Media Release

The ATO's Large Corporate Tax Gap Highlights a Strong Corporate Tax System

"The release of the ATO's second large corporate tax gap estimate confirms that compliance with Australia's stringent corporate tax system is world leading, with 96% collected voluntarily and by compliance activity in the 2015-16 income year. Most countries aspire to this level of compliance by large corporates," CTA executive director Michelle de Niese said today.

"A strong corporate tax system is crucial to the wellbeing of all Australians. The most recent ATO statistics for tax payments show that the largest businesses operating in Australia paid $45.7 billion in income tax in 2016-17 - $12 billion more than the Federal Government's entire education budget in that year, or enough to pay our country's entire defence bill almost twice over.[1]

"In the 2016-17 income year, large business contributed $491 billion worth of goods and services to the economy and directly employed 3.5 million people[2]. Given the size of the large corporate sector and its crucial role in supporting the services Australians need and deserve, large corporates are and will continue to be heavily scrutinised by the ATO and other regulatory authorities. The ATO on average has six full time officers for each top 100 company working on income tax matters alone, with more ATO resources devoted to other taxes such as GST. This level of scrutiny and the robust integrity laws that support it have delivered a strong, compliant corporate tax system for Australia. The public should take heart in the fact that no other sector in the economy is more compliant or more heavily scrutinised by the ATO than the large corporate sector.

"Many people believe that large corporates do not pay their fair share of tax, which leads to the claim that if only large corporates paid their fair share, the Government's budget deficit could be eliminated without the need for cuts to public services or benefits. **The ATO has confirmed that the tax gap for the large corporate sector for 2015-16 is estimated to be $1.8 billion or 4.4%. Although the ATO must always be vigilant in protecting the revenue stream from large corporates, it must be recognised that cracking down on large corporates is not the panacea for Australia's budget woes.**

"It is also important to recognise that tax gaps do not simply represent revenue foregone as a result of aggressive tax practices, tax avoidance or tax evasion. They also include interpretative issues where the ATO and taxpayer views on the operation of the law differ. It would therefore be misleading to claim that a tax gap estimate is a direct representation of revenue the community has missed out on."

The appendices to this Media Release address some of these important facts in more detail as well as highlighting the high level of voluntary compliance in the Australian large corporate sector and the wider contribution it makes to the Australian economy.

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Media Contact: Michelle de Niese: Ph (03) 9600 4411

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[1] 2017-2018 final budget outcomes show Federal Government spending on Education was $33.5 billion, Defence $29.3 billion and Health $76 billion.

[2] Large business is defined as those that employ more than 200 people. See ABS industry data 8155, Table 5

Appendix 1

Australia's Corporate Tax System and the Large Corporate Tax Gap

The large corporate sector is a crucial and significant contributor to Australia's tax revenue

According to ATO statistics, large corporates contributed income tax revenue of approximately **$40 billion** in 2015-16. To put the size of the large corporate sector's income tax contribution to Australia's revenue base into perspective, the total Federal expenditure for the 2017-2018 year on education and defence were $33.5 billion and $29.3 billion respectively.[3]

To put it another way, **the total tax paid by the largest companies operating in Australia in the 2015-16 income year was significantly more than the Federal Government's entire education budget last year, or more than enough to pay our country's entire defence bill.**

The vast majority of large corporates pay the right amount of tax

The ATO's net income tax gap for large corporates in 2015-16 is estimated to be $1.8 billion (4.4%) on a theoretical income tax due of $43.6 billion. Overseas experience in tax gap analysis tells us that 96% collected voluntarily and by compliance activity is world leading.[4] Many countries aspire to this level of compliance by large corporates.

Complexities around interpretation of the law are predominantly what drive the gap for the large corporate groups' population. In other words, tax gaps in the large corporate market are not solely the result of tax avoidance activities or aggressive tax practices - they also include simple mistakes as well as interpretative issues where the ATO and taxpayer views on the operation of the law differ.

The ATO will continue to work towards reducing the large market tax gap over time

Australia's tax laws for large corporates are robust, with strong integrity measures to prevent aggressive tax practices and tax avoidance.

Australia's ongoing focus on the corporate tax system has resulted in **27 integrity and disclosure changes to the system over the past few years**.[5]

These recent law reforms, along with the sharing of data between international tax authorities and additional funding for the ATO's Tax Avoidance Taskforce, has placed the ATO in a stronger position than ever before to protect the large corporate revenue stream.

Given the size of the large corporate revenue stream and its crucial role in supporting the services Australians need and deserve, large corporates are and will continue to be heavily scrutinised by the ATO and other regulatory authorities. The public should take heart in the fact that no other sector

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[3] See https://www.budget.gov.au/2017-18/content/fbo/download/FBO_2017-18_Combined.pdf
[4] Commissioner Chris Jordan's address to the National Press Club 5 July 2017
[5] See Appendix 2

in the economy is more compliant or is as heavily scrutinised by the ATO than large corporates – as it should be.

As noted by Commissioner Chris Jordan in his address to the National Press Club on 5 July 2017:

> **"I am satisfied we have the law, the funding, the capability and strategy to reduce the large market gap over time; and importantly, to sustainably raise the baseline of voluntary compliance."**

In making this point, Commissioner Jordan also noted that tax gaps exist in all countries and are driven by a multitude of factors that are impossible to control, including cultural, economic and human factors. The reality is no tax system has, or ever will have, zero gaps.

The ATO is best placed to estimate tax gaps in the tax system

The ATO as the administrator of the tax system has access to unprecedented levels of data across all areas of the tax system which it uses in its tax gap analysis. The vast majority of this data is only accessible by the ATO – that is, it is not available to the public. The ATO also has a much deeper understanding of the workings of the tax system than any other organisation. For example, the ATO has a permanent program dedicated to ongoing, real time scrutiny of the top 100 companies operating in Australia.

Some commentators have suggested that the tax gap for large corporates is significantly larger than the $2.5 billion tax gap estimated by the ATO, with claims ranging from $6 billion to $30 billion. These claims are based on rough estimates gleaned from publicly available information and when looked at more closely, do not stack up against the law which governs the payment of corporate income tax in Australia.

The combination of data and the learnings it derives from its ongoing scrutiny of the tax system and those that operate within it place the ATO in the best position to estimate tax gaps. If tax gap estimates are to be looked upon as contributing to an informed debate around the tax system and the contribution large corporates make to that system, then the ATO's tax gap estimates must take precedence over those that are based on guesstimates and potentially inaccurate assumptions.

The corporate tax gap is not a 'Budget fixer'

We know there are some negative perceptions in the Australian community about large corporates and their contribution to the tax system. Many people believe that large corporates do not pay their fair share of tax, which leads to the claim that if only large corporates paid their fair share the Government's budget deficit could be eliminated without the need for cuts to public services or benefits.

The ATO has confirmed today that the tax gap for the large corporate sector for 2015-16 is estimated to be $1.8 billion – this would barely impact the budget deficit, which was $10 billion for 2017-18.

The actual budget deficit was $19 billion less than forecast driven by corporate tax revenues being $6.7 billion higher than estimates.[6]

Although the ATO must be vigilant in protecting the revenue stream from large corporates, it must be understood that **cracking down on large corporates is not the panacea for Australia's budget issues**.

The ATO's commitment to release tax gap estimates for other sectors of the economy, including small business, are expected to show that tax gaps (and in the case of the black economy, tax evasion), is potentially a larger problem in other sectors of our economy than it is in the large corporate market. The release of the ATO tax gap estimate for individuals not in business for the 2014-15 income year illustrated this point, with the estimated tax gap in that market of $8.7 billion being more than three times the $2.5 billion estimated tax gap for large corporates in the same year.[7]

Our attitude to paying tax in Australia influences behaviours in ways that should be commonly viewed as unacceptable. If we are to seriously consider how we can eliminate the budget deficit without the need for cuts to public services or benefits, then we must look at tax through a broader lens than just large corporates, so that tax avoidance and tax evasion in any context is rightly seen as a cost to all Australians.

[6] See https://www.budget.gov.au/2017-18/content/fbo/download/02_Part_1.pdf
[7] See https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Tax-gap/individuals-not-in-business-income-tax-gap/

Appendix 2

Australian Tax Integrity and Tax Disclosure Measures

	Measure	Effective Date	Summary of Change
1	General anti-avoidance rule changes	Schemes entered into after 16 November 2012	Strengthening of the definition of tax benefit.
2	Multinational anti-avoidance law	From 1 January 2016	Prevent the artificial avoidance of permanent establishments.
3	Thin capitalisation changes	1 July 2014	Reduction in safe harbour debt limits from to 60% for Non Banks and to 90% for Banks.
4	Transfer pricing changes	For years ending 30 June 2014	Substantial changes to modernise Australian rules to accord with contemporary OECD standards. Requirement for contemporaneous documentation otherwise significant penalties imposed.
5	Country by Country reporting	For tax years commencing on or after 1 January 2016	Requirements to file country by country reports with the ATO in accordance with OECD requirements.
6	Tax transparency code	May 2016	Voluntary tax transparency code for large corporations.
7	Public tax disclosures	From the 2014 income tax year. First published Dec 2014	ATO annually publish tax data for publicly listed and foreign taxpayers with over $100m turnover of total income, taxable income and tax paid (including PRRT).
8	Filing of general purpose financial statements	For tax years commencing on or after 1 January 2016	Requirements to lodge general purposes financial statements with the ATO.
9	Tax exchange of information agreements	Various	TEIAs to enable ATO access to information from 50 non treaty country tax administrators, including tax havens
10	Reportable tax positions	From the 2014 income tax year	Taxpayers to disclose to the ATO tax positions taken that are no reasonably arguable.
11	Revised International Dealings Schedule	From the 2012 income tax year	Modernisation of related party tax disclosures to the ATO, including details of all related party transactions.
12	Anti-hybrid rules	Six months after the hybrid mismatch legislation receives Royal Assent	Adoption of OECD standards to ensure no double non taxation or double deductions for certain hybrid instruments ad structures.
13	Updated OECD transfer pricing rules	From 1 July 2016	Australia to adopt revised OECD BEPS transfer pricing guidance into Australia's tax laws.
14	Diverted Profits Tax	From 1 July 2017	40% tax on certain transactions with lower tax jurisdictions to ensure tax is paid in where activities of economic substance reside.
15	100-fold increase in late lodgement penalties	From 1 July 2017	A 100-fold increase in penalties for late lodgement of approved forms with the ATO (up to $525,000 for any approved form).
16	Doubling of penalties for false or misleading statements	From 1 July 2017	A 100% increase in penalties for false or misleading statements.
17	Reportable tax positions	For income years commencing 1 July 2016	Revised filing requirements for certain transactions that are subject to certain ATO Tax Alerts and various Rulings.
18	Doubling of penalties for international tax schemes	From 1 July 2015	100% penalty applying to significant global entities for entering into tax avoidance and profit shifting schemes. 50% penalty if no dominant purpose.
19	Adoption of the OECD multilateral instrument for all tax treaties	1 January 2019	Adoption of new BEPS standard for existing treaties including revised PE test, principal purpose test for treaty shopping and mandatory arbitration.
20	Accounting for tax uncertainty	From 1 January 2019	Adoption of International Accounting Standard on the disclosure of tax uncertainties in financial statements.
21	Mandatory disclosure rules	To be determined	Adoption of OECD standard of disclosure for tax schemes.
22	Whistleblower protections	To be determined	Protections and potential financial rewards for tax whistleblowers.
23	Stapled structures	From 1 July 2019	Integrity measures increasing the tax rate on certain payments between stapled groups.
24	Thin capitalisation	From 1 July 2019	Limitation of use of certain asset revaluations in thin capitalisation calculations.
25	Digital Services Tax	To be determined	Interim tax on certain profits made by digital companies.
26	Government procurement	To be determined	Requirement for satisfactory tax record certificate from ATO when tendering for government contracts more than $4 million.
27	R&D incentive changes	From 1 July 2018	More than 50% reduction in the R&D incentive for most large corporates.