Dissenting Comments from the Australian Greens

1.1 The Australian Greens do not believe the Chair's Report offers a suite of recommendations that is commensurate with the size of the tax avoidance epidemic or that is sufficiently comprehensive to deter tax avoidance strategies. This is particularly the case in relation to the oil and gas industry.

1.2 The public have made it clear that they want a tax system, not a tax avoidance system. We acknowledge that there have been considerable legislative developments since this inquiry began in October 2014; and that there is now a greater willingness across party lines to do more to protect public revenues. In large part these developments can be attributed to the work of the committee and the witnesses who have supported its investigations.

1.3 While much work needs to be done to harmonise global tax laws, there are significant steps that can and should be taken domestically to protect our tax base and to raise the revenue required to provide the high quality public services and infrastructure that people want and deserve.

ATO staff and outsourcing to the big-four accounting firms

1.4 Over the period that this inquiry has been conducted, staffing levels at the ATO have been massively reduced. The Labor government implemented a plan to make 4,700 ATO staff redundant between 2014 and 2018. The incoming Abbott and Turnbull governments all but delivered on this plan, with the total reduction of ATO staff between 2013 and 2017 totalling 4 441.[1]

1.5 At the same time that these mass-scale public sector redundancies have occurred, public money going to the big-four accounting firms for consulting services has grown to $1.7 billion over the past five years.[2] Ernst & Young, PwC, KPMG and Deloitte cannot substitute the ATO's role in pursuing tax avoidance strategies, particularly given that they are also the authors and facilitators of tax avoidance strategies around the world.

1.6 Not only does the largesse from these government contracts need to end, and the savings used to reinstate ATO staff, but to prevent future conflicts of interest, political parties must cease accepting the donations from the four-big accounting firms who reap millions more in contracts than they provide in political donations.

Tax transparency

1.7 In relation to disclosure, the annual company tax disclosures have been an invaluable tool for the public to see which companies are not paying tax, sometimes on very high revenues. We support the recommendation to lower the threshold so as to

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1 https://www.themandarin.com.au/91132-fallout-from-4-corners-ato-under-review-from-both-sides-of-parliament/

2 http://www.afr.com/business/accounting/revealed-deloitte-ey-kpmg-and-pwc-earned-17b-from-government-work-20180326-h0xymn

include all companies with a turnover greater than $100m, but argue that this should go further.

1.8 The disclosure requirements for companies be back-dated so as to include the last two financial years. The thresholds for disclosure should be further reduced to $50 million for future disclosure years. And, so as to avoid any doubt, the grandfathering arrangements that exclude some private companies from disclosure requirements should be lifted.

1.9 To support further transparency which has proven to be effective, the recommendation to review ASIC’s fees and charges should also be strengthened specifically in relation to access to company reports.

1.10 Making these important documents available free of charge for not-for-profit actors would advance public interest research. The loss of public revenue would, in all likelihood, be recovered from an increase in revenue receipts that would result from greater transparency.

1.11 A final improvement on the Chair's report to strengthen transparency would be to recommend the establishment of a public register of settlements to name the company for each settlement they have made with the ATO, listing the amounts that the ATO originally assessed a company’s tax liability and the amount the matter was finally settled for. This would dissuade companies from under-claiming their tax liabilities. It would also give the ATO more bargaining power in negotiations to avoid litigation and also place public pressure on the ATO not to give too much ground on tax settlements.

Petroleum Resource Rent Tax (PRRT)

1.12 The area that the Chair’s report most fails in its responsibility to stop the leakage of tax revenues to global companies is in relation to the Petroleum Resource Rent Tax (PRRT). This is the primary reason that the Australian Greens have written a Dissenting Report.

1.13 The proposal to simply change the uplift rate for future investment will mean gigajoules of gas will be extracted completely free by multinational gas giants while billions of dollars in revenue will be lost from existing projects.

1.14 The latest tax statistics show that $188 billion of tax credits can be collectively carried forward by these companies for the coming tax years. Any unspent tax credits will appreciate in value at a rate of 15% over the long-term bond rate for exploration expenditure, and 5% over the long term bond rate for general expenditure on gas projects.

1.15 Over the past seven financial years these tax credits have grown from $9 billion in 2010-11 to $279 billion in 2016-17.[3] That's a staggering 30-fold increase.

3 https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Taxation-statistics/Taxation-statistics-2015-16/?page=11#GST_and_other_taxes_detailed_tables

PRRT tax credits

Year	Carry Forward $	Annual Growth Rate %
2010-11	9,362,096,688	
2011-12	18,376,481,627	0.49
2012-13	127,987,076,389	0.86
2013-14	159,739,871,521	0.20
2014-15	187,505,986,947	0.15
2015-16	237,866,775,211	0.21
2016-17	278,822,437,879	0.15

1.16 This current tax regime for gas means these tax credits grow at a rate higher than all other financial return benchmarks. The year-on-year growth of these carry forward credits has averaged a 34 percent. Tax credits for gas companies are growing at a rate higher than Sydney's extravagant property market.

1.17 The current regime is completely unsustainable. It is giving away Australia's finite resources for free, encouraging often very marginal fossil fuel extraction, and leaving us unable to invest in proper public services.

1.18 The recommendations in the Chair's report propose to leave this system untouched. Labor's position in this report matches the government's stated position to let these multinational gas giants continue to extract our resources for free for decades to come.

1.19 In the absence of retrospectively changing the uplift rate or instituting a scheme that will force companies to use these tax credits at a rapid rate, a royalty system should sit alongside the existing PRRT tax regime to ensure that at least some revenue is collected by the Australian Government.

1.20 However, a flat 10 per cent royalty rate of the wellhead value on all offshore oil and gas projects has been costed by the Parliamentary Budget Office (PBO), using a system where the royalty rate would be allowed to be expensed against PRRT liabilities. This would ensure around $1.4 billion could be collected each year from multinational gas companies.

1.21 The Australian Greens have submitted a number of costings to the PBO based on a reformed method of calculating the price of liquefied natural gas (LNG) and dramatically reduced tax credits. However, given the opaque nature of the LNG market and the small number of companies operating in this market, the PBO has not been able to provide costings of the proposed methods.

Recommendation 1

1.22 End the largesse of government contracts to the big four consulting firms and reinvest that money to rehire permanent ATO staff.

Recommendation 2

1.23 All companies with a total income equal to or exceeding $50 million for an income year be required to release tax information of the level specified in the Tax Laws Amendment (Combating Multinational Tax Avoidance) Act 2015.

Recommendation 3

1.24 Fees and charges to access company reports and financial records held by ASIC should be made available for free for not-for-profit actors such as charities, academics, freelance journalists and Members of Parliament.

Recommendation 4

1.25 An ATO settlement register should publicly name the company for each settlement, list the amounts that the ATO originally assessed a company's tax liability and the amount the matter was finally settled for.

Recommendation 5

1.26 To ensure revenue is collected in this decade for Australia's finite gas resources, a flat 10 per cent royalty rate of the wellhead value on all offshore oil and gas projects should be implemented, where that royalty rate would be allowed to offset PRRT liabilities.

Senator Peter Whish-Wilson

Senator for Tasmania