



Project:	Income of Not-for-Profit Entities	Meeting	AASB August 2016 (M153)
Topic:	Licences	Agenda Item:	3.9
Contact(s):	Daen Soukseun dsoukseun@asb.gov.au (03) 9617 7633 Clark Anstis canstis@asb.gov.au (03) 9617 7616	Project Priority:	High
		Decision-Making:	High
		Project Status:	Redeliberations

Introduction and objective of this paper

- 1 The objective of this paper is to obtain Board decisions on the approach to addressing the accounting for licences in the context of AASB 2016-X *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities – Revenue from Contracts with Customers* and AASB 10XX *Income of Not-for-Profit Entities*.
- 2 AASB 15 *Revenue from Contracts with Customers* addresses licences relating to an entity's intellectual property. AASB 10XX would apply to other licences granted by not-for-profit entities, unless licences are scoped out of the Standard. The issue is whether to scope licences out of AASB 10XX, or provide specific guidance, in view of a possible separate project on licences.
- 3 This paper is structured as follows:
 - (a) summary of staff recommendations (paragraph 4).
 - (b) background (paragraphs 5-10); and
 - (c) staff analysis (paragraphs 11-32).

Summary of staff recommendations

- 4 Staff recommend the following:
 - (a) amend the scope of AASB 10XX (for issue in late 2016) to exclude licences outside the scope of AASB 15 (Approach 3). Under this approach, an entity applies AASB 108 in accounting for such licences, which may include applying the licence provisions of AASB 15 by analogy or the requirements of AASB 10XX; and

- (b) undertake a separate project (as part of the Board's consideration of AASB ITC 34 *AASB Agenda Consultation 2017 – 2019*) to research the types of government licences and their accounting treatment under AASB 10XX and AASB 15.

Background

- 5 AASB 2016-X will amend AASB 15 by adding authoritative implementation guidance for application by not-for-profit entities.
- 6 AASB 10XX will apply to not-for-profit entities, setting out the principles for the recognition and measurement of inflows of resources that result in the initial recognition of an asset.
- 7 AASB 15 contains Application Guidance (paragraphs B52-B63B) on licences that establish a customer's rights to the intellectual property of an entity. However, neither the current draft AASB 2016-X nor the current draft AASB 10XX refer to licences. ED 260 also does not contain references to licences.
- 8 In considering the accounting for service concession arrangements, the Board deliberated whether the application guidance for licences in AASB 15 could be applied by analogy to a service concession arrangement, specifically where the arrangement involves the grantor granting the operator the right to charge third-party users for the use of the service concession asset. The Board deliberated this issue at its September 2014, December 2014 and February 2016 Board meetings. The Board decided:
 - (a) given the importance of service concession arrangements to governments and the current lack of accounting guidance for such arrangements, service concession arrangements should be treated separately from licences granted by governments; and
 - (b) to conduct further research on the nature of, and accounting for, government licences, to inform the Board as to whether a separate project may be required to consider the accounting for these types of licences.

Feedback

- 9 Feedback from staff's targeted outreach on the accounting for licences in the public sector indicated accounting for public sector licences is a significant issue. Constituents expressed the view additional guidance is required for determining whether revenue is recognised over time or at a point in time for licences providing the right to operate in a particular jurisdiction(s) and/or for a particular purpose(s), such as gambling licences. The licensing government may also promise to provide a level of operational certainty to the licence holder by stipulating its on-going involvement throughout the licence period. This could include a promise to perform certain regulatory activities, such as restricting the number of licences to be issued in the future, with or without consulting the licence holder.
- 10 AASB 15 addresses licences relating to intellectual property. However, the extent to which AASB 15 covers public sector licences is unclear. Regulatory licences (as described in the previous paragraph) and licences for the use of non-produced assets (e.g. mineral and water rights, fishing licences) typically would appear to be unrelated to intellectual property.

Staff analysis

- 11 The issues to consider in addressing the accounting for licences for not-for-profit entities are:
- (a) the types of licences that might require additional guidance; and
 - (b) the possible approaches to providing that guidance.

Types of licences in the public sector

- 12 Regulatory licences and licences for the use of non-produced assets cover wide-ranging activities that can be of significant dollar value, such as gambling, aged care, taxi, driver, liquor, recreational, spectrum, mineral and water rights licences. There may also be other types of licences.
- 13 The key considerations are whether there is sufficient guidance in AASB 15 for the accounting treatment of licences referred to in the constituents' feedback (in paragraph 9 above) and whether such licences are unique to not-for-profit entities to warrant additional sector specific guidance. This requires:
- (a) determining whether the licences are within the scope of AASB 15; and
 - (b) where the licences:
 - (i) are within the scope of AASB 15, whether additional guidance is required to determine whether the licences provide a right to access or right to use the intellectual property of the entity; or
 - (ii) are outside the scope of AASB 15, whether guidance is required, and if so what guidance should be provided for their accounting treatment.

Licences within the scope of AASB 15

- 14 While some constituents considered that public sector licences are within the scope of AASB 15, staff think this may not necessarily be the case. AASB 15 scopes in a licence where a customer has rights to the **intellectual property** of an entity but does not provide a definition for 'intellectual property'. Instead, it states:
- "Licences of intellectual property may include, but are not limited to, licences of any of the following:
- (a) software and technology;
 - (b) motion pictures, music and other forms of media and entertainment;
 - (c) franchises; and
 - (d) patents, trademarks and copyrights." (AASB 15.B52).
- 15 Staff acknowledges determining whether a licence is within the scope of AASB 15 is subject to the specific facts and circumstances of the licence. Based on general definitions, 'intellectual property' is a creation of an entity in the form of process(es) and/or knowledge. Therefore, perhaps many or even most licences issued by government entities would not represent a licence of intellectual property of the entity and accordingly would be outside the scope of the licence provisions of AASB 15.

- 16 There is merit in clarifying what constitutes an entity's intellectual property, as this could limit divergence in accounting for licences. However, this issue is not specific to not-for-profit entities.
- 17 Furthermore, the determination of whether a licence provides a right to access or a right to use an entity's intellectual property is not unique to not-for-profit entities, but it is uncertain whether specific not-for-profit guidance is needed and warranted.
- 18 The clarifications in paragraphs 16-17 could form part of a separate project to consider the accounting treatment of licences within the scope of AASB 15 and licences outside the scope of AASB 15.

Licences outside the scope of AASB 15

- 19 Staff have yet to research the types of licences (other than those identified in this paper) that may be outside the scope of AASB 15 that require additional guidance. This research was pending the outcome of the AASB's Invitation to Comment ITC 34 agenda consultation process. Constituents indicated accounting for licences in the public sector is a significant issue. This is consistent with the Board's previous decision that the research should be undertaken to inform the Board as to whether a separate project may be required to consider the accounting for government licences.
- 20 Licences outside the scope of AASB 15 would comprise licences that do not relate to an entity's intellectual property and licences outside a customer relationship. The existing and proposed accounting requirements for a licence that is outside the scope of AASB 15 are:
- (a) AASB 10XX, which would result in the immediate recognition of income for licences after recognising any related amounts (refer paragraph 24 of AASB 10XX); and
 - (b) AASB 15 by analogy (as permitted by AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors*), which may result in the recognition of revenue at a point in time or over time based on whether the licence provides, respectively, a right to use or a right to access the licensor's resources.
- 21 The possible accounting treatments in paragraph 20 could result in a licence being recognised differently depending on whether the licence is accounted for under AASB 10XX or under AASB 15 by analogy: immediate recognition of income under AASB 10XX or revenue recognition over time under AASB 15 by virtue of AASB 108 (if the entity determines the licence provides a right to access).
- 22 The scope for divergent accounting could be limited by guidance clarifying that licences outside the scope of AASB 15 should be accounted for in accordance with AASB 10XX and not AASB 15 by analogy. Otherwise, AASB 108 would apply if the scope of AASB 10XX excludes licences outside the scope of AASB 15. Under AASB 108, an entity could choose to apply AASB 15 by analogy or even the accounting set out in AASB 10XX.

Possible approaches to guidance on accounting for licences

- 23 The potential approach for providing guidance on the accounting for licences outside the scope of AASB 15 is to:
- (a) address licences in relation to AASB 10XX under one of the following approaches:

- (i) Approach 1 – no amendments to AASB 10XX;
 - (ii) Approach 2 – provide guidance in AASB 10XX; or
 - (iii) Approach 3 – amend the scope of AASB 10XX to exclude licences outside the scope of AASB 15; and
- (b) consider a separate project to address the appropriate accounting treatment as part of the Board’s consideration of AASB ITC 34 agenda consultation.

24 The separate project (in paragraph 23(b)) would provide staff with time to research and develop the relevant accounting treatments for licences outside the scope of AASB 15, including consideration of whether this relates to all not-for-profit entities or all entities. This approach would be consistent with constituents’ feedback (to AASB ITC 34) and the Board’s previous decision under its service concession arrangements project for staff to conduct further research into the types of government licences as part of a separate project to consider their appropriate accounting treatment.

Approach 1 – No amendments to AASB 10XX

25 Approach 1 proposes no amendments to AASB 10XX regarding licences outside the scope of AASB 15. This approach would ensure AASB 10XX does not include guidance that may have unintended consequences for licences that are yet to be researched.

26 This approach however, does not address potential divergent accounting under AASB 10XX itself, depending on how AASB 15 might be applied by analogy. That is, there may be different views as to whether licences are subject to AASB 10XX and how it might apply. For example, some entities may conclude immediate income recognition is appropriate, whereas others might seek to apply the distinction between a right to access and a right to use as set out in AASB 15 to recognise income on a different basis by recognising related liabilities under AASB 10XX.

Approach 2 – Provide guidance in AASB 10XX

27 Approach 2 proposes AASB 10XX include clarification that licences outside the scope of AASB 15 are subject to AASB 10XX. Guidance, such as illustrative examples, could also be added to address how licences are treated under paragraph 24 of AASB 10XX. For example, guidance could address circumstances when the licensor would recognise related liabilities, similar to the circumstances under AASB 15 when a licensee has a right to access the intellectual property of the licensor throughout the licence period.

28 This approach would provide some clarity and/or guidance to the accounting treatment for at least some of the licences outside the scope of AASB 15. However, developing the guidance would require time and consultation to ensure any issues were fully considered. It is unlikely there would be sufficient time to develop the necessary guidance for inclusion in AASB 10XX for issue in late 2016 with appropriate due process.

Approach 3 – Amend the scope of AASB 10XX to exclude licences outside the scope of AASB 15

29 Approach 3 proposes that the scope of AASB 10XX exclude licences outside the scope of AASB 15. This approach would require an entity to determine its accounting policy based on the facts and circumstances specific to the licence and the entity. Consequently, the entity

may be able to apply either AASB 10XX or AASB 15 by analogy (as permitted by AASB 108).

- 30 In summary, in relation to accounting for licences outside the scope of AASB 15, staff are of the view that:
- (a) Approach 1 may result in more divergent accounting for such licences compared with Approach 3, as an entity would need to determine whether the licences are in the scope of AASB 10XX;
 - (b) Approach 2 would provide guidance, however, it is unlikely there is sufficient time to develop the guidance for inclusion in AASB 10XX for issue in late 2016 with appropriate due process; and
 - (c) Approach 3 would provide more definitive guidance (compared to Approach 1) in excluding the licences from the scope of AASB 10XX.
- 31 Given the issue of accounting for licences outside the scope of AASB 15 has not been considered by the Board previously, staff prefer Approach 3 as an interim step while a separate project considers the appropriate accounting treatment for licences outside the scope of AASB 15.

Staff recommendation

- 32 Staff recommend the following:
- (a) amend the scope of AASB 10XX (for issue in late 2016) to exclude licences outside the scope of AASB 15 (Approach 3). Under this approach, an entity applies AASB 108 in accounting for such licences, which may include applying the licence provisions of AASB 15 by analogy or the requirements of AASB 10XX; and
 - (b) undertake a separate project (as part of the Board's consideration of AASB ITC 34 agenda consultation) to research the types of government licences and their accounting treatment under AASB 10XX and AASB 15.

Questions to the Board

- Q1 Does the Board agree with the staff recommendation in paragraph 32 to:
- (a) amend the scope of AASB 10XX (for issue in late 2016) to exclude licences outside the scope of AASB 15 (Approach 3)?
 - (b) undertake a separate project (as part of the Board's consideration of AASB ITC 34 agenda consultation) to research the types of government licences and their accounting treatment under AASB 10XX and AASB 15?
- Q2 If the Board does not agree with the staff recommendation, how does the Board propose to address the accounting for licences outside the scope of AASB 15?