



ATO provision of general purpose financial statements

April 2019

KPMG.com.au



About this publication

Purpose and basis

In December 2015 tax law amendments were enacted requiring significant global entities (SGEs) to provide the ATO general purpose financial statements (GPFS) at the time they lodge a tax return, if the entity does not already lodge GPFS with ASIC within required deadlines. The amendment applied for income years beginning 1 July 2016 – so impacts 30 June 2017 reporting dates.

This publication is based on the following:

- Tax Law Amendment (Combating Multinational Tax Avoidance) Act 2015 as enacted in December 2015
- ATO guidance, issued on 28 September 2017, on the GPFS measures for certain SGEs
- further ATO web guidance, issued on 8 April 2019, resulting from feedback from various stakeholders on application of the tax law amendments.

The publication represents KPMG's views based on information current at 8 April 2019.

We have developed a guide to assist you in understanding the impact of the web guidance issued by the ATO. The KPMG guide provides information on the issues identified in complying with the tax law amendments and includes a number of illustrative examples of the options available to entities.

KPMG comment

"While we support the need for transparency in relation to a company's taxation matters we suggest that it could be achieved by alternative means and with more certainty around revisiting reporting requirements for the business community through amending the Corporations Act.

Specifically we would encourage progressing the Treasury/AASB project around companies financial reporting requirements".

Michael Voogt, Director
Department of Professional Practice

Abbreviations

The following abbreviations are used throughout this guide.

AASB	Australian Accounting Standards
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
CAAP	Commercially accepted principles relating to accounting
Corps Act	<i>Corporations Act 2001</i>
GPE	Global Parent Entity
GPFS	General Purpose Financial Statements
IFRS	International Accounting Standards
ITAA 1997	Income Tax Assessment Act 1997
MEC	Multiple Entry Consolidated group
SGE	Significant Global Entity
SPFS	Special Purpose Financial Statements
TAA 1953	<i>Tax Administration Act 1953</i>

Acknowledgments

We would like to acknowledge the principal contributors and reviewers of this guide, who include:

Alok Gulati

Jenny Wong

Julie Locke

Matthew Hayes

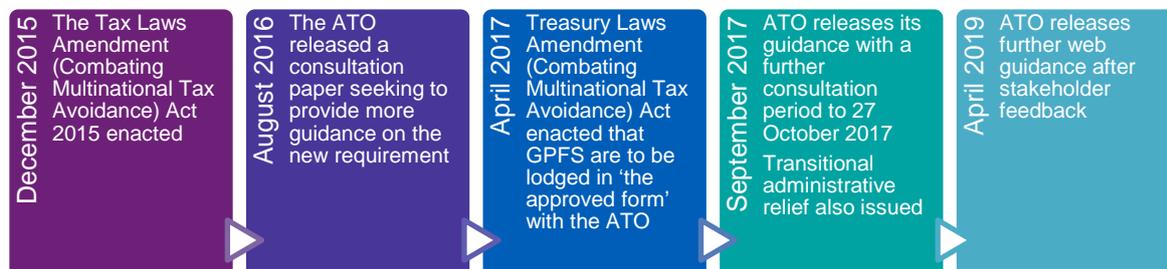
Michael Voogt

Contents

1 - Introduction.....	4
2 - GPFS choices available.....	8
3 - Frequently asked questions (FAQs).....	21
4 - Issues which would benefit from further clarification.....	31
5 - Lodgement with ATO.....	33
6 - Illustrative examples.....	34
7 - Join or leave tax/MEC group.....	68
8 - Extracts of law.....	73

1. Introduction

The story so far



In 2015 the ATO issued the Treasury Laws Amendment (Combating Multinational Tax Avoidance) Act. The amendment applied for income years beginning 1 July 2016 – so impacts 30 June 2017 and later reporting dates.

Following issues with the above tax law amendments the ATO has released two instalments of additional guidance. Both sets of guidance provide ATO views on practical issues encountered by various stakeholders when seeking to satisfy this GPFS regime.

The April 2019 web guidance seeks to:

- clarify the requirements and options available when determining whether the GPFS are for the taxpayer who may or may not be a member of a group of entities
- clarify which ATO scenario foreign controlled small proprietary companies fall into
- expand on what accounting principles the ATO considers to be CAAP
- provide further guidance for MEC groups around consolidation, aggregated or combined financial statements
- clarify the term 'financial year most closely corresponding to the income year'.

The guidance in September 2017 also announced some initial measures which impacted the first year (30 June 2017) of operation. They have no impact on subsequent years.

No further formal consultation period has been announced by the ATO following the release of the April 2019 additional web guidance.

Who will be most impacted?

The entities most impacted by the tax law amendments will be the following types of SGE (i.e. income of A\$1 billion or more) corporate taxpayers:

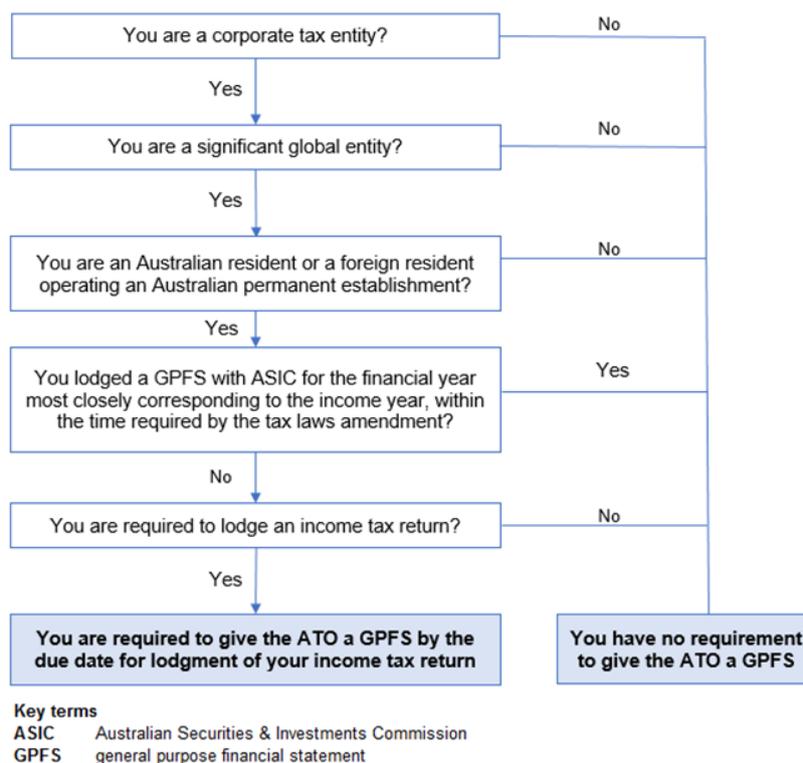
- foreign owned companies that are currently preparing and lodging SPFS with ASIC
- foreign owned companies that are small proprietary companies which are not currently preparing financial reports under the Corps Act (as they are not part of a large group)
- locally owned companies that are currently preparing and lodging SPFS with ASIC
- companies which currently receive ASIC relief from preparation and/or lodgement of financial statements – for example, grandfathered (exempt) proprietary companies or groups with deeds of cross guarantee in place.

Companies that are impacted by the tax law amendments should consider how to best satisfy the GPFS requirements under the options available. The requirements may require additional information to be collected and presented in financial statements. This will likely involve significant additional time and cost.

Summary of the tax law amendments

The Tax Laws Amendment (Combating Multinational Tax Avoidance) Act 2015 amended the tax legislation to require certain entities to prepare and lodge GPFS with the ATO at the time it lodges its tax return. These GPFS will be provided by the ATO to ASIC.

The following decision tree provides an overview on assessing the potential impact on an entity.



An entity is a corporate tax entity if it is a company, corporate limited partnership or public trading trust (as defined in the income tax law).

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
- a member of a group of entities consolidated for accounting purposes and one of the other group members is a global parent entity with an annual global (consolidated) income of A\$1 billion or more.

The ATO has also clarified the following points where an entity is required to give the ATO GPFS:

- an entity must provide a GPFS regardless of whether they are a reporting entity under Australian accounting standards
- an entity is considered to have lodged a GPFS with ASIC if it is lodged with an eligible financial market – for example, ASX

- any relief or exclusion provided under the Corps Act or by ASIC in relation to your obligation to prepare or lodge financial reports does not affect the entity's obligation to provide a GPFS to the ATO – for example, grandfathered large proprietary companies relieved from lodging financial reports under the Corps Act.

An entity is not impacted by the requirement to lodge GPFS if it is not required to lodge an income tax return – for example:

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

Impact of ATO guidance on SGE corporate tax entities

The guidance outlines the following impacts of Section 3CA of the tax law amendments.

SGE corporate tax entity	ATO requirements – Section 3CA
<p>Scenario 1</p> <p>If the entity is an Australian resident for tax purposes and lodges GPFS with ASIC within the stipulated time.</p> <p>If the entity is a subsidiary member of an Australian tax consolidated group or a MEC group, except where the entity enters or leaves that group part-way through the income year.</p>	<p>None.</p>
<p>Scenario 2</p> <p>If the entity is an Australian resident for tax purposes and:</p> <ul style="list-style-type: none"> • the entity is required to lodge a GPFS with ASIC, but has not done so, or • the entity lodges SPFS with ASIC, or • the entity is required to prepare, but not lodge financial reports with ASIC (for example, grandfathered large proprietary companies), or • the entity is otherwise relieved from preparing financial reports for ASIC purposes because your parent lodges consolidated financial statements prepared in accordance with AASBs (for example some deeds of cross guarantee arrangements). 	<p>A form of GPFS (individual[^], separate[^] or consolidated) prepared in accordance with AASBs.</p>

SGE corporate tax entity	ATO requirements – Section 3CA
<p>Scenario 3</p> <p>If the entity is an Australian resident for tax purposes and you are:</p> <ul style="list-style-type: none"> not subject to the Corps Act (for example corporate limited partnerships), or not subject to Part 2M.3 of the Corps Act (for example, certain small proprietary companies), or otherwise relieved from preparing financial reports by ASIC because you are a small proprietary company controlled by a foreign company that is not part of a large group, or otherwise relieved from preparing financial reports by ASIC because your foreign parent lodges consolidated financial statements with ASIC, which are prepared in accordance with accounting standards applicable in their home country (for example, a deed of cross guarantee where the holding entity is a registered foreign company). 	<p>A form of GPFS (individual[^], separate[^] or consolidated) prepared in accordance with AASBs or other commercially accepted accounting principles (CAAP) – see What is CAAP? for further discussion</p>
<p>Scenario 4</p> <p>If the entity is a foreign resident operating a permanent establishment in Australia and the entity has not already lodged GPFS with ASIC (for example, a registered foreign company conducting a business through an Australian branch).</p>	<p>A form of GPFS (individual[^], separate[^] or consolidated) prepared in accordance with CAAP – depending on the circumstances.</p>

[^] Individual and separate financials statements are collectively referred to as stand-alone financial statements in the ATO guidance

ATO best practice

The ATO guidance also refers to best practice options (which may be in addition to the requirements of the enacted legislation) and encourages the taxpayer to elect the best practice option in order to promote tax transparency. In most circumstances other options will generally be available and will still comply with the enacted legislation.

For example, a taxpayer may have a choice of providing GPFS for the parent entity only or a consolidated GPFS. In determining which option to adopt, the ATO suggests that a taxpayer should take into account how each option would best contribute to transparency of its Australian tax affairs, i.e. prepare consolidated GPFS.

ATO best practice is discussed further in [Chapter 2](#). In addition, the illustrative examples set out in this guide demonstrate the options available to a taxpayer, impacted by the tax law amendments, and the impact of ATO best practice.

2. GPFS - choices available

The following issues are considered in this chapter:

- [What are GPFS?](#)
- [Who has an obligation to lodge GPFS with the ATO?](#)
- [Basis of preparation for a GPFS?](#)
- [Some financial reporting concepts explained](#)
- [Options re GPFS to be lodged](#)
- [Some common examples](#)
 - [Australian group with tax consolidation](#)
 - [Overseas owned MEC group](#)
 - [Overseas owned Australian group](#)
- [ASIC financial reporting relief](#)
- [What is CAAP?](#)
- [Foreign resident conducting a business through a permanent establishment \(PE\)](#)
- [ATO best practice](#)

What are GPFS?

The term is defined both in Australian accounting standards and International accounting standards.

In both Australian and International accounting standards GPFS are defined as financial statements that are intended to meet the needs of users who are not in a position to require an entity to prepare reports tailored to their particular information needs. AASB 1053 *Application of Tiers of Australian Accounting Standards* discusses the types (or tiers) of GPFS in Australia.

The term is not defined in the US framework – rather reference is made to financial statements prepared in accordance with accounting principles generally accepted in the United States, or US GAAP. Practically this produces an outcome that is not dissimilar to the principle behind Tier 1 financial statements prepared under AASB 1053 (albeit US GAAP is different from Australian accounting standards).

The combined ATO guidance states:

- GPFS should be based on recognition and measurement criteria that faithfully represent the entity's financial position, financial performance and cash flows.
- It should provide information about those matters that is useful to a wide range of users in making economic decisions.
- It should also show the results of the management's stewardship of the resources entrusted to it.

KPMG comment

Whether an entity's financial statements are GPFS or not can only be determined on a case-by-case basis.

Based on the above discussion it is our view that the term is widely understood in many jurisdictions around the accounting world.

Who has an obligation to lodge GPFS with the ATO?

The tax legislation requires each affected taxpayer to lodge GPFS with the ATO.

This means if there are multiple taxpayers within the one accounting consolidated group, then each entity that is an affected taxpayer may well have to lodge a GPFS to fulfil its obligations under the legislation. As consolidated GPFS must include the taxpayer, in practical terms, this could mean that the same set of consolidated financial statements is lodged separately by multiple taxpayers that are subsidiaries in the same accounting consolidated group.

Further, where consolidated GPFS have been lodged with ASIC by another entity in the accounting group that is not the affected taxpayer, then the affected taxpayer is still likely to be required to lodge a set of GPFS with the ATO, which may well be the same set of consolidated GPFS lodged with ASIC.

Basis of preparation for a GPFS?

You have a Corps Act Part 2M.3 reporting obligation

If you have an obligation to prepare financial reports under Part 2M.3 of the Corps Act, your GPFS must be prepared in accordance with accounting standards and the authoritative pronouncements of the AASB.

The company must lodge a GPFS prepared using Tier 1 reporting requirements if you have 'public accountability' as defined in AASB 1053. If you are eligible to adopt Tier 2 reporting requirements, you may lodge a GPFS prepared on this basis. Alternatively, you may choose to use Tier 1 reporting requirements.

You do not have a Corps Act Part 2M.3 reporting obligation

If you don't have a Part 2M.3 obligation, your GPFS must be prepared in accordance with CAAP. You need to prepare your GPFS in accordance with the listed CAAP – refer discussion below.

If none of the listed CAAP applies in your circumstances, you may determine whether some other set of accounting standards is acceptable as CAAP by following ATO guidance discussed in this chapter below.

Some financial reporting concepts explained

Reporting entity assessment

Under Australian accounting standards each entity in a group and the group makes an assessment of whether it is a reporting entity.

In summary:

- if an entity is determined to be a reporting entity it must prepare GPFS in accordance with AASB 1053
- if an entity is not considered to be a reporting entity it can elect to prepare SPFS or GPFS.

For further discussion on the reporting entity concept refer to KPMG's *Australian Financial Reporting Manual*.

Under Australian accounting standards a non-reporting entity can voluntarily elect to prepare GPFS. Making this election does not impact the fact that the entity is considered a non-reporting entity.

It is conceivable that a company that does not consider itself to be a reporting entity can still prepare a GPFS. For example, where there is a requirement under the tax law amendments to prepare GPFS.

Separate financial statements

AASBs define separate financial statements as those prepared by a parent (i.e. an investor with control of a subsidiary) in which the investment(s) are accounted for at cost or in accordance with AASB 9 *Financial Instruments*.

Separate financial statements are defined in AASB 127 *Separate Financial Statements*.

Further, separate financial statements are presented in addition to consolidated financial statements. They need not be appended to, or accompany, the consolidated financial statements.

The separate GPFS could be presented in two formats:

- within the consolidated GPFS – using what is referred to as a four column approach, or
- as different single entity GPFS.

When a company prepares a different single entity GPFS then there are additional disclosure requirements under AASB 127:

- Paragraph 16 applies when consolidated financial statements have not been prepared, in accordance with AASB 10 *Consolidated Financial Statements* paragraph 4(a) or paragraph Aus4.2 (non-reporting entity). These disclosure requirements do not apply where the entity is preparing Tier 2 GPFS.
- Paragraph 17 applies when consolidated financial statements have also been prepared in accordance with the requirements of AASB 10. Disclosure of how to access the consolidated financial statements is required in this situation.

General consolidation exemption

AASB 10.4(a) outlines that a parent need not present consolidated financial statements if all the following apply:

- The parent is a (controlled) subsidiary and owners are informed and do not object to the parent not presenting consolidated financial statements.
- The parent does not have any debt or equity instruments traded in a public market.
- The parent does not file, nor is it in the process of filing, its financial statements with a market regulator (for example, the Australian Stock Exchange) for the purposes of issuing any class of instruments in a public market.
- The parent's ultimate or intermediate parent produces financial statements that are available for public use, comply with IFRSs and include the parent.

Non-reporting entity consolidation exemption

AASB 10.Aus4.2 states that, notwithstanding paragraph 4(a) the ultimate Australian parent shall present consolidated financial statements when either:

- the parent is a reporting entity
- the group is a reporting entity
- both the parent and the group are reporting entities

except if the ultimate Australian parent is an investment entity.

The impact of the above is that where an ultimate Australian parent and its group (i.e. the entities that it controls as defined by AASB 10) are **not** considered reporting entities there is no requirement to prepare consolidated financial statements – i.e. only separate financial statements are required.

In the above situation, it is important that the taxpayer can clearly demonstrate it is not a reporting entity. This is considered a contentious area with significant political and other pressure being applied.

The tax law amendments, and associated ATO guidance, only require a non-reporting entity that has previously prepared SPFS to produce a form of GPFS. That is, it does not comment on changing the entity's reporting entity status.

Options re GPFS to be lodged

The tax law amendments provide an affected taxpayer with a choice if the entity is a member of a consolidated group (for accounting purposes) to prepare GPFS for either:

- the entity (on a separate or individual basis), or
- a consolidated group, consisting of the entity and some or all of the other members of the group.

So even if the taxpayer is part of a group it can still elect to lodge separate or individual financial statements rather than consolidated financial statements.

Individual and separate financials statements are collectively referred to as stand-alone financial statements in the ATO guidance.

Depending upon the nature of the entity, the following GPFS may be able to be lodged:

- GPFS of the affected taxpayer, prepared for the entity alone (the guidance refers to these as 'stand-alone GPFS'), subject to any relevant accounting standard requirements (including AASB 10 and AASB 127).
- GPFS of the affected taxpayer, consolidated for accounting purposes as a single group (i.e. consolidated in accordance with AASB 10, including any relevant offshore subsidiaries and branches)
- GPFS of a parent of the affected taxpayer, which includes the financial position and financial performance of the affected taxpayer, i.e. consolidates the affected taxpayer.

The critical point is that if the affected taxpayer is subject to Part 2M.3 of the Corps Act, any GPFS prepared (no matter for which entity they are being prepared) must be prepared in accordance with AASBs (subject to the transitional administrative approach for the first period of compliance).

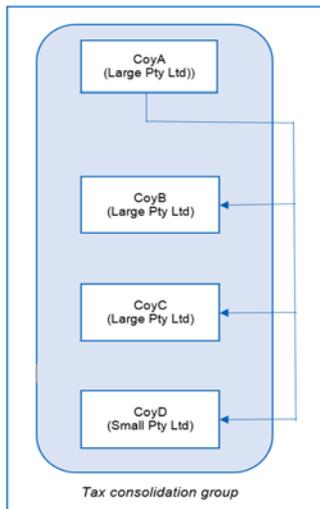
Other affected taxpayers have some choice in which accounting principles are applied. If you and/or your parent (whether immediate, intermediary or ultimate parent) use different accounting standards when preparing financial statements you may consider that more than one CAAP applies in your circumstances. In such instances a consistent CAAP must be used in subsequent years for preparing your GPFS excepting where that CAAP no longer applies.

Some common examples

Australian group with tax consolidation

CoyA directly owns and controls three Australian subsidiary companies (CoyB, CoyC and CoyD). Historically all the large proprietary companies have prepared SPFS and have lodged them for Corps Act purposes. CoyA has previously prepared consolidated financial statements and is the head entity in the tax consolidation group – however it does not lodge the consolidated financial statements with ASIC, rather it lodges its separate SPFS.

This fact pattern would fall into ATO scenario 2 – i.e. CoyA prepares and lodges SPFS with ASIC for Corps Act purposes.



Only CoyA is affected by the tax laws as follows:

- CoyA is a corporate tax entity
- CoyA is a significant global entity
- CoyA is an Australian resident
- CoyA does not lodge GPFS with ASIC
- CoyA is required to lodge a tax return.

CoyB, CoyC and CoyD (who are part of the Australian tax consolidation group) are not affected by the tax laws as they are not required to lodge an income tax return.

Choice

CoyA has a choice, for ATO GPFS purposes, of:

- preparing and lodging separate GPFS (in compliance with AASBs) for CoyA, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for CoyA and its subsidiaries (CoyB, CoyC and CoyD) – either the two column or four column approach.

The GPFS can be either Tier 1 or Tier 2 (assuming CoyA is not publicly accountable).

Depending on which option CoyA chooses it would make sense not to continue with preparation of SPFS for CoyA for Corps Act purposes. The CoyA (separate or consolidated) GPFS should be lodged with ASIC to satisfy CoyA's requirements under Part 2M.3 of the Cops Act.

If either CoyA or CoyA group is a reporting entity, the separate CoyA GPFS will disclose how to access the CoyA group consolidated financial statements under AASB 127.17. If neither CoyA nor CoyA group is a reporting entity, and CoyA group consolidated financial statements are not prepared, the separate CoyA GPFS will provide the disclosures outlined in AASB 127.16 only (i.e. not disclosures required by AASB 127.17).

CoyB and CoyC will continue to prepare SPFS for Corps Act purposes. CoyD is not required to prepare financial statements under the Corps Act.

ATO best practice

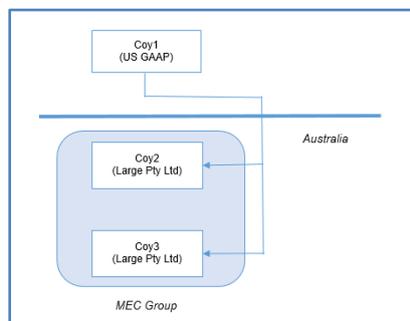
As discussed below, the ATO suggests that a taxpayer consider the option that best contributes to transparency of CoyA's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be the preparation of consolidated GPFS (CoyA + CoyB + CoyC + CoyD) – (Tier 1).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

Overseas owned MEC group

An overseas company (Coy1) directly owns and controls two Australian subsidiary companies (Coy2 and Coy3). Coy2 is nominated as the head entity in a Multiple Entry Consolidated (MEC) group. Coy1 prepares consolidated financial statements in accordance with US GAAP. Historically Coy2 and Coy3 have prepared and lodged SPFS for Corps Act purposes.



Only Coy2 is affected by the tax laws as follows:

- Coy2 is a corporate tax entity
- Coy2 is a significant global entity
- Coy2 is an Australian resident
- Coy2 does not lodge GPFS with ASIC
- Coy2 is required to lodge a tax return.

Coy1 and Coy3 are not affected by the tax laws as they are not required to lodge a tax return in Australia.

This fact pattern would fall into ATO scenario 2 – i.e. Coy2 prepares and lodges SPFS with ASIC for Corps Act purposes.

Choice

Coy2 has a choice, for ATO GPFS purposes, of:

- preparing and lodging individual GPFS (in compliance with AASBs) for Coy2, or
- lodgement of Coy1 consolidated financial statements.

Individual GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy2 is not publicly accountable).

If Coy2 chooses to prepare individual GPFS it would make sense not to continue with preparation of SPFS for itself for Corps Act purposes. The individual GPFS should be lodged with ASIC to satisfy Coy2's requirements under Part 2M.3 of the Cops Act.

Coy3 will continue to prepare SPFS for Corps Act purposes.

Coy1 consolidated financial statements

The ATO has indicated that if Coy1 consolidated financial statements are prepared to satisfy the lodgement requirements for the tax law amendments, then they need to be prepared in accordance with AASBs (given taxpayer, Coy2, is an Australian Corps Act entity).

Coy1 currently prepares consolidated financial statements in accordance with US GAAP and the costs to convert to AASBs would generally mean that this choice would not be taken up by many taxpayers (if any).

If Coy2 chooses to prepare and lodge Coy1 consolidated financial statements with the ATO it will be required to continue to prepare Coy2 and Coy3 SPFS – for lodgement with ASIC to satisfy the requirements under Part 2M.3 of the Cops Act.

ATO best practice

As discussed above, the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy2's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs is not clear in these circumstances. Either option will not include information for an aggregated Coy2 + Coy3, which we believe the ATO may consider best practice.

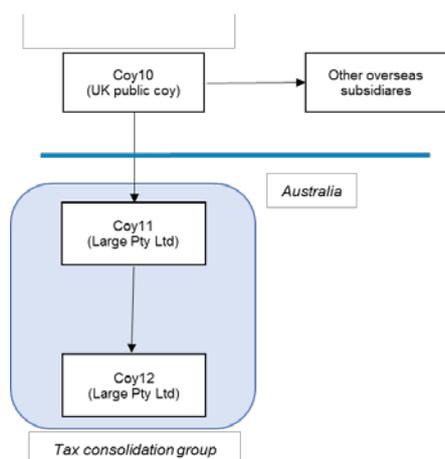
If this aggregated information is prepared, in addition to the two choices noted above, the taxpayer should consider how it will be presented. Refer to the 'ATO best practice' discussion in this chapter (below).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

Overseas owned Australian group

An overseas company (Coy10) directly owns and controls an Australian subsidiary company (Coy11). Coy11 in turn controls a second Australian subsidiary company (Coy12). Coy 10 prepares EU-IFRS compliant consolidated financial statements.

Historically Coy11 and Coy12 have prepared and lodged SPFS for Corps Act purposes. Coy11 has previously not prepared consolidated financial statements and is the head entity in the tax consolidation group. Coy10 is not a registered foreign company under Australian corporations law.



Only Coy11 is affected by the tax laws as follows:

- Coy11 is a corporate tax entity
- Coy11 is a significant global entity
- Coy11 is an Australian resident
- Coy11 does not lodge GPFS with ASIC
- Coy11 is required to lodge a tax return.

Coy10 and Coy12 (who is part of the Australian tax consolidation group) are not affected by the tax laws as they are not required to lodge an income tax return.

This fact pattern would fall into ATO scenario 2 – i.e. Coy11 prepares and lodges SPFS with ASIC for Corps Act purposes.

Choice

Coy11 has a choice, for ATO GPFS purposes, of:

- preparing and lodging separate GPFS (in compliance with AASBs) for Coy11, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for Coy11 and its subsidiary (Coy12) – either the two column or four column approach, or
- lodgement of Coy10 consolidated financial statements.

Separate GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy11 is not publicly accountable).

If Coy11 chooses to prepare separate GPFS it would make sense not to continue with preparation of SPFS for itself for Corps Act purposes. The separate GPFS should be lodged with ASIC to satisfy Coy11's requirements under Part 2M.3 of the Cops Act.

If either Coy11 or Coy11 group is a reporting entity, the separate Coy11 GPFS will disclose how to access the Coy11 group consolidated financial statements under AASB 127.17. If neither Coy11 nor Coy11 group is a reporting entity, and Coy11 group consolidated financial statements are not prepared, the separate Coy11 GPFS will provide the disclosures outlined in AASB 127.16 only (i.e. not disclosures required by AASB 127.17).

Coy12 will continue to prepare SPFS for Corps Act purposes.

Consolidated GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy11 is not publicly accountable).

If Coy11 chooses to prepare consolidated GPFS it would make sense not to continue with preparation of SPFS for itself for Corps Act purposes. The consolidated GPFS should be lodged with ASIC to satisfy Coy11's requirements under Part 2M.3 of the Cops Act.

Coy12 will continue to prepare SPFS for Corps Act purposes.

Coy10 consolidated financial statements

The ATO has indicated that if Coy10 consolidated financial statements are to satisfy the lodgement requirements for the tax law amendments, then they need to be prepared in accordance with AASBs (given taxpayer, Coy11, is an Australian Corps Act entity).

Coy10 currently prepares consolidated financial statements in accordance with EU-IFRS. The ATO has determined that EU-IFRS is not AASB compliant but could be considered CAAP. As such the costs to convert to AASBs would generally mean that this choice would not be taken up by many taxpayers (if any).

If Coy11 chooses to lodge Coy10 consolidated financial statements with the ATO it will be required to continue to prepare Coy11 and Coy12 SPFS – for lodgement with ASIC to satisfy the requirements under Part 2M.3 of the Cops Act.

ATO best practice

As discussed above, the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy11's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be the preparation of consolidated GPFS (Coy11 + Coy12) – (Tier 1).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

To assist in determining which options are available we have included a number of worked examples throughout this publication.

ASIC financial reporting relief

The ATO has determined that a company must still prepare a GPFS in circumstances where ASIC has otherwise relieved the company, through an Instrument/Class order from preparation of financial reports under Part 2M.3 of the Corps Act.

The following are examples of such ASIC relief:

- deed of cross guarantee (Instrument 2016/785)
- audit relief for proprietary companies (Instrument 2016/784)
- lodgement relief for grandfathered large proprietary companies
- registered foreign companies with characteristics similar to a small Australian proprietary company are relieved from the preparation and lodgement of a financial report under Section 601CK (Instrument 2017/204)
- small proprietary companies controlled by a foreign company but which are not part of a large group in Australia (Instrument 2017/204).

If you are relieved by ASIC from preparing financial reports for other reasons than that outlined above, you may still need to prepare GPFS for the ATO.

What is CAAP?

What are accounting principles?

The tax law amendments require affected entities to prepare GPFS in accordance with one of the following:

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

Accounting principles are defined by the ITAA 1997 as those in accordance with Australian accounting standards as defined by the Corps Act, or authoritative pronouncements of the Australian Accounting Standards Board.

The ATO web guidance states that they accept the following accounting standards as being 'commercially accepted principles relating to accounting, 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)
- Accounting standards that are accepted by ASX Limited from time to time for the purposes of its Listing Rules.

The ASX does not publish a list of 'accepted' accounting standards – however the listing rules provide it with the ability to agree to accept a foreign entity's accounts when prepared in accordance with other accounting standards.

The ATO guidance has further determined that where the accounting standards listed above do not apply in your 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 Engagement* can assist you in determining whether the accounting standard that has been applied to prepare your GPFS is acceptable as CAAP.

The Auditing Standard outlines that financial reporting standards established by organisations that are authorised or recognised to promulgate standards to be used by certain types of entities are presumed to be acceptable GPFS prepared by such entities, provided the organisations follow an established and transparent process involving deliberation and consideration of the views of a wide range of stakeholders. Examples of such financial reporting standards include IFRSs and accounting principles promulgated by an authorised or recognised standards setting organisation in a particular jurisdiction, provided the organisation follows an established and transparent process involving deliberation and consideration of the views of a wide range of stakeholders.

Where other accounting principles are used, whether they are CAAP is a question of fact. It can only be determined on a case-by-case basis. The ATO has previously stated that one consideration is whether such principles ensure that financial statements provide a true and fair view of an entity's financial position and financial performance.

Foreign resident conducting a business through a permanent establishments (PE)

If the entity is a foreign resident conducting a business through an Australian PE, your GPFS must be prepared in accordance with CAAP and must relate to the entity and incorporate your Australian PE results, unless you are required to prepare financial statements under subsections 601CK (5)-(6) of the Corps Act. In the latter case, you must prepare your GPFS in accordance with AASBs.

The GPFS provided to the ATO can be a stand-alone GPFS for foreign resident entity and your Australian PE or for the group or part of the group of which you, including your Australian PE, are a member.

A PE is not a corporate tax entity or an entity. Consequently, your GPFS cannot be a stand-alone GPFS for only your Australian PE. Notwithstanding this, the ATO considers it **best practice** for your GPFS to include separate measurement and disclosure of your Australian PE. Any separate measurement and disclosure of your PE should be prepared in accordance with the accounting standards you have adopted to prepare your GPFS.

A taxpayer does not need to provide the ATO with a GPFS if it is a registered foreign company and lodges a GPFS with ASIC within the time provided in subsection 319(3) of the Corps Act.

If the accounting standards applicable to the foreign resident entity in your country do not describe a 'GPFS', the ATO guidance advises that it will accept that you have lodged a GPFS with ASIC if an appropriately qualified and independent person, such as your auditor, verifies those statements are in substance a GPFS.

ATO best practice

The ATO guidance refers to best practice options (which may be in addition to the requirements of the enacted legislation) and encourages the taxpayer to elect the best practice option in order to promote tax transparency. In most circumstances other options will generally be available and will still comply with the enacted legislation.

For example, a taxpayer may have a choice of providing GPFS for the parent entity only or a consolidated GPFS. In determining which option to adopt, the ATO suggests that a taxpayer should take into account how each option would best contribute to transparency of its Australian tax affairs, i.e. prepare consolidated GPFS.

Taxpayers should consider the ATO view on tax transparency when evaluating which GPFS option to choose. The above ATO guidance does not provide any commentary on what impacts (if any) there may be if a taxpayer elects an option which complies with Section 3CA but is not considered by the ATO to be best practice.

The ATO best practice guidance moves closer to the 2015 debate by the Senate when passing the tax law amendments. Arguably the Senate debate focused on obtaining GPFS information for all Australian taxpayer entities. So for example, a GPFS option under the current tax legislation that does not include all Australian entities in a tax consolidated group (i.e. some kind of consolidated or aggregated financial information), we believe, would not be considered best practice by the ATO.

Providing relevant information on your Australian tax affairs will not always result in a single option. For example, a MEC where the head company prepares individual GPFS (for itself). These GPFS will not include information on all Australian companies within the MEC. In choosing what information to provide to the ATO on all Australian entities a taxpayer could either:

- lodge the head company's individual GPFS and include aggregated financial information for the other Australian companies within the MEC, or
- lodge the head company's parent's GPFS and include aggregated financial information for the Australian companies within the MEC.

If taxpayers elect to provide additional information they should consider how it will be presented. For example, the information may be included in:

- the notes to the main GPFS
- a separate report which accompanies the main GPFS
- as part of the voluntary tax transparency report.

Consideration of whether the additional information will be audited or not should also be made. If audited, discussion with the auditors would be advised – so as to consider whether the audit report on the additional information will be separate from the GPFS audit report.

Even though your GPFS is not required to be audited, the ATO recommends that you keep evidence to demonstrate that your GPFS has been prepared in accordance with AASBs (where required) or CAAP. The ATO considers it is best practice to have your GPFS audited wherever possible as a way of ensuring that you have reliable evidence regarding its preparation.

Where a practitioner is engaged to compile financial statements under a compilation engagement, the practitioner is required to prepare them with professional competence and due care, and in accordance with the applicable financial reporting framework. It is the ATO's view that a GPFS prepared under a compilation engagement will be at lower risk of non-compliance with the applicable accounting standards. However the ATO holds the view that, as the practitioner is not required to verify the accuracy or completeness of the information provided by the client, such a GPFS will not benefit from the same level of assurance as an audited GPFS.

Taxpayers may also consider the impact of not following ATO best practice from the media and others who may consider that the taxpayer is not acting within the 'spirit of the law'.

ATO best practice is discussed through-out the illustrative examples contained in this publication.

3. Frequently asked questions (FAQs)

The following frequently asked questions are considered in this chapter:

- [ATO scenario 2 or scenario 3?](#)
- [What information must a GPFS disclose?](#)
- [GPFS – Tier 1 or Tier 2?](#)
- [Can I lodge GPFS prepared in accordance with EU-IFRS?](#)
- [What if my overseas parent is an Australian registered foreign company but is not required to produce financial statements under its local laws and regulations?](#)
- [Is an audit required?](#)
- [Should the GPFS be prepared in English?](#)
- [Should the GPFS be prepared in Australian dollars?](#)
- [Would a directors' declaration or a directors' report be required as part of the GPFS?](#)
- [What is 'global income'?](#)
- [ASIC financial reporting relief \(including grandfathered large proprietary companies\)](#)
- [Can I still lodge SPFS with ASIC?](#)
- [Defining the term 'financial year' and clarifying the meaning of the phrase '...a GPFS for the financial year most closely corresponding to the income year'](#)
- [Impact on branch operations?](#)
- [Impact of joint arrangements on SGE assessment?](#)
- [Impact of investment entities on SGE assessment?](#)
- [Lodgement with the ATO](#)
- [Failure to lodge GPFS on time with the ATO](#)

ATO scenario 2 or scenario 3?

The [ATO table](#) describes each of the scenarios in detail.

At a high level if the taxpayer company is required to prepare and lodge financial statements with ASIC in accordance with the Corps Act it will most likely be in scenario 2 – however there are exceptions. Where the taxpayer company is **not** required to prepare and lodge financial statements with ASIC in accordance with the Corps Act it will most likely be in scenario 3 – again with some exceptions.

We have included a number of illustrative examples in [Chapter 6](#) which outlines fact patterns that we have seen in practice.

As a starting point we suggest that the following questions be considered:

- Does the taxpayer prepare and lodge financial statements with ASIC for Corps Act purposes?
 - If so, are the financial statements general purpose or special purpose?
 - If not, what is the basis (by reference to the Corps Act and supporting ASIC Instruments) for not preparing financial statements for Corps Act purposes?

Answers to the above questions should provide a basis for determining whether the taxpayer company falls within scenario 2 or scenario 3.

So an understanding of the Corps Act requirements in Part 2M.3 and the related exemptions is required to determine which ATO scenario applies. To assist with understanding the financial reporting requirements under Part 2M.3 of the Corps Act and the related exemptions refer to KPMG's *Australian Financial Reporting Manual*.

What information must a GPFS disclose?

Preparing under Australian Accounting Standards

Australian Accounting Standards define a GPFS as financial statements that are intended to meet the needs of users who are not in a position to require an entity to prepare reports tailored to their particular information needs. GPFS need to comply with the requirements of all applicable standards.

Preparing under CAAP

The ATO guidance states that a GPFS prepared in accordance with CAAP should provide a structured representation of the financial position, financial performance and cash flows of the entity. It should provide information that is useful to a wide range of users in making economic decisions. It should also show the results of management's stewardship of the resources entrusted to it.

To meet this objective, the financial statements should be based on recognition and measurement criteria that faithfully represent the entity's financial performance and position, and provide information about the entity's:

- assets
- liabilities
- equity
- income and expenses, including gains and losses
- contributions by and distributions to owners in their capacity as owners
- cash flows.

This information, along with other information in the notes to the financial statements, should assist users of those statements, for example, in predicting the entity's future cash flows including their timing and certainty.

GPFS – Tier 1 or Tier 2?

The ATO guidance states that a corporate tax entity must lodge a GPFS prepared using Tier 1 if the taxpayer is publicly accountable. If the corporate tax entity is not publicly accountable it may lodge Tier 2 (Reduced Disclosure Requirements) GPFS or alternatively elect to prepare and lodge Tier 1 GPFS.

Public accountability is defined in AASB 1053 *Application of Tiers of Australian Accounting Standards*. For further discussion on public accountability refer to KPMG's *Australian Financial Reporting Manual*.

Can I lodge GPFS prepared in accordance with EU-IFRS?

ATO scenario 2 entity

Where an entity falls within ATO scenario 2 – i.e. a company which has an obligation to prepare financial reports under Part 2M.3 of the Corps Act, it must prepare and lodge a form of GPFS prepared in accordance with accounting standards, as defined in the Corps Act – those made as authoritative pronouncements of the AASB.

KPMG comment

The ATO has made it clear that where an entity falls within scenario 2 that a GPFS prepared in accordance another country's local accounting standards – even if those local accounting standards are based on IFRS are not acceptable.

This means that an entity within scenario 2 cannot lodge an overseas parent's consolidated GPFS prepared in accordance with EU-IFRS to meet the requirements of Section 3CA.

ATO scenario 3 entity

An entity that falls within ATO scenario 3 – i.e. an entity which does not have an obligation to prepare financial reports under Part 2M.3 must prepare a GPFS in accordance with CAAP (see [What is CAAP?](#)).

In such a scenario an overseas parent's consolidated GPFS prepared in accordance with EU-IFRS could be lodged to meet the requirements of Section 3CA.

What if my overseas parent is an Australian registered foreign company but is not required to produce financial statements under its local laws and regulations?

ATO scenario 3 entity

Applies in situations where the taxpayer is in ATO scenario 3 (say a small foreign owned proprietary company) and it is seeking to lodge the financial statements for its overseas parent – which is a registered foreign company for Australian Corps Act purposes.

Where the overseas parent company is not required to produce financial statements in accordance with local laws and regulations, in its place of incorporation, it is still required to produce and lodge financial information under the Australian Corps act – Section 601CK(5) – (6). The financial information must be prepared using AASBs.

Is an audit required?

No, assuming financial statement preparers have internal processes that will ensure compliance with accounting standards.

Section 3CA does not require a GPFS to be audited. However, the ATO's guidance states that if an entity is required to have its GPFS or GPFS equivalent audited under another law, the audited version should be given to the ATO.

The ATO recommends that a taxpayer keep evidence to demonstrate that the prepared GPFS have been prepared in accordance with AASBs (where required) or CAAP (as applicable).

External audits may be required by other means, for example the Corps Act or governing documents such as trust deeds. The tax law amendments will not impact/change the requirements for audit under other legislation or governing documents.

ATO best practice

The ATO considers having an audit is the best practice option in order to promote tax transparency. Having an audit is a way of ensuring you have reliable evidence regarding financial statement preparation.

The ATO guidance states that if a taxpayer is required to have their GPFS audited under another law, then the audited GPFS should be provided to the ATO.

The ATO guidance suggests that where an audit is not performed, a preparer may consider engaging a third party to provide a compilation report as an evidence of conformity with AASBs or CAAP (as applicable). A GPFS prepared under a compilation engagement will be at lower risk of non-compliance with the applicable accounting standards. However, such a GPFS does not have the same level of assurance as an audited GPFS.

KPMG comment

KPMG would suggest that while an audit is a reliable form of evidence it may not be the simplest form. Many preparers of GPFS will have internal processes that will ensure compliance with accounting standards. We would suggest that this could be appropriate for a taxpayer to demonstrate that the GPFS have been prepared in accordance with AASBs or CAAP (as applicable).

For those without adequate internal processes an audit or review should provide the directors of a company with the assurance they require to demonstrate preparation in accordance with AASBs or CAAP (as applicable).

Should the GPFS be prepared in English?

Yes, the GPFS must be in English, or an English translation should be provided if the GPFS has not been prepared in English. The intention of this GPFS measure is to increase transparency and the ATO is of the view that users of GPFS would have little or no benefit in having access to a GPFS in a different language.

Should the GPFS be prepared in Australian dollars?

No.

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

Would a directors' declaration or a directors' report be required as part of the GPFS?

A director's declaration or a director's report is only required where that declaration or report is required under the relevant CAAP.

KPMG comment

Australian Accounting Standards which define a GPFS do not include a directors' declaration or directors' report within such definition. Rather it is legislation – the Corps Act in Australia – that specifies whether a directors' declaration or directors' report is part of a financial report. We would expect that CAAP would similarly only refer to accounting principles that needed to be complied with rather than specifying additional statements or reports required to be prepared by directors.

As a practical expedient it may be useful to include all additional information attached to GPFS – especially where it is public information. This would alleviate a need for further research into exactly what is required to be lodge in foreign jurisdictions.

What is 'global income'?

You are a SGE if annual global income for the income year is A\$1 billion or more for either:

- you as a GPE as defined in Section 960-560 of the ITAA 1997
- your GPE which consolidates for accounting purposes a group of entities including you.

The source for information for determining the amount of annual global income is the latest global financial statements for the GPE. Global financial statements must be prepared in accordance with AASBs and audited in accordance Australian Auditing Standards (issued by the Australian Auditing and Assurance Standards Board). Where these standards do not apply, commercially accepted principles relating to accounting and auditing can be applied, so long as they ensure the financial statements give a true and fair view of the financial position and performance of the entity (or consolidated entity).

In addition, the global financial statements must be for the most recent period (not necessarily the income year) for which they have been prepared, and end no later than the end of the relevant period and no earlier than 12 months before the start of the relevant period. Where the information is not in Australian dollars, translations should be performed using average rates for the period.

Note – the determination of whether an entity is a SGE can be complex. We suggest that you consult with your tax advisor/specialist. For example where global financial statements are either not audited or not prepared in accordance with AASBs or CAAP the Tax Commissioner has a discretion to make a determination that an entity may be a SGE.

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

'Income' is defined in the *Conceptual Framework for the Preparation and Presentation of Financial Statements* as increases in economic benefits during the accounting period in the form of inflows or enhancements of assets or decreases of liabilities that result in increases in equity, other than those relating to contributions from equity participants.

Income encompasses both revenue and gains. Revenue is income that arises in the course of ordinary activities of an entity and is referred to by a variety of different names including sales, fees, interest, dividends and royalties. Gains include those arising on the disposal of non-current assets and businesses, and unrealised gains such as financial instruments measured at fair value through profit or loss and certain investment properties measured at fair value following AASB 140 *Investment Property* (sometimes reported as 'other income' in the financial statements).

The ATO's guidance indicates 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. The definition of income under AASBs includes revenue, other income, gains from investment activities and other inflows that go to the determination of the profit or loss.

While the definition of income also encompasses other comprehensive income, annual global income does not include other comprehensive income, as it does not go to the determination of profit or loss.

The latest global financial statements for the GPE for an income year are financial statements (whether stand-alone or consolidated):

- 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 AASBs and auditing principles do not apply in relation to a GPE, its global financial statements must be prepared and audited. This must be in accordance with commercially accepted principles relating to accounting and auditing that ensure the financial statements give a true and fair view of the financial position and performance of the GPE.

KPMG comment

KPMG understands that equity accounted profits would be included in the above definition of income – i.e. gains from investment activities.

So for the purposes of clarity global income does not include the associated revenue, other income, gains from investment activities and other inflows that go to the determination of the profit or loss of the underlying associate.

ASIC financial reporting relief (including grandfathered large proprietary companies)

The ATO has determined that AASBs still apply to a company in circumstances where ASIC has otherwise relieved the company, through an Instrument/Class order from preparation of financial reports under Part 2M.3 of the Corps Act.

The following are examples of such ASIC relief:

- deed of cross guarantee (Instrument 2016/785)
- audit relief for proprietary companies (Instrument 2016/784)
- lodgement relief for grandfathered large proprietary companies
- registered foreign companies with characteristics similar to a small Australian proprietary company are relieved from the preparation and lodgement of a financial report under Section 601CK (Instrument 2017/204)
- small proprietary companies controlled by a foreign company but which are not part of a large group in Australia (Instrument 2017/204).

The ATO guidance further confirms that when a company (including grandfathered large proprietary companies) lodges GPFS with the ATO, they will provide a copy to ASIC. ASIC have previously indicated that any set of GPFS received from the ATO will be included on the ASIC public searchable database.

Can I still lodge SPFS with ASIC?

Yes.

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

Companies may want to consider the cost in preparing an additional set of financial statements – if affected by the tax law GPFS requirements. In addition companies should consider the possible confusing of having two financial reports in the public domain – remember the ATO passes all GPFS received to ASIC for display on the ASIC database (which can be searched by the public).

Defining the term ‘financial year’ and clarifying the meaning of the phrase ‘...a GPFS for the financial year most closely corresponding to the income year’

Section 3CA(6) of the TAA 1953 notes an expression used in this GPFS tax measure that is also used in the ITAA 1997 has the same meaning as in the TAA 1953.

The term ‘financial year’ is used in the tax legislation and is defined in the ITAA 1997 to mean the year ending 30 June. However, it is apparent the use of the ITAA 1997 definition would defeat the intention of the tax legislation.

The ATO guidance states that if you are subject to Chapter 2M of the Corps Act ‘financial year’ in Section 3CA means the financial year as defined in Section 323D of the Corps Act. This is usually a period of 12 months, not necessarily starting on 1 July.

For all other corporate tax entities, your annual accounting period for the purposes of the preparation of financial statements is the ‘financial year’ for the purposes of Section 3CA.

If the taxpayer has a section 3CA obligation, it must give the ATO a GPFS for the 'financial year most closely corresponding to your income year.' Generally, this will be the financial year most recently concluded on or before the end of the income year.

Example 1

A new Australian company (Coy Aus) is created on 1 January 2017. Coy Aus' first income year incorporates the period 1 January 2017 to 30 June 2017. Its second income year is 1 July 2017 to 30 June 2018. Coy Aus' first financial year for Corps Act purposes is the 18 month period from 1 January 2017 to 30 June 2018. Coy Aus does not lodge a GPFS with ASIC.

There is no obligation to give the ATO a GPFS for the period 1 January 2017 to 30 June 2017 because in the circumstances there is no 'financial year' that can be said to correspond to the income year ending on 30 June 2017.

However, Coy Aus will have a GPFS obligation for the income year ending on 30 June 2018. This is because there is a financial year that can be said to correspond to the income year (while the financial year is longer than 12 months, it is nevertheless the period most closely corresponding to the income year ending on 30 June 2018). A GPFS prepared for the 18-month period ending on 30 June 2018 would satisfy the obligation in relation to this income year. The GPFS lodged will be considered to be for the financial year most closely corresponding to the 2018 income year.

Example 2

Coy Aus X, the head company of a tax consolidated group, has an income year of 1 July to 30 June. The group was acquired and joined the Coy Aus Z tax consolidated group on 25 April 2018. Coy Aus X group subsequently notified ASIC that it had extended its financial year to end on 30 November 2018 in order to synchronise its financial year with Coy Aus Z group. Therefore, Coy Aus X's financial year for 2018 is now from 1 July 2017 to 30 November 2018 (instead of 1 July 2017 to 30 June 2018).

Coy Aus X Ltd lodges a consolidated GPFS for the period 1 July 2017 to 30 November 2018 with ASIC. Coy Aus Z Ltd lodges a GPFS consolidating the Coy Aus X group for the period 1 December 2017 to 30 November 2018 with ASIC.

Coy Aus X Ltd is required to lodge an income tax return for the 2018 income year and may have an obligation to provide a GPFS under section 3CA. While Coy Aus X lodges with ASIC a GPFS for a period ending after the end of the income year (that is, 30 June 2018), the GPFS has been prepared for the financial year most closely corresponding to the 2018 income year. This is because the extended financial year is in lieu of the original financial year which would have ended on 30 June 2018 (that is, 1 July 2017 to 30 June 2018). As Coy Aus X Ltd has lodged a consolidated GPFS that most closely corresponds to its 2018 income year with ASIC, it does not have an obligation to give the ATO a GPFS under section 3CA for the 2018 income year.

Impact on branch operations?

Factually the first two issues to determine are:

- who 'owns' the branch – i.e. is the 'owner' entity an Australian resident (taxpayer) or a foreign resident?
- if the 'owner' entity is a foreign resident then a follow-up question is whether the branch activities are such that the foreign resident operates an Australian permanent establishment?

If the 'owner' of the branch is a foreign resident and the branch is judged not to operate in an Australian permanent establishment (PE) then these tax law amendments will not apply to the branch.

An Australian permanent establishment is within the meaning of Part IVA of the *Income Tax Assessment Act 1936*. At a high level it refers to a place (in Australia) through which a person carries on a business.

From our experience for most branches which are 'owned' by a foreign resident, the foreign resident becomes a registered foreign corporation under the Australian Corps Act. As such it will lodge financial statements with ASIC using its local GAAP. Refer to CAAP discussion in previous chapter.

The ATO guidance discusses foreign residents conducting a business through an Australian PE. It states that in such cases the GPFS must be prepared in accordance with CAAP (subject to some limited exceptions noted below) and must relate to the foreign resident and incorporate your Australian PE results.

The GPFS can't be a stand-alone GPFS for your Australian PE.

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

If accounting standards applicable to the foreign resident in their country do not describe a 'GPFS', the ATO will accept lodgement of a GPFS with ASIC if an appropriately qualified and independent person, such as your auditor, verifies those statements are in substance a GPFS. You don't need to provide the ATO the verification, but need to produce it upon request.

Registered foreign company

Section 3CA doesn't apply to you if you are a registered foreign company and lodge a GPFS with ASIC within the time provided in Section 319(3) of the Corps Act.

Where a registered foreign company is not required by law of the place of incorporation for formation to prepare financial statements, Section 601CK(5) – (6) of the Corps Act requires the company to prepare financial statements in accordance with AASBs. This requirement flows through to the GPFS tax measure (i.e. AASBs must be used).

ATO best practice

The ATO encourages separate measurement and disclosure for your Australian PE in the taxpayer's GPFS as the best practice option in order to promote tax transparency.

This would be as additional information to the foreign resident's GPFS. Discussion with the auditors would confirm the best option for incorporating this financial information into the GPFS – including any implications for the audit report.

Impact of joint arrangements on SGE assessment?

AASB 11 *Joint Arrangements* discusses and defines both joint operations and joint ventures. Joint arrangements are not controlled entities – rather there exists the concept of joint control.

AASB 10 defines groups as the parent plus its subsidiaries. A subsidiary is an entity that is **controlled** by another entity.

Given a joint venture entity is not controlled solely by any one party, it is not consolidated for accounting purposes. A joint venture entity that does not have A\$1 billion of annual global income would therefore not be considered a SGE – irrespective of the fact that it is owned jointly by two SGEs.

Impact of investment entity on SGE assessment?

Refer to [Chapter 4](#) of this publication for further discussion.

Lodgement with the ATO

The amendment applies to income years (as defined in the tax law) commencing on or after 1 July 2016.

The GPFS must be for the financial year that most closely corresponds to the income year (discussed above).

Refer to further discussion in [Chapter 5](#).

Failure to lodge GPFS on time with the ATO

In March 2017 the Treasury Laws Amendment (Combating Multinational Tax Avoidance) Bill 2017 (Bill) was passed by Parliament. Schedule 2 of the Bill resulted in:

- A technical correction to the GPFS tax laws. An entity that is required to lodge GPFS with the ATO (on or before the required due date to lodge its income tax return), must now lodge the GPFS in the ‘approved form’. The purpose of this amendment is to make it clear that tax penalties can be applied for late or non-lodgement of the GPFS with the ATO (i.e. failure to lodge an approved form document with the ATO can trigger tax administrative penalties)
- A 100 fold increase in ‘failure to lodge’ tax penalties for significant global entities. From 1 July 2017, the tax penalties for significant global entities failing to lodge approved documents on time increases to \$105,000 (late 28 days or less) through to \$525,000 (late 113 days or more), whereas previously such penalties would have been \$1,050 and \$5,250 respectively.

Given the dramatic increase in tax administration penalties (for which directors are jointly and severally liable), it will be vital for significant global entities to ensure timely lodgement of its GPFS.

Administrative penalties are further discussed in [Chapter 5](#).

4. Issues which would benefit from further clarification

The following are some areas where we will seek further comment from the ATO – as part of the continuing consultation process.

- What is meant by ‘consolidated for accounting purposes as a single group’?
- ATO view of impact of not electing best practice option?

No further formal consultation period has been announced by the ATO following the release of the April 2019 additional web guidance. If you have further questions that need to be resolved it may be necessary to contact the ATO using the [SGE mailbox](#).

What is meant by ‘consolidated for accounting purposes as a single group’?

You are a SGE if annual global income for the income year is A\$1 billion or more for either:

- you as a GPE as defined in Section 960-560 of the ITAA 1997
- your GPE which consolidates for accounting purposes a group of entities including you.

AASB 10 defines groups as the parent + its subsidiaries. A subsidiary is an entity that is controlled by another entity.

The ATO guidance states, in the context of which standards to use in GPFS, that a group of entities ‘consolidated for accounting purposes as a single group’ refers to individual entities within a group of entities whose financial statements are consolidated in accordance with the relevant accounting standards in such a way that the assets, liabilities, equity, income, expenses and cash flow of the parent entity and the other members of the group are presented as those of a single economic entity.

Based on the above guidance it may be concluded:

- Investment entities that qualify under the consolidation exception in AASB 10, paragraph 31 are **not** consolidated for accounting purposes. This appears to be confirmed in the ATO’s website commentary on SGEs and the ATO Law Companion Guide LCG 2015/3.
- Overseas jurisdictions may provide a consolidation exemption for immaterial subsidiaries. As such, this would be considered **not** consolidated for accounting purposes. Again, this appears to be confirmed in the ATO’s website commentary on SGEs.
- An Australian parent may assess itself and its group as non-reporting entities. Under present Corps Act and ASIC guidance the parent may elect not to prepare consolidated financial statements – i.e. elect to prepare parent separate SPFS. As such, this may also be considered **not** consolidated for accounting purposes. This is **not** specifically discussed in the current ATO commentary on GEs.

The meaning of ‘consolidated for accounting purposes’ has wider implications for other significant global entity tax measures, for example country-by-country reporting.

ATO view of impact of not electing best practice option?

The ATO guidance also refers to best practice options (which may be in addition to the requirements of the enacted legislation) and encourages the taxpayer to elect the best practice option in order to promote tax transparency. In most circumstances other options will generally be available and will still comply with the enacted legislation.

For example, a taxpayer may have a choice of providing GPFS for the parent entity only or a consolidated GPFS. In determining which option to adopt, the ATO suggests that a taxpayer should take into account how each option would best contribute to transparency of its Australian tax affairs, i.e. prepare consolidated GPFS.

The above ATO guidance does not provide any commentary on what impacts (if any) there may be if a taxpayer elects an option which complies with Section 3CA but is not considered by the ATO to be best practice.

5. Lodgement with ATO

When to lodge your GPFS?

A taxpayer must provide a GPFS for a financial year most closely corresponding to their income tax year. The taxpayer must give the ATO their GPFS on or before the day it is required to lodge its income tax return. As a reminder the tax law amendments do not apply when a company has lodged a GPFS with ASIC within the required deadlines.

In accordance with Section 319 of the Corps Act a company must lodge its annual report with ASIC:

- within three months after the financial year a disclosing entity – for example, a listed public company
- within four months after the financial year for all other companies.

It may be that some companies may continue to lodge SPFS with ASIC by the Corps Act deadline. But if a company switches from SPFS to GPFS then the Corps Act deadline is still three or four months after year end.

How to lodge your GPFS?

A taxpayer will attach their GPFS to the approved form and lodge via the online Business or Tax Agent portal.

The GPFS should be in PDF format and the maximum file size allowable is 20MB.

If you are a member of a group consolidated for accounting purposes, you will need to provide the GPFS even if another member of your group also gives the same GPFS.

Late lodgement with ASIC?

If a taxpayer missed the lodgement deadline with ASIC (discussed above) but late lodges (with ASIC) before the due date for lodgement of its income tax return the ATO will consider that the obligation to provide a GPFS to the ATO has been satisfied if it notifies the ATO before the due date for the lodgement of its income tax return. In such circumstances, the lodgement will still be viewed as late by ASIC for Corps Act purposes.

This relief also applies to foreign entities where they are required to prepare and lodge financial statements under subsections 601CK(5) - (6) of the Corps Act.

Administrative penalties

If a taxpayer does not provide the required GPFS either in the approved form or before the due date for lodgement of its income tax return they will be liable to an [administrative penalty](#).

Taxpayers need to be aware that compliance with the legislative requirements to lodge GPFS is mandatory. Under the new failure to lodge penalty regime for SGEs the maximum penalty for an SGE failing to lodge documents (including GPFS) with the ATO on time is currently \$525,000.

6. Illustrative examples

Examples in this Chapter		ATO scenario*
1.	Overseas 'owned' group with no Australian tax consolidation group and the overseas parent is an Australian registered foreign company	2
	Alternative fact pattern where deed of cross guarantee is present	3
2.	Overseas 'owned' group with an Australian MEC group and the overseas parent is an Australian registered foreign company	2
3.	Overseas 'owned' group with an Australian MEC group and the overseas parent is not an Australian registered foreign company	2
4.	Australian 'owned' group with an Australian tax consolidation group and the Australian parent is a listed disclosing entity	2
5.	Australian 'owned' group with an Australian tax consolidation group and the Australian parent is a non-reporting entity (i.e. prepares SPFS)	2
6.	Australian grandfathered large proprietary company	2
7.	Australian large proprietary company which prepares and lodges but receives audit relief (ASIC Instrument 2016/784)	2
8.	Overseas 'owned' (registered foreign company) group with no Australian tax consolidation group, but all entities are part of deed of cross guarantee (ASIC Instrument 2016/785)	3
9.	Overseas 'owned' (registered foreign company) group with an Australian tax consolidation group, but all entities are part of deed of cross guarantee (ASIC Instrument 2016/785)	3
10.	Australian 'owned' group with no Australian tax consolidation group, but all entities are part of deed of cross guarantee (ASIC Instrument 2016/785)	2
11.	Australian 'owned' group with an Australian tax consolidation group, but all entities are part of deed of cross guarantee (ASIC Instrument 2016/785)	1
12.	Overseas 'owned' group which owns a small Australian proprietary company that is not part of a large group (ASIC Instrument 2016/204)	3
13.	Registered foreign company (RFC) operating a branch in Australia (Australian permanent establishment) where RFC lodges GPFS (with ASIC) prepared in accordance with CAAP	1
	RFC operating a branch in Australia (Australian permanent establishment) where RFC does not lodge GPFS (with ASIC)	4
14.	Overseas 'owned', small Australian proprietary companies that are part of a large group	2
15.	Overseas 'owned', small Australian proprietary companies that are part of a large group, but parent is a registered foreign company	3

* Refer to table on next page

The guidance outlines the following impacts of Section 3CA of the tax law amendments.

SGE corporate tax entity	ATO requirements – Section 3CA
<p>Scenario 1</p> <p>If the entity is an Australian resident for tax purposes and lodges GPFS with ASIC within the stipulated time.</p> <p>If the entity is a subsidiary member of an Australian tax consolidated group or a MEC group, except where the entity enters or leaves that group part-way through the income year.</p>	<p>None.</p>
<p>Scenario 2</p> <p>If the entity is an Australian resident for tax purposes and:</p> <ul style="list-style-type: none"> • the entity is required to lodge a GPFS with ASIC, but has not done so, or • the entity lodges SPFS with ASIC, or • the entity is required to prepare, but not lodge financial reports with ASIC (for example, grandfathered large proprietary companies), or • the entity is otherwise relieved from preparing financial reports for ASIC purposes because your parent lodges consolidated financial statements prepared in accordance with AASBs (for example some deeds of cross guarantee arrangements). 	<p>A form of GPFS (individual[^], separate[^] or consolidated) prepared in accordance with AASBs.</p>
<p>Scenario 3</p> <p>If the entity is an Australian resident for tax purposes and you are:</p> <ul style="list-style-type: none"> • not subject to the Corps Act (for example corporate limited partnerships), or • not subject to Part 2M.3 of the Corps Act (for example, certain small proprietary companies), or • otherwise relieved from preparing financial reports by ASIC because you are a small proprietary company controlled by a foreign company that is not part of a large group, or • otherwise relieved from preparing financial reports by ASIC because your foreign parent lodges consolidated financial statements with ASIC, which are prepared in accordance with accounting standards applicable in their home country (for example, a deed of cross guarantee where the holding entity is a registered foreign company). 	<p>A form of GPFS (individual[^], separate[^] or consolidated) prepared in accordance with AASBs or other commercially accepted accounting principles (CAAP) – see What is CAAP? for further discussion</p>

SGE corporate tax entity	ATO requirements – Section 3CA
<p>Scenario 4</p> <p>If the entity is a foreign resident operating a permanent establishment in Australia and the entity has not already lodged GPFS with ASIC (for example, a registered foreign company conducting a business through an Australian branch).</p>	<p>A form of GPFS (individual[^], separate[^] or consolidated) prepared in accordance with CAAP – depending on the circumstances.</p>

[^] Individual and separate financials statements are collectively referred to as stand-alone financial statements in the ATO guidance

The examples contained herein are of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

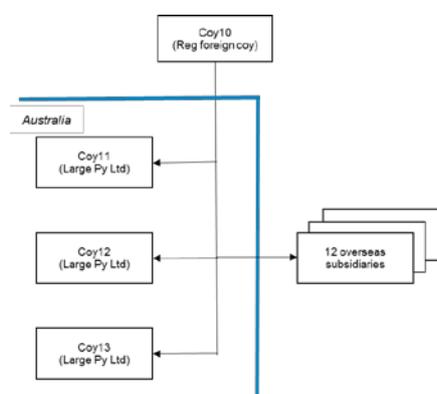
Example 1 – Overseas ‘owned’ group – no Australian tax consolidation group

An overseas company (Coy10) controls (as defined by AASB 10) three Australian subsidiary companies (Coy11, Coy12, Coy13). Coy12 has 12 overseas companies which do not operate in Australia. The three Australian companies are directly owned by Coy10, i.e. they are sister entities. There is no Australian tax consolidated group – each Australian subsidiary is a separate taxpayer.

Coy10 is incorporated in the USA and prepares global consolidated financial statements under US GAAP and lodges them with the US SEC. Coy10 is also a registered foreign company for Australian Corps Act purposes and lodges its US GAAP financial statements with ASIC. Coy10 is not required to lodge a tax return in Australia.

In addition each of the 12 overseas subsidiaries of Coy12 are not required to lodge a tax return in Australia. They also have no Corps Act reporting obligations.

Coy11, Coy12 and Coy13 are all large proprietary companies and are not considered reporting entities – as defined by Australian accounting standards. All three companies currently prepare SPFS for Corps Act purposes. Coy12 has never prepared consolidated financial statements.



Each of Coy11, Coy12 and Coy13 is affected by the tax laws as follows:

- each company is a corporate tax entity
- each company is a significant global entity
- each company is an Australian resident
- each company does not lodge GPFS with ASIC
- each company is required to lodge a tax return.

This fact pattern would fall into ATO scenario 2 – i.e. Coy11, Coy12 and Coy13 each has an obligation to prepare financial reports under Part 2M.3 of the Corps Act and currently prepare and lodge SPFS with ASIC for these purposes.

Choice

Coy11 and Coy13 have a choice, for ATO GPFS lodgement purposes, as follows.

- preparing and lodging individual GPFS (in compliance with AASBs) for Coy11 and Coy13, or
- lodgement of Coy10 consolidated financial statements.

Coy12 has a choice, for ATO GPFS lodgement purposes, as follows.

- preparing and lodging separate GPFS (in compliance with AASBs) for Coy12, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for Coy12 and its 12 overseas subsidiaries – either the two column or four column approach, or
- lodgement of Coy10 consolidated financial statements.

Individual GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy11 and Coy13 are not publicly accountable).

If Coy11 and Coy13 each chooses to prepare individual GPFS it would make sense not to continue with preparation of SPFS for themselves for Corps Act purposes. The individual GPFS should be lodged with ASIC to satisfy each company's requirements under Part 2M.3 of the Corps Act.

Separate GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy12 is not publicly accountable).

If Coy12 chooses to prepare separate GPFS it would make sense not to continue with preparation of SPFS for itself for Corps Act purposes. The separate GPFS should be lodged with ASIC to satisfy Coy12's requirements under Part 2M.3 of the Corps Act.

If either Coy12 or Coy12 group is a reporting entity, the separate Coy12 GPFS will disclose how to access the Coy12 group consolidated financial statements under AASB 127.17. If neither Coy12 nor Coy12 group is a reporting entity, and Coy12 group consolidated financial statements are not prepared, the separate Coy12 GPFS will provide the disclosures outlined in AASB 127.16 only (i.e. not disclosures required by AASB 127.17).

Consolidated GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy12 is not publicly accountable).

If Coy12 chooses to prepare consolidated GPFS it would make sense not to continue with preparation of SPFS for itself for Corps Act purposes. The consolidated GPFS should be lodged with ASIC to satisfy Coy12's requirements under Part 2M.3 of the Corps Act.

Coy10 consolidated financial statements

The ATO has indicated that if Coy10 consolidated financial statements are to satisfy the lodgement requirements for the tax law amendments, then they need to be prepared in accordance with AASBs (given each taxpayer, Coy11, Coy12 and Coy13, is an Australian Corps Act entity).

Coy10 currently prepares consolidated financial statements in accordance with US GAAP and the costs to convert to AASBs would generally mean that this choice would not be taken up by many taxpayers (if any).

If this option is chosen Coy11, Coy12 and Coy13 will continue to prepare SPFS – for lodgement with ASIC to satisfy the requirements under Part 2M.3 of the Corps Act.

What if there is a deed of cross guarantee?

If we change the fact pattern so that Coy10 is a holding entity for a deed of cross guarantee involving itself and Coy11, Coy12 and Coy13. Under *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785* – Coy11, Coy12 and Coy13 each are relieved from preparing financial reports.

This revised fact pattern would fall into ATO scenario 3 – i.e. Coy10 prepares consolidated financial statements with all information required by Instrument 2016/785 and lodges its US GAAP consolidated financial statements under Section 601CK.

In this case the Coy10 consolidated financial statements would **not** be required to be prepared based on AASBs.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy11's, Coy12's and Coy13's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be:

- for Coy11 – preparation of individual GPFS (Tier 1)
- for Coy12 – preparation of separate GPFS (Tier 1) (see note **Ex1.1** below)
- for Coy13 – preparation of individual GPFS (Tier 1).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

Ex1.1 – Coy12 consolidated GPFS would include 12 overseas subsidiaries. Each of the overseas subsidiaries is not required to lodge an income tax return in Australia.

Example 2 – Overseas ‘owned’ group – Australian MEC group, with registered foreign parent

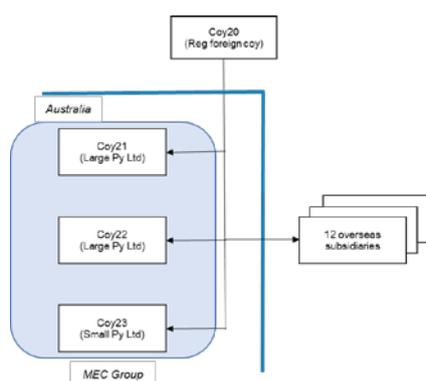
An overseas company (Coy20) controls (as defined by AASB 10) three Australian subsidiary companies (Coy21, Coy22, Coy23) and 12 other overseas companies which do not operate in Australia. The three Australian companies are directly owned by Coy20, i.e. they are sister entities. Coy21 is nominated as the head entity in the Multiple Entry Consolidated (MEC) group.

Coy20 is incorporated in Germany and prepares global consolidated financial statements under EU-IFRS and lodges these with the local German regulator. Coy20 is also a registered foreign company for Australian Corps Act purposes and lodges its EU-IFRS financial statements with ASIC. Coy20 is not required to lodge a tax return in Australia.

In addition each of the 12 overseas subsidiaries of Coy20 are not required to lodge a tax return in Australia. They also have no Corps Act reporting obligations.

Coy21 and Coy22 are both large proprietary companies and are not considered reporting entities – as defined by Australian accounting standards. Coy21 and Coy22 currently prepare SPFS for Corps Act purposes. Coy22 has never prepared consolidated financial statements.

Coy23 is a small proprietary company and currently does not prepare or lodge financial statements under s292(2)(b)(i) of the Corps Act.



Only Coy21 is affected by the tax laws as follows:

- Coy21 is a corporate tax entity
- Coy21 is a significant global entity
- Coy21 is an Australian resident
- Coy21 does not lodge GPFS with ASIC
- Coy21 is required to lodge a tax return.

Coy22 and Coy23 are not affected by the tax laws as they are not required to lodge an income tax return.

This fact pattern would fall into ATO scenario 2 – i.e. Coy21 has an obligation to prepare financial reports under Part 2M.3 of the Corps Act and currently prepares and lodges SPFS with ASIC for these purposes.

Choice

Coy21 has a choice, for ATO GPFS purposes, of:

- preparing and lodging individual GPFS (in compliance with AASBs) for Coy21, or
- lodgement of Coy20 consolidated financial statements.

Individual GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy21 is not publicly accountable).

If Coy21 chooses to prepare individual GPFS it would make sense not to continue with preparation of SPFS for itself for Corps Act purposes. The individual GPFS should be lodged with ASIC to satisfy Coy21’s requirements under Part 2M.3 of the Corps Act.

Coy22 will continue to prepare SPFS for Corps Act purposes. Coy23 is a small proprietary company and therefore not required to prepare a financial report under Section 292(2)(b)(i) of the Corps Act.

[Coy20 consolidated financial statements](#)

The ATO has indicated that if Coy20 consolidated financial statements are to satisfy the lodgement requirements for the tax law amendments, then they need to be prepared in accordance with AASBs (given taxpayer, Coy21, is an Australian Corps Act entity).

Coy20 currently prepares consolidated financial statements in accordance with EU-IFRS. The costs to convert the financial statements from EU-IFRS to AASBs would generally mean that this choice would not be taken up by many taxpayers (if any).

If Coy21 chooses to lodge Coy20 consolidated financial statements with the ATO it will be required to continue to prepare Coy21 and Coy22 SPFS – for lodgement with ASIC to satisfy the corporations law requirements. Coy23 is a small proprietary company and therefore not required to prepare a financial report under Section 292(2)(b)(i) of the Corps Act.

[ATO best practice](#)

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy21's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs is not clear in these circumstances. Either option will not include information for an aggregated Coy21 + Coy22 + Coy23, which we believe the ATO would consider best practice.

If this aggregated information is prepared the taxpayer should consider how it will be presented. Refer to the 'ATO best practice' discussion in [Chapter 2](#).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

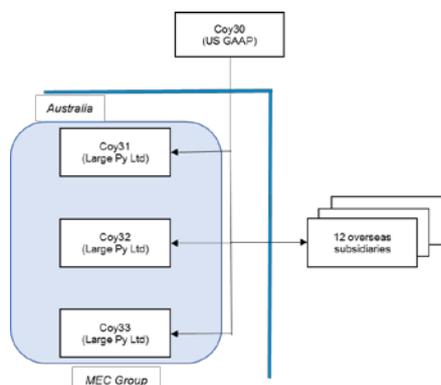
Example 3 – Overseas ‘owned’ group – Australian MEC group, with parent not registered in Australia

An overseas company (Coy30) controls (as defined by AASB 10) three Australian subsidiary companies (Coy31, Coy32, Coy33) and 12 other overseas companies which do not operate in Australia. The three Australian companies are directly owned by Coy30, i.e. they are sister entities. Coy31 is nominated as the head entity in the Multiple Entry Consolidated (MEC) group.

Coy30 is incorporated in the USA and prepares global consolidated financial statements under US GAAP and lodges these with the US SEC. Coy30 is not registered under the Australian Corps Act – i.e. it does not lodge its financial statements with ASIC. In addition, Coy30 is not required to lodge a tax return in Australia.

In addition each of the 12 overseas subsidiaries of Coy32 are not required to lodge a tax return in Australia. They also have no Corps Act reporting obligations.

Coy31, Coy32 and Coy33 are all large proprietary companies and are not considered reporting entities – as defined by Australian accounting standards. Coy31, Coy32 and Coy33 currently prepare SPFS for Corps Act purposes. Coy32 has never prepared consolidated financial statements.



Only Coy31 is affected by the tax laws as follows:

- Coy31 is a corporate tax entity
- Coy31 is a significant global entity
- Coy31 is an Australian resident
- Coy31 does not lodge GPFS with ASIC
- Coy31 is required to lodge a tax return.

Coy32 and Coy33 are not affected by the tax laws as they are not required to lodge an income tax return.

This fact pattern would fall into ATO scenario 2 – i.e. Coy31 has an obligation to prepare financial reports under Part 2M.3 of the Corps Act and currently prepares and lodges SPFS with ASIC for these purposes.

Choice

Coy31 has a choice, for ATO GPFS purposes, of:

- preparing and lodging individual GPFS (in compliance with AASBs) for Coy31, or
- lodgement of Coy30 consolidated financial statements.

Individual GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy31 is not publicly accountable).

If Coy31 chooses to prepare individual GPFS it would make sense not to continue with preparation of SPFS for itself for Corps Act purposes. The individual GPFS should be lodged with ASIC to satisfy Coy31’s requirements under Part 2M.3 of the Corps Act.

Coy32 and Coy33 will each continue to prepare SPFS for Corps Act purposes.

Coy30 consolidated financial statements

The ATO has indicated that if Coy30 consolidated financial statements are to satisfy the lodgement requirements for the tax law amendments, then they need to be prepared in accordance with AASBs (given taxpayer, Coy31, is an Australian Corps Act entity).

Coy30 currently prepares consolidated financial statements in accordance with US GAAP and the costs to convert to AASBs would generally mean that this choice would not be taken up by many taxpayers (if any).

If this option is chosen Coy31, Coy32 and Coy33 will continue to prepare SPFS – for lodgement with ASIC to satisfy the corporations law requirements.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy31's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs is not clear in these circumstances. Either option will not include information for an aggregated Coy31 + Coy32 + Coy33, which we believe the ATO may consider best practice.

If this aggregated information is prepared the taxpayer should consider how it will be presented. Refer to the 'ATO best practice' discussion in [Chapter 2](#).

The GPFS – including any implications for the audit report.

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

Example 4 – Australian ‘owned’ group – Australian tax consolidation group, with public parent/head

An Australian listed company (Coy40) controls (as defined by AASB 10) four Australian subsidiary companies (Coy41, Coy42, Coy43, Coy44) and five other overseas companies which do not operate in Australia. All Australian entities operate in Australia. All subsidiaries are 100% owned by Coy40, except Coy44 which is 75% owned.

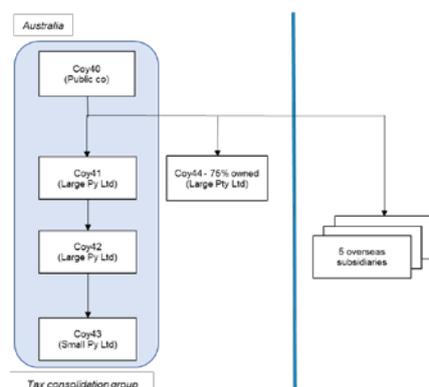
Coy40 is a listed public company and prepares and lodges audited consolidated GPFS with ASIC and the ASX. Coy40 is also the head entity in an Australian tax consolidated group. This group includes Coy40, Coy41, Coy42, Coy43 (but not Coy44 or the five overseas subsidiaries).

In addition each of the 5 overseas subsidiaries of Coy40 are not required to lodge a tax return in Australia. They also have no Corps Act reporting obligations.

Coy41, Coy42 and Coy44 are all large proprietary companies and are not considered reporting entities – as defined by Australian accounting standards. Coy41, Coy42 and Coy44 currently prepare SPFS for Corps Act purposes. Coy41 and Coy42 have never prepared consolidated financial statements.

Coy43 is a small proprietary company and currently does not prepare or lodge financial statements under s292(2) of the Corps Act.

Coy40 is not impacted by the tax law amendments as it already lodges GPFS (prepared using Australian accounting standards) with ASIC – within the required deadlines.



Only Coy44 is affected by the tax laws as follows:

- Coy44 is a corporate tax entity
- Coy44 is a significant global entity
- Coy44 is an Australian resident
- Coy44 does not lodge GPFS with ASIC
- Coy44 is required to lodge a tax return.

Coy41, Coy42 and Coy43 (who are part of the Australian tax consolidation group) are not affected by the tax laws as they are not required to lodge an income tax return.

This fact pattern would fall into ATO scenario 2 – i.e. Coy44 has an obligation to prepare financial reports under Part 2M.3 of the Corps Act and currently prepares and lodges SPFS with ASIC for these purposes.

Choice

Coy44 has a choice, for ATO GPFS purposes, of:

- preparing and lodging individual GPFS (in compliance with AASBs) for Coy44, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for Coy40 and all its subsidiaries (Coy41, Coy42, Coy43, Coy44 and five overseas subsidiaries) – either the two column or four column approach.

Individual GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy44 is not publicly accountable).

If Coy44 chooses to prepare individual GPFS it would make sense not to continue with preparation of SPFS for itself for Corps Act purposes. The individual GPFS should be lodged with ASIC to satisfy Coy44's requirements under Part 2M.3 of the Corps Act.

Coy40 will continue to prepare consolidated GPFS for Corps Act purposes.

Coy41 and Coy42 will each continue to prepare SPFS for Corps Act purposes.

Coy43 is a small proprietary company and therefore not required to prepare a financial report under the Corps Act.

Consolidated GPFS

Coy44 could choose to lodge Coy40 consolidated GPFS as Coy44 is included in these consolidated GPFS. Coy40 as a disclosing entity already prepares and lodges consolidated GPFS for ASX and Corps Act purposes.

Coy41, Coy42 and Coy44 will each continue to prepare SPFS for Corps Act purposes.

Coy43 is a small proprietary company and therefore not required to prepare a financial report under the Corps Act.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy44's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs is not clear in these circumstances. Either option will not include information for an aggregated Coy40 + Coy41 + Coy42 + Coy43 + Coy44, which we believe the ATO may consider best practice.

If this aggregated information is prepared the taxpayer should consider how it will be presented. Refer to the 'ATO best practice' discussion in [Chapter 2](#).

The consolidated GPFS will include the five overseas subsidiaries which the ATO may not consider relevant for Australian reporting purposes.

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

Example 5 – Australian ‘owned’ group – Australian tax consolidation group, with proprietary parent/head

An Australian large proprietary company (Coy50) controls (as defined by AASB 10) three Australian subsidiary companies (Coy51, Coy52, Coy53), two entities which are Australian limited partnerships (PS54, PS55) and five other overseas companies which do not operate in Australia. All Australian entities operate in Australia.

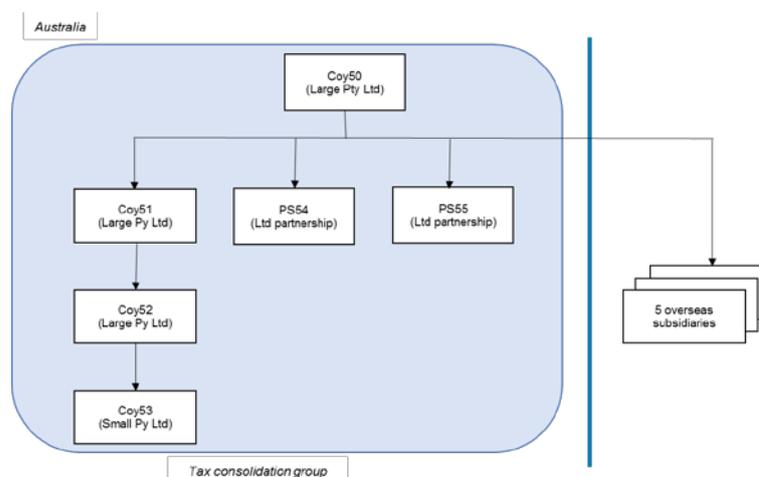
Coy50 prepares and lodges audited consolidated SPFS with ASIC as both Coy50 and the group are not considered reporting entities. Coy50 is also the head entity in an Australian tax consolidated group. This group includes Coy50, Coy51, Coy52, Coy53, PS54 and PS55 (but not the five overseas companies).

Coy51 and Coy52 are both large proprietary companies and are not considered reporting entities – as defined by Australian accounting standards. Coy51 and Coy52 currently prepare SPFS for Corps Act purposes. Coy51 and Coy52 have never prepared consolidated financial statements.

Coy53 is a small proprietary company and currently does not prepare or lodge financial statements under s292(2) of the Corps Act.

PS54 and PS55 currently prepare SPFS in accordance with Australian accounting standards and are not considered reporting entities.

In addition each of the five overseas subsidiaries of Coy50 are not required to lodge a tax return in Australia. They also have no Corps Act reporting obligations.



Only Coy50 is affected by the tax laws as follows:

- Coy50 is a corporate tax entity
- Coy50 is a significant global entity
- Coy50 is an Australian resident
- Coy50 does not lodge GPFS with ASIC
- Coy50 is required to lodge a tax return.

Coy51, Coy52, Coy53, PS54 and PS55 (who are part of the Australian tax consolidation group) are not affected by the tax laws as they are not required to lodge an income tax return.

This fact pattern would fall into ATO scenario 2 – i.e. Coy50 has an obligation to prepare financial reports under Part 2M.3 of the Corps Act and currently prepares and lodges SPFS with ASIC for these purposes.

Choice

Coy50 has a choice, for ATO GPFS purposes, of:

- preparing and lodging separate GPFS (in compliance with AASBs) for Coy50, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for Coy50 and all its subsidiaries (Coy51, Coy52, Coy53, PS54, PS55 and five overseas subsidiaries) – either the two column or four column approach.

Separate GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy50 is not publicly accountable).

If Coy50 chooses to prepare separate GPFS it would make sense not to continue with preparation of the consolidated SPFS for Corps Act purposes. The separate GPFS should be lodged with ASIC to satisfy Coy50's requirements under Part 2M.3 of the Corps Act.

Coy51 and Coy52 will each continue to prepare SPFS for Corps Act purposes.

Coy53 is a small proprietary company and therefore not required to prepare a financial report under the Corps Act.

PS54 and PS55 will each continue to prepare SPFS for their respective reporting requirements.

Consolidated GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy50 is not publicly accountable).

Coy50 currently prepares consolidated SPFS. If it chooses to prepare consolidated GPFS it would make sense not to continue with preparation of the consolidated SPFS for Corps Act purposes. The consolidated GPFS should be lodged with ASIC to satisfy Coy50's requirements under Part 2M.3 of the Corps Act.

Coy51 and Coy52 will each continue to prepare SPFS for Corps Act purposes.

Coy53 is a small proprietary company and therefore not required to prepare a financial report under the Corps Act.

PS54 and PS55 will each continue to prepare SPFS for their respective reporting requirements.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy50's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs is not clear in these circumstances. Either option will not include information for an aggregated Coy50 + Coy51 + Coy52 + Coy53 + PS54 + PS55, which we believe the ATO may consider best practice.

If this aggregated information is prepared the taxpayer should consider how it will be presented. Refer to the 'ATO best practice' discussion in [Chapter 2](#).

The consolidated GPFS will include the five overseas subsidiaries which the ATO may not consider relevant for Australian reporting purposes.

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

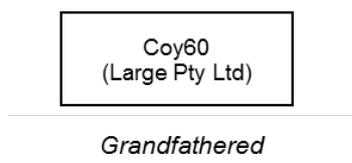
Example 6 – Grandfathered large proprietary company

Coy60 is a large proprietary company that was classified as an exempt proprietary company under old corporations law. Under the current Corps Act these companies are required to prepare financial statements and have them audited but are not required to lodge their audited financial reports with ASIC (provided they met certain conditions). Coy60 has met all the required conditions and prepares GPFS for itself.

Coy60 is not considered to be a reporting entity – as defined by Australian accounting standards. Coy60 currently prepare GPFS – but is not required to lodge them with ASIC.

Coy60 is affected by the tax laws as follows:

- Coy60 is a corporate tax entity
- Coy60 is a significant global entity
- Coy60 is an Australian resident
- Coy60 does not lodge GPFS with ASIC
- Coy60 is required to lodge a tax return.



This fact pattern would fall into ATO scenario 2 – i.e. Coy60 has an obligation to prepare a financial report under Part 2M.3 of the Corps Act. It is not required to lodge the financial report with ASIC, in accordance with the Corps Act.

ATO best practice

Under the tax law amendments Coy60 is required to lodge a set of individual GPFS with the ATO – i.e. there are no other options available.

Further the ATO will provide a copy of the GPFS to ASIC. ASIC have already indicated that they will include the GPFS on the ASIC public record.

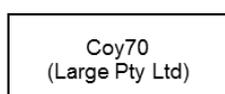
Example 7 – Australian large proprietary company receives audit relief – ASIC Instrument 2016/784

Coy70 is an Australian large proprietary company. Under the current Corps Act it is required to prepare and lodge financial statements. Coy70 has satisfied all the conditions for relief under ASIC Instrument 2016/784 and as such is not required to have its financial statements audited. For further discussion on ASIC Instrument 2016/784 refer to KPMG's *Australian Financial Reporting Manual*.

Coy70 is not considered to be a reporting entity – as defined by Australian accounting standards. Coy70 currently prepares SPFS for itself and lodges them with ASIC.

Coy70 is affected by the tax laws as follows:

- Coy70 is a corporate tax entity
- Coy70 is a significant global entity
- Coy70 is an Australian resident
- Coy70 does not lodge GPFS with ASIC
- Coy70 is required to lodge a tax return.



Audit relief

This fact pattern would fall into ATO scenario 2 – i.e. Coy70 has an obligation to prepare and lodge, but not have audited, a financial report under Part 2M.3 of the Corps Act.

This fact pattern would fall into ATO scenario 2 – i.e. Coy60 has an obligation to prepare a financial report under Part 2M.3 of the Corps Act. It is not required to lodge the financial report with ASIC, in accordance with the Corps Act.

Under the tax law amendments Coy70 is required to lodge a set of individual GPFS with the ATO – i.e. there are no other options available.

ATO best practice

The taxpayer will need to consider if it will now have its financial statements audited.

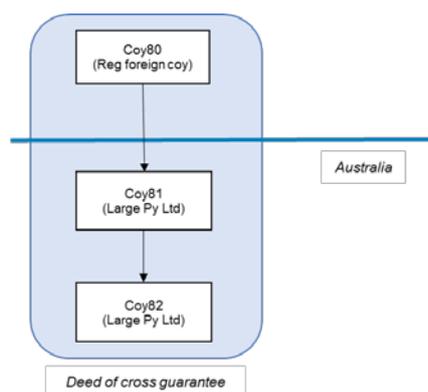
Example 8 – Overseas ‘owned’ group – no tax consolidation group but deed of cross guarantee (ASIC Instrument 2016/785) with registered foreign parent

An overseas company (Coy80) controls (as defined by AASB 10) two Australian subsidiary companies (Coy81 and Coy82). Coy 80 directly owns Coy81, who in turn directly owns Coy82. There is no Australian tax consolidated group – each Australian subsidiary is a separate taxpayer.

Coy80 is incorporated in the USA and prepares global consolidated financial statements under US GAAP and lodges them with the US SEC. Coy80 is also a registered foreign company for Australian Corps Act purposes and lodges its US GAAP financial statements with ASIC. Coy80 is not required to lodge a tax return in Australia.

Coy80, Coy81 and Coy82 have entered into an appropriate deed of cross guarantee which results in Coy81 and Coy82 receiving relief from the requirements to prepare, lodge and have audited financial statements (under the Corps Act). Instead Coy80, which is a registered foreign company prepares and lodges its consolidated financial statements (US GAAP) with ASIC, for Corps Act purposes. For further discussion on ASIC Instrument 2016/785 refer to KPMG’s *Australian Financial Reporting Manual*.

Coy81 and Coy82 are both large proprietary companies and are not considered reporting entities – as defined by Australian accounting standards.



Each of Coy81 and Coy82 is affected by the tax laws as follows:

- each company is a corporate tax entity
- each company is a significant global entity
- each company is an Australian resident
- each company does not lodge GPFS with ASIC
- each company is required to lodge a tax return.

This fact pattern would fall into ATO scenario 3 – i.e. foreign parent lodges consolidated financial statements ASIC and Australian companies are relieved from preparing financial reports.

Choice

Coy81 has a choice, for ATO GPFS lodgement purposes, as follows.

- preparing and lodging separate GPFS (in compliance with AASBs) for Coy81, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for Coy81 and Coy82 – either the two column or four column approach, or
- lodgement of Coy80 consolidated financial statements.

Coy82 has a choice, for ATO GPFS lodgement purposes, as follows.

- preparing and lodging individual GPFS (in compliance with AASBs) for Coy82, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for Coy81 and Coy82 – either the two column or four column approach, or
- lodgement of Coy80 consolidated financial statements.

Individual GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy82 is not publicly accountable).

Coy82 is currently not required to prepare any financial statements. If Coy82 elects this option it should consider the cost/benefit of this option against others.

If individual GPFS are prepared they will not be required to be lodged with ASIC, given the relief under the deed of cross guarantee. However, on providing such individual GPFS to the ATO, they will provide to ASIC who will make available on the ASIC public database.

Separate GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy81 is not publicly accountable).

Coy81 is currently not required to prepare any financial statements. If Coy81 elects this option it should consider the cost/benefit of this option against others.

If separate GPFS are prepared they will not be required to be lodged with ASIC, given the relief under the deed of cross guarantee. However, on providing such separate GPFS to the ATO, they will provide to ASIC who will make available on the ASIC public database.

Coy82 is not required to prepare financial statements – given the deed of cross guarantee relief.

Consolidated GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy81 is not publicly accountable).

Coy81 is currently not required to prepare any financial statements. If Coy81 elects this option it should consider the cost/benefit of this option against others.

If consolidated GPFS are prepared they will not be required to be lodged with ASIC, given the relief under the deed of cross guarantee. However, on providing such consolidated GPFS to the ATO, they will provide to ASIC who will make available on the ASIC public database.

We note that Coy81 and Coy82 are currently not required to prepare any financial statements – because of the ASIC relief.

Coy80 consolidated financial statements

Coy80 currently prepares consolidated financial statements under US GAAP and lodges them with ASIC, as a registered foreign company under Section 601CK.

This fact pattern falls into ATO scenario 3 and as such the Coy80 consolidated financial statements would **not** be required to be prepared based on AASBs – i.e. they can be prepared using CAAP (in this case US GAAP).

This option would incur no additional preparation cost.

In addition Coy81 and Coy82 are currently not required to prepare any financial statements – because of the ASIC relief. Coy81 and Coy82 would, however, each be required to lodge Coy80's consolidated financial statements with the ATO even though these are already lodged with ASIC.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy81's and Coy82's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be either preparation of:

- a consolidated GPFS (Coy81 and Coy82) – (Tier 1) or
- Coy81 separate GPFS (Tier 1) and Coy82 individual GPFS (Tier 1).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

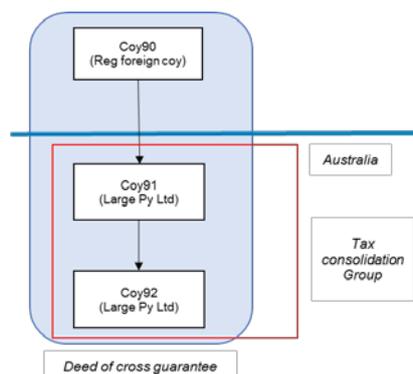
Example 9 – Overseas ‘owned’ group – tax consolidation group and deed of cross guarantee (ASIC Instrument 2016/785) with registered foreign parent

An overseas company (Coy90) controls (as defined by AASB 10) two Australian subsidiary companies (Coy91 and Coy92). Coy 90 directly owns Coy91, who in turn directly owns Coy92. Coy91 is also the head entity in an Australian tax consolidated group.

Coy90 is incorporated in the USA and prepares global consolidated financial statements under US GAAP and lodges them with the US SEC. Coy90 is also a registered foreign company for Australian Corps Act purposes and lodges its US GAAP financial statements with ASIC. Coy90 is not required to lodge a tax return in Australia.

Coy90, Coy91 and Coy92 have entered into an appropriate deed of cross guarantee which results in Coy91 and Coy92 receiving relief from the requirements to prepare, lodge and have audited financial statements (under the Corps Act). Instead Coy90, which is a registered foreign company prepares and lodges its consolidated financial statements (US GAAP) with ASIC, for Corps Act purposes. For further discussion on ASIC Instrument 2016/785 refer to KPMG’s *Australian Financial Reporting Manual*.

Coy91 and Coy92 are both large proprietary companies and are not considered reporting entities – as defined by Australian accounting standards.



Only Coy91 is affected by the tax laws as follows:

- Coy91 is a corporate tax entity
- Coy91 is a significant global entity
- Coy91 is an Australian resident
- Coy91 does not lodge GPFS with ASIC
- Coy91 is required to lodge a tax return.

This fact pattern would fall into ATO scenario 3 – i.e. foreign parent lodges consolidated financial statements ASIC and Australian companies are relieved from preparing financial reports.

Choice

Coy91 has a choice, for ATO GPFS lodgement purposes, as follows.

- preparing and lodging separate GPFS (in compliance with AASBs) for Coy91, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for Coy91 and Coy92 – either the two column or four column approach, or
- lodgement of Coy90 consolidated financial statements.

Separate GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy91 is not publicly accountable).

Coy91 is currently not required to prepare any financial statements. If Coy91 elects this option it should consider the cost/benefit of this option against others.

If separate GPFS are prepared they will not be required to be lodged with ASIC, given the relief under the deed of cross guarantee. However, on providing such separate GPFS to the ATO, they will provide to ASIC who will make available on the ASIC public database.

Coy92 is not required to prepare financial statements – given the deed of cross guarantee relief.

Consolidated GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy91 is not publicly accountable).

Coy91 is currently not required to prepare any financial statements. If Coy91 elects this option it should consider the cost/benefit of this option against others.

If consolidated GPFS are prepared they will not be required to be lodged with ASIC, given the relief under the deed of cross guarantee. However, on providing such consolidated GPFS to the ATO, they will provide to ASIC who will make available on the ASIC public database.

We note that Coy91 and Coy92 are currently not required to prepare any financial statements – because of the ASIC relief.

Coy90 consolidated financial statements

Coy90 currently prepares consolidated financial statements under US GAAP and lodges them with ASIC, as a registered foreign company under Section 601CK.

This fact pattern falls into ATO scenario 3 and as such the Coy90 consolidated financial statements would **not** be required to be prepared based on AASBs – i.e. they can be prepared using CAAP (in this case US GAAP).

This option would incur no additional preparation cost.

In addition Coy91 and Coy92 are currently not required to prepare any financial statements – because of the ASIC relief. Coy91 would, however, each be required to lodge Coy90's consolidated financial statements with the ATO even though these are already lodged with ASIC.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy91's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be the preparation of consolidated GPFS (Coy91 and Coy92) – (Tier 1).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

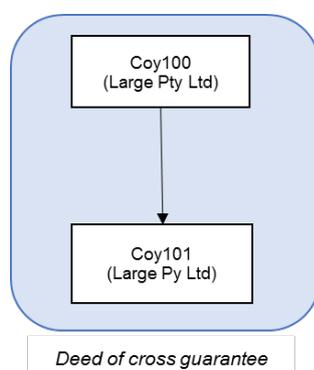
Example 10 – Australian ‘owned’ group – no tax consolidation group but deed of cross guarantee (ASIC Instrument 2016/785)

An Australian large proprietary company (Coy100) controls (as defined by AASB 10) an Australian subsidiary large proprietary company (Coy101). There is no Australian tax consolidated group – each Australian subsidiary is a separate taxpayer.

Coy100 prepares and lodges audited consolidated GPFS with ASIC – in accordance with the requirements of ASIC Instrument 2016/785, for Corps Act purposes.

Coy100 and Coy101 have entered into an appropriate deed of cross guarantee which results in Coy101 receiving relief from the requirements to prepare, lodge and have audited financial statements (under the Corps Act). Instead Coy100 prepares and lodges its consolidated GPFS with ASIC. For further discussion on ASIC Instrument 2016/785 refer to KPMG’s *Australian Financial Reporting Manual*.

Coy100 is not impacted by the tax law amendments as it already lodges consolidated GPFS with ASIC, by the required deadline, for Corps Act purposes.



Only Coy101 is affected by the tax laws as follows:

- Coy101 is a corporate tax entity
- Coy101 is a significant global entity
- Coy101 is an Australian resident
- Coy101 does not lodge GPFS with ASIC
- Coy101 is required to lodge a tax return.

This fact pattern would fall into ATO scenario 2 – i.e. parent (Coy100) lodges consolidated financial statements ASIC and Coy101 is relieved from preparing financial reports.

Choice

Coy101 has a choice, for ATO GPFS lodgement purposes, as follows.

- preparing and lodging individual GPFS (in compliance with AASBs) for Coy101, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for Coy100 and Coy101 – either the two column or four column approach.

Individual GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy101 is not publicly accountable).

Coy101 is currently not required to prepare any financial statements. If Coy101 elects this option it should consider the cost/benefit of this option against others.

If individual GPFS are prepared they will not be required to be lodged with ASIC, given the relief under the deed of cross guarantee. However, on providing such individual GPFS to the ATO, they will provide to ASIC who will make available on the ASIC public database.

Consolidated GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy100 is not publicly accountable).

Coy100 currently prepares and lodges (with ASIC) consolidated GPFS to comply with the conditions contained in ASIC Instrument 2016/785 for Corps Act purposes.

We note that Coy101 is currently not required to prepare any financial statements – because of the ASIC relief. Coy101 would, however, be required to lodge Coy100's consolidated financial statements with the ATO even though these are already lodged with ASIC.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy101's Australian tax affairs.

In our view, ATO best practice, would be the preparation of consolidated GPFS (Coy100 and Coy101) – (Tier 1).

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be the preparation of consolidated GPFS (Coy100 + Coy101) – (Tier 1).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

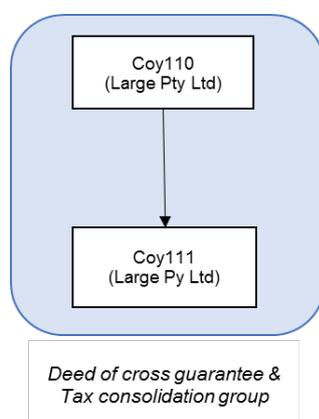
Example 11 – Australian ‘owned’ group – tax consolidation group and deed of cross guarantee (ASIC Instrument 2016/785)

An Australian large proprietary company (Coy110) controls (as defined by AASB 10) an Australian subsidiary large proprietary company (Coy111). Coy110 is also the head entity in an Australian tax consolidated group.

Coy110 prepares and lodges audited consolidated GPFS with ASIC – in accordance with the requirements of ASIC Instrument 2016/785, for Corps Act purposes.

Coy110 and Coy111 have entered into an appropriate deed of cross guarantee which results in Coy111 receiving relief from the requirements to prepare, lodge and have audited financial statements (under the Corps Act). Instead Coy110 prepares and lodges its consolidated GPFS with ASIC, for Corps Act purposes. For further discussion on ASIC Instrument 2016/785 refer to KPMG’s *Australian Financial Reporting Manual*.

Coy110 is not impacted by the tax law amendments as it already lodges consolidated GPFS with ASIC, by the required deadline, for Corps Act purposes.



Coy111 (who is part of the Australian tax consolidation group) is not affected by the tax laws as it is not required to lodge an income tax return.

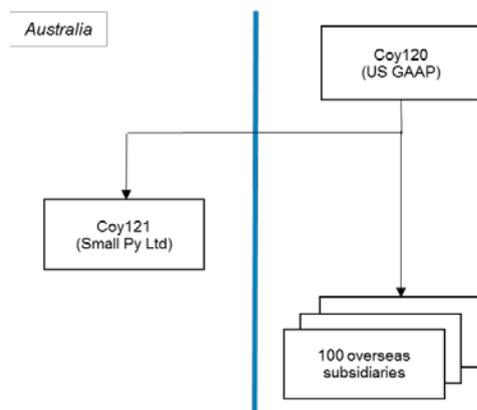
Example 12 – Overseas ‘owned’, small Australian proprietary company that is not part of a large group (ASIC Instrument 2017/204)

An overseas company (Coy120) controls (as defined by AASB 10) Coy121 and a number of overseas companies. Coy121 is the only operation of the Coy120 group within Australia. There is no deed of cross guarantee for this example.

Coy120 is incorporated in the USA and prepares global consolidated financial statements under US GAAP and lodges them with the US SEC. Coy120 is not required to lodge a tax return in Australia.

Our focus for this example is on Coy121 only. Coy121 is a small proprietary company who is consolidated into Coy120. Coy120 is not a registered foreign company in Australia and as such Section 292(2) of the Corps Act requires Coy121 to prepare and lodge financial statements. However Coy121 qualifies for relief under *ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204* as Coy121 is considered not to be part of a ‘large group’. For further discussion on ASIC Instrument 2017/204 refer to KPMG’s *Australian Financial Reporting Manual*.

As such, Coy121 does not prepare financial statements, for Corps Act purposes. Coy121 is not considered a reporting entity – as defined by Australian accounting standards.



Only Coy121 is affected by the tax laws as follows:

- Coy121 is a corporate tax entity
- Coy121 is a significant global entity
- Coy121 is an Australian resident
- Coy121 does not lodge GPFS with ASIC
- Coy121 is required to lodge a tax return.

This fact pattern would fall into ATO scenario 3 – i.e. Coy121 is a small proprietary company not subject to Part 2M.3 of the Corps Act (as it is a small proprietary company controlled by a foreign company that is not part of a large group).

Choice

Coy121 has a choice, for ATO GPFS lodgement purposes, as follows.

- preparing and lodging individual GPFS (in compliance with AASBs) for Coy121, or
- lodgement of Coy120 consolidated financial statements.

Individual GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy121 is not publicly accountable).

Coy121 is currently not required to prepare any financial statements. If Coy121 elects this option it should consider the cost/benefit of this option against others.

If individual GPFS are prepared they will not be required to be lodged with ASIC, given the relief under ASIC Instrument 2017/204. However, on providing such individual GPFS to the ATO, they will provide to ASIC who will make available on the ASIC public database.

Coy120 consolidated financial statements

Coy120 currently prepares consolidated financial statements under US GAAP and lodges with the SEC. It is not required to lodge them with ASIC – i.e. it is not a registered foreign company in Australia.

This fact pattern would fall into ATO scenario 3 and as such the Coy120 consolidated financial statements would **not** be required to be prepared based on AASBs – i.e. they can be prepared using CAAP (in this case US GAAP).

This option would incur no additional preparation cost.

In addition Coy121 is currently not required to prepare any financial statements – because of the ASIC relief. Coy121 would, however, each be required to lodge Coy120's consolidated financial statements with the ATO.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy121's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be the preparation of individual GPFS for Coy121 – (Tier 1).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

Example 13 – Registered foreign company operating a branch in Australia

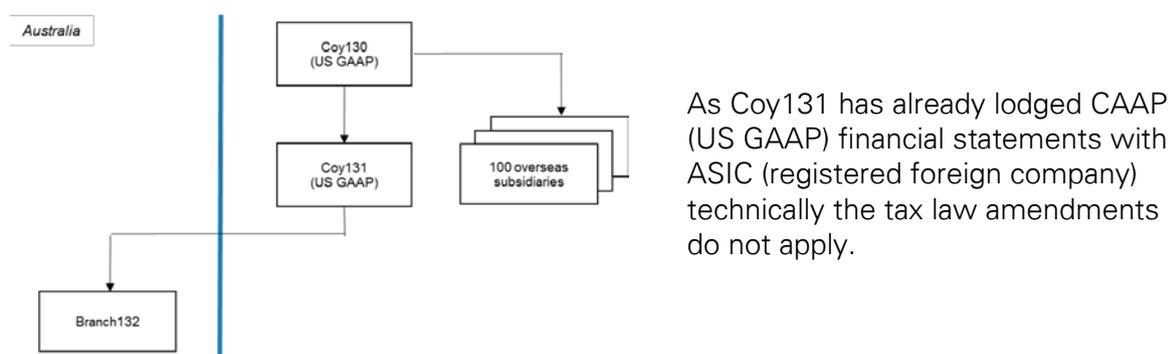
Registered foreign company lodges GPFS (with ASIC) prepared in accordance with CAAP

An overseas company (Coy130) controls (as defined by AASB 10) Coy131 and a number of other overseas subsidiaries. Coy130 is incorporated in the USA and prepares global consolidated financial statements under US GAAP and lodges them with the US SEC. Coy130 is not required to lodge a tax return in Australia.

Coy131 operates Branch132 in Australia – i.e. Coy131 is a foreign resident operating an Australian permanent establishment (PE). Coy131 is incorporated in the USA and prepares financial statements in accordance with US GAAP. Coy131 is also a registered foreign company for Australian Corps Act purposes and lodges its US GAAP financial statements with ASIC.

Branch132 does not separately report in Australia to ASIC.

In addition each of the 100 overseas subsidiaries of Coy130 are not required to lodge a tax return in Australia. They also have no Corps Act reporting obligations.



This fact pattern would fall into ATO scenario 1 – i.e. Coy131 is a registered foreign company and lodges financial statements with ASIC within the required deadlines.

The ATO guidance discusses the following for ATO lodgement purposes:

- Coy131 could **not** just lodge Branch132's stand-alone financial statements
- the ATO would encourage separate measurement and disclosure of Branch132's financial results as part of an entities wider Australian tax transparency measures.

How Branch132's financial information is presented and if it is separately audited will need to be considered by the taxpayer.

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

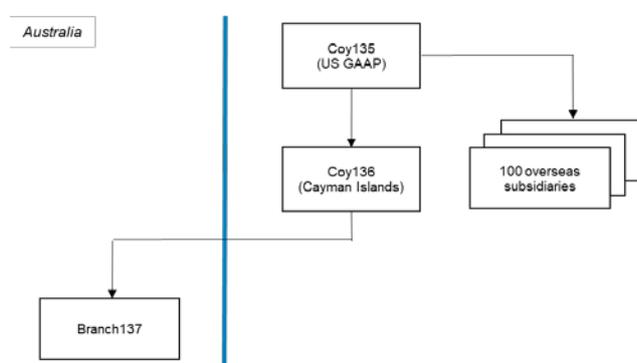
Registered foreign company lodges GPFS (with ASIC) prepared in accordance with CAAP

An overseas company (Coy135) controls (as defined by AASB 10) Coy136 and a number of other overseas subsidiaries. Coy135 is incorporated in the USA and prepares global consolidated financial statements under US GAAP and lodges them with the US SEC. Coy135 is not required to lodge a tax return in Australia.

Coy136 operates Branch137 in Australia – i.e. Coy136 is a foreign resident operating an Australian permanent establishment (PE). Coy136 is incorporated in the Cayman Islands and has no local requirement to prepare financial statements. Coy136 is also a registered foreign company for Australian Corps Act purposes. However it prepares and lodges only a balance sheet, profit and loss statement and cash flow statement with ASIC under section 601CK, i.e. not full GPFS. Each of these three statements are prepared using US GAAP.

Branch137 does not separately report in Australia to ASIC.

In addition each of the 100 overseas subsidiaries of Coy135 are not required to lodge a tax return in Australia. They also have no Corps Act reporting obligations.



Only Coy136 is affected by the tax laws as follows:

- Coy136 is a corporate tax entity
- Coy136 is a significant global entity
- Coy136 is an Australian resident – operating a PE
- Coy136 does not lodge GPFS with ASIC
- Coy136 is required to lodge a tax return.

This fact pattern would fall into ATO scenario 4 – i.e. Coy136 is a registered foreign company however it does not lodge GPFS with ASIC.

Choice

Coy136 has a choice, for ATO GPFS lodgement purposes, as follows.

- preparing and lodging individual GPFS (in compliance with CAAP – in this case US GAAP) for Coy136, or
- lodgement of Coy135 consolidated financial statements.

Coy136 could not just lodge Branch137's stand-alone financial statements with the ATO.

Individual GPFS

This fact pattern falls into ATO scenario 4 and as such the GPFS for Coy136 can be prepared under US GAAP – as this would be in accordance with CAAP.

Coy136 is currently not required to prepare any financial statements under Cayman Islands law. If Coy136 elects this option it should consider the cost/benefit of this option against others.

If individual GPFS are prepared they should be lodged with ASIC under section 601CK of the Corps Act. If lodged with ASIC, within the appropriate timeframe, as a registered foreign company technically the tax law amendments do not apply.

Coy135 consolidated financial statements

Coy135 currently prepares consolidated financial statements under US GAAP and lodges them the US SEC.

This fact pattern falls into ATO scenario 4 and as such the Coy135 consolidated financial statements would **not** be required to be prepared based on AASBs – i.e. they can be prepared using CAAP (in this case US GAAP).

This option would incur no additional preparation cost.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy136's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be the preparation of individual GPFS for Coy136.

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

The ATO would encourage separate measurement and disclosure of Branch137's financial results as part of an entities wider Australian tax transparency measures. How Branch137's financial information is presented and if it is separately audited will need to be considered by the taxpayer.

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

Example 14 – Overseas ‘owned’, small Australian proprietary companies that are part of a large group

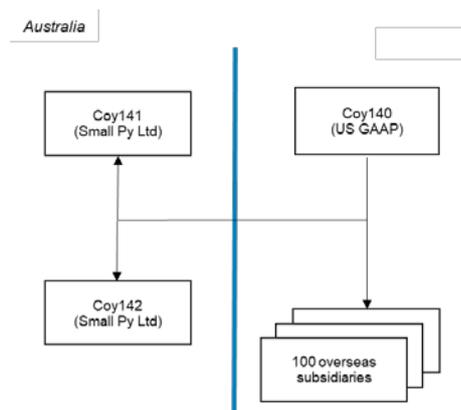
An overseas company (Coy140) controls (as defined by AASB 10) Coy141, Coy 142 and a number of overseas companies. Coy141 and Copy 142 is the only operations of the Coy140 group within Australia. There is no deed of cross guarantee or MEC group for this example.

Coy140 is incorporated in the USA and prepares global consolidated financial statements under US GAAP and lodges them with the US SEC. Coy140 is not required to lodge a tax return in Australia.

Our focus for this example is on Coy141 and Coy 142. Both are small proprietary companies who are consolidated into Coy140. Coy140 is not a registered foreign company in Australia and as such Section 292(2) of the Corps Act requires Coy141 and Coy 142 are each required to prepare and lodge financial statements under Part 2M.3 of the Corps Act.

Both Coy141 and Coy 142 do not qualify for relief under *ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204* as on a combined basis they form a large group. For further discussion on ASIC Instrument 2017/204 refer to KPMG’s *Australian Financial Reporting Manual*.

As such, both Coy 141 and Coy142 prepare and lodge SPFS with ASIC (as they are not considered reporting entities) under the requirements of Part 2M.3 of the Corps Act.



Coy141 and Coy 142 are affected by the tax laws as follows:

- Both are a corporate tax entities
- Both are part of a significant global entity
- Both are Australian residents
- Both do not lodge GPFS with ASIC
- Both are required to lodge a tax return.

This fact pattern would fall into ATO scenario 2 – i.e. Coy141 and Coy142 are both small proprietary company subject to Part 2M.3 of the Corps Act (as they are each a small proprietary company controlled by a foreign company that is part of a large group).

Choice

Each of Coy141 and Coy142 has a choice, for ATO GPFS lodgement purposes, as follows.

- preparing and lodging individual GPFS (in compliance with AASBs) for each individual company, or
- lodgement of Coy140 consolidated financial statements.

Individual GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy141 and Coy 142 each are not publicly accountable).

If Coy141 and Coy142 each chooses to prepare individual GPFS it would make sense not to continue with preparation of SPFS for themselves for Corps Act purposes. The individual GPFS should be lodged with ASIC to satisfy each company's requirements under Part 2M.3 of the Corps Act.

Coy140 consolidated financial statements

The ATO has indicated that if Coy140 consolidated financial statements are to satisfy the lodgement requirements for the tax law amendments, then they need to be prepared in accordance with AASBs (given each taxpayer, Coy141 and Coy142, is an Australian Corps Act entity).

Coy140 currently prepares consolidated financial statements under US GAAP and lodges with the SEC. It is not required to lodge them with ASIC – i.e. it is not a registered foreign company in Australia. The costs to convert the consolidated financial statements to AASBs would generally mean that this choice would not be taken up by many taxpayers (if any).

If this option is chosen Coy141 and Coy142 will continue to prepare SPFS – for lodgement with ASIC to satisfy the corporations law requirements.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy141's and Coy 142's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be the preparation of individual GPFS for Coy141 and Copy 142 – (Tier 1).

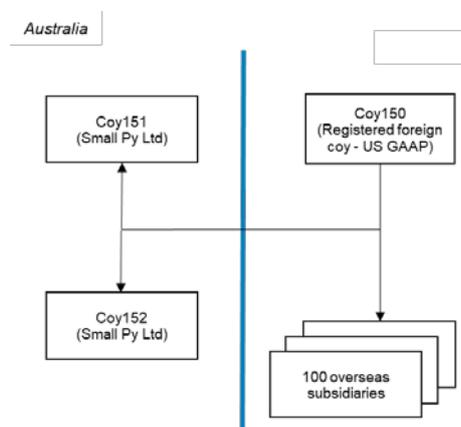
Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

Example 15 – Overseas ‘owned’, small Australian proprietary companies that are part of a large group, but parent is a registered foreign company

An overseas company (Coy150) controls (as defined by AASB 10) Coy151, Coy 152 and a number of overseas companies. Coy151 and Copy 152 is the only operations of the Coy150 group within Australia. There is no deed of cross guarantee or MEC group for this example.

Coy150 is incorporated in the USA and prepares global consolidated financial statements under US GAAP and lodges them with the US SEC. Coy150 is not required to lodge a tax return in Australia.

Our focus for this example is on Coy151 and Coy 152. Both are small proprietary companies who are consolidated into Coy150. Coy150 is a registered foreign company in Australia and lodges the global consolidated financial statements prepared under US GAAP with ASIC in accordance with Section 601CK. As such, Coy 151 and Coy152 are each not required to prepare and lodge financial statements under Part 2M.3 of the Corps Act – i.e. Section 292(2).



Coy141 and Coy 142 are affected by the tax laws as follows:

- Both are a corporate tax entities
- Both are part of a significant global entity
- Both are Australian residents
- Both do not lodge GPFS with ASIC
- Both are required to lodge a tax return.

This fact pattern would fall into ATO scenario 3 – i.e. Coy151 and Coy152 are both small proprietary company **not** subject to Part 2M.3 of the Corps Act (as they are each a small proprietary company controlled by a foreign company that is a registered foreign company).

Choice

Each of Coy151 and Coy152 has a choice, for ATO GPFS lodgement purposes, as follows.

- preparing and lodging individual GPFS (in compliance with AASBs) for each individual company, or
- lodgement of Coy150 consolidated financial statements.

Individual GPFS

The GPFS can be either Tier 1 or Tier 2 (assuming Coy151 and Coy 152 each are not publicly accountable).

Each of Coy151 and Coy 152 are currently not required to prepare any financial statements for ASIC purposes. If they elect this option they should consider the cost/benefit of this option against others.

If individual GPFS are prepared they will not be required to be lodged with ASIC given the relief under Section 292(2). However, on providing such individual GPFS to the ATO, they will provide to ASIC who will make available on the ASIC public database.

Coy150 consolidated financial statements

Coy150 currently prepares consolidated financial statements under US GAAP and lodges them with ASIC, as a registered foreign company under Section 601CK.

This fact pattern falls into ATO scenario 3 and as such the Coy150 consolidated financial statements would **not** be required to be prepared based on AASBs – i.e. they can be prepared using CAAP (in this case US GAAP).

This option would incur no additional preparation cost.

In addition Coy151 and Coy152 are currently not required to prepare any financial statements given the relief under Section 292(2). Each of Coy151 and Coy152 would, however, each be required to lodge Coy150's consolidated financial statements with the ATO even though these are already lodged with ASIC.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of Coy151's and Coy 152's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be the preparation of individual GPFS for Coy151 and Copy 152 – (Tier 1).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

7. Join or leave tax/MEC group

Overview

If you are a subsidiary member of a tax consolidated group or MEC group, you aren't required to give a GPFS to the ATO. However, if you join or leave a tax consolidated group or a MEC group part-way through the income year, you may have to lodge a GPFS with the ATO where you have an obligation to lodge an income tax return (as you are not a member of a tax consolidated or MEC group for the entire year – i.e. you were a taxpayer for part of the income year).

If you join or leave a group that is consolidated for accounting purposes as a single group part-way through an income year, whether you are a SGE for the income year, will depend on whether, at the end of the income year, you either:

- remain outside of a group and your total annual income for the income year as shown in your global financial statements is A\$1 billion or more
- are 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 (GPE) of the group you have joined is A\$1 billion or more.

Your membership of a group you left during the income year is not relevant in determining whether you are a SGE for the income year. This is because Section 960-555(2)(a) of the ITAA 97 simply requires you to be a current member of a group of entities that are consolidated for accounting purposes as a single group.

The following examples are KPMG's current assessment based on information contained in the ATO web guidance.

Join a tax consolidated group

An overseas company (CoyJ) directly owns and controls an Australian subsidiary company (CoyJ1). CoyJ1 in turn controls two further Australian subsidiary companies (CoyJ2 and CoyJ3). CoyJ2 was acquired back in 1989 and CoyJ3 was acquired on 31 October 2018. CoyJ3 joined the tax consolidated group on 31 October 2018.

CoyJ:

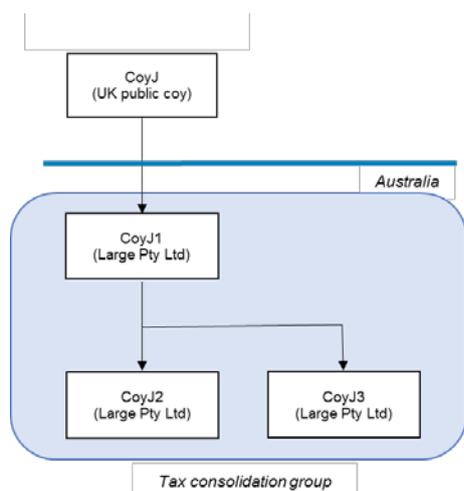
- prepares EU-IFRS compliant consolidated financial statements
- is not a registered foreign company under Australian corporations law
- is not required to lodge an income tax return in Australia.

All entities use a financial reporting period and substitute accounting period ending 31 December.

Historically CoyJ1 and CoyJ2 are both reporting entities and have prepared GPFS under Part 2M.3 of the Corps Act. CoyJ1 prepares consolidated GPFS. CoyJ3 is also considered a reporting entity. All Australian companies do not have public accountability.

For the purposes of this example CoyJ1 and CoyJ2 both have grandfathered large proprietary company status and as such while they prepare GPFS they are not required to lodge with ASIC under Part 2M.3 of the Corps Act. CoyJ3 does not have grandfathered large proprietary company status and prepares and lodges GPFS under Part 2M.3 of the Corps Act.

The following assessment is made for the financial reporting period ending 31 December 2018.



Only CoyJ1 is affected by the tax laws as follows:

- CoyJ1 is a corporate tax entity
- CoyJ1 is a significant global entity
- CoyJ1 is an Australian resident
- CoyJ1 does not lodge GPFS with ASIC
- CoyJ1 is required to lodge a tax return.

CoyJ2 (who is part of the Australian tax consolidation group) is not affected by the tax laws as it is not required to lodge an income tax return. CoyJ3 is impacted – refer below.

CoyJ1

Choice

CoyJ1 has a choice, for ATO GPFS purposes, of:

- preparing and lodging separate GPFS (in compliance with AASBs) for CoyJ1, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for CoyJ1 and its subsidiaries (CoyJ2 + CoyJ3) – either the two column or four column approach, or
- lodgement of CoyJ consolidated financial statements.

Separate GPFS

The GPFS can be either Tier 1 or Tier 2 (as CoyJ1 is not publicly accountable).

CoyJ1 currently prepares consolidated GPFS and as such would need to consider whether it would want to prepare an additional set of financial statements just for the tax law amendments purposes.

As CoyJ1 is a reporting entity, the separate CoyJ1 GPFS will need to disclose how to access the CoyJ1 group consolidated financial statements under AASB 127.17.

CoyJ2 will continue to prepare GPFS but not lodge with ASIC – given its grandfathered large proprietary company status.

Consolidated GPFS

The GPFS can be either Tier 1 or Tier 2 (as CoyJ1 is not publicly accountable).

In this fact pattern CoyJ1 already prepares GPFS which include itself + CoyJ2 + CoyJ3 (acquired on 31 October 2018).

CoyJ2 will continue to prepare GPFS but not lodge with ASIC – given its grandfathered large proprietary company status.

CoyJ consolidated financial statements

The ATO has indicated that if CoyJ consolidated financial statements are to satisfy the lodgement requirements for the tax law amendments, then they need to be prepared based on AASBs (given taxpayer, CoyJ1, is an Australian Corps Act entity subject to Part 2M.3 of the Corps Act – i.e. falls into ATO scenario 2).

CoyJ currently prepares consolidated financial statements in accordance with EU-IFRS and the costs to convert to AASBs would generally mean that this choice would not be taken up by many taxpayers (if any).

CoyJ1 and CoyJ2 both will continue to prepare GPFS but not lodge with ASIC – given its grandfathered large proprietary company status.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of CoyJ1's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be the preparation of consolidated GPFS (CoyJ1 + CoyJ2 + CoyJ3).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

CoyJ3

CoyJ3 is part of a SGE for the financial year ended 31 December 2018. It is also required to lodge an income tax return as it was not a member of a tax consolidated group for part of the year. CoyJ3 does not have any subsidiaries.

CoyJ3 prepares individual GPFS which are lodged with ASIC under Part 2M.3 of the Corps Act. As such, it is not impacted by the tax law amendments – i.e. it already lodges GPFS with ASIC.

Note – if CoyJ3 did not prepare individual GPFS, it could provide CoyJ1's consolidated GPFS to satisfy its GPFS lodgement requirement with the ATO.

Leave a tax consolidated group

An overseas company (CoyL) directly owns and controls an Australian subsidiary company (CoyL1). CoyL1 in turn controls two further Australian subsidiary companies (CoyL2 and CoyL3). All three Australian companies have been part of a tax consolidated group for a number of years.

On 31 October 2018 CoyL1 undertakes a demerger transaction involving the transfer of all of the share capital in CoyL3 to the shareholders of the ultimate parent (CoyL). At this time CoyL3 leaves the tax consolidated group. Both CoyL and CoyL1 lose control of CoyL3 for accounting purposes.

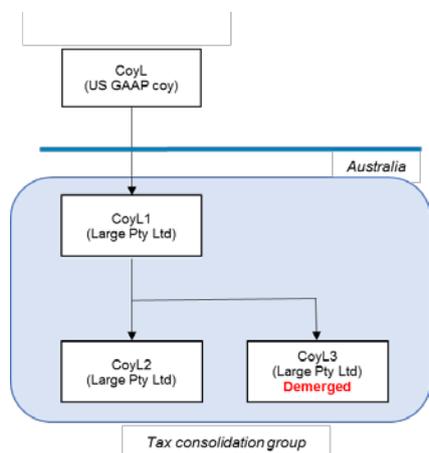
CoyL:

- prepares US GAAP compliant consolidated financial statements
- is not a registered foreign company under Australian corporations law
- is not required to lodge an income tax return in Australia.

All entities use a financial reporting period and substitute accounting period ending 31 December.

Historically CoyL1, CoyL2 and CoyL3 have prepared and lodged SPFS with ASIC under Part 2M.3 of the Corps Act. Each of the three companies are not considered to be a reporting entities. In addition the CoyL1 group is not a reporting entity. All Australian companies do not have public accountability.

The following assessment is made for the financial reporting period ending *31 December 2018*.



Only CoyL1 is affected by the tax laws as follows:

- CoyL1 is a corporate tax entity
- CoyL1 is a significant global entity
- CoyL1 is an Australian resident
- CoyL1 does not lodge GPFS with ASIC
- CoyL1 is required to lodge a tax return.

CoyL2 (who is part of the Australian tax consolidation group) is not affected by the tax laws as it is not required to lodge an income tax return. CoyL3 is impacted – refer below.

CoyL1

Choice

CoyL1 has a choice, for ATO GPFS purposes, of:

- preparing and lodging separate GPFS (in compliance with AASBs) for CoyL1, or
- preparing and lodging consolidated GPFS (in compliance with AASBs) for CoyL1 and its subsidiaries (CoyL2 + CoyL3 until demerger) – either the two column or four column approach, or
- lodgement of CoyL consolidated financial statements.

Separate GPFS

The GPFS can be either Tier 1 or Tier 2 (as CoyL1 is not publicly accountable).

Depending on which option CoyL1 chooses it would make sense not to continue with preparation of SPFS for CoyL1 which is subject to Part 2M.3 of the Corps Act. The CoyL1 GPFS should be lodged with ASIC to satisfy CoyL1's requirements under Part 2M.3 of the Corps Act.

As neither CoyL1 nor CoyL1 group is a reporting entity, and CoyL1 group consolidated financial statements are not prepared, the separate CoyL1 GPFS will provide the disclosures outlined in AASB 127.16 only (i.e. not disclosures required by AASB 127.17).

CoyL2 will continue to prepare SPFS under Part 2M.3 of the Corps Act and lodge with ASIC.

Consolidated GPFS

The GPFS can be either Tier 1 or Tier 2 (as CoyL1 is not publicly accountable).

If CoyL1 chooses to prepare consolidated GPFS it would make sense not to continue with preparation of SPFS for itself for Corps Act purposes. The consolidated GPFS should be lodged with ASIC to satisfy CoyL1's requirements under Part 2M.3 of the Corps Act.

CoyL2 will continue to prepare SPFS for Corps Act purposes.

CoyL consolidated financial statements

The ATO has indicated that if CoyL consolidated financial statements are to satisfy the lodgement requirements for the tax law amendments, then they need to be prepared based on AASBs (given taxpayer, CoyL1, is an Australian Corps Act entity and subject to Part 2M.3 of the Corps Act).

CoyL currently prepares consolidated financial statements in accordance with US GAAP and the costs to convert to AASBs would generally mean that this choice would not be taken up by many taxpayers (if any).

If CoyL1 chooses to prepare and lodge CoyL consolidated financial statements with the ATO it will be required to continue to prepare CoyL1 and CoyL2 SPFS – for lodgement with ASIC to satisfy the requirements under Part 2M.3 of the Corps Act.

ATO best practice

As discussed in [Chapter 2](#), the ATO suggests that a taxpayer consider the option that best contributes to transparency of CoyL1's Australian tax affairs.

We believe that the ATO's best practice view of transparency for this group's Australian tax affairs would possibly be the preparation of consolidated GPFS (CoyL1 + CoyL2 + CoyL3 until demerger).

Preparers of the financial statements might want to consider the cost/benefit of electing the best practice option.

CoyL3

At 31 December 2018 CoyL3 is no longer consolidated for accounting purposes into the CoyL1 group (Section 960-555(2)(a) of the ITAA 1997). CoyL3 does not have any subsidiaries and its individual financial statements show an income of less than A\$1 billion for the year ended 31 December 2018. As such CoyL3 is no longer a SGE.

CoyL3 will be required to lodge an income tax return for the year ended 31 December 2018 as a part-year non-member of a tax consolidated group. However it is **not** required to lodge a GPFS with the ATO.

CoyL3 will continue to prepare SPFS under Part 2M.3 of the Corps Act.

8. Extracts of law

Extract of subsection 3CA(5) of the Taxation Administration Act 1953

For the purposes of this section, a general purpose financial statement in relation to an entity:

- a. must be prepared in accordance with:
 - i. the accounting principles; or
 - ii. if accounting principles do not apply in relation to the entity - commercially accepted principles relating to accounting; and
- b. if the entity is a member of a group of entities that are consolidated for accounting purposes as a single group - must relate to:
 - i. the entity; or
 - ii. the entity and some or all of the other members of the group.

Extract of subsection 3CA(6) of the Taxation Administration Act 1953

An expression used in this section that is also used in the *Income Tax Assessment Act 1997* has the same meaning as in that Act.

[KPMG.com.au](https://www.kpmg.com.au)



The information contained in this document is of general nature not intended to address the objectives, financial situation or needs of any particular individual or entity. It is provided for information purposes only and does not constitute, nor should it be regarded in any manner whatsoever, as advice and is not intended to influence a person in making a decision, including, if applicable, in relation to any financial product or an interest in a financial product. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

To the extent permissible by law, KPMG and its associated entities shall not be liable for any errors, omissions, defects or misrepresentations in the information or for any loss or damage suffered by persons who use or rely on such information (including for reasons of negligence, negligent misstatement or otherwise).