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## **SUBSTANTIVE ENACTMENT OF MAJOR TAX BILLS IN AUSTRALIA**

### **Issue**

In December 2012 the AASB issued Amending Standard 2012-9 to withdraw Australian Interpretation 1039 *Substantive Enactment of Major Tax Bills in Australia*, effective for annual reporting periods beginning on or after 1 January 2013.

As a consequence of its decision to withdraw Australian Interpretation 1039, the AASB considered the issue of when it would be appropriate to conclude that substantive enactment of major tax Bills has occurred in Australia.

### **Reasons for Not Adding the Issue to the AASB's Agenda**

In considering the issue of when it would be appropriate to conclude that substantive enactment of major tax Bills has occurred in Australia, the Board noted that AASB 112 *Income Taxes* requires tax assets and liabilities to be measured based on tax rates and tax laws that have been enacted or substantively enacted by the reporting date. However, it noted that AASB 112 does not specify the conditions for substantive enactment. Rather, paragraph 48 of AASB 112 specifies the following:

Current and deferred tax assets and liabilities are usually measured using the tax rates (and tax laws) that have been enacted. However, in some jurisdictions, announcements of tax rates (and tax laws) by the government have the substantive effect of actual enactment, which may follow the announcement by a period of several months. In these circumstances, tax assets and liabilities are measured using the announced tax rate (and tax laws).

Board members observed that the assessment of whether a tax Bill is substantively enacted in Australia, in accordance with paragraph 48 of AASB 112, requires the application of judgement.

In considering the issue, the Board noted that, under AASB 112, substantive enactment is determined by the legal framework of a jurisdiction, and that substantive enactment would not occur until any significant uncertainty about the outcome of a tax Bill has been removed. The Board noted that, in Australia, it would be rare that such uncertainty would be removed before a non-linked tax Bill has passed through both Houses of Parliament. However, it would also be rare for significant uncertainty to remain after a non-linked tax Bill has passed through both Houses of Parliament, even though passing is followed by actual enactment, being the Bill receiving Royal Assent. Similarly, where the commencement of a Bill is linked to the enactment or commencement of another Bill, it would be rare that the uncertainty would be removed before the second Bill has passed through both Houses of Parliament.

The Board is of the view that existing guidance in AASB 112 is sufficient to address the issue of whether substantive enactment has occurred. The Board is not aware of current diversity in practice in Australia and has issued this agenda decision on the basis that it does not expect diversity in practice to arise in Australia on this issue. Consequently, the AASB decided not to add this issue to its agenda.