

AASB Exposure Draft

ED 226
August 2012

**Withdrawal of Australian
Interpretation 1039
*Substantive Enactment of
Major Tax Bills in Australia***

Comments to the AASB by 19 November 2012



Australian Government

**Australian Accounting
Standards Board**

Commenting on this AASB Exposure Draft

Comments on this Exposure Draft are requested by 19 November 2012.
Comments should be addressed to:

The Chairman
Australian Accounting Standards Board
PO Box 204
Collins Street West Victoria 8007
AUSTRALIA
E-mail: standard@asb.gov.au

All submissions on possible, proposed or existing financial reporting requirements, or on the standard-setting process, will be placed on the public record unless the Chairman of the AASB agrees to submissions being treated as confidential. The latter will occur only if the public interest warrants such treatment.

Obtaining a Copy of this AASB Exposure Draft

This Exposure Draft is available on the AASB website: www.aasb.gov.au.
Alternatively, printed copies of this Exposure Draft are available by contacting:

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INTRODUCTION

Background

Australian Accounting Standards

The Australian Accounting Standards Board (AASB) makes Australian Accounting Standards, including Interpretations, to be applied by:

- (a) entities required by the *Corporations Act 2001* to prepare financial reports;
- (b) governments in preparing financial statements for the whole of government and the General Government Sector (GGS); and
- (c) entities in the private or public for-profit or not-for-profit sectors that are reporting entities or that prepare general purpose financial statements.

Exposure Drafts

The publication of an Exposure Draft is part of the due process that the AASB normally follows before making a new Australian Accounting Standard or Interpretation, or amending or withdrawing an existing one. Exposure Drafts are designed to seek public comment on the AASB's proposals for new Australian Accounting Standards or Interpretations, or amendments to or withdrawal of existing Standards or Interpretations.

REQUEST FOR COMMENTS

Comments are invited on any of the proposals in this Exposure Draft by 19 November 2012. Submissions play an important role in the decisions that the AASB will make in regard to a Standard or Interpretation. The AASB would prefer that respondents express a clear overall opinion on whether the proposals, as a whole, are supported and that this opinion be supplemented by detailed comments, whether supportive or critical, on the major issues. The AASB regards supportive and critical comments as essential to a balanced review of the issues and will consider all submissions, whether they address all specific matters, additional issues or only one issue.

Specific Matters for Comment

The AASB would particularly value comments on the following:

- 1 whether you agree with:
 - (a) the withdrawal of Australian Interpretation 1039 *Substantive Enactment of Major Tax Bills in Australia* from 1 July 2013; and
 - (b) the AASB's basis for withdrawing Australian Interpretation 1039; and
- 2 unless already provided in response to specific matters for comment 1(a) and 1(b) above, the costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative.

EXPOSURE DRAFT

The Proposals

This Exposure Draft proposes to withdraw Australian Interpretation 1039 *Substantive Enactment of Major Tax Bills in Australia* for annual reporting periods beginning on or after 1 July 2013, with early adoption allowed.

Basis for the Proposals

The following summarises the Australian Accounting Standards Board's considerations in reaching the conclusion to withdraw Australian Interpretation 1039. Individual Board members gave greater weight to some factors than to others.

In relation to substantive enactment, AASB 112 *Income Taxes* requires tax assets and liabilities to be measured based on tax rates and tax laws that have been enacted or substantively enacted by the reporting date. However, it noted that AASB 112 does not specify the conditions for substantive enactment. Rather, paragraph 48 of AASB 112 specifies the following:

Current and deferred tax assets and liabilities are usually measured using the tax rates (and tax laws) that have been enacted. However, in some jurisdictions, announcements of tax rates (and tax laws) by the government have the substantive effect of actual enactment, which may follow the announcement by a period of several months. In these circumstances, tax assets and liabilities are measured using the announced tax rate (and tax laws).

Further guidance on determining substantive enactment in an Australian context is currently provided in Australian Interpretation 1039. For example, it notes that substantive enactment is taken to have occurred once a non-linked Bill has been tabled in Parliament and there is majority support for the passage of the Bill through both Houses of Parliament.

In reviewing the requirements of Australian Interpretation 1039, Board members considered current practice in comparable overseas jurisdictions, past practice in Australia and the recent uncertainty as to whether specific proposals of a Bill will pass through both Houses of Parliament due to the current composition of the Parliament in Australia. Board members expressed the view that, in Australia, a non-linked tax Bill would not be considered substantively enacted until it has passed through both Houses of Parliament. Similarly, where the commencement of a Bill is linked to the enactment or commencement of another Bill, the first Bill would not be considered substantively enacted until the second Bill has passed through both Houses of Parliament. This is on the basis that, until then, significant uncertainty exists

about the outcome of a Bill. That level of uncertainty is removed once the Bill is passed, even though this precedes the Bill receiving Royal Assent.

Board members considered whether to amend Australian Interpretation 1039, or whether to withdraw the Interpretation. Board members decided to withdraw Australian Interpretation 1039 on the basis that an Australian Interpretation is not necessary as the issue of whether a tax Bill is substantively enacted is not unique to Australia. This is consistent with the Board's policy of IFRS adoption and only issuing a domestic Interpretation of an IFRS adopted for use in Australia in rare and exceptional circumstances, and then only after exploring with the IFRS Interpretations Committee whether that Committee should deal with the matter.

Further, Board members noted that they would not expect diversity in practice to arise in Australia in the absence of an Australian Interpretation.