Parliamentary
Budget Office

Stopping Corporate Tax Avoidance	
Party:	Australian Greens

Summary of proposal:

Component 1: Deny royalty tax deductions

Deny Significant Global Entities (SGEs) a tax deduction for royalties for the use of, or right to use, intellectual property within Australia, when either:

- the royalties are paid to a related party
- the party to which they are paid is in a jurisdiction that provides preferential tax treatment for intellectual property royalties.

Component 2: Change thin capitalisation rules

- Remove the 'safe harbour' and 'arm's length' debt tests, leaving only the 'worldwide gearing' debt test.

Component 3: Improve public access to company reporting

- Require currently 'grandfathered' large proprietary companies with assets greater than $25 million and total income greater than $50 million to lodge financial reports.
- Abolish fees for the provision of company information and provide all company information through the Australian Securities and Investments Commission's (ASIC) online public registers.

Component 4: Deny bad debt write-offs

- Deny creditors a tax deduction for a bad debt written off, where the debtor is a related party.

Component 5: Implement a withholding tax on fixed trust cash distributions to non-residents

- Apply a minimum final withholding tax of 30% on fixed trust cash distributions to non-residents. Non-residents would not be able to claim a refund of this withholding in Australia. Distributions to non-residents paid out of managed investment trusts or collective investment vehicles would not be subject to the withholding tax.

Component 6: Increase in promoter penalties

- Double the promoter penalty associated with the promotion of tax avoidance schemes.
- Under this proposal the penalty units associated with violating the promoter laws would be:
  - 10,000 penalty units for individuals
  - 50,000 penalty units for companies.

The proposal would take effect from 1 July 2022.

Costing overview

The proposal would be expected to increase both the fiscal and underlying cash balances by around $1.03 billion over the 2022-23 Budget forward estimates period. This impact reflects an increase in revenue of around $1.25 billion partially offset by an increase in expenses of around $217 million over the 2022-23 Budget forward estimates period.

The proposal would be expected to have financial implications that extend beyond the 2022-23 Budget forward estimates period. Financial implications (including separate PDI tables) over the period to 2032-33 are provided at Attachment A.

There is a significant level of uncertainty associated with each component of this proposal and with the overall cost. Uncertainties primarily arise from behavioural responses to Components 1 and 2; it is difficult to predict how and to what extent companies will restructure their operations to minimise their income tax liabilities. The PBO has made several high-level adjustments to the tax base to account for such responses, but the actual magnitude of these responses and their distribution across business entities remains highly uncertain.

Table 1: Financial implications ($m)(a)(b)

	2022-23	2023-24	2024-25	2025-26	**Total to 2025-26**
Fiscal balance	-52.1	433.3	327.3	322.2	**1,030.7**
Underlying cash balance	-52.1	433.3	327.3	322.2	**1,030.7**

(a) A positive number represents an increase in the relevant budget balance; a negative number represents a decrease.
(b) PDI impacts are not included in the totals.

Key assumptions

The Parliamentary Budget Office (PBO) has made the following assumptions in costing this proposal.

Component 1

- Royalty deductions would grow in line with the gross operating surplus (GOS) of corporate entities and gross mixed income (GMI) growth.
- Affected companies would restructure their finances to minimise paying additional tax on royalty payments, reducing the revenue impact by 50%.

Component 2

- Debt interest deductions subject to thin capitalisation rules would consistently increase with medium-term projections of corporate GOS.
- From the second year of the proposal, 10% of affected firms would find alternative ways to make debt deductions. This increases to 20% of affected firms in year 3 and beyond over the medium term.

Component 3

Removal of ASIC 'grandfathering' provisions for large proprietary companies

- Grandfathering provisions would apply to 17% of large proprietary corporations.
- Departmental costs per financial document lodged would be included in existing ASIC fees and would not be passed on to affected companies under the proposal.
- Manual intervention would be required for 10% of financial report lodgements.

Removal of ASIC search fees

- Search fees would grow in line with CPI in the absence of the proposal.
- ASIC would employ an additional 9 full-time equivalent staff to administer this component.
  - These figures are based on the current staffing profiles of the business area responsible for registry services as reported in ASIC's 2019-20 annual report.

Component 4

- There would be a small behavioural response associated with the denial of bad debt write-offs, but this would have a negligible impact on the total amount of total bad debt deductions captured by this component.
- The proportion of deductions related to bad debts from related parties would not materially change over time.

Component 5

- Fixed trust distributions paid to non-residents in the 2022-23 Budget forward estimates period would grow in line with projections for nominal gross domestic product over the period to 2032-33.

Component 6

- There would be a small behavioural response associated with higher penalties, but this would have a negligible impact on the value of fines levied.

Methodology

Component 1

Revenue from the denial of royalty deductions for SGEs was estimated by calculating the increase in taxable income from the royalty deductions denied. This was based on data on historical deductions made by SGEs under the existing rules. The proportion of additional tax revenue was then calculated with figures projected over the period to 2032-33 using growth in GOS.

Information on historical royalty deductions, taxable income and tax payable for SGEs was provided by the Australian Taxation Office (ATO). Medium-term projections for the GOS of corporate entities was provided by the Department of the Treasury.

Component 2

Revenue from the removal of the 'safe harbour' and 'arm's length' thin capitalisation tests was estimated by calculating the level of allowable debt under the remaining 'worldwide gearing' test and using this to determine the amount of additional debt interest deductions that would be denied under the proposal. The figures were then projected into the medium term using parameters from the 2022 Pre-election fiscal outlook (PEFO) before the additional company tax revenue was calculated.

Component 3

Removal of ASIC 'grandfathering' provisions for large proprietary companies

Departmental costs for the removal of grandfathering provisions were estimated using the approximate cost per document lodgement and multiplying this by the number of affected businesses. The total cost was then multiplied by the percentage of lodgements requiring manual intervention. These estimates were then projected into the medium term using the wage cost index.

Removal of ASIC search fees

Administered expenses from the removal of search fees were estimated using historical search fee revenue. This figure was projected over the period to 2032-33 using CPI. Associated departmental costs were estimated based on our assessment of the additional staff required by ASIC and existing staffing profiles. These costs were projected over the period to 2032-33 using the wage cost index.

Information on the number of large proprietary companies under 'grandfathering' provisions was derived from the Australian Bureau of Statistics' (ABS) publication *Counts of Australian Businesses, including Entries and Exits* and ATO company income tax returns.

Component 4

The level of bad debts held was taken as the average from 2012-13 to 2018-19 using the ATO's 2018-19 Taxation Statistics, with companies already covered by the multinational anti-avoidance law removed. The level of bad debt was multiplied by the percentage attributable to related party debt and then by the proportion of bad debt to be included in the lender's assessable income. This additional taxable income was multiplied by the corporate tax rate to give the cost of this component.

Component 5

The amount of additional withholding tax was calculated based on data provided by the ATO on trust distributions to non-residents and the above assumptions.

Estimated additional annual withholding tax revenue was then calculated based on 30% of gross distributions for the 2019-20 financial year. The additional revenue was projected over the 2022-23 Budget forward estimates period taking into account economic growth and the timing of tax collections.

Component 6

The total fine revenue was estimated by averaging reported fine revenue over 2015-16 to 2017-18. The baseline fine revenues were grown out using the medium-term estimates for CPI. The value of fines levied were scaled by the change in policy after accounting for the behavioural response and compared to the baseline fine revenue to give the cost of the component.

Financial implications were rounded consistent with the PBO's rounding rules as outlined on the PBO Costings and budget information webpage.[1]

[1] https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Budget_Office/Costings_and_budget_information

Data sources

Australian Bureau of Statistics (2021) *Counts of Australian Businesses, including Entries and Exits, July 2016 – June 2020*, Australian Government

Australian Government (2018) *2018-19 Budget*, Australian Government

Australian Government (2019) *2019-20 Budget*, Australian Government

Australian Securities and Investments Commission (2019) *2019-20 Annual report*, Australian Government, accessed 7 June 2022

Australian Securities and Investments Commission (2021) *Fees for commonly lodged documents*, Australian Government, accessed 7 June 2022

Australian Taxation Office (2022) *Non-resident royalty payments by significant global entities dataset for the 2016-17 and 2017-18 financial years* [dataset], Australian Government

Australian Taxation Office (2022) *International Dealings Schedule* [dataset], Australian Government

Australian Taxation Office (2022) *Non-resident trust fund payments and withholdings for the 2018-19 financial year* [dataset], Australian Government

Australian Taxation Office (2020) *Taxation Statistics 2018-19*, Australian Government

Australian Taxation Office (2022) S*ample of company tax returns for the 2018-19 financial year* [dataset], Australian Government

Attachment A – Stopping Corporate Tax Avoidance – financial implications

Table A1: Stopping Corporate Tax Avoidance – Fiscal and underlying cash balances ($m)[(a)]

	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	**Total to 2025-26**	**Total to 2032-33**
Revenue													
Tax revenue													
Component 1 - Deny royalty tax deductions	-	*282.0*	*152.0*	*159.0*	*168.0*	*178.0*	*189.0*	*200.0*	*212.0*	*223.0*	*235.0*	***593.0***	***1,998.0***
Component 2 - Thin capitalisation rules	-	*149.0*	*173.0*	*160.0*	*163.0*	*171.0*	*180.0*	*193.0*	*204.0*	*215.0*	*228.0*	***482.0***	***1,836.0***
Component 4 - Deny bad-debt write-offs	-	*10.0*	*10.0*	*10.0*	*10.0*	*10.0*	*10.0*	*10.0*	*10.0*	*10.0*	*10.0*	***30.0***	***100.0***
Component 5 - Withholding tax on non-resident trust distributions	-	*45.8*	*47.2*	*49.6*	*52.1*	*54.7*	*57.5*	*60.6*	*63.9*	*67.5*	*71.1*	***142.6***	***570.0***
Component 6 - Increase promoter penalties	..	..	..	..	..	..	..	*0.1*	*0.1*	*0.1*	*0.1*	**..**	***0.4***
Total – revenue	**..**	**486.8**	**382.2**	**378.6**	**393.1**	**413.7**	**436.5**	**463.7**	**490.0**	**515.6**	**544.2**	**1,247.6**	**4,504.4**
Expenses													
Administered													
Component 3 - Access to company reporting	*-50.1*	*-51.8*	*-53.4*	*-54.9*	*-56.3*	*-57.7*	*-59.0*	*-60.5*	*-62.0*	*-63.5*	*-65.1*	***-210.2***	***-634.3***
Departmental													
Component 3 - Access to company reporting	*-2.0*	*-1.7*	*-1.5*	*-1.5*	*-1.5*	*-1.5*	*-1.6*	*-1.6*	*-1.6*	*-1.7*	*-1.7*	***-6.7***	***-17.9***
Total – expenses	**-52.1**	**-53.5**	**-54.9**	**-56.4**	**-57.8**	**-59.2**	**-60.6**	**-62.1**	**-63.6**	**-65.2**	**-66.8**	**-216.9**	**-652.2**
Total (excluding PDI)	**-52.1**	**433.3**	**327.3**	**322.2**	**335.3**	**354.5**	**375.9**	**401.6**	**426.4**	**450.4**	**477.4**	**1,030.7**	**3,852.2**

(a) A positive number for the fiscal balance indicates an increase in revenue or a decrease in expenses or net capital investment in accrual terms. A negative number for the fiscal balance indicates a decrease in revenue or an increase in expenses or net capital investment in accrual terms. A positive number for the underlying cash balance indicates an increase in receipts or a decrease in payments or net capital investment in cash terms. A negative number for the underlying cash balance indicates a decrease in receipts or an increase in payments or net capital investment in cash terms.

.. Not zero but rounded to zero.

\- Indicates nil.

Table A2: Stopping Corporate Tax Avoidance – Memorandum item: Public Debt Interest (PDI) impacts – Fiscal and underlying cash balances ($m)[(a)(b)]

	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	Total to 2025-26	Total to 2032-33
Fiscal balance	*-1.0*	*4.0*	*12.0*	*20.0*	*28.0*	*38.0*	*49.0*	*62.0*	*77.0*	*94.0*	*114.0*	***35.0***	***497.0***
Underlying cash balance	*-1.0*	*3.0*	*11.0*	*19.0*	*27.0*	*37.0*	*48.0*	*61.0*	*75.0*	*92.0*	*112.0*	***32.0***	***484.0***

(a) As this table is presented as a memorandum item, these figures are not reflected in the totals in the table above. This is consistent with the approach taken in the budget where the budget impact of most measures is presented excluding the impact on PDI. If the reader would like a complete picture of the total aggregate, then these figures would need to be added to the figures above. For further information on government borrowing and financing please refer to the PBO's online budget glossary[2].

(b) A positive number for the fiscal balance indicates an increase in revenue or a decrease in expenses or net capital investment in accrual terms. A negative number for the fiscal balance indicates a decrease in revenue or an increase in expenses or net capital investment in accrual terms. A positive number for the underlying cash balance indicates an increase in receipts or a decrease in payments or net capital investment in cash terms. A negative number for the underlying cash balance indicates a decrease in receipts or an increase in payments or net capital investment in cash terms.

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[2] Online budget glossary – Parliament of Australia (aph.gov.au)