

# Reforming Income Tax Transactions outside Australia

Tax White Paper Task Force

The Treasury

Langton Crescent, Parkes, ACT 2600

Dear Sirs

## Re: Reforming Income Tax Collection on Transactions outside Australia

Reforming income tax collection is necessary for taxpayers domiciled overseas operating in Australia and Australian domiciled entities with transactions outside Australia. Massive revenue leakage is occurring, with many entities deriving revenue in Australia paying little or no tax on income in this country. Each year this leakage increases. Australia cannot afford such losses.

Put simply Australia should be made an international taxation hub similar to the hub operating in Singapore. There should be at least two corporate tax rates with (a) reduced tax rate on overseas derived net income and (b) a corporate rate for domestic derived income. The financial hub should be located in Sydney or Melbourne. This will have two major advantages over existing arrangements (1) it captures taxation revenue lost overseas and (2) Attracts more overseas companies to set up here and use Australia as a hub for their Asian operations. Collecting tax revenues is very difficult for all western countries in this modern age as companies migrate to low and no tax domains.

Implementation will not be easy but will be well worth the effort in revenue gained, and growth in financial service jobs. Australia will be a clever country financially and not a backwater. Legislative changes can be made with input from stakeholders affected. Complex arrangements could be negotiated with the ATO as they are now through "Advance Pricing Agreements". In 1999 this country passed a huge tax reform system known as *A New Tax System* when it introduced the Goods and Service s Tax, Wine Equalisation Tax, abolished Sales Tax and many other reforms. Reforming income tax will not be as difficult.

Unfortunately the best and brightest of tax practitioners and commercial lawyers are not with the government but are with the large international accounting and law firms here. Their strategies will always remain ahead of legislators, and more recently as highlighted by the Inspector– General of Taxation in his 301 page report the ATO is more hard pressed than ever to protect the revenue. Consequently any federal government is stuck with playing catch up, and simply they will never catch up. Made worse when the ATO lost 2,300 staff in 2014/15 through budget cuts resulting a further brain drain of tax offshore specialists to the big firms.

The many tax reduction methods used are well known to the Treasury, the Australian Taxation Office (ATO) and business community so I need not go into details, except to indicate they include transfer pricing, royalty payments, licence fees, payments for intellectual rights, interest payments many of which far exceed normal commercial arrangements.

In 2012/13, the ATO submission indicates 13,000 foreign owned taxpayers lodged tax returns. Total income was \$760 billion, with a taxable income after deductions reduced to \$50.1 billion and tax paid of \$12 billion (Company tax rate is 30%). The ATO advised that public companies and privately owned corporate groups (owned by wealthy families and individuals) were involved in profit shifting.

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Many wealthy Australians are domiciled in Singapore which has far lower tax rates (corporate tax rate 17%) and individual non residents' tax rate is 15%.

The ATO submission to the federal inquiry into corporate tax avoidance provides a real insight into tax avoidance and/or minimisation by the big end of town. Australia's cross-border trade is \$600 billion and more than half of this trade is not goods or services but money sent offshore by companies to their overseas affiliates and related entities. In 2012/13 related party dealings totalled \$388.4 billion. There are 1,250 large domestic and international businesses. The largest 30 corporate entities account for about 50% of the \$388.4 billion cross border trade.

About \$100.4 billion went to Singapore and \$15.6 billion went to "hubs" in Switzerland. The USA received \$41.3 billion, Japan \$31.5 billion, and Great Britain \$23.2 billion. There has been a \$40 billion increase in money shifting from 2011/12. A recent *Tax Justice Network* Report indicated that of the 200 largest publicly listed companies, 29% had an effective tax rate of 10% or less; and 14% had a zero tax rate.

Companies accused of tax minimisation and/or evasion in recent press reports deriving revenue in Australia include US based -Google, Facebook, Microsoft, and Apple. Pharmaceutical companies providing public subsidised medicines of almost \$4.8 billion in 2014 paid just \$10 million tax, these included Pfizer, Astra-Zeneca, and Sanofi-Aventis. Mining companies with questions over taxation matters include Glencore (Xstrata) group of companies, BHP-Billiton and Rio Tinto. News Corporation pays almost no tax on Australian operations; overseas banks (e.g. HSBC) also pay little here. Power generators such as Spark Infrastructure (owners of Powercor and Citipower), Envestra, and even coffee shop operator Starbucks all paid zero tax.

An ATO document "*Offshore hubs mitigation strategy overview*" concedes that the general tax anti-avoidance provisions set out in Part IVA of the Tax Act can't be used to combat tax avoidance for multi-nationals avoiding tax. The main problem is proving that the suspect transactions are not for commercial reasons.

Please consider this submission, it is radical but very necessary and helps level the playing field.

Yours sincerely



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Paul lives in central Victoria, retired with his last full time position with the ATO. He has varied experience in the private and public sectors. His working life included self employment as a technical tax and superannuation specialist working across four states. Paul holds a Fellow Certified Practising Accountant (FCPA) qualification with CPA Australia and has a Bachelor of Business. He was a member long term of CPA Australia's former Superannuation Centre of Excellence committee.

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