Rådet för finansiell rapportering

The Swedish Financial Reporting Board

RFR-rs 2009:09

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

Dear Sirs,

Re: Exposure Draft ED/2009/2 Income Tax

The Swedish Financial Reporting Board is responding to your invitation to comment on the International Accounting Standard Board's Exposure Draft ED/2009/2 Income Tax.

The publication of the exposure draft ("ED") is significantly delayed, and we understand a major reason for this to be discussions with the FASB on a number of important issues, based on the objective to converge with US GAAP. It is therefore unfortunate to note that after all the time spent on discussions with the US standard setter, it decided at a late stage to not issue an exposure draft of a revised FAS 109.

The IASB decision to proceed and complete the project on its own was obviously made based on the assumption that the FASB at a later stage would resume its work and revise its standard in line with a revised IAS 12. This approach has for the sake of convergence resulted in an ED that includes several proposals which we do not at all agree with. We wish to point to the following:

1. Changing the definition of the tax basis so that it does not depend on management's intentions. The dual recovery model, which can be applied under IAS 12, will not be possible under the ED. The new approach may result in significantly different accounting compared to present practice and in balances which do not fulfil the definition of an asset or a liability in the framework nor agree with the definition of a deferred tax asset or liability in the ED. We consider that the present model, which reflects what is expected to happen, is superior.

   The dual recovery model is based on management's intentions and both the use of tax rates and tax bases would be in line with such intentions. Also, with respect to the proposed model how do you determine manner of recovery between use and abandonment or disposal? How do you prevent companies from managing their reporting if the rates are different for use and abandonment or disposal?

2. Proposing that outside basis differences (the temporary difference between the tax basis and the carrying amount of an entity) should always be reflected with

respect to domestic investments. We see no reason to move away from the present principles based IAS 12 model.

3. Using a probability weighted average of all possible outcomes. We feel that the proposed model is quite complex and might be costly to implement without corresponding benefits for users. Taxable income is assumed to be assessed with a reference to the tax law in a jurisdiction, but tax disputes might be settled in different ways in different jurisdictions (due to i.e. differences in burden of proof, the possibility to make agreements with tax authorities and procedure law for tax proceedings). The practical effect of the proposal seems to be that a weighing of all probable outcomes must take such jurisdictional differences into account. In a multinational group with subsidiaries in a high number of jurisdictions, the testing of possible outcomes will be time- and cost-consuming. The lack of a review by the IASB of the practical implications regarding FIN 48 (for preparers and users) is a considerable weakness. We therefore recommend that the present IAS 12 model of a best estimate of the most likely outcome be retained.

   As regards the question if the liability should be measured based on the assumption that the tax authorities will carry out an examination and have full knowledge of all relevant information we find it actually quite strange. We feel there is no alternative but to act in a manner based on such assumptions since if an examination is carried out there is no alternative, based on i.e. Swedish criminal law, but to supply any information that the tax authorities request.

4. Proposing to prohibit backwards tracing. As we understand it, the FASB has in its discussions with the IASB brought forward the view that the IAS 12 model of requiring backwards tracing is complex to apply in practice. We are not at all convinced that this view is shared by constituents outside the US. We instead agree with the alternative proposal, essentially in line with the present IAS 12, which we consider conceptually superior.

   Under the SFAS 109 model the reduction of a deferred tax liability related to a revaluation of available for sale financial investments as a result of a reversal of a temporary difference would not be recognized in income from continuing operations. Only certain effects as set out in SFAS 109, such as those following from rate changes, affect income from continuing operations. The proposal in the ED as set out in paragraph 33 (b) is that subsequent changes in the amounts previously recognised as tax expense, except for certain changes relating to valuation allowances, are to be recognised in continuing operations. Consequently, it would appear the IASB´s proposal, which we do not agree with, is more extensive than the US GAAP model.

5. Proposing with respect to the outside basis to not allow management´s intentions to be reflected and outside basis to impact on the accounting for individual assets and liabilities. We consider that management´s intentions and all available tax saving opportunities should be taken into consideration to arrive at tax balances which agree with the framework and the definition of deferred tax assets and liabilities in the ED.

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The ED does not sufficiently address the problem with how outside basis differences are to be recognised. An example (no 8) prepared by the IASB staff of an entity acquisition accounted for as an asset deal does not reflect the fact that management can dispose of the entity in the form of an entity sale at the end of the asset's economic life for nil and thereby achieve a deduction. At date of acquisition the deferred tax asset on the outside basis difference should offset the deferred tax liability on the inside basis. Instead of a deferred tax asset a premium is recorded. The fact that the example does not show a deferred tax asset at date of acquisition is obviously partly due to that management's intentions are not to be reflected.

Another example (no 12) prepared by the IASB staff of a business combination also does not show any deferred tax asset at date of acquisition related to the outside basis difference but instead goodwill is shown. However, in this example the outside basis difference is reflected but first after the end of year 2, something which we understand may be due to that management´s intentions are not to be considered. No explanation is provided for not reflecting the outside basis difference after the end of year 2 in also example no 8. If the reason is that example 8 covers an asset deal we do not agree with the proposed accounting, as explained below.

We believe that it is important that the tax assets and liabilities that are recognised fulfil the definition of assets and liabilities within the framework. Both current IAS 12 and the ED require deferred tax to be recognised based on the individual entity's perspective. As such, there will be circumstances when, for example, a deferred tax liability is recognised which will not materialise as the group, i.e. the parent, can sell the assets and liabilities without tax consequences. As the entity has a discretionary right to avoid tax consequences the liability currently recognised does not fulfil the definition of a liability in the framework. Therefore we believe that there are circumstances when outside basis has to be taken into consideration when establishing the applicable tax rate and tax base for individual assets and liabilities in the consolidated financial statements.

It also strikes us as confusing that different tax rates and tax bases may not be combined when it comes to inside basis differences, but that such a combination is required for business combinations where you should look to both inside and outside basis differences.

We recommend the IASB to clarify how the effects of the outside basis differences should be recognised.

6. Considering that just because an asset or liability is non-current the related deferred tax balance is also non-current. From a conceptual standpoint we do not agree with this model as the asset or liability classification does not always reflect the period in which the temporary difference reverses. Consequently, since the proposed model is not conceptually superior we consider that the IAS 12 model, which is less costly to apply, should be retained.

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7. Proposing certain unnecessary disclosures as described below:

   The requirement in paragraph 43 to use the tax rate in the country in which the entity is domiciled disregards that it is not uncommon to have the legal domicile in a country which assesses no tax on the entity's taxable profits. For such entities the applicable tax rate should be the one in the country in which the principal operations are carried out.

   The requirements in paragraph 48 (d) to disclose information on transfers within a consolidated group will for companies with significant international operations be costly to prepare. We question the need for this anti abuse disclosure and are also surprised that this new disclosure requirement is not covered by the analysis of costs and benefits of the new IFRS. Also this type of information is in our experience evident from the effective tax rate reconciliation required by paragraph 42.

   The detailed reconciliation required by paragraph 46 d (b) is too extensive. We consider it to be sufficient to reconcile only the tax liabilities and assets as reported in the statement of financial position.

   The information about major sources of uncertainty is already required by IAS 1 paragraph 125. We consider that there is no need for this to be required also by IAS 12 as proposed in paragraph 49.

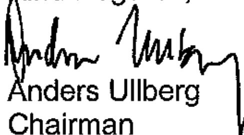
The long term objective of the IASB must be to address many of the issues that presently are perceived with IAS 12 and which not are dealt with by the ED, such as the undiscounted tax effects of business combinations, discounting in general and the accounting for government grants.

To sum up we do not consider that the ED is an improvement and our strong recommendation is that a revised standard should not be issued. Instead the IASB for the time being should amend the present standard for the proposed changes regarding accounting at initial recognition and the use of the distributed rate.

If you have any questions concerning our comments please address our Executive member Carl-Eric Bohlin by e-mail to: carl-eric.bohlin@radetforfinansiellrapportering.se.

Stockholm, July 6, 2009

Kind Regards,



Anders Ullberg
Chairman