

NZASB EXPOSURE DRAFT 2019-1

Uncertainty over Income Tax Treatments (Proposed amendments to PBE IAS 12)

This [draft]¹ Standard was issued on [Date] by the New Zealand Accounting Standards Board of the External Reporting Board pursuant to section 12(a) of the Financial Reporting Act 2013.

This [draft] Standard is a disallowable instrument for the purposes of the Legislation Act 2012, and pursuant to section 27(1) of the Financial Reporting Act 2013 takes effect on [Date].

Reporting entities that are subject to this [draft] Standard are required to apply it in accordance with the effective date, which is set out in Part C.

In finalising this [draft] Standard, the New Zealand Accounting Standards Board has carried out appropriate consultation in accordance with section 22(1) of the Financial Reporting Act 2013.

This [draft] Standard proposes to amend PBE IAS 12 *Income Taxes* to incorporate the guidance from NZ IFRIC 23 *Uncertainty over Income Tax Treatments*. NZ IFRIC 23 clarifies how to apply the recognition and measurement requirements in NZ IAS 12 *Income Taxes* when there is uncertainty over income tax treatments.

¹ References to “this Standard” throughout this Exposure Draft should be read as referring to “this draft Standard”.

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CONTENTS

UNCERTAINTY OVER INCOME TAX TREATMENTS (PROPOSED AMENDMENTS TO PBE IAS 12)

	<i>pages</i>
Part A: Introduction	5
Part B: Uncertainty over Income Tax Treatments	6–10
Scope	6
Amendments to PBE IAS 12 <i>Income Taxes</i>	6–9
Amendments to other PBE Standards	10
Part C: Effective Date	10

UNCERTAINTY OVER INCOME TAX TREATMENTS
(PROPOSED AMENDMENTS TO PBE IAS 12)

Part A: Introduction

This [draft] Standard incorporates into PBE IAS 12 *Income Taxes* the guidance from NZ IFRIC 23 *Uncertainty over Income Tax Treatments*.

The amendments clarify how to apply the recognition and measurement requirements in PBE 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 PBE IAS 12 based on taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates determined applying this guidance.

Part B: *Uncertainty over Income Tax Treatments*

Scope

This [draft] Standard applies to Tier 1 and Tier 2 public benefit entities.

Amendments to PBE IAS 12 *Income Taxes*

Paragraphs 88A and preceding headings and paragraph 98.8 are added.

Transition

Uncertainty over Income Tax Treatments (Appendix B)

88A On initial application, an entity shall apply Appendix B either:

- (a) Retrospectively applying PBE IPSAS 3, if that is possible without the use of hindsight; or
- (b) Retrospectively with the cumulative effect of initially applying Appendix B recognised at the date of initial application. If an entity selects this transition approach, it shall not restate comparative information. Instead, the entity shall recognise the cumulative effect of initially applying Appendix B as an adjustment to the opening balance of accumulated comprehensive revenue and expense (or other component of net assets/equity, as appropriate). The date of initial application is the beginning of the annual reporting period in which an entity first applies Appendix B.

Effective Date

...

98.8 *Uncertainty over Income Tax Treatments* (Amendments to PBE IAS 12), issued in [Date], added paragraphs 88A and Appendix B. An entity shall apply these amendments for annual financial statements covering periods beginning on or after [Date – proposed date is 1 January 2020]. Earlier application is permitted. If an entity applies these amendments for an earlier period, it shall disclose that fact.

The Application Guidance is renamed Appendix A and the paragraphs are renumbered as A1 etc rather than AG1 etc. New text is underlined and deleted text is struck through.

Appendix A

Application Guidance—Changes in the Tax Status of an Entity or its Owners

This Application Guidance forms an integral part of PBE IAS 12

~~AG1.~~ [...]

~~AG2.~~ [...]

~~AG3.~~ [...]

Appendix B is added.

Appendix B

Application Guidance—Uncertainty over Income Tax Treatments

This Appendix is an integral part of PBE IAS 12.

Introduction

- B1. PBE IAS 12 *Income Taxes* specifies requirements for current and deferred tax assets and liabilities. An entity applies the requirements in PBE IAS 12 based on applicable tax laws.
- B2. 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.
- B3. In this Appendix:
- (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

- B4. This Appendix clarifies how to apply the recognition and measurement requirements in PBE 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 PBE IAS 12 based on taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates determined applying this Appendix.

Application of PBE IAS 12 to Uncertain Income Tax Treatments

- B5. When there is uncertainty over income tax treatments, this Appendix 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.

Whether an Entity Considers Uncertain Tax Treatments Separately

- B6. 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.
- B7. If, applying paragraph B6, an entity considers more than one uncertain tax treatment together, the entity shall read references to an 'uncertain tax treatment' in this Appendix as referring to the group of uncertain tax treatments considered together.

UNCERTAINTY OVER INCOME TAX TREATMENTS
(PROPOSED AMENDMENTS TO PBE IAS 12)

Examination by Taxation Authorities

- B8. 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

- B9. An entity shall consider whether it is probable that a taxation authority will accept an uncertain tax treatment.
- B10. 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.
- B11. 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.
- B12. 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

- B13. An entity shall reassess a judgement or estimate required by this Appendix 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 B15–B17 set out guidance on changes in facts and circumstances.
- B14. An entity shall reflect the effect of a change in facts and circumstances or of new information as a change in accounting estimate applying PBE IPSAS 3 *Accounting Policies, Changes in Accounting Estimates and Errors*. An entity shall apply PBE IPSAS 14 *Events after the Reporting Date* to determine whether a change that occurs after the reporting period is an adjusting or non-adjusting event.
- B15. In applying paragraph B13, an entity shall assess the relevance and effect of a change in facts and circumstances or of new information in the context of applicable tax laws. For example, a particular event might result in the reassessment of a judgement or estimate made for one tax treatment but not another, if those tax treatments are subject to different tax laws.
- B16. Examples of changes in facts and circumstances or new information that, depending on the circumstances, can result in the reassessment of a judgement or estimate required by this Appendix include, but are not limited to, the following:
- (a) examinations or actions by a taxation authority. For example:
 - (i) agreement or disagreement by the taxation authority with the tax treatment or a similar tax treatment used by the entity;
 - (ii) information that the taxation authority has agreed or disagreed with a similar tax treatment used by another entity; and
 - (iii) information about the amount received or paid to settle a similar tax treatment.

UNCERTAINTY OVER INCOME TAX TREATMENTS
(PROPOSED AMENDMENTS TO PBE IAS 12)

- (b) changes in rules established by a taxation authority.
 - (c) the expiry of a taxation authority's right to examine or re-examine a tax treatment.
- B17. The absence of agreement or disagreement by a taxation authority with a tax treatment, in isolation, is unlikely to constitute a change in facts and circumstances or new information that affects the judgements and estimates required by this Appendix.

Disclosure

- B18. When there is uncertainty over income tax treatments, an entity shall determine whether to disclose:
- (a) judgements made in determining taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates applying paragraph 137 of PBE IPSAS 1 *Presentation of Financial Statements*; and
 - (b) information about the assumptions and estimates made in determining taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates applying paragraphs 140–144 of PBE IPSAS 1.
- B19. If an entity concludes it is probable that a taxation authority will accept an uncertain tax treatment, the entity shall determine whether to disclose the potential effect of the uncertainty as a tax-related contingency applying paragraph 88 of PBE IAS 12.

Paragraph BC6–BC9 and the preceding heading are added.
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Basis for Conclusions

Uncertainty over Income Tax Treatments (Appendix B)

- BC6. In June 2017 the IASB issued IFRIC 23 *Uncertainty over Income Tax Treatments*. The NZASB subsequently issued this interpretation in August 2017 as NZ IFRIC 23 *Uncertainty over Income Tax Treatments*, which is effective for for-profit entities for periods beginning on or after 1 January 2019. NZ IFRIC 23 clarifies how to apply the recognition and measurement requirements of NZ IAS 12 *Income Taxes* when there is uncertainty over income tax treatments.
- BC7. PBE IAS 12 *Income Taxes* is based on NZ IAS 12. In [Date], the NZASB issued *Uncertainty over Income Tax Treatments* (Amendments to PBE IAS 12), which incorporated the guidance from NZ IFRIC 23 as Appendix B to this Standard. The NZASB noted that some public benefit entities may pay income tax, either directly or through their controlled entities, and that this guidance would be useful for public benefit entities.
- BC8. When developing IFRIC 23, the IFRS Interpretations Committee observed that retrospective application of IFRIC 23 without the use of hindsight would often be impossible for entities. Consequently, IFRIC 23 and NZ IFRIC 23 do not require the restatement of comparative information when an entity first applies the guidance. However, retrospective application is permitted if that is possible without the use of hindsight. The same transitional provisions are included in PBE IAS 12 with regard to Appendix B.
- BC9. Illustrative examples on the application of Appendix B are available in the additional material for NZ IFRIC 23 *Uncertainty over Income Tax Treatments* on the XRB website at www.xrb.govt.nz.

Amendments to other PBE Standards

Amendments to PBE FRS 47 *First-time Adoption of PBE Standards by Entities Other Than Those Previously Applying NZ IFRS*

Paragraph 42.8 is added.

42.8 *Uncertainty over Income Tax Treatments* (Amendments to PBE IAS 12) added paragraph D4. An entity shall apply that amendment when it applies *Uncertainty over Income Tax Treatments* (Amendments to PBE IAS 12).

In Appendix D, paragraph D4 and its related heading are added.

Uncertainty over Income Tax Treatments

D4. A first-time adopter whose date of transition to PBE Standards is before [date²] may elect not to reflect the application of Appendix B of PBE IAS 12 (*Uncertainty over Income Tax Treatments*) in comparative information in its first PBE Standards financial statements. An entity that makes that election shall recognise the cumulative effect of applying Appendix B of PBE IAS 12 as an adjustment to the opening balance of accumulated comprehensive revenue and expense (or other component of net assets/equity, as appropriate) at the beginning of its first PBE Standards reporting period.

Paragraphs BC11, BC12 and the preceding heading are added.

Basis for Conclusions

Uncertainty over Income Tax Treatments (Amendments to PBE IAS 12)

BC11. When developing IFRIC 23 *Uncertainty over Income Tax Treatments*, the IFRS Interpretations Committee observed that retrospective application of IFRIC 23 without the use of hindsight would often be impossible for entities. The Committee also observed that if a first-time adopter's date of transition to IFRS Standards is before the date IFRIC 23 is issued, the first-time adopter may face the same hindsight difficulties as entities that already apply IFRS Standards. Consequently, IFRS 1 provides that first-time adopters whose date of transition to IFRS Standards is before 1 July 2017 are not required to present in their first IFRS financial statements comparative information that reflects IFRIC 23.

BC12. The same provision was included in NZ IFRS 1 when NZ IFRIC 23 *Uncertainty over Income Tax Treatments* was issued in August 2017. The NZASB therefore decided to include this provision in PBE FRS 47 when issuing *Uncertainty over Income Tax Treatments* (Amendments to PBE IAS 12), albeit referring to a date of transition to PBE Standards before [date²].

Part C: Effective Date

The amendments in this Standard are effective for annual financial statements covering periods beginning on or after [Date – proposed date is 1 January 2020]. Earlier application is permitted.

² This date is proposed to be around one month following the date of issue of *Uncertainty over Income Tax Treatments* (Amendments to PBE IAS 12).