

**Question on notice no. 243**

**Portfolio question number: AET243**

**2022-23 Supplementary Budget estimates**

**Economics Committee, Treasury Portfolio**

**Senator Deborah O'Neill:** asked the Tax Practitioners Board on 17 February 2023—

(1. Please table the submission to the Tax Practitioners Board Conduct Committee in relation to Peter John Collins and PwC matters.

2. Who are the members of the Tax Practitioners Board Conduct Committee? Are any former employers of PwC? Did any declare a conflict of interest in this matter? Do any members of the Tax Practitioners Board or the Tax Practitioners Board Conduct Committee receive any continuing payments from PwC?

**Answer —**

Please see attachment.

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**  
**Treasury Portfolio**  
Supplementary Budget Estimates 2022 - 2023

**Agency:** Tax Practitioners Board  
**Question No:** AET243  
**Topic:** Tax Practitioner Board Conduct Committee  
**Reference:** Written (17 February 2023)  
**Senator:** Deborah O'Neill

**Question:**

1. Please table the submission to the Tax Practitioners Board Conduct Committee in relation to Peter John Collins and PwC matters.
2. Please table any additional internal PwC emails that relate to the sharing of the confidential information that are not in the submission to submission to the Tax Practitioners Board Conduct Committee in relation to Collins and PwC matters?
3. Mr Peter John Collins was found to have breached multiple confidentiality agreements with Treasury, which had provisions where a breach of it was reportable under the Crimes Act. When was the determination made to report such a breach of an agreement to the Tax Practitioners Board instead of the Australian Federal Police? Was such a determination made, if so, what was the basis for such a determination? If the referral was made, what was the result of that investigation?
4. Who are the members of the Tax Practitioners Board Conduct Committee? Are any former employers of PwC? Did any declare a conflict of interest in this matter? Do any members of the Tax Practitioners Board or the Tax Practitioners Board Conduct Committee receive any continuing payments from PwC?
5. Please provide a summary timetable of the investigation of Mr Peter John Collins and PwC, including but not limited to, dates that the allegation was made and the date that the allegation was referred to the Tax Practitioners Board.

**Answer:**

1. In relation to Mr Collins, on 16 November 2022, after completing an investigation, the TPB decided to terminate his tax agent registration. The TPB found that Mr Collins had breached the legislated Code of Professional Conduct (Code) in that he did not act with integrity and he failed to have in place adequate arrangements to manage conflicts of interest that arose in relation to his activities as a registered tax agent. The TPB also imposed a period of two (2) years during which Mr Collins cannot apply for registration.

In relation to PwC, on 16 November 2022, after completing an investigation, the TPB decided to impose an order on PwC under section 30-20 of the *Tax Agent Services Act 2009* (TASA). The TPB found that PwC had breached the legislated Code in that PwC had failed to have in place adequate arrangements to manage conflicts of interest that arose in relation to its activities as a registered tax.

Further details about the TPB's decision for Mr Collins and PwC can be found on the TPB's Public Register.

2. The Tax Practitioners Board (TPB) provides the relevant internal PwC emails to the Committee – see **Attachment A**.

Given the TPB's obligation to preserve the confidentiality of taxpayer information and the privacy of individuals and taxpayers who were not the direct subject of TPB compliance action, references to all individuals and taxpayers, as well as information capable of identifying individuals and taxpayers, aside from Peter John Collins and PwC, have been redacted.

3. This question has been referred to the Australian Taxation Office.
4. The members of the Tax Practitioners Board's (TPB) Board Conduct Committee (BCC) are Craig Stephens (Chair), Debra Anderson, Peter de Cure, Steven Dobson, Peter Hogan and Judy Sullivan. Generally, the BCC convenes, with 4 members, to manage any issues, including possible conflicts of interests.

The BCC does not have any former employers of PwC, however, there are two Board members, Peter Hogan and Judy Sullivan that are former partners of PwC and the TPB has been advised that they each receive pension entitlements under the PwC Partnership Agreement.

Importantly, Ms Sullivan and Mr Hogan have made declarations of interest to the TPB about their connection to PwC. Further, to address any actual or perceived conflicts of interest, Ms Sullivan and Mr Hogan:

- recused themselves and did not sit on the relevant BCC that considered the Peter-John Collins and PwC matters; and
  - were not involved in any other relevant matters, decisions and discussions related to Peter John Collins and PwC, including discussions at Board meetings.
5. The TPB provides the following summary timetable of the investigation of Mr Peter-John Collins and PwC:

Date	Activity
2 April 2020	TPB received intelligence re Mr Peter John Collins.
2 July 2020	TPB received a referral re Mr Collins.
11 January 2021	The TPB commenced an investigation into Mr Collins.
8 March 2021	The TPB commenced an investigation into PwC
21 October 2022	<p>The TPB Board Conduct Committee (BCC) met and determined findings of breaches by:</p> <ul style="list-style-type: none"> <li>• Mr Collins of Item 1 of the Code of Professional Conduct (Code) (integrity) and Item 5 of the Code (failure to have appropriate procedures to manage conflicts of interest).</li> <li>• PwC of Item 5 of the Code (failure to have appropriate procedures to manage conflicts of interest)</li> </ul>

31 October 2022	The TPB notified Mr Collins and PwC of the BCC's findings and provided them with an opportunity to make a response or submissions in relation to possible sanctions.
25 November 2022	The BCC met and determined to sanction: <ul style="list-style-type: none"> <li>• Mr Collins with a termination of registration for breaches of the Code, prohibiting him from reapplying for a period of two years</li> <li>• PwC with an Order for breaches of the Code</li> </ul>
23 December 2022	The decisions on sanctions, and findings on breaches were published to the TPB's Public Register.
19 January 2023	The Collins and PwC decisions with reasons were updated and published on the TPB's Public Register.
23 January 2023	TPB issued a media release related to these matters.



# Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

**From:** [REDACTED] uk.pwc.com  
**To:** [REDACTED] <"cn=[REDACTED] ou=au/ou=tls/o=pwc@asiapac@intl">, [REDACTED]  
 [REDACTED] <"cn=[REDACTED] ou=uk/ou=tls/o=pwc@emea-uk">, [REDACTED] <"cn=[REDACTED]  
 [REDACTED] ou=us/ou=tls/o=pwc@americas-us">  
**Date:** Fri, 10 Oct 2014 20:00:35 +1100

We are probably at something of an advantage over you, [REDACTED] with regard to much of this, as we have existing MDRs. Having said that, I'm sure Australia has probably considered one or more elements of an MDR as well as some of the other specific reporting etc mentioned - including on the international side, it's key role in JITSIC.

To me it does seem heavily influenced by the characteristics of the UK regime and the consultations that have taken place around it over the years. That may be partly because of research carried out by the UK with respect of other regimes as well though.

A few immediate thoughts on a very quick read through:

- the introduction of (and subsequent amendments to) DOTAS here involved us and I'm sure many others in a massive investment in IT and governance systems to confirm that the tax advice given in relation to transactions by any of our people doesn't result in a disclosure requirement or, if it does need reporting, that a report is generated and clients advised of scheme reference number etc on top of the awareness we raise around ensuring our people comply with our ethical principles and our code of practice (need to be careful about how we phrase this)
- we probably need to capture experience from each of the countries mentioned with an MDR - UK, US, Ireland, Portugal, Canada, South Africa (whose schemes are summarised) + Israel and Korea (also mentioned)
- they intend to come up with a modular approach - one can surmise that this means all those with MDRs at the moment will be allowed to keep their existing regime (or largely to do so) and the standard will encompass all of them
- the international schemes element will be new to all the regimes and there are some interesting thoughts in the paper (and deliberately or otherwise, I noted it always refers to disclosure by the taxpayer!)
- not sure it needs to specifically mention the Big 4, when it says "Big 4 and other accountants" albeit in relation to the reduction in promotion of schemes - we could suggest its removal

The paper is well ahead of the planned circulation of a discussion draft (March 2015), so it seems we have plenty of time but it look like we may need it as there is potentially a lot to do. Best though that you're able to respond in some detail to the Australian government, [REDACTED] although I'm sure they're more interested in the impacts on Australia at this point.

Cheers

[REDACTED]  
 [REDACTED]  
 [REDACTED]

Email: [REDACTED] uk.pwc.com  
 PricewaterhouseCoopers LLP  
 1 Embankment Place, London WC2N 6RH  
<http://www.pwc.com/>

[REDACTED] 10/10/2014 01:53:15---Guys sorry, I hope this work. As per my other email this draft was provided to me on a strictly con

From: [REDACTED] AU/TLS/PwC@ASIAPAC  
 To: [REDACTED] UK/TLS/PwC@EMEA-UK@INTL  
 Cc: [REDACTED] UK/TLS/PwC@EMEA-UK, [REDACTED] US/TLS/PwC@americas-us  
 Date: 10/10/2014 01:53

Subject: Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

---

[attachment "OECD Discussion Draft - Mandatory disclosure of tax planning schemes - Sept 2014 - redacted Redacted.pdf" deleted by [REDACTED] UK/TLS/PwC]

Guys sorry, I hope this work. As per my other email this draft was provided to me on a strictly confidential basis.  
 regards

---

**PricewaterhouseCoopers** 201 Sussex Street | GPO Box 2650 SYDNEY NSW 2000

T: [REDACTED]  
 E: [REDACTED] [au.pwc.com](mailto:[REDACTED]@au.pwc.com)  
<http://www.pwc.com/au/legal>

This communication may contain confidential and/or legally privileged material. If you receive this communication as an agent for our client, or to assist in the provision of services to our client, you must not further disseminate this communication without our client's consent.

Please consider the environment before printing this email

[REDACTED] 09/10/2014 11:21:50 PM---HI [REDACTED] Did you intend to attach the confidential document? Fully understand your position on tha

From: [REDACTED] UK/TLS/PwC@EMEA-UK  
 To: [REDACTED] AU/TLS/PwC@ASIAPAC@INTL  
 Cc: [REDACTED] UK/TLS/PwC@EMEA-UK, [REDACTED] US/TLS/PwC@americas-us  
 Date: 09/10/2014 11:21 PM

Subject: Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

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HI [REDACTED]

Did you intend to attach the confidential document? Fully understand your position on that, by the way, and if you mean just keeping it quiet that you've got it at all and awaiting your comments on it, that's fine.

Cheers

[REDACTED]

[REDACTED]

[REDACTED]  
Email: [REDACTED] [uk.pwc.com](mailto:[REDACTED]@uk.pwc.com)  
PricewaterhouseCoopers LLP  
1 Embankment Place, London WC2N 6RH  
<http://www.pwc.com/>

[REDACTED] 09/10/2014 12:27:13---From: [REDACTED] [REDACTED] AU/TLS/PwC@ASIAPAC To: [REDACTED]  
[REDACTED] UK/TLS/PwC@emea-uk

From: [REDACTED] [REDACTED] AU/TLS/PwC@ASIAPAC  
To: [REDACTED] [REDACTED] UK/TLS/PwC@emea-uk  
Cc: [REDACTED] [REDACTED] [REDACTED] UK/TLS/PwC@emea-uk, [REDACTED] [REDACTED] US/TLS/PwC@americas-us  
Date: 09/10/2014 12:27

Subject: Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

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Thanks [REDACTED]

It sounds like you haven't received this document in any form. Because it was provided to us on a confidential basis I ask that you don't circulate it beyond us or discuss it outside PwC - it would really put PwC Australia and me in a real bind. There is a procedure for me to get you confidentiality clearances - you sign a deed - if needed.

Anyway I will review and share views soon per your suggestion.

There is a tight timeframe on me. It may be we conclude we can say nothing yet which is fine but maybe we will want to give some input.

I note in Australia a few years ago, despite some tax shelter reporting regimes in other countries, such regimes were not deliberately not pursued in favour of a regime of penalties for promoters of tax schemes. I could well see Australia and other countries now signing on to a reporting regime in the current environment, and adopting a common standard to facilitate information exchange.

Regards

[REDACTED]

Sent from my iPad

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On 9 Oct 2014, at 10:00 pm, "[REDACTED] [REDACTED] <[REDACTED]@uk.pwc.com>" wrote:



Hi [REDACTED]

Thanks for sharing this information. I've not seen anything specific and, indeed, [REDACTED] [REDACTED] ([REDACTED]), so you may have come across [REDACTED] even before [REDACTED] temporary advisory role with [REDACTED] didn't say anything about a draft in a short discussion with our EBIT group on Monday. [REDACTED] did say their focus was very much on international schemes and a modular design taking into account availability of "other disclosure tools (such as co-operative compliance)".

They intend too, [REDACTED] said, to design enhanced models for information sharing of these schemes between tax administration - building on the 400+ arrangements [REDACTED] said the [REDACTED] had already (but he wasn't drawn on - or was perhaps even dismissive of - the register JITSIC apparently has). But that's a rather different matter to the brunt of the initial disclosure requirements anyway.

Subject to anything [REDACTED] might add ([REDACTED] just back from holiday today, so may have a large workload to get through), I think the process for agreeing our global viewpoints is that the four of us share our thoughts (agreeing on others from whom we should seek out any specific input), arrange calls as necessary to thrash out any differences and present to the likes of [REDACTED] and [REDACTED]

Cheers

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

Email: [REDACTED] [uk.pwc.com](mailto:uk.pwc.com)  
PricewaterhouseCoopers LLP  
1 Embankment Place, London WC2N 6RH  
<http://www.pwc.com/>

[REDACTED] [REDACTED] 09/10/2014 04:33:26---Hi all I am emailing you as we are the global team on this one according to a table I recently saw.

From: [REDACTED] AU/TLS/PwC@ASIAPAC  
To: [REDACTED] US/TLS/PwC@Americas-US, [REDACTED] UK/TLS/PwC@EMEA-UK, [REDACTED]  
[REDACTED] UK/TLS/PwC@EMEA-UK  
Date: 09/10/2014 04:33  
Subject: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

Hi all

I am emailing you as we are the global team on this one according to a table I recently saw.

Today the Australian Treasury Department shared a copy of the above paper for comment by 17 October. It has been redacted and is confidential so I haven't included a copy but you may have a version from other sources.

I am pulling together some views and wanted to check in with you about how we go about developing a position for the globe and respond to requests like that I have just received.

[REDACTED] Are any of you attending ([REDACTED] I recall you are not attending).

regards

[REDACTED]  
[REDACTED]  
[REDACTED] 201 Sussex Street LGPO Box 2650 SYDNEY NSW 2000  
[REDACTED] [au.pwc.com](mailto:au.pwc.com)

<http://www.pwc.com/au/legal>

This communication may contain confidential and/or legally privileged material. If you receive this communication as an agent for our client, or to assist in the provision of services to our client, you must not further disseminate this communication without our client's consent.

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**Re: Online sales [SEC=UNCLASSIFIED]**

**From:** peter.collins@au.pwc.com  
**To:** [REDACTED]@au.pwc.com  
**Cc:** [REDACTED]@au.pwc.com  
**Date:** Wed, 18 Mar 2015 21:24:01 +1100  
**Attachments:** Agenda - Board of Taxation consultation on BEPS issues - Melbourne, 10 March 2015.pdf (6.46 kB)

It is confidential and the only way to find out is to go. Agenda attached (please don't share).

However, it is the BoT testing ideas including DPT and other BEPS concepts. I don't think DPT is likely based on what we discussed and they are definitely exploring VAT on imported goods and services (you may have seen NZ has now publicly said they are going down this path).

Impossible to know if this will lead to anything or nothing. Budget is May.



**Peter Collins**  
 Partner, International Tax Services  
 PwC Australia

Direct: +61 [REDACTED]  
 Cell: +61 (0) [REDACTED]  
 Email: [peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)  
 PricewaterhouseCoopers  
 Freshwater Place 2 Southbank Boulevard Southbank VIC 3006  
[{View Peter Collins's profile on LinkedIn}](#)

Taxtalk: [www.pwc.com/au/tax/taxtalk/](http://www.pwc.com/au/tax/taxtalk/)

Worldwide Tax Summaries: [taxsummaries.pwc.com](http://taxsummaries.pwc.com)

For the latest on BEPS: <http://www.pwc.com/beeps>

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[REDACTED] 18/03/2015 09:11:47 PM--- [REDACTED] Do we know what the discussion is about? There was scuttlebutt it was a fishing mission on beh

**From:** [REDACTED]@AU/TLS/PwC  
**To:** [REDACTED]@AU/TLS/PwC@AsiaPac  
**Cc:** Peter Collins/AU/TLS/PwC@AsiaPac  
**Date:** 18/03/2015 09:11 PM  
**Subject:** Re: Online sales [SEC=UNCLASSIFIED]

Do we know what the discussion is about? There was scuttlebutt it was a fishing mission on behalf of [REDACTED] to test waters on DPT.

Cheers

[REDACTED]



Email: [REDACTED]@au.pwc.com  
 PricewaterhouseCoopers  
 Darling Park 201 Sussex Street Sydney NSW 2000  
<http://www.pwc.com.au>

Please consider the environment before printing this email

**"This conversation is overdue..."**[pwc.com.au/tax/tax-reform](http://pwc.com.au/tax/tax-reform)

18/03/2015 09:07:09 PM---From: [REDACTED] AU/TLS/PwC To: [REDACTED] AU/TLS/PwC@asiapac

From: [REDACTED] AU/TLS/PwC  
 To: [REDACTED] AU/TLS/PwC@asiapac  
 Cc: Peter Collins/AU/TLS/PwC@asiapac  
 Date: 18/03/2015 09:07 PM  
 Subject: Re: Online sales [SEC=UNCLASSIFIED]

Thks for that ... Understand - Other Syd heads of tax we cld position that wld be interested and therefore cld generate some good will for us?

On 18 Mar 2015, at 8:12 pm, [REDACTED] <[REDACTED]@au.pwc.com> wrote:

When we discussed this at a recent [REDACTED] meeting, they had no idea what this meeting was about so they simply ignored any request. Given their treatment by the ATO at the moment and the Senate, they are not in the most generous of moods when it comes to volunteering resources to assist any level of authorities.

Having said that, if there was a stated purpose with agenda etc, I can raise it with them. I do think though, based on where they are, they will decline. Their whole legal and tax team has been working for the man for the 18 months!

cheers

Sent from my iPad

On 18 Mar 2015, at 7:21 pm, [REDACTED] <[REDACTED]@au.pwc.com> wrote:

as discussed today

Begin forwarded message:

**From:** "Peter Collins" <[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)>  
**Date:** 18 March 2015 5:13:05 pm AEDT  
**To:** "[REDACTED]" <[REDACTED]@au.pwc.com>  
**Cc:** "[REDACTED]" <[REDACTED]@au.pwc.com>, [REDACTED] <[REDACTED]@au.pwc.com>," [REDACTED] <[REDACTED]@au.pwc.com>,"

"[REDACTED] [REDACTED] <[REDACTED]@pwc.com.au>  
Subject: Fwd: Online sales [SEC=UNCLASSIFIED]

Regards

Peter  
Peter Collins  
Partner  
International Tax Services  
PwC Australia  
Office: [REDACTED]  
Cell: [REDACTED]  
[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)  
<http://www.pwc.com.au>  
<http://www.linkedin.com/in/petercollinspwc>

For the latest on BEPS: <http://www.pwc.com/beps>

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Begin forwarded message:

**From:** [REDACTED]  
**Date:** 18 March 2015 5:05:58 pm AEDT  
**To:** "Peter Collins" <[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)>  
**Subject:** FW: Online sales [SEC=UNCLASSIFIED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]



On 18 Mar 2015, at 3:18 pm, [peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com) wrote:

Hi [REDACTED]

You may have seen NZ talking about GST for online sales. Link below.

We have some folks in Australia in the thick of this issue with clients in Australia and if it would help the Board to have a chat with someone with that experience, just let me know and I would be happy to arrange an introduction.

Cheers.

Peter.

<http://m.tvnz.co.nz/news/video/business/6257075/?videoId=ref:6257383>

Regards

Peter  
Peter Collins  
Partner  
International Tax Services  
PwC Australia  
Office: [REDACTED]  
Cell: [REDACTED]  
[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)  
<http://www.pwc.com.au>  
<http://www.linkedin.com/in/petercollinspwc>

For the latest on BEPS: <http://www.pwc.com/beps>

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[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

---

[REDACTED]

**From:** [REDACTED] <"cn=[REDACTED] ou=au/ou=tls/o=pwc">  
**Sent:** Wednesday, 15 April 2015 10:51 AM  
**To:** [REDACTED]@au.pwc.com  
**Cc:** [REDACTED]@au.pwc.com; [REDACTED]@au.pwc.com; [REDACTED]@au.pwc.com; peter.collins@au.pwc.com; [REDACTED]@au.pwc.com  
**Bcc:**  
**Subject:** Re: Tax reform op ed - your thoughts please

[REDACTED] - Version I read (post all edits I think) is a perfectly pitched piece.

Now is op imal timing given we have some clear air btw senate and budget and can leverage the strong performance of T&P at senate while it's still fresh.

In terms of coverage I would pitch it at the SMH/Age obviously far broader audience than the Aus and AFR but importantly above the tabloid readership of tele and sun-herald

[REDACTED] is a v close personal friend [REDACTED] will run it in the WA for us separately to cover WA. [REDACTED] happy to call [REDACTED] together if you'd like.

Other updates ...

At our private lunch with [REDACTED] on Friday in Sydney, [REDACTED] said hat there is no business case to increase gst in soft economic (GDP growth) market. [REDACTED] position is that the comp payments required will wipe out the increased gst uplift and the multi year payback modelling only works when you are in a bull market like [REDACTED] was when [REDACTED] originally introduced it. [REDACTED] claimed that when you combined this with political difficulties the rate is not likely to move and base no likely to broaden beyond integrity measures which will not attract compensation. [REDACTED] was crisp on his and it appeared to me [REDACTED] prosecuted his point and agreed it more broadly across the government.

[REDACTED] is clearly ignoring medium to long term benefits (beyond the election cycle) and [REDACTED] reasoning fly's in the face of bold decisions made in the UK and NZ for example.

All very convenient for venerable [REDACTED] leadership team if you ask me

I saw [REDACTED] [REDACTED] this morning and [REDACTED] claims he [REDACTED] [REDACTED] told [REDACTED] hat the ATO will be returning to the senate (called back) with [REDACTED] also likely. I ask if hat was confirmed and [REDACTED] said [REDACTED] tells [REDACTED] the ATO have been told it's highly likely.

[REDACTED]

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

[REDACTED] [REDACTED] --15/04/2015 09:47:13 AM--Thanks [REDACTED] - [REDACTED] and I chatted this morning and have made some changes which I think also address y

From: [REDACTED] /AU/FIN/PwC

To: [REDACTED] AU/TLS/PwC@AsiaPac

Cc: [REDACTED] AU/FIN/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, Peter Collins/AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac

Date: 15/04/2015 09:47 AM

Subject: Re: Tax reform op ed - your thoughts please

Thanks [REDACTED] - [REDACTED] and I chatted this morning and have made some changes which I think also address your comments below. Latest draft is below and attached. Re newspaper, given [REDACTED] is going to write a story in [REDACTED] I wonder whether we are better taking this to The Australian. Or we could try to get this into the Daily Tele and Herald Sun which would be talking more to the general community. Let me know your thoughts.

### **The Parrots have Started Squawking**

**Opinion Editorial by [REDACTED] [REDACTED] [REDACTED]**

The Senate Inquiry into tax avoidance shone a spotlight on the need for both domestic and international tax reform.

Whilst no-one likes paying tax, the reality is, our taxes fund the high standards of living we enjoy here in Australia. Taxes fund our roads, schools, health and welfare systems.

It is now broadly accepted that Australia has a problem - we are spending far more than we are collecting in taxes and we have a political climate that is making bold reform very difficult. If we continue down this path, we have to accept that our standard of living will be in decline.

Whether this is the fault of politicians in failing to make a compelling case for change or whether Australians are not ready to accept there is a problem and therefore not listening, is to be debated. But the reality is, the status quo is not sustainable.

On international tax reform, PwC strongly believes we need to be moving in lock step with the OECD reform process.

The international tax system is a collection of domestic tax systems with a series of overarching principles that are enshrined in international tax treaties. The OECD is looking to reform these principles and modernise them for a more digital, borderless world. Part of this is about getting global consensus on what is fair international tax competition and what is going too far. The OECD is scheduled to deliver its next round of recommendations in September this year; only five months away.

The only way we are going to solve the issue of what is and isn't acceptable tax competition is through global international pressure. Australia cannot solve this on our own. We need to have influence and input to the global rules, which we have very effectively achieved through our Chairmanship of the G20.

Underneath these international tax principles are domestic tax systems. Countries compete for global capital from businesses and set their individual tax regimes based on what is good for their country. International tax competition is alive and well. Each country has the sovereign right to set their tax policy to attract companies to do business, thereby contributing to the economy by paying taxes, employing people and, hopefully, creating the leading products and services of the future. The current tax debate needs to be focused on how Australia can set itself up to attract the next [REDACTED] or [REDACTED] to our shores, as much as it is about protecting our existing tax base.

The question is, what is the upside and potential downside of moving ahead of the OECD reform process and taking unilateral action?

If we follow in the UK's footsteps by introducing a diverted profits tax, the upside will be in political slogans and media headlines that have popular appeal to some, but it won't result in a pot of gold. If anything, there will be downside.

Australia is heavily dependent on imported capital. Whether you look at the big mining projects being built, the big LNG projects, or the building of roads, bridges and infrastructure, we need global capital because we are a relatively small nation and small economy. We need to ensure Australia is an attractive and competitive place to do business and we need to consider this in the context of other domestic tax systems globally, such as the UK and Singapore.

If we get out of step with the global community, we run the risk of becoming less competitive as a nation. What we don't want is having a great tax system, but no business to tax, because we have become uncompetitive on the global stage.

At 30%, we have one of the highest corporate tax rates in the OECD and at 10%, we have the lowest consumption tax, with a number of substantial exclusions including food, education and health. Compare this to the UK which, over the past two years, has reduced its corporate tax rate to 20% and increased its consumption tax (VAT) to 20%. Combine this with the UK's position as a significant financial hub, and we have seen an increase in the number of companies choosing to set-up shop in the UK, resulting in jobs and growth for their economy.

Closer to home, Singapore's government has had a deliberate strategy to attract businesses to its shores via a highly competitive tax rate of 17% and is now also a serious financial and economic centre in its own right in a rapidly growing region. It has become the London of Asia.

However, Singapore is reaching capacity. The rising cost of living has removed some of the appeal of Singapore as a destination for workers and this presents an opportunity for Australia. Australia is in the same time zone as Asia, we are much closer geographically than the UK or the US and we offer a lifestyle that makes Australia's capital cities pretty compelling places to live and work. In short, we have a huge opportunity to be the hub for companies looking to do business in Asia.

As we embark on our debate around tax reform, we need to be thinking about how we can position Australia to attract the companies and industries of the future and how we maximise our role in the Asia Pacific region.

While we wait for the OECD to complete its work, we need to fundamentally reform our domestic tax system. This is going to require facing into politically unpalatable conversations around tax expenditures, bracket creep, the corporate tax rate and GST. It is not as simple as reducing the corporate tax rate and raising the GST; all elements of the system need to be on the table and all need to be considered, starting with determining whether tax expenditures result in unwarranted distortions. And we need the States involved because stamp duty, insurance levies and payroll tax are part of the reform conversation.

Most importantly, we need every interest group to come to the debate with an open mind and a willingness to embrace the complexity of our tax system and the need for there to be trade offs in the reform process. If everyone is fixated on achieving the one thing they believe will be the pancea, whether it be raising the GST, dropping the corporate tax rate or abolishing negative gearing, we are going to do nothing except tread water. The answer is going to be far more nuanced than this and we need a mature debate to achieve the right outcome.

The panacea is getting the balance right between creating a tax system that is sustainable and sets Australia up for future growth and prosperity, whilst taking care of the most vulnerable members of our society.

The good news is, tax reform no longer seems to be a conversation just for tax boffins. As Paul Keating said, we need every parrot squawking and, the good news is, if the number of vocal parties and media headlines from the senate inquiry is anything to go by, the squawking has well and truly begun.

[attachment "Op Ed - [REDACTED] - v2.docx" deleted by [REDACTED] AU/TLS/PwC]



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PricewaterhouseCoopers  
Darling Park 201 Sussex Street Sydney NSW 2000  
<http://www.pwc.com.au>

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15/04/2015 09:33:36 AM---14/04/2015 08:57 28 PM--- From: AU/TLS/PwC

From: AU/TLS/PwC

To: AU/TLS/PwC@asiapac

Cc: AU/TLS/PwC@asiapac, Peter Collins/AU/TLS/PwC@asiapac, AU/F N/PwC@asiapac, AU/FIN/PwC@asiapac

Date: 15/04/2015 09 33 AM

Subject: Re: Tax reform op ed - your thoughts please

See comments in CAPS

- Ok to circulate updated draft - then lets chat re which paper and logistics etc

Sent from my iPad

On 14 Apr 2015, at 9:58 pm, "<au.pwc.com>" wrote:

1. Support doing this.
2. We need to modify the message a bit and fix some phrasing. AGREE FAIRNESS POINT KEY AND LINK TO REVIEW OF TAX EXPENDITURES
3. On modify, we need to emphasise that coy tax change is not a panacea to facing all issues. when discuss reform options we need to emphasise the fairness point and we need to state that we need to re-examine all tax expenditures and eliminate unwarranted distortions. Also need to state that States and Fed government need to be involved - not just the Feds. AGREE ON STATES BUT DO NOT WANT IT TO BE AN EXCUSE THAT ITS TO HARD - SHOULD STATE THAT COMM MUST LEAD

PS Met with : is still super keen to do the land tax/stamp duty trade off and wants to act real soon. we are going to think about some issues asked us about and then arrange to meet again after Fed Budget. is like the is a character from "Goodfellas".

Email: au.pwc.com

PricewaterhouseCoopers

Freshwater Place 2 Southbank Boulevard Southbank VIC 3006

**"This conversation is overdue..."** [pwc.com.au/tax/tax-reform](http://pwc.com.au/tax/tax-reform)

14/04/2015 08:57:28 PM---

From: AU/TLS/PwC



To: Peter Collins/AU/TLS/PwC@asiapac  
Cc: [REDACTED] AU/TLS/PwC@asiapac, [REDACTED] AU/TLS/PwC@asiapac  
Date: 14/04/2015 08:57 PM  
Subject: Re: Tax reform op ed - your thoughts please

---

Think we should be on the front foot but take into account [REDACTED] comments given budget possibilities.

Great initiative [REDACTED]



Sent from my iPhone

On 14 Apr 2015, at 8:52 pm, Peter Collins <[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)> wrote:

I can't be more specific but there is reason to believe that there will be some nasties in the budget. No surprise based on rumours in the papers. On this basis, I wonder if you want to publish this before the budget.

If you want to go ahead, I would be happy to suggest a few changes to the note below.

Regards

Peter  
Peter Collins  
Partner  
International Tax Services  
PwC Australia  
Office: [REDACTED]  
Cell: [REDACTED]  
[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)  
<http://www.pwc.com.au>  
<http://www.linkedin.com/in/petercollinspwc>

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Begin forwarded message:

**From:** "██████████" <██████████@au.pwc.com>

**Date:** 14 April 2015 17:05:39 AEST

**To:** "██████████" <██████████@au.pwc.com>, "██████████" <██████████@au.pwc.com>, "Peter Collins" <peter.collins@au.pwc.com>, "██████████" <██████████@au.pwc.com>

**Cc:** "██████████" <██████████@au.pwc.com>

**Subject:** Tax reform op ed - your thoughts please

██████████ and ██████████

Having listened to ██████████ passionately talk to tax reform many times in the past week, I thought it might be valuable to put pen to paper and capture some of what I have heard ██████████ say with the purpose of submitting an op ed to one of the national newspapers or, at the very least, for use on forums like LinkedIn etc. Attached is my first crack at this which is largely based on the discussion we had with ██████████ from the ██████████ today. I thought I would seek the views of you four first, before circulating more broadly. I thought it would be good to capitalise on the momentum coming out of last week's inquiry.

Let me know your thoughts.

### **The parrots have started squawking**

The Senate Inquiry into Tax Avoidance shone a spotlight on the need for both domestic and international tax reform.

Whilst no-one likes paying tax, the reality is, our taxes fund the high standards of living we enjoy here in Australia. Taxes fund our roads, schools, health and welfare systems.

It is now broadly accepted that Australia has a problem – we are spending far more than we are collecting in taxes and we have a political climate that is making bold reform very difficult. If we continue down this path, we have to accept that our standard of living will be in decline.

Whether this is the fault of politicians in failing to make a compelling case for change or whether Australians are not ready to accept there is a problem and therefore not listening, is to be debated. But the reality is, the status quo is not sustainable.

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The only way you are going to solve the issue of what is and isn't acceptable tax competition is through global international pressure. Australia cannot solve this on our own. We need to have influence and input to the global rules, which we have very effectively achieved through our Chairmanship of the G20.

Underneath these international tax principles are domestic tax systems. Countries compete for global capital from businesses and set their individual tax regimes based on what is good for their country. International tax competition is alive and well. Each country has the sovereign right to set their tax policy to attract companies to do business, thereby contributing to the economy by paying taxes, employing people, and hopefully creating the leading products and services of the future. The current tax debate needs to be just as much about how Australia sets itself up to attract the next ██████████ or the next ██████████ to our shores, as it is about protecting our existing tax base.



The question is, what is the upside and potential downside of moving ahead of the OECD reform process and taking unilateral action?

If we follow in the UK's footsteps by introducing a diverted profits tax, the upside will be in political slogans and media headlines that appeal to some in the general community, it won't result in a pot of gold. If anything, there will be downside.

Australia is heavily dependent on imported capital. Whether you look at the big mining projects being built, the big LNG projects, or the building of roads, bridges and infrastructure, we need global capital because we are a relatively small nation and small economy. We need to ensure Australia is an attractive and competitive place to do business and we need to consider this in the context of other domestic tax systems globally, such as the UK and Singapore.

If we go it alone and get out of step with the global community, we run the risk of becoming less competitive as a nation. What we don't want is having a great tax system, but no business to tax, because we have become uncompetitive on the global stage.

At 30%, we have one of the highest corporate tax rates in the OECD and at 10%, we have the lowest consumption tax, with a number of substantial exclusions including food, education and health. Compare this to the UK which, over the past two years, has reduced its corporate tax rate to 20% and increased its consumption tax (VAT) to 20%. Combine this with the UK's position as a significant financial hub, and we have seen an increase in the number of companies choosing to set-up shop in the UK, resulting in jobs and growth for their economy.

Closer to home, Singapore's government has had a deliberate strategy to attract businesses to its shores via a highly competitive tax rate of 17% and is now also a serious financial and economic centre in its own right in a rapidly growing region. It has become the London of Asia.

However, Singapore is reaching capacity. Whereas it used to be a country that was considered inexpensive and a great place to live, the cost of living has now skyrocketed and, if you asked most people whether they would choose to live in Singapore, or in one of Australia's capital cities, most would choose Australia. We are in the same time zone as Asia, we are much closer geographically than the UK or the US and we are more culturally aligned in a number of ways. In short, we have a huge opportunity to be the hub for companies looking to do business in Asia.

As we embark on our debate around tax reform, we need to be thinking about how we can position Australia to attract the companies and industries of the future and how we maximise our role in the Asia Pacific region.

The bottom line is, while we wait for the OECD to complete its work, we need to be looking at fundamentally reforming our domestic tax system. This is going to require facing into politically unpalatable conversations around the GST, the corporate tax rate, bracket creep, deductions and expenditures. All elements of the system need to be on the table and all need to be changed in some way. We have to get the balance right between creating a tax system that is sustainable and sets Australia up for future growth and prosperity, whilst taking care of the most vulnerable members of our society.

The good news is, tax reform no longer seems to be a conversation just for tax boffins. As Paul Keating said, we need every parrot squawking and the good news is, if the number of vocal parties and media headlines from the senate inquiry is anything to go by, the squawking has well and truly begun.



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## BEPS in Budget

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**From:** peter.collins@au.pwc.com  
**To:** "tls au beps update national ptrs mail"  
**Cc:** [REDACTED] <"cn=[REDACTED] ou=au/ou=tls/o=pwc@asiapac">, [REDACTED] <"cn=[REDACTED] ou=au/ou=tls/o=pwc@asiapac">, [REDACTED] <"cn=[REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
**Date:** Wed, 15 Apr 2015 16:39:02 +1000

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You might hear rumours around the market that treasury is consulting in relation to BEPS measures that might be announced in the budget.

This is true and PwC is participating (with [REDACTED] 2 corporates, ATO and [REDACTED]).

It is OK to tell clients this consultation has been happening (eg a meeting today) but the details of the proposals are subject to confidentiality undertakings and not approved by cabinet yet.

Based on recent press articles, this should not be a surprise but I wanted to assure you that PwC is involved. As always, don't believe everything reported in the press.

We will all find out the proposals on budget night next month.

This is a great topic to start with clients and I will send around a note with some suggestions on topics tomorrow.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

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For the latest on BEPS: <http://www.pwc.com/beps>

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**From:** peter.collins@au.pwc.com  
**Sent:** Thursday, 16 April 2015 10:59 PM  
**To:** [REDACTED]@uk.pwc.com  
**Bcc:**  
**Subject:** Fw: Talking BEPS, Budget and Senate

FYI. I am expecting something like a [REDACTED] tax but it won't be a copy of DPT. Something more creative.

**Peter Collins**  
 Partner, International Tax Services  
 PwC Australia

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— Forwarded by Peter Collins/AU/TLS/PwC on 16/04/2015 10 58 PM —

**From:** Peter Collins/AU/TLS/PwC  
**To:** TLS National ITS M&A  
**Cc:** TLS AU BEPS UPDATE National Ptrs Mail, [REDACTED], [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac  
**Date:** 16/04/2015 06 09 PM  
**Subject:** Talking BEPS, Budget and Senate

---

Now is a great time to discuss the Senate hearing and the upcoming budget, particularly because we are expecting some BEPS related changes on 12 May based on recent media reports. [REDACTED] key messages from the Senate Inquiry were circulated earlier today.

Notwithstanding we don't know what might be in the budget, I think it would be helpful to start a discussion on this topic with clients that might be affected or interested in these international reforms. I have included some talking points below that might be helpful. As always, please share suggestions and experiences with the rest of us.

Senate inquiry has increased hype around big (mainly foreign) MNCs not paying enough tax and [REDACTED] has made it clear that he thinks foreign companies are not contributing their "fair share". He has indicated that he plans to take

on in this area and this is enough to make us think there might be some things in the budget

██████ has announced a GST for B2C (probably modelled off Norway or South Africa) and NZ has done the same. This has been dubbed the "██████ tax" in the newspapers. ██████████ or ██████████ are leading the charge in understanding how this might work and affect clients.

3. Some points from the Senate:

- 768-A was highlighted by ██████████ as an the "exact opposite" of Action 2 (hybrids). Doesn't hurt to point this out to ██████████ clients noting that ██████████ apparently does not understand 768-A was deliberately designed to fix the 25-90, s23AJ, Div 820 anomaly. In addition, the ATO (██████████) and Treasury (██████████) confirmed 768-A was intended and understood. In the next few weeks we expect to have a 768-A Part IVA clearance for a client which should be market leading.

- Part IVA was highlighted as inadequate to deal with "marketing hubs" and technology companies because foreign taxes or commercial benefits overwhelm Australian taxes saved. Must be a chance the Government would look at this perceived weakness.

- s25-90 (or sections "25 to 90" as per ██████████) continued to be raised. Treasury re-confirmed this is not a concern they share.

- True tax rates in Singapore were highlighted (ie. 17% is the headline rate, but much lower rates are typically negotiated).

- VCT and debt planning were highlighted as key focus areas.

- The Government's dilemma of unilateral action (to quell current community concern) vs multi-lateral action (to stay with the OECD plan on BEPS) was highlighted many times. Any budget changes would need to address this.

- ██████████ indicated ██████████ view that;

- Action 2 (hybrids) is ready to go ("domestic tax legislation is annexed to the report"). This might encourage the Government to look at moving on his Action item.

- Action 4 (debt) is well developed. This is an important one to watch for Australia because it may require thin cap to be tightened (again).

- All 15 deliverables are to be expected on 8 October 2015.

- the potential downside of BEPS to Australia (eg our MNCs being BEPSed by other countries) continues to be played down in public.

- on-going pressure for more public disclosure (beyond Schedule 5) continues and the benefits of voluntary disclosure of taxes has been highlighted (eg Rio)

4. Then there are the labour proposals (<http://www.theirfairshare.org.au/ourpolicy>). Key ones for us:

- Action 4 (debt) on steroids; the Labour plan is WWG only (no safe harbour or arm's length debt test)

- Action 2 (hybrids)

However, given the current state of politics, it is hard to imagine the Government adopting anything suggested by the Opposition.

5. Other suggestions:

- What would the world look like with a ██████████ tax and a ██████████ GST? This can be both what would happen if Australia goes down that path and also what happens if other countries follow. A key question might be the reach of an Australian version of a ██████████ tax and, in particular, how far it could extend to other "avoided PE" examples (Action 7): sale of goods or equipment (with local support), marketing hubs and the centralised models, leasing arrangements, retailers and anything else where the ATO is not satisfied with cost plus.

- Do a back of the envelope on Action 4 based on published accounts. eg for ██████████, debt/equity = .37 which is equivalent to 27% of assets (a lot less than 60%).

- Do the same on Action 2 eg direct disregarded debt non-deductible, outbound hybrids turned off, imported mismatches non-deductible etc

- What will CbyC highlight to revenue authorities?

- Should we move now to make more voluntary disclosure of our tax affairs?

**Peter Collins**  
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PwC Australia

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**Unknown**

---

**From:** peter.collins@au.pwc.com  
**Sent:** Friday, 17 April 2015 5:24 PM  
**To:** [REDACTED]@au.pwc.com  
**Subject:** Fw: [REDACTED] Tax

I will organise and you wanna join?

**Peter Collins**  
 Partner, International Tax Services  
 PwC Australia

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----- Forwarded by Peter Collins/AU/TLS/PwC on 17/04/2015 05:23 PM -----

**From:** [REDACTED] IE/TLS/PwC@EMEA-IE  
**To:** Peter Collins/AU/TLS/PwC@ASIAPAC@INTL  
**Cc:** [REDACTED] IE/TLS/PwC@EMEA-IE, [REDACTED] IE/TLS/PwC@EMEA-IE  
**Date:** 17/04/2015 04:56 PM  
**Subject:** Re: [REDACTED] Tax

---

Hi Peter

Yes, we've been following developments in Aus and [REDACTED] and I (cc'd here) have been chatting with the [REDACTED] [REDACTED] [REDACTED] in particular when we were in [REDACTED] about the UK DPT. I [REDACTED]  
 [REDACTED] and this Aus change is one of the things that I was going to reference.

Might be useful for the three of us to have a chat in the first instance? Any times early next week suit? I think you are +9 at the moment (I think) - its just coming up to 8am here now

Cheers



Email: [REDACTED]@ie.pwc.com  
 PricewaterhouseCoopers  
 One Spencer Dock, North Wall Quay, Dublin 1, Ireland  
<http://www.pwc.ie>

Peter Collins---17/04/2015 07:52:32---Hi [REDACTED] You may have read that we are planning a "[REDACTED] tax" (unofficially) as well as "[REDACTED]"

From: Peter Collins/AU/TLS/PwC@ASIAPAC  
 To: [REDACTED] /IE/TLS/PwC@EMEA-IE  
 Date: 17/04/2015 07:52  
 Subject: [REDACTED] Tax

[REDACTED]

Hi [REDACTED] You may have read that we are planning a "[REDACTED] tax" (unofficially) as well as "[REDACTED] GST" (officially) here. I am helping the Govt think about the proposals that I expect will be released in our budget on 12 May. There may be a few other items which will be of interest to IT companies too but no final decision has been made at this point about any of these proposals.

I understand that you work closely with a number of companies in this sector but my experience has been that our relationships in this sector are patchy in the US. I just wanted to check if there is anyone you know in our network who I should chat to in relation to these measures; both from a perspective of learning from experiences elsewhere and/or helping these companies (if they need any) understand any new Australian rules.

If you have any suggestions, let me know.

Thanks

Peter

**Peter Collins**  
 Partner, International Tax Services  
 PwC Australia

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**From:** [REDACTED]@ie.pwc.com  
**Sent:** Wednesday, 20 May 2015 12:20 AM  
**To:** [REDACTED]@au.pwc.com  
**Cc:** [REDACTED]@ie.pwc.com  
**Bcc:**  
**Subject:** Re: Fw: Progress with US Tech company project: update on Australia's MAAL last night

cheers and thanks [REDACTED] Peter Collins has been in touch last month keeping us in the loop as well. Hope all going well. Regards

[REDACTED]

[REDACTED]  
Email: [REDACTED]@e.pwc.com  
PricewaterhouseCoopers  
One Spencer Dock, North Wall Quay, Dublin 1  
<http://www.pwc.ie>

[REDACTED] 12/05/2015 21:37:37---[REDACTED] It has been a little while, but I hope this finds you in good health.

From: [REDACTED] AU/TLS/PwC@ASIAPAC  
To: [REDACTED] / E/TLS/PwC@EMEA-IE  
Date: 12/05/2015 21 37

Subject: Fw: Progress with US Tech company project: update on Australia's MAAL last night

[REDACTED]

[REDACTED]

It has been a little while, but I hope this finds you in good health.

For your information.

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

E [REDACTED] [\[REDACTED\]@pwc.com](mailto:[REDACTED]@pwc.com)

<http://www.pwc.com/au/tax/controversy/index.htm>

Find me on LinkedIn at [REDACTED]

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— Forwarded by [REDACTED] AU/TLS/PwC on 13/05/2015 06 36 AM —

From: [REDACTED] AU/TLS/PwC

To: [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac

Date: 13/05/2015 06 36 AM

Subject: Re: Progress with US Tech company project: update on Australia's MAAL last night

---

Guys,

Last night (either directly to our relationships, or through the US partners, setting us up for new relationships) we emailed an update and suggested work plan to:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Age Group	Percentage
18-24	10%
25-34	15%
35-44	20%
45-54	10%
55-64	25%
65+	35%
75+	40%
85+	20%
95+	10%
105+	5%
115+	10%

We have already heard back from a number and have several calls lined up.

Kind regards,

[illegible]E [\[REDACTED\]@au.pwc.com](mailto:[REDACTED]@au.pwc.com)

<http://www.pwc.com.au/tax/controversy/index.htm>

Find me on LinkedIn at [\[redacted\]](#)

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22/04/2015 09:40:33 PM---Guys, Its been a couple of months since I gave an update on how this was going. It is messy and com

From: [REDACTED] AU/TLS/PwC  
 To: [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac  
 Cc: [REDACTED] AU/TLS/PwC@AsiaPac  
 Date: 22/04/2015 09:40 PM  
 Subject: Progress with US Tech company project

---

Guys,

Its been a couple of months since I gave an update on how this was going. It is messy and complex, but showing good results. Happy to chat around specifics if useful.

The project to comprehensively connect with tech companies in the US (that I started with [REDACTED]) has now been running just over two years. The main focus has logically been Controversy and TP ([REDACTED] but GST ([REDACTED] is now getting traction. In addition ITS ([REDACTED] are involved on a couple of accounts. There may later be a general corporate tax involvement, but only if business models change. I think, with my background, I am well placed to facilitate this if it happens.

My last note was November 2014 below. [REDACTED]

I have listed just below in this note relationships and outcomes that have arisen since November, and I have added information in bold into the November email below where there is an update on the accounts referred to there. There are other targets being pursued at the moment and who I expect to speak to shortly. I haven't listed them if they are still pending. I have also met or spoken to most of the relevant partners in [REDACTED] and the [REDACTED] there. I will join the Global TICE partners call tonight at [REDACTED] ([REDACTED]) invitation to update the broader TICE community.

[REDACTED] We have now commenced work to assist them with an APA which includes a PE issue. Significant assignment and places us well for any future work. We have now met most of their tax team in Seattle

[REDACTED] Met with [REDACTED] and [REDACTED]. Although they are happy to share experiences, they say they are satisfied with their current advisors. Will be a slow slog to get anything.

[REDACTED] First call with them this week after chasing while there in April.

[REDACTED] Met with [REDACTED]. Is adamant they have no PE risk. Has engaged with GST over ATO RFI. t also has some TP questions ([REDACTED] to assist) so job may develop.

First call with them this week after chasing while there in April. I pitched GST story to them re changes and they have asked for an initial call on this.

First call with them next week.

(I note and are off-bounds to me because of client conflicts.)

Kind regards,

E [au.pwc.com](mailto:au.pwc.com)

<http://www.pwc.com/au/tax/controversy/index.htm>

Find me on LinkedIn at

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09/11/2014 09:31:23 PM--- (and for your information), In relation to the comment on an overall coverage of BEPS/Au

From: AU/TLS/PwC@ASIAPAC

To: US/TLS/PwC@americas-us, US/TLS/PwC@AMERICAS-US@INTL

Cc: US/TLS/PwC@americas-us, AU/TLS/PwC@AsiaPac

Date: 09/11/2014 09 31 PM

Subject: Re:

---



██████ (and ██████ for your information),

In relation to the comment on an overall coverage of BEPS/Australia in the Valley I attach below a summary of what I did there a couple of weeks ago. I suspect you might not have had line of sight over all the meetings ██████ and ██████ helped me arrange. I know one of my transfer pricing colleagues ██████ who is working with me on ██████ is also there in a week.

I met with:

██████ ██████. Now in BEPS CRR in Australia. A significant controversy client with a small GCS compliance fee. Have now had a number of meetings both here and in the US with their full US tax team and ██████ their usual advisor. We have recently been successful in having ██████ excluded from the local work and persuaded regional counsel to run with us. **Major RFIs completed and filed. Some discussion around briefing their Australian exec group. In a significant development, they told me I had been discussed at a tech community tax discussion group this month as useful in Australia.**

██████ Met with ██████ and her entire team and walked them through the environment here. They are now featuring in the press and are likely to have a review. They have agreed to use us, again despite using ██████ in the Valley. Will also use us for minor GCS fee.

██████: Met with ██████ and ██████ and walked them through the environment here. They are also in the press and are likely to have a review. They have agreed to use us, despite using ██████ here. In fact in the course of the discussion they will consider shifting their compliance to us, although it is a small amount. **██████ has left and I have now met with ██████ replacement, ██████. ██████ is anxious to start a review of the Australian operation and on the spot we looked at staff profiles and can see a need to explore operations to make sure no risk has arisen. Will follow up in a month and offer to assist.**

██████ Met with ██████ and ██████ who don't use us, and said they are happy with their existing advisors. Are in early stage of a risk review. PwC US is to investigate to see if they can discover who existing advisor is, I will also touch base with ██████ Virgona and see if he knows. Happy to add us as an "alternate service provider". I will stay in touch, but it doesn't look promising. **Have now had extensive meeting after persuading them to shared their RFI's and they asked for insight into approach to adopt while I was there in April. Have offered to co-ordinate and manage evidence as we did for ██████. Looks promising.**

██████: You will recall they decided not to go with us on audit defence, but to use ██████ after engaging them on assistance with an APA. Met with ██████ and ██████. Ongoing pessimism. They won't use us for dispute work, ██████ firmly entrenched as are ██████. Have engaged with them around cloud offerings and given them an outline of GST issues they need to consider, may be engagement with our GST guys as a result. Also engaged around withholding tax risk on ██████ arising as a result of our ██████ work. They recognise the risk but believe they are currently managing it...I agree. Their Australian staff are now doing significant work managing the ATO requests. ██████ **Have given advice on choice of counsel and suggested we be engaged ASAP. They are holding off at moment as ATO has left them alone for 4 months. Advised when there in April that ATO has made contact and asked for a meeting, so might get progress shortly.**

██████ Had a great session with ██████. They are in early stage risk review, but we believe it may escalate. Global hadn't appreciated that there was a risk of 264/264A, that there was a reverse onus of proof, that 264A would require an urgent case theory (and the attendant decisions re litigation management). They will now pay more attention to the Australian guys and what they are doing I think. The good news is they knew the names of their usual Australian advice team, ██████

Also spent time with two of the lawyers leading dispute work in the Valley, ██████ and one of the ██████ both of whom I have dealt with for a number of years on various client matters.

There is a tax discussion group in the valley that most of these teams attend and spreading our brand in it is starting to produce a network effect. In addition most of the teams have moved from company to company, or have come from ██████ or ██████ so being recognised by these firms has been important.

Kind regards,

██████

████████████████

██████

████████████████

████████████████

████████████████

■ [REDACTED]

E [REDACTED]@us.pwc.com

<http://www.pwc.com/au/tax/controversy/index.htm>

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■ [REDACTED] 12/09/2014 10:43:26 AM--- The content of this email is limited to the matters spec

From: ■ [REDACTED] US/TLS/PwC@AMERICAS-US

To: ■ [REDACTED] AU/TLS/PwC@asiapac, ■ [REDACTED] US/TLS/PwC@americas-us

Cc: ■ [REDACTED] AU/TLS/PwC@asiapac, ■ [REDACTED] US/TLS/PwC@americas-us

Date: 12/09/2014 10:43 AM

Subject: Re: ■ [REDACTED]

---

■ [REDACTED] thanks for the heads up.

■ [REDACTED] understand ■ [REDACTED] is based in San Francisco. Do you know whether we have any relationship with them? We should also circle back on a discussion we had a few months ago regarding the Australian BEPS audits and whether we can/should be doing something along the lines of information sharing on behalf of our clients. Thanks in advance for your help here.

\*\*\*\*\*

■ [REDACTED] ■ [REDACTED]

PricewaterhouseCoopers

300 Madison Avenue

New York, NY 10017

■ [REDACTED]

■ [REDACTED]

Email [REDACTED]@us.pwc.com

On Sep 11, 2014, at 6:59 PM, "■ [REDACTED] <[REDACTED]@us.pwc.com>" wrote:



[REDACTED]

Hi, I hope you are well.

[REDACTED] seems to be one of the hottest tech stocks going around at the moment. See the press they recently received in Australia:

[REDACTED]

As you know, Australia is at the forefront of attacking BEPS and seems to have particular affection for US companies! Do you know if we have any relationship with them in the US? They can expect a [REDACTED] style ATO review down here and we would like to reach out to them.

Cheers

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Email: [REDACTED][@pwc.com](mailto:[REDACTED]@pwc.com)

PricewaterhouseCoopers

Darling Park 201 Sussex Street Sydney NSW 2000

<http://www.pwc.com.au>

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[REDACTED]

*"This conversation is overdue..."* [pwc.com.au/tax/tax-reform](http://pwc.com.au/tax/tax-reform)

---

The content of this email is limited to the matters specifically addressed herein and is not intended to address other potential tax consequences or the potential application of tax penalties to this or any other matter.

**From:** peter.collins@au.pwc.com  
**To:** [REDACTED] [REDACTED] <"cn=[REDACTED] [REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
**Sent:** Tuesday, 21/07/2015 09:16 AM  
**Subject:** Re: gossip?

---

Haven't heard that but haven't been paying attention to 176DA. Let me check with someone who will know.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

For the latest on BEPS: <http://www.pwc.com/beps>

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On 21 Jul 2015, at 5:57 am, [REDACTED] [REDACTED] <[REDACTED]@au.pwc.com> wrote:

Peter,

Have we heard any suggestion that the [REDACTED] tax amendments might be delayed in their operation?

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

E: [REDACTED][au.pwc.com](mailto:[REDACTED]@au.pwc.com)

<http://www.pwc.com.au/tax/controversy/index.htm>

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**From:** peter.collins@au.pwc.com  
**To:** [REDACTED] [REDACTED] <"cn=[REDACTED] [REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
**Sent:** Tuesday, 21/07/2015 12:05 PM  
**Subject:** Re: gossip?

---

Treasury tells me defer is very unlikely although there are plenty pushing for it.

Plan is still to get this through in spring.

There will be some amendments circulated in next week or so. 2 keys bits: more Color on substantial activity and some more purpose sign posts. I think [REDACTED] quite active; pushing the unintended outcomes line.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

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On 21 Jul 2015, at 5:57 am, [REDACTED] <[REDACTED][au.pwc.com](mailto:[REDACTED]@pwc.com)> wrote:

Peter,

Have we heard any suggestion that the [REDACTED] tax amendments might be delayed in their operation?

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

E: [REDACTED][au.pwc.com](mailto:[REDACTED]@pwc.com)

<http://www.pwc.com.au/tax/controversy/index.htm>

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## Fw: CbCR ED update

From: [REDACTED]@au.pwc.com  
 To: [REDACTED]@au.pwc.com  
 Cc: [REDACTED]@au.pwc.com, [REDACTED]@au.pwc.com, [REDACTED]@au.pwc.com, peter.collins@au.pwc.com, [REDACTED]@au.pwc.com  
 Date: Wed, 29 Jul 2015 19:02:09 +1000

[REDACTED] fyi as discussed earlier. I'll come by tomorrow so we can call [REDACTED]

Email: [REDACTED]@au.pwc.com  
 PricewaterhouseCoopers  
 Freshwater Place 2 Southbank Boulevard Southbank VIC 3006  
[www.pwc.com.au](http://www.pwc.com.au)

----- Forwarded by [REDACTED] AU/TLS/PwC on 29/07/2015 07:00 PM -----

From: [REDACTED] AU/TLS/PwC  
 To: TLS AU TP Ptrs Mail, TLS AU TP Dirs Mail, [REDACTED] AU/TLS/PwC@AsiaPac, Peter Collins/AU/TLS/PwC@AsiaPac  
 Cc: [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac  
 Date: 29/07/2015 06:56 PM  
 Subject: Re: CbCR ED update

All

[REDACTED] and I spoke with [REDACTED] [REDACTED] [REDACTED] after [REDACTED] note. Most off the record so pls be discreet.

- ED and EM expected imminently
- Final ED is very pared back (~1 page) and only contains passing reference (title only?) to BEPS. ([REDACTED] mentioned an earlier draft did not even contain this reference). Some BEPS context will lie within the EM.
- Drafters' intent is to empower the Commissioner to require certain taxpayers (at Commissioner's discretion) to provide BEPS Action 13 information by way of separate/subordinate instrument
- i.e. the legislation will permit the ATO to collect information "via an approved form". The ATO will interpret this to include information from all three Action 13 tiers - e.g. CbC, master file, local file
- [REDACTED] is wrestling with how to set the detailed criteria. None of this detail will be settled in the ED. e.g. IDS interaction for example. ([REDACTED] mentioned that even just defining the \$A1bn worldwide t/o threshold is potentially troublesome/difficult)
- [REDACTED] has carriage on implementation and welcomed our input once the ED has been released.
- This will be an opportunity to feed in suggestions which may help influence definitional/interpretation aspects and/or free or defer certain clients from some or all of the Action 13 net(s). If you have examples please let [REDACTED] or me know.

Email: [REDACTED]@au.pwc.com  
 PricewaterhouseCoopers  
 Freshwater Place 2 Southbank Boulevard Southbank VIC 3006  
[www.pwc.com.au](http://www.pwc.com.au)

[REDACTED] 29/07/2015 04:28:45 PM---All Quick update f [REDACTED];

From: [REDACTED] AU/TLS/PwC

To: TLS AU TP Ptrs Mail, Peter Collins/AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, TLS AU TP Dirs Mail

Cc: [REDACTED] AU/TLS/PwC@AsiaPac

Date: 29/07/2015 04:28 PM

Subject: CbCR ED update

---

All

Quick update [REDACTED];

- Multinational budget measures (MNC tax avoidance, penalty changes and CbCR) exposure draft is with Treasurer awaiting release. Expected in next couple of days;
- Aiming for pass through Parliament in October through both houses;
- ED on CbC is likely to give Commissioner ability waive require to lodge in full or part. It is thought that the Commissioner will then waive requirement for a foreign owned subsidiary to lodge a CbC to allow time to work out which countries implement CbC rules. Will also allow Commissioner to waive requirement (eg. if threshold is met but no IDS).
- Unlikely that Commissioner will waive masterfile requirements for MNCs (though ability to do so may exist)
- No plan to align masterfile lodgement date (12 months) with Local file/284-E timing (7 months)
- Penalties for non-lodgement are likely to be minimal and linked to tax return late lodgment

Any questions give [REDACTED] or me a call.

Regards

[REDACTED]

[REDACTED]

Email: [REDACTED] [\[REDACTED\]@pwc.com.au](mailto:[REDACTED]@pwc.com.au)  
PwC Australia <http://www.pwc.com.au>

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**From:** peter.collins@au.pwc.com  
**To:** [REDACTED]@au.pwc.com  
**Sent:** Tuesday, 04/08/2015 04:22 PM  
**Subject:** MAAL

Pls don't circulate but from agenda for tomorrow.

Welcome your thoughts as always.

Many submissions proposed that the start date be pushed back, or if the start date remains 1 January 2016, that administrative arrangements should be put in place to allow multinationals to restructure their arrangements.

We do not propose to move the start date. The ATO has indicated that it can adopt a flexible approach to administering the law for companies that are in the process of restructuring but do not have their new arrangements in place on 1 January. For taxpayers that voluntarily approach the ATO, penalties can be waived and specific arrangements can be made regarding compliance. This is under the Commissioner's discretionary powers and is dependent on the relevant facts and circumstances of each case.

**Peter Collins**  
 Partner, International Tax Services  
 PwC Australia

Direct: +61 [REDACTED]  
 Cell: +61 [REDACTED]  
 Email: [peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)  
 PricewaterhouseCoopers  
 Freshwater Place 2 Southbank Boulevard Southbank VIC 3006  
[{View Peter Collins's profile on LinkedIn}](#)

Taxtalk: [www.pwc.com/au/tax/taxtalk/](http://www.pwc.com/au/tax/taxtalk/)

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**From:** peter.collins@au.pwc.com  
**To:** [REDACTED] [REDACTED] <"cn=[REDACTED] [REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
**Sent:** Thursday, 06/08/2015 08:06 AM  
**Attachments:** M2.2.png  
**Subject:** Re: 177DA (Oz [REDACTED] tax) update

---

Awesome.

Btw. [REDACTED] is at treasury and it working on the [REDACTED] tax. We decided it might be best to not make a big deal about that in case the tech cos don't like it. [REDACTED].

However wanted [REDACTED] to be aware. [REDACTED] was on the phone yesterday but said very little.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

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<http://www.linkedin.com/in/petercollinspwc>

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On 6 Aug 2015, at 6:38 am, [REDACTED] [REDACTED] <[REDACTED]@au.pwc.com> wrote:



Absolutely, and a big differentiator v [REDACTED]

I went to a global brainstorm on future IP strategy for US cos (mainly tech) where we came up with some good ideas, and [REDACTED] and I are hoping to exploit that for Aus firm benefit. The intel is very helpful here.

Thanks

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Sent from an iPad, so please excuse auto-spell errors!

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On 6 Aug 2015, at 6:29 am, Peter Collins <[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)> wrote:

Spoke to [REDACTED] last night too. We were given some more colour on the detail of the rule and GAAR came up to.

I am conscious [REDACTED] is telling me that [REDACTED] seem adamant of a delay. Unless they know a bout a deal one of the IT companies has brokered with the prime minister or treasurer or the minorities, I cannot imagine that. Treasury was crystal clear on this and the politics of delaying the rule for the dirty 30 seems impossible. There is no sympathy for this group in treasury or govt or the ATO.

controversy treasure trove of we can land a few of these.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

For the latest on BEPS: <http://www.pwc.com/beps>

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---

On 6 Aug 2015, at 05:46, [REDACTED] <[REDACTED][au.pwc.com](mailto:[REDACTED]@au.pwc.com)> wrote:

Thanks. Very helpful.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

On 5 Aug 2015, at 21:55, Peter Collins <[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)> wrote:

There was some more consultation today on s177DA and BEPS more generally.

On 177DA, changes to the draft legislation proposed but likely to be around the fringes only; broad intent not influenced by the various submissions.

Main questions from clients relate to start date which seems locked in for 1 Jan 16 as originally proposed. Current plan is legislation through Parliament in October and we would expect to see the revised legislation in the meantime.

**Peter Collins**

Partner, International Tax Services

PwC Australia

Direct: +61 ( [REDACTED]

Cell: +61 [REDACTED]

Email: [peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

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Freshwater Place 2 Southbank Boulevard Southbank VIC 3006


[<0.54C.png>](#)

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<M2.2.png> 

**From:** peter.collins@au.pwc.com  
**To:** [REDACTED] [REDACTED] <"cn=[REDACTED] [REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
**Sent:** Wednesday, 05/08/2015 05:11 PM  
**Subject:** Re: chat for 5 when you get a moment? [REDACTED] eom

---

No worries. Unless [REDACTED] has a secret deal with [REDACTED] [REDACTED] MAAL will start as planned. Treasury absolutely clear on this today. Worth a quick chat.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

For the latest on BEPS: <http://www.pwc.com/beps>

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On 5 Aug 2015, at 3:04 pm, [REDACTED] [REDACTED] <[REDACTED]@au.pwc.com> wrote:

[REDACTED] [REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

E: [REDACTED]@au.pwc.com

<http://www.pwc.com.au/tax/controversy/index.htm>

Find me on LinkedIn at

[REDACTED]

This communication may contain confidential and/or legally privileged material. If you receive this communication as an agent for our client, or to assist in the provision of services to our client, you must not further disseminate this communication without our client's consent.



**From:** peter.collins@au.pwc.com  
**To:** [REDACTED] <"cn=[REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
**Sent:** Tuesday, 11/08/2015 12:08 PM  
**Subject:** Re: Meeting with Treasury yesterday.

---

Tried to call just now. Spoke to treasury.

Plan is for legislation in parliament on 15 or 16 October. Won't be shown publicly before then.

Everyone at treasury and ATO working on assumption that Aus income will all be attributed to notional PE. Focus will then be on deductible payments and withholding tax (based on actual agreements rather than hypothecated).

Will be shared with a smaller group in the meantime. They plan to have revised law and EM done this week.

Sent you a note re [REDACTED] which we should send to your friends in the bay. Apparently likely to talk about concessions for digital under MAAL. I don't have details.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

For the latest on BEPS: <http://www.pwc.com/beps>

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On 8 Aug 2015, at 9:47 am, [REDACTED] <[REDACTED]@pwc.com> wrote:

Peter,

Sorry, that is 9.30 Tuesday. I understand that conflicts with your training. Are you able to join us at 9.30?

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

E: [REDACTED]@pwc.com

<http://www.pwc.com.au/tax/controversy/index.htm>

Find me on LinkedIn at [REDACTED]

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----- Forwarded by [REDACTED] AU/TLS/PwC on 08/08/2015 09:46 AM -----

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

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© 2006 The Authors

11/1/2010

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\_\_\_\_\_

11/1/2013

Page 10 of 10



114

\_\_\_\_\_

**[REDACTED]**

\_\_\_\_\_

[REDACTED] [REDACTED]



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\_\_\_\_\_

\_\_\_\_\_

1. *Journal of the American Medical Association*, 1997; 278: 1019-1024.

Category	Value (approximate)
1	100
2	100
3	85
4	95
5	100
6	95
7	90
8	15
9	100
10	85
11	60



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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**From:** [REDACTED] [cn=[REDACTED] ou=au/ou=tls/o=pwc] on behalf of [REDACTED]  
**Sent:** Wednesday, 2 September 2015 12:38 AM  
**To:** [REDACTED]@au.pwc.com  
**Cc:** [REDACTED]  
**Subject:** Re: Inbounds  
**Attachments:** Digital client list.xlsx; FSM 001 003 Dublin - Detailed Invitation.pdf

Great work guys!! Very exciting sectors to be in at the moment.

Just as something which could start you off, I attach the rough list that [REDACTED] and I have been using for our targeting on the digital GST changes. This is similar to the list that [REDACTED] has been using and we have been mounting a bit of a joint approach on most of these clients to date which seems to be working well (there is a lot to talk about on the indirect tax side as well).

[REDACTED]



FSM 001 003 [REDACTED] - Detailed Invitation.pdf

Kind regards

[REDACTED]

Email: [REDACTED]@au.pwc.com  
 PricewaterhouseCoopers  
 Darling Park 201 Sussex Street Sydney NSW 2000  
[www.pwc.com.au](http://www.pwc.com.au)  
[twitter.com/PwC\\_AU](https://twitter.com/PwC_AU)

Please consider the environment before printing this email

[REDACTED] 01/09/2015 05:47:47 PM---From: [REDACTED] AU/TLS/PwC To: [REDACTED] AU/TLS/PwC@asiapac

**From:** [REDACTED] AU/TLS/PwC  
**To:** [REDACTED] AU/TLS/PwC@asiapac  
**Cc:** [REDACTED] AU/TLS/PwC@asiapac, [REDACTED] AU/TLS/PwC@asiapac, [REDACTED] AU/TLS/PwC@asiapac, [REDACTED] AU/TLS/PwC@asiapac, [REDACTED] AU/TLS/PwC@asiapac, [REDACTED] AU/TLS/PwC@asiapac  
**Date:** 01/09/2015 05:47 PM  
**Subject:** Re: Inbounds

Thanks. Look forward to the list.

■■■ and I are working closely on DPT solutions. Very happily, ■■■ is this week sending out and signing up numerous SoWs to Bay targets and clients!

■■■

■■■ ■■■

■■■

■■■■■■■■■■

■■■■■■■■■■

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On 1 Sep 2015, at 17:38, ■■■ ■■■ <■■■■■■■■■■[au.pwc.com](mailto:■■■■■■■■■■@pwc.com)> wrote:

■■■

We'd be pleased to assist. This week we will pull together a list of all inbound TP clients (w commissionaires and other relevant structures) impacted by 177DA.

Once collated and shared we'd be happy to work with you on tackling these given tight time frame.

■■■ and ■■■ are our leading our US inbounds and ■■■ UK/Europe

■■■ has been working w ■■■ on 177 workarounds

Best

■■■

■■■ ■■■

■■■■■■■■■■

On 1 Sep 2015, at 12:13 pm, ■■■ ■■■ <■■■■■■■■■■[au.pwc.com](mailto:■■■■■■■■■■@pwc.com)> wrote:

■■■

As you know, we are in the process of identifying clients where a head office conversation in relation to BEPS, CbyC, 177DA etc changes would be fruitful. The list is quite long.

In relation to s177DA, any fix needs to be implemented in 2015 for technical reasons and so this has the highest priority.

The industries that might have problems include non-resident Tech/Digital, shipping, virtual retailers, insurers/reinsurers, funds managers, commodity traders, telcos and service providers generally. In addition, ANY inbound commissionaire structure might have a problem.

So the field is large, and time is short.

Do you think the TP practice could identify clients with inbound commissionaire structures where they would be receptive to a conversation on 177DA? Can you identify those clients for us?

Happy to discuss.

Thanks

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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On 20 Aug 2015, at 1:05 am, [REDACTED] <[REDACTED]@au.pwc.com> wrote:

[REDACTED]

Understand you're leading TP interface on US targeting effort on behalf of the broader team. I have enclosed Australian TP client data on our top 30 FY15 US clients below. I will set up a call with [REDACTED], you and I to discuss client intel and relationship support assistance we can provide.

As one of the more recent [REDACTED] to assist on coordination with you and the team on our side. In the interim if you have any questions pls let me know.

Best

[REDACTED]

[REDACTED]

*(See attached file: Aust TP US client relationship data.xlsx)*

[REDACTED] 12/08/2015 10:08:02 AM---thanks guys that's helpful & comprehensive - the tp partners/directors will send any relevant backgr

From: [REDACTED] AU/TLS/PwC  
To: [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED]

[REDACTED]AU/TLS/PwC@AsiaPac  
 Cc: TLS AU TP Ptrs Mail, TLS AU TP Dirs Mail  
 Date: 12/08/2015 10:08 AM  
 Subject: Re: North America Market Model Update - upcoming visits

---

thanks guys that's helpful & comprehensive - the tp partners/directors will send any relevant background info that may be useful regarding the meetings planned directly to the relevant visiting Australian partner and also suggest any additional meeting opportunities identified as requested

[REDACTED]

[REDACTED] 12/08/2015 09:37:46 AM---Partners, Further to [REDACTED] email regarding our focus on the North American market (copy below), we p

From: [REDACTED]AU/TLS/PwC  
 To: TLS AU Ptrs Mail  
 Cc: [REDACTED]AU/TLS/PwC@AsiaPac, [REDACTED] J [REDACTED]AU/TLS/PwC@AsiaPac, [REDACTED]AU/TLS/PwC@AsiaPac, Peter Collins/AU/TLS/PwC@AsiaPac, [REDACTED]AU/TLS/PwC@AsiaPac, [REDACTED]AU/TLS/PwC@AsiaPac, [REDACTED]AU/M&C/PwC@AsiaPac  
 Date: 12/08/2015 09:37 AM  
 Subject: North America Market Model Update - upcoming visits  
 Sent by: [REDACTED]

---

Partners,

Further to [REDACTED] email regarding our focus on the North American market (copy below), we plan to share a regular update regarding planned trips, client and target meetings, and market insights and outcomes as these progress. Included below are details of the next round of immediate travel planned, and the meetings that are being locked in. We will connect directly with the TLPs and CLPs of these clients.

**If you have any clients or targets that you would like one of the team to meet with during the trips detailed below, or at a later stage, please reach out as soon as possible so that we can work with you on the approach.**

We are currently working to land the US Desk secondee and will update you on this once confirmed.

Regards,

[REDACTED] [REDACTED] [REDACTED] and [REDACTED]

**Upcoming Travel and meetings planned:**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

#### Background email

From: [REDACTED] AU/TLS/PwC  
To: TLS AU Ptrs Mail  
Cc: [REDACTED] AU/M&C/PwC@AsiaPac  
Date: 07/08/2015 05:08 PM  
Subject: Unlocking growth in North America market

---

Partners,

In response to demand drivers from our clients, in FY16 we are investing in an AU teaming and alignment program around the North American market from a client and industry perspective.

Our practice currently has good coverage of the North American market, but there is an opportunity to gain critical mass with a coordinated, focused approach. The time is right for us to invest and activate growth due to a range of market issues and opportunities - US economic growth and declining AUD enhancing client value, the BEPS program of work, and strong support from the US, Canada and Global ITS leadership.

To generate this growth, a core AU Partner team has been assembled to ensure breadth and depth across the market, and leverage and support existing relationships. Their role is to team across clients and targets in all industries, to generate and coordinate visits with clients in the US, and share knowledge with the broader T&L Partner group around market opportunities and client

developments. To achieve the growth, it is imperative that we maximise our opportunities by ensuring that we visit with clients and targets at a head office level.

The Partner team and focus are as follows:

■■■■ Team Leader - will continue as a Rover, but with a main focus on the North American market. It is anticipated that ■■■■ will join other partners in each client visit where the opportunities are seen as significant. ■■■■

**Peter Collins** - continues as AU International Tax leader, and will have a focus on the Mining, Oil, Gas & Resources sector

■■■■ - ■■■■  
 ■■■■ - ■■■■  
 ■■■■ - ■■■■

Each member of the AU Partner team is expected to make a number of client and target visits each year (with ■■■■ where appropriate). It is anticipated that the broader partner team will identify clients and targets with a North American presence and help arrange meetings. In this way, our footprint in the market should increase, and with that, so should fees.

The US Desk model (currently in operation) will continue, and we are in the process of finalising the next AU secondees.

The goal is to provide a transparent, collaborative model all of our Partners can access to strengthen existing relationships, and unlock new growth, while maximising our return on investment. The team supplement existing relationships held by Partners, and provide additional support in the market.

The team does not replace or change existing client connections held by our Partners with clients in the North American market, but rather enhances and broadens our offering. For example, if you are visiting with US clients, please ensure you connect with one of the team.

To assist with teaming and opportunity identification, the team will provide regular updates on the timing of trips and visits planned, with the **ask being that you reach out to them around client and target opportunities where they can assist you.**

I would like to thank ■■■■ ■■■■ ■■■■ ■■■■ and ■■■■ for taking on this focus, which is effective immediately. I encourage you to reach out to them directly with any questions around the model, or clients and targets that they can assist you with.

Regards,

■■■■

---

■■■■  
 ■■■■  
 ■■■■  
 ■■■■

Email: ■■■■ [au.pwc.com](mailto:au.pwc.com)

■■■■  
 ■■■■



<Aust TP US client relationship data.xlsx>

[REDACTED]

[REDACTED]

**From:** peter.collins@au.pwc.com  
**To:** [REDACTED]@au.pwc.com  
**Sent:** Friday, 21/08/2015 01:03 PM  
**Subject:** RE: Fwd: FOI 1759 - Consultation request - ER2015/02047 [SEC=UNCLASSIFIED]

---

Just walked by your office but no one home.

Can confirm DA accelerated. We have a call next week to have one last quick look at the legislation before it heads to parliament.

If I hear a date, will let you know.

As usual, pls treat as rumour

**Peter Collins**

Partner, International Tax Services  
PwC Australia

Direct: +61 ([REDACTED])

Cell: +61 ([REDACTED])

Email: [peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

PricewaterhouseCoopers

Freshwater Place 2 Southbank Boulevard Southbank VIC 3006

{[View Peter Collins's profile on LinkedIn](#)}

Taxtalk: [www.pwc.com.au/tax/taxtalk/](http://www.pwc.com.au/tax/taxtalk/)

Worldwide Tax Summaries: [taxsummaries.pwc.com](http://taxsummaries.pwc.com)

For the latest on BEPS: <http://www.pwc.com/beps>

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**From:** peter.collins@au.pwc.com  
**To:** [REDACTED] [REDACTED] <"cn=[REDACTED] [REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
**Sent:** Wednesday, 26/08/2015 08:39 PM  
**Subject:** Re: 177DA Example - 25 August 2015 v2.pptx

---

If you called apologies but wasn't around much today. Happy to chat now or tomorrow arvo.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

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On 25 Aug 2015, at 10:21 pm, [REDACTED] [REDACTED] <[REDACTED]@au.pwc.com> wrote:

Thank you! Will give you a quick call in am to talk about the meet.



**From:** peter.collins@au.pwc.com  
**To:** [REDACTED] <"cn=[REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
**Sent:** Tuesday, 25/08/2015 11:17 PM  
**Attachments:** 177DA Example - 25 August 2015 v2.pdf  
**Subject:** Fwd: 177DA Example - 25 August 2015 v2.pptx

---

For your eyes only but I used this diagram to get treasury to explain how they think DA works.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

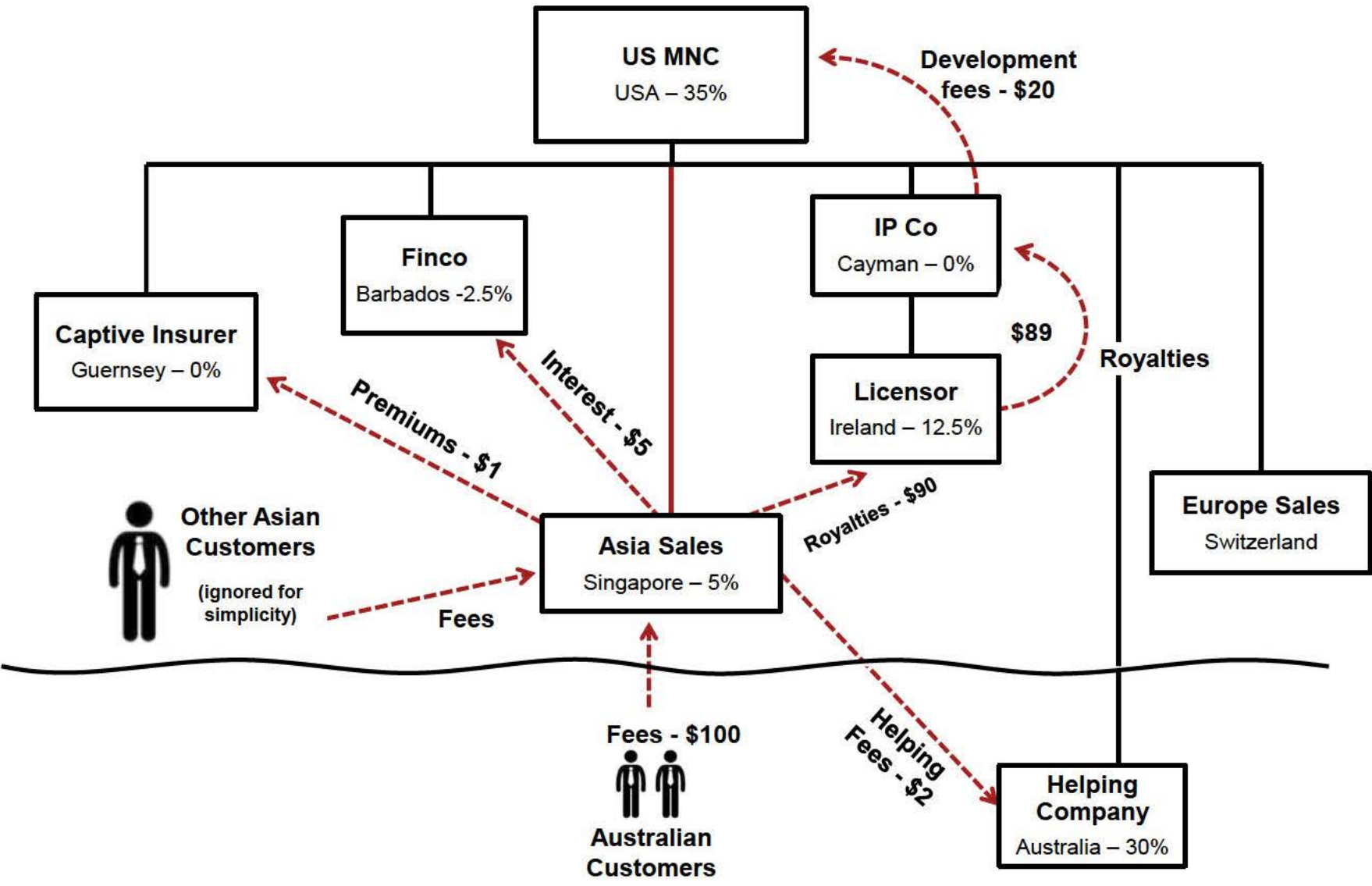
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 



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On 3 Sep 2015, at 17:23, Peter Collins <[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)> wrote:

Me too. That's why I mention it.

I think we will look at the entity for substance. This means measurement at "entity" as we define that so reverse hybrid is entity not partner. Same issue comes up in measuring tax attached to income through hybrids and reverse hybrids.

Pdr is neat and cute. I suppose trick is moving from what they have now to what they need to have.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

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On 3 Sep 2015, at 3:00 pm, [REDACTED] <[REDACTED][au.pwc.com](mailto:[REDACTED]@au.pwc.com)> wrote:

Thanks. Lack of low tax requirement will be a real problem, meaning far more are caught. Was also right up there in terms of my fixes.

Substance will be interesting - eg if there is a reverse hybrid at the top, and Aus sales income is directed to it, will we look to the Rh, or the ptr in working out if there is substance? If the ptr, then a world of opportunity.

I have a couple of doozies that might survive - make the customers associates, and better make the nr a pdr with reaty override. Maybe that's the best.

Will send you the [REDACTED] deck, for your eyes only please.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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On 3 Sep 2015, at 16:50, Peter Collins <[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)> wrote:

I agree with that example.

Not sure I agree there can't be D adjustment to avoid a DA (assuming DA is not a problem in itself).

The final rule won't have a low tax exclusion and substance and purpose will be only ways out in your example. Therefore ideas like mitigating foreign tax might be less clear. Purpose will have some specific factors in addition to those in D now and we might go back to sole or dominant. We can't talk about this until we see the legislation in parliament.

I wasn't volunteering but we do have partners who would love to roll their [REDACTED] up on this.

Can you share your ideas for [REDACTED] I have a few we are chatting to next week.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

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On 3 Sep 2015, at 2:28 pm, [REDACTED] <[REDACTED][au.pwc.com](mailto:[REDACTED]@pwc.com)> wrote:

I'm not certain there are problems beyond the 34, but I think there is a fair chance. [REDACTED]

[REDACTED] There are loads more that might be problematic eg on line retail, commissionaire etc. May turn out that the real number is not much bigger than 34, but I'm confident it will be bigger.

Yes re 177D overlay if not done pre 1.1.16.

I think they will be content to be looked at later. Issue for the US lot is Q1 reporting.

Not sure on resources yet. Almost certainly need help (hopefully )! Will keep that in mind.

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

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On 3 Sep 2015, at 16:20, Peter Collins <



[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com) > wrote:

Agree there is an opportunity to own this space because my sense is that we are ahead on the curve. Do [REDACTED] and you need any help from anyone to make sure that happens particularly if you are thinking beyond 34?

Have you convinced yourself that there is a problem outside the dirty 34? I have been less convinced of this and interested to know why you think that is the case. Got an example?

Why the focus on 1.1.16? Are you assuming that a pre 16 reorg to escape the TAAR has immunity from GAAR?

Agree unlikely to talk to the ATO in advance but all of the dirty 34 must assume they will be looked at eventually.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

For the latest on BEPS: <http://www.pwc.com/beps>

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On 3 Sep 2015, at 09:32, [REDACTED] <[REDACTED]@pwc.com> wrote:

Just to be right up to speed.

I've given [REDACTED] a bunch of structuring thoughts, and he is doing a good job now getting clients signed up. I really want us to own this space for not only the Tech Cos, but also all the others like Web retailers, funds managers, commissionaire structures, contractors and so on.

1.1.16 start date is too soon to make as much money as we should though, given the need to restructure pre 16 for 4a protection.

I can't imagine anyone telling the tax office how they are going to restructure, on the assumption that the ato will only agree if the tax take is materially higher than now.

Please keep me posted.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

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On 3 Sep 2015, at 11:04, Peter Collins <

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com) > wrote:

Yes. Filling in for [REDACTED]

Also talking to treasures office about the law which is still changing.

What you need?

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

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On 3 Sep 2015, at 8:07 am, [REDACTED] <[REDACTED][au.pwc.com](mailto:[REDACTED]@au.pwc.com)> wrote:

I hear there is an ATO or maybe Treasury or both meeting on 7

Sept. You attending?

Thanks

[REDACTED] [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

**From:** peter.collins@au.pwc.com  
**To:** [REDACTED] [REDACTED] <"cn=[REDACTED] [REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
**Sent:** Thursday, 03/09/2015 12:02 PM  
**Subject:** Re: 177da

---

Yes. Filling in for [REDACTED]

Also talking to treasures office about the law which is still changing.

What you need?

■

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

For the latest on BEPS: <http://www.pwc.com/beps>

This message has been sent from my PwC iPhone

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties

On 3 Sep 2015, at 8:07 am, [REDACTED] [REDACTED] <[REDACTED]@au.pwc.com> wrote:

I hear there is an ATO or maybe Treasury or both meeting on 7 Sept.  
You attending?

Thanks

[REDACTED] [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

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**From:** peter.collins@au.pwc.com  
**To:** [REDACTED] [REDACTED] <"cn=[REDACTED] [REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
**Sent:** Friday, 04/09/2015 03:21 PM  
**Subject:** MAAL

---

This was from an email a few days ago. Your eyes only pls.

Do you think there would be any vocal backlash from corporates if we were to proceed without a low or no exemption at this stage in the process? My view is that it would be a much tighter piece of legislation without the exemption.

Regards

Peter

Peter Collins

Partner

International Tax Services

PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

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**From:** peter.collins@au.pwc.com  
**To:** [REDACTED]@au.pwc.com  
**Sent:** Friday, 18/09/2015 09:47 AM  
**Subject:** Re: Attached. Seen this?

---

only deemed PE to preclude biz profits protection. N/A for WHT.

famous last words. OK in practice until the ATO gets grumpy and figures out the joke. Better to 44 1 b proof perhaps.

**Peter Collins**

Partner, International Tax Services  
PwC Australia

Direct: +61 [REDACTED]  
Cell: +61 [REDACTED]  
Email: [peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)  
PricewaterhouseCoopers  
Freshwater Place 2 Southbank Boulevard Southbank VIC 3006  
[{View Peter Collins's profile on LinkedIn}](#)

Taxtalk: [www.pwc.com.au/tax/taxtalk/](http://www.pwc.com.au/tax/taxtalk/)

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[REDACTED] 17/09/2015 11:14:52 PM---From: [REDACTED] AU/TLS/PwC To: Peter Collins/AU/TLS/PwC@asiapac

From: [REDACTED] AU/TLS/PwC  
To: Peter Collins/AU/TLS/PwC@asiapac  
Date: 17/09/2015 11:14 PM  
Subject: Re: Attached. Seen this?

---

Isn't there a rule in the Ag Act that seems bends to have a pe through a trust?

Agree 44 1 b significant risk but probably ok in practice.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

On 17 Sep 2015, at 22:36, Peter Collins <[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)> wrote:

No WHT on loan because BVI does not have a PE.

No 44 1 b because BVIs income is BVI sourced (very little happening there).

Little real chance of anti hybrid rule anytime soon. I spent 3 payneful hours today. BoT has zero idea. The only thing they get (now) is that it is complicated and perhaps we should not rush. No need to share this because all supposed to be secret.

I had not been certain that some of the rules (eg hybrid entity) applies beyond financial arrangements to anything disregarded whereas rule 1 is only FAs and rule 2 only shares.

The imported mismatch formulas will blow our mind but be easy to sidestep.

Regards

Peter  
Peter Collins  
Partner  
International Tax Services  
PwC Australia

Office: [REDACTED]

Cell: [REDACTED]

[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

<http://www.pwc.com.au>

<http://www.linkedin.com/in/petercollinspwc>

For the latest on BEPS: <http://www.pwc.com/beps>

This message has been sent from my PwC iPad

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**From:** peter.collins@au.pwc.com  
**To:** [REDACTED]@au.pwc.com  
**Sent:** Friday, 18/09/2015 02:24 PM  
**Subject:** 7

---

How fixed with NIDs. NID where?

We need the seller without the PE to be Aussie but not taxable to sidestep DA. Don't follow the LLC idea unless we think the foreign partner can treat it as a partnership (which we think it can but we know the ATO says it can't and is likely to say so publicly soon).

I was thinking of an actual partnership. What happens if the LLC is a foreign GP which would be treated as an Australian entity (one Oz partner) and therefore immune from DA. We need to say the GP is selling the goods (not the foreign partner) and the partner is treaty protected (nothing is actually happening in Oz).

**Peter Collins**

Partner, International Tax Services  
PwC Australia

Direct: +61 [REDACTED]

Cell: +61 [REDACTED]

Email: [peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)

PricewaterhouseCoopers

Freshwater Place 2 Southbank Boulevard Southbank VIC 3006

[{View Peter Collins's profile on LinkedIn}](#)

Taxtalk: [www.pwc.com.au/tax/taxtalk/](http://www.pwc.com.au/tax/taxtalk/)

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[REDACTED] 17/09/2015 11:12:41 PM---From: [REDACTED] AU/TLS/PwC To: Peter Collins/AU/TLS/PwC@asiapac

From: [REDACTED] AU/TLS/PwC

To: Peter Collins/AU/TLS/PwC@asiapac

Date: 17/09/2015 11:12 PM

Subject: Re: Attached. Seen this?

---

Thanks. I'm busily running round telling people to refi into havens or NIDs! Getting paid for that too, so hopefully the Gov't will act despite the payne.

You ok with the llc dpt fix?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

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The imported mismatch formulas will blow our mind but be easy to sidestep.

Regards

Peter  
Peter Collins  
Partner  
International Tax Services  
PwC Australia  
Office: [REDACTED]  
Cell: [REDACTED]  
[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)  
<http://www.pwc.com.au>  
<http://www.linkedin.com/in/petercollinspwc>

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This message has been sent from my PwC iPad

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

**From:** [REDACTED]@au.pwc.com  
**Sent:** Tuesday, 27 October 2015 5:09 PM  
**To:** [REDACTED]@au.pwc.com  
**Cc:** [REDACTED]@au.pwc.com; [REDACTED]@au.pwc.com; [REDACTED]@au.pwc.com; [REDACTED]@au.pwc.com; [REDACTED]@au.pwc.com;  
 [REDACTED]@au.pwc.com  
**Bcc:**  
**Subject:** Fw: Well done team...FW: Confidential and Subject to Legal Professional Privilege Re: [REDACTED] DPT/MAAL - Agency agreement Option Diagram

Hi [REDACTED]

[REDACTED] will be engaging with us on the DPT matter.

[REDACTED] has asked for a call early afternoon Wednesday PST.

Are you able to do a call Thursday morning Sydney sometime between 8am - 10am, assuming the call goes for 1 hour?

Your diary appears to have meetings already scheduled at that time, unfortunately we don't seem able to shift the time for the call. Are you able to move one of your meetings?

[REDACTED]



----- Forwarded by [REDACTED] AU/TLS/PwC on 27/10/2015 05:05 PM -----

**From:** [REDACTED] AU/TLS/PwC  
**To:** [REDACTED] AU/TLS/PwC, [REDACTED] AU/TLS/PwC, [REDACTED] AU/TLS/PwC, [REDACTED] AU/TLS/PwC, [REDACTED] E [REDACTED] AU/TLS/PwC, [REDACTED] AU/TLS/PwC  
**Date:** 27/10/2015 12:00 PM  
**Subject:** Well done team...FW: Confidential and Subject to Legal Professional Privilege Re: [REDACTED] DPT/MAAL - Agency agreement Option Diagram

[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## Re: BoT hybrids report released - see link attached

---

From: peter.collins@au.pwc.com  
 To: [REDACTED] (AU) <[REDACTED]@pwc.com>  
 Date: Fri, 06 May 2016 15:11:31 +1000  
 Attachments: .png (511 bytes)

---

u have seen everything I have.

Peter Collins  
 Partner, Global Tax  
 PwC Australia  
 Direct: +61 [REDACTED]  
 Cell: +61 [REDACTED]  
 Email: peter.collins@au.pwc.com  
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From: "[REDACTED] (AU)" <[REDACTED]@pwc.com>  
 To: Peter Collins/AU/TLS/PwC@AsiaPac  
 Date: 06/05/2016 03:08 PM  
 Subject: Re: BoT hybrids report released - see link attached

---

Just trying to understand your point here Pete - maybe you've seen something I'm not allowed to see?

On Tuesday, May 3, 2016, [REDACTED] (AU) <[REDACTED]@pwc.com> wrote:  
 I was referring to your comment that "there is a rule in DPT that might make" cph more of a problem.  
 Where is that given we don't have any rules?

[REDACTED]

[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

On 3 May 2016, at 10:12, "peter.collins@au.pwc.com" <peter.collins@au.pwc.com> wrote:

Aus DPT. No debt carve out

Peter Collins  
 Partner, Global Tax  
 PwC Australia  
 Direct: +61 [REDACTED]  
 Cell: +61 [REDACTED]  
 Email: peter.collins@au.pwc.com  
 PricewaterhouseCoopers  
 Freshwater Place 2 Southbank Boulevard Southbank VIC 3006  
 <mime-attachment.png>  
 Taxtalk: [www.pwc.com.au/tax/taxtalk/](http://www.pwc.com.au/tax/taxtalk/)



## How did all that MAAL stuff turn out?: Our first "north American project".

From: [REDACTED]@au.pwc.com  
 To: [REDACTED]@au.pwc.com  
 Cc: [REDACTED]@au.pwc.com, [REDACTED]@au.pwc.com  
 Date: Wed, 06 Jan 2016 13:25:03 +1100

I wanted to give you a summary of where the MAAL work landed as at 31 December. Most of these clients will now have future work in dealing with the ATO, documenting their positions and systems, preparing transfer pricing analysis and modifying these models as US and other international BEPS planning proceeds over the next year. We will work to get as much of this as we can.

The team [REDACTED] have been very busy over the last couple of months and we are assisting 14 clients with their efforts to comply with the MAAL. In doing so, we have been working under desperately tight timelines (some clients having only decided to go ahead with changes two weeks ago), across multiple time-zones and have worked with some 'brand-defining' clients.

A significant number of these clients were not previously PwC Australia clients, and among the PwC clients several had not done significant work of this type with the firm even in the US before [REDACTED].

We got this outcome because:

- we identified US tech two years ago as representing a significant (at least for controversy!) upside sector for the Australian firm as the ATO reacted to problems it had with their structures, and diligently built relationships with key offshore buyers
- we were aggressive in telling these relationships they needed to act early ( heavily helped by the accuracy of the intelligence that Peter Collins was able to supply us, and our analysis of the politics)
- we were first to them with innovative approaches to the problem ([REDACTED] was critical in stimulating their thinking and presenting ideas no one else had, especially in relation to the first draft of the law)
- we were able to use our relationships to identify approaches suggested by our competitors [REDACTED] and aggressively explained the defects in their approaches [REDACTED], while [REDACTED] and my work on our competitor's structures enabled us to significantly improve even the structures used by those who took very simple steps, or went with [REDACTED] agreements.

In total, we expect (based on fee estimates that we have agreed with clients) that revenue from this first stage of the MAAL projects will be approximately \$2.5 million.

In achieving the above, we have worked across teams - with assistance from Transfer Pricing ([REDACTED] and [REDACTED] from the start and across the board, with [REDACTED] GST ([REDACTED] Customs ([REDACTED]), Legal ([REDACTED]) and CMACS ([REDACTED]). We have also worked with other PwC network firms extensively (notably, PwC US, PwC Singapore and PwC Netherlands). Our work has been efficient and seamless - we have received some excellent client feedback as to responsiveness, the quality of our work and the dedication of the team.

I hope I haven't missed anyone who was part of this great effort.

In addition, we cross referred work to US legal firms to assist with drafting agreements, improving our brand in the Bay area.

The clients the team have worked directly with as part of this are:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I am also aware of two clients Melbourne have worked with, [REDACTED], in relation to the MAAL, mainly opinion work.

Happy to discuss.

Kind regards,

[REDACTED]



## Re: BoT hybrids report released - see link attached

---

From: peter.collins@au.pwc.com  
 To: [REDACTED] (AU) <[REDACTED]@pwc.com>  
 Date: Fri, 06 May 2016 15:11:31 +1000  
 Attachments: .png (511 bytes)

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u have seen everything I have.

Peter Collins  
 Partner, Global Tax  
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From: "[REDACTED] (AU)" <[REDACTED]@pwc.com>  
 To: Peter Collins/AU/TLS/PwC@AsiaPac  
 Date: 06/05/2016 03:08 PM  
 Subject: Re: BoT hybrids report released - see link attached

---

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On Tuesday, May 3, 2016, [REDACTED] (AU) <[REDACTED]@pwc.com> wrote:  
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 Where is that given we don't have any rules?

[REDACTED]

[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

On 3 May 2016, at 10:12, "peter.collins@au.pwc.com" <peter.collins@au.pwc.com> wrote:

Aus DPT. No debt carve out

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 <mime-attachment.png>  
 Taxtalk: [www.pwc.com.au/tax/taxtalk/](http://www.pwc.com.au/tax/taxtalk/)

## Re: DPT examples

**From:** [REDACTED] (AU) <[REDACTED]@pwc.com>  
**To:** [REDACTED] (AU) <[REDACTED]@pwc.com>, [REDACTED] (AU) <[REDACTED]@pwc.com>  
**Cc:** [REDACTED] (AU) <[REDACTED]@pwc.com>, [REDACTED] (AU) <[REDACTED]@pwc.com>, Peter Collins (AU) <peter.collins@pwc.com>, [REDACTED] (AU) <[REDACTED]@pwc.com>, [REDACTED] (AU) <[REDACTED]@pwc.com>, [REDACTED] (AU) <[REDACTED]@pwc.com>  
**Date:** Tue, 13 Dec 2016 11:27:19 +1100  
**Attachments:** 20161213 - Diverted Profits Tax Practical Examples - draft.pptx (159.11 kB)

[REDACTED], latest working draft is attached which [REDACTED] has progressed but I have not yet looked at since yesterday. It needs talking briefs to accompany each example as well as refining some of the existing text.

[REDACTED] will have time to put those changes in then for circulation to this group and other interested on Wednesday, and dissemination to broader practice later in the day Wednesday. If there are any examples you don't see in here but want included in the meantime please let [REDACTED] know today. [REDACTED] can likely also help draw them up today.

[REDACTED] - can you please send me where you get to by end of your day.

[REDACTED] reconfirmed s815-140 style carve out will be put in.]

[REDACTED]  
 [REDACTED]  
[\[REDACTED\]@pwc.com](mailto:[REDACTED]@pwc.com)

On 13 December 2016 at 11:14, [REDACTED] (AU) <[REDACTED]@pwc.com> wrote:

Hi [REDACTED]

Do you need help further progressing the DPT examples?

[REDACTED]

[REDACTED]  
[\[REDACTED\]@pwc.com](mailto:[REDACTED]@pwc.com)  
 PricewaterhouseCoopers  
 Freshwater Place 2 Southbank Boulevard Southbank VIC 3006  
<http://www.pwc.com.au>  
[https://au.linkedin.com/in/\[REDACTED\]](https://au.linkedin.com/in/[REDACTED])  
 Please consider the environment before printing this email



New location. New direction. Open for business, your way - 2 Riverside Quay, from 19 December. [Find out more.](#)

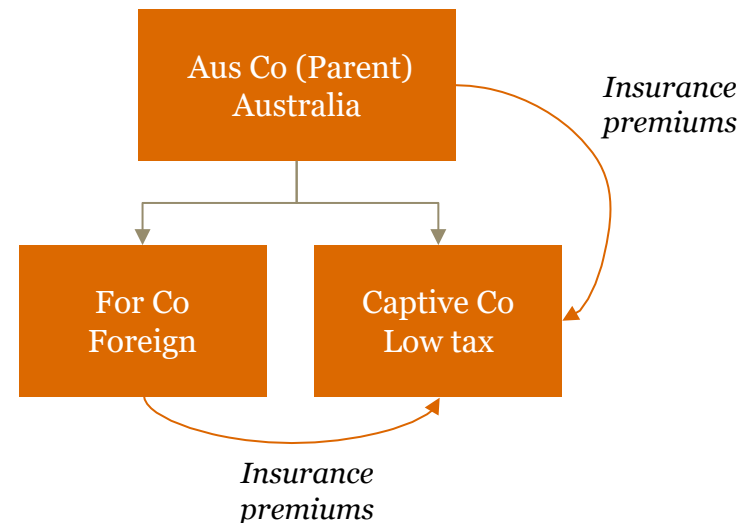
# *Practical Examples [DRAFT]*



## Example – Outbound Captive Insurance (non-insurance group)

### Background / Facts

- Aus Co has oversight of group risk and determines insurance policy for the group. This includes negotiating a group wide insurance indemnity policy.
- Captive Co does not have any employees. Most of the underwriting and actuarial risk pricing is outsourced to a specialist insurance consultancy.
- A full actuarial report on the risk assumed by Captive Co was prepared and the insurance premium paid is arm's length.



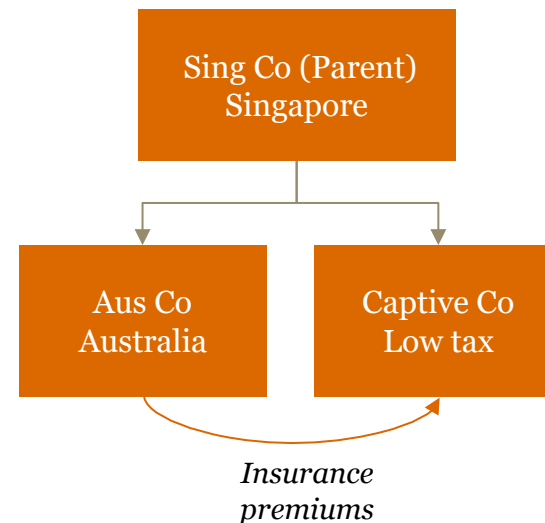
### Potential DPT application

Aus Co to Captive	<ul style="list-style-type: none"> <li>Possibly OK as Captive Co insurance premiums attributable under Australian CFC (no 'bad' purpose?)</li> </ul>
For Co to Captive	<ul style="list-style-type: none"> <li>Possible Australian tax benefit? Reasonable counterfactual to have been for captive to be Australian (albeit consider APRA)?</li> <li>Or, is the reasonable alternative that For Co would have kept risk on its own balance sheet (in which case, no Australian tax benefit)?</li> <li>If Captive Co reinsures a very high proportion to a third party reinsurer then this may be suggestive that there was no principal purpose?</li> </ul>

## Example – Inbound Captive Insurance (non-insurance group)

### Background / Facts

- Aus Co undertakes a small group insurance function which deals with a specialist insurance consultancy. Sing Co has overall oversight of group risk and determines insurance policy for the group.
- Captive Co does not have any employees. Most of the underwriting and actuarial risk pricing is outsourced to a specialist insurance consultancy.
- A full actuarial report on the risk assumed by Captive Co was prepared and the insurance premium paid is arm's length.



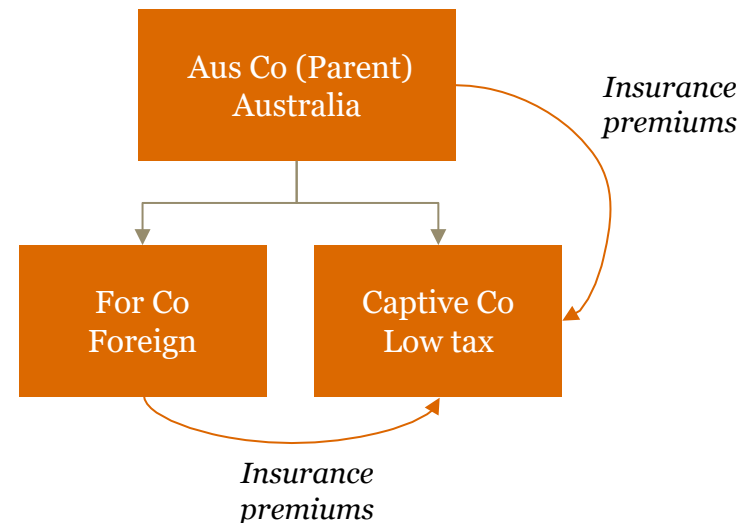
### Potential DPT application

Aus Co to Captive	<ul style="list-style-type: none"> <li>Possible Australian tax benefit? Is the reasonable alternative for Aus Co to have kept risk on its own balance sheet?</li> <li>If Captive Co reinsures a very high proportion to a third party reinsurer then this may be suggestive that there was no principal purpose?</li> <li>Can the sufficient economic substance test (limited active functions in Captive, but equally no, or very little income) be satisfied?</li> </ul>
-------------------	--

## Example – Outbound Captive Insurance (non-insurance group)

### Background / Facts

- Aus Co has oversight of group risk and determines insurance policy for the group. This includes negotiating a group wide insurance product indemnity policy with a cover limit of \$500 million (for For Co). Parent Co has determined that this cover should be extended to \$550 million and the \$50 million excess is placed with Captive Co.
- Captive Co does not have any employees. Most of the underwriting and actuarial risk pricing is outsourced to a specialist insurance consultancy.
- A full actuarial report on the risk assumed by Group Captive Co was prepared and the insurance premium paid is arm's length.



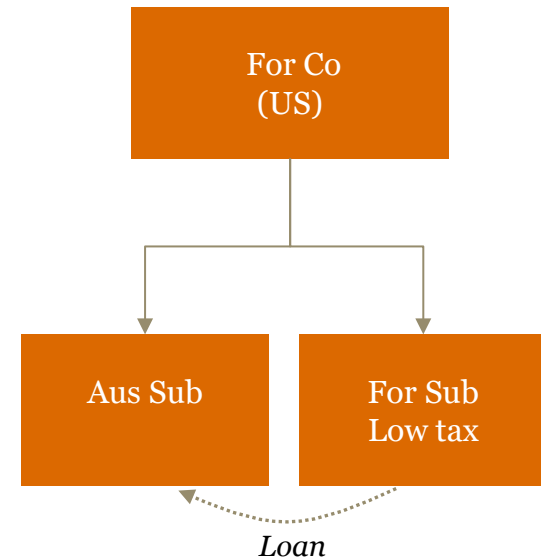
### DPT application

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For Co to Captive	<ul style="list-style-type: none"> <li>Possible Australian tax benefit? Reasonable counterfactual to have been for captive to be Australian (albeit consider APRA)</li> <li>Another alternative may have been for ForCo to have kept risk on its own balance sheet, in which case no Australian tax benefit?</li> </ul>

## Example – Group financing

### Background / Facts

- 
- 
- Note – does the situation change depending on how For Co funds For Sub (equity vs debt)



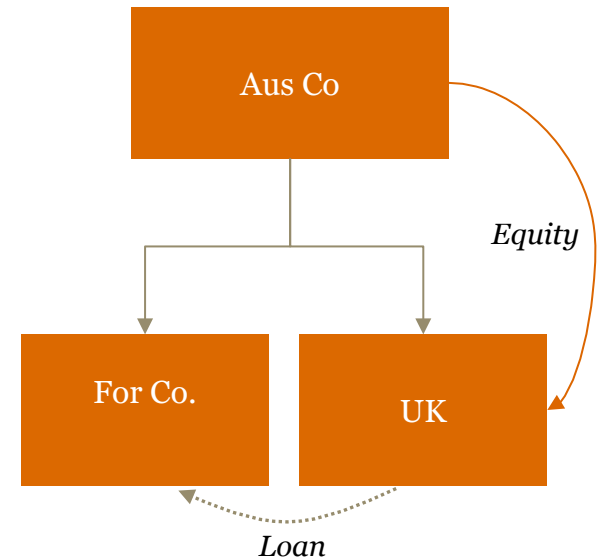
### DPT application

	•

## Example – Group financing (white listed conduit)

### Background / Facts

- 
- 
- Note – does the situation change depending on how For Co funds For Sub (equity vs debt)



### DPT application

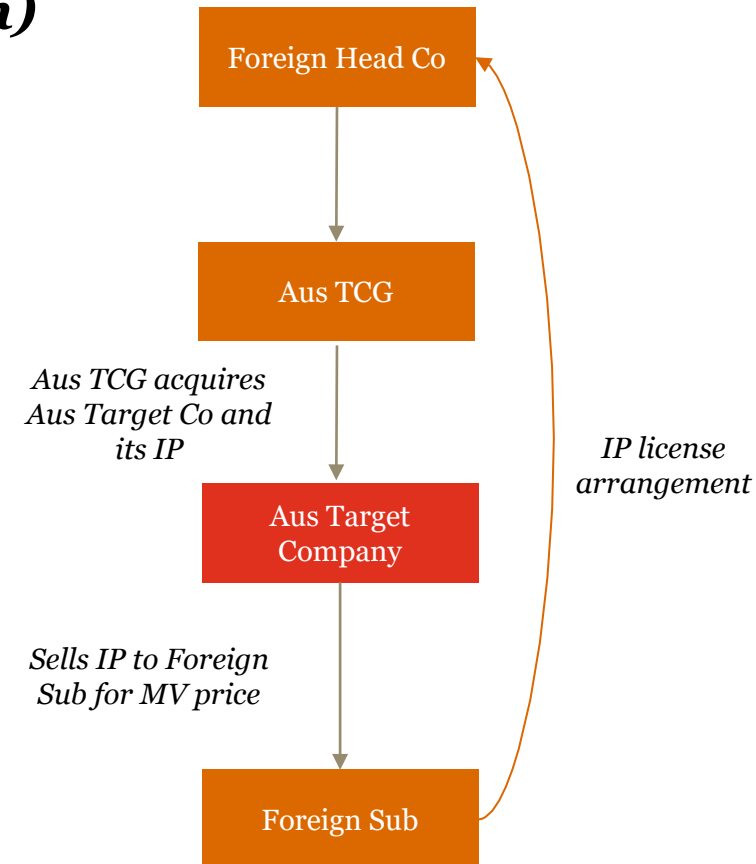
	•

## ***Example – IP sell-off (new acquisition)***

### ***Background / Facts***

- For Co has two wholly owned subsidiaries, Aus Sub and For Sub.
- For Sub does not have any employees.

### ***DPT application***

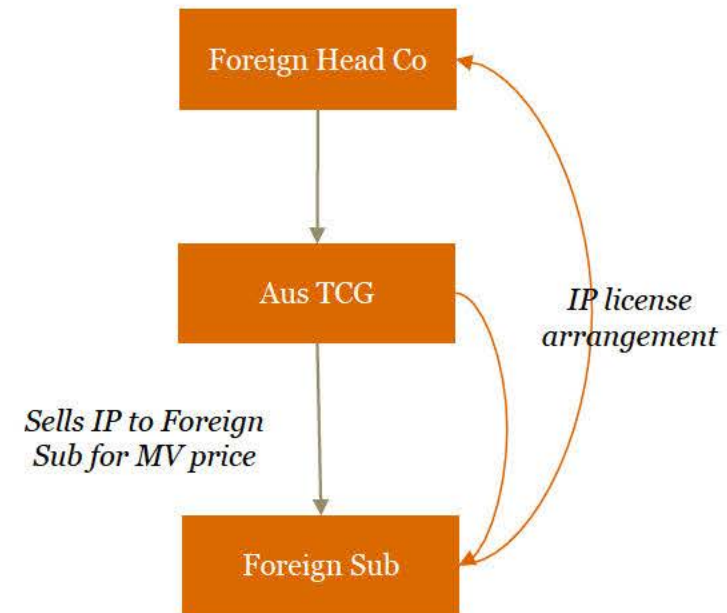


## ***Example – IP sell-off (developed IP)***

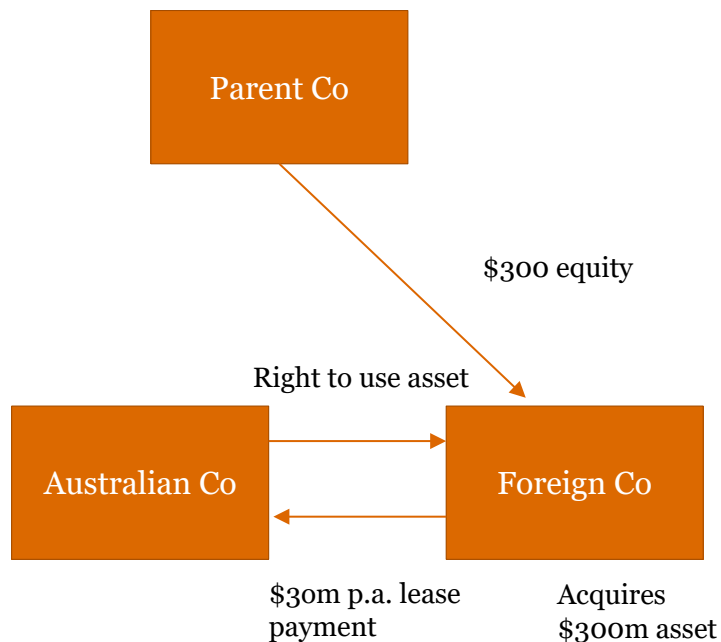
### ***Background / Facts***

- Aus TCG

### ***DPT application***







### ***Background / Facts***

- [consultation paper example]
- Australia Co, Parent Co and Foreign Co are related parties.
- Parent Co (a foreign resident) injects \$300 million equity funding into Foreign Co (also a foreign resident) and Foreign Co uses the funds to purchase an asset, which it then leases to Australia Co. Australia Co pays \$30 million lease payments per annum to Foreign Co for use of the asset. Foreign Co has no other activities.
- 

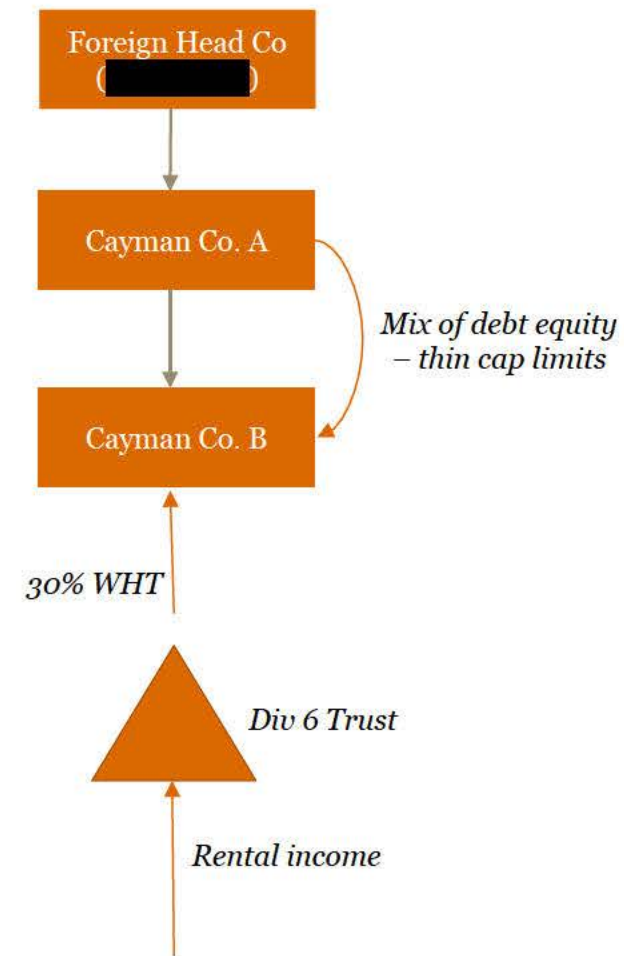
### ***DPT application***

## Example –

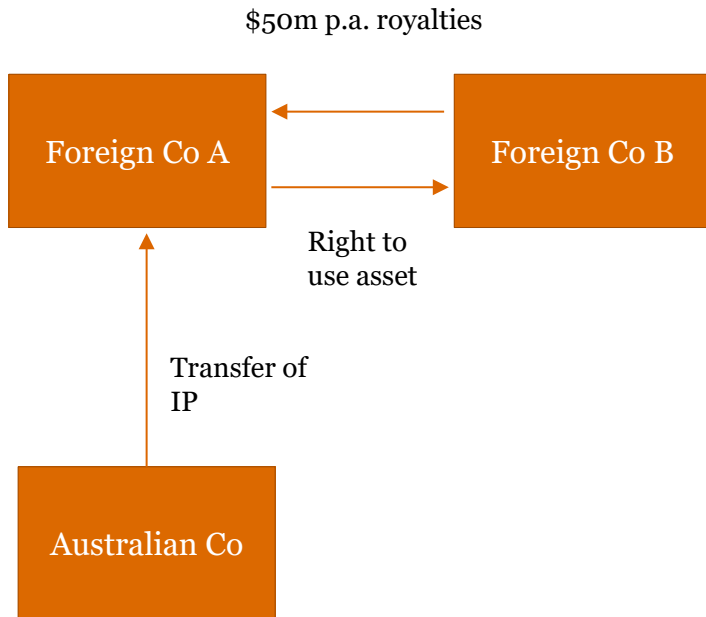
### Background / Facts

- Cayman Co. A and B have no substance

### DPT application



## Example –

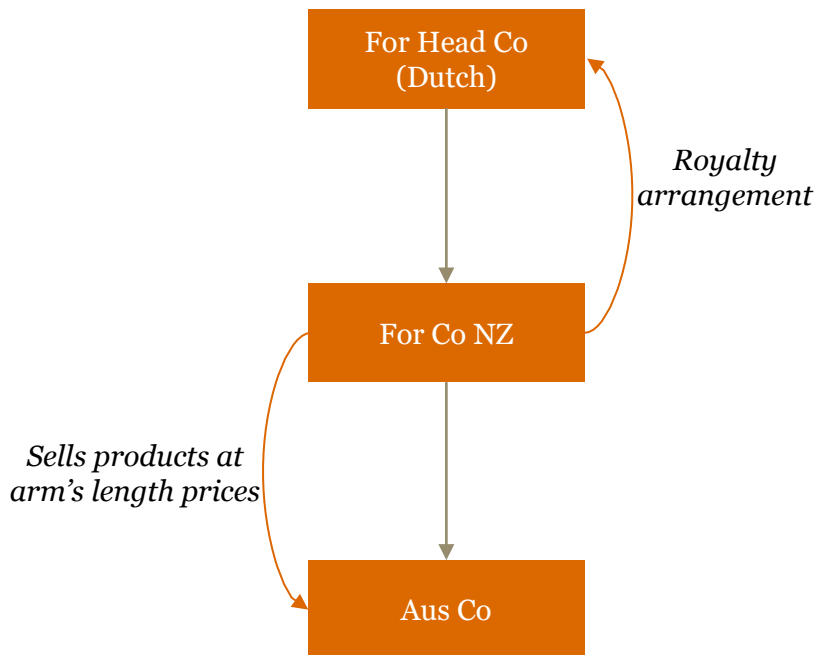


### Background / Facts

- Australia Co, Foreign Co A and Foreign Co B are related parties.
- Australia Co contractually transfers an intellectual property (IP) asset it has developed to Foreign Co A for a nominal amount. Australia Co continues to develop and maintain the IP.
- Foreign Co A only pays a small amount for this service and does not contribute in any other meaningful way to the further development or maintenance.
- Foreign Co A charges Foreign Co B \$50 million royalties per annum for the right to use the IP.
- 

### DPT application

## ***Example - Manufacturing distribution***



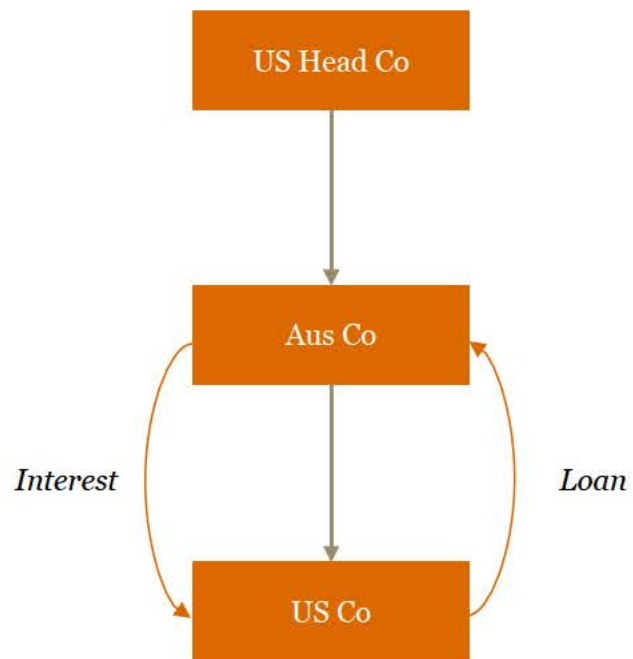
### ***Background / Facts***

- For Head Co. is Dutch and holds all the IP of the world group. It leases the IP to For Co NZ at for an arm's length royalty.
- NZ Co undertakes manufacturing and distributes to Aus.
- Aus Co sells directly to customers in the Australian market

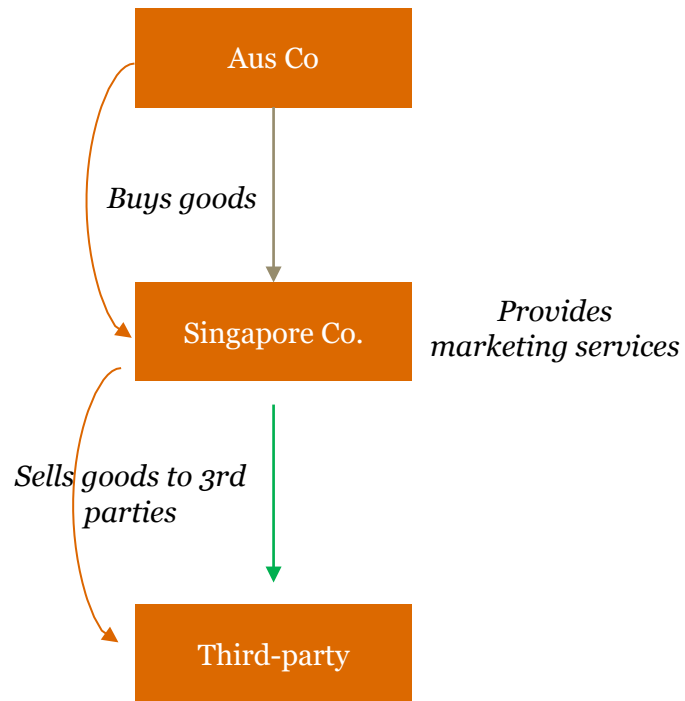
### ***DPT Commentary***

-

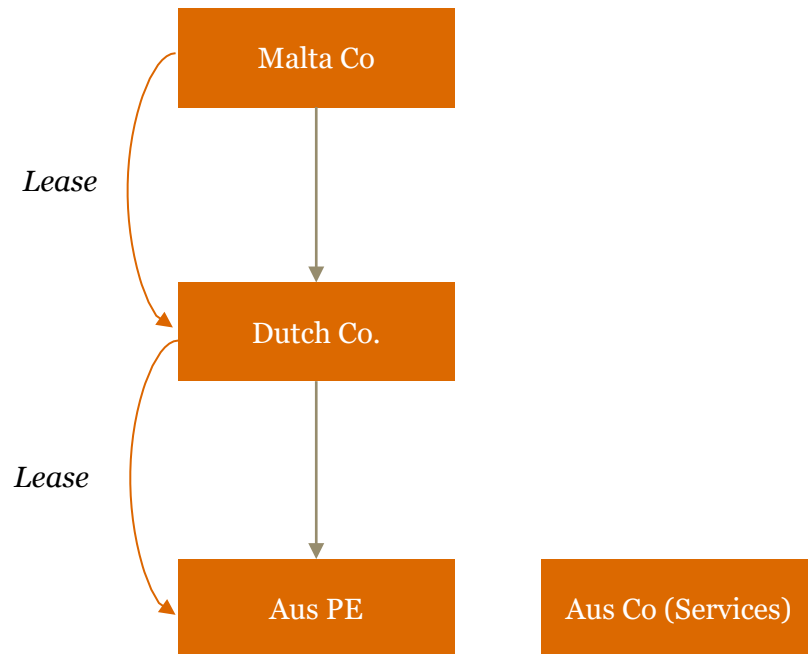
## Example - [REDACTED]



## ***Example – Marketing Hub***

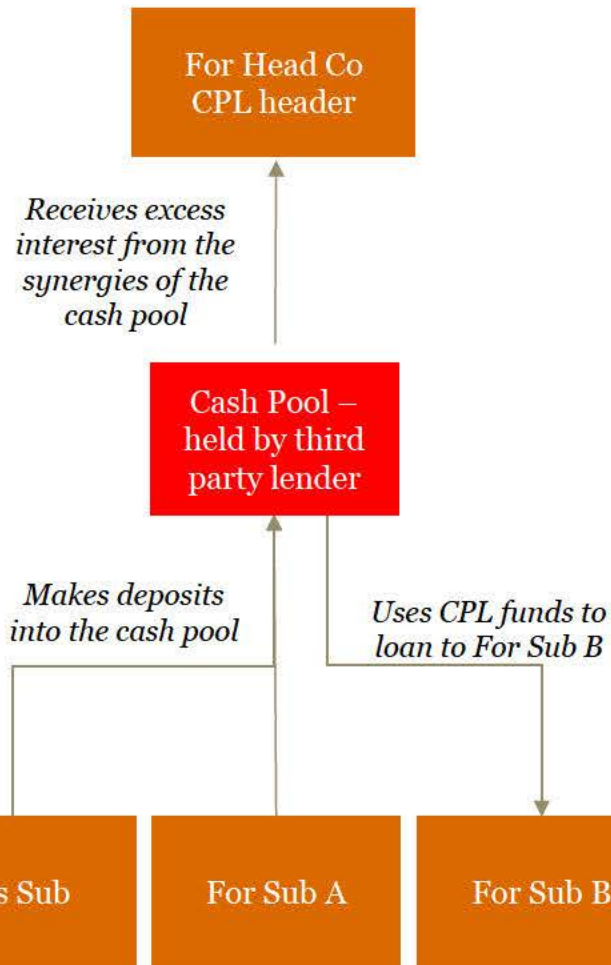


## ***Example – Lease on Lease***





## Example – Notional cash pooling



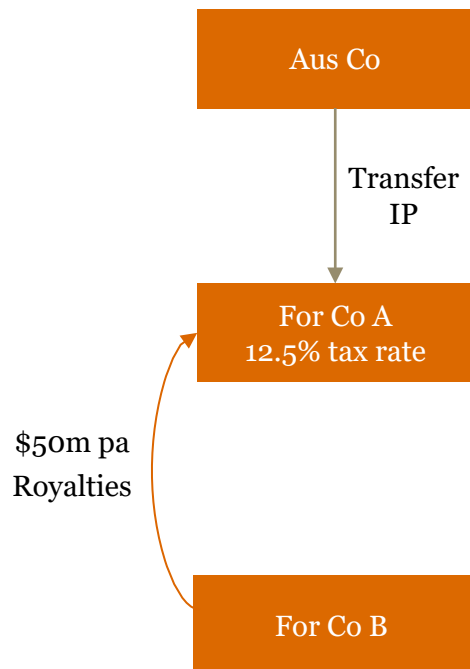
### Background / Facts

- [For Head Co is the cash pool leader of a group's cash pool.
- Aus Sub and For Sub A make deposits to their locally held accounts of the cash pooling account. These payments are not subject to WHT. They receive an arm's length interest rate on the deposit.
- For Sub B funds itself via a negative balance in the cash pool. It pays interest to the cash pool at arm's length rate.
- For Head Co. receives the margin between the outgoing interest on deposits Aus Sub and For Sub A and the incoming interest from the loan to For Sub B.
- Head Co pays is liable for any interest on the negative balance of the cash pool (any actual third party borrowing).

### DPT Commentary

-

## ***Example – Understated Income Reconstruction (Based on UK guidance)***



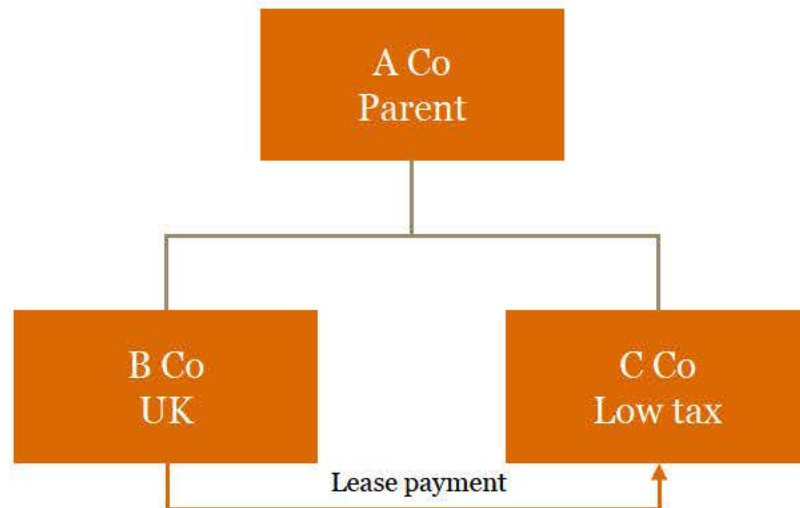
### ***Background / Facts***

- Aus Co transfers IP it has developed to For Co A for a nominal amount.
- Aus Co continues to develop and maintain IP.
- For Co A pays a “small amount” for services from Aus Co & does not contribute in any other meaningful way.

### ***DPT Commentary***

- Tax mismatch (12.5% < 30%).
- “Reasonable to conclude” transaction designed to secure tax reduction.
- Non-tax FBS < tax FBS.
- Alternative scenario would be for Aus Co to remain IP owner and receive royalties from For Co B.
- DPT = \$20m (\$50m x 40%) subject to CGT implications.

## Entities or transactions lacking economic substance



### Background / Facts

- B needs to invest in new plant and machinery (P&M) to carry on its trade in the UK.
- A injects capital into C. C in turn purchases P&M which it leases to B.
- C has no full time staff and its only activities are to own and lease the P&M.

### DPT commentary

- Effective tax mismatch outcome (lease payments are deductible in B but receipts not taxable in C).
- It is reasonable to conclude that C's involvement in the transaction was designed to secure a tax reduction.
- Employees of C do not contribute economic value > the financial benefit of the tax reduction.
- Income attributable to the ongoing functions/activities of the staff of C is not > other income attributable to the transaction.
- It is reasonable to conclude that in the absence of C, B would have purchased the P&M itself.
- AUS capital allowances would have been available in order to calculate the amount of DPT.
- The way in which B Co would have financed the acquisition, debt versus equity, should be factored into the DPT analysis, but as C has not incurred financing costs, there is likely to be a presumption that B would be equity financed (per HMRC guidance).

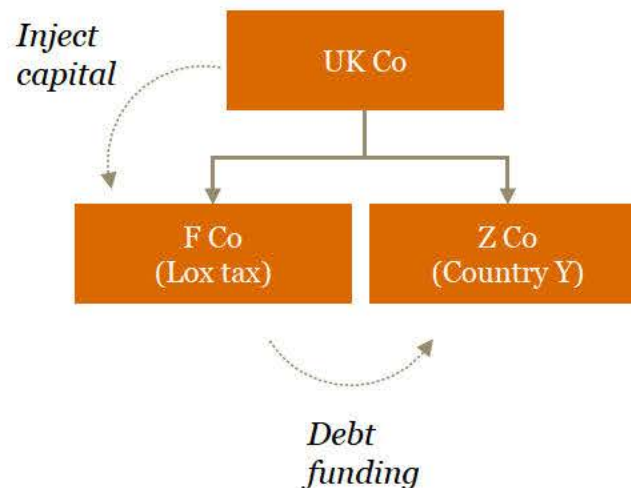
## ***Excepted loan relationship rule (UK guidance)***

### ***Background / Facts***

- UK Co is a UK resident company.
- F Co is the group finance company and is a Controlled Foreign Company within the finance company partial exemption rules.
- Z Co is resident in Country Y and requires funding for the purposes of its trade.
- UK Co injects capital into F Co which is then lent to Z Co.

### ***DPT commentary***

- There is a tax mismatch arising between UK Co and F Co. However, as this tax mismatch arises wholly from intragroup loan, this transaction is outside the scope of DPT.







**Re: A few notes from DPT discussion with [REDACTED] on 13 December 2016**

**From:** [REDACTED] (AU) <[REDACTED]@pwc.com>  
**To:** Peter Collins (AU) <"peter.collins (au)" <peter.collins@pwc.com>>  
**Cc:** [REDACTED] (AU) <[REDACTED] (au) <[REDACTED]@pwc.com>>, [REDACTED] <[REDACTED]>  
 <[REDACTED]@pwc.com>>, "[REDACTED]@pwc.com" <[REDACTED]@pwc.com>  
 <[REDACTED]@pwc.com>>, "[REDACTED]@pwc.com" <[REDACTED]@pwc.com>  
 <[REDACTED]@pwc.com>>, "[REDACTED]@pwc.com" <[REDACTED]@pwc.com>  
 <[REDACTED]@pwc.com>>  
**Date:** Wed, 14 Dec 2016 15:30:17 +1100

Agree [REDACTED] Sorry I should have completed my thinking on 2 ... which is we need to engage with the ATO on guidance and convince our clients that we should engage with specific structures and seek guidance.

Email: [praveen.p@pwc.com](mailto:praveen.p@pwc.com)

On 14 Dec. 2016, at 11:28 am, Peter Collins (AU) <[peter.collins@pwc.com](mailto:peter.collins@pwc.com)> wrote:

Agree with 1 always.

The challenge with 2 is long lead time until a DPT assessment could arrive in late 2019 for most Americans (including chance of massive US changes in the meantime) and convincing clients the ato is bloodyminded right now. We talked about this last week.

Those who understand current ato mindset are very interested and quite worried.

Welcome experience of others.

On 14 Dec. 2016, at 3:17 pm, [REDACTED] (AU) <[\[REDACTED\]@pwc.com](mailto:[REDACTED]@pwc.com)> wrote:

Thanks Pete.

In terms of getting some guidance to Partners I think the couple of points missing here is:

1. Don't wait to have a discussion - its broad reaching
2. Technical debates could roll on for months on how the provision applies and technical views. Ultimately, that is all irrelevant because if the DPT notice is issued then you are stuck in the DPT process.

Email: [pwc.com](mailto:info@pwc.com)

Regards,

**Peter Collins**  
Partner, Global Tax  
PwC Australia  
+61 [REDACTED]  
Email: [peter.collins@pwc.com](mailto:peter.collins@pwc.com)  
[twitter.com/petercollinstax](https://twitter.com/petercollinstax)  
[au.linkedin.com/in/petercollinspwc](https://au.linkedin.com/in/petercollinspwc)

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On 14 Dec. 2016, at 4:56 am, Peter Collins (AU) <[peter.collins@pwc.com](mailto:peter.collins@pwc.com)> wrote:

FYI

Regards,

**Peter Collins**

Partner, Global Tax

PwC Australia

+61 [REDACTED]

[peter.collins@pwc.com](mailto:peter.collins@pwc.com)

[twitter.com/petercollinstax](https://twitter.com/petercollinstax)

[au.linkedin.com/in/petercollinspwc](https://au.linkedin.com/in/petercollinspwc)

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----- Forwarded message -----

From: **Peter Collins (AU)** <[peter.collins@pwc.com](mailto:peter.collins@pwc.com)>

Date: Tue, Dec 13, 2016 at 7:28 PM

Subject: Re: A few notes from DPT discussion with Tsy on 13 December 2016

To: "[REDACTED] (AU)" <[\[REDACTED\]@pwc.com](mailto:[REDACTED]@pwc.com)>

Cc: "[REDACTED] (AU)" <[\[REDACTED\]@pwc.com](mailto:[REDACTED]@pwc.com)>, "[REDACTED] (AU)" <[\[REDACTED\]@pwc.com](mailto:[REDACTED]@pwc.com)>, "[REDACTED] (AU)" <[\[REDACTED\]@pwc.com](mailto:[REDACTED]@pwc.com)>

Thanks. I would add.

Reinforced rule is political not sensible. Almost no room for material changes.

The concern about the ATO issuing a DPT assessment instead of a TP assessment accelerated in the afternoon discussion. To manage difficulty in being seen to criticise ato behaviour; "Not critical of the ATO but they must apply the law that is promulgated"

Debt carveout likely not available for ALDT but all others. Talked about outbound funding too.

Regards,

**Peter Collins**

Partner, Global Tax

PwC Australia

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[twitter.com/petercollinstax](https://twitter.com/petercollinstax)

[au.linkedin.com/in/petercollinspwc](https://au.linkedin.com/in/petercollinspwc)

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On 13 Dec. 2016, at 2:16 pm, [REDACTED] (AU) <[\[REDACTED\]@pwc.com](mailto:[REDACTED]@pwc.com)> wrote:

Hi All

Here a few notes:

- Lower bar set for Part IVA: Tsy noted that arrangements of the past could be revisited under the DPT (given it presents a new process where the ATO can take a different look at a scheme). This is particularly the case for positions that were "line-ball" when implemented.

- Anticipated introduction: The first sitting period in February 2017 - circa 15 Feb.

- Safeharbour debt exception: to be introduced for safeharbour and ALDT.

- CFC and Aussie top-up tax: a revision is expected by Tsy that enables access to the 'sufficient' taxes paid carve-out (as distinct from the purpose test). Further work needed on the 'good' use of losses in a foreign jurisdiction vs the contrived use of losses.



- Broad exemptions to pension funds, charities etc: No because 177H sits within Part IVA. Therefore it may only be relevant when considering purpose.
- Availability of MAP: not possible under the DPT. Suggestion from Tsy that taxpayers could amend a return instead and seek a MAP outcome (counterpoint - nothing exists to compel the Commissioner to drop DPT in these circumstances).
- DPT penalties: confirmed that the penalty is the additional 10% under the DPT assessment.
- Request for examples on the alternative postulates: Tsy saw this as difficult to achieve. We then asked for clarity on process (such as the GAAR panel) but no desire by Tsy to deal with administration in the EM. Tsy pointed out the ATO guidance that they expect to come out when the legislation is introduced (assume LCG and roadmap of some sort).
- OECD question: Tsy under the impression that OECD guidance will help with sufficient substance. PwC provided counterpoints here (no better detail of substance and difficult to introduce after a drawn out audit or dispute before the DPT gets raised).
- 177L: discussed that this may not be helpful based on the lack of clarity of 'reflects' and an active vs passive distinction in the EM. I had a separate chat on this at the end of the call and TSy would like input on how this could be improved.
- Moderation of the ATO from the nuclear solution: Tsy expected that the reasonable alt postulate would work here, but would like input on any suggestions that could address concerns (including now that a 30% ceiling is gone).

--  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

Email: [Redacted]@pwc.com

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[twitter.com/PwC\\_AU](https://twitter.com/PwC_AU)



**From:** [REDACTED]@au.pwc.com  
**To:** "[REDACTED] (AU)" <[REDACTED]@pwc.com>  
**Cc:** "peter.collins@au.pwc.com, [REDACTED]@au.pwc.com"  
**Sent:** Friday, 06/05/2016 07:54 PM  
**Subject:** Re: Global Tax DPT session

---

[REDACTED] - focus of this is very much on 101 concepts to ensure all understand the importance of the counter factual and structuring considerations vs substance/tp factors

given likely broad application of the proposal there has been a lot of discussion on general concepts with corporate tax and clients from across the team and we have to quickly get the team aligned so that all preliminary conversations are optimal eg all know the importance of engaging with planning together with pricing from the outset etc etc

logistics for the Tuesday 17 AM session with the GT planning partners is in train. A VC room is booked and planning partners having a hold in their calendars from 8:00am for the morning. more to follow on exact timing and logistics of the session separately which Peter will no doubt refine/run.

----- Forwarded by [REDACTED] AU/TLS/PwC on 06/05/2016 06:51 PM -----

**From:** [REDACTED] AU/TLS/PwC  
**To:** Global Tax AU Ptrs, Global Tax AU Dirs  
**Date:** 06/05/2016 06:51 PM  
**Subject:** Global Tax DPT session

-----

Dear all

[REDACTED] and [REDACTED] have arranged a DPT VC/conf call session for Global Tax partners and directors next week.

This is an important opportunity to quickly align all of our senior GT team members on likely key themes and basic principles to ensure consistent go to market messaging leveraging Peter Collin's insights and our UK firm experience.

You should have all received an invite for the session from [REDACTED]. Session date is Friday 13 April kicking off at 3.00pm. Peter Collins will also participate supporting [REDACTED] and [REDACTED] for the session.

Best

[REDACTED]



## DPT - Preliminary discussions with Australian Treasury

From: peter.collins@au.pwc.com  
 To: "global tax au ptrs", "tls national its m&a"  
 Cc: [REDACTED]@au.pwc.com, [REDACTED]@au.pwc.com, [REDACTED]@uk.pwc.com,  
 [REDACTED]@uk.pwc.com, [REDACTED]@au.pwc.com, [REDACTED]@au.pwc.com,  
 [REDACTED]@au.pwc.com  
 Date: Wed, 11 May 2016 18:01:36 +1000

All,

We had a meeting with the ATO and Treasury yesterday in relation to the Diverted Profits Tax (DPT) proposal in the budget.

The purpose of the meeting was to discuss some of the questions we have on the DPT, provide early feedback ahead of our formal submission and try to understand the likely ATO approach.

Summarised below are the key points from the discussion. However, it is important to recognise that we are a long way from having legislation (we won't see any before the election) and we should anticipate that the views of the ATO and Treasury will evolve over time. Treasury are also restricted in what they can say because they are now in "caretaker" mode because of the election.

Therefore, please be cautious in sharing these preliminary views with clients (please call clients rather than forward this note).

### Key points:

1. The clear plan is to use the UK rules as a blueprint. However, there was a deliberate decision in relation to each of the departures from the UK rules (eg. exclusions for charities and other exempts, loan relationships, notification process and reasonable to "conclude" rather than "assume"). Treasury is open to being convinced that the rules should be narrowed where this can be justified.
2. The ATO proposes to use the DPT provisions as a "last resort", primarily for cases where they are having difficulty obtaining offshore information.
3. Long discussion in relation to the target of DPT and, in particular, whether it is an endeavour to expand taxation rights through the TP rules or an anti-avoidance rule. Treasury and the ATO seemed to agree that DPT was mostly about an extension of Part IVA.
4. If there are no grounds to reconstruct, the TP of the taxpayer is in order and meets the arm's length standard, then the DPT should not apply.
5. The reason provided for including debt in the DPT (unlike the UK provisions which carve out debt) was that the UK were anticipating Action 4 (thin cap) when legislating and therefore decided debt should not be subject to DPT.
6. Long discussion about the application of DPT to debt including the relevance of the location/character of the lender. The key message seemed to be that there should be no DPT issue provided the debt pricing is arm's length. This is seen as consistent with our TP rules.
7. DPT will be inserted into Part IVA (rather than the new tax approach adopted by the UK).
8. The ATO suggested MAP procedures should be available to resolve questions of double tax on diverted profits. There was some confusion between Treasury and the ATO on this point.
9. The ATO were reluctant to say how the prospect of a DPT would affect APAs (viz. in force and under negotiation). We suggested that the law should protect covered transactions under APAs from DPT. The ATO and Treasury want to consider this issue further.

If you have any questions please reach out to Peter Collins, [REDACTED] or [REDACTED]

**Peter Collins**  
 Partner, Global Tax  
 PwC Australia

+61 [REDACTED]  
 Email: [peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)  
[{View Peter Collins's profile on LinkedIn}](#)

Taxtalk: [www.pwc.com/au/tax/taxtalk/](http://www.pwc.com/au/tax/taxtalk/)

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**From:** "Peter Collins (AU)" <peter.collins@pwc.com>  
**To:** [REDACTED] <[REDACTED]@pwc.com>, [REDACTED]@pwc.com  
**Cc:** "[REDACTED]@pwc.com", [REDACTED] <[REDACTED]@pwc.com>, [REDACTED] <[REDACTED]@pwc.com>  
**Sent:** Wednesday, 23/11/2016 02:58 PM  
**Subject:** DPT Rumours getting louder

---

Please don't circulate this note and please treat as rumour and expectation.

DPT will be ready to go next Weds. It will then be up to the Treasurer to decide when to release but I am expecting they may wait until Parliament rises end of next week.

10 pages of law (Part IVA amendments and collection mechanism) but some of the consequentialia on franking, penalties etc may not be in there.

No general carve outs for debt or exempts.

Intention is that this will be more about more GAAR and information gathering powers and not so much about TP.

There will be an EM but not long and not many useful examples.

Comments will be due by Xmas so that the bill can be in Parliament early next year. I don't think this will achieve much because Treasury has already considered all of the submissions received so far.

The ATO will be tasked with issuing a LCG (when law is finalised) and notifying likely suspects (similar to MAAL).

Should we chat again about our plan for when this drops and how we communicate this to the practice?

Btw, here are the submissions for anyone interested:

<http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2016/Implementing-a-diverted-profits-tax/Submissions>

Regards,

Peter Collins

Partner - Global Tax

PwC Australia

[REDACTED]

[peter.collins@pwc.com](mailto:peter.collins@pwc.com)

[www.pwc.com.au](http://www.pwc.com.au)

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This message has been sent from my PwC iPad

Regards,

Peter Collins

Partner - Global Tax

PwC Australia



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On 25 Jan 2017, at 4:57 am, [REDACTED] (AU) <[REDACTED]@pwc.com> wrote:

Can you send me the draft leg' pls. Can you also send a note on the mtg yesterday. I have so many clients interested in this that we need to carefully be at the front of the pack.

Thanks

[REDACTED]

Sent from an iPad, so please excuse auto-spell errors!

Regards,

**Peter Collins**  
 Partner, Global Tax  
 PwC Australia  
 +61 [REDACTED]  
 Email: [peter.collins@pwc.com](mailto:peter.collins@pwc.com)  
[twitter.com/petercollinstax](https://twitter.com/petercollinstax)  
[au.linkedin.com/in/petercollinspwc](https://au.linkedin.com/in/petercollinspwc)

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On Jan 19, 2017, at 6:38 PM, [REDACTED] (AU) <[REDACTED]@pwc.com> wrote:

Can you include me please? It's very topical to US inbound to Aus of course!

[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

Begin forwarded message:

**From:** "[REDACTED] (AU)" <[REDACTED]@pwc.com>  
**Date:** January 18, 2017 at 11:04:35 PM PST  
**To:** [REDACTED] <[REDACTED]@pwc.com>  
**Subject:** Fwd: Diverted Profits Tax – targeted consultation on draft legislation [SEC=UNCLASSIFIED]

[REDACTED]  
 Email: [REDACTED]@pwc.com

Begin forwarded message:

**From:** "Peter Collins (AU)" <[peter.collins@pwc.com](mailto:peter.collins@pwc.com)>  
**Date:** 18 January 2017 at 4:26:00 pm AEDT  
**To:** [REDACTED] <[REDACTED]@pwc.com>, [REDACTED] <[REDACTED]@pwc.com>  
**Cc:** [REDACTED] <[REDACTED]@pwc.com>, [REDACTED] <[REDACTED]@pwc.com>, [REDACTED] <[REDACTED]@pwc.com>  
**Subject:** Fwd: Diverted Profits Tax – targeted consultation on draft legislation

**[SEC=UNCLASSIFIED]**

Moving swiftly now.

Regards,

## Peter Collins

Partner, Global Tax

PwC Australia

+61

Email: [peter.collins@pwc.com](mailto:peter.collins@pwc.com)

[twitter.com/petercollinstax](https://twitter.com/petercollinstax)

[au.linkedin.com/in/petercollinspwc](https://au.linkedin.com/in/petercollinspwc)

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[illegible]



[REDACTED]

[REDACTED]	[REDACTED]
------------	------------

## Re: Diverted Profits Tax – targeted consultation on draft legislation [SEC=UNCLASSIFIED]

---

**From:** Peter Collins (AU) <peter.collins@pwc.com>  
**To:** [REDACTED] (AU) <[REDACTED]@pwc.com>  
**Date:** Wed, 25 Jan 2017 07:20:34 +1100  
**Attachments:** ATT00001.bin (16.23 kB); DPT ED Jan 2017 vs Nov 2016 (1).pdf (441.25 kB)

---

Not to be shared please.

No notes of meeting but we did talk about it on weekly GT planning call and will do that next week too.

There were six or so submissions yesterday and including from us asking for EM to state specifically debt can't be DPTed to equity even though I think J4/5 is good enough for inbound.

next we will see is bill in parliament

[REDACTED] and [REDACTED] are leading what we need to do with our clients when this drops. Your help would be welcome as always.

Another meeting on hybrids has been called too. My bet has been they won't have law 17 17 but possibly trying to prove me wrong!

# Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

From: [REDACTED]uk.pwc.com  
 To: [REDACTED]au.pwc.com  
 Cc: [REDACTED] <"cn=[REDACTED]ou=au/ou=tls/o=pwc@asiapac">, [REDACTED] <"cn=[REDACTED]ou=au/ou=tls/o=pwc@asiapac">, [REDACTED] <"cn=[REDACTED]ou=au/ou=tls/o=pwc@asiapac">, Peter Collins <"cn=peter collins/ou=au/ou=tls/o=pwc@asiapac">, [REDACTED] <"cn=[REDACTED]ou=uk/ou=tls/o=pwc@emea-uk">, [REDACTED] <"cn=[REDACTED]ou=us/ou=tls/o=pwc@americas-us">, [REDACTED] <"cn=[REDACTED]ou=au/ou=tls/o=pwc@asiapac">  
 Date: Fri, 17 Oct 2014 01:11:14 +1100  
 Attachments: Response to OECD Discussion Draft on Mandatory Reporting.docx (16.31 kB)

Hi [REDACTED]

Apologies for being a bit slow to pick this up and read through all the material. Having now done that, I am not sure I can add much to the paper you have produced. The only immediate observation though is that disclosure is widely seen as an important weapon for tax authorities so I would assume the OECD proposals are 99%+ likely to proceed - in which case your overall message about the case not having been made may fall on deaf or unconvinced ears.

As to the OECD draft, the first 50 pages seemed pretty straight forward with what I thought was a careful and considered discussion of mandatory disclosure in general and no surprises in the analysis or conclusions drawn. It is the discussion of disclosure for "international tax schemes" that could potentially be more troubling, especially if this is allied with a more aggressive approach to treaty access under action point 6. Here, the criteria for an international tax scheme seem a bit fuzzy to say the least and the proposal to apply an outcomes based approach with specific and generic hallmarks seems rather open ended (ie not good). Clearly, it is early days in the thinking on this issue but this issue will need to be watched with interest. Probably not relevant for your response but I thought I should mention it here.

Best regards

[REDACTED]

[REDACTED] 16/10/2014 01:12:14---Attachment now included ! From: [REDACTED] AU/TLS/PwC

From: [REDACTED] AU/TLS/PwC@ASIAPAC  
 To: [REDACTED] UK/TLS/PwC@EMEA-UK, [REDACTED] US/TLS/PwC@Americas-US, [REDACTED] UK/TLS/PwC@EMEA-UK, Peter Collins/AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac  
 Date: 16/10/2014 01:12

Subject: Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

Sent by: [REDACTED] ASIAPAC

Attachment now included !

From: [REDACTED] AU/TLS/PwC

To: [REDACTED] UK/TLS/PwC@EMEA-UK, [REDACTED] US/TLS/PwC@Americas-US, [REDACTED]  
 [REDACTED] UK/TLS/PwC@EMEA-UK, Peter Collins/AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED]  
 [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac

Date: 16/10/2014 11:07 AM

Subject: Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

Sent by: [REDACTED]

Hi all

Recently I forwarded you an early confidential draft from the OECD BEPS project on mandatory disclosure reporting. The Australian firm has been invited to comment to the Australian Treasury by Friday COB this week.

Enclosed is a draft note we may send subject to your comments. We will need comments quickly please.

The draft pulled together by [REDACTED] reflects input from [REDACTED] and I. You will note we have only focused on Australia rather than discussing MDR more broadly.



Reporting.docx

Response to OECD Discussion Draft on Mandatory

Regards

[REDACTED]

PricewaterhouseCoopers 201 Sussex Street | GPO Box 2650 SYDNEY NSW 2000

E: [REDACTED] [au.pwc.com](mailto:[REDACTED]@au.pwc.com)

<http://www.pwc.com/au/legal>

This communication may contain confidential and/or legally privileged material. If you receive this communication as an agent for our client, or to assist in the provision of services to our client, you must not further disseminate this communication without our client's consent.

Please consider the environment before printing this email

Begin forwarded message:

**From:** "[REDACTED]" <[REDACTED]@au.pwc.com>  
**Date:** 15 October 2014 12:25:43 am GMT+2  
**To:** "[REDACTED]" <[REDACTED]@au.pwc.com>  
**Cc:** "[REDACTED]" <[REDACTED]@au.pwc.com>, "[REDACTED]" <[REDACTED]@au.pwc.com>, "Peter Collins" <[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)>  
**Subject:** Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

[REDACTED]

Some additional observations.

- Australia's RTP disclosure regime is far more limited in scope (both in scope and taxpayers covered) than the proposed MDR. The RTP schedule requires reporting of arrangements that are not the better view, result in a change in accounting provision or constitute a 'reportable transaction'. If MDR was implemented, it would not surprise me if the ATO shifted from the RTP schedule to favour a MDR approach as MDR appear to apply to a much broader range of taxpayers/advisors.

- MDR would give rise to various definitional issues, i.e. meaning of tax benefit or main purpose (sounds like recent Part IVA...)



- The main potential benefit of MDR for tax administrations would be to quickly join the dots on tax benefit transactions (this would supercharge the work of JITSIC, etc). This would be a significant development for the tax officials and their approach to tackling cross border aggressive tax planning. The difficulty they would face would be definitional issues v compliance costs which the paper acknowledges.

- The generic 'Hallmarks' definition is misguided. That is, it provides that a generic hallmark of a tax avoidance arrangement is confidentiality or the payment of a premium fee. As we know, there are many reasons for confidentiality clauses not the least of which are protection of intellectual property but it does not equate to a tax avoidance arrangement. The OECD would be better focusing on the outcome of the transaction rather than the fee structure agreed between a client and an advisor. If MDR appropriately designed, the fee structure should have no impact upon whether something is suitably classified as a MDR arrangement.

- Timeframes - I don't support disclosures within 5 days or 20 days. It should suffice that any disclosure is made by 30 June or ITR lodgement date.

General observation - Not surprisingly, many of Australia's tax law (such as the GAAR and Promoter Penalty provisions) address many of the issues raised in this document. I may have missed it, but I was surprised to see a lack of reference to Australia's promoter penalty legislation which operates in a similar manner to Australia's GAAR deterrent effect (it appears Australia was not represented/consulted on this draft paper). In the late 1990's I worked in the Aggressive Tax Planning business line and even with a GAAR, the mass marketed schemes that flourished during that period would be cut short in a matter of months if a tax administrator could target a promoter directly as they can now under the PPL. The purpose of MDR could equally be achieved through promoter penalty laws and the OECD report should consider that as an option for countries.

Are you ok to collate comments? Let me know if you need a hand, conscious you are overseas.

Regards,

[REDACTED]



[REDACTED] 2 Southbank Boulevard • Melbourne, VIC 3006 • Australia

[REDACTED] [au.pwc.com](http://au.pwc.com) [REDACTED]

[REDACTED] 15/10/2014 03:30:42 AM---[REDACTED] 13/10/2014 09:06:34 PM---From: [REDACTED]  
AU/TLS/PwC To: [REDACTED] AU/TLS/PwC@asiapac, [REDACTED] A

From: [REDACTED] AU/TLS/PwC  
To: [REDACTED] AU/TLS/PwC@asiapac  
Cc: [REDACTED] AU/TLS/PwC@asiapac, [REDACTED] AU/TLS/PwC@asiapac, Peter Collins/AU/TLS/PwC@asiapac  
Date: 15/10/2014 03:30 AM  
Subject: Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

Thanks [REDACTED]

Guys - Any other comments?

I will be pulling together a draft on the basis of below to discuss with our global colleagues, with a view to snug a note to Treasury on Friday.

Regards

[REDACTED]

Sent from my iPad

[REDACTED]



Strictly Confidential and Subject to Legal Professional Privilege

On 14 Oct 2014, at 8:30 am, "[REDACTED]" <[REDACTED]@pwc.com> wrote:

I agree with your observations below. In addition:

- why isn't Australia's RTP regime included in the analysis?
- based on experience with Australia's RTP disclosure regime, there aren't a lot of schemes being reported here (assumably due to relatively strong GAAR, TP and enforcement)
- the benefits of mandatory disclosure may be limited when looked at through individual country outcomes (unless additional reporting features like those covered in Chapter V - or currently used by Portugal - are included)
- The inclusion of cross-border reporting features raises jurisdictional nexus issues
- Cross-border reporting features that are not included in the report include double/more deductions (eg. interest, leasing, capital allowances)
- is the OECD planning any initiative around transparency-type disclosure of taxpayers that fall into mandatory disclosure of tax planning schemes?

Regards

Email: [REDACTED]@pwc.com

PricewaterhouseCoopers

Freshwater Place 2 Southbank Boulevard Southbank VIC 3006

Web: <http://www.pwc.com.au>

Twitter: @PwC\_AU

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**What do you value? Visit [pwc.com.au](http://pwc.com.au)**

[REDACTED] 13/10/2014 09:06:34 PM---From: [REDACTED] AU/TLS/PwC To: [REDACTED] AU/TLS/PwC@asiapac, [REDACTED] AU/TLS/PwC@asiapac, Peter Collins/AU/TLS/PwC

From: [REDACTED] AU/TLS/PwC

To: [REDACTED] AU/TLS/PwC@asiapac, [REDACTED] AU/TLS/PwC@asiapac, Peter

Collins/AU/TLS/PwC@asiapac, [REDACTED] AU/TLS/PwC@asiapac

Date: 13/10/2014 09:06 PM

Subject: Fwd: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

FYI.

From an Australian perspective:

- I think it will be hard for Government to resist MDR in some form



given Australia is a leader in info exchange, tax reporting eg RTPs, we already have promoter penalties

- I doubt this initiative will generate much by way of reports or behavioural change in Australia given existing reporting and promoter penalty legislation - at least for big business. It may have a bigger impact for the private, SME sectors.
- it would be logical for us to comment that any MDR system ought to align with promoter penalty rules ie concepts of promoter, tax exploitation scheme
- we should oppose some reporting system based on hallmarks which are not ultimately controlled by concepts for promoter penalties eg just because there is a hybrid doesn't mean Part IVA applies; MDR should only be required if Part IVA applies
- that is I can see no logic to support MDR beyond current reporting - that would require reporting arrangements which are legal and Part IVA does not apply to
- if Treasury wants a list approach then that sounds like a potentially massive extension of current tax return schedule reporting eg list all hybrids. In principle we ought to pushback that any reporting criteria that results in reporting lawful arrangements to which Part IVA applies to.
- there may be a grey area here for reporting foreign tax benefits - I would think we should oppose reporting by Australian taxpayers of foreign benefits as being a matter for foreign revenue authorities.
- I am not sure there would a lot of extra compliance costs for clients and advisers as MDR as suggested would presumably be covered by current compliance for existing reporting, promoter penalties UNLESS MDR duplicates existing reporting in some fashion. We ought to oppose any reporting resulting in duplication.
- sanctions for reporting failure is a bit complex. We ought to oppose penalties that apply before a taxpayer has had a chance to prove their case.

Given deadline of friday for comments! interested in thoughts please.



Sent from my iPad



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Begin forwarded message:



From: "[REDACTED] <[REDACTED]@uk.pwc.com>

Date: 10 October 2014 11:00:59 am GMT+2

To: "[REDACTED] <[REDACTED]@au.pwc.com>," [REDACTED]

[REDACTED] <[REDACTED]@uk.pwc.com>," [REDACTED]

<[REDACTED]@us.pwc.com>

**Subject: Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October**

We are probably at something of an advantage over you, [REDACTED] with regard to much of this, as we have existing MDRs. Having said that, I'm sure Australia has probably considered one or more elements of an MDR as well as some of the other specific reporting etc mentioned - including on the international side, it's key role in JITSIC.

To me it does seem heavily influenced by the characteristics of the UK regime and the consultations that have taken place around it over the years. That may be partly because of research carried out by the UK with respect of other regimes as well though.

A few immediate thoughts on a very quick read through:

- the introduction of (and subsequent amendments to) DOTAS here involved us and I'm sure many others in a massive investment in IT and governance systems to confirm that the tax advice given in relation to transactions by any of our people doesn't result in a disclosure requirement or, if it does need reporting, that a report is generated and clients advised of scheme reference number etc on top of the awareness we raise around ensuring our people comply with our ethical principles and our code of practice (need to be careful about how we phrase this)
- we probably need to capture experience from each of the countries mentioned with an MDR - UK, US, Ireland, Portugal, Canada, South Africa (whose schemes are summarised) + Israel and Korea (also mentioned)
- they intend to come up with a modular approach - one can surmise that this means all those with MDRs at the moment will be allowed to keep their existing regime (or largely to do so) and the standard will encompass all of them
- the international schemes element will be new to all the regimes and there are some interesting thoughts in the paper (and deliberately or otherwise, I noted it always refers to disclosure by the taxpayer!)
- not sure it needs to specifically mention the Big 4, when it says "Big 4 and other accountants" albeit in relation to the reduction in promotion of schemes - we could suggest its removal



The paper is well ahead of the planned circulation of a discussion draft (March 2015), so it seems we have plenty of time but it look like we may need it as there is potentially a lot to do. Best though that you're able to respond in some detail to the Australian government, [REDACTED] although I'm sure they're more interested in the impacts on Australia at this point.

Cheers

[REDACTED]

[REDACTED]

[REDACTED]

Email: [REDACTED] [uk.pwc.com](mailto:[REDACTED]@uk.pwc.com)  
 PricewaterhouseCoopers LLP  
 1 Embankment Place, London WC2N 6RH  
<http://www.pwc.com/>

[REDACTED] 10/10/2014 01:53:15---Guys sorry, I hope this work.  
 As per my other email this draft was provided to me on a strictly con

From: [REDACTED] AU/TLS/PwC@ASIAPAC  
 To: [REDACTED] UK/TLS/PwC@EMEA-UK@INTL  
 Cc: [REDACTED] UK/TLS/PwC@EMEA-UK, [REDACTED] US/TLS/PwC@americas-us  
 Date: 10/10/2014 01:53  
 Subject: Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

---

[attachment "OECD Discussion Draft - Mandatory disclosure of tax planning schemes - Sept 2014 - redacted\_Redacted.pdf" deleted by [REDACTED] UK/TLS/PwC]

Guys sorry, I hope this work. As per my other email this draft was provided to me on a strictly confidential basis.

regards

[REDACTED]

2000 [REDACTED] 201 Sussex Street | GPO Box 2650 SYDNEY NSW

[REDACTED]

[au.pwc.com](mailto:[REDACTED]@au.pwc.com)  
<http://www.pwc.com/au/legal>

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Please consider the environment before printing this email

09/10/2014 11:21:50 PM---HI Did you intend to attach the confidential document? Fully understand your position on tha

From: UK/TLS/PwC@EMEA-UK  
 To: AU/TLS/PwC@ASIAPAC@INTL  
 Cc: UK/TLS/PwC@EMEA-UK, US/TLS/PwC@americas-us  
 Date: 09/10/2014 11:21 PM  
 Subject: Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

---

HI

Did you intend to attach the confidential document? Fully understand your position on that, by the way, and if you mean just keeping it quiet that you've got it at all and awaiting your comments on it, that's fine.

Cheers

Email: [uk.pwc.com](mailto:uk.pwc.com)  
 PricewaterhouseCoopers LLP  
 1 Embankment Place, London WC2N 6RH  
<http://www.pwc.com/>

09/10/2014 12:27:13---From:   
 AU/TLS/PwC@ASIAPAC To:   
 UK/TLS/PwC@emea-uk

From: AU/TLS/PwC@ASIAPAC  
 To: UK/TLS/PwC@emea-uk  
 Cc: UK/TLS/PwC@emea-uk, US/TLS/PwC@americas-us  
 Date: 09/10/2014 12:27  
 Subject: Re: OECD Discussion draft: mandatory disclosure of tax planning schemes - comments sought by Australian Treasury Department by 17 October

---



Thanks [REDACTED]

It sounds like you haven't received this document in any form. Because it was provided to us on a confidential basis I ask that you don't circulate it beyond us or discuss it outside PwC - it would really put PwC Australia and me in a real bind. There is a procedure for me to get you confidentiality clearances - you sign a deed - if needed.

Anyway I will review and share views soon per your suggestion.

There is a tight timeframe on me. It may be we conclude we can say nothing yet which is fine but maybe we will want to give some input.

I note in Australia a few years ago, despite some tax shelter reporting regimes in other countries, such regimes were not deliberately not pursued in favour of a regime of penalties for promoters of tax schemes. I could well see Australia and other countries now signing on to a reporting regime in the current environment, and adopting a common standard to facilitate information exchange.

Regards

[REDACTED]

Sent from my iPad

[REDACTED]

Strictly Confidential and Subject to Legal

## Professional Privilege

On 9 Oct 2014, at 10:00 pm, "[REDACTED] [REDACTED]" <[REDACTED][uk.pwc.com](mailto:[REDACTED]@uk.pwc.com)> wrote:

Hi [REDACTED]

Thanks for sharing this information. I've not seen anything specific and, indeed, [REDACTED] [REDACTED] (Aussie, so you may have come across him even before [REDACTED] [REDACTED]) didn't say anything about a draft in a short discussion with our EBIT group on Monday. [REDACTED] did say their focus was very much on international schemes and a modular design taking into account availability of "other disclosure tools (such as co-operative compliance)".

They intend too, [REDACTED] said, to design enhanced models for information sharing of these schemes between tax administration - building on the 400+ arrangements [REDACTED] said the OECD had already (but [REDACTED] wasn't drawn on - or was perhaps even dismissive of - the register JITSIC apparently has). But that's a rather different matter to the brunt of the initial disclosure requirements anyway.

Subject to anything [REDACTED] might add ([REDACTED] just back from holiday today, so may have a large workload to get through), I think the process for agreeing our global viewpoints is that the four of us share our thoughts (agreeing on others from whom we should seek out any specific input), arrange calls as necessary to thrash out any differences and present to the likes of [REDACTED] and [REDACTED]

Cheers



[REDACTED]  
[REDACTED]  
[REDACTED]  
Email: [REDACTED] [uk.pwc.com](mailto:uk.pwc.com)  
PricewaterhouseCoopers LLP  
1 Embankment Place, London WC2N 6RH  
<http://www.pwc.com/>

[REDACTED] 09/10/2014 04:33:26---Hi all I am  
emailing you as we are the global team on this one  
according to a table I recently saw.

From: [REDACTED] AU/TLS/PwC@ASIAPAC  
To: [REDACTED] US/TLS/PwC@Americas-US, [REDACTED]  
[REDACTED] UK/TLS/PwC@EMEA-UK, [REDACTED]  
[REDACTED] UK/TLS/PwC@EMEA-UK

Date: 09/10/2014 04:33

Subject: OECD Discussion draft: mandatory disclosure of tax planning  
schemes - comments sought by Australian Treasury Department by 17  
October

---

Hi all

I am emailing you as we are the global team on  
this one according to a table I recently saw.

Today the Australian Treasury Department  
shared a copy of the above paper for comment  
by 17 October. It has been redacted and is  
confidential so I havent included a copy but you  
may have a version from other sources.

I am pulling together some views and wanted to  
check in with you about how we go about  
developing a position for the globe and respond  
to requests like that I have just received.

[REDACTED]  
[REDACTED] Are any of you  
attending ( [REDACTED] I recall you are not  
attending).

regards

---

[REDACTED] [REDACTED] [REDACTED]  
**Coopers** 201 Sussex Street | GPO Box 2650  
SYDNEY NSW 2000

E: [REDACTED] [\[REDACTED\]@au.pwc.com](mailto:[REDACTED]@au.pwc.com)

<http://www.pwc.com/au/legal>

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## Response to OECD Discussion Draft on Mandatory Reporting

### Overall Comments

The need for Australia to adopt a MDR as proposed is not obvious. Australia generally has high levels of compliance with tax laws as a result of a comprehensive GAAR, a progressive ATO, and strong legal systems. Chris Jordan has acknowledged this numerous times in the last 18 months through public speeches and appearances at House of Representatives Standing Committee on Tax and Senate Estimates hearings. As recently as 15 October 2015, he stated in a speech to the 2014 CPA Congress: *“Levels of willing participation in Australia are high. We know this from analysis of our revenue collection which shows that more than 95 per cent of revenue received comes in voluntarily – with relatively little assistance or intervention from us. Less than 5 per cent comes in from compliance enforcement measures”*.

Furthermore, Australia already has mandatory reporting for large corporates, through the Reportable Tax Position regime. Based on our experience with the RTP regime, there are very few tax schemes being reported (assumedly due to already having a very strong GAAR, comprehensive transfer pricing rules and targeted enforcement by the ATO). We also have the Promoter Penalty regime which the ATO is actively enforcing, so we do not expect the proposed MDR regime would result in behavioural change with large corporates, but would bring additional costs of compliance. Smaller corporates and privately owned entities may be impacted to a larger degree.

The responsibility for complying with a MDR would fall to the Public Officer. Depending on the design of the regime, it is likely to require a considerable investment in data technology and governance systems that do not currently exist.

There is no relative benefit in a MDR that requires the reporting of structures and issues that comply with tax laws in Australia. It would also be unreasonable for the Public Officers of Australian taxpayers to be required to report on tax issues in other jurisdictions, given that they would not be in a position to control, judge or properly analyse what occurs in jurisdictions for which they are not accountable or responsible.

Starting in 2015 the ATO will commence publishing tax information annually for all taxpayers with income above \$100 million. It is likely that this new regime will result in extensive media and community comment, and the impact this has on large corporates in terms of the manner in which they communicate responses and explanation is difficult to predict. Until this new reporting regime is implemented and bedded down, the environment is not suitable to introduce a new MDR.

There is a need for considerable further consultation to occur on the relative benefits and costs of a MDR and the extent to which current reporting regimes and laws already provide information that could be used for requisite analysis. It is doubtful that such a regime would detect any material tax avoidance that is not already capable of being detected through reporting and proactivity from the ATO.

It is also doubtful that tax structures that are currently in the spotlight as being used by certain multinational groups (such as the double-Irish Dutch sandwich) would be reported under the

proposed MDR, since these structures comply with the tax laws in each individual jurisdiction. The case for a comprehensive MDR in Australia has not made at this stage.

### **Design Comments**

It would be pragmatic that any proposed MDR system for Australia aligns with our existing tax laws including the promoter penalty regime. For example, definitions of a ‘promoter’, ‘tax exploitation scheme’ ‘tax benefit’ and ‘dominant purpose’ would need to align with the Income Tax Assessment Act. Otherwise the regime would be reporting information that is not useful in determining whether Australia’s tax laws are being threatened, and therefore result in wasted and inefficient compliance costs.

It would also be inefficient that a MDR introduce further concepts for reporting that are not relevant or significant in Australia, such as listing tax approaches or features that are not generally used in Australia, or are permissible in Australia.

There is also no need or justification for the paper to mention “Big 4 and other accountants”. A regime should not discriminate between advisor size or professional background (ie. Lawyers and financial planners can also provide tax advice in Australia).

Some of the “Hallmarks” features are of limited value and potentially very misleading. For example, the inclusion of tax structures that are based on “confidentiality” or “the payment of a premium fee” may be totally misrepresentative and irrelevant to the tax outcomes that result. There could be many reasons for such clauses, not the least the timeframe in which advice is provided, the relative experience and seniority of the advisor providing the advice, or the legitimate protection of intellectual property or other sensitive material.

The “Hallmarks” should be designed about harmful tax outcomes, not on the commercial or legal arrangements in place between advisors and clients.



## Re: West coast Aus clients

---

From: [REDACTED]@us.pwc.com  
 To: [REDACTED] <"cn=[REDACTED] ou=au/ou=tls/o=pwc@asiapac">  
 Date: Sat, 12 Sep 2015 20:47:22 +1000

---

Note went.

Would like to understand level of engagement of US firm on these engagements. From that can work out what to do to enhance. Would love to know if UK DPT is being covered on these as well.

PwC LLP New York

[REDACTED]

[REDACTED]

Email - [REDACTED]@us.pwc.com

On Sep 12, 2015, at 01:16, [REDACTED] <[REDACTED]@us.pwc.com> wrote:

As discussed, here is where we are today for Aus dpt:

[REDACTED] - Fully engaged

[REDACTED] - engagement letter being prepared, client gathering information

[REDACTED] - engagement letter sent, client has provided first cut of info

[REDACTED] - engagement being prepared under MSA, approval process slow, initial work under interfirm: client gathering information

[REDACTED] - engagement letter being prepared, client has provided first info

[REDACTED] Initial suggestion for work plan made

[REDACTED] - engagement in place

[REDACTED] - engagement letter being prepared

There are others that are slower eg [REDACTED]. There are also non-tech cos like [REDACTED] etc.



[REDACTED]

Did the DPT note go - deafening silence, which is surprising?

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sent from an iPhone, so please excuse auto-spell errors!

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding U.S. federal, state or local tax penalties.

---

The content of this email is limited to the matters specifically addressed herein and is not intended to address other potential tax consequences or the potential application of tax penalties to this or any other matter.

## Re: DPT - Preliminary discussions with Australian Treasury 3

**From:** peter.collins@au.pwc.com  
**To:** [REDACTED] (AU) <[REDACTED]@pwc.com>  
**Cc:** [REDACTED] <"cn=[REDACTED], ou=au/ou=tls/o=pwc@asiapac">, [REDACTED] <"cn=[REDACTED], ou=uk/ou=tls/o=pwc@emea-uk">, [REDACTED] <"cn=[REDACTED], ou=au/ou=tls/o=pwc@asiapac">, [REDACTED] <"cn=[REDACTED], ou=au/ou=tls/o=pwc@asiapac">, [REDACTED] <"cn=[REDACTED], ou=uk/ou=tls/o=pwc@emea-uk">, [REDACTED] <"cn=[REDACTED], ou=au/ou=tls/o=pwc@asiapac">, "global tax au ptrs", "tls national its m&a"  
**Date:** Wed, 11 May 2016 19:27:03 +1000

SEE BELOW (others who participated in the meeting feel free to contribute)

**Peter Collins**  
 Partner, Global Tax  
 PwC Australia

Direct: +61 [REDACTED]  
 Cell: +61 [REDACTED]  
 Email: [peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)  
 PricewaterhouseCoopers  
 Freshwater Place 2 Southbank Boulevard Southbank VIC 3006  
[{View Peter Collins's profile on LinkedIn}](#)

Taxtalk: [www.pwc.com/au/tax/taxtalk/](http://www.pwc.com/au/tax/taxtalk/)

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"[REDACTED] (AU)" ---11/05/2016 06:23:33 PM---Thanks Pete The ability to claim treaty relief/protection will be interesting if it's

**From:** "[REDACTED] (AU)" <[REDACTED]@pwc.com>  
**To:** Peter Collins/AU/TLS/PwC@AsiaPac  
**Cc:** [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] UK/TLS/PwC@EMEA-UK, [REDACTED] UK/TLS/PwC@EMEA-UK, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac, R2xvYmFslFRheCBBVSBQdHJz@Int.noninternet.sub  
**Date:** 11/05/2016 06:23 PM  
**Subject:** Re: DPT - Preliminary discussions with Australian Treasury

Thanks Pete

The ability to claim treaty relief/protection will be interesting if it's not a new tax. Was that discussed?

WIP- ATO THOUGHT MAP AVAILABLE EVEN THOUGH TREATY NOT BREACHED (DUE TO TREATY ACT EXCEPTION FOR GAAR). TREASURY DIDN'T SEEM TO AGREE BUT ATO WERE ADAMANT.

Whilst I hear what they say about a measure of last resort, it is not sensible to give the ATO a nuclear weapon and tell them to just use it to beat a few people gently. They will quickly forget that.

OF COURSE BUT NO POINT DEBATING. DPT IS POLITICAL DECISION NOT A SENSIBLE ONE.

Was there any discussion about the relevance or otherwise of substance and tp? As we already have comprehensive tp rules, just like the uk, DPT must be about something other than tp, and tp cannot be a defence. Perhaps substance is only relevant in formulating the reasonable alternative, and tp in quantifying

the outcome of the alternative? THIS WAS MOST OF THE DISCUSSION. I WOULD SAY THERE IS NOT A CLEAR VIEW. HOWEVER, I THINK THEY THINK DPT IS MOSTLY ABOUT FORMULATING AN ALTERNATIVE (WITH A LOWER THAN EXISTING PART IVA/815 THRESHOLD) AND PRICING THAT. ONLY IF DPT RULES PRODUCE A RELEVANT ALTERNATIVE CONDITION.

and I are meeting with uk folk today and will share their insights.

Sent from an iPhone, so please excuse auto-spell errors!

On 11 May 2016, at 09:01, "[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)" <[peter.collins@au.pwc.com](mailto:peter.collins@au.pwc.com)> wrote:

All,

We had a meeting with the ATO and Treasury yesterday in relation to the Diverted Profits Tax (DPT) proposal in the budget.

The purpose of the meeting was to discuss some of the questions we have on the DPT, provide early feedback ahead of our formal submission and try to understand the likely ATO approach.

Summarised below are the key points from the discussion. However, it is important to recognise that we are a long way from having legislation (we won't see any before the election) and we should anticipate that the views of the ATO and Treasury will evolve over time. Treasury are also restricted in what they can say because they are now in "caretaker" mode because of the election. Therefore, please be cautious in sharing these preliminary views with clients (please call clients rather than forward this note).

Key points:

1. The clear plan is to use the UK rules as a blueprint. However, there was a deliberate decision in relation to each of the departures from the UK rules (eg. exclusions for charities and other exemptions, loan relationships, notification process and reasonable to "conclude" rather than "assume"). Treasury is open to being convinced that the rules should be narrowed where this can be justified.
2. The ATO proposes to use the DPT provisions as a "last resort", primarily for cases where they are having difficulty obtaining offshore information.
3. Long discussion in relation to the target of DPT and, in particular, whether it is an endeavour to expand taxation rights through the TP rules or an anti-avoidance rule. Treasury and the ATO seemed to agree that DPT was mostly about an extension of Part IVA.
4. If there are no grounds to reconstruct, the TP of the taxpayer is in order and meets the arm's length standard, then the DPT should not apply.
5. The reason provided for including debt in the DPT (unlike the UK provisions which carve out debt) was that the UK were anticipating Action 4 (thin cap) when legislating and therefore decided debt should not be subject to DPT.
6. Long discussion about the application of DPT to debt including the relevance of the location/character of the lender. The key message seemed to be that there should be no DPT issue provided the debt pricing is arm's length. This is seen as consistent with our TP rules.
7. DPT will be inserted into Part IVA (rather than the new tax approach adopted by the UK).

8. The ATO suggested MAP procedures should be available to resolve questions of double tax on diverted profits. There was some confusion between Treasury and the ATO on this point.

9. The ATO were reluctant to say how the prospect of a DPT would affect APAs (viz. in force and under negotiation). We suggested that the law should protect covered transactions under APAs from DPT. The ATO and Treasury want to consider this issue further.

If you have any questions please reach out to Peter Collins, [REDACTED] or [REDACTED]

**Peter Collins**

Partner, Global Tax

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[<mime-attachment.png>](#)

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## Fwd: A few notes from DPT discussion with Tsy on 13 December 2016

**From:** Peter Collins (AU) <peter.collins@pwc.com>  
**To:** [REDACTED] (AU) <[REDACTED]@pwc.com>, [REDACTED] <[REDACTED]@pwc.com>  
**Date:** Wed, 14 Dec 2016 08:56:05 +1100

FYI

Regards,

**Peter Collins**  
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**From:** Peter Collins (AU) <peter.collins@pwc.com>  
**Date:** Tue, Dec 13, 2016 at 7:28 PM  
**Subject:** Re: A few notes from DPT discussion with Tsy on 13 December 2016  
**To:** [REDACTED] (AU) <[REDACTED]@pwc.com>  
**Cc:** [REDACTED] (AU) <[REDACTED]@pwc.com>, [REDACTED] (AU) <[REDACTED]@pwc.com>, [REDACTED] (AU) <[REDACTED]@pwc.com>

Thanks. I would add.

Reinforced rule is political not sensible. Almost no room for material changes.

The concern about the ATO issuing a DPT assessment instead of a TP assessment accelerated in the afternoon discussion. To manage difficulty in being seen to criticise ato behaviour; "Not critical of the ATO but they must apply the law that is promulgated".

Debt carveout likely not available for ALDT but all others. Talked about outbound funding too.

Regards,

**Peter Collins**  
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This message has been sent from my PwC iPhone

On 13 Dec. 2016, at 2:16 pm, [REDACTED] (AU) <[REDACTED]@pwc.com> wrote:

Hi All

Here a few notes:

- Lower bar set for Part IVA: Tsy noted that arrangements of the past could be revisited under the DPT (given it presents a new process where the ATO can take a different look at a scheme). This is particularly the case for positions that were "line-ball" when implemented.



- Anticipated introduction: The first sitting period in February 2017 - circa 15 Feb.
- Safeharbour debt exception: to be introduced for safeharbour and ALDT.
- CFC and Aussie top-up tax: a revision is expected by Tsy that enables access to the 'sufficient' taxes paid carve-out (as distinct from the purpose test). Further work needed on the 'good' use of losses in a foreign jurisdiction vs the contrived use of losses.
- Broad exemptions to pension funds, charities etc: No because 177H sits within Part IVA. Therefore it may only be relevant when considering purpose.
- Availability of MAP: not possible under the DPT. Suggestion from Tsy that taxpayers could amend a return instead and seek a MAP outcome (counterpoint - nothing exists to compel the Commissioner to drop DPT in these circumstances).
- DPT penalties: confirmed that the penalty is the additional 10% under the DPT assessment.
- Request for examples on the alternative postulates: Tsy saw this as difficult to achieve. We then asked for clarity on process (such as the GAAR panel) but no desire by Tsy to deal with administration in the EM. Tsy pointed out the ATO guidance that they expect to come out when the legislation is introduced (assume LCG and roadmap of some sort).
- OECD question: Tsy under the impression that OECD guidance will help with sufficient substance. PwC provided counterpoints here (no better detail of substance and difficult to introduce after a drawn out audit or dispute before the DPT gets raised).
- 177L: discussed that this may not be helpful based on the lack of clarity of 'reflects' and an active vs passive distinction in the EM. I had a separate chat on this at the end of the call and Tsy would like input on how this could be improved.
- Moderation of the ATO from the nuclear solution: Tsy expected that the reasonable alt postulate would work here, but would like input on any suggestions that could address concerns (including now that a 30% ceiling is gone).

--  
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[REDACTED] AU/TLS/PwC@AsiaPac, [REDACTED] AU/TLS/PwC@AsiaPac  
Date: 03/05/2016 09:18 PM  
Subject: Fwd: BoT hybrids report released - see link attached

Awesome for our MAAL defence work. Puts [REDACTED] in a great place.

Sent from an iPhone, so please excuse auto-spell errors!

Begin forwarded message:

From: [REDACTED]@au.pwc.com  
Date: 3 May 2016 at 05:54:01 GMT-4  
To: [REDACTED]@au.pwc.com  
Cc: TLS AU TTS Core Friends@us.pwc.com  
Subject: Re: BoT hybrids report released - see link attached

4.21 Accordingly, the Board does not recommend a legislative carve out or amnesty period from the operation of Part IVA for restructures that take place in anticipation of the hybrid mismatch rules. The Commissioner should retain the right to challenge arrangements restructured in an artificial or contrived manner.

4.22 However, the Board notes the views of Justice Hill in CPH Property Pty Ltd v. Federal Commissioner of Taxation (1998) 88 FCR 21 that: ... the time for testing the dominant purpose must be the time at which the scheme was entered into or carried out and by reference to the law as it then stood.

4.23 Accordingly, even absent a legislative carve out, restructures undertaken for the purpose of exiting hybrid mismatch arrangements prior to the commencement of the hybrid mismatch rules should not in itself attract the operation of Part IVA. However, artificial or contrived replacement structures could still potentially be subject to Part IVA (although the counterfactual should not have regard to the operation of the hybrid mismatch rules). 4.24 To provide greater certainty to taxpayers seeking to restructure, the Board recommends detailed administrative guidance (with illustrative examples) be provided by the Commissioner, in consultation with the taxpaying community, on whether, and under what circumstances, Part IVA will be applied to restructures undertaken to avoid the application of the hybrid mismatch rules and preserve an existing position, having regard to Justice Hill's comments above. The Board recommends that the administrative guidance be provided contemporaneously with the introduction of hybrid mismatch legislation to allow taxpayers to structure their affairs with certainty (and for draft administrative guidance to be made available at the same time as the draft legislation).

Quite helpful on transitional arrangements...

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<mime-attachment.gif>