



# Heads Up

## Multinational Anti Avoidance Law and General Purpose Financial Statements

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### "In summary"

- Parliament in their last sitting for 2015 passed the Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015 on the evening of 3 December 2015.
- This legislation contains reporting requirements in respect of the preparation and lodgement of a general purpose financial statement with the ATO, which apply to a corporate tax entity for an income year if it meets certain criteria.
- The legislation introduces a concept of A Significant Global Entity.
- The new reporting requirements dealing with general purpose financial statements are applicable to tax income years commencing on or after 1 July 2016.
- As set further below, there are a number of matters that require further consideration and, possibly, clarification. We will issue further communication on these matters in due course.

### Background

Thursday 3 December 2015 was the last sitting day of Parliament for 2015 and was very busy from a tax perspective and financial reporting with a number of Bills passed by Parliament including the Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015, which includes provisions for:

- Multinational anti avoidance law (MAAL) – further explained in this alert
- Country by country reporting
- Increased tax avoidance penalties
- New reporting requirements dealing with general purpose financial statements, applicable to tax income years commencing on or after 1 July 2016 (hereinafter referred to as 'the legislation').

Below is a summary of the new general purpose financial reporting requirements introduced by the MAAL however there are a number of areas where clarification of the law will be required following Royal Assent. We anticipate these matters will be considered in the New Year.

### **Which entities are covered by the reporting requirements?**

The reporting requirements of the legislation, being the preparation and lodgement of a general purpose financial statement, apply to a corporate tax entity for an income year if it meets all three of the following criteria:

- a) the entity is a Significant Global Entity for the income year; and
- b) at the end of the income year, the entity is:
  - i. an Australian resident; or
  - ii. a foreign resident who operates an Australian permanent establishment; and
- c) the entity does not lodge a general purpose financial statement with ASIC with respect to the tax income years commencing on or after 1 July 2016.

### **What is a 'Significant Global Entity'?**

The legislation introduces and defines a concept of Significant Global Entity. A Significant Global Entity is defined as:

1. A Global Parent Entity with an annual global income of A\$1billion or more, translated into Australian dollars at the average exchange rate applicable for the year; or
2. Any member of such a Global Parent Entity's group; or
3. Such entity in respect of which the Commissioner makes a determination.

### **Reporting Requirements**

Where all three criteria in respect of the reporting requirements are met, then the entity must prepare a general purpose financial statement. That 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.

The Australian Accounting Standards consist of two Tiers of reporting requirements for preparing general purpose financial statements:

- Tier 1: Australian Accounting Standards
- Tier 2: Australian Accounting Standards – Reduced Disclosure Requirements

In general the decision between which tier will apply is linked to whether an entity has public accountability.

Where preparation of a general purpose financial statement is required, the entity must give the accounts to the Australian Taxation Office (ATO), on or before the day by which the entity is required to lodge its income tax return for the relevant year. The ATO is required to provide the accounts to ASIC, and it is expected that the accounts will become publicly available in the same way as other documents lodged with ASIC.

## General Purpose Financial Statements

Where an entity transitions from a special purpose financial report basis of preparation to general purpose financial statement (tier 1 or tier 2) they are required to follow AASB 1053 *Application of Tiers of Australian Accounting Standards*. This Standard sets out the application of Tiers of Australian Accounting Standards to different categories of entities preparing general purpose financial statements. Where transitioning between Tiers (including from special to general purpose financial statements) AASB 1053 clarifies the applicability of AASB 1 *First-time Adoption of Australian Accounting Standards*. Its application will depend on whether an entity is transitioning to Tier 1 (Full AASB) or Tier 2 (Reduced disclosure requirements) and historical application of accounting standards.

### Matters that require further consideration

There are a number of matters relating to the requirements of the MAAL and the application of the legislation and reporting requirements which may require clarification or further consideration by the relevant government authorities and further analysis by those entities affected by the legislation. These matters include:

- Which accounts may be lodged to fulfil the reporting requirements in respect of an Australian sub-group with an overseas parent? Are the Australian sub-group's financial statements required to be lodged or can the overseas parent's statements be lodged?
- How do the reporting requirements apply to Multiple Entry Consolidated group structures where there is a foreign-owned group of Australian entities which may be able to consolidate for tax purposes despite not being a consolidated group for Australian accounting purposes?
- How is the A\$1billion Annual Global Income threshold determined? In accordance with the accounting principles, income comprises both revenue and other income. Accordingly, other income may significantly impact Annual Global Income.
- Is the General Purpose Financial Statement required to be audited under the applicable auditing standards?
- Can the General Purpose Financial Statement be Tier 1 or Tier 2 under AASB 1053? – in which case the transition requirements under AASB 1 will vary on transition from Special Purpose Financial Report basis of preparation (as explained above).
- The requirements of the legislation appear to ignore grandfathering for Proprietary companies and other Class Order relief for companies that are not required to lodge accounts with ASIC.

We encourage you to consult with your accounting, tax or legal advisers if you have any questions regarding the impact of this legislative amendment to your particular circumstances.

### Contact us

Deloitte can assist you in understanding the impacts of the general purpose financial reporting. Please contact:

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