MAKING TAX VANISH IN AUSTRALIA

HOW THE PRACTICES OF CONSUMER GOODS MNC RB SHOW THAT THE TAX SYSTEM IS BROKEN

OXFAM
Australia

Big business is able to take advantage of loopholes in global tax laws and avoid tax on a massive scale. This deprives governments around the world of the money they need to tackle poverty and inequality. It means there is less for them to invest in healthcare, education and jobs. This briefing examines the failings of the tax system that facilitate mass tax avoidance. It looks at leading global health and hygiene company RB as one example of a multinational company (MNC) that Oxfam thinks is not paying its fair share. It gives an overview of RB's practices in Australia, where the maker of well –known household brands is estimated to have avoided $138 million in taxes over three years. Oxfam calls on the Australian Government and businesses to implement the reforms that are needed to stop MNCs from avoiding paying their fair share of tax in the future.

This briefing focuses on RB's (formerly Reckitt Benckiser) practices in Australia. To see data and analysis for other countries, see the global report: *O. Pearce. (2017). Making Tax Vanish: How the practices of consumer goods MNC RB show that the international tax system is broken.* Available at: http://policy-practice.oxfam.org.uk/publications/making-tax-vanish-how-the-practices-of-consumer-goods-mnc-rb-show-that-the-inte-620289.

Tax dodging by multinational companies costs developing countries at least US$100bn a year – money that governments could use to fight poverty.[1]
Photo: Allan Gichigi/Oxfam.

Front Cover:
The billions lost in government revenue to tax avoidance could provide basic services like sewage treatment for people like Reshma and her community. *Photo: Timothy Allen.*

A new report from Oxfam, *'Making Tax Vanish: How the practices of consumer goods MNC RB show that the international tax system is broken',* outlines how a global restructure has seen RB (formerly Reckitt Benckiser) reduce its tax bills both globally and in Australia, where it sells famous household products including Vanish, Dettol, Nurofen, Clearasil and Durex.

In January 2017, Oxfam revealed that just eight men own the same amount of wealth as the 3.6 billion people who form the poorest half of the world's population.[2] This stark statistic illustrates the scale of an inequality crisis that undermines the fight against poverty around the world. This briefing examines one of the key drivers of this inequality crisis: the broken tax system that allows multinational companies (MNCs) to systemically avoid tax, robbing countries – rich and poor – of revenue that should rightly be invested to address poverty.

Tax avoidance hits the poorest the hardest: when public services such as health and education are cut or underfunded because of low tax revenues, poor people who cannot afford to pay for private services either miss out or are pushed into debt. New Oxfam research estimates that from 2014 to 2016, RB avoided paying an estimated $365 million[3] in taxes around the world, including up to $110 million in developing markets. This briefing looks at how RB may have done this, the impact on Australia and what reforms are needed to stop MNCs from avoiding paying their fair share in the future.

RB is a leading MNC producing products for 'health, hygiene and home'. Its brands are a common feature in many homes, both in Australia and elsewhere. It is a highly successful company, generating $18 billion in revenue in 2016, and its products are sold in more than 200 countries.[4] Oxfam is not suggesting that RB has done anything illegal in reducing its tax bills and does not consider RB to be the worst offender, but the impact of the shortfall in tax revenues means less money is available for essential public services needed to tackle poverty, particularly in developing countries. RB says that it 'pays the right amount of tax in each country where we do business around the world', and that it is committed to complying with all relevant tax laws and regulations.[5] At home, one in three large Australian companies paid no tax at all in 2014–15, and the Australian economy is also deprived of significant tax revenue.[6] Oxfam is calling for an end to practices that see money funnelled out of both poor and rich countries alike. Right now, such practices are widespread.

A BROKEN INTERNATIONAL TAX SYSTEM

It remains easy for MNCs of many kinds and in many countries to reduce their tax liabilities. A lack of transparency over what profits are made and what taxes are paid by MNCs in every country in which they operate also makes it hard to identify abusive tax practices.

By highlighting this case study, Oxfam intends to show that more transparency is needed on MNCs' tax payments, and that further international cooperation is needed to prevent tax avoidance. Oxfam is calling on governments to act to close the tax loopholes used by RB and other companies, and for companies like RB not only to comply with the letter of the law, but also its spirit, and pay their fair share.

There's still time for RB to clean up its act. RB states that it is 'inspired by a vision of a world where people are healthier and live better'.[7] Its core business is to develop and market consumer products 'for healthier lives and happier homes'.[8] The MNC runs education and hygiene promotion programmes, such as handwashing campaigns in India, Nigeria, Indonesia and Pakistan to prevent diarrhoea. RB states that it is committed to helping deliver the UN Sustainable Development Goals[9] three and six, on 'good health and wellbeing' and 'clean water and sanitation'.[10] These commendable commitments and actions are, however, undermined by the MNC's tax avoidance. While giving money with one hand, RB appears to be withholding revenue from governments with the other – revenue that should be used to fund essential public services, like clean water and sanitation, for their poorest and most vulnerable citizens.

RB has an opportunity to put its tax avoiding ways behind it, and become a champion for fairer tax. As is the case with many issues of corporate responsibility, responsible corporate tax behaviour is not just about regulation, but about values. If RB becomes transparent about its tax strategies and payments, and pays tax in line with where its real economic activity takes place, it can help to tackle poverty and inequality. Likewise, if it becomes a public champion for tax transparency, RB could become a leader in international business tax debates, ensuring 'healthier lives and happier homes' for millions.

TAX AVOIDANCE BY RB

Oxfam's research suggests that RB restructured its transfer pricing model to avoid taxes. In simple terms, this means that RB seems to have manipulated the price of transactions between subsidiaries in order to avoid tax. This has been done by funnelling intra-company transactions through the low-tax jurisdictions of the Netherlands, Dubai and Singapore, such that more profit accumulates there, rather than in the countries in which the MNC's core business activity takes place – and where tax rates are higher, like in Australia.

RB restructured its business in 2012 and 2014 to create regional hubs in the Netherlands, Singapore (now closed) and Dubai. In doing so, Oxfam's research estimates that RB avoided paying an estimated $365 million in taxes around the world from 2014 to 2016, including by up to $110 million in developing markets. RB says 'none of its operations are linked to tax avoidance in developing countries', and that these restructures were motivated by a want to 'be close to our customers'.[11] However, Oxfam believes that a significant business reason was to save tax. The reality is that after the restructures, RB's profits and the taxes it paid fell dramatically. Looking in more detail at the company accounts in individual countries, we estimate that over the period 2013–15 RB avoided paying $138 million in tax in Australia.

RB RESTRUCTURING OF THE NETHERLANDS REGIONAL HUB

The Dutch subsidiary, Reckitt Benckiser (ENA) B.V., has been by far the most significant of the hubs, based on the available data. With pre-tax profits of $1.4 billion in 2014, it accounts for 31 percent of the pre-tax profits of the whole RB Group. This subsidiary initially served Europe and North America, but following the 2014 restructure also served Russia/CIS (Commonwealth of Independent States), Israel, Australia and New Zealand.

According to its financial statements, the subsidiary has received a tax ruling from the Dutch authorities that exempts 75 percent of its profits from tax since 2013, when the restructure took effect.[12]

Oxfam calculated RB's tax avoidance in regional hubs[13] by comparing the actual taxes the company paid with the taxes that Oxfam thinks it would have paid on pre -tax profits.[14] Based on this, **the estimated total tax avoidance across the regional hubs was $729 million over the four years from 2012–15**, of which the Netherlands accounted for $622 million in 2012–15.

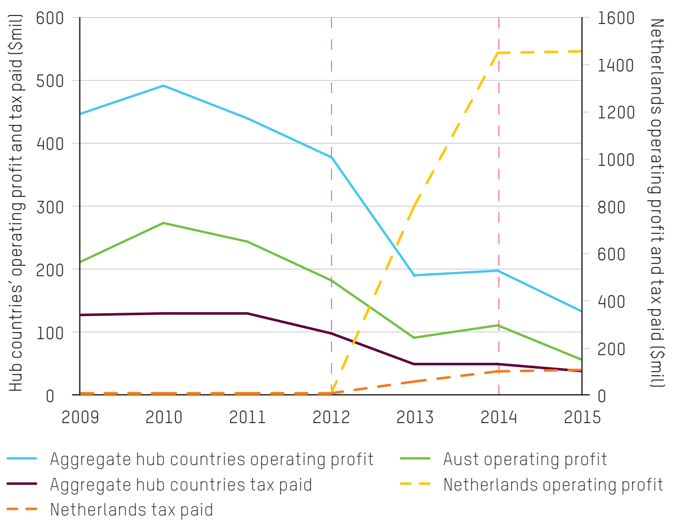
ESTIMATED TAX AVOIDED BY RB IN AUSTRALIA

In some cases, it is also possible to estimate the tax losses caused by RB's new corporate structure in individual countries. Oxfam has been able to make these estimates only for countries for which enough financial account information was available – Australia, Belgium, France and New Zealand. Australia and New Zealand were initially covered by the Singapore hub, but this function was transferred to the Netherlands in 2014.

The consolidated operating margin and tax costs of Australian subsidiary Reckitt Benckiser Healthcare Australia PTY Limited dropped after 2012. Oxfam estimates that Australia lost a total of $138 million in 2013–15 due to the restructure. As the figure below shows, the profit accounted for in the Netherlands hub rose dramatically, while the profits accounted for in the countries belonging to that hub fell dramatically over the same period. The effective tax rate paid by the Netherlands hub (seven percent) is far lower than that in the hub countries (Australia, New Zealand, France and Belgium) before the restructure.

Overall, Oxfam's estimate of the avoided taxes means governments are deprived of revenues to fund essential public services in developing and developed countries alike.

PROFIT AND TAX PAID IN HUB COUNTRIES FELL OFF A CLIFF AFTER RESTRUCTURES



RB AUSTRALIA	2009	2010	2011	2012	2013	2014	2015
Operating revenue ($m)	744	793	821	910	833	857	876
Operating profit ($m)	211	273	242	179	88	108	53
Operating margin (%)	28%	34%	30%	20%	11%	13%	6%
Average operating profit margin 2009 –12 (%)	28%						
Tax ($m)	53	61	59	38	16	23	14
Australia tax rate (%)	30%	30%	30%	30%	30%	30%	30%
Theoretical operating profit at 28% margin ($m)	206	220	227	252	231	237	243
Difference in operating profit ($m)	–5	–53	–15	73	143	129	190
Tax avoided on actual operating profit vs. 28% margin ($m)	–1	–16	–4	22	**43**	**39**	**57**
TOTAL TAX SAVINGS 2013–15 ($m)							138

Notes: The full name of the subsidiary is Reckitt Benckiser Healthcare Australia PTY Limited.

*New Zealand excluded
** Non -deductible impairment expenses are excluded from the operating profit.
*** Data converted from GBP to AUD using FX rates for each year available in Orbis database

Sources: The figures are based on Orbis data and the original financial statements from Reckitt Benckiser Healthcare Australia PTY Limited.

Rasheda Begum washing clothes in her yard beside an open sewer in Chittagong, Bangladesh. *Photo: GMB Akash/Oxfam*

THE IMPACT OF TAX AVOIDANCE

RB has operations in a number of developing countries whose governments need revenues from taxation to fund public services. Developing countries are more reliant on corporate taxes to fund public services than developed countries and therefore tax avoidance by MNCs hits them hardest. A number of developing countries simply do not raise sufficient taxes to fund decent public services, so tackling corporate tax avoidance should be a high priority.

One example is Bangladesh, where Oxfam has worked for more than 45 years. With a population of 160 million people, cheap labour and a growing middle class, it offers huge potential to businesses looking to expand. Yet despite economic growth, almost 40 million people are still living below the national poverty line, and more than 20 million people are living in extreme poverty.[15] A third of Bangladeshis do not have a decent toilet.[16]

Rasheda's case is typical of families living in such dire conditions. She lives with her children in Dhaka, the bustling capital city of Bangladesh. Up to 25 people from several families share a single toilet and a water tap, which is regularly cut off. A channel of filthy polluted water, including human waste, runs through the narrow yard where they bathe, prepare meals and wash their clothes. In the rainy season it overflows, flooding their homes. Because of this, Rasheda's children are often sick with diarrhoea – and Rasheda must make choices between purchasing food or purchasing medicine.

Contrary to its 'health, hygiene and home' banner, the estimated $110 million in taxes that this research suggests RB avoided paying in its developing markets from 2014 to 2016, including in sub-Saharan Africa and Asia Pacific – covering many developing countries – has deprived those countries of money that could fund essential health and hygiene services.

For example, the estimated $110 million avoided in developing markets would be enough to:

- Build hygienic toilets for more than half a million people in towns and cities across Bangladesh;[17] or
- Provide sewage treatment for more than half a million people in rural Pakistan;[18] or
- Procure about 18 million long lasting insecticidal nets to prevent malaria in countries like Nigeria.[19]

Australia also lost a significant amount of tax revenue. The $138 million RB is estimated to have avoided paying in taxes between 2013 and 2015 could have been used for:

- More than 144,000 emergency ward patient admissions;[20] or
- Funding for over 11,000 secondary school students;[21] or
- Providing 3,000 people with a disability with individualised supports in the first year of the National Disability Insurance Scheme.[22]

A child enters a flood-resistant toilet that was installed in the aftermath of devastating floods. One in three people in Bangladesh don't have access to a decent toilet. Up to 25 people from several families can share a single toilet and water source. *Photo: Peter Caton/Oxfam.*

RECOMMENDATIONS: TIME FOR TAX REFORM

While action by business is needed to address this issue, ultimately governments must take responsibility to ensure that all companies are transparent about their tax affairs and pay their fair share of tax.

In recent years we have seen a number of multilateral initiatives aimed at curbing corporate tax avoidance. The most visible of these has been the OECD-led Base Erosion and Profit Shifting (BEPS) project, which aims to limit the ways in which MNCs can manage their business to avoid taxes, including one recent outcome, the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.*

However, the BEPS recommendations were a mere sticking plaster on a broken global corporate tax system. Australia and other jurisdictions have also taken individual steps to curb corporate tax abuse – these include the Anti-Tax Avoidance Directive in the EU, and the diverted profits tax (dubbed the Google tax) in the UK in 2015 and Australia in 2017.[23] Oxfam supports these efforts, but emphasises that all of these initiatives fall short of tackling the problem once and for all, and are not enough to close domestic and global tax loopholes. The disincentives introduced through a **diverted profits tax (DPT)[24] in Australia are a small and welcome step**, but this still does nothing to prevent one of the most common methods of profit shifting to low tax jurisdictions – firms claiming excessive deductions on 'debts' between their corporate entities. The DPT also does nothing to stop companies from offshoring money *from* the poorest countries – who need revenue the most for schools, hospitals and essential services. The veil of secrecy around companies' tax affairs further enables these practices to continue on a global scale.

RB's apparent tax avoidance – using methods that will remain perfectly legal even once current regulatory reforms are put in place – demonstrates the need for new and substantive tax reform. Oxfam is especially concerned that developing countries have not benefited enough from existing international tax reforms. A new round of tax reforms should therefore prioritise their needs and interests. This will be most easily done through a new, UN-based global tax body, as developing countries will be represented on an equal basis. The global tax body could also explore how MNCs can be treated as single entities and taxed on their global profits, and how all countries can receive their fair share of tax proceeds. In the meantime, there are a number of policy changes that national governments (including in Australia) can instigate to tackle corporate tax avoidance, and increase the likelihood that tax revenues will stay in countries where companies like RB actually make and sell their products.

Oxfam calls on governments to implement public country-by-country reporting (CBCR) for all MNCs:

- Australia must set out a timeline for when it will introduce public CBCR in the absence of a multilateral agreement, to ensure implementation by the end of 2019. Public CBCR would allow the public to see the extent of tax avoidance and to hold large corporations accountable. This would further help developing countries access information on large companies' tax affairs for every country in which they operate.

Oxfam calls on governments to agree a new round of international tax reforms that will prevent MNCs from shifting profits:

- Governments should ensure that tax rules are fair, transparent and consistently applied, identifying and preventing harmful tax measures, particularly so that developing countries can claim the tax revenues they are due in line with their tax capacity;
- All governments should adopt more stringent measures to prevent the use of tax loopholes such as debt-related deductions to shift profits to low tax jurisdictions. This would reduce the ability for subsidiaries to use excessive deductions on debt to shift profits offshore;[25]
- Governments should join multilateral efforts to identify tax havens and take actions against them including through effective 'blacklists' and counter-measures.

Oxfam calls on companies, including RB, to be transparent about their tax strategies and payments, and to pay taxes in line with relevant economic activity:

- Companies should publish tax strategies which set out their approach to tax, and should also publish their own country-by-country reports showing what tax they pay where;
- In Australia, companies, including RB, should adopt the Voluntary Tax Transparency Code, as well as publish data on their global effective tax rate and the economic activity of their subsidiaries.

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1 United Nations Conference on Trade and Development (UNCTAD). (2015). World Investment Report 2015. Available at: http://unctad.org/en/PublicationsLibrary/wir2015_en.pdf

2 D. Hardoon. (2017). *An Economy for the 99%: It's time to build a human economy that benefits everyone, not just the privileged few*. Available at: https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-economy-for-99-percent-160117-en.pdf

3 All figures in this briefing are converted to AUD, whereas figures in the main report (O. Pearce. (2017). *Making Tax Vanish*) are in UK Pounds, with the conversion rate used being GBP1=AUD1.826.

4 See full report (Appendix 1) for information on how Oxfam identified RB as a case study for this report, and section two of the full report for details on calculations. O. Pearce. (2017). *Making Tax Vanish: How the practices of consumer goods MNC RB show that the international tax system is broken*. Available at: http://policy -practice.oxfam.org.uk/publications/making-tax-vanish-how-the-practices-of-consumer-goods-mnc-rb-show-that-the-inte-620289

5 See Appendix 2 in the full report for RB's full response. O. Pearce. (2017). *Making Tax Vanish: How the practices of consumer goods MNC RB show that the international tax system is broken*. Available at: http://policy-practice.oxfam.org.uk/publications/making-tax-vanish-how-the-practices-of-consumer-goods-mnc-rb-show-that-the-inte-620289

6 Australian Government. (2017). *Corporate tax transparency*. Available at: https://data.gov.au/dataset/corporate-transparency

7 RB. (2017). *About Us*. Retrieved 21 March 2017. Available at: http://www.rb.com/about-us/

8 RB. (2016). *Healthier Lives, Happier Homes*. Available at: https://www.healthier-lives.com/media/1074/rb_factsheet_2256_eng.pdf

9 United Nations. (2015). *Sustainable Development Goals*. Available at: http://www.un.org/sustainabledevelopment/sustainable-development-goals/

10 RB. (2016). *Purpose with a Passion: Annual Report and Financial Statements 2016*. Available at: http://annualreport2016.rb.com/

11 See Appendix 2 in the main report for RB's full response. O. Pearce. (2017). *Making Tax Vanish: How the practices of consumer goods MNC RB show that the international tax system is broken*. Available at: http://policy-practice.oxfam.org.uk/publications/making-tax-vanish-how-the-practices-of-consumer-goods-mnc-rb-show-that-the-inte-620289

12 Reckitt Benckiser (ENA) B.V., Financial Statement 2013-14. Available to Oxfam during research from Dutch authorities.

13 The estimates based on individual accounts are more reliable, since they reflect the actual tax avoidance structure more directly. However, the deficiency of this approach is that it does not necessarily capture all the global effects of tax avoidance, since not all the accounts of subsidiaries affected by tax avoidance can be retrieved and analysed (due to secrecy jurisdictions, etc.).

14 Formula: pre -tax profit*25 percent -actual tax paid.

15 General Economics Division, Government of Bangladesh. (2015). *Seventh five year plan: FY2016-FY2020*. Available at: http://www.plancomm.gov.bd/wp-content/uploads/2015/11/7FYP_after-NEC_11_11_2015.pdf

16 Only 61 percent of Bangladeshis had access to improved sanitation in 2015. UNDP. (2015). *Progress on Sanitation and Drinking Water*. Available at: http://files.unicef.org/publications/files/Progress_on_Sanitation_and_Drinking_Water_2015_Update_.pdf

17 Based on a cost of US$132 per person in urban areas of Bangladesh. World Bank. (2016). *The cost of meeting the 2030 Sustainable Development Goal Targets on drinking water, sanitation and hygiene*.

18 Based on a cost of US$149 per person to provide pit latrine with sewerage and treatment in rural areas of Pakistan. World Bank. (2016). *The cost of meeting the 2030 Sustainable Development Goal Targets on drinking water, sanitation and hygiene*.

19 Based on a procurement cost of US$4.41 per net by UNICEF which distributes insecticidal nets in Nigeria. UNICEF. (2016). *Long-lasting insecticidal nets (LLINs) price data*. Available at https://www.unicef.org/supply/files/2006-2016.pdf. Healthcare Federation of Nigeria. (2017). World Malaria Day: UNICEF, working towards improving PHCs. Available at: http://www.hfnigeria.com/index.php/1153worldmalariadayunicefworkingtowardimprovingphcsofficial#.WVmNe2mGOUk

20 Based on emergency ward admissions costing $956 per patient. Independent Hospital Pricing Authority. (2016). *National Hospital Cost Data Collection: Australian Public Hospitals Cost Report 2013-14 Round 18*. Available at: https://www.ihpa.gov.au/sites/g/files/net636/f/publications/nhcdc-round18.pdf

21 Based on Australian government funding of $12,193 per secondary school student as stipulated in the School Resourcing Standard. National Commission of Audit. (2017). *Schools funding*. Available at: http://www.ncoa.gov.au/report/appendix-vol-1/9-7-schools-funding.html

22 At full scheme, about 475 000 people with disability will receive individualised supports, at an estimated cost of $22 billion in the first year of full operation (Productivity Commission. (2017). *National Disability Insurance Scheme*, position paper). This leads to an average of $46,316 per person in the first year of NDIS.

23 Years in which diverted profits tax came into effect.

24 The DPT imposes a 40 percent tax on large multinational entities with a significant economic presence in Australia found to have engaged in practices that divert profits offshore through contrived arrangements.

25 See Oxfam Australia. (2016). *Hidden Billions* for further details on these types of tax tricks.

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