
# Multinational Tax Fairness

**Andrew Leigh**
Assistant Minister for Competition, Charities and Treasury
Assistant Minister for Employment

**The Australia Institute**
**2023 Revenue Summit**

**27 October 2023**

**Embargoed: 10.30pm 26 October 2023**

## Introduction

I acknowledge the Ngunnawal people, the traditional owners of these lands, and recognise all First Nations people present today.

My thanks to the Australia Institute for hosting the 2023 Revenue Summit. It's a pleasure to be back with you in person, having spoken at last year's Revenue Summit

In the 1976 movie 'All the President's Men', *Washington Post* reporter Bob Woodward meets his secret source – Deep Throat – in a dark underground carpark.

Woodward is investigating a break-in at the Democrat National Committee headquarters in the Watergate building in Washington DC. It's a story that will lead to the resignation of President Richard Nixon.

'Just follow the money,' Deep Throat tells the journalist before merging back into the shadows.

It's a simple but sound principle.

Economists Ludvig Wier and Gabriel Zucman (Wier and Zucman 2022) followed the money all the way back to 1975 as they tracked the emergence of the global profit-shifting industry.

Wier and Zucman estimate that the corporate tax lost from global profit shifting into zero or low offshore tax havens increased from less than 0.1 per cent of corporate tax revenues in the 1970s to 10 per cent by 2019.

As Zucman notes, it is by following the money that we can start to grasp the costs these territories impose on the economies of other countries (Zucman 2017).

The challenges of collecting corporate taxes have grown enormously.

Part of that arises because company taxes are simpler in an economy that makes physical products. Agriculture, mining and manufacturing have clear locations of production.

But when a company's output is digital, it is easier to artificially shift the location of production to the place with the lowest tax rate (Leigh 2022).

Estimates of the amount of corporate tax revenue lost annually due to big multinational firms minimising tax through low or no tax jurisdictions range from $500 billion to $600 billion.

A race to the bottom between nation states has seen average corporate tax rates fall from 49 per cent in 1985 to 24 per cent in 2019.

Australia relies more heavily on company tax relative to other OECD countries even though our aggregate tax burden across all levels of government is lower than the OECD average.

Since company taxes comprise 19 per cent of Australia's revenue base, to just accept the accounting tricks and dodgy behaviour that multinational firms can engage in would have a massive impact.

Multinational tax avoidance means less resources available to fund our schools and hospitals. It means small businesses face unfair competition from large multinationals that are using tax dodges which aren't available to smaller firms. The situation for local small businesses ends up being like a team forced to play against a headwind through the entire game.

Among the shenanigans we've seen are shell companies created in low or no tax jurisdictions, allowing multinationals to funnel huge profits into secret locations where they have zero employees and no physical office.

We've seen one part of a company purporting to owe another part of the same company a huge amount of debt, shifting profits by paying large amounts of interest to itself in another country and deducting these payments from their tax bill. This is tax avoidance '101' at work.

One of the ways that Australia has sought to tackle multinational tax dodging is through the work of the Tax Avoidance Taskforce at the Australian Taxation Office (Leigh 2022).

The Tax Avoidance Taskforce ensures multinational enterprises, large public and private businesses and associated individuals, pay the right amount of tax in Australia. The Taskforce scrutinises multinational tax dealings, often involving investigations over many years (ATO 2022).

The Taskforce's impact has reduced the proliferation of profit shifting and transfer mispricing and encouraged taxpayers increasing their revenues taxable in Australia.

The Tax Avoidance Taskforce has helped the ATO raise over $26 billion in tax liabilities.

The accounting details may be complex, but the principle is simple: all companies, large or small, should pay their fair share.

**Thin cap, phat problem**

And this is what our changes to strengthen our thin capitalisation rules are addressing.

The Albanese Government is committed to ensuring multinationals making a profit in Australia pay their fair share of tax *in* Australia (Chalmers, Jones, Leigh 2022).

Our multinational tax package is designed to close tax loopholes exploited by multinationals and improve tax transparency.

Thin capitalisation changes are part of that commitment.
On 22 June 2023, the Government introduced legislation into Parliament reforming the thin capitalisation rules (contained in Treasury Laws Amendment (Making Multinationals Pay Their Fair Share – Integrity and Transparency) Bill 2023).
This is a tax integrity measure to raise tax revenue by an estimated $720 million over the four years to 2025–26.
The changes target excess debt deductions – a known base erosion and profit-shifting risk.

It will help level the playing field for Australian businesses.

And it will benefit all Australians.

The thin capitalisation changes are based on the OECD best practice framework, which applies an earnings-based approach to interest deductions.

By directly linking an entity's debt deductions to its economic activity and taxable income in Australia, the outcome is that these entities operating in Australia, and using Australian economic infrastructure, pay more tax here.

Stakeholder submissions to the recent Senate Committee were clear that there is support for this intent.

However, the changes are highly complex, and as a tax integrity measure, there are sensitivities and questions of interpretation (Leigh 2023).
We are attuned to balancing this tax integrity work with neutrality and equity considerations and other broader macro-objectives, such as supporting investment.
That is why the Government is currently working to progress sensible amendments to the Bill – informed by the ongoing consultation with stakeholders, to balance the tax integrity policy intent while continuing to support genuine commercial activity and being mindful of compliance costs.

**Transparency**

The Government sees tax transparency as a critical part of the social contract multinationals have with the communities in which they operate.

The Government's focus is to invite a behavioural change by multinationals and large corporates about how they view their tax obligations, including their decision-making around tax planning strategies.

Enhanced public scrutiny on tax information will help provide the community with a better understanding of how much tax multinationals pay relative to their activities.

Sunlight is the best disinfectant. Just as the Gillard Government passed laws requiring the tax office to annually report the tax payable by our largest firms, the Albanese Government is moving to improve tax transparency.

The Bill introduced into Parliament on 22 June is the first step of the Government's tax transparency package.

It requires Australian public companies to disclose information about their subsidiaries and be upfront with the public about how they're structured, including for tax purposes.

This is about holding companies to account on their corporate structures and whether they are operating with opaque tax arrangements.

This measure, once passed, will apply to annual financial reports prepared for financial years commencing on or after 1 July 2023.

From that date, investors, customers and the public at large will know if public companies are using tricky tax structures.

Separately, from 1 July 2023 tenderers supplying to Government, are now required to disclose their tax residency status and, if they are a subsidiary, the tax domicile of their parent.

While these two measures have perhaps flown under the radar, they are no less important to the behavioural shift we're seeking on improved transparency.

**Public country-by-country reporting**

A measure that hasn't flown under the radar is public country-by-country reporting, which will see Australia put in place a world-leading set of disclosure laws.

Public country-by-country reporting will hold large multinationals to account when it comes to their tax affairs.

It puts the onus on multinationals to be upfront about where they pay tax.

The Government has set the application date of public country-by-country reporting to 1 July 2024, to align it with the European Union public country-by-country reporting regime, which starts in June 2024.

The Government consulted on exposure draft legislation in April 2023 and received broad feedback from industry, including internationally.

In June this year, the Government signalled that we will take some additional time to reflect on that feedback, including on the appropriate level of disaggregated reporting, to ensure meaningful improvements in transparency are balanced with appropriate compliance burdens on industry.
When you're among the world leaders with a reform, it's important to get it right. Many nations around the world are looking to Australia's country-by-country reporting system, as they consider improvements in their own tax transparency regimes.

**Global and domestic minimum tax**

Reforming the international tax system is, of course, no easy matter.
But there is great global momentum towards ensuring firms pay their fair share.

It is built on the OECD/G20 Two-Pillar Solution. Pillar One the allocation of taxing rights to market jurisdictions, and Pillar Two the global minimum tax of 15 per cent.

The landmark deal was agreed in 2021 by 136 countries representing more than 90 per cent of global GDP (OECD 2021).
In the 2023–24 Budget, Australia announced that we will join a group of first movers to implement that global minimum tax and domestic minimum tax of 15 per cent from 2024.
The global minimum tax will ensure large multinational enterprises pay a minimum level of tax on income arising in each jurisdiction where they operate.
It will prevent the 'race to the bottom' on corporate tax rates and level the playing field between large multinational enterprises and Australian businesses.
It will reduce the tax rate differential between Australia and low tax countries, help protect Australia's corporate tax base by reducing the incentive to shift profits abroad, and make Australia a more attractive place to invest and boost economic growth.
Our implementation of the global minimum corporate tax will allow us to apply top up tax on large multinational groups operating in Australia where their overseas income is taxed below 15 per cent.
And, under the domestic minimum tax, it will give us additional taxing rights on the low-taxed Australian income of large multinational groups.
With over 50 jurisdictions also taking the first steps to reform, it is important our domestic minimum tax is in place to prevent others claiming

taxing rights on undertaxed Australian profits under their own global minimum tax regime.

To this end the Albanese Government is committed to

- strengthening the interest limitation rules for multinationals
- expanding multinationals' disclosure of tax information, to ensure the public is better informed about multinationals' tax arrangements.

**Conclusion**

But it is more than that.

This is about the social contract multinationals hold with the communities they service.

For too long the global tax haven industry has gotten away with ripping off the citizens of other countries.

This is tax dodging on a colossal scale, and it has been going on for decades.

It is only by cooperating with other like-minded countries, by implementing transparency measures and committing to reform that we can bring the international tax system into the 21st century.

Because – as Washington Post reporters Bob Woodward and Carl Bernstein were told when they were investigating the Watergate scandal all those years ago – it pays when you follow the money.

[ENDS]

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