OXFAM
Australia

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28.04.2023

Dear Director,

Submission on Multinational Tax Transparency - Country by Country Reporting

Oxfam Australia strongly welcome the opportunity to make this submission to the exposure draft legislation “Taxation Laws Amendment (Measures For Future Bills) Bill 2023: Multinational Tax Transparency – Tax Changes” on Public Country by Country Reporting.

Oxfam is an independent, not-for-profit development agency. Our vision is of a just and sustainable world without the inequalities that keep people in poverty. Oxfam Australia has more than 67,000 financial supporters and an additional 320,000 advocacy supporters who help advance our work. Oxfam Australia is a member of Oxfam International, a global confederation of 21 organisations that work together in 87 countries around the world.

Oxfam believes that creating a fairer tax system and holding multilateral corporations to account to give back to the community is central to addressing growing inequality and to eradicating poverty nationally and globally.

Today extreme wealth and extreme poverty are rising simultaneously. Currently, 719 million people live in extreme poverty. We estimate that inequality contributes to the deaths of at least 21,300 people each day—or one person every four seconds. Meanwhile, since the pandemic began, a new billionaire has been created every 26 hours globally. In Australia, there are 11 more billionaires now than before the COVID-19 crisis.

This growing and extreme inequality is being fueled by tax evasion and avoidance across the world. The United Nations Principles for Responsible Investments (PRI), representing investors with $89 trillion assets under management, states that tax avoidance is a key driver of inequality, which is associated with poor long-term business and social performance.

Oxfam is a vocal advocate of multinational corporate tax transparency as a critical means to reduce corporate tax avoidance and evasion. The lack of transparency over what profits are made and what taxes are paid by global corporations in every country in which they operate has made it very challenging to hold big corporations to account for unethical profit shifting or tax avoidance behaviours.

According to the most recent academic research, Australia lost an estimated 14% of its corporate income tax to multinational companies' use of tax havens in 2019, representing a loss of USD$9 billion. Globally the loss is estimated at more than USD$200 billion, with developing countries most impacted. Oxfam Australia also released two influential reports in 2016 and 2017, "The Hidden Billions – How Tax Havens Impact Lives At Home And Abroad"", and "Making Tax Vanish In Australia – How the practices of consumer goods MNC RB show that the tax system is broken", which confirmed and documented the harmful role that aggressive tax planning was having on Australia and abroad, particularly in developing countries. Our research found that global tax avoidance is costing Australians billions in lost revenue and starving low-income countries of much needed funds for development. Tax avoidance is depriving some of the world's poorest people access to essential services such as education, health, clean water, and sanitation. While often tax avoidance is not illegal due to the shortfalls of our global economic system, it is plainly unethical.

To stop the corrosive effects of tax havens and aggressive corporate tax planning, Oxfam has been demanding comprehensive tax transparency for over a decade. As we noted in our response to the OECD's public consultation on Action 13 in 2020, we view the information contained in the country-by-country reporting as a public good that should be publicly available for all countries and jurisdictions in which reporting companies have activities. This was also Oxfam's message during the EU negotiations on the directive on public country by country reporting, which disappointedly ended up providing transparency for only one-quarter of the world's countries and jurisdictions, covering mainly only activities of multinational corporations in EU member states. As nearly 75% of Australia's lost corporate tax revenue is the result of profit-shifting to non-EU tax haven countries and jurisdictions, the EU's directive is a good illustration of why such patchy transparency will not be effective. More recently, Oxfam has filed shareholder resolutions demanding tax transparency from Exxon, Chevron, and ConocoPhillips. Oxfam is also working with legislators in the US and in several EU member states to encourage the adoption of genuine and comprehensive tax transparency.

In light of these efforts, Oxfam strongly supports the 'Multinational Tax Transparency' public country by country reporting exposure draft legislation that has been released by the Australian Government. This legislation is critically important for global and national efforts to stamp out tax avoidance by multinational corporations and to create a fairer tax system. It allows Australia to take advantage of the current global momentum around the tax transparency and to take a leadership role in international regulatory action. The scope of reporting, in particular, which requires not only Australia-based multinational corporations to provide this information, but also multinational corporations with a permanent establishment or subsidiary in Australia, will also help encourage other jurisdictions to align proposed tax transparency regulations with the Australian requirements.

Oxfam strongly supports the use of the GRI Tax Standard as the model for the reporting of tax and operational information by multinational corporations in the legislation, and particularly Disclosure 207-4 on country-by-country reporting (CbCR). This is the primary international standard for tax transparency and it sets an appropriately high bar which all corporations should meet in their reporting, in line with stakeholder expectations. It is critically important that corporations that operate in Australia declare this information for each and every country and jurisdiction in which the corporation operates and thus we strongly welcome this stipulation in the legislation.

By aligning with the GRI Tax Standard, Australia is also further contributing to a harmonization of tax transparency regulations across jurisdictions and major capital markets, helping ensure that disclosures from companies around the world will be comparable in form and investors and the public can expect the same types of information in such reporting. This alignment also makes it simpler for compliance from companies already disclosing CbCR in line with GRI, including major Australian multinationals like Rio Tinto and BHP.

One particular element of the GRI 207 Standard that has not yet been explicitly included does merit attention and should be integrated into the draft legislation: GRI's recommended disclosure of "industry-related and other taxes or payments to governments" (GRI Disclosure 207-4, Reporting recommendation 2.3.4). For the oil, gas and mining sectors in particular – where project-level payments-to-governments disclosures are the norm across 30+ capital markets, 57 Extractive Industries Transparency Initiative (EITI) implementing countries and 62 EITI supporting companies (including 12 Australian extractive companies) – this information is critically important to being able to understand the fiscal contributions of projects, which often include other significant revenue streams like royalties, oil profit, resource rent taxes, bonus payments, state dividends, and taxes to subnational governments. Accordingly, in the GRI standard for the oil and gas sector, GRI identifies disclosures of all significant project-level payments to governments as relevant for that sector in reporting under the Tax Standard, and the recent exposure draft of the forthcoming GRI standard for the mining sector does the same. We strongly encourage the Australian government to incorporate this important element into the existing legislation and/or otherwise require mandatory disclosure of project-level payments to governments in line with other jurisdictions and global normative evolution on these disclosures.

We believe that all the parameters and information measures outlined in section 3D(4),(5) and (6) of the exposure draft are critical for the full transparency and accountability of the reporting. Specifically, we welcome the requirements to report total revenues, profits, related party revenues, taxes accrued, taxes paid, number of employees, effective tax rate, and other key metrics disaggregated on a country-by-country level. We believe twelve months is a generous time horizon by which such information be published.

We strongly welcome this legislation beginning in the 2023-24 financial year. There is no reason to delay the implementation of this legislation as corporations already report much of this information confidentially to the ATO and thus are accustomed to this process. In fact, there is every reason to implement this legislation as soon as possible to ensure corporations respond by adjusting their tax strategy to be in line with ethical community expectations or can be held publicly accountable when they don't.

To ensure maximal utility of the data, maximal trust in the disclosures provided, and a level playing field, we would encourage the government to take a very narrow and transparent approach to the granting of exceptions to reporting. The process to grant exemptions should be clear, with transparent government disclosures of which companies or which clearly defined narrow classes of entities are being exempted from which specific disclosures, and an accompanying rationale. Exemptions should be narrow (e.g. limited to disclosures of pCbCR from certain countries) and time-bound (e.g. for one reporting cycle).

Once enacted, we believe this legislation could have numerous positive benefits that by far outweigh any of the relatively minor costs on multinational corporations that the reporting requirements will produce, particularly given that much of this data is already compiled by the company, confidentially reported in disaggregated (country-by-country) form, and publicly reported in the aggregate. There are at least five significant benefits that we believe speak strongly in favour of the approach outlined in the exposure draft.

First, we believe the proposed transparency measures outlined in the exposure draft will help reduce the public's losses from tax avoidance, with some estimates suggesting that as much as one-quarter of aggressive corporate tax avoidance could be eliminated from public country-by-country reporting alone. This could restore billions in tax funds to the Australian government at a time when we desperately need it to restore and grow the aid budget, provide our fair share of climate finance, raise income support rates above the poverty line (particularly jobseeker), and meet the challenges of the cost-of-living crisis. Importantly, given that companies operating in Australia are present around the world, it could also restore much needed public revenues for lower-income countries across the world at a critical moment when those funds are needed for social investments, to address the climate adaptation and resilience, and to escape the growing debt crisis.

Second, the proposed transparency will allow journalists, NGOs and the general public to scrutinize the tax practices of multinational corporations and will help better align corporate behaviour with the public's expectation around fair tax practices. In this way we believe it will help restore the trust and social contract between citizens and multinational corporations that have been so badly hurt by numerous scandals and leaks showing aggressive tax practices. In this sense we believe that multinational corporations will ultimately benefit from more transparency, a view shared by a growing number of multinational corporations that have already decided to voluntarily increase their transparency around tax. Encouraging as this voluntarily approach is, it cannot replace regulation as it incentivises those companies with less aggressive tax planning practices to voluntarily disclose more, while those that are the most aggressive in their tax planning and where transparency is most needed will be less likely to voluntarily increase their transparency around their taxes.

Third, we believe that increasing tax transparency will help create fairer competition between multinational corporations and smaller companies as well as purely domestic companies that do not have access to the cross-border aggressive tax planning practices that many multinational corporations make use of in order to lower their effective tax rates. Companies should be competing fairly in the market and not be profiting via accounting gimmicks and tax avoidance.

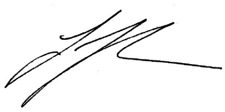
Fourth, from our work around investor resolutions on tax transparency we know that there is a big demand from institutional investors to have full public country by country reporting information in order to uncover investments risks. Oxfam's shareholder resolutions (Exxon memo, Chevron memo, and the ConocoPhillips memo) calling for tax transparency reports have been supported by a range of investor co-filers, including Nordea, the Greater Manchester Pension Fund, KLP, Folksam, and Pensam. These and other investors have also emphasized their support for tax transparency repeatedly, with investors worth trillions in assets under management demonstrating their support. It is clear that tax transparency would also improve securities analysis and provide information critical to evaluating material risks, both at the asset level and at a systemic level.

Fifth, having the data public will be of big value for researchers and will help inform international taxation debates and reforms. The EU's requirement for public country by country reporting for the financial sector has resulted in numerous innovative academic research articles that have increased our knowledge and insight into the sector and corporate tax avoidance. Having this data public across sectors could help policy makers, researchers and the public in monitoring and analysing the effects of the OECD’s two-pillar international tax agreement.

Last and vitally, having the level of transparency proposed in the exposure draft will particularly benefit developing countries who for the most part are excluded from receiving the OECD’s confidential country by country reporting information under BEPS Action 13, despite being most impacted by aggressive tax planning. While the OECD framework does provide some opportunity for exchange of confidential tax information across jurisdictions, it is fundamentally insufficient, and most low-income and middle-income countries lack access to the very information that would help them to guard against risks of tax avoidance that undermine domestic revenue mobilisation. At a time when many developing countries are facing an acute financing shortfall in reaching the Sustainable Development Goals (SDGs) we believe that making the information freely available to developing countries follows the principle of policy coherence for development.

Thank you for the opportunity to make this submission and I commend the Australian Government on this sound legislation. Please contact Josie Lee, Policy and Advocacy Lead at Oxfam Australia - josielee@oxfam.org.au, if you have any questions.

Your sincerely,



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