Australian Chamber of Commerce and Industry

Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024

Submission to the Senate Standing Committee on Economics

June 2024

Introduction

The Australian Chamber of Commerce and Industry (ACCI) appreciates the opportunity to provide comment to the Inquiry into Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024. Our interests lie particularly with the Multinational Tax Transparency – Country by Country reporting (Schedule 4), as well as the $20,000 Instant Asset Write-off for Small Business Entities (Schedule 7) components of the Bill.

ACCI is Australia's largest and most representative business association. Our members are all state and territory chambers of commerce, which in turn have 430 local chambers as members, as well as over 70 national industry associations. Together, we represent Australian businesses of all shapes and sizes, across all sectors of the economy, and from every corner of our country.

Multinational Tax Transparency (Schedule 4)

We support the intent of the legislation to provide a meaningful improvement in the tax transparency of MNEs operating in Australia. However, as raised in earlier consultations, it is necessary to get the balance right, to provide a meaningful improvement in tax transparency while at the same time not imposing a large administrative and compliance burden that would discourage MNEs from operating in Australia.

ACCI appreciates that the government has engaged in genuine consultation and the revised exposure draft of the legislation is a substantial improvement on the earlier draft Bill. However, there are still some crucial issues that need to be dealt with. We would appreciate further consideration and resolution of the below-mentioned areas of concern in order to fully align the proposed legislation with the OECD standards and maintain a reasonable level of disclosure in line with the policy intent.

ACCI was reassured by the decision to limit the disclosure requirements to Australia and those included on the CBCR jurisdictions list, with information from all other countries to be reported on an aggregated basis. This will significantly reduce the administrative burden on MNEs. However, the jurisdiction list includes 41 countries, compared to only 22 under the EU CbCR Disclosure.

While the CbCR jurisdiction list does mostly coincide with countries specified in the International Dealings Schedule (IDS), the IDS is focused on related-party dealings and only a subset of these countries are relevant to "profit shifting activities". The exposure draft provides no clear guidance, nor prerequisites for listing or de-listing countries. In contrast, the EU listing process is based on objective and verifiable criteria. ACCI had previously raised concerns about the inclusion of Switzerland, Singapore, and Hong Kong on this list. Switzerland, Singapore and Hong Kong are members of the OECD's Global Forum on Transparency and the exchange of information for tax purposes. There is no clear reason for their inclusion on the CbCR jurisdictions list. Australia needs to align its list with the EU's list of non-cooperative jurisdictions, for the ease in reporting for companies and to ensure a coherent approach.

ACCI's earlier submission noted the lack of safeguards for sensitive data. The initial exposure draft of the Bill requires MNEs to provide CbC financial and tax information to the ATO, with this information then published on a publicly accessible government website. However, there were only limited provisions in the proposed legislation to protect or exclude from publication information that may be confidential or commercially sensitive.

The decision to allow an exemption from publication appears to be solely at the discretion of the Tax Commissioner. There are no clear guidelines as to what may qualify for an exemption or the criteria the Tax Commissioner would apply in determining whether to withhold this information from publication. It is not evident that this exemption is applicable to information deemed to be confidential and/or commercially sensitive.

Even if the exemption is granted, the entity is exempted from publishing information of a particular kind for a single reporting period. Having to gain permission each time for exemption from publishing information is a huge administrative burden for businesses. ACCI recommends extending this exemption period to at least 5 years to alleviate the significant administrative burden on businesses and to avoid the repeated need to prove the sensitivity of the information.

More clarity is needed on how confidential and commercially sensitive information is to be treated, how MNEs can apply and qualify for an exemption from publication of this information and the criteria the Tax Commissioner must apply in determining whether to grant an exemption. ACCI insist that an exemption for confidential and commercially sensitive information of should be granted in the law itself to provide legal certainty. In addition, the exemption should apply for a period of 5 years to reduce the administrative burden on business of repeatedly needing to apply for an exemption, year-on-year.

ACCI is also greatly concerned by the inclusion of criminal liability for non-compliance in the Bill. This is a new concept in public reporting and will have significant negative impact on investment in Australia. It will discourage MNEs from investing in Australia and may drive them to remove existing operations and simply sell through distributors, as non-invested companies are not subjected to these rules.

$20,000 Instant Asset Write-off for Small Business Entities (Schedule 7)

ACCI welcomes the extension of the instant asset write-off at an increased level for an additional 12 months. Without this extension, assets valued above $1,000 purchased after 1 July 2024 would need to be depreciated over an extended period, following standard depreciation schedules.

Noting the legislation for the 2023-24 write-off extension did not pass the Parliament until the week before it was due to expire, we welcome the announcement made by Government through the 2024-25 Federal Budget to extend the measure for an additional 12 months. We also welcome introducing the requisite legislation into the Parliament ahead of the 2024-25 financial year.

However, we maintain that making the write-off a permanent measure would avoid the uncertainty created for small businesses should the requisite legislation be held up by the Parliament again. Permanency of the measure will also encourage longer-term planning by small businesses and will support continuous and sustainable business growth. If the Government were serious about providing stability and certainty for business investment, they would make the measure permanent.

Business investment is a catalyst for productivity growth and major driver of economic activity. It allows for the purchase of things such as new technologies, which boosts productivity through skills development and innovation.

Incentives aimed at encouraging investments from businesses, especially small businesses, are crucial during times of slowing economic activity. Historically, initiatives like the instant asset write-off, and similar programs such as Temporary Full Expensing (TFE), have proven effective in boosting investment, provided businesses have enough time and certainty to benefit from them.

However, ACCI is concerned that limiting the write-off amount to $20,000 and limiting the size of eligible businesses to a turnover of $10 million may not be sufficient to generate the level of stimulus needed. While the write-off amount may enable a small business to purchase small, short-lived assets such as a computer for an office or a fridge for a kitchen, it will not be sufficient for investment in equipment, plant and machinery, which are likely to provide more substantial productivity benefits.

What we need to increase productivity is greater investment in productive capital, particularly in innovation and diffusion, digital technology and cyber security and skills and training to drive innovation and technical improvement.

As such, we urge the Government to increase the eligible amount to $30,000, to encourage businesses to bring forward investments on larger items that will provide a greater contribution to productivity growth.

Further, we recommend that the write-off be extended to businesses with an aggregated turnover of $50 million. Increasing the business size threshold to one with an aggregated turnover of $50 million will open the incentive to medium-sized businesses in addition to small businesses and, in turn, encourage more businesses to invest in productive equipment and technology and create more productive jobs.

Next steps

ACCI would welcome the opportunity for further discussion on these and other issues related to the CbCR requirements. Please contact ACCI's Principal Economist, Peter Grist on [redacted] or [redacted] for further detail on ACCI's submission.

About the Australian Chamber of Commerce and Industry

The Australian Chamber of Commerce and Industry (ACCI) is Australia's largest and most representative business network. We facilitate meaningful conversations between our members and federal government – combining the benefits of our expansive network with deep policy and advocacy knowledge. It's our aim to make Australia the best place in the world to do business. ACCI membership list can be viewed at www.australianchamber.com.au/membership/current-members/

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