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IFRS-FA – öffentliche Sitzungsunterlage

Sitzung:	**07. IFRS-FA / 27.07.2012 / 15:00 – 15:30 Uhr**
TOP:	**09 – Interpretationsentwürfe des IFRSIC**
Thema:	**DI/2012/1 - Levies Charged by Public Authorities on Entities that Operate in a Specific Market**
Papier:	**07_09a_IFRS-FA_Levies_CL_IFRSIC**

Hintergrund

1 In seiner 6. Sitzung hat der FA den Entwurf des DI/2012/1 *Levies Charged by Public Authorities on Entities that Operate in a Specific Market* erstmals diskutiert und im Nachgang zur Sitzung einen ersten Entwurf der Stellungnahme an das IFRSIC durchgesehen.

2 Auf den folgenden Seiten wird der überarbeitete Entwurf der Stellungnahme an das IFRS IC wiedergegeben.

Frage an den IFRS-FA
Stimmen Sie diesem überarbeiteten Entwurf zu?

DRAFT

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Wayne Upton
Chairman of the
IFRS Interpretations Committee
30 Cannon Street
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Berlin, 27 July 2012

Dear Wayne,

Exposure Draft DI/2012/1 ***Levies Charged by Public Authorities on Entities that Operate in a Specific Market***

On behalf of the Accounting Standards Committee of Germany (ASCG) I am writing to comment on the IFRS Interpretations Committee Draft Interpretation DI/2012/1 'Levies Charged by Public Authorities on Entities that Operate in a Specific Market' (DI). We appreciate the opportunity to respond to the Draft Interpretation.

With respect to the scope of the DI we have detailed in the appendix to this letter our concerns that the scope is not specific enough to be free of doubt in terms of situations and circumstances the draft interpretation is intended to apply to.

While we overall agree with the consensus since it has been derived appropriately from the IFRS the DI makes reference to, we are, however, concerned with the outcome of the DI in situations in which the payment of a levy is triggered at a point in time at the end of the year. In such situations the entity would not be allowed to anticipate the levy expense in previous interim periods of the financial year since there is no present obligation to pay the levy at the end of each of these interim periods. While we are aware that this outcome is in line with the *Conceptual Framework,* we do not consider the outcome to be appropriately portraying the economic reality in terms of interim reporting. This is why we suggest considering an amendment to IAS 34 in order to require the same accounting for such levies as it currently is required in IAS 34.30 (c) for income tax expense. For further details we refer to the appendix.

If you would like to discuss any aspects of this comment letter in detail, please do not hesitate to contact me.

Yours sincerely,

Liesel Knorr
President

Appendix

Question 1—Scope **The draft Interpretation addresses the accounting for levies that are recognised in accordance with the definition of a liability provided in IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*. Levies that are within the scope of the draft Interpretation are described in paragraphs 3–5.** **Do you agree with the scope proposed in the draft Interpretation? If not, what do you propose and why?**

We consider the scope not specific enough to be free of doubt in terms of situations and circumstances the draft interpretation is intended to apply to.

As an example, when analysing mandatory rebates in the healthcare industry, both the terms ‘levy’ and ‘public authority’ appeared not to be sufficiently specified in order to determine whether they fall into the scope of the DI.

Further, some issues currently scoped out we recommend including also in the scope of the DI. According to DI.5 (c) levies are only within the scope of the DI if they are non-exchange transactions. We noticed that the IC in DI.BC5 commented on this scope-out by stating that the DI covers the majority of levies, but that judgement would be required in certain instances to determine whether the entity paying the levy receives an asset in direct exchange for the payment of the levy. While we do not hold the opinion that in all instances an entity is charged a levy it will receive an (intangible) asset, we are not sure whether the above statement of the IC truly portrays reality by saying that the DI covers the majority of levies. In this context, no reasons are provided as to why exchange transactions are scoped out. Since we did not identify conceptual reasons for this scope out, we recommend to either scope such transactions in or to provide adequate reasoning as to the opposite approach.

Finally, some members of our committee were concerned with a possible ‘scope-creep’ in a way that the DI may also apply to rate-regulated issues. In order to be clear on this issue, the Interpretations Committee should address this issue in the BC.

Question 2—Consensus

The consensus in the draft Interpretation (paragraphs 7–12) provides guidance on the recognition of a liability to pay a levy.

Do you agree with the consensus proposed in the draft Interpretation? If not, why and what alternative do you propose?

Overall and taking all arguments into consideration, we are of the opinion that the consensus has been derived appropriately from the IFRS the DI makes reference to.

However, we are concerned with the outcome of the DI in situations, for example, in which the payment of the annual levy is triggered only in case the entity is active in the market on December 31 of each year. In accordance with DI.12 (a) the entity would not be allowed to anticipate the levy expense in the first three quarters of the financial year since there is no present obligation to pay the levy at the end of each of the first three quarters (the interim reporting periods). We are aware that this outcome is in line with the *Conceptual Framework* (para. 4.50) since 'the application of the matching concept ... does not allow the recognition of items in the balance sheet which do not meet the definition of assets or liabilities'. However, we do not consider the outcome to be appropriately portraying the economic reality in terms of interim reporting. This is why we suggest to consider an amendment to IAS 34 in order to require the same accounting for such levies as it currently is required in IAS 34.30 (c) for income tax expense ('recognised in each interim period based on the best estimate of the weighted average annual income tax rate expected for the full financial year.').

In DI.BC7 it is stated that the DI does not address the accounting for levies that are due only if a minimum revenue threshold is achieved in the current period because the IC did not reach a consensus as to what the obligating event is. However, in this context we consider DI.12 (a) to provide straightforward guidance in a way that a levy may not be expensed (recognised) if there is no present obligation to pay the levy at the end of the interim period.

Question 3—Transition

Entities would be required to apply the draft Interpretation retrospectively in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*.

Do you agree with the proposed transition requirements? If not, what do you propose and why?

We agree with the proposed transition requirements.

Other issues

Some members of our Committee perceived a conflict between the title of the DI on the one hand and the scope of the DI on the other. While the title gives the impression the DI deals extensively with the topic, the scope narrows it considerably. Thus, the title of the DI may need to be modified in order to be overall in line with the scope.

We also suggest considering to combine the DI with IFRIC 6 *Liabilities arising from Participating in a Specific Market-Waste Electrical and Electronic Equipment* to one interpretation dealing with specific market issues. However, the specific guidance provided in IFRIC 6 must be preserved.