Photo: Max Bastard/OxfamAUS

PRESCRIPTION FOR POVERTY

Australian briefing for Oxfam's global report

New Oxfam research shows that four of the world's largest pharmaceutical companies — Johnson & Johnson, Pfizer, Merck & Co. (known as Merck Sharp & Dohme in Australia) and Abbott — systematically stash their profits in overseas tax havens.

Oxfam estimates these multinational drug companies, which sell trusted household brands including Baby Oil, Band Aid, Centrum and Chapstick, are using unfair means to avoid about $215 million in taxes in Australia every year from 2013 to 2015.

On top of this, these four companies may be unfairly avoiding more than $146 million every year in developing countries: money urgently needed to meet the health needs of their people.

Tax avoidance by drug companies is a significant driver of the yawning gap between rich and poor and between men and women around the world. This is yet another example of why urgent action is needed to curb tax avoidance by multinational companies — both at home and abroad.

This country briefing focuses on four pharmaceutical companies' practices in Australia and overseas. The four companies are Johnson and Johnson, Pfizer, Abbott and Merck & Co. **This report focuses on the US-based pharmaceutical company Merck and Company, Inc., sometimes known as Merck Sharp & Dohme (MSD) outside the US, not the German-based pharmaceutical company Merck KGaA.** While Abbott, like Johnson & Johnson, provides a variety of health care services and products, this report refers to Abbott as a pharmaceutical or drug company. All figures in Australian dollars, assuming an exchange rate of 1USD=1.3AUD (as at August 2018). To see data and analysis for other countries, see the global report: M. Frield. (2018). *Prescription for poverty: drug companies as tax dodgers, price gougers and influence peddlers.* This country briefing uses the term 'avoiding tax' or 'tax avoidance' to mean lawful practices which unfairly reduce tax. Oxfam objects to these practices but does not claim they are unlawful or liable to penalties.

OXFAM Australia

Tobeka Daki, a single mother and health activist from Mdantsane Township in South Africa, was diagnosed with breast cancer in 2013. In addition to a mastectomy and chemotherapy, she needed a medicine called Trastuzumab to improve her chances of survival. In South Africa a 12-month course of Trastuzumab costs approximately $49,400 — around five times the average household income. Her chance of survival was denied because neither she nor the public health system could afford it. Tobeka's cancer spread to her spine and within three years of diagnosis she lost her life.

Multinational tax avoidance is damaging to developing and developed countries alike. When firms use unfair legal means to avoid paying taxes, it is ordinary people who miss out — and governments that have to make up the shortfall. It deprives governments of money to spend on public services that help lift people out of poverty and raises the amount of tax needed from ordinary citizens. This increases the inequality divide and leads to greater disunity in societies between the haves and have nots.

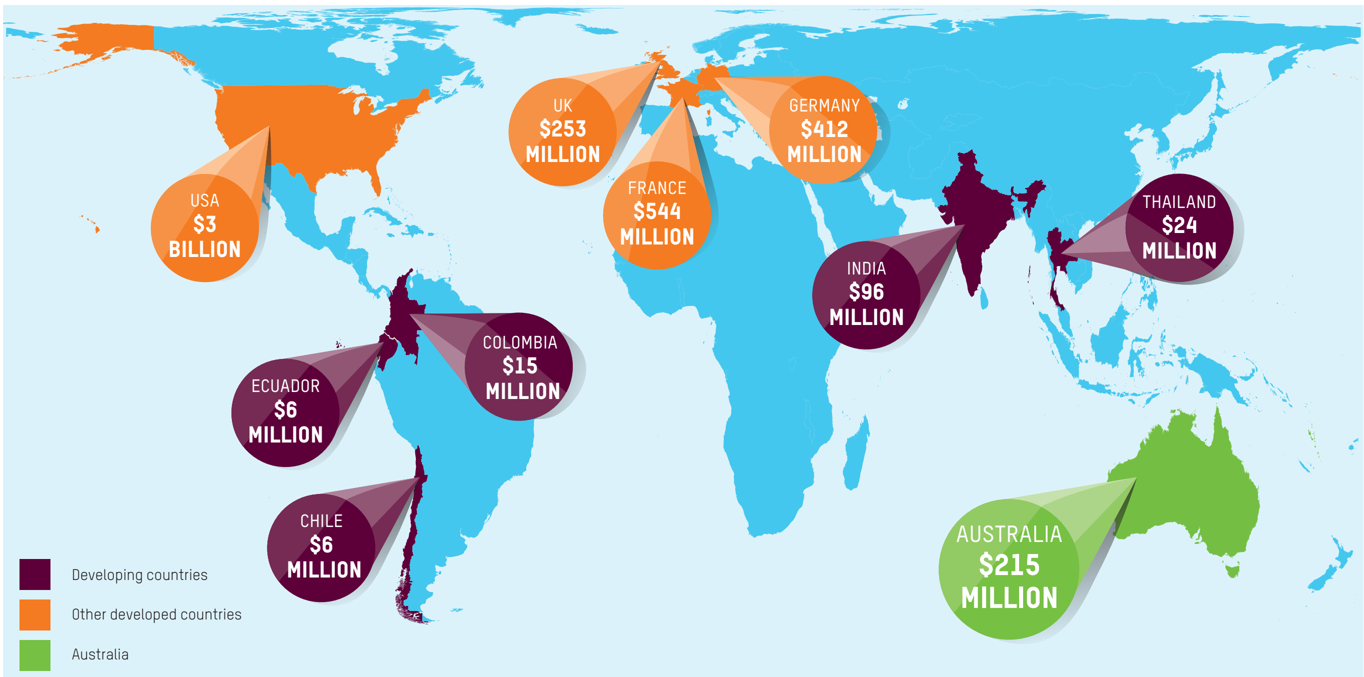
The world's biggest drug companies are putting poor people's health at risk by depriving governments of billions of dollars in tax that could be invested in affordable healthcare. Their sophisticated tax avoidance strategies deny governments around the world of valuable tax revenues – a practice that is particularly damaging for cash-strapped developing countries.

New Oxfam research shows that four major pharmaceutical firms that operate in Australia — Pfizer, Johnson & Johnson, Merck & Co. and Abbott — systematically stash their profits in overseas tax shelters. As a result, we estimate that from 2013 to 2015, these corporate giants have deprived Australia of about $215 million annually. These firms are also depriving developing countries of an estimated $146 million every year that could be spent on vaccines, midwives or rural clinics.[i] Advanced economies are not immune to these practices: an estimated $4.8 billion in tax revenue is lost through unfair tax avoidance practices every year across nine advanced economies investigated by Oxfam — Australia, Denmark, France, Germany, Italy, New Zealand, Spain, the UK and the US. (Figure 1)

The $215 million in taxes estimated to have been avoided each year in Australia by the four pharmaceutical giants, Pfizer ($94 million), Johnson & Johnson ($92 million), Merck & Co. ($22 million) and Abbott ($7 million), equates to the cost of more than 5 million medical prescription scripts[ii] or almost the full cost of Medicare's urgent after-hours home visits service in 2015–2016[iii].

Meanwhile, large global pharmaceutical companies often overcharge for their medicines, putting them out of reach of ordinary people. For example, in South Africa, a new medicine to treat multi-drug resistant tuberculosis, Bedaquiline, was priced by Janssen — a subsidiary of Johnson & Johnson — at $1066 for the six-month course,

FIGURE 1: ESTIMATED TAX AVOIDED IN SELECT DEVELOPING AND ADVANCED ECONOMIES (2013 TO 2015).^



^ See global report for detailed breakdown of estimated tax underpayment by the four companies by country.

which makes it unaffordable for most who need it. Yet, researchers estimate a generic equivalent of the medicine could be made available for just $62.[iv]

People living in poverty lose out most from unaffordable healthcare and women and girls are burdened the most. When healthcare systems are unable to care for the sick, it is women and girls who step into the breach to provide unpaid care for their loved ones — compromising their own health and their prospects for education and employment. Simply for being born poor and female, a young woman will more likely be denied adequate access to essential health services, such as reproductive care. She will be one of the millions of people around the world for whom decent healthcare and medication are unaffordable luxuries.

Past reports by others[v] also indicate major drug companies overcharge for medicines in Australia, meaning they squander our Pharmaceutical Benefits Scheme (PBS) — an invaluable Australian Government subsidy program that ensures life-saving medicines are accessible for all Australians. The PBS reduces the retail price of prescription drugs to a more affordable level, ensuring access for everyday people to the essential medicines they need. Yet, in a past 2016 study, academics found Australian drug prices are multiple times higher than international prices, and the cost has led to patients delaying, or not getting, their prescribed medication.[vi]

Because the Australian Government, through the PBS, subsidises the retail price of prescription medicine, it means pharmaceutical companies are double dipping from taxpayers. Not only do they not pay their fair share of taxes, they also take directly from the PBS public purse — money that could instead be invested in other life-saving medical services or used to reduce the cost of medicine even further for Australians who need it.

DIAGNOSING UNHEALTHY PROFITS

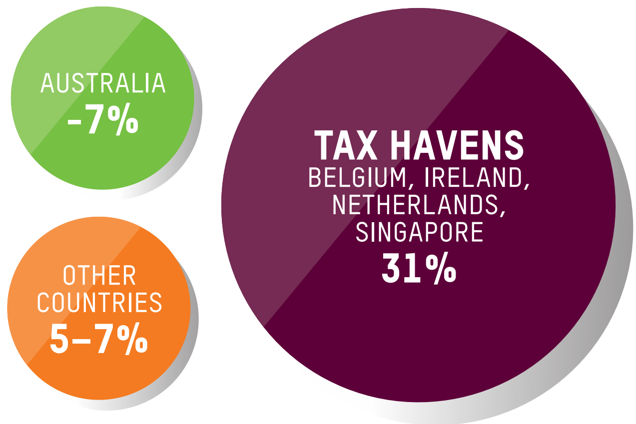
Because these multinational companies reveal little about their subsidiaries' finances, Oxfam's investigation and attempts to quantify their tax avoidance barely scratch the surface. Yet even the small sample we sourced shows a striking degree of estimated tax avoidance. Our research shows that each one of the four multinational pharmaceutical companies we believe to be avoiding tax globally has links to tax havens – and their profit margins happen to be higher in these low-tax jurisdictions, but lower in other countries with normal tax rates.

In Australia, the subsidiaries of the four drug companies — Pfizer, Johnson & Johnson, Merck & Co. and Abbott — posted a combined 7 per cent loss for the period 2013–15.[vii] Across eight advanced economies, profit margins averaged 7 per cent, while in the seven developing countries they averaged 5 per cent. But somehow, in the four tax havens — Belgium, Ireland, Netherlands and Singapore — where profits are often not taxed, the companies managed to earn an average of 31 per cent profit.[viii] (Figure 2)

The estimated $146 million in taxes avoided in developing countries annually is more than half of the $254 million in taxes the four firms actually paid. The picture is even starker in Australia — the estimated $215 million in tax avoided is almost four times the $63 million in taxes they actually paid.

FIGURE 2: COMBINED PROFIT MARGINS IN AUSTRALIA AND OTHER COUNTRIES COMPARED TO TAX HAVENS (2013 TO 2015).^

Profit margins in ...



^ See global report for detailed breakdown of estimated tax underpayment by the four companies by country.

All four pharmaceutical giants — Johnson & Johnson, Pfizer, Merck & Co. and Abbott — have links to tax havens where their reported profits happen to be high, and profits in other countries with normal tax rates happen to be low. The four companies posted a combined 7 per cent loss in Australia, but 31 percent profit in tax havens from 2013 to 2015.

We are not accusing these pharmaceutical firms or their Australian subsidiaries of doing anything illegal. However, Oxfam's report again suggests that these pharmaceutical companies are structuring their operations as such to shift profits to tax havens. They are also not transparent about it, with little data available for their operations in tax havens.

These multinationals could choose the high road. Rather than engage in elaborate means to hide their profits, they could choose to pay their fair share of taxes in an open and transparent way. After all, their very own profitability depends on government spending on the public health system and regulatory services.

Governments have a large share of responsibility for this problem. Governments everywhere — in developing countries, wealthy economies and tax havens — must do much more to increase tax transparency, close down tax havens and promote more effective collaboration between countries, rather than engaging in a vicious cycle of tax competition. The Australian Government must also ensure its subsidies for prescription medicine deliver the greatest benefit to the Australian people rather than pharmaceutical companies.

RECOMMENDATIONS FOR ACTION

The complexity of the companies' unfair tax avoidance strategies, coupled with their lack of transparency, complicates matters, especially for developing countries. We need public country-by-country reporting to have a

The human costs of tax avoidance: Gorakhpur, India

In 2017, Baba Raghav Das Memorial Medical College & Hospital (BRD Hospital) in Gorakhpur, India, garnered international headlines when over the course of just four days, 69 children — including many infants — died because of oxygen shortage at the hospital, allegedly because of non-payment of bills to a vendor. The horrific images and stories of family tragedy brought India's public health and fiscal challenges into stark relief on the world stage. Sadly, the 69 lost children are just the tip of the iceberg. A deeper disease — dismal public health caused by underinvestment in health care and other basic public services like sanitation and clean water — has been killing children in Gorakhpur, across India and in poor communities around the world, for years.

A leading cause of death in some districts of India is Japanese encephalitis syndrome, a mosquito borne disease most often contracted because of poor sanitation, proximity to livestock and lack of preventative public health services. BRD Hospital is the only facility that can handle serious cases of Japanese encephalitis in the Gorakhpur district, which has a population of more than 4.4 million and stretches over 3,100 km^2.

The underlying problem, hospital officials told Oxfam, is the absence of primary health care and sanitation facilities in rural areas. Measures to prevent the spread of the disease are not adequate, and once children contract it, they are only brought to BRD when they are about to die.

Pharmaceutical firms are not responsible for the tragedy at Gorakhpur. The Indian Government must do much more to invest in the health of its citizens. India spends a paltry 1.4 per cent of its GDP on health care compared with the world average of 6 per cent. India's underinvestment is fuelled, in part, by extreme pressure placed on India's public revenues by corporations avoiding their taxes.

Stopping corporate tax avoidance is critical to ensuring governments have the necessary resources to invest in their citizens. Had the Indian Government received the estimated $96 million the four big drug companies may have underpaid in taxes annually, it could have allocated these funds to fighting encephalitis, including purchasing vaccines and bed nets for every child born each year in the whole of India[ix].

more complete and accurate picture of business tax affairs everywhere in the world — and for every industry.

Transparency is the first step toward ensuring that companies are aligning their tax payments with actual economic activity, and ensures the public is able to hold these firms accountable when the black letter of the law is being flouted.

OXFAM CALLS ON THE AUSTRALIAN GOVERNMENT TO:

- Strengthen rules to prevent multinational tax avoidance, including by mandating and implementing public country-by-country reporting of financial information for all large multinational companies operating in Australia, including, at a minimum, firm profits, revenues, taxes paid and number of employees on a country-by-country basis.
- Commit to making multinational ownership structures public and follow through on the Government's original commitment to make the register of beneficial ownership public, rather than being available only to regulators.
- Support and promote international cooperation on tackling tax avoidance. This includes not engaging in a downward spiral of tax competition with other countries, creating a global blacklist of tax havens including sanctions on their use, promoting at the OECD level the urgency of making country-by-country reports public, and supporting the creation of a global tax body so that developing nations have an equal seat at the table alongside more wealthy nations.

OXFAM CALLS ON CORPORATIONS TO[x]:

- Make a public commitment to responsible corporate tax behaviour beyond legal compliance, which would instil greater investor confidence. Transparent corporate tax strategies and structures will give investors confidence that it will withstand scrutiny and potential regulatory changes.[xi]
- Pay tax on profits according to where value is created and commit to not artificially shift profits to low tax jurisdictions. This should include an action plan for company restructure and reforms to business transactions over time, which will lead to less company income, profits and gains being booked in tax havens, and more in places where business is done.
- Be proactively transparent about business ownership structures and operations around the world, tax affairs and tax decision-making on tax structures, as well as publishing full country-by-country reporting of all revenue, profit, tax, employee information; and justifying why business structures and transactions involving tax havens are not motivated by tax considerations.

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i. Developing countries examined include Chile, Colombia, Ecuador, India, Pakistan, Peru, and Thailand.
ii. Under the PBS, the maximum cost for a pharmaceutical benefit item at a pharmacy is $39.50 for general patients (source: http://www.pbs.gov.au/info/healthpro/explanatory-notes/section1/Section_1_4_Explanatory_Notes)
iii. http://www.abc.net.au/news/2017-12-01/after-hours-billing-doctors/9081294
iv. Dzintars Gotham, Joseph Fortunak, Anton Pozniak, Saye Khoo, Graham Cooke, Frederick E. Nytko III, and Andrew Hill, "Estimated Generic Prices for Novel Treatments for Drug-Resistant Tuberculosis," *Journal of Antimicrobial Chemotherapy 72*, no. 4 (2017):1243–52.
v. For example, https://theconversation.com/new-zealand-steamrolls-australia-on-the-pharmaceutical-paddock-too-81482
vi. Duckett, S. and Banerjee, P. (2017), Cutting a better drug deal, Grattan Institute.
vii. See global report methodology annex for details. See global report for detailed breakdown of estimated average profit margins and tax underpayment by the four companies by country.
viii. The developing countries examined were Chile, Colombia, Ecuador, India, Pakistan, Peru, and Thailand; the wealthy countries were Australia, Denmark, France, Germany, Italy, New Zealand, Spain, and the UK. The presence of the four companies in Sub-Saharan Africa is very limited. Either the companies' products are not sold to consumers in many African countries, or they are imported and distributed by unrelated companies. Alternatively, the companies may be violating permanent establishment rules to avoid tax.
ix. See global report methodology annex for details.
x. For other ways in which companies can become a responsible corporate tax citizen can be found in the report 'Getting to Good: Towards Responsible Corporate Tax Behaviour' https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/dp-getting-to-good-corporate-tax-171115-en.pdf
xi. UNPRI (2018) Evaluating and engaging on corporate tax transparency: an investor guide.