

Proposed amendments to Consolidated Entity Disclosure Statement (CEDS)

Reporting update

4 October 2024, 24RU-13



CEDS is required in annual financial reports of public companies with Chapter 2M reporting obligations

Proposed amendments to subsection 295(3A) apply for 30 June 2025 year end onwards

Highlights

- Current requirements
- Proposed amendments and clarifications

Current requirements

The [Treasury Laws Amendment \(Making Multinationals Pay Their Fair Share – Integrity and Transparency\) Act 2024](#) (Amendments) was enacted in April 2024.

The Amendments changed the *Corporations Act 2001* (Corps Act) and introduced new mandatory disclosures for inclusion in annual financial reports. These changes require Australian public companies (both listed and unlisted) to disclose details for each subsidiary in their consolidated financial statements – the ‘Consolidated Entity Disclosure Statement’ (CEDS) – including the tax residency of each of those entities at the end of the financial year.

See our Reporting Update ([24RU-06 | Mandatory disclosure of subsidiaries’ tax residence](#)) for a detailed discussion unpacking the Amendments, considerations of other implications and illustrative disclosures.

These requirements apply to annual financial reports prepared by public companies for each financial year commencing on or after 1 July 2023, i.e. annual financial reports for 30 June 2024 and onwards.

Proposed amendments and clarifications

With the recent adoption of the CEDS by public companies, it has become apparent that certain amendments and clarifications were needed to the requirements to ensure they functioned as intended, reducing areas of interpretation and diversity in practice.

On 27 September 2024, Treasury released a consultation proposing amendments to clarify CEDS disclosures for financial years commencing on or after 1 July 2024, i.e. annual financial reports for 30 June 2025 and onwards which included an Exposure Draft Bill [Treasury Laws Amendment Bill 2024: Minor and technical Amendments \(Spring 2024\)](#) (ED Bill).

Comments on the consultation are open until 11 October 2024.

The ED Bill aims to clarify the tax residency disclosures required in the annual financial report. The key proposed amendments cover:

- Tax residency disclosures where entities are resident in more than one jurisdiction; and
- Inserting a definition of ‘Australian resident’ for Partnerships and Trusts

Disclose all tax residencies for all entities

When a Partnership and Trust is an Australian tax resident

Disclosure of multiple tax residencies

An entity may be both a tax resident in Australia (under *Income Tax Assessment Act* (ITAA)) and a foreign resident for tax purposes under the law of one or more foreign jurisdictions.

The current CEDS requirements in the Corps Act may have been interpreted to only require tax residency disclosures of foreign jurisdictions if the respective entity was not a tax resident in Australia. Hence if the entity was a dual resident of Australia and another jurisdiction, only the Australian tax residency would be disclosed and no information would be disclosed for this other jurisdiction.

The ED Bill amends this requirement, mandating disclosure of whether the entity was an Australian tax resident and also list all the foreign jurisdiction(s) of which they are resident.

Definition of 'Australian resident' for Partnerships and Trusts

Under the current wording of the Act, it was unclear how to make residency disclosures for partnerships and trusts that form part of the 'consolidated entity'.

The term 'Australian resident', as defined in subsection 995-1(1) of the ITAA 1997 means '*a person who is a resident of Australia for the purposes of the ITAA 1936*'.

Whereas the definition of 'resident' or 'resident of Australia' in subsection 6(1) of the ITAA 1936 applies to individuals and companies but does not extend to partnerships and trusts.

Australian tax law, therefore, does not contain specific residency tests for partnerships and trusts. Generally, these entities are taxed on a flow-through basis, i.e. in the hands of the partners or unit holders. So, there is no need for a general residence test.

The ED Bill clarifies that **partnerships and trusts** are 'Australian resident' for the purposes of the tax residency disclosures in the following circumstances:

- For a partnership: where at least one member of the partnership is an Australian resident (within the meaning of the ITAA 1997) at that time; and
- For a trust: where the trust is a resident trust estate (within the meaning of Division 6 of Part III of the ITAA 1936) in relation to the year of income that corresponds to the financial year.

"These proposed amendments are expected to clarify some of the interpretive positions taken in applying the CEDS requirements. Consistent with the existing requirements, it is anticipated that the additional disclosures relating to multiple tax residencies for entities may require substantial judgement and involvement of legal or tax specialists."

We encourage early consideration of the impact on your governance processes in ensuring that the proposed additional information needed is complete and accurate".

Zuzana Paulech
Partner

Contacts

If you would like to discuss the potential impacts on your business further, please contact your local KPMG advisor.

24RU-13 Proposed amendments to Consolidated Entity Disclosure Statement (CEDS)

©2024 KPMG, an Australian partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organisation. Liability limited by a scheme approved under Professional Standards Legislation.

24RU-13 Proposed amendments to Consolidated Entity Disclosure Statement (CEDS)

The information contained in this document is of a general nature and is 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).