



CLOSING THE **CARIBBEAN** CONNECTION

**Solving Aggressive Tax Avoidance
by Top Foreign Multinationals
Operating in Australia**



This report was funded by generous donations from 1,713 GetUp members – a group of everyday people who came together to take action when our government would not.

By chipping in together, these people achieved some extraordinary things:

- paid the fees needed to access financial records of the biggest multinational corporations operating in Australia;
- joined forces with a team of leading tax experts to identify the complex loopholes being exploited, and;
- identified real policy solutions to shut these loopholes down.

This report was produced in consultation with corporate tax experts Roman Lanis, Ross McClure, and Brett Govendir of the University of Technology, Sydney. The findings are based on analysis of company reports filed with the Australian Securities and Investment Commission.

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This is a summary of a longer report available here:
www.getup.org.au/caribbean-connection

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TECHNICALLY LEGAL, MORALLY BANKRUPT

In April 2016, the world was rocked by the biggest data leak in history. The Panama Papers saw 11.5 million documents leaked from Panamanian law firm, Mossack Fonseca, exposing a trail of endemic tax avoidance by big corporations and the wealthiest 1%.

However, the Panama Papers are just one piece of a much bigger story about multinational corporations exploiting weaknesses and loopholes in national tax laws to shirk their tax responsibilities.

The Tax Justice Network estimates that there is as much as \$32 trillion dollars stashed in tax havens around the world.¹ What's more, half of all global trade passes through tax havens.²

This hoarded wealth robs everyday people all over the world of first-rate healthcare, quality education, basic infrastructure and social security. While technically legal, the aggressive tax minimisation techniques of large multinational corporations worth billions can only be described as morally bankrupt.



IN 2013 AND 2014, AUSTRALIA LOST \$5.36 BILLION IN CORPORATE TAX REVENUE FROM JUST 76 MULTINATIONAL CORPORATIONS.

That's enough to:



Reverse **\$1 billion** in aged care cuts AND



Scrap the **\$270 million** cut from the ABC and SBS AND



Reinstate **\$650 million** in Medicare cuts AND



Restore **\$235 million** ripped from the National Rental Affordability scheme AND



Give back **\$534 million** in cuts to Indigenous services AND



Hand back the **\$112 million** cut from the CSIRO³

And still have \$2.5 billion in spare change...

PROFITS ARE SHIFTED OFFSHORE, WHILE HARD-WORKING AUSTRALIANS ARE LEFT TO PICK UP THE PIECES.

Given the scale and cost of corporate tax avoidance, it would be sensible for the government to make cracking down a national priority, and give our national regulators the resources to do more.

Instead, the Coalition government cut 4400 jobs from the Australian Tax Office in 2014.⁴

Furthermore, the Australian Tax Office (ATO) still faces limitations in collaborating with other government agencies like the Australian Securities and Investment Commission (ASIC),⁵ and the legal framework under which they operate still leaves many loopholes for multinationals to exploit.

With the 2016 Federal Budget just a few weeks away, our government is making a lot of noise about slashing investment from areas where we can least afford it – our local schools and hospitals. This report is a timely intervention, laying out a viable alternative to spending cuts.

In 2016, our government faces a choice – to put the interests of everyday Australians over the high-paid lobbyists of foreign multinationals, or pay the political price.

SUMMARY OF FINDINGS

Against a backdrop of spending cuts to local hospitals and schools, our politicians insist they've done enough about rampant corporate tax avoidance.⁶

The sad reality is that many everyday Australians pay more tax than multinational corporations worth billions.

This report used financial reports of Australian subsidiaries of top foreign multinational corporations operating in Australia to estimate the potential total amount of taxes avoided in 2013 and 2014, and identify the mechanisms used.

Financial data from 76 of Australia's largest multinationals revealed an average effective tax rate of 16.2% – almost half the statutory 30% tax rate for companies in Australia. This equates to \$5.37 billion in lost revenue from just 76 corporations over the two year period examined.

If just 76 multinationals were able to reduce their tax bill by \$5.36 billion, imagine what the total lost revenue would be from the many thousands of corporations operating in Australia.

The main mechanisms for aggressive tax minimisation are **debt loading**, most commonly exploited by corporations in the energy and resource sector, and **profit alienation**, used by pharmaceutical and high-tech firms.



IN 2013 AND 2014, 76 OF AUSTRALIA'S LARGEST MULTINATIONALS MADE A NET PROFIT OF \$11.6 BILLION. BETWEEN THEM, THEY PAID COMPANY TAX OF ONLY \$1.9 BILLION – OR 16.2%.

Contrast this with **24%**, the average tax rate of a worker in the construction industry or a public hospital nurse.⁷

Billionaire corporations are paying a lower effective tax rate than many Australian workers.



WHAT WAS THE AVERAGE EFFECTIVE TAX RATE BY SECTOR?

- *Energy corporations: **20%****
- *Pharmaceutical corporations: **5.7%***
- *High-tech corporations: **7.5%***

**Although the energy sector has an average effective tax rate of 20%, it averages company profits more than ten times those of the other two sectors.*

The results from the main analysis of aggressive tax minimisation by large companies and multinational subsidiaries operating in Australia are shown in the appendix.

Methodology

The 2013-2014 financial reports for the top 100 foreign multinational corporations operating in Australia were acquired from Australia's corporate regulatory body in March 2016. Relevant data was hand collected from the reports.

Twenty-four of these firms were found to have experienced genuine (not artificially inflated) losses. Therefore, the sample is divided into two categories – only the latter of which is examined for the purposes of this report:

1. **Loss firms** that made a real overall loss, and;
2. **Profit firms** that netted a real overall profit across the two years.

Using 'Generally Accepted Accounting Principles' (GAAP) effective tax rate and book-tax gap, company statements were analysed to:

- estimate the potential total amount of taxes avoided by these 76 profit corporations in 2013 and 2014;
- identify the mechanisms exploited to facilitate tax avoidance by foreign multinationals, and;
- recommend best-practice policy solutions to shut them down.

HOW DO THEY DO IT?

There are two stand-out techniques favoured by large foreign multinational corporations operating in Australia. Each presents a significant challenge for tax authorities, who lack the regulatory tools necessary to investigate and prosecute corporations that exploit them.

DEBT LOADING: MAKING CRIPPLING LOAN REPAYMENTS – TO THEIR OWN OFFSHORE SUBSIDIARIES

Debt loading, also known as **thin capitalisation** is a technique suited to large infrastructure investments, most commonly exploited by the energy and resource sector.

Debt loading is a process by which a foreign multinational corporation lends capital to their Australian operation at an unusually high interest rate. Any profit made in Australia is used to repay the foreign subsidiary. For the purposes of company tax records in Australia, the profits are recorded as a loss in the form of an interest payment on the loan.

The ATO release of tax paid by the top 1500 corporations in 2013-14 revealed that energy giants Chevron and ExxonMobil paid no tax on their combined revenue of over \$12 billion.⁸



CHEVRON “THE GODFATHER OF AUSTRALIAN TAX DODGING”⁹

Energy giant Chevron used debt loading to reduce the non-debt worth of its Australian subsidiary from **\$3 billion** to just **\$29 million** – a reduction of over **99%**.

Chevron borrowed over **\$2.5 billion** from foreign subsidiaries, many in known low or no tax jurisdictions. The interest payments on these loans added up to **62.5%** of their sales revenue in 2014 and **45%** in 2013.

The result? Chevron paid no tax in 2013-14.¹⁰

PROFIT ALIENATION: SUBSIDIARIES SELLING PRODUCTS TO ONE ANOTHER AT PRICES THAT MAKE NO COMMERCIAL SENSE

Profit alienation is a tax avoidance technique whereby corporations hold intellectual property rights or other intangible assets in low or zero tax jurisdictions. Profits made in Australia are then used to pay the parent company for the use of its intellectual property. This technique is most commonly exploited by high-tech and pharmaceutical companies.¹¹

A common variation of this scheme sees corporations using two Irish subsidiaries in conjunction with a Dutch company – hence the “Double Irish with Dutch Sandwich”. Other versions of this scheme use subsidiaries in Luxembourg, Switzerland, Delaware (in the US) and Singapore.

The ATO release of tax paid by the top 1500 corporations in 2013-14 revealed that Apple and Google paid just \$83 million tax on a combined revenue of over \$6.4 billion, thanks in large part to profit alienation.¹²



APPLE INC “THINK DIFFERENT ABOUT YOUR TAX AFFAIRS”

Apple Inc makes aggressive use of the “**Double Irish with Dutch Sandwich**” strategy.

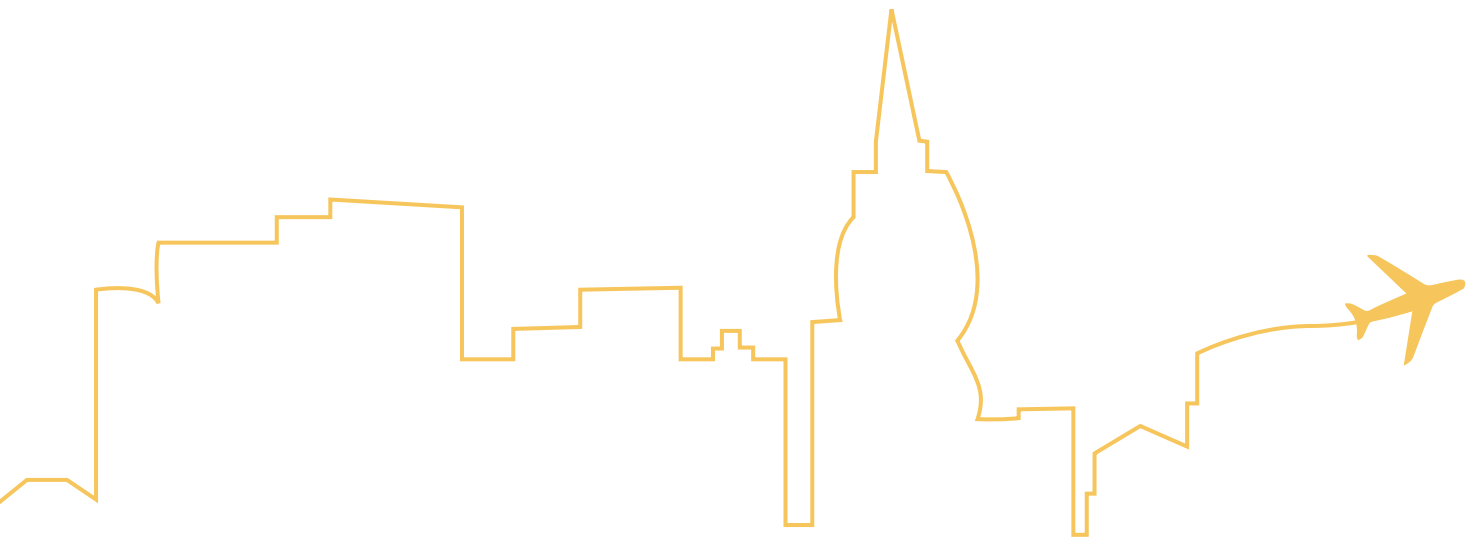
Apple Inc subsidiaries sell products to one another at prices so high that they make little to no commercial sense – save for aggressive tax minimisation.

Apple’s net profit margins in Australia are typically **75%** lower than the corporation’s global margins.

The result? Apple paid just 1.2% tax on revenue in 2013-14.¹³

SOLVING AGGRESSIVE TAX AVOIDANCE

As international tax avoidance has grown, countries have begun to explore innovative solutions to close loopholes in national tax laws. This section explores some of the best practice policy solutions from around the globe.



LIGHTENING THE 'DEBT' LOAD...

Australia has some regulations to police lending and borrowing between multinational subsidiaries. Nevertheless, the case of Chevron shows that subsidiaries of large multinational energy companies operating in Australia still manage to avoid hundreds of millions in tax using interest deductions.

The Australian Government should tackle debt-loading abuse by further limiting – or eliminating entirely – interest deductions and other financial payments on loans from foreign subsidiaries located in low or no tax jurisdictions.

Hong Kong protects its tax revenue in this way, by prohibiting corporations from claiming tax deductions for any interest paid to related entities based overseas. This prevents corporations using debt loading to shift their income to a lower-tax jurisdiction.

ENDING 'ALIENATION' TAX ABDUCTIONS...

With the rise of digital, more and more corporations make money from intangible assets – allowing them to make use of **profit alienation** to avoid paying tax. Revenue lost through this loophole will continue to rise unless Australian tax laws are brought into line with this new reality.

The United Kingdom's Diverted Profits Tax – also known as the "Google Tax" – came into effect on April 1, 2015. The policy imposes a minimum tax rate of 25% of profits sent overseas for corporations deemed to have arranged their business structure to avoid tax. It's an innovative solution that ensures company profits are taxed as they move offshore – so that there's no tax advantage in shifting profits overseas.

The Australian Government should introduce its very own Diverted Profits Tax, set at 30% to reflect the current statutory tax rate for companies.

AND MORE...

Increase transparency: Under Australian law, private firms are only required to make minimal disclosures about their operations. This allows many corporations to arrange their finances to pay little or no tax without any public scrutiny. To deal with this, the government should require that foreign multinationals comply with the same accounting standards as domestic companies, including the full disclosure of related party transactions and executive remuneration. In addition, company financial reports submitted to the ATO and ASIC should be made publically available.

Improve resourcing: Without dedicated, ongoing funding, solving the problem of corporate tax avoidance will remain a challenge for national regulatory bodies. The 2014 budget slashed \$143 million in funding from the ATO – which saw 4400 tax office employees lose their jobs.¹⁴ Reinstating this funding is a necessary first step in enhancing the agency's capacity for the investigation and prosecution of aggressive multinational tax avoidance.

CONCLUSION

A group of everyday Australians came together and, working with experts, delivered a range of practical policy solutions to limit aggressive corporate tax avoidance.

There will never be just one solution to this problem. Big multinationals have teams of lawyers and accountants whose job it is to find as many loopholes and deductions as possible.

But what is outlined in this report would go a long way towards recovering the billions of dollars that our local schools and hospitals are missing out on as a result of aggressive tax avoidance by foreign multinationals.

By following Hong Kong's groundwork on dodgy debt loading and the UK's lead on stopping profit alienation, the Australian Government should make top foreign multinationals contribute a much fairer share of the national revenue mix.

In addition to these specific policy recommendations, our politicians should ensure greater financial transparency and better resourcing for regulators.

Prime Minister Malcolm Turnbull and Treasurer Scott Morrison, we've done the hard work for you – close the loopholes.

APPENDIX

TOP FOREIGN MULTINATIONALS OPERATING IN AUSTRALIA - 2013 & 2014

Sector	# Corporations	Average % tax paid on total profits	Average corporate tax shortfall per company	Total corporate tax shortfall
Technology, Electronics & Media	48	7.55%	\$45,418,089	\$2,180,068,255
Pharmaceuticals & Health	13	5.69%	\$35,777,183	\$465,103,385
Energy	15	20.03%	\$181,364,419	\$2,720,466,283
All	76	16.21%	\$70,600,499	\$5,365,637,923

Data source: ASIC 'Copy of financial statements and report', Form 388. Effective tax rate is based on Generally Accepted Accounting Principles.


LIST OF COMPANIES

COMPANY NAME	ABN	COMPANY NAME	ABN
Abbott Australasia Pty Limited	95000180389	Australia Pty Limited	72087916701
Allergan Australia Pty Ltd	85000612831	Access Prepaid Australia Pty Ltd	47145452044
Becton Dickinson Pty Limited	82005914796	Electronics Boutique Australia Pty Ltd	50077681442
Mundipharma Pty Limited	87081322509	Transalta Energy (Australia) Pty Ltd	40062135844
Roche Diagnostics Australia Pty Ltd	29003001205	Csc Computer Sciences Australia Holdings Pty Limited	33120570390
Colgate Palmolive Pty Ltd	79002792163	Japan Australia Lng (Mimi) Pty Ltd	18006303180
Dupont (Australia) Pty Limited	59000716469	Dell Australia Pty Limited	46003855561
Medtronic Australasia Pty Limited	47001162661	Datacom Australia Holdings Pty Limited	45094235373
Procter & Gamble Australia Pty Limited	91008396245	Toshiba (Australia) Pty Limited	19001320421
Novo Nordisk Pharmaceuticals Pty Ltd	40002879996	Yahoo! Australia & Nz (Holdings) Pty Limited	54117505450
Roche Products Pty Limited	70000132865	Origin Energy Uranquinty Power Pty Ltd	26120384938
Cristal Inorganic Chemicals Australia Pty Ltd	20125123784	Lockheed Martin Australia Pty Limited	30008425509
Glaxosmithkline Holdings Pty Ltd	75000465878	Panasonic Australia Pty Limited	83001592187
Sanofi-Aventis Australia Pty Ltd	31008558807	Brother International (Australia) Pty Limited	17001393835
Pfizer Australia Holdings Pty Limited	91108292799	Honeywell Holdings Pty Ltd	18000383764
Samsung Electronics Australia Pty Limited	63002915648	Saab Technologies Australia Pty Ltd	47002950790
Ricoh Australia Pty Ltd	30000593171	Airbus Group Australia Pacific Holdings Pty Limited	75003066788
Motorola Solutions Australia Pty Ltd	16004742312	Lg Electronics Australia Pty Limited	98064531264
Huawei Technologies (Australia) Pty Limited	49103793380	Sas Institute Australia Pty Limited	13002287247
Exxonmobil Australia Pty Ltd	48091561198	Activision Blizzard Pty Limited	90054096883
Schneider Electric Australia Holdings Pty Ltd	30105310781	Google Australia Pty Limited	33102417032
Sap Australia Pty Ltd	26003682504	Hawker Pacific Pty Ltd	94001540316
Electrolux Home Products Pty Limited	51004762341	Freedom Energy Holdings Pty Ltd	24093243844
Bp Regional Australasia Holdings Pty Ltd	91092495700	G4s Australia Holdings Pty Ltd	68128783602
Cisco Systems Australia Pty Ltd	52050332940	Click Energy Group Holdings Pty Ltd	31160484837
Unisys Australia Pty Limited	31105642902	Vodafone Hutchison Australia Pty Ltd	76096304620
Fujitsu Ten (Australia) Pty Ltd	63007413578	Acer Computer Australia Pty Limited	78003872768
Ncr Australia Pty Ltd	61000003592	Puma Energy (Australia) Holdings Pty Ltd	26147978890
Konica Minolta Business Solutions Australia Pty Ltd	50001065096	Amaysim Australia Pty Ltd	65143613478
Netapp Australia Pty Ltd	14092499431	Boeing Australia Holdings Pty Ltd	42101168932
Concophillips Australia Gas Holdings Pty Ltd	69081089170	Tokyo Gas Australia Pty Ltd	46102349557
Microsoft Pty Ltd	29002589460	Saxon Energy Services Australia Pty Ltd	91137534993
Epson Australia Pty Limited	91002625783	International Power (Australia) Holdings Pty Ltd	70105041209
Apple Pty Ltd	46002510054	Technip Oceania Pty Ltd	43062878719
Amadeus It Pacific Pty Ltd	22080674255	Energy Infrastructure Investments Pty Ltd	95104348852
At&T Global Network Services			

COMPANY NAME	ABN	COMPANY NAME	ABN
Verizon Australia Pty Limited	62081001194	Warner Bros. Entertainment Australia Pty Limited	70003773411
Foxtel Australia Pty Limited	38114305494	Citrix Systems Asia Pacific Pty Ltd	37078874530
Nikon Australia Pty Ltd	34121761537	Myob Group Pty Limited	61153094958
Enerflex Energy Systems (Australia) Pty Ltd	74140790610	Agilent Technologies Australia Pty Ltd	29088510605
Symantec Australia Holding Pty Ltd	43003967333	Sumitomo Australia Pty Ltd	81000371497
Foxtel Cable Television Pty Limited	45069008797	Lenovo (Australia & New Zealand) Pty Limited	70112394411
Ge Oil & Gas Australia Pty Ltd	65009080951	Lexmark International (Australia) Pty Limited	86050148466
Nokia Solutions And Networks Australia Pty Ltd	74122172365	Axia Energy Australia Pty Limited	75108275216
Cnooc Gas And Power Aus Investment Pty	28142591044	Ge Energy Holdings Australia Pty Ltd	37086855076
Kogas Australia Pty Ltd	42130065682	Nokia Australia Pty Limited	39007366949
Nec Australia Pty Ltd	86001217527	Fujifilm Holdings Australasia Pty Limited	58008443892
Glencore Australia Investment Holdings Pty Ltd	74154042636	Ibm A/Nz Holdings Pty Limited	12105319248
Hewlett Packard South Pacific Pty Ltd	94121554489	Fuji Xerox Australia Pty. Ltd	63000341819
Glencore Investment Pty Limited	67076513034	News Australia Holdings Pty Limited	32105197028
Peabody Australia Holdco Pty Ltd	61154820130	Toshiba International Corporation Pty Ltd	29001555068

NOTES

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