SwissHoldings
Verband der Industrie- und Dienstleistungskonzerne in der Schweiz
Fédération des groupes industriels et de services en Suisse
Federation of Industrial and Service Groups in Switzerland

19 January 2016

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

Comment Letter on the Draft IFRIC Interpretation on Uncertainty over Income Tax Treatments

Dear Sir/Madam,

SwissHoldings, the Swiss Federation of Industrial and Services Groups in Switzerland, represents 60 Swiss groups, including most of the country's major industrial and commercial enterprises. We very much welcome the opportunity to provide comments to this Draft Interpretation.

Our detailed response (in the appendix) has been prepared in conjunction with our member companies.

You will note that certain aspects of this Interpretation refer to the use of "probability". Since use of this criterion is being reassessed in the updated *Conceptual Framework*, we suggest that this Interpretation is deferred until such time as the updated *Conceptual Framework* can be considered.

We also believe that the IFRIC should consider how the definition of current and non-current liabilities as per IAS 1 should apply to the tax liabilities measured in accordance with this Interpretation, specifically when the tax liability does not result from a right but from a risk assessment.

We also consider that on adoption of this new Interpretation a fully prospective implementation approach should be permitted.

Yours sincerely

SwissHoldings
Federation of Industrial and Service Groups in Switzerland

Christian Stiefel	Denise Laufer
CEO	Senior Policy Manager

cc SH Board

Postfach 402, 3000 Bern 7
Tel. +41 (0)31 356 68 68
sh@swissholdings.ch
Nägeligasse 13, 3011 Bern
Fax +41 (0)31 352 32 55
www.swissholdings.ch

APPENDIX

ANSWERS TO SPECIFIC QUESTION IN INVITATION TO 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?

We believe the scope of the interpretation should be extended in order to consider also the presentation of the tax liability related to tax uncertainties in the balance sheet. IAS 1.69 provides the criteria for the presentation of a liability as current or non-current. One key consideration for such presentation is the existence of a right to defer the settlement of the liability for at least twelve months after the reporting date. We believe that because there is no existing right associated with a tax uncertainty and its measurement, the paragraph IAS 1.69(d) requirements should not apply to a recognised tax liability measured in accordance with this Interpretation. Not making this clarification would lead to presenting as current some tax liabilities which may reflect long term risks and may be subject to subsequent adjustment depending on facts and circumstances and which do not represent items resulting in cash flows in the near future and may even be reversed. As a result, in this context, a clarification from the IFRIC seems to be necessary.

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?

Generally we agree with the proposals in the draft interpretation.

We note however, that BC 17 specifically refers to the existing *Conceptual Framework*. Since this is in the process of being updated and this update could have a significant impact on the required accounting where “probability” is currently a factor to be considered, we suggest that the implications of the updated *Conceptual Framework* are taken into account when finalizing this Interpretation. As a result we suggest that this Interpretation is deferred until the consequences of the updated *Conceptual Framework* can be taken into account.

Furthermore, we note that the initial request was focused on the issue of a current tax asset, and consider this should be addressed more explicitly, at least in the illustrative examples.

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?

We agree with the proposals in the draft interpretation.

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?

We agree with the proposals in the draft interpretation.

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 and125–129 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?
We agree with the proposals of the draft interpretation as regards disclosures.

We do not agree with all the proposals on transition. We consider that it is important that the introduction of this new Interpretation does not result in amounts recorded in the financial statements which could draw the attention of tax authorities to the uncertainty of the preparer's tax treatments and as a result prejudice the preparer's position.

We therefore disagree with the prominence that any adjustment will be given as a result of the transition provision proposals. We consider therefore that an option should be introduced to allow a prospective treatment for recording the impact of this Interpretation. This will allow preparers to have more flexibility as to how they need to disclose the financial effect of adopting this new Interpretation.