Media Release

ATO Estimates Large Corporate Tax Compliance is at 96% – So Why Do Australians Still Think Large Companies Don't Pay Their Fair Share?

"The release of the ATO's third 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 2016-17 income year. This makes Australia's large corporate tax market the most compliant of all sectors of the Australian economy.[1] Australians can and should have confidence that the largest companies operating here are paying the right amount of tax," CTA executive director Michelle de Niese said today.

"Multinational tax performance in Australia is probably the best in the world, and getting better"

"The ATO publishes and measures tax gaps, where they are credible and reliable, to inject perspective into the community debate. Acting Second Commissioner Jeremy Hirschhorn recently made the following public statement in relation to the ATO's large corporate tax gap estimate:

"Multinational tax performance in Australia is probably the best in the world and getting better."

"While the ATO can claim credit for some amendments collected from large corporate taxpayers, the amount collected from large corporates voluntarily has also increased. And although there is an amount attributable to ATO compliance activity, almost all of that amount relates to differences in view on interpretative issues, not non-compliance with the law.

The vast majority of Australia's largest companies have earned 'justified trust'

"For the past four years the ATO has been applying what it calls the "Justified Trust" methodology to the Top 100 and Top 1000 corporate taxpayers. The aim of the Justified Trust program is twofold:

- for the ATO to obtain greater assurance that large public and multinational taxpayers are paying the right amount of tax; and
- to allow the ATO to direct its resources where those tax gaps are largest.

"Large corporates have accepted and embraced the ATO's Justified Trust program, understanding that an erosion in public trust in large companies has required an increased level of assurance of their tax contributions. In terms of results, the ATO has publicly stated that it expects the vast majority of top 100 taxpayers to achieve 'justified trust' by 2020. This finding aligns with the estimated 96% large corporate tax compliance rate, as released by the ATO today.

"While large corporates have accepted the need for the ATO to conduct Justified Trust reviews in the context of restoring public trust in the corporate tax system, the cost and conduct of these reviews over the past four years have not reflected the high level of voluntary corporate tax compliance (and corporates' ongoing investment in it) or that corporate tax is the second largest source of government revenue (which increased to a record $93.7 billion in 2019)[2]. The CTA's 2019 tax team benchmarking survey indicated that on average,

[1] See the ATO's 13 tax gap data points at: https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Tax-gap/Australian-tax-gaps-overview/?anchor=Summaryfindings#Summaryfindings

[2] See Table 3, Part 1, "Final Budget Outcomes 2018-19" at https://archive.budget.gov.au/2018-19/fbo/FBO_2018-19_web.pdf

the tax teams of large corporates are dedicating around 13% of their time to Justified Trust reviews, at an average cost of $312,000 per annum. Further tax team resources are devoted to tax transparency reporting, tax governance and general tax compliance. These figures do not include other parts of the business involved in tax compliance.

So Why do Australians Still Think that Large Companies Don't Pay Their Fair Share?

"Despite every robust public statistic[3] (including the tax transparency information released by the ATO every year disclosing the tax payments made by large corporates) supporting the view that Australia's large corporate taxpayers are paying the right amount of tax, there is still broad public scepticism about business meeting its tax obligations.

"This scepticism is largely borne from the following factors:

- Mixed media messaging around large corporate compliance – the ATO's attempts to boost community confidence that large corporates are paying their 'fair share' is often misinterpreted by the media as justification for the ATO to crack down on large corporates because they are not paying their fair share of tax

- Constant amendments to corporate tax laws[4] being labelled by politicians as addressing corporate tax avoidance when they are no such thing. The perceived need to constantly change corporate tax rules introduced to address the public perception that large corporates are not paying their fair share of tax has perversely created the perception that the Australian corporate tax system is broken and therefore must be open to large scale rorting

- Deeply ingrained misunderstandings about how the corporate tax system works (companies pay tax on profits, not total income) combined with legitimate concerns around whether the current international tax framework can cope with the digitalisation of the economy.

"These factors continue to drive public scepticism around Australia's largest corporate taxpayers and the system in which they operate, despite those taxpayers and that system contributing almost $100 billion in revenue per annum and earning a world leading compliance rate of 96%.

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

"But that scrutiny must be justified. ATO scrutiny that is applied to one taxpayer without justification is scrutiny lost on another taxpayer that isn't paying the right amount of tax or is deliberately avoiding their tax obligations. Large corporates accept and welcome justified scrutiny, but they do not accept the deadweight cost of unjustified scrutiny that is driven out of a misguided perception of corporate tax compliance in Australia. According to the ATO's own Justified Trust and tax gap programs, its resources should be directed to where the risks of tax avoidance and tax evasion are highest. Despite public perception, this is not in the large corporate market" said Ms de Niese.

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[3] See ATO publication "Tax and Corporate Australia" at https://www.ato.gov.au/general/tax-and-corporate-australia/

[4] See Appendix 1 for a list of all recent legislative and disclosure requirements.

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Appendix 1

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	From 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	From 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	From 1 January 2019	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	From 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	From 1 July 2019	Protections and potential financial rewards for tax whistleblowers.
23	Stapled structures	From 1 July 2019	Integrity measures increase the tax rate on certain payments between stapled groups.
24	Thin capitalisation	From 1 July 2019	Limitation use of on certain asset revaluations in thin capitalisation calculations.
25	OECD digitalisation changes	To be determined	Change to international tax rules on the taxation of the digital economy.
26	Government procurement	From 1 July 2019	Requirement for satisfactory tax record certificate from ATO when tendering for government contracts more than $4 million.
27	R&D incentive changes	Expected from 1 July 2019	Expected 50% reduction in the R&D incentive for most large corporates.