AUSTRALIAN INDUSTRY
GROUP

AI GROUP SUBMISSION:

IMPROVING THE TRANSPARENCY OF AUSTRALIA'S BUSINESS TAX SYSTEM

April 2013

The Australian Industry Group (Ai Group) welcomes the opportunity to provide a submission to the Treasury in relation to the proposed changes to Australia's taxation system.

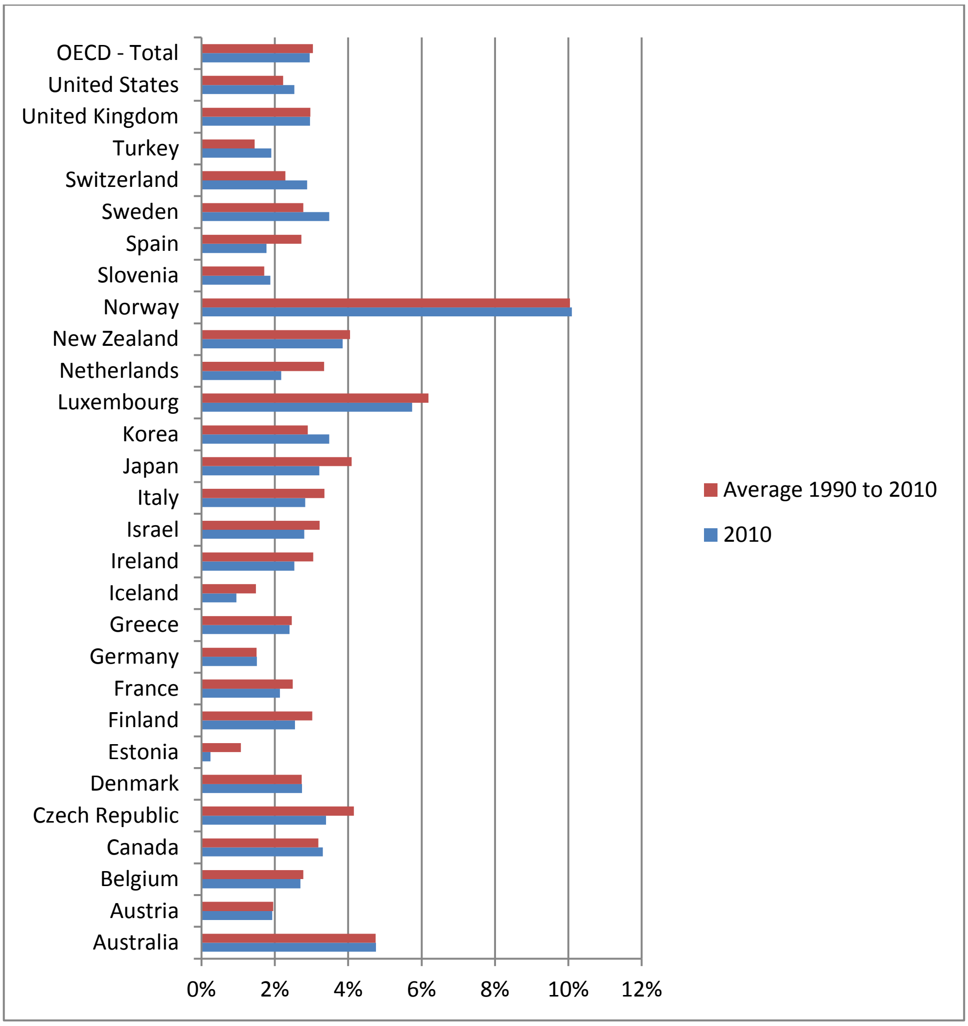
Ai Group is a peak industry association in Australia which along with its affiliates represents the interests of more than 60,000 businesses in an expanding range of sectors. The businesses we represent employ more than 1 million employees.

Background: Business Taxation in Australia

Businesses operating in Australia contribute very significantly to domestic taxation revenue. Australia imposes relatively heavy taxes on businesses and business income taxes provide a relatively high share of total taxation.

Chart 1 below compares the taxes on profits as a share of GDP in Australia and other OECD countries.

Chart 1: Taxes on Profits as a Percentage of GDP - Australia and the OECD



Source: OECD Revenue Statistics Comparative Tables, data extracted on 26 Apr 2013 04:17 UTC (GMT) from OECD.Stat

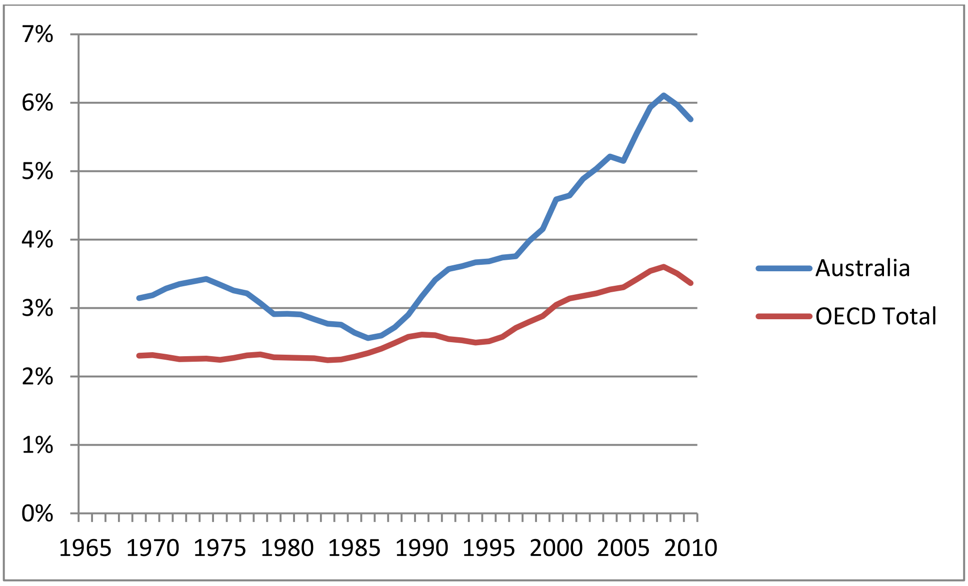
Chart 1 shows the taxation of profits as a share of GDP both for 2010 (which is the latest year for which a full data set is available) and the average share of tax on profits in GDP from 1990 to 2010.

Both for 2010 and on average since 1990, taxes on profits are well above the weighted average of OECD countries and, indeed, both for 2010 and for the period 1990 to 2010, the ratio of taxes on profits to GDP is the third highest behind only Norway and Luxembourg.

The taxation of profits in Australia has risen much faster than GDP over the past two decades. Chart 2 below compares taxes on profits as a share of GDP in Australia and the OECD in general since 1965. To remove annual volatility the data is presented as five-year moving averages.

Chart 2: Taxes on Profits as a Percentage of GDP – 1965 to 2010

(five-year moving averages)

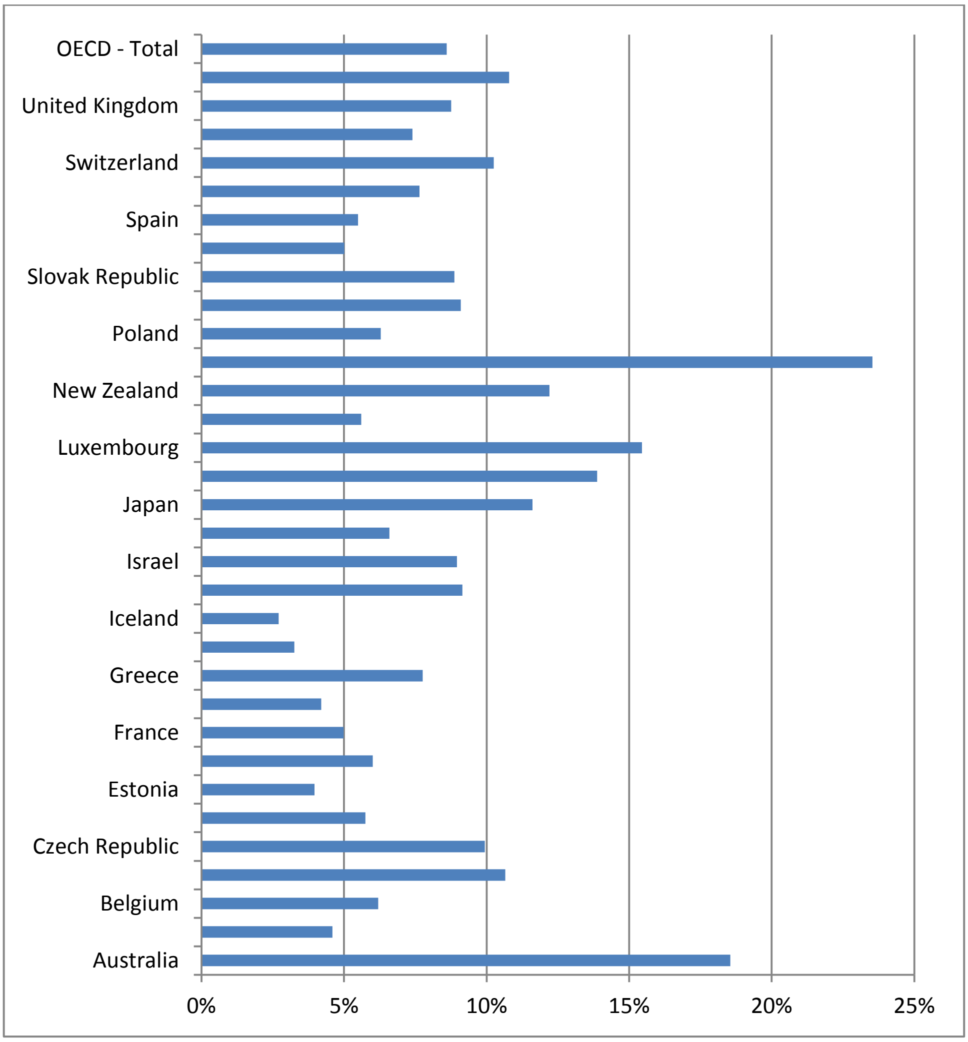


Source: OECD Revenue Statistics Comparative Tables, data extracted on 26 Apr 2013 04:17 UTC (GMT) from OECD.Stat

Notwithstanding the use of five-year moving averages, the fallout from the financial crisis is clear in the most recent data. In Australia the fall in company tax to GDP also reflects the very high depreciation claims flowing from the phenomenal investment boom in mining and mining-related construction. Nevertheless particularly in Australia, and to a lesser extent for the OECD, the share of taxes on profits in GDP remains relatively high.

In Australia income taxes paid by corporations are a relatively high share of total taxation. This is shown in Chart 3 illustrating that, in 2010, the relative contribution of corporations to Australia's taxation revenue was second highest only to Norway. The relative contribution of corporations to total taxation in Australia is well over double the contribution across the OECD.

Chart 3: Income Taxes Paid by Corporations as a Share of Total Taxation (2010)



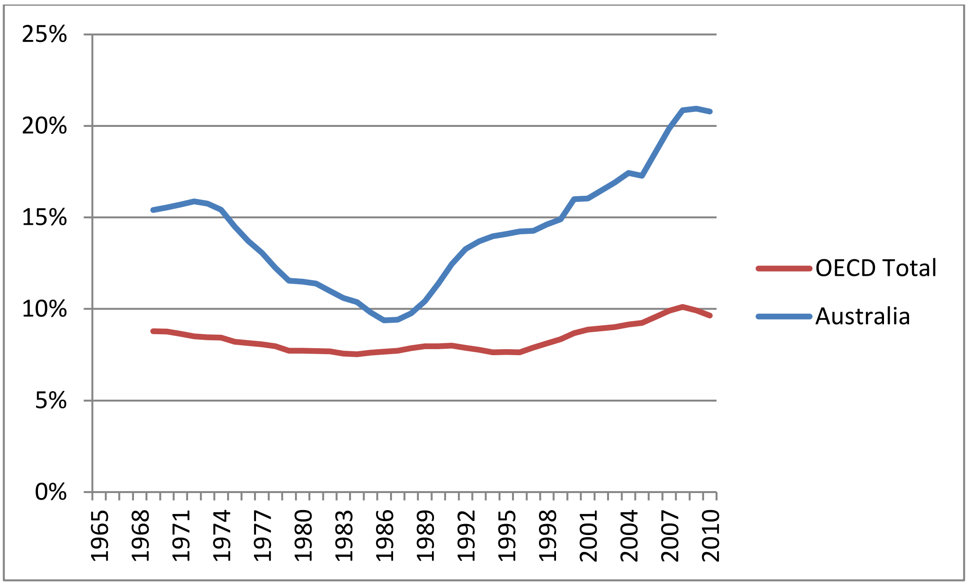
Source: OECD Revenue Statistics Comparative Tables, data extracted on 26 Apr 2013 04:17 UTC (GMT) from OECD.Stat

Further, the relative contribution of income taxes paid by corporations has risen very strongly to Australia over the past two decades. This is shown in Chart 4 below which, again, uses five-year averages to remove cyclical volatility.

Chart 4 demonstrates that the relative contribution to total Australian taxation

Chart 4: Income Taxes Paid by Corporations as Share of Total Taxation – 1965 to 2010

(five-year moving averages)



Source: OECD Revenue Statistics Comparative Tables, data extracted on 26 Apr 2013 04:17 UTC (GMT) from OECD.Stat

Income taxes paid by corporations have grown very strongly and in Australia have more than doubled their share of total taxation since the mid 1980s.

This comparative and historical overview is important background to the considerations of the areas examined in the Discussion Paper. It provides an interesting context for current claims and counter-claims about the importance of and contribution of business taxation. It is clear that, certainly in Australia, businesses currently make relatively high contributions to taxation collections both in an historical sense and in comparison with the contributions made in other OECD countries. The measures put forward in the Discussion Paper target an important segment of the same business community that makes this comparatively large contribution to Australian public revenues.

Proposal One: publication of individual company tax information

Ai Group does not support the proposal to require the Tax Commissioner to publish individual company tax details.

As the discussion paper emphasises, the current penalties for any breach of privacy under the *Taxation Administration Act* are severe. Any legislation not only authorising such a breach, but ordering it to become routine, must have a compelling justification. Since the legislation would also discriminate as to which companies' private details are published there must be an equally compelling reason for the discrimination.

Ai Group does not believe that the stated purpose of the proposal justifies this erosion of privacy. In proposing to by-pass the privacy provisions the Government has argued that public disclosure of this information will promote transparency and "discourage aggressive tax minimisation practices" by forcing companies to defend their tax strategies in public. This is flawed for two reasons:

1) The discussion paper argues that this legislation will encourage a more informed debate within the general community about appropriate long term tax settings. Ai Group fully supports this ambition, but disagrees that an attack on privacy is the way to achieve it. In Australia a substantial amount of financial data is available about individual companies, either from material published by the company itself, or, for a negligible fee, through compulsory annual financial reports submitted to the Australian Security & Investment Commission (ASIC). The ASIC reports are more detailed than the proposed tabular layout contained in the paper and allow the company to provide a proper context to the figures.

   Ai Group is concerned that the stark presentation proposed in the paper will do little to enhance the transparency of the tax regime, and will instead encourage sensationalist reports, misinterpretation, misleading comparisons and misunderstandings amongst the public. Without sufficient context and explanation, the information released will be prone to misrepresentation and as such will do little to advance the public debate the government is seeking.

   Taxation and tax liabilities are not simple matters to understand. There is any number of very good reasons why tax paid in a given year by a business entity may appear low – certainly relative to the concept of total gross income for accounting purposes envisaged in the Discussion Paper. Business entities may have losses from previous periods that are legitimate deductions against current-year income; a company may have made large investments and be entitled to depreciation deductions; a company may be eligible for the Research and Development Tax Incentive which would reduce their tax liabilities; business entities may have high levels of taxed foreign source income exempt from tax in Australia; and they may be in receipt of franked dividends from other business entities.

   Publication of business entities' income tax payments alongside their total gross income for accounting purposes will invite ill-considered comparisons and ill-informed claims. This will not improve the transparency of the business tax system.

2) The proposed changed would apply only to entities with "total income" of $100 million or more. To single out one section of the business community in this way is unreasonable. There seems no reason in principle why similar demands for transparency could not be extended to other companies or even to individuals.

   Ai Group agrees that any pressures on the tax base should be considered. If a problem is identified, the Government should consider appropriate remedial action (and indeed Australia has a number of remedial measures that are in process. Many countries are reviewing the issue of aggressive tax minimisation and taking steps to tighten and harmonise taxation frameworks to reduce the scope for such practices. Ai Group believes that the government should consider and consult on substantive steps, rather than this policy which will expose law abiding companies and other entities to knee-jerk attacks without closing any loophole. Publishing the data proposed by the Discussion Paper will not address the substance of aggressive tax minimisation issue as it will neither shame away legal behaviour to minimise tax nor result in meaningful reform of the tax system.

Proposal Two: publication of aggregates

Ai Group is generally supportive of the second proposal outlined in the discussion paper. The publication of aggregate totals for each respective Commonwealth tax could promote the improved transparency the government is seeking. Ai Group acknowledges that the limited base of some taxes, such the MRRT and PRRT, might make it possible to identify specific tax payers, but as these would be rare instances and company data would not be directly identified this proposal is of less concern.

Too often crucial issues of tax reform have failed to engage the electorate. Ai Group has a long history of advocating for reforms, most prominently the lowering of the Company Tax rate from 30%, only to see them slip off the political agenda. Better informed tax payers would have wide ranging public policy benefits beyond the issue of tax minimisation.

Proposal Three: information sharing within government

Ai Group broadly supports greater information sharing between government agencies. Providing that the integrity of the current privacy regime is preserved, Australia would be echoing similar efforts by governments internationally. The United States and Europe in particular have enacted a raft of sweeping reforms to ensure greater information sharing between governments, including the automatic sharing of tax data between jurisdictions. These policies appear to be only the latest legislation in this area with more to follow. Ai Group is in favour of information sharing within government that could contribute to better informed policy on issues ranging from foreign investment decisions to cracking down on instances of deliberate tax evasion.

In sum, Ai Group supports meaningful consideration of the long-term challenges facing Australia's taxation arrangements, but any reforms must address the cause of the problem without breaching the fundamental principles of privacy that underpin the tax system.