



Technical Accounting Alert TA 2019-08

Update on the ATO requirements for the provision of general purpose financial statements (GPFS) by significant global entities (SGEs)

On 8 April 2019, the Australian Taxation Office (ATO) released its updated guidance on how SGEs will need to prepare and lodge GPFS under tax legislation. This provides long-awaited additional guidance to that which was previously issued by the ATO on 28 September 2017.

The changes to the 8 April 2019 updated ATO guidance seek to:

- clarify the requirements and options available for entities with Corporations Act 2001 financial reporting obligations that are or are not a member of a group of entities;
- in particular, clarify the obligations for foreign controlled small proprietary companies;
- expand on what accounting principles the ATO considers to be commercially accepted accounting principles (CAAP);
- explain what the ATO means by 'effective consolidation or aggregation of the operations of a multiple entry consolidated (MEC) group' and provide a further explanation in respect of financial statements that are compiled under a compilation engagement;
- clarify what the ATO means by 'financial year most closely corresponding to the income year';
- clarify what a GPFS is where a foreign resident conducts a business through an Australian permanent establishment (PE); and
- make it clear that the GPFS provided to the ATO needs to be in English.

Grant Thornton Australia previously issued TA Alert 2017-08 which included a detailed summary of the ATO requirements based on the ATO guidance of 28 September 2017.

We have not repeated detailed content from our previous TA Alert here, but the following is a high level summary of the relevant tax law amendments.

Summary of SGE tax law amendments

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* to require corporate tax entities that are SGEs to prepare and lodge GPFS with the ATO if they do not already lodge their GPFS with the Australian Securities and Investments Commission (ASIC). These GPFS 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.

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.

The obligation to give the ATO a GPFS applies regardless of whether a SGE is a 'reporting entity' under Australian Accounting Standards.

Any relief or exclusion provided under the Corporations Act or by ASIC in relation to a SGE's obligation to prepare or lodge financial reports does not affect its obligation to give the ATO a GPFS. This includes:

- grandfathered large proprietary companies relieved from lodging financial reports under the Corporations Act; and
- foreign controlled small proprietary companies with financial reporting relief under *ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204*.

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.

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

- a global parent entity 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.

Main changes included in updated ATO guidance

The more significant changes in the 8 April 2019 updated ATO guidance are summarised as follows.

Obligations for foreign controlled small proprietary companies

The updated ATO guidance clarifies that a small proprietary company controlled by a foreign company that is not part of a large group and is relieved from preparing financial reports by ASIC under *ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204* must provide the ATO with a GPFS prepared in accordance with either Australian Accounting Standards or other commercially accepted accounting principles (CAAP).

What accounting principles the ATO considers to be commercially accepted accounting principles

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 (meaning Australian Accounting Standards), or
- if accounting principles do not apply in relation to the entity, CAAP.



The updated ATO guidance has attempted to clarify what is considered to be CAAP.

It explains that the ATO will accept the following accounting standards as CAAP for the purposes of subparagraph 3CA(5)(a)(ii):

- International Financial Reporting Standards (IFRS)
- Accounting standards that are IFRS compliant as published on IFRS.org (such as Australian Accounting Standards or IFRS as adopted by the European Union)
- US generally accepted accounting principles (US GAAP)

The ATO guidance further states that where the accounting standards listed above do not apply in an entity's circumstances, the principles and guidance provided in paragraphs A8, and paragraphs 3 and 4 of Appendix 2 of the Australian Auditing Standard ASA 210 *Agreeing the Terms of Audit Engagements* will assist in determining whether the accounting standard that has been applied to prepare the GPFS is acceptable as CAAP.

ASA 210 outlines that financial reporting standards established by organisations that are authorised or recognised to promulgate standards in the local jurisdiction are presumed to be acceptable as GPFS provided the organisation follows an established and transparent standard setting process involving deliberation and consideration of the views of a wide range of stakeholders.

What the ATO means by 'financial year most closely corresponding to the income year'

The main ATO guidance on financial years is unchanged, but the update has added two examples.

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.

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.

The examples both address situations where a company has an extended financial year of longer than 12 months.

Foreign resident conducting a business through a permanent establishment

The updated ATO guidance clarifies that where a foreign resident conducts a business through an Australian permanent establishment (PE), the GPFS can be a stand-alone GPFS for the entity (which includes the Australian PE) or for the group or part of the group of which the entity (which includes the Australian PE) is a member.

The requirement that the GPFS cannot be stand-alone for only the Australian PE remains unchanged.

The GPFS provided to the ATO needs to be in English

The updated ATO guidance clarifies that the GPFS must be in English, or be an English language translation if the GPFS has not been prepared in English.

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 Assurance Quality team at national.assurance.quality@au.gt.com.