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Committee Secretariat
Senate Standing Committee on Economics
Department of the Senate
Parliament House
CANBERRA ACT 2600

Email: economics.sen@aph.gov.au

28 June 2024

Dear Sir/Madam,

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

CPA Australia is Australia's leading professional accounting body and one of the largest in the world. We represent the diverse interests of more than 173,000 members in over 100 countries and regions. We make this submission in response to **Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024** (Bill) on behalf of our members and in the broader public interest.

We make the following summary comments and key points for your consideration:

- The final list of specified jurisdictions for public country-by-country (CbC) reporting disclosure remains unknown at the time of the Bill's introduction. With a 1 July 2024 commencement date imminent, taxpayers need clarity on which countries to disclose to effectively implement the new requirements. We recommend Switzerland, Singapore and Hong Kong be removed from the final list of specified jurisdictions for disaggregated reporting.
- The $20,000 Instant Asset Write-Off threshold period should be permanent to give businesses certainty in their investments.
- The Small Business Energy Incentive measure is effectively lost as it applies to the 2024 financial year only. The incentive should be extended or made permanent to encourage small businesses to invest in energy-efficient assets.

An alternative approach for both the instant asset write off and the small business energy incentive measures is to allow these measures to operate for a period (for example, five years with a sunset clause).

Please refer to the Appendix for our detailed discussions. If you have any queries, contact Jenny Wong, Tax Policy Lead on [redacted] or [redacted] or Bill Leung, Tax Technical Advisor on [redacted] or [redacted]

Yours sincerely,

Ram Subramanian
Interim Head of Policy and Advocacy

CPA AUSTRALIA

Appendix

Detailed discussion

1. Public country-by-country reporting

The additional commentary incorporated in the Explanatory Memorandum (EM) of the Bill offers useful guidance to taxpayers implementing the new public CbC reporting measures from 1 July 2024.

Our comments regarding Schedule 4 of the Bill are as follows:

Specified jurisdictions list

The Exposure Draft (ED) proposing the new public CbC measures released on 12 February 2024 outlined a minimum compliance approach for public CbC disclosure, requiring disaggregated information for Australia and 41 specified jurisdictions. The 41 jurisdictions were detailed in the draft *Taxation Administration (Country by Country Reporting Jurisdictions) Determination 2024* released at the same time as the proposed rules in the ED. However, the final list of specified jurisdictions for disclosure remains unknown at the time of the Bill's introduction. With a 1 July 2024 commencement date imminent, taxpayers need clarity on which jurisdictions to disclose to effectively implement the new requirements.

Specifically, the draft Determination included Switzerland, Singapore, and Hong Kong for disaggregated public reporting. Given that Australia has double taxation agreements with Switzerland and Singapore, and all three jurisdictions are implementing the OECD's Pillar Two global minimum tax rules, there appears to be no clear rationale for singling them out for public disclosure. In addition, the EU non-cooperative jurisdictions and grey list, updated on 20 February 2024, no longer includes Hong Kong, reflecting the fact this jurisdiction has fulfilled the relevant commitments to meet the EU good tax governance principles.

We recommend that Australia aligns its jurisdiction list with the EU's non-cooperative jurisdictions and grey list. This would reduce compliance burdens for multinational groups that must also adhere to EU public CbC reporting standards. Specifically, we recommend Switzerland, Singapore and Hong Kong be removed from the final list of specified jurisdictions for disaggregated reporting.

Reporting obligations

Paragraph 4.15 of the EM states, "the obligation is placed on the CbC reporting parent as the selected tax information required to be published is likely to be more accessible to a CBC reporting parent as opposed to a local subsidiary, helping to support compliance."

If the CbC reporting parent is a foreign company owning multiple subsidiaries in Australia, such as through a multiple entry consolidated (MEC) group, the sole responsibility for Australia's public CbC reporting rests with the foreign parent company. However, the Australian MEC group would be responsible for tax obligations in Australia, including lodging tax returns and also could have the capability of collating public CbC information to meet the Australian requirements.

We recommend that a choice be included in the regime to allow an Australian subsidiary of a foreign owned group to prepare the CbC report on behalf of their foreign parent. It may be administratively easier for an Australian subsidiary of a foreign owned group to prepare the CbC report on behalf of the foreign parent. We note that the EU CbC framework provides such flexibility, enabling non-EU parent groups operating through the EU to have subsidiaries disclose information on the group's global operations.

ATO guidance

The ATO should provide guidance on the following:

- The new requirement to disclose a group's tax strategy, in line with the Global Reporting Initiative GRI 207-1, introduces subjective elements. For example, GRI 207-1 a.iv. requires disclosure of "how the approach to tax is linked to the business and sustainable development strategies of the organisation," reflecting the ESG focus of the GRI. Given this will now be mandatory requirement in Australia, the Australian Taxation Office (ATO) should provide guidance on the minimum level of detail required to meet this obligation.

- The relevant approved form of any public CbC report, using the existing CbC reporting schema as a basis for any form design.

Post implementation review

Both in Australia and globally, a multitude of public tax transparency frameworks have been released since the publication of the draft voluntary tax transparency code (TTC) in 2019, including the EU Directive on public CbC, the EU Corporate Sustainability Reporting Directive (CSRD), US Financial Accounting Standards Board (FASB) income tax disclosures, GRI 207, Australia's public CbC rules, and mandatory disclosure of subsidiary information which was recently enacted in Treasury Laws Amendment (Making Multinationals Pay Their Fair Share—Integrity and Transparency) Act 2024. Most of these public tax transparency frameworks serve similar objectives, raising the question of whether Australia's tax transparency framework, such as the TTC can be harmonised to better align with Australia's new mandatory tax transparency proposals and or global standards.

We recommend Australia's new public CbC rules be subject to a post implementation review to ensure the rules are operating effectively and whether there are opportunities to harmonise multiple frameworks to reduce taxpayer compliance cost.

2. Instant asset write-off

To implement the 2024-25 Budget measures, Schedule 7 to the Bill extends the $20,000 instant asset write off by 12 months until 30 June 2025. This will allow small businesses (with an aggregated annual turnover of less than $10 million) to immediately deduct the full cost of eligible depreciating assets costing less than $20,000 that are first used or installed ready for use on or before 30 June 2025.

However, we note Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Bill 2023 which was first introduced into Parliament on 13 September 2023 containing the provision to increase the instant asset write off threshold from $1,000 to $20,000 and the small business energy incentive (see below) has taken far too long to pass both Houses of Parliament.

This measure was intended to support small businesses by allowing eligible depreciating assets each costing less than $20,000 to be immediately deducted. Immediate deductibility reduces the compliance costs associated with business investment as the depreciation of eligible assets does not need to be tracked over time. It also improves cash flow by bringing forward deductions from future years. The intention of this temporary measure is to encourage investment by bringing forward deductions and reduce compliance costs.

As we approach 30 June 2024, and with this Bill still before Parliament, this is a lost opportunity as small businesses do not have enough time to make business investment decision in relation to these assets for the 2024 financial year.

In addition, we recommend rather than 'rolling over' the instant asset write off extensions, the increased threshold should be made permanent beyond 30 June 2025. An alternative approach is to allow the increased instant asset write off threshold to operate for a period (e.g five years) with a sunset clause. Business needs certainty, especially small businesses, given their smaller size and personal involvement (with many being owner-operators), any investment in business assets is significant for them.

With rising interest rates, costs, tax and payroll debts, businesses are struggling under the current high inflationary environment. Under an increasingly uncertain economic outlook, we submit the instant asset write-off should also be increased to $100,000 from 2025 to stimulate business investment in the economy.

3. Small Business Energy Incentive

As noted above, Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Bill 2023 which also contains the Small Business Energy Incentive (as well as the instant asset write-off measures mentioned above), is at the time of writing yet to be **passed**. As it is near the financial year-end, the one-year incentive is effectively lost as businesses will not be able to purchase and have the assets installed and ready for use by 30 June 2024. We **submit** the Government should extend the Small Business Energy Incentive for at least two more years to encourage investment in energy-efficient assets.

We also recommend that the government no longer offer one year tax incentives for business. The parliamentary process is such that such incentives often only become law days or weeks prior to their expiry. This means there is little to no opportunity for business to take advantage of such incentives, defeating the policy intent. Policy makers should be aware that prudent businesses and advisers don't act on an announcement – they wait until it becomes law and detail is released.