

**LEMBAGA PIAWAIAN PERAKAUNAN MALAYSIA
MALAYSIAN ACCOUNTING STANDARDS BOARD**

Exposure Draft 79

***Determination of Announced Tax Rate as
Substantively Enacted for Measurement of
Deferred Tax Assets and Liabilities***

Comments to be received by 6 October 2023

This Exposure Draft is issued by the Malaysian Accounting Standards Board for comment only. The recommendations in the Exposure Draft may be modified in light of the comments received before being issued in the form of an MFRS Application and Implementation Guide.

Comments should be submitted in writing so as to be received by 6 October 2023.

Comments should be addressed to:

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MASB ED 79 *Determination of Announced Tax Rate as Substantively Enacted for Measurement of Deferred Tax Assets and Liabilities*

The Malaysian Accounting Standards Board (the Board) has approved the release of this Exposure Draft, MASB ED 79 *Determination of Announced Tax Rate as Substantively Enacted for Measurement of Deferred Tax Assets and Liabilities*, for public comment.

The Board encourages preparers, practitioners, professional accounting bodies, regulators, users and other interested individuals and organisations to comment on the Exposure Draft. The comment period expires on 6 October 2023.

Invitation to comment

The Board invites comments on this Exposure Draft. Comments are most helpful if they:

- (a) indicate the specific paragraph or group of paragraphs to which they relate;
- (b) contain a clear rationale; and
- (c) if applicable, include an alternative the Board should consider.

The Board will consider all comments received in writing by 6 October 2023. In considering the comments, the Board will base its conclusions on the merits of the arguments for and against each alternative, not on the number of responses supporting each alternative.

The Board has set up the MFRS Application and Implementation Committee (MAIC) to consider application and implementation issues raised by users of the MFRS. The MAIC has received an issue for consideration, and their recommendation is as set out in this Exposure Draft. When finalised, this Exposure Draft will be issued in the form of an MFRS Application and Implementation Guide.

MAIC

The MAIC comprises the following members and observers:

Members

Mr. Ken Pushpanathan (Chairman)
Mr. Foo Yoke Pin (Project Manager)
Mr. Andy Lee Kong Weng (Baker Tilly)
Mr. Edwin Tan Aik Win (Deloitte)
Mr. Foong Mun Kong (KPMG)
Mr. Ong Chee Wai (Ernst & Young)
Ms. Siew Kar Wai (PwC)
Mr. James Chan (Crowe Malaysia)
Puan Izura Nor Azhar (PETRONAS)
Mr. Chan Kam Chiew (Can-One Bhd)
Dato' Soo Chan Fai (Eco World Development Group Berhad)
Ms. Wong Yee Fun (Genting Berhad)
Ms. Sarah Lim Fern Chieh (Kenanga Investment Bank Berhad)
Puan Rasmimi Ramli (Malaysian Institute of Accountants)

Observers are nominated representatives from:

Securities Commission Malaysia
Audit Oversight Board
Association of Chartered Certified Accountants
Certified Practising Accountant Australia
Institute of Chartered Accountants in England and Wales
The Malaysian Institute of Certified Public Accountants

MASB ED 79

Determination of Announced Tax Rate as Substantively Enacted for Measurement of Deferred Tax Assets and Liabilities

The MFRS Application and Implementation Committee (MAIC) received a request from a submitter about the determination of announced tax rate by the government as substantively enacted for the measurement of deferred tax assets and liabilities.

In the fact pattern described in the request:

“The submitter deliberated on the International Accounting Standards Board Exposure Draft ED/2023/1 *International Tax Reforms – Pillar Two Model Rules* (the ED)¹. The ED provides a temporary exemption for companies not to account for deferred tax arising from the implementation of Pillar Two model rules (“the rules”). The rules were published by the Organisation for Economic Co-operation and Development (OECD) to ensure large multi-national groups to pay tax on income arising from each of the jurisdictions they operate that would result in the total tax payable in each jurisdiction representing at least the minimum rate of 15% (also known as the Global Minimum Top up Tax – GMTT). The ED also proposes companies to provide specific disclosures before and after the Pillar Two model rules are in effect, that is, when:

- the rules are enacted or substantively enacted but not yet in effect
- the rules are in effect.

On the disclosures of specific information of when the rules are enacted or substantively enacted, the submitter noted that the Malaysian Government 2023 Budget proposes to implement the GMTT in 2024. For the purpose of applying the proposed amendments, the submitter requested for a guidance whether the GMTT be considered as enacted or substantively enacted for the 2023 reporting period.”

The MAIC observed that Paragraph 47 of MFRS 112 *Income Taxes* states that deferred tax assets and liabilities shall be measured at the tax rates that are expected to apply to the period when the asset is realised or the liability is settled, based on tax rates (and tax laws) that have been enacted or substantively enacted by the end of the reporting period. Paragraph 48 of MFRS 112 further states that current and deferred tax assets and liabilities are usually measured using the tax rates (and tax laws) that have been enacted. However, in some jurisdictions, announcements of tax rates (and tax laws) by the government have the substantive effect of actual enactment, which may follow the announcement by a period of several months. In these circumstances, tax assets and liabilities are measured using the announced tax rate (and tax laws).

¹ *International Tax Reform—Pillar Two Model Rules*, which amended IAS 12 *Income Taxes* was issued by IASB in May 2023, and the equivalent amendments to MFRS 112 *Income Taxes* was issued by MASB in June 2023.

Based on the primary sources of law, the term “substantively enacted”, with respect to MFRS 112, is not a legal principle, doctrine, concept or otherwise, but purely an accounting concept.

The accounting concept of "substantively enacted" is determined by testing whether any future steps in the enactment process will not change the outcome, pursuant to the International Accounting Standards Board’s decisions:

"At the January 2005 Board meeting, the Board decided that the effects of changes in tax law should be recognised when the law is substantively enacted. Substantive enactment occurs when any future steps in the enactment process will not change the outcome."

The accounting concept of “substantively enacted” shall be tested:

- (a) whether the future steps in the enactment process will historically have affected the outcome; and/or
- (b) whether there are any other circumstances that may indicate that any variation to the enactment is not likely to be substantive

(collectively known as “accounting tests”) to determine the future steps in the enactment process will not change the outcome of the announcements of tax rates made by the government.

Historically, there has been no difference between the announced tax rates and the subsequent enactment of the Finance Act(s) passed by the bicameral houses of Parliament. However, the MAIC observed that this historical past practice approach has not always been consistent and regular as illustrated herein below:

- (a) in 2013, part of the Announced Tax Rate(s) announced in the 2014 Budget Speech was not tabled in the Finance Bill (No. 2) 2013; and
- (b) in 2022, due to the dissolution of the Fourteenth Parliament immediately after the Budget Speech and without any further deliberations thereon to facilitate the calling of the 15th General Election, had led to two (2) separate 2023 Budgets and Announced Tax Rate(s).

The MAIC concludes that the announced tax rates by the government as “substantively enacted” for the measurement of deferred tax assets and liabilities shall be fulfilled after the voting by the Members of the House of Representatives by a simple majority after the Third Reading, since:

- (a) historically, there were no changes in tax rate(s) at that stage, thereby maintaining the outcome of the tax rate(s) pending the concurrence of the Senate and the assent by His Majesty the Yang di-Pertuan Agong; and/or
- (b) the tax rate(s) shall remain fixed where subsequent steps after the voting by the Members of the House of Representatives by a simple majority after the Third Reading shall not affect the tax rate(s).