

# Submission to the Senate Economics Reference Committee on Corporate Tax Avoidance

**January 2018**

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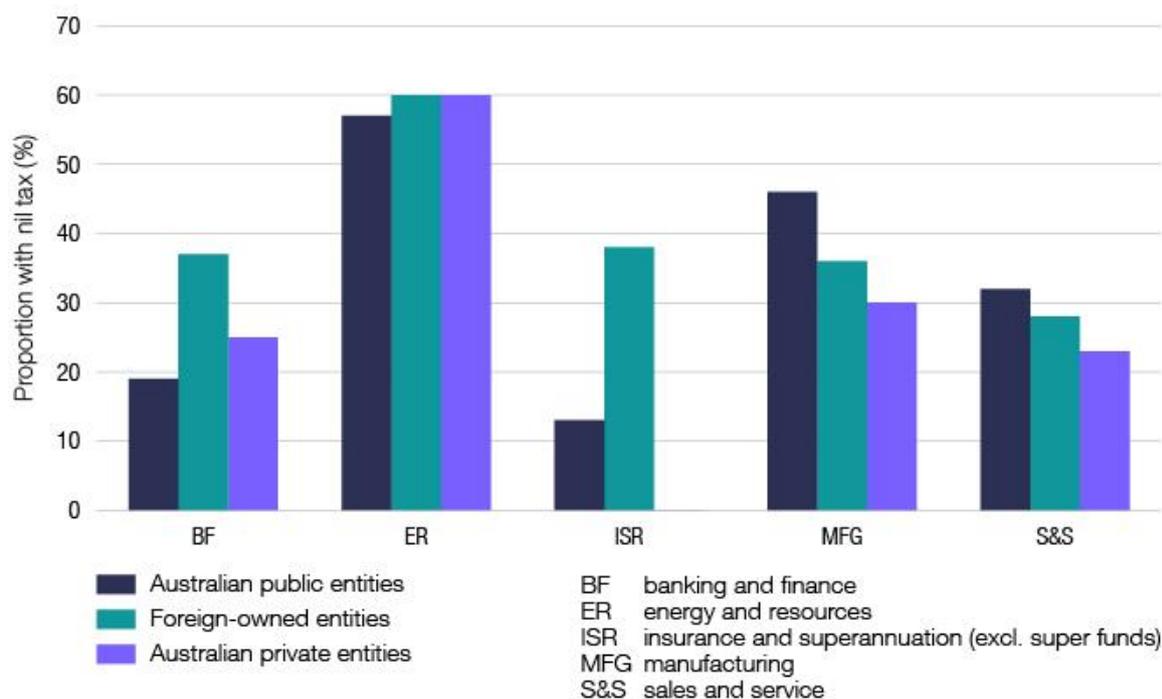
# 1 INTRODUCTION

The Electrical Trades Union of Australia (ETU) is the Electrical, Energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU). The ETU represents approximately 65,000 electrical and electronic workers around the country and the CEPU as a whole represents approximately 104,000 workers nationally, making us one of the largest trade unions in Australia.

The ETU welcomes the opportunity to provide a submission on corporate tax avoidance as it relates to Australia’s oil and gas industry. We also endorse the submission of the Make Exxon Pay Coalition.

## 2 THE CONSEQUENCES OF CORPORATE TAX AVOIDANCE

For the 2014 – 2015 income year, 36% of Australia’s largest companies paid no tax. Foreign owned-entities in the energy and resources industry sector are by far the largest group of entities with nil tax payable.<sup>1</sup>



*Corporate tax avoidance is rampant in Australia (ATO)*

The cost of corporate tax avoidance is significant for our members and their communities. A lack of public resources means smaller and fewer critical infrastructure projects are being built,

<sup>1</sup> <https://www.ato.gov.au/Business/Large-business/In-detail/Tax-transparency/>

with fewer workers than might have been the case if governments could rely on corporations paying a fair share of tax.

Tax avoidance by companies like ExxonMobil, Glencore and Qantas also means public services our members use, like health and education, also receive inadequate resourcing.

Our members are angry that they pay tax on almost every dollar they earn in wages, and almost every dollar they spend on cost of living items such as housing, utilities, groceries and fuel; while corporations like Exxon do not pay anything on their corporate revenues.

Trust in our taxation system is crucial to the cohesive functioning of a decent society where the people understand and respect their obligations, and the state has the resources to provide for the prosperity and wellbeing of the people. Corporate tax avoidance is eroding trust in our taxation system. Australia's federal leaders must take swift action to crack down on corporate tax dodgers and help to rebuild faith in our taxation system.

### **3 EXXON'S BEHAVIOUR TOWARDS TAXPAYERS**

ATO data released in December 2017 shows that ExxonMobil Australia has paid no corporation tax since public records began for large companies in the 2013/14 financial year. That means that since 2013, Exxon has paid not one cent of tax on \$24.8 billion in revenue.<sup>2</sup>

We are concerned that Exxon achieves a nil taxable income (zero profits) through aggressive tax avoidance practices. A recent Tax Justice Network investigation into Exxon's tax affairs indicates the company relies on offshore tax havens, dubious transactions between nominally separate Exxon entities across the world, and internal charges from associated entities.

The result of Exxon's tax schemes is that profit is returned to foreign shareholders without Exxon contributing any portion of their significant profits to the construction and maintenance of the Australian roads, ports and rail infrastructure. In short, Exxon privatises the profit and socialises the costs of doing business in Australia.

Exxon further insults Australian taxpayers by claiming that their contribution via the petroleum resource rent tax regime (PRRT) of \$12 billion over almost 30 years negates their responsibility to pay a portion of their real profits today to the Australian community. The PRRT is a royalty. It is the price for the privilege of exploiting our natural wealth. It is not a tax.

Every business has to pay for the goods it receives before it processes, distributes or markets them. Does Exxon believe it should pay nothing to extract Australia's natural resources?

And after a business pays for its raw goods or supplies, adds value and then sells them for a premium; it then typically turns a profit and pays company tax on those profits. By minimizing

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<sup>2</sup> <https://www.ato.gov.au/Business/Large-business/In-detail/Tax-transparency/>

its taxable profits to zero, Exxon is indicating it believes it should not have to pay any corporate income tax in Australia.

We take issue with Exxon's claims that "When combined with company income tax," their PRRT contribution has "equated to an effective tax rate of over 50 per cent on ExxonMobil Australia group of companies profits over the past decade."

Exxon appears to be deliberately confusing tax and royalties, and omits to mention the practices they engage in to minimise their taxable profits in Australia.<sup>3</sup> It is hard for a company to pay any tax on a profit when it works so hard to avoid making a profit in the first place.

## 4 EXXON'S BEHAVIOUR TOWARDS WORKING PEOPLE

What makes the tax avoidance practices of ExxonMobil especially egregious is that the corporation is also engaged in supporting wage cuts for Australian workers.

ExxonMobil, through its brand Esso, has been using contractors to reduce the wages of our members at Longford, Victoria. Exxon has consistently supported the conduct of their aggressive contractor UGL (CIMIC) and its shell company MTCT Services in the mistreatment of 230 Australian gas maintenance workers.

### UGL, with Exxon's support:

- Set up a shell company (MTCT Services)
- Used that company to draft a collective agreement
- Employed 5 casual workers in a different state 2500 miles away (Western Australia), with no evidence any of whom had any worked in oil and gas before
- Had the 5 casual workers vote up the agreement
- Replaced the existing negotiated collective agreement with the new EBA from WA
- Told the existing workforce that they must sign up to the new agreement or lose their jobs
- Replaced many local workers with temporary workers from interstate and overseas when the locals did not sign up to the MTCT agreement

Every single one of the pushed-out 230 gas maintenance workers paid more tax on their income than ExxonMobil Australia.

Exxon pays no tax in Australia, in-part because it deducts fees and retainers for lawyers and advisors to support its wage cutting campaign against Australian workers.

The Senate should condemn Exxon for its tax avoidance, and call on the company to facilitate the return of the Longford workforce to the collectively bargained terms they themselves negotiated, and not the MTCT agreement Exxon's contractor is forcing on them. Australian taxpayers should not be subsidising any company to cut the wages of our workforce.

The Federal Government would have us believe that tax cuts for corporations like Exxon will lead to higher wages: but the experience for our members shows that when corporations pay

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<sup>3</sup> <http://cdn.exxonmobil.com/~media/australia/files/publications/tax-fact-sheet-final.pdf>

minimal or no tax, they still take up opportunities to suppress and cut the wages of their workers.

## **5 PETROLEUM RESOURCE RENT TAX**

We completely reject ExxonMobil's defence of their aggressive tax avoidance by claiming that they pay their fair share via the petroleum resource rent tax (PRRT).

The PRRT is a profits-based tax that only taxes profits above a specified rate of return. It is not a tax on overall profits. PRRT revenue is highly volatile and variable due to a number of factors, including commodity prices and foreign exchange rates.

PRRT revenues are also affected by key design features of the PRRT. PRRT will only arise when a project has recovered all eligible outlays associated with the project (after deducting eligible exploration expenditure transferred from other projects), including the achievement of a threshold rate of return on the outlays. This means that projects tend to pay no PRRT for some years even after production has commenced.

Unlike income tax, where many capital costs are deductible over a defined life, all deductible expenditure for PRRT purposes is immediately deductible, whether capital or revenue.<sup>4</sup>

The Petroleum Resource Rent Tax (PRRT) has many problems associated with its lack of transparency, reliance on self-reporting and voluntary compliance. Given the extremely generous provisions to industry participants that the current PRRT scheme provides, many foreign owned-entities extract the natural gas that belongs to the Australian public without charge.

## **6 ROYALTIES ON PETROLEUM PRODUCTION**

New LNG projects – Gorgon, Wheatstone, Ichthys, Pluto and Prelude extract gas from Commonwealth waters yet are not required by the Commonwealth Government to pay a royalty. These projects receive a commercial advantage over their competitors who are required by State and Territory governments to pay a royalty.

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<sup>4</sup> [https://www.ato.gov.au/Business/Large-business/In-detail/Tax-transparency/Corporate-tax-transparency-report-for-the-2014-15-income-year/?page=6#Total\\_PRRT\\_payable](https://www.ato.gov.au/Business/Large-business/In-detail/Tax-transparency/Corporate-tax-transparency-report-for-the-2014-15-income-year/?page=6#Total_PRRT_payable)

## 7 RECOMMENDATIONS

1. Introduce mandatory disclosure reporting regimes that require companies engaged in Australia's offshore and petroleum industry to disclose all payments made to the Commonwealth government on a project by project basis;
2. Review all deductions used by these companies and reduce the allowable list to fit with community standards to avoid aggressive tax avoidance (such as transfer pricing, marketing charges, lawyers engaged to reduce wages, internal loans etc);
3. Increase scrutiny on PRRT reporting, end the self-audit system and review the starting point at which PRRT is paid; and
4. The Australian Government should immediately impose a 10% Commonwealth Royalty to all current and future offshore oil and gas projects. This would include Gorgon, Wheatstone, Ichthys, Pluto and Prelude LNG projects.

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