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31 March 2009

Dear Bruce

Proposed Interpretation 10XX Australian Superannuation Contributions Tax for Defined Benefit Plans

We write in response to the request for comments contained in the Australian Accounting Standards Board (AASB) Proposed Interpretation *Australian Superannuation Contributions Tax for Defined Benefit Plans*.

We concur with the Board's conclusion that Superannuation Contributions Taxes can be included in the measurement of the defined benefit obligation under AASB 119. However we wonder how the Board intends to reconcile its position that this is the only possible treatment, with the recent discussions held at the IASB where it was acknowledged that both this approach and the alternative view written up in the Basis for Conclusions to the Proposed Interpretation are possible interpretations of IAS 19.

In our view the development of interpretations by the AASB on Australian equivalents to International Financial Reporting Standards (AIFRS) should only occur in the rare circumstances where there are scenarios unique to Australia that require interpretation. Notwithstanding the comments in the draft interpretation that make it clear that it only applies to Australian Superannuation Contributions Tax, we are concerned that the interpretation may be viewed as concluding on similar taxes in other jurisdictions.

Furthermore, as noted above, we are aware that the treatment of taxes relating to pension costs was discussed by the International Accounting Standards Board (IASB) at its meeting this month in the context of the post-employment benefit project (agenda paper 8I). Based on these discussions it seems to us to be likely that the proposed changes to IAS 19 and related communications by the IASB will be sufficient to resolve the issue.

Accordingly, we recommend that the Board does not proceed with this interpretation.

Bruce Porter
31 March 2009

Some editorial comments are set out in the Attachment to this letter.

We would welcome the opportunity to discuss our views at your convenience. Please contact me on (03) 8603 3868 if you would like to discuss this further.

Yours sincerely



Jan McCahey
Partner
Assurance

Bruce Porter
31 March 2009

Attachment – Draft interpretation on Australian Superannuation Contributions Tax

Editorial comments

While we agree that including contributions tax in the measurement of the defined benefit obligation is consistent with the principles in AASB 119, we found the arguments provided by the AASB in paragraph BC 13 to be not very convincing.

We do not believe that the defined benefit plan is genuinely acting as an agent by paying the contributions tax 'on behalf of the employer sponsor'. Under the *Income Tax Assessment Act 1936* it is the plan itself that is liable for the tax and not the employer. The tax is not levied on the contributions alone, but is payable on the net taxable income of the fund which also includes income from investment earnings and is net of allowable deductions.

We also do not understand how the fact that unpaid contributions must be excluded from plan assets supports the argument that future contributions tax must be included in the measurement of the defined benefit obligation. Interestingly, we note that the IASB in agenda paper 8I for its March 2009 meeting mentions this particular paragraph as one that could be seen to prevent contribution taxes being included in the measurement of the defined benefit obligation.

In our view, there is sufficient support for including the tax in the measurement of the defined benefit obligation in paragraphs 7 and 63. These state that the defined benefit obligation is measured by taking into account the expected future payments required to settle the obligation resulting from employee service in the current and prior period and that the measurement should take into account the ultimate cost of the defined benefit plan. It should therefore not be necessary to rely on a constructed agency relationship or paragraph 103.

However, if the AASB decides to issue the interpretation, it should discuss the nature of the tax and why it is different to investment tax and hence warrants a different accounting treatment. For example, the interpretation could explain that contributions tax is an unavoidable cost of running the fund and hence directly related to providing the benefits to the employees. In this sense it differs from the tax on investment income which is linked to the return on plan assets and only payable if the fund earns taxable income from its investments.

Bruce Porter
31 March 2009

On that basis, a different treatment of the two taxes is justifiable, being:

- Contributions tax: include in the measurement of the defined benefit obligation as proposed in the interpretation
- Investment tax: include in return on plan assets; do not accrue in advance as part of the defined benefit obligation.