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| **EXPOSURE DRAFT (05/04/2023)** |

Inserts for

Treasury Laws Amendment (Measures for Future Bills) Bill 2023: Multinational tax transparency ‑ Tax changes

| Commencement information | | |
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| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Schedule 1 | The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent. |  |

Schedule 1—Multinational tax transparency reporting

Taxation Administration Act 1953

1 After section 3CA

Insert:

3D Publication of information by certain country by country reporting entities

(1) This section applies to an entity for an income year if:

(a) the entity is:

(i) a constitutional corporation; or

(ii) a partnership in which each of the partners is a constitutional corporation; or

(iii) a trust of which each of the trustees is a constitutional corporation; and

(b) the entity is a country by country reporting parent for the income year; and

(c) the entity is a member of a country by country reporting group at any time during the income year; and

(d) at any time during the income year, the entity or another member of the country by country reporting group is:

(i) an Australian resident; or

(ii) a foreign resident who operates an Australian permanent establishment (within the meaning of Part IVA of the *Income Tax Assessment Act 1936*); and

(e) the entity is not included in a class of entities:

(i) prescribed by the regulations for the purposes of this subparagraph; or

(ii) specified in a legislative instrument under subsection (13); and

(f) the entity is not specified in an exemption under subsection (14).

Note: This section does not apply to certain government related entities (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*): see subsection (17).

(2) However, if an entity is specified in a notice under subsection (3), treat the period of 12 months ending on the date specified in the notice as the entity’s income year for the purposes of this section.

(3) For the purposes of subsection (2), the Commissioner may, by written notice, specify an entity and a date other than 30 June.

Publication of information

(4) An entity to which this section applies for an income year must, within 12 months after the end of the income year:

(a) publish the information set out in subsection (5), except to the extent the entity and the information are specified in an exemption under subsection (15); and

(b) do so in accordance with the requirements set out in subsection (9).

(5) For the purposes of paragraph (4)(a), the information the entity must publish is as follows:

(a) the names of each other entity that, at that time, was a member of the country by country reporting group;

(b) a description of the country by country reporting group’s approach to tax;

(c) in respect of each jurisdiction in which the country by country reporting group operates, the information listed in subsection (6) for the income year;

(d) if regulations for the purposes of this paragraph prescribe information—that information.

(6) For the purposes of paragraph (5)(c), the following information is listed:

(a) a description of main business activities;

(b) the number of employees as at the end of the income year;

(c) revenue from unrelated parties;

(d) revenue from related parties that are not tax residents of the jurisdiction;

(e) expenses arising from transactions with related parties that are not tax residents of the jurisdiction;

(f) profit or loss before income tax;

(g) a list of tangible and intangible assets as at the end of the income year;

(h) the book value at the end of the income year of tangible and intangible assets, other than cash and cash equivalents;

(i) income taxpaid (on cash basis);

(j) income tax accrued (current year);

(k) effective tax rate;

(l) the reasons for the difference between:

(i) the amount mentioned in paragraph (j); and

(ii) the amount of income tax due if the income tax rate applicable in the jurisdiction were applied to the amount mentioned in paragraph (f);

(m) the currency used in calculating and presenting the information mentioned in paragraphs (c) to (l).

(7) For the purposes of determining the effect that paragraph (5)(b), subsection (6) and any regulations made for the purposes of paragraph (5)(d) have in relation to an entity, identify information mentioned in those provisions so as best to achieve consistency with the following documents, to the extent they are relevant:

(a) Chapter V of *Guidance on Transfer Pricing Documentation and Country‑by‑Country Reporting* (2014) of the Organisation for Economic Cooperation and Development;

(b) *Guidance on the Implementation of Country‑by‑Country Reporting: BEPS Action 13* (2022) of the Organisation for Economic Cooperation and Development;

(c) Disclosures 207‑1 and 207‑4 of *GRI 207:Tax* (2019) of the Global Reporting Initiative’s Sustainability Reporting Standards;

(d) in the case of paragraph (6)(k)—Article 5.1 of the *Tax Challenges Arising from the Digitalisation of the Economy ­­– Global Anti‑Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS* (2021) of the Organisation for Economic Cooperation and Development;

(e) a document, or part of a document, prescribed by the regulations for the purposes of this paragraph.

Note: The documents in paragraphs (a), (b) and (d) could in 2023 be viewed on the Organisation for Economic Cooperation and Development’s website (http://www.oecd.org).

(8) The information published by the entity under subsection (5) must be based on amounts as shown in the audited consolidated financial statements for the entity for the period that corresponds to the income year.

(9) For the purposes of paragraph (4)(b), the entity publishes information in accordance with the requirements set out in this subsection if the entity gives a document containing the information to the Commissioner in the approved form.

(10) The Commissioner must, as soon as practicable after receiving the document from an entity in accordance with subsection (9), make the information in the document available on an Australian government website.

Corrections

(11) If an entity becomes aware that the document given to the Commissioner under subsection (9) contains an error, it must, as soon as practicable, give the Commissioner a notice in writing containing information that corrects the error in the approved form.

(12) The Commissioner must, as soon as practicable after receiving the notice under subsection (11), make the information that corrects the error available on an Australian government website.

Exemptions

(13) For the purposes of subparagraph (1)(e)(ii), the Commissioner may, by legislative instrument, specify a class of entity to which subsection (4) does not apply.

(14) For the purposes of paragraph (1)(f), the Commissioner may, by notice in writing, specify an entity that is exempt from publishing information under subsection (4).

(15) For the purposes of paragraph (4)(a), the Commissioner may, by notice in writing, specify:

(a) an entity that is exempt from publishing information of a particular kind; and

(b) the particular kind of information that the entity is exempt from publishing.

(16) A notice under subsection (14) or (15) is not a legislative instrument.

Government related entities

(17) This section does not apply to a corporate tax entity for an income year if:

(a) the entity is a government related entity (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*); and

(b) the Commissioner has given notice to the entity for the income year under subsection (18).

(18) For the purposes of paragraph (17)(b), the Commissioner may give notice in writing to a government related entity (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*) for one or more specified income years if the Commissioner considers that it is appropriate to do so.

Interpretation

(19) An expression used in this section that is also used in the *Income Tax Assessment Act 1997* has the same meaning as in that Act.

2 After paragraph 8C(1)(aa)

Insert:

(ab) to publish information in the manner in which it is required under a taxation law to be published; or

3 Application

The amendments made by this Schedule apply in relation to the 2023‑24 income year and later income years.