



What represents a “fair share of tax” from the business community?

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November 2017 APPEA taxation and commercial conference

What's fair?

What's fair?

The concept

Something that is just or appropriate in the circumstances.

...it is not merely of some importance but is of fundamental importance that **justice should not only be done, but should manifestly and undoubtedly be seen to be done**. *R v Sussex Justices, Ex parte McCarthy*

Publicity is justly commended as a remedy for social and industrial diseases. **Sunlight is said to be the best of disinfectants**; electric light the most efficient policeman. *Louis Brandeis*

...rules are **amoral** constructs that are meant to serve a social function whereas the objective behind them serves a higher purpose: **values**. *Sharma*

What's fair?

The perception

'A fiscal termite eating away at the foundations of our corporate tax system'

POLITICAL NEWS Wayne Swan has launched another extraordinary attack on the mining giant, labelling it Australia's "worst tax dodger".



Multinationals still don't pay 'fair share' in tax

ANALYSIS You can forgive Aussies for being sceptical when they see advertisements claiming that "the Australian Government is ensuring multinational corporations pay their fair share of Australian tax".



ATO isn't being honest with us about the \$2.5b corporate tax gap

COMMENT The ATO was working with the government to ensure that it had the right public "messaging" before releasing its tax gap figures, Freedom of Information documents reveal.



The tax trick big miners use to avoid paying millions

By Four Corners and the International Consortium of Investigative Journalists



Updated 6 Nov 2017, 10:08am
Published 6 Nov 2017, 6:00am

Paradise Papers leak reveals secrets of the world elite's hidden wealth



Nov 5, 2017 ... Files from offshore law firm show financial dealings of the Queen, big multinationals and members of Donald Trump's cabinet.

Tax avoiders should be named and shamed

COMMENT Why did Starbucks suddenly pay tax in Britain? Because consumers demanded it. Let's repeat that in Australia.

ATO says \$2.5b of missing tax is never detected

Oct 10 2017 | 3 mins read |

Tax Office aims to slash the missing tax due from big corporates that they never see.

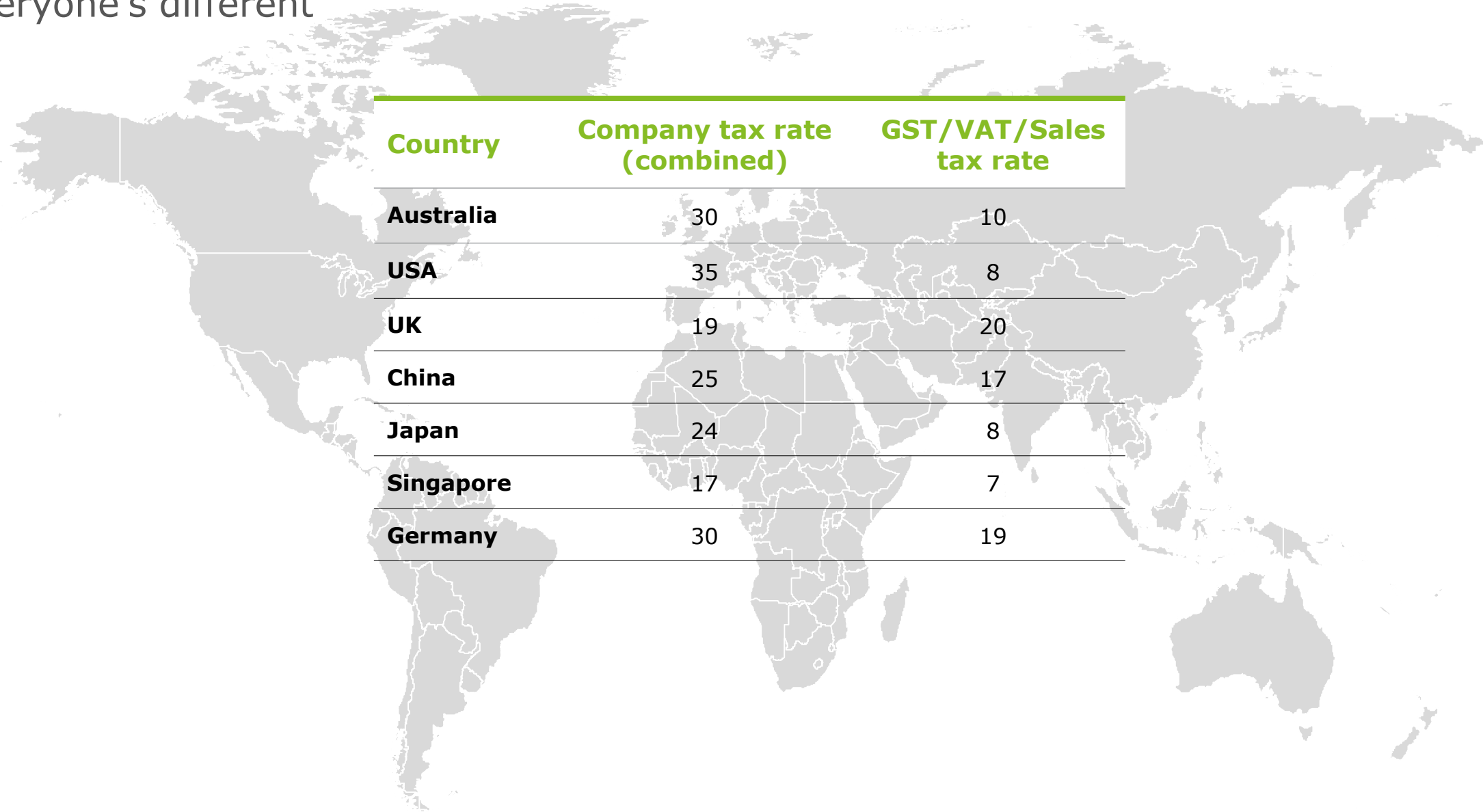
Former Tax Institute chief 'pessimistic' about reform agenda

Sep 19 2017 | 5 mins read |

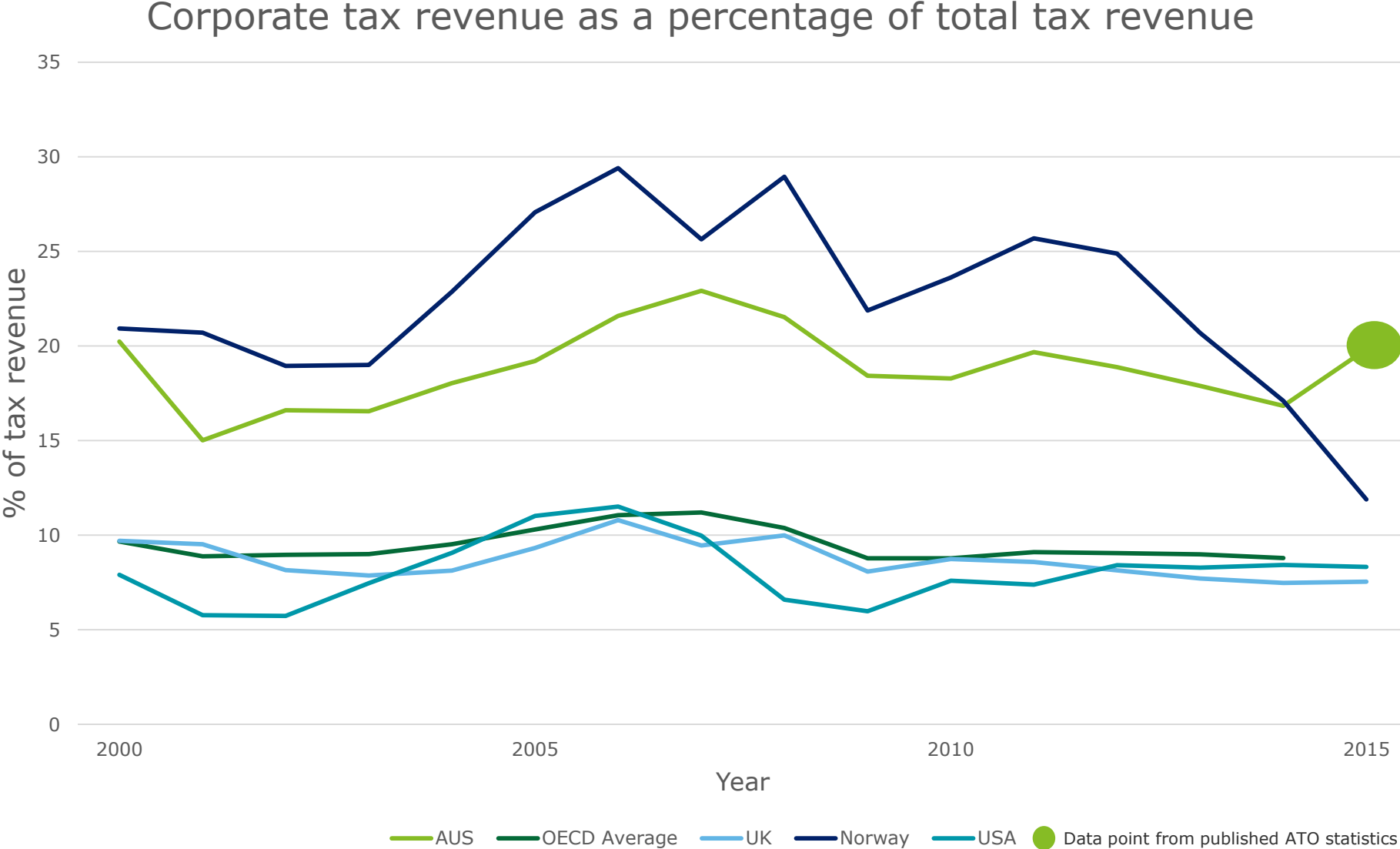
The emergence of tax as a moral issue means it is almost impossible for companies to prove they have paid a "fair share" of tax, according to former chief of The Tax Institute.

What's the share?

What's the share?
Everyone's different



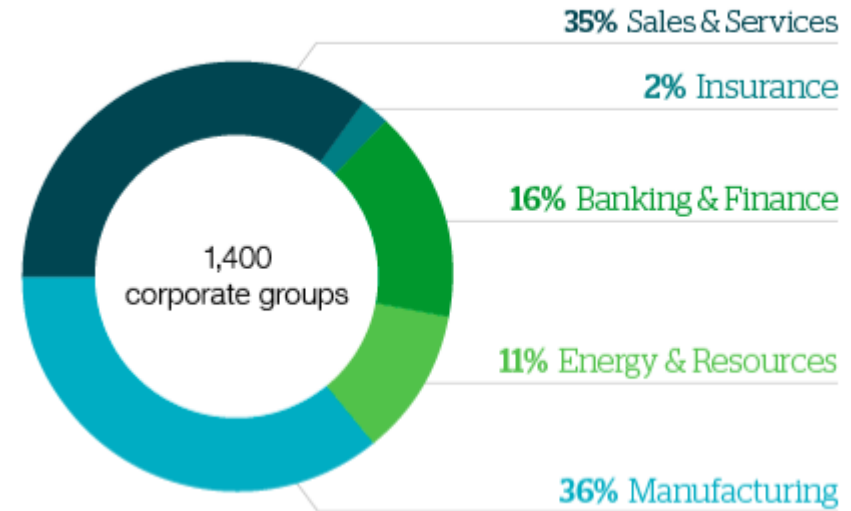
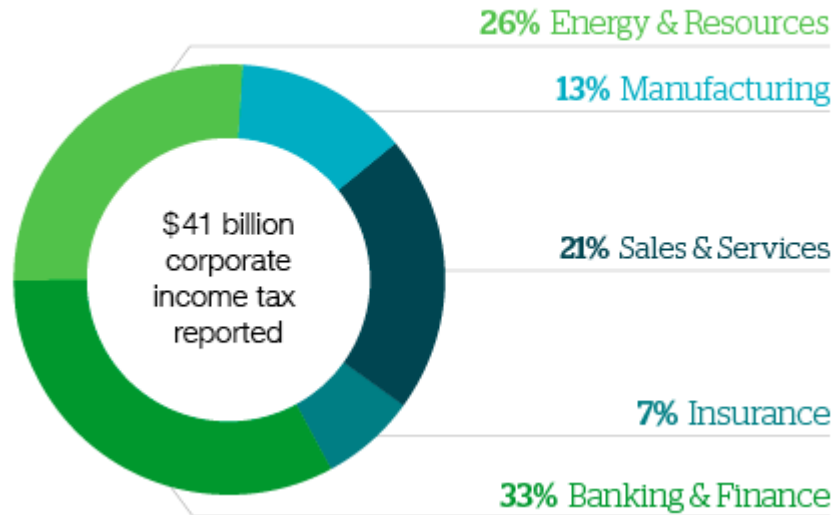
What's the share? Australia v OECD



Source: OECD Data Tax at <https://data.oecd.org/tax/>

What's the share?

The total paid by large corporates 2014-2015



There are almost 1,400 corporate groups each with a turnover of above \$250 million who collectively generate

\$1.8 trillion
in total business income

\$41 billion
of the \$68.5 billion in corporate income tax reported



Largest **100** corporate groups reported **\$32.9 billion** or **48%** of all corporate income tax reported



Tax contribution from these 1,400 large corporate groups is equivalent to around

61%
of all corporate income tax reported

12%
of total ATO tax collections

What's the share?

Who pays how much?

Name	Total income \$m	Income Tax payable \$m
Commonwealth Bank	44,216	3,107
Westpac	36,838	2,854
Rio Tinto	31,192	2,734
National Australia Bank	46,065	2,688
ANZ	30,004	2,072
BHP	33,044	1,718
Telstra	25,660	1,712
Shell	18,450	1,029
Wesfarmers	68,564	959
Woolworths	49,481	899
Woodside	8,460	811

Name	PRRT Payable \$m
BHP Billiton Petroleum (Australia) Pty Ltd	341
BHP Billiton Petroleum (Bass Strait) Pty Ltd	294
Esso Australia Resources Pty Ltd - Bass Strait	265
Quadrant PVG Pty Ltd	114
Mitsui E & P Australia Pty Ltd	82
Vermilion Oil & Gas Australia Pty Ltd	37
Woodside Energy Limited	31
BHP Billiton Petroleum (Victoria) Pty Ltd	28
ROC Oil (WA) Pty Limited	3
Talisman Oil & Gas (Australia) Pty Limited	3
AWE (Offshore PB) Pty Limited	1
Peedamullah Petroleum Pty Limited	.2

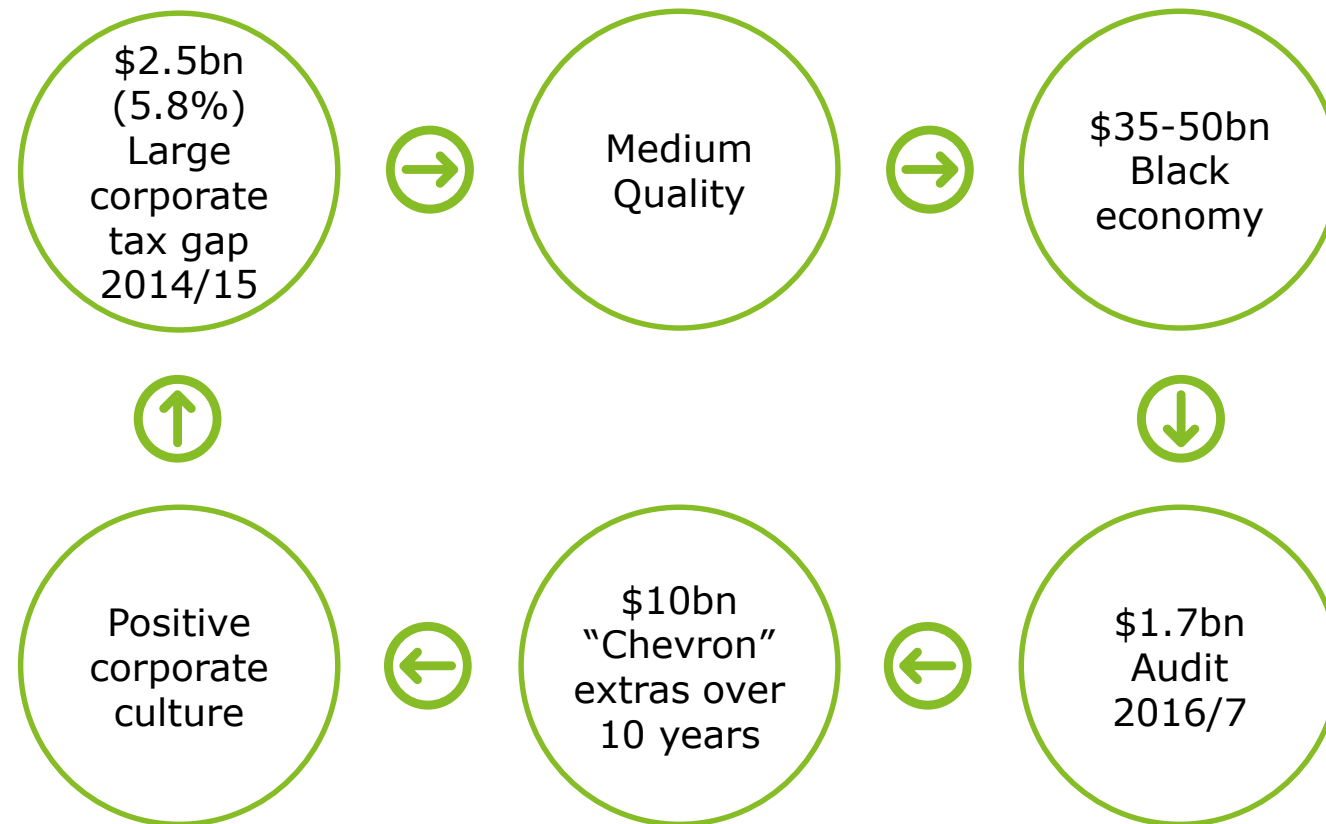
What's not paid?

What's not paid?

Tax Gaps

"Estimate of the difference between what the ATO collects and the amount that would have been collected if every taxpayer was fully compliant"

"Tax gaps are, in effect, about measuring what is not visible – what people have not told us about their compliance, whether through misunderstanding, by choice, or by taking a tax position that differs from the ATO view of the law."



What's not paid?

Tax Gaps

Large corporate income tax gap – in 2014–15, the net large corporate income tax gap is estimated to be \$2.5 billion (5.8%). This trend has been steady for a number of years, *and the gap primarily reflects differences in the interpretation of complex areas of tax law.*

“I think we've got it about right. We've got the MAAL, we've got the DPT, we've got the expanded transfer pricing – which hasn't been fully tested yet—and we've got a stronger Part IVA, which hasn't been fully tested.”

“I am satisfied we have the law, the funding, the capability, and strategy to reduce the large market gap over time; and importantly to sustainably raise the baseline of voluntary compliance” *Chris Jordan*

Are we fair yet?

Are we fair yet?

Narrowing the gap

Aspect	Application Year	Overview
General anti-avoidance	2012	Stronger tax benefit test
Public tax disclosures	2014	Publicly available information on tax paid by >\$100m
Reportable tax position	2014	Additional filing to ATO of contentious positions
Thin capitalisation	2014	Reduced safe harbour (60%)
Transfer pricing	2014	OECD alignment, penalties
Country by country reporting	2016	More disclosure and information on operations
Tax transparency code	2016	Large corporates additional disclosure
Multinational anti-avoidance	2016	Preventing artificial avoidance of tax presence
Diverted Profits Tax	2017	40% tax where operations in low tax jurisdictions with no substance
Penalties	2017	Significant increase in penalties for late filing and misleading information

Are we fair yet?

Tax transparency code

Large company disclosure recommendations

A reconciliation of accounting profit to tax expense and to income tax paid or income tax payable

Identification of material temporary and non-temporary differences

Accounting effective company tax rates for Australian and global operations (pursuant to AASB guidance)

Approach to tax strategy and governance

Tax contribution summary for corporate taxes paid

Information about international related party dealings

2015-2016: 56 companies.

2016-2017: 40 companies.

Are we fair yet?

Tax Assurance Report for Top 1000



Executive summary

This report records our understanding of your business operations, business environment and financial performance and how this reconciles with your income tax profile in respect of economic activity linked to Australia. The report also sets out the areas of your business over which we have obtained assurance, the basis for that assurance and our plan for further work to obtain higher level of assurance (where needed).

1. Summary of assurance

Summary of assurance	Rating	Pages
Tax governance framework	●	7, 30
Tax risks flagged to market		12, 31
R&G exemptions	●	
R&G exempt two	●	
Accounting and tax results	●	13, 32
Significant and/or new transactions		18, 37
New transaction	●	
Significant ongoing transaction	●	
Specific tax issue	●	
Our overall level of assurance	Medium	

Note: The size of the symbol indicates the relative impact.

1.1 Our overall level of assurance

Eg - On the basis of objective evidence obtained to date, we have obtained assurance in relation to some but not all areas reviewed. For those areas not yet assured, further evidence and/or analysis will be required before we obtain assurance that your organisation paid the right amount of Australian income tax.

We will continue to work with you to obtain further evidence or undertake additional analysis to obtain assurance, as outlined below.

6. Ratings guide

This guide explains how we determine the outcomes of our review. The relative size of the icon indicates our view of the relative impact of the matter reviewed. For example:

● High ● Medium ● Low

Tax governance framework

We considered the existence, design and operation of a tax governance framework for income tax. During this review, we referred to the initial areas of focus set out in the Tax Risk Management and Governance Review Guide on ato.gov.au. Our areas of focus will expand overtime to include the other controls set out in the guide.

● Stage 3	You provided evidence to demonstrate that a tax control framework exists, has been designed effectively and is operating effectively in practice.
● Stage 2	You provided evidence to demonstrate that a tax control framework exists and has been designed effectively.
● Stage 1	You provided evidence to demonstrate a tax control framework exists.
● Not evidenced or concerns	You have not provided sufficient evidence to demonstrate a tax control framework exists or we have significant concerns with your tax risk management and governance.

Significant and new transactions / Specific tax risks

We sought to understand and review the income tax treatment of the taxpayer's business activities, particularly significant and new transactions. We also sought to review risks or concerns communicated to the market and determine if they are present.

● High	We obtained a high level of assurance that the right Australian income tax outcomes were reported in your income tax returns. This means we are unlikely to contact you again in relation to these matters for the income year(s) reviewed unless something new comes to our attention.
● Medium	More evidence and/or analysis is required to establish a reasonable basis to obtain a high level of assurance.
● Low	More evidence and/or analysis is required to determine whether a tax risk is present.
● Red flag	We have concerns there is non-compliance with the income tax law.
● Out of scope	We have not evaluated this item and not expressed a rating.

Alignment between accounting and tax results

We analysed the various streams of economic activity and sought to understand how they are treated for tax purposes.

● High	We understand and can explain the various streams of economic activity and why the accounting and tax results vary.
● Medium	Further analysis and explanation is required to understand the various streams of economic activity and/or why the accounting and tax results vary.
● Low	We identified concerns from our analysis of the various streams of economic activity and/or why accounting and tax results vary.
● Red flag	We do not understand and cannot explain the various streams of economic activity and/or why accounting and tax results vary.

Our overall level of assurance

At the end of our review, we considered whether sufficient objective evidence has been obtained that would lead a reasonable person to conclude a taxpayer paid the right amount of Australian income tax according to the law.

High	We obtained assurance that the taxpayer paid the right amount of Australian income tax for the income year(s) reviewed. This means we are unlikely to contact you again in relation to the income year(s) reviewed unless something new comes to our attention.
Medium	We obtained assurance in relation to some but not all areas reviewed. For those areas not yet assured, further evidence and/or analysis will be required before we obtain assurance that the taxpayer paid the right amount of Australian income tax.
Low	We have specific concerns around the taxpayer's compliance with the Australian income tax laws and the amount of Australian income tax paid for the income year(s) reviewed.

Are we fair yet?

The Government



Earned here
Taxed here
New corporate tax laws

New laws have helped collect over
\$1.5 billion

Watch the ads >

By closing international loopholes, and actions by the ATO, more money is being collected from large multinational corporations. As a result, more money is being invested here, benefiting Australian communities and the economy.

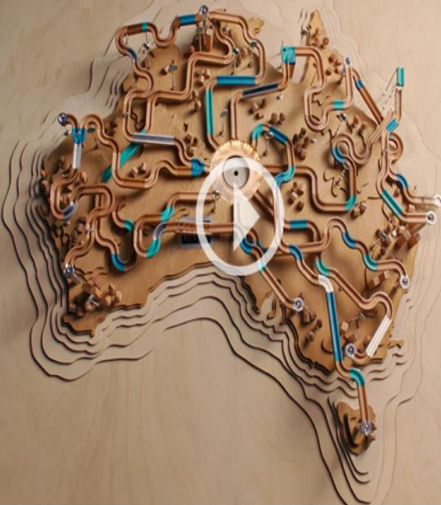


\$1.5 billion
collected since
July 2016

October 2017

Since July 2016, ATO action has already collected over \$1.5 billion from large multinational corporations.

Watch video >



ALP Policy

BIG MULTINATIONAL COMPANIES SHOULD PAY THEIR FAIR SHARE OF TAX

Worldwide Gearing Ratio

Tax deductions will be based on a company's entire global operations, not just what they do in Australia.

Labor is proposing to amend the current thin capitalisation rules to reduce the amount of debt that multinational companies can claim deductions for in Australia. Companies will no longer be able to claim up to a 60 per cent debt-to-equity ratio for their Australian operations. Instead, deductions will be assessed on the debt-to-equity ratio of a company's entire global operations. This means that if a company has an average 30 per cent debt-to-equity ratio across its different subsidiaries, it will only be able to claim tax deductions up to that level.

No Tax Cut for Billion-Dollar Multinationals

Labor supports small businesses, not tax cuts for billion dollar multinational firms.

The Government has proposed a \$95 billion tax cut for banks and multinationals. Labor will stop this tax cut for the big end of town. Labor believes this revenue should be used to fund schools, protect families and improve the budget bottom line.

Closing Every Loophole

Remove tax advantages and inconsistencies used by multinationals

Multiple Entry Consolidated groups are corporate groups, treated as a single taxpayer, consisting of Australian-resident entities that share a common ultimate foreign owner. Labor will accept Treasury recommendations to remove unintended beneficial tax outcomes for such groups compared to Australian tax consolidated groups.

Restore Public Reporting Integrity

Restore the \$100 million threshold for reporting the tax affairs of large private firms

Labor's original threshold was watered-down in a dirty deal between the Coalition and the Greens last year, with 600 companies being shielded from public scrutiny as a result. This reform brings them back in line with public companies.

More Voices at the Tax Table

Ensure a community sector representative is on the Board of Taxation

The Board of Taxation is a non-statutory advisory body that provides the Government with real-time advice on tax policy issues by contributing a business and tax community perspective to improving the design and operation of taxation laws. Tax advisors and multinational companies are well represented on the Board and this potentially skews the interests and feedback given by the Board.

Increased ATO Compliance

Improving compliance with the ATO by providing effective funding

Labor is proposing that the Australian Tax Office has the resources it needs to properly investigate and pursue multinational profit shifting. Evidence in Senate estimates, and from the Australian Tax Commissioner himself, showed additional compliance from the Tax Office is yielding greater revenue from multinationals. Evidence in House estimates shows investing in the ATO can yield up to \$6 for every \$1 invested.

Public Reporting of Worldwide Tax Affairs

Tax information about where and how much tax was paid by large corporations will be released publicly.

The proposal would require the Australian Taxation Office to make country-by-country reports (excepts) publicly accessible. This would be high level data on how much tax is paid in jurisdictions the firm operates, the number of employees, and related material. The EU is implementing this measure. Public disclosure would make country-by-country reporting much more useful to developing countries, other businesses, shareholders, civil society, academics and journalists.

Companies Must Disclose Tax Haven Risks to Investors

Require companies disclose dealings in tax havens to shareholders

The Australian Tax Office would issue guidance on the types of activity, and detail, businesses are required to disclose. A list of material tax risk jurisdictions (tax havens) would be maintained by the ATO and issued as a guidance note to inform companies' corporate governance regimes. It would be similar to the design of the European Union's 'blacklist'.

Public Register of Beneficial Ownership

Obligation to disclose the beneficial ownership for Australian legal identities.

Labor will ensure that the G20 principles Australia committed to at the G20 summit in Brisbane in 2014, which are based on guidance from the Financial Action Task Force, are implemented fully and quickly to ensure that Australia cannot be used as a destination for money-laundering, tax evasion, terrorism financing or other criminal behaviour. This will be achieved by establishing a publicly accessible central registry of the beneficial ownership of companies, trusts and other corporate structures.

Data on Cashflows to Tax Havens

Publicly available details of funds transferred from Australia to overseas destinations

Require AUSTRAC to publicly release International Funds Transfer Instructions (IFTI) data for every calendar year (or, if more practical, financial year). This would show aggregated cash flows to overseas destinations, including low-tax and non-compliant jurisdictions (tax havens).

Government Tenders

All companies must state where they pay tax when applying for Government tenders

The measure would not preclude any company from tendering, nor change the 'value for money' criteria of procurement. The tender-value threshold for this measure would be for government purchases above \$200,000.

Superannuation Guidelines on Tax Haven Investment

Some Australian superannuation firms are known to invest in companies incorporated in tax havens

Task the ATO (in collaboration with ASIC, and APRA re: self-managed super funds) to create/review guidelines for responsible investment for superannuation funds. This would not seek to outlaw such investment (nor presume any illegality), but rather ensure funds are transparent about their dealings in such jurisdictions and what those investments are.

ATO Aggressive Tax Minimisation Settlement Reporting

High-level reporting in the ATO's annual report on how many settlements were achieved per financial year and associated data

The ATO would include in its annual report high level data about the value and number of settlements above a value of \$50 million.

Are we fair yet?

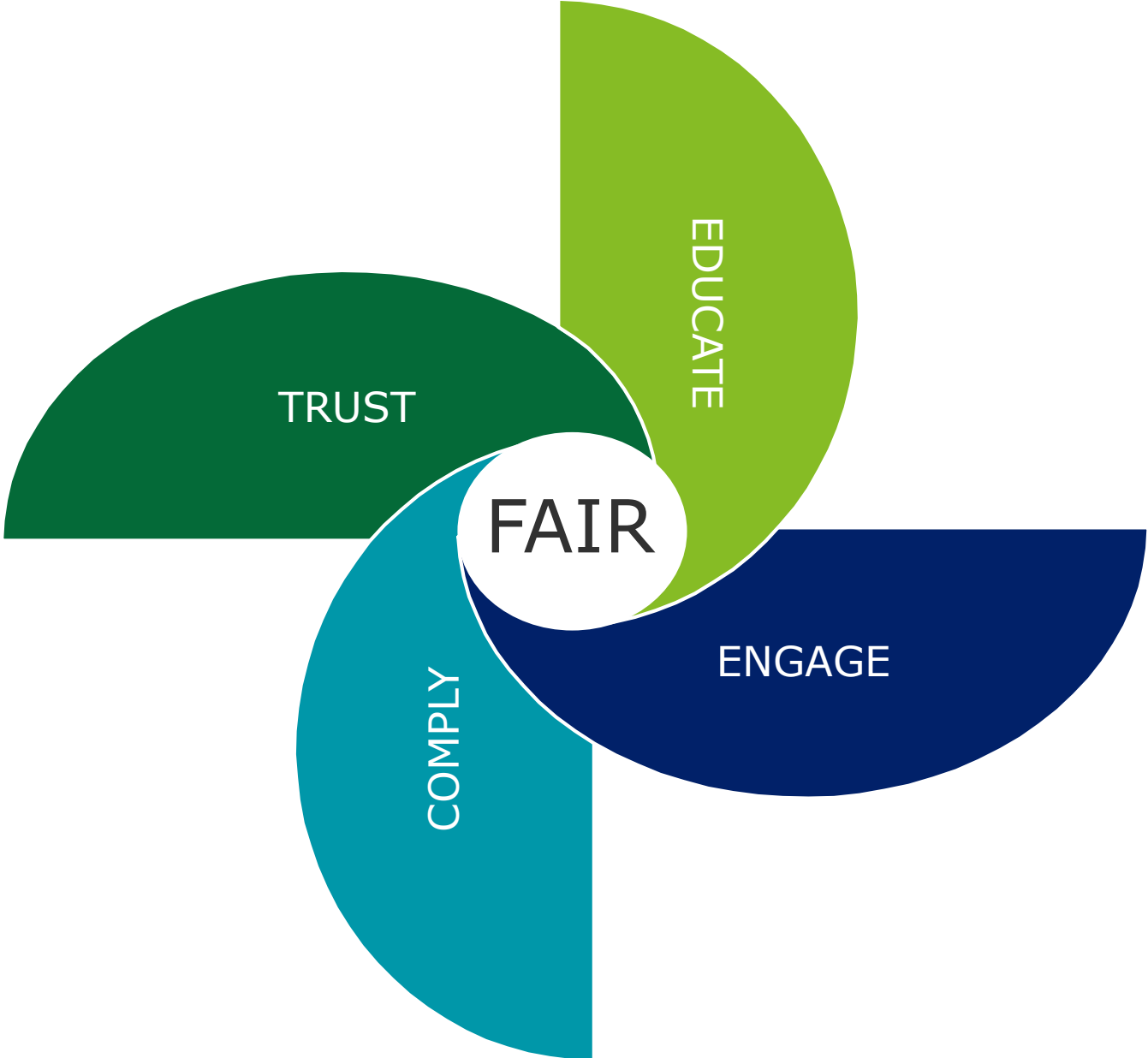
Just a little further

Item	Amount
Income	100
Expenses	90
Profit	10
Tax payable	\$0? / \$3? / \$30?

Which one's fair?

When will we be fair?

When will we be fair?



Deloitte.