



Centre for
International
Corporate Tax
Accountability
and Research



International Tax Unit
Corporate and International Tax Division
Treasury
Langton Cres
Parkes ACT 2600
E-mail: MNETaxintegrity@treasury.gov.au

Centre for International Corporate Tax Accountability & Research and Tax Justice Network - Australia Joint Submission on Multinational Tax Integrity – Disclosure of subsidiary information

13 April 2023

The Tax Justice Network Australia (TJN-Aus) and the Centre for International Corporate Tax Accountability and Research (CICTAR) welcome this opportunity to make a joint submission to the consultation on requiring disclosure of subsidiary information.

Ensuring multinationals pay a fair share of corporate income tax is necessary for the broader integrity of the tax system and to level the playing field for all businesses, particularly small and medium sized enterprises. In addition to direct efforts to close loopholes for multinational tax avoidance and raise revenues for public services, we note that transparency efforts can increase corporate income tax revenue through shifting both corporate behaviour and public attitudes towards fair taxation. Since the COVID-19 global pandemic, there is a growing awareness of the essential need for well-funded public health systems and an understanding that additional revenues will be needed to pay for the increased government support provided to the community through the pandemic. There is also growing awareness that increased public investments are needed for aged care, early childhood education, disability services and income support and that these investments will create a better society and stronger economic future for all. Increasing income tax revenues from multinationals is an important part of the solution and increasing fairness and broad-based economic growth.

TJN-Aus and CICTAR welcome and strongly support this and other significant reforms proposed by the Australian Treasury but continue to strive for broader reforms to national and international tax systems, including towards a unitary tax system and away from the arm's length principle.

We concur, as noted in the Exposure Draft Explanatory Memorandum, that: "Ensuring this information is in the public domain will facilitate an informed discussion on tax compliance, helping to build trust in the integrity of the tax system" and strongly support this proposed legislation.

There is minimal compliance burden for companies to publish a list of all subsidiaries with basic information, as proposed, but a significant increase in transparency for investors and other stakeholders. As noted in the explanatory material, this legislation brings Australia in line with similar requirements for disclosure of subsidiaries in the UK. It is hoped that the Australia's move will help to encourage other jurisdictions to require the same information.

We firmly agree with the approach in this legislation, as in our submission to the previous Treasury consultation, that it is simpler and more effective to require disclosure of all subsidiaries rather than those in so-called "secrecy" or "tax-haven" jurisdictions. However, we have two minor suggestions that may tighten the language in the proposed legislation.

Firstly, p.3, lines 4-7 ((3A)(a)(vii)) require a list of each foreign country in which the entity was a resident of the purposes of the law of the foreign country relating to foreign income tax. It might be more useful to change this language to refer to jurisdictions rather than countries, or require disclosure of the state, province or territory within the country where the registration is held when the country in question allows for registration by state or province. This approach would be preferable as there are some jurisdictions with different legal frameworks within the same country. Clarification of the intent and meaning of jurisdiction, if different from country, would be needed in the explanatory materials as well.

A primary example of this, and why this clarification would be helpful, is the United States. Within the US there are different legal frameworks for incorporation and for tax purposes between various states and territories. Companies are incorporated at the state level and subject to different rules based on which state. States including, but not limited to, Delaware, Wyoming and Nevada are frequently considered tax havens or secrecy jurisdictions. It is worth noting that to the extent that public companies in the US disclose subsidiaries, the US subsidiaries are disclosed with the state of incorporation. US territories like Puerto Rico are considered foreign for US tax purposes; Puerto Rico has been widely abused for tax avoidance purposes. The federal territory of Labuan in Malaysia would be another example, or Hong Kong versus China. There are similar situations with Provinces in Canada or Cantons in Switzerland and undoubtedly many other examples around the globe with differences between jurisdictions in the same country.

Highlighting that a subsidiary is incorporated in a jurisdiction that may conceal information about that subsidiary helps to flag to investors potential material and reputation risks. Complex corporate structures are often a sign of increased risk.¹

Secondly, p.2 lines 24-25 ((3A)(a)(iii)) ends with the phrase "or a participant in a joint venture within the consolidated entity". Frequently participations in joint ventures are outside of a consolidated entity, especially if the interest held is below 50%. This language could be interpreted to exclude interests held by subsidiaries if not part of the consolidated entity. Perhaps the language could be amended as follows:

"...the entity was a trustee of a trust, a partner in a partnership or a participant in a joint venture within or external to the consolidated entity;"

We commend the Australian Government for showing global leadership to increase transparency and help ensure all entities are paying a fair share of corporate income tax to support our public services with this, and other, proposed legislative reforms.

¹ Andres Knobel, "Addressing the secrecy risks of complex ownership chains: Another tool to improve beneficial ownership verification", Tax Justice Network, February 16, 2022, <https://taxjustice.net/2022/02/16/addressing-the-secrecy-risks-of-complex-ownership-chains-another-tool-to-improve-beneficial-ownership-verification/>

Jason Ward
Principal Analyst
CICTAR
Phone: 0488 190 457
@JasonWardCICTAR
Email: jason.ward@cictar.org

Dr Mark Zirnsak
Secretariat
Tax Justice Network Australia
c/- 29 College Crescent
Parkville, Victoria, 3052
Phone: 0409 166 915
E-mail: mark.zirnsak@victas.uca.org.au

Background on the Centre for International Corporate Tax Accountability & Research (CICTAR)

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

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

Background on the Tax Justice Network Australia

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

The Tax Justice Network aims to:

- (a) promote sustainable finance for development;
- (b) promote international co-operation on tax regulation and tax-related crimes;
- (c) oppose tax havens;
- (d) promote progressive and equitable taxation;
- (e) promote corporate responsibility and accountability; and
- (f) promote tax compliance and a culture of responsibility.

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

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