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Ref: KLB/dr

17 December 2015

Ms Kris Peach
Chairman
Australian Accounting Standards Board
Level 14, 530 Collins Street
Melbourne VIC 3000

Dear Ms Peach

SUBMISSION – UNCERTAINTY OVER INCOME TAX TREATMENTS (DI/2015/1)

We appreciate the opportunity to provide comment to the Australian Accounting Standards Board (the AASB) on Draft IFRIC Interpretation DI/2015/1 *Uncertainty over Income Tax Treatments* (the Draft Interpretation).

Pitcher Partners is an association of independent firms operating from all major cities in Australia. Firms in the Pitcher Partners network are full service firms and we are committed to high ethical standards across all areas of our practice. Our clients come from a wide range of industries and include listed and non-listed disclosing entities, large private businesses, family groups, government entities, and small to medium sized enterprises.

We welcome the development of authoritative guidance on accounting for uncertain tax treatments and we support the proposals outlined in the Draft Interpretation.

Our detailed responses to the questions contained in the Draft Interpretation are attached to this letter.

Please contact either myself or Darryn Rundell, Director - Audit & Accounting Technical (03 8610 5586 or darryn.rundell@pitcher.com.au), in relation to any of the matters outlined in this submission.

Yours sincerely

K L Byrne
Partner

D J Rundell
Director, Audit & Accounting Technical

DI/2015/1 *Uncertainty over Income Tax Treatments*

Specific matters for comment:

Question 1—Scope of the draft Interpretation
The draft Interpretation 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 recognise 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 draft Interpretation? If not, why and what alternative do you propose?

Response:

We agree that the scope of the Interpretation should cover all circumstances, without limitation, in which there is uncertainty over income tax treatments that affect the determination of current tax and deferred tax under IAS 12 *Income Taxes*.

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 draft Interpretation 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 draft Interpretation 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 draft Interpretation 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 draft Interpretation 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?

Response:

In our view, it is appropriate and consistent with IAS 12 *Income Taxes* to apply the probability threshold to determine when and how the effect of uncertain tax treatments shall be reflected in the determination of current tax and deferred tax.

In circumstances where an entity concludes that it <u>is probable</u> that the taxation authority will accept an uncertain tax treatment, we agree that an entity shall determine current tax and deferred tax consistently with the tax treatment used or planned to be used in its income tax filings.

In the alternative circumstance, where an entity concludes that it is not probable that the taxation authority will accept an uncertain tax treatment, we agree that an entity shall use the method (from the two available methods) that provides the better prediction of the resolution of the uncertainty. In our view, the availability of the two prescribed methods will assist preparers of financial statements when dealing with the range of facts and circumstances that may exist in relation to uncertain tax treatments. However, we believe that preparers of financial statements would benefit from additional guidance as to the appropriate adoption of the 'better predictive' method in a range of illustrative circumstances and we encourage the inclusion of such guidance in the final interpretation.

Question 3—Whether uncertain tax treatments should be considered collectively
The draft Interpretation requires an entity to use judgement 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 draft Interpretation on the determination of whether uncertain tax treatments should be considered collectively? If not, why and what alternative do you propose?

Response:

We agree that an entity shall exercise judgement with regard to the 'separate' or 'collective' consideration of uncertain tax treatments, based on which approach provides the better prediction of the resolution of the uncertainty. Consistent with our response to question 2, above, enabling an entity to exercise judgement in this regard will assist preparers of financial statements to deal with the range of facts and circumstances that may exist in relation to uncertain tax treatments.

Question 4—Assumptions for taxation authorities' examinations and the effect of changes in facts and circumstances
The draft Interpretation 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 draft Interpretation also requires an entity to reassess its judgements 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. Do you agree with the proposal in the draft Interpretation on the assumptions for taxation authorities' examinations and on changes in facts and circumstances? If not, why and what alternative do you propose?

Response:

In our view, it is appropriate to assume that a taxation authority with the right (subject to statutory time limits) to examine any amounts reported to it will examine those amounts and will have full knowledge of all relevant information when making those examinations.

We agree that changes in facts and circumstances should be reflected in the accounting for uncertain tax treatments in the period of the change.

Question 5—Other proposals
Disclosure The draft Interpretation 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 draft Interpretation requires an entity to apply its requirements by recognising 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 draft Interpretation on the disclosure and the transition requirements? If not, why and what alternative do you propose?

Response:

Given the existing disclosure requirements of IAS 1 *Presentation of Financial Statements*, IAS 12 *Income Taxes* and IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*, we agree that it is unnecessary to introduce new disclosure requirements.

We support the proposed transition requirements, which will enable entities to recognise the cumulative effect of initially applying the interpretation in opening equity without adjusting comparative information.