



5 September 2022

Multinational Tax Integrity and Tax Transparency
The Treasury
Langton Crescent
PARKES ACT 2600

Email: MNETaxIntegrity@treasury.gov.au

Submission to issues paper: 'Government election commitments: Multinational tax integrity and enhanced tax transparency'

The Minerals Council of Australia (MCA) is the peak industry association for Australia's mining industry. The Australian mining industry pays the highest amount of company tax, reaching a new record high of \$26.5 billion in the 2020-21 financial year. In addition to company tax, the industry paid a record \$16.7 billion of royalties contributing significantly to federal, state and territory governments at a time when they needed it most during the COVID-19 pandemic.

Mining companies also support thousands of regional businesses around Australia and their workers who provide essential services. The industry continues to pay the highest average wages, the most company tax, delivers the most export revenue and supports 1.1 million jobs throughout Australia.

The MCA welcomes the opportunity to respond to Treasury on the Government election commitments: Multinational tax integrity and enhanced tax transparency consultation paper (CP).

Given the CP outlines numerous principles and raises many questions, the MCA notes and supports the statement contained on page 4, that the Government will issue and consult further on exposure draft legislation prior to introducing any legislation into Parliament. This is an important step in the consultation process and the MCA looks forward to the opportunity to provide comments at a later stage.

We have had the opportunity to review the submission dated 1 September by the Corporate Tax Association and we support and endorse the entire submission.

We specifically highlight the following-

- The CP raises matters for consideration that were not outlined in the government's pre-election tax policy announcement. In particular, we are concerned that the CP considers winding back the ability of taxpayers to use the arm's length debt test (ALDT). It is important to remember that the ALDT aims to allow debt deductions for commercially justifiable levels of debt. It is therefore, the central test and is a vital option to allow taxpayers to adopt. In the mining industry commodity price cycles result in periods of low or no earnings and it is therefore important to frame rules that do not penalize those commercial outcomes.
- Another area of particular concern is the proposal to require listed entities to disclose to the share market where they self-identify as high risk as measured against key ATO Practical Compliance Guidelines (PCG). There are many instances where the ATO view of risk proves to be incorrect. Given that the ATO PCGs are the ATOs view of risk and are a tool to assist the ATO to allocate compliance resources, it is inappropriate to use them as a benchmark for disclosure of tax risk to the share market.

- Multinational mining companies produce voluntary tax transparency reports, comply with the Global Reporting Initiative (as discussed in the CP), participate in the Extractive Industries Transparency Initiative and report in accordance with EU Accounting Directives in relation to project based taxation. It is important that if Australia is to introduce enhanced reporting, that the information is of use to stakeholders and that the cost of compliance does not outweigh the benefits.
- The Board of Taxation has undertaken a review of Australia's Voluntary Tax Transparency Code (VTTC). The report was never released by the previous government. Given that the Board of Tax played an instrumental role in the development and design of the VTTC and has undertaken a post implementation review, they are the ideal body to lead a consultative process to develop enhanced tax transparency measures which are fit for purpose.

We are available to assist and respond to requests for additional information. If you have any questions, please do not hesitate to contact Ross Lyons (ross.lyons@minerals.org.au) or on 0436618593.

Yours faithfully,

Ross Lyons
General Manager-Taxation
Minerals Council of Australia

A handwritten signature in black ink that reads "R. Lyons". The signature is written in a cursive, slightly slanted style.