



Grupo Latinoamericano
de Emisores de Normas
de Información Financiera
Group of Latin American
Accounting Standard Setters

December 29, 2015

International Accounting Standards Board

30 Cannon Street
London EC4M 6XH
United Kingdom

RE: Draft IFRIC Interpretation DI/2015/1 – Uncertainty over Income Tax Treatments

Dear Board Members:

The “Group of Latin American Accounting Standard Setters”¹ – GLASS welcomes the opportunity to comment on the Draft IFRIC Interpretation DI/2015/1 – Uncertainty over Income Tax Treatments (the “DI”).

Due process

The discussions regarding the DI were held within a specified Technical Working Group (TWG) created in November 2015. All country-members had the opportunity to appoint at least one member to participate in this TWG. Each standard setter represented in the TWG has undertaken different tasks in their respective countries (e.g. surveys, internal working groups). All results were summarized, and this summary was the platform for the TWG discussion process.

The TWG discussed the different points of view included in the summary during several conference calls. In those calls the TWG developed a final document on the basis of the agreed-upon responses and the technical points of view of its members. Finally, the TWG document was submitted to and approved by the GLASS Board.

Overall comments

We agree with the need to issue an interpretation regarding the treatment of an aspect that is very pervasive in our region with both public and non-public entities. We have not been able to reach a consensus in our region, since the views with respect to the most appropriate solution vary widely among our member countries. The different views and arguments are presented in the attachment.

Specific comments

Attached please find our specific responses to the questions presented in the DI.

Contact

If you have any questions about our comments, please contact glenif@glenif.org.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Felipe Pérez Cervantes'.

Felipe Pérez Cervantes
Chairman
Group of Latin American Accounting Standard Setters (GLASS)

¹ The overall objective of the Group of Latin American Accounting Standard Setters (GLASS) is to present technical contributions with respect to all Exposure Drafts issued by the IASB. Therefore, GLASS aims to have a single regional voice before the IASB. GLASS is constituted by: Argentina (Board), Bolivia, Brazil (Vice Chairman), Chile, Colombia (Board), Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico (Chairman), Panama, Paraguay, Peru (Board), Uruguay (Board) and Venezuela (Board).



GLASS' Comment Letter on the

Draft IFRIC Interpretation DI/2015/1 – Uncertainty over Income Tax Treatments

Question 1—Scope of the DI

The DI provides guidance on accounting for current and deferred tax liabilities and assets in circumstances in which there is uncertainty over income tax treatments. Such uncertain tax treatments may affect taxable profit (tax loss), tax bases tax credits or tax rates that are used to recognize and measure current or deferred tax liabilities or assets in accordance with IAS 12 Income Taxes.

Do you agree with the proposed scope of the DI? If not, why and what alternative do you propose?

Yes, in general we agree with the proposed scope of the DI that includes the effects on both current and deferred tax liabilities and assets. However, only one member country proposes that the scope of the interpretation be limited exclusively to the specific situation that gave rise to the issuance of the DI.

Question 2—When and how the effect of uncertainty over income tax treatments should be included in determination of taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates

The DI requires an entity to consider whether it is probable that a taxation authority will accept an uncertain tax treatment, or group of uncertain tax treatments, that it used or plans to use in its income tax filings.

If the entity concludes that it is probable that the taxation authority will accept an uncertain tax treatment, the DI requires the entity to determine taxable profit (tax loss), tax bases, unused tax losses, unused tax credits or tax rates consistently with the tax treatment included in its income tax filings.

If the entity concludes that it is not probable that the taxation authority will accept an uncertain tax treatment, the DI requires the entity to use the most likely amount or the expected value in determining taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates. The method used should be the method that the entity concludes will provide the better prediction of the resolution of uncertainty.

Do you agree with the proposal in the DI on when and how the effect of uncertainty should be included in the determination of taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates? If not, why and what alternative do you propose?

With respect to this question, in our region there are three very different views, which impedes arriving at a consensus response to this question:

View A

They disagree with the recognition and measurement proposal included in the DI, since they believe that the inherent tax payment obligations, as a necessary step to be in a position to appeal the assessment at a higher level, represent a certain liability, while the potential asset that would arise from the claim is considered to be a “contingent asset” and therefore should not be recognized until realization is virtually certain. The proposed alternative treatment is appropriate disclosure since in general these potential recoveries are very difficult to predict throughout the process.

View B

They disagree with various aspects regarding how to include the effect of the uncertainty:



Grupo Latinoamericano
de Emisores de Normas
de Información Financiera
Group of Latin American
Accounting Standard Setters

- a) The concept of “probable” as a determining factor in the measurement. In their view, the DI includes a treatment that is inconsistent with both: IAS 37, *Provisions, Contingent Liabilities and Contingent Assets* (recognition of probable items and non-recognition of possible items) and with the concepts included in IFRS 9, *Financial Instruments*, and the Conceptual Framework project. In their view, the probability of different scenarios should be considered in the measurement regardless of the degree of probability of each scenario and should not be a factor in determining recognition, and it is arbitrary that a 51% probability scenario be calculated the same as a 100% probability scenario. This treatment is not compatible with the definition of assets and liabilities at fair value, which, in their view, is the unavoidable treatment at the time of initial recognition.
- b) A lack of clarity regarding the treatment in cases where a decision has been made to appeal a decision of the tax authority and payment of the assessment is a condition for the appeal. At a minimum they believe that an illustrative example should be given for such a situation. In their view, such a decision implies the existence of a liability and a credit for the right to recover the payment, and the asset should be measured at fair value, considering the probabilities of different recovery scenarios. As the liability is certain, there are no difficulties regarding its measurement. Any difference should be recognized in the profit or loss of the period.
- c) The characteristic of the asset for the right to recover the payment. In their view, it is necessary to specify that the asset is not a contingent tax credit, and as a result the characteristic of “virtually certain” is not applicable to its recognition, because the recognition of an asset without a corresponding gain does not meet the definition of a contingent asset in IAS 37.

View C

They agree with the proposal although they believe it is necessary to include specific illustrative examples to facilitate application of the concepts in different possible scenarios.

Question 3—Whether uncertain tax treatments should be considered collectively

The DI requires an entity to use judgment to determine whether each uncertain tax treatment should be considered independently, or whether some uncertain tax treatments should be considered together, in order to determine taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates.

Do you agree with the proposal in the DI on the determination of whether uncertain tax treatments should be considered collectively?

If not, why and what alternative do you propose?

Yes, we agree with the proposal to consider uncertain tax treatments collectively when in the opinion of the entity they are related and a collective analysis provides the most appropriate answer.

Question 4—Assumptions for taxation authorities’ examinations and the effect of changes in facts and circumstances

The DI requires an entity to assume that a taxation authority with the right to examine any amounts reported to it will examine those amounts and will have full knowledge of all relevant information when making those examinations.

The DI also requires an entity to reassess its judgments and estimates if facts and circumstances change. For example, if an entity concludes that new information indicates that it is no longer probable that the taxation authority will accept an uncertain tax treatment, the entity should reflect this change in its accounting. The expiry of the period in which the taxation authority may examine the amounts reported to it would also be an example of a change in circumstances.



Grupo Latinoamericano
de Emisores de Normas
de Información Financiera
Group of Latin American
Accounting Standard Setters

Do you agree with the proposal in the DI on the assumptions for taxation authorities' examinations and on changes in facts and circumstances? If not, why and what alternative do you propose?

With respect to this topic, once again there are three different views in our region, as described below:

View A

They agree that the preparers of financial information should assume that a taxation authority with the right to examine any amounts reported to it will examine those amounts and the supporting calculations prepared by the entity. This information, according to their view, establishes the level of risk that the entity is assuming with respect to potential tax examinations by a competent authority, thereby providing useful information to the users of financial statements. On the other hand, a review of applicable laws and regulations, which impose a time limit on or after which the taxation authority is no longer able to challenge an entity's tax treatments that create the uncertainty, guarantees that the preparers of the financial information reflect the effects of the treatment of the uncertain tax position.

View B

They disagree with not considering the probability that the taxation authority may not examine the relevant aspects of the uncertain tax position or that the situation may not be detected during such review. The proposal is extremely conservative and does not coincide with their view that the amounts must be measured at fair value, in which case all probability scenarios that a third party would consider to determine the amount should be taken into account. Their experience clearly indicates that in many circumstances the decision to adopt a specific uncertain tax position is made considering the probability of not having to defend such position before the taxation authority.

View C

Those that consider the asset resulting from the right to a refund is a contingent asset and accordingly should not be recognized until realization is virtually certain (a final decision by the authority in favor of the entity) believe that this criteria is not applicable since recognition should be made when the recoverable amounts are certain and do not require any assumptions.

Question 5—Other proposals

Disclosure

The DI does not introduce any new disclosure requirements, but highlights the relevance of the existing disclosure requirements in paragraphs 122 and 125–129 of IAS 1 *Presentation of Financial Statements*, paragraph 88 of IAS 12 and IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*.

Transition

The DI requires an entity to apply its requirements by recognizing the cumulative effect of initially applying them in retained earnings, or in other appropriate components of equity, at the start of the reporting period in which an entity first applies them, without adjusting comparative information. Full retrospective application is permitted, if an entity can do that without using hindsight.

Do you agree with the proposals in the DI on the disclosure and the transition requirements? If not, why and what alternative do you propose?

Yes, we agree with the disclosure and transition requirements, although we recommend requiring that the entity disclose the alternative used to account for the uncertainty and emphasize the applicability of paragraph 92 of IAS 37.