



August 31, 2010

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

Attn: Mitsuhiro Takemura

Dear Board Members:

Consejo Mexicano para la Investigación y Desarrollo de Normas de Información Financiera (CINIF), the accounting standards setting body in Mexico, welcomes the opportunity to submit its comments on the pre-ballot draft of the exposure draft for the proposed amendment to IAS 12, *Income Taxes*. You requested our informal comments in an email dated August 10, 2010. Set forth below you will find our responses to the questions included in the pre-ballot draft of the exposure draft.

Question 1 – Exception to the measurement principle

The proposed amendment states that, in specific circumstances, as an exception to the measurement principles in IAS 12, the measurement of deferred tax liabilities shall reflect the tax consequences of recovering the carrying amount of the asset entirely by sale or, if lower, the tax consequences of recovering the carrying amount entirely by use.

Do you agree that this exception should apply when a deferred tax liability arises from the measurement of investment property after initial recognition using the fair value model in IAS 40, *Investment Property*?

Why or why not?

Yes, we agree. However, we have two significant recommendations:

- First, we believe that the exception should not be limited to investment property measured after initial recognition using the fair value model of IAS 40. As stated in the introduction, the proposed amendment is intended to provide a practical approach for measuring deferred tax liabilities when determination of the expected manner of recovery of an asset is difficult or subjective, of which an example is investment property. We believe that the exception should be extended to all investment property meeting such criteria, whether or not it has been adjusted to fair value.*
- Secondly, we believe that if the manner of recovery of an asset is difficult or subjective, and therefore uncertain, the measurement of deferred tax liabilities should reflect the tax consequences of recovering the carrying amount of the asset*

entirely by sale or, if **greater**, the tax consequences of recovering the carrying amount entirely by use.

Accordingly, we recommend revising Example A to paragraph 51A as follows:

Example A

An asset has a carrying amount of 100 and a tax base of 60. A tax rate of 20% would apply if the asset were sold and a tax rate of 30% would apply to other income. The asset is not measured using the fair value model in IAS 40 or the revaluation model in IAS 16 or IAS 38.

The entity recognises a deferred tax liability of 8 (40 at 20%) if it expects to sell the asset without further use and a deferred tax liability of 12 (40 at 30%) if it expects to retain the asset and recover its carrying amount through use.

Question 2 – Scope of the exception

Do you agree that the exception should also apply to deferred tax liabilities arising from:

- (a) the revaluation of property, plant and equipment or intangible assets using the revaluation model in IAS 16 *Property, Plant and Equipment* or IAS 38 *Intangible Assets*; and
- (b) the initial measurement of investment property, property, plant and equipment or intangible assets acquired in a business combination if the acquirer will subsequently use the fair value model in IAS 40 or the revaluation model in IAS 16 or IAS 38 for those assets.

Why or why not? If not, what changes do you propose and why?

No, we do not agree. As mentioned in our response to Question 1, we believe that the exception should only be applied to all assets for which determining the expected manner of recovery thereof is difficult or subjective. Accordingly, we recommend revising proposed paragraph 51B as follows:

51B Notwithstanding paragraphs 51 and 51A, the measurement of a deferred tax liability for a taxable temporary difference shall reflect the tax consequences of recovering the carrying amount of the asset entirely by sale or, if **greater** ~~lower~~, the tax consequences of recovering the carrying amount entirely by use if determining the expected manner of recovery of the asset is difficult or subjective, and therefore uncertain. ~~that taxable temporary difference is created by the:~~

- ~~(a) measurement of investment property after initial recognition using the fair value model in IAS 40 *Investment Property*;~~
- ~~(b) revaluation of property, plant and equipment or intangible assets using the revaluation model in IAS 16 *Property, Plant and Equipment* or IAS 38 *Intangible Assets*; or~~
- ~~(c) initial measurement of investment property, property, plant and equipment or intangible assets acquired in a business combination in accordance with IFRS 3 *Business Combinations* if the acquirer will subsequently use the fair value model in IAS 40 or the revaluation model in IAS 16 or IAS 38 for those assets.~~

We recommend revising the conclusion in Example A to paragraph 51B as follows:

The tax consequence of ~~selling~~ using the investment property amounts to ~~9~~ 24 which is ~~lower~~ greater than the tax consequences of ~~using~~ selling the investment property, which amounts to ~~24~~ 9. Consequently, the entity recognises a deferred tax liability of ~~9~~ 24.

We recommend revising the conclusion in Example A to paragraph 51B as follows:

The tax consequence of selling the investment property amounts to 25 which is greater than the tax consequences of using the investment property, which amounts to 24. Consequently, the entity recognises a deferred tax liability of ~~24~~ 25.

We also recommend adding Example C to paragraph 51B as follows:

<p>Example C</p> <p><u>An investment property has a carrying amount of 100 and a tax base of 60. A tax rate of 20% would apply if the asset were sold and a tax rate of 30% would apply to other income. The investment property is not measured using the fair value model in IAS 40. The entity would recognise a deferred tax liability of 8 (40 at 20%) if it expects to sell the investment property without further use and a deferred tax liability of 12 (40 at 30%) if it expects to retain the asset and recover its carrying amount through use.</u></p> <p><u>The tax consequence of using the investment property amounts to 12 which is greater than the tax consequences of selling the investment property, which amounts to 8. Consequently, the entity recognises a deferred tax liability of <u>12</u>.</u></p>

Question 3 – Other comments

Do you have any other comments on the proposals?

Yes. Previously, tax planning opportunities were used exclusively to create or increase taxable profit in a particular period before the expiration of a tax loss or tax credit carryforward, thereby allowing recognition of a deferred tax asset. This is consistent with the definition of a tax-planning strategy in ASC 740-10-30-19 of US GAAP. We do not agree with expanding the use of tax planning opportunities to reduce otherwise required deferred tax liabilities. Accordingly, we believe example (e) should be deleted from paragraph 30.

Additionally, based on our comments above, the proposed amendment to SIC 21 and various paragraphs of the basis for conclusions would have to be revised. The revisions we recommend are as follows:

A1 In SIC Interpretation 21 *Income Taxes – Recovery of Revalued Non-depreciable Assets* paragraph 5 is amended as follows:

The deferred tax liability or asset that arises from the revaluation of a non-depreciable asset (except for any deferred tax liability associated with land held as investment property) in accordance with IAS 16.31 shall be measured on the basis of the tax consequences that would follow from recovery of the carrying amount of that asset through sale, regardless of the basis of measuring the carrying amount of that asset. Accordingly, if the tax law specifies a tax rate applicable to the taxable amount derived

from the sale of an asset that differs from the tax rate applicable to the taxable amount derived from using an asset, the former rate is applied in measuring the deferred tax liability or asset related to a non-depreciable asset.

Furthermore, with respect to SIC 21, and consistent with our response to Question 1 above, we believe that the deferred tax liability or asset associated with a non-depreciable asset should be measured on the basis of the tax consequences that would follow from recovery of the carrying amount of that asset through sale, regardless of whether such asset has been revalued or not. While revaluation may impact the amount of the temporary difference, it should be assumed that all non-depreciable assets will be recovered only through sale, as clearly explained in the Basis for Conclusions of SIC 21. Accordingly, we recommend revising the title and focus of SIC 21 to “Recovery of ~~Revalued~~ Non-Depreciable Assets”.

BC8 In some cases, determining the expected manner of recovery ~~or settlement~~ of the investment property is difficult or subjective.

BC10 SIC 21 *Income Taxes – Recovery of ~~Revalued~~ Non-Depreciable Assets* currently determines that the deferred tax liability or asset ~~that arises from the revaluation of associated with~~ a non-depreciable asset ~~in accordance with IAS 16.21 (including investment property measured in accordance with IAS 40.33 that would be considered non-depreciable if IAS 16 were to be applied)~~ shall be measured on the basis of the tax consequences that follow from recovery of the carrying amount of that asset through sale. As a consequence of these proposals, SIC 21 will no longer apply when measuring the deferred tax liability ~~arising from the revaluation of associated with land held as investment property a non-depreciable asset. It is still applied when measuring a deferred tax asset arising from the revaluation of a non-depreciable asset.~~

BC11 and BC12 – Based on our response to question 2 above, these two paragraphs would be deleted.

Tax planning opportunities

BC13 Before the proposed amendment, an entity may previously have measured a deferred tax liability on the basis that it expects to recover the carrying amount of an asset in a particular manner, for example by use. If determining the expected manner of recovery of the asset is difficult or subjective, and therefore uncertain, and if recovery in another manner, for example by sale, would generate a greater ~~lower~~ deferred tax liability, the proposals in the exposure draft would now require the entity to measure the deferred tax liability at that greater ~~lower~~ amount. ~~That might call into question the recoverability of a deferred tax asset, for two reasons:~~

- ~~(a) The reduced carrying amount of the deferred tax liability may no longer be sufficient to support an assessment that the deferred tax asset is recoverable.~~
- ~~(b) In some jurisdictions, gains and losses on sale cannot be offset against other tax deductions or taxable income. Thus, the change in the nature of the transaction(s) assumed to give rise to the deferred tax liability may mean that the deferred tax asset can no longer be recovered by recovery against that deferred tax liability.~~

BC14 In the Board's view, if an entity is required to assume a specified manner of recovery in measuring deferred tax liabilities, then that should be reflected in the amount of taxable temporary differences that are used to determine whether a deductible difference can be recognised. In addition, the entity may consider the tax planning opportunity of using a different manner of recovery in assessing whether taxable income can be increased or created that will enable the entity to recognise deferred tax assets, except in the case of land held as investment property.

Should you require additional information on our comments listed above, please contact William A. Biese at (52) 55 5596 5633 ext. 113 or me at (52) 55 5596 5633 ext. 103 or by e-mail at wbiese@cinif.org.mx or fperezcervantes@cinif.org.mx, respectively.

Sincerely,

C.P.C. Felipe Perez Cervantes
President of the Mexican Financial Reporting Standards Board
Consejo Mexicano para la Investigacion y Desarrollo
de Normas de Informacion Financiera (CINIF)