

## STAFF PAPER

12–13 November 2013

## IFRS Interpretations Committee Meeting

<b>Project</b>	<b>IFRIC 21 Levies</b>		
<b>Paper topic</b>	Levies that are subject to a pro-rata threshold		
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## Introduction

1. In July 2013, the IFRS Interpretations Committee (the ‘Interpretations Committee’) received a request to clarify whether an obligating event for a levy that is subject to a minimum annual threshold can occur before that threshold is reached in accordance with IFRIC 21 *Levies*.
2. The objective of this Agenda Paper is to provide the Interpretations Committee with the summary of the issues and the staff’s research and analysis. This Agenda Paper also contains three questions for the Interpretations Committee.
3. This Agenda Paper is structured as follows:
  - (a) summary of the issue;
  - (b) alternative views;
  - (c) staff technical analysis;
  - (d) summary of the outreach result;
  - (e) agenda criteria assessment;
  - (f) staff recommendation;
  - (g) questions for the Interpretations Committee;
  - (h) Appendix A—proposed wording for tentative agenda decision;

- (i) Appendix B—assessment of the Interpretations Committee’s agenda criteria; and
- (j) Appendix C—submission.

## Summary of the issue

4. In May 2013 the IASB issued IFRIC 21 *Levies*, which is effective for annual periods beginning on or after 1 January 2014, with earlier application permitted. IFRIC 21 provides an interpretation of the requirements in IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* for the recognition of liabilities for obligations to pay levies that are within the scope of IFRIC 21.
5. In the submission, the submitter describes circumstances in which a liability to pay a levy arises as a result of activity during a period but is not payable until a minimum annual threshold is reached. The levy is subject to a ‘pro-rata’ threshold if the entity starts or stops the relevant activity during the annual assessment period. The submitter states that there is a concern as to how “the activity that triggers the payment of the levy” in paragraph 8 of IFRIC 21 should be interpreted in identifying an obligating event for such levies.
6. The submitter illustrates two types of levies as examples:

### *Payroll tax*

The legislation requires an entity to pay a payroll tax calculated on the basis of wages paid or payable by the entity in a financial year, if the wages exceed a certain minimum annual amount. The entity is required to make interim payments of the tax calculated on a monthly basis if the wages exceed a monthly ‘pro-rata’ threshold. Those interim payments are subject to an annual reconciliation that trues-up to an actual amount payable for the whole financial year. If the entity starts or stops employing an employee in the middle of a financial year, the entity is obliged to pay an amount of the tax that is calculated on a pro-rata basis by reference to the number of days of the employment in the year.

### *Carbon tax*

An entity with carbon emissions exceeding a certain annual threshold is required by legislation to pay a carbon tax. If the entity is liable for the emissions for only part of the financial year (eg when there is a change in ownership or a closure of a facility during the year), the amount of the carbon tax is calculated on a pro-rata basis by reference to the number of days for which the entity has operational control over the facility.

7. The submitter is seeking clarification on how the thresholds stated in the legislations should be taken into consideration when deciding the activity that triggers the payment of each levy in accordance with IFRIC 21.
8. The submitter assumes that the two taxes are within the scope of IFRIC 21 for the purpose of discussing this issue. We acknowledge that it could be argued that the payroll tax described in the submission is within the scope of IAS 19 *Employee Benefits* rather than IFRIC 21 (and IAS 37). However, we analyse this issue on the basis of the assumption set by the submitter. In particular, we analyse the underlying general issue of how the requirements in IFRIC 21 (and IAS 37) should be applied to levies that are subject to both an annual threshold and a ‘pro-rata’ threshold.

### **Alternative views**

9. In assessing when a liability should be recognised for the levies described above, the submitter states that there could be three alternative views on how to interpret “the activity that triggers the payment of the levy” in paragraph 8 of IFRIC 21.

View 1: The activity that triggers the payment of the levy is *the passing of the annual threshold*

10. Those who support this view base their view on paragraph 12 of IFRIC 21 and Example 4 of IFRIC 21. Paragraph 12 of IFRIC 21 requires that if the obligating event is the reaching of a minimum activity threshold, the liability is recognised when that minimum activity threshold is reached. They argue that the entity retains discretion to avoid the obligation until such time as the annual threshold is

passed. In both the payroll tax and the carbon tax examples, the existence of a ‘pro-rata’ threshold is irrelevant because, in order for a liability to arise, the entity would need to close down a facility or stop paying wages in the middle of the year.

*View 2: The activity that triggers the payment of the levy can occur prior to the annual threshold*

*View 2A: The activity that triggers the payment of the levy is the passing of the pro-rata threshold*

11. Those who support this view think that the activity that triggers the obligation is an activity that will cause payments of the levies (eg provision of service by employees) that exceed the ‘pro-rata’ threshold. They refer to paragraph 11 of IFRIC 21 as support for recognising a liability before reaching the annual threshold. Paragraph 11 of IFRIC 21 requires a liability to be recognised progressively if the obligating event occurs over a period of time. They think that an entity that has passed the ‘pro-rata’ threshold and assesses that it is probable that the annual threshold will be reached should begin accruing a liability once the entity exceeds the ‘pro-rata’ threshold.

*View 2B: The activity that triggers the payment of the levy is an activity that will cause payments of the levies (ie irrespective of the annual threshold or the pro-rata threshold)*

12. Those who support this view think that the activity that triggers the obligation is an activity that will cause payments of the levies (eg provision of service by employees). They cite paragraph 11 of IFRIC 21 as well as the principles in IAS 34 *Interim Financial Reporting*, including paragraph B1 of IAS 34, which addresses employer payroll taxes, and paragraph B7 of IAS 34, which addresses contingent lease payments, as support for their view. Adopting this view, an entity would begin accruing a liability as the relevant activity occurs irrespective of the existence of the annual or ‘pro-rata’ threshold if it is probable that the annual threshold will be reached.
13. For further details, please refer to the original submission in **Appendix B** to this Agenda Paper.

## Staff technical analysis

14. In the following paragraphs, we will analyse what event or activity triggers the payment of the levies in the submission in the light of the requirements in IFRIC 21 and IAS 37.

### ***Identification of the relevant threshold***

15. We note that IFRIC 21 clarified an obligating event for levies that are subject to a minimum activity threshold. Paragraph 12 of IFRIC 21 states (emphasis added) that:

12 If an obligation to pay a levy is triggered when a minimum threshold is reached, the accounting for the liability that arises from that obligation shall be consistent with the principles established in paragraphs 8–14 of this Interpretation (in particular, paragraphs 8 and 11). For example, if the obligating event is the reaching of a minimum activity threshold (such as a minimum amount of revenue or sales generated or outputs produced), the corresponding liability is recognised when that minimum activity threshold is reached.

16. Thus, if the legislation requires an entity to pay a levy when a minimum activity threshold is reached, the reaching of the threshold stated in the legislation is the obligating event for the levy. The relevant activities, such as the payment of wages and dumping waste, do not themselves trigger the payment of the levies until they reach the threshold. Identifying the relevant threshold, as stipulated by the legislation, that triggers the payment of the levy is therefore necessary.
17. If the legislation stipulates a ‘pro-rata’ threshold, we think that the relevant threshold would be the ‘pro-rata’ threshold at the current date.
18. Some may argue that in the light of the requirements in paragraph 19 of IAS 37, the reaching of the ‘pro rata’ threshold does not meet the definition of an obligating event in IAS 37.
19. Paragraph 19 of IAS 37 states (emphasis added) that:
- 19 It is only those obligations arising from past events existing independently of an entity's future actions (ie the future conduct of its business) that are recognised as provisions. Examples of such obligations are penalties or clean-up costs for unlawful

environmental damage, both of which would lead to an outflow of resources embodying economic benefits in settlement regardless of the future actions of the entity. Similarly, an entity recognises a provision for the decommissioning costs of an oil installation or a nuclear power station to the extent that the entity is obliged to rectify damage already caused. In contrast, because of commercial pressures or legal requirements, an entity may intend or need to carry out expenditure to operate in a particular way in the future (for example, by fitting smoke filters in a certain type of factory). Because the entity can avoid the future expenditure by its future actions, for example by changing its method of operation, it has no present obligation for that future expenditure and no provision is recognised.

20. They argue that the ‘pro-rata’ threshold, as identified by the legislation triggers payment of the levies if and only if the entity starts or stops the relevant activities during the annual assessment period. An obligation to pay levies arising from passing the ‘pro-rata’ threshold can be reversed by continuing the relevant activity (eg payment of wages) with a reduced volume of the activities (eg reduce the amount of wages). Accordingly, they think that the obligation does not exist independently of the entity’s future actions until when the level of the activity reaches the annual threshold.
21. However, we note that paragraph 19 of IAS 37 prohibits the entity from recognising a liability for an obligation that arises from future events or activities because the entity can avoid the obligation by its future actions. Hence, in our view, IAS 37 requires an entity, when identifying a present obligation, not to take into consideration events that occur after the reporting date. A present obligation should be identified by assessing only past events that have occurred by the end of the reporting period. Thus, in our view, an obligation to pay the levy arises as soon as the ‘pro-rata’ threshold is reached.
22. The entity will be required by the legislation to pay a pro-rated amount of levies if it stops all business activities (ie it does nothing at all) after passing the ‘pro-rata’ threshold. We think that this fact supports the view that if there is a ‘pro-rata’ threshold in the legislation, that ‘pro-rata’ threshold is the relevant threshold in identifying an obligating for a levy in accordance with paragraph 12 of IFRIC 21.
23. Consequently the existence of a present obligation for the payment of the levy would be assessed by comparing the level of the relevant activity (eg payment of

wages) for the year to date with the pro-rata threshold at the current date. If the level of cumulative activity in the current period exceeds the pro-rata threshold, a present obligation exits at the current date. On the other hand, if the level of cumulative activity in the current period is less than the pro-rata threshold, a present obligation does not exit.

### **Staff conclusions**

24. We analysed an obligating event for a levy that is assessed on the basis of the relevant activities during a period but is not payable until a minimum activity threshold, as identified by the legislation, is reached. The threshold is set as an annual threshold, but this threshold is reduced, pro rata to the number of days in the year that the entity participated in the relevant activity if its participation in the activity started or stopped during the course of the year.
25. On the basis of the above discussions, we are of the view that the activity that triggers the payment of such a levy—and the obligating event that gives rise to a liability applying IFRIC 21—is the reaching of the ‘pro-rata’ threshold (View 2A).

### **Summary of the results of outreach**

26. In order to gather information about the issue described in the submission, we sent requests to the International Forum of Accounting Standard-Setters (IFASS) and regulators. Specifically, we asked:
  - (a) *In your jurisdiction, do you have similar regimes in which an entity is required to pay levies that are subject to a pro-rata threshold? If they are similar, but not identical, please tell us about the differences.*
  - (b) *If your answered ‘yes’ to question 1, what is the prevalent accounting for the levies. In other words, when do the entities recognise the liability for the levies under IAS 37? Could you also briefly describe the reason for adopting the accounting to the extent possible?*
  - (c) *If you answered ‘yes’ to question 1, are you aware of any significant diversity in practice in accounting for the levies under IAS 37?*

- (d) *If you answered ‘yes’ to question 3, are you aware of significant divergent views on when the liability for the levies should be recognised if IFRIC 21 is applied? In other words, do you think that the significant diversity would remain unsolved even after the additional guidance in IFRIC 21, in particular the guidance in paragraph 12 of IFRIC 21 (the treatment of a minimum activity threshold) is provided?*
- (e) *On the basis of your response to question 4, please describe briefly the alternative views under IFRIC 21 or differences in views between IAS 37 and IFRIC 21.*

27. When this Agenda Paper was completed, we had received responses from two regulatory bodies and twelve national standard-setters. Please note that the views expressed below are informal opinions from the regulators and national standard-setters. They do not reflect the formal views of those organisations.

### **Responses received from regulators**

28. One respondent stated that they have not experienced similar issues because IFRIC 21 has not been applied by member jurisdictions yet. Another respondent stated that they are aware of similar levies only in some jurisdictions. However, they also stated that the levies are subject only to annual thresholds.

### **Responses received from national standard-setters**

29. The geographical breakdown for the responses received from national standard-setters is as below:

<b>Geographical area</b>	<b>Number of respondents</b>
Americas	2
Asia/Oceania	3
Africa	1



Europe	6
<b>Total respondents</b>	<b>12</b>

30. Eleven out of the twelve respondents stated that a levy described in the submission or similar levies are not common in their jurisdictions. They stated that they are not aware of similar regimes in which the payment of a levy could be triggered by passing a ‘pro-rata’ threshold as well as passing an annual threshold.
31. However, one respondent provided us with explanations of a levy that is similar to the levy described in this Agenda Paper. The amount of the levy is calculated based on the amount of revenue. The levy becomes payable if the amount of revenue exceeds an annual threshold. If an entity subject to the regime starts or stops its operations in the middle of the assessment period, a ‘pro-rata’ threshold is applied in place of the annual threshold. The respondent stated that they are aware of no significant diversity in practice. The prevalent accounting for such levies under IAS 37 is that an entity accrues those levies progressively as the relevant activity is performed if it is probable that the entity will meet the annual threshold and pay the levies.
32. Some respondents, including the respondent in the preceding paragraph, stated that they are not in a position to assess diversity in interpretations on the requirements in IFRCI 21 for this issue because IFRIC 21 has not been applied by most entities in their jurisdictions.

### **Agenda criteria assessment**

33. In this section, we assess the issues against the agenda criteria of the Interpretations Committee described in paragraphs 5.16–5.17 of the *Due Process Handbook*. Please refer to **Appendix B** to this Agenda Paper for the details of the agenda criteria and the assessment of the issue against the agenda criteria.
34. As stated in the above, only two jurisdictions, including the jurisdiction of the submitter, have regimes in which an obligation to pay a levy arises from activities undertaken during a period but the levy becomes payable after reaching an annual threshold or a ‘pro-rata’ threshold, depending on the duration of the relevant

activity. Hence, we think that the results of the outreach do not indicate that this issue is significantly widespread.

35. In addition, we note that responses to our outreach request do not indicate that there is significant diversity in practice for the accounting for such levies under IAS 37.
36. We acknowledge that the implementation of IFRIC 21 may cause some entities to change their accounting policies for this type of levy because of the specific interpretation of the requirements in IAS 37 that it provides. We note, however, that the results of the outreach found that it is difficult to assess whether there is, or will be, significant diversity in interpretation on the requirements in IFRIC 21 within the context of the levies described in the submission. This is primarily because IFRIC 21 is not mandatory effective yet and therefore all the respondents do not have sufficient experience with applying the requirements in IFRIC 21.
37. Accordingly, we think that this issue does not meet the agenda criteria of the Interpretations Committee.

### **Staff recommendation**

38. In our view, the activity that triggers the payment of the levy that is described in paragraph 25 is the reaching of the ‘pro-rata’ activity threshold. This is because we think that the entity’s future actions should not be taken into consideration when identifying an obligating event under IAS 37.
39. We note that the results of the outreach do not indicate that there is significant diversity in practice on the accounting for such a levy under IAS 37. We note that IFRIC 21 does not change the requirements of IAS 37, but instead aims to ensure consistency of interpretation. We therefore think that it is unlikely that significant diversity in practice will develop.
40. Consequently, we think that the Interpretations Committee should not add this issue to its agenda because it does not meet the agenda criteria of the Interpretations Committee.

## Questions for the Interpretations Committee

### Questions

1. Does the Interpretations Committee agree with the staff technical analysis in paragraphs 14–25?
2. Does the Interpretations Committee agree with the staff recommendation that the Interpretations Committee should not add this issue to its agenda?
3. If the answer to Question 2 is yes, does the Interpretations Committee agree with the wording of the tentative agenda decision in Appendix A to this Agenda Paper?

## Appendix A—Proposed wording for the tentative agenda decision

### **IFRIC 21 *Levies*—Identification of a present obligation to pay a levy that is subject to a pro-rata activity threshold as well as an annual activity threshold**

In May 2013, the IASB issued IFRIC 21 *Levies*, which is effective for annual periods beginning on or after 1 January 2014, with earlier application permitted. IFRIC 21 provides an interpretation of the requirements in IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* for the recognition of liabilities for obligations to pay levies that are within the scope of IFRIC 21.

The Interpretations Committee received a request to clarify how the requirements in paragraph 8 of IFRIC 21 should be interpreted in identifying an obligating event for a levy. The Interpretations Committee discussed regimes in which an obligation to pay a levy arises as a result of activity during a period but is not payable until a minimum activity threshold, as identified by the legislation, is reached. The threshold is set as an annual threshold, but this threshold is reduced, pro rata to the number of days in the year that the entity participated in the relevant activity if its participation in the activity started or stopped during the course of the year. The request asks for clarification on how the thresholds stated in the legislation should be taken into consideration when deciding “the activity that triggers the payment of the levy” in paragraph 8 of IFRIC 21.

The Interpretations Committee noted that the payment of the levy is triggered by the reaching of the threshold as identified by the legislation. Hence, the Interpretations Committee observed that the entity needs to identify the relevant threshold that should be used for the purpose of paragraph 12 of IFRIC 21 on the basis of the legislation.

The Interpretations Committee observed that if the payment of the levy is triggered by a ‘pro-rata’ threshold, the ‘pro-rata’ threshold would be viewed as the relevant threshold for the levy and therefore the reaching of the pro-rata threshold would be the obligating event for the payment of the levy. This is because a present obligation should be identified by assessing only past events and therefore the entity’s future actions or events should not be taken into consideration in accordance with the requirements in paragraphs 18–19 of IAS 37.

The Interpretations Committee noted that there is no significant diversity in practice on this issue under IAS 37 and that IFRIC 21 is expected to lead to more consistent implementation of IAS 37.

On the basis of the analysis above, the Interpretations Committee [decided] not to add this issue to its agenda.

## Appendix B—Assessment against the Interpretations Committee’s agenda criteria

B1. In the table below, we have assessed the issue against the agenda criteria of the Interpretations Committee as described in paragraphs 5.14–5.22 of the *Due Process Handbook*.

<b>Agenda criteria of the Interpretations Committee</b>	
We should address issues (see paragraph 5.16):	
that have widespread effect and have, or are expected to have, a material effect on those affected;	<b>Met</b> The results of the outreach do not indicate that this issue is significantly widespread.
where financial reporting would be improved through the elimination, or reduction, of diverse reporting methods; and	<b>Not met</b> We were not aware of significant diversity in practice on the accounting for the levies in the submission under IAS 37.  IFRIC 21 does not change the requirements of IAS 37, but instead is designed to ensure consistency of interpretation. We therefore think that it is unlikely that significant diversity in practice will develop.
that can be resolved efficiently within the confines of existing IFRSs and the <i>Conceptual Framework for Financial Reporting</i> .	<b>Met</b> This issue can be solved by applying the principles in IAS 37 and IFRIC 21.
In addition:	
Is the issue sufficiently narrow in scope that the Interpretations Committee can address this issue in an efficient manner, but not so narrow that it is not cost-effective for the Interpretations Committee to undertake the due process that would be required when making changes to IFRSs (see paragraph 5.17)?	<b>Met</b> This amendment is sufficiently narrow and well-defined because the scope of the issue is limited to regimes in which an obligation to pay a levy arises as a consequence of passing a ‘pro-rata’ threshold or an annual threshold depending on the situation.

<p>Will the solution developed by the Interpretations Committee be effective for a reasonable time period (see paragraph 5.21)? (The Interpretations Committee will not add an item to its agenda if the issue is being addressed in a forthcoming Standard and/or if a short-term improvement is not justified).</p>	<p><b>Met</b></p> <p>We are not aware of any existing or forthcoming project of the IASB that would affect the issue discussed in this Agenda Paper.</p>
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## Appendix C—Submission



**Australian Government**  
**Australian Accounting**  
**Standards Board**

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26 July 2013

Mr Wayne Upton  
Chairman  
IFRS Interpretations Committee  
30 Cannon Street  
London EC4M 6XH  
UNITED KINGDOM

Dear Wayne

### **Clarification of accounting for levies that are subject to a minimum activity threshold**

We are writing to raise some concerns in relation to the accounting for levies that are subject to a minimum activity threshold. We note that minimum threshold issues were not addressed in the draft IFRIC that led to IFRIC 21 *Levies*, but were added in response to constituents' comments.

Although this issue has arisen in Australia primarily in relation to payroll taxes and the carbon tax, we believe the issue is relevant to how to account for levies that are subject to a minimum activity threshold more broadly. We think the issue may also be relevant to other jurisdictions internationally that have, or introduce, regimes with the same or similar characteristics. Please note that we are not raising concerns about whether such levies are within the scope of IFRIC 21.

In summary, our concerns arise from the lack of clarity in IFRIC 21 as to whether the obligating event for a levy that is subject to a minimum threshold can occur before that threshold is reached. These concerns arise from the interpretation of the phrase "the activity that triggers the payment of the levy" in paragraph 8 of the Interpretation. This issue has arisen in applying the principles of IFRIC 21 to circumstances in which a liability to pay a levy arises as a result of activity during a period (such as employee service or carbon emission), but is not payable until a minimum annual threshold is reached.

We are particularly concerned that IFRIC 21 might be interpreted by some as not allowing the recognition of a liability when relevant activity occurs, which might be many years before the strict liability to pay arises. An example of this may be the dumping of putrescible waste as landfill that will eventually emit carbon and result in an obligation of a landfill operator to pay carbon tax in, say, 50 years' time when the carbon is released into the atmosphere. In such circumstances the emission of the carbon is a certain event that will occur due to the entity's past action of dumping the waste. That is, the obligation is unavoidable.

In addition, we are concerned that the principle in IFRIC 21 appears to be inconsistent with a number of other analogous scenarios such as the recognition of liabilities that arise from contingent rent payments, unvested long service leave and pension entitlements. Further, the principle in IFRIC 21 appears to be inconsistent with the existing guidance in IAS 34 *Interim Financial Statements*, including, specifically, paragraph B1 addressing employer payroll taxes and paragraph B7 addressing contingent rents. Whilst we acknowledge that this issue was identified in the deliberations on the Interpretation, the

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issuance of the Interpretation did not amend IAS 34, consequently it is not clear which principle should be applied when considering levies such as payroll taxes.

Because of the above concerns, consistent with the Committee's process for considering issues, we have provided a more detailed explanation of the issue, possible alternative accounting treatments and reasons for the Committee to address the issue in the form of a more formal Committee potential agenda request in Appendix A to this letter.

If you require further information on the matters raised above or in Appendix A, please contact me or Nikole Gyles ([ngyles@asb.gov.au](mailto:ngyles@asb.gov.au)).

Yours sincerely



Kevin M. Stevenson  
*Chairman and CEO*



IFRS IC potential agenda item request:

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## Appendix A: Potential agenda item request

### Issue

The issue we are requesting the Committee clarify is whether the obligating event for a levy that is subject to a minimum annual threshold can occur before that threshold is reached. This issue arises from the interpretation of the phrase “the activity that triggers the payment of the levy” in paragraph 8 of the Interpretation in circumstances in which a levy arises as a result of activity during a period (such as employee service or carbon emission), but is not payable until a minimum annual threshold is reached.

Two examples of circumstances in which this issue arises are described below. Note that we are not requesting the Committee consider whether such levies would be within the scope of IFRIC 21 *Levies*. For the purposes of this request the Committee is asked to assume that the principles in IFRIC 21 are being applied.

#### *Payroll tax*

Payroll tax is a State tax calculated on wages paid or payable by an employer to its employees and deemed employees and applies in all States and Territories of Australia. For example, in the State of Victoria, payroll tax is currently payable at a rate of 4.90 per cent. Payroll tax is payable when an employer’s wages exceed a certain annual amount. In Victoria, this amount is \$550,000.

Most employers are required to self-assess their liability on a monthly basis, and all perform an annual reconciliation at the end of each financial year (1 July to 30 June). Employers pay tax by the seventh day of the month following the month in which their wages exceed a pro-rata threshold level (currently in Victoria this amount is \$45,833 (i.e. \$550 000 ÷ 12). If a business starts or stops employing within a financial year it does not get a full threshold entitlement. The business will be subject to a pro-rata of the threshold equal to the ratio of the number of days they employ to the number of days in the financial year.

The annual reconciliation reconciles actual amounts payable for the whole financial year against payments previously made (including the June return). Any over payments of payroll tax are refunded to the entity, and any shortfall of tax is payable by the entity at this time.

#### *Fixed price phase of the Carbon Pricing Mechanism (CPM)*

The fixed price phase of the CPM (the carbon levy) began on 1 July 2012 and is applicable until 30 June 2014. From 1 July 2012, entities with emissions exceeding 25,000 tonnes of carbon dioxide equivalent (CO<sub>2</sub>-e) are required to pay a carbon tax. Specifically, an entity will be a “liable entity” and subject to the levy in circumstances when the emissions from the facility exceed:

- A threshold of 25,000 tonnes of Co<sub>2</sub>-e in the financial year if the entity is liable for the whole financial year, or

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- A pro-rata threshold, if the entity is liable for part of the financial year, which is calculated by multiplying 25,000 by the proportion of the year for which the entity is liable.

Where a person has operational control over a facility for part of the year, the threshold to determine whether they are a liable entity is applied on a pro-rata basis. A person might have operational control for part of a year where:

- there is a change in ownership of a facility during the year; or
- a facility permanently closes down part way through the year. (However, if a person has operational control over a facility that operates intermittently throughout the compliance year, this is not considered permanent stoppage of production.)

If a person has operational control over a facility for part of a year, the threshold is calculated using the following formula:

The facility passes the threshold test if the total amount of covered emissions from the operation of the facility had a carbon dioxide equivalence of not less than  $25,000 \text{ tonnes} \times \text{Number of control days} / \text{number of days in the eligible financial year}$ .

For example, if a person has operational control over a facility for one month (30 days) and the facility emits 2,055 tonnes of CO<sub>2</sub>-e or more of covered emissions during this period, the person with operational control will be obligated to pay for this amount of emissions as this exceeds the pro-rata threshold of  $30 \times 25000 / 365$  or 2054.79 tonnes.

In the case where a facility operates intermittently throughout the compliance year the annual threshold for the levy is 25,000 tonnes, as if the facility's intermittent emissions were made over the whole compliance year.

As noted above, the question we are seeking clarification from the Committee on is whether the obligating event for a levy that is subject to a minimum annual threshold can occur before that threshold is reached. Specifically, how "the activity that triggers the payment of the levy" should be interpreted in paragraph 8 of IFRIC 21 in assessing when a liability should be recognised.

#### Alternative accounting treatments

*View 1: The activity that triggers the payment of the levy is passing the annual threshold*

Those supporting view 1 are of the view that the activity that triggers the payment of the levy is passing the annual threshold. This view is formed on the basis that a levy that is only payable if a threshold is passed is not a liability until the annual threshold is passed. Passing the annual threshold is the "activity that triggers" as, until such time as that threshold is passed, the entity retains discretion to avoid the obligation (however remote). In both the payroll tax and CPM examples provided above, the existence of a "pro-rata" threshold is not relevant in determining whether a liability exists as, in order for a liability to arise, the entity would need to close down a facility / stop paying wages. This is considered to be a separate event that would need to occur prior to an entity incurring a liability. Those supporting this view particularly cite paragraph 12 of IFRIC 21 as well as the variation to Example 4 of IFRIC 21 as support for their view.

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*View 2: The activity that triggers the payment of the levy can occur prior to the annual threshold*

*View 2A: The activity that triggers the payment of the levy is passing the pro-rata threshold (i.e. prior to passing the annual threshold)*

Those supporting view 2A are of the view that the activity that triggers the obligation is the provision of service by employees/emission of CO<sub>2</sub>-e<sup>1</sup>. Entities that assess that they have exceeded the pro-rata threshold and consider that it is probable that the annual threshold will be exceeded would begin accruing a liability once they exceed the pro-rata threshold. That is, a provision would, in particular circumstances, be recognised prior to reaching the annual threshold. Supporters of this view particularly refer to paragraph 11 and Example 1 of IFRIC 21 as support for their view.

*View 2B: The activity that triggers the payment of the levy is provision of service by employees/carbon emission (i.e. prior to passing the annual threshold and irrespective of a pro rata threshold)*

Those supporting view 2B are of the view that the “activity that triggers” is the provision of service by employees/carbon emission<sup>1</sup>. The activity occurs over a period of time and consequently the liability to pay payroll tax / carbon tax would be recognised progressively. Entities that assess that it is probable they will exceed the annual threshold would begin accruing a liability as services are provided/emissions occur, irrespective of the existence of a pro rata threshold. That is, a provision would, in particular circumstances, be recognised prior to reaching the annual threshold. Supporters of this view refer to paragraph 11 of IFRIC 21 as well as the principles of IAS 34, including paragraph B1 addressing employer payroll taxes and paragraph B7 addressing contingent lease payments, as support for their view.

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<sup>1</sup> Or even, in some cases, before emission, for example in the case of landfill operators. In some cases there may be significant separation between the activity occurring and the levy payment being required, for example dumping of putrescible waste as landfill that will eventually emit carbon in future years and result in an obligation of a landfill operator to pay carbon tax in future periods when the carbon is released into the atmosphere.

IFRS IC potential agenda item request:

Clarification of accounting for levies that are subject to a minimum activity threshold

**Reasons for IFRS IC to address the issue**

Criteria	Assessment
The issue is widespread and has practical relevance.	Yes. The issue affects all entities in Australia (and potentially other jurisdictions) subject to levies with minimum thresholds. The issue is also likely to affect entities in other jurisdictions that have introduced similar regimes.
The issue indicates that there are significantly divergent interpretations (either emerging or already existing in practice).	Yes. Based on queries raised by constituents in Australia the AASB is of the view that, in the absence of further guidance, diversity in practice could arise when IFRIC 21 becomes effective.
Financial reporting would be improved through the elimination of the diversity.	Yes. The accounting treatment in view 1 would provide a significantly different outcome to view 2. Therefore, eliminating or reducing the potentially diverse reporting methods would improve financial reporting.
The issue is a narrow implementation or application issue that can be resolved efficiently within the confines of existing IFRSs and the <i>Framework for the Preparation and Presentation of Financial Statements</i> , but not so narrow that it is inefficient to apply the interpretation process.	Yes. The issue relates to an interpretation of a specific application of IFRIC 21.
If the issue relates to a current or planned IASB project, there is a pressing need to provide guidance on a more timely basis than would be expected from that project.	There is no current relevant IASB project (on the active or research work plans).