

Corporate Tax Association – Opening Statement: Senate Economics Inquiry into Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024

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Check against final delivery in Hansard

The Corporate Tax Association (CTA) welcomes the opportunity to appear before the Committee. Our comments and submission deal specifically with the Public Country-by-Country (CbC) Reporting measure.

The CTA fully supports public tax transparency measures that are meaningful, purposeful, and proportionate. In our view, further public tax transparency should build on existing mandatory transparency initiatives both in Australia and globally with an eye on ensuring consistency as much as possible, so as to enlighten the community rather than confuse it.

At the moment in Australia, we have a bewildering complex, and confusing public tax transparency disclosure regime. There are currently 7 different measures with 2 more on the way excluding the current CBC measure.

An example of the confusion is we have 3 different tax expense metrics – tax payable under the report of entity tax information, financial accounting tax expense and provisions, and the proposed CbC definitions. All cover different periods and all are “correct”. What we really need is some consistency in definitions to shine the transparency light clearly.

The CTA has engaged extensively with Treasury on the development of the Bill and whilst the current Bill is more aligned with non-public CBC reporting, EU requirements, and GRI 207, there still exist areas of concern, and no real explanation for why there is a difference:

- 1 Why FTE references are to the end of the relevant reporting period when other measures give flexibility of using average or other reasonable means of measurement?
- 2 Why, despite this being touted as a multinational tax measure, wholly domestic groups with operations only in Australia are required to report. This is at odds with EU and non-public CBC reporting measures.
- 3 The criteria for determining disaggregated jurisdictions is open-ended and needs objective criteria to determine which countries are on the list. The WTO dealt with a similar issue with Panama saying objective criteria are needed.
 - At last count there were 41, with a list drawn derived from the ATO in 2017 before public CBC reporting, the Pillar 2 15% minimum tax, and anti-hybrid rules. We note most submissions mention Switzerland, Hong Kong, and Singapore should be excluded. All 3 jurisdictions have adopted or are implementing these global standards. These countries are not seen as tax havens by the OECD. 2 have double tax agreements with Australia.

- 4 The OECD updates its non-cooperative country list every six months. There is no guaranteed timeframe for updating the disaggregated list under the current proposal.
- 5 In our view commercially sensitive issues are not adequately dealt with and rely on the Commissioners' discretion for exclusion. We believe a bright line extension is needed on such disclosure. The OECD uses 5 years, the Australian R&D incentive disclosures have a 2-year window for non-disclosure of commercially sensitive data.

As a minimum, we recommend a post-implementation review of the whole transparency suite be undertaken by the Board of Tax as soon as possible.

Thank you and I look forward to your questions.