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Committee Secretary
Senate Standing Committee on Economics
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INQUIRY INTO CORPORATE TAX AVOIDANCE AND MINIMISATION

Dear Dr Dermody

The Corporate Tax Association (**CTA**) welcomes the opportunity to provide a submission to the Senate Economics References Committee on 'alleged' corporate tax avoidance and minimisation.

The CTA is always willing to engage constructively in a facts based debate about whether Australia's tax laws actually produce outcomes that most people would regard as fair. It is disappointing that the current debate about corporations and their attitude to tax and tax avoidance is based on a flawed analysis that paints an inaccurate and misleading picture. This causes unnecessary harm to the level of confidence the community has in the integrity of the whole Australian tax system, which in turn carries the risk of reducing the high level of voluntary compliance on which the system relies. It also detracts from the real debate this country needs to have around fundamental tax reform.

In what follows we have addressed certain specific components of the Terms of Reference, notably:

1. The adequacy of Australia's current laws;
2. Any need for greater transparency to deter tax avoidance;
3. Opportunities to collaborate internationally to address the issue of tax avoidance;
4. The performance and capability of the Australian Taxation Office (**ATO**); and
5. Tax reform in Australia.

Executive Summary

1. The CTA strongly agrees that large corporates (and everybody else) should be

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paying their appropriate share of tax. We also agree there is no place for blatant, artificial or contrived tax arrangements that serve no commercial purpose.

2. Companies pay a substantial amount of corporate tax and are highly compliant with the tax laws. The vast majority are transparent in their management of their tax affairs with the ATO. Those that are not are subjected to further and more intense scrutiny from the ATO.

3. We object to views that paint a picture that the Australian corporate tax system is fundamentally flawed and that corporate taxpayers in Australia are inappropriately minimising their tax bills.

4. Australia has some of the most robust tax integrity (including general anti-avoidance, transfer pricing and thin capitalisation) measures in the world.

5. Whilst we recognise that the debate has moved beyond the narrow question of what is strictly legal and raises questions of "fairness", the misinformation generated by some in the current debate is detracting from the real discussion that needs to be had - a comprehensive and objective assessment of our current tax system and its ability to strengthen productivity and growth whilst meeting the community's reasonable needs for benefits, services and infrastructure.

6. Australia should avoid taking unilateral action to amend its international tax and disclosure rules and continue to play an active role in the OECD Base Erosion and Profit Shifting (**BEPS**) processes.

7. The ATO is a leading global tax administrator and we see no evidence of any reduced compliance activity or capability in revenue collection in the corporate income tax space.

The Tax Justice Network/United Voice Report and Effective Tax Rates

Before addressing some specific areas of the Terms of Reference, we believe it is necessary to draw attention to a number of deficiencies in the Tax Justice Network / United Voice report "Who Pays for our Common Wealth?" (**TJN Report**) which examines the tax performance of the ASX Top 200.

Although the TJN Report does acknowledge that the vast majority of ASX 200 companies actually pay the statutory rate on their reported profits[1], one serious deficiency in the Report involves the inclusion of foreign income, which is often taxed in the country where

[1] TJN report page 29

it is earned at lower rates than Australia's 30% company tax rate. The TJN Report acknowledges this may be a problem with their methodology, but nevertheless Table 14 of the TJN Report lists seven companies as our biggest "corporate tax avoiders" (between them "dodging" $4.2 billion in tax every year) - when in fact a large proportion of the earnings included in the report was derived and taxed outside of Australia. Australia's tax laws are very clear in their treatment of foreign branch income and foreign dividends – they are exempt from Australian tax (recognising that such income would have been subject to tax in the foreign country in which it was derived).

Although the TJN Report does acknowledge at page 29 that "a portion of the tax foregone may be attributable to other jurisdictions" it doesn't try to quantify this. A scan of financial results and other publically available data for the seven companies listed, show that all have very substantial foreign businesses generating many billions of active foreign sourced earnings. It is this geographic mix of profits that is driving the ETRs of these companies below 30%, not unsubstantiated claims of aggressive tax minimisation strategies.

The TJN Report's treatment of property trusts (which have been a legitimate flow-through investment vehicle for many years) is also deficient. Noting that unit holders, and not the trusts themselves, are liable to pay tax, the report raises concerns about whether or not all unit holders actually comply with their obligations. In fact, the ATO data matches distributions made to Australian resident unit holders with the individual's tax returns, while foreign unit holders are subject to Australian withholding tax. This ensures that income generated by property trusts cannot escape Australian tax. However, the TJN report states that property trusts are not paying any company tax and therefore avoid $1.5 billion a year in company tax. Senior ATO and Treasury officials have highlighted these glaring and significant mistakes in recent Senate Estimates hearings.

So between the top seven worst alleged tax avoiders named in the TJN Report, half of the headline number of $8.4 billion a year is readily explained by these two deficiencies. Of the remaining 16 companies listed in Table 17 of the "Top Tax Aggressive Companies" six are property trusts (which are legitimate flow through entities), with the remaining companies listed all having substantial foreign business operations. This is the legitimate reason why the ETRs are less than 30%.[2] It is disappointing that many commentators engaged in the current debate readily accept the conclusions of the TJN report without

[2] There are a number of other policy drivers for "tax paid" ETRs being below the headline rate of 30% for Australian companies even if they do not have overseas operations or are not property trusts. These include permanent differences such as R&D tax credits, utilising unbooked capital losses and the receipt of franked dividends. Other differences are of a timing nature such as tax vs book depreciation and the use of carry forward income tax losses. ATO statistics indicate that the 2013 pool of carry forward losses is approximately $264.8 billion with over 60% held by public companies.

acknowledging its clear deficiencies. [3]

The TJN Report's treatment of debt financing is also flawed. By a rather simplistic calculation of completely denying interest deductions for financing costs no matter where incurred, the TJN Report concludes that there is up to $46.9 billion per annum of Australian tax foregone from the "Medium to Very Large" sector. The calculation is based on EBIT and total profit, but again these figures would appear to include foreign income and interest expense incurred by foreign subsidiaries in foreign jurisdictions. In fact, the same data source used by the TJN Report, shows that the total interest expense incurred in Australia by the "Medium to Very Large" corporate sector was approximately $130 billion, so the maximum amount of tax foregone could only ever be 30% of this or $39bn, if every dollar of Australian interest expense was denied.[4] It is noteworthy that the same data shows 86% ($111.5 billion) of interest expense is incurred in Australia which would generally be subject to Australian tax in the hands of recipients, with the remaining subject to Australia's interest withholding tax regime. To suggest that we deny corporations a tax deduction for an ordinary business expense such as interest would put Australia at odds with the tax laws of all our major trading partners and would drive many Australian companies out of business. If there are excess deductions for interest expense, they are denied by the thin capitalisation rules, which have been recently tightened to become some of the most robust in the world.

Harming the confidence the community has in the integrity of our tax system without any sound basis seriously risks damaging our revenue base. When ordinary Australians are misled into thinking that large business plays fast and loose with the rules to avoid meeting their legitimate tax obligations, this is bound to have a negative impact on the high levels of voluntary compliance which have been a feature of our tax system for many years.

The Treasury Scoping Paper on "Risks to the Sustainability of Australia's Corporate Tax Base" dated July 2013 acknowledged a number of submissions pointing this out:

> *"The importance of community confidence in the tax system was noted by a number of submissions to the issues paper. In this context it was noted that it was important*

[3] Table 16 of the TJN report lists 27 companies with the lowest ETRs. 17 of these are property trusts which are flow through entities.

[4] Table 5 of ATO Taxation Statistics 2011-2012 shows the amount of interest expense as follows. The "Tax foregone" column is calculated at 30% of interest expense:

	Interest Expense ($M)	Tax "Foregone" ($M)
Interest incurred in Australia	111,513	33,454
Interest incurred overseas	18,626	5,588
Total	130,140	39,042

for this debate to be measured, balanced and well informed." (at para 126)

Recent events would tend to bear this out. We are certainly not arguing that community confidence is so fragile that these issues should not be debated at all – only that in advocating their position participants should bear in mind the long-term damage they may cause by making claims that are not supported by the facts.

We now turn to the Terms of Reference of the Senate Enquiry.

1. The adequacy of Australia's current laws

In order to help dispel the myth that corporate Australia does not pay its fair share of tax, it is worthwhile setting out some facts about the Australian corporate tax system**:**

- *The design of the Australian tax system encourages the payment of Australian tax.*

A key design feature of the Australian corporate tax system is the dividend imputation regime. It is aimed at removing double taxation of company profits in the hands of shareholders by effectively giving shareholders a credit for Australian company tax paid on profits generated at the corporate level. Australian groups are very attuned to the preferences of local investors for fully franked dividends and the fact that not paying tax on Australian sourced profits by techniques such as transfer mispricing is a zero sum game. If there were profits that somehow were not taxed in a foreign country (or in fact taxed in Australia under the foreign income attribution rules in any event) they would eventually flow through to shareholders as unfranked dividends upon which the shareholder ultimately pays tax.

Second Commissioner of Taxation, Mr Andrew Mills, made the following comments at a Senate Estimates Hearing on 22 October 2014 when talking about the recent debate on corporate tax avoidance and the design adequacy of Australia's corporate tax laws:

> ***"……*** *I want to make a few points about the structure. We have a system where companies, particularly listed companies, like to return profits and they like to tell the world that they are making profits. That then goes, in part, although they are different bases, it goes to an encouragement of ensuring that there is a taxable income. Why? Because they pay tax. Why does that matter? Because they can frank dividends. The market wants them to frank dividends and they will punish them if they do not. We actually have some of the structural things in place that encourage Australian companies to pay Australian tax."*

- *The Australian tax system is designed to encourage Australian based corporates to*

expand offshore

A further key design feature of our tax system are foreign income rules aimed at encouraging (or at least not discouraging) Australian entities to expand offshore and making Australia a more attractive hub for international investment.[5]

Australia like most OECD countries adopts a territorial basis for taxing income. Essentially where an Australian resident entity controls a foreign subsidiary, foreign profits derived by that the foreign entity are generally exempt from Australian tax if the income comes from active business activity or if it is comparably taxed offshore. Where income in foreign subsidiaries is from a controlled passive source (e.g. income from related party royalties, rents or sales) and is not comparably taxed, it is taxed in Australia as it accrues. These rules encourage investment in businesses of substance and ensure income cannot be diverted or parked in low tax jurisdictions.[6]

- *Australia is a net importer of capital and our rules have been designed to prevent foreign based multinationals funding Australian operations with excessive levels of debt.*

As a general rule, Australia's thin capitalisation rules operate to ensure that non-bank corporates cannot allocate debt deductions to Australia that are more than 60% (previously 75% before the recent tightening of Australian's thin capitalisation tax rules) of the value of their Australian assets. Banks generally must hold 6% of tax capital of their level of Australian risk weighted assets.

These rules operate to ensure that excessive deductions for interest are not available.

- *Australia's tax integrity rules are among the most stringent in the world*

Over the years, successive Governments have put in place a very robust suite of integrity measures. These include:

1. Comprehensive foreign income attribution rules which apply Australian tax

[5] Rules in Div 802 of the *Income Tax Assessment Act 1997* have the object of encouraging the establishment in Australia of regional holding companies for foreign groups and improving Australia's attractiveness as a continuing base for multinational companies by providing relief from tax on distributions by Australian tax entities to foreign resident shareholders.

[6] We do note the effective tax rate on foreign sourced profits can be very high, when those profits are eventually distributed to Australian shareholders as an unfranked dividend. For example, a $100 dividend is received by ASXCo from a US subsidiary (US Sub) on which US Sub has paid tax at 35% . ASXCo then pays the $100 as an unfranked dividend to its Australian shareholders. The profits of US Sub are effectively taxed at up to 66% in the Australian shareholders hands if the shareholder has a marginal rate of tax of 47%

to profits that could be diverted to lower tax jurisdictions.

2. Limits on debt deductions (thin capitalisation and other tax rules) that are some of the most stringent in the world.
3. Transfer pricing rules that accord with (and arguably go beyond) the latest OECD principles and require extremely detailed documentary evidence to support all related party transactions on a yearly basis. These rules impose significant penalties for non–compliance with the arm's length standard.
4. A very robust general anti-avoidance rule and many specific anti-avoidance tax rules.
5. A suite of 36 Tax Information Exchange Agreements (**TIEAs**) with non-treaty countries which some commentators are listing (or at least defining) as "secrecy jurisdictions" (Refer Appendix 1).
6. The ATO embracing the OECD automatic exchange of information initiative.

A number of these measures have been strengthened significantly in recent years, most notably the transfer pricing regime, the thin capitalisation rules and the general anti-avoidance rule. Details of the more significant changes are summarised in Appendix 2. The consultation processes around each of those reviews were extremely thorough and involved an in depth examination of each of the regimes and their effectiveness.

These facts are supported by recent statements by both senior Treasury officials and ATO officers, who have observed that Australia has probably gone as far as it can in imposing integrity measures on its taxpayers.[7]

- *Australian and foreign based companies already pay very substantial amounts of income tax*

Notwithstanding the real losses encountered by many corporates in the wake of the global financial crisis, companies operating in Australia continue to contribute very substantial amounts by way of company income tax estimated at $70.4 billion for 2013-14 and $67 billion for 2012-2013, of which more than 60% was paid by large business. This comprises approximately 28% of the Federal Government's total income tax collections, and is the second largest source of

[7] "Because of changes over recent years we have probably the strongest anti-avoidance and transfer pricing rules in the world" *(Second Commissioner Andrew Mills, Senate Estimates Hearing 22 October 2014)*
"Traditionally, we have managed risks by running a pretty tight ship when it comes to integrity measures. Australia has a comprehensive CFC regime, tough transfer pricing rules and extensive general anti-avoidance rules…but this is probably the sensible limit of integrity measures." *(Rob Heferen, Executive Director, Treasury Revenue Group, Implications of Digitisation of the Australian Tax System 4 July 2014)*

Government revenue after personal income tax.[8] In fact, Australia's company tax as a share of GDP is second only to Norway in the OECD.

In and of themselves, these facts don't prove anything one way or the other about the tax performance of individual companies, but the broader picture is one where large companies in Australia do make a significant contribution to the income tax collections. This unchallengeable fact is rarely noted or acknowledged in the current debate.

- *Treasury Scoping Paper on Risks to the Sustainability of Australia's Corporate Tax Base (July 2013) suggests little evidence of base erosion*

The previous Government commissioned Treasury to draft a Scoping Paper to examine the sustainability of Australia's corporate tax base in the light of international concerns about BEPS. The process was conducted by Treasury, assisted by a Specialist Reference Group consisting of business organisations (including the CTA), tax professionals, academics and civil society groups. Published in July 2013, the paper concluded that while there are certainly some emerging threats, there was little evidence that base erosion and profit shifting were having an adverse impact on Australia's corporate tax base. In looking at potential sources of risk, the paper made the following comment:

> *"The evidence that Australia has one of the more effective corporate tax systems in the OECD means corporate tax has a more important role in Australia's tax system than that of many other countries. As such, efforts to address the risk of base erosion and profit shifting should primarily focus on protecting the existing corporate tax base."* (at para 88)

In other words, the very robustness of our corporate tax base is all the more reason to protect it from emerging threats. We agree, but much of the current debate fails to acknowledge the underlying strength of our income tax system or the reality that corporate Australia is in fact highly compliant.

- *Corporates' reduced appetite for tax risk*

Concerns about reputational risk play an increasingly important part in the way that large companies manage their tax affairs. Many large corporates have put in place Tax Risk Management policies embracing stringent Codes of Conduct which specifically address the corporation's stance on tax compliance and attitudes to tax minimisation.

[8] Figures are derived from Table D10 in Appendix D of the 2013-2014 MYEFO. We note that total GST revenues for 2012-2013 were $50.3bn and are estimated at $ 52.7bn for 2013-2014 .

The fact is that most large companies have a reduced appetite for risk and seek to have a transparent relationship with the ATO in order to identify and resolve uncertain tax positions in 'real time'.

- *Multinational groups do not engage in large-scale profit shifting through transfer pricing practices*

  One common theme running through a number of the reports on this issue is that any payment made to a foreign associate represents the transfer of untaxed Australian profits to a low tax jurisdiction. Quite often these payments simply represent the cost of goods sold for these groups. For example, many companies with a presence in Australia don't invent or manufacture goods here, so it has to obtain them from somewhere and pay for them. Australia's very robust transfer pricing rules (strengthened under the previous Government) ensure that the price charged to an Australian business by a foreign associate must be an arm's length one. The ATO (and also offshore tax authorities) are increasingly vigilant in enforcing these rules.

- *The use of secrecy jurisdictions does not equate to profit shifting or some other form of tax avoidance*

  The TJN Report suggests the use of what they refer to as tax secrecy jurisdictions as being suggestive of tax avoidance. Others in the media and elsewhere have also picked up this theme.

  Corporate groups may have subsidiaries in 'tax haven' locations for a variety of reasons other than tax. The Chair of the Future Fund, Mr Peter Costello, canvassed some of those reasons in giving evidence to a Senate Committee recently. The reasons range from matching the preference of co-investors to having an interposed structure for the possible future divestment of assets held in other countries (the proceeds of which are mostly tax-free in Australia under current tax law). For example Hong Kong, with which a TIEA has not yet been concluded, is the common investment gateway into China for all international investors.

  Many companies operating in Australia have also 'inherited' legacy structures via acquisitions which include subsidiaries in 'tax haven' locations. These subsidiary companies are often dormant and only remain a part of the company's ongoing structure because of the economic costs and regulatory limitations associated with eliminating them.

  Turning to the TJN Report, the list of over 50 financial secrecy jurisdictions

provided is outdated and overlooks the fact that over recent years Australia has been very active in concluding 36 TIEAs and renegotiated exchange of information articles in existing treaties with a number of countries that some might regard as tax havens. The ATO is able to request the revenue authorities in those countries to provide it with tax related information regarding Australian taxpayers (and it does so). So the evidence of the use of so called secrecy jurisdictions is not nearly as prevalent as the authors of the TJN report suggest once TIEA countries such as Bermuda, the British Virgin Islands, Malaysia, Mauritius and Singapore are excluded. The TJN Report's conclusions also ignore the fact that legitimate businesses are being conducted in these countries and if tainted income is derived (for example a royalty from intellectual property that was located in Singapore or interest paid on an intercompany loan from Hong Kong) such income would be taxed in Australia under our Foreign Income Attribution rules.

We also note that the TJN Financial Secrecy Index makes it clear that Financial Secrecy is not synonymous with what some may consider a tax haven as "virtually any country might be a haven in relation to another"[9]. The index appears to be designed around measuring jurisdictions that "provide facilities to enable people or entities to escape or undermine the laws, rules and regulation of other jurisdictions…using secrecy as a prime tool" [10] rather than anything to do with tax avoidance.

On the question of financial secrecy jurisdictions we note that through information provided on the International Dealings Schedule (which all companies lodge annually with their income tax return) the ATO knows exactly where all the subsidiaries of an Australian based group are located, what business activities are undertaken and the quantum of related party dealings. Moreover our transfer pricing rules prevent companies from simply shifting Australian profits to such locations because the 'tax haven' subsidiary would have to supply real goods or services at an arm's-length price. Even if they were not arm's length prices, tainted income derived by a foreign associate would be taxed in Australia under our Foreign Income Attribution rules.

- *There is not a lot of tax Australia could collect from the global tech companies*

Some commentators have pointed to the significant gross revenues generated in Australia by the likes of Google, Amazon and others. However, it is simplistic to think that taxing gross revenues is an easy way of solving Australia's underlying Budget problems. To begin with, income taxes are levied on a proxy of net profits (taxable income), not gross turnover, so the tax base potentially available would

[9] Tax Justice Network, Financial Secrecy Index 2013 Methodology at page 3
[10] Tax Justice Network, Financial Secrecy Index 2013 Methodology at page 3

invariably be much less.

The digital economy does present real challenges to the current international tax framework, and these are being addressed through the OECD and the G20. But under the current rules, that income and those profits are not Australia's to tax.

Taking unilateral action invites reprisals and risks double tax outcomes, which is highly inimical for investment and jobs. We note the UK's recent announcement of a 25 per cent Diverted Profits Tax (**DPT**). However, it is difficult to see that as anything other than an assault on the tax base of another country, with the taxpayer caught in the middle. It remains to be seen precisely how other countries will react to unilateral action like the DPT.

Changing the source/residency rules in a more co-ordinated way would be far preferable, albeit challenging as it would essentially involve a negotiation between nation states over taxing rights. Australia in particular would need to tread very carefully in case it jeopardises its revenue base relating to our huge volumes of commodity exports.

Although we recognise there are potentially significant challenges ahead in the source/residency debate, it is crucial that Australia actively participates in the OECD deliberations and avoids taking unilateral action, or it could be risking a lot to gain only a little.

2. Any need for greater transparency to deter tax avoidance

The CTA accepts the need for the sensible and useful disclosure of tax information by large business. Appropriate disclosures can inform public debate and many large corporations have a good story to tell. Some large corporates are already sharing that information voluntarily. [11]

It is worth noting the following in the tax transparency arena:

1. Corporates with annual income over $100 million will have their name, ABN, total income, taxable income and tax payable published each financial year by the ATO in the second half of 2015.

2. Accounting reporting requirements require corporates to detail the calculation of income tax expense and cash tax paid, as part of their published yearly accounts.

[11] For example, BHP Billiton publish tax data in its "Sustainability Report", Rio Tinto in its "Taxes Paid" report and ANZ's in its 2014 Corporate Sustainability Report.

3. Current annual corporate tax returns require detailed disclosures to the ATO, including the International Dealings Schedule. This information includes data on all international related party transactions as a means for risk identification.

4. Most large corporates are subject to real time risk assessments under various ATO initiatives such as pre-lodgement compliance reviews (**PCRs**). During the PCR process the ATO and corporates discuss the corporates' tax performance, areas of potential risk and possible disputes in real time, before the lodgement of tax returns. The ATO also undertakes a risk rating for all large corporates, and bases its compliance approach according to this risk assessment. The ATO also regularly contacts corporates as part of its regular revenue monitoring process and seeks information on tax payments, including reasons why tax payments may vary from what is anticipated

5. Taxpayers are required to disclose any "reportable tax positions" to the ATO as part of the annual income tax return process.

6. Australia has entered into 36 TIEAs with various non Treaty countries and renegotiated exchange of information articles in many existing tax treaties (Refer Appendix 1).

7. There are proposals as part of the OECD BEPS agenda to require significant tax information to be provided to tax authorities on a county by country basis. This proposal is well advanced.

Recent experience suggests there will be those in the media who may selectively report on this information in ways that reflect adversely on business. The TJN Report is an example of how publicly available data can be misinterpreted, producing erroneous outcomes. The potential consequences of this kind of reporting illustrates the very valid concern that the CTA and others share around the potential consequences of company information being misused or misinterpreted.

Be that as it may, the CTA has for some time been urging its members to provide more useful and concise information about their own tax performance. Hopefully this will bear some fruit in the months and years ahead and we will see improved tax disclosures by Australian companies that go beyond what was mandated by the previous government.

3. Opportunities to collaborate internationally on tax avoidance

There are a number of fundamental international tax issues where the tax legal framework has not kept pace with the way modern business is conducted, and these

issues have been under serious scrutiny by the OECD through its BEPS Project since early last year and supported by the G20 at a political level.

We acknowledge that at a global level there are pressure points around the digital economy; treaty abuse; the use of hybrids; transfer pricing; excessive debt deductions; inadequate foreign income attribution rules and other topics. Australia has already taken positive steps in relation to most of the areas identified, and it will be in our interests to ensure as far as possible that the OECD adopts a co-ordinated and comprehensive approach in developing its recommendations. Ultimately, of course, most of the recommendations will require individual countries to amend their own domestic laws – something that will take time. But our main point is that the substantial international tax issues are being considered in a competent and organised way and Australia is appropriately engaged.

4. The performance and capability of the ATO

While the ATO has had staff cuts imposed on it recently, we have not noticed any reduction in its front-line compliance activities in the large business sector. We are aware that the ATO is constantly looking at ways of conducting its compliance work more efficiently and effectively, and over the years it has refined and enhanced its risk based approach to compliance work. The ATO is also subject to scrutiny in the form of annual audits by the Australian National Audit Office, reviews by the Inspector General of Taxation and various Senate reviews.

The ATO annually publishes its' Compliance Program and details its areas of focus. There is nothing in the ATO large business Compliance Program or areas of focus which are not being adequately covered by the ATO.

It has professional and highly skilled staff and maintains ongoing relationships with most large corporate groups, which through the PCR process and other compliance activities results in the early disclosure of any material tax issues.

5. Tax Reform in Australia

It is welcoming to see that in the area of tax reform some real debate and action is gaining momentum, notably through the OECD BEPS agenda and the upcoming tax white paper. We welcome both initiatives and encourage all participants to engage in these processes constructively, with an understanding of the facts and an interest in the long term sustainability of our tax system.

What is important to recognise when embarking on these paths to reform is that Australia

is now a more open economy than ever before and that tax rules, supplemented by appropriate integrity measures, are a key driver for maintaining a strong and equitable economy and lifting the living standards of all Australians.[12]

Conclusion

Far from being in crisis and far from a system of tax rorts manipulated by opaque and secretive corporations, Australia's company income tax system is robust and continues to yield significant revenue flows for the community. Large companies are compliant and risk averse; their financial results (including taxes) are independently audited annually, the tax integrity framework is sound; extensive transparency initiatives are already in place, with more in the pipeline and the ATO is very active in ensuring companies pay the right amount of tax under the law.

The CTA is ready to have a balanced and informed debate around company tax and any other aspects of the tax system. We note Australia has already been through a thorough base broadening/rate reduction process with the Ralph review in 1999, and the Business Tax Working Group that was appointed by the previous Government in 2012 struggled to identify any material business tax concessions that could be traded off for even a modest rate reduction.

If there are areas where the company income tax system needs to be tightened up or there are concerns that issues such as profit shifting and tax transparency are not already being actioned by the OECD and the G20, we would welcome a discussion on those areas.

We thank the Committee for the opportunity to provide a submission.

Yours sincerely,

(Michelle de Niese)
Executive Director
Corporate Tax Association

[12] Refer to the page 5 of "International Investment Australia 2013", Department of Foreign Affairs and Trade, October 2014 which shows in 2013 the total stock of foreign investment in Australia was $2.5 trillion and Australian investment abroad was $1.6 trillion.

Appendix 1

Tax Information Exchange Agreements

	Country
1	Andorra
2	Anguilla
3	Antigua & Barbuda
4	Aruba
5	The Bahamas
6	Bahrain
7	Belize
8	Bermuda
9	British Virgin Islands
10	Brunei
11	The Cayman Islands
12	Cook Islands
13	Costa Rica
14	Dominica
15	Gibraltar
16	Grenada
17	Guatemala

	Country
18	Guernsey
19	Isle of Man
20	Jersey
21	Liberia
22	Liechtenstein
23	Macao
24	Marshall Islands
25	Mauritius
26	Monaco
27	Montserrat
28	Netherlands Antilles
29	Samoa
30	San Marino
31	St Kitts and Nevis
32	St Lucia
33	St Vincent & the Grenadines
34	Turks and Caicos Islands
35	Uruguay
36	Vanuatu

Appendix 2

Recent Australian Tax Integrity and Tax Disclosure Measures

Measure	Effective Date	Summary of Change
General Anti-avoidance	Schemes entered into after 16 November 2012	Strengthening of the definition of tax benefit
Thin Capitalisation	1 July 2014	Reduction in safe harbour debt limits from 75% to 60% for Non-Banks and from 95% to 90% for Banks of Australian Assets.
Transfer Pricing	For years ending 30 June 2014	Substantial changes to modernise Australian rules to accord with contemporary OECD standards. Requirement for contemporaneous documentation to support positions taken otherwise significant penalties imposed.
Exemption for foreign non-portfolio dividends	From 1 July 2014	Limits the tax exemption to equity interests only
Tax payment disclosures	From the 2014 income tax year	ATO to annually publish tax data for taxpayers with over $100m turnover of income, taxable income and tax paid (including PRRT)
Tax Exchange of Information Agreements	Various	TEIAs to enable ATO access to information from 36 non treaty country tax administrators.
Reportable tax positions	From the 2014 income tax year	Taxpayers to disclose to the ATO via their annual tax return any tax positions taken that are not reasonably arguable
Revised International Dealings Schedule	From the 2012 income tax year	Modernisation of disclosures to the ATO, including details of all related party transactions