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**Submission by Public Services International (PSI) in relation to  
Treasury Laws Amendment (Making Multinationals Pay Their Fair Share-Integrity and Transparency) Bill  
2023 [Provisions]**

Public Services International (PSI)<sup>1</sup> welcomes the opportunity to provide a submission to the Economics Legislation Committee on the *Treasury Laws Amendment (Making Multinationals Pay Their Fair Share integrity and transparency) Bill 2023*. We welcome the Australian Government's commitment to increasing corporate tax transparency and efforts to make multinational corporations contribute a fair share to public revenue.

Our submission makes three main points:

- we welcome the provisions in Schedule 1 requiring public companies to disclose subsidiaries in all jurisdictions;
- we welcome efforts to improve thin capitalisation rules in Schedule 2, but propose that amendments be made to this section of the legislation to further limit deductions related to related party loans and excessive debt costs;
- we are concerned that essential measures to increase transparency and make corporations pay their fair share relating to **public country by country reporting**, have been delayed until July 2024 and are at risk of being significantly diluted after corporate and OECD lobbying.

## Impact

The exploratory memorandum outlines the impact of the proposed measures on government revenue and on industry. In 2021, the State of Tax Justice report estimated that, globally, government revenue is reduced by US\$450 billion per year due to international tax dodging and abuse by multinational corporations and wealthy individuals<sup>2</sup>. As the Bill recognises, corporate tax minimisation undermines the ability of government

<sup>1</sup> [Public Services International](https://www.psivalue.org/) (PSI) is a Global Union Federation that represents public service workers from more than 700 trade unions representing 30 million workers in 154 countries. We are dedicated to promoting quality public services in every part of the world. Our members, two-thirds of whom are women, work in social services, health care, municipal and community services, central government, and public utilities such as water and electricity.

<sup>2</sup> Tax Justice Network, Public Services International and the Global Alliance for Tax Justice, 'State of Tax Justice 2021', 16 November 2021, <https://taxjustice.net/reports/the-state-of-tax-justice-2021/>

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Public Services International is a Global Union Federation of more than 700 trade unions representing 30 million workers in 154 countries. We bring their voices to the UN, ILO, WHO and other regional and global organisations. We defend trade union and workers' rights and fight for universal access to quality public services.

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to fund health services, education, social protection and vital public services necessary to enable prosperity, reduce inequalities and to keep the economy running. Aggressive tax avoidance also shifts the tax burden to workers and to small and medium sized local businesses. Corporate tax avoidance also plays a role in wage stagnation. Profits hidden in tax havens are not available for wage bargaining, productive investment and job creation. Further, artificial structures used to minimise corporate income taxes are also used to circumvent enterprise bargaining provisions where workers are shifted to letterbox companies. When management is hidden behind several layers of artificial corporations, workers and their unions find it difficult to effectively exercise social dialogue.

Globally, the labour movement is actively engaging with policy-makers, calling for stronger regulations to tackle corporate tax avoidance. Efforts to curb corporate tax avoidance through the OECD have clearly failed and the recent UN General Assembly resolution 77-244 on “Promotion of inclusive and effective tax cooperation at the United Nations” makes it clear that a stronger, globally coordinated effort is required. The Australian Government’s commitments were regarded by the global union movement as a global public good - measures that would meet the election commitments made to reduce corporate tax avoidance and increase revenue while also improving corporate tax transparency globally. Importantly it could set a precedent for other countries to introduce robust standards and normalise the practice.

We encourage the Australian Government to promote strong standards in all international processes, including by actively supporting the UN Tax Body and through negotiations for provisions for a fair economy in the Indo Pacific Economic Framework (IPEF).

#### **Schedule 1 – Disclosure of subsidiaries**

The provisions for the full disclosure of all subsidiaries in all jurisdictions (not only countries), is welcomed and should be retained.

#### **Schedule 2 – Thin Capitalisation**

The use of related party loans through low tax jurisdictions has been rightfully recognised as one of the most commonly used forms of aggressive tax avoidance. The ‘arms length principle’ has clearly failed to curb this form of tax minimisation. Only genuine interest payments, made to third party entities and related to operations in Australia, should be allowable. Interest payments to related party loans should not be permissible. The proposal to allow deductions of up to 30% of tax EBITDA, continues to support artificial tax minimisation measures. It should be significantly reduced to reflect normal business practice (noting that the majority of businesses have interest expenses of less than 10% of EBITDA).

In this respect we support the proposals made in the joint submission of the Center for International Corporate Tax Accountability and Research (CICTAR) and the Tax Justice Network, Australia.

#### **Impact Analysis Schedule 1 – Public Country by Country Reporting**

On 2 September 2022 PSI made a joint submission with the International Trade Union Confederation (ITUC) into the treasury’s consultation on multinational tax integrity and tax transparency.<sup>3</sup> Our submission called for mandatory public country-by-country reporting, on the basis of the GRI 207 tax standard with a wide scope of application. We reiterate the arguments made in that submission, including the concerns raised in relation to the OECD and the EU standards.

It is clear that lobbying occurred after the close of the consultation and without public disclosure. The explanatory memorandum notes that:

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<sup>3</sup> [Public Services International and the International Trade Union Confederation - Submission in response to: Multinational Tax Integrity and Tax Transparency \(treasury.gov.au\)](#)

*“Following the close of formal consultation, international stakeholders reached out to Treasury to enquire how the disaggregated approach to reporting would operate, noting this was a departure from the OECD confidential approach to CbC reporting and that of the EU.”*

Consequently, it appears that industry will be given further opportunities to influence the provisions “while the disaggregated CbC reporting is intended to support meaningful improvements to tax transparency disclosures, there is a recognition that it does depart from the EU and OECD approaches, and that further consultation with industry may be beneficial on this element of the measure (and the measure more broadly)”.

The commitment to implement public CBCR, largely following the GRI standard, should not be diluted. The concerns raised by corporations are neither substantiated nor substantive. The explanatory memorandum points to the prospect of companies having to appoint additional staff to implement the provisions. It’s clear that most compliance costs would be short-term and minimal, and the cost of an additional worker is certainly not grounds to dilute the legislation and undermine the important benefits of the provisions. The claims that tax transparency will deter investment or harm business are not evidence based. As Nobel prize winning economist, [Joseph Stiglitz has argued](#), “European banks have been required to publish country-by-country reports for nearly a decade with no apparent competitive disadvantage” and several multinationals adhere to the GRI standard without adverse consequences.

Corporations that benefit from the skilled workforce, strong economy, sound legal environment and public infrastructure in Australia, must be prepared to make a fair contribution and operate with transparency. Amendments to accommodate for corporate concerns, including the removal of valuable data points, like the effective global tax rate, have already been made to the Bill.

We recommend against changes that attempt to further align the Australian legislation with the EU. At the time of the adoption of the EU final compromise on public CBCR, the European labour movement expressed strong disappointment, mostly because of its restrictive geographical scope. Under the agreement, MNEs have to report their activities only for EU Member States and countries listed on the EU list of tax havens. The EU list of tax havens, however, is the outcome of a highly political process where countries are selected on the basis political and economic considerations. Many low tax jurisdictions do not appear on that list. While the EU requirements include some important progress, we regard the GRI tax standard as the best reference in the field because it secures the right data, with more complete tax disclosure topics than the EU framework, and in a way that can be easily processed by stakeholders.

We also suggest that any lobbying by corporations or by institutions or other governments in relation to this legislation be made public and channeled through the available public consultation processes. Legislation designed to increase public revenue in Australia should not be undermined by global entities with other interests.

Thank you for the opportunity to make a submission on this important Bill and policy initiative. We look forward to sharing positive developments on corporate tax transparency with our affiliates throughout the world.

Sincerely,

**Kate Lappin**  
Asia Pacific Regional Secretary