

Compiled Interpretation Interpretation 1039

Substantive Enactment of Major Tax Bills in Australia

This compiled UIG Interpretation applies to annual reporting periods beginning on or after 1 January 2011. Early application is permitted. It incorporates relevant amendments made up to and including 15 December 2009.

Prepared on 23 February 2010 by the staff of the Australian Accounting Standards Board.



Australian Government

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COMPILATION DETAILS

UIG Interpretation 1039 *Substantive Enactment of Major Tax Bills in Australia as amended*

This compiled Interpretation applies to annual reporting periods beginning on or after 1 January 2011. It takes into account amendments up to and including 15 December 2009 and was prepared on 23 February 2010 by the staff of the Australian Accounting Standards Board (AASB).

This compilation is not a separate Interpretation issued by the AASB. Instead, it is a representation of Interpretation 1039 (July 2004) as amended by other pronouncements, which are listed in the Table below.

Table of Pronouncements

Pronouncement	Month issued	Application date (annual reporting periods ... on or after ...)	Application, saving or transitional provisions
Interpretation 1039	Jul 2004	(beginning) 1 Jan 2005	
AASB 2007-8	Sep 2007	(beginning) 1 Jan 2009	see (a) below
AASB 2007-10	Dec 2007	(beginning) 1 Jan 2009	see (a) below
AASB 2009-12	Dec 2009	(beginning) 1 Jan 2011	see (b) below

- (a) Entities may elect to apply this Standard to annual reporting periods beginning on or after 1 January 2005 but before 1 January 2009, provided that AASB 101 *Presentation of Financial Statements* (September 2007) is also applied to such periods.
- (b) Entities may elect to apply this Standard to annual reporting periods beginning on or after 1 January 2005 but before 1 January 2011.

Table of Amendments

Paragraph affected	How affected	By ... [paragraph]
2	amended amended	AASB 2007-8 [6] AASB 2009-12 [24]
3	amended	AASB 2007-10 [116]
5	amended amended	AASB 2007-8 [6] AASB 2009-12 [25]
10	amended	AASB 2007-8 [8]
13	amended	AASB 2007-8 [6]

Paragraph affected	How affected	By ... [paragraph]
17	amended amended amended	AASB 2007-8 [6] AASB 2007-10 [116] AASB 2009-12 [25, 26]
18	amended amended amended	AASB 2007-8 [6] AASB 2007-10 [116] AASB 2009-12 [26]
References	amended	AASB 2007-8 [6]

INTERPRETATION 1039

UIG Interpretation 1039 was issued in July 2004.

This compiled version of Interpretation 1039 applies to annual reporting periods beginning on or after 1 January 2011. It incorporates relevant amendments contained in other AASB pronouncements up to and including 15 December 2009 (see Compilation Details).

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 statements of financial position at the end of reporting periods 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 statements.
- 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 the end of the reporting period.**
- 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.**
[Note: For application dates of paragraphs changed or added by an amending pronouncement, see Compilation Details.]
- 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 statements 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 end of the reporting period.
- 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* the end of the reporting period, it is taken into account (where relevant) in measuring

the deferred tax balances as at that end of the reporting period. However, if a Bill were to become substantively enacted only *after* the reporting period, it is not taken into account in measuring deferred tax balances as at that end of the reporting period. A change in tax laws that occurs after the reporting period, but before the time of completion of the financial statements, does not provide new information relating to conditions existing at the end of the reporting period. This means that if the first and second Bills in a series are substantively enacted prior to the end of the reporting period, 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 Reporting Period* are applicable where substantive enactment (and enactment) of proposed legislation occurs after the reporting period but before the time of completion of the financial statements. For example, that Standard specifies particular disclosures where events occurring after the reporting period provide new information that does not relate to conditions existing at the end of the reporting period. 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 Reporting Period*

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*