



September 12, 2018

Russell G. Golden
Chairman
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: File Reference No. 2018-260

Submitted via electronic mail to director@fasb.org

Dear Chairman Golden,

The Committee on Corporate Reporting (“CCR”) of Financial Executives International (“FEI”) appreciates the opportunity to comment on Proposed Accounting Standards Update – *Leases (Topic 842) Narrow-Scope Improvements for Lessors*.

FEI is a leading international organization representing more than 10,000 members, including Chief Financial Officers, Controllers, Treasurers, Tax Executives and other senior-level financial executives. CCR is a technical committee of FEI, and reviews and responds to research studies, statements, pronouncements, pending legislation, proposals and other documents issued by domestic and international agencies and organizations. CCR member companies represent approximately \$8.6 trillion in market capitalization and actively monitor the standard setting activities of the SEC, FASB, and PCAOB.

This letter represents the views of CCR and not necessarily the views of FEI or its members individually.

Overview

We appreciate the FASB staff and Board’s response to industry feedback with this Proposed Accounting Standards Update. We are supportive of the amendments which would permit lessors to exclude sales (and other similar taxes) collected from lessees from the transaction price. However, we are concerned that the proposed amendments addressing property taxes do not sufficiently consider stakeholder feedback, as outlined in greater detail below.



Sales Taxes and Other Similar Taxes Collected from Lessees

We are supportive of the proposed amendment permitting lessors to make an accounting policy election to not evaluate whether certain sales taxes and other similar taxes are costs of the lessor or costs of the lessee. We appreciate the consistency of the proposed election with the policy election allowed in Topic 606, as amended in Accounting Standards Update No. 2016-12, *Revenue from Contracts with Customers (Topic 606): Narrow Scope Improvements and Practical Expedients*. This proposed amendment is well founded in the basis that leasing is, fundamentally, a revenue-generating activity for lessors. Further, these proposed changes are consistent with the current accounting for these taxes under ASC 840, which allows preparers to avoid the onerous process of evaluating the obligation of the sales tax on a jurisdiction-by-jurisdiction basis and ultimately does not result in a reduction of decision-useful information to users of lessor financial statements.

Deemed Obligor for Lessee Reimbursed Property Taxes

There is currently diversity in practice as to how to account for lease revenues from property taxes. Many lessors in our membership do not gross up lease revenues for property taxes on the premise that these are not viewed as lessor revenues/costs. Both sales taxes and property taxes are government mechanisms used to raise revenue. Multiple taxing authorities such as counties, towns, school districts, and others will often independently assess property tax on the same property based on the current location of the leased asset. The proposed amendments assume that the lessor is the primary obligor of property taxes, thereby making it the lessor's responsibility to present these costs. However, different taxing jurisdictions hold different parties accountable as the primary obligor or "deemed owner" for property taxes, sometimes lessor, sometimes lessee, depending on the facts and circumstances. This determination can be formed based on rules, regulations, case law or other bases. Thus there are complexities in determining whether the property tax is a lessor cost, similar to those experienced in assessing whether sales tax is a lessor cost.

Lessee Direct Paid Property Taxes

We are supportive of the underlying principles of the proposed amendments which require lessors to exclude from variable lease revenue, lease costs paid directly by lessees to third parties on behalf of the lessor, when those costs are not readily determinable by the lessor. However, we have observed varying interpretations between preparers and auditors on the application of *readily determinable* in this area of the lease guidance. There is broad consensus amongst a significant group of preparers that many circumstances would require significant effort to determine these costs, often resulting in an expedition of local tax databases and/or written requests to gather lease specific tax information on a jurisdiction-by-jurisdiction basis. Consensus is that the nature of such efforts in and of itself, reflect the inability to readily determine the amounts in question. However auditors, who we understand must exercise professional skepticism, do not necessarily believe this would be the case. We have heard a view from auditors that readily determinable means an amount that can be known or learned and therefore would not require significant estimation. For example, if a company has a legal right to request and receive the



amount of a tax bill from the taxing authority, it could be interpreted as readily determinable even if the process of requesting the data is administratively burdensome as could be the case when a company has a large portfolio of leases in multiple taxing jurisdictions. We do not believe the value of this information outweighs the cost of obtaining it and are concerned about the meaning of readily determinable being left to interpretation. Requiring lessors to apply the guidance as it is currently being interpreted introduces additional layers of complexity:

- (1) Determination of readily determinable: Preparers would need to prepare a documented evaluation of whether property tax amounts are readily determinable and obtain concurrence of their auditors. For property taxes, separate analyses may be required by jurisdiction, asset class, lease type, and other factors that may be unique to that lessor or the jurisdictions in which they are subject to tax.
- (2) Systems requirements: If an entity determines property tax amounts are determinable, companies would be required to build the appropriate systems and processes to capture or estimate these costs, and maintain this process. These systems are not yet developed and would introduce significant cost and effort to implement on time with ASC 842.

Recommendation

From a practical perspective, determining who the primary obligor is on taxes reimbursed to the lessor or reporting property taxes paid directly by the lessee would be costly, onerous and will provide little value, if any, to investors. For a resulting net effect of zero on the financial statements, the incremental effort would not be justified. We are concerned that this proposal, as written, may be narrowly applied thus offsetting the benefit that might have been intended by the FASB. We believe our shared concerns could be alleviated through one or more of the following actions:

- (1) Amending the guidance to permit lessors to make an accounting policy election for property taxes similar to the election provided for sales taxes, and assume these are costs of the lessee, and not gross up the income statement, or
- (2) Further defining “readily determinable” and extending its application to Lessee-Reimbursed costs (e.g. adding language that separating reimbursed amounts based upon a determination of primary obligor or determining lessee direct paid amounts do not need to be researched or obtained if it would require undue cost and effort or providing examples in the literature to clarify these concepts).

Transition

Considering the timing of these proposed amendments, and the reality that lessors may be required to implement new systems and processes to track and account for these costs on existing leases, we request that lessor application to existing lease contracts be optional. Requiring these be applied to all existing lease contracts could require a significant effort which would prove to be impracticable. Permitting optionality will allow for the flexibility for those who are less impacted by these changes and wish to incorporate into their existing lease contracts.



Conclusion

We appreciate the FASB's attention to these areas that are proving to be problematic for lessors as they transition to ASC 842. We are supportive of the conclusions reached by the FASB as it relates to sales (and other similar) taxes. However, we urge the FASB to reconsider the conclusions reached for property taxes; the operational hurdles in conjunction with the limited financial reporting benefits would result in significant implementation challenges.

Should you have any questions, we welcome the opportunity to discuss our comments further.

Sincerely,

Mick Homan

Mick Homan
Chair
Committee on Corporate Reporting
Financial Executives International