Global Corporate Tax: anti abuse, transparency and co-operative compliance

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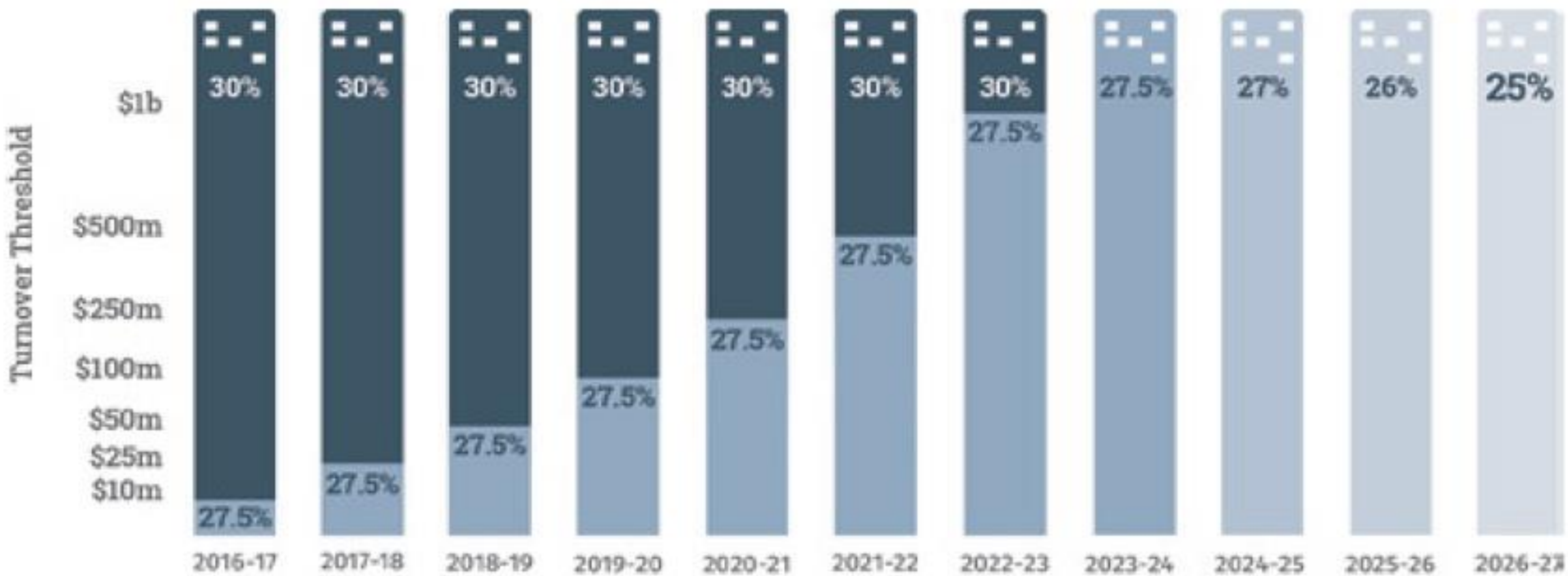
International Comparisons

Country	Rate in 2015 (%)	Lowest future rate (%)
Australia	30.0	25.0 in 2026–27
Canada	26.3	
France	34.43	
Germany	30.18	
Ireland	12.5	
Japan	32.11	
Korea	24.2	
Luxembourg	29.22	26.08 in 2018
Netherlands	20-25	
New Zealand	28.0	
Singapore	17.0	
Spain	28.0	25.0 in 2016
Sweden	22.0	
United Kingdom	20.0	17.0 in 2020
United States	39.0	

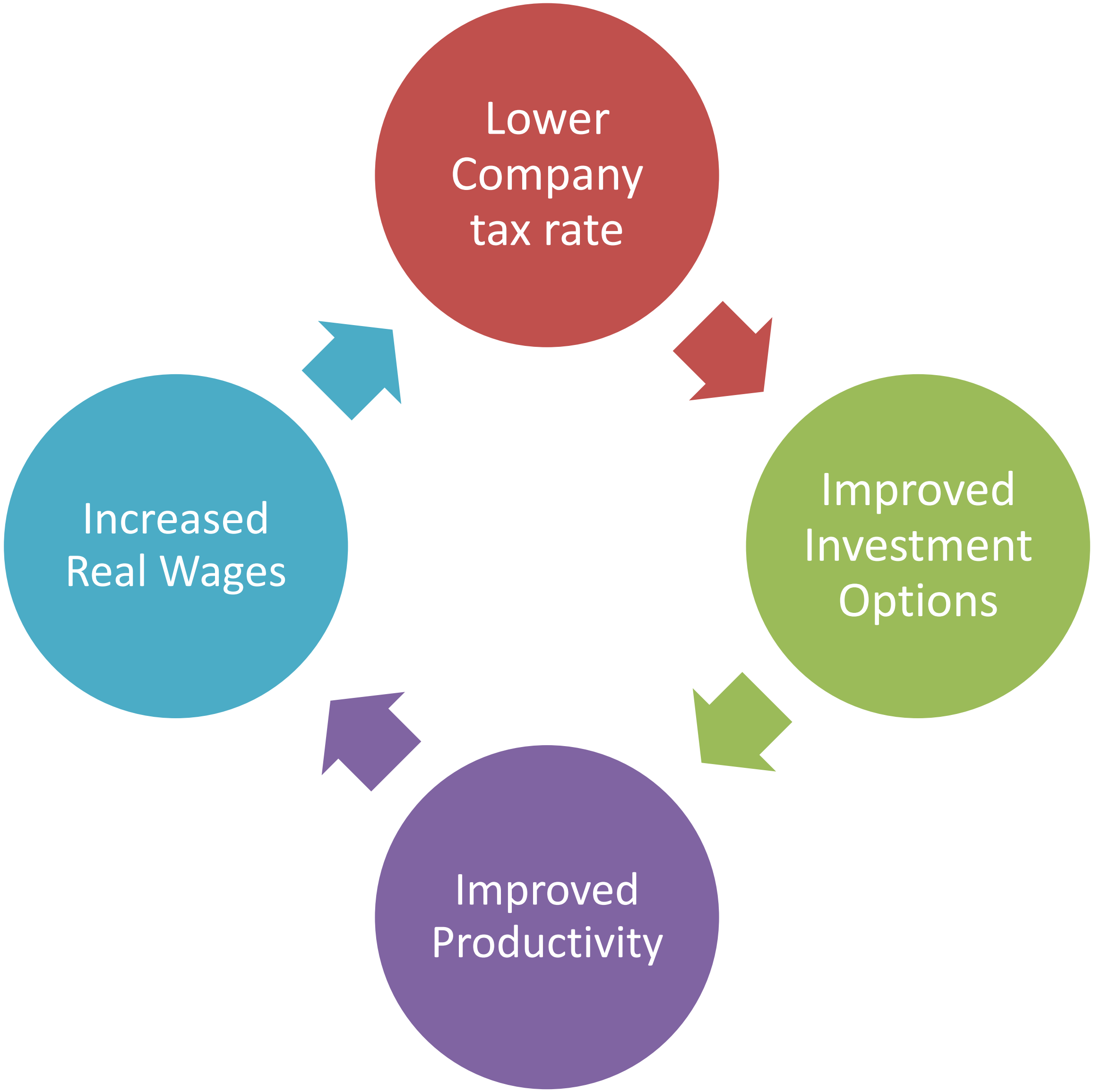
Company Tax Rate

Source – Budget 2016/17 Fact Sheet – *Making our tax system more sustainable*

The company tax rate for all companies will decrease to 25 per cent over the next ten years



The Company Tax Rate Matters



Anti-Avoidance by multinationals

mixed views and signals

- Is there a problem?
- What is the problem?
- Why does it matter?
- how to respond - unilateral or global or both?

Anti-Avoidance by multinationals

OECD

- Global Response BEPS
- The stakes are high
- Measurement of BEPS proves challenging
- OECD estimates global corporate income tax (CIT) revenue losses could be between 4% to 10% of global CIT revenues, i.e. USD 100 to 240 billion annually
- Affiliates of MNEs in low tax countries report almost twice the profit rate (relative to assets) of their global group - showing how BEPS can cause economic distortions.
- Interest:Income ratio 3x higher in high tax countries than worldwide average

Anti-Avoidance by multinationals

Senate Inquiry – An inquiry into tax avoidance and aggressive minimisation by corporations registered in Australia and multinational corporations operating in Australia

KPMG Submission

Australia has a robust and comprehensive corporate tax system administered by a capable regulator.

ATO Submission

Most corporates pay the tax they are required to under Australia's law. Some private groups, linked to wealthy individuals with complex group structures, display more aggressive tax behaviours and characteristics. Some multinational enterprises engage in complex profit shifting structures. These present tax avoidance risks that threaten the level playing field of business.

Objectives of Anti-avoidance Rules

- Restore Efficiency – distorts investment decisions
- Improve Equity and Fairness
- Improve system Integrity
- Assist Budget Repair

OECD - Tax avoidance is not just an economic issue, but a moral one that goes to the heart of public trust and confidence in our governments and institutions

Australia’s Response

Implementation of BEPS + Unilateral response

MAAL and DPT - pre-emptive or complementary to BEPS

Not expected to raise Revenue

- MAAL (Part IVA, TP Documentation & Penalties) - unquantifiable gain to revenue over the forward estimates period
- DPT – gain of $200 million over the forward estimates period

Focus of recent developments is on transfer pricing

- MAAL – ‘avoiding’ permanent establishment
- Diverted Profits Tax – pricing lacks economic substance

Australia’s Response

… so are domestic & international transfer pricing rules

- appropriate?
- Easily administered?
- Consistent with facilitating commerce?

Transparency Developments

International developments in transparency

- United Kingdom
- European Commission
- ATO disclosures
- G20 / OECD BEPS
- Extractive Industries Transparency Initiative

Increased public concern about businesses' tax affairs

- Senate inquiry - 13 of 17 Recommendations relate to improved transparency

Voluntary Tax Transparency Code

Terms of Reference include

1. The Board is requested to develop a voluntary code for the increased public disclosure of tax information by businesses, particularly large multinationals, by May 2016.
2. The actions of a few businesses, particularly large multinationals engaging in aggressive tax avoidance, have tarnished the reputations of many businesses that are doing the right thing.
3. Some large businesses have responded by releasing detailed information about their tax affairs. The Government would like more large businesses to publicly disclose their tax affairs to highlight those that are paying their fair share and to encourage all businesses not to engage in aggressive tax avoidance.

Why does Australia need a Voluntary Tax Transparency Code?

- Improve education around our business tax system
  - improving the debate around tax reform by promoting the role of tax in the economy
  - Industry bodies (CTA, BCA, etc), ATO and Chambers of commerce also have role to play
- Restore integrity of the tax system
- Restoring trust and confidence in the tax system
- Why Voluntary – encourages engagement in appropriate disclosure rather than compliance disclosure

How did the Board develop the voluntary tax transparency code?

May 2015

- Referral from former Treasurer

June 2015

- Working Group established

August 2015

- Preliminary consultation

December 2015

- Consultation paper issued

3 May 2016

- Code released in Budget

19 written submission

CTA and BCA have undertaken to encourage members to adopt the Code

Who is the audience?

- Code designed for:
  – General users – ‘person in the street’
  – Interested users – shareholders, analysts, investors, social justice groups, media and politicians
- Not designed for revenue or regulatory authorities

Who should disclose?

- ‘Large businesses’ (turnover ≥ AUD 500 million) should disclose Part A and B
- ‘Medium businesses’ (turnover > AUD 100 million < AUD 500 million) should only disclose Part A
- Targeted towards companies
- Superannuation Funds, Trust and Partnerships may adopt the Code by adapting it

Part A – Improved financial disclosure of tax information

Who	Minimum standard of information	How should the content be disclosed?
‘Large’ and ‘medium’ businesses	• 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)	• Australian general purpose financial statements; or • ‘Taxes paid’ report

Part B – 'Taxes paid' report

Who	**Minimum standard of information**	**How should the content be disclosed?**
'Large' businesses	• Approach to tax strategy and governance • Tax contribution summary for corporate taxes paid • Information about international related party dealings	• 'Taxes paid' report

When does it start?

<u>Board Report</u>

Financial years ending after 3 May 2016

Early indications - BoT website

Name	Financial year ending (FYE) - first report
ANZ	30 Sept 2016
Iluka Resources Limited	31 December 2015
BHP	30 June 2016
Mirrabooka Investments Ltd	30 June 2016
Australian Foundation Investment Company Ltd	30 June 2016
Djerriwarrh Investments Ltd	30 June 2016
Telstra	Progressive implementation starting FYE 30 June 2016 – fully compliant FYE 30 June 2017
Rio Tinto	31 December 2015 (published 28 June 2016)
AMP	31 December 2016
Vicinity Centres	30 June 2016
South32 Limited	30 June 2016
Stockland	All key elements of the Code adopted except summary of corporate taxes paid – which will be implemented from the 2017 financial year onwards.

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Questions?