Commission Regulation (EU) 2018/1595 of 23 October 2018 amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards Interpretation 23 of the International Financial Reporting Interpretations Committee (Text with EEA relevance)

COMMISSION REGULATION (EU) 2018/1595

of 23 October 2018

amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards Interpretation 23 of the International Financial Reporting Interpretations Committee

(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 standards and interpretations that were in existence at 15 October 2008 were adopted.

(2) On 7 June 2017, the International Accounting Standards Board (IASB) published Interpretation 23 *Uncertainty over Income Tax Treatments* of the International Financial Reporting Interpretations Committee (IFRIC 23). IFRIC 23 specifies how to reflect uncertainty in accounting for income taxes.

(3) Adoption of IFRIC 23 implies by way of consequence, amendments to International Financial Reporting Standard (IFRS) 1, in order to ensure consistency between international accounting standards.

(4) The consultation with the European Financial Reporting Advisory Group confirms that IFRIC 23 meets 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:

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) 2018/1595. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 1

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

(a) Interpretation 23 *Uncertainty over Income Tax Treatments* of the International Financial Reporting Interpretations Committee (IFRIC 23) is inserted as set out in the Annex to this Regulation;

(b) International Financial Reporting Standard (IFRS) 1 is amended in accordance with IFRIC 23 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 2019.

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, 23 October 2018.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

IFRIC 23*UNCERTAINTY OVER INCOME TAX TREATMENTS*

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REFERENCES

— IAS 1 *Presentation of Financial Statements*

— IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*

— IAS 10 *Events after the Reporting Period*

— IAS 12 *Income Taxes*

BACKGROUND

1. IAS 12 *Income Taxes* specifies requirements for current and deferred tax assets and liabilities. An entity applies the requirements in IAS 12 based on applicable tax laws.

2. It may be unclear how tax law applies to a particular transaction or circumstance. The acceptability of a particular tax treatment under tax law may not be known until the relevant taxation authority or a court takes a decision in the future. Consequently, a dispute or examination of a particular tax treatment by the taxation authority may affect an entity's accounting for a current or deferred tax asset or liability.

3. In this Interpretation:

(a) ‘tax treatments’ refers to the treatments used by an entity or that it plans to use in its income tax filings.

(b) ‘taxation authority’ refers to the body or bodies that decide whether tax treatments are acceptable under tax law. This might include a court.

(c) an ‘uncertain tax treatment’ is a tax treatment for which there is uncertainty over whether the relevant taxation authority will accept the tax treatment under tax law. For example, an entity's decision not to submit any income tax filing in a tax jurisdiction, or not to include particular income in taxable profit, is an uncertain tax treatment if its acceptability is uncertain under tax law.

SCOPE

4. This Interpretation clarifies how to apply the recognition and measurement requirements in IAS 12 when there is uncertainty over income tax treatments. In such a circumstance, an entity shall recognise and measure its current or deferred tax asset or liability applying the requirements in IAS 12 based on taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates determined applying this Interpretation.

ISSUES

5. When there is uncertainty over income tax treatments, this Interpretation addresses:

(a) whether an entity considers uncertain tax treatments separately;

(b) the assumptions an entity makes about the examination of tax treatments by taxation authorities;

(c) how an entity determines taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates; and

(d) how an entity considers changes in facts and circumstances.

CONSENSUS

Whether an entity considers uncertain tax treatments separately

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6. An entity shall determine whether to consider each uncertain tax treatment separately or together with one or more other uncertain tax treatments based on which approach better predicts the resolution of the uncertainty. In determining the approach that better predicts the resolution of the uncertainty, an entity might consider, for example, (a) how it prepares its income tax filings and supports tax treatments; or (b) how the entity expects the taxation authority to make its examination and resolve issues that might arise from that examination.

7. If, applying paragraph 6, an entity considers more than one uncertain tax treatment together, the entity shall read references to an 'uncertain tax treatment' in this Interpretation as referring to the group of uncertain tax treatments considered together.

Examination by taxation authorities

8. In assessing whether and how an uncertain tax treatment affects the determination of taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates, an entity shall assume that a taxation authority will examine amounts it has a right to examine and have full knowledge of all related information when making those examinations.

Determination of taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates

9. An entity shall consider whether it is probable that a taxation authority will accept an uncertain tax treatment.

10. If an entity concludes it is probable that the taxation authority will accept an uncertain tax treatment, the entity shall determine the taxable profit (tax loss), tax bases, unused tax losses, unused tax credits or tax rates consistently with the tax treatment used or planned to be used in its income tax filings.

11. If an entity concludes it is not probable that the taxation authority will accept an uncertain tax treatment, the entity shall reflect the effect of uncertainty in determining the related taxable profit (tax loss), tax bases, unused tax losses, unused tax credits or tax rates. An entity shall reflect the effect of uncertainty for each uncertain tax treatment by using either of the following methods, depending on which method the entity expects to better predict the resolution of the uncertainty:

(a) the most likely amount—the single most likely amount in a range of possible outcomes. The most likely amount may better predict the resolution of the uncertainty if the possible outcomes are binary or are concentrated on one value.

(b) the expected value—the sum of the probability-weighted amounts in a range of possible outcomes. The expected value may better predict the resolution of the uncertainty if there is a range of possible outcomes that are neither binary nor concentrated on one value.

12. If an uncertain tax treatment affects current tax and deferred tax (for example, if it affects both taxable profit used to determine current tax and tax bases used to determine deferred tax), an entity shall make consistent judgements and estimates for both current tax and deferred tax.

Changes in facts and circumstances

13. An entity shall reassess a judgement or estimate required by this Interpretation if the facts and circumstances on which the judgement or estimate was based change or as a result of new information that affects the judgement or estimate. For example, a change in facts and circumstances might change an entity's conclusions about the acceptability of a tax treatment or the entity's estimate of the effect of uncertainty, or both. Paragraphs A1–A3 set out guidance on changes in facts and circumstances.