

## *Social and Economic Justice*

### 13. A FAIR SHARE: TAX AND REVENUE

#### PRINCIPLES

1. Congress asserts that big business and the wealthy are not paying their fair share of tax. This means less money for hospitals, schools and other public services. The government's proposed \$80 billion tax cut will not "trickle down" to everyday working day Australians in the form of higher wages. The theory that tax cuts for the business and the wealthy will benefit society at large is wrong, the neoliberal experiment has failed. We need to Change the Rules so that corporations pay their fair share of tax.
2. Congress agrees that Australia has a revenue problem. Australia is a low-taxing nation. Almost all other developed nations' governments both spend and raise more, as a share of GDP, than Australian governments.
3. Future demands on government will grow rather than shrink with the increase in the scope and volume of services for the community and long-term commitments. Australians, however, do not support cutting programs to meet these future demands. To maintain these services and meet the future demands on government, progressive, broad tax reform is urgently needed to increase revenue to ensure we can continue to meet the growing demands on services
4. Congress therefore affirms that tax policy in Australia should be developed in accordance with the following Principles:
  - (a) Policy settings must secure sufficient revenue to enable all levels of government to fund the type of society that Australians want, need and deserve, including universal access to public goods such as health, education and welfare, and a decent social wage;
  - (b) Policy must act to fairly distribute resources and provide a decent social support safety net to achieve equal opportunity and alleviate poverty and disadvantage;
  - (c) An effective corporate tax system requires coherent global tax policies that stop multinational corporations and high net worth individuals engaging in tax avoidance and tax competition measures that lead to a race to the bottom approach to raising revenue.
  - (d) Effective Australian tax policy requires Australia to advocate for better global and regional tax co-operation, to ensure that other countries tax policies do not undermine Australia's.

- (e) Australian policy must not provoke a race to the bottom by undermining other countries tax base. Policy and practice should assist less developed countries to enforce effective tax policy
  - (f) Policy should promote levels of investment, savings and consumption across the economy that will support employment, job security, wage growth, environmental sustainability and Australia's social goals;
  - (g) Policy should recognise the importance of securing sufficient revenue for governments to fund and operate the quality public services and infrastructure that our communities need and that will ensure economic development
  - (h) Policy may need to compensate for instances of market failure including, where necessary, the use of an appropriate mix of tax and price signals to properly cost negative externalities particularly those affecting the environment and public health;
  - (i) Progressivity must be at the heart of the taxation system. This is an essential part of a fair and just society.
  - (j) Individuals and companies must make a fair and progressive contribution to our tax base based on their different levels of profit and income, regardless of the source of that income;
  - (k) The efficient and equitable collection of public revenues requires a system of public tax administration with sufficient resources, capacity and skills; and
  - (l) Reduction of the overall tax base will not secure the prosperity, jobs and fairness our community needs.
5. Congress agrees these Principles should guide all tax and revenue policies and agrees that unions will campaign for reform to tax policies in line with these Principles.
6. Congress opposes any moves to lock Australian governments into a low revenue future by imposing caps on government revenue. Congress does not support arbitrary caps as governments should have the flexibility to fund the services that the community wants and respond to changing economic circumstances

## **PERSONAL INCOME TAX**

7. Congress notes that the foundation of Australia's tax system is personal income tax. It is the single largest source of Government revenue.
8. Congress argues that assessments of personal income for tax purposes should aspire to cover all incomes accruing to the taxpayer after deduction of legitimate expenses incurred in earning that income.
9. Congress argues that provisions for the deductibility of certain public interest expenditures from income – such as charitable donations – should be maintained.
10. Congress notes that the existing definition of taxable income departs materially from a comprehensive definition and does so in a way that disproportionately benefits well off

individuals. These departures have little or no rationale in efficiency, equity or broad public interest. Examples include the concessional treatment of capital gains, allowing trusts and corporations to act as tax shields, and certain salary packaging arrangements. Other individuals enjoy the benefits of assets while these benefits fall outside the tax base – eg. holiday houses.

11. Congress argues that tax policy development should seek to diminish the scope for well-off individuals to shield parts of their income from the personal tax system.
12. Congress believes that consideration should be given to taxing inheritances in the hands of the beneficiary. A lifetime threshold could be made available to the taxpayer with tax payable once cumulative inheritances exceeded the threshold
13. An equitable and fair tax system expects those who have more to pay more. People on lower incomes and have less wealth should pay less in absolute and relative terms.
14. Congress notes that Australia's personal income tax system has become less progressive in recent decades in a number of ways, including:
  - a) Significant reductions in the top marginal rate of tax from 65 cents in the dollar to 45 cents;
  - b) Increases in the bottom tax rate from 15 to 19 per cent;
  - c) A reduction in the number of tax brackets from 7 to 4;
  - d) A gradual reduction in real terms of the bottom tax threshold; and
  - e) The introduction of the Medicare Levy (introduced as a flat tax).
15. Congress agrees to campaign to enhance the progressivity of personal income taxation. This will help to generate the public revenues we need, help low-paid workers to take home more, and reduce barriers to workforce participation that can result from the interaction of the tax and social security systems. The union movement will pursue appropriate indexation of tax thresholds for low and middle-income earners.

## **CORPORATE TAX**

16. Congress agrees that companies should pay their fair share toward helping to fund the services, infrastructures and legal privileges they benefit from. In addition, company taxes act as an important backstop to personal taxation, providing a disincentive for individuals to re-classify their earnings as corporate income.
17. Congress further agrees that the determinants of investment and growth are complex and turn on a range of factors such as consumer demand, the legal and regulatory environment, and the availability of skilled labour, natural resources and infrastructure. Congress rejects the notion that simply lowering the tax paid by companies will generate investment, jobs and better living standards. Congress believes that corporate tax should be collected in the jurisdiction where the economic activity takes place.
18. The Government should reverse its planned \$80 billion dollar corporate tax cuts for large corporations. This will not benefit working people or the economy- they are simply handouts

to big business. The governments' own modelling shows this will only deliver modest benefits and even this will take many years to achieve. The failure to implement sensible tax reform is costing the government billions of dollars in lost revenue. Revenue that is desperately required to fund our public services.

19. Congress notes that attracting investment capital to Australia is important for Australian employment outcomes and living standards. To the extent that there is a case for offering tax concessions to encourage new investment in Australia, these concessions may be more effectively spent by targeting new investments rather than by delivering windfall gains to existing, sunk investments.
20. While Australia's corporate tax rate is 30 per cent for large companies, the effective tax rate paid by ASX 200 companies over the last decade has been 23 per cent, and nearly one third of ASX 200 companies have an average effective tax rate of 10 per cent or less.
21. Congress supports further tax reform to assist growth and innovation among small and medium-sized businesses. However, any such reforms must be designed to be revenue-neutral in terms of the overall contribution that business makes to government.
22. Current opportunities for tax competition between countries, such as the 2018 US tax cuts, risks accelerating a global race to the bottom on corporate tax rates. In line with other national trade union confederations around the globe, including the European Trade Union Congress (ETUC), Congress supports the setting of a global minimum effective corporate tax rate of 25% (noting Australia's current Average Corporate Tax Rate is closer to 17%, and the effective Corporate Tax Rate is closer to 10.4 based on the latest available figures from the US Congressional Budget Office's International Comparison of Corporate Income Tax Rates<sup>1</sup>).

## **NEGATIVE GEARING**

23. Congress notes negative gearing is highly regressive and affirms the need for urgent reform. Congress notes fifty per cent of negative gearing tax breaks go to the top 20% of households and only 6% to the lowest fifth. Negative gearing concessions cost government revenue more than \$3.7 billion each year. Negative gearing has contributed to higher housing prices and put house ownership increasingly out of reach for large sections of the population. It has also served to skew investment towards property and away from other productive activities.
24. Abolish negative gearing for residential investment properties: tax deductions associated with an investment property should only be deductible from income received from that property. Immediately end negative gearing for all new property purchases, and grandfather existing negative gearing arrangements for five years.
25. Congress recommends that the Australian Government conduct an inquiry into the pros and cons of a more effective scheme of withholding tax on the incomes of non-residents.

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<sup>1</sup><https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52419-internationaltaxratecomp.pdf>.

(published in 2017 based on 2012 data from: KPMG International, the Organisation for Economic Co-operation and Development, the Internal Revenue Service, and the Oxford University Centre for Business Taxation)

This would include considering the introduction of a modest level of non-refundable withholding tax on capital gains earned by non-residents.

### **CAPITAL GAINS TAX (CGT) DISCOUNT**

26. CGT discounts which apply in Australia are much more generous than in most other high income countries and are estimated to cost government revenue between \$4.0 - \$5.7 billion per annum. CGT tax breaks are extremely regressive, benefiting mostly high income earners with almost three quarters of CGT breaks going to the top 10% of high income households.
27. Abolish the CGT discount and tax capital gains in the same way as all other sources of income. There is no justification for why income from capital gain should be taxed differently to other forms of income - in taxing capital gains differently we are preferencing those who earn income from capital over those who earn it from other sources

### **FAMILY TRUSTS**

28. Congress affirms the need for urgent reform of family trusts. Family trusts are another vehicle for wealthy individuals and businesses to avoid paying their fair share of tax. Billions of dollars in tax revenue is being lost due to wealthy Australians using family trusts. Estimates range from \$2 billion to \$3.5 billion in lost tax revenue. Congress notes a staggering 21.6 per cent of our national income runs through trusts, with assets of \$3.1 trillion and income of \$349.2 billion. Family trusts, specifically used to avoid income tax, should be subject to a minimum tax rate and increased disclosures.

### **LAND TAX**

29. Replace stamp duties with a broad-based annual land tax that will dampen house price inflation, stimulate more building of housing for rental purposes and encourage the development of idle land. If it is necessary to allow concessions on the land tax for equity reasons, the dollar value of the concession should be determined against income or wealth and not on the land value. There needs to be a suitable transition process in order to ensure that no household pays double taxation on stamp duties and land tax.

### **TAX AVOIDANCE**

30. Congress notes that tax avoidance by corporations and others via activities, such as profit-shifting, costs the Australian community billions in lost revenues every year. Some of the largest and most profitable companies in the world benefit from being able to sell to Australian consumers, and from the public institutions and infrastructures that our government provides, and yet do not pay their fair share in tax. Congress recommends that all companies with a non-resident owner or an investment in a non-resident entity be required to disclose tax paid by parent companies, subsidiaries and all offshore entities.
31. Congress believes that tax avoidance is facilitated by a lack of international tax co-operation. Australia's ability to stop tax avoidance can only be as effective as the global tax rules allow. Australia's interest in a fair tax system require it to advocate for a fair global tax system. The current international system is based on the fiction that related party transactions will be conducted as if at arm's length. Recent scandals show that this is not the case and is unlikely to ever be.

32. Increasing the transparency requirements of corporations is therefore crucial. Any private subsidiary of a multinational with Australian revenue of over \$500million, as well as any company or non-profit entity with Commonwealth government contracts, licenses or permits should be required to fully comply with Australian accounting standards, removing the option of reduced disclosure requirements.
33. Congress agrees that effective government action to counter tax evasion is long overdue. The union movement will campaign for government to adopt measures that will ensure corporations and others play their part in helping to fund a better and fairer Australia. These measures should include the following:
  - a) Halt and reverse cuts to ATO staffing and resources. A fair and effective system of taxation requires an ATO with the skills and capacity to keep pace with tax avoidance strategies and to ensure compliance;
  - b) The 'diverted profits tax' (or 'Google Tax') in Australia should be evaluated to ensure that it is effective, with improvements made where required to ensure that all e-commerce companies and other digital platform companies pay a fair share of income tax and GST on transactions and sales in Australia;
  - c) Reduce transfer pricing opportunities by applying the federal courts redefinition of "Arm's Length" principles as in the Chevron federal court decision to any and all relevant legislation and/or regulations and promoting this common-sense approach to the arm's length principle in international forums. Consistent with other international standards, directors and auditors of subsidiaries of multinationals operating in Australia should be required to annually certify compliance with these redefined arm's length principles.
  - d) Require the Foreign Investment Review Board to review, and make public, the findings of any investigations of the tax practices of any company, and its global corporate structure, as a part of any investment approval process.
  - e) Support coordinated international action to tax transnational corporations on a unitary basis rather than as a series of separate legal entities;
  - f) Amend the thin capitalisation rules so that the deductions transnational corporations can claim for debt in Australia are assessed according to the average debt-to-equity ratio across all the corporation's constituent operations;
  - g) Remove opportunities for tax avoidance by wealthy individuals by reforming the tax treatment of vehicles such as Self-Managed Superannuation Funds (SMSFs) and discretionary trusts;
  - h) Tighter targeting of tax breaks for companies, to ensure they support genuine research and development, and to help keep jobs in Australia; and
  - i) Ensure that sham contractors are not able to obtain a tax advantage over other employees by improving the tax law test for distinguishing between genuine and sham contractors.

- j) Ensure that companies are required to make public their profits through a Country By Country Report (CBCR) system and that Australia redeems the proportion of foregone tax arising from profits generated here, but booked overseas
- k) Mandatory project-by-project disclosure for extractive companies, bringing Australia in-line with the EU, UK and Canada
- l) Additional data points, such as carry forward losses, should be added to the current annual ATO Corporate Tax Transparency Report, with the threshold for reporting dropped to \$100million as originally legislated.
- m) Any company or organisation seeking to tender to provide or own a government service, license, or permit, or that seeks to purchase government owned infrastructure, are to disclose where they pay tax, their company and related entity structures, the end beneficial owners, and tax payment history. Companies with structures that promote tax avoidance, or whose end beneficial owners or directors have criminal convictions, or a history of tax avoidance, are prevented from winning government contracts, licenses, permits, etc., and from purchasing government infrastructure and from owning or running public services.
- n) Support automatic exchange of information including on a non-reciprocal basis for developing countries.
- o) Congress recognises the need to establish a register of beneficial ownership for all companies and trusts registered in and/or operating in Australia. The register of beneficial ownership should update the ASIC company register to publicly, without charge, disclose ultimate beneficial ownership. These measures are consistent with global efforts to reduce corruption, money laundering, tax evasion and promote greater transparency.

#### **A MINIMUM TAX FLOOR FOR HIGH INCOME TAXPAYERS**

- 34. Congress agrees that government must be ready to tackle the many different forms of tax avoidance that enable companies and individuals to reduce the tax they pay. Avoidance of personal income tax also reduces government revenue by billions of dollars each year.
- 35. Congress notes reports from the ATO of taxpayers with incomes of over \$1 million, who pay no income tax at all. In 2015-16, there were 62 such people. This represents a 30% increase from the previous financial year. Congress notes that the greatest value in tax deductions from personal income tax are claimed by the highest income earners, with the top one per cent of income earners, people earning about \$300,000 per year, claiming over \$2 billion worth of tax deductions – the same amount as the bottom 16 per cent.
- 36. Congress agrees that Australia should introduce a rule (also known as ‘The Buffett Rule’) which imposes a minimum average rate of tax on very high income earners based on their total income. Estimates by The Australia Institute and the National Centre for Social and Economic Modelling suggest an additional \$2.5 billion per annum could be raised from a minimum average tax rate of 35 percent.

#### **TAX CONCESSIONS AND EXPENDITURE**

37. Congress notes there are a wide range of tax concessions and expenditures in the existing Australian tax system. Some of these work to strengthen the principles outlined above, while others clearly work against them.
38. Congress supports that there is an annual requirement to disclose all tax concessions provided and for a cost benefit analysis to be conducted for these concessions. Additionally, if tax concessions are given to companies in exchange for the promise of job creation or other economic benefits, they must include clawback mechanisms so that concessions can be revoked if commitments are not fulfilled. These commitments should also be reviewed on an annual basis.

## **TAXATION OF SUPERANNUATION**

39. Congress supports the concessional taxation of superannuation as an important means of encouraging saving and maximising retirement incomes. However, the present tax treatment of contributions and earnings is deeply inequitable and fiscally unsustainable. In relation to superannuation contributions, high-income earners receive a 31.5 per cent concession while those on low incomes receive no concessions at all.
40. The richest ten per cent of Australian households derive over \$12 billion in tax benefit from the current superannuation concession arrangements, more than the bottom 80 per cent combined. There is clearly urgent need to reform these concessions.
41. The concessional taxation of super cost government \$32 billion last year. Estimates by The Australia Institute and NATSEM suggest an additional \$9.6 billion per annum could be raised from progressive reforms to the current system, with almost all of this being raised from the highest income households.
42. Congress condemns the abolition of the Low Income Superannuation Contribution which helped to alleviate the most unjust aspects of how contributions are taxed. Congress calls for the LISC to be re-instated and a progressive system of contributions taxation to be implemented.
43. Congress agrees to campaign for the progressive taxation of contributions and earnings on the basis of the individual's marginal rate, minus a rebate.

## **INDIRECT TAXATION**

### **Goods and Services Tax (GST)**

44. Congress notes that indirect taxes such as the GST are regressive, as high income earners spend proportionately less of their income on goods and services which attract them, while lower income families tend to spend proportionately much more.
45. Congress therefore opposes any extension of GST coverage or any increase to its rate.

## **FEDERAL FINANCIAL RELATIONS**

46. Congress notes that the relationship between the Commonwealth, state, and local levels of government requires a cooperative approach if governments are to operate effectively.



47. In Australia, taxation powers lie mainly with the Commonwealth while major spending functions such as hospitals, school education, justice and others lie with the states. As a result, the Commonwealth makes substantial fiscal transfers to the states.
48. Congress notes that the centralization of tax powers enhances the efficiency, equity and efficacy of the national tax system while the decentralization of spending powers has advantages in allowing service decisions to be taken closer to communities of interest.
49. Congress notes that States have democratic accountability for the ways in which they expend Commonwealth funds. It is erroneous to suggest that fiscal transfers from the Commonwealth to the States promote inefficient behavior by states.
50. Congress supports the continuation of the Commonwealth's leading role in revenue raising and the states' leading role in service delivery. Decisions about changes to the allocation of functions would need to be based on a careful consideration of which level of government is best able to deliver them efficiently and equitably.
51. Congress believes that there is a need to ensure that untied grants (funds provided by the Commonwealth to the states without conditions as to how they are spent) grow sufficiently to meet growing demands for State services.
52. Congress supports measures to maintain the integrity of the GST base and its linkages with overall economic growth.
53. Congress opposes the introduction of differentiated personal income tax rates across the states.
54. Australia's system of horizontal fiscal equalization ensures that each state has the capacity to deliver a national-average service level to its population so long as it makes an average level of revenue effort.
55. Congress supports the continuation of full horizontal fiscal equalization

#### **RESOURCE AND RENT TAXATION**

56. Congress supports special company tax arrangements which apply in the case where a company is earning super profits because of the superior quality of the resources over which it has control.
57. Australia needs to learn from the missed opportunity of the mining boom, and receive a fair share of revenue from the upcoming LNG boom. Australia is poised to become the world's largest exporter of LNG, but this is expected to generate little government revenue for decades. Congress affirms the need for the government to act swiftly to address this major problem before our resources are exploited without return
58. Congress affirms there are significant issues with the current design of the petroleum resource rent tax (PRRT) and the loopholes and concessions must be addressed. Congress supports a Commonwealth Royalty on offshore projects applied to petroleum products of at least 10%. This would generate a minimum additional \$4-6 billion in revenue over the forward estimates.

59. Congress notes the PRRT in its current format is not delivering fair results. In 2014-15 PRRT payments fell by more the \$500 million, despite significant growth in gas production. Multinational corporations Chevron, Shell, and BP made no PRRT payments; indeed Chevron and Exxon have not paid any corporate tax over the past two years despite earning billions.
60. Congress advocates for the taxation of resources not to be confined to mineral resources, noting there are similar sources of scarce resources such as radio frequencies and water that are periodically auctioned by government. In these cases there is the very important issue of who owns the scarce resource and so who should earn the scarcity rents.
61. These issues are also relevant to the cases of companies that make super profits through their domination of telecommunications, the payments system in the case of banks, electricity networks and so on. In these cases the imposition of monopoly taxation is a potential alternative to using regulatory mechanisms to counter monopoly power.

## **WEALTH**

62. Congress recognises the need to consider alternative tax policies for reducing wealth inequality, such as such as asset and land taxes. While progressive income taxes help address inequality, they often do not take into account the overall capacity to pay, that wealth confers. In recent years wealth inequality has increased even more sharply than income inequality, and our tax system needs to adapt accordingly.

## **FURTHER POLICY REFORM**

63. Congress recognises the need to consider tax policy areas in detail, including, in addition to those addressed in this Policy, wealth and inheritance tax, the taxation treatment of dividend imputation and franking credits, and measures to fund public infrastructures land tax and carbon pricing.
64. Congress recognises the complex interactions between taxation and government transfer payments. Any tax reform must protect lower paid workers and welfare recipients from overall disadvantage.
65. Congress recognises the need to consider the Robin Hood Tax, a specific Financial Transactions Tax/Tobin Tax.
66. Congress believes that the tax system can play an important role in protecting the environment through disincentivising environmentally damaging activities and taxing polluters whose actions impose costs on the community. Congress recognises the opportunity for state governments, through the work already carried out by their Environmental Protection Authorities, to investigate the avenues for taxing environmental 'bads' in order to protect the environment and provide an additional revenue stream for state governments to provide public services
67. Congress recognises that effective corporate tax reform requires both international and domestic reform and regulatory cooperation at international and regional levels. ACTU and affiliated unions will advocate for global and regional tax cooperation and a Global Tax Convention.

