IFRS

STAFF PAPER

May 2018

IFRS Interpretations Committee Meeting

Project	**Payments relating to taxes other than income tax**		
Paper topic	Item for continuing consideration		
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Introduction

1. The IFRS Interpretations Committee (Committee) received a request about how to account for payments relating to uncertain tax treatments that are outside the scope of IAS 12 *Income Taxes* (ie the payments are for taxes other than income tax). In the fact pattern described in the request, an entity is in dispute with a tax authority. The entity determines that it is probable that it does not have an obligation for the disputed amount and, consequently, it does not recognise a liability applying IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*. The entity nonetheless pays the disputed amount to the tax authority. Upon resolution, either the tax authority returns the payment to the entity (if the outcome of the dispute is favourable to the entity) or the payment is used to settle the tax liability (if the outcome of the dispute is unfavourable to the entity).

2. During the March 2018 Committee meeting, the Committee observed that the payment made by the entity gives rise to an asset as defined in the *Conceptual Framework for Financial Reporting* that was in issue at the time, the 2010 *Conceptual Framework.* The payment creates a resource controlled by the entity as a result of a past event and from which future economic benefits are expected to flow to the entity. On making the payment, the entity has the right to receive future economic benefits either in the form of cash or by using the payment to

settle the tax liability. The payment is not a contingent asset as defined in IAS 37 because it is an asset, and not a possible asset, of the entity.

3. The Committee also observed that the asset may not be clearly captured within the scope of any IFRS Standard. In the absence of a Standard that specifically applies to a transaction, the entity applies paragraphs 10 and 11 of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* in developing and applying an accounting policy for the recognition and measurement of the asset that results in information that is (i) relevant to the economic decision-making needs of users of financial statements and (ii) reliable.

4. The Committee noted that the International Accounting Standards Board (Board) expected to issue a revised *Conceptual Framework for Financial Reporting* (the 2018 *Conceptual Framework*) around the end of the first quarter of 2018. With this in mind, the Committee asked the staff to update its analysis to consider any effect of the 2018 *Conceptual Framework*.

5. The Board has now issued the 2018 *Conceptual Framework*, which introduces a new definition of an asset. This paper updates the staff analysis by considering:

   (a) whether the Committee should consider the new definition of an asset in its analysis of the payments described in the request; and if so

   (b) whether applying the new definition changes the Committee's previous conclusions.

Updated staff analysis

Whether the Committee should consider the new definition

6. With the issuance of the 2018 *Conceptual Framework*, there are now two definitions of an asset in IFRS literature. The 2018 *Conceptual Framework* contains the new definition. However:

   (a) IAS 38 *Intangible Assets* contains the old definition of an asset—the definition in the 2010 *Conceptual Framework*;

(b) other Standards addressing assets have all been developed applying the old definition. No Standards yet in issue have been developed applying the new definition.

7. With two different definitions in IFRS literature—and while no existing Standards apply the new definition—a question arises for the Committee. To what extent, and in what circumstances, should it refer to the new definition in analysing the payments described in the request?

8. Paragraph 10 of IAS 8 requires that in the absence of an IFRS Standard that specifically applies to a transaction, other event or condition, management of an entity uses its judgement in developing and applying an accounting policy that results in information that is relevant and reliable. Paragraph 11 of IAS 8 requires that, in making such judgement, management refers to and considers the applicability of, in descending order:

(a) requirements in IFRS Standards dealing with similar and related issues; and

(b) the definitions, recognition criteria and measurement concepts for assets, liabilities, income and expenses in the *Conceptual Framework*.

9. Some interested parties have suggested that, until the Board issues new Standards that have been developed applying the 2018 *Conceptual Framework*, entities might continue to refer only to the old definitions. The argument is that the hierarchy in IAS 8 requires management of an entity to first refer to and consider the applicability of IFRS Standards dealing with similar and related issues. So, if management were considering whether a particular transaction gave rise to an asset or a liability, it would first consider other Standards that require entities to identify assets or liabilities. At present, all existing Standards have been developed applying the old definitions of an asset and a liability, so applying this view the management of an entity would always refer to those definitions.

10. However, the staff think that, even before the Board has issued Standards developed applying the 2018 *Conceptual Framework*, there may be cases in which management applying the IAS 8 hierarchy may refer to the new definitions

in that *Conceptual Framework.* The staff think the type of payment being considered by the Committee is one of those cases:

(a) we think the fact that a Standard addresses identification of assets does not necessarily mean that it deals with ‘similar or related issues’ to those raised by the request. IAS 38, for example, includes a definition of an asset and addresses the identification, recognition and measurement of assets. But the assets it addresses are non-monetary assets, and the issues it deals with concern separability from goodwill and uncertainty about the probability and amount of any future economic benefits. It does not deal with the issue that arises for assets of the type considered in this paper—monetary assets whose potential economic benefits are determinable but, depending on the outcome of a dispute, will be obtained in one or other of two different forms. The *Conceptual Framework* deals with this issue—it contains discussion of different forms that economic benefits can take.

(b) on issuing the 2018 *Conceptual Framework*, the Board made consequential amendments to IAS 8 so that IAS 8 now refers to the 2018 *Conceptual Framework* instead of older versions. Entities are permitted to apply the amendments before their effective date (annual periods beginning on or after 1 January 2020). A transitional requirement prohibits management from referring to the 2018 *Conceptual Framework* in applying the IAS 8 hierarchy to regulatory account balances. The inclusion of this transitional requirement suggests that, in applying the IAS 8 hierarchy to other transactions, management may refer to the 2018 *Conceptual Framework* definitions.

Whether applying the new definition changes the Committee’s previous conclusions

11. Paragraph 4.3 of the 2018 *Conceptual Framework* contains the new definition of an asset. It defines an asset as:

> A present economic resource controlled by the entity as a result of past events.

12. Paragraph 4.4 defines an economic resource as a right that has the potential to produce economic benefits.

13. For an item to meet the definition of an asset it has to embody:

    (a) a right that has potential to produce economic benefits; and

    (b) control.

14. Paragraph 4.14 clarifies that for a right to have the potential to produce economic benefits, it does not need to be certain, or even likely, that the right will produce economic benefits. It is only necessary that the right already exists and that, in at least one circumstance, it would produce for the entity economic benefits beyond those available to all other parties.

15. Paragraph 4.16 cites examples of ways in which an economic resource could produce economic benefits for an entity. It notes that the economic resource could entitle or enable the entity to *(emphasis added)*:

    (a) *receive contractual cash flows or another economic resource*;

    (b) exchange economic resources with another party on favourable terms;

    (c) produce cash inflows or avoid cash outflows by, for example:

        (i) using the economic resource either individually or in combination with other economic resources to produce goods or provide services;

        (ii) using the economic resource to enhance the value of other economic resources; or

        (iii) leasing the economic resource to another party;

    (d) receive cash or other economic resources by selling the economic resource; or

    (e) *extinguish liabilities by transferring the economic resource*.

16. Paragraph 4.20 discusses control. It states that an entity controls an economic resource if it has the present ability to direct the use of the economic resource and obtain the economic benefits that may flow from it. Control includes the present

ability to prevent other parties from directing the use of the economic resource and from obtaining the economic benefits that may flow from it.

17. In our view, the payments described in the request give rise to an asset applying the definition in the 2018 *Conceptual Framework*. A past event (making the payment) gives the entity a right that has the potential to produce future economic benefits. The entity has a right to either, depending on the outcome of the dispute, (a) receive cash as a refund from the tax authority (if the outcome is favourable to the entity), or (b) use the payment to settle the tax liability (if the outcome is unfavourable to the entity). There is uncertainty about the form of the future economic benefits that will flow to the entity (ie cash or settlement of a liability). However, there is no uncertainty that the payment gives rise to a right to future economic benefits in one form or another, and there is no uncertainty that the entity controls that right—it and no other party will obtain the future economic benefits that may flow from it.

Staff Conclusion

18. The staff conclude that the new definition of an asset in the 2018 *Conceptual Framework* should not change the Committee's previous conclusions. Just as the payments described in the request give rise to an asset applying the definition of an asset in the 2010 *Conceptual Framework* and existing Standards, they also give rise to an asset applying the new definition in the 2018 *Conceptual Framework*. Therefore the conclusion remains unchanged with respect of (i) the initial accounting treatment of the payments and (ii) measurement after initial recognition.

Question 1 for the Committee
1. Does the Committee agree with the conclusion that the new definition of an asset in the 2018 *Conceptual Framework* does not change its previous conclusions?

Should the Committee add this matter to its standard setting agenda?

Is it necessary to add to or change IFRS Standards to improve financial reporting?[1]

19. Based on our analysis, we think that the requirements in existing IFRS Standards and the 2018 *Conceptual Framework* provide an adequate basis for the entity to account for payments relating to taxes other than income tax.

Staff recommendation

20. Based on our assessment of the Committee's agenda criteria in paragraphs 5.16-5.17 of the *Due Process Handbook* (discussed in paragraph 19 above), we recommend that the Committee does not add this matter to its standard-setting agenda. Instead, we recommend publishing an agenda decision that outlines how an entity applies the relevant requirements of IFRS Standards and 2018 *Conceptual Framework* to payments relating to taxes other than income tax.

21. Appendix A to this paper outlines the proposed wording of the tentative agenda decision. The tentative agenda decision refers to payments made by an entity, and not specifically to voluntary payments made. Although the request asked only about voluntary payments, we think the voluntary nature of a payment, in isolation, would not change our analysis. Accordingly, we have clarified in the tentative agenda decision that the payment need not be voluntary.

22. We have also reinforced in the fact pattern in the tentative agenda decision that in not recognising a liability, the entity has appropriately applied IAS 37. This has been done by referring to some of the requirements from the relevant paragraph (paragraph 16) of IAS 37.

[1] Paragraph 5.16(b) of the *Due Process Handbook*.

Questions 2 and 3 for the Committee

2. Does the Committee agree with our recommendation not to add this matter to its standard-setting agenda?
3. Does the Committee have any comments on the proposed wording of the tentative agenda decision outlined in Appendix A to this paper?

Appendix A—Proposed wording of the tentative agenda decision

IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*—Payments relating to taxes other than income tax

The IFRS Interpretations Committee (Committee) received a request about how to account for payments relating to uncertain tax treatments that are outside the scope of IAS 12 *Income Taxes* (ie the payments are for taxes other than income tax). In the fact pattern in the request, the entity is in dispute with the tax authority. Taking into account all evidence, including the circumstances of the payment to the tax authority, the entity determines that it is probable that it does not have an obligation for the disputed amount and, consequently, it does not recognise a liability applying IAS 37. The entity nonetheless pays the disputed amount to the tax authority either voluntarily or because it is required to do so. Upon resolution of the dispute, either the tax authority returns the payment to the entity (if the outcome of the dispute is favourable to the entity) or the payment is used to settle the tax liability (if the outcome of the dispute is unfavourable to the entity).

The Committee observed that the payment made by the entity gives rise to an asset applying either of the two definitions of an asset now in IFRS literature—the new definition in the *Conceptual Framework for Financial Reporting* issued in March 2018 and the older definition applied in existing IFRS Standards. The payment gives the entity a right to obtain future economic benefits, either by receiving a cash refund or by using the payment to settle the tax liability. The nature of the payment—whether voluntary or required—does not affect this right and therefore does not affect the observation that there is an asset. The payment is not a contingent asset as defined by IAS 37 because it is an asset, and not a possible asset, of the entity.

Consequently, the Committee concluded that in the fact pattern in the request the entity identifies an asset when it makes the payment to the tax authority.

The Committee also observed that the asset is not clearly captured within the scope of any IFRS Standard. In the absence of a Standard that specifically applies to a transaction, an entity applies paragraphs 10 and 11 of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* in developing and applying an accounting policy that results in information that is (i) relevant to the economic decision-making needs of users of financial statements and (ii) reliable.

The Committee concluded that the requirements in IFRS Standards and the *Conceptual Framework for Financial Reporting* provide an adequate basis for an entity to account for payments relating to taxes other than income tax. Consequently, the Committee [decided] not to add this matter to its standard-setting agenda.