

Urgent Issues Group Interpretation 1039
July 2004

Substantive Enactment of Major Tax Bills in Australia



Australian Government

**Australian Accounting
Standards Board**

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PREFACE

Main Features of this Interpretation

This Interpretation is applicable to annual reporting periods beginning on or after 1 January 2005. Early adoption of this Interpretation is not permitted. Application of this Interpretation will begin in the context of adopting all Australian equivalents to International Financial Reporting Standards. The requirements of Accounting Standard AASB 1 *First-time Adoption of Australian Equivalents to International Financial Reporting Standards* must be observed. AASB 1 requires prior period information, presented as comparative information, to be restated as if the requirements of this Interpretation had always applied. This differs from previous Australian requirements where changes in accounting policies did not require the restatement of the income statement and balance sheet of the preceding period.

The Interpretation requires a tax Bill to be taken into account in the recognition and measurement of deferred tax assets and liabilities only when the Bill has been enacted or substantively enacted prior to or on the reporting date. The Interpretation clarifies when a Bill is taken to have been enacted or substantively enacted. For example, where its commencement is linked to another Bill, the first Bill is not taken to be enacted or substantively enacted until the second Bill is substantively enacted.

Comparison with Superseded Requirements

Interpretation 1039 partly supersedes UIG Abstract 39 *Effect of Proposed Tax Consolidation Legislation on Deferred Tax Balances*. Abstract 39 dealt with the enactment or substantive enactment of tax consolidation Bills in particular. This Interpretation includes the same requirements, but applies them to tax Bills generally, as the principal tax consolidation legislation has now been enacted.

Abstract 39 also addressed how the tax consolidation legislation – when relevant to an entity – could affect the deferred tax balances recognised by the entity prior to the implementation of the tax consolidation system by the entity. These requirements will be addressed in Interpretation 1052 *Tax Consolidation Accounting* rather than this Interpretation.

URGENT ISSUES GROUP
INTERPRETATION 1039
***SUBSTANTIVE ENACTMENT OF
MAJOR TAX BILLS IN AUSTRALIA***

ISSUE

1. The legislation to allow groups comprising a parent and its wholly-owned entities (all being Australian residents for tax purposes) to elect to consolidate and be treated as a single entity for income tax purposes was enacted through a series of Acts. For example, the first Act, the *New Business Tax System (Consolidation) Act (No. 1) 2002*, was passed by Parliament in June 2002. However, its commencement was linked to the day on which the second Act, the *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002*, received Royal Assent. The second Act was passed by Parliament and received Royal Assent in October 2002. The third and fourth principal tax consolidation Acts were passed by Parliament in November 2002 and March 2003 respectively. Amendments and additional requirements have been included in other taxation Acts as well. However, the tax consolidation regime or system commenced with effect from 1 July 2002.
2. When the principal tax consolidation legislation was enacted through a series of Acts over a long period, different views arose in relation to whether proposed tax legislation (as individual Bills, linked Bills or a complete package) should be taken into account in determining the carrying amounts of deferred tax assets and liabilities included in balance sheets for reporting dates prior to the substantive enactment of the proposed legislation.
3. Concern has been expressed that, in the absence of authoritative guidance, diverse or unacceptable practices may occur or develop in determining whether deferred tax balances should be adjusted for any anticipated effects of proposed tax legislation prior to its passage. This will undermine the relevance and reliability of general purpose financial reports.
4. The issue is when the recognition and measurement of deferred tax assets and liabilities should take into account individual tax Bills, linked Bills or a series of Bills.

CONSENSUS

5. A tax Bill, to the extent that it is relevant to the entity, shall be taken into account in the recognition and measurement of deferred tax assets and liabilities when and only when the Bill has been enacted or substantively enacted prior to or on the reporting date.
6. Substantive enactment of a tax Bill shall be taken to have occurred once the Bill has been tabled in the Parliament and there is majority support for the passage of the Bill through both Houses of Parliament. However, where the commencement of the Bill is linked to the enactment or commencement of another Bill, the first Bill shall not be taken to be enacted or substantively enacted until the second Bill has been enacted or substantively enacted.

Application

7. This Interpretation applies when Accounting Standard AASB 112 *Income Taxes* applies.
8. This Interpretation applies to annual reporting periods beginning on or after 1 January 2005.
9. This Interpretation shall not be applied to annual reporting periods beginning before 1 January 2005.
10. The requirements specified in this Interpretation apply to the financial report where information resulting from their application is material in accordance with AASB 1031 *Materiality*.
11. When applicable, this Interpretation in part supersedes Abstract 39 *Effect of Proposed Tax Consolidation Legislation on Deferred Tax Balances*, as issued in December 2002.
12. Abstract 39 remains applicable in part until superseded by this Interpretation.

DISCUSSION

13. AASB 112 requires deferred tax assets and liabilities to be measured on the basis of the tax laws and tax rates that have been enacted or substantively enacted by the reporting date.
14. The view adopted in this Interpretation is that an exposure draft of proposed tax legislation does not represent a substantive enactment of changes in tax laws because the content and timing of the actual

legislation is too uncertain at that stage. Draft legislation does not indicate the probable specific provisions of the ultimate legislation, as revisions and extensions are expected, even if it were concluded that the enactment of some tax legislation is probable.

15. Under this Interpretation, a tax Bill is taken to be substantively enacted when it has been tabled in the Parliament and there is majority support for its passage through both Houses, provided that the commencement of the Bill is not linked to another Bill that has not been substantively enacted. If the second Bill has not been enacted or substantively enacted, then the first Bill in fact may never commence to operate. Accordingly, it is not appropriate to treat the first Bill as enacted or substantively enacted until the linked second Bill has been enacted or substantively enacted. Furthermore, the second Bill may be linked in a similar way to a third Bill. Linked Bills are taken to be enacted or substantively enacted when the final linked Bill is enacted or substantively enacted.
16. When a Bill has been substantively enacted, it is reasonable to conclude that it is probable that the specific proposals in the Bill will be enacted, and that the proposals will have been specified with sufficient scope and detail to be understood and applied in practice. When tax Bills deal with fundamental changes to taxation arrangements, general statements of support for the legislation prior to the commencement of the legislative process in Parliament are not considered to result in substantive enactment of the proposed legislation.
17. If a tax Bill becomes substantively enacted *prior to or on* the reporting date, it is taken into account (where relevant) in measuring the deferred tax balances as at that reporting date. However, if a Bill were to become substantively enacted only *after* the reporting date, it is not taken into account in measuring deferred tax balances as at that reporting date. A change in tax laws that occurs after the reporting date, but before the time of completion of the financial report, does not provide new information relating to conditions existing at the reporting date. This means that if the first and second Bills in a series are substantively enacted prior to the reporting date, but no other related, non-linked tax Bills are, then the first and second Bills are taken into account when appropriate without regard to the published or expected contents of subsequent tax Bills in the series.

Disclosures

18. The subsequent-event disclosure requirements in AASB 110 *Events after the Balance Sheet Date* are applicable where substantive

enactment (and enactment) of proposed legislation occurs after the reporting date but before the time of completion of the financial report. For example, that Standard specifies particular disclosures where events occurring after the reporting date provide new information that does not relate to conditions existing at the reporting date. These disclosures include the nature of the event and the financial effect of the non-adjusting event, if it can be estimated reliably.

REFERENCES

Australia

The Urgent Issues Group discussed Issues Paper 04/3 “Revision of Various UIG Abstracts for 2005” in relation to this Interpretation at its meeting on 10 June 2004. In developing the superseded Abstract, the UIG discussed Issue Summary 02/1 “Effect of Proposed Tax Consolidation Legislation on Deferred Tax Balances” at meetings on 19 March, 14 May, 14 June, 2 July and 13 August 2002.

Accounting Standard AASB 110 *Events after the Balance Sheet Date*

Accounting Standard AASB 112 *Income Taxes*

Canada

CICA Handbook Section 3465 *Income Taxes*

Emerging Issues Committee Abstract EIC-111 *Determination of Substantively Enacted Tax Rates under CICA 3465*

International Accounting Standards Board

International Accounting Standard IAS 12 *Income Taxes*

United Kingdom

Financial Reporting Standard FRS 19 *Deferred Tax*

United States of America

Statement of Financial Accounting Standards SFAS 109 *Accounting for Income Taxes*

Emerging Issues Task Force EITF Topic D-30 *Adjustment Due to Effect of a Change in Tax Laws or Rates*