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## The Digital Economy and Australia's Corporate Tax System

Dear Sir/Madam,

The American Chamber of Commerce in Australia is writing in response to the request by Treasury for submissions on 2 October 2018, with respect to the *Digital Economy and Australia's Corporate Tax System* discussion paper which seeks to move towards a fairer and more sustainable tax system for the digitalised economy.

The American Chamber of Commerce in Australia - better known as AmCham Australia - was founded in 1961 by Australian and American businesses to encourage the two-way flow of trade and investment between Australia and the United States, and to assist its members in furthering business contacts with other nations. AmCham represents the interests of American companies undertaking business activity in Australia. As AmCham has grown and evolved over the years, its role has expanded to not only represent the views of American businesses, but also increasingly to speak for a broad range of AmCham members who are involved in the Australian business community.

Direct U.S. investment in Australia is worth nearly \$897 billion, or 27 percent of all foreign investment in Australia which makes it, by far, the single largest foreign investor in Australia's total FDI stock. Furthermore, the cumulative two-way investment relationship between Australia and the U.S. totals over \$1.5 trillion.

AmCham recognises that globalisation has profoundly impacted how multinational corporations are organised and the way they conduct business. Multinational companies seek to be competitive in an international market and their investments are likely to be made where profitability is the highest. As profitability is impacted by the taxes paid, it follows that a country's tax system will impact where multinationals companies will invest.

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Commerce in Australia**

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The members of AmCham are aware of, and strongly support, the efforts of the Organisation for Economic Co-operation and Development (“OECD”) and the G-20 in working towards a unified movement of tax reform to ensure that global tax rules remain current with business revolution.

Expanding digitalisation increasingly pervades all areas of the economy, making it extremely difficult to ‘ring-fence’ for tax purposes. The OECD has agreed to work towards a long term solution for a fairer and more sustainable tax system for the digitalised economy by 2020. However, we understand there is interest for Australia to act more quickly by implementing an interim measure. Any interim measure:

- is bound to impact all sectors of the economy, not just the digital sector, as businesses become increasingly digitalised;
- will likely give rise to double taxation for Australian and international companies;
- will impose an enormous and unnecessary compliance burden, both from a cost and complexity perspective, on subsidiaries of multinational;
- may infringe on existing international tax treaties and /or free trade agreements;
- will be inconsistent with how other OECD member states are likely to implement the digital tax provisions;
- is likely to become superfluous once OECD member states have reached a consensus; and
- has the potential to be detrimental to foreign investment in Australia.

Australia is a capital dependant country and it is important to ensure there are not inadvertent signals sent to foreign investors, including American investors, which would cause potential or actual investors to question the governance and fairness of the Australian market. AmCham is concerned that the focus of these efforts, appears to be very much directed towards foreign companies.

The Government should seriously consider the unintended consequences from implementing any such measure. On 31 October 2018, the U.S. House Ways and Means Committee Chairman, Kevin Brady, in response to the United Kingdom’s intention to introduce a digital tax policy, stated: *‘if the United Kingdom or other countries proceed, that will prompt a review of our U.S. tax and regulatory approach to determine what actions are appropriate to ensure a level playing field in global markets.’* Similar measures introduced in Australia would undoubtedly be met with similar sentiments internationally.

To maximise Australia’s trade and investment inflows and expand commercial opportunities for Australian business, it is essential that regulatory and taxation policies are conducive to maintaining a competitive environment in which business, investment and innovation can flourish.

AmCham is supportive of reforming Australia's tax system and the global tax system. We believe effective reform of the global tax system will only be achieved if all of the key global economies participate in a cooperative, coordinated and consistent way. With that in mind, AmCham strongly encourages the Government to delay taking any unilateral action while the OECD considers the complexity of digital taxation matters.

Thank you for your consideration, and for this opportunity to submit AmCham's views to this discussion paper. We welcome any queries you have regarding our submission and any opportunities to further engage in the consultation process.

Yours sincerely,



**April Palmerlee**  
Chief Executive Officer