

28 April 2023

A/g Assistant Secretary
Tax Treaties Branch
Corporate and International Tax Division
Treasury
Langton Cres
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By email: MNETaxIntegrity@treasury.gov.au

Submission - Multinational tax transparency and Public country-by-country reporting exposure drafts

Cochlear welcomes the opportunity to provide feedback on the *'Treasury Laws Amendment (Measures for Consultation) Bill 2023: Deductions for payments relating to intangible assets connected with low corporate tax jurisdictions'* and *'Treasury Laws Amendment (Measures for Future Bills) Bill 2023: Multinational tax transparency – Tax changes'* exposure drafts (EDs) and the accompanying Explanatory Materials (EMs).

We have contributed to the submissions made by the Business Council of Australia (BCA) and the Corporate Tax Association (CTA) and endorse the contents of those submissions as they relate to the broader range of issues raised by the EDs and EMs. We would like to reinforce the 'overarching observation' that any change to Australia's tax integrity and transparency rules must be balanced and proportionate, and not seen as a unilateral measure which diverts from the global agreements on Pillar Two and operate as a handbrake on investment. The problems these changes are trying to address need to be more clearly identified including why existing laws (e.g. transfer pricing, the DPT, the MAAL, CFC rules, treaty shopping rules and Part IVA) do not adequately address the problem around intangibles and the rationale for Australia to go beyond EU directives and OECD guidelines on public country by country (CBC) reporting.

Country-by-country reporting

Cochlear has a strong commitment to transparency with respect to its tax strategy and compliance both here in Australia and globally. We have published a Tax Contribution Report in line with the Board of Tax Voluntary Tax Transparency Code since 2016. We support transparency measures that will meaningfully contribute to tax system integrity and building public trust.

The proposed changes will significantly expand tax transparency requirements for large companies operating in Australia. They notably deviate from Global Reporting Initiative (GRI) Sustainability Reporting Standard GRI 207, the OECD CBC reporting guidance and the EU standards for CBC reporting by imposing additional reporting requirements. The requirement to disclose a listing of intangible assets raises the risk of commercially sensitive information being made public and available to competitors who are not subject to similar disclosure rules.

These measures increase the cost and risk of doing business in Australia, further diminishing Australia's competitive position in the global economy. Yet it is unclear how the additional reporting requirements will complement existing public reporting measures without the additional information

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being prone to misinterpretation and misrepresentation as each public reporting measures different qualitative and quantitative data for different purposes.

Deductions for payments relating to intangible assets connected with low corporate tax jurisdictions

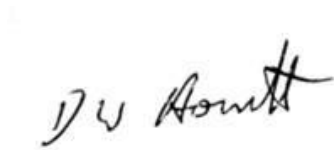
We are concerned that the current proposal, with a lack of a purpose and substance-based test, and a wide definition of 'low tax jurisdictions,' would result in the rules applying very broadly to genuine commercial arrangements.

The current proposal not only goes beyond the Government's election commitment but would be a further disincentive for globally mobile, knowledge-based companies to invest in Australia. This will also discourage Australian knowledge-based companies from continuing to invest locally.

Government should have confidence that the OECD would identify harmful or non-Action 5 tax regimes and discourage their existence. We support the CTA's view that there shouldn't be a need for Australia to develop its own rules that go beyond the scope of the work of the OECD and EU for CBC reporting and the proposed intangible rules should sunset when Pillar Two commences in Australia.

Please contact Kimberley Simpson, Vice President Global Tax & Treasury at ksimpson@cochlear.com if you would like to discuss Cochlear's feedback in further detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dig Howitt', with a stylized flourish at the end.

Dig Howitt
Chief Executive Officer and President
Cochlear Ltd