# IFRIC 23: Uncertainty Over Income Tax Treatments

IFRIC 23 is the IASB's equivalent of US GAAP interpretation ASC 740-10 (formerly FIN 48). IFRIC 23 was issued in June 2017 and is applicable for reporting periods beginning on or after 1 January 2019. Early adoption is permitted.

IFRIC 23 addresses an observed diversity in practice of recognition and measurement of income tax liabilities (or assets) when there is uncertainty in the application of the tax law, i.e. when there is uncertainty over whether the tax authorities accept the tax positions taken by the reporting entity. IFRIC 23 applies to current and deferred income taxes and gives guidance on necessary disclosures.

**Scope of IFRIC 23**

Under IAS 12.46 "current tax liabilities (assets) for the current and prior periods shall be measured at the amount expected to be paid (recovered from) the taxation authorities, using the tax rates (and tax laws) that have been enacted or substantively enacted by the end of the reporting period." However, IAS 12 gives no further guidance on the treatment of uncertain tax positions.

IFRIC 23 addresses the accounting for income taxes (current and deferred) when tax treatments involve uncertainty that affects the application of IAS 12 *Income Taxes*. Accordingly, the interpretation does not apply to taxes or levies outside the scope of IAS 12 (e.g. wage tax, value added tax, property tax), nor does it specifically include requirements relating to interest and penalties associated with uncertain tax treatments.

**IFRIC 23's basic assumption: "the tax auditor is around the corner"**

In assessing whether and how an uncertain tax treatment is uncertain, the reporting entity has to assume that the tax authorities will examine the position and will have full knowledge of all relevant information. Accordingly, the risk of detection is not relevant, i.e. a longer period of tax authorities' inactivity has no impact on the accounting treatment of the uncertain tax treatment.

**Two step approach for recognition and measurement of uncertain tax treatments**

**Step 1a:** it is probable (probability > 50%) that the tax authority will accept an uncertain tax treatment? If yes, then the reporting entity's tax profit (and related tax liability) or tax loss (and related tax asset) should be consistent with the entity's tax filings.

**Step 1b:** it is not probable that the tax authority will accept the uncertain tax treatment. Then the reporting entity has to reflect the effect of the uncertainty in determining its taxable profit (tax loss), most likely by increasing a tax liability (decreasing a tax asset).

**Step 2:** The effect of the uncertain tax treatment is determined by applying the expected value method or by applying the most likely method. IFRIC 23 provides guidance on how to determine which of the two methods is likely to be more appropriate: the most likely amount method may better predict the resolution of the uncertainty if the possible outcomes are binary or are concentrated on one value. The expected value method may better predict the resolution of the uncertainty if there is a range of possible outcomes that are not binary and are not concentrated on one value.

**Areas of judgement**

Aside from the question, which method to use to determine the effect of the uncertain tax treatment, another area of judgment is how many outcomes have to be determined. Further judgement is required when it comes to the question to assign a probability to those outcomes. In this context, the entity might consider court decisions in the area of the uncertain tax treatment, the tax authorities' willingness to negotiate or its attitude to bring uncertain tax treatments to court as well as the entities' past practice, when dealing with the tax authorities.

**Changes in recognition and measurement**

As the risk of detection is not relevant for recognition and measurement of the effect from an uncertain tax treatment, the length of the period in which the tax authorities have not taken up the uncertain tax treatment is irrelevant as well. I.e. a longer period of the tax authorities' inactivity does not decrease a tax liability from an uncertain tax position. Relevant changes in facts and circumstances are e.g. court decisions, changes of tax rules, expiration of the tax authorities' right to inspect an uncertain tax treatment. Changes of tax assets/liabilities from uncertain tax treatments are accounted for prospectively in accordance with IAS 8.

**Disclosures**

IFRIC 23 does not add further disclosures, but reminds the reporting entity of IAS 1 and the requirement to disclose significant judgements. When it is probable that the tax authority will accept an uncertain tax treatment, in accordance with IAS 12.88 the potential effect of the tax related contingency has to be disclosed.

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