

## Tax Transparency - Where Australia currently stands

**November 2023**

Corporate Tax Association (CTA) members accept the need for sensible and useful disclosure of tax information. Appropriate tax disclosures can inform public debate, tax policy design and assist the Australian Taxation Office (ATO) in directing its compliance resources to where they are most effective.

In Australia, tax disclosures occur at three levels:

1. Public disclosures by corporates;
2. Taxpayer to ATO disclosures; and
3. Information exchanges between tax authorities.

### 1. Public disclosures by corporates

#### a) Public reporting of entity tax information

Since December 2015, the ATO has published the name, total income, taxable income, income tax and petroleum resource rent tax payable (where applicable) of public and foreign-owned corporate tax entities with total income over \$100 million and private companies<sup>1</sup> with total income of \$100 million or more.

#### b) Voluntary Tax Transparency Code

The Board of Taxation released its Voluntary Tax Transparency Code (VTTC) for the increased public disclosure of tax information in May 2016. As of 31 October 2023, 211 groups have published such reports<sup>2</sup>. Our estimate is that these groups cover approximately 46% of total income, 67% of taxable income and 64% of tax payable by entities subject to the reporting requirements.

#### c) Extractive Industries Transparency Initiative

Companies in the extractive industries, which are headquartered in the US, Canada and Europe, must disclose certain tax data on payments made to Governments around the world<sup>3</sup>. In May 2016, Australia agreed to implement the Extractive Industries Transparency Initiative (EITI)<sup>4</sup>.

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<sup>1</sup> From the 2023 income year onwards, information from Australian-owned resident private companies with an income of \$100 million or more will be included.

<sup>2</sup> See [List of Voluntary Tax Transparency Code \(VTTC\) reports published by signatories. | Resources | data.gov.au - beta](#)

<sup>3</sup> See the Dodd-Frank Act in the US, the EU Accounting Directive and the Canadian Extractive Sector Transparency Measures Act.

<sup>4</sup> See: [EITI-Australia](#)

Under the EITI, information is also voluntarily shared on the amount of taxes paid to various Governments, including those outside the US, Canada and Europe. Most of the large mining and oil and gas companies operating in Australia are currently subject to this initiative or voluntarily comply with it. Similar sorts of tax disclosures are also required for financial institutions that operate in Europe<sup>5</sup>.

#### **d) Financial Reporting Disclosures**

Australian and international accounting standards require publicly listed companies to include tax information in their financial accounts which detail the calculation of their tax liability for a particular year and why this differs from the tax rate applicable in its home jurisdiction.

Accounting standards also require material related-party transactions to be disclosed in the financial accounts of publicly listed entities<sup>6</sup>. From 1 July 2019, Country-by-Country (CbC) reporting entities that are also corporate tax entities with an Australian presence must also provide to the ATO (if they are not provided to ASIC) copies of general purpose financial statements<sup>7</sup>.

#### **e) EU Directive on CbC Reporting**

Multinational groups with entities or branches in the European Union (EU) need to publish certain information in their CbC reports under new EU rules. The European Parliament formally adopted the public EU CBC reporting directive on 11 November 2021<sup>8</sup>.

EU Member States had until June 2023 to implement the directive of the public disclosure or certain Country-by-Country reporting rules into domestic law, and the rules would become applicable from June 2024.

#### **f) Australian Public CbC Reporting**

The Government announced<sup>9</sup> that from 1 July 2024, significant global entities with turnover over \$1 billion will need to provide certain information on a country-by-country basis, similar to the EU Directive on CBC reporting, and the ATO would publish the data on a publicly accessible database.

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<sup>5</sup> EU Capital Requirement Directive (CRD IV) requires certain financial institutions to publicly disclose certain tax data. See [CRDIV](#)

<sup>6</sup> See Australian Accounting Standards AASB 101 – Presentation of Financial Statements, AASB 1123 – Income Taxes and AASB 124 – Related Party Disclosures. All accounting disclosure requirements can be found at: [Accounting standards](#)

<sup>7</sup> See ATO website at [General purpose financial statements](#). Between 1 July 2016 and 30 June 2019, this requirement applied to significant global entities (companies that are part of a global group with turnover over \$1 billion) that are also corporate tax entities.

<sup>8</sup> See [Directive \(EU\) 2021/2101 of the European Parliament and of the Council of 24 November 2021 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches \(Text with EEA relevance\) – Publications Office of the EU \(Europa.eu\)](#)

<sup>9</sup> See the [October 2022-23 Budget announcement](#) titled 'Multinational Tax Integrity package – improved tax transparency'

### **g) Tax Domicile of Subsidiaries**

Australian public companies have to report the country of tax domicile of all their subsidiaries. Companies tendering for Australian Government contracts worth more than \$200,000 have to disclose their ultimate head company's country of tax residence.

### **h) R&D Disclosures**

As soon as practicable after the period of two years following the end of the financial year, the ATO must publish information about the R&D entities that have claimed notional deductions for R&D activities, including the amount claimed<sup>10</sup>. The first disclosures for the 30 June 2022 year are expected to be published after 30 June 2024.

## **2. Taxpayer to ATO Disclosures**

### **a) Country-by-Country Reporting**

The CbC reporting regime requires companies with a global turnover of over \$1 billion to provide details of revenues, profit, taxes paid, taxes accrued, stated capital, accumulated earnings, number of employees, tangible assets and types of transactions for all tax jurisdictions in which they operate. This information is provided to the ATO and shared with other tax authorities around the world. Detailed supporting documents known as Master and Local files will also be provided to the ATO.

### **b) Disclosure of International Related Party Dealings to the ATO**

Current annual corporate tax returns require companies to provide detailed disclosures to the ATO, including all international related party dealings. This information includes the type of dealing, its quantum and the location of all international related party transactions, including those in low or no-tax jurisdictions.

### **c) Preparation of Transfer Pricing Documentation for Related Party Transactions**

Large corporate taxpayers are required to fully document related party transactions, outlining to the ATO the basis of any related party dealing, including the methodology adopted to price them.

### **d) Reportable Tax Positions Schedule**

Larger corporate taxpayers are required to disclose any "reportable tax positions" (or positions taken that are not reasonably arguable) to the ATO. The Reportable Tax Position Schedule requires large public corporate taxpayers to report on any transactions that are substantially

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<sup>10</sup> See section 3H of the *Taxation Administration Act 1953* (Cth)

similar to arrangements outlined in certain Taxpayer Alerts, Rulings and Practical Compliance Guidelines to the ATO as part of the annual tax return process.<sup>11</sup>

#### **e) Top 100 and Top 1000 Justified Trust program**

The 100 largest corporates operating in Australia are currently subject to real-time risk assessments under the ATO's Justified Trust program. The Top 100 companies in Australia pay about 65% of all corporate income tax paid by groups with turnover greater than \$250 million. This means that 65% of all corporate income tax paid and GST is continually monitored by the ATO. The Justified Trust process seeks to assure the community of corporates' tax performance.

The ATO also undertakes a similar "Justified Trust" program for the next 1000 largest corporates.

The ATO also publishes its Top 100 and Top 1000 Findings Reports each year.<sup>12</sup>

### **3. Information Exchanges Between Tax Authorities**

#### **a) Tax Treaty and Information Exchange Networks**

Australia has a network of 46 tax treaties with major trading partner partners, as well as 36 Tax Information Exchange Agreements with countries that some regard as tax secrecy (or tax haven) jurisdictions. This network enables the ATO to seek information from other tax authorities about tax-related matters of corporate taxpayers<sup>13</sup>. Australia is also a signatory to the Multilateral Convention on Mutual Administrative Assistance on Tax Matters, which includes the automatic and spontaneous sharing of tax information between 147 countries, as well as allowing for simultaneous tax audits and assistance in the recovery of tax<sup>14</sup>.

#### **b) Other Transparency Initiatives**

The ATO is also part of a global network of 53 tax authorities called the Forum on Tax Administration, as well as 42 tax authorities involved in JITSIC (Joint Income Tax Shelter Information and Collaboration Network) and 18 Asian tax authorities involved in SGATAR (the Study Group of Asian Tax Administration and Research) through which tax information and best practice is regularly shared on tax risks with other tax authorities.

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<sup>11</sup> See [Findings report Reportable tax position schedule Category C disclosures | Australian Taxation Office \(ato.gov.au\)](#)

<sup>12</sup> See [Findings report – Top 100 income tax and GST assurance programs | Australian Taxation Office \(ato.gov.au\)](#) and [Findings report – Top 1,000 income tax and GST assurance programs | Australian Taxation Office \(ato.gov.au\)](#)

<sup>13</sup> A full list of tax treaties and Tax Information Exchange Agreements can be found at: [Tax treaties](#)

<sup>14</sup> See the [Multilateral convention on mutual assistance in tax matters](#)

## SUMMARY

The CTA acknowledges the value of appropriate and useful disclosure of tax information and supports initiatives that contribute to a better understanding of the corporate tax system and of those who comply with it. It is, however, important to recognise and understand that companies operating in Australia are already subject to substantial levels of disclosure, with a myriad of tax information shared publicly, with the ATO and between tax authorities.

*The Corporate Tax Association is the key representative body for major companies in Australia on corporate tax issues. For more information, please refer to the CTA website at: [Corporate Tax Association](#).*