

**Community and Public Sector Union**

Michael Tull – Assistant National Secretary

30 January 2015

Senate Standing Committees on Economics  
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Dear Committee Secretary

**Inquiry into Tax Avoidance and Aggressive Minimisation by Corporations Registered in Australia and Multinational Corporations Operating in Australia**

The CPSU believes that government has a crucial role to play in the nation. It is our view that, at present, the government does not collect sufficient revenue to meet the needs of the Australian people.

As the key union representing Australian Public Service (APS) employees and the primary union covering workers in the ATO and ASIC, our submission draws directly from the experiences of CPSU members, many of whom expressed concerns about the capacity of the ATO to investigate tax avoidance and launch litigation in the wake of the Government's drastic Budget cuts and job losses.

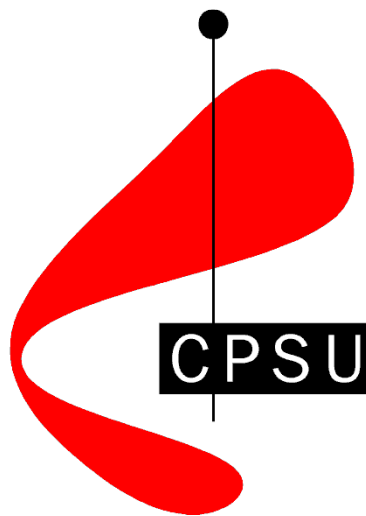
In the context of this Inquiry, the CPSU recommends that the Commonwealth Government:

1. Address corporate tax avoidance to increase revenue, and that revenue be used to meet the needs of the Australian people;
2. Increase funding to the Australian Taxation Office to ensure it has the resources to ensure tax compliance by corporations;
3. Abolish deductions under section 25-90 of the Income Tax Assessment Act 1997; and,
4. Introduce better reporting standards for corporate annual reports to improve transparency.

The CPSU welcomes the opportunity to make a submission to this Senate Inquiry into tax avoidance by corporations. For further information please contact Dr Kristin van Barneveld, Director of Research

Yours sincerely

Michael Tull  
**Assistant National Secretary**



# **CPSU (PSU Group) Submission**

## **Corporate Tax Avoidance**

January 2015

## Background

### Why government needs more revenue

The work of government impacts the lives of *all* Australians: whether they are individuals accessing Medicare services, seniors seeking information on pension entitlements, or a family needing assistance following an emergency such as a bushfire or flood. Beyond direct human services, government provides fundamental information, often taken for granted, that helps facilitate daily life – from weather forecasts that assist Australian food producers, grants to small businesses and funds to develop innovative new technology, to protecting the community through work including biosecurity and food and pharmaceutical regulation.

Research has shown that Australians place a high importance on the breadth of work undertaken by government.<sup>1</sup> Two thirds (67%) of Australians believe that an active Government is necessary to provide important public services, and to protect Australians from unfair policies and practices.<sup>2</sup> Research also shows that that four in five Australians (81%) support maintaining government programs, not cuts.<sup>3</sup> Further, it is broadly accepted that future demands on government will grow rather than shrink with the increase in the scope and volume of health services, long-term commitments including the NDIS and additional welfare costs.<sup>4</sup>

Over time, demands on public services have increased. For example:

- In 2011-12, the Bureau of Meteorology issued 331,232 public forecast products and had 32.66 billion hits on its public websites.<sup>5</sup> In 2013-14, it issued 485,271 public forecast products (46.5% increase) and had 53 billion web hits (57.7% increase).<sup>6</sup>
- ABC iView had an increase in average monthly visits from 3.2 million in 2011-12<sup>7</sup> to 3.8 million in 2013-14, or 18.8 per cent.<sup>8</sup>
- In the Human Services portfolio, Medicare processed 358.3m services in 2013-14 compared to 332.6 million services in 2011-12,<sup>9</sup> an increase of 7.7 per cent. The number of PBS services processed increased to 224.1 million in 2013-14 from 208.4 million in 2011-12,<sup>10</sup> a 7.5 per cent increase.
- In 2013-14, Customs cleared an average of 626,012 air passengers arriving and departing Australia per week<sup>11</sup> compared to 559,758 in 2011-12,<sup>12</sup> an increase of 12 per cent. Customs Officers also inspected 1,000,000 mail items including letters, express mail service, parcels and packets per week<sup>13</sup> compared to approximately 392,079 letters and more than 396,678 overseas parcels in 2011-12,<sup>14</sup> a 27 per cent increase.

1 ACTU, 'Myths and realities: The tax system & attitudes to taxation', ACTU Working Australia Tax Paper No. 1, Melbourne, 2011.

2 EMC, 'Type of Government', Essential Report, 2 April 2012, viewed on 22 January 2015, <http://essentialvision.com.au/type-of-government>

3 I McAllister, 'Public Priorities for Government Expenditure, Report No .15', ANUpoll, January 2014, p.6

4 J Daley and C McGannon, 'Budget pressures on Australian Government: 2014 Edition', Grattan Institute, Melbourne, May 2014, p.6

5 Bureau of Meteorology, 'Annual Report 2011-12', 20 September 2012, p.viii

6 Bureau of Meteorology, 'Annual Report 2013-14', 7 October 2014, p.vi

7 ABC, 'Annual Report 2011-12', 5 October 2012, p.53

8 ABC, 'Annual Report 2013-14', 6 October 2014, p.33

9 Department of Human Services, Annual Report 2013-14, 25 September 2014, viewed 21 January 2015, <http://www.humanservices.gov.au/corporate/publications-and-resources/annual-report/resources/1314/chapter-04/medicare>

10 Department of Human Services, Annual Report 2013-14, 25 September 2014, viewed 21 January 2015, <http://www.humanservices.gov.au/corporate/publications-and-resources/annual-report/resources/1314/chapter-04/pharmaceutical-benefits-scheme>

11 Australian Customs and Border Protection Service, 'Annual Report 2013-14', 19 September 2014, p.vii

12 Australian Customs and Border Protection Service, 'Annual Report 2011-12', 13 September 2012, p.1

13 Australian Customs and Border Protection Service, 'Annual Report 2013-14', p.vii

14 Australian Customs and Border Protection Service, 'Annual Report 2011-12', p.1

- In 2013–14 the Department of Immigration facilitated the arrival and departure of 35.41 million passengers and crew<sup>15</sup> compared with 31.63 million in 2011–12,<sup>16</sup> an increase of 12 per cent.

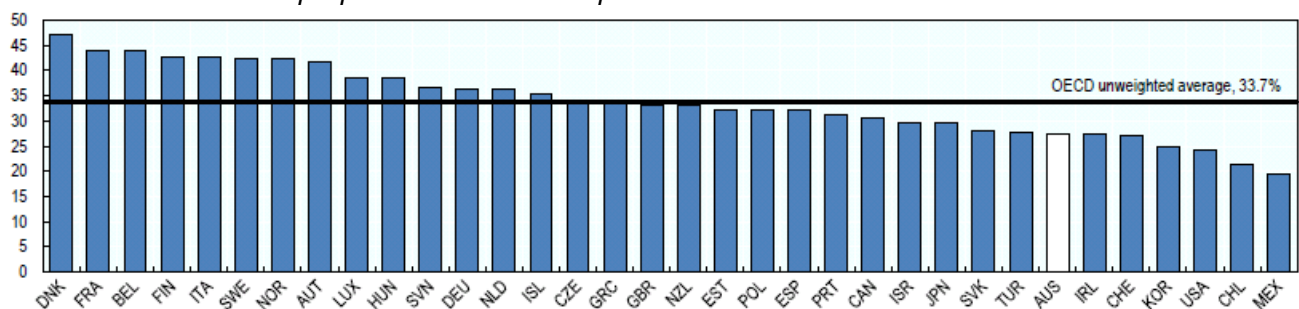
It is not a matter of adjusting reasonable community expectations downwards, as recent policy proposals by the Abbott government have entertained. The public response to proposed changes, to Medicare and job seeker requirements for example, followed by a government back down, confirm that Australians will not entertain cuts to services and our standard of living.<sup>17</sup>

To maintain these services and our living standards, government urgently needs increased revenue. While broad tax reform is desperately needed, there is no doubt that reforming the entire tax system is complex and, without bipartisan support, difficult. However, the government cannot, and must not, ignore the simple ways to quickly redress the revenue shortfall – that is, to simply collect the taxation revenue that is presently due.

### Australia – a low taxing nation

Australia is a low-taxing nation. With taxes at 27.3 percent of GDP, Australia's taxes are clearly well below the OECD average of 33.7 percent (Chart 1). Almost all other developed nations' governments both spend and raise more, as a share of GDP, than Australian governments.<sup>18</sup>

*Chart 1. Taxation as a proportion of GDP compared to the OECD<sup>19</sup>*



Additionally, Australia's taxation revenue as a proportion of GDP has declined significantly over the last decade (Chart 2), from 30.4 per cent in the year 2000 to 27.3 per cent in 2012. Over the same period, the OECD average has remained relatively steady, dropping only slightly from 34.3 per cent to 33.7 per cent.

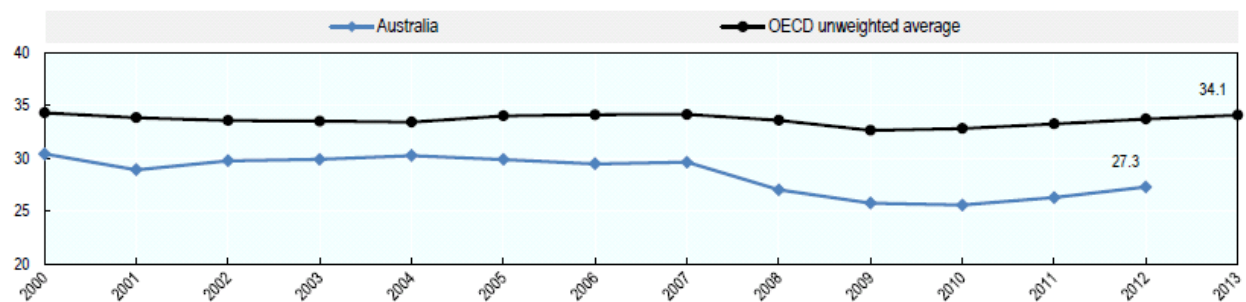
<sup>15</sup> Department of Immigration and Border Protection, 'Annual Report 2013-14', 14 September 2014, viewed 17 January 2015, [https://www.immi.gov.au/about/reports/annual/2013-14/performance/outcome\\_3/](https://www.immi.gov.au/about/reports/annual/2013-14/performance/outcome_3/)

<sup>16</sup> Department of Immigration and Citizenship, 'Annual Report 2011-12', 25 September 2012, viewed 17 January 2015, [http://www.immi.gov.au/about/reports/annual/2011-12/html/performance/outcome\\_3/](http://www.immi.gov.au/about/reports/annual/2011-12/html/performance/outcome_3/)

<sup>17</sup> EMC, The Essential Report, 3 June 2014, viewed 17 January 2015, [http://essentialvision.com.au/documents/essential\\_report\\_140603.pdf](http://essentialvision.com.au/documents/essential_report_140603.pdf), p.7

<sup>18</sup> Australian Council of Trade Unions, 2011, p.10-12.

<sup>19</sup> Organisation of Economic Co-operation and Development, 'OECD Revenue Statistics 2014', 8 December 2014, viewed 15 January 2015, <http://www.oecd.org/ctp/consumption/revenue-statistics-and-consumption-tax-trends-2014-australia.pdf>

Chart 2. Taxation as proportion of GDP (2000-2013)<sup>20</sup>

During the decade 2002-2012 the revenue problems that would ordinarily arise from being a low taxing nation with high living standards were masked by the business cycle and the minerals boom. The business cycle boosted the budget position until 2008, peaking at over 1 per cent of nominal GDP, while the strengthening terms of trade, due to the minerals boom, boosted the budget over the decade, peaking at just under 2.5 per cent of GDP. The dramatic rise in the terms of trade over the past decade over 2002-3 levels alone provided about \$190 billion to accumulated budgets.<sup>21</sup>

While the cash budget position improved between 2002-03 and 2011-12, the structural level of Commonwealth receipts fell by around 5 percentage points of GDP while the structural level of payments (excluding GST) rose by around 1 percentage point of GDP.<sup>22</sup> The end of the boom and change in the business cycle revealed these underlying revenue problems.

Since the 2014-15 Commonwealth Budget was handed down, there have been further write-downs of revenue. The 2014-15 MYEFO highlighted that primarily as a result of the collapse in iron ore prices by over 30 per cent, and weaker than expected wage growth, tax receipts over the forward estimates have been revised down by \$31.6 billion.<sup>23</sup>

### Why corporate taxation?

At the outset, it must be noted that individual taxpayers are already contributing significantly to government revenue. The ATO has spent considerable resources pursuing individual taxpayers for tax avoidance. Project Wickenby, in operation since 2006, aims to prevent the promotion of, or participation in, schemes that use tax havens to hide money offshore.<sup>24</sup> According to ATO data, to date, Project Wickenby has raised \$2.010 billion in tax liabilities and recovered \$865.32 million<sup>25</sup>. It has also resulted in improved compliance.<sup>26</sup>

The CPSU notes that the issue of corporate tax avoidance has been gaining greater global prominence, culminating in discussions at the recent 2014 G20 Australia Summit.<sup>27</sup> Despite

<sup>20</sup> *ibid*

<sup>21</sup> Parliamentary Budget Office, 'Estimates of the structural budget balance 2001-02 to 2016-17', 22 May 2013, p.3

<sup>22</sup> Parliamentary Budget Office, 'Estimates of the structural budget balance of the Australian Government', 22 May 2013, p.2

<sup>23</sup> 'Part 1: Overview', 2014-15 Mid-Year Economic and Fiscal Outlook, Australian Government, 15 December 2014, viewed on 17 December 2014, [http://www.budget.gov.au/2014-15/content/myefo/html/01\\_part\\_1.htm](http://www.budget.gov.au/2014-15/content/myefo/html/01_part_1.htm)

<sup>24</sup> 'Project Wickenby: the fight against tax crime,' Australian Taxation Office, 10 September 2014, viewed on 23 January 2014, <https://www.ato.gov.au/General/The-fight-against-tax-crime/In-detail/Tax-crime/Project-Wickenby/?page=4>

<sup>25</sup> 'Project Wickenby: getting results,' Australian Taxation Office, 18 December 2014, viewed on 23 January 2014 <https://www.ato.gov.au/General/The-fight-against-tax-crime/News-and-results/Project-Wickenby---getting-results/>

<sup>26</sup> *ibid*

<sup>27</sup> D Hurst, 'Joe Hockey announces profit-shifting tax audit of 10 multinationals', Guardian Australia, 9 December 2014, viewed 17 December 2014, <http://www.theguardian.com/business/2014/dec/09/joe-hockey-profit-shifting-tax-audit-multinationals-australia>

some agreement about the issue at this highest level,<sup>28</sup> coupled with the long held concerns of the Abbott government about Australia's debt and deficit, actions to address corporate tax avoidance are yet to be taken.

### **Sydney Morning Herald, 30 September 2014**

#### **Government senator says corporate tax avoidance threatens services**

A senior member of the Coalition has warned that corporate tax avoidance and the repatriation of profits overseas is "the greatest financial challenge" facing Australia.

Liberal Senator Bill Heffernan, a confidant of Prime Minister Tony Abbott, said the government must secure the tax revenue base before spending on essential services is impacted

"If you're willing to turn a blind eye to billions of dollars going out the door and offshore, you're doomed in terms of providing what people expect from government: roads, schools and hospitals.

"This is the greatest financial challenge facing the Western world and if not addressed it could redefine sovereignty in the Western world."<sup>29</sup>

Australia's reliance on corporate tax as a revenue source makes it vital that Australian companies meet their tax obligations *in Australia*. The Tax Justice Network report *'Who Pays for Our Common Wealth?'* found that while Australia's corporate tax rate is 30 per cent, the effective tax rate paid by ASX 200 companies over the last decade has been 23 per cent.<sup>30</sup> Furthermore, nearly one third of ASX 200 companies have an average effective tax rate of 10 per cent or less.<sup>31</sup> The report's data suggests that if all ASX 200 companies paid the full rate of company tax, the Commonwealth Budget would gain approximately \$8.4 billion in revenue a year.<sup>32</sup> This would more than cover the 2014-15 MYEFO write-down in company tax revenue by \$2.3 billion and the lower individual tax receipts of \$2.3 billion in 2014-15.<sup>33</sup>

#### **How does corporate tax avoidance occur?**

CPSU members at the ATO have raised serious concerns about the adequacy of Australia's current legislation. Many CPSU members have informed the CPSU that the international use of tax havens by Australian and foreign owned companies (operating in Australia) is a challenge that the ATO struggles with. Members indicated that transfer pricing, profit shifting and the use of multiple trust structures were amongst the most prevalent forms of tax avoidance.

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28 'G20 priorities are jobs growth, tackling climate change and tax evasion: Brisbane communique', ABC Online, 17 November 2014, viewed 17 January 2015, <http://www.abc.net.au/news/2014-11-16/jobs-climate-change-focus-of-brisbane-g20-communique/5895210>.

29 H Aston and G Wilkins, 'Government senator says corporate tax avoidance threatens services', Sydney Morning Herald, 30 September 2014, viewed 16 January 2015, <http://www.smh.com.au/business/government-senator-says-corporate-tax-avoidance-threatens-services-20140929-10nq8y.html#ixzz3Pat10N6a>

30 Tax Justice Network Australia, 'Who Pays for Our Common Wealth? Tax Practices of the ASX 200', Sydney, October 2014, p.8

31 *ibid*

32 *ibid*

33 Australian Government, 'Part 3: Fiscal Strategy and Outlook', 2014-15 Mid-Year Fiscal and Economic Outlook, , 15 December 2014, viewed 17 December 2014, [http://budget.gov.au/2014-15/content/myefo/html/03\\_part\\_3.htm](http://budget.gov.au/2014-15/content/myefo/html/03_part_3.htm)

In Australia, one way that profit shifting is facilitated through ss25-90 of the *Income Tax Assessment Act 1997*.<sup>34</sup> Quite simply, corporations use these provisions to shift profits by claiming tax deductions on interest paid on loans from subsidiaries operating in tax havens.<sup>35</sup> The use of these loopholes is widespread. For example, 57 per cent of ASX 200 companies disclose subsidiaries in tax havens and 60 per cent report debt to equity levels above 75 per cent – both of these are tools used by corporations to artificially reduce taxable profits.<sup>36</sup>

In the 2013-14 MYEFO, government announced that it would target corporate tax avoidance by stopping corporations from deducting loan interest from their earnings. However, in the 2014-15 MYEFO the Government announced it would not proceed with the anti-avoidance measures despite the 2013-14 Budget estimating that the revenue generated would be \$665.0m in 2015-16 and \$635.0m in 2016-17.<sup>37</sup>

## Terms of Reference

The Inquiry terms of reference b) e) and f) specifically identified as impacting on the work of CPSU members are addressed below.

### **b) Any need for greater transparency to deter tax avoidance and provide assurance that all companies are complying fully with Australia's tax laws**

CPSU ATO members agree that there is a need for greater transparency in the taxation system, and that increased transparency would go some way to deterring tax avoidance.

One of the key areas of concern for members is the focus of the ATO on negotiated settlements rather than litigation. The 2014-18 ATO Corporate Plan states that *'where disputes do occur, our approach is to resolve disputes early, avoiding litigation where possible, with the aim of ensuring we treat taxpayers in similar situations fairly and consistently'*.<sup>38</sup> The outcome of settlements are usually confidential, and members felt that in some cases negotiated settlements "effectively give large corporates a tax discount and no penalty for non-compliance (aggressive tax planning)".

Beyond enforcement issues, members specifically suggested that transparency could be improved by increasing the requirements for corporations to provide detailed information about corporate structures, requiring mandatory collection of increased financial information, as well as the publication of all issues identified in corporate tax matters. This is discussed in more detail under Terms of Reference f).

### **e) The performance and capability of the Australian Taxation Office (ATO) to investigate and launch litigation, in the wake of drastic budget cuts to staffing numbers**

#### Cuts to staffing numbers

Since the election of the Abbott Government, the ATO has experienced massive job cuts with the loss of 3,000 employees in the year to October 2014. These cuts are the result of \$143 million being cut from the ATO's funding, forcing the ATO to bring forward 1,600 job

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34 H Aston, 'Hockey backflips on tax laws to target multinational profit shifters', Sydney Morning Herald, 17 December 2014, viewed 15 January 2015, <http://www.smh.com.au/federal-politics/political-news/hockey-backflips-on-tax-laws-to-target-multinational-profit-shifters-20141216-128ebg.html>

35 *ibid*

36 Tax Justice Network Australia, p.8

37 Australian Government, 'Budget Paper No.2 – Part 1: Budget Measures', in 2013-14 Budget, 14 May 2013, [http://www.budget.gov.au/2013-14/content/bp2/html/bp2\\_revenue-10.htm](http://www.budget.gov.au/2013-14/content/bp2/html/bp2_revenue-10.htm)

38 'ATO Corporate Plan 2014-18', Australian Taxation Office, June 2014, p.37



cuts.<sup>39</sup> Another 1,700 ATO employees are scheduled to go by the end of 2016-17, meaning the ATO will lose 4,700 employees over two years or nearly a quarter of its workforce.<sup>40</sup> Members at the ATO work hard and are proud of the job they do, but there are limits to what they can achieve with shrinking resources and fewer staff.

### Capability of ATO to investigate and launch litigation

#### *Investigate/Audit*

The audit team is responsible for enforcing the tax compliance of individuals and multinational companies - one of the core roles of the ATO.<sup>41</sup> The audit team has been hit particularly hard by job losses. The ATO Assistant Commissioner Geoff Leeper told a recent Senate estimates hearing that nearly a quarter of the redundancies so far had come from the audit area.<sup>42</sup>

CPSU members report that this has significantly impacted the ability of the ATO to investigate matters. Quite simply, they report that fewer audits are being conducted (impacting negatively on revenue), and there is reluctance to review and/or audit larger and more complex entities.

*Cases that should normally be followed up vigorously are being allowed through: I know of examples where cases are compromised on the basis of 'we don't have the resources to deal with it'. Management are telling people that we will only pursue cases of extremely high amounts so even where clear tax avoidance and illegality is identified, staff are being told by managers that it is not worth it so taxpayers are getting away with these behaviours.*

However, members note that the risks are not just with larger corporations:

*Business compliance has lost so many staff to either refund integrity or redundancy. We are now understaffed and the ATO does not seem to see there is a risk in the micro small to medium enterprise bracket. The tax agents we are visiting are running rings around us.*

Corporations can, and do, establish complex arrangements in order to minimise tax. Unravelling these to ensure compliance can take years of detailed investigation. Members raised concerns about the immense loss of knowledge that has occurred as a result of significant job losses. Flowing from this, of course, is a concern that less experienced staff will take time to develop the skills (exacerbated by the lack of mentoring that can occur due to skilled staff losses), during which significant losses in tax revenue will continue. Internal Taxation Office documents, for example, show the profile of workers in the 'Internationals' Group, an area with responsibility for monitoring profit shifting, has shifted to a more junior, less experienced cohort.<sup>43</sup>

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39 A White and A Creighton, 'Tax audit effort to cut costs', The Australian, 24 June 2014, viewed 15 January 2015, <http://www.theaustralian.com.au/business/tax-audit-effort-to-cut-costs/story-e6frq8zx-1226964256240#>

40 P Thomson, 'Australian Taxation Office slashes 4700 staff, brings in \$250,000-a-year spin doctor', Sydney Morning Herald, 25 November 2014, viewed 16 January 2015, <http://www.smh.com.au/national/public-service/australian-taxation-office-slashes-4700-staff-brings-in-250000ayear-spin-doctor-20141125-11st9m.html>

41 *ibid*

42 G Wilkins, 'Tax Office reels after staff losses', Sydney Morning Herald, 15 November 2014, viewed 15 January 2015, <http://www.smh.com.au/business/tax-office-reels-after-staff-losses-20141114-11mh50.html#ixzz3KgaxEIFR>

43 N Towell, 'Why the ATO is losing the battle against the "transnationals"', Canberra Times, 2 September 2014, viewed 15 January 2015, <http://www.canberratimes.com.au/national/public-service/why-the-ato-is-losing-the-battle-against-the-transnationals-20140902-10bakg.html>



*The quality of audits is diluted because fewer resources, i.e. staff, are expected to produce the same amount of output. You can have the best graduates with the best marks attained at university. However, that will amount to naught if they are not given time and exposure to different situations with competent and experienced mentors in support.*

Members also raised concerns that the proposal to outsource audit work by allowing corporations to appoint their own auditors from the private sector represents a huge conflict of interest as well as the potential for further job losses from the audit area of the ATO. After first flagging it in January 2014, in December last year, the ATO announced a pilot of the External Compliance Assurance Process (ECAP). This allows companies with an annual turnover of between \$100 million and \$5 billion to nominate their statutory company auditor to undertake assurance work.<sup>44</sup> Beyond basic conflict of interest concerns, members noted that the self assessment regime and the resultant lack of detailed information flowing to the ATO will hamper identification of instances of tax avoidance and further affect the collection of tax revenue.

*It undermines the efficacy of the tax system. If the auditor is engaged by the taxpayer, there is an 'inherent conflict of interest' with this process. To some extent, the taxpayer will have some influence on the auditor as to the outcome of the review to suit the taxpayer and not the ATO. Unless the auditor is engaged by the ATO, then there is an unacceptable lack of integrity.*

### *Litigation*

As noted at Terms of Reference b), the approach of the ATO has been to preference settlements over litigation. Members advised that funding available to litigate matters has been cut, with case officers forced to settle matters that would otherwise see important issues tested in court. Members suggested that, due to the costs involved, there was reluctance within the ATO to prosecute large companies suspected of engaging in tax avoidance because of the duration and complexity of these matters. Members were concerned that settlements potentially cost the ATO significant revenue.

Reports that a former ATO mid-ranking executive has said the big four accounting firms have been being emboldened by the loss of experienced ATO staff and trying ever more aggressive tax avoidance schemes is concerning.<sup>45</sup> Members also commented that corporate taxpayers know that there is a preference to settle early and are taking advantage of this approach.

Finally, on top of job losses to date, there is uncertainty of employment for those working in the litigation area of the ATO with one member noting that:

*It is understood that the dispute litigation area will go through a spill and fill process in March 2015 so all staff in this area will have to reapply. It is not known what will happen to unsuccessful applicants. It is also known that the ATO will no longer support lawyers having their practising certificates which indicates that they do not value the professionalism and ongoing training requirements of lawyers.*

### More resources needed for audit and litigation

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<sup>44</sup> Australian Taxation Office, 'External compliance assurance process', 23 December 2014, viewed 15 January 2015, <https://www.ato.gov.au/Business/Large-business/In-detail/Compliance-and-governance/External-compliance-assurance-process/>

<sup>45</sup> N Towell, 'Why the ATO is losing the battle against the 'transnationals'', 2 September 2014

A big concern of members was that the practice of corporate tax avoidance is becoming widespread, and almost accepted practice.

*The problem used to be confined to the top 50 or so companies but has now spread well below that to those turning over less than \$100 million.*

The importance of revenue generated by corporate tax to the Australian economy has been detailed earlier in this submission. The extent of corporate tax avoidance revealed by the Tax Justice Network Report, combined with the impact of cuts on investigation and litigation highlights the urgent need for not only cuts to the ATO to cease, but resources to be increased. The CPSU is not a lone voice in this regard, with an increasing recognition that - *"the most critical aspect of reducing corporate tax avoidance is regulatory resources. The ATO needs the necessary resources to recruit experienced staff in numbers to monitor and audit Australian companies."*<sup>46</sup>

Finally, it is the clear position of the union movement that the Australian Taxation Office and the Australian Public Service is to be adequately resourced to fully administer taxation laws. Administration of all aspects of taxation laws should only be undertaken by qualified, ongoing public servants.<sup>47</sup>

#### **f) The role and performance of the Australian Securities and Investments Commission in working with corporations and supporting the ATO to protect public revenue**

CPSU members indicated that ASIC does not play a direct role in protecting public revenue, however, it does co-operate with other agencies to investigate offshore tax evasion, for example, through Project Wickenby, and in conducting civil investigations.

Members at the ATO commented that the relationship with ASIC could be improved during the implementation of joint strategies. A number of ways to improve how ASIC and the ATO work together were suggested by members. These included more data sharing and cross-agency investigations:

*Greater laws to exchange information between agencies without the need to set up special task forces and associated laws.*

*Form inter-departmental committee of specialists with common interests to discover ways of combating these. Avoidance, minimisation and evasion will always evolve and I suspect governments are more reactive than proactive.*

*ATO and ASIC need to improve their data sharing. We have records that cover ARN, ACN, ABN and it is near impossible to identify which is which. Trying to match this to our own internal data is horrendous and counter productive.*

*Treasury and parliament needs to be more responsive to tackle risk issues with legislation if required and in a timely way.*

Finally, following on from Terms of Reference b), members suggested that not only would the ATO benefit from greater requirements to disclosure company structure information to the ATO, but that increasing the level of information that companies need to provide to ASIC may also help deter corporate tax avoidance. Currently, companies are only obliged to disclose information that they deem to be material to shareholders and other stakeholders.

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46 R Lanis and R McClure, 'What's needed for Australia to seriously tackle tax avoidance', The Conversation, 2 October 2014, viewed 16 January 2015, <http://theconversation.com/whats-needed-for-australia-to-seriously-tackle-tax-avoidance-32272>

47 ACTU, 2012 ACTU Congress Policy: Tax, viewed 28 January 2015, <http://www.actu.org.au/Images/Dynamic/attachments/7659/Tax%20policy%20FINAL.pdf>

Within the Australian Accounting Standards, information is deemed '*material if its omission, misstatement or non-disclosure has the potential, individually or collectively to: (a) influence the economic decisions of users taken on the basis of the financial statements; or (b) affect the discharge of accountability by the management or governing body of the entity*'.<sup>48</sup>

The vagueness of this definition has been the cause of some concern. The imprecise definition of materiality makes it unclear exactly what information is necessary to be disclosed.<sup>49</sup> The materiality principle particularly affects the disclosure of subsidiaries. While some companies disclose their full number of subsidiaries, others disclose just the first layer of subsidiaries. Improved standards could include a requirement for country-by-country reporting with consolidated annual reports including revenues, profits, staffing levels and taxes paid in each country in which they operate or have subsidiaries. If shared with the ATO, this increased transparency may help to reduce tax avoidance.<sup>50</sup>

## Recommendations

To maintain our standard of living, government urgently needs increased revenue. There are simple steps that can be taken while any process of broader tax reform is undertaken – these are to simply collect the taxation revenue that is presently due and increase confidence and transparency. To this end, the CPSU recommends:

1. Address corporate tax avoidance to increase revenue, and that revenue be used to meet the needs of the Australian people;
2. Increase funding to the Australian Taxation Office to ensure it has the resources to ensure tax compliance by corporations;
3. Abolish deductions under section 25-90 of the Income Tax Assessment Act 1997; and,
4. Introduce better reporting standards for corporate annual reports to improve transparency.

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<sup>48</sup> Tax Justice Network, p.38

<sup>49</sup> *ibid*

<sup>50</sup> *ibid*