

Perspective

This is one of a series of articles where experts in assurance, reporting and regulatory matters discuss recent technical and policy developments in these areas

Tax transparency – are we there yet?



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There have been a raft of measures implemented in recent years to address the perceived lack of transparency in the amount of tax corporates actually pay. In Australia, the Board of Taxation has proposed a revised “voluntary” tax transparency code, which increases the level of disclosures in financial statements and tax transparency reports on the nature and types of taxes paid. The Australian Taxation Office (ATO) has also issued revised guidance on the type of general purpose financial statements that are required to be prepared for significant global entities. With companies beginning to evaluate the impact of the new Interpretation 23 *Uncertain tax positions* on their financial statements and reportable tax position schedules, this may in addition highlight certain tax treatments that have not been disclosed previously. This article looks at each of these measures, and considers whether or not tax transparency has been achieved in the Australian context or whether there is room for improvement.

Revised voluntary tax transparency code

A review of the Australian voluntary tax transparency code was issued in February this year¹. The Board of Taxation acknowledged in the review the trade-off between the provision of meaningful information to users and the desire to simplify and streamline disclosure obligations for business. A summary of the existing required disclosures and proposed additional disclosures is provided below.

¹ Post implementation review of the voluntary tax transparency code - Consultation paper

Tax Transparency Report	Existing required disclosures	Additional proposed disclosures*
<p>Part A</p> <p>Large and Medium Businesses</p> <p>(Businesses with turnover >=\$100 million)</p> <p>Disclosures made in financial statements or separate tax transparency report</p>	<ul style="list-style-type: none"> • Reconciliation of accounting profit to tax expense and to income tax paid or income tax payable • Identification of material temporary and non-temporary differences • Accounting effective tax rates for Australian and global operations 	<ul style="list-style-type: none"> • Reconciliations of accounting profit to income tax payable and to income tax paid • Reconciliation of disclosures in the tax transparency report to ATO public data disclosures
<p>Part B</p> <p>Large Business</p> <p>Businesses with turnover >=\$500 million</p> <p>Disclosures made in separate tax transparency report</p>	<ul style="list-style-type: none"> • Approach to tax strategy and governance • Tax contribution summary for corporate taxes paid in Australia • Information about international related party dealings, financing and tax concessions 	<ul style="list-style-type: none"> • Additional guidance on tax policies, strategy and governance • Expanding the tax contribution summary • Clarifying the international related party dealings summary • Various “Best practice” disclosures

**Where making tax transparency disclosures outside of general purpose financial statements, the Board of Taxation is proposing that a ‘basis of preparation’ statement should be disclosed.*

The recommended changes aim to improve transparency of disclosures by ensuring greater comparability between different taxpayers, however will require additional work on reconciling accounting numbers to ATO public data disclosures, and providing the additional information.

While “voluntary” the consultation paper states that the government expects all responsible large and medium businesses operating in Australia to adopt the code². Interestingly, under the code, all Top 1000 companies by revenue in Australia would qualify as medium businesses and the top 800 of these would be considered large³. In contrast, the signatories to the code as of 1 June 2019 were limited to 166⁴.

² Post implementation review of the voluntary tax transparency code - Section 2. Why adopt the TTC?

³ Based on Ibisworld company information (assumes disclosed revenue equates to turnover under the code)

⁴ Board of Taxation – CEO Update June 2019

Due to the nature of the disclosures being voluntary, the discrepancy in the numbers may not be a surprise, but it is important to also consider the context that the 166 signatories represent more than 60 percent of taxable income of corporate taxpayers who are potentially subject to the code.⁵ In addition, many of those who have not signed up to the code may already be making some of the Part A disclosures indirectly through their financial statement tax note disclosures. Further, taxes paid are likely to have already been disclosed through the ATO public data releases, which are compiled from company tax returns. The benefits of additional transparency for those entities who have not signed up to the code but have already made these disclosures would have to be weighed up against the additional regulatory compliance burden of complying with the code.

Revised General purpose financial statements requirements

The ATO released additional guidance in April on the provision of general purpose financial statements (GPFS) by corporate tax entities that are significant global entities (SGEs)⁶ where GPFS have not previously been provided to the Australian Securities and Investment Commission (ASIC). The guidance relates to the requirements to lodge GPFS that were part of the Combating Multinational Tax Avoidance Bill (2015). Depending on a particular company's circumstances, preparing GPFS under the requirements may result in:

- A company having to prepare consolidated financial statements for the first time, compared to just separate financial statements;
- The provision of more detailed disclosures such as related party dealings or risk arising from financial instruments and hedging compared to special purposes financial statements.

The type of financial statements required will vary depending on a company's specific facts and circumstances. If a taxpayer is a member of a group of entities consolidated for accounting purposes as a single group, its GPFS must relate either exclusively to that entity (a stand-alone GPFS) or the entity and some or all of the other members of the accounting consolidated group (a consolidated GPFS).

⁵Board of Taxation website - Current-activities/transparency-code-register

⁶An entity is an SGE if it is a 'global parent entity' whose 'annual global income' is A\$1 billion or more **or** a member of a group of entities consolidated (for accounting purposes) where the global parent entity has an annual global income of A\$1 billion or more. The definition has been proposed (although not yet legislated) to be expanded to include members of large business groups headed by proprietary companies, trusts, partnerships and investment entities.

The new guidance clarifies the types of GFPS considered acceptable to the ATO for the following four scenarios:

	SGE status	Financials required
1	<ul style="list-style-type: none"> • Australian resident for tax purposes and lodges GPFS with ASIC • Subsidiary member of Tax consolidated or MEC group 	No ATO requirements under section 3CA
2	Australian resident for tax purposes and: <ul style="list-style-type: none"> • required to lodge a GPFS with ASIC, but has not done so; or • lodges SPFS with ASIC; or • required to prepare, but not lodge financial reports with ASIC; or • ASIC relief because parent lodges AASB consolidated financial statements 	GPFS prepared in accordance with AASBs
3	Australian resident for tax purposes and not subject to Corps Act (e.g. corporate tax partnerships) or not subject to Part 2M.3 of Corps Act; or ASIC relief because: <ul style="list-style-type: none"> • small proprietary company controlled by a foreign company that is not part of a large group; or • foreign parent lodges consolidated financial statements with ASIC 	GPFS prepared in accordance with AASBs or other commercially accepted accounting principles.
4	Foreign resident operating a permanent establishment in Australia and the entity has not already lodged GPFS with ASIC	GPFS prepared in accordance with AASBs

For example a foreign controlled small proprietary company that is a SGE who lodges special purposes financial statement with ASIC (and does not have any relief) must lodge GPFS in accordance with Australian Accounting Standards. Prior to this revised guidance, companies in this situation may have considered the reporting requirements met with lodgement of the foreign parents' foreign GAAP consolidated financial statements.

The legislation has increased the burden of financial reporting for certain entities, for example requiring GPFS when none, or only special purpose financial statements, had been required previously. There is a question of how much tax transparency is provided by general purpose financial statements given they contain limited and summarised information in relation to the disclosure of income tax related matters. In addition, preparers will soon need to address changes to Australia's financial reporting framework proposed by the Australian Accounting Standards Board⁷ – so having to deal with two sets of requirements may be challenging.

⁷ The aim of this project being to apply the International Accounting Standards Board (IASB)'s revised Conceptual Framework in Australia, which includes reconsidering the reporting entity concept (which differs from that of the IASB) and considering the removal of special purpose financial statement.

Reportable tax positions and interaction with Interpretation 23 Uncertain tax positions.

The reportable tax position (RTP) schedule requires disclosure to the ATO of a taxpayers most contestable and material tax positions (Category A disclosures) as well as positions in respect of which uncertainty about taxes payable or recoverable is recognised and/or disclosed in a taxpayer or related party's financial statements (Category B disclosures). When originally introduced, the RTP schedule was focused on high risk taxpayers. The requirement to lodge for 2019 is now self-assessed and applies to all taxpayers that are public or foreign owned companies with \$250 million or more of business income. While confidential to the ATO, the schedule represents an additional transparency of tax positions that companies are being required to disclose.

At the same time, accounting Interpretation 23 *Uncertain Tax positions* is effective for financial years beginning 1 January 2019. It clarifies when and how uncertain tax positions should be measured. The combination of the two requirements means there is likely to be an increased number of taxpayers recognising and/or disclosing more in relation to their uncertain tax positions, whether in the financial statements or in their RTP.

A mixed result?

There is no doubt the level of tax transparency disclosures has increased significantly over recent years, however there are mixed indicators as to whether tax transparency is being achieved or whether there is room for improvement. The relatively slow take-up of the voluntary tax transparency code has meant there are still many companies yet to fully embrace the measures, although most of the corporate tax base is well covered, and information on taxes paid is available through ATO public data releases. On the other hand, some companies have had to prepare general purpose financial statements for the ATO that have not lodged accounts before, albeit without necessarily a significant benefit in terms of additional tax related disclosures in the accounts.

The reportable tax position schedule and Interpretation 23 will require more analysis by companies and potentially involve earlier recognition and disclosure of uncertainties, but by how much we will only see in the upcoming years. In considering the existing tax transparency measures there does appear to be a lot of double handling of information, applying potentially inconsistent bases of preparation – for example the ATO having its own GPFS requirements compared to the AASB, and the ATO public disclosures differing from the tax transparency code requirements. For now, the jury is probably out on whether tax transparency has been achieved – but there definitely seems room for some streamlining of the tax transparency processes from a taxpayer, information user and regulator perspective.