



Centre for  
International  
Corporate Tax  
Accountability  
and Research



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Australian  
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Midwifery  
Federation

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**Submission from the Tax Justice Network Australia & the Centre for  
International Corporate Tax Accountability & Research, Community and  
Public Sector Union - PSU Group, United Workers Union, Oxfam  
Australia, Community and Public Sector Union - State Public Service  
Federation and the Australian Nursing & Midwifery Federation  
on  
*Treasury Laws Amendment (Responsible Buy Now Pay Later and Other  
Measures) Bill 2024***

**28 June 2024**

The Tax Justice Network Australia (TJN-Aus), the Centre for International Corporate Tax Accountability and Research (CICTAR), Community and Public Sector Union - PSU Group (CPSU-PSU Group), United Workers Union (UWU), Oxfam Australia, Community and Public Sector Union - State Public Service Federation (CPSU-SPSF) and the Australian Nursing & Midwifery Federation (ANMF) welcome the opportunity to make a submission in support of Schedule 4 – Multinational tax transparency – country by country reporting of this Bill. Our comments are restricted to this element of the bill, which is a crucial step forward in Australia, and globally, in enhancing transparency around multinational corporate tax payments. We commend the government for moving this forward and anticipate passage of this aspect of the Bill with no further amendments other than a few minor improvements suggested below. CICTAR, TJN-Aus and many union and community allies have been advocating for this legislation for many years and this submission is shorter and far less

comprehensive than many previous submissions to Treasury on earlier versions of the draft legislation. This Bill to implement public Country-by-Country Reporting (pCbCR) for all large multinational corporations operating in Australia – following the design of the Global Reporting Initiative’s Tax Standard (GRI 207) – will set a new global standard for multinational corporate tax transparency that other jurisdictions will follow.

Ensuring that all multinational corporations pay appropriate levels of taxation in Australia is essential to increase the funding available for the growing costs of health, aged care, and other essential public services. It is also crucial that domestic enterprises, with generally high levels of compliance, are competing on a level playing field with foreign multinational corporations. Previous research by CICTAR and TJN-Aus has found many examples of multinational corporations receiving government contracts or funding that appear to have shifted substantial profits out of Australia – into tax havens – to avoid paying appropriate levels of tax in Australia. This is problematic for all corporations, but particularly egregious for corporations that are reliant on public funding, including those in the health and aged care sectors. The increased transparency on multinational corporate tax payments proposed in this legislation is a major step forward towards exposing and addressing multinational corporate tax avoidance.

[Recent analysis](#) from the EU Tax Observatory has estimated that multinational corporations shifted US\$1 trillion into tax havens in 2022. This is equivalent to 35% of profits booked outside of the headquarter country and leads to an estimated loss of 10% of corporate tax revenue globally. These losses continue despite a significant global effort through the OECD to address Base Erosion and Profit Shifting (BEPS) over many years. What has been critically missing from OECD BEPS reforms has been basic financial transparency of multinational corporations on a public Country-by-Country (CbCR) basis. While we know that the confidential CbCR via the OECD BEPS process has greatly assisted the Australian Taxation Office (ATO) in exerting Australia’s taxing rights on multinational corporations, it has been less effective in many other jurisdictions.

Public CbCR is the next major step forward. Australia’s legislation will lead the way globally so that all stakeholders, including other government agencies, investors, civil society, academics, will be able to assess whether genuine economic activity aligns with where profits are booked, and taxes paid (or not). This exposure should be a strong incentive for multinational corporations to change widespread profit shifting practices and contribute back to communities where the business activity is taking place and the profits are earned. Additionally, transparency will inform further reforms to close loopholes to prevent continued profit shifting and tax avoidance.

In Australia, it was [estimated](#) that \$11 billion in revenue was lost in 2020 due to multinational corporate profit shifting. This lost revenue should be funding much needed improvements to health, education and other public services that are essential to fair and equitable society and a sustainable environment for businesses and communities.

This a global problem and Australia is showing strong international leadership that other jurisdictions will follow. Australia’s pCbCR legislation aligns with the EU CbCR directive but provides significant improvements and far less loopholes and exemptions. While multinational corporate tax avoidance is a problem everywhere, it causes even more damage in the Global South with greater reliance on corporate tax revenue and much lower capacity to collect and enforce the rules on the world’s largest multinational enterprises. Australia’s pCbCR measures, and other transparency requirements that will follow, will provide huge benefits to tax authorities in the Global South that currently do not have access to this crucial information.

Multinational corporations, and other entities including the Big 4 accounting firms that have facilitated profit shifting and tax avoidance, have made weak arguments against public CbCR. As similar data is already reported on a confidential basis via OECD BEPS, the additional compliance burden is minimal. The public provision of basic financial data on a country-by-country basis levels the playing field between businesses and does not in any way give away 'trade secrets' or undermine competitiveness, as has been argued. Nearly [140 multinationals](#) already voluntarily report some form of country-by-country reporting. This does include large EU financial service firms that have been required to conduct pCbCR for nearly a decade, with no apparent disadvantage to global competitors. The [GRI Tax Standard](#), widely recognised as the best template for pCbCR, only came into effect in 2021 after an extensive stakeholder engagement process. It is increasingly being adopted voluntarily by many of the world's largest corporations.

Global investors with over US\$10 trillion in assets under management have actively supported the development and adoption of the GRI Tax Standard. Shareholders have filed resolutions to require implementation of the GRI Tax Standard, with pCbCR, at the annual general meetings of many of the world's largest corporations, including Microsoft, Amazon and Brookfield. Despite strong opposition from corporate management and being new and untested resolutions, they have received significant support from shareholders. Investors increasingly want to know more information on tax and other basic financial details of global corporations on a country-by-country basis. This information is essential to evaluate risks and whether corporations have long-term sustainable business models, in the right places, or are exploiting unsustainable short-term loopholes, in the wrong places.

While mandatory reporting on all jurisdictions in which a multinational corporation operates is preferable and remains an objective in Australia and globally, we accept the use of a strong list of tax haven jurisdictions as proposed in the legislation. The legislation encourages full CbCR disclosure but does allow for aggregation for jurisdictions that are not specified for reporting.

We strongly suggest that the publication of the reporting includes a simple yes or no on whether the corporation has done full CbCR or only in relation to the mandatory list. This will allow for a quick comparison of which corporations are willing to be fully transparent and which are not. We also strongly suggest that the CbCR data for the headquarter country of a multinational corporation be required to be reported separately and not aggregated into global (rest of the world) reporting. This simple additional measure will greatly improve the useability of any aggregated reporting and is generally already disclosed in annual reports. In the US, new Financial Accounting Standards Board (FASB) tax transparency reporting requirements will be in effect in 2025 for all US public companies. This new reporting requirement will mandate greater levels of disclosure in all jurisdictions in which more than 5% of any corporations' income taxes are paid.

The list of jurisdictions for required reporting is separate from this legislation and therefore can be changed, as needed, by regulation as circumstances change in the future. However, we offer a few suggestions of jurisdictions that should be added to the list, based on the list provided in Treasury's exposure draft of the Bill.

We strongly recommend that Puerto Rico be added to the list. The list already includes the US Virgin Islands, which like Puerto Rico is a territory of the US, but considered foreign for US federal (and most state) tax purposes. Anonymised public data from US and OECD CbCR reports reveals that Puerto Rico is one of the most widely used tax havens for multinational corporate profit shifting. This includes the current landmark (largest ever) case against Microsoft, in which the IRS is attempting to collect nearly US\$30 billion in back taxes. The US regulation implementing OECD CbCR already requires separate reporting on Puerto Rico. The international related party dealings expenditure [reported by the ATO](#) to

Puerto Rico between 2016 and 2021 was over \$2.0 billion. Puerto Rico represents the biggest missing jurisdiction in terms of multinational corporate profit shifting.

The original ATO list of jurisdictions for separate reporting included Ireland, the Netherlands and Luxembourg. However, these EU jurisdictions were removed from the list in Treasury's draft legislation because they were said to be covered in reporting under the EU's CbCR directive with implementation now matching the Australian timeline. National implementation of the EU directive varies widely across jurisdictions. We strongly recommend that these three jurisdictions are reincluded in Australia's required reporting list. These countries have a long track record of acting either as tax havens and/or conduits to tax havens. The EU CbCR directive has a higher threshold for reporting and many more exemptions and loopholes than in Australia's forthcoming requirement. Many corporations with over \$10 million in Australian annual turnover, required to report here, may be exempted from reporting in Europe.

Having data from these three jurisdictions in the Australian data will greatly enhance the overall quality of the reported data. Many multinational corporations own Australian subsidiaries through these three EU jurisdictions and/or have significant related party transactions which can be used for profit shifting with subsidiaries in these three EU jurisdictions. International related party dealings made [public](#) by the ATO show that between 2016 to 2021 expenditures from Australia were \$43.49 billion to the Netherlands, \$37.26 billion to Ireland, and \$4.95 billion to Luxembourg. This compares to \$12.25 billion for Bermuda, \$2.32 billion for the Cayman Islands and \$1.70 billion for the British Virgin Islands which, appropriately, are included as jurisdictions for mandatory disclosure on a CbCR basis in Treasury's draft legislation.

With regards to any exemptions that may be granted for multinational corporations to not report on a CbCR basis, the names of any corporations and the rationale for the exemption should be reported on an annual basis along with the CbCR data on an Australian government website, as proposed.

Finally, with regards to penalties for non-compliance, the level of penalty applied is relatively modest for the scale of operations for many of the covered multinational corporations. Therefore we strongly recommend, in addition to the proposed financial penalties, that non-compliance with public CbCR requirements should prevent the ATO from issuing the corporation a Statement of Tax Record (STR), which is necessary to qualify for federal procurement opportunities.

We congratulate the Australian Government on bringing forward this important legislation to improve tax transparency for all multinational corporations with a presence in Australia. While this measure does not directly raise revenue it is likely to encourage changes in corporate behaviour towards less aggressive tax avoidance which is highly likely to indirectly increase revenue. The greater transparency will also help level the playing field for all businesses in Australia, help restore integrity to the tax system and provide reliable data to inform further changes that may be required to close loopholes so that appropriate levels of tax are paid where profits are genuinely earned. Australia is helping to push forward the inevitable global trend towards greater tax transparency for multinational corporations and a fairer global tax system for everyone.

Sincerely,

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## **Background on the Tax Justice Network Australia**

The Tax Justice Network (TJN) is an independent organisation launched in the British Houses of Parliament in March 2003. It is dedicated to high-level research, analysis and advocacy in the field of tax and regulation. TJN works to map, analyse and explain the role of taxation and the harmful impacts of tax evasion, tax avoidance, tax competition and tax havens. TJN's objective is to encourage reform at the global and national levels.

The Tax Justice Network believes our tax and financial systems are our most powerful tools for creating a just society that gives equal weight to the needs of everyone. But under pressure from corporate giants and the super-rich, our governments have programmed these systems to prioritise the wealthiest over everybody else, wiring financial secrecy and tax havens into the core of our global economy. This fuels inequality, fosters corruption and undermines democracy. We work to repair these injustices by inspiring and equipping people and governments to reprogram their tax and financial systems.

The Tax Justice Network Australia (TJN-Aus) is the Australian arm of TJN.

In Australia, the current members of TJN-Aus are:

- ActionAid Australia
- Aid/Watch
- Anglican Overseas Aid
- Australian Council for International Development (ACFID)
- Australian Council of Social Service (ACOSS)
- Australian Council of Trade Unions (ACTU)
- Australian Education Union (AEU)
- Australian Manufacturing Workers Union (AMWU)
- Australian Nursing & Midwifery Federation (ANMF)
- Australian Services Union (ASU)
- Australian Workers Union, Victorian Branch (AWU)
- Baptist World Aid
- Caritas Australia
- Centre for International Corporate Tax Accountability & Research (CICTAR)
- Community and Public Service Union (CPSU)
- Electrical Trades Union, Victorian Branch (ETU)
- Evatt Foundation
- Friends of the Earth (FoE)
- GetUp!
- Greenpeace Australia Pacific
- International Transport Workers Federation (ITF)
- Jubilee Australia
- Maritime Union of Australia (MUA)
- National Tertiary Education Union (NTEU)
- New South Wales Nurses and Midwives' Association (NSWMWA)
- Oaktree Foundation
- Oxfam Australia
- Publish What You Pay Australia
- Save Our Schools
- SEARCH Foundation
- SJ around the Bay
- TEAR Australia
- The Australia Institute
- Union Aid Abroad – APHEDA
- United Workers' Union (UWU)

- Uniting Church in Australia, Synod of Victoria and Tasmania
- UnitingWorld
- Victorian Trades Hall Council
- World Vision Australia

### **Background on the**

#### **Centre for International Corporate Tax Accountability & Research (CICTAR)**

CICTAR is a global corporate tax research centre that produces information and analysis to untangle the corporate tax web. The Centre is a collective resource for workers and the wider public to understand how multinational tax policy and practice affects their daily lives. CICTAR's work supports public participation in the tax debate so that everybody can participate in decision-making that affects their communities.

For more information, visit the CICTAR website here: <https://cictar.org/>