



European Financial Reporting Advisory
Group (EFRAG)
35 Square de Meeûs
B-1000 Bruxelles
BELGIUM

22 December 2014

Dear Chairman,

Re: Short discussion on “LEVIES: What would have to be changed in IFRS for a different accounting outcome?”

BUSINESSEUROPE welcomes the opportunity to comment on the Discussion Paper. As you will see from the attached copy of the BUSINESSEUROPE comments on the Draft Interpretation on Levies, we did not agree with the finalisation of IFRIC 21 at that time, principally on the grounds that it privileged the form of the levy over its economic substance and therefore was unlikely to provide a faithful representation of the transaction or useful information for the user. Our view has not changed and we are therefore pleased to see that EFRAG is seeking to resolve the dilemma IFRIC 21 has caused.

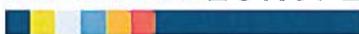
We believe that a revision of IAS 34 would provide the most rapid solution to this dilemma. This could not only include the arguments from the Discussion Paper but could also be supported by some of the existing precedents included in the examples of applying the recognition and measurement principles in current IAS 34.

We hope that the direction taken by the revision to the definition and recognition principles for liabilities in the Conceptual Framework will help in this regard.

You will find our responses to the individual questions posed in the Discussion Paper hereunder.

Q1 Do you have concerns that the application of IFRIC 21 and other relevant Standards may sometimes result in inappropriate outcomes (such as charging immediately to profit or loss the cost of a levy that should be instead recognised over a period)? (see paragraph 3)

Yes, we are convinced that the application of IFRIC 21 will frequently result in inappropriate outcomes. Please see the attached response to the Draft Invitation.



Q2 Based on the existing applicable Standards, do you think that entities will be able in practice to identify assets or services received in exchange for levies? (see paragraphs 58-64)

Entities will be able to identify some situations where applicable standards allow for the treatment of the levy as assets or services. Where the levy is of the nature of a “licence to operate” and failure to pay results in the loss of that right, the levy, in our view, represents in substance a licence and should be accounted for as an amortisable asset (paragraph 62 (a)). Similarly, where the entity can benefit directly or indirectly from the payment of the levy, that would also be an indication that a service or asset is received by the entity (paragraph 62 (d)).

Q3 Is the proposed guidance in paragraph 62 helpful in this respect? And, should the guidance also include criteria to distinguish if an entity has received an asset rather than a service (or vice versa)? (see paragraph 64)

As discussed in the response to the previous question, paragraphs 62 (a) and (d) are helpful.

The two characteristics described in paragraphs 62 (b) and (c) indicate that the levy is a form of taxation, but one which would be generally be judged to be excluded from the scope of IAS 12 since it is not based on “taxable profits” but rather on a specific element of income or expense, or on a balance sheet element. We think it would be difficult to justify treatment of such levies as assets or services under current standards.

Q4 For those levies where the law indicates a point-in-time obligation, do you agree that there may be other elements in the law to designate the obligating event? If so, do you agree with the elements described in paragraphs 65 to 68?

Yes, we agree with the direction taken by these paragraphs: there may be other elements in the legislation that indicate that the date the levy falls due is not the most important obligating event even though it may be the last event that triggers the obligation to pay. In particular, where the levy is a proportion of an amount included in profit or loss we agree that in substance the obligating event is the activity performed progressively over time. Furthermore, where a proportion of the levy will always be payable when the activity of the entity starts or ceases during the year, even though the final obligating event may be a date outside that year, the substance is a levy based on an activity rather than existence at a point of time.

Q5 In which cases, if any, can a levy measured on a balance sheet figure be linked to an activity performed over time? (see paragraphs 56 and 74)

Unless the levy can be considered to be of the nature of a “licence to operate”, it is difficult to see how progressive recognition or amortisation could be justified under current standards.



Q6 Do you agree with the inclusion of a specific requirement in IAS 34 as a short term solution? (see paragraph 76)

It is clear from the IASB's discussions of the draft IFRIC 21 and the definition of a liability in the revision of the Conceptual Framework that several members of the IASB are not comfortable with the outcome imposed by IFRIC 21. While we are hopeful that the revision of the Conceptual Framework under way at present will provide a more appropriate basis for the recognition of levies, we realise that this will not be finalised in the short term.

We therefore think that a specific requirement of IAS 34 could provide the most effective short-term solution. There are current precedents for this in IAS 34 that could be used as justification for this treatment, such as, for example, Employer payroll taxes and insurance contributions (IAS 34.B1); Year-end bonuses (IAS 34.B6); and Contingent lease payments (IAS 34.B7).

The argument laid out in paragraphs 53 to 56 could additionally be used as a basis for this.

Where a levy in essence builds up over a period in proportion to an activity, or is in substance a licence to operate related to a specific period, it appears logical to match (or allocate) the cost of the levy to the activity or period which benefits or suffers from the levy. In our view, such matching provides information that is both relevant and useful, and thus should be allowed for in IAS 34.

Q7 Do you agree that the IASB should add to its agenda a Research project to deal with transactions with Government authorities in their capacity as authorities? (see paragraphs 82-83)

This might be helpful, as there are many items which are in substance taxes which do not conform to the definition of taxes in IAS 12. However, in practice the consequences of the revision of the Conceptual Framework may provide a solution more quickly.

Q8 Do you think that other different alternatives could be explored in the paper in order to reach a different outcome when accounting for levies?

The parallels with the accounting for emissions rights and costs could also be examined in order to achieve an overall consistent solution.

We remain at your disposal should you wish to discuss this subject further.

Yours sincerely,

Jérôme P. Chauvin
Deputy Director General