



AUSTRALIAN
COUNCIL
FOR
INTERNATIONAL
DEVELOPMENT

Tax White Paper

ACFID Submission to the Tax White Paper Task Force,
Treasury Department

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1. About ACFID

The Australian Council for International Development (ACFID) unites Australia's non-government aid and international development organisations to strengthen their collective impact against poverty. Our vision is of a world where gross inequality within societies and between nations is reversed and extreme poverty is eradicated. ACFID's purpose is to provide leadership to the sector and to fairly represent and promote the collective views and interests of our membership.

Founded in 1965, ACFID currently has 133 members and 13 affiliates operating in more than 100 developing countries. The total revenue raised by ACFID's membership from all sources amounts to \$1.3 billion (2012/13), \$719 million of which is raised from over 1.9 million Australians (2012/13). ACFID's members range between large Australian multi-sectoral organisations that are linked to international federations of NGOs, to agencies with specialised thematic expertise, and smaller community based groups, with a mix of secular and faith based organisations.

The ACFID Code of Conduct is a voluntary, self-regulatory sector code of good practice that aims to improve international development outcomes and increase stakeholder trust by enhancing the transparency and accountability of signatory organisations. Covering over 50 principles and 150 obligations, the Code sets good standards for program effectiveness, fundraising, governance and financial reporting. Compliance includes annual reporting and checks. The Code has an independent complaints handling process. Over 130 organisations belong to the ACFID Code and can be viewed at <http://www.acfid.asn.au> The full list of ACFID's current members and affiliates can be found in Annex A.

It is important to note that this submission does not over-ride any policy positions that may be outlined in any individual submissions from ACFID members.

2. Executive Summary

ACFID welcomes the opportunity to respond to the Government's Tax White Paper. We emphasise that many of the challenges faced by Australia's taxation system are global in nature, and must be addressed in cooperation with the rest of the world. As the peak body for aid and development organisations with an overriding purpose of eradicating extreme poverty and inequality, ACFID believes there is an opportunity for Australia to ensure that our taxation system, and the international taxation system, support domestic resource mobilisation, poverty alleviation and sustainable development in developing countries.

In the first part of this submission, ACFID responds to discussion questions from Chapters 1 and 2 of the White Paper, making recommendations which will enable Australia to play a leading role in global tax reform – both through global processes and by reforming domestic taxation policies – in order to improve the fairness of global and domestic taxation systems. The second part of this submission addresses issues specific to the not-for-profit sector outlined in Chapter 7 of the White Paper, and makes recommendations regarding competitive neutrality.

2.1 Summary of Recommendations

That the Australian Government should:

Recommendation 1: Play a leading role in global taxation reform, and ensure that the current review into Australia's domestic taxation policies is undertaken with an eye to the global picture.

Recommendation 2: Ensure that developing countries are able to benefit from global taxation reform, and that any changes to Australia's domestic taxation policies will not negatively affect developing countries.

Recommendation 3: Support country-by-country reporting by all multinational entities disclosing revenue, profit, assets, taxes paid and employees in each jurisdiction in which the company operates.

Recommendation 4: Support public disclosure of ultimate beneficial ownership of all corporations so that they can be taxed fairly.

Recommendation 5: Ensure it fully funds and implements its obligations under the *Standard for Automatic Exchange of Financial Information in Tax Matters*, and ensure that developing countries are able to benefit from this information.

Recommendation 6: Work with developing countries to ensure that they have the technology and capacity to benefit from international taxation reforms and increase their taxation revenue.

Recommendation 7: Index the present fringe benefit tax (FBT) exemption under the Public Benevolent Institution status to average weekly earnings and backdate indexation to the original year when the capped threshold was set at \$30,000 per employee (2001).

Recommendation 8: Given that competitive neutrality is not significantly affected by the granting of concessions and FBT exemption to NFPs, these should not be altered.

3. Challenges facing Australia's taxation system

Can we address the challenges that our tax system faces by refining our current tax system? Alternatively, is more fundamental change required, and what might this look like?

The case for reform

As Chapter 1 of the White Paper outlines, the world is undergoing rapid change through technological advances and the increased mobility of people and finance. One effect of this increasingly interconnected global economic system means that the domestic policies of one country affect the economic prospects of another. However, Australia's taxation laws, the domestic laws of other countries, and the internationally agreed taxation standards that guide us globally were not designed with today's world of economic integration and rapid technological advancement in mind. Moreover, the rise of complex and very large multilateral corporations operating across national borders and financial systems presents a fundamental challenge to the state-based system of taxation.

Existing domestic and international taxation rules have been proved to be inadequate in this changing landscape, and Australia's laws are no exception. Phenomena such as double taxation (whereby companies may be taxed on the same product in two or more jurisdictions) incentivise companies operating across multiple tax jurisdictions to minimise the tax they pay through methods such as base erosion and profit shifting (BEPS) – reporting income only in the lower-tax jurisdiction, or intentionally moving profits to low-tax jurisdictions regardless of where they are earned. This has prompted an international review of global taxation by the OECD, the G8 and the G20, which aims to equip countries to address the challenges to domestic tax revenue collection in cooperation with the rest of the world.

In this context, it is critical that the current review into Australia's taxation system is undertaken with an eye to the global picture. Moreover, the effects of shortcomings in global and domestic taxation rules have been felt most by the developing world. Illicit financial flows

and tax evasion costs developing countries hundreds of billions of dollars of revenue each year.¹ This loss of revenue negatively impacts the capacity of governments in developing countries to provide the social services that help lift people out of poverty, thereby increasing their reliance on aid.

ACFID argues that given this uneven effect, the current review into domestic taxation must not ignore the potential effect of Australia's domestic policies on developing countries. Aid programs and other technical assistance initiatives work with partner governments to increase their capacity to collect revenue by improving governance and regulatory systems, however issues like tax collection are made more difficult by the complex structures and practices of large multinational corporations. As such, these issues must be tackled through international cooperation; isolationist solutions – such as lowering company or individual taxation rates in Australia – may contribute negatively to the ability of our developing neighbours to address revenue collection, and even increase their reliance on international aid.

4. Improving the fairness of Australia's taxation system

What parts of the tax system are most important for maintaining fairness in the tax system? Are there areas where fairness in the tax system could be improved?

Recommendation 1: Australia should play a leading role in global taxation reform, and ensure that the current review into Australia's domestic taxation policies is undertaken with an eye to the global picture.

Recommendation 2: Australia should ensure that developing countries are able to benefit from global taxation reform, and that any changes to Australia's domestic taxation policies will not negatively affect developing countries.

As the host of the G20 summit in 2014, Australia was party to commitments to “ensure the fairness of the international tax system and to secure countries' revenue bases,” as well as

¹ Minister for Foreign Affairs, Address to Brookings Institute - Alliance 21 Project, 21 January 2015. Available online: http://foreignminister.gov.au/speeches/Pages/2015/jb_sp_150121.aspx; See also OCED Official Transcripts, Available: <http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DCD/DAC/STAT%282014%297&docLanguage=En>

commitments to amend international taxation rules and work with other OECD nations to further engage developing countries in the OECD's BEPS project.²

ACFID calls on the Australian Government to back up these commitments by supporting international efforts to compel multinational corporations to pay tax where value is created, increasing the overall fairness of the global tax system. Further, as a technically sophisticated nation and a G20 member, Australia should work to ensure that developing countries also have the technology and the capacity to receive their fair share of the benefits of international taxation reform.

The white paper poses the question of whether refining our tax system is sufficient to addressing the challenges we face, or if more fundamental change is required. As the previous section has argued, refining domestic policies will be inadequate to addressing the global challenges we face; Australia must couple domestic change with global reform. The recommendations that follow provide examples of how Australia can play a leading role in international taxation reform by addressing our own domestic taxation laws while also working through international processes to ensure taxation reform on a global scale.

Furthermore, the policies recommended below seek to improve the overall fairness of the global system, while also addressing issues of fairness in Australia's domestic policy. Not only are these policies in Australia's national interest, they are also in the interests of the developing world, as they will enable developing country governments to help themselves by improving their capacity for revenue collection, thereby reducing their reliance on aid.

Recommendation 3: Australia should support country-by-country reporting by all multinational entities disclosing revenue, profit, assets, taxes paid and employees in each jurisdiction in which the company operates.

There is currently no requirement for multi-national corporations to report on a country-by-country basis their revenue and profit, the assets they hold, the taxes they pay or the people they employ. This means that it is impossible for governments and the public to obtain information on multinational corporations' activities across borders.³ Greater disclosure by companies of how much profit they make and how much tax they pay in each country they operate in would allow citizens to hold governments to account for the tax revenue they do

² G20 Leaders' Communiqué, Brisbane Summit, 15-16 November 2014, Available: https://g20.org/wp-content/uploads/2014/12/brisbane_g20_leaders_summit_communique1.pdf

³ Obenland, W. 2014, *Working Paper: Country-by-Country Reporting (English Summary)*

or do not collect, and would put pressure on companies to pay appropriate levels of tax in the countries in which they operate. ACFID recommends that Australia support country-by-country reporting for multinational entities.

Recommendation 4: Australia should support public disclosure of ultimate beneficial ownership of all corporations so that they can be taxed fairly.

The global system currently has a lack of transparency regarding the ultimate beneficial ownership of corporations. This means that it is easy for companies to obscure the individuals who ultimately receive their profits, and conversely, it is easy for individuals to set up shell corporations in order to obscure the source of their own income. Anonymous shell companies are used to launder money obtained through illegal dealings, facilitate corruption and fund terrorism.⁴ Ultimately, they misdirect profits away from states and populations to corrupt government officials and high net-worth individuals who have the resources to play the system to their own advantage.

In order to tackle corruption and money laundering through anonymous shell companies, and to ensure that companies and individuals are taxed fairly, ACFID recommends that Australia support public disclosure of ultimate beneficial ownership of all corporations.

Recommendation 5: Australia should ensure it fully funds and implements its obligations under the *Standard for Automatic Exchange of Financial Information in Tax Matters*, and ensure that developing countries are able to benefit from this information.

In today's economy, money can be exchanged at the click of a button, but sharing information on taxation between jurisdictions takes much longer if it happens at all. Information is only shared on request, leaving countries with lower capacity in the dark as to the tax they may be entitled to collect.⁵ Automatic Information Exchange (AIE) requires countries to share information on the tax they collect automatically, ensuring the international system is transparent and individuals and corporations are held accountable for the tax they do or do not pay.

In the 2014-15 Mid-year Economic and Fiscal Outlook 2014-15, the Government announced it would implement the OECD *Standard for Automatic Exchange of Financial Information in*

⁴ Open Society Foundations, 2013, *TERRORISM, INC. – How shell companies aid terrorism, crime and corruption*; Global Witness, 2014, *Poverty, Corruption and Anonymous Companies*

⁵ Tax Justice Network, 2013, *Automatic for the People*

Tax Matters from 1 January 2017, with the first exchange of information in 2018.⁶ ACFID recommends that Australia fully fund and implement its obligations under the Common Reporting Standard, and ensure that developing countries are able to benefit from this information.

Recommendation 6: Australia should work with developing countries to ensure that they have the technology and capacity to benefit from international taxation reforms and increase their taxation revenue.

The ability to collect tax from individuals and corporations operating in a given country is key to enabling governments to provide essential services such as health and education to their citizens. International aid seeks to fill the gaps in governments' capacity to provide for their citizens, however for many developing countries, the revenue lost through corruption and tax evasion exceeds the amount (and in the case of Africa, exceeds by twice the amount) of aid and foreign direct investment received.⁷ This lost revenue means that governments in developing countries are unable to provide the social services that help lift people out of poverty, thereby increasing their reliance on international aid.

The OECD estimates as little as 0.1% of all aid expenditure is spent on building revenue collection capacity within partner governments, despite potential returns of over a thousand-fold.⁸ The Australian Government's aid policy, *Australian aid: promoting prosperity, reducing poverty, enhancing stability*, outlines a commitment to "support efforts to build a broad and well-balanced tax base in our partner countries" as one aspect under the priority area of Effective Governance. Last year, the Government spent \$849.9 million on governance programs including taxation support initiatives (although the proportion spent on various aspects of governance is unclear). However, Australia's aid investment in governance is likely to be much diminished this coming financial year, given the Government has cut \$1 billion, or 20 per cent, from the overall aid program in the recent Federal Budget.

As a technically sophisticated country, Australia must continue to increase the capacity of governments in developing countries to collect taxation revenue, by both working directly with partner governments through the aid program and ensuring that developing countries are included in, and benefit from, reforms to the international taxation system.

⁶ Outlined at: www.ato.gov.au/General/New-legislation/In-detail/Other-topics/International/Common-Reporting-Standard/

⁷ Maíra Martini, Transparency International, 2014, *U4 Expert Answer – Combating illicit financial flows: The role of the international community*; Open Society Foundations, 2013, *TERRORISM, INC. – How shell companies aid terrorism, crime and corruption*

⁸ OECD, *Post 2015 Element 11, Paper 2: Strengthening Tax Systems to Mobilise Domestic Resources in the Post-2015 Development Agenda*

Global taxation reform is in Australia's national interest

The reform measures outlined above would significantly help developing countries in our region and beyond by increasing their taxation revenue and reducing their reliance on aid, but it is critical to note that global taxation reform is also in Australia's national interest. The 200 largest Australian Stock Exchange listed companies pay an average of just 23% in tax – which is less than the mandated rate of 30%, leading to an annual loss of \$8.4 billion in taxation revenue for the Australian Government.⁹ Additionally, several mining companies are currently being audited by the Australian Tax Office to determine whether they are shifting profits offshore in order to minimise the tax they pay in Australia.¹⁰

It is vital to improve the accountability of companies in Australia by ensuring they are required to provide information to tax authorities about money flowing across borders, including greater disclosure of country-by-country profits, in order to stop profit shifting and tax minimisation practices. Not only will this increase Australia's taxation revenue, but it will improve the fairness of our taxation system.

Rather than engaging in a race to the bottom for corporate taxation rates, Australia must take a leadership role in global taxation reform in order to address the challenges faced by Australia's tax system, improve the fairness of our system and the global system overall.

5. Not-for-profit sector

Are the current tax arrangements for the NFP sector appropriate? Why or why not?

What, if any, changes could be made to the current tax arrangements for the NFP sector that would enable the sector to deliver benefits to the Australian community more efficiently or effectively?

The NFP sector is an essential part of the Australian economy and a key contributor to our standard of living. As reported by the Community Council of Australia, the sector turns over more than \$107 billion annually, contributes around 4% to GDP and employs over one million staff. The sector is also experiencing some of the strongest industry growth in Australia, growing at approximately 7% per year over the last decade.¹¹

⁹ Tax Justice Network & United Voice, 2014, *Who pays for our Common Wealth?*

¹⁰ <http://www.abc.net.au/news/2015-04-10/rio-and-bhp-audited-over-singapore-operations/6385410>

¹¹ Community Council of Australia, 2014, *Owning Our Future, Series 1: Better Using Our Assets - Report from the national round of CEO forums, October - November 2014*, Available online:

Harder to quantify, but equally important, is the social and community contribution that the NFP sector makes to Australian society. In its review of the *Contribution of the Not for Profit Sector*, the Productivity Commission noted that “economic estimates fail to capture the broader community benefits, some of which may be greater for the NFP sector than for government or business activity.”¹² Through work in areas such as social assistance, health, education, the environment, arts and culture, sport and emergency relief, the NFP sector contributes to a fairer, more inclusive and more secure Australia. To this end, the activities of the sector go beyond the recipients of services and the direct impact of their outcomes to generate broader societal benefits (spill overs).¹³

Recommendation 7: Index the present fringe benefits tax exemption under public benevolent institution status to average weekly earnings and backdate indexation to the original year when the capped threshold was set at \$30,000 per employee (2001).

ACFID would like to reiterate the following recommendations from our previous submission to the Ken Henry Review, Australia’s Future Tax System and to the 2010 Productivity Commission Review of the Not for Profit and Charitable Sector:¹⁴

- Tax concessions and exemptions should provide support to Australia’s not-for-profit (NFP) sector rather than create a barrier by continuing to institute a complex and inconsistent framework.
- Any changes to the tax regime must give consideration to those small and emerging NFPs that are administered by very few staff and/or volunteers. The response needs to include educative and supportive improvements to the tax system that will assist such organisations to meet their obligations without an onerous administrative burden or the requirement for specialist legal advice.
- Access to the fringe benefits tax (FBT) exemption for public benevolent institutions (PBIs) must be retained under any changes to the tax system.

<http://www.communitycouncil.com.au/sites/default/files/CCA-Owning-Our-Future-Series-1-Better-Using-Our-Assets-WEB.pdf>

¹² Productivity Commission, 2010, *Contribution of the Not-for-Profit Sector*, Available online:

<http://www.pc.gov.au/inquiries/completed/not-for-profit/report>

¹³ Ibid

¹⁴ ACFID submission to the Productivity Committee review of Not for Profits 2009,

<http://www.pc.gov.au/inquiries/completed/not-for-profit/submissions/sub136.pdf>

In regards to the notion that FBT could be replaced by grants, this does not apply easily to the international aid and development sector where public donations are around 70% of organisational income. As ACFID submitted to the Productivity Commission Inquiry in 2009:

- Without the FBT exemption, the international development sector alone would need to make up a shortfall of over \$14 million for wages ... the Commission neglects that the aid and development sector is not a service provider on behalf of governments. Full funding by government would not help this sector and yet removal of the FBT exemption would crush it. Government would allow the gutting of a sector that the Australian public directly supports to the tune of a billion dollars per year.¹⁵

To what extent do the tax arrangements for the NFP sector raise particular concerns about competitive advantage compared to the tax arrangements for for-profit organisations?

Recommendation 8: Given that competitive neutrality is not significantly affected by the granting of concessions and FBT exemption to NFPs, these should not be altered.

In relation to question about competitive neutrality, we refer the White Paper Task Force to the findings of the 2010 Productivity Commission report, which ACFID endorses, stressing that we would not want NFPs concession arrangements altered, given the marginal impact on competitive neutrality:

“On balance, income tax exemptions are not significantly distortionary as not-for-profits (NFPs) have an incentive to maximise the returns on their commercial activities that they then put towards achieving their community purpose.”¹⁶

¹⁵ Productivity Commission, Contribution of the Not for Profit Sector, 2010, p.209

¹⁶ Ibid, p.197

Annex A: ACFID Members

Full Members:

- ACC International Relief
- Act for Peace - NCCA
- ActionAid Australia
- ADRA Australia
- Afghan Australian Development Organisation
- Anglican Aid
- Anglican Board of Mission - Australia Limited
- Anglican Overseas Aid
- Anglican Relief and Development Fund Australia
- Asia Pacific Journalism Centre
- Asian Aid Organisation
- Assisi Aid Projects
- Australasian Society for HIV Medicine
- Australia for UNHCR
- Australia Hope International Inc.
- Australian Business Volunteers
- Australian Cranio-Maxillo Facial Foundation
- Australian Doctors for Africa
- Australian Doctors International
- Australian Federation of AIDS Organisations
- Australian Foundation for the Peoples of Asia and the Pacific
- Australian Himalayan Foundation
- Australian Injecting and Illicit Drug Users League
- Australian Lutheran World Service
- Australian Marist Solidarity Ltd
- Australian Medical Aid Foundation
- Australian Mercy
- Australian Red Cross
- Australian Respiratory Council
- Australian Volunteers International
- Beyond the Orphanage
- Birthing Kit Foundation (Australia)
- Brien Holden Vision Institute Foundation
- Bright Futures Child Aid and Development Fund (Australia)
- Burnet Institute
- Business for Millennium Development
- CARE Australia
- Caritas Australia
- CBM Australia
- ChildFund Australia
- CLAN (Caring and Living as Neighbours)
- Credit Union Foundation Australia
- Daughters of Our Lady of the Sacred Heart Overseas Aid Fund
- Diaspora Action Australia
- Diplomacy Training Program
- Door of Hope Australia Inc.
- Edmund Rice Foundation (Australia)
- EDO NSW
- Engineers without Borders
- Every Home Global Concern
- Family Planning New South Wales
- Fairtrade Australia New Zealand*
- Food Water Shelter
- Foresight (Overseas Aid and Prevention of Blindness)
- Fred Hollows Foundation, The
- Global Development Group
- Global Mission Partners
- Good Shepherd Australia New Zealand
- Grameen Foundation Australia
- Habitat for Humanity Australia
- Hagar Australia
- HealthServe Australia
- Hope Global
- Hunger Project Australia, The
- International Children's Care (Australia)
- International Christian Aid and Relief Enterprises
- International Detention Coalition
- International Needs Australia
- International Nepal Fellowship (Aust) Ltd
- International RiverFoundation
- International Women's Development Agency
- Interplast Australia & New Zealand
- Islamic Relief Australia
- Kokoda Track Foundation
- Kyeema Foundation
- Lasallian Foundation
- Leprosy Mission Australia, The
- Live & Learn Environmental Education
- Mahboba's Promise Australia
- Marie Stopes International Australia
- Marist Mission Centre*
- Marsh Foundation
- Mary MacKillop International
- Mary Ward International Australia*
- Mercy Works Ltd.
- Mission World Aid Inc.

- Motivation Australia
- MSC Mission Office
- Nusa Tenggara Association Inc.
- Oaktree Foundation
- One Thousand Villages
- Opportunity International Australia
- Oro Community Development Project Inc.
- Oxfam Australia
- Palmera Projects
- Partners in Aid
- Partners Relief and Development Australia
- People with Disability Australia
- PLAN International Australia
- Project Vietnam
- Quaker Service Australia
- RedR Australia
- Reledev Australia
- RESULTS International (Australia)
- Royal Australian and New Zealand College of Ophthalmologists
- Royal Australasian College of Surgeons
- Royal Institute for Deaf and Blind Children
- Salesian Missions
- Salvation Army (NSW Property Trust)
- Save the Children Australia
- Service Fellowship International Inc.
- Scarlet Alliance: Australian Sex Workers Association
- School for Life Foundation*
- SeeBeyondBorders
- Sight For All
- SIMaid
- So They Can
- Sport Matters
- Surf Aid International
- Tamils Rehabilitation Organisation Australia*
- TEAR Australia
- Transform Aid International (incorporating Baptist World Aid)
- Transparency International Australia
- UNICEF Australia
- Union Aid Abroad-APHEDA
- UnitingWorld
- University of Cape Town Australian Trust
- Volunteers in Community Engagement (VOICE)
- WaterAid Australia
- Women for Women in Africa

- World Education Australia
- World Vision Australia
- WWF-Australia

Affiliate Members:

- Australian National University – School of Archaeology and Anthropology, College of Arts and Social Sciences
- Deakin University – Alfred Deakin Research Institute
- La Trobe University – Institute of Human Security and Social Change
- Murdoch University – School of Management and Governance
- Refugee Council of Australia
- RMIT – Global Cities Research Institute
- University of Melbourne – School of Social and Political Sciences
- University of Queensland – Institute for Social Science Research
- University of Sydney – Office of Global Engagement**
- University of the Sunshine Coast – International Projects Group
- University of Technology, Sydney – Institute for Sustainable Futures**
- Vision 2020
- University of Western Australia – School of Social Sciences**

* Denotes Interim Full Member

** Denotes Interim Affiliate Member