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The Director Sharing Economy Reporting
Corporate and International Tax Division
Treasury
Langton Cres
Parkes ACT 2600
sharingeconomyreporting@treasury.gov.au (via email)

Submission on “Implementing a Reporting Regime for Sharing Economy Platform Providers”

The Centre for International Corporate Tax Accountability and Research (CICTAR) welcomes the opportunity to provide a submission to the Treasury consultation on implementing a reporting regime for transactions related to:

- Ride-sourcing and short-term accommodation from 1 July 2022; and
- Asset sharing, food delivery, tasking-based services and other services from 1 July 2023.

Treasury’s proposal does little to address tax avoidance of multinationals operating platforms in the ‘gig’ economy. Platform, ‘sharing’, ‘gig’ and app-based employers are often organised via complex multinational corporate structures, including subsidiaries based in tax havens which facilitate profit shifting and tax avoidance. The current proposal would do little to challenge these practices and rather focuses unfairly on poorly-paid workers with few financial resources.

Recent estimates of global corporate tax avoidance have been placed between USD200-300 billion.¹ While Australia performs better at enforcement and collection than many nations, significant losses of revenue, both domestically and internationally, are particularly egregious in light of the fiscal burdens of fighting the covid-19 pandemic. While Australia has supported ongoing discussions for significant global tax reforms through the OECD, it is not clear that the current proposals will improve tax collection from multinationals in the ‘gig’ economy.

As Treasury plans to implement a reporting regime for ‘sharing economy transactions’, it imposes responsibility for reporting on the provider of the service, that is, the driver or the worker.² The bill avoids imposing responsibility on the corporate groups that employ those workers, enabling them to continue to avoid accountability to the communities where corporate revenues are generated.

Earlier this year, CICTAR analyzed how Uber avoids tax obligations around the world. Our research found that a 2019 global restructure of Uber had significant tax implications for all

¹ Garcia- Bernado, Javier and Petr Jansky (2021), “Profit Shifting of Multinational Corporations Worldwide,” IES Working Paper, <https://www.taxobservatory.eu/repository/profit-shifting-of-multinational-corporations-worldwide/>

² Treasury Laws Amendment Bill 2021, available at: https://treasury.gov.au/sites/default/files/2021-06/sharingeconomyreportingregime_exposedraft.pdf



countries where the company operates (excluding the US and China) now, and into the future, particularly as profits grow. The full detailed report can be found as a Senate submission here: <https://www.aph.gov.au/DocumentStore.ashx?id=ba6dc46e-b31e-4a32-b3a8-c84fa0e51964&subId=706633>

In 2019, Uber's Australian business reported revenue of AUD1,161.6 million and paid AUD11.1 million in income tax. While tax is determined on profits and not revenue, much of the revenue in Australia, which may also be under-reported, may be more accurately classified as profit. Profits appear to be artificially reduced by major offshore related party transactions with Uber's Dutch entities. In 2019, the tax paid by Uber represents less than 1% of reported revenue, in stark contrast to the corporate income tax rate of 30%.³

Uber's tax payments in Australia may be low but are likely significantly higher than in many other jurisdictions where Uber's operations generate revenues far outstripping genuine operational costs. The Australian Tax Office (ATO) is more assertive than some of its counterparts and legislation has been passed in efforts to limit multinational tax avoidance. However, current legal frameworks in Australia and internationally permit significant tax avoidance through transfer pricing. The current Treasury proposal does nothing to address profit shifting by Uber and other multinational platform operators using complex global structures specifically designed to eliminate tax obligations where profits are generated.

In Australia, Uber reported AUD1.6 million in profit after tax in 2019 but paid nearly seven times that amount in corporate income tax.⁴ This may reflect creative accounting practices, tax payments due for previous years, or it may be the result of a compliance audit by the ATO, rejecting the company's method of calculating taxable profits. This amount of tax payment appears to be significantly lower than if Uber's total revenues were not shifted to the Netherlands and a small portion returned to pay drivers and delivery people and "Service fees" to the head of the Australian tax consolidated group. This is a scheme similar to those utilized by other multinational digital service companies in Australia and globally.

Despite Uber's tax payments in Australia, the potential loss in tax revenue from shifting revenues offshore to the Netherlands is significant. According to the 2018-19 (most recent) corporate tax data, Uber Australia Holdings Pty Ltd has AUD1,118.1 million in total income, ranking as the 345th largest company in Australia. Taxable income was AUD48.8 million, resulting in an estimated profit margin of 4.4%, far lower than estimates of a global profit margin of 10%. Tax payable was AUD14.6 million. If an actual profit margin of 10% is assumed – to eliminate for transfer (mis)pricing within Uber's global structure – there would have been an additional **AUD18.9 million** in tax paid in Australia. Using the same estimates, if the previous pattern of Uber's revenue growth continued into the 2019-20 financial year, it would represent lost corporate tax revenue of **AUD39 million**.

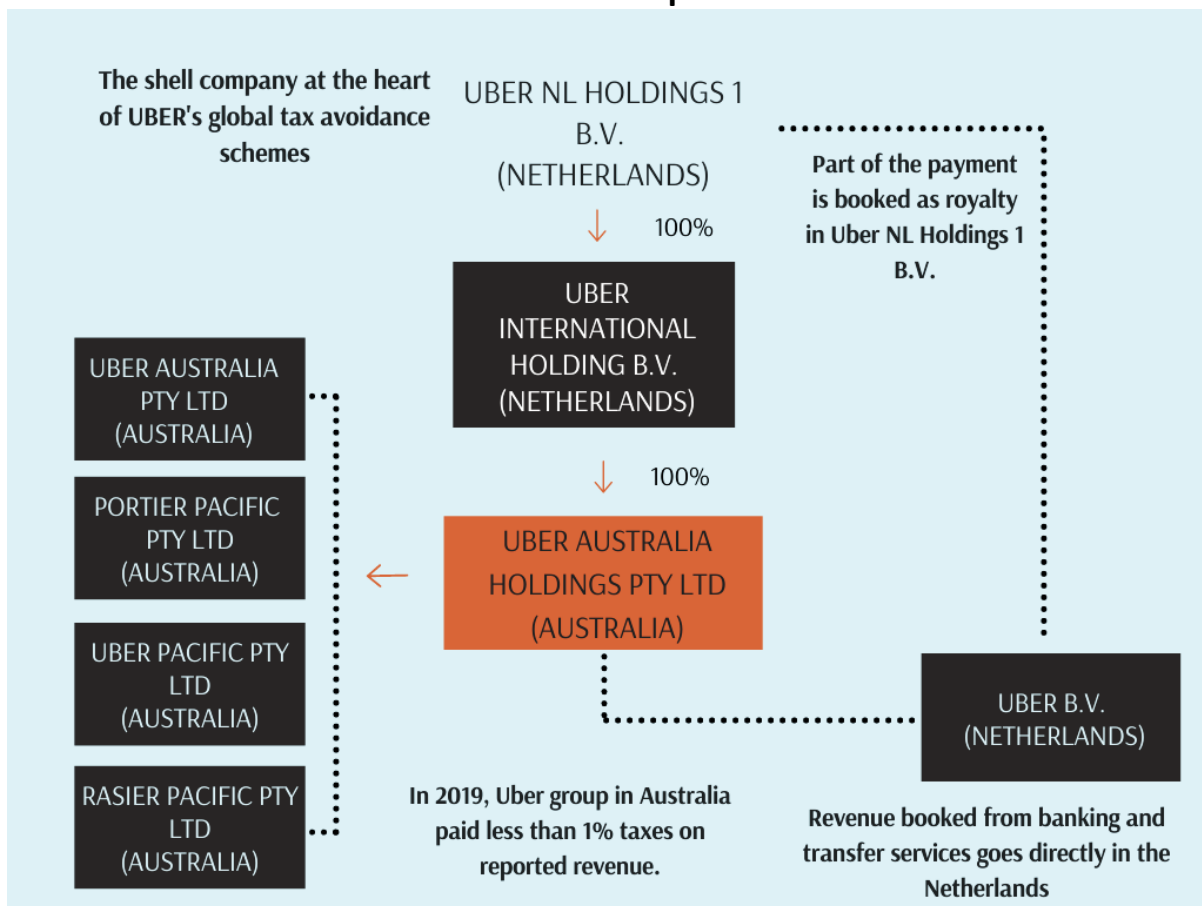
³ 2019 Annual Report of Uber Australia Holdings Pty Ltd and its subsidiaries, for the year end 31 December 2019, page 5 Income Statement and page 8 Cash Flow Statement. This is tax paid from the cash flow statement and not the income tax expense, which is an accounting figure and not an actual payment.

⁴ 2019 Annual Report of Uber Australia Holdings Pty Ltd and its subsidiaries for the year end 31 December 2019, page 1 Directors' report.

The distribution of revenues and costs within Uber’s global corporate group

Uber’s 2019 revenue in Australia of AUD1,161.6 million, up from AUD935.3 million in the previous year, is entirely from ride-sharing and Uber Eats.⁵ In Uber’s language, drivers and delivery people are its “Partners” and the “Partners are the Group’s customers and pay the Group a service fee for each successfully completed transaction between the Partner and the end-users.”⁶ In ride-sharing, the “service fee is typically a fixed percentage of the end user fare.”⁷ In Uber Eats, the “service fee paid by Merchant Partners and Delivery Partners is typically a fixed percentage of the meal price and delivery fee.”⁸ All of Uber’s revenue, with the minor exception of service fees paid by restaurants, comes from service fees paid by workers.

Uber’s Australian Corporate Structure



Source: 2019 Consolidated Financial Statement of Uber Australia Holdings Pty Ltd⁹

⁵ 2019 Annual Report of Uber Australia Holdings Pty Ltd and its subsidiaries for the year end 31 December 2019, page 27 Note 7.

⁶ 2019 Annual Report of Uber Australia Holdings Pty Ltd and its subsidiaries for the year end 31 December 2019, 31 December 2019, page 29 Note 7.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

There appear to be few genuine operating costs for Uber's business. Marketing expenses to promote the use of Uber's platforms and legal costs to defend its exploitative business model appear to be some of the few legitimate costs. In 2019, Uber's marketing expenses were AUD237.6 million.¹⁰

Otherwise, the already established platform connects end-users to workers and collects a percentage of the payments made to workers for the services they provide. Additionally, Uber's banking operations, which collect the full payment from end-users, offer other opportunities for booking revenue from banking and transfer services directly in the Netherlands. The consolidated financial statements of the Australian holding company are opaque, but other expenses appear to be largely made up of transfers to Uber subsidiaries in the Netherlands.¹¹ There is limited disclosure of what these transfers pay for beyond broad categories such as administrative expenses and service fees.

In 2019, the cost of providing services, details of which are not specified, at AUD273.5 million reduced gross profit to AUD888.1 million.¹² Marketing expenses and administrative expenses of AUD621.7 million further reduced operating profit to AUD28.6 million and finance costs of AUD9.5 million and income tax expense of AUD17.6 million, including expenses from the previous year, reduced the reported profit after tax to only AUD1.6 million.¹³ Apart from the marketing expenses and the income tax expense (not payments) the majority of these costs, although not fully disclosed, appear to be transfers to Uber subsidiaries in the Netherlands.

What is disclosed is that service fees of AUD494.2 million were paid to related parties and that collection on behalf of a related company was AUD3,073.3 million and payment on behalf of related companies was AUD2,098.1 million.¹⁴ The calculated difference between collections and payments by related parties is AUD975.2 million. This appears to be the difference between payments made by Australian end-users to Uber subsidiaries in the Netherlands and payments made by Uber Dutch subsidiaries to Australian Uber drivers and delivery people.

Additionally, AUD1,141.4 million was reported as payable to related parties, which "mainly pertain to payment on behalf by related parties and service fees due to related parties."¹⁵ AUD837 million is reported as payable due to a related party on a "cash pooling" arrangement.¹⁶ The cash pooling is "between Uber B.V. and all the group entities. All group

¹⁰ 2019 Annual Report of Uber Australia Holdings Pty Ltd and its subsidiaries for the year end 31 December 2019, page 31 Note 8.

¹¹ Uber Australia Holdings Pty Ltd is Uber's Australian holding company. The immediate parent of the holding company is Uber International Holding B.V. in the Netherlands. The holding company is the head of consolidated tax group with four subsidiaries, Uber Pacific Pty Ltd and Raiser Pacific Pty Ltd which related to ridesharing services, Portier Pacific Pty Ltd which relates to Uber Eats and Uber Australia Pty Ltd which provides market research, product and service marketing. These subsidiaries do not file separate financial statements.

¹² 2019 Annual Report of Uber Australia Holdings Pty Ltd and its subsidiaries for the year end 31 December 2019, page 5 Income Statement.

¹³ Ibid.

¹⁴ 2019 Annual Report of Uber Australia Holdings Pty Ltd and its subsidiaries for the year end 31 December 2019, page 43 Note 23.

¹⁵ 2019 Annual Report of Uber Australia Holdings Pty Ltd and its subsidiaries for the year end 31 December 2019, page 32 Note 14.

¹⁶ Ibid.



entities have individual bank accounts and their month-end cash balances are being swept into a single cash account owned by Uber B.V.”¹⁷ Uber B.V. which acts like a treasury unit for Uber’s global operations and is a key subsidiary being used to sweep revenue out of Australia. Like a bank, it then also charges interest on this cash pooling arrangement. The interest expense on the cash pooling arrangement was AUD8.2 million in 2019, making up the vast majority of total finance expenses.¹⁸

CICTAR strongly believes that the proposed legislation needs to increase transparency and accountability for the multinationals that control “sharing economy” platforms. Tax compliance must be a shared responsibility and not only the obligation of the workers delivering the services via a platform. Uber’s tax avoidance is one example of a much larger problem. As the “sharing economy” continues to grow, so will the problem of tax avoidance by multinationals which operate these platforms. We urge Treasury to take a closer look at these important issues and come forward with proposed solutions that are fair and that create a level playing field for domestic companies that are not using complex global corporate structures to avoid tax obligations in Australia and globally. Australia has an opportunity to show global leadership in this area.

We would be happy to provide further information.

Sincerely,

Jason Ward, Principal Analyst
CICTAR
jason.ward@cictar.org

¹⁷ Ibid.

¹⁸ 2019 Annual Report of Uber Australia Holdings Pty Ltd and its subsidiaries for the year end 31 December 2019, page 32 Note 10.