

Mr Andreas Barckow, Chair
International Accounting Standards Board
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Dear Mr Barckow

**Re.: IASB Exposure Draft 2023/1 ,International Tax Reform –
Pillar Two Model Rules‘**

The IDW appreciates the opportunity to comment on the IASB’s Exposure Draft (ED) 2023/1 ,International Tax Reform – Pillar Two Model Rules‘.

We very much welcome the fact that the IASB is attempting to respond at short notice to current international political and legislative developments in the interests of its stakeholders, and we generally support the IASB’s considerations of granting affected entities a temporary exception from both accounting for, and disclosing of, information about deferred taxes related to the Pillar Two model rules.

In our view, it is now important that the Board succeeds in finalising the planned amendments to IAS 12 as quickly as possible.

We would like to comment on the specific proposals as follows:

GESCHÄFTSFÜHRENDER VORSTAND:
Prof. Dr. Klaus-Peter Naumann,
WP StB, Sprecher des Vorstands;
Melanie Sack, WP StB,
stv. Sprecherin des Vorstands;
Dr. Torsten Moser, WP

Amtsgericht Düsseldorf
Vereinsregister VR 3850

Question 1

Temporary exception to the accounting for deferred taxes (paragraphs 4A and 88A)

IAS 12 applies to income taxes arising from tax law enacted or substantively enacted to implement the Pillar Two model rules published by the OECD, including tax law that implements qualified domestic minimum top-up taxes described in those rules.

The IASB proposes that, as an exception to the requirements in IAS 12, an entity neither recognise nor disclose information about deferred tax assets and liabilities related to Pillar Two income taxes.

The IASB also proposes that an entity disclose that it has applied the exception.

Paragraphs BC13–BC17 of the Basis for Conclusions explain the IASB's rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

The IDW agrees with the proposed introduction of a temporary exception from the requirements in IAS 12 on the recognition and disclosure of information about deferred tax assets and deferred tax liabilities in connection with Pillar Two income taxes. We also agree that the temporary exception should be mandatory, as we believe this will lead to better comparability and prevent entities from developing accounting policies that may not be consistent with IAS 12. For reasons of transparency and comprehensibility of the financial statements, entities should disclose that the exception has been applied.

In order to avoid questions and misunderstandings, we would welcome it if the Board were to explicitly clarify within the body of the standard that qualified domestic minimum top-up taxes are also covered by the proposed mandatory temporary exception (we refer to paragraph 4A of the ED and paragraph 7 of the Basis for Conclusions).

We understand that the IASB is not yet in a position to set a date for the end of the temporary exception (we refer to paragraphs 13, 14 and 17 of the Basis for Conclusions). Firstly, it is unclear how individual jurisdictions will implement the OECD's Pillar Two model rules. This, in turn, will determine whether further action by the standard setter will be required to ensure consistent application of IAS 12. Secondly, the whole process is complicated by the fact that the OECD's

Page 3/6 IDW CL to IASB, Mr Andreas Barckow, on ED/2023/1 'International Tax Reform – Pillar Two Model Rules', dated 9 March 2023

Pillar Two model rules will be implemented at different times in different jurisdictions. Given all these uncertainties, we strongly recommend that the IASB closely monitors and analyses the developments at the international level as well as in individual jurisdictions in order to reach a decision as soon as possible on whether and, if so, when the temporary exception can be removed and whether any further actions are required to ensure consistent application of IAS 12 (e.g. amendments to the standard and/or the provision of additional application guidance and illustrative examples). The IASB should add a short-term maintenance project to its agenda accordingly.

Question 2

Disclosure (paragraphs 88B–88C)

The IASB proposes that, in periods in which Pillar Two legislation is enacted or substantively enacted, but not yet in effect, an entity disclose for the current period only:

- (a) information about such legislation enacted or substantively enacted in jurisdictions in which the entity operates.
- (b) the jurisdictions in which the entity's average effective tax rate (calculated as specified in paragraph 86 of IAS 12) for the current period is below 15%. The entity would also disclose the accounting profit and tax expense (income) for these jurisdictions in aggregate, as well as the resulting weighted average effective tax rate.
- (c) whether assessments the entity has made in preparing to comply with Pillar Two legislation indicate that there are jurisdictions:
 - (i) identified in applying the proposed requirement in (b) but in relation to which the entity might not be exposed to paying Pillar Two income taxes; or
 - (ii) not identified in applying the proposed requirement in (b) but in relation to which the entity might be exposed to paying Pillar Two income taxes.

The IASB also proposes that, in periods in which Pillar Two legislation is in effect, an entity disclose separately its current tax expense (income) related to Pillar Two income taxes.

Paragraphs BC18–BC25 of the Basis for Conclusions explain the IASB's rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

We appreciate the IASB's intention to balance the needs of the users of financial statements (i.e., to get an idea of an entity's exposure to pay additional taxes due to the OECD's Pillar Two legislation) and the challenges and costs for the entities (i.e., in identifying and obtaining the necessary data in a manner such that the information provided is also auditable) when determining the disclosure requirements.

The IDW has the following comments on each of the proposed disclosure requirements:

Paragraph 88B of the ED

In principle, we agree with the proposed separate disclosure of an entity's current tax expense (benefit) in the context of Pillar Two legislation, as this would enable the users of financial statements to understand the magnitude in relation to the entity's total tax expense. Furthermore, such a disclosure should not entail any major costs for entities.

Paragraph 88C(a) of the ED

We would welcome the IASB clarifying the proposed disclosure requirement; in particular a) what type, b) what extent, and c) whether the information on Pillar Two legislation (enacted or substantively enacted) is expected from all material entities within a group. Currently, we have some doubts concerning the usefulness of the information required according to paragraph 88C(a) of the ED.

These doubts stem, among other things, from the fact that under the OECD's Pillar Two model rules the legislation of the jurisdiction in which a parent entity is domiciled will apply to all direct and indirect subsidiaries within the group. Consequently, if the ultimate parent entity is subject to a Pillar Two regime, the legislation in all other jurisdictions in which group entities operate would be non-relevant. The only exemptions are cases where qualified domestic minimum top-up taxes have been imposed in jurisdictions of group entities, or where there is a 'Partly-owned Parent Entity' located outside the jurisdiction in which the ultimate parent entity is domiciled.

Paragraph 88C(b) of the ED

The IDW questions whether the proposed jurisdiction-specific quantitative disclosure requirements actually provide the most relevant and best information for users of financial statements, especially since these disclosures are associated

Page 5/6 IDW CL to IASB, Mr Andreas Barckow, on ED/2023/1 'International Tax Reform – Pillar Two Model Rules', dated 9 March 2023

with considerable costs (especially with regard to data procurement) for the entities.

In our view, it is the potential impact of Pillar Two income taxes on the group tax rate that is the most significant information that needs to be provided to users of financial statements. However, we believe that the proposed quantitative disclosure requirements under paragraph 88C(b) of the ED will only be the best possible way to meet the information needs of the users in some cases. For example, entities that have already carried out or will shortly carry out their Pillar Two impact assessment should be allowed to make the required disclosures on the basis of current, relevant data that they identify in preparation for or during the implementation process of the Pillar Two legislation rather than on the basis of IAS 12, – provided that this data is reliable and auditable. The relevance and thus the informational benefit of such disclosures would be significantly higher. In addition, this would mean that preparers of financial statements would not need to identify specific quantitative data based on IAS 12 in order to comply with the disclosure requirements of paragraph 88C(b).

For this reason, we would very much welcome more objective and principles-based disclosure requirements for paragraph 88C(b) (in the sense of providing information to help assess the entity's exposure to paying top-up tax) which are less detailed and prescriptive than currently proposed.

Paragraph 88C(c) of the ED

In general, we agree with the disclosure requirements proposed in paragraph 88C(c) of the ED. However, we recommend that the wording be drafted more precisely. Currently, the wording could be misunderstood such that entities are only required to disclose that assessments had been made to identify jurisdictions in accordance with paragraphs 88C(c)(i) and (ii) of the ED. However, there is no explicit requirement to disclose the jurisdictions identified.

Question 3

Effective date and transition (paragraph 98M)

The IASB proposes that an entity apply:

- (a) the exception – and the requirement to disclose that the entity has applied the exception – immediately upon issue of the amendments and retrospectively in accordance with IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*; and

Page 6/6 IDW CL to IASB, Mr Andreas Barckow, on ED/2023/1 'International Tax Reform – Pillar Two Model Rules', dated 9 March 2023

(b) the disclosure requirements in paragraphs 88B–88C for annual reporting periods beginning on or after 1 January 2023.

Paragraphs BC27–BC28 of the Basis for Conclusions explain the IASB's rationale for this proposal.

Do you agree with this proposal? Why or why not? If you disagree with the proposal, please explain what you would suggest instead and why.

We agree with both the proposed effective date as well as the proposed requirements for transition.

The IDW would be pleased to answer any questions that you may have or discuss any aspect of this letter.

Yours sincerely

Prof. Dr. Bernd Stibi
Technical Director
Reporting

Kerstin Klinner
Technical Manager
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