

Santos Ltd
ABN 80 007 550 923
Santos Centre
60 Flinders Street
Adelaide SA 5000
GPO Box 2455 Adelaide SA 5001
Telephone: 8116 5000
Facsimile: 8116 5201

Santos

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The Chairman
Australian Accounting Standards Board
PO Box 204
Collins St West
VICTORIA 8007

Dear Sir

**REQUEST FOR COMMENTS
PROPOSED INTERPRETATION 10XX – ACCOUNTING FOR AUSTRALIAN
PETROLEUM RESOURCE RENT TAX**

Santos appreciates the opportunity to respond to the Australian Accounting Standards Board's ("AASB") invitation to comment on the proposed Interpretation 10XX *Accounting for Australian Petroleum Resource Rent* ("Interpretation 10XX").

We do not agree that Australian Petroleum Resource Rent Tax ("APRRT") should be accounted for as an income tax. Our view is that APRRT is a tax of "economic rent" (which is a fundamentally different concept to profit) and we have previously made detailed submissions on this matter. We also note that there have been several submissions which concur with our view from both industry and the professional firms.

Santos believes that Interpretation 10XX should not be issued by the AASB as in our opinion APRRT does not meet the AASB's own criteria for an issue for consideration as set out in the AASB's Interpretations Model (June 2006).

In addition, Interpretation 10XX and the Basis for Conclusion fail to provide any principles based guidance to the industry on why APRRT is considered to be an income tax within the scope of AASB 112 *Income Taxes*. It therefore fails to assist users in applying those principles to other government imposts such as royalties and similar taxes. In its proposed form, Interpretation 10XX is therefore likely to create further confusion and divergence in accounting practice within Australia and inconsistencies between Australian Financial Reporting Standards ("AIFRSs") and International Financial Reporting Standards ("IFRSs").

The following paragraphs expand on the points made above.

Appropriateness of issuing an Interpretation

The AASB's Interpretations Model (2006) sets forth the framework for when an accounting issue should be placed on the AASB's work program. The framework lists a number of criteria which an accounting issue should meet before it is included on the AASB's work program. A discussion of these criteria together with why Santos believes APRRT fails to meet them is included in appendix A. Accordingly, Santos believes that accounting for APRRT should be removed from the AASB's work program.

However assuming that the issue remains on the work program, the question then turns to whether or not an Interpretation should be issued. The Interpretations Model indicates that the AASB considered that a unique domestic Interpretation of Australian equivalents to IASB requirements would be required only in rare and exceptional circumstances. Santos acknowledges that in a very simple sense APRRT is a "unique" Australian tax. However, it is quite clear to the industry that this type of tax is far from unique to Australia. There are many similarly structured taxes which apply in jurisdictions around the world.

As IFRS is a principles based regime, it is possible to have more than one interpretation of a standard. This view is supported by the Australian Securities & Investments Commission and, in respect of this issue, is consistent with the situation in the UK, where there is more than one Interpretation of the application of IAS 12 *Income Taxes* to UK Petroleum Revenue Tax ("PRT") – a tax which is analogous to APRRT.

While Interpretation 10XX would result in Australian companies being forced to account for one particular tax in a certain way, consistency across the world is unlikely to be achieved. This is precisely why in instances where an issue is not uniquely Australian, the AASB should not issue an Interpretation. To issue an Interpretation, the AASB would in effect be narrowing the alternative accounting treatments which are available to Australian companies. This situation is inconsistent with the recently released standard AASB 2007-4 *Amendments to Australian Accounting Standards arising from ED 151 and Other Amendments* where the AASB has indicated that its goal is to align AIFRS with IFRS, allowing Australian entities to use all options available under IFRS.

Further, if the AASB releases an Interpretation on an issue which is not uniquely Australian, then that Interpretation becomes guidance for companies in other jurisdictions by virtue of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*. Accordingly, Interpretation 10XX could have implications not only for Australian reporting entities but also for foreign entities applying IFRS in foreign countries.

Santos believes that the AASB should not issue Interpretation 10XX but instead should refer the matter to the International Accounting Standards Board to resolve as part of its short term convergence project relating to IAS 12.

Applicability of IAS12/AASB 112

When the International Financial Reporting Committee (“IFRIC”) was asked to consider the question of whether APRRT was a tax under IAS 12, it provided limited guidance by stating that:

- i) not all taxes are within the scope of IAS 12;
- ii) because taxable profit is not the same as accounting profit, taxes do not need to be based on a figure that is exactly accounting profit to be within the scope of IAS 12; and
- iii) the term ‘taxable profit’ implies a notion of a net rather than gross amount.

If the AASB feels it should issue an Interpretation, we believe it has an obligation to clarify how it has applied IFRIC’s guidance in this instance. Interpretation 10XX provides some (in our view, inadequate) guidance in the Basis for Conclusion.

Paragraph BC12 states that APRRT is a measure of profit (which we disagree with fundamentally) based on a net amount while paragraph BC13 highlights the fact that there are differences between APRRT taxable profit and accounting profit.

Paragraphs BC14 and BC15 state that the following characteristics of APRRT do not preclude it from being a tax based on taxable profit *and therefore* included within the scope of AASB 112:

- existence of differences between the calculation of APRRT accounting profit and taxable profit (paragraph BC14);
- difficulty in being able to explain the relationship between APRRT accounting profit and taxable profit (paragraph BC15).

While these last two paragraphs state why APRRT isn’t *necessarily* precluded from the scope of AASB 112, Interpretation 10XX fails to explain why APRRT should be included. In our view, the fact that the taxable amount is a net amount is not a *sufficient* condition to include APRRT within the scope of AASB 112. IFRIC clearly stated that not all taxes are within the scope of IAS 12 (and accordingly AASB 112) and Interpretation 10XX is silent on this point completely. The AASB needs to make an affirmative statement as to why it considers APRRT falls within the scope of AASB 112.

Failure to make such a statement will result in the understanding that the only condition that needs to be complied with for a government impost to be included within the scope of AASB 112 is that the tax be levied on a net amount, and that the extent of differences between accounting profit and taxable amount is not relevant. We do not believe that this is what was intended by IFRIC.

By using the word “exactly” in its rejection statement, IFRIC clearly implied a close relationship between accounting profit and taxable profit rather than a distant relationship. Why the APRRT taxable amount is considered to be “close” to accounting profit is not explored in Interpretation 10XX. We believe that the APRRT taxable amount is not “close enough” to accounting profit to be captured by the intent of IFRIC’s rejection statement. This outcome is because APRRT is based on a fundamentally different concept to profit: that of economic rent.

Interpretation 10XX, drafted as widely as it is, would probably result in many other forms of government imposts or “net amounts” being captured in the sphere of AASB 112. We do not believe that this is the intention of the AASB.

Consequences of Proposed Interpretation

Apart from impacting on global comparability as a result of creating inconsistencies between AIFRS and IFRS, the introduction of Interpretation 10XX will have several other effects.

Whether or not the AASB wishes to acknowledge it, issuing an Interpretation that APRRT should be accounted for under AASB 112 will cause Australian oil and gas companies to seek to apply the AASB’s rationale to other taxes in Australia and in the other jurisdictions in which they operate. The AASB therefore needs to provide sufficient clarity of reasoning to allow companies to do this.

The AASB also needs to consider the possible implications of Interpretation 10XX on other Australian companies not just those in the oil and gas industry. APRRT is an oil and gas specific tax and companies operating in other fields of the extractive industries or other industries, to which similar taxes apply, may be unintentionally impacted.

As discussed above, we also believe that a consequence of issuing Interpretation 10XX will be that the AASB sets a precedent with potentially broad international applicability.

Conclusion

Santos believes that Interpretation 10XX should not be issued. Instead the AASB should refer the matter to the International Accounting Standards Board to resolve as part of its short term convergence project relating to IAS 12.

If the AASB believes it needs to issue an Interpretation on this matter (which we do not support), then Interpretation 10XX should be amended such that it includes an affirmative statement as to why it considers APRRT falls within the scope of AASB 112. Failure to do this will create further confusion and divergence in accounting practice within Australia and inconsistencies between AIFRS and IFRS.

If you have any questions concerning our comments, please do not hesitate to contact me.

Yours faithfully



P C Wasow
Chief Financial Officer

Interpretations Model (June 2006)
AASB Work Program
Issue Criteria

The following table lists the criteria that should exist before an issue would be recommended for inclusion on the AASB Work Program according to the Interpretations Model.

Issue Criteria	Santos Response
The issue is widespread and has practical relevance.	The issue is not widespread as it confined to a relatively small number of companies in the offshore petroleum exploration industry. The practical relevance of addressing the issue is questionable as in Santos's experience there has been no market based concern about the issue.
The issue indicates that there are significantly divergent interpretations (either emerging or already existing in practice).	There are significantly divergent practices apparent. However, these divergent practices do not appear to be causing any market based concern and are not limited to Australian oil and gas companies.
Financial reporting would be improved through the elimination of or reduction in diverse reporting methods.	Financial reporting would be improved by achieving consistency of approach in the sense it would improve comparability of reported results amongst Australian companies. However, if the market is indifferent to the issue then the practical benefits of achieving consistency amongst Australian companies seem limited, especially as there would remain inconsistency in the broader international arena in which petroleum companies actually compete for funds and resources.
The issue is a narrow implementation or application issue that can be resolved efficiently within the confines of existing IFRSs or Australian Standards.	The issue is not a narrow implementation or application issue that can be resolved efficiently within the confines of existing IFRSs or Australian Standards. Whether or not PRRT is an income tax goes to the heart of to what types of taxes AASB112/IAS12 applies. This is in fact a much broader question and one which we would hope the IASB is seeking to clarify in its short-term convergence project relating to IAS12.
It is probable that the IFRIC or AASB (as relevant) will be able to reach a consensus on a timely basis.	IFRIC declined to consider the issue of whether or not APRRT was an income tax in our view largely because of the deficiencies in IAS12's definition of an income tax. Although the AASB could reach a consensus on whether or not APRRT is within the scope of AASB112 we fail to see how this can be done without considering the broader implications referred to above. This would effectively place the AASB in the shoes of the IASB which we do not think is the AASB's intention. In this respect we agree with BHP Billiton's comments in their submission relating to the deficiencies in AASB112 and IAS12 and their recommendation that the AASB raise these issues with the IASB for consideration during the IASB's IAS12 project.
If the issue relates to a current or planned IASB or AASB project, there is a pressing need to provide guidance on a more timely basis than would be expected from that project.	The issue relates to the IASB's short-term convergence project regarding the operation of IAS12. However, for reasons outlined above, we do not see a pressing need for the AASB to provide more timely guidance than can be expected from the IASB's project.