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IFRS Interpretations Committee
30 Cannon Street
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Re: Interpretation Committee tentative agenda decisions

Dear Wayne,

We are pleased to have the opportunity to provide our comments in order to contribute to the IFRS IC agenda decision (issued in January 2014) on IAS 12 – *“Threshold of recognition of an asset in the situation in which the tax position is uncertain”*.

IAS 12 – “Threshold of recognition of an asset in the situation in which the tax position is uncertain”

The issue relates to the recognition of a tax asset in the situation in which tax laws require an entity to make an immediate payment when a tax examination results in an additional charge, even if the entity intends to appeal against the charge. The Interpretations Committee noted that paragraph 12 of IAS 12 provides sufficient guidance on the recognition of current tax assets and current tax liabilities.

On this position taken by the IFRS IC, we have the following comments.

We are not fully sure that the requirements of paragraph 12 of IAS 12 apply also to the cases of a resolution of a tax litigation. Indeed, the term “tax litigation” is not recalled in paragraph 12 because in this paragraph the issue is related to an excess payment. There are very different views on this point, therefore it does not seem appropriate to resolve it just with a rejection. An interpretation or amendment seems to be needed.

Moreover it is noted that the IFRS IC’s analysis deals with very limited circumstances (current tax litigation), but excludes broader cases and does not consider the application by analogy of its solution to other types of litigation.

In fact, it could happen that the litigation relates to another type of tax, such as VAT, rather than income tax, while maintaining the same counterparty. In this case, IAS 12 would not be applicable because this Standard should be applied in accounting for income taxes only.

In addition, we would like to understand how the case should be assessed where the litigation is not related to taxes related issues. We are aware that on the recognition of the asset against the immediate payment in any kind of litigation there is difference in practice.

For these reasons, we think that IFRS IC should reconsider its decision not to take the item into the agenda, and activate the process to issue an interpretation that considers the matter as broadly as possible because, as it stands, the immediate payment in any kind of litigation does not find an homogenous accounting treatment.

Should you need any further information, please do not hesitate to contact us.

Yours sincerely,
Angelo Casò
(Chairman)