

LODGEMENT OF GENERAL PURPOSE FINANCIAL STATEMENTS WITH THE AUSTRALIAN TAXATION OFFICE

LIVE CHAT: QUESTIONS AND ANSWERS

INTRODUCTION

In June 2017, a new requirement came into force requiring significant global entities (SGEs) to lodge general purpose financial statements (GPFS) with the Australian Taxation Office (ATO) in certain circumstances. While the impact of these requirements on large multinationals with a presence in Australia will be great, they could also affect small to medium entities (SMEs) and their advisors.

The ATO has developed draft guidance on how to interpret the statutory requirements, but questions still remain.

A recent live chat provided members with the opportunity to ask questions about these statutory requirements and the ATO guidance on how to apply the requirements.

The experts were:

- Peter Kidd, Director, Financial Reporting Advisory, Grant Thornton
- Siva Sivanantham, Director, Financial Reporting Advisory, Grant Thornton
- Ram Subramanian, Policy Adviser, Reporting CPA Australia

PRIMARY RESOURCES

- [ATO guidance on lodgment of GPFS](#)
- [Grant Thornton Technical Alert on lodgment of GPFS with ATO](#)
- [CPA Australia podcast – requirement to lodge GPFS with ATO](#)

BE HEARD.
BE RECOGNISED.



DISCLAIMER

The themes and content in today's live chat are a general guide and not intended to be specific to your circumstances. It is not possible to provide a complete suite of answers that addresses all possible circumstances that may exist. We recommend that attendees seek individual expert advice to address their specific scenarios.

QUESTIONS AND ANSWERS

Could I ask how could the requirements for 'Significant Global Entities' (SGEs) to lodge General Purpose Financial Statements (GPFS) with the ATO be relevant for smaller accounting practices?

Smaller accounting practices are likely to have smaller company clients that are owned by large foreign companies and may be SGEs as a consequence.

When are these [GPFS] due to the ATO?

The date that the tax return is due for lodgement, however, for the first financial year an automatic extension is available until 4 April 2018.

If GPFS has been lodged with the Australian Securities and Investments Commission (ASIC), nothing needs to be provided to the ATO. If the GPFS is lodged later than the ASIC deadlines, the ATO should be advised that the GPFS has been lodged with ASIC.

And what are the potential consequences of an SGE not lodging their GPFS or being late on the lodgement of an activity statement? Is it different to other taxpayers?

Being late for lodgement could be treated the same as non-compliance with the requirements, by the ATO. Non-compliance with the requirements could give rise to potential penalties which could be very significant. The maximum financial penalty for non-compliance is currently \$525k.

Our financial year ended on 30 Sep 2017, our tax return is due in mid-Apr 2018. Do we still get an extension and till when?

No extension is available if your tax return deadline is later than 4 April 2018.

How are these different to the general purpose financial statements that we need to prepare for ASIC?

If GPFS has been lodged with ASIC, nothing needs to be provided to the ATO. If the GPFS is lodged later than the ASIC deadlines, the ATO should be advised that the GPFS has been lodged with ASIC.

What is the due date for entities that have a substitute accounting period - that is, their end of financial year is different to 30 June?

The date that the entity's tax return is due for lodgement or 4 April 2018, whichever is the later.

Will the rules apply to partnerships and trusts, and if so, will the large accounting firms have to lodge their financial statements?

It will depend on whether they meet the definition of corporate tax entity and also meet the definition of a Significant Global Entity under the statutory provisions. So, yes the rules could apply to a partnership or trust that meets the definition of a corporate tax entity that is also an SGE. for definition of corporate tax entity, see the Income Tax Assessment Act 1997, s960.115.

In December last year, the ATO issued a compendium of queries and outstanding issues relating to the ATO's draft guidance on lodging GPFS with the ATO. The compendium indicates that a number of matters raised by stakeholders and included in the compendium are currently under consideration and will be clarified in guidance. Are you able to provide an indication as to when the updated guidance will be published?

The ATO has indicated that they hope to publish an initial update to the GPFS guidance by the end of March 2018 which will cover some of the issues raised in the compendium. According to the ATO, other issues will be addressed in later updates.

I am trying to understand the definition of the \$1 billion consolidated revenue with an overseas parent. What if the parent does not prepare statutory consolidated financial statements overseas. Is the \$1 billion consolidated revenue test still applied to them?

The test is AUD\$1 billion annual global income in the global parent's latest annual financial statements. Income is broader than revenue and includes items such as gain on sale of assets. The ATO guidance is not totally clear where the global financial statements are not prepared in accordance with IFRS or US GAAP, but should be based on financial statements that give a true and fair view of the financial performance of the global parent.

What should my small Australian entity do if it thinks it is possible it is a SGE, but cannot obtain data due to an uncooperative / disinterested overseas parent?

The requirements are quite specific and the ATO has also put out draft interpretative guidance on top. So, you would have to find a way to get the information needed to comply with the requirements. Difficulty in ability to obtain the data is unlikely to qualify as a valid justification for non-compliance.

Does the ATO require the GPFR to be audited?

No, there is no specific audit requirement. However, the ATO guidance suggests that audit would be desirable method of ensuring that the GPFS satisfies the necessary requirements.

I understand that all these additional GPFSs will be publicly available. Where do I go to access them?

All the GPFS lodged with the ATO will be passed on to ASIC and ASIC will place on public record. So you would be able to access these GPFS from the ASIC public register for financial reports.

I have an overseas parent based in Europe. While they use IFRS, the European Union has modified their version of IFRS slightly, so they cannot claim compliance with IFRS as issued by the IASB. Does IFRS as issued by the EU comply with the ATO's view of IFRS? A similar issue would arise for some Asian parents.

IFRS as applied in the European Union is acceptable as IFRS. The version of accounting standards in a particular Asian country would need to be reviewed to determine how close it is to IFRS. While the position with some Asian countries will not be clear cut, a reasonable judgement will need to be made on whether they are sufficiently close to IFRS to satisfy the ATO requirements.

A lodgement concession is available if an SGE's income tax year ended on 30 June 2017. Issue no. 16 in the ATO compendium of responses to issues states: "A lodgement concession is available if your income tax year ended on 30 June 2017." to: "A lodgement concession is available for your income year that commenced between 1 July 2016 and 30 June 2017." It would be helpful if the guidance clarifies what concession is available for an entity with a year ended later than 30 June 2017. For example, for a 31 December 2017 year end, our understanding is that the income tax return is due for lodgement by 15 July 2018. Therefore a lodgement concession would need to be later than 15 July 2018. Can you clarify whether this is going to be the case?

We have put this question to the ATO and they have provided the following response:

The GPFS guidance will clarify that the lodgement concession applies to income years where the due date for lodgement of the income tax return for the 2017 income year (or substituted accounting period in lieu of that income year) is before 4 April 2018. Taxpayers in that situation have until 4 April 2018 to lodge a GPFS. If the lodgement due date is after 4 April 2018, that lodgement date still applies.

The ATO view is that the consolidation test in subsection 960-555(2) of the ITAA 1997 on whether an entity is an SGE is a test applied to the last day of the period for which the consolidated accounts are prepared. The entity is consolidated to both the P&L and the balance sheet if it is a member on that day.

Will access to financial reports require payment of a fee to ASIC? Will CPA Australia request that ASIC publish the extent of public usage of these lodged reports to support future cost/benefit analysis of this additional regulatory burden?

We expect the normal fee applicable for obtaining financial information from ASIC would apply. There has been no indication that there would be a concession in these circumstances.

I have a group of 10 companies in a tax consolidated group. Some companies prepare and lodge financials with ASIC and some do not. For those not currently lodging, will each company have to lodge GPFS financial statements with the tax office?

The only one of these companies that has a GPFS obligation to the ATO is the head entity in the tax consolidated group because it is the only one required to lodge a tax return.

I have a group of 5 companies under an ASIC wholly-owned subsidiary class order. They are not part of a tax corporate group, so each is a separate corporate tax entity. Will each subsidiary have to prepare their own GPFS, or will the consolidated financials prepared by the Australian parent (as part of the class order which are RDR) be sufficient?

The financial statements of the Australia parent will be satisfactory to satisfy each of the five companies GPFS obligation.

Will financial statements prepared using Reduced Disclosure Requirements be acceptable to the ATO as a GPFS?

Yes.

The applicability of the requirements is not clear where an Australian company has a different year end to a foreign parent and the entity becomes controlled by that foreign parent after the foreign parent's year end. For example, an Australian company's first obligation to lodge GPFS with the ATO is its 30 June 2017 year-end. It becomes controlled by a foreign parent with a December year-end in March 2017 and the foreign parent's global financial statements for December 2016 indicate income exceeding A\$1 billion. Notwithstanding that the Australian company is part of a group that will be consolidated for accounting purposes at 31 December 2017, it could be held that the Australian company is not an SGE for June 2017 because it has not been consolidated for accounting purposes in global financial statements at that time. What would the interpretation of the statutory requirement be in this case?

This is another question we put to the ATO and they have clarified the situation applicable to the scenario you have set out:

In the scenario you have outlined that day is 31 December 2017. Notwithstanding that being consolidated on that day will cause the entity to be an SGE for the period of its consolidation, until that day arrives the entity is not yet an SGE and cannot be determined to be an SGE. Separately, subsection 3CA(1) of the TAA describes a condition for the GPFS obligation: if the entity is an SGE "for the income year". The ATO view is that this test is also applied on the last day of the income year, which in the scenario described is 30 June 2017 for the entity.

This view underpins the ATO position taken in Examples 5 and 6 in their draft GPFS guidance. On 30 June 2017 the entity is not an SGE. It's true that at a later time it will become an SGE for a period that includes that day, but that should not retrospectively activate the status of being an SGE for the income year of the Australian company. So it appears a logical conclusion that the Australian company is not an SGE for June 2017 because it has not been consolidated for accounting purposes at that time.

Given this measure has already commenced and the ATO has yet to finalise its guidance, has the ATO indicated that it will take an educative approach to the enforcement of this legislation in the first few years (that is, not applying penalties for late lodgement in most circumstances)?

While the ATO has indicated that they're likely to provide further education material, we are not aware of anything that suggests that they will take a softer approach because of this.

The ATO is currently accepting RDR [financial statements prepared applying Reduced Disclosure Requirements (RDR) Australian Accounting Standards] as sufficient for GPFS, which is very good. The AASB recently issued proposed amendments under ED277 [Exposure Draft 277 Reduced Disclosure Requirements for Tier 2 Entities] that would seem to reduce the minimum required to be disclosed under RDR. Has the ATO indicated whether financials prepared under these reduced disclosures (as proposed under ED277) still be sufficient? I note that the Australian Accounting Standards Board (AASB) has indicated they are thinking more about the proposed changes.

Whilst the proposed changes through ED 277 are yet to be finalised, there does not seem to be any reason why these should not be acceptable for these purposes.

From a policy perspective, do you believe that this measure will improve tax transparency? Would there be alternative approaches that would better achieve improved transparency?

There can be some positives arising, for example where large Australian corporates that have not previously publicly lodged GPFS are now required to do so. However, a more comprehensive solution could have been possible, CPA Australia in its submissions on this initiative had suggested that a more comprehensive solution to this could have been achieved through the Corporations Act provisions for financial reporting.

For more information, see our submission in response to the consultation on this topic [here](#).

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 of preparing an additional set of financial statements if affected by the tax law amendments.

FURTHER INFORMATION

For help or to suggest other topics for live online chats please email livechats@cpaustralia.com.au

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