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EXPOSING CORPORATE WEBS

TAX PRACTICES OF OUTSOURCED SERVICE
AND LABOUR HIRE CORPORATIONS IN THE
AUSTRALIAN TAXATION OFFICE

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EXECUTIVE SUMMARY

The Australian Taxation Office (ATO) is the largest user of outsourced labour hire in the federal government. Subsidiaries of foreign companies with ATO contracts pay very little tax, appear to use aggressive tax avoidance schemes and provide little or no disclosure.

Three companies are analysed as case studies but represent a broader problem with other ATO labour hire contractors and other outsourced service corporations across federal and state governments in Australia. The use of outsourced services, contractors and labour hire corporations has grown dramatically in recent years as Australian governments have sought to reduce the number of public servants. In 2017, the federal government spent nearly \$1 billion on “temporary personnel services” and nearly 40% of the total was within the ATO.

While there are broader implications on workers’ rights, the growth of precarious work, the quality of public services delivered, the cost of private contracts and the ongoing institutional capacity of the public service to deliver independent and reliable advice and services, the focus in this report is primarily on tax and transparency issues of corporations with major ATO contracts for outsourced services and labour hire.

In 2017, the federal government spent nearly \$1 B on “temporary personnel services” and nearly 40% of the total was within the ATO

After reviewing three case studies of ATO contractors, this report provides concrete recommendations to ensure all government contractors pay their fair share of tax and are required to be fully transparent and publicly accountable. Government procurement can and should be used to increase transparency and compliance and set higher standards for all corporations operating in Australia.

The three corporate case studies are:

- **OUTSOURCING INC** – a rapidly growing multinational listed in Japan has acquired several Australian companies including, Hoban, Clicks and Index, which have large government contracts. These entities are operated through Unit Trusts and file no annual financial statements. While it is unclear what tax is paid in Australia, it is clear the head of the Japanese company owns stock worth half a billion dollars. Contracts for outsourced public services in Australia are a critical part of Outsourcing Inc’s global growth strategy.
- **SERCO** – the UK listed company, best known for managing prisons and immigration detention centres, gets 20% of its global revenue from Australian governments. The subsidiary with the ATO call centre contracts, the largest ATO contract, claims to not have a separate bank account and the company’s multiple related party transactions are a key indicator of aggressive tax avoidance schemes. Another Serco subsidiary, through a contract with the Victorian state government, has managed to convert speeding tickets into a \$20 million tax free dividend.
- **STELLAR** – a private company owned by a family of Texas millionaires with a history of dubious business practices also operates call centres for the ATO. In 2018, its UK call centre business declared bankruptcy in Nevada, where it and the Australian business are incorporated. The company continues to transfer payments to a British Virgin Islands company while failing to pay money owed to the UK tax authority and redundancy payments to workers.

Other subsidiaries of foreign multinationals, which also appear to have questionable tax practices, are ATO and federal government contractors. Further analysis is required but these three examples present disturbing findings which must be addressed.

RECOMMENDATIONS

There is a clear need for a broader government oversight and review on the massive growth in the use of and reliance on consultants, contractor labour, and outsourced workers; and whether this is an efficient and effective use of taxpayer funds.

More specifically, there are serious concerns about whether the ATO and other federal agencies should be contracting and outsourcing core public sector functions which deal with the sensitive and private information of millions of Australians. At the very least, the following recommendations are needed to ensure transparency and compliance with the letter and spirit of tax laws in Australia. Most of these policy measures are easily implemented as conditions of any future federal and state government contracts. If companies receive government contracts – funded by taxpayers – they must be held publicly accountable.

- 1. Full disclosure of all beneficiaries** – Any government (federal, state, local, enterprise, authority, institution, etc) contractor or contracted labour provider must be required to disclose the ultimate parent company and/or all beneficial owners and this information must be publicly available and aggregated to be able to show the combined value of contracts of multiple subsidiaries owned by the same parent company or beneficial owner(s) and aggregate any contracts operating under the same corporate names (ie KPMG, E&Y, PwC, Deloitte, etc) which may be owned through separate partnerships or other structures.
- 2. Full financial statements on big contractors, no excuses** – Any company, including through separate subsidiaries, which receives over \$10 million per year from any government body – for any contracts, services, provision of labour or goods, subsidies, or any other forms of payment – must be required to file full financial statements with ASIC in full compliance with Australian accounting standards, with no recourse to use special purpose filings or reduced disclosure requirements.
- 3. Public disclosure of contracts over \$1 million a year** – All government contracts over \$1 million per year must be made publicly available.
- 4. Accountability for labour brokers** – The Taxable Payment Reporting System (TPRS) should be extended to cover the use of all labour hire or outsourced labour firms, including by all government agencies and public bodies. The TPRS is designed to ensure payments to contractors are reported to the ATO to ensure appropriate tax payments are made by those contractors. As a result of the Black Economy Task Force, the government has recently extended the TPRS from the construction industry, where it has been in place for some time, to cover contracting with cleaners and couriers.
- 5. Certification and screening of tax practices for parent and subsidiary companies** – As per the consultation conducted by the Australian Treasury, any company being awarded a government contract worth more than \$4 million must be certified to have a satisfactory tax paying record both in Australia and overseas. This should apply not only to the direct subsidiary but to the parent company as well and include a review of contract performance and business conduct in other jurisdictions.
- 6. Audit on use of contracted labour in all forms** – Following on the example from the New South Wales Audit Office, the federal government and other state governments should do a thorough and comprehensive audit of the use of labour hire firms and other outsourced service providers to carry out ongoing and regular public service functions. There does not appear to be any existing monitoring or analysis of the rapid growth of outsourced services. Definitions for outsourced services and contracts need to be standardised to increase transparency and improve accuracy of reporting.

INTRODUCTION

Aggressive tax avoidance by outsourced service and labour hire corporations working for the Australian Taxation Office (ATO) may represent a broader problem across federal and state governments in Australia. Foreign multinationals may be dodging tax obligations in Australia on profits generated from government contracts for outsourced labour and services. The lack of transparency in government procurement, and of corporate profit from government contracts, must be urgently addressed.

The ATO spent over \$360 million in 2017 on 'temporary personnel services'. Excluding the Department of Defence, the ATO is the largest user of outsourced service and labour hire contracts in the federal government. Ironically, the persistent and ongoing use of labour hire by the ATO may provide the clearest examples of aggressive tax avoidance by government contractors.

The federal government's increased dependence on consultants and contractors to deliver core government services has generated significant

profit for corporations. However, the general public - as taxpayers, consumers and workers - has paid a price. An ideologically-driven push to reduce the size of government may have perversely increased government spending. The capacity of the government to deliver reliable quality services and provide decent stable jobs has also been reduced.

An ideologically-driven push to reduce the size of government may have perversely increased government spending

Are outsourced service and labour hire companies dodging tax and reducing government revenues as well?

DEFINITIONS

There are several varying definitions for outsourced work used by the ATO and other federal agencies for consultancy work, service contracts, labour hire, outsourced workers, recruitment, etc. The New South Wales government refers to labour hire as contingent workforce.

The primary numbers used in this report on the scale of labour hire contracts with different companies are based on the reporting of the category of 'temporary personnel services' contracts by the Department of Finance through the AusTender website. There are labour hire contracts reported under other contract categories, so the numbers used in this report are likely to under represent the use of labour hire within federal government agencies. The quality of existing government data and lack of transparency makes it difficult to get an accurate and clear assessment. The AusTender definitions may be interpreted or used differently by various federal agencies.

The ATO tends to distinguish between types of outsourcing contracts, such as:

- **Consultants** – an individual, a partnership or a corporation engaged to provide specific professional, independent and expert advice or services.
- **Outsourced Services** – third party provision of businesses processes with non-core (such as security) or core (such as tax payer information) functions. The ATO also includes public facing call centres in this category, which under the AusTender definitions are considered "temporary personnel services". The number of staff employed by the outsourced provider may not be known as the contract specifies delivery of services or outcomes.
- **Contract (Labour Hire)** – generally engaged on a time and materials basis and paid at an hourly rate for services provided, including those with specialized skills and expertise but not employed as consultants.

OUTSOURCED SERVICES & LABOUR HIRE IN THE ATO

In 2017 the ATO was the largest user of 'temporary personnel services' within the federal government and had 431 contracts with a total contract value of \$363 million.¹ This represented nearly 38% of the total contract value of \$965 million for 'temporary personnel services' from all federal agencies. There has been a steady growth in the use of labour hire and outsourced services within all federal government agencies. Labour hire and outsourced services are now worth nearly \$1 billion in annual federal government spending.

In 2017 the ATO was the largest user of 'temporary personnel services' within the federal government ... 431 contracts with a total contract value of \$363 M

Many of the companies providing labour hire services to the government are subsidiaries of foreign multinational companies. These multinationals, now some of the world's largest private sector employers, include Swiss-based Adecco, Dutch-based Randstad, US-based Manpower, Japan-based Recruit Holdings, which - like Outsourcing Inc - has acquired many Australian labour hire firms, and many others. Other corporations, such as IBM and Accenture, whose tax practices have been the subject of global media and political scrutiny, have large contracts with the ATO but provide consulting and/or more specialised services.² This report provides case studies of the Australian subsidiaries of three foreign owned companies which appear to have the largest contracts and/or employ or contract the largest number of workers doing work on behalf of the ATO, but not employed by the ATO.

These three corporations are:

- **OUTSOURCING INC** – publicly listed in Japan, with rapid global expansion
- **SERCO GROUP PLC** – publicly listed in the United Kingdom
- **STELLAR GLOBAL, LLC** – privately owned by Texas millionaires through tax havens

In 2017, Serco was the largest provider of 'temporary personnel services' to the federal government with a total contract value of over \$183 million. Serco was the ATO's largest contractor and one ATO contract accounted for 70% of the value of Serco's 'temporary personnel services' contracts.³ Stellar was the fourth largest federal 'temporary personnel services' contractor and the third largest contractor at the ATO with one \$51 million contract.

Contracts with **Clicks, Hoban** and **Bluefin**, all subsidiaries of Outsourcing Inc, amounted to \$17 million, putting the company in the top 10 of all 'temporary personnel services' contractors. The Outsourcing Inc. subsidiaries had over 80 contracts with the ATO which accounted for most of the value of the company's federal contracts.

The ATO is a large and significant government user of these three companies, but they are all major providers of outsourced services to other federal agencies, state governments, and other public institutions. While Serco is exclusively a government contractor, Outsourcing Inc. and Stellar both provide labour hire and outsourced services to the private sector.

LABOUR HIRE AUDIT OF THE NEW SOUTH WALES STATE GOVERNMENT

Information on labour hire use by the New South Wales state government is publicly available and may reflect on the use of labour hire by other states and federal government departments.

In April 2017, the New South Wales government audited the procurement and management of the 'contingent workforce' by three departments – Education, Industry and Transport – and

1 <http://contracts.disclosurelo.gs/displayCategory.php?category=Temporary+personnel+services&year=2017> This website provides more accessible access to data from the AusTender website on federal contracting which is maintained by the Department of Finance. AusTender materials are subject to change and should be verified here: www.tenders.gov.au/

2 Therese Poletti, 22 October 2017, MarketWatch, "IBM earnings beat is a product of tax avoidance, and it's nothing new". www.marketwatch.com/story/ibm-earnings-beat-is-a-product-of-tax-avoidance-and-its-nothing-new-2017-10-18 ; Madison Marriage, 27 June 2018, Financial Times, "Accenture UK profits hit by charge over tax probe". www.ft.com/content/e8f1e902-793f-11e8-8e67-1e1a0846c475

3 <http://contracts.disclosurelo.gs/displayAgency.php?agency=Australian+Taxation+Office&year=2017>

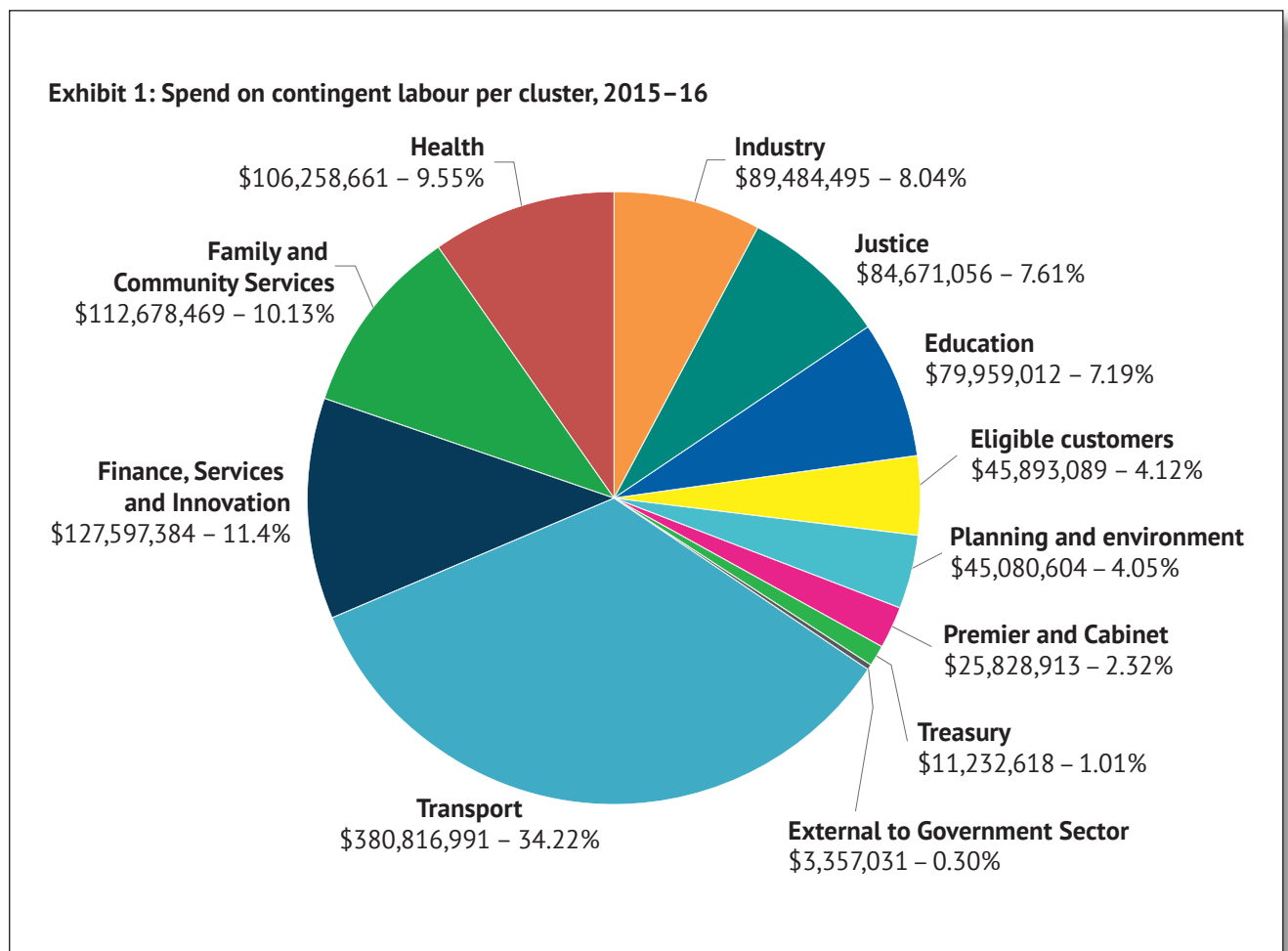
found none “of the three agencies” ... “were able to demonstrate contingent labour is the best resourcing strategy to meet their agencies’ business needs or delivers value for money.”⁴ Across the NSW government, spending on contingent labour grew from \$503 million in 2011-12 to \$1.1 billion in 2015-16, but the data may be under-reported by up to 15%.⁵

Across the NSW Government, spending on contingent labour grew from \$503 M in 2011-12 to \$1.1 B in 2015-16

The audit concluded the use of contingent labour was not informed by planning, two of three agencies had little oversight of the contingent workforce and “none of the agencies routinely monitor and centrally document the performance of contingent workers to ensure services are delivered as planned. Together, these factors make it difficult for agencies to ensure contingent labour is engaged only when needed, at reasonable rates, and delivers quality services.”⁶

Are federal departments and other state governments facing the same issues with rapid expansion in the use of labour hire companies to permanently outsource public sector jobs?

NEW SOUTH WALES STATE GOVERNMENT AUDIT ON CONTINGENT LABOUR⁷



4 New South Wales Auditor-General’s Report: Performance Audit, “Contingent workforce: procurement and management: Department of Education, Transport for NSW, Department of Industry”, p.2. www.audit.nsw.gov.au/publications/latest-reports/contingent-workforce

5 Ibid, p.7.

6 Ibid, p.2.

7 Ibid, p.7.

In NSW, state government agencies spent over \$963 million with private contractors on “contingent workforce” from July 2016 to March 2017.⁸ This is equivalent to spending **over \$1 billion on labour hire annually**. The proportions of spending by government departments were roughly the same as in 2015-16, with Transport at 35%, Finance, Services and Innovation at 12%, Family and Community Services at 10%, Health at 9% and Industry at 8%.⁹

Nearly \$44 million in state spending on “contingent workforce” contractors went to three subsidiaries of Outsourcing Inc.¹⁰

Outsourcing Inc, through Hoban and other subsidiaries, has significant contracts to provide labour hire in many major airports and with other states including Victoria and Western Australia. Serco, through various subsidiaries, has major contracts for outsourced services with several federal agencies or departments and with state governments, including Victoria, Western Australia and New South Wales.

RECOMMENDATION AUDIT ON USE OF CONTRACTED LABOUR IN ALL FORMS

Following on the example from the New South Wales Audit Office, the federal government and other state governments should do a thorough and comprehensive audit of the use of labour hire firms and other outsourced service providers to carry out ongoing and regular public service functions. There does not appear to be any existing monitoring or analysis of the rapid growth of outsourced services. Definitions for outsourced services and contracts need to be standardised to increase transparency and improve accuracy of reporting.

ARE LABOUR HIRE COMPANIES DODGING TAX OBLIGATIONS?

The three major ATO outsourced service and labour hire contractors examined in this report profit from government contracts. However, these foreign-owned companies lack transparency, pay very little tax in Australia and have complex

corporate structures and practices which may be indicative of aggressive tax avoidance.

These foreign-owned companies lack transparency, pay very little tax in Australia and have complex corporate structures and practices

There is a severe lack of transparency in the procurement process and in the publicly available filings of these companies in Australia. It is not clear governments currently have the necessary knowledge of the corporations and their proprietors being awarded significant government contracts. It is also unclear whether Australian governments currently have the processes and systems to effectively monitor and evaluate the performance of private companies entrusted with personal information on its citizens and executing sensitive public service functions.

This report provides several simple recommendations to improve transparency and accountability on the tax practices and financial reporting of government contractors, based on the case studies of these three companies. If foreign owned companies with government contracts are avoiding tax obligations in Australia, it undermines both government revenue and confidence in the fairness and integrity of the tax system. If large foreign corporations are avoiding tax obligations in Australia, it also puts small and medium-sized Australian businesses – who don’t engage in such practices – at a significant competitive disadvantage.

If foreign owned companies with government contracts are avoiding tax obligations in Australia, it undermines both government revenue and confidence in the fairness and integrity of the tax system

8 NSW Government, Finance, Services & Innovation, “Prequalification Scheme Contingent Workforce Government Expenditure Report – March 2017”. www.finance.nsw.gov.au/sites/default/files/disclosure-log-documents/Prequalification_Scheme_Contingent_Workforce_Government_Expenditure_Report_-_201703_Mar.pdf

9 Ibid, p.1.

10 Ibid, calculations from data in report.

CASE STUDY #1: OUTSOURCING INC.

Hoban Recruitment and **Clicks Recruitment**, two subsidiaries of the Japanese multinational Outsourcing Inc., have large labour hire or outsourced services contracts with the ATO. The operating entities of these companies are Unit Trusts and file no annual reports in Australia. The lack of any meaningful, publicly available financial accounts or reporting in Australia from a major government contractor is disturbing. While this seems unusual, it is unclear why or how widely trust structures would be used to own operating companies outside of investment management and real estate. These trust structures pre-date majority foreign ownership.

Trusts are not covered in the ATO corporate tax transparency data. As a foreign company in Japan, parent company Outsourcing Inc is also not included in the ATO corporate tax transparency data. The Australian public does not know if – or how much – tax is paid on profits generated from Outsourcing Inc’s public and private contracts in Australia.

In 2017, Hoban had 79 federal contracts worth nearly **\$8.8 million**.¹¹ Temporary personnel services – labour hire – contracts accounted for more than \$4.8 million and contracts with the ATO had also over \$4.8 million.¹² Other contracts may have also been for labour hire, but the classification scheme is not clear.

In 2017, Clicks Recruit (Australia) Pty Ltd, the trustee of the Unit Trust, had 151 federal contracts valued at nearly **\$46.6 million**, including temporary personnel services contracts worth \$8.7 million and contracts for computer services and computer programmers for \$18.7 million and \$11.5 million, respectively.¹³ The ATO was the largest user of Clicks, with 34 contracts valued at \$11.3 million.¹⁴ While these appear to be more specialised IT contracts, they are supplying significant outsourced labour services to the ATO and the broader federal government.

A third company, **Index Consultants** – also a Unit Trust and a subsidiary of Outsourcing Inc – had 14 federal contracts worth an additional **\$7.3 million** in 2017, but none with the ATO.¹⁵

Despite having federal contracts worth at least **\$62.7 million** in 2017, these 3 entities file no annual financial statements with the Australian Securities and Investments Commission (ASIC). None of these entities, nor the parent company, show up in the ATO corporate tax data, which does not cover trusts or partnerships. The complete lack of transparency raises serious doubts about what may be hidden and why the corporate structure continues to be so opaque.

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BEDDISON GROUP’S UNIT TRUSTS

In 2016, Outsourcing Inc. bought an 80% stake in the Beddison Group, including Hoban Recruitment, Clicks Recruitment and Index Consultants, for \$45.8 million.¹⁶ In 2015, when the Beddison Group was first put up for sale, prospective buyers were told the group had \$350 million in annual revenue and had earnings (EBITDA) of roughly \$20 million.¹⁷

11 <http://contracts.disclosurelo.gs/displaySupplier.php?supplier=14571943048-Hoban+Recruitment&year=2017>

12 Ibid.

13 <http://contracts.disclosurelo.gs/displaySupplier.php?supplier=25348636087-CLICKS+RECRUIT+%28AUSTRALIA%29+PTY+LTD&year=2017>

14 Ibid.

15 <http://contracts.disclosurelo.gs/displaySupplier.php?supplier=38302585480-INDEX+CONSULTANTS+PTY+LTD&year=2017>

16 Outsourcing Inc., 1 April 2016, “Notice of Regarding Acquisition of Shares and Interests of Beddison Group, Australia”, p.9; the estimated acquisition of common shares and stake of 8 companies was JPY3,756 million, conversion rate of AUD 1 = JPY82.07. <https://minkabu.jp/announcements/2427/140120160401449150.pdf>

17 Sarah Thompson, Anthony Macdonald, Jake Mitchell, 24 September 2015, Australian Financial Review, “Beddison Group, Team Moto on the block”. www.afr.com/street-talk/beddison-group-team-moto-on-the-block-20150922-gjsswh

The shares in the entities were sold, but the existing corporate structure (see chart below), with virtually all businesses operating through Unit Trusts, remained.¹⁸ The pre-existing Unit Trust structure may have provided beneficial tax treatment to the company's private owners before the sale of a majority interest to Outsourcing Inc.

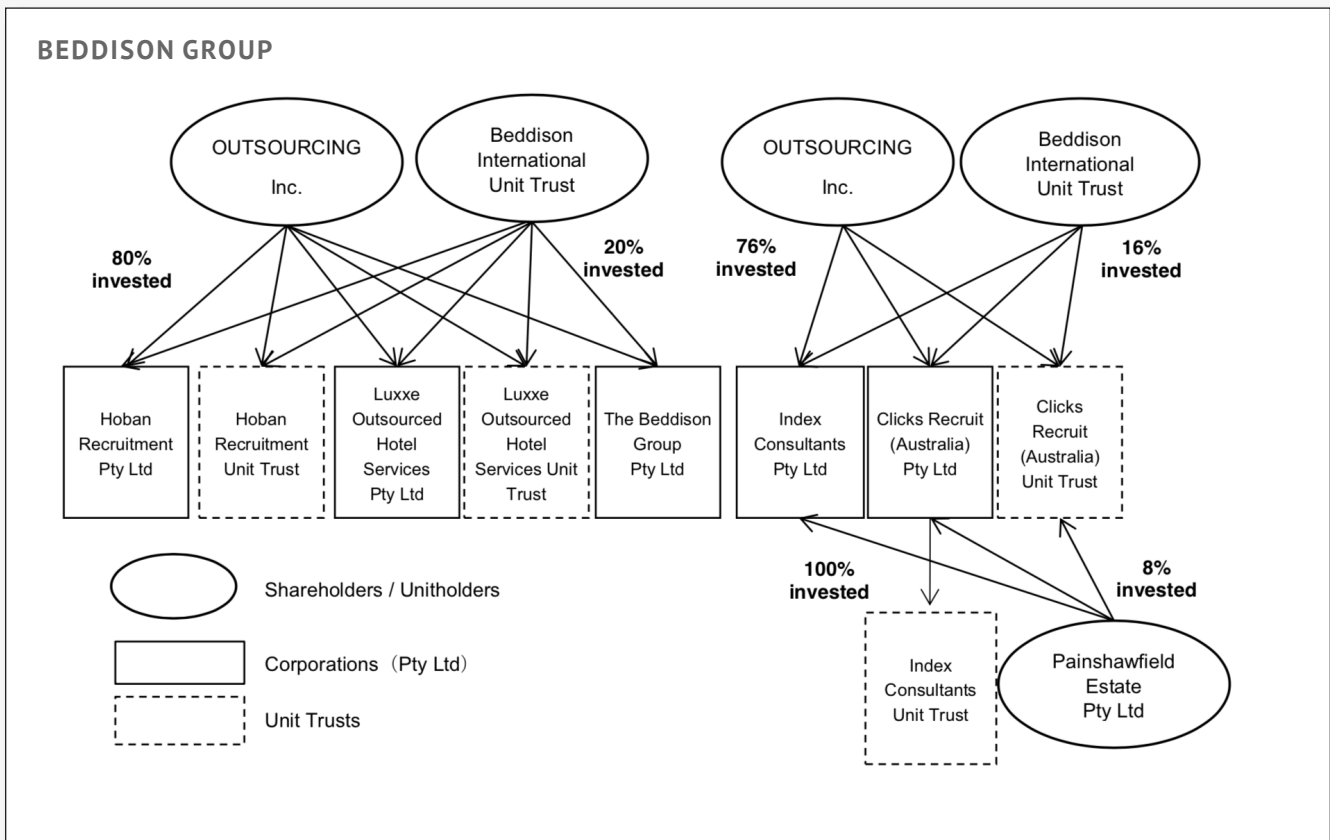
According to the Outsourcing Inc shareholder filing about the acquisition, in FY2015 the three Unit Trusts – Hoban, Index and Clicks – had combined net sales of \$222.5 million and income before tax of \$6.5 million.¹⁹ The Beddison Group Pty Ltd had net sales in the same period of only \$3.1 million and income before tax of \$300,000.²⁰ The Beddison Group Pty Ltd is the only company in the group files financial statements with ASIC. However, the

financial statements are “special purpose” filings and provide very little information.²¹

Beddison Group Pty Ltd provides services to other members of the Group and “the immediate and ultimate parent entity is Outsourcing Inc.”²²

For the six months covered in the financial report, The Beddison Group Pty Ltd reported a net loss after tax of \$9,065, on total revenue of \$1.8 million, and a profit of \$72,600 for year ended June 2016.²³ All of the revenue was derived from “service fees”, presumably from the other entities in the Beddison Group.²⁴

Despite the small loss for the current period, the cash flow statement shows income tax paid of only \$82,329 for the six month period and only \$146,573 for the prior year ended June 2016.²⁵ These are small amounts of tax paid



18 Outsourcing Inc., 1 April 2016, “Notice of Regarding Acquisition of Shares and Interests of Beddison Group, Australia”, p.2.

19 Ibid, pp. 4-7.

20 Ibid.

21 The Beddison Group Pty Ltd, Financial report for the six month transitional financial period ended December 2016, p.12, Note 1, Statement of Significant Accounting Policies (filed with ASIC; based on a search of the ASIC website, no other entities in the Beddison Group file financial statements with ASIC).

22 Ibid., p.2, Principal activities; p.24, Note 17, Company Details.

23 Ibid, p.1, Directors’ Report; p.8., Income Statement.

24 Ibid, p.18, Note 2, Revenue and Other Income

25 Ibid, p.11, Cash Flow Statement.

for the scale of the Beddison Group businesses. However, the tax paid by Beddison Group Pty Ltd was double company's reported after-tax profits in FY2016. There is no information in the filing about any tax consolidation of the Beddison Group could explain these tax payments. The very limited disclosure raises even more questions.

The cash flow statement for the Beddison Group Pty Ltd also shows a return of capital of nearly \$2 million and proceeds from related party loans of over \$2.2 million in FY2016.²⁶ There is no explanation and no disclosure of related party transactions. The notes to the financial statements show loans to Beddison International Unit Trust, Hoban Recruitment Unit Trust and Index Consultants Unit Trust and loans from Outsourcing Inc, Luxxe Outsourced Hotel Services Pty Ltd and Clicks Recruit (Australia) Unit Trust, which are all related parties.²⁷ Related party loans with the trust entities and the offshore parent company raise concerns about the possibility of profit shifting for tax avoidance.

The notes to the financial statement show a balance of franking credits on dividends "may be prevented from distribution in subsequent years" of over \$1.3 million.²⁸ While the meaning of this is unclear, it may be due to the 80% ownership of Outsourcing Inc in Japan and the inability for foreign owners to use franking credits.

Unexplained transactions, complex corporate structures and the complete lack of transparency in Australia raise major concerns.

What does Outsourcing Inc have to hide?

OUTSOURCING INC'S NEW BUSINESS MODEL & AUSTRALIAN EXPANSION

Since the acquisition of the Beddison Group, Outsourcing Inc's business in Australia has grown rapidly. In 2015, revenue from Australia made up only 2.8% of total global revenue, by 2017 it was 16.7% or **\$485 million**.²⁹ The Australian business may be more profitable than the global business, but applying the company's global profit margin of 4.5%, suggests a profit in Australia of **\$22 million** in 2017.³⁰

If Australia's corporate income tax rate of 30% is applied to this amount it would equate to a tax bill of \$6.6 million. However, this amount is forty times larger than the 2016 annualised tax payments of \$165,000 reported by Beddison Group Pty Ltd in this recent filing. The general public has no way of knowing how much tax the Beddison Group Unit Trusts may or may not have paid on profits partly derived from over \$60 million in annual Australian federal government contracts.

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26 Ibid.

27 Ibid, p.21, Note 6, Trade and Other Receivables; p.22 Note 10, Trade and Other Payables.

28 Ibid, p.23, Note 14, Dividends.

29 Outsourcing Inc., Factbook for the year ended 31 December 2017, p.17, Consolidated Information by Operating Segment and Region. www.outsourcing.co.jp/-/media/outsourcing/en/top/ir/irlibrary/factbook/20180227.ashx The region is Oceania, but at the time of the report no business outside of Australia was reported in this region. Revenue of JPY38,451 million is converted using exchange rate of 1 JPY = 0.013 AUD, as of 7 September 2018.

30 Ibid, p.19, Consolidated Major Indicators shows ratio of profit before tax of 4.5% in FY17.

The acquisition of the Beddison Group – in addition to taking advantage of the growth in outsourcing of federal public services – was explicitly designed to tap into the growing business of outsourcing labour for state-run prisons and privately-operated public facilities, such as airports. These are critical sectors for Hoban Recruitment. The company stated these businesses are “growing significantly in developed countries, especially in Australia, which has progressed in terms of outsourcing [public] services”.³¹

Outsourcing Inc was estimated to have 12,290 worksite employees in Australia at the end of 2017.³² ***If these were actual employees, Outsourcing Inc would have 20% more Australian employees than Visy, Australia’s largest private company.***³³

There are other Australian subsidiaries of Outsourcing Inc, but the Beddison Group is the largest. Outsourcing Inc’s latest Australian acquisition was announced in late August 2018. The *Australian Financial Review* reported Outsourcing Inc had spent \$40.6 million to purchase Sydney-based Project Management Partners (**PM-Partners**), a consulting firm which has significant contracts with the New South Wales and Victorian governments and competes directly with the big four accounting firms.³⁴

The company announcement stated:

“In overseas markets, both central and local governments particularly in developed economies proactively outsource public service operations to private sectors, and the market size is assumed as much as trillions of yen. Given the stable nature of public services businesses which are less susceptible to economic fluctuations, the OS Group has penetrated into regions such as Europe and Australia using dynamic M&A strategy and rapidly expanded its businesses since fiscal 2015.”³⁵

Outsourcing Inc’s traditional business has been to supply temporary labour to domestic manufacturing business in Japan, but it is now “making an extended foray into the outsourced public services business and other service fields that are less susceptible to external economic factors.”³⁶

Outsourcing Inc aims “to become the No. 1 global human resource services provider” and to have global revenues of over \$12 billion by 2023.³⁷ Two primary areas of growth for the company are Australia and the UK, because “civil servants are being reduce[d] and public work is being outsourced to the private sector, a trend that is spreading in advanced countries due to fiscal constraints.”³⁸

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- 31 Outsourcing Inc., 1 April 2016, “Notice of Regarding Acquisition of Shares and Interests of Beddison Group, Australia”, p.1.
- 32 The estimate is derived from figures reported in Outsourcing Inc, FY18 Q1 factsheet for FY17. www.outsourcing.co.jp/-/media/outsourcing/en/top/ir/irlibrary/factsheet/q2fy1218_eng_p.ashx The number of overseas worksite employees is reported as 37,136, the Australia estimate is based on applying the Oceania revenue as a percentage of Overseas revenue, which is 33%.
- 33 Visy was ranked #1 in the *Australian Financial Review’s* “Top 500 Private Companies 2017”, 6 September 2017. Visy had 10,200 employees. www.afr.com/leadership/afr-lists/top-500-private-companies/top-500-private-companies-2017-20170903-gy9ori
- 34 Edmund Tadros, 4 September 2018, *Australian Financial Review*, “Japanese firm Outsourcing Inc buys Australian consulting firm PM-Partners for \$40.6m”. www.afr.com/business/accounting/japanese-firm-outsourcing-inc-buys-australian-consulting-firm-pmpartners-for-406m-20180903-h14vu1
- 35 Outsourcing, Inc., 31 August 2018, “Notice Regarding Acquisition of Shares of Project Management Partners Pty Limited, Australia”, p. 1. www.outsourcing.co.jp/-/media/outsourcing/en/top/ir/news/20180831_1.ashx
- 36 Outsourcing Inc., FACTBOOK, for the 2nd Quarter of Fiscal Year Ending December 31, 2018”, p.7. www.outsourcing.co.jp/-/media/outsourcing/en/top/ir/irlibrary/factbook/q2fy1218_e.ashx
- 37 Outsourcing Inc, May 2018, Financial Results for the 1st Quarter of Fiscal year Ending March 31, 2018”, p.26. www.outsourcing.co.jp/-/media/outsourcing/en/top/ir/irlibrary/explanation/20180514.ashx
- 38 Ibid, p.42.

WHO BENEFITS?

Australians may lose from public sector outsourcing, but some people overseas win big. The Chairman, CEO and founder of Outsourcing Inc is also the largest shareholder.³⁹ He owns more than \$500 million worth of the company's shares, 18% of the total.⁴⁰ He is also the President and Director of Trillion, a separate company he founded in 2005.⁴¹ No public information is available on Trillion Inc except it performs investment management and consulting.⁴²

The lack of information on Trillion Inc is somewhat surprising but does match the

complete lack of any public information on Outsourcing Inc's Australian businesses.

Do Australian governments know who they are paying to staff and run outsourced public services? Do Outsourcing Inc's Australian subsidiaries pay tax in Australia? Why is the corporate structure so opaque? Is there something to hide?

Do Australian governments know who they are paying to staff and run outsourced public services?

RECOMMENDATION ACCOUNTABILITY FOR LABOUR BROKERS

The Taxable Payment Reporting System (TPRS) should be extended to cover the use of all labour hire or outsourced labour firms, including by all government agencies and public bodies. The TPRS is designed to ensure payments to contractors are reported to the ATO to ensure appropriate tax payments are made by those contractors. As a result of the Black Economy Task Force, the government has recently extended the TPRS from the construction industry, where it has been in place for some time, to cover contracting with cleaners and couriers.

RECOMMENDATION FULL FINANCIAL STATEMENTS ON BIG CONTRACTORS, NO EXCUSES

Any company, including through separate subsidiaries, which receives over \$10 million per year from any government body – for any contracts, services, provision of labour or goods, subsidies, or any other forms of payment – must be required to file full financial statements with ASIC in full compliance with Australian accounting standards, with no recourse to use special purpose filings or reduced disclosure requirements.

39 Outsourcing Inc., FACTBOOK, for the 2nd Quarter of Fiscal Year Ending December 31, 2018", p.18.

40 Ibid. 18,738,500 shares at JPY2,056 per share and converted at 1 JPY = 0.013 AUD.

41 Outsourcing Inc., 14 March 2017, "Notice of the 20th Ordinary General Meeting of Shareholders", p.3. www.outsourcing.co.jp/-/media/outsourcing/en/top/ir/meeting/20170313.ashx

42 Information from a search of the "National Tax Agency's Corporate Number Publication Site" and "Legal Affairs Bureau".

CONCENTRIX

Along with Serco, Stellar and three other companies, Concentrix Services Pty Ltd was on a panel to provide outsourced labour hire to the ATO and other federal agencies.⁴³ In August 2018, Concentrix was awarded a \$71 million contract to provide outsourced labour to the Department of Human Services. The contract was specifically to operate Centrelink call centres and the Federal Human Services Minister responded to criticism by saying, “the use of private sector partners was not new, and the Australian Taxation Office had been using the model since 2008.”⁴⁴

Concentrix is “the outsourced business services division of SYNEX Corporation”, a publicly listed US company, and has been involved in a major scandal with an outsourced service contract with the UK tax authority.⁴⁵ The “Calamitous Concentrix” contract cost the UK tax authority over \$69 million, not including redress.⁴⁶

The contract was awarded by the tax authority in 2014 to conduct checks to reduce fraud and error in tax credit payments, however, the company failed to deliver and tax authority staff had “to review more than 70,000 cases in which tax credit payments were stopped or altered”.⁴⁷ After Concentrix stopped payments to recipients, the company’s call centre “went into meltdown in summer 2016”.⁴⁸ Concentrix “was unable to cope with the volume of calls from tens of thousands of benefit recipients whose payments had been stopped.”⁴⁹ In September 2017, the outsourced work was brought back in-house.

What could go wrong with Concentrix handling Centrelink calls?

How did Concentrix remain on the ATO outsourced labour hire panel with this track record?

RECOMMENDATION CERTIFICATION AND SCREENING OF TAX PRACTICES FOR PARENT AND SUBSIDIARY COMPANIES

As per the consultation conducted by the Australian Treasury, any company being awarded a government contract worth more than \$4 million must be certified to have a satisfactory tax paying record both in Australia and overseas. This should apply not only to the direct subsidiary but to the parent company as well and include a review of contract performance and business conduct in other jurisdictions.

43 www.tenders.gov.au/?event=public.son.view&SONUID=B5B3F27F-D171-C166-D41C9F9B40E02ACB

44 Peter Jean, *The Advertiser*, 8 August 2018, “Up to 1000 new jobs in Adelaide with Centrelink call centre”. www.themercury.com.au/news/national/up-to-1000-call-centre-workers-will-be-hired-in-adelaide-to-help-cut-centrelink-phone-waiting-times/news-story/730db4ecb8fa68892da0be1effddd418

45 www.concentrix.com/about-us/

46 Jim Dunton, *PublicTechnology.net*, 12 November 2017, “Calamitous Concentrix cost HMRC £38m, Treasury documents reveal”. www.publictechnology.net/articles/news/calamitous-concentrix-cost-hmrc-%C2%A338m-treasury-documents-reveal
Converted using 1 GBP = 1.83 AUD, rate on 15 September 2018.

47 Ibid.

48 Ibid.

49 Ibid.

CASE STUDY #2: SERCO

Is Serco a company Australians should trust to handle sensitive private information on behalf of the ATO and Centrelink?

Serco Citizen Services Pty Ltd, an Australian subsidiary of UK-listed Serco Group plc, is the largest provider of outsourced labour to the ATO. In 2017, Serco was awarded temporary personnel services contracts with the ATO worth over \$129 million and a Department of Human Services (Centrelink) contract for nearly \$54 million.⁵⁰ Serco, best known for its operation of prisons and immigration detention centres, has been involved in a range of controversies in Australia and globally.⁵¹

Serco's global business is entirely based on government contracts and the company has a major presence in Australia beyond these two call centre contracts. In 2017, Serco reported 19% of its global revenue came from Australia and of this more than 93%, or over \$952 million, came from contracts with the Australian federal government.⁵² The largest contracts were to operate immigration detention centres.

Serco also has significant contracts with state governments for prisons, hospitals and other services which have attracted controversy. For example, Serco – while continuing to operate some services in the Fiona Stanley Hospital in Western Australia – was “stripped of its responsibilities for sterilising hospital equipment” in 2015 when, on more than one occasion, “tools were returned for surgeries with tissue and blood on them.”⁵³

IN MEDIEVAL TIMES

Serco's 2017 annual report justifies the outsourcing of public services “in very sensitive areas” by saying it has been done for centuries. Serco's examples of public services provided by private contractors are “in medieval times, fighting wars and tax collection” and the “transportation of prisoners from the UK to Australia”.⁵⁴

Public services and delivery by the private sector

Governments have used private contractors to deliver public policy, often in very sensitive areas, for centuries. In medieval times, fighting wars and tax collection were often outsourced, in whole or part, to private enterprise. The transportation of prisoners from the UK to Australia, which started in 1788 and continued until 1868, was carried out entirely by private contractors.

A HIGH-RISK CLIENT

Serco's global reputation was evidently so bad, Appleby, the law firm at the centre of the Paradise Papers tax scandal, was hesitant to take on the company as client.⁵⁵ The law firm believed Serco to be a “high-risk” client, and had concerns about its “history of problems, failures, fatal errors and overcharging”.⁵⁶ These concerns have not stopped Australian federal and state governments from continuing to do business with Serco and issuing new contracts for outsourced public sector services.

50 <http://contracts.disclosurelo.gs/displaySupplier.php?supplier=89062943640-SERCO+GLOBAL+SERVICES+PTY+LTD&year=2017>

51 Corporate Watch, 28 June 2018, “Serco: Company Profile 2018”. <https://corporatewatch.org/serco-company-profile-2018/>

52 Serco Group plc, “Annual Report and Accounts 2017”, p.48 & p.180 (£522.1 m in contracts with the Australian government, converted at 1GBP = 1.82AUD). www.serco.com/media/2384/serco-annual-report-and-accounts-2017.pdf

53 Rick Morton, 24 July 2015, *The Australian*, “Serco sights on NDIS billions”. www.theaustralian.com.au/national-affairs/health/serco-sights-on-ndis-billions/news-story/a1b1b50da9452ae84a522d6cab975464

54 Serco Group plc, “Annual Report and Accounts 2017”, p.10.

55 Christopher Knaus, 7 November 2017, *The Guardian*, “Serco a high-risk client with history of failures, offshore law firm found”. www.theguardian.com/business/2017/nov/06/serco-a-high-risk-client-with-history-of-failures-offshore-law-firm-found

56 Ibid.

SERCO'S LIMITED TAX AND DISCLOSURE IN AUSTRALIA

Serco has multiple subsidiaries in Australia which file annual reports with ASIC. However, despite the size of these companies and the large government contracts, the companies qualify for reduced disclosure or special purpose filings which contain limited information.⁵⁷

Most cases of aggressive tax avoidance involve reducing taxable income or profits through artificial, but often legal, means. Whether explicitly for tax avoidance or not, Serco's reported profits in Australia have been significantly reduced in a number of ways. While the ATO corporate tax transparency data is a helpful tool, it is not enough to understand the tax practices within a complex global corporate structure.

All of the Serco subsidiaries in Australia are part of a tax consolidated group with the head tax entity being Serco Group Pty Limited, which is listed in all three years of ATO corporate tax data.⁵⁸ The company's tax payments have shrunk much faster than total income or taxable income. In 2015/16, the most recent year of ATO data, total income was \$1,061.2 million, taxable income was \$19.2 million and tax paid was under \$3.8 million. Taxable income declined from 4.7% of total income in 2013/14 to only 1.8% in 2015/16. A profit margin of 4.7% seems legitimate, but 1.8% is quite low and seems inconsistent with Serco's global reporting.

The company's tax payments have shrunk much faster than total income or taxable income ... Taxable income declined from 4.7% of total income in 2013/14 to only 1.8% in 2015/16.

The annual report of Serco Group plc, the listed parent company in the UK, reported profit margins in the Asia Pacific region – predominately Australia – of 4.1% and 4.0% in 2017 and 2016, respectively.⁵⁹ These profit margins are more than double those calculated from the most recent ATO corporate tax transparency data.

According to the ATO data, tax payable as a percentage of taxable income also declined from 23.1% in 2013/14 to only 19.8% in 2015/16, despite a corporate income tax rate of 30%. However, there are legitimate reasons for paying a tax rate below the statutory rate.

The most recent ASIC filing of Serco Group Pty Ltd shows income tax payments of \$9.4 million on pre-tax profits of \$25.9 million in 2017 and tax payments of \$11.3 on pre-tax profits of \$72.4 million in 2016.⁶⁰ This indicates an effective tax rate of above 36% in 2017, but below 16% in 2016.

It is possible some of the reported tax payments could have been made in Hong Kong, as various Hong Kong business and joint ventures are owned through Australia. Since the corporate income tax rate in Hong Kong is only 16.5%, Serco may have an incentive to shift profits from Australia to Hong Kong. The only information about Serco's business in Hong Kong in the Australian filing is the name of the Hong Kong subsidiary and its 100% ownership.

57 This report has examined the 2017 financial statements filed with ASIC of the Australian parent company, Serco Group Pty Ltd, two of its subsidiaries – Serco Australia Pty Ltd and Serco Citizen Services Pty Ltd and a fourth company, Serco Traffic Camera Services (VIC) Pty Ltd. The fourth company is part of the tax consolidated group but owned directly by the immediate parent company of Serco Group Pty Ltd in the UK. All of these companies use Reduced Disclosure Requirements.

58 The ATO data can be obtained here: <https://data.gov.au/dataset/corporate-transparency>

59 Serco Group plc, "Annual Report and Accounts 2017", p.48.

60 Serco Group Pty Limited, Annual Financial Report, 31 December 2017, pp.10 & 7; Income tax paid from the cash flow statement on p.10 and profit before income tax from the income statement on p.7.

WHAT'S PARKING (WITH WILSON) IN HONG KONG?

Serco's primary Australian subsidiary owns a Hong Kong company, Serco Group (HK) Limited, which according to the company website has significant healthcare and transport operations in Hong Kong, including a 40/60 joint venture with the Wilson Group (Hong Kong Parking Ltd).⁶¹ Private company filings in Hong Kong show ownership but provide no financial information or any information on the company operations.

Serco's Australian filings provide no information about the profits, operations or tax payments of the Hong Kong company. However, the Australian filing does state all, "intragroup assets and liabilities, equity, income, expenses and cash flows relating to transactions between members of the Group are eliminated in full on consolidation."⁶² There is no public information on interactions which may or may not happen between the Australian parent company and its Hong Kong subsidiary. All of these related party transactions are "eliminated".

The Wilson Group is another major federal contractor with serious allegations of tax avoidance and extensive ties to tax havens. In 2016, an ABC Four Corners expose on the Wilson Group based on leaked documents from the Panama Papers, reported the "two brothers embroiled in a massive Hong Kong corruption scandal were ultimately in control of an Australian security company that earned roughly half a billion dollars in lucrative government contracts."⁶³

Additional media coverage in the *Sydney Morning Herald* stated Wilson Security, the "company entrusted by the Australian government to guard offshore detention centres, the Defence department and the Tax Office has been implicated in the unprecedented leak of shell company records that exposes the murky world of tax havens."⁶⁴

Another article examined numerous irregularities in the Wilson Group's Australian filings over a number of years which resulted in reduced profits and tax payments and noted there was "no small irony that Wilson has its security guards stationed at court houses and the Australian Taxation Office."⁶⁵

ABC Four Corners ... reported "two brothers embroiled in a massive Hong Kong corruption scandal were ultimately in control of an Australian security company that earned roughly half a billion dollars in lucrative government contracts."

61 Ibid, p.34, Note 27 (b) Subsidiaries (shows ownership of the Hong Kong entity). The Serco Hong Kong website describes some of Serco's operations in Hong Kong, www.serco-hk.com/# The 2017 Annual Return of Serco Group (HK) Limited filed with the Companies Registry in Hong Kong also shows the shares are owned by Serco Group Pty Ltd in Australia. The most recent Annual Return filed (17 September 2017) with the Companies Registry in Hong Kong shows Hong Kong Parking Limited is 60% owned by Wilson Parking (Holdings) Limited and 40% by Serco Group (HK) Limited.

62 Ibid, p.13.

63 Lisa Main with ICIJ, 5 April 2016, *ABC Four Corners*, "Panama Papers leak: Australian security company Wilson linked to Hong Kong corruption scandal". www.abc.net.au/news/2016-04-04/australian-company-wilson-linked-to-hong-kong-corruption-scandal/7291178

64 Kate Aubusson, 4 April 2016, *Sydney Morning Herald*, "Wilson Security implicated as Panama Papers exposes Australian tax haven benefactors". www.smh.com.au/business/wilson-security-implicated-as-panama-papers-exposes-australian-tax-haven-benefactors-20160404-gny8g3.html

65 Michael West, 3 April 2016, *Sydney Morning Herald*, "Wilson Parking's tax numbers appear to defy economic reality". www.smh.com.au/business/wilson-parkings-tax-numbers-appear-to-defy-economic-reality-20160408-go1w4u.html

POSSIBLE AUSTRALIAN TAX SCHEMES?

According to the ASIC filing of Serco Group Pty Ltd, the company's performance and taxable profits in 2017 were significantly impacted by "net onerous contract provision release" of \$20.2 million, "impairment charges" of \$36.5 million "in respect of goodwill" and \$10.9 million "relating to the impairment of customer relationship assets" in the Defence business.⁶⁶ These charges, mostly connected to the early termination of a maintenance contract for boats operated by the Australian Navy, reduced taxable income in Australia. While there were undoubtedly legitimate costs associated with early termination of contracts, it is impossible to determine whether these intangible costs in the company's accounts may have been artificially inflated to reduce taxable income in Australia.

Also impacting taxable income was the repayment of \$127.8 million in borrowings in 2017.⁶⁷ This loan was from the ultimate parent company, Serco Group plc, at an interest rate of "Australian LIBOR" plus 3.6% and "was repaid in cash on 12 November 2017".⁶⁸ In stark contrast, amounts receivable from the parent company had an interest rate of LIBOR plus 0.2%.⁶⁹ Intercompany interest expense was \$6.0 million and \$7.8 million in 2017 and 2016, respectively.⁷⁰

Offshore related party loans to the Australian business were at significantly higher interest rates than [those] from Australia to Serco's global operations.

Offshore related party loans to the Australian business were at significantly higher interest rates than related party loans from Australia to Serco's global operations. This divergence of interest rates on offshore related party loans reduces profits and taxes in Australia.

These offshore related party interest payments are very significant, equivalent to 64% and 69%, of the total tax paid of \$9.4 million and \$11.3 million in the same years. Offshore related party interest payments have frequently been used by multinationals – as demonstrated in the landmark federal court case with Chevron – to reduce taxable income in Australia. In the wake of the Chevron case, the ATO has implemented new practical compliance guidelines on offshore related party debt, which the government forecast would increase revenues by \$10 billion over the coming decade.⁷¹

In 2017, \$24.4 million was paid by Serco Group Pty Limited in Australia – and its subsidiaries – in the form of "Central Recharges" to Serco Group plc and its subsidiaries.⁷² In contrast, less than \$4.6 million in "Central Recharges" flowed in the other direction. There is no explanation of these transactions, except they "represent the recharge of costs incurred centrally to the appropriate statutory entity, and were made on normal commercial terms and conditions."⁷³ As with most company filings, there is no verification of 'normal commercial terms and conditions' or of the 'arm's length' nature of these transactions. While some "Central Recharges" may be legitimate, the net effect of these transfers is a reduction of nearly \$19.8 million in Australian revenues in 2017, more than double the total taxes paid in 2017 by the primary Australian subsidiary.

In 2017, \$24.4 M was paid by Serco Group Pty Limited in Australia ... in the form of "Central Recharges" to Serco Group plc ... In contrast, less than \$4.6 M ... flowed in the other direction ... The net effect of these transfers is a reduction of nearly \$19.8 M in Australian revenues

66 Serco Group Pty Limited, Annual Financial Report, 31 December 2017, p.3.

67 Ibid, p.10, Cash flow statement.

68 Ibid, p.30, Note 22, Related party transactions.

69 Ibid.

70 Ibid, p.22, Note 6 (e) Finance costs.

71 Eryk Bagshaw, 18 August 2017, *Sydney Morning Herald*, "Multi-billion dollar tax windfall after Chevron abandons appeal". www.smh.com.au/business/the-economy/multibillion-dollar-tax-windfall-after-chevron-abandons-appeal-20170818-gxz718.html

72 Serco Group Pty Limited, Annual Financial Report, 31 December 2017, p.30, Note 22, Related party transactions.

73 Ibid.

Serco Group Pty Limited is directly owned by Serco Holdings Limited, which is owned by Serco Group plc, both in the UK.⁷⁴ In 2017, the Australian company “undertook a capital reduction of” \$50 million which was “settled in cash on 27 December 2017.”⁷⁵ This “capital reduction” appears to have legally transferred \$50 million in “passive income” to the parent company in the UK with no corporate income tax paid in Australia.

Another Serco subsidiary in Australia, Serco Australia Pty Ltd, which owns other Australian subsidiaries and is owned by Serco Group Pty Ltd, also reported a \$50 million capital reduction in the value of company shares which “was settled in cash on 27 December 2017.”⁷⁶ There is no mention of this in the filing of Serco Group Pty Limited, unless this is the same \$50 million passing through the corporate structure back to the UK.

In 2017, Serco Group Pty Ltd paid directors and key management personnel “employed by the Company or entities controlled by the ultimate parent, Serco Group plc” nearly \$8.9 million, down from nearly \$9.9 million in the previous year.⁷⁷ Compensation paid by the Australian company to employees or directors of the parent company could also reduce taxable income in Australia. Executive pay was 95% and 88% of total tax paid by the company in 2017 and 2016.

The lack of transparency in Serco’s annual financial statements in Australia, including the impact of onerous contract provisions and other accounting issues, has been reported on since at least 2015.⁷⁸ Serco appears to have a history of creative accounting, which reduces tax obligations in Australia.

The lack of transparency in Serco’s annual financial statements in Australia, including the impact of onerous contract provisions and other accounting issues, has been reported on since at least 2015

THE BIG LOCK UP

In 2017, the biggest prize for Serco anywhere in the world was winning the contract to operate and maintain the new Clarence Correctional Centre in Grafton, New South Wales. Serco’s partners in the project include Macquarie Capital and John Holland, a construction company owned by China Communications Construction Company, in which the Chinese government has a 64% controlling interest.⁷⁹ The Chinese state-owned construction company, through John Holland, is also a major contractor with Australia’s Department of Defence, despite having been banned from World Bank projects due to corruption issues.⁸⁰

Serco Group plc’s 2017 annual report states the Grafton prison is the company’s “largest ever order, worth £1.5bn”.⁸¹ The prison, “when completed, will be the largest... in Australia; the estimated total contract value to Serco over a 20-year term is approximately AUD2.6bn”.⁸² Despite Serco’s questionable track record in operating prisons, the New South Wales state government has committed to pay Serco \$2.6 billion to run Australia’s largest prison.

74 Ibid, p.29, Note 22, Related party transactions.

75 Ibid, p.29, Note 19, Contributed equity.

76 Serco Australia Pty Limited, Annual Financial Report, 31 December 2017, p.32 Note 19 Issued capital.

77 Serco Group Pty Limited, Annual Financial Report, 31 December 2017, p.29, Note 21, Key management personnel disclosures.

78 Michael West, 4 May 2015, *Sydney Morning Herald*, “Red ink flows from Serco’s detention centres”. www.smh.com.au/business/red-ink-flows-from-sercos-detention-centres-20150503-1myt9v.html

79 The entity with the contract for the public private partnership from the New South Wales state government is NorthernPathways, Serco and the other partners are listed on the website: <http://northernpathways.com.au/> The Chinese government’s 63.8% through “China Communications Construction Group (Limited) (CCCG), which is a state-owned enterprise, in turn wholly owned by the State Council of China and supervised by the State-owned Assets Supervision and Administration Commission” is confirmed in a recent Moody’s, 3 April 2018, “China Communications Construction’s strong 2017 results support its credit profile”. www.moody.com/research/Moodys-China-Communications-Constructions-strong-2017-results-support-its-credit-PR_381674

80 Jenny Wiggins, 8 April 2015, *Sydney Morning Herald*, “FIRB approves China Communications Construction Company’s John Holland acquisition”. www.smh.com.au/business/firb-approves-china-communications-construction-companys-john-holland-acquisition-20150408-1mgd5L.html

81 Serco Group plc, “Annual Report and Accounts 2017”, p.17.

82 Ibid, p.38.

Serco's management of the Acacia Prison in Western Australia, currently Australia's largest jail, has been heavily criticised.⁸³ A joint inquiry by the WA Corruption and Crime Commission, Department of Justice and WA Police in late 2017 discovered "disturbing information and evidence about the ease by which serious drugs and steroids can be smuggled into prisons".⁸⁴

In 2017, Serco lost the contract to run the Mount Eden prison in New Zealand "after four years riddled with allegations of fight clubs, poor supervision and understaffing".⁸⁵ In 2016, NZ Department of Corrections chief executive Ray Smith said Serco's management of the prison represented "**failures on a large scale**".⁸⁶ Kelvin Davis, Labour's Corrections spokesperson, said the Serco contract "was a total disaster from start to finish" and Serco had to go.⁸⁷

Much more could be said about Serco's failing performance on prisons, immigration detention centres and other government contracts, but the focus of this report is on transparency and tax practices. Why did the New South Wales government award Serco this \$2.6 billion contract given its track record? Serco's federal immigration detention centre contract, which currently accounts for over 30% of the company's Asia Pacific revenue, will be rebid in 2019.⁸⁸ Perhaps the federal government will be more prudent.

Victorian drivers might be angered knowing their speeding tickets end up as tax-free dividends for Serco in the UK.

SPEEDING TICKETS CONVERTED TO OFFSHORE DIVIDENDS & OTHER SUBSIDIARIES

Another Serco company in Australia, Serco Traffic Camera Services (VIC) Pty Ltd, operates traffic cameras, issues violations and collects penalties on behalf of the State of Victoria. This subsidiary is part of the Serco Group Pty Ltd tax consolidated group, but is not owned by Serco Group Pty Ltd. It is directly owned by Serco Holdings Limited in the UK.⁸⁹

Serco Traffic Camera Services (VIC) Pty Ltd made after tax profits of nearly \$2.4 million on revenues of \$36.2 million in 2017.⁹⁰ On 19 December 2017, it declared and paid an unfranked dividend of \$20 million.⁹¹ Presumably, the dividend, as "passive income", was sent directly to the parent company in the UK and was not subject to Australian corporate income tax. There is very little information in the "special purpose" filing of this company and there is no specific mention of this dividend payment in the UK filings of the direct parent company.

Victorian drivers, already upset with paying speeding tickets, might be further angered knowing their speeding tickets end up as tax-free dividends for Serco in the UK.

Serco Citizen Services Pty Ltd, the Serco subsidiary winning contracts with the ATO and the Department of Human Services, is a direct subsidiary of Serco Group Pty Ltd. Serco Citizen Services Pty Limited's "Special Purpose Financial Report" states after-tax profit was \$3.8 million in 2017, down from \$5.4 million in 2016.⁹² This was

83 Two examples include: PerthNow, 17 September 2018, *The Sunday Times*, "WA prison officers claim Acacia bursting at the seams, a powder keg waiting to explode". www.perthnow.com.au/news/wa/wa-prison-officers-claim-acacia-is-bursting-at-the-seams-and-a-powder-keg-waiting-to-explode-ng-b88961589z

ABC News, 28 July 2014, "Two security guards suspended after prisoner Brett Klimczak escapes from WA's Acacia Prison". www.abc.net.au/news/2014-07-28/prisoner-escapes-from-acacia-prison-wa-for-second-time/5628588

84 AAP, 8 December 2017, *The Guardian*, "Two officers at Serco-run prison suspended over drug smuggling investigation". www.theguardian.com/australia-news/2017/dec/08/two-officers-at-serco-run-prison-suspended-over-drug-smuggling-investigation

85 Tom Furley, 31 March 2017, *Radio NZ*, "It's haere ra to Serco as Mt Eden Prison contract ends". www.radionz.co.nz/news/national/327855/its-haere-ra-to-serco-as-mt-eden-prison-contract-ends

86 *Radio NZ*, 7 October 2016, "Serco rated 'exceptional' as fight clubs operated". www.radionz.co.nz/news/national/315064/serco-rated-exceptional-as-fight-clubs-operated

87 Ibid.

88 Serco Group plc, "Annual Report and Accounts 2017", p.48.

89 Serco Traffic Camera Services (Vic) Pty Limited, Special Purpose Financial Report, 31 December 2017, p.13, Note 3(g) Taxation & p.22, Note 20 Parent entity.

90 Ibid, p.3 Directors' report & p.6 Income statement.

91 Ibid, p.3 Directors' report.

92 Serco Citizen Services Pty Limited, Special Purpose Financial Report, 31 December 2017, p.3.

on revenues of \$73.0 million and \$68.2 million, respectively.⁹³

Special purpose filings contain very limited information. For example, the cash flow statement (see below) contains no numbers.⁹⁴

Serco Citizen Services Pty Limited			
Statement of cash flows			
For the year ended 31 December 2017			
	Note	2017 \$'000	2016 \$'000
Cash flows from operating activities			
Receipts from customers		-	-
Payments to suppliers, employees and other providers		-	-
Cash flows generated by operating activities		-	-
Cash flows from investing activities			
Payment for purchase of plant and equipment		-	-
Cash flows used in investing activities		-	-
Cash flows from financing activities			
Issue of ordinary shares		-	-
Net transfers to related entities		-	-
Net cash used in financing activities		-	-
Net increase/(decrease) in cash and cash equivalents		-	-
Cash and cash equivalents at the beginning of period		-	-
Cash and cash equivalents at the end of period		-	-

The filing explains the company “is part of a group adopts treasury arrangements under which cash resources are held centrally. The Company does not have its own bank account. All receipts... and payments... are made directly to and from centrally controlled funds.”⁹⁵ In other words, the company acting on behalf of the ATO and the Department of Human Services claims it has no separate bank account.

Should a company with a lack of transparency, questionable tax practices and a controversial track record be handling sensitive and private conversations with the Australian public on behalf of Centrelink and the ATO?

Should a company with a lack of transparency, questionable tax practices and a controversial track record be handling sensitive and private conversations?

RECOMMENDATION PUBLIC DISCLOSURE OF CONTRACTS OVER \$1 MILLION A YEAR

All government contracts over \$1 million per year must be made publicly available.

DUN & BRADSTREET

Dun & Bradstreet Australia (D&B) had a contract with the ATO “for the collection of outstanding tax debt” from 2007 to 2017.⁹⁶ In 2015, Australia private equity firm Archer Capital bought the Australian D&B business.⁹⁷ Private equity in general – and Archer Capital in particular – have been connected to multiple concerns about tax avoidance in Australia.⁹⁸ What could possibly go wrong with the ATO outsourcing the collection of personal debt to a credit rating agency owned by a private equity firm? Perhaps the ATO thought better about renewing the contract.

93 Ibid, p.6, Income statement.

94 Ibid, p.9.

95 Ibid.

96 <http://dnb.com.au/article-mr-dun-and-bradstreet-renews-contract-with-australian-tax-office.html#.W57zgNgzYU>

97 <http://dnb.com.au/article-mr-dnb-shifts-to-partnership-model-in-anz-market.html#.W59bLNgaMI>

98 Ben Butler, Leo Shanahan, 23 March 2016, *The Australian*, “Tax Commissioner Chris Jordan warns private equity firms”: www.theaustralian.com.au/business/tax-commissioner-chris-jordan-warns-equity-firms/news-story/b0b37b4cfcbaea3a7a302fb8c8f218a9 More recently concerns have been raised about tax avoidance by Allity Aged Care, also owned by Archer Capital. This has been the subject of a Senate Inquiry and a summary of the issues is here: www.workerscapital.org/investor-brief-archer-capital-allity

CASE STUDY #3: STELLAR

Stellar Asia Pacific Pty Ltd through its call centres is another major provider of outsourced labour to the ATO, other federal agencies, state governments and companies operating in Australia. Stellar is one of many private equity investments of a wealthy Texas family with a long history of questionable business practices. Stellar's corporate structure traces back to Stellar Global, LLC incorporated in the US State of Nevada.⁹⁹ Nevada is widely regarded – and frequently promoted by tax advisers – as one of the best tax havens in the US and is a favoured location for many of the Texas family's other investments.¹⁰⁰

In 2017, Stellar Asia Pacific had a contract for nearly \$50.8 million with the ATO for temporary personnel services.¹⁰¹ In 2018, Stellar was awarded another contract with the Department of Human Services for \$77.8 million.¹⁰² Stellar also “undertake[s] debt collection services” for the Magistrates Courts of Victoria and Perth in the State of Western Australia.¹⁰³

In addition to Australian call centres, Stellar operates call centres in the Philippines and the US.¹⁰⁴ In 2018, Stellar Europe LLC exited the UK call centre business and declared bankruptcy in Nevada. The “bankrupt” company shifted profits to the British Virgin Islands without paying money owed to the UK tax authority or making redundancy payments to laid off workers.

Should Stellar – and its Texas owners – be receiving tens of millions of dollars in government contracts to handle sensitive and private personal information? Has Stellar avoided tax payments in Australia and elsewhere?

STELLAR'S GLOBAL BOARD REPRESENTING TEXAS MILLIONAIRES

The five directors of Stellar Global, LLC in Nevada, the parent of the Australian business, include two Australians who are the Chairman and Principal of the global Stellar business.¹⁰⁵ The Principal of Stellar Global, LLC is also an Australian tax agent.¹⁰⁶ The same five people are also directors of Stellar Asia Pacific Pty Ltd in Australia along with the CEO.¹⁰⁷

The Chairman of Stellar Global, LLC is also CEO “of Hawkstone Asia Pacific Pty Ltd, which is a private investment fund established in 2013 as a vehicle for United States based Hawkstone, LLC to source and manage Asia Pacific equity investments.”¹⁰⁸ Hawkstone, LLC is incorporated in Nevada and controlled by the same Texas family interests. Stellar is listed as a portfolio company of Hawkstone. The Hawkstone Asia Pacific website lists both Stellar Asia Pacific and Stellar Europe as portfolio companies.¹⁰⁹ Several other Hawkstone portfolio companies have been involved in questionable business practices and relate back to the original fortune made by the Jensen family in Texas (see page 26).

One of the other Stellar directors is the Managing Director of the JFO Group LLC, another investment management company of the Jensen family also incorporated in Nevada.¹¹⁰ This director has made a career of managing the wealth of rich Texas families and began at Arthur Andersen where she “rose the ranks to

99 Stellar Group Holdings Pty Ltd, Financial Report For the Year Ended 31 December 2017, p. 2 Directors' report & p.18 Note 10 Controlled Entities. A search of the Nevada Secretary of State website reveals Stellar Global, LLC is incorporated in Nevada.

100 One example of a discussion of Nevada as a major tax haven is here: J. Weston Phippen, 6 April 2016, *The Atlantic*, “Nevada, a Tax Haven for Only \$174: The Panama Papers show how the U.S. state has become a favoured destination rivaling the Cayman Islands and Switzerland”. www.theatlantic.com/national/archive/2016/04/panama-papers-nevada/476994/

101 <http://contracts.disclosurelo.gs/displaySupplier.php?supplier=86082618148-Stellar+Asia+Pacific+Pty+Ltd&year=2017>

102 <http://contracts.disclosurelo.gs/displaySupplier.php?supplier=86082618148-Stellar+Asia+Pacific+Pty+Ltd&year=2018>

103 Stellar Asia Pacific Pty Ltd, Financial Report For the Year Ended 31 December 2017, p.20 Note 16 Contingent Liabilities, shows unsecured bank guarantees to allow Stellar to undertake debt collection services.

104 www.stellarbpo.com.au/about/our-locations

105 www.hawkstoneap.com/index.php/team ; www.linkedin.com/in/arthur-huxtable-a4780b64/?originalSubdomain=au

106 www.huxtableco.com/default.htm

107 Stellar Global, LLC directors are listed in the Entity Details obtained from the Nevada Secretary of State website. Stellar Asia Pacific Pty Ltd and Stellar Group Holdings Pty Ltd both list directors (same) on p.1 of the 2017 Financial Reports.

108 www.2hawkstone.com/our-team.html

109 www.hawkstoneap.com/index.php/portfolio

110 www.hawkstoneap.com/index.php/team

Tax Manager.”¹¹¹ Arthur Andersen notoriously collapsed in the wake of the Enron scandal.¹¹²

Another Stellar board member, who began his career at Ernst & Young, is now on the board of directors of Xerox.¹¹³ He ran the Jensen family businesses until 2014, but now manages the wealth of the Deason family, an even richer Texas family.¹¹⁴ Darwin Deason was the founder of Affiliated Computer Services (ACS), a pioneer in offshore outsourcing for US businesses, which he sold to Xerox for \$6.4 billion in 2010.¹¹⁵ Darwin, and his son Doug, were major donors to the Trump campaign in 2016 and have donated heavily to other right-wing candidates and causes.¹¹⁶

STELLAR TAX SCHEMES?

In 2017, Stellar Asia Pacific Pty Ltd, in its reduced disclosure filing with ASIC, reported profit after tax of \$5.9 million, up from \$3.4 in 2016.¹¹⁷ However, the reported profits – and tax payments – in Australia may have been artificially reduced through several questionable offshore related party transactions.

The most significant related party transaction was a payment of a \$27.1 million “Outsourcing fee” to Stellar Philippines Inc.¹¹⁸ Presumably, this was to pay for call centre work in the Philippines for Australian clients. However, there is no further explanation to justify this large expense to an offshore related party or any other mention of Stellar Philippines Inc in the Australian filing. Stellar Philippines Inc appears to be directly owned by Stellar Global, LLC in Nevada. Could inflated payments to the related party in the Philippines be used to shift profits out of Australia?

According to government records in Singapore, Stellar Asia Pacific Pty Ltd has a “branch office” in Singapore. Singapore is not mentioned in the company’s 2017 ASIC filing in Australia. The Singapore authority (ACRA) granted approval to “waive filing of its local branch’s financial statements” for the 2017 financial year.¹¹⁹ What transactions happen with the branch office in Singapore? Why is the Singapore branch office not disclosed in Australian filings? ***Have profits in Australia been shifted to Singapore to reduce tax liabilities?***

Stellar Asia Pacific Pty Ltd reported paying a fully franked dividend of \$9.8 million to Stellar Group Holdings Pty Ltd, the immediate Australian parent company, in June 2017.¹²⁰ However, there is no reporting of this dividend in the 2017 financial statements of Stellar Group Holding Pty Ltd. Stellar Group Holdings Pty Ltd does report a \$750,000 dividend “declared in June 2017 and paid in full by December 2017” to “Stellar Global LLC (parent entity).”¹²¹ Although not discussed or explained anywhere, the cash flow statement shows dividends paid of nearly \$20.7 million in 2016.¹²² Dividend income is generally treated as “passive income” and not subject to corporate income tax payments. ***Is this 2016 dividend payment another means of avoiding Australian corporate income tax on nearly \$21 million in profits in Australia, at least in part from federal government contracts?***

These dividend payments are particularly large in the context of net cash flow from operations of only \$7.6 million in 2016 and \$15.9 million in 2017, based on total sales (“receipts from customers”) of \$168.0 million and \$195.3 million, respectively.¹²³

Excessive payments to executives or directors, who may also be shareholders and benefit from dividends, could also reduce taxable income in Australia. Stellar Asia Pacific Pty Ltd reported

111 www.linkedin.com/in/suefish/

112 ABC News (US), 14 March 2018, “Arthur Andersen Indicted in Enron Case”.
<https://abcnews.go.com/Business/story?id=87293&page=1>

113 www.xerox.com/en-ie/about/executive-leadership/board-of-directors/scott-letier

114 Ibid.

115 www.forbes.com/profile/darwin-deason/#28d9bd1123c2

116 Michelle Conlin, 29 July 2016, Reuters, “Billionaire Republican donors urge Kochs to back Trump”. www.reuters.com/article/us-usa-election-koch-exclusive/exclusive-billionaire-republican-donors-urge-kochs-to-back-trump-idUSKCN1082N1

117 Stellar Asia Pacific Pty Ltd, Financial Report For the Year Ended 31 December 2017, p.2 Directors’ report.

118 Ibid, p. 21 Note 18 Related Party Transactions.

119 Correspondence from Singapore regulator ACRA to representative of Stellar Asia Pacific Pty Ltd, dated 15 March 2018. Obtained as an attachment to the 2017 filing requested through a private service provider. No previous records exist.

120 Stellar Asia Pacific Pty Ltd, Financial Report For the Year Ended 31 December 2017, p.2 Directors’ report.

121 Stellar Group Holdings Pty Ltd, Financial Report For the Year Ended 31 December 2017, p.2 Directors’ report.

122 Ibid, p.7 Cash flow statement.

123 Stellar Asia Pacific Pty Ltd, Financial Report For the Year Ended 31 December 2017, p.7 Cash flow statement.

total compensation paid to key management personnel of \$3.8 million in 2016 and \$4.3 million in 2017.¹²⁴ Executive pay at Stellar Asia Pacific Pty Ltd was 50% and 27% of net cash flow from operations in 2016 and 2017.

Key management personnel are not identified but may include overseas directors with little direct involvement in managing the Australian business or Australian directors being paid to manage the global Stellar call centre business. Both types of payments, if occurring, would artificially reduce taxable income in Australia. The cash flow statement shows income tax payments of only \$2.3 million in 2017 and \$2.5 million in 2016.¹²⁵ Executive pay was more than \$1 million larger than the income tax payments in both years.

Executive pay was more than
\$1 M larger than the income tax
payments in both years.

Stellar Asia Pacific Pty Ltd reported small amounts of current receivables from three related parties, Stellar Canada Inc, Right Road Finance Pty Ltd and Hawkstone Asia Pacific Pty Ltd and \$15.3 million in non-current receivables from Stellar Group Holdings, the immediate parent entity in Australia.¹²⁶ There was also a loan of \$8.3 million from Stellar Group Holdings and a line of credit from IMAY, LP of \$4.8 million.¹²⁷ When money shuffles between related parties, particularly offshore entities, it is virtually impossible for an outside observer to determine what is really going on with a company's finances.

The intercompany loan and the line of credit are both said to be made on "an arms length basis" and have an interest rate of 5.30%, charged monthly, and 3%, compounded annually, payable quarterly, respectively.¹²⁸ In 2017, Stellar paid \$146,231 in interest to IMAY, LP and paid \$430,506 to Stellar Group Holdings Pty Ltd, but received \$844,336 in interest payments.¹²⁹ IMAY

LP is registered in Texas at the same address used by other family owned companies.¹³⁰ There is no explanation in the filings, or anywhere else, of what IMAY is or what role it plays in the corporate structure or why money was not borrowed directly from an Australian bank.

MINIMAL TAX PAYMENTS IN AUSTRALIA & SUBSIDIES FOR APPRENTICESHIPS

Publicly available data shows Stellar has been paying little tax in Australia. In the most recent year (2015/16) of ATO corporate tax transparency data, Stellar had total income of \$132.5 million, taxable income of \$6.6 million (5.0%) and paid tax of just under \$2.0 million. While tax paid was exactly 30% of taxable income in all three years, taxable income as a percentage of total income was significantly lower in previous years, only 1.6% in 2014/15. As mentioned above, most tax avoidance schemes involve reducing taxable income through artificial means.

Not only has Stellar paid little tax in Australia, it has received \$274,000 (2016: \$154,750) in subsidies to take advantage of apprentices ("Apprenticeship incentive payment from the Government").¹³¹ The financial statement explains there "are no unfulfilled conditions or other contingencies attached to these payments. The Company did not benefit directly from any other form of Government assistance."¹³² Stellar is profiting from government contracts, possibly avoiding tax payments and getting subsidies to eliminate decent public sector jobs.

Stellar had total income of
\$132.5 M, taxable income of
\$6.6 M (5.0%) and paid tax of just
under \$2.0 M.

124 Ibid, p.20 Note 15 Key Management Personnel Compensation.

125 Ibid, p.7 Cash flow statement.

126 Ibid, p.16 Note 6 Trade and Other Receivables.

127 Ibid, p.17 Note 10 Borrowings.

128 Ibid.

129 Ibid, p.21 Note 18 Related Party Transactions.

130 <https://corporationstx.com/c/irving/imay-lp/32040614193>

131 Stellar Asia Pacific Pty Ltd, Financial Report For the Year Ended 31 December 2017, p.14, Note 2 Revenue.

132 Ibid.

STELLAR'S BANKRUPTCY TRAIL TO THE BRITISH VIRGIN ISLANDS

Stellar Europe LLC, incorporated in Nevada, until recently ran call centre operations in Scotland. According to company filings in the UK, the business – which also shared several directors with the Australian company – closed on 13 April 2018.¹³³ At the end of March, media reports suggested Stellar was expected to make around 29 redundancies.¹³⁴

Bankruptcy filings of Stellar Europe LLC in Nevada give some rare insight into company structures.¹³⁵ These filings may show how Stellar Global, LLC is owned as well. Stellar Europe LLC was entirely owned by a company called Tensor Limited, incorporated in the British Virgin Islands.¹³⁶

According to the Nevada bankruptcy filings, at least 30 individuals in the UK, as unsecured creditors, were owed amounts ranging from US\$1,864 to US\$27,028 for “statutory redundancy pay and contractual notice pay” and the UK tax authority (HMRC) was owed \$82,666 in Payroll Taxes and \$139,944 in Sales Tax.¹³⁷ Dozens of businesses were also left unpaid for goods and services provided to Stellar.

The bankruptcy filing shows while the UK tax office and 30 individuals were left unpaid, Tensor Limited, the Sole Member LLC in the British Virgin Islands, received a payment from Stellar Europe LLC of US\$121,940 on 20 March 2018 as a “Service Agreement Fee”.¹³⁸ This payment

is alternatively described as “Payment for Management Services Rendered”.¹³⁹

Another transfer of assets worth US\$81,874 was made on 2 April 2018 to Stellar Europe Limited, which is described as a “Sister Company”.¹⁴⁰ UK Company filings also show Stellar Europe Limited was incorporated in the UK on 29 November 2017 with Alphace Limited as the sole shareholder.¹⁴¹ Alphace Limited was incorporated on 23 November 2017 and is owned by Parabellum Capital, a London-based private investment company.¹⁴²

The bankruptcy filing lists Stellar Global, LLC – the ultimate parent of the Australian business – as the Parent Company from 6 August 2002 until 19 December 2017.¹⁴³ It lists Alphace Limited, in the UK, as the former Sole Member LLC, “Transferred as of December 19, 2017”.¹⁴⁴ The current owner – or Sole Member LLC – is the British Virgin Islands company, Tensor Limited.¹⁴⁵

According to the Nevada Secretary of State website, the managing member of Stellar Europe LLC was Stellar Global Inc – at the same Texas address as many other family-controlled businesses including Stellar Global, LLC – but was recently transferred to Alphace Limited in the UK.¹⁴⁶

On 23 August 2018, Kura, a Glasgow-based call centre firm, announced it had “acquired the call centre divisions of Parseq and Stellar Europe, making it the UK’s largest independent outsourcer.”¹⁴⁷ Parseq is controlled by Parabellum Capital.¹⁴⁸ It is unlikely former Stellar workers, the UK tax authority, or Stellar’s former business partners will ever receive the money they are

133 <https://beta.companieshouse.gov.uk/company/SF000890>

134 Ross Dunn, 28 March 2018, *Daily Record*, “Jobs facing axe at Irvine call centre as firm ‘transfers’ workers to Glasgow”. www.dailyrecord.co.uk/news/local-news/jobs-facing-axe-irvine-call-12260187

135 www.inforruptcy.com/filings/nvbk_372567-2-18-bk-12950-stellar-europe-llc

136 United States Bankruptcy Court, District of Nevada, Stellar Europe LLC, Case 18-12950-leb, Doc 6, Corporate Ownership Statement, filed 22 May 2018.

137 United States Bankruptcy Court, District of Nevada, Stellar Europe LLC, Case 18-12950-leb, Doc 1, Official Form 201: Voluntary Petition for Non-Individuals Filing for Bankruptcy, filed 22 May 2018.

138 United States Bankruptcy Court, District of Nevada, Stellar Europe LLC, Case 18-12950-leb, Doc 3, Official Form 207: Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy, filed 22 May 2018.

139 Ibid.

140 Ibid.

141 <https://beta.companieshouse.gov.uk/company/11088145>

142 <https://beta.companieshouse.gov.uk/company/11080184/persons-with-significant-control>

143 United States Bankruptcy Court, District of Nevada, Stellar Europe LLC, Case 18-12950-leb, Doc 3, Official Form 207: Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy, filed 22 May 2018.

144 Ibid.

145 Ibid.

146 Stellar Europe, LLC, Business Entity Information, obtained from Nevada Secretary of State website.

147 *BBC News*, 23 August 2018, “Call centre firm announces major expansion”. www.bbc.co.uk/news/uk-scotland-scotland-business-45270239

148 <http://parabellum.capital/parseq/>

owed. However, it is clear payments to Stellar's owners in the British Virgin Islands continued to be made.

Could another Nevada bankruptcy leave the ATO, Australian call centre workers and business partners with the same fate as their UK counterparts?

Could another Nevada bankruptcy leave the ATO, Australian call centre workers and business partners with the same fate as their UK counterparts?

SELLING STELLAR IN AUSTRALIA?

In late 2017 the *Australian Financial Review* reported the Stellar business in Australia was being put up for sale as well and several private equity firms had expressed interest.¹⁴⁹ Those reports state the "information memorandum" sent to prospective buyers "shows Stellar BPO is slated to make \$20 million to \$30 million in earnings before interest, tax, depreciation and amortisation this year" and the business could be sold for "as much as \$200 million".¹⁵⁰

Tax paid by Stellar in Australia was \$2.3 million in 2017, representing only 7.6% to 11.5% of estimated earnings (EBITDA).

Archer Capital, one of the private equity firms interested in buying Stellar – and also the owner of D&B Australia – is now closing down and selling its remaining portfolio companies.¹⁵¹ There have been no recent public reports on

efforts to sell the Stellar business in Australia. Is a Stellar sale still planned? How would workers and government contracts be impacted?

A FAMILY HISTORY OF DUBIOUS RELATED PARTY TRANSACTIONS

Ron Jensen, the patriarch of the family, made a fortune by establishing and growing a large US insurance company. Just weeks after his death in an automobile accident in 2005, the company UICI, was sold to a consortium of private equity firms, including Blackstone and Goldman Sachs.¹⁵² The Jensen family owned 28% of the stock and walked away from the US\$1.7 billion deal with an estimated US\$476 million.¹⁵³

Major related party transactions of family-controlled businesses with the publicly listed insurance company drew intense scrutiny from regulators, shareholders, policyholders and others. Many of the family businesses at the core of these allegations continue to operate today under the control of the same family members who own Stellar and other related businesses.

A 2004 *Forbes* article commented the insurance company "has done tens of millions of dollars in business with its executives, as well as with companies that are partly owned by UICI's founder and chairman, Ronald Jensen, 73, and his family."¹⁵⁴ Multiple lawsuits alleged "UICI is concealing its 'incestuous relationship' with a nonprofit that it uses to sell insurance. The suits say that though the National Association for the Self-Employed purports to be an independent nonprofit, it really is run by Jensen's children and his former business partner in order to sell UICI's insurance."¹⁵⁵

149 Sarah Thompson, Anthony Macdonald & Joyce Moullakis, 30 October 2017, *Australian Financial Review*, "Private equity rivals dial into Stellar auction". www.afr.com/street-talk/private-equity-rivals-dial-into-stellar-auction-20171027-gz9fma

150 Sarah Thompson, Anthony Macdonald & Joyce Moullakis, 15 October 2017, *Australian Financial Review*, "Stellar BPO weighs trade sale; Goldman Sachs mandated". www.afr.com/street-talk/stellar-bpo-weighs-trade-sale-goldman-sachs-mandated-20171015-gz1609

151 Sarah Thompson, Anthony Macdonald, Joyce Moullakis, 13 April 2018, *Australian Financial Review*, "Archer Capital to wind up, founder Peter Wiggs to retire". www.afr.com/street-talk/archer-capital-to-wind-up-founder-peter-wiggs-to-retire-20180412-h0ypa5

152 The obituary was published in the Dallas Morning News on 6 September 2005. <http://obits.dallasnews.com/obituaries/dallasmorningnews/obituary.aspx?n=ronald-l-jensen&pid=15019271>

Blackstone announced the sale on 15 September 2015.

www.blackstone.com/media/press-releases/article/consortium-led-by-blackstone-group-to-acquire-uici

153 Dow Jones; AP, 16 September 2005, *New York Times*, "Equity Firm is Acquiring a Health Insurer". www.nytimes.com/2005/09/16/business/equity-firm-is-acquiring-a-health-insurer.html

154 Elizabeth Macdonald, 21 June 2004, *Forbes*, "Crony Capitalism". www.forbes.com/forbes/2004/0621/140.html#70f72ce26b73

155 Ibid.

A legal effort in 2005 by a UICI shareholder to obtain internal company documents stated “numerous related party transactions between UICI and Ronald Jensen, founder and chairman of UICI, his children, and various entities controlled by Jensen or his children” had been identified and “have been lucrative for Jensen and his family and confederates.”¹⁵⁶ Many of the related party transactions were at least partially disclosed in UICI’s filings.¹⁵⁷

Several US state insurance regulators conducted investigations into UICI and issued a joint report in 2007 which stated the “founder of UICI and primary stockholder, Ronald Jensen, was also the target of lawsuits and allegations that he had established channels of multiple streams of income for himself, family members, other stockholders, agents and executives of the Company, at the expense of policyholders.”¹⁵⁸

In 2008, the company – renamed HealthMarkets – “agreed to pay \$20 million to 28 states over numerous violations that state insurance

regulators uncovered” in the three-year investigation.¹⁵⁹ “In 2009, the Massachusetts attorney general fined the company \$17 million for unfair and deceptive marketing practices” and barred the company for five years.¹⁶⁰ The company also reached settlements on several class action lawsuits.¹⁶¹

This history of related party transactions to benefit the same family members in control of the Stellar call centre business in Australia and elsewhere should raise serious concerns.

Are Stellar’s related party transactions being used to reduce Australian tax payments and further enrich family members? Are Australian governments aware of the background of this company? Is this the type of company that should be handling sensitive and private information about Australians on behalf of the ATO and the Department of Human Services?

RECOMMENDATION FULL DISCLOSURE OF ALL BENEFICIARIES

Any government (federal, state, local, enterprise, authority, institution, etc) contractor or contracted labour provider must be required to disclose the ultimate parent company and/or all beneficial owners and this information must be publicly available and aggregated to be able to show the combined value of contracts of multiple subsidiaries owned by the same parent company or beneficial owner(s) and aggregate any contracts operating under the same corporate names (ie KPMG, E&Y, PwC, Deloitte, etc) which may be owned through separate partnerships or other structures.

156 www.delawarelitigation.com/Sec%20220%20case.pdf

157 A company filing disclosing questionable related party transactions can be found here: http://media.corporate-ir.net/media_files/NYS/UCI/reports/uci_040604.pdf www.delawarelitigation.com/Sec%20220%20case.pdf

158 www.insurance.wa.gov/sites/default/files/documents/MegaReportFinal.pdf; www.commerce.alaska.gov/web/portals/11/pub/Companies/Exams/MCE05-02.pdf

159 Tony Pugh, 19 December 2013, *McClatchy Washington Bureau*, “Junk insurance’ comes back to haunt its policyholders”. www.mcclatchydc.com/news/nation-world/national/article24760639.html

160 Ibid.

161 Gabriel Madway, 20 March 2006, *MarketWatch*, “UICI reaches agreement in principle to settle lawsuits”. www.marketwatch.com/story/uici-reaches-agreement-in-principle-to-settle-lawsuits

RECOMMENDATIONS

There is a clear need for a broader government oversight and review on the massive growth in the use of and reliance on consultants, contractor labour, and outsourced workers; and whether this is an efficient and effective use of taxpayer funds.

More specifically, there are serious concerns about whether the ATO and other federal agencies should be contracting and outsourcing core public sector functions which deal with the sensitive and private information of millions of Australians. At the very least, the following recommendations are needed to ensure transparency and compliance with the letter and spirit of tax laws in Australia. Most of these policy measures are easily implemented as conditions of any future federal and state government contracts. If companies receive government contracts – funded by taxpayers – they must be held publicly accountable.

- 1. Full disclosure of all beneficiaries** – Any government (federal, state, local, enterprise, authority, institution, etc) contractor or contracted labour provider must be required to disclose the ultimate parent company and/or all beneficial owners and this information must be publicly available and aggregated to be able to show the combined value of contracts of multiple subsidiaries owned by the same parent company or beneficial owner(s) and aggregate any contracts operating under the same corporate names (ie KPMG, E&Y, PwC, Deloitte, etc) which may be owned through separate partnerships or other structures.
- 2. Full financial statements on big contractors, no excuses** – Any company, including through separate subsidiaries, which receives over \$10 million per year from any government body – for any contracts, services, provision of labour or goods, subsidies, or any other forms of payment – must be required to file full financial statements with ASIC in full compliance with Australian accounting standards, with no recourse to use special purpose filings or reduced disclosure requirements.
- 3. Public disclosure of contracts over \$1 million a year** – All government contracts over \$1 million per year must be made publicly available.
- 4. Accountability for labour brokers** – The Taxable Payment Reporting System (TPRS) should be extended to cover the use of all labour hire or outsourced labour firms, including by all government agencies and public bodies. The TPRS is designed to ensure payments to contractors are reported to the ATO to ensure appropriate tax payments are made by those contractors. As a result of the Black Economy Task Force, the government has recently extended the TPRS from the construction industry, where it has been in place for some time, to cover contracting with cleaners and couriers.
- 5. Certification and screening of tax practices for parent and subsidiary companies** – As per the consultation conducted by the Australian Treasury, any company being awarded a government contract worth more than \$4 million must be certified to have a satisfactory tax paying record both in Australia and overseas. This should apply not only to the direct subsidiary but to the parent company as well and include a review of contract performance and business conduct in other jurisdictions.
- 6. Audit on use of contracted labour in all forms** – Following on the example from the New South Wales Audit Office, the federal government and other state governments should do a thorough and comprehensive audit of the use of labour hire firms and other outsourced service providers to carry out ongoing and regular public service functions. There does not appear to be any existing monitoring or analysis of the rapid growth of outsourced services. Definitions for outsourced services and contracts need to be standardised to increase transparency and improve accuracy of reporting.

CONCLUSION

Australian taxpayers may be spending more and getting lower quality services than if public service jobs remained in the public sector. Additionally, the public service is losing critical talent, expertise and experience while becoming more dependent on companies whose aim is to make a profit from public services.

While public spending increases to provide a profit margin, these companies may also be reducing revenue by avoiding their tax obligations. The general public may be losing twice. Australian companies, who are transparent and do pay a fair share of taxes, are also at a competitive disadvantage. The ATO, in particular, should not contract with companies actively minimising tax payments and/or not filing full and complete financial statements in Australia. The lack of publicly available information on the operations of these companies in Australia is alarming. This has the potential to undermine confidence in the integrity of the tax system and the solutions are both simple and obvious.

It is not clear Australian government agencies – federal and state – know who they are doing business with. When it comes to sensitive, private and personal information concerning Australians this is even more concerning.

While the case studies here – Outsourcing Inc, Serco and Stellar – are only three examples of outsourced labour hire firms with ATO contracts, they represent a much larger problem. Many other contractors providing labour and other services to the ATO and other government agencies are also subsidiaries of large multinationals. While further analysis is required, many of these companies also appear to be using aggressive tax avoidance schemes to reduce tax paid in Australia and possibly in other jurisdictions.

How many other ATO contractors may be avoiding tax obligations in Australia?

The solutions proposed here should be implemented immediately. Any company with government contracts must be held publicly accountable and be required to be fully transparent. If companies are not willing to accept these conditions, they should not receive government funds.

Government procurement should be transparent and can play an important role in setting standards and improving the conduct and transparency of private companies with a legitimate role in providing services to governments. Companies with questionable tax practices, performance issues and unethical behaviour should be excluded from future government contracts. Some government services should never be outsourced and should be brought back into the public service.

Additional scrutiny must be placed on any contracts which allow companies access to private information and could be mis-used or used for commercial purposes.

The current wave of government outsourcing appears to have aided corporate greed over public service. It is time for governments to let the sunlight in and take outsourcing out of the shadows.

CENTRE FOR INTERNATIONAL CORPORATE TAX ACCOUNTABILITY & RESEARCH (CICTAR)

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www.cictar.org

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TAX JUSTICE NETWORK – AUSTRALIA

www.taxjustice.org.au

The Tax Justice Network - Australia is the Australian branch of the Tax Justice Network (TJN) and the Global Alliance for Tax Justice. TJN is an independent organisation launched in the British Houses of Parliament in March 2003. It is dedicated to high-level research, analysis and advocacy in the field of tax and regulation. TJN works to map, analyse and explain the role of taxation and the harmful impacts of tax evasion, tax avoidance, tax competition and tax havens. TJN's objective is to encourage reform at the global and national levels.

The Tax Justice Network aims to:

- promote sustainable finance for development;
- promote international co-operation on tax regulation and tax related crimes;
- oppose tax havens;
- promote progressive and equitable taxation;
- promote corporate responsibility and accountability; and
- promote tax compliance and a culture of responsibility.

In Australia the current members of TJN–Aus are:

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| ▪ ActionAid Australia | ▪ Baptist World Aid |
| ▪ Aid/Watch | ▪ Caritas Australia |
| ▪ Anglican Overseas Aid | ▪ Community and Public Service Union |
| ▪ Australian Council for International Development | ▪ Centre for International Corporate Tax Accountability & Research |
| ▪ Australian Council of Social Service | ▪ Electrical Trades Union, Victoria Branch |
| ▪ Australian Council of Trade Unions | ▪ Evatt Foundation |
| ▪ Australian Education Union | ▪ Friends of the Earth |
| ▪ Australian Manufacturing Workers Union | ▪ GetUp! |
| ▪ Australian Nursing & Midwifery Federation | ▪ Greenpeace Australia Pacific |
| ▪ Australian Services Union | ▪ International Transport Workers' Federation |
| ▪ Australian Workers Union, Victoria Branch | ▪ Jubilee Australia |

- Maritime Union of Australia
- National Tertiary Education Union
- New South Wales Nurses and Midwives' Association
- Oaktree Foundation
- Oxfam Australia
- Save the Children Australia
- Save Our Schools
- SEARCH Foundation
- SJ around the Bay
- Social Policy Connections
- TEAR Australia
- The Australia Institute
- Union Aid Abroad – APHEDA
- United Voice
- Uniting Church in Australia, Synod of Victoria and Tasmania
- UnitingWorld
- Victorian Trades Hall Council
- World Vision Australia

PUBLIC SERVICES INTERNATIONAL

www.world-psi.org

Public Services International (PSI) brings together more than 20 million workers, represented by over 700 unions in 163 countries and territories. We are a global trade union federation dedicated to promoting quality public services in every part of the world. Our members, two-thirds of whom are women, work in social services, health care, municipal and community services, central government, and public utilities such as water and electricity

