

Making Multinationals Pay Their Fair Share

Australian Council of Trade Unions response Treasury Laws
Amendment (Making Multinationals Pay Their Fair Share—
Integrity and Transparency) Bill 2023

ACTU Submission, 21 July 2023
ACTU D. No D32/2023

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About the ACTU

Formed in 1927, the Australian Council of Trade Unions (ACTU) is the peak trade union body in Australia. There are 43 affiliated unions and states and regional trades and labour councils, representing approximately 2 million workers across the country who are engaged across a broad spectrum of industries and occupations in the public and private sectors.

For over 90 years, the ACTU has played a leading role in advocating for, and winning, improvements in wages and working conditions. During this time, the ACTU has advocated for law reform on almost every Commonwealth legislative measure that concerns employment conditions or has implications for working people, their families, and the community.

Introduction

The ACTU welcomes the opportunity to make a submission to this inquiry of the Senate Economics Legislation Committee into the Treasury Laws Amendment (Making Multinationals Pay Their Fair Share – Integrity and Transparency) Bill 2023. Australian workers, their families and the wider community have an interest in a transparent tax system where all taxpayers contribute fairly to Australia's revenue base. A fair and transparent tax system ensures that funding is available for the necessary public services and infrastructure that enables Australian workers to be prosperous and happy.

When multinational corporations use planning strategies to shift profits from Australia to comparatively lower taxing jurisdictions it undermines confidence in the Australian tax system; undermines the tax base, and therefore long-term fiscal sustainability; constrains the spending capacity of governments to provide services and support to working people; and unfairly places the burden of maintaining public infrastructure and services on Australian workers. Multinational firms that are engaging in profit shifting benefit from Australia's infrastructure and public services in the ordinary course of their business in this country and should be contributing more and more fairly to the tax base that enables these public goods.

The ACTU welcomes the new rules being introduced by the Government to protect the integrity of the Australian tax system and improve tax transparency. The 'consolidated entity disclosure statement' and amendments to Australia's thin capitalisation rules are small but important positive steps in shoring up Australia's tax base and making sure that multinational corporations pay their fair share of tax.

Tax is good and makes a positive contribution to society

The ACTU supports measures that strengthen Australia's tax system. Taxation makes a positive contribution to society by ensuring funding for quality public services, including the health and education systems, is available; ensuring a strong welfare and support system; and redistributing

income and wealth to build a fairer and more equal society. A strong revenue base ensures the Government's fiscal position is on a sound footing to allow discretionary spending to support households facing difficult circumstances. The current cost-of-living crisis affecting workers highlights the need for a sound fiscal position that can provide targeted and meaningful support and relief for those members of society who are feeling prices pressures most acutely. Tax avoidance strategies by multinational corporations constrain the Government's ability to undertake these measures during difficult macroeconomic circumstances. Taxation also ensures Australia has the right infrastructure and legal services in place to facilitate growth and prosperity. The impacts of a sound tax system are widespread and benefit all Australians. Tax paid by individuals and companies is an important civic duty that contributes to Australia's well-being and prosperity.

Tax avoidance practices used by multinational corporations impact all Australians by undermining the integrity of Australia's tax and welfare systems and by creating an uneven playing field. Combating base erosion and profit shifting by multinational corporations is an important step in putting the Australian tax and transfer system on a sound footing. Use by multinational corporations of entities based in low-tax and/or low-transparency jurisdictions such as Singapore to profit shift highlights the lengths that some firms will go to avoid paying tax in Australia. More recently, the PwC case has revealed the proactive role played by professional service firms in the creation and marketing of tax avoidance schemes to their current and prospective corporate clients.

The OECD (conservatively) estimates the global annual revenue loss due to base erosion and profit shifting as between US\$100 to US\$240 billion. The Australian Tax Office (ATO) estimates the overall tax gap - that being the difference between the amount of tax the ATO collects and what the ATO would have collected if every taxpayer were fully compliant with tax law - for 2019-20 to be around \$33 billion.¹ Tax avoidance practices used by multinational corporations contributes to the overall tax gap.

An efficient tax system should minimise the tax gap, and the ACTU welcomes the Government's commitments as small but positive contributions to Australia having a strong revenue base. The ACTU looks forward to the Government going further in cracking down on multinational corporate tax avoidance and on shoring up Australia's revenue base so that those who benefit from Australia's prosperity contribute their fair share to its continuation.

¹ Guo-Hawkins, Elo, 'Addressing the tax gap,' *Budget Review October 2022-23*, Parliament of Australia, [link](#), accessed 4 July 2023

Supporting the tax system through enhanced transparency

An effective corporate tax system requires policies that stop multinational corporations engaging in tax avoidance and artificially shifting profits from jurisdictions where economic activity is taking place to low taxing jurisdictions. Enhanced transparency of how multinational corporations structure their affairs is an important step in minimising tax avoidance. The ACTU therefore welcomes the new rules being introduced by the Government to protect the integrity of the Australian tax system and improve tax transparency.

The 'consolidated entity disclosure statement' will make sure that companies are transparent about how they structure their subsidiaries. This includes how entities structure for tax purposes. The ACTU supports the amendments as these will hold companies to account on their corporate structures. The disclosure statements will make clear whether companies are structuring with deliberately opaque or atypical tax arrangements aimed at minimising taxable income in Australia. In this way, multinational corporations will be made more accountable to the community and their tax structures made more transparent so as to better serve the public interest. All Australians have an interest in how companies structure their affairs, and for what purpose.

The changes are grounded in the OECD/G20 inclusive framework on base erosion and profit shifting (BEPS), an important international forum at which 135 countries and jurisdictions are collaborating on measures to tackle tax avoidance; to improve the coherence of the international tax rules; and ensure a more transparent tax environment. The ACTU is an affiliate to the Trade Union Advisory Committee to the OECD (TUAC). We support the OECD's BEPS project and through our affiliation to the TUAC are important stakeholders and contributors to this process. The ACTU supports international collaboration to build a transparent and sustainable international tax system through measures to crack down on tax avoidance as this will help to restore confidence in the integrity of the Australian tax system and the international tax system more broadly.

The ACTU notes the Government's on-going commitment to introduce a public country-by-country reporting regime. The Global Reporting Initiative (GRI) has developed a tax standard for country-by-country reporting that is highly regarded internationally. The standard is supported by large global corporations and some of the world's biggest investors. A public country-by-country reporting standard would enhance transparency consistent with the goals of the Government's legislation. Adoption of the GRI standards would remove one of the most important barriers to tackling corporate tax avoidance in Australia and globally. The ACTU urges the Government to adopt the standards in the interest of tax transparency and maintaining the integrity of the Australian and international tax system.

Supporting the tax system through linking debt deductions to economic activity

An important step in putting the tax system on a sustainable basis is tightening up integrity rules. The Bill amends Australia's thin capitalisation rules to limit the amount of debt that entities can deduct for tax purposes. The changes are grounded in earnings-based interest limitation rules, which limits debt deductions to 30 per cent of profits.

The OECD's BEPS project outlines the problem of using third party, related party, and intragroup debt to generate excessive deductions for interest and other financial payments. The OECD has suggested that the use of third party and related party interest is one of the simplest profit-shifting techniques available in international tax planning.

The ACTU welcomes the Government's commitment to strengthening Australia's thin capitalisation rules to address risks to the domestic tax base arising from the use of excessive debt deductions. The amendments aim to align debt deductions with taxable economic activity in a more robust way to address base erosion and profit shifting. The changes are consistent with the OECD's best practice framework rules. Aligning debt deductions with taxable economic activity should help contribute to strengthening the integrity of the Australian tax system and is an important step in rebuilding confidence in the fairness and integrity of Australia's corporate tax regime.

Conclusion

The ACTU supports measures that strengthen Australia's tax system. Tax avoidance practices used by multinational corporations impact all Australians by undermining the integrity of Australia's tax and welfare systems and by creating an uneven playing field. The ACTU welcomes the new rules being introduced by the Government to protect the integrity of the Australian tax system and improve tax transparency. The 'consolidated entity disclosure statement' and amendments to Australia's thin capitalisation rules are small but important positive steps in shoring up Australia's tax base and making sure that multinational corporations pay their fair share of tax.

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