Japan (the “ASBJ”) welcomes the opportunity to comment on the IFRS Interpretation Committee’s (the “Committee”) tentative agenda decision relating to IAS 12 *Income Taxes*— Interest and penalties related to income taxes in the March 2017 IFRIC Update.
2. We do not support the Committee’s decision not to add this issue to the standard-setting agenda.
3. Since the IASB had previously reconsidered IAS 12 based on the understanding that a comprehensive review was necessary, some are of the view that the issue on interest and penalties should be considered as part of a comprehensive review of IAS 12 rather than being addressed independently.
4. However, because there is no specific requirement for interest and penalties related to income taxes, diversity exists in the accounting standard that is applied by entities in the resulting accounting treatment. When the amounts of interest and penalties are material, the amounts recognised in the statement of financial position and the statement(s) of financial performance may vary significantly. In this case, we think that merely providing appropriate disclosures, as proposed in the Committee’s tentative agenda decision, is insufficient in providing useful information in the financial statements. We believe that, from the perspective of achieving comparability, the same accounting treatment should be applied for the same

economic phenomena. Accordingly, we believe this issue be added to the standard setting agenda.

5. The Committee's tentative agenda decision notes that, if an entity determines that amounts payable or receivable for interest and penalties are "income taxes", then the entity applies IAS 12 to those amounts. Our observation is that the judgement regarding whether interest and penalties qualify as income taxes in the light of IAS 12 varies, even within the same jurisdiction where the same taxation system applies. We think that the proposed agenda decision would not address the concern that diversity exists in practice.
6. We hope our comments are helpful for the Committee's and the IASB's consideration in the future. If you have any questions, please feel free to contact us.

Yours sincerely,



Yasunobu Kawanishi

Chairman of the Technical Committee for IFRS Implementation
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Our ref MV/288

22 May 2017

Dear Ms Lloyd

Tentative agenda decision: IAS 12 – Interest and penalties related to income taxes

We appreciate the opportunity to comment on the IFRS Interpretations Committee's (the Committee) tentative agenda decision *IAS 12 Income Taxes – Interest and penalties related to income taxes* (IFRIC Update March 2017). We have consulted with, and this letter represents the views of, the KPMG network.

We support the Committee's decision not to add this issue to its agenda as a separate project, because the IASB and the Committee have other competing priorities at present. However, we have significant concerns about the drafting of the tentative agenda decision.

The current wording of the tentative agenda decision could be read as requiring an entity, as a first step, to determine if interest or penalty related to an income tax is itself an income tax in the scope of IAS 12. We are concerned that this requirement may pose significant challenges in practice because:

- interest and penalties are not explicitly included in the scope of IAS 12, as acknowledged by the Committee in its discussions;
- the definition of income tax – i.e. a tax which is based on taxable profit – does not refer to interest or penalties; and
- it is not clear how one could apply the principle of 'net amount' that is implied from the definition of an income tax in paragraph 5 of IAS 12 (see IFRIC Update – May 2009) to interest and penalties, which are themselves generally 'gross' amounts.

In addition we note that in practice, when dealing with uncertain tax treatments, it may be challenging to distinguish between the amount of tax and the amount of interest if the amount payable (receivable) to (from) a taxation authority is negotiated as a single amount without stating which portion relates to interest or to penalties.

If it was the Committee's intention to require determining whether interest or penalties related to an income tax are themselves income taxes in the scope of IAS 12, then we believe that the agenda decision should clarify how to apply the definition of income tax to interest and penalties and how to analyse this in practice.

If finalised as drafted, the decision would set new requirements and we believe that the Committee would need to provide guidance on how to implement this agenda decision in the financial statements. This is because agenda decisions usually interpret the existing requirements and so have immediate effect, therefore they do not envisage transitional provisions. To the extent applying the agenda decision is a change in practice, it usually is applied on a retrospective basis. This could be particularly problematic if the agenda decision is finalised at the June 2017 IFRIC meeting – which is close to a reporting date. It may be impracticable to apply this specific decision without further guidance.

Conversely, if it was not the Committee's intention to require determining whether interest or penalties related to an income tax are themselves income taxes in the scope of IAS 12, then we suggest deleting the first observation in the tentative agenda decision (i.e. the first bullet point) and instead simply acknowledge the existing diversity in practice regarding the standard applied to interests and penalties related to income tax.

Please contact Mark Vaessen +44 (0)20 7694 8871 or Sanel Tomlinson + 85 221 43 8694 if you wish to discuss any of the issues raised in this letter.

Yours sincerely

KPMG IFRG Limited

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cc Reinhard Dotzlaw

22 May 2017

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Dear Ms Lloyd

Tentative agenda decision – IAS 12 *Income Taxes: Interest and penalties related to income taxes*

Deloitte Touche Tohmatsu Limited is pleased to respond to the IFRS Interpretations Committee's publication in the March IFRIC Update of the tentative agenda decision not to take onto the Committee's agenda the request for clarification on the accounting for interest and penalties related to income taxes.

We agree with the IFRS Interpretations Committee's decision not to add this item onto its agenda but are concerned that the statement in the tentative agenda decision that "if an entity determines that amounts payable or receivable for interest and penalties are income taxes" is unclear on how such a determination should be made and could be read as suggesting that this is a free choice in all cases.

As such, we recommend that the tentative agenda decision be expanded to state that the determination of whether interest and penalties are, in fact, in the scope of IAS 12 (for example, because they are in substance part of a larger uncertain tax position rather than resulting from delayed payment when there is no uncertainty regarding the amount of income tax payable) should be made based on the specific facts and circumstances in which they are incurred.

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

Yours sincerely



Veronica Poole
Global IFRS Leader

Mrs Sue Lloyd

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

Paris, May 23, 2017

Tentative Agenda Decisions – IFRIC Update March 2017

Dear Sue,

MAZARS is pleased to comment on the various IFRS Interpretations Committee tentative agenda decisions published in the March 2017 IFRIC Update.

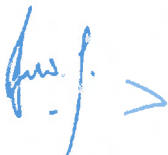
We have gathered all our comments as appendices to this letter, which can be read separately and are meant to be self-explanatory.

We would like to draw your attention to Appendix 2 on modified financial liabilities. We strongly believe that this issue, which could lead to a significant change to widespread accounting practices despite the absence of any clear change in IFRS 9 compared to IAS 39, cannot be dealt with through a simple agenda decision.

We consider that such a change deserves to be introduced through an authoritative pronouncement, being an Interpretation or an Amendment to IFRS 9, including appropriate transition relief, and following a sufficient due process that would allow the Board, the Interpretations Committee and all interested stakeholders to question the economic relevance of the outcome.

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

Yours faithfully



Michel Barbet-Massin



Edouard Fossat

Financial Reporting Technical Support

Appendix 3

IAS 12 *Income Taxes* — Interest and penalties related to income taxes (Agenda Paper 6)

We agree with the proposed tentative agenda decision, and we support the emphasis put by the Interpretations Committee on disclosure requirements in paragraphs b. and c.