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STAFF PAPER

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Project	**Presentation of liabilities or assets related to uncertain tax treatments (IAS 1)**
Paper topic	Initial Consideration

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Introduction

1. The IFRS Interpretations Committee (Committee) received a submission about the presentation of liabilities or assets related to uncertain tax treatments. The submitter asked whether, in its statement of financial position, an entity presents a liability related to uncertain tax treatments as a current (or deferred) tax liability or as a provision. A similar question could arise regarding assets related to uncertain tax treatments.

2. The objective of this paper is to:

   (a) provide the Committee with background information on the matter;

   (b) present our research and analysis; and

   (c) ask the Committee whether it agrees with our recommendation not to add the matter to its standard-setting agenda.

Structure of the paper

3. This paper includes:

   (a) background information;

(b) summary of outreach;

(c) staff analysis; and

(d) staff recommendation.

4. There are two appendices to this paper:

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

(b) Appendix B—submission.

Background information

The submission

5. IFRIC 23 *Uncertainty Over Income Tax Treatments* clarifies how an entity applies the recognition and measurement requirements in IAS 12 *Income Taxes* when there is uncertainty over income tax treatments. However, neither IFRIC 23 nor IAS 12 specify requirements for presentation in the statement of financial position of liabilities or assets related to uncertain tax treatments (uncertain tax liabilities and assets[1]).

6. The submitter says there are differing views as to whether the entity presents uncertain tax liabilities as current (or deferred) tax liabilities or as provisions.

7. Appendix B to this paper reproduces the submission and provides further details on those views.

Outreach

8. We sent information requests to members of the International Forum of Accounting Standard-Setters, securities regulators and large accounting firms.

[1] Throughout this paper the term "uncertain tax liability" refers to both uncertain current tax liabilities and uncertain deferred tax liabilities, and "uncertain tax asset" refers to both uncertain current tax assets and uncertain deferred tax assets.

9. The request asked those participating to provide information based on their experience about:

   (a) how entities present uncertain tax liabilities and assets in the statement of financial position—whether entities present them as current (or deferred) tax liabilities or assets or in a different line item, eg provisions.

   (b) whether there is any difference between how entities present:

      (i) uncertain *current* tax liabilities/assets and uncertain *deferred* tax liabilities/assets; and

      (ii) uncertain tax *liabilities* and *assets*.

   (c) whether there are any tax, legal or other requirements that affect the presentation of uncertain tax liabilities and assets.

10. We received 17 responses—nine from national standard-setters, six from large accounting firms and two from organisations representing groups of regulators. The views received represent informal opinions, rather than formal views of those responding.

Presentation of uncertain tax liabilities and assets

11. Responses to the outreach indicated mixed practice regarding the presentation of uncertain current tax liabilities. In particular,

   (a) six respondents said some entities present these liabilities as current tax liabilities and others present them as provisions or other liabilities. One respondent mentioned France, in particular, as a jurisdiction in which entities predominantly present these amounts as provisions.

   (b) six respondents said entities predominantly present these liabilities as current tax liabilities.

   (c) one respondent said application of IFRIC 23 would lead to entities in two jurisdictions changing the presentation of uncertain tax liabilities from provisions to current tax liabilities.

(d) some respondents said entities that had applied IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* to recognise and measure uncertain tax liabilities before IFRIC 23 presented these liabilities as provisions. Because IFRIC 23 is effective only for annual reporting periods beginning on or after 1 January 2019, it is too early to say whether those entities will now present uncertain tax liabilities as current tax liabilities or will continue to present them as provisions.

12. All respondents who commented on uncertain current tax assets said entities generally present them as current tax assets. Similarly, all respondents who commented on the presentation of uncertain deferred tax liabilities and assets said entities generally present them as deferred tax liabilities or assets.

Tax, legal or other requirements

13. Almost all respondents said there are no particular tax, legal or other requirements that affect the presentation of uncertain tax liabilities. However, one respondent said in their jurisdiction entities may be less inclined to present uncertain tax liabilities as current tax liabilities because doing so may draw attention to the tax position taken by the entity.

14. Another respondent said presenting uncertain tax liabilities as current tax liabilities might be considered by the tax authorities as:

(a) an acknowledgment by the entity that it is liable to pay those amounts to the authorities (and by not paying the amounts the entity is avoiding tax); or

(b) evidence of the entity’s intent that tax authorities could use against the entity in a tax dispute.

Staff analysis

Which IFRS Standard applies to the presentation of uncertain tax liabilities or assets?

15. IFRIC 23 applies to the recognition and measurement of uncertain tax liabilities and assets. Paragraph 4 of IFRIC 23 states (emphasis added):

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

16. IFRIC 23 does not however specify requirements for the presentation of uncertain tax liabilities and assets. IAS 12 does not either—it contains no requirements on presentation, with the exception of offsetting (specified in paragraphs 71–76).

17. IAS 1 *Presentation of Financial Statements* 'sets out overall requirements for the presentation of financial statements, guidelines for their structure and minimum requirements for their content' (paragraph 1 of IAS 1). Paragraphs 54–80A of IAS 1 specify requirements that apply to presentation in the statement of financial position.

18. Accordingly, an entity applies the requirements in IAS 1 to the presentation of uncertain tax liabilities and assets.

Presentation of uncertain tax liabilities[2]

19. Paragraph 54 of IAS 1 states:

> 'The statement of financial position shall include line items that present the following amounts: …
>
> (l) provisions; …

[2] Paragraphs 19–37 of this paper discuss the presentation of uncertain tax liabilities. Paragraphs 38–39 discuss the presentation of uncertain tax assets.

> (n) liabilities and assets for current tax, as defined in IAS 12 *Income Taxes;*
>
> (o) deferred tax liabilities and deferred tax assets, as defined in IAS 12; …

20. Because paragraph 54 of IAS 1 requires an entity to separately present liabilities for current tax and deferred tax liabilities as defined in IAS 12, we first considered whether uncertain tax liabilities meet the definition of current (or deferred) tax liabilities in IAS 12.

The definition of current (or deferred) tax liabilities in IAS 12

21. Paragraph 5 of IAS 12 defines:

    (a) current tax as 'the amount of income taxes payable (recoverable) in respect of the taxable profit (tax loss) for a period'. Paragraph 12 of IAS 12 states that 'current tax for current and prior periods shall, to the extent unpaid, be recognised as a liability'.

    (b) deferred tax liabilities as 'amounts of income taxes payable in future periods in respect of taxable temporary differences'[3].

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

> 'This Interpretation clarifies how to apply the requirements in IAS 12 when there is uncertainty over income tax treatments. In such a circumstance, an entity shall recognise and measure its *current or deferred tax asset or liability applying the requirements in IAS 12*…

23. Accordingly, we think any uncertain tax liability is a current (or deferred) tax liability as defined in IAS 12.

[3] Paragraph 5 of IAS 12 defines temporary differences as 'differences between the carrying amount of an asset or liability in the statement of financial position and its tax base'. A taxable temporary difference is a 'temporary difference that will result in taxable amounts in determining taxable profit (tax loss) of future periods when the carrying amount of the asset or liability is recovered or settled'.

24. We note that paragraph 5 of IFRIC 23 also states:

> When there is uncertainty over income tax treatments, this Interpretation addresses: …
>
> (c) how an entity determines taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates…

25. An entity therefore applies IFRIC 23 in determining taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates when there is uncertainty over income tax treatments. These amounts are in turn used to determine current/deferred tax applying IAS 12, which in turn flow through to be current/deferred tax liabilities if the amounts relate to the current or prior periods but are unpaid. We think this further confirms our view that any uncertain tax liability is a current (or deferred) tax liability as defined in IAS 12.

Is the definition of current tax limited to amounts used in an entity's income tax filings?

26. Paragraph 5 of IAS 12 defines (a) current tax as the 'amount of income tax payable (recoverable) in respect of the taxable profit (tax loss) for a period', and (b) taxable profit (tax loss) as 'the profit (or loss) for a period, determined in accordance with the rules established by the taxation authorities, upon which income taxes are payable (recoverable). In the light of these definitions, some say an entity's current tax liability reflects only income tax payable in respect of taxable profit as reported in the entity's income tax filings. They say the effects of any uncertainty in that taxable profit, if recognised applying IFRIC 23, is separate from the current tax liability (and does not meet its definition) if not reflected in the entity's income tax filings.

27. We disagree with this view. An entity reflects the effect of uncertainty in determining taxable profit, tax rates, etc. when it concludes that it is not probable that the taxation authority will accept an uncertain tax treatment (paragraph 11 of IFRIC 23). Accordingly, the taxable profit on which current tax, as defined in IAS 12, is calculated is the taxable profit that reflects any uncertainty applying IFRIC 23. It is not limited to the taxable profit as reported in an entity's income tax filings.

28. Paragraph IE6 of Illustrative Example 1 accompanying IFRIC 23 supports our view. Paragraph IE6 states (emphasis added):

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

How does an entity present uncertain tax liabilities?

29. Because uncertain tax liabilities meet the definition of current (or deferred) tax liabilities in IAS 12, we think applying paragraphs 54(n)–54(o) of IAS 1 an entity presents these amounts as liabilities for current (or deferred) tax in its statement of financial position.

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

31. We note that the requirements in paragraph 54(n)–54(o) of IAS 1 reflect the requirements that were in paragraph 69 of the pre-2003 version of IAS 12. Paragraph 69 of IAS 12 (pre-2003) stated:

> Tax assets and tax liabilities should be presented separately from other assets and liabilities in the balance sheet. Deferred tax assets and liabilities should be distinguished from current tax assets and liabilities.

32. Paragraph 69 was explicit in requiring entities to present any tax liability separately from other liabilities in the statement of financial position. As part of the *Improvements to International Accounting Standards* (Improvements to IASs) published in December 2003, paragraph 69 of IAS 12 was deleted and the

requirement in that paragraph was moved to IAS 1 without any substantive change. Paragraph IN14 of Improvements to IASs states:

> [IAS 1] includes all requirements previously set out in other Standards for the presentation of particular line items on the face of the balance sheet and income statement (and makes the necessary consequential amendments to those Standards). The line items are:…
>
> (b) liabilities and assets for current tax, deferred tax liabilities and deferred tax assets; and...

Can an entity disaggregate current (or deferred) tax liabilities?

33. Paragraph 55 of IAS 1 states:

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

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

Why we think an entity does not present uncertain tax liabilities as provisions

35. Some say uncertain tax liabilities meet the definition of provisions and, accordingly, an entity could present these liabilities as provisions. They support this view on the grounds that:

(a) paragraph 10 of IAS 37 defines a provision as a liability of uncertain timing or amount. An uncertain tax treatment is defined in IFRIC 23 as 'a tax treatment for which there is uncertainty over whether the relevant taxation authority will accept the tax treatment under tax law.' In other words, the amount of the liability is uncertain and, thus, an uncertain tax liability meets the definition of a provision. Paragraph 5 of IAS 37 acknowledges that income tax liabilities can be provisions, but excludes them from the scope of IAS 37.

(b) the line item 'provisions' in the statement of financial position (paragraph 54(l) of IAS 1) includes more than only provisions within the scope of IAS 37. Paragraph 78(d) of IAS 1 states that 'provisions are disaggregated into provisions for employee benefits and other items', even though provisions for employee benefits are within the scope of IAS 19.

(c) paragraph 57 of IAS 1 states (emphasis added):

> [IAS 1] does not prescribe the order or format in which an entity presents items. Paragraph 54 simply lists items that are sufficiently different in nature or function to warrant separate presentation in the statement of financial position. In addition:…
>
> (b) the descriptions used and the ordering of items or *aggregation of similar items* may be amended according to the nature of the entity and its transactions, to provide information that is relevant to an understanding of the entity's financial position…

Because uncertain tax liabilities are provisions, and are closer in nature to other items presented as provisions, presenting uncertain tax liabilities together with provisions would, in their view, provide information that is relevant to an understanding of the entity's financial position. Accordingly, even if paragraph 54 lists current/deferred tax liabilities, applying paragraph 57(b) an entity can amend the aggregation of items so that it presents uncertain tax liabilities together with provisions.

(d) IFRIC 23 applies to the recognition and measurement of uncertain tax liabilities and assets. It does not contain presentation requirements, and thus does not change how entities present uncertain tax liabilities.

36. We agree that IFRIC 23 does not provide requirements for the presentation of uncertain tax liabilities and assets. Nonetheless, as explained in paragraphs 21–28 of this paper, we think the requirements in IFRIC 23 confirm that uncertain tax liabilities meet the definition of current (or deferred) tax liabilities in IAS 12.

37. We agree that uncertain tax liabilities meet the definition of provisions. We also agree that the line item 'provisions' in the statement of financial provision can include more than just provisions within the scope of IAS 37 (for example, provisions for employee benefits). However, we disagree that entities can present uncertain tax liabilities as provisions. This is because:

(a) paragraphs 54(n) and 54(o) of IAS 1 explicitly require the presentation of tax liabilities in the statement of financial position separately from other liabilities. This is not the case for provisions for employee benefits—neither IAS 19 nor IAS 1 require entities to present provisions for employee benefits separately from other liabilities. If uncertain tax liabilities were presented with provisions, we think an entity would not comply with the requirements in paragraphs 54(n) and 54(o).

(b) paragraph 54 also requires separate presentation of other particular liabilities that could also meet the definition of provisions—for example, (i) groups of contracts within the scope of IFRS 17 *Insurance Contracts* that are liabilities (paragraph 54(ma)) and (ii) liabilities included in disposal groups classified as held for sale in accordance with IFRS 5 *Non-Current Assets Held for Sale and Discontinued Operations* (paragraph 54(p)). If paragraph 54 were read to allow the presentation of uncertain tax liabilities with provisions, an entity could also then present the above-mentioned liabilities with provisions. We think this would not align with the Board's intention in specifying these line items in paragraph 54.

(c) paragraph 57(b) ('the descriptions used and the ordering of items or aggregation of similar items may be amended according to the nature of the entity…') does not permit an entity to amend the aggregation of items listed in paragraph 54, other than when immaterial. Instead, we think paragraph 57(b) permits an entity to amend the descriptions used and the ordering of either (i) individual items, or (ii) similar items that the entity has appropriately aggregated. We think an entity would aggregate line items listed in paragraph 54 with other line items only when they are immaterial, as specified in paragraph 30 'if a line item is not individually material, it is aggregated with other items either in those statements or in the notes'.

Presentation of uncertain tax assets

38. Our analysis in paragraphs 19–34 of this paper applies equally to uncertain tax assets. In particular, we think:

(a) for the reasons outlined in paragraphs 19–25, uncertain tax assets meet the definition of current (or deferred) tax assets in IAS 12; and

(b) for the reasons outlined in paragraphs 29–32 of this paper, an entity presents uncertain tax assets as current (deferred) tax assets in the statement of financial position.

39. Similar to our analysis in paragraphs 33–34 of this paper, if an entity considers that presenting uncertain tax assets separately from other tax assets would be relevant to an understanding of its financial position, the entity would disaggregate the current (or deferred) tax asset line items to show uncertain tax assets separately.

Staff conclusion

40. Based on our analysis, we conclude that:

    (a) an entity presents uncertain tax liabilities as current (deferred) tax liabilities in its statement of financial position. An entity does not present uncertain tax liabilities as provisions.

    (b) an entity presents uncertain tax assets as current (deferred) tax assets in its statement of financial position.

Question 1 for the Committee
1. Does the Committee agree with the staff's analysis of the requirements in IFRS Standards regarding the presentation of uncertain tax liabilities and assets, as outlined in paragraphs 19–40 of this paper?

Should the Committee add this matter to its standard-setting agenda?

Is it necessary to add to or change IFRS Standards to improve financial reporting?[4]

41. Based on our analysis, we think the requirements in IFRS Standards provide an adequate basis for an entity to determine how to present uncertain tax liabilities and assets.

Staff recommendation

42. Based on our assessment of the Committee's agenda criteria in paragraphs 5.16-5.17 of the Due Process Handbook (discussed in paragraph 41 above), we recommend that the Committee does not add this matter to its standard-setting agenda. Instead we recommend publishing a tentative agenda decision that outlines how an entity applies

[4] Paragraph 5.16(b) of the *Due Process Handbook*.

the requirements in IFRS Standards to the presentation of uncertain tax liabilities and assets.

43. Appendix A to this paper sets out the proposed wording of the tentative agenda decision.

Questions 2 and 3 for the Committee
2. Does the Committee agree with our recommendation not to add this matter to its standard-setting agenda? 3. Does the Committee have any comments on the proposed wording of the tentative agenda decision set out in Appendix A to this paper?

Appendix A—proposed wording of the tentative agenda decision

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

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

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

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

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

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

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

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

Presentation of uncertain tax liabilities (or assets)

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

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

The Committee also observed that if the presentation of uncertain tax liabilities or assets separately from other tax liabilities or assets would be relevant to an understanding of its financial position, an entity would disaggregate the line items required by paragraph 54(n) and (o) to present uncertain tax liabilities or assets separately from other tax liabilities or assets (paragraph 55).

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

Appendix B––submission

We have reproduced the submission below, and in doing so deleted details that would identify the submitter of this request. This appendix does not reproduce an appendix to the submission that set out excerpts from IFRS Standards—those excerpts are embedded within the analysis in the paper.

Analysis of the issue

Context of the request

IFRIC 23 was developed to provide guidance as to the application of IAS 12 when an entity is in a position of uncertainty about the tax treatment that will be accepted by the taxation authority.

IFRIC 23.4 states that the purpose of the Interpretation is to clarify the recognition and measurement of items in such circumstances. Presentation is scoped out of the interpretation. The Committee explained in comments to the IFRIC 23 draft that it considers that the requirements of IAS 1 are sufficient.

However, there is a debate on the presentation of uncertain tax:

- Some consider that uncertain tax position should be presented as current or deferred tax (View 1 below);
- Others consider that IFRIC 23 does not lead to change the current presentation of uncertain tax position (View 2 below).

View 1: uncertain tax positions should be presented as current or deferred tax according to IAS 1.54(n) and (o)

IFRIC 23 clarifies how to apply the recognition and measurement requirements in IAS 12 when there is uncertainty over income tax treatments. This Interpretation clarifies how to apply the recognition and measurement requirements in IAS 12 when there is uncertainty over income tax treatments. In such a circumstance, an entity shall recognise and measure its current or deferred tax asset or liability applying the requirements in IAS 12 based on taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates determined applying this Interpretation (IFRIC 23.4).

IFRIC 23 does not address the presentation of uncertain tax positions since there is no need for adding presentation provisions that are clear enough under IAS 1 [IAS 1.54 (n) and (o)].

IAS 1 requires to present separately in the balance sheet liabilities and assets for deferred tax and for current tax “as defined in IAS 12”. IAS 1 does not prevent from disaggregating further these positions when useful. Since uncertain tax positions are from now on considered to fall under the IAS 12 definition, they should be presented in those dedicated line items and may not be presented elsewhere.

IFRIC 23.IE 6 and IFRIC 23.IE 10 confirm that the effect of the tax uncertainty is reflected into the deferred or current tax balance, and not separately.

The level of uncertainty in the timing and/or amount of a tax asset or liability being current or deferred is not conducive to its presentation in the statement of financial position. In this respect, whereas preparers in certain jurisdictions used to record certain provisions for tax risks within a caption “provisions”, the same preparers were not isolating, and rightly so, the uncertain deferred tax assets (sometimes quite uncertain when they reflect unused tax losses). Applying the provisions of IAS 1.54 (n) and (o) is unambiguous as it relates to both assets and liabilities, current or deferred, uncertain or not.

IAS 37 clearly scopes out all assets and liabilities under the scope of IAS 12 (IAS 37.5 (b). Consequently, the presentation of tax liabilities under “provisions” is not in compliance with IFRS.

In conclusion, IFRIC 23 is clear in its wording and such wording is reinforced by the two illustrative examples. Entities should take the opportunity to reclassify all amounts into relevant current or deferred tax lines when adopting IFRIC 23.

View 2: IFRIC 23 does not lead to change the current presentation of uncertain tax positions

<u>Analysis of current requirements on presentation</u>

IFRIC 23

The original source of the proposed amendments was a question about the recognition of an « uncertain » tax asset. Moreover, the IFRS-IC had already noted diversity in practice in respect of measurement approaches in such circumstance, such as, for example, the use of weighted averages or best estimates, the unit of account, etc. These are the issues that the Committee intended to resolve through this Interpretation. There appears to have been no discussion about the presentation of uncertain tax positions on the balance sheet and no questioning of current practices.

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

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

Presentation requirements of IAS 12

The only guidance in IAS 12 relating to the presentation on the balance sheet of tax assets and tax liabilities is contained in paragraphs 71 to 76. This guidance only deals with the rules for offsetting tax assets and liabilities.

IFRIC 23 does not modify the requirements of IAS 12 in respect of the balance sheet presentation of tax assets and liabilities. In addition, IAS 12 does not provide any guidance for the balance sheet presentation of uncertain tax positions.

Presentation requirements of IAS 1

IAS 1.54 requires the presentation of line items for the amounts of “liabilities and assets for current tax” and “deferred tax liabilities and deferred tax assets”.

IAS 1.57 specifies that the “standard does not prescribe the order or format in which an entity presents items. Paragraph 54 simply lists items that are sufficiently different in nature or function to warrant separate presentation”. It also states that the descriptions, the ordering AND the aggregation of items can be amended to provide information that is relevant to the understanding of the entity’s financial position.

IAS 1.58 lists the characteristics that could lead an entity to judge that items should be presented separately. These include, notably, "the timing of liabilities".

IAS 1.29 requires an entity to separate items of a dissimilar nature or function. These principles of aggregation (or disaggregation) are also reinforced in the project that the IASB is currently developing on the presentation of financial statements. In that project the principles of aggregation and disaggregation are notably based on the sharing of common characteristics by different items.

In a similar vein, although IAS 37.5(b) excludes from its scope provisions for income taxes addressed by IAS 12, it also excludes provisions for employee benefits addressed by IAS 19. Nonetheless, the presentation of the latter in a line item "provisions" in the balance sheet is a widespread practice that has never been the cause of contention. The line "provisions" already aggregates elements which share the characteristic of having a high degree of uncertainty and requiring the exercise of judgement. The detail of the nature of the items included in this caption is laid out in the notes.

Furthermore, IAS 37 is a standard which prescribes the measurement and recognition criteria for provisions which are not dealt with by another, more specific, standard, but, in common with IAS 12, it does not deal with the balance sheet presentation of the items it deals with.

Principles of presentation

In reflecting on the application of the principles of IAS 1, and in the light of the current discussions of the IASB on the presentation of financial statements, it appears that:

- it could be more relevant and understandable (and thus consistent with IAS 1), to separate the liabilities related to uncertain tax positions from other current and deferred tax liabilities the amounts and timing of which are much more certain. Indeed, even though both are within the scope of IAS 12 for measurement and recognition purposes, the uncertain tax positions seem to be of a different nature from that of tax liabilities per se (whether current or deferred).
- in practice, when entities apply IFRIC 23 they start by determining the amount of the current tax liability in line with those elements declared in the tax computation. This amount will correspond to the amount of tax due in the tax return, and both the amount and the timing are certain. Deferred tax amounts are arrived at by a process

which is also derived from the amounts declared in the tax return. In contrast, the measurement of uncertain tax positions is often the result of a distinct calculation and management process. Even though the measurement method respects the requirements of IFRIC 23, the liability is distinct since its amount and timing are far less certain than the current and deferred taxes. It would therefore not be relevant to present such elements in aggregation with current and deferred tax liabilities, for which the user would expect a high level of certainty as to the outcome. It could therefore be appropriate to present elements with this higher level of uncertainty in a balance sheet caption which is distinguished notably by its characteristic of uncertainty, i.e. amongst the provisions.

- IAS 12 allows for offsetting deferred tax assets and liabilities. Information on uncertain tax positions may be obscured.

Other possible risks related to the presentation

Some stakeholders have reported that presenting uncertain tax positions among tax liabilities rather than provisions may create tax risk. To include such elements in the tax captions would confer upon the position taken the appearance of a voluntary and certain act which could be assimilated to a deliberate act of fiscal evasion. Under some countries domestic tax laws deliberate act of fiscal evasion may result in specific penalties and criminal prosecution.

Summary of view 2

Since the obligations related to uncertain tax positions may have more characteristics in common with other provisions than tax liabilities, it could be more informative for the user to include them in a “provisions” line item caption for which the user would expect a high level of uncertainty. The detailed analysis of the “provisions” caption would be disclosed in the notes, where the various types of provisions are split based on further characteristics if material.

In accordance with the requirements of IAS 1 (the only standard dealing with the presentation of income tax in the balance sheet), nothing precludes the presentation of uncertain tax positions amongst other provisions, which share the same characteristic of uncertainty as to amount and timing.

The publication of IFRIC 23 is insufficient on its own to justify a change in the balance sheet presentation of provisions for uncertain tax positions.

Question to the Committee

Does IFRIC 23 lead to promote a presentation of uncertain tax positions in the balance sheet?