

Technical Accounting Alert

Significant global entities are now required to lodge general purpose financial statements – what does this mean in practice?

The Australian Taxation Office (ATO) has recently released its final draft guidance on how 'significant global entities' will need to prepare and lodge general purpose financial statements under tax legislation.

Entities that may be affected by these requirements now need to quickly determine whether they are actually affected (which may not be straight forward) and to develop plans on how they will achieve compliance for 30 June 2017 and later income years.

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Background

In December 2015, the Australian parliament passed *Tax Law Amendment (Combating Multinational Tax Avoidance Act 2015* (the Act) which amends the *Taxation Administration Act 1953* by to require corporate tax entities that are 'significant global entities' to prepare and lodge general purpose financial statements (GPFS) with the ATO if they do not already lodge their general purpose financial statements with the Australian Securities and Investments Commission (ASIC). These GPFSs will then be sent to ASIC and put on ASIC's public register. The requirements are under section 3CA of the *Taxation Administration Act 1953* and apply to income years commencing on or after 1 July 2016.

The practical outcome of the requirements is that an entity that previously prepared special purpose financial statements (SPFS) or has been relieved from preparing or lodging financial statements may now be required to prepare GPFS and lodge these with its tax return.

The ATO released updated information titled *Provision of general purpose financial statements by significant global entities* to clarify the application of this legislation on 28 September 2017. This largely appears to be in the form of final guidance, but is subject to a further consultation process until 27 October 2017. There had been many questions surrounding the implementation of this legislation as a result of the lack of due process/consultation at the drafting stage of this legislation and that fact that the new requirements originate from taxation legislation rather than the *Corporations Act 2001* (Corporations Act). The ATO had earlier issued a consultation paper in late August 2016 which closed for public comments on 30 September 2016. There are some important differences between the ATO's views in this final guidance and the earlier consultation paper.

An entity will only be required to give the ATO a GPFS if it satisfies all of the following:

- (a) it is a corporate tax entity;
- (b) it is a significant global entity (SGE);
- (c) it is an Australian resident or a foreign resident who operates an Australian permanent establishment (PE);
- (d) it did not lodge a GPFS with ASIC for the relevant financial year (or failed to lodge it on time); and
- (e) it is required to lodge an Australian income tax return.

A corporate tax entity includes companies and other entities that are taxed like companies, e.g. corporate limited partnerships and public trading trusts. It also includes a foreign resident operating a permanent establishment in Australia.

What is a significant global entity?

An entity is a SGE if it is one of the following:

- a global parent entity (as defined in section 960-560 of the *Income Tax Assessment Act 1997* - ITAA 1997) with an annual global income of A\$1 billion or more; or
- a member of a group of entities which is consolidated for accounting purposes and one of the other group members is a global parent entity with an annual global income of A\$1 billion or more.

This definition includes both:

- Australian-headquartered entities (with or without foreign operations); and
- the local operations of foreign headquartered multinationals.

The ATO can also make a determination that a global parent entity is a SGE if, in a period where it has not prepared global financial statements, the ATO believes its annual global income is A\$1 billion or more.

An entity will not be impacted by the requirement to lodge GPFS if it is not required to lodge an income tax return. This includes:

- a subsidiary member of a tax consolidated group or multiple entry consolidated (MEC) group;
- an income tax exempt charity; and
- a non-resident entity for Australian taxation purposes that is not operating through a permanent establishment in Australia.

These requirements are not limited to multinational groups; it can apply to a single Australian company. Further, there is no requirement for such an entity to have any foreign operations. The affected entities will therefore include:

- Australian subsidiaries of multinational groups that currently lodge SPFS with ASIC;
- companies exempted from lodging financial statements with ASIC under the 'grandfathered' large proprietary company exemption;
- companies exempted from preparing financial statements under the small proprietary companies which are controlled by a foreign company but which are not part of a large group in Australia class order;
- companies exempted from preparing financial statements because their Australian or foreign parent lodges consolidated financial statements;
- corporate tax entities (CTE), other than companies, not subject to the Corporations Act 2001, such as corporate limited partnerships (CLP) and public trading trusts.

The ATO guidance states that the latest global financial statements for the global parent entity for an income year are financial statements:

- prepared and audited in accordance with Australian Accounting Standards and auditing principles
- covering the most recent period (not necessarily the income year) ending within 24 months before the end of the income year.

If Australian Accounting Standards and auditing principles do not apply in relation to a global parent entity, its global financial statements must be prepared and audited. This must be in accordance with commercially accepted accounting principles (CAAP) and auditing that ensure the financial statements give a true and fair view of the financial position and performance of the global parent entity. The ATO guidance states that this is in accordance with section 960-570 of the ITAA 1997 which defines the term 'global financial statements' for the purposes of determining whether an entity is a SGE.

What is global income?

'Annual global income' is defined as the annual income of an entity or a group of entities. 'Income' is not defined in the Act or in other relevant tax legislation. The Senate debate included that the measure should be "on a consolidated revenues basis, as defined by the accounting standards". However, this has not been reflected in the legislation.

The ATO guidance includes that the annual global income of a global parent entity for an income year is the total annual income of the global parent entity or all the members of the group consolidated by the global parent entity for accounting purposes, as shown in the latest global financial statements for the income year.

A global parent entity is not controlled by another entity, so it will always be the ultimate parent entity.

Income is defined in the *Framework for the Preparation and Presentation of Financial Statements* (the Framework) quite broadly. Under the Framework and accounting standards, 'income' includes both revenue and gains. Gains include a variety of items that are not revenue, such as gains arising on the disposal of non-current assets.

The ATO guidance includes that annual global income is the total of income that goes to the determination of profit or loss in accordance with AASB 101 *Presentation of Financial Statements*, as shown on the global financial statements. Annual global income does not include other comprehensive income, as it does not go to the determination of profit or loss.

When calculating the annual global income of an entity, it may be necessary to translate amounts into Australian currency. The currency conversion is completed on the basis of the average exchange rate for the period for which the statements are prepared. The method of working out the average exchange rate reflects the existing method in item 1.3 of Schedule 2 to the *Income Tax Assessment Regulations 1997*. Exchange rates used need to be from a source that is not an associate of the entity.

What are general purpose financial statements for SGE purposes?

The ATO guidance takes the view that the entity that is required to comply with section 3CA is the Australian taxpayer. This view results in most GPFS required to be lodged in accordance with the requirements having to be prepared under Australian Accounting Standards.

In determining whether an entity needs to provide a GPFS, any relief under the Corporations Act is ignored. This applies to both relief under ASIC Class Orders/Legislative Instruments and to 'grandfathered' large proprietary companies.

The ATO guidance includes a table of common scenarios to provide a GPFS. This groups SGEs into four categories as follows:

SGE corporate tax entity	Obligations under section 3CA
1. A GPFS is lodged with ASIC within the required time	No obligation The ATO guidance clarifies that an affected entity can notify the ATO if it lodges a GPFS with ASIC after the time provided in subsection 319(3) of the Corporations Act (within 3 months after the end of the financial year for a disclosing entity or registered scheme and 4 months for anyone else), but before the due date for lodgement of its income tax return. In such instances, the ATO will consider that the entity has satisfied its obligation to give the ATO a GPFS.
2. Generally, those entities that are subject to Part 2M.3 of the <i>Corporations Act 2001</i> (Corporations Act):	The entity must give the ATO a GPFS prepared in accordance with Australian Accounting Standards (AAS).
An entity that is required to lodge a GPFS with ASIC, but does not	Refer to 'transition relief' below for exceptions allowed for the first year of compliance.
An entity that lodges special purpose financial statements (SPFS) with ASIC	
An entity that is required to prepare, but not lodge financial statements with ASIC (grandfathered large proprietary companies)	
An entity that is otherwise relieved from preparing financial statements by ASIC because its parent lodges with ASIC consolidated financial statements prepared in accordance with Australian Accounting Standards incorporating its financial position and performance	

<p>A small proprietary company which is controlled by a foreign company for all or part of a financial year that is otherwise relieved from preparing financial statements by ASIC under <i>ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204</i> as it is not part of a large Australian group (Note that this is not specifically dealt with in the ATO guidance.)</p>	
<p>3. Generally, those entities not subject to Part 2M.3 of the Corporations Act:</p>	<p>The entity must give the ATO a GPFS (stand-alone or consolidated) prepared in accordance with Australian Accounting Standards or other commercially accepted accounting principles (CAAP).</p> <p>Refer 'what are commercially accepted accounting principles (CAAP)?' below.</p>
<p>An entity not subject to the Corporations Act (for example corporate limited partnerships (CLP) and public trading trusts)</p>	
<p>An entity not subject to Part 2M.3 of the Corporations Act (for example, small proprietary companies that are not controlled by a foreign company for all or part of a financial year)</p>	
<p>An entity that is otherwise relieved from preparing financial statements by ASIC because its foreign parent lodges consolidated financial statements with ASIC, which are prepared in accordance with accounting standards applicable in its parent's home country.</p>	
<p>4. The entity is a foreign resident operating a permanent establishment (PE), and did not lodge a GPFS with ASIC (for example, registered foreign companies).</p>	<p>In most circumstances the entity must give the ATO a GPFS prepared in accordance with AAS or CAAP.</p> <p>The GPFS cannot be a stand-alone for the Australian PE (refer 'foreign residents conducting a business through a permanent establishment' below).</p>

Entities that we expect will be most affected and the likely best approach

Affected type of entity	Likely best approach(es)
<p>Foreign-controlled companies that currently lodge SPFS with ASIC</p>	<p>Provide:</p> <ul style="list-style-type: none"> • GPFS RDR for the Australian parent entity required to lodge a tax return; • GPFS RDR for a foreign parent that complies with AAS; or • GPFS that is CAAP for a foreign parent (for income years that commenced between 1 July 2016 and 30 June 2017 inclusive only)
<p>Other companies that currently lodge SPFS with ASIC</p>	<p>Provide GPFS RDR for the Australian parent entity required to lodge a tax return</p>

Small foreign-controlled proprietary companies that are currently relieved from preparing financial statements by ASIC	Provide: <ul style="list-style-type: none"> • GPFS RDR for the Australian parent entity required to lodge a tax return; • GPFS RDR for a foreign parent that complies with AAS; or • GPFS that are CAAP for a foreign parent (for income years that commenced between 1 July 2016 and 30 June 2017 inclusive only)
Grandfathered large proprietary companies	Provide GPFS RDR for the Australian parent entity required to lodge a tax return

Foreign-controlled companies (that are subject to Part 2M.3 of the Corporations Act) will need to make a decision on whether to lodge GPFS for the Australian parent or for a foreign parent. While the ATO has accepted that providing consolidated financial statements of a foreign parent is acceptable, the ATO has interpreted the legislation as generally requiring these to be prepared in accordance with Australian Accounting Standards (AAS). There is a transitional relief exception for financial statements of a foreign parent for the first 12 months of the SGE requirements. For an income year that commenced between 1 July 2016 and 30 June 2017 inclusive, a foreign parent's financial statements can be prepared in accordance with another country's commercially accepted accounting principles (CAAP).

Australian Accounting Standards may include Reduced Disclosure Requirements (RDR). Refer below on the general ability to use RDR for SGE purposes. The ability to use RDR for a foreign parent is assessed by reference to the circumstances of the Australian entity, and not the foreign parent.

For a foreign parent entity that currently complies with International Financial Reporting Standards (IFRS) or an IFRS-equivalent, the changes required to comply with Australian Accounting Standards, particularly RDR, are likely to be quite minor. For a foreign parent entity that complies with US GAAP, the changes required to comply with Australian Accounting Standards are likely to be too onerous to make the use of the foreign parent financial statements a viable option other than for the first year under the transitional relief exception.

Foreign parent financial statements provided to the ATO where compliance with Australian Accounting Standards is required will need to include disclosure that these are general purpose financial statements (refer paragraph 9 of AASB 1054 *Australian Additional Disclosures*) and that they comply with Australian Accounting Standards or with Australian Accounting Standards - Reduced Disclosure Requirements (refer paragraphs 7 and RDR7.1 of AASB 1054). Other disclosure requirements of AASB 1054 largely do not apply under RDR.

Can Reduced Disclosure Requirements (RDR) be used?

The ATO guidance confirms that an entity that is not 'publicly accountable' can provide a GPFS prepared using Tier 2 Reduced Disclosure Requirements (RDR).

For entities moving from preparing SPFS to GPFS RDR that most significant change is often that RDR must be on a consolidated basis.

The use of RDR is covered by AASB 1053 *Application of Tiers of Australian Accounting Standards*. When an entity changes from preparing SPFS to RDR, AASB 1053 includes specific requirements relating to the first time use of RDR. Where the entity applied all relevant recognition and measurement requirements in its most recent SPFS, AASB 1 *First-time Adoption of Australian Accounting Standards* does not apply to its first GPFS using RDR. Where the entity did not apply all relevant recognition and measurement requirements in its most recent SPFS, there is a choice of applying all the relevant requirements of AASB 1 or applying the requirements in AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors* relating to changes in accounting policies to its first GPFS using RDR. Recognition and measurement requirements are generally interpreted as excluding consolidation.

What are commercially accepted accounting principles (CAAP)?

The tax law amendments require affected entities to prepare GPFS in accordance with one of the following (subsection 3CA(5) of the *Taxation Administration Act 1953*):

- accounting principles, or
- if accounting principles do not apply in relation to the entity, commercially accepted principles relating to accounting.

'Accounting principles' are defined by the ITAA 1997 as those in accordance with Australian Accounting Standards as defined by the Corporations Act, or authoritative pronouncements of the Australian Accounting Standards Board (AASB).

'Commercially accepted principles relating to accounting' have not been defined. The ATO guidance states that "International Financial Reporting Standards (IFRS) or accounting standards that are IFRS compliant such as Australian Accounting Standards, and also US generally accepted accounting principles (US GAAP), are globally recognised as CAAP. Where other accounting principles are used, whether they are CAAP is a question of fact. This can only be determined on a case-by-case basis. One consideration is whether such principles ensure that financial statements provide a true and fair view".

The majority of local accounting standards for listed entities in foreign countries use either IFRS or US GAAP as the basis for their accounting frameworks. If the entity was a registered foreign company, ASIC would accept financial statements prepared under the above frameworks or other local GAAP for Corporations Act purposes.

Financial statements prepared using IFRS-based standards or US GAAP would be considered as prepared using commercially accepted principles relating to accounting. For other local GAAP, judgement will be required and relevant entities using other GAAP should ensure that they document reasoning on why they consider this to be CAAP.

Whether translation from another language to English is required appears to be an open question.

What is the financial year that most closely corresponds to the income year?

If an entity is subject to Chapter 2M of the Corporations Act, 'financial year' in section 3CA of the *Taxation Administration Act 1953* means the financial year as defined in section 323D of the Corporations Act. This is usually a period of 12 months, not necessarily starting on 1 July.

The ATO guidance clarifies that for all other corporate tax entities, the annual accounting period for the purposes of the preparation of financial statements is the 'financial year' for the purposes of section 3CA.

The GPFS is for the 'financial year most closely corresponding to the income year' if it is prepared for the financial year most recently concluded on or before the end of the income year.

Increased penalties from 1 July 2017 make it extremely important that SGEs lodge their GPFS (and other documents) with the ATO by the due dates.

What is the due date for lodging general purpose financial statements?

The requirements apply to income years commencing on or after 1 July 2016.

A GPFS must be lodged by the taxpayer by the time lodgement of the income tax return is required. This is subject to transition relief for an income year ended on 30 June 2017.

There is no obligation to provide a GPFS to the ATO when a GPFS is lodged with ASIC within the time provided in subsection 319(3) of the Corporations Act (within 3 months after the end of the financial year for a disclosing entity or registered scheme and 4 months for anyone else).

The ATO guidance clarifies that an affected entity can notify the ATO if it lodges a GPFS with ASIC after the time provided in subsection 319(3), but before the due date for lodgement of its income tax return. In such instances, the ATO will consider that the entity has satisfied its obligation to give the ATO a GPFS. The ATO guidance refers to this as 'administrative relief'.

Significant due dates for lodgement of GPFS (tax return deadlines)	
30 June balancers - 30 June 2017	
All entities except for those due 15 May 2018 (refer to the various categories for 30 June 2018 below)	31 March 2018 (lodgement concession applies)
New registrants, excluding large/medium taxpayers and head companies of consolidated groups All remaining entities that are tax agent clients	15 May 2018
Entities with an approved substituted accounting period	
30 September 2017	
All entities	15 April 2018
31 December 2017	
All entities	15 July 2018
31 March 2018	
All entities	15 October 2018
30 June balancers - 30 June 2018	
Entities with one or more prior year returns outstanding as at 30 June 2017	31 October 2018
Entities prosecuted for non-lodgement of prior year tax returns and advised of a lodgement due date of 31 October 2017	31 October 2018
Large/medium taxpayers (annual total income of more than \$10 million) whose 2016 tax return was taxable	15 January 2019
Subsidiary member of a consolidated group that has exited the consolidated group in the financial year	28 February 2019
Large/medium taxpayers whose 2016 tax return was non-taxable. This includes entities whose 2016 tax return was made not necessary by 30 June 2017. Large/medium taxpayers established between 1 July 2015 and 30 June 2016 and the 2016 tax return is not necessary and the entity advised the ATO that a tax return was not necessary New registrant large/medium taxpayers Head companies of consolidated groups that are new registrants	28 February 2019
Entities with total income in the 2015–16 year of more than \$2 million unless required earlier.	31 March 2019
New registrants, excluding large/medium taxpayers and head companies of consolidated groups All remaining entities that are tax agent clients	15 May 2019

Transition relief

The ATO has agreed to provide two aspects of transition relief for SGEs.

A “transitional administrative approach” is available to a SGE with an income year that commenced between 1 July 2016 and 30 June 2017 inclusive. Where an entity is required to prepare a GPFS in accordance with Australian Accounting Standards, the ATO will not review whether a GPFS given to the ATO is prepared in accordance with Australian Accounting Standards providing it is prepared in accordance with another country’s commercially accepted accounting principles (CAAP) (see above).

Practically, this will permit many foreign controlled entities to lodge financial statements of their foreign parent without these needing to be changed to comply with Australian Accounting Standards for the first year.

For an income year ended on 30 June 2017 only a lodgement concession is available. Instead of the lodgement deadline being on or before the day that the entity is required to lodge its income tax return, any relevant SGE has until 31 March 2018 to lodge a GPFS with the ATO.

Best practice

The GPFS measure was intended to be a transparency measure. The ATO guidance refers to some entities having options as to how to comply with section 3CA. In determining which option to adopt, it suggests that an entity should take into account how each option would best contribute to transparency of its Australian tax affairs.

It further notes that in some cases, particularly involving MECs, the GPFS of the head company as prepared under strict accounting rules may give a very limited perspective of entities Australian operations. In these cases, entities may wish to consider including an effective consolidation/ aggregation of the operations of their entire Australian group, even if not strictly required.

Members of a group of entities consolidated for accounting purposes

An entity that is not a global parent entity will be an SGE if it is a member of a group of entities that are consolidated for accounting purposes as a single group and one of the other members of the group is a global parent entity meeting the annual global income threshold.

A subsidiary not included in the consolidated financial accounts of its global parent entity, for example on the grounds of materiality or because of an exception from consolidation for investment entities, is not an SGE. For this reason, it is very important for an Australian entity that is an SGE and is controlled by a foreign parent to confirm whether it is included in the consolidated financial accounts of its global parent entity.

If an entity joins or leaves a group that is consolidated for accounting purposes as a single group part-way through an income year, whether it is a SGE for the income year, will depend on whether, at the end of the income year, the entity either:

- remains outside of a group and its total annual income for the income year as shown in its global financial statements is A\$1 billion or more; or
- is part of a group consolidated for accounting purposes as a single group and the annual global income for the income year as shown in the global financial statements prepared by the global parent entity of the group it has joined is A\$1 billion or more.

An entity’s membership of a group it left during the income year is not relevant in determining whether it is a SGE for the income year. According to the ATO guidance, this is because paragraph 960-555(2)(a) of the ITAA 1997 simply requires the entity to be a current member of a group of entities that are consolidated for accounting purposes as a single group.

Members of tax consolidated or MEC groups

An entity that is a subsidiary member of a tax consolidated group or MEC group is not required to give a GPFS to the ATO because it is not a SGE. However, if it joins or leaves a tax consolidated group or MEC group part way through the income year, it must give the ATO a GPFS where it meets the conditions for section 3CA to apply to it and has an obligation to lodge an income tax return because it was not a member of a tax consolidated group or MEC group for the entire year and was a taxpayer for part of the income year.

Foreign residents conducting a business through a permanent establishment

For foreign residents conducting a business through an Australian permanent establishment (PE), the ATO guidance says their GPFS must be prepared in accordance with CAAP and must relate to the foreign resident and incorporate its Australian PE results. CAAP must be used unless the entity is required to prepare financial statements under subsections 601CK(5)-(6) of the Corporations Act. Then it must prepare its GPFS in accordance with Australian Accounting Standards. Subsections 601CK(5)-(6) only relate to where a registered foreign company is not required by the law of the place of its incorporation or formation to prepare a balance sheet, a profit or loss statement or a cash flow statement, so this requirement to use Australian Accounting Standards rather than CAAP should only have limited applicability.

An entity's GPFS cannot be a stand-alone GPFS for an Australian PE. However, the ATO guidance encourages separate measurement and disclosure for the entity's Australian PE in its GPFS.

A GPFS denominated in a currency other than Australian dollars does not need to be translated into Australian dollars.

The ATO guidance states that section 3CA does not apply to a registered foreign company that lodges a GPFS with ASIC within the time provided in subsection 319(3) of the Corporations Act (three months after the end of the financial year for a disclosing entity or registered scheme and four months for anyone else).

Subsection 601CK(1) requires a registered foreign company to lodge its financial statements in the form required by the law applicable to that company in its place of origin at least once in every calendar year and at intervals of not more than 15 months. This will not satisfy the SGE requirements. A registered foreign company that is an SGE will need to either:

- Lodge GPFS with ASIC within four months of the end of the income year;
- Lodge GPFS with ASIC later but before the due date for lodgement of its income tax return and notify the ATO; or
- Lodge GPFS with the ATO on or before the due date for lodgement of its income tax return.

If accounting standards applicable to the entity in its country do not describe a 'GPFS', the ATO guidance states it will accept that it has lodged a GPFS with ASIC if an appropriately qualified and independent person, such as its auditor, verifies those statements are in substance a GPFS. The entity does not need to provide the ATO with the verification, but needs to produce it upon request.

Single entity or consolidated financial statements?

Subsection 3CA(5)(b) provides an affected taxpayer with a choice if the entity is a member of an accounting consolidated group to prepare GPFS for either:

- the stand-alone entity, or
- a consolidated group, consisting of the entity and some or all of the other members of the group.

The following types of financial statements may be considered GPFS that could meet the requirements of the tax legislation:

Financial statements (GPFS)	Description
Consolidated	Consolidated financial statements include all of the entities that are controlled by an entity in accordance with AASB 10 <i>Consolidated Financial Statements</i> .
Separate	In separate financial statements, investments in subsidiaries, joint ventures and associates are measured at cost rather than being consolidated or equity accounted. Separate financial statements may be prepared under AASB 127 <i>Separate Financial Statements</i> in addition to consolidated financial statements. See below.
Individual	Individual financial statements are applicable for entities that do not have subsidiaries, but which would equity account for any investments in associates or joint ventures in accordance with AASB 128 <i>Investments in Associates and Joint Ventures</i> .
Combined	Combined financial statements include the results and financial position of Australian entities that are under common foreign ownership. For example, combined financial statements can be used where a foreign parent has multiple entry points into Australia, such as with a MEC group.

Separate financial statements can be prepared in two circumstances:

- 1 By a parent entity that does not present consolidated financial statements if it meets all the requirements of AASB 10.4(a); and
- 2 By a parent entity that also prepares consolidated financial statements if certain conditions are satisfied.

AASB 127 does not prohibit an entity that prepares consolidated financial statements from publishing its separate financial statements that comply with AASB 127 without also publishing its consolidated financial statements, provided that:

(a) the separate financial statements identify the consolidated financial statements prepared under AASB 10 to which they relate. In other words, they must specify the fact that the entity also prepares consolidated financial statements. This is commonly interpreted as also requiring disclosure of the source for obtaining the consolidated financial statements, for example, contact details of a person or an e-mail address from which a hard copy of the document can be obtained; or a website address where the consolidated financial statements can be found and downloaded.

(b) the consolidated financial statements must comply with AAS and have been prepared and approved no later than the date on which the separate financial statements have been approved. Therefore, it is not possible to publish the separate financial statements before the consolidated financial statements have been finalised.

This use of separate financial statements disclosure is required under RDR.

The requirement to also prepare consolidated financial statements and to disclose where these are available is likely to negate any potential benefits of separate financial statements.

Are the GPFS required to be audited?

No, there is no separate audit requirement under the tax legislation, although an audit may be required for other purposes such as under the Corporations Act.

The ATO guidance recommends that an entity should keep evidence to demonstrate that the GPFS has been prepared in accordance with AAS or CAAP (as applicable).

The paper further suggests that best practice is to have the GPFS audited as a way of ensuring the entity has reliable evidence available of the GPFS preparation.

Preparers of GPFS need to have internal processes that will ensure compliance with accounting standards. These processes could include appropriate evidence for a taxpayer to demonstrate that the GPFS have been prepared in accordance with AAS or CAAP.

The ATO guidance includes that, while section 3CA does not require a GPFS to be audited, if an entity is required to have its GPFS, or GPFS equivalent, audited under another law, the entity should give the ATO the audited version.

How does this requirement interact with ASIC lodgement relief?

The ATO guidance clarifies that exemptions or relief provided by the Corporations Act or ASIC class orders from the preparation, audit and/or lodgement of financial statements do not impact the requirements in the tax law amendments.

For example, a small proprietary company that is foreign controlled may receive relief from the requirements to prepare and lodge financial statements. However if the entity is part of a SGE and required to lodge an income tax return in Australia there will be a requirement for GPFS to be lodged with the ATO.

Forms of ASIC relief include:

- grandfathered large proprietary companies
- wholly-owned entities with a deed of cross guarantee (*ASIC Corporations (Wholly-owned Companies) Instrument 2016/785* – formerly ASIC CO 98/1418)
- small proprietary companies which are controlled by a foreign company but which are not part of a large group in Australia (*ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204* – formerly ASIC CO 98/98)
- proprietary companies receiving audit relief (*ASIC Corporations (Audit Relief) Instrument 2016/784* – formerly ASIC CO 98/1417).

Grandfathered large proprietary companies

The relief from lodgement of financial statements under the Corporations Act for grandfathered large proprietary companies does not extend to the tax law amendment if the company is a SGE and required to lodge an income tax return.

The ATO guidance confirms the requirement for the ATO to provide ASIC with a copy of the lodged GPFS. ASIC have indicated that any set of GPFS received from the ATO will be included on the ASIC public database.

Wholly-owned entities with a deed of cross guarantee

Any subsidiary member of a closed group where the company is a SGE and required to lodge an income tax return will be able to satisfy its obligations by the holding entity providing a GPFS to ASIC or the ATO.

Small proprietary companies which are controlled by a foreign company but which are not part of a large group in Australia

The company must give the ATO a GPFS prepared in accordance with Australian Accounting Standards.

Proprietary companies receiving audit relief

Under the tax law amendments a proprietary company receiving audit relief that is a SGE is required to lodge a set of GPFS with the ATO, which will provide a copy to ASIC. There is no audit requirement.

Can SPFS still be lodged with ASIC?

Yes. The tax law amendments do not impact any reporting requirements in the Corporations Act. It simply requires GPFS to be lodged with the income tax return when the taxpayer entity is affected by the tax law amendments.

However, companies may want to consider the additional cost in preparing an additional set of financial statements if affected by the tax law amendments.

Application of administrative penalties

If an entity fails to give a GPFS to the ATO in the approved form on or before the due date for lodgement of its income tax return, the entity will be liable to an administrative penalty. These penalties may apply irrespective of any penalty imposed under the Corporations Act.

Administrative penalties for SGEs, including failure to lodge on time (FTL) were increased from 1 July 2017. FTL penalties for SGEs were increased by at least a factor of 100. It is important for SGEs to be aware that failing to lodge on time after 1 July 2017 will result in significantly higher penalties especially where an entity has a history of late lodgements. The maximum FTL penalty for a SGE is currently \$525,000.

Glossary of terms used

Term	Abbreviation	Brief explanation
Annual global income		The annual income of a 'global parent entity' as shown in the latest 'global financial statements' (defined in section 960-565 of the ITAA 1997)
Commercially accepted principles relating to accounting	CAAP	Commercially accepted principles relating to accounting' have not been defined. The ATO guidance states that "International Financial Reporting Standards (IFRS) or accounting standards that are IFRS compliant such as Australian Accounting Standards, and also US generally accepted accounting principles (US GAAP), are globally recognised as CAAP. Where other accounting principles are used, whether they are CAAP is a question of fact. This can only be determined on a case-by-case basis. One consideration is whether such principles ensure that financial statements provide a true and fair view.
Corporate tax entity	CTE	Includes companies and other entities that are taxed like companies, e.g. corporate limited partnerships and public trading trusts. It also includes a foreign resident operating a permanent establishment in Australia.
Financial year most closely corresponding to the income year		<p>If an entity is subject to Chapter 2M of the Corporations Act 'financial year' in section 3CA means the financial year as defined in section 323D of that Act. This is usually a period of 12 months, not necessarily starting on 1 July.</p> <p>For all other corporate tax entities, their annual accounting period for the purposes of the preparation of financial statements is the 'financial year' for the purposes of section 3CA.</p> <p>The GPFS is for the 'financial year most closely corresponding to the income year' if it is prepared for the financial year most recently concluded on or before the end of the income year.</p>

General purpose financial statements	GPFS	<p>Financial statements intended to meet the information needs common to users who are unable to command the preparation of reports tailored so as to satisfy, specifically, all of their information needs. These statements include the following:</p> <ul style="list-style-type: none"> • Income statement (or statement of profit or loss and other comprehensive income) • Balance sheet (or statement of financial position) • Statement of cash flows • Statement of shareholders' equity • Accompanying disclosures. <p>They can be Tier 1 full general purpose or Tier 2 Reduced Disclosure Regime (RDR).</p>
Global financial statements		The most recent financial statements for a 'global parent entity' that have been prepared according to accounting principles and auditing principles, or, where accounting principles do not apply, commercially accepted principles related to accounting and auditing that ensure the financial statements give a true and fair view of the financial position and performance of that entity (defined in section 960-570 of the ITAA 1997)
Global parent entity	GPE	An entity that is not controlled by another entity according to accounting principles, or, where accounting principles do not apply in relation to the entity, 'commercially accepted principles related to accounting' (CAAP) (defined in section 960-560 of the ITAA 1997)
Income year		Income year has not been defined, but it is the period for which an Australian income tax return is prepared.
Multiple entry consolidated group	MEC	A group of Australian entities that are wholly foreign-owned and in a tax consolidated group and does not have a common Australian parent company
Permanent establishment	PE	A place in Australia at or through which a foreign entity carries on any business. PEs commonly include branches, offices, factories and other fixed business premises.
Reduced Disclosure Regime	RDR	Tier 2 general purpose financial statements (GPFS) that comply with all recognition, measurement and consolidation requirements of Australian Accounting Standards but have significantly reduced disclosures compared with Tier 1
Significant global entity	SGE	<p>An entity is an SGE for an income year if it is:</p> <ul style="list-style-type: none"> • a 'global parent entity' whose 'annual global income' is A\$1 billion or more; or • a member of a group of entities consolidated for accounting purposes where the 'global parent entity' has an annual global income of A\$1 billion or more (defined in section 960-555 of the ITAA 1997).

Further information

For further information on any of the information included in this Technical Accounting Alert, please get in touch with your local Grant Thornton Australia contact or a member of the National Audit Support Team at nationalaudit.support@au.gt.com.