



## Shining the Light on Tax Dodging & Corruption: Australia's G20 Opportunity

Since world leaders agreed to the Millennium Development Goals in 2000, the world has made great progress against poverty. Through sustained investments in public health, and the provision of immunisations, vaccines and essential health services through government budgets, aid programs and multilateral funds, child mortality has been cut by almost 50% since 1990 – 15,000 fewer children dying every single day.

We celebrate this progress. Yet more than 1 billion people still live in extreme poverty, which remains an affront against human dignity, stunting lives and bodies, destroying hope and opportunity. Micah Challenge has campaigned in support of the Millennium Development Goals since 2005 and we urge the Australian Government and Parliament to continue to work towards the eradication of extreme poverty – by increasing our poverty-focused aid, by supporting fairer global trade, by taking strong action to mitigate against dangerous climate change and by responding to global peace, security, health and sustainability challenges.

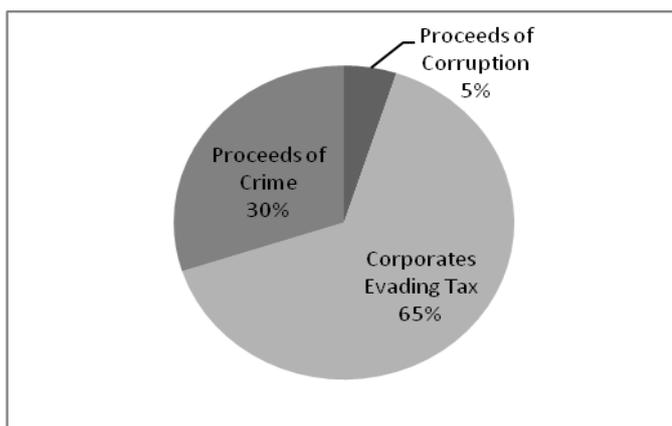
In 2014, particularly, Australia has a unique opportunity – as Chair of the G20 – to tackle the scourge of tax dodging which robs developing countries on a massive scale of vital revenue for poverty reduction and sustainable human development.

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### NOTES

Micah Challenge has been campaigning in support of the Millennium Development Goals and progress against poverty in a range of ways, the focus of this meeting is tax dodging. Australia can and should do much more to help fight the causes and consequences of extreme poverty. – including by improving and increasing our aid program and tackling climate change. However, because of the particular opportunity we have this year to address multinational tax dodging as host nation of the G20 and because of the huge importance of this issue to poor nations, we have decided to focus our *Voices for Justice* lobbying meetings on *tax dodging*.

When we use the term “tax dodging” we mean both demonstrably illegal forms of tax *evasion* and forms of tax *avoidance* which might be technically legal but generally exploit unintentional loopholes in the law and, we believe, should be seen as unethical.



Global Financial Integrity (2010): *Illicit Financial Flows from Africa: Hidden Resource for Development*

Contrary to popular opinion, the majority of money stolen from developing countries is not as a result of corruption by public officials or the proceeds of crime; it is as a result of multinational corporations avoiding paying their fair share of tax in the countries where they operate.

Companies are able to do this by a variety of means – essentially, though, they do this by artificially reducing their reported profits in higher-taxing countries and locating these profits in lower-taxing countries. This can be done by making inter-company trades or payments so as to shift profits from one location to another, by misreporting or under-reporting the company's actual activities in a given country, and/or by using secrecy jurisdictions (or “tax havens”) to disguise the true activities or profits of a company.

“Developed countries must keep their promises to developing countries. North-South aid is still vital for many countries: it must be maintained, and increased wherever possible. But more than aid is needed to implement sustainable development worldwide. Developed countries... have special responsibilities in ensuring that there can be no safe haven for illicit capital and the proceeds of

corruption, and that multinational companies pay taxes fairly in the countries in which they operate.”  
***A New Global Partnership—Report of the High-Level Panel on the Post-2015 Development Agenda***



Christian Aid estimated that in 2008, developing countries lost more than USD 160 billion through just two forms of multinational corporate tax dodging – transfer mispricing and false invoicing. This figure dwarfs the amount that these countries receive in aid, which amounted to USD \$120 billion in 2009.

If developing countries had access to these lost revenues and used them in the same proportions and for the same purposes as their current expenditures, Christian Aid estimates they could save the lives of around 350,000 children each year.

“It is a contradiction to support increased development assistance, yet turn a blind eye to actions of multinationals and others that undermine the tax base of a developing country.”

***Trevor Manuel, South African Finance Minister***

## NOTES

The Prime Minister and Treasurer have both recently spoken out against multinational tax avoidance and recognise that it is a matter of real concern. Cases involving Apple, Google, Amazon, Starbucks, Microsoft and the like have been in the news. This kind of tax dodging affects all countries, including Australia. However, Micah Challenge’s concern is the particular burden that this tax dodging imposes on poor countries. On average, low income countries collect only 13% of the Gross Domestic Product from tax income. This contrasts sharply with the OECD average of 35% for the world’s rich countries. Low national tax revenues are associated with high levels of malnourishment, child mortality, and food insecurity (Christian Aid 2013, *Who Pays the Price? Hunger: the hidden cost of tax injustice*, 10–12). For any government, sustainable tax revenue from citizens and corporations active in that country is a more secure source of finance to provide essential services and tackle poverty than overseas aid. Fair and transparent tax systems also improve the democratic bond between governments and citizens.

It is difficult to get accurate figures for the costs of tax dodging since. However, this figure of US\$160 billion (Christian Aid 2008, *Death and Taxes*) is fairly conservative and robust. It takes into account estimates of only two forms of multinational tax evasion – aggressive transfer mispricing and false invoicing. These two forms of tax evasion are estimated to account for about 7% of global trade transactions each year.

Transfer mispricing is when one unit of a multinational company trades goods or services with another unit within the same multinational company. Normally, these trades should be conducted according to the “arms length principle” so that the price for the trade should be roughly whatever would be the market price if the trade were being conducted between two unrelated companies in an open market. However, multinationals may deliberately misprice the trade in order to gain a tax advantage, for example by selling goods or services more cheaply than their true value to reduce profits in a high tax location and thereby avoid tax. False invoicing involves trade between unrelated companies where the trade may involve a deliberate misstatement of the true value of the trade – reporting less (or more) money than was actually involved in the transaction.

The estimate of 350,000 childrens’ lives saved is based on an assessment of the historic correlation between tax revenues and mortality in developing countries and the assumption that if developing countries had access to lost tax revenue they would spend it in similar proportions (and to similar effect) as their observed expenditure.

The infographic about Marta Luttgrodt comes from ActionAid's 2012 Report, *Calling Time*. In one example of multinational tax dodging, it found that the global brewery company SAB Miller (which is the second-largest brewing company in the world and owns many Australian beer brands such as Fosters, Cascade, VB, and Carlton) avoided paying tax by a variety of means. This is not to suggest that SAB Miller broke the law – most of what they did appears to be legal. However, this highlights how important it is that global tax rules be fixed.



1. **Royalty Removal** - Many of the local beer brands produced and sold by Accra Brewery are actually owned by a company in the Netherlands, which receives royalties for use of the brands from SABMiller's African subsidiaries. A favourable tax deal negotiated with the Netherlands tax authorities means that SABMiller pays very little tax on royalties, allowing it to avoid paying tax of around \$17 million each year to the African nations where it produces and sells the beer.

2. **Costly Management** - Accra Brewery also pays management fees to a company in Switzerland, although ActionAid uncovered evidence that this company provides little or no management services. By increasing the operating costs and thereby reducing its reportable profits in Ghana, SABMiller reduces its tax bill. [The Head of Ghana's Revenue Authority](#) has said, "Management fees is an area that we know is being used widely (to avoid tax), and that's mainly because it's difficult to verify the reasonableness of the management fee."

3. **Trade Diversion** - Accra Brewery's imports don't physically pass through Mauritius (a known tax haven), but the

paperwork and profits for these imports does. Again, by reducing the amount of profit in Ghana (which would be taxed at 25%) and inflating the profit in Mauritius (where it would be taxed at only 3%), SABMiller avoids paying tax and contributing to Ghana's development.

4. **Clever Borrowing** - Accra Brewery took a vastly inflated loan worth more than seven times its own capital from the same SABMiller subsidiary in Mauritius. By offsetting the interest payments against tax, SABMiller cheats Ghana of at least \$100,000 in tax revenue.

## The ABC of tackling tax evasion – what should Australia do?

**A – Automatic Exchange of Information (AEOI) between tax authorities:** AEOI, with appropriate privacy safeguards, is a powerful way to reduce tax evasion and is already supported by Australia, which provides information on tax matters automatically to over 40 countries and receives such information from 20 countries.

AEOI provides more timely detection of tax dodging and increases fairness in the tax system. When Denmark sent out 1,100 letters informing Danish taxpayers about information that had been shared automatically, 440 people reported foreign income that year which they had not previously reported. In 2009, Norway used such information to verify tax returns above a certain threshold and found that in 38.7% of cases, people had not reported taxable income. However, very few developing countries have been able to benefit from AEOI, particularly if their tax administrations are not strong enough to meet requirements for reciprocal information sharing. AEOI is likely to be adopted by the G20 as a global standard, and Australia already provides some assistance for countries to make use of AEOI, but it is important that *all* developing countries are able to make use of the system.

*The Government should ensure that AEOI becomes the global standard and that all developing countries are supported and able to make use of the system to combat tax dodging and corruption.*

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### NOTES

Automatic Exchange of Information refers to a practise whereby a country that has received an investment (bank account, shareholding or similar) from the citizen of another country will *automatically* inform the tax authorities of that country about the investment. A number of countries have begun piloting automatic information exchange through the OECD's Multilateral Convention for Mutual Administrative Assistance on Tax Matters but the predominant global system is currently the "on-request" system. Under this on-request system, countries did not automatically provide such information, but any government wanting to find out about tax-relevant information of their citizens' investments in other countries had to make a specific request for information to that other country. This is problematic because often the information required to even make such a request (the identity of the citizen, the nature and size of the investment) is the subject of the enquiry itself. In effect, the government already had to know the information it was wanting to find out about.

So the move towards automatic information exchange as the new global standard (which has been endorsed by the OECD and G20) is very welcome. However, OECD analysis of the current state of play demonstrates that very few developing nations are currently able to benefit from this automatic information exchange, and no developing countries outside of the largest developing economies in the G20. The main treaty allowing for automatic information exchange requires developing countries to be invited to join, and offers automatic information exchange only as an option, which then has to be negotiated on a bilateral basis with every country wishing to exchange information.

The rules require 'reciprocity' in information exchange – but this disadvantages poorer countries. (The OECD, a club of rich countries, has a long track record in designing rules to favour its members at the expense of developing countries.) To understand why reciprocity is a problem, consider first how many wealthy Nigerians are likely to stash assets secretly in Switzerland – then consider how many wealthy Swiss are likely to have locate their secret stashes in Nigeria. Nearly all the active tax havens are located in rich countries, and the flow of illicit money is in one direction only: from poor countries to rich. So it is less relevant for developing countries to hand over all relevant information.

Not only that: if these countries don't have the capacity or resources to set up the structures for collecting the relevant information, then under the 'reciprocity' principle they will be left in the dark. Many developing countries don't have the resources or capacity to meet these full reciprocity requirements. However, even if developing countries don't have the capacity to make full use of the data they are provided with, it will still have a powerful deterrent effect. The more global co-operation there is on AEOI, the stronger the system will be, providing more chances for detection and deterrence of tax dodging and other financial crimes.

Australia is working with developing countries to build their capacity to participate in AEOI. However for many developing countries still building capacity, an exclusion to the 'reciprocity principle' will ensure that they are still included and benefit from the global framework, while also strengthening the framework's effectiveness.

**B – Beneficial Ownership Disclosure through a public register that lists the true owners and beneficiaries of companies, trusts and foundations:** Anonymous companies and secret trusts can be covers for crime, corruption and tax dodging. The World Bank’s *Puppet Masters* report found that in 213 grand cases of corruption that took place 1980–2010 involving US\$56 billion, more than 70% of them used anonymous companies.

The European Parliament voted in March 2014 to create a publicly-accessible register of the beneficial ownership for companies, trusts and foundations and the UK Prime Minister, David Cameron, has announced his Government’s intention to develop a similar public register. Current Australian law does not require multinationals to disclose the existence of all their subsidiaries that exist in secrecy jurisdictions (tax havens).

*The Government should establish a public register of beneficial ownership in Australia and should call on all G20 nations to adopt similar registers.*

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## NOTES

Beneficial ownership is about knowing who the actual person is that benefits from a trust, company or other corporate vehicle. Often companies and individuals hide their identities through the use of agents, nominee owners and trustees, who may be granted legal title but do not receive any benefit from the income or capital from the corporate vehicle.

When the beneficial owners are hidden through these structures, the secrecy and anonymity facilitates [tax evasion, corruption and money laundering](#).

*Between 1992 and 1994 Raul Salinas, the brother of the former Mexican president Carlos Salinas, used a series of shell companies to hide his identity when he transferred \$100 million out of Mexico into the United States. To hold the funds, Salinas set up a private investment company (Trocca Ltd), which had three shell companies as directors and a fourth shell company as the primary shareholder, none of which had Salinas’ name attached to it. The structure meant that it would be extraordinarily difficult for anyone to trace where the money had come from and who had access to it. It’s a striking example of how a lack of knowledge about beneficial ownership not only facilitates tax dodging, it facilitates corruption.*

Beneficial Ownership Registers are also an important tool to strengthen the Automatic Exchange of Information. If individuals and companies can hide their identities using secretive corporate structures like shell companies and anonymous trusts, than they are also protected from efforts to automatically exchange their tax information. We must know who the owners are of accounts and property in order to share it with their tax authorities. A beneficial ownership registers help facilitate this.

The good news is that the world is moving on beneficial ownership. In 2013, the UK Government made beneficial ownership a central plank of its G8 (group of 8 nations) presidency and committed to developing a beneficial ownership register, with significant progress being made towards this goal this year. The European parliament has voted to create a beneficial ownership register and now the G20 anti corruption working group is developing the high level principles for a beneficial ownership registry, which will be brought before G20 leaders to endorse at the Brisbane summit.

We are calling on Australia to ensure they work to see these efforts are endorsed and that as a nation it establishes for itself a public register of beneficial ownership.

**C – Country by country reporting for multinational corporations:** Currently, international reporting standards only require multinational companies to produce reports at a global level, making it impossible to know how much was earned or invested and how much tax was paid in each country in which they operate.

However, the US requires all listed oil, gas and mining companies to report all payments made to governments on a country by country basis. The European Union will require the same from large oil, gas, mining and forestry companies from 2015 and will require banks to disclose profits, taxes paid, subsidies received, turnover and number of employees for each country where they operate. Australia is lagging behind in this global trend towards greater transparency.

Requiring country by country reporting (CBCR) makes it harder for companies to shift their profits and gives citizens access to information they need to hold their governments to account for the revenue they receive. Some corporations already report in this way, including Rio Tinto and Paladin Energy. The OECD has developed a draft template for CBCR – now the G20 must ensure that these reports contain all the information needed to combat tax dodging.

*The Government should require all multinational corporations registered in Australia to provide a worldwide combined report including country-by-country breakdown of the number of employees, assets, sales, profits, as well as taxes due and paid. The Government should endorse the G20 adopting this country-by-country reporting as standard.*

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## NOTES

Country by country reporting (CBCR) is about ensuring companies report on their financial transactions in each country they operate in rather than just producing amalgamated reports at the global or regional level. The current amalgamated reporting standard allows companies to keep their tax minimisation strategies out of the public eye while also helping to mask illegal activity and tax evasion like transfer mispricing and false invoicing.

Around two thirds of all global trade occurs within multinational companies. By trading goods and services between subsidiaries in different countries, companies can stack up their costs in higher taxing countries and shift their profits to lower taxing countries, thereby eroding the tax base in countries where value is actually generated through shifting their profits into tax havens.

Corporate tax dodging is not a problem that sits on the periphery of the global economy, it has become central to its operation. More than half of all world trade passes through tax havens. Recent research on the Australian experience by the Uniting Church found that at least 61 of Australia's top 100 companies have one or more subsidiaries in known tax havens/secretory jurisdictions.

CBCR would help expose tax dodging by companies and make illegal tax evasion far more difficult. Currently, citizens, Governments and the tax authorities are unaware when companies engage in these practices. CBCR would expose when companies act in ways similar to SAB Miller (described above), it would allow the public to see when companies have all their operations in countries like Ghana, yet declare the majority of their profits in tax havens like the Mauritius and Switzerland. Transparency and public awareness will make it much easier to act on unethical practices and discover illegal activity.

For CBCR to be effective, it is important that there is enough information to understand where value is genuinely being created, including information on employees, physical assets, sales, profits and taxes. It's important that this information is made public so corporations can be held accountable and poorer countries can be aided in addressing tax dodging.

Again the good news is that there is forward momentum on CBCR. The legislation for the US and European extractives mentioned above is being matched by Canada in 2015. The more comprehensive disclosures for the European finance sector, which will include revenue and number of employees in each country, are in effect now with reporting starting from June 30.

As part of a base erosion and profit shifting (tax dodging) action plan, the OECD is developing a template for country-by-country reporting, however it is not yet clear whether the information that will be shared will be sufficient broad in its scope and concerns remain as to whether it will be publicly shared.

## What an MP or Senator can do

- 1) Make a speech in Parliament or in public about these important issues – contact Micah Challenge for speech notes
- 2) Contact the Prime Minister, the Treasurer and the Assistant Treasurer calling on them to deliver on the ABC of tackling tax evasion through domestic legislation and through the G20 – ensuring that the voices, needs and interests of all developing countries are fully represented in these processes.

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*Micah Challenge is a global movement of aid & development agencies, churches, schools, groups and individuals speaking out against poverty and injustice in support of the Millennium Development Goals. See [www.micahchallenge.org.au](http://www.micahchallenge.org.au)*

*Micah Challenge →*

**Are these proposals anti-business? Or why these proposals are good for business**

The use of tax havens, often referred to as secrecy jurisdictions, works against business interest by distorting markets and making them function less efficiently. Large international companies capable of setting up offshore subsidiaries and designing complex tax structures are given an unfair advantage against smaller, nationally based companies. This means newer start-ups are not competing on a level playing field. Tax dodging practices also leads to tremendous resources being wasted on otherwise useless advice and business structures. The costs to setting up complex business structures and the army of accountants and legal advisors to maintain them offer no social benefit for the public and drain resources away from real investment opportunities for business.

**How much does this problem affect Australia?**

Due to the secrecy surrounding tax dodging, it's hard to put a figure on just how much it costs Australia – but most estimates range well into the billions. In the last decade alone, one tax dodger, Apple, shifted \$9 billion of profit out of Australia. If taxed at the regular company tax rate, an amount that would have yielded \$2.7 billion in revenue. In 2012, Google despite having an estimated \$1 billion in revenue in Australia only paid \$74,000 in tax.

A 2008 report by Christian aid estimated that Australia lost 1.1 billion euros through transfer mispricing to the EU between 2005 – 2007 and US\$1.5 billion in tax revenue through transfer mispricing to the US in the same period.

A report from the Tax Justice Network using World Bank data on the shadow economy, which includes broader tax dodging activities such undeclared business income (think cash businesses) estimates the losses to Australia at around \$44 billion a year.

**Doesn't/shouldn't everyone try to minimise their taxes?**

The U.S. Supreme Court Justice, Oliver Wendell Holmes said “taxes are what we pay for a civilised society”. Our tax revenues are used to pay for our roads, hospitals, health professionals and police force. Taxes allow the redistribution of income to provide assistance to the poorest and most vulnerable in our society and around the globe. Taxes allow Governments to exist and function. Given this, paying taxes is something that we should each be proud of as our contribution to a civilised society.

Our confidence in the tax system however is undermined by those we perceive as cheating the system or not contributing their fair share. It's worth noting that according to research by the Tax Justice Network (Price of Offshore Revisited), of the \$21 trillion held offshore in secrecy jurisdictions, almost half is held by just 100,000 people or 0.001% of the population. Corporate tax dodging is in a different order of magnitude to the activities of the average citizen managing their tax affairs.

**Will ABC entirely fix the problem of multinational tax dodging?**

The recommendations we have proposed are significant steps towards transparency that will have a major impact on the level of multinational tax dodging around the globe. In and off themselves they will not fix the problem. Even knowing the practices of companies like Apple and SAB miller does not necessarily stop them from dodging their responsibilities, but it does create significant pressure for reform. The additional transparency and accountability of the ABC measures, on top of curtailing tax dodging right now, will help illuminate the path moving forward to end tax dodging altogether.