The Japanese Institute of
Certified Public Accountants
4-4-1, Kudan-Minami, Chiyoda-ku, Tokyo 102-8264 JAPAN
Phone: +81-3-3515-1130 Fax: +81-3-5226-3355
e-mail: kigyokaikei@jicpa.or.jp
http://www.hp.jicpa.or.jp/english/

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International Accounting Standards Board
30 Cannon Street
London EC4M 6XH
United Kingdom

Comments on the Exposure Draft of *Income Tax*

To the Board Members:

The Japanese Institute of Certified Public Accountants appreciates the continued efforts of the International Accounting Standards Board (IASB) on the income taxes project and welcomes the opportunity to comment on the exposure draft of *Income Tax*. As this project promotes convergence with US GAAP, we are in favor of the direction of its activities.

The following is our response to the items in 'invitation to comment' with which we disagree or have questions or concerns.

Question 1 - Definitions of tax basis and temporary difference

The exposure draft proposes changes to the definition of tax basis so that the tax basis does not depend on management's intentions relating to the recovery or settlement of an asset or liability. It also proposes changes to the definition of a temporary difference to exclude differences that are not expected to affect taxable profit. (See paragraphs BC17–BC23 of the Basis for Conclusions.) Do you agree with the proposals? Why or why not?

Comment:

We agree with the proposals.

However, management's intentions eliminated from the calculation of the tax basis may be interpreted as having an impact on the amount of deferred taxes through the calculation of the temporary difference in some cases, as temporary difference is simply regarded as recovery rather than recovery by sale. In that sense, it appears to be inconsistent with the standard for calculating the tax basis.

Question 7 – Uncertain tax positions

IAS 12 is silent on how to account for uncertainty over whether the tax authority will accept the amounts reported to it. The exposure draft proposes that current and deferred tax assets and liabilities should be measured at the probability-weighted average of all possible outcomes, assuming that the tax authority examines the amounts reported to it by the entity and has full knowledge of all relevant information. (See paragraphs BC57–BC63 of the Basis for Conclusions.) Do you agree with the proposals? Why or why not?

Comment:

We do not agree with the proposals.

Unless the 'More Likely Than Not' recognition criteria is added in a similar manner to US GAAP (FIN48), items that have a low probability of occurrence will have to be recognised, and amounts that are not certain enough to be accounted for as an asset or a liability might be recognised.

Question 13 – Allocation of tax to components of comprehensive income and equity

IAS 12 and SFAS 109 require the tax effects of items recognised outside continuing operations during the current year to be allocated outside continuing operations. IAS 12 and SFAS 109 differ, however, with respect to the allocation of tax related to an item that was recognised outside continuing operations in a prior year. Such items may arise from changes in the effect of uncertainty over the amounts reported to the tax authorities, changes in assessments of recovery of deferred tax assets or changes in tax rates, laws, or the taxable status of the entity. IAS 12 requires the allocation of such tax outside continuing operations, whereas SFAS 109 requires allocation to continuing operations, with specified exceptions. The IAS 12 approach is sometimes described as requiring backwards tracing and the SFAS 109 approach as prohibiting backwards tracing.

The exposure draft proposes adopting the requirements in SFAS 109 on the allocation of tax to components of comprehensive income and equity. (See paragraphs BC90–BC96 of the Basis for Conclusions.)

Question 13A

Do you agree with the proposed approach? Why or why not?

The exposure draft deals with allocation of tax to components of comprehensive income and equity in paragraphs 29–34. The Board intends those paragraphs to be consistent with the requirements expressed in SFAS 109.

Comment:

We basically agree with the proposed approach. However, in cases where it is clearly possible to apply the backwards tracing accounting method, such method should be applied with appropriate disclosure.

As stated in paragraphs BC91, BC92 and BC93, while in some situations backwards tracing seems the obvious treatment, in other situations it seems intuitive to prohibit backwards tracing or backwards tracing would be difficult or result in arbitrary allocations. However, in some cases, backwards tracing seems the obvious treatment, as described in paragraph BC91. In such cases, we believe the approach of requiring backwards tracing is more reasonable than prohibiting backwards tracing.

Question 17 – Disclosures

The exposure draft proposes additional disclosures to make financial statements more informative. (See paragraphs BC104–BC109 of the Basis for Conclusions.) Do you agree with the proposals? Why or why not? The Board also considered possible additional disclosures relating to unremitted foreign earnings. It decided not to propose any additional disclosure requirements. (See paragraph BC110 of the Basis of Conclusions.) Do you have any specific suggestions for useful incremental disclosures on this matter? If so, please provide them.

Comment:

We do not agree with paragraph 49. We propose that the following underlined condition be added to paragraph 49 by drawing on IAS 37.

"An entity shall disclose information about the major sources of estimation uncertainties relating to tax to enable users of the financial statements to assess the possible financial effects of the estimation uncertainties and their timing (for example, the effects of unresolved disputes with the tax authorities), including:

(a) a description of the uncertainty; and
(b) an indication of its possible financial effects on amounts recognised for tax and the timing of those effects.

<u>However, the disclosure of (b) above shall not be required if such disclosure is expected to put the entity in an extremely disadvantaged position, in which case the fact that the information is not disclosed and the reason for such non-disclosure shall be disclosed.</u> "

Depending on the tax jurisdiction, there may be cases in which the disclosure of information required under paragraph 49(b) would put the entity in an extremely disadvantaged position. In such cases, we believe it would be more appropriate or reasonable not to require an entity to disclose it, with the disclosure of the reasons.

Other Issues

Accounting for temporary differences arising from the elimination of unrealised gains

Comment:

Temporary differences arising from the elimination of unrealised gains within the group should be regarded as that on the seller's side, given that it is attributable to the tax paid by the seller, by focusing on how the actual cash flow of tax is generated. While there is no specific provision in the existing IAS 12, it should be adopted as required by the existing US GAAP and Japanese GAAP.

Yours faithfully,
Kiyoshi Ichimura

Executive Board Member - Accounting Standards

The Japanese Institute of Certified Public Accountants