Australian Government
Australian Taxation Office

The intersection of economic policy and corporate behaviour

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Countering transfer (mis)pricing by MNEs

ATO Economist Practice

- Central area for economic advice pertaining to the application of all laws that the Commissioner administers
- Focus on the regulation of the transfer pricing used by Multinational Enterprises (MNEs)
- Anti-avoidance laws aimed at MNEs artificially shifting taxable profit through mispricing
- There are other important specialist economic branches in the ATO

- **Large business is highly compliant**
- **Large business pays over $90B income tax**
- **Around 70% of income tax audits involve international dealings / structures**
- **Transfer pricing is the most common consideration**
- **Sources: ATO Corporate tax transparency report 2023-24; Findings report – Public and multinational business disputes and outcomes 2024-25**

Estimated (overall) large corporate income tax

Source: ATO website, Latest estimate and trends for large corporate groups income gap 2022–23

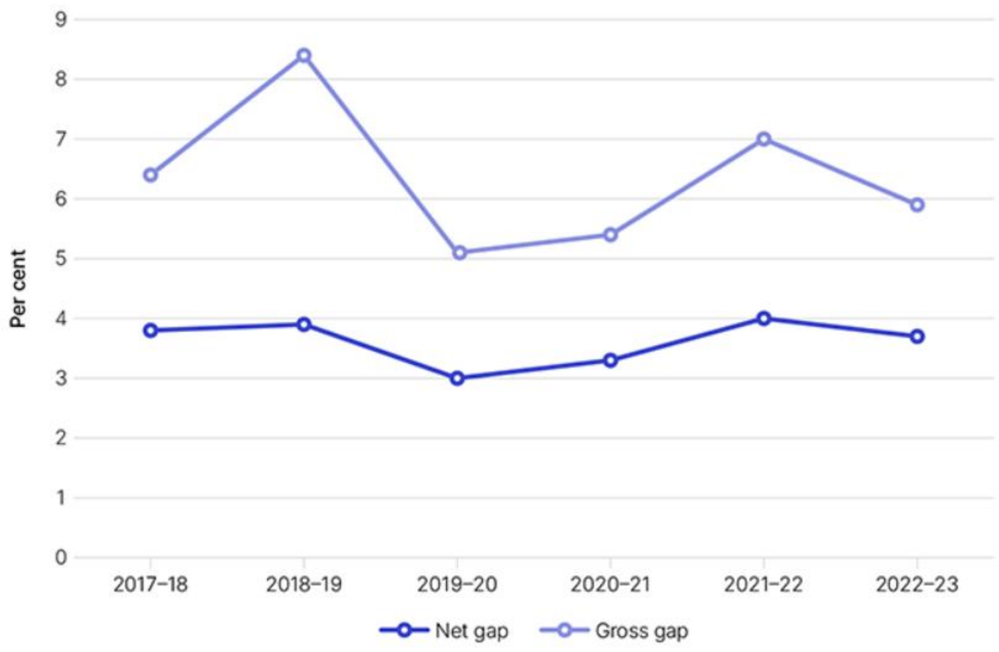
A large corporate group has a gross income of over $250 million in a financial year.

In 2022–23, large corporate groups:

- reported $2.86 trillion in gross income
- generated $376 billion in taxable income
- returned around $98 billion in expected income tax.

For 2022–23, we expect large corporates to voluntarily pay more than 94% of what they should. We estimate this to rise to over 96% after ATO engagement.

Gross and net income tax gap (percentage) – large corporate groups, 2017-2018 to 2022-23



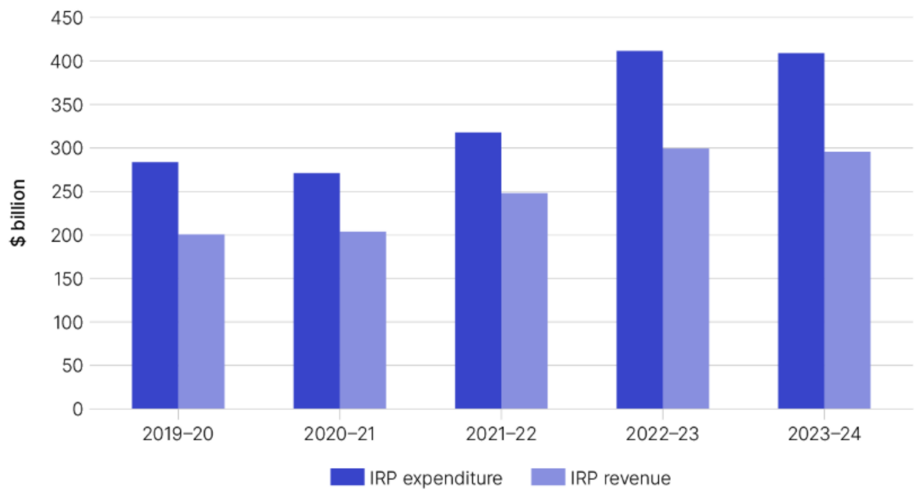
Countering transfer (mis)pricing by MNEs

Anti-avoidance laws require a comparison of actual conditions to (hypothetical) "arm's length" conditions

- Conditions, not just 'price'
- Judgement based on available evidence
- Evidence selected having regard to the economically relevant characteristics: the property or services; functions, assets and risks; contractual terms; economic circumstances; business strategies

International Related Party Dealings (IPRD)

Source: ATO website, IRPD statistics 2023–24

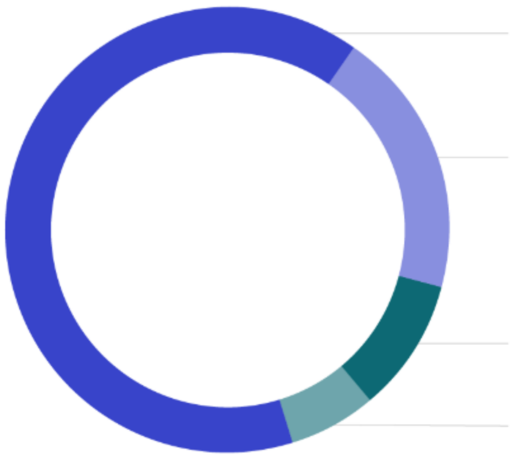


1% adverse mispricing on $700B could be $2B tax shifted (at 30% tax)

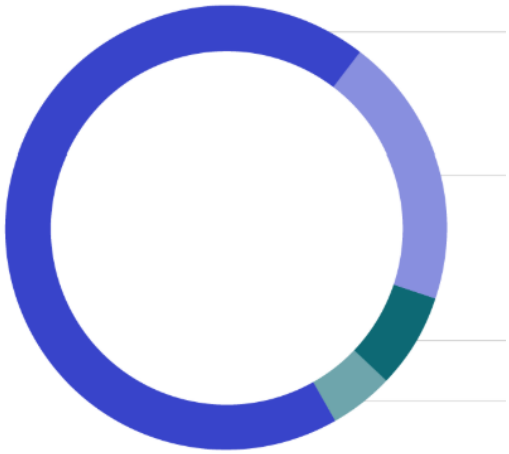
International Related Party Dealings

Source: ATO website, IRPD statistics 2023–24 income year

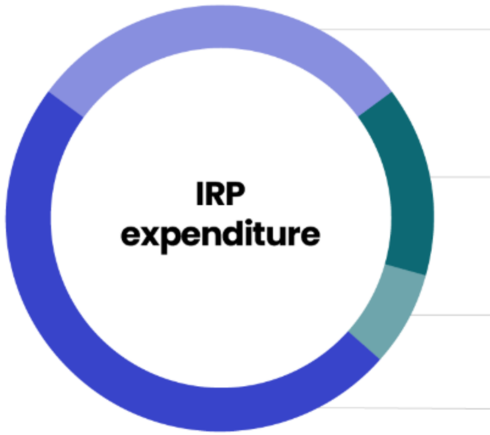
Expenditure by type

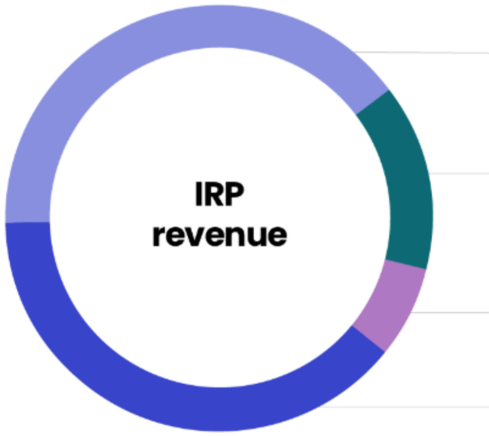


Revenue by type



IRPD by jurisdiction





Challenges in taxing value creation

Examine overall conditions

- Policy intent to tax value created in Australia
- Regulatory challenges:
- What creates value for the MNE?
- How do you measure it?
- How do you deal with ‘thin’ evidence?

OECD rules largely formed 30 years ago…

“Certainly there will be taxes that relate to automation. … If a robot comes in to do the same thing, you’d think that we’d tax the robot at a similar level.”

Bill Gates, WEF 20 February 2017

OpenAI releases the paper "Industrial Policy for the Intelligence Age: Ideas to Keep People First," that includes policy proposals to tax automation not workers.

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