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Uncertainty over Income Tax Treatments

Cover Note

Objective

- 1 The objectives of the session are to:
 - (a) consider the comments received in response to EFRAG's Invitation to Comment on its draft endorsement advice on the IFRIC Interpretation 23 *Uncertainty over Income Tax Treatments* ('IFRIC 23'); and
 - (b) discuss and agree to recommend to the EFRAG Board a final endorsement advice.

Background

- 2 On 7 June 2017, the IASB issued IFRIC 23 to clarify that when there is uncertainty over income tax treatments an entity shall recognise and measure its current or deferred tax asset or liability applying the requirements in IAS 12 *Income Taxes* based on taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates determined applying IFRIC 23.
- 3 EFRAG issued its draft endorsement advice and a separate invitation to comment on 2 August 2017, requesting comments by 9 October 2017.

EFRAG's initial assessment on IFRIC 23

- 4 EFRAG's initial assessment was that IFRIC 23 satisfies the criteria for endorsement for use in the EU and, therefore, recommended its endorsement.

Comment letters received

- 5 EFRAG received comment letters from 7 respondents representing 3 national standard-setters, 2 preparers, 1 association of preparers and 1 accounting organisation. A list of respondents is included in Appendix 1 to this paper and the comment letters can be found on [IFRIC 23 project page](#) under "endorsement consultation".
- 6 Furthermore, the EFRAG Secretariat reviewed the 12 European comment letters in response to the IASB's Draft Interpretation DI/2015/1 *Uncertainty over Income Tax Treatments* (the 'DI'):
 - (a) most respondents supported the technical proposals in the DI; and
 - (b) some respondents referred to the asymmetric treatments of uncertainties for different kinds of positions and proposed that the IASB addresses this within the context of IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*, IAS 12 or the Conceptual Framework.

Summary of comments received on the draft endorsement advice

- 7 All the respondents agreed with EFRAG's overall initial assessment for endorsement. Most respondents did not provide comments to explain their views.
- 8 Comments were provided by two respondents who commented on:
- (a) the interaction of IFRIC 23 and IFRS 3 *Business Combinations*; and
 - (b) the scope of IFRIC 23.

The interaction of IFRIC 23 and IFRS 3 Business Combinations

- 9 One respondent commented that IFRIC 23 does not address the accounting for income tax contingencies assumed in a business combination. The respondent explained that paragraph BC24 of IFRIC 23 only referred to deferred tax assets and liabilities. At the same time, it was not clear whether the guidance in IFRS 3 on contingent liabilities is also applicable for current income tax contingencies. Therefore, the respondent suggested that clarification of the treatment of current income tax assets and liabilities was needed in order to have consistent treatments for both current and deferred income taxes.
- 10 EFRAG Secretariat notes that paragraph BC23 of IFRIC 23 clarifies that IFRS 3 applies to all assets and liabilities acquired in a business combination. EFRAG Secretariat considers that this issue is outside the scope of the IFRIC 23 endorsement advice and, consequently, has made no change to the letter.

The scope of IFRIC 23

- 11 One respondent commented that IFRIC 23 applies only to uncertainty over income tax treatments relating to taxes within the scope of IAS 12. This respondent was concerned that the limited scope might create a potential inconsistency between the accounting for uncertainties over income taxes and uncertainties over other taxes. The respondent suggested that this potential inconsistency should be reflected in EFRAG's technical assessment on IFRIC 23.
- 12 EFRAG Secretariat notes that paragraph 5 of Appendix I of the draft endorsement advice already notes the inconsistency between IAS 12 and IAS 37. Further, paragraph 33 of Appendix II identifies the impact on interest and penalties relating to income taxes. Given that this is an endorsement advice on IFRIC 23 and not an advice on IAS 12, EFRAG Secretariat proposes no change to the draft letter.

EFRAG Secretariat recommendation

- 13 Considering the input received from constituents, the EFRAG Secretariat recommends to maintain the initial assessment that IFRIC 23 satisfies the criteria for endorsement for use in the EU and therefore that EFRAG recommends its endorsement.

Questions for EFRAG TEG

- 14 Does EFRAG TEG agree to recommend the draft final endorsement advice, as contained in Agenda paper 06-02, to the EFRAG Board?

Agenda Papers

- 15 In addition to this cover note, the agenda paper for this session is Agenda paper 06-02 – Letter to the European Commission regarding the endorsement of IFRIC 23.

Appendix 1: List of respondents

<i>Name of constituent</i>	<i>Country</i>	<i>Category</i>
Swedish Enterprise Accounting Group (SEAG)	Sweden	Association of preparers
The Institute of Chartered Accountants in England and Wales (ICAEW)	United Kingdom	Accounting organisation
UK Financial Reporting Council (FRC)	United Kingdom	National standard setter
SAP SE	Germany	Preparer
Daimler AG	Germany	Preparer
Organismo Italiano di Contabilità (OIC)	Italy	National standard setter
Instituto de Contabilidad y Auditoría de Cuentas (ICAC)	Spain	National standard setter