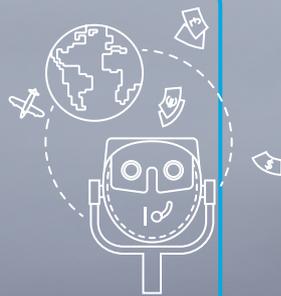


Financial INSIGHT

Added value through ideas and insight



New requirements for significant global entities to prepare general purpose financial statements

Recent guidance from the ATO has clarified the effect of changes made last year to Section 3CA of the Tax Administration Act 1953. The legislation introduced additional reporting requirements for some Australian entities, and for some foreign entities carrying on business in Australia.

The aim of the legislation is to improve tax transparency for certain multinational entities and large privately owned organisations, by requiring them to lodge general purpose financial statements ("GPFS").

The changes come into effect for tax income years starting on or after 1 July 2016. Where there is a difference between the tax income year and the financial reporting year end, the rule applies to the financial year most closely corresponding to the relevant income year.

Section 3CA is a financial transparency measure. It operates entirely independently of the tax transparency measures, such as Country by Country reports, the International Dealings Schedule, or transfer pricing documentation.

The new financial reporting requirements are in addition to the financial reporting and audit requirements of the Corporations Act 2001. All existing Corporations Act reporting requirements remain in place. The ATO continues to carry out a consultation process in respect of the implementation of this legislation, and therefore further guidance may be issued in future.

WHO HAS TO LODGE FINANCIAL STATEMENTS?

The changes affect any entity resident for tax purposes in Australia, which is part of a Significant Global Entity ("SGE"). A SGE is a group of entities consolidated for accounting purposes with annual global revenue and other income of over A\$1bn.

It's important to note that the size of the taxpaying Australian entity is not relevant to this determination. Significant global entity status is assessed based on the total global income of the group that the Australian entity belongs to. Therefore, even a small Australian entity that is part of a large global group may be considered a SGE.

The requirement in the Tax Administration Act is that GPFS are lodged by SGEs. For those entities that already lodge GPFS with ASIC, there are no additional reporting requirements. For entities that either currently lodge special purpose financial statements with ASIC, or do not lodge at all, as they are subject to one of the reliefs available under the Corporations Act or ASIC Class Orders, they will now have to lodge GPFS with either ASIC or the ATO. Any reliefs or exemptions previously available do not apply to Section 3CA – all SGEs must lodge GPFS.

The reporting requirements set out by the ATO are:

Corporate tax entity	Requirement to lodge GPFS
SGEs currently lodging GPFS with ASIC	No action necessary
SGEs lodging special purpose financial statements with ASIC	Either lodge GPFS with ASIC, or lodge special purpose financial statements with ASIC and GPFS with the ATO
SGEs under the Corporations Act who are exempt from lodging financial statements with ASIC	Either lodge GPFS with ASIC, or lodge GPFS with the ATO
Entities not subject to the Corporations Act, for example corporate limited partnerships, or foreign resident companies	Lodge GPFS with the ATO

EXAMPLE ONE

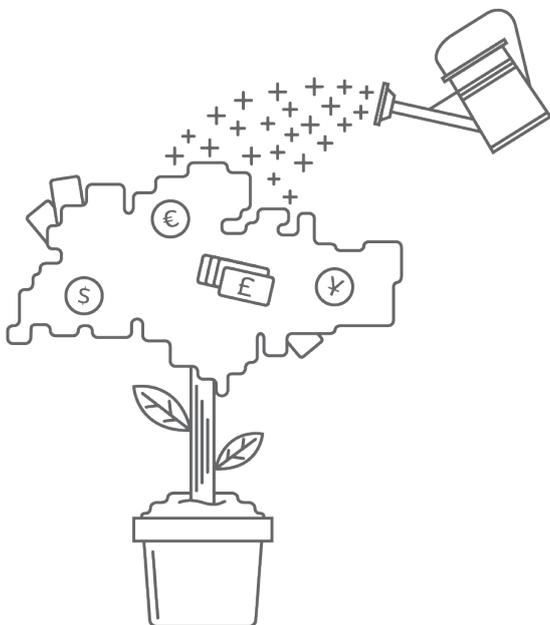
Family Pty Ltd is a large privately owned Australian company with several subsidiaries in Australia, and in other countries. Together, these subsidiaries have consolidated revenue of \$1.5bn. Family Pty Ltd previously lodged special purpose financial statements with ASIC, and therefore did not consolidate its subsidiaries.

Family Pty Ltd is an SGE, and therefore will have to lodge GPFS with ASIC or the ATO for the year ending 30 June 2017 and subsequent year-ends. It can prepare a single set of consolidated financial statements, which may be lodged by each of its Australian subsidiaries to meet the requirements of Section 3CA.

EXAMPLE TWO

XYZ Pty Ltd is an Australian proprietary company with revenue of A\$50m. It has previously lodged special purpose financial statements with ASIC. It is 100% owned by Hedgie Pte Ltd, a Singapore based private equity fund. Hedgie Pte Ltd prepares IFRS financial statements, but does not consolidate XYZ Pty Ltd, as it takes advantage of the exemption for investment entities under IFRS 10.

Since XYZ Pty Ltd is not consolidated for accounting purposes, it is not an SGE, and therefore there is no requirement to lodge GPFS with ASIC or the ATO. It may continue to lodge SPFS.



WHAT DO THEY HAVE TO LODGE?

For entities with an obligation to prepare reports under the Corporations Act, any GPFS provided to the ATO must be in accordance with Australian Accounting Standards. For entities which are not publicly accountable, they can be either Tier 1 (full disclosure) or Tier 2 (Reduced Disclosure Regime).

Entities which have no obligation to prepare reports under the Corporations Act may use either Australian Accounting Standards, or "Commercially Accepted Accounting Principles" ("CAAP"). What is CAAP is not defined in the legislation itself. The ATO have indicated that both IFRS and US GAAP would be considered CAAP. While not explicitly stated, it therefore also appears reasonable to assume that other major GAAP bases, such as UK GAAP, Japanese GAAP or Canadian GAAP would also be considered CAAP. The ATO is expected to issue further guidance on this area in future.

Where GPFS are prepared in a foreign currency, they do not need to be converted into AUD.

WHAT ABOUT GROUPS OF COMPANIES?

Where an Australian company has subsidiary companies (whether inside or outside Australia), it will be necessary to comply with Australian Accounting Standards in preparing their GPFS. This includes applying the requirements of AASB 10 Consolidated Financial Statements, and therefore preparing consolidated financial statements including the results of all entities that the parent entity controls.

These consolidated financial statements may then be submitted to the ATO on behalf of all Australian entities within the consolidated group – there is no need for an individual GPFS for each subsidiary. However, each company, or tax consolidated group of companies, will be required to lodge these GPFS when they submit their income tax returns. Special rules apply when an entity joins or leaves a tax consolidated group during the year.

Many Australian proprietary entities incorporated under the Corporations Act 2001 may be an SGE as a result of being a subsidiary of a large multinational entity. In such instances, the Australian entity may either:

- Prepare their own GPFS (including a sub-consolidation of any entities controlled by the Australian entity)
- Provide the ATO with consolidated GPFS prepared by the ultimate parent entity, as long as those GPFS are prepared in accordance with Australian Accounting Standards, and explicitly state this fact.

As part of the transitional arrangements, the requirement for the foreign parent entity accounts to comply with Australian Accounting Standards is waived for the year ended 30 June 2017 only, as long as they comply with other Commonly Accepted Accounting Principles. In future years, either the foreign parent entity will have to prepare a set of accounts explicitly complying with Australian Accounting Standards, or the Australian entity will need to prepare its own GPFS.

EXAMPLE THREE

AusCo Pty Ltd is an Australian proprietary company with revenue of A\$15m. It has previously lodged special purpose financial statements with ASIC. It is 100% owned by BigCo Inc, a company listed on the New York Stock Exchange, with global revenue of A\$7bn, which prepares consolidated financial statements in accordance with US GAAP.

AusCo Pty Ltd is an SGE, and must therefore lodge GPFS with ASIC. For the year ended 30 June 2017, it may lodge a copy of the consolidated financial US GAAP statements of BigCo Inc, in accordance with the transitional provisions. However, for years ended 30 June 2018 onwards, AusCo Pty Ltd will have to lodge its own GPFS prepared in accordance with Australian Accounting Standards. It will be eligible to lodge Tier 2 Reduced Disclosure Regime GPFS.

EXAMPLE FOUR

BritCo Ltd is a UK privately owned company which carries out business in Australia through Permanent Establishment. It prepares and files financial statements in the UK in accordance with UK GAAP, and also lodges these financial statements with ASIC under Section 601CK of the Corporations Act 2001.

Since Britco Ltd is not incorporated under the Corporations Act 2001, there is no requirement to prepare GPFS in accordance with Australian Accounting Standards. It may instead lodge its UK GAAP financial statements with the ATO, as these are considered to be in accordance with Commonly Accepted Accounting Practice ("CAAP")

The ATO recommends that, in this situation, the financial statements lodged should include additional disclosure to reflect the stand-alone performance of the Australian operations.

WHAT IS THE DEADLINE FOR FILING WITH THE ATO?

For entities that have not already filed GPFS with ASIC, they must provide GPFS to the ATO on or before the day that the income tax return is required to be lodged.

As part of the transitional arrangements, for the year ended 30 June 2017, the deadline for lodgement of GPFS has been extended until 31 March 2018.

DO THE FINANCIAL STATEMENTS HAVE TO BE AUDITED?

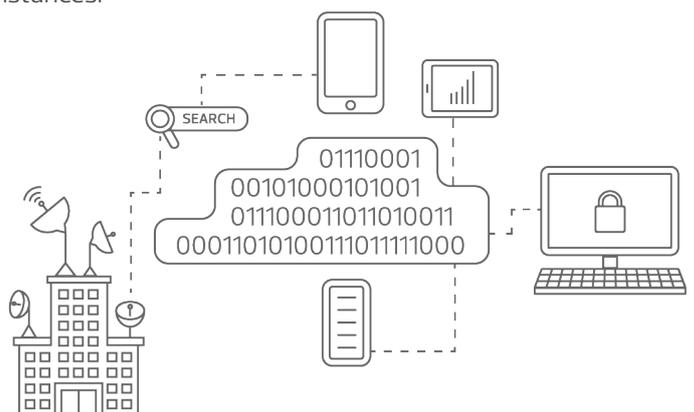
There is no requirement for any financial statements lodged under Section 3CA to be audited. However, there is a requirement for them to comply with Australian Accounting Standards, or, in some circumstances, CAAP. If they are not audited, the directors will need to consider how else they have assurance that these requirements have been complied with.

There is no change to the audit requirements under the Corporations Act. Entities which are currently audited under this Act will need to continue to do so.

WHAT IS THE PENALTY FOR NON-COMPLIANCE?

The penalties for non-compliance with Section 3CA are in addition to those in the Corporations Act. An SGE entity that fails to lodge accounts may therefore be subject to two separate penalties – one under each Act.

Furthermore, the maximum penalties for non-lodgement by SGEs have been increased by a factor of 500 over those for non-SGEs, and can therefore be as high as \$525,000 in some instances.



For further information, please contact Ralph Martin or your local RSM practitioner.

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