

# EXPOSURE DRAFT

EXPOSURE DRAFT (05/04/2023)

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Inserts for  
**Treasury Laws Amendment (Measures  
for Future Bills) Bill 2023: Multinational  
tax transparency - Tax changes**

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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>

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1. Schedule 1	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	
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## Schedule 1—Multinational tax transparency reporting

### *Taxation Administration Act 1953*

#### 1 After section 3CA

Insert:

#### 3D Publication of information by certain country by country reporting entities

- (1) This section applies to an entity for an income year if:
- (a) the entity is:
    - (i) a constitutional corporation; or
    - (ii) a partnership in which each of the partners is a constitutional corporation; or
    - (iii) a trust of which each of the trustees is a constitutional corporation; and
  - (b) the entity is a country by country reporting parent for the income year; and
  - (c) the entity is a member of a country by country reporting group at any time during the income year; and
  - (d) at any time during the income year, the entity or another member of the country by country reporting group is:
    - (i) an Australian resident; or
    - (ii) a foreign resident who operates an Australian permanent establishment (within the meaning of Part IVA of the *Income Tax Assessment Act 1936*); and
  - (e) the entity is not included in a class of entities:
    - (i) prescribed by the regulations for the purposes of this subparagraph; or
    - (ii) specified in a legislative instrument under subsection (13); and
  - (f) the entity is not specified in an exemption under subsection (14).

Note: This section does not apply to certain government related entities (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*): see subsection (17).

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1 (2) However, if an entity is specified in a notice under subsection (3),  
2 treat the period of 12 months ending on the date specified in the  
3 notice as the entity's income year for the purposes of this section.

4 (3) For the purposes of subsection (2), the Commissioner may, by  
5 written notice, specify an entity and a date other than 30 June.

6 *Publication of information*

7 (4) An entity to which this section applies for an income year must,  
8 within 12 months after the end of the income year:

9 (a) publish the information set out in subsection (5), except to  
10 the extent the entity and the information are specified in an  
11 exemption under subsection (15); and

12 (b) do so in accordance with the requirements set out in  
13 subsection (9).

14 (5) For the purposes of paragraph (4)(a), the information the entity  
15 must publish is as follows:

16 (a) the names of each other entity that, at that time, was a  
17 member of the country by country reporting group;

18 (b) a description of the country by country reporting group's  
19 approach to tax;

20 (c) in respect of each jurisdiction in which the country by  
21 country reporting group operates, the information listed in  
22 subsection (6) for the income year;

23 (d) if regulations for the purposes of this paragraph prescribe  
24 information—that information.

25 (6) For the purposes of paragraph (5)(c), the following information is  
26 listed:

27 (a) a description of main business activities;

28 (b) the number of employees as at the end of the income year;

29 (c) revenue from unrelated parties;

30 (d) revenue from related parties that are not tax residents of the  
31 jurisdiction;

32 (e) expenses arising from transactions with related parties that  
33 are not tax residents of the jurisdiction;

34 (f) profit or loss before income tax;

35 (g) a list of tangible and intangible assets as at the end of the  
36 income year;

37 (h) the book value at the end of the income year of tangible and  
38 intangible assets, other than cash and cash equivalents;

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- 1 (i) income tax paid (on cash basis);  
2 (j) income tax accrued (current year);  
3 (k) effective tax rate;  
4 (l) the reasons for the difference between:  
5 (i) the amount mentioned in paragraph (j); and  
6 (ii) the amount of income tax due if the income tax rate  
7 applicable in the jurisdiction were applied to the amount  
8 mentioned in paragraph (f);  
9 (m) the currency used in calculating and presenting the  
10 information mentioned in paragraphs (c) to (l).
- 11 (7) For the purposes of determining the effect that paragraph (5)(b),  
12 subsection (6) and any regulations made for the purposes of  
13 paragraph (5)(d) have in relation to an entity, identify information  
14 mentioned in those provisions so as best to achieve consistency  
15 with the following documents, to the extent they are relevant:  
16 (a) Chapter V of *Guidance on Transfer Pricing Documentation*  
17 *and Country-by-Country Reporting* (2014) of the  
18 Organisation for Economic Cooperation and Development;  
19 (b) *Guidance on the Implementation of Country-by-Country*  
20 *Reporting: BEPS Action 13* (2022) of the Organisation for  
21 Economic Cooperation and Development;  
22 (c) Disclosures 207-1 and 207-4 of *GRI 207:Tax* (2019) of the  
23 Global Reporting Initiative’s Sustainability Reporting  
24 Standards;  
25 (d) in the case of paragraph (6)(k)—Article 5.1 of the *Tax*  
26 *Challenges Arising from the Digitalisation of the Economy –*  
27 *Global Anti-Base Erosion Model Rules (Pillar Two):*  
28 *Inclusive Framework on BEPS* (2021) of the Organisation for  
29 Economic Cooperation and Development;  
30 (e) a document, or part of a document, prescribed by the  
31 regulations for the purposes of this paragraph.
- 32 Note: The documents in paragraphs (a), (b) and (d) could in 2023 be viewed  
33 on the Organisation for Economic Cooperation and Development’s  
34 website (<http://www.oecd.org>).
- 35 (8) The information published by the entity under subsection (5) must  
36 be based on amounts as shown in the audited consolidated financial  
37 statements for the entity for the period that corresponds to the  
38 income year.
- 39 (9) For the purposes of paragraph (4)(b), the entity publishes  
40 information in accordance with the requirements set out in this
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1 subsection if the entity gives a document containing the  
2 information to the Commissioner in the approved form.

- 3 (10) The Commissioner must, as soon as practicable after receiving the  
4 document from an entity in accordance with subsection (9), make  
5 the information in the document available on an Australian  
6 government website.

## 7 *Corrections*

- 8 (11) If an entity becomes aware that the document given to the  
9 Commissioner under subsection (9) contains an error, it must, as  
10 soon as practicable, give the Commissioner a notice in writing  
11 containing information that corrects the error in the approved form.
- 12 (12) The Commissioner must, as soon as practicable after receiving the  
13 notice under subsection (11), make the information that corrects  
14 the error available on an Australian government website.

## 15 *Exemptions*

- 16 (13) For the purposes of subparagraph (1)(e)(ii), the Commissioner  
17 may, by legislative instrument, specify a class of entity to which  
18 subsection (4) does not apply.
- 19 (14) For the purposes of paragraph (1)(f), the Commissioner may, by  
20 notice in writing, specify an entity that is exempt from publishing  
21 information under subsection (4).
- 22 (15) For the purposes of paragraph (4)(a), the Commissioner may, by  
23 notice in writing, specify:
- 24 (a) an entity that is exempt from publishing information of a  
25 particular kind; and
  - 26 (b) the particular kind of information that the entity is exempt  
27 from publishing.
- 28 (16) A notice under subsection (14) or (15) is not a legislative  
29 instrument.

## 30 *Government related entities*

- 31 (17) This section does not apply to a corporate tax entity for an income  
32 year if:
- 33 (a) the entity is a government related entity (within the meaning  
34 of the *A New Tax System (Goods and Services Tax) Act*  
35 *1999*); and

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1 (b) the Commissioner has given notice to the entity for the  
2 income year under subsection (18).

3 (18) For the purposes of paragraph (17)(b), the Commissioner may give  
4 notice in writing to a government related entity (within the  
5 meaning of the *A New Tax System (Goods and Services Tax) Act*  
6 *1999*) for one or more specified income years if the Commissioner  
7 considers that it is appropriate to do so.

8 *Interpretation*

9 (19) An expression used in this section that is also used in the *Income*  
10 *Tax Assessment Act 1997* has the same meaning as in that Act.

## 11 **2 After paragraph 8C(1)(aa)**

12 Insert:

13 (ab) to publish information in the manner in which it is required  
14 under a taxation law to be published; or

## 15 **3 Application**

16 The amendments made by this Schedule apply in relation to the  
17 2023-24 income year and later income years.