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Ruling Compendium – TD 2013/21

This is a compendium of responses to the issues raised by external parties to draft TD 2012/D12 – *Income tax: can a consolidated special purpose financial report of a head company of a tax consolidated group satisfy clause 1.1 of Schedule 2 to the Income Tax Assessment Regulations 1997 where transactions within the same class are translated using inconsistent methodologies?*

This compendium of comments has been edited to maintain the anonymity of entities that commented on the draft ruling.

Summary of issues raised and responses

Issue No.	Issue raised	ATO Response/Action taken
1	The draft Determination concludes that consolidated special purpose financial report of Gyro Pty Ltd 'does not comply with the accounting standards under the Corporations Act. The draft TD does not clearly explain why this conclusion has been reached. However, it seems to be founded on the conclusion that: • a non-reporting entity is only required to comply with the 6 accounting standards listed in paragraph 18 of the draft TD; and/or • Gyro has made inconsistent policy choices and therefore has not complied with AASB 108.	Suggestion adopted. The reasoning at paragraph 20 of the draft Determination explains how the conclusion was reached. However, in the interests of clarity additional words have been added to make it clear that the reason for the conclusion is that Gyro Pty Ltd has not complied with AASB 108 (see paragraphs 4, 22 and 23 of the final Determination).
2	The draft Determination has incorrectly stated that a non-reporting entity is permitted to ignore particular recognition and measurement	Disagree. Paragraph 8 of the draft Determination states that not all accounting standards are required to be applied by entities that are required to prepare a financial report for the purposes of

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	requirements of the accounting standards (paragraph 8). This view is not supported by ASIC Regulatory Guide 85 <i>Reporting requirements for non-reporting entities</i> :	the <i>Corporations Act 2001</i> (Corporations Act). ASIC Regulatory Guide 85 does not mandate the application of all accounting standards. This Guide provides that non-reporting entities that are required to prepare financial reports in accordance with Chapter 2M of the Corporations Act, <i>should</i> comply with the recognition and measurement requirements of accounting standards. It is also noted that paragraph 18 of the draft Determination lists those standards which such an entity is compelled to comply with. This includes AASB 101 which (at paragraph 15) requires the faithful representation of the effects of transactions, other events and conditions in accordance with the definitions and recognition criteria for assets, liabilities, income and expenses set out in accordance with the recognition criteria set out in the Framework for the Preparation and Presentation of Financial Statements ('the Framework').
3	AASB 108 <i>Accounting Policies, Changes in Accounting Estimates and Errors</i> (paragraph 13) is not relevant in determining consistency of accounting policies in relation to applying AASB 121 <i>The Effects of Changes in Foreign Exchange Rates</i> because AASB 121 does not require an entity to make a policy choice AASB 121 (at paragraphs 22 and 40), specifies that a single rate may be used to approximate the appropriate rates for conversion over a period for practicality in certain situations. However, material transactions are required to be isolated and	Disagree. The accounting standards take a broad meaning of the term 'accounting policies'. 'Accounting policies' are defined in AASB 108 (paragraph 5) to be 'the specific principles, bases, conventions, rules and practices applied by an entity in preparing and presenting financial statements.' In accordance with this meaning, our view is that the requirement in paragraph 13 of AASB 108 is not limited to the application of those accounting standards that explicitly identify or acknowledge the availability of alternative methods of accounting. Further detail has been added to paragraph 3 of the Final Determination to provide clarity in relation to material

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	recognised at the relevant daily spot rate.	transactions.
4	<i>Example: Consolidated financial report prepared by a tax consolidated group</i> The Commissioner is concluding (without directly stating) that Gyro Pty Ltd has breached the Corporations Act and the auditors of Gyro Pty Ltd have not fulfilled their duties.	Disagree. The draft Determination (at paragraph 4) concludes that the consolidated special purpose financial statement prepared by Gyro Pty Ltd does not satisfy all of the requirements <i>for the purposes of the Regulations</i>. The Commissioner has not provided an opinion on compliance for the purposes of the Corporations Act. See further paragraphs 4 and 20 of the draft Determination (paragraphs 4, 22 and 23 of the final Determination)
5	The draft Determination does not address Parliament's intention in respect of the <i>Income Tax Assessment Regulations 1997</i> . That intention being, 'to ease the compliance burden of taxpayers in respect of translating amounts of foreign currency into Australian currency.'	Adopted. A new paragraph has been inserted into the final Determination which discusses the purpose of the relevant regulation (see new paragraph 15).
6	The draft Determination does not address the broader issue of whether special purpose financial reports (SPFRs) are capable of satisfying clause 1.1 of Schedule 2 to the <i>Income Tax Assessment Regulations 1997</i> (the Regulations) in any circumstances. <u>Suggested action:</u> Given ATO Interpretative Decision 2012/29 was withdrawn, there is some uncertainty. The usefulness of the draft Determination would be enhanced if it included an affirmative statement that SPFRs would be accepted by the ATO as satisfying clause 1.1	Adopted in part. A further paragraph has been inserted into the Determination which provides guidance in relation to the application of clause 1.1 of the relevant Schedule to SPFR (see paragraph 24 of the final Determination). We do however note that the circumstances in which SPFR are prepared are very broad. There are also many reasons as to why a financial report is a SPFR. SPFR is simply a term used to convey the idea that the financial report generally does not comply with all of the accounting standards and is used as a contradistinction to a GPFS. Accordingly, we consider that it is not beneficial, and in fact

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	of Schedule 2 to the ITAA 1997 provided certain requirements are satisfied, such as compliance with each of the accounting standards listed in paragraph 18 of the draft Determination are complied with.	misleading, to make a broad statement about SPFR in the context of the Determination without the specific reason as to why the financial report is considered to be a SPFR.
7	The scope of the draft Determination is currently limited to the foreign currency translation rules of the Regulations. <u>Suggested action:</u> The ATO should consider extending the scope of the draft Determination or creating one or more rulings to specifically cover other situations under the ITAA 1997 and the Regulations, where there is a requirement that a financial report is prepared 'in accordance with the accounting standards.'	The words used in the foreign currency translation rules of the Regulations are different to those used in other parts of the ITAA 1997, which are not within the scope of this Determination. However, the ATO has now also published a Draft Determination on the meaning of the words 'in accordance with the accounting principles' in the context of Division 230 elective methods (see TD 2013/D8).
8	The ATO should seek input from experts familiar with the operation of the Corporations Act and accounting standards.	Agreed. The ATO sought advice from an independent accounting expert in finalising this Determination including responding to the submissions received.