

Strategy Roadmap

Let's Fix the Tax Treaty!



Revision History:

Rev No.	Date	Revision Purpose
A	21Dec16	Initial (incomplete) draft for FTT Review and feedback
1	31Jul17	Final Version for FTT Group Review and feedback
2	27Mar18	Move annual objectives to Appendix 1 and update with 2018 objectives; add Transition Tax / GILTI to Section 3.2.1; minor wording edits and updates
3	Jan2021	<p>Strategy Update</p> <ul style="list-style-type: none"> • incorporate Focus Group feedback • clarify priorities (per focus group work) • update targets and alliance sections – further work still required • update 2021 action plan and objectives (appendices) <p>Update Steering Committee Roles to reflect addition of new members Ensure document also reflects the issues impacting US-resident Australians Full document general wording review and revision</p>

Executive Summary

Let's Fix the Tax Treaty! (FTT)¹ is an Australian focused advocacy group seeking to press the Australian Government for amendments to the Australia-US Tax Treaty and other intergovernmental agreements to eliminate penalties and discrimination against a group of Australian citizens and thereby reduce the costs to the Australian economy and all Australians.

Bilateral intergovernmental agreements, particularly the Australia-US Tax Treaty, define each country's taxation rights over businesses and individuals who earn money across borders and define how the right to tax is divided up between the two countries. Tax treaties are intended to prevent double taxation, improve cross-border tax efficiencies and eliminate tax evasion. The prevailing Australia-US tax treaty is dated (nearly 20 years old) and substandard in that it fails to adequately achieve these objectives.

The key reason for this failure is the unique US practice of taxing on the basis of citizenship, rather than country of residence, which is the accepted convention by the rest of the world. This leads to instances of double taxation, considerable compliance complexity and material financial risks that directly impact up to 200,000 stakeholders within Australia while indirectly affecting all Australians. Australia has long permitted the United States to tax Australian-resident US persons (many of whom are also Australian citizens) on all income earned while living within Australia. However, this conferred right of unconstrained taxation erodes the Australian tax base by allowing the US to tax the Australian source income of Australian residents, regardless of whether this taxation is contrary to Australian domestic policy. Compounding these issues is the fact that the US bestows citizenship quite liberally based on both birthplace and parentage, while making it both difficult and costly to relinquish unwanted citizenship.

The current tax treaty has many gaps leading to punitive and double taxation, some of which would be closed if simply the 20 year-old treaty would be updated to the contemporary model tax treaty framework employed today. For example, the lack of retirement investment portability and resultant double taxation by both countries is a key issue. Significantly, Australia currently allows the US to tax superannuation and Australian investments more punitively than equivalent US investments, which reduces the ability of dual citizens and Australian-resident US taxpayers to save for their retirement. Allowing the US to include superannuation assets (which are entirely earned in Australia) in the determination of the US exit tax further diminishes the retirement savings of these Australians. As such, the Australian government will be forced to make up the difference through increased Age Pension payments when these affected Australians are unable to self-fund their retirement.

¹ www.fixthetaxtreaty.org

This issue is not about tax avoidance or tax evasion, as affected persons are required to pay tax in their country of residence; in the case of Australian residents, at higher tax rate than in the US.

The tax treaty deficiencies also impact US-resident Australian citizens, who are taxed on their Australian assets accumulated before entry in the US, with all of the negative consequences to their superannuation and other Australian investments that affect US citizens who have immigrated to Australia. Furthermore, Australians who move to the US and obtain a “green card” (permanent residence status) are taxable by the US until that green card is formally relinquished, even if the green card has expired for immigration purposes. After eight years, green card holders are subject to the same harsh exit tax regime as citizens when they formally return their green card. Eliminating the discriminatory effect of US law on Australian investments will promote more labour mobility and cross-border investment between the US and Australia.

Many Australians might wrongly think that this issue is of no concern to them yet US extraterritorial taxation and control impacts every Australian, not just expatriate taxpayers. The current interplay between US tax rules and the Australia-US Tax Treaty results in unnecessary economic costs, discourages labour mobility and investment between our two countries as well as undermining Australian domestic policies and sovereignty.

Let's Fix the Tax Treaty! advocates for the Australian Government to renegotiate and update the under-pinning legacy tax treaties and intergovernmental agreements to provide a fair go for all Australians.

The purpose of this document is to detail the FTT advocacy strategy, including group structure and governance, key goals and objectives as well as annualised action plans.

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1 Introduction

1.1 Let's Fix the Tax Treaty!

Let's Fix the Tax Treaty! (FTT) is an Australian focused advocacy group seeking to press the Australian Government for amendments to the Australia-US Tax Treaty and other intergovernmental agreement, such as the FATCA IGA, to remove the discriminatory taxation of Australian earnings and investments, including superannuation, by the United States. Due to the unique US practice of citizenship-based taxation, these rules impact dual US-Australian citizens resident in Australia as well as Australians who immigrate to the US while holding Australian superannuation or investments. Furthermore, we aim to ensure that those whose financial account details are reported to the IRS, such as under FATCA, have the right to know what has been reported and to correct the report as necessary.

There are many groups within the United States, as well as around the world, working to influence the US to move away from their unique and unjust practice of citizenship-based taxation (CBT). However, effective international taxation requires cooperation from both countries. FTT seeks to affect change **within Australia** to address the many unfair and adverse impacts on impacted Australians.

As a grass-roots volunteer organisation, FTT seeks to

- 1) find solutions to the many adverse impacts resulting from the US practices of citizenship-based taxation,
- 2) target its efforts in our home country of Australia, and
- 3) provide a vehicle for organised collective action.

These efforts are being undertaken on the behalf of a diverse stakeholder group of impacted persons, estimated to be in excess of 400,000 persons² that includes:

- US citizens living in Australia, many of whom are dual citizens who have permanently immigrated,
- Children born while their Australian parents were living in the US,
- Australians who have acquired US Citizenship or Green Cards (residency permits) and have returned home,
- Children to the above who may also be considered US Persons as a result of their parentage,
- Australians currently living within the US, and

² Latest ABS data at http://stat.data.abs.gov.au/Index.aspx?DataSetCode=ERP_COB shows 108,570 Australian residents born in the US as of 2019. Using the methodology in this shared worksheet (<http://tinyurl.com/zybtg5n>) provides an estimate of 79,412 Australian born children of US citizens as of 2014. It is not possible to estimate the number of Australian-born naturalised US citizens residing in Australia. Additionally, the Australian embassy in New York estimates there were 200,000 Australians living in the US in 2009 <https://web.archive.org/web/20170621060131/http://newyork.usa.embassy.gov.au/nycg/ANY1Wi09.html>).

See also https://wiki.fixthetaxtreaty.org/doku/doku.php?id=wiki:contents:resources:numbers_stakeholders

- Australian citizen spouses of any of the above.

The focus of this group is on how the tax treaty affects individuals, not businesses. However, there is no reason that these two stakeholder groups should come into conflict. FTT activities will seek to avoid creating conflict as a matter of policy.

A good advocacy plan will help our group decide where to spend time and effort to achieve our goals and assist us to be as effective as possible with our limited resources. The plan will serve as a key reference document that is periodically updated as we progress towards achieving our goals.

Developing an Advocacy Strategy and Action Plan is a fairly straight-forward process (see Figure 1) that requires the group to consider a number of key questions:

- What is our (vision) goal?
- What are the specific objectives that will lead us to achieving our goal?
- What are our arguments and evidence?
- Who can we collaborate or partner with?
- Who do we need to influence?
- What are our messages? How will we deliver these messages?
- How will we approach this? Public / Private / Direct / Indirect?
- What key activities should be undertaken?
- What are our priorities and timings?
- How will we organise and manage our group?



After: <http://www.who.int/pmnch/media/events/2013/advocacy.pdf>

Figure 1 - The Advocacy Cycle

1.2 Document Purpose

The purpose of this paper is to map out the advocacy strategy for the FTT advocacy group and serve as a basis to agree and communicate:

- 1) Objectives, goals and priorities
- 2) Methods and initiatives
- 3) Targets
- 4) Messages
- 5) Action Plans

The document has been initially developed by the FTT Steering Committee but will be published for review and feedback from the wider stakeholder community.

It is envisioned that this document will be “evergreen” with amendments / extension made as required. Ideally, the document will be formally reviewed and refreshed on an annual basis by the Steering Committee with yearly objectives and action plans created as part of this process.

1.3 Document Structure

This document is divided into three main sections:

- 1) Group Structure & Governance – overview of how the FTT group is organised and run
- 2) Advocacy Framing – this section seeks to analyse and frame the issue, including prioritised objectives, methods and initiatives and targets and messaging
- 3) Action Plan – activity focused plan, to be updated annually

A glossary and list of acronyms is included in Appendix 2 for those unfamiliar with terms used in this document.

2 FTT Group Structure & Governance

The overarching purpose of the ***Let's Fix the Tax Treaty!*** group is to educate and encourage our Australian elected representatives to take action to mitigate the problems that US extraterritorial taxation imposes on all of Australia through amendment of the Tax Treaty and/or other intergovernmental agreements such as the FATCA IGA. This group aims to implement an organised campaign to achieve this objective using volunteer resources drawn from the community of impacted stakeholders.

While an active webpage and Facebook group will be instrumental in achieving our objective, not all of the strategising and governance can occur in an open forum. Equally, these tasks are too much for a single person. The solution is to form a steering committee, supported by standing roles / subcommittees and further supported by the overall membership in undertaking identified key activities (reference Figure 2 below).



Figure 2 – FTT Group Organisation

2.1 Steering Committee

The Steering Committee purpose is to provide organisation leadership for the FTT activities. Ideally, the committee will consist of five to eight individuals; i.e. employ the philosophy that *“many hands make light work”*. Most of us will have full time jobs or other obligations that will limit the amount of time that can reasonably be expected. Karen Alpert, founder of this initiative, will serve as the Chairperson of the Steering Committee. Note that all Steering Committee members must be Australian residents or Australian citizens. While we prefer that committee members use their real names, we understand that those who are avoiding notice of the IRS may wish to participate anonymously. See Section 2.1.2 below for conditions

of anonymous participation in the Steering Committee. This committee should be as diverse as possible covering a variety of skills and strengths.

2.1.1 Ongoing Responsibilities of all Steering Committee members:

- Provide advice on Group advocacy priorities and activities and provide support, guidance and oversight of group activities.
- Assist in moderation of the Facebook Group and/or the website (at least one, both if desired)
- Comment on posts on both FB group and blog
- Video conference committee meetings (Skype, etc.) as needed - target fortnightly, activity dependent.

2.1.2 Anonymous Participation in the Steering Committee

Those who prefer to participate without exposing their real identity to public scrutiny should be willing to:

- Correspond with their Australian MP under their real name.
- Identify themselves to the rest of the Steering Committee (who agree to maintain the anonymity of these members).
- Participate as moderators and/or authors on the website (using a pseudonym) and identify themselves there as a member of the Steering Committee under their pseudonym.
- Meet with the Steering Committee via Skype or other internet chat/voice service.

2.2 Standing roles / Sub-Committees

In addition, each steering committee member will hold one of the following roles:

- 1) **Education/Blog Coordinator:** write or source one blog post per month. Maintain website. (Karen Alpert)
- 2) **Legislative Action Coordinator:** develop strategic list of targets (in conjunction with steering committee); maintain Act section of the website; maintain list of legislators contacted. (Christine Roberts)
- 3) **Allied Action Coordinator:** Develop and maintain a list of potential allies (e.g. superannuation industry) and key players within these organisations. Coordinate contact with these people (either write letters or arrange to have letters written by appropriate group members) (Vacant)
- 4) **News/Media Coordinator:** post links to relevant news articles on both the blog and FB group as they appear. Manage FTT Wiki and Media Kit. Serve as contact point for media enquiries, forwarding them to the appropriate person(s); proactively write to media (possibly letters to editor) (Carl Greenstreet)
- 5) **Membership:** Facebook page maintenance, group engagement / development, member services (vacant; Donna Ashelford – responsible for new member welcomes)

Each coordinator can recruit members from the greater group to form subcommittees as needed. This list will be reviewed for gaps annually as the group's targets, activities and key actions develop.

2.3 Dispute Resolution

If any member of the Steering Committee feels that someone is not meeting the responsibilities laid out in this document, they should discuss this in private with the Chair of the Steering Committee. At the sole discretion of the Chair, a Committee member who is not meeting the responsibilities laid out in this document can be removed from the Steering Committee.

3 Strategy Framing

The purpose of this section is to analyse the problem and explore the following key issues:

- 1) What needs to specifically be changed to achieve our three key objectives? What is the priority for these changes?
- 2) What specific groups and organisations are directly accountable for the required changes? What are their current policies in relation to our issues?
- 3) Who (by name / role / organisation) do we specifically want to target to affect change? What do they know about our issues? What is their position on these issues? Who might be able to influence them?
- 4) Who might effectively influence these targets?
- 5) Who are our potential partners & alliances?
- 6) What is our messaging? In what format(s)?

3.1 Issue³

Australia permits the United States to tax Australian-resident US citizens on all income earned while living within Australia. The US practice of taxing on the basis of citizenship, not country of residence, leads to double taxation (where the same income is taxed by both countries, in some instances *without* an offsetting foreign tax credit), considerable complexity and financial risks impacting up to 200,000 stakeholders within Australia. This unique practice drains significant capital from the Australian economy in the form of both punitive taxes and excessive compliance costs, undermines both Australian sovereignty and domestic policy and clearly discriminates against a subset of Australians. In addition, Australians residing within the US face complex and often harsh tax treatment of their Australian assets even if these assets were obtained prior to relocating to the US (for example, Superannuation and Australian managed funds).

No other country on the planet practices citizenship-based taxation in the same way as the US.⁴ The US taxes all citizens, regardless of where they live, under essentially the same rules. This includes rules which discourage investment outside of the US, such as punitive taxation of non-US managed funds and retirement savings (superannuation). Every other country taxes based on a combination of residence and income source. Residents are often taxed on worldwide income while non-residents are taxed only on income sourced within the country. In *“Human Rights at the Border of Tax Sovereignty,”* Professor Allison Christians argues that citizenship-based taxation is not justified based on normative rationales of the right of a state to tax.⁵ Taxing non-resident citizens is contrary to international practice, arguably violates

³ This section is a brief summary of the issues. A comprehensive Issues Paper will be available on the website (in preparation).

⁴ While Eritrea attempts to tax non-resident citizens, the Eritrean Diaspora Tax is a flat 2% of income. There are other issues with the Eritrean Diaspora Tax that have resulted in its condemnation by the United Nations per UN Resolution 2023 (2011). (<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Somalia%20S%20RES%202023.pdf>)

⁵ Christians, Allison, *Human Rights at the Borders of Tax Sovereignty* (February 27, 2017). Available at SSRN: <https://ssrn.com/abstract=2924925>

the Universal Declaration of Human Rights⁶, and infringes on the sovereignty and tax base of the countries where US citizens live.

Furthermore, the US confers citizenship liberally, applying both *jus soli* (automatic citizenship to those born in US territory, regardless of the citizenship of their parents) and *jus sanguinis* (citizenship based on parentage, regardless of place of birth) based on both birthplace and parentage. For those with unwanted US citizenship, the process of relinquishing that citizenship incurs an administrative fee of US\$2,350 /person and requires an in-person visit to a US Consulate. In addition, to exit the US tax system requires filing with the IRS and a potential exit tax that captures non-US retirement savings and assets accumulated outside of the US.

In addition to the problems faced by Australian-resident US taxpayers, there are also issues faced by Australian citizens and former Australian residents who are now US residents. The current tax treaty causes problems for them in two main areas. First, if they accumulated superannuation while resident in Australia, that superannuation account, including the investment income generated inside the account, is potentially taxable in the US (generally without a credit for the 15% tax paid inside the fund). Second, if they invested in managed funds while living in Australia (and before becoming a US taxpayer), these legacy investments will be punitively taxed by the US under the Passive Foreign Investment Company (PFIC) rules.

Let's Fix the Tax Treaty! advocates for the Australian Government to renegotiate the underpinning legacy tax treaties and intergovernmental agreements to provide a fair go for all Australians.

3.2 Key Goals & Objectives

Let's Fix the Tax Treaty! group aims to achieve the following overall key goals and objectives within the next five years:

1. **Australian government to engage with the USA to remedy the deficiencies in the Australia-US tax treaty to mitigate the negative consequences of US CBT on Australians and the Australian economy.** This can be done through both mutual agreement under the existing treaty as well as renegotiation of new treaty terms.
2. **Australian Government to amend the FATCA IGA to require reporting on only non-resident account holders so that Australian residents are not denied financial services due to their country of origin, and that adequate privacy protections are in place.** Failing an amendment to the IGA, the Australian government should use lack of promised reciprocity by the US to pressure the US to come to the table to negotiate the tax treaty and/or re-negotiate the FATCA IGA.
3. **Australian Government to require appropriate disclosure:** Banks should provide statements for awareness and verification when data is sent to ATO, and the ATO should verify transmission of data to the IRS at an aggregate level; ATO should fix

⁶ <http://isaacbrocksociety.ca/2014/07/28/human-rights-complaint-on-behalf-of-all-u-s-persons-abroad-has-now-been-submitted/>

website to inform US Persons that they will be double taxed⁷. ATO to clarify policy on how they might use the data collected on only a subset of taxpayers.

These objectives are distinct and separate in that they require action by different policy makers and changes to different legal instruments.

3.2.1 Planning for Change - What Needs to Change?

The over-arching objective is that Australian-source income of Australian Resident individuals should be taxable only by Australia. Furthermore, each country should respect the tax deferred nature of the other country's retirement accounts.

3.2.2 Change Priorities

Per the 2020 Focus Group workshops, the following are the tax treaty change **priorities** for our group:

- 1) Elimination of double taxation of retirement accounts (Superannuation, but also ATO taxation of US retirement accounts)
- 2) Elimination of taxation on sale of personal residence
- 3) Removal of mainstream Investment taxation restrictions (ie. PFICs, etc.)

⁷ https://www.ato.gov.au/General/International-tax-agreements/In-detail/What-are-tax-treaties-/?=redirected_taxtreaties

3.2.2.1 Tax Treaty Deficiencies

The following sections provide comprehensive detail on identified Tax Treaty issues, listing the specific items that require change, including associated priorities.

Problem	Detailed Description	Importance (H/M/L)
Superannuation	<p>Taxation treatment of Superannuation is unclear and not addressed in the current tax treaty or in formal IRS rulings. There are a variety of ways that Superannuation can be reported on a US tax return. These range from completely tax free (as the equivalent of Social Security) to fully taxable including appreciation inside the fund (as a foreign grantor trust). Indications are that the IRS is currently pushing the unfavourable grantor trust interpretation, at least in some circumstances.</p> <p>The Treaty should clarify the treatment of Superannuation commensurate with Australian domestic public policy and in such a way not to disadvantage those who have a mandatory obligation to invest into Super.</p>	High
Retirement Account Portability	<p>Labour mobility is impeded when the destination country can tax funds that are invested in source country retirement savings that are not currently accessible. The current OECD and US model tax treaties contain articles that address this problem, both during the accumulation phase and the drawdown (post-retirement) phase. Essentially, the treaty should require each country to respect the tax-deferred accounts available in the other country and defer any individual taxation until funds are withdrawn. Further simplicity can be attained by assigning sole taxing rights to the source country with a provision that non-residents are taxed no more punitively than residents.</p>	High
Sale of principal residence	<p>Capital gain on the sale of a personal residence is taxable in the US (with a US\$250,000 exemption per person). This gain is computed as if the purchase and sale were in US dollars, potentially leading to currency “phantom gains”. In addition, the US will tax any US\$ gain on the discharge of a mortgage on the property. Note that, since the residence is a personal use asset, losses are not allowed. The Tax Treaty should seek to align treatment of the sale of a personal residence with Australian taxation policy, particularly as the high housing cost in Australia forces many to tie up a large proportion of their net assets in their primary residence.</p>	High

Problem	Detailed Description	Importance (H/M/L)
Saving Clause	The saving clause allows the US government to impose direct taxation on some Australian citizens and residents. It denies those who are US citizens the use of the majority of treaty provisions except for a limited set of specified provisions. Due to the action of the saving clause, an individual can be taxed under resident tax rules by both the US and Australia.	High
PFICs	<p>Australian managed funds, listed investment companies (LICs), real estate investment companies (A-REITs), and exchange traded funds (ETFs) are all treated as Passive Foreign Investment Companies (PFICs) for US taxpayers. PFIC treatment results in punitive taxation of these investment vehicles, up to the point of being confiscatory in application. PFIC legislation was enacted prior to the huge growth in managed funds both in the US and worldwide. Part of the rationale behind this punitive treatment was to prevent US resident taxpayers from using poorly regulated “foreign” investments to defer taxable income. But, any of these investments that is registered for sale to retail investors will be required by Australian law to distribute all income and realised gains currently, just like the American equivalent.</p> <p>The treaty should include a clause that states that Australian investment structures that are sold to retail investors are not to be considered “foreign corporations” under the PFIC rules. Furthermore, the treaty should stipulate that retail investments in one country should not be more punitively taxed in another country than their own similar domestic investments.</p>	High
Transition Tax and GILTI	<p>The 2017 US tax reform bill (Tax Cuts and Jobs Act, Pub. Law 115-97) imposed a one-time transition tax on the retained earnings of foreign corporations owned by US Persons. While Congress never considered the impact of this tax on tax residents of other countries, the compliance industry is busy looking for victims. See this video for an explanation of the transition tax.</p> <p>Tax reform also imposed an ongoing tax (starting in 2018) on Global Intangible Low Taxed Income (GILTI). The way GILTI has been defined, most controlled foreign corporations will find that some of their active Australian-source business income has now been re-defined as US-source income, immediately taxable in the US whether</p>	High

Problem	Detailed Description	Importance (H/M/L)
	<p>distributed to shareholders or not. While Australia’s high corporate tax rate may insulate affected Australian corporations somewhat, the complexity of the associated foreign tax credit rules could create a US tax liability on top of Australian taxes paid. Where the US taxes undistributed income of Australian corporations, they are draining capital from Australia due to the resulting double taxation.</p> <p>Note that small Australian businesses owned by Australian-resident US taxpayers are often treated under the US tax code as controlled foreign corporations subject to these provisions.</p> <p>The treaty should specify that the undistributed income of Australian corporations cannot be deemed distributed to US shareholders and that this provision will not be invalidated by the saving clause.</p>	
Effective nationality / Accidental Americans	<p>There is a principle under international law that dual citizens have an “effective nationality.” Where a dual citizen has closer ties to Australia than the US, this principle should limit the extraterritorial reach of US tax law. The case of Accidental Americans illustrates this principle in the extreme. Accidental Americans were born in the US to Australian parents and returned to Australia as young children. They have no ties to the US, they may not even have a US passport or social security number.</p> <p>Yet, due to their place of birth, the US insists on the right to tax them for the rest of their life or until they pay US\$2,350 to renounce their US citizenship (the highest fee for renunciation by any country by a factor of six) and to pay an exit tax in some circumstances.</p>	Medium
Impediments to using Australian legal structures (trusts and companies)	<p>SMSFs, Family trusts, Australian Corporations and other legitimate Australian legal structures require complex and extensive disclosure under US tax law, with punitive penalties (generally starting at US\$10,000) for failure to file information forms. Furthermore, structures that are effective for Australian tax planning may be disregarded for US tax. The Tax Treaty should provide for “effective nationality” and limit the US tax treatment of these structures for Australian nationals.</p>	Medium
Unemployment and other	<p>The US taxes Australian unemployment benefits and other Centrelink benefits (except the Age Pension and Disability</p>	Low

Problem	Detailed Description	Importance (H/M/L)
Government benefits	Pension). The Tax Treaty should seek exemptions to US taxation of Australian domestic social welfare and support payments.	
NIIT (Net Investment Income Tax)	Enacted as part of Obamacare, NIIT is a flat 3.8% tax on investment income for US taxpayers whose income exceeds a threshold determined by filing status. NIIT applies to all investment income, regardless of source, and cannot be offset by foreign tax credits. For those affected (generally high-income earners), this is a clear case of double taxation. The treaty should seek a claw-back provision.	Low
Gift and Inheritance Tax	<p>While Australia currently has no inheritance or gift taxes, the US does. For US citizens, worldwide wealth is taxed on death (with an exclusion of about US\$5.5million). For estate tax purposes, it does not matter where in the world the asset is located, or whether it was owned prior to becoming a US taxpayer. Tax is based on the value of all assets at death.</p> <p>While the current exclusion for US citizens is quite high, this could change. For US citizens residing in Australia, the estate tax will be levied on Australian assets as well as US assets (even if the decedent has not lived in the US for decades). For non-US citizens holding US assets at death, the exclusion is only US\$60,000, though there is a 1954 US-Australia Estate and Gift Tax Treaty that increases the exclusion for US-situs property from US\$60,000 to a pro-rata share of the US\$11.5million available to US citizens. For non-US citizens with more than US\$60,000 in US-situs assets, the compliance cost of preparing a US estate tax return to show zero balance due could be excessive.</p>	Low

3.2.2.2 FATCA IGA

Problem	Detailed Description	Priority (H/M/L)
Reporting on Australian residents	Under the FATCA IGA, Australian residents with US indicia are identified by their financial institution to be reported to the IRS. Prior to FATCA, the US practice of citizenship-based taxation was unenforceable, especially with regard to those with few or no US ties. Reporting on Australian residents has forced Australian financial institutions to identify US taxpayers for the IRS, even when the affected individuals have no ties to the US other than place of birth or parentage.	High
Lack of reciprocity	One of the inducements for Australia to sign on to the FATCA IGA was reciprocal information reporting on US accounts of Australian residents. The US Congress has yet to pass legislation to enable the IRS to collect this information from US banks. Furthermore, the detail of information to be provided by US banks is much less than that provided by Australian banks. At a minimum, reciprocity should be demanded as a condition of ongoing compliance with the IGA. The IGA allows for a re-visiting of the agreement should the promised reciprocation fail to eventuate.	Medium
Reporting of accounts below the US\$50,000 threshold	While the IGA only requires reporting of accounts in excess of US\$50,000, financial institutions can report lower balance accounts at their option. Furthermore, under the CRS guidelines, financial institutions are to report all accounts, regardless of balance. This, in conjunction with the lack of notification to account holders, creates uncertainty among the affected Australian residents. Low value accounts will be fully taxed in Australia already. The net revenue to the US from tax on low value accounts is negligible. ATO should discourage Australian Financial Institutions of low value accounts and strip this data out of reports provided to the IRS.	Medium
Denial of certain types of accounts	Some financial institutions have denied Australian citizens/residents the ability to open certain types of investment and/or superannuation accounts. This seems to be initially limited to Australian subsidiaries of international banks but instances are growing in line with increased FATCA enforcement. The Australian Government should prohibit financial discrimination on the basis of national origin.	Low (although incidence of denial is increasing)

3.2.2.3 Disclosure

Problem	Detailed Description	Priority (H/M/L)
Lack of notification	Currently, there are no notification requirements from either the Financial Institution or the ATO that information is being provided to the US about a person	High
Inability to correct errors	The lack of detailed disclosure of any information provided means that there is no mechanism to identify and correct errors. Currently, it also appears that the ATO is circumventing FOI protections by refusing FOI requests from reported individuals without prior consultation with the US IRS	High
Privacy Protocols	Privacy protocols are unclear and Privacy Impact Assessment recommended by the Australian Privacy Commissioner was not undertaken.	High
Security Protocols	Security protocols for data exchange unclear. The IRS is treated as a trusted entity, in spite of a history of poor data security. ⁸	High
Discriminatory Disclosure to ATO	Through FATCA reporting, the ATO is gaining more information on a subset of Australian taxpayers (US Persons) than it has ready access to for other Australian taxpayers. What are ATO policies / regulations regarding access and the use of this information?	Medium

3.3 Policy & Power

The purpose of this section is to identify the Australian organisations or groups that are directly accountable for making the required changes to achieve our FTT group objectives. For the most part, the required change actions need to be undertaken by specific governmental bureaucracies and may not necessarily require political / legislative intervention. This observation is important in that it suggests that it may not be necessary to “politicise” this issue or even seek broad political support from our elected representatives or the general voting public to achieve our group aims. Furthermore, if we can establish a defensible “business case” detailing the concrete costs to the Australian economy of

⁸ [One security breach reported last year](#), which ended up including data on over 700,000 taxpayers was actually an [ongoing problem first reported in February 2015](#). Identity theft using IRS data is common with [two recent cases](#) involving [IRS employees](#).

acquiescing to US taxation of Australian residents, we may be able to better motivate the accountable bureaucracies to assign resources to address the problem.

It is also important to differentiate between **Targets** (accountable persons or decision makers) and **Influencers** (those who do not have the power to bring about the desired change but may be effective in persuading targets to make the required changes). For example, media organisations, a key Influencer, cannot directly achieve our group aims, but may play a key role in motivating Targets.

Taxation policy has three components: 1) Policy objectives and approval, 2) Policy research and development and 3) implementation. The key organisational bureaucracies accountable for Australian action on the tax treaty and FATCA are:

- 1) **Specific elected Australian Governments officials** accountable for setting policy objectives and approving policy development outcomes, currently:
 - a. [Treasurer](#)
 - b. [Minister for Employment, Skills, Small and Family Business](#)
 - c. [Minister for Superannuation, Financial Services and the Digital Economy](#)
- 2) [Treasury](#) – accountable for developing and researching policy options to be implemented in the tax treaty and FATCA
 - a. Corporate and International Tax Division
 - b. International Tax Treaties Unit
- 3) [ATO](#) – accountable for implementation of tax policy (Tax Treaty, FATCA, etc.)

3.4 Targets

To be successful in achieving group objectives, we need to identify specific key persons and groups that we must engage with to affect our desired change. Primary targets are the policymakers/offices/etc. that have the power to make the change we are advocating for. If we cannot successfully influence our primary targets, we then should choose secondary targets. A secondary target is the person/group/etc. that we can influence, who can then, in turn, influence our primary target. Targets must be specific (e.g., a person, or named newspapers, departments, committees, etc.).

The following section lists identified Targets, organised by area. This is a work in progress and will be further updated as necessary. Treasury has the main responsibility for the Tax Treaty, although treaty management is through the ATO as the designated “Competent Authority”. While the FATCA agreement would have been negotiated by the Tax Treaty unit at Treasury, implementation is through the ATO. Detailed contact information and organisation charts are available in the FTT wiki (available to wiki editors only).

3.4.1 Targets - Tax Treaty

Role / Organisation	Incumbent	Contact Details	Position on Issue	Level of Knowledge of Issue	Partner with connections to influence Target
Primary Targets:					
Treasurer, Federal Government	The Hon. Josh Frydenberg MP	(03) 9882 3677 http://www.aph.gov.au/J_Frydenberg_MP 695 Burke Rd, Camberwell Victoria, 3124 Canberra Phone (02) 6277 7340 Canberra Fax (02) N/A	Unknown	Note: Minister for Revenue and Financial Services has replied to Treasury correspondence on behalf of Treasurer	
Corporate and International Tax Division, Treasury (Greg Wood, Manager International Tax Treaties, works in this division)	Kathryn Davy – Principal Adviser & Assistant Secretary, International Tax and Treaties Branch (Paul McCullough, Division Head)	<u>Kathryn Davy</u> (02) 6263 4266 kathryn.davy@treasury.gov.au Treasury Building, Langton Crescent, Parkes ACT 2600			
Manager of International Tax Treaties Unit, Treasury	Greg Wood			High; Government employee responsible for developing policy and implementation options	

Role / Organisation	Incumbent	Contact Details	Position on Issue	Level of Knowledge of Issue	Partner with connections to influence Target
Australian Competent Authority		APA/MAP Program Management Unit Public Groups and International Australian Taxation Office GPO Box 9977 BRISBANE QLD 4001		This is the organisational unit that would rule on double taxation under Article 24 of the treaty.	
Secondary Targets:					
Minister for Employment, Skills, Small and Family Business, Federal Government	Senator the Hon. Michaelia Cash	(08) 9226 2000 senator.cash@aph.gov.au (08) 9226 2211 http://www.aph.gov.au/senator_cash 44 Outram Street, West Perth WA 6005 PO Box 1966, West Perth WA 6872 Canberra Phone (02) 6277 7610 Canberra Fax (02) 6273 4115		May be interested in tax to business impediments	
Minister for Foreign Affairs, Federal Government	Senator the Hon. Marise Payne	(02) 9687 8755 foreign.minister@dfat.gov.au (02) 9687 8466 http://www.aph.gov.au/senator_payne 2-12 Macquarie Street, Parramatta NSW 2150 PO Box 1420, Parramatta NSW 2150 Canberra Phone (02) 6277 7500 Canberra Fax (02) 6273 3662			
Minister for Finance, Federal Government	Senator the Hon. Simon Birmingham	(08) 8354 1644 senator.birmingham@aph.gov.au (08) 8354 1655 http://www.aph.gov.au/senator_birmingham 1300 301 638 (toll free) 107 Sir Donald Bradman Drive Hilton, SA, 5033			

Role / Organisation	Incumbent	Contact Details	Position on Issue	Level of Knowledge of Issue	Partner with connections to influence Target
		Canberra Phone (02) 6277 7420			
Minister for Superannuation, Financial Services and Financial Technology	Senator The Hon. Jane Hume	(03) 9428 1773 https://www.senatorhume.com/ 223 Bridge Road Richmond, VIC, 3121 Canberra Telephone: (02) 6277 3123 Canberra Fax: (02) 6277 5782			
Shadow Treasurer, Opposition Party	The Hon. Dr James (Jim) Edward Chalmers, MP	(07) 3299 5910 Unit 2A, Logan Central Plaza 38-74 Wembley Road Logan Central, QLD, 4114 https://www.jimchalmers.org/ Canberra Phone: (02) 6277 4880 Canberra Fax: (02) 6277 4908			
Shadow Foreign Affairs, Opposition Party	The Hon. Penelope (Penny) Ying-Yen Wong	https://www.aph.gov.au/Senators_and_Members/Parliamentarian?MPID=00AOU			
Shadow Minister for Financial Services, Opposition Party	The Hon. Stephen Patrick Jones, MP	(02) 4297 2285 Stephen.Jones.MP@aph.gov.au https://www.alp.org.au/our-people/our-people/stephen-jones/ PO Box 264 Shellharbour, NSW 2529			

3.4.2 Targets - FATCA IGA

Primary Target Name / Organisation	Incumbent	Contact Details	Position on Issue	Level of Knowledge of Issue	Partner with connections to influence Target
Treasury contacts listed above will also be responsible for negotiating and/or amending the FATCA IGA.					
ATO International Deputy Commissioner – Mark Konza				This appears to be the area of the ATO responsible for administering FATCA and CRS	
ATO Superannuation Deputy Commissioner – James O'Halloran			secondary		

3.4.3 Targets - Disclosure / Privacy Issues

Primary Target Name / Organisation	Incumbent	Contact Details	Position on Issue	Level of Knowledge of Issue	Partner with connections to influence Target
Australian Information Commissioner and Privacy Commissioner	Angelene Falk,	175 Pitt Street Sydney NSW 2000 (In-person enquiries by appointment only) GPO Box 5218 Sydney NSW 2001 1300 363 992 Tue/Wed/Thu, 10am - 4pm AEDT https://www.oaic.gov.au/	Unknown	Unknown	

Primary Target Name / Organisation	Incumbent	Contact Details	Position on Issue	Level of Knowledge of Issue	Partner with connections to influence Target
ATO Deputy Commissioner - International	Mr. Hector Thompson	13 28 69	Unknown	Unknown	
ATO Tax Counsel Network			Unknown	Unknown. This is the area of the ATO that responded to FOI requests about FATCA data	

3.4.4 Influencers

Note: Section requires review and further development

Influencer Name	Position on Issue
Media (authors of previous sympathetic/critical articles) <ul style="list-style-type: none"> Australian Financial Review – Agnes King, Tony Boyd, Shaun Drummond, Sally Rose, Georgia Wilkins, Nassim Khadeem, Australian Business Review – Ben Butler, ABC News – Stephen Long, Sydney Morning Herald – Hugh Hamilton, Julie Power, Michael Koziol 	Mostly unknown; Julie Power supportive (has written several articles on our cause)
Civil Liberties Australia	Unknown but have published articles on FATCA.
American Australian Association	Unknown

3.4.5 Partners and Alliances

Partner Name	Position on Issue
Let's Fix The Tax Treaty! Facebook Group	Advocacy group launched 13 August 2016 to represent Australians impacted by USG citizenship based taxation practices (both US expats in Australia and Australian expats in the US). Aims to press for amendments to the Australia/US Tax Treaty and the FATCA IGA to eliminate discrimination against a subclass of Australian citizens that is also disadvantageous to all Australians
Online Advocacy groups	
American Expatriates FB Group	Led by Keith Redmond, this public FB group's mission is to "inform, educate and provide current information regarding United States government policies: FATCA, CBT, US Citizenship law, passport revocation, and any American law directly impacting Americans living overseas & associated populations"
Isaac Brock Society	The Isaac Brock Society consists of individuals who are concerned about the treatment by the United States government of US persons who live in Canada and abroad. Large, world-wide and active group.
Stop Extraterritorial American Taxation (SEAT)	Founded in 2020. Founding board members: Laura Snyder, Keith Redmond, Karen Alpert, John Richardson, Suzanne Herman and David Johnstone. SEAT is an independent, nonpartisan organization with no affiliation with the tax compliance industry. The mission of SEAT is to provide an educational platform for: individuals, politicians, governments, academics and professionals about terrible effects of US extraterritorial taxation.
American small businesses for tax fairness FB group	Founded by Monte Silver in response to the transition tax and GILTI which were enacted as part of the Tax Cuts and Jobs Act in late 2017.
Accidental Americans FB Group and Page	This is the Facebook presence of the French non-profit L'Association des Américains Accidentels (AAA) run by Fabien Lehagre. This group has been active in pursuing European banks and governments over FATCA-related discrimination against Americans.
Civil Liberties groups	
Civil Liberties Australia	Advocates for Civil Liberties rights; unknown if they would support our cause

Partner Name	Position on Issue
Global Citizenship Taxation Groups	
American Citizens Abroad (ACA)	American Citizens Abroad's (ACA, Inc.) mission is to educate, advocate and inform both the US Government and US Citizens living and working abroad on regulatory and legislative issues of concern to the overseas American community. ACA is headquartered in Washington, DC and is registered as a US 501(c)(3) nonprofit.
Association of Americans Resident Overseas (AARO)	The Association of Americans Resident Overseas (AARO), founded in 1973 and headquartered in Paris, is an international, non-partisan association with members in 46 countries. It researches issues that significantly affect the lives of overseas Americans and keeps its members informed on those issues.
Other	
CPA Australia	Requires further investigation; verbally told by a CPA that this Professional Association might be interested in our cause (potentially through Public Practice Advisory Committee?)
Association of Superannuation Funds of Australia (ASFA)	ASFA is the peak policy, research and advocacy body for Australia's superannuation industry.

See Appendix 4 for further information on potential partners and alliances.

3.5 Key Messaging Themes

There are many strong arguments in support of amending and improving the current Australia-US Tax Treaty to improve and mitigate the many harmful aspects of the existing treaty.

These arguments can be grouped into three key themes where US extraterritorial taxation and control:

1) Harms the Australian economy, taxation base and business interests

- Extracts revenue from the Australian economy (tax payments, compliance expenditure, etc.) into a foreign economy through double taxation or through undesired side effects due the misalignment of taxation policy, approach and legislation between countries. Problematic Australia – US taxation areas include superannuation, gift, inheritance, sale of principal residence, ongoing high compliance costs, etc.
- Allowing foreign countries to tax Australian Source Income represents a leakage of capital from Australia.
- Application of punitive taxes over normal financial activities that, in some cases, can become nearly confiscatory in scale (ie. PFICs)
- Disproportionate penalties where penalties can greatly exceed tax owed
- Currency treatment can lead to taxable “phantom” gains
- FATCA implementation costs to Australian banks estimated at AUD255m for implementation and AUD22.7m per year⁹ and will be borne by all Australian bank customers and shareholders, not just customers of US origin
- Deliberately disadvantages and discourages affected Australian residents from using Australian financial services industry for normal retirement and investment activity

2) Undermines Australian domestic policy and sovereignty and is imperialistic in practice

- Current approach undermines Australian domestic policy and laws, making some Australian aspects subordinate to US tax policy. US taxation of Superannuation is a clear example of this but there are many others including US taxation of redundancy benefits or Centrelink payments such as income support, etc.
- Any money paid to the US as tax on superannuation will reduce the ability of the affected individuals to save for a self-funded retirement. The resulting shortfall will be made up by increased entitlement to Australian government benefits such as the Age Pension

⁹ https://en.wikipedia.org/wiki/Foreign_Account_Tax_Compliance_Act#Implementation_cost and <https://www.legislation.gov.au/Details/C2014B00107/Explanatory%20Memorandum/Text>

- The US dictated FATCA legislation to Australia by holding an “economic gun” to the Australian banking system through a threatened 30% business withholding tax
- FATCA established the extraterritoriality of US tax law, i.e. USA priority over the law of any country in the world, including Australian domestic laws
- Lack of reciprocity by the US Government, despite nonbinding promises in the intergovernmental agreement.

3) Violate basic human rights and privacy tenets afforded to other Australians

a) Discriminatory US CBT / FATCA practices

- Breach of Civil Liberties; i.e. *“the right to equal treatment under the law and due process”*
- As documented on the Isaac Brock Society website, a complaint against Citizenship Based Taxation has been submitted to the United Nations Human Rights Council.¹⁰
- On the US side, the National Taxpayer Advocate has repeatedly stated that treatment of “international taxpayers” violates the IRS’ own “Taxpayer Bill of Rights” and needs urgent legislative attention. These statements have been virtually ignored by Congress and the IRS.¹¹
- Clear and ongoing discrimination against a group of Australians goes against numerous anti-discrimination acts at both Australian and Federal level:¹²
 - Acts generally prohibit treating someone unfavourably because of a personal characteristic such as race, where one aspect of the definition of race is national origin and nationality; Acts also prohibits requests for information where the information will be used to disadvantage that person, for example where Financial services being denied to Australians of US Origin (one example is ING Living Super not being offered to Australian residents of US origin)
 - ‘Indirect’ discrimination is also unlawful. This is where a condition or measure is applied to everyone and seems reasonable, but has the effect of discriminating against a particular race.

b) Inadequate privacy provisions

- Information gathered on a specific group of Australian residents and given to a foreign government.
- Privacy Impact Assessment (PIA) was not done by Treasury Department despite recommendation from Privacy Commissioner and it is unclear whether OAIC recommendations¹³ were adopted.

¹⁰ <http://isaacbrocksociety.ca/2014/07/28/human-rights-complaint-on-behalf-of-all-u-s-persons-abroad-has-now-been-submitted/>

¹¹ https://wiki.fixthetaxtreaty.org/doku/doku.php?id=wiki:contents:us_tax:cbt#taxpayer_advocate_reports

¹² https://www.humanrights.gov.au/sites/default/files/GPGB_quick_guide_to_discrimination_laws_0.pdf

¹³ <https://www.oaic.gov.au/engage-with-us/submissions/intergovernmental-agreement-to-implement-fatca>

- Data security concerns
- Unclear ATO policy on what guidelines / processes are in-place for internal ATO use of reported FATCA data as this level of financial information is not available to ATO for the majority of Australian taxpayers.
- No right of notification / disclosure / verification for reported persons
- Apparent reluctance to disclose to affected persons regarding what information is being provided, potentially violating FOI laws. Refusal by ATO to provide gathered information to affected individuals under FOI request without prior consultation with US IRS.

c) Emotionally damaging (fear, anger, etc.)

- Attempting to mesh two dissimilar and highly complex tax systems leads to ongoing fear and anxiety in the face of the often-punitive nature of “foreign taxation” coupled with the prospect of high penalties in the event of getting it wrong.
- Many persons feel trapped in the system due to the high cost of expatriation and the possible application of financially devastating exit taxes that are applied on the value of assets upon relinquishment, not when the individual left the US.
- Affected persons typically feel persecuted and afraid for just trying to live a normal life and save for their retirement. *Our Stories* on the FTT website illustrates how a number of Australians have been adversely affected; many fearing they will lose their savings due to either IRS penalties or the exit tax. Some have already paid a significant portion of their net worth to the US government and/or professional advisors. Others feel that no one truly understands their predicament.
- Our elected Australian representatives typically have “given a deaf ear” to our issues, abdicating their accountabilities towards their constituencies by saying that this is a matter between the affected individual and the US Government. This leads many to feel that, in practice, there are sub-classes of Australians citizenship, where some citizens are subject to different rights.
- Affected persons are often unwilling to exercise their democratic rights to affect change out of fear for the IRS. Consequently, many participants on various online forums for this population prefer to remain completely anonymous and are unwilling to tell their stories due to fear of persecution.

Note that the above themes are currently worded as negatives (problems). Consideration should be made to reframe these issues as opportunities. For example, Theme 1 covers how the current situation is harmful to the Australian economy, taxation base and business opportunities. This theme could be reframed and quantified as a positive opportunity to facilitate improved economic and business investment outcomes to the benefit of all Australians.

4 Annual Objectives and Action Plans

To assist in achieving the overall group goals, the FTT Steering Committee will set annual objectives and action plan and provide these to the larger group for feedback and comment. Note that these objectives may need to be dynamically scaled to fit the available volunteer group resources.

Appendix 1 summarises the 2020-21 objectives (“Scorecard”) and Action Plans.

Appendix 1: 2021 Objectives (Scorecard) and Action Plan

The initial group focus was on developing the foundations upon which we intend to build activity, momentum and scale over the coming years. Key milestones along the way included publishing our Strategy Roadmap, creating and implementing a Wiki knowledge capture framework and ongoing membership growth, development and support.

Our 2020-21 Scorecard Objectives are summarised in table below, listing the key areas of activity as well as the desired outcomes. The second table describes our annual action plan.

No.	Objective Area	Desired Outcomes (YE-2021)
1	Advocacy Campaigns	Two advocacy campaigns conducted: 1. FATCA PIR rebuttal campaign (Feb launch) completed 2. Superannuation / investment portability campaign (2H 2021) completed
2	Policy Maker Engagement	<ul style="list-style-type: none">• Position (“White”) Paper developed and sent to policy makers for feedback• Appropriate policy makers contacted and parliamentary levers utilised – see campaigns objective• Broad membership campaign involvement
3	Media Engagement	<ul style="list-style-type: none">• Media releases issued in conjunction with Advocacy campaigns• At least one media article published
4	FATCA data FOI Appeal	<ul style="list-style-type: none">• Resolution achieved on ongoing FOI appeal to Privacy Commissioner on FATCA data summary release• Further pursued through elected Representatives if OAIC appeal is unsuccessful
5	Knowledge base development (refer to Appendix 3)	<ul style="list-style-type: none">• Current wiki pages reviewed and refined (fill in FixMe’s, etc.)• Overall structure and coverage reviewed and longer-term Wiki plan developed
6	FTT Community Development	<ul style="list-style-type: none">• Group awareness and support broadened• Improved group engagement (volunteerism as measure)• FB Group Size increased by 50% (target 1900 to 2000 members)• Blog site traffic increased 20%• One new Steering Committee member added
7	External Website Development	<ul style="list-style-type: none">• fixthetaxtreaty.org WordPress site security certificate (https) update completed
8	Alliances	<ul style="list-style-type: none">• Alliance partners identified, prioritised and engaged

2021 Action Plan Details, by Objective

1. Advocacy campaigns

Two advocacy campaigns completed

(1) FATCA PIR Rebuttal

- Objective: media / letter writing campaign around recent FATCA 5-year Post-Implementation Review (PIR) that didn't even consider those being reported upon ("US Persons") as Stakeholders
- Timing: Feb launch to target action at March Parliamentary sitting
- Prepare model letter for membership to personalise by sharing their concerns and stories with their elected representatives; suggest key mitigation steps that are required
- Obtain broad membership participation in campaign – track which reps are contacted and outcomes
- Request elected representatives to use parliamentary levers such as Written Questions, Senate Estimates, etc.

(2) Superannuation / investment portability campaign

- Objective: Seek Parliamentary action on issues of Superannuation double taxation

2. Policy Maker Engagement

- Strawman (quantification) business case developed to support Superannuation / investment portability campaign
- Simple and effective communication Infographics developed based on above
- Broad membership involvement in campaigns
 - ✓ Elected representatives contacted
 - ✓ Parliamentary levers (Questions, Senate Estimates, etc.) utilised as appropriate

3. Media Engagement

- Media releases written in conjunction with campaigns and sent to broad spectrum of media organisations – consider additional alternatives to print media such as radio talkback, television or influential blogs

4. FATCA data FOI Appeal

- Pursue resolution of in-progress FOI Appeal to OAIC Privacy Commissioner over refusal to release FATCA reporting data statistics. Appeal is currently 18 months old and still in queue for formal review.
- If appeal is unsuccessful, further pursue resolution through elected representatives and consider media promotion

5. Knowledge base development

- Active Wiki Editors (contributors) recruited – target four
- Current Wiki pages reviewed and improved (fill in “Fix-Me’s”, etc.)
- Overall Wiki structure, content and coverage reviewed to with the intent to document longer-term Wiki development plan

6. FTT Community Development

- Improved group engagement (volunteerism as measure)
- FB Group Size increased by 50% (1900 to 2000 members)
- Blog site traffic increased 20% over YE17
- Year End feedback report issued (Jan 2019): 2018 actual performance vs objectives plus 2019 objectives & actions

7. External Website Development

- Security certificates (required for https; increasingly required by browsers) added to WordPress site and thoroughly tested
 - Ensure process done correctly so it does not interfere with existing rank earned in external search engines such as Google.
- www.fixthetaxtreaty.org website redesign and refresh (stretch target)

8. Alliances

- Update completed: Alliance partners identified, prioritised and engaged (stretch target)

Appendix 2: Glossary & List of Acronyms

Also refer to FTT Wiki at <https://wiki.fixthetaxtreaty.org/doku/doku.php>

Acronym	Meaning
Accidental Americans	Claimed by the US as citizens, Accidental Americans have virtually no connection to the US. They were either born in the US to foreign parents and moved back home when they were very young, or they were born outside the US to one US parent and have lived their life as a citizen and resident of their country of birth.
AFI	Australia Financial Institutions (often referred to as Foreign Financial Institutions in US FATCA documentation)
A-REIT	Australian listed Real Estate Investment Trust
ATO	Australian Tax Office , Australian bureaucracy responsible for taxation reporting, collection and compliance
ETF	Exchange Traded Fund – a managed fund that is traded on the stock exchange.
FATCA	<u>Foreign Account Tax Compliance Act</u> is a 2010 United States federal law to enforce taxation requirements for United States persons, including those living outside the U.S.
FB	Facebook
FFI	Foreign Financial Institutions , see AFI
FOI	Freedom of Information ; Per the <u>Freedom of Information Act 1982</u> , Australians are provided a legally enforceable right of access to government documents including granting individuals the right to see what information government holds about them, and to seek correction of that information if they consider it wrong or misleading.
FTC	Foreign Tax Credit – for Australian source income, taxes paid to Australia will offset any US tax payable. Most people with mainly employment income will find that the FTC fully offsets their US taxes (so they have zero balance due in the US).
FTT	<u>Let's Fix the Tax Treaty!</u> Organisation
IGA	Intergovernmental Agreement ; generally the basis for implementing FATCA. Note this agreement is not a treaty in a strict sense as generally does not require full government ratification & approval on the US side.
IRS	Internal Revenue Service , US bureaucracy responsible for taxation reporting, collection and compliance
LIC	Listed Investment Company – a listed company in the business of investing in other companies and unlisted assets.

NIIT	Net Investment Income Tax – enacted as part of the Affordable Care Act (ObamaCare), this is a 3.8% US surtax on net investment income which cannot be offset by Foreign Tax Credits (leading to double taxation).
PIR	<u>Post-Implementation Review</u> - for regulations assessed by Office of Best Practice Regulation (OBPR) as having a substantial or widespread impact on the Australian economy, such as FATCA, a PIR must be completed within five years following the implementation of the regulation to examine the cost-benefits of the regulation. Stakeholder consultation is considered a key component of this review.
PFIC	<u>Passive Foreign Investment Company</u> - for purposes of United States income tax, US persons owning shares of a passive foreign investment company (PFIC) are subject to extremely strict, onerous and complex tax regulations that, in effect, make it prohibitive to invest in mutual fund type investments outside the USA.
Superannuation	Often referred to as Super, this is Australia's government-mandated retirement savings scheme.
SMSF	Self-Managed Super Fund

Appendix 3: Evidence Base Requirements

Presently, there is little awareness by government, policy makers or the general public of the issues caused to Australians through the US practices of Citizenship-based taxation. Consequently, to affect change, we will first need to educate policy makers and influencers such as the media. To do this, it will be important to create a **defensible evidence base** in support of our position.

There are many advantages of having a well-considered evidence base, including:

- Readily available, documented and clear factual support for our cause
- Common knowledge source
- Clear (single) messages rather than risk of confusing mixed facts and figures
- media and policy maker engagement kit development

This evidence base can take a number of forms including

- 1) Wiki (<https://wiki.fixthetaxtreaty.org>) – online educational source with hyperlinked references,
- 2) White Papers and original research – well thought-out and researched position papers on specific elements of the issue, etc.

Evidence generation should consider the following (modified, after [Unicef Advocacy Toolkit](#)):

1. Is the evidence grounded in solid research, preferably undertaken by experts?
 - Clear evidence – scale, severity, impact on lives
 - Based on research and rigour
 - “killer” statistics
2. Does the evidence highlight the root causes of the problem?
3. Does the evidence provide convincing solutions to the problem?
 - Feasible solutions ... Reliable & relevant
4. Is the evidence complimented with qualitative analysis when it is quantitative, and vice versa?
5. Is the evidence complimented by human impact stories that highlight the personal and human dimensions of the problem
6. Can the evidence be easily disseminated?
7. Is the evidence timely?

Appendix 4: Partners & Alliances

List of Potential Partners & Alliances (will be added to / amended over time). Note: requires further updates and development work.

Anti-discrimination Groups	Potential support based on argument that people of American origin are being discriminated against because of race? 1991
Privacy advocates such as EFA and the Pirate Party	https://pirateparty.org.au/ https://www.efa.org.au/ - these may be a stretch, but they might be interested in fighting FATCA based on the privacy issue
Superannuation and investment / finance industry	http://www.superannuation.asn.au/ http://www.smsfassociation.com/ http://www.industrysuperaustralia.com/
Australian expats in the US	Brett Evans at Atlas Wealth - financial planner specialising in expats
Australian civil liberties groups such as Civil Liberties Australia , NSW Council for Civil Liberties , QLD Council for Civil Liberties , SA Council for Civil Liberties , others?	Numerous Groups w/in Australia whose purpose it is to champion Civil Liberties. Our cause is a breach of "the right to equal treatment under the law and due process" and a case of clear discrimination against a group of Australians Unclear if and how these groups coordinate and whether they will individually or collectively support our cause. Some groups such as NSWCCCL have gone as far as legal support for formal challenges.
MPs / political potential allies based on US connections	potential/unconfirmed: Rebekha Sharkie, Andrew Leigh (need to populate list - look on Australia page on Brock)
Sydney Americans Group	Led by Ben Gaupo
Americans in Brisbane Meetup	