



Australian Government

**Australian Accounting
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Mr Wayne Upton
Chairman
IFRS Interpretations Committee
30 Cannon Street
London EC4M 6XH
UNITED KINGDOM

Dear Wayne

Draft IFRIC Interpretation DI/2012/1
Levies Charged by Public Authorities on Entities that Operate in a Specific Market

The Australian Accounting Standards Board (AASB) is pleased to provide comments on Draft IFRIC Interpretation DI/2012/1 *Levies Charged by Public Authorities on Entities that Operate in a Specific Market*. In formulating these comments, the AASB sought and considered the views of Australian constituents. The comment letters received are published on the AASB's website.

Overall, the AASB supports the conclusions reached by the IFRS Interpretations Committee (the 'Committee') in the draft Interpretation. However, the AASB questions the need for an Interpretation on the narrow topic addressed by the Interpretation. The AASB is concerned that the draft Interpretation does not address the issue that is likely to be the most significant source of diversity in practice relating to levies triggered by reaching a minimum revenue threshold – that is, whether an obligating event for a levy triggered by reaching a minimum revenue threshold can occur prior to the threshold being reached. It is concerned that, by not addressing this issue, the Committee would miss an opportunity to improve the quality of financial reporting.

In addition to this overall concern, the AASB has the following specific recommendations in relation to the draft Interpretation:

- if the Committee decides not to address the issue of levies triggered by reaching a minimum revenue threshold, the AASB recommends that *all* levies subject to a minimum threshold (including levies subject to non-revenue minimum thresholds) should, for consistency, be excluded from the scope of the Interpretation;
- the scope of the draft Interpretation should be clarified because it is unclear in various respects;
- the explicit scope limitation to 'non-exchange transactions' (as set out in paragraph 5(c) of the draft Interpretation) should be removed; and

- paragraph 11 should be omitted. Other IFRSs should be relied on to specify whether incurring a liability for a levy gives rise to an asset or an expense, or both.

These concerns (each of which relates to Question 1 in the draft Interpretation) and the reasons for the AASB's above-mentioned recommendations are explained in the attachment. The attachment also includes the AASB's responses to the questions in the Draft Interpretation, and some drafting suggestions.

If you have any queries regarding any matters in this submission, please contact Nikole Gyles (ngyles@asb.gov.au).

Yours sincerely

A handwritten signature in black ink that reads "K.M. Stevenson". The signature is written in a cursive style with a long, sweeping underline.

Kevin M. Stevenson
Chairman and CEO

**AASB’s Specific Comments on Draft IFRIC Interpretation DI/2012/1
*Levies Charged by Public Authorities on Entities that Operate in a Specific Market***

The AASB’s views on the questions in the draft Interpretation are as follows:

Question 1—Scope

The draft Interpretation addresses the accounting for levies that are recognised in accordance with the definition of a liability provided in IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*. Levies that are within the scope of the draft Interpretation are described in paragraphs 3–5.

Do you agree with the scope proposed in the draft Interpretation? If not, what do you propose and why?

The AASB has a number of significant concerns in relation to the scope of the draft Interpretation.

Application to minimum thresholds

The AASB disagrees with excluding from the scope of the draft Interpretation ‘levies that are due only if a minimum revenue threshold is achieved’ in paragraph 4(b). It considers that, by scoping out such levies, the Interpretation does not address the issue that is likely to be the most significant source of diversity in practice relating to levies triggered by reaching a minimum revenue threshold – that is, whether an obligating event for a levy triggered by reaching a minimum revenue threshold can occur prior to the threshold being reached. It is concerned that, by not addressing this issue, the Committee would miss an opportunity to improve the quality of financial reporting.

If the Committee decides not to address the issue of levies triggered by reaching a minimum revenue threshold, the AASB recommends that *all* levies subject to a minimum threshold (including levies subject to non-revenue minimum thresholds, such as payroll tax calculated on the basis of the amount by which wages payable during a period exceed a minimum threshold, and carbon taxes calculated on the basis of units of carbon emitted by an entity during a period) should, for consistency, be excluded from the scope of the Interpretation. This is because levies subject to non-revenue minimum thresholds appear to be economically similar to levies subject to a minimum revenue threshold. In addition, the AASB questions whether the Committee intended to provide guidance on these types of levies at this stage. Furthermore, the AASB observes that, although levies subject to non-revenue minimum thresholds appear to be within the scope of the draft Interpretation, the title of the draft Interpretation does not signal to readers the breadth of its scope.

Relationship with IAS 37

The AASB recommends clarifying whether the scope of the Interpretation is limited to liabilities accounted for under IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*. Paragraph 3 of the draft Interpretation and paragraph BC4 of the related Basis for Conclusions indicate the draft Interpretation addresses the accounting for levies that are recognised in accordance with the definition of a liability that is provided in IAS 37. That definition is not limited to provisions. Therefore, arguably, the scope of the draft Interpretation is not limited to provisions – but this might not be widely understood.

If neither of the AASB's scope recommendations above (regarding application to minimum thresholds) is adopted, this recommended clarification would be particularly important. This is because, in some jurisdictions, liabilities for carbon taxes and fixed-fee levies are uncertain neither in respect of timing or amount.

Scope limitation to 'non-exchange transactions'

Although the AASB concurs that the draft Interpretation would generally apply to transactions that may be called 'non-exchange', it disagrees with explicitly limiting the scope of the draft Interpretation to 'non-exchange transactions'. IFRSs do not currently include a definition of 'non-exchange', and the AASB does not think IFRSs *should* include such a definition. The notion of non-exchange transactions is ambiguous (even when defined) and difficult to apply in practice (as we have found in Australia in the context of a domestic Standard, AASB 1004 *Contributions*).

Moreover, the purpose of the proposed scope limitation to 'non-exchange transactions' seems unnecessary because the key issue being addressed for this topic relates to liability recognition, whereas referring to 'non-exchange transactions' implies a focus on when an expense arises (see also the AASB's recommendation below to omit paragraph 11 of the draft Interpretation). The AASB notes that a liability can arise, even if an expense does not, if a levy is treated as part of the cost of acquiring an asset. Furthermore, identification of whether a particular element (e.g., a liability) arises from a transaction should be based on whether that element exists. Such an assessment would not depend on whether the transaction is 'exchange' or 'non-exchange'. Accordingly, the AASB recommends that the Interpretations Committee does not extend the notion of 'exchange transaction' in IFRSs beyond its very limited use in anti-abuse provisions in paragraphs 24 – 25 of IAS 16 *Property, Plant and Equipment* and paragraph 12 of IAS 18 *Revenue*.

Therefore, the AASB recommends removing the explicit scope limitation to 'non-exchange transactions' (as set out in paragraph 5(c) of the draft Interpretation) from the draft Interpretation.

Inclusion of guidance on expense recognition

Even if the explicit scope limitation to 'non-exchange transactions' (as set out in paragraph 5(c) of the draft Interpretation) is removed, the AASB would be concerned that the draft Interpretation (in paragraph 11) addresses expense recognition, rather than just liability recognition. Addressing expense recognition appears to be inappropriate because:

- the main Standard being interpreted, IAS 37 (per paragraph 3 of the draft Interpretation), does not address whether provisions are treated as giving rise to assets or expenses; rather, other Standards specify such treatment (IAS 37, para. 8). Therefore, it seems inconsistent for an Interpretation of IAS 37 to provide guidance on whether an expense should be recognised as a result of recognising a particular type of liability under IAS 37; and
- the draft Interpretation does not address levies giving rise to receipt of a specific asset in direct exchange for paying a levy where the asset is not of the same amount as the levy. In this case, both an asset and an expense would arise (some would argue that the expense should be equal to the amount of the liability, with income recognised in relation to the receipt of the asset). However, paragraph 11 of the draft Interpretation states the liability to pay a levy that is within the scope of the draft Interpretation gives rise to an expense. That statement may be read as implying an asset would not arise, for those who do not analyse the transaction in ‘gross’ terms (in contrast to those referred to in the parenthetical statement two sentences above).

Therefore, the AASB recommends removing paragraph 11 from the draft Interpretation. Other IFRSs should be relied on to specify whether incurring a liability for a levy gives rise to an asset or an expense, or both.

Question 2—Consensus

The consensus in the draft Interpretation (paragraphs 7–12) provides guidance on the recognition of a liability to pay a levy.

Do you agree with the consensus proposed in the draft Interpretation? If not, why and what alternative do you propose?

Subject to its significant concerns regarding the scope of the draft Interpretation, as discussed in its response to Question 1 above, the AASB agrees with the consensus proposed in the draft Interpretation.

Question 3—Transition

Entities would be required to apply the draft Interpretation retrospectively in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*.

Do you agree with the proposed transition requirements? If not, what do you propose and why?

The AASB agrees with the proposed transition requirements.

Drafting Comments

If the Committee issues an Interpretation that only addresses levies charged by public authorities on entities that operate in a specific market (see the AASB's comments on Question 1 above, regarding the draft Interpretation's scope), the AASB suggests amending the title of the draft Interpretation to *Levies Charged by Public Authorities for Operating in a Specific Market*. This is to capture in the title the causal relationship between operating in a specific market and being charged a levy. As presently worded, the title looks more like a scope delimiter.

The AASB suggests explaining the reason for the proposed exclusion of contracts between a public authority and a private entity [paragraph 4(d)]. Paragraph BC6 of the draft Basis for Conclusions simply repeats the scope exclusion and provides an example, without explaining the reason. As worded, it does not belong in the Basis for Conclusions. The AASB construes that the key aspect of paragraph 4(d) is the exclusion of contracts, and notes that IASB ED/2011/6 *Revenue from Contracts with Customers* defines a 'contract' as "An *agreement* between two or more parties that creates enforceable rights and obligations" (emphasis added). The AASB understands that levies for operating in a specific market do not involve agreements. Moreover, if that understanding is correct, paragraph 4(d) should be unnecessary, because levies should, of themselves, exclude agreements. In other words, paragraph 4(d) would more appropriately be part of an explanation of the implications of the draft Interpretation applying only to levies.