

## Overview

BHP Billiton is a proudly Australian company and makes a significant contribution to the Australian economy. In 2014 this equated to around A\$27 billion including payments to suppliers, wages and employee benefits, dividends, taxes and royalties.

We are Australia's largest taxpayer. BHP Billiton paid A\$4.9 billion of corporate tax in Australia last year. When royalties and resource rent taxes are taken into account, BHP Billiton paid more than A\$8.7 billion in Australia last year.

### *BHP Billiton's organisational model*

The discrete parts of our value chain are separated and managed in dedicated organisational units to ensure that we apply specialist knowledge and expertise to each segment of the value chain. BHP Billiton consistently headquarters these core units closest to their main activities. For example:

- Copper is situated in Santiago given proximity to our major copper assets in Chile;
- Iron Ore is situated in Perth given proximity to our major iron ore assets in the Pilbara;
- Coal is situated in Brisbane given proximity to coal mines in Queensland's Bowen Basin and New South Wales; and
- Petroleum is situated in Houston given proximity to onshore and offshore oil and gas interests in the US.

### *The location of marketing operations*

Consistent with our philosophy of locating our major units close to their main activities, our centralised marketing organisation is headquartered in Singapore. Marketing activities also take place in other locations, such as Houston, that are close to customers or operations. This ensures we are able to meet our customers' needs and understand the markets that underpin our business.

BHP Billiton employs approximately 400 people in the Singapore marketing organisation. The marketing organisation is responsible for:

- Providing a well-informed, analytically rigorous and insightful view of long run supply, demand and pricing for our commodities.
- Presenting one face to markets and customers across multiple commodities.
- Managing the supply chain of our products from assets to markets.
- Having a detailed understanding of how our products are used by customers and how their particular needs are evolving.
- Maximising sales prices for our production.

Sixty-five per cent of BHP Billiton's sales are in Asia, reflecting the role of emerging market economies in this region in driving global growth and the demand for our commodities. As

the IMF has noted, over the last six years growth in emerging market economies has averaged 6.5% per annum compared to 1.3% per annum for advanced economies.

Singapore is close to our key Asian markets, and has a supportive environment for trade and investment. It is a central trading hub supporting the rapid industrialisation and urbanisation of Asian economies.

#### *Ownership of the marketing operations*

BHP Billiton operates under a dual listed structure, with two parent companies: BHP Billiton Limited in Australia and BHP Billiton Plc in the United Kingdom.

BHP Billiton Marketing AG is BHP Billiton's principal marketing entity. It is owned 58% by BHP Billiton Limited and 42% by BHP Billiton Plc, reflecting the relative value of BHP Limited and Billiton Plc at the time the dual listed structure was created as part of the merger.

#### *The tax treatment of BHP Billiton's marketing organisation*

The Singapore Government has granted BHP Billiton Marketing AG a tax incentive for its marketing activities. BHP Billiton Marketing AG was awarded this incentive for its contributions to the development of Singapore's commodities sector.

BHP Billiton entities in Australia sell commodities to BHP Billiton Marketing AG at prices which BHP Billiton believes to be arm's length and which are determined consistent with OECD principles. All proceeds from these sales are subject to Australian tax.

In addition, 58% of the profit which BHP Billiton Marketing AG earns in Singapore from the on-sale of commodities acquired from Australian entities controlled by BHP Billiton Limited is subject to tax in Australia at the company tax rate of 30%. This reflects the Australian ownership share of BHP Billiton Marketing AG by BHP Billiton Limited (which is 58%).

The 'top-up tax' paid to the ATO under Australia's Controlled Foreign Company rules on the profits of BHP Billiton Marketing AG (Singapore branch) for the period 2006-2014 was A\$945 million.

BHP Billiton is proud to be a major contributor to economic development in Australia, including through the payments we make to local suppliers, wages and benefits paid to our employees, dividends to shareholders and, taxes and royalties paid to governments. We view our tax commitments as an important part of our obligations to the communities in which we operate.

## Responses to Questions Placed on Notice

- 1. Senator Xenophon: ‘How much profit have you made on the Singapore marketing hub since 2006 and, further to that, how much tax do you pay in Singapore on the profits derived by your marketing hubs since 2006?’ (pp.64,65)**

Between 2006 and 2014, BHP Billiton Marketing AG earned profits of US\$5.7 billion in Singapore. The tax paid in Singapore (US\$121,000) and Australia (A\$945 million) in relation to these profits is outlined below.

The Singapore Government has granted BHP Billiton Marketing AG a tax incentive for its marketing activities. BHP Billiton Marketing AG was awarded this incentive for its contributions to the development of Singapore’s commodities sector. The tax incentive applies to the vast majority of BHP Billiton Marketing AG’s income in Singapore. Accordingly, BHP Billiton Marketing AG has paid approximately US\$121,000 of income tax in Singapore since 2006.

It is important to note that 58% of the profit which BHP Billiton Marketing AG earns in Singapore from the on-sale of commodities acquired from Australian entities controlled by BHP Billiton Limited is subject to tax in Australia at the company tax rate of 30%. This reflects the Australian ownership share of BHP Billiton Marketing AG by BHP Billiton Limited (which is 58%). Accordingly, the ‘top-up tax’ paid to the ATO under Australia’s Controlled Foreign Company rules on the profits of BHP Billiton Marketing AG (Singapore branch) for the period 2006-2014 was approximately A\$945 million.

In addition BHP Billiton has other wholly owned subsidiaries in Singapore, including BHP Billiton Marketing Asia Pte Ltd which pays income tax in Singapore at 17% and BHP Billiton Freight Singapore Pte Ltd which has also been granted a tax incentive in relation to income tax in Singapore. During the period 2006 – 2014 those entities made profits of approximately US\$369 million on which income tax of approximately US\$49 million was paid in Singapore.

- 2. Senator Milne: ‘In 2010, when then Prime Minister Rudd announced a minerals resource rent tax, the superprofits tax, can you confirm that you all contributed to the campaign against that tax and can you explain what you put into the campaign against that tax?’ (pp. 67,68)**

BHP Billiton directly spent A\$4.21 million on campaign expenditure in relation to the Resource Super Profits Tax issue, as disclosed in its 2009-2010 Australian Electoral Commission filings.

BHP Billiton also contributed A\$4.25 million to the campaign conducted by the Minerals Council of Australia. The Minerals Council of Australia made its own filing to the AEC for 2009-2010.

**3. Senator Milne: ‘In relation to the audit that is ongoing, particularly in relation to the Singapore hub: have you been issued with a position paper asking for a particular level of payment?’ (p.69)**

There are two matters relevant to the Singapore marketing organisation, which are the subject of open ATO actions. BHP Billiton firmly believes in the positions it has adopted in its income tax returns in relation to both of these matters.

*a. Transfer pricing matter*

This matter relates to the price at which BHP Billiton entities in Australia sell commodities they produce to BHP Billiton Marketing AG.

<b>Income years</b>	<b>ATO action</b>
2003 – 2008	<p>The ATO has issued position papers and amended assessments to the two relevant BHP Billiton entities in Australia.</p> <p>The amended assessments (which supersede the position papers) are for income tax of A\$199 million (plus interest of A\$113 million and penalties of A\$50 million).</p> <p>The two relevant BHP Billiton entities have objected to these assessments. The ATO is yet to determine these objections.</p>
2009 – 2013	The ATO is conducting an ongoing audit. No position papers or amended assessments have been received in relation to this audit.

*b. Controlled Foreign Company matter*

This matter relates to whether the profit which BHP Billiton’s marketing organisation earns globally from the on-sale of commodities acquired from Australian entities controlled by BHP Billiton Plc is subject to ‘top-up tax’ in Australia under the Controlled Foreign Company rules.

<b>Income years</b>	<b>ATO action</b>
2006 – 2008	<p>The ATO has issued position papers and amended assessments to BHP Billiton Limited.</p> <p>The amended assessments (which supersede the position papers) are for income tax of A\$78 million (plus interest of A\$25 million and penalties of A\$20 million).</p> <p>BHP Billiton Limited has objected to these assessments. The ATO is yet to determine these objections.</p>
2009 – 2010	<p>The ATO has issued amended assessments to BHP Billiton Limited. The amended assessments are for income tax of A\$24 million (plus interest of A\$7 million and penalties of A\$6 million).</p> <p>BHP Billiton Limited has objected to these assessments. The ATO is yet to determine these objections.</p>
2011 – 2014	The ATO is conducting an ongoing audit. No position papers or amended assessments have been received in relation to this audit.

4. **Senator Milne: ‘The community wants to know how much money the tax office is saying you owe. Is it \$4billion? That is the figure that has been in the media. Is that what the tax office is saying you owe the community?’ (p.70)**

No. As per the response to 3 above, the aggregate amount of the amended assessments BHP Billiton has received is A\$522 million (being primary tax of A\$301 million, interest of \$145 million and penalties of A\$76 million). BHP Billiton has objected to these assessments.

5. **Senator Xenophon: ‘Have you made provisions in your accounts for any increased taxation expense associated with the ATO’s review and/or assessments and in what years and what amounts?’ (p.72)**

BHP Billiton prepares its accounts in accordance with International Financial Reporting Standards (IFRS). In accordance with the principles of IAS 12 “Income Taxes” there are no provisions recorded in the 30 June 2014 or 31 December 2014 accounts in relation to the ATO’s actions referred to in 3 above. The potential for increased taxation expense associated with these ATO actions is included in the contingent liabilities as set out below.

6. **Senator Canavan: ‘I go to 21 in your financial statements. This is a relevant note on contingent liabilities. You have listed in that table for 2014 liabilities associated with actual or potential litigation of US\$1.651 billion. A footnote to that amount says:**

***Actual or potential litigation, including tax-related amounts, predominantly relate to a number of actions against the Group, none of which are individually significant and where the liability is not probable and therefore the Group has not provided for such amounts in these financial statements.***

**Do you know of any outstanding tax matters in that \$1.6 billion?’ (p.74)**

Of all the contingent liabilities noted in BHP Billiton’s 2014 Financial Statements, US\$339 million relates to the matters referred to in 3 above.

7. **Senator Canavan: ‘Since the annual report, have you provided any information to shareholders in relation to adjustments to contingent liabilities, particularly about your [tax] litigation risks?’ (p.74)**

IAS 34 “Interim Financial Reporting” does not require an update to the year-end contingent liability disclosures if they are considered to provide a “relatively insignificant update to the information that was reported in the notes in the most recent annual financial report”. As there was no material movement in the quantum of contingent liabilities at the half year ended 31 December 2014, no contingent liabilities were disclosed in the half year accounts.

**8. Senator Canavan: ‘What competitors of yours are not members of this organisation [EITI]?’ (p.75)**

Over 90 of the world’s largest oil, gas and mining companies have chosen to become Extractive Industries Transparency Initiative (EITI) Supporting Companies. The current list of EITI supporting companies can be found at [www.eiti.org/supporters/companies](http://www.eiti.org/supporters/companies) and includes many of BHP Billiton’s peer companies.

The EITI maintains the EITI Standard. Countries implement the EITI Standard to ensure full disclosure of taxes and other payments made by oil, gas and mining companies to governments. The EITI status of different companies can be found at <https://eiti.org/countries>. Payments are disclosed in an annual EITI Report. The EITI Standard requires that EITI Reports are comprehensible, actively promoted and contribute to public debate. The EITI Standard contains the set of requirements that countries need to meet in order to be recognised as an EITI Candidate and ultimately an EITI Compliant country. The EITI Standard is overseen by the international EITI Board, with members from governments, civil society organisations and companies including BHP Billiton.