STAFF PAPER

January 2019

IFRS® Interpretations Committee meeting

Project	Deposits relating to taxes other than income tax		
Paper topic	Agenda decision to finalise		
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Introduction

1. At its September 2018 meeting, the IFRS Interpretations Committee (Committee) discussed a submission about deposits relating to taxes other than income tax. In the fact pattern described in the submission, an entity and a tax authority dispute whether the entity is required to pay a particular tax. The tax is not an income tax, so it is not within the scope of IAS 12 *Income Taxes*. Any liability or contingent liability to pay the tax is instead within the scope of IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*. Taking account of all available evidence, the preparer of the entity's financial statements judges it probable that the entity will not be required to pay the tax—it is more likely than not that the dispute will be resolved in the entity's favour. Applying IAS 37, the entity discloses a contingent liability and does not recognise a liability. To avoid possible penalties, the entity has deposited the disputed amount with the tax authority. Upon resolution of the dispute, the tax authority will either refund the deposit to the entity (if the dispute is resolved in the entity's favour) or use the deposit to settle the entity's liability (if the dispute is resolved in the tax authority's favour). The submitter asked whether the tax deposit is recognised as an asset or expense.

2. The Committee concluded that the requirements in IFRS Standards and concepts in the *Conceptual Framework for Financial Reporting* (*Conceptual Framework*) provide an adequate basis for an entity to account for deposits relating to taxes other than income tax. Consequently, the Committee tentatively decided not to add this matter to its standard-setting agenda. In September 2018 the Committee published a tentative agenda decision.

3. The purpose of this paper is to:

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

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

4. There are two appendices to this paper:

   (a) Appendix A—proposed wording of the agenda decision; and

   (b) Appendix B—comment letters.

Comment letter analysis and staff analysis

5. We received nine comment letters on the tentative agenda decision, reproduced in Appendix B to this paper.

6. All respondents agree with the Committee's conclusion that the entity has an asset when it makes the tax deposit to the tax authority. All respondents, except one (the Organismo Italiano di Contabilità (OIC)), 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. Some of these respondents commented on the wording of the agenda decision, suggesting some clarifications.

7. One respondent (the Global Financial Reporting Collective (GFRC)) disagrees with a particular aspect of the tentative agenda decision.

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

Disagreement with the Committee's tentative decision

Summary of feedback

9. The OIC disagrees with the Committee's tentative decision not to add the matter to its standard-setting agenda. The OIC says there is diversity in accounting for advance payments made during any kind of litigation (ie tax litigations and any other litigation). It suggests that the Committee clarify, through an interpretation or an amendment, the accounting for advance payments made during any kind of litigation.

Staff analysis

10. The OIC does not challenge the Committee's conclusion that the requirements in IFRS Standards and concepts in the *Conceptual Framework* provide an adequate basis for an entity to account for deposits relating to taxes other than income tax. The tentative agenda decision highlights these existing requirements and concepts. Accordingly, we think that publishing an agenda decision is sufficient to support consistency in the accounting for such advance payments in the future.

11. The respondent suggests that standard-setting is needed to address the full range of circumstances for which there might be diversity in accounting, which go beyond the fact pattern described in the tentative agenda decision. However, the tentative agenda decision includes not only the Committee's conclusions for the fact pattern it describes, but also the specific features of the fact pattern that support those conclusions. Thus, we think the agenda decision could be useful in the assessment of other fact patterns with similar features. Accordingly, we do not see a need for clarification through an interpretation or an amendment.

12. We recommend that the Committee affirms its tentative decision not to add this matter to its standard-setting agenda.

Disagreement with the analysis made

Summary of feedback

13. The GFRC suggests removing from the tentative agenda decision the reference to IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*. In the GFRC's view, it is paragraph 15 of IAS 1 *Presentation of Financial* Statements, not IAS 8, that requires an entity to look at the asset definition in the *Conceptual Framework.*

Staff analysis

14. IAS 1 prescribes the basis for presentation of general purpose financial statements. It sets out overall requirements for the presentation of financial statements, guidelines for their structure and minimum requirements for their content. Paragraph 15 of IAS 1 states:

> Financial statements shall present fairly the financial position, financial performance and cash flows of an entity. Fair presentation requires the faithful representation of the effects of transactions, other events and conditions in accordance with the definitions and recognition criteria for assets, liabilities, income and expenses set out in the *Conceptual Framework for Financial Reporting (Conceptual Framework)*. The application of IFRSs, with additional disclosure when necessary, is presumed to result in financial statements that achieve a fair presentation.

15. In July 2018, the International Accounting Standards Board (Board) discussed when and how preparers of financial statements should refer to the *Conceptual Framework* for assistance in developing accounting policies. The Agenda Paper[1] for that meeting noted that paragraph 15 of IAS 1 needs to be read in the context of paragraph 17 of that Standard, which provides further requirements on how to achieve the 'fair presentation' required by paragraph 15. Paragraph 17 states that:

    (a) in virtually all circumstances, an entity achieves a fair presentation by compliance with applicable IFRS Standards;

[1] AP 10: When and how preparers of financial statements refer to the *Conceptual Framework*.

(b) a fair presentation also requires an entity to select and apply accounting policies in accordance with IAS 8; and

(c) IAS 8 sets out a hierarchy of authoritative guidance that the preparers of an entity's financial statements consider in the absence of an IFRS Standard that specifically applies to an item.[2]

16. We agree with the stakeholder that an analysis of when and how preparers of financial statements refer to the *Conceptual Framework* should consider the requirements in paragraph 15 of IAS 1. However, we do not think that these requirements would be applied instead of the IAS 8 hierarchy. We think the requirements of paragraph 15 of IAS 1 are implemented by applying IAS 8: they do not override IAS 8. Accordingly, we think the tentative agenda decision is correct to refer to IAS 8 and not IAS 1.

Clarification of the wording

Summary of feedback and staff analysis

17. Some respondents suggest clarifying the wording of the tentative agenda decision. The following table summarises these comments, along with our analysis and recommendations:

[2] Paragraph 17(a) of IAS 1.

Respondent comments	Staff analysis
(a) EY, the Malaysian Accounting Standards Board (MASB) and Mazars recommend using a term other than 'deposit' in the agenda decision because the term deposit: (i) could be interpreted more narrowly than it is intended; (ii) might suggest that the asset is a financial asset; (iii) might or could have a specific legal meaning in some jurisdictions; and (iv) was not used in the original request, which referred instead to a 'payment'.	We think the word 'deposit' appropriately describes the nature of the payment (see paragraph 1 of this paper). The fact pattern set out in the tentative agenda decision describes the deposit in a way that should avoid the term being interpreted too narrowly or read to mean a financial asset. Further, we think that regardless of the word used (ie deposit, payment or another description), every jurisdiction will have its own legal meaning. Thus, in order to avoid any misinterpretation, it is important that the agenda decision clearly describes the transaction. We think the tentative agenda decision has clearly done so. Accordingly, we recommend retaining the term deposit.
(b) PwC suggests emphasising that there are only two possible outcomes and that the tax authority cannot retain the deposit for other purposes. They also recommend emphasising in the agenda decision that the two possible outcomes are a requirement of the tax law. (c) Mazars suggests making more apparent in the description of the fact pattern that the right arising from paying the tax deposit is clearly established because this right is key for the recognition of an asset.	We agree that it is important to the conclusions reached that the resolution of the dispute is limited to the two outcomes described in the tentative agenda decision. The Committee concluded that the tax deposit is an asset because it gives the entity a right to obtain future economic benefits in one form or another. Thus, we recommend amending the tentative agenda decision to reflect that the resolution of the dispute will require either of the two outcomes described. We think a reference to 'tax law' could have different meanings depending on the jurisdiction. This is because tax regulations are embodied differently from one jurisdiction to the other. Some jurisdictions

Respondent comments	Staff analysis
	have their tax regulations included in the law through a defined legislative process (usually set out in a country's constitution) and some have it in the form of memorandum or circulars, which have not necessarily undergone a legislative process. As such, reference to 'tax law' may result to varying interpretation. Accordingly, we recommend not adding a reference to tax law.
(d) The GFRC questions the reference to IAS 37 in the title of the agenda decision because the Committee has concluded that the deposit is not a contingent asset.	Reference to IAS 37 is included in the title of the tentative agenda decision because one of the questions addressed is whether the tax deposit gives rise to an asset, a contingent asset (within the scope of IAS 37) or neither. Accordingly, we recommend not changing the title of the agenda decision.
(e) The MASB suggests incorporating paragraph 13(b) of the September 2018 staff paper into the agenda decision. That paragraph concluded that the issues that need to be addressed in developing an appropriate policy may be similar to those that arise in relation to recognition, measurement, presentation and disclosure of other monetary assets, such as financial assets within the scope of IFRS 9 *Financial Instruments* or income tax assets within the scope of IAS 12.	The references to IFRS 9 and IAS 12 were made to illustrate how an entity's management may refer to IFRS Standards for assistance in developing policies for recognising, measuring and presenting that asset and disclosing information about it. We did not include the references to IFRS 9 and IAS 12 in the tentative agenda decision because we did not want to imply that those Standards, and not others, would necessarily be considered. Accordingly, we recommend not adding references to those Standards to the agenda decision.

Respondent comments	Staff analysis
(f) The GFRC suggests that reference to 'other monetary assets' in the penultimate paragraph of the tentative agenda decision implies that the Committee has concluded that the tax deposit is a monetary asset.	We think the tax deposit described in the agenda decision is a monetary asset so think it is correct for the agenda decision to refer to 'other monetary assets'. Monetary assets as defined in paragraph 8 of IAS 38 *Intangible Assets* as 'money held and assets to be received in fixed or determinable amounts of money'. The tax deposit entitles the entity to receive a fixed or determinable amount of money. Accordingly, we recommend not changing the agenda decision as a result of this comment.

Staff recommendation

18. Based on our analysis, we recommend finalising the agenda decision as published in IFRIC Update in September 2018, subject to the modification noted in paragraph 16(b) of this paper. Appendix A to this paper sets out the proposed wording of the final agenda decision.

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

Appendix A—Proposed wording of the agenda decision

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

Deposits relating to taxes other than income tax (IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*)

The Committee received a request about how to account for deposits of taxes that are outside the scope of IAS 12 *Income Taxes* (ie deposits of taxes other than income tax). In the fact pattern described in the request, an entity and a tax authority dispute whether the entity is required to pay the tax. The tax is not an income tax, so it is not within the scope of IAS 12. Any liability or contingent liability to pay the tax is instead within the scope of IAS 37. Taking account of all available evidence, the preparer of the entity's financial statements judges it probable that the entity will not be required to pay the tax—it is more likely than not that the dispute will be resolved in the entity's favour. Applying IAS 37, the entity discloses a contingent liability and does not recognise a liability. To avoid possible penalties, the entity has deposited the disputed amount with the tax authority. Upon resolution of the dispute, the tax authority will be required to either refund the tax deposit to the entity (if the dispute is resolved in the entity's favour) or use the deposit to settle the entity's liability (if the dispute is resolved in the tax authority's favour).

Whether the tax deposit gives rise to an asset, a contingent asset or neither

The Committee observed that if the tax deposit gives rise to an asset, that asset may not be clearly within the scope of any IFRS Standard. Furthermore, the Committee concluded that no IFRS Standard deals with issues similar or related to the issue that arises in assessing whether the right arising from the tax deposit meets the definition of an asset. Accordingly, applying paragraphs 10–11 of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*, the Committee referred to the two definitions of an asset in IFRS literature—the definition in the *Conceptual Framework for Financial Reporting* issued in March 2018 and the definition in the previous *Conceptual Framework* that was in place when many existing IFRS Standards were developed. The Committee concluded that the right arising from the tax deposit meets either of those definitions. The tax deposit gives the entity a right to obtain future economic benefits, either by receiving a cash refund or by using the payment to settle the tax liability. The nature of the tax deposit—whether voluntary or required—does not affect this right and therefore does not affect the conclusion that there is an asset. The right is not a contingent asset as defined by IAS 37 because it is an asset, and not a possible asset, of the entity.

Consequently, the Committee concluded that in the fact pattern described in the request the entity has an asset when it makes the tax deposit to the tax authority.

Recognising, measuring, presenting and disclosing the tax deposit

In the absence of a Standard that specifically applies to the asset, an entity applies paragraphs 10–11 of IAS 8 in developing and applying an accounting policy for the asset. The entity's management uses its judgement in developing and applying a policy that results in information that is relevant to the economic decision-making needs of users of financial statements and reliable. The Committee noted that the issues that need to be addressed in developing and applying an accounting policy for the tax deposit may be similar or related to those that arise for the recognition, measurement, presentation and disclosure of other monetary assets. If this is the case, the entity's management would refer to requirements in IFRS Standards dealing with those issues for other monetary assets.

The Committee concluded that the requirements in IFRS Standards and concepts in the *Conceptual Framework for Financial Reporting* provide an adequate basis for an entity to account for deposits relating to taxes other than income tax. Consequently, the Committee [decided] not to add this matter to its standard-setting agenda.

Appendix B—Comment letters

Deloitte.

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21 November 2018

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

Dear Ms Lloyd

Tentative agenda decision – IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*: Payments relating to taxes other than income tax

Deloitte Touche Tohmatsu Limited is pleased to respond to the IFRS Interpretations Committee's publication in the September IFRIC Update of the tentative decision not to take onto the Committee's agenda the request for clarification on the recognition of an asset in respect of payments for taxes other than income tax.

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

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

Yours sincerely

Veronica Poole
Global IFRS Leader

Building a better working world

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INVESTOR IN PEOPLE

International Financial Reporting Standards Interpretations Committee
Columbus Building
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23 October 2018

Dear IFRS Interpretations Committee members,

Invitation to comment – Tentative Agenda Decision (TAD): Deposits relating to taxes other than income tax (IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*)

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 September 2018 *IFRIC Update*.

The Committee discussed the question 'how to account for deposits of taxes that are outside the scope of IAS 12 *Income Taxes*'.

We support the analysis that '…no IFRS Standard deals with issues similar or related to the issue that arises in assessing whether the right arising from the tax deposit meets the definition of an asset'; therefore, an entity should apply the hierarchy in paragraphs 10-11 of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* to refer to the definition of an asset in the Conceptual Framework. We agree that, in the circumstances described in the request, the payment gives rise to an asset by way of the right either to receive a cash refund or to use the payment to settle the tax liability.

While we agree with the Committee's conclusion, we recommend that the agenda decision uses the term 'payment on account', which is consistent with the description of the transaction in the original request, instead of 'deposit', which may be interpreted more narrowly, might suggest to constituents the existence of a financial asset, and may have a specific legal meaning in some jurisdictions.

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

pwc

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

21 November 2018

Dear Sue

Tentative agenda decision – Deposits relating to taxes other than income tax (IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*)

We are pleased to respond to your invitation to comment on the tentative agenda decision – Deposits relating to taxes other than income tax, published in September 2018, on behalf of PricewaterhouseCoopers. Following consultation with members of the PricewaterhouseCoopers network of firms, this response summarises the views of member firms who commented on the tentative agenda decision. "PricewaterhouseCoopers" refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

We agree with the Committee's conclusion for the reasons given in the tentative agenda decision.

The tentative agenda decision states that the Committee's conclusion applies only to the submitted fact pattern. We suggest that the final sentence in the first paragraph is amended to emphasise that there are only two possible outcomes – i.e., that the tax authority cannot retain the deposit for other purposes.

- *... Upon resolution of the dispute, the tax ~~authority~~ law will require the tax authority either to refund the tax deposit to the entity (if the dispute is resolved in the entity's favour) or to use the deposit to settle the entity's liability (if the dispute is resolved in the tax authority's favour)...*

If you have any questions in relation to this letter please do not hesitate to contact Henry Daubeney, PwC Head of Reporting Chief Accountant (+44(0)78 415 69635).

Yours sincerely,

PricewaterhouseCoopers

PricewaterhouseCoopers

Mrs Sue Lloyd

IFRS Interpretations Committee
Columbus Building,
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Paris, November 23, 2018

Tentative Agenda Decisions – IFRIC Update September 2018

Dear Sue,

MAZARS is pleased to comment on the various IFRS Interpretations Committee tentative agenda decisions published in the September 2018 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 note that the Tentative Agenda Decisions are sometimes based on a strict reading of existing IFRSs without considering the relevance of the financial information resulting from the decision. In our opinion, this is especially the case for the step acquisition issue (IAS 27, see Appendix 4) and the cash flow hedge relationship (IFRS 9 and IAS 39, see Appendix 6). We consider it key to question the relevance of the accounting consequences of an Agenda Decision before finalizing it, to avoid some counterintuitive accounting and to enhance at the same time the credibility of the work undertaken by the Interpretations Committee.

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 Advisory

Appendix 5

Deposits relating to taxes other than income tax (IAS 37 Provisions, Contingent Liabilities and Contingent Assets) — Agenda Paper 7–7A

We agree with the tentative agenda decision, however with some remarks on its wording:

1. We would suggest making more apparent in the description of the fact pattern that the right arising from paying the tax deposit is clearly established, as this right is key for the recognition of an asset (in our understanding, this is the basis on which the Committee has developed its decision, but we fear that this may not appear clearly to all readers in the current proposed wording; we believe that making clear that this is the assumption on which the agenda decision is based will help prevent any future misinterpretation/misuse of the agenda decision) – to that end, we would suggest the following additions (new text is underlined and in bold characters):

   "Upon resolution of the dispute, the tax authority will either refund the tax deposit to the entity (if the dispute is resolved in the entity's favour) or use the deposit to settle the entity's liability (if the dispute is resolved in the tax authority's favour). ***<u>In the fact pattern described in the request, the right arising from paying the tax deposit (either to receive a cash refund or to use the payment to settle the tax liability) is clearly established.</u>****"*

2. To make sure the agenda decision will encompass all situations, and not only those where the payment made by the entity if considered as a deposit on a legal point of view, we would recommend using the word "payment" or "provisional payment" instead of "deposit".

21 November 2018

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

Dear Ms. Lloyd

Tentative Agenda Decision – Deposits relating to taxes other than income tax (IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*)

The Malaysian Accounting Standards Board (MASB) welcomes the opportunity to provide comments on the above Tentative Agenda Decision.

We agree with the Interpretations Committee's conclusion.

However, we recommend that the Committee considers incorporating to the Agenda Decision the September 2018 IFRIC staff paper paragraph 13(b) which concluded that the issues that need to be addressed in developing the appropriate policies may be similar to other monetary assets such as financial assets within the scope of IFRS 9 *Financial Instruments* or income tax assets within the scope of IAS 12 *Income Taxes*.

We also recommend that the Agenda Decision uses the term 'payment on account', which is consistent with the description of the transaction in the original request, instead of 'deposit', which may be interpreted more narrowly, might suggest to constituents the existence of a financial asset.

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

Thank you.

Yours sincerely,

TAN BEE LENG
Executive Director

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23 November 2018

Re: IFRS Interpretations Committee tentative agenda decisions published in the September 2018 IFRIC Update

Dear Ms Lloyd,

We are pleased to have the opportunity to provide our comments on the IFRS Interpretations Committee ("the Committee") tentative agenda decisions included in the September 2018 IFRIC Update.

Our comments refer to the following tentative agenda decisions:

- Assessment of promised goods or services (IFRS 15 – Revenue from Contracts with Customers);
- Liabilities in relation to a joint operator's interest in a joint operation (IFRS 11 – Joint Arrangements);
- Investment in a subsidiary accounted for at cost: step acquisition (IAS 27 - Separate Financial Statements);
- Deposits relating to taxes other than income tax (IAS 37 – Provisions, Contingent Liabilities and Contingent Assets);
- Load following swap (IFRS 9/IAS 39 Financial Instruments).

[...]

Deposits relating to taxes other than income tax

We agree that:

- the timing of the payment should not affect the assessment of whether a liability (and an expense) should be recognised and
- an entity should recognise a liability only if it is probable that it will lose the litigation.

However, as mentioned in our previous comment letter[1] on a similar issue, we are aware that there is diversity in practice in accounting for advance payments made during any kind of litigation (ie tax litigations and any other litigation): some entities recognise an asset for the payment other entities consider the payment as a contingent asset.

Consequently, we disagree with the Committee decision not to add this issue to its standard-setting agenda, we believe that the Committee should clarify, with an Interpretation or an Amendment, the accounting for advance payments made during any king of litigation.

[...]

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

Yours sincerely,

Angelo Casò
(Chairman)

[1] Please see our comment letter on the January 2014 IFRS IC tentative agenda decision IAS 12 – *Threshold of recognition of an asset in the situation in which the tax position is uncertain*.

PETROBRAS

Rio de Janeiro, Nov 21, 2018

CONTRIB 0061/2018

Ms Lloyd
International Accounting Standards Board
Columbus Building
7 Westferry Circus
Canary Wharf
London
E14 4HD, UK.

Subject: Tentative Agenda Decision and comment letters—Deposits relating to taxes other than income tax (IAS 37)

Reference: IAS 37- Provisions**,** Contingent Liabilities and Contingent Assets

Dear Ms Lloyd,

Petróleo Brasileiro S.A. - Petrobras welcomes the opportunity to comment on the IFRS Interpretations Committee's tentative agenda decision - Deposits relating to taxes other than income tax (IAS 37). We believe this is an important opportunity for all parties interested in the future of IFRS and we hope to contribute to the progress of the Board's activities.

We generally agree with the Interpretations Committee's conclusion and we support the decision not to add this item to its agenda

If you believe we can be of any assistance regarding this matter, do not hesitate to contact us (contrib@petrobras.com.br).
Respectfully,

/s/Rodrigo Araujo Alves

Rodrigo Araujo Alves

Chief Accounting and Tax Officer

Global Financial Reporting Collective
incorporating the Pacioli Initiative

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17 November 2018

IFRS Interpretations Committee
IFRS Foundation
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The Global Financial Reporting Collective is pleased to offer its comments on the Tentative Agenda Decision—Deposits relating to taxes other than income tax (IAS 37).

We agree that the deposit is an asset. That conclusion seems to be such a common-sense outcome that it is difficult to see why it came to the Committee. This type of question must come up more often in practice. How do companies account for a deposit to rent premises or an asset that is refundable on the return of the asset in good condition, with the deposit being applied to remedy problems with the asset if that is the case? In legal disputes it is not uncommon to pay money to a Court that will either be refunded or used to settle a finding. These types of scenario seem to be similar to the one the Committee was asked to address.

In teaching how to account for this type of transaction, the analysis seems relatively straightforward. The credit is to cash and the debit is to an asset. The depositor has given the cash to the other party on the condition that it be used to settle a possible future liability or returned.

We can understand if the question had been "what sort of asset is it?" because that seems to be the relevant and more interesting one. That is not a question the Committee has answered. Similarly, for the holder of the deposit it is less clear what sort of liability it is.

Turning back to this specific tax question, we think that in some circumstances the deposit could be a monetary asset. If the company could decide at any time to get the deposit back, maybe because it decided to take the risk that it will not have to pay additional tax (and assuming the tax legislation allows this to happen), doesn't it have the right to cash? If the deposit can only be refunded (or applied to settle a tax liability) once the dispute is resolved then it probably isn't a financial asset because of that conditionality. The tentative Agenda Decision does not appear to consider that possibility and could lead to a company thinking that this is not a financial asset when, because of the particular circumstances, it is.

In analysing this type of transaction we would have looked at IAS 32 as a first step and assessed whether the company had a right to receive cash. This seems to be consistent with where the Committee got to when it concluded that it is similar or related to a monetary asset.

The Tentative Agenda Decision goes down the hierarchy to the Framework to decide if it is an asset and then reverts back up the hierarchy and suggests that the IFRS Standards that cover monetary assets to get recognition, measurement, presentation and disclosure guidance are relevant.

What appears to be the thought process of the Committee is captured in the wording of the tentative agenda decision. You say that you used the IAS 8 hierarchy to get to the definitions of asset and liability in the Conceptual Framework. We don't understand why you need IAS 8 to do that. IAS 1, which the company will also be applying, says you have to prepare financial statements using the definitions and recognition criteria for assets, liabilities, income and expenses set out in the Framework (IAS 1.15). Aren't you just applying IAS 1 to find the asset definition? We can understand using the hierarchy to conclude that you might look to monetary assets in other IFRS Standards to help identify relevant recognition, measurement, presentation and disclosure.

We suggest that you remove this first reference to IAS 8 and explain that it is IAS 1.15 that requires the company to look to the asset definition. This is what we tell our students. We would be concerned if the Agenda Decision implied that you only get to the Conceptual Framework definitions via the hierarchy. If that is the case then IAS 1.15 seems to be redundant. We also tell our students that, as a first step, it is better to try to stay within the set of IFRS Standards rather than move too quickly down the hierarchy where the guidance become more general or where local requirements might be used when a perfectly acceptable solution can be found by using the principles in the IFRS Standards.

We also think that, conceptually, this is not only the more robust approach but the approach that is consistent with applying the IAS 8 hierarchy. If you follow our suggestion you will be applying IAS 1 to assess whether it is an asset (or liability) and then using similar transactions within IFRS Standards for recognition, measurement, presentation and disclosure.

It can sometimes be helpful to look at the other side of the transaction. For example, how would the party receiving the deposit account for it? It seems clear that the receiving party has a liability. It is not revenue or equity. The holder of the deposit must either return it to the depositor or apply it against a future liability of the depositor. It has all of the characteristics of a liability, which we are sure the Committee would also conclude.

In terms of drafting, we note that the penultimate paragraph says the issues may be similar to "*other* monetary assets." This could be read to imply that the Committee has concluded that the tax deposit is a monetary asset.

It is not clear why the tentative decision has IAS 37 in the title. The decision states that the deposit is not a contingent asset. In that sense the Committee has looked at IAS 37, but we would not look naturally to IAS 37 for guidance on the type of scenario described. As we have said in the earlier parts of this letter, we would have looked at the conditionality as determining what type of asset it is rather than whether it is an asset.

Thank you for considering our comments.

Global Financial Reporting Collective

17 November 2018

Dr. Douglas Letsch
Associate Professor of Accounting and Finance
Argosy University

November 10, 2018

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

Dear IFRS Interpretations Committee members,

Invitation to comment ("ITC") – Tentative Agenda Decision (TAD): Deposits relating to taxes other than income tax (IAS 37 Provisions, Contingent Liabilities and Contingent Assets)

As an academic in the field of accounting and finance, I welcome the opportunity to offer my independent views on the above tentative agenda decision of the IFRS Interpretations Committee ("the Committee") published in at https://www.ifrs.org/projects/open-for-comment.

The Committee presented its tentative decision to not include a Constituent's request of "how to account for deposits of taxes that are outside the scope of IAS 12 *Income Taxes* (i.e. deposits of taxes other than income tax)" in a future standard setting agenda. In the ITC, "the Committee concluded that the requirements in IFRS Standards and concepts in the *Conceptual Framework for Financial Reporting* provide an adequate basis for an entity to account for deposits relating to taxes other than income tax". The Committee then concluded, "in the absence of a Standard that specifically applies to the asset, an entity applies paragraphs 10–11 of IAS 8 in developing and applying an accounting policy for the asset".

According to IAS 12, "IAS 8 Accounting Policies, Changes in Accounting Estimates and Errors provides a basis for selecting and applying accounting policies in the absence of explicit guidance". I agree with the Constituent that the use of IAS 12 is outside the scope of the described issue. However, IAS 12 contains accounting treatments that are similar to Constituent's described issue and specifically IAS 8, paragraph 11 applies as the guiding principle. In following IAS 8, para 11, Constituent can utilize the treatment of continent liabilities in IAS 37, specifically para 16b, 25, 26, and 39. In this case a reasonable amount could be estimated. Caution and more specifically verifiability (QC19, Conceptual Framework) must be employed as with any accounting estimate. In my experience as a chief financial officer for most of my career and now as an academic, remote contingent liabilities have a way of sprouting in the worst weather.

I concur with the Committee decision and hope that other standard-setters use principle-based approaches in its decisions.

If you wish to discuss this matter with me, please contact me at Dr. Douglas Letsch, 185 CR 2910, Mineola, Texas USA, 75773 or call 903-638-0500

Sincerely,