



INSTITUTE OF
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**Submission to AASB:
Exposure Draft 283 Amendments to Australian Accounting Standards –
Australian Implementation Guidance for Not-for-Profit Public Sector
Licensors**

May 2018

12 May, 2018

The Chairperson
Australian Accounting Standards Board
PO Box 204
Collins Street West Victoria 8007
Australia

Dear Kris

Exposure Draft 283 Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Public Sector Licensors

Thank you for the opportunity to comment on ED 283 *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Public Sector Licensors*.

While the IPA supports extending the application of AASB 15 *Revenue from Contracts with Customers* to public sector not-for-profit licence arrangements, the IPA has serious reservations in relation to the application to non-IP licences.

The IPA believes the proposals could reduce transparency by misrepresenting taxes. Furthermore, the IPA is concerned that the proposals could result in the early recognition of income by the misrepresentation of what may be essentially tax revenue as variable consideration from the grant of non-IP licenses.

In addition, the IPA has the following concerns in relation to the proposals in the ED:

1. Mining and exploration tenements

As AASB 16 *Leases* excludes exploration leases, the treatment of such arrangements needs to be clarified. In terms of the guidance in the ED, it is unclear whether such arrangements are considered distinct from other goods and services and, therefore, not a licence in terms of the ED. Similarly, it is unclear whether payments made for mining leases, including mining royalties, are payments in relation to non-IP licences or whether mining royalties are taxes.

2. Practical expedients

The IPA has reservations about the inclusion of practical expedients in the ED. The IPA is of the view that practical expedients are incompatible with robust accounting standard setting. The use of practical expedients can result in unexpected outcomes that are not in accordance with underlying principles of the standard, and allow for structuring opportunities. Furthermore, as noted in the ED, the proposed practical expedients are inconsistent with the concept of transaction neutrality.

3. Taxes and levies

The ED set-outs guidance to distinguish taxes from licence fees for public-sector not-for-profit entities. The IPA believes the guidance will often result in an outcome that appropriately reflects the underlying nature of many non-IP licences and the fees related to such licences. However, the IPA is of the view that tax like arrangements should be explicitly dealt with in either AASB 1058 *Income of Not-for-Profit Entities* or in a separate standard.

The standard should deal with taxes, levies and other imposts legislated or regulated by governments and with arrangements such as:

- Universal Service Obligations levy imposed on telecommunications carriers which is collected by the government and paid to the universal service provider (Telstra or the NBN)
- The Financial Institutions Supervisory levy, and
- The Financial Claim Scheme levy or Superannuation Financial Assistance levy.

Our comments and responses to the questions raised are set out in the Appendix to this letter.

If you would like to discuss our comments, please contact me, or our technical advisers Mr Stephen La Greca (stephenlagreca@aol.com) or Mr Colin Parker (colin@gaap.com.au) (a former member of the AASB), GAAP Consulting.

Yours sincerely



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About the IPA

The IPA is a professional organisation for accountants recognised for their practical, hands-on skills and a broad understanding of the total business environment. Representing more than 35,000 members in Australia and in over 65 countries, the IPA represents members and students working in industry, commerce, government, academia and private practice. Through representation on special interest groups, the IPA ensures the views of its members are voiced with government and key industry sectors and makes representations to Government including the Australian Tax Office (ATO), Australian Securities and Investments Commission (ASIC) and the Australian Prudential Regulation Authority (APRA) on issues affecting our members, the profession and the public interest. The IPA recently merged with the Institute of Financial Accountants of the UK, making the new IPA Group the largest accounting body in the SMP/SME sector in the world.

Appendix

Specific matters for comment

Question 1

Do you agree with expanding the scope of AASB 15 to include non-contractual licences (i.e. arising from statutory arrangements) (paragraphs 4, G7-G9)? If not, please provide your reasons.

IPA response

The IPA has reservations in relation to the use of the concept of non-IP licences in the context of government activities. The IPA is of the view that non-IP licences are likely to exist only as a result of statutory or regulatory restrictions on activity.

The IPA believes such arrangements and the related 'licences' arrangements (both initial fees and activity imposts) are primarily a result of public policy positions (e.g. gaming and alcohol licencing) and taxes on activity. The granting of non-IP licenses in this context should not be included in the scope of AASB 15, but rather dealt with in AASB 1058 or separate standard on taxes and levies.

The IPA would like to see the guidance in AASB 15.F5-F19 revised to specifically address such arrangements and clarifying the applicability of AASB 15 in such circumstances.

The IPA is also uncomfortable with proposed exemptions for short-term and low value licences (AASB 15.Aus8.1). The IPA recognises such exemptions have been granted by the IASB (e.g. AASB 16 *Leases*). However, the IPA is of the view that such exemptions are poor standard setting and can result in material balances being exempt from accounting standards because of the size of a 'deemed' individual transaction. In addition, the proposed exemption is inconsistent with transaction neutrality; in the private sector many retail transactions could be considered low value and there is no exemption from AASB 15. The IPA does support the proposals for IP related licences in exposure draft.

Question 2

Are you aware of any lease arrangements that would arise from statutory arrangements rather than a contract? If so, please provide details of these arrangements and their accounting treatment.

IPA response

The IPA is unaware of any lease arrangements that arise from statutory arrangements rather than a contract.

Question 3

Do you agree with the requirements for not-for-profit public sector entities set out in paragraphs G10-G13 which specify that:

(a) IP licences shall apply the guidance in paragraphs B52-B63 of AASB 15; and

(b) Non-IP licences, that are not leases and are distinct from other goods and services, shall be accounted for as separate performance obligations under AASB 15?

If not, please provide your reasons.

IPA Response

As indicated in our response to Question 1, the IPA is of the view that what has been termed 'non-IP licences' in the exposure draft are imposts on activities instituted by governments and represents fees and taxes on activities. As such, the IPA does not believe such arrangements should be within the scope of AASB 15.

The IPA would be interested in examples of non-IP licences that do not display the characteristics of a statutory or regulatory restriction on activity to support the proposals in the ED.

The IP supports the application of guidance in AASB 15.B52-B63 to IP licences issued by public sector entities.

Question 4

In relation to the AASB's proposal in paragraph 4 and the guidance in paragraphs G19-G23 of this Exposure Draft ("Recognition exemptions"), to include practical expedients in the Amending Standard to account for revenue from short-term or low-value licences issued by not-for-profit public sector licensors:

(a) Do you agree that this proposal would provide relief to preparers while retaining a faithful representation of not-for-profit public sector licensor's financial performance? Please provide your reasons.

(b) If not, what alternative practical expedient approach (if any) to income recognition would you recommend for not-for-profit public sector licensors? Please provide your reasons.

IPA response

As set-out in our response to Question 1, the IPA does not support the practical expedients in AASB 15.Aus8.1. Practical expedients such as 'low value' exemptions represent flawed accounting standard setting as they are often the result of fundamental weaknesses in underlying principles and can result in perverse outcomes and structuring opportunities. The IPA is a view that the exemptions are inconsistent with transaction neutrality, especially as in the private sector 'low value' retail transactions are not unusual.

The IPA is also of the view that the guidance in AASB 15.G19-G22 is not particularly useful and potentially misleading in the application of the AASB 15.Aus8.2 override to the low transaction exemption.

Question 5

In relation to licences issued by not-for-profit public sector licensors that are not intellectual property (IP) licences (ie non-IP licenses) that involve sales-based or usage-based commission:

- (a) *Do you agree with the AASB’s proposal to use the general guidance in AASB 15 paragraphs 56-57 (“Constraining estimates of variable consideration”) to determine the transaction price for the licencing arrangement, which in turn would determine the timing of revenue recognition? Please provide your reasons?*
- (b) *If not, as alternative, do you believe the general guidance should be amended to reflect for non-IP licences, the guidance for sales-based or usage-based royalties set out in paragraph B63 of AASB 15 for IP licenses? This guidance may make it easier for licensors to determine the transaction price and timing of revenue recognition of non-IP licensing arrangements involving sales-based or usage-based consideration. However, this would be different for other entities (which would not be transaction neutral).*

IPA response

- (a) In the event there are non-IP licences that are not a result of government-imposed restrictions on activity, the IPA would support the application of the guidance in AASB 15.56-57 in relation to variable consideration. However, as previously noted the IPA is sceptical of the application of AASB 15 of non-IP licence arrangements, as the IPA is of the view such arrangements are public policy restrictions on activity and any imposts imposed are in effect taxes on such activity.
- (b) While the IPA recognises the attractiveness of the practical expediency of applying AASB.B63 to non-IP licences, as the IPA has previously serious concerns with the use of such measures. In this particular circumstance, the need for such a practical expedient supports the IPA’s position that such non-IP licenses are in essence taxes. As such, the IPA does not support the inclusion of a practical expedient for sale or usage-based royalties being applied to non-IP licence arrangements. Notwithstanding the IPA’s position on the nature of non-IP arrangements, as noted in ED the practical expediency would be non-transaction neutral; and, therefore, the IPA would also reject the proposed practical expedient on those grounds alone.

As to the proposed example for variable consideration (IE8 Example 9), the IPA believes that illustrates the flaws in the proposed guidance for non-IP licences and variable consideration. The effect of the application of the proposed ED as illustrated by IE 8 is to accelerate the recognition of what is effect tax revenue. The fact that the ‘sales-based commission’ is part of the granting of the license to run the casino should not effect the pattern of recognition of income. The policy position is to tax gaming revenue, the fact that the tax has been included as part of the agreement to grant the casino licence does not change the substance in that gaming revenue is subject to tax. The proposed IE 8 does not reflect the substance of the ‘sales-based commission’ as such mis-reports the transaction.

Question 6

In relation to non-IP licenses issued by not-for-profit public sector licensors, do you have examples of distinct licences issued that involve a non-identified assets or assets of the licensors (ie that are not leases)? Please provide the details of your example. If you do have an example, do you think the specific guidance in paragraphs B52-B63B for IP licenses may also be useful to help account for the licence in your example? (Paragraphs G15-G15)

IPA response

The IPA notes that mining and exploration licences have been scoped out of AASB 16. Accordingly, under the proposed ED mining and exploration leases could be considered non-IP licences. The status of mining royalties as contingent consideration would need to be considered.

In addition, it is unclear whether mining and exploration licences would be distinct from other goods and services as discussed in G14-G16 of the ED. The IPA believes the guidance in G14-G16 is not sufficient to apply to mining and exploration licences as the specificity of the goods being “extracted” is not implicit in the licence and the application of guidance at G14-G16 appears to apply when the licence to be granted to relates to a specific good or service.

Question 7

Do you agree that the features outlined in paragraph G3 to determine a tax from a licence provide sufficient guidance in making this distinction? If not, what other factors may be useful to make the distinction?

IPA response

While the IPA broadly agrees with the features in G3 in relation to the distinction of tax as opposed to a licence. The IPA believes the addition of illustrative examples would enhance the application of the table in G3.

The IPA is of the opinion that the application of G3 results in most public sector issued non-IP licenses, as they are unavoidable if a certain activity is to be undertaken, being compulsory and non-discretionary in nature. This interpretation results in an appropriate outcome i.e. most non-IP licence arrangements would be considered taxes.

The IPA does consider a licence having a non-financial purpose as a distinguishing feature of licence versus a tax. Many taxes (such as excise taxes) may be imposed to alter behaviour. Similarly, some taxes may be levied to cover administration charges. The IPA believes that taxes and similar imposts should be addressed either in AASB 1058 or another standard.

Question 8

Are you aware of any for-profit public sector licensors issuing non-IP licenses? If so, please provide details of these licences and their accounting treatment, and comment on whether the scope of this Exposure Draft should be extended to for-profit public sector licensors?

IPA response

The IPA is unaware of any for-profit public sector licensors issuing non-IP licenses.

General matters for comment**Question 9**

Whether “The AASB’s Not-for-Profit Entity Standard Setting Framework” [draft] has been applied appropriately in developing the proposals in this exposure draft?

IPA response

The IPA believes the draft AASB’s *Not-for-Profit Entity Standard Setting Framework* has been appropriately applied.

Question 10

Whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including Governmental Financial Statistics (GFS) implications?

IPA response

The IPA is unaware of any regulatory or other issues that may affect the implementation of these proposals.

Question 11

Whether, overall, the proposals would result in financial statements that would be useful to users?

IPA response

The IPA is concerned that the proposals will potentially misrepresent financial statements. The proposals have the risk of: misrepresenting taxation revenue and income; and the erroneous early recognition of income by the classification future tax revenue as variable consideration.

Question 12

Whether the proposals are in the best interests of the Australian economy?

IPA response

While the IPA supports the extension of AASB 15 to public sector not-for-profit IP license arrangements, the IPA has serious reservations in relation the construction of the proposals in relation to non-IP licenses. The IPA is of the view that such licences are often effectively taxation arrangements and the proposals will result in the misclassification of such arrangements and potentially erroneous early recognition of income.

Question 13

Unless already provided in response to specific matters for comment above, the costs and benefits relative to the current requirements, whether quantitative (financial or non-financial) or qualitative? In relation to quantitative financial costs, the AASB is particularly seeking to know the nature(s) and estimated amount(s) of any expected incremental costs, or cost savings, of the proposals relative to the existing requirements.

IPA response

The IPA has no further comments other than those made above in relation to costs and benefits of the proposed requirements.
