



Commissioner of Taxation

Senator Sam Dastyari  
Chair, Senate Economics References Committee

Dear Senator Dastyari,

### **Inquiry into corporate tax avoidance**

Thank you for the opportunity to provide further comments to my opening statement at the Inquiry into Corporate Tax Avoidance and Minimisation hearing on Wednesday 22 April 2015.

I am writing to advise the Committee that I do not have any additional information to provide to the Committee in relation to the five large corporations – Apple, Microsoft, Google, Rio Tinto and BHP Billiton.

However, as requested by the Committee, the ATO has reviewed the answers provided by these corporations to questions taken on notice during hearings in early April. I do not believe that there are any other issues in the responses provided by Apple, Microsoft, Rio Tinto and BHP Billiton that need to be brought to the attention of the committee. However, attached is our commentary on the response provided by Google to Senator Milne's question regarding their international structure.

Finally, I would like to provide qualification to information provided during the hearing where I said "The reality is we only ever had 1,310 staff in this business area and on last count we had over 1,230 staff". As with any large organisation, the staffing numbers in a particular area can fluctuate from month to month. Our staffing in the PGI business area was:

- 1309 in July 2013,
- 1407 at the end of June 2014 and
- at last count we had more than 1230 staff.

Please do not hesitate to contact me if you wish to discuss any of the above matters.

Yours sincerely

Chris Jordan  
Commissioner of Taxation  
1 May 2015

### Google Question on Notice

#### **Question:**

**Senator Milne:** .... I want to now move on to Google. Perhaps you could explain to me what the double Irish sandwich with Dutch associations is since it is the thing that Google is particularly accused of. Nobody is going to accept the explanation that you have a simple tax structure so let us understand how starting from here we end up in Bermuda.

**Ms Carnegie:** .... I can explain to you what I do know about Google's tax, but I will have to take on notice if you want to get into detailed international tax discussion. The intellectual property of Google globally is owned by Google Inc., which is a US based company. Google Inc. then basically shares the cost and the risk of taking that intellectual property to market with another entity called Google Ireland Holdings. That is a company that is based in Ireland. There are then two operating companies underneath that structure. One of them is called Google Ireland Limited and the other one is called Google Asia Pacific. Google Australia, as I said, basically provides sales and marketing support services to Google Asia Pacific and also provides R&D services to Google Inc. That broadly speaking is how we go to market.

Coming back to your question, I acknowledge there is a lot more complexity to the Google global tax structure than that. None of that other structure impacts the tax that Google pays in Australia. I can take on notice and come back and explain what goes on more explicitly in Ireland and other places but, to be frank, I do not have those details today.

#### **Answer:**

Google Inc., is the parent company of the entire Google group, and Google Ireland Holdings is an Irish company tax resident in Bermuda.

- These two companies share the costs of developing the vast majority of our intellectual property.
- Google Ireland Holdings has the nonexclusive right to monetise Google's intellectual property in the APAC region.
- Google Ireland Holdings has licensed this right to Google Netherlands Holdings BV which then sublicenses the right to Google Asia Pacific., which is our regional HQ based in Singapore.

As Google's regional HQ, Google Asia Pacific is responsible for contracting with customers in the APAC region, including Australia.

- Australian customers contract directly with Google Asia Pacific and that revenue is booked there.
- Google Asia Pacific pays a royalty for the intellectual property to Google Netherlands Holding BV.

Google Asia Pacific has engaged Google Australia to provide various services, including marketing services. In exchange Google Australia receives an arm's length remuneration for the services it performs.

Importantly, Bermuda has no bearing on the corporation tax Google Australia pays. If our entity in Bermuda did not exist, it would not change the amount of corporation tax payable in Australia. Further, the Irish Government has recently changed its corporate residency rules such that all companies incorporated in Ireland are by default tax resident in Ireland, thus

phasing out the ability for Irish incorporated entities to be tax resident in countries outside of Ireland, such as Bermuda. This shows progress being made at an international level.

Please note, under this tax structure Google Inc incurred a tax expense of \$3.3 billion and paid an effective tax rate of 19% on its profits for 2014.

### **ATO Response:**

We note that the 19% global tax rate for 2014 mentioned above by Google is achieved by combining USA tax paid in respect of USA sourced revenue with the tax paid on revenue from the rest of the world. USA sourced income is subject to different tax arrangements than the rest of the world income. It does not mean that profits derived from Australian sales are taxed at 19%.

We note that the purpose of our audit of Google Australia is to determine whether the remuneration that they receive for services performed, including marketing services, is at arm's length.