COMMISSION REGULATION (EU) 2022/1392

of 11 August 2022

amending Regulation (EC) No 1126/2008 as regards International Accounting Standard 12

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ([1]), and in particular Article 3(1) thereof,

Whereas:

(1) By Commission Regulation (EC) No 1126/2008 ([2]) certain international accounting standards and interpretations that were in existence on 15 October 2008 were adopted.

(2) On 7 May 2021, the International Accounting Standards Board published amendments to International Accounting Standard (IAS) 12 *Income Taxes*. Those amendments clarify how companies are to account for deferred taxes on transactions such as leases and decommissioning obligations and aim to reduce diversity in the reporting of deferred tax assets and liabilities on leases and decommissioning obligations.

(3) By way of consequence of the amendments to IAS 12 *Income Taxes*, International Financial Reporting Standard (IFRS) 1 *First-time Adoption of International Financial Reporting Standards* was also amended in order to ensure consistency between those standards.

(4) Following the consultation with the European Financial Reporting Advisory Group, the Commission concludes that the amendments to IAS 12 *Income Taxes* meet the criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002.

(5) Regulation (EC) No 1126/2008 should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1126/2008 is amended as follows:

(1) International Accounting Standard (IAS) 12 *Income Taxes* is amended as set out in the Annex to this Regulation;

(2) International Financial Reporting Standard (IFRS) 1 *First-time Adoption of International Financial Reporting Standards* is amended in accordance with the amendments to IAS 12 *Income Taxes* as set out in the Annex to this Regulation.

Article 2

Each company shall apply the amendments referred to in Article 1, at the latest, as from the commencement date of its first financial year starting on or after 1 January 2023.

([1]) OJ L 243, 11.9.2002, p. 1.
([2]) Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 August 2022.

For the Commission

The President

Ursula VON DER LEYEN

ANNEX

Deferred Tax related to Assets and Liabilities arising from a Single Transaction

Amendments to IAS 12

Amendments to IAS 12 *Income Taxes*

Paragraphs 15, 22 and 24 are amended. Paragraphs 22A and 98J–98L are added.

RECOGNITION OF DEFERRED TAX LIABILITIES AND DEFERRED TAX ASSETS

Taxable temporary differences

15 **A deferred tax liability shall be recognised for all taxable temporary differences, except to the extent that the deferred tax liability arises from:**

(a) **the initial recognition of goodwill; or**

(b) **the initial recognition of an asset or liability in a transaction which:**

(i) **is not a business combination;**

(ii) **at the time of the transaction, affects neither accounting profit nor taxable profit (tax loss); and**

(iii) **at the time of the transaction, does not give rise to equal taxable and deductible temporary differences.**

…

Initial recognition of an asset or liability

22 A temporary difference may arise on initial recognition of an asset or liability, for example if part or all of the cost of an asset will not be deductible for tax purposes. The method of accounting for such a temporary difference depends on the nature of the transaction that led to the initial recognition of the asset or liability:

(a) in a business combination, an entity recognises any deferred tax liability or asset and this affects the amount of goodwill or bargain purchase gain it recognises (see paragraph 19);

(b) if the transaction affects either accounting profit or taxable profit, or gives rise to equal taxable and deductible temporary differences, an entity recognises any deferred tax liability or asset and recognises the resulting deferred tax expense or income in profit or loss (see paragraph 59);

(c) if the transaction is not a business combination, affects neither accounting profit nor taxable profit and does not give rise to equal taxable and deductible temporary differences, an entity would, in the absence of the exemption provided by paragraphs 15 and 24, recognise the resulting deferred tax liability or asset and adjust the carrying amount of the asset or liability by the same amount. Such adjustments would make the financial statements less transparent. Therefore, this Standard does not permit an entity to recognise the resulting deferred tax liability or asset, either on initial recognition or subsequently (see example below). Furthermore, an entity does not recognise subsequent changes in the unrecognised deferred tax liability or asset as the asset is depreciated.

…

22A A transaction that is not a business combination may lead to the initial recognition of an asset and a liability and, at the time of the transaction, affect neither accounting profit nor taxable profit. For example, at the commencement date of a lease, a lessee typically recognises a lease liability and the corresponding amount as part of the cost of a right-of-use asset. Depending on the applicable tax law, equal taxable and deductible temporary differences may arise on initial recognition of the asset and liability in such a transaction. The exemption provided by paragraphs 15 and 24 does not apply to such temporary differences and an entity recognises any resulting deferred tax liability and asset.

…

Deductible temporary differences

24 **A deferred tax asset shall be recognised for all deductible temporary differences to the extent that it is probable that taxable profit will be available against which the deductible temporary difference can be utilised, unless the deferred tax asset arises from the initial recognition of an asset or liability in a transaction that:**

(a) **is not a business combination;**

(b) **at the time of the transaction, affects neither accounting profit nor taxable profit (tax loss); and**

(c) **at the time of the transaction, does not give rise to equal taxable and deductible temporary differences.**

...

EFFECTIVE DATE

…

98J *Deferred Tax related to Assets and Liabilities arising from a Single Transaction*, issued in May 2021, amended paragraphs 15, 22 and 24 and added paragraph 22A. An entity shall apply these amendments in accordance with paragraphs 98K–98L for annual reporting periods beginning on or after 1 January 2023. Earlier application is permitted. If an entity applies the amendments for an earlier period, it shall disclose that fact.

98K An entity shall apply *Deferred Tax related to Assets and Liabilities arising from a Single Transaction* to transactions that occur on or after the beginning of the earliest comparative period presented.

98L An entity applying *Deferred Tax related to Assets and Liabilities arising from a Single Transaction* shall also, at the beginning of the earliest comparative period presented:

(a) recognise a deferred tax asset—to the extent that it is probable that taxable profit will be available against which the deductible temporary difference can be utilised—and a deferred tax liability for all deductible and taxable temporary differences associated with:

(i) right-of-use assets and lease liabilities; and

(ii) decommissioning, restoration and similar liabilities and the corresponding amounts recognised as part of the cost of the related asset; and

(b) recognise the cumulative effect of initially applying the amendments as an adjustment to the opening balance of retained earnings (or other component of equity, as appropriate) at that date.

Amendments to IFRS 1 *First-time Adoption of International Financial Reporting Standards*

Paragraph 39AH is added. In Appendix B, paragraph B1 is amended and paragraph B14 and its heading are added.

EFFECTIVE DATE

...

39AH *Deferred Tax related to Assets and Liabilities arising from a Single Transaction*, issued in May 2021, amended paragraph B1 and added paragraph B14. An entity shall apply these amendments for annual reporting periods beginning on or after 1 January 2023. Earlier application is permitted. If an entity applies the amendments for an earlier period, it shall disclose that fact.

...

Appendix B

Exceptions to the retrospective application of other IFRSs

This appendix is an integral part of the IFRS.

B1 An entity shall apply the following exceptions:

...

(g) government loans (paragraphs B10–B12);

(h) insurance contracts (paragraph B13); and

(i) deferred tax related to leases and decommissioning, restoration and similar liabilities (paragraph B14).

...

DEFERRED TAX RELATED TO LEASES AND DECOMMISSIONING, RESTORATION AND SIMILAR LIABILITIES

B14 Paragraphs 15 and 24 of IAS 12 *Income Taxes* exempt an entity from recognising a deferred tax asset or liability in particular circumstances. Despite this exemption, at the date of transition to IFRSs, a first-time adopter shall recognise a deferred tax asset—to the extent that it is probable that taxable profit will be available against which the deductible temporary difference can be utilised—and a deferred tax liability for all deductible and taxable temporary differences associated with:

(a) right-of-use assets and lease liabilities; and

(b) decommissioning, restoration and similar liabilities and the corresponding amounts recognised as part of the cost of the related asset.