BROOKFIELD'S BERMUDA BASE: IS CANADA'S LARGEST ALTERNATIVE ASSET MANAGER DODGING GLOBAL TAXES?

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Geelong
PRIVATE HOSPITAL

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For the purposes of this report, the words “tax dodging” or other similar derivatives refer to a range of strategies, many of which are legal. This report makes no specific allegations of illegal activity or behaviour but highlights areas that may be cause for further scrutiny.

Brookfield’s corporate structures are incredibly complex. This report contains a partial analysis of four case studies, based on available material. It should not be considered a comprehensive review of Brookfield’s investments, however structures that have been identified do raise concerns and we believe they warrant further review.

Overall, this report points to the need for substantially greater transparency throughout Brookfield’s operations. Implementing country-by-country reporting following the GRI Tax Standard would be a significant step forward.

Statement

In response to the allegations made in this report, a Brookfield spokesperson said:

"We are committed to providing relevant and proportionate disclosure about our tax payments in accordance with recognized reporting frameworks and in a manner that is both informative and transparent.

"Our investments consist of businesses that own and operate critical infrastructure, renewable energy and real estate assets all over the world. These assets are owned by corporate subsidiaries in their local jurisdictions where all applicable corporate income taxes are paid in compliance with local tax laws. We also file a country-by-country tax report with the Canada Revenue Agency which shares that information with the OECD jurisdictions in which we operate."

"Our effective tax rate is influenced by several factors, some of which are not reflective of cash taxes paid, therefore can be significantly misleading. For example, in line with IFRS accounting standards, we report our income to include non-controlling ownership interests, whereas our reported tax provision includes only our proportionate share and not the share attributable to our investment partners. We would also note that jurisdictions around the world have substantially different corporate tax rates and offer important tax incentives for investment, for example in sectors such as renewable energy in which Brookfield is a recognized global leader."

More information on Brookfield's position on the GRI Tax Standard is contained in the recent Management Information Circular dated 9 May 2023 (Page 88-90). [link]

Tax Governance Framework [link]

Tax Risk Management Policy [link]

1. Introduction

Brookfield is one of the world's largest investment managers, specialising in direct ownership of assets and operating companies around the world, across a range of diverse sectors, industries, and asset classes. Its investments have clear and direct impacts on hundreds of millions of people around the world. Brookfield has over US$800 billion in assets under management, much of which is workers' deferred income from global public pension funds. As of 1 January 2023, Brookfield Asset Management was ranked as the 5th largest corporation in Canada, with a market capitalisation of over US$71 billion.

Brookfield Place, also known as the World Financial Center, is a large office and shopping complex across from the World Trade Centre in New York City.

Brookfield is not a household name, but many of the landmark assets it controls around the world, such as Canary Wharf in London and Manhattan West in New York, are widely known. Its private equity arm owns a global lottery company that operates government-sponsored lotteries (and sports betting) in 50 countries around the world and is "the largest lottery systems provider in Europe and the fastest growing in the U.S."[1]

While Brookfield claims that sustainability "is fundamental to our business and how we create value", its tax practices and its impact on local communities may be anything but sustainable.[2]

Brookfield's track record of alleged tax dodging has received some attention in Australia and Canada, where it may claim the title of Canada's top tax dodger. And there is an apparent pattern of aggressive tax avoidance consistent across its global operations. Despite some scrutiny, Brookfield's behaviour, and its heavy reliance on tax havens, has not changed. Aggressive tax avoidance, whether legal or not, deprives governments of revenue desperately needed to fund essential public services – including health, education, and sanitation.

As a major client of Appleby, the law firm at the centre of the global scandal, Brookfield was featured in the ICIJ's (International Consortium of Investigative Journalists) Panama Papers leaks in 2017.[3] The *Toronto Star* reported on leaked documents which revealed that Brookfield Infrastructure Partners (BIP) in Bermuda "set up 29 corporations and limited partnerships in nine jurisdictions in a 48-step 'specific sequencing' to 'ensure' that units of BIP 'are not taxable Canadian property.'"[4] A spokesperson denied that these structures had any impact on the tax treatment of the company's partnerships.

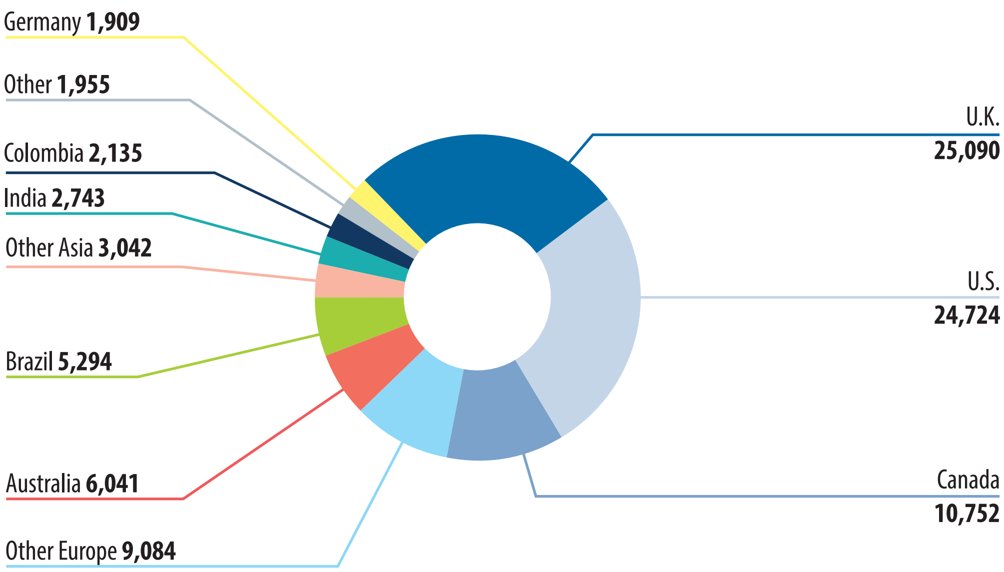
Brookfield appears to have a heavy reliance on offshore related party debt to reduce income tax obligations where profits are earned, and shift interest income offshore or into other tax-free structures. While this may be legal, it has large negative impacts on public funding for essential services in countries where Brookfield operates and is increasingly seen as unsustainable and immoral. Aggressive tax avoidance schemes create risks for shareholders and fund investors as scrutiny from tax authorities increases. Greater transparency is urgently needed.

Brookfield's use of tax haven structures appears to have intensified since the Panama Papers. In Bermuda alone, a current search of the registrar of companies for entities beginning with "Brookfield" produces 266 results, including many like "Brookfield Australia Infrastructure Holdings (Brookfield AIV), L.P." and Brookfield Australia Infrastructure Holdings (Bermuda), L.P.", which are clearly linked to investments in other countries.[5] There may be hundreds of other Brookfield-controlled entities in Bermuda under other names that do not begin with Brookfield. In contrast, Brookfield Corporation's 2022 Annual Report lists only four subsidiaries, Brookfield Asset Management ULC ("BAM") in British Columbia and three limited partnerships in Bermuda.[6]

This report offers a review of existing analyses of Brookfield's top-level tax avoidance in Canada and explores examples of Brookfield's alleged tax avoidance across various asset classes, with specific case studies in the UK, Australia, Colombia, and Brazil. In 2022, Brookfield Corporation reported global revenues of nearly US$92.8 billion. Due to opaque global reporting on operations at the country level, the proportion of Brookfield's global revenues due to innovative investments and business strategies vs exploiting loopholes in national and global tax systems is unclear.

Brookfield's top countries (ranked by revenue share) were the U.K. (27%), the U.S. (27%), Canada (12%), Australia (7%), Brazil (6%), India (3%), Columbia (2%) and Germany (2%).[7] Brookfield does not report on taxes or profits paid at the country level.

Brookfield revenue by country 2022 (US$ million)



Information on private investments in the UK and Australia is far more readily available than on Brookfield's massive investments in both the US and Canada. Case studies from Colombia and Brazil, both top global markets for Brookfield, also identify possible aggressive tax avoidance schemes and provide clear examples of the potentially harmful impact to local communities of privatising essential public services, like water and power.

> “plastering the assets with more debt, ramping up the related party deals, paying nary a skerrick in income tax, asset stripping, playing the government for grants, hiding stuff, letting service levels slide and ripping out billions to tax havens.”

Independent Journalist Michael West describing Brookfield’s business model in Australia

2. Who is Brookfield?

2.1 Brookfield's complex corporate structure weaves in and out of tax havens

Brookfield's structure has been described as a cascading ownership pyramid,[8] with local subsidiaries controlled by complex chains of foreign entities with direct investments through individual investment funds ultimately winding up in Bermuda. The small Caribbean Island nation levies 'no taxes on profits, income, dividends, or capital gains, has no limit on the accumulation of profit, and has no requirement to distribute dividends'[9]. The Bermuda Government recently legislated to extend the tax exemption on income and capital gains for its registered companies until 31 March 2035.[10] In addition to its key subsidiaries in Bermuda, Brookfield has dozens of subsidiaries registered in tax havens including the Cayman Islands, British Virgin Islands, Gibraltar, Malta, Jersey, Singapore, Hong Kong, Luxembourg, the Isle of Man, and others.[11]

Despite a recent restructure, Brookfield's core remains largely the same.[12] There are two publicly listed corporations, dual-listed on the Toronto and New York stock exchanges. As before, the primary investments are held through publicly traded Limited Partnerships, incorporated in the tax haven of Bermuda, and based on the class of investment asset. These asset classes include Renewable Power, Infrastructure, Real Estate and Private Equity. Brookfield also has huge global investments in the Insurance and Credit industries, including its control of Oaktree Capital, which specialises in distressed debt and has over US$170 billion in assets under management.

A detailed 2020 examination of Brookfield's ownership structure by the *Financial Times* revealed that Brookfield's parent company (Brookfield Asset Management Inc at that time) was controlled by the shadowy Partners Limited, comprising 40 people ('partners') who owned 20% of its stock but held extraordinary voting rights, enabling them to overrule shareholder motions, and giving them control over the parent company's board.[13] A recent corporate restructuring has shifted ownership, but the complexity and large shareholdings by top executives appear to have remained the same.

The *Financial Times* was unable to identify all the partners individually. According to company filings, Bruce Flatt (CEO of Brookfield's parent company) and Jack Cockwell (Director of Brookfield and Chair of the Brookfield Partners Foundation) owned half the shares of Partners between them.[14] Another five 'partners' controlled about a third.[15] Both individuals remain among the top five shareholders in Brookfield Corporation, excluding company-owned shares. Brookfield Corporation is also the top shareholder of the restructured Brookfield Asset Management Ltd.

The power of the insiders at the top of the Brookfield monolith was so great that the company itself claimed that 'the companies below them could face risks similar to those of "pyramid control companies"' in a draft filing with the SEC in 2013 (a revised version of the filing suggested these risks related to the separation of ownership from control).[16] These corporate governance risks arise from the fact that the top line owners at Brookfield exerted more control over subsidiaries than is reflected in equity interests. Brookfield Corporation continues to control hundreds of billions of other people's money. Serious questions should be asked about whether its conduct should be considered responsible, or not.

This is not only an issue for the other equity owners in Brookfield's businesses whose money is at risk, but also for the taxpayers and communities who subsidise and rely on the services that Brookfield controlled entities are paid to provide around the world. Commentators and analysts have highlighted potential risks inherent in Brookfield's structures, including its similarity to the failed Babcock and Brown. Brookfield's investments in Australia, which appear to be part of a global pattern, have been described as "plastering the assets with more debt, ramping up the related party deals, paying nary a skerrick in income tax, asset stripping, playing the government for grants, hiding stuff, letting service levels slide and ripping out billions to tax havens."[17]

2.2 Canada's Largest Tax Dodger?

In addition to being headquartered in Canada, Brookfield also owns substantial investments in its home country, where it appears to pay minimal tax. Brookfield Corporation reported Canadian revenue of nearly US$10.8 billion in 2022, which accounted for 11.6% of global revenue, its third most important market after the U.K. and the U.S.[18] Brookfield is the largest owner of commercial office properties in key cities across both Canada and the United States.[19] As examples of other Brookfield investments in Canada, its private equity arm has controlling interests in:

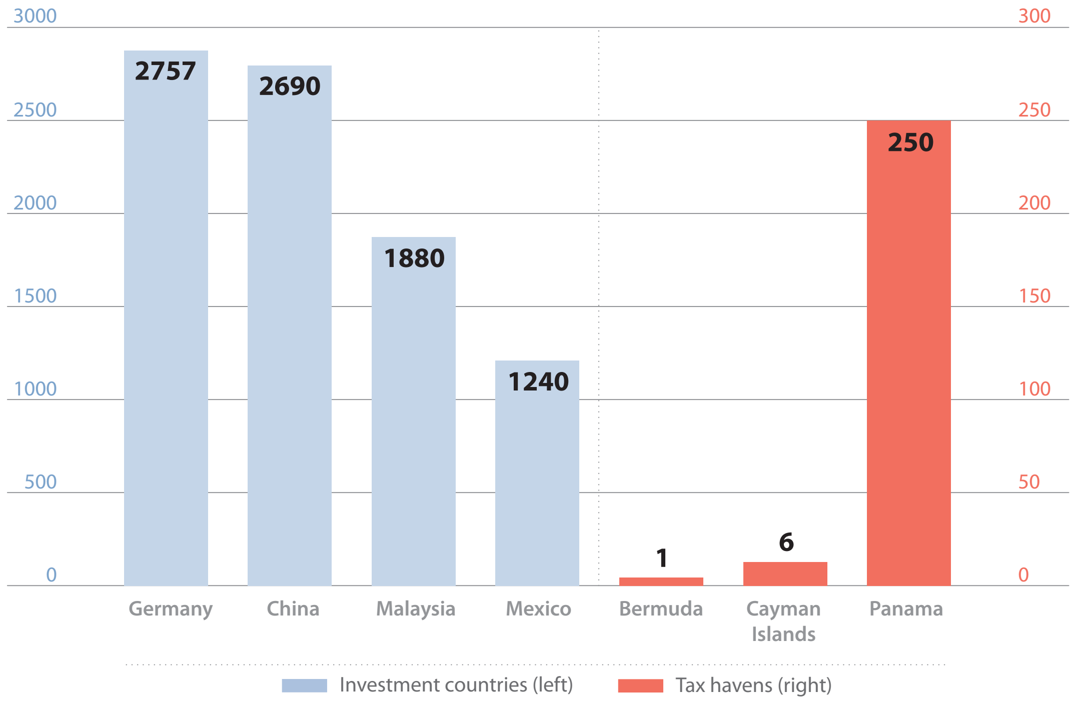
- major Toronto area casinos (including Woodbine, Pickering and Great Blue Heron) operated on behalf of the Ontario Lottery and Gaming Corporation (OLG);[20]
- Sagen, Canada's largest private mortgage insurance provider;[21] and
- Hammerstone Infrastructure Materials Ltd, the largest supplier of building materials to the Alberta oil sands.[22]

In Canada, Brookfield Asset Management, now Brookfield Corporation, has paid relatively little tax on very large profits. A 2017 report by Canadians for Tax Fairness outlined how large Canadian corporations are able to use complex loopholes and corporate structures to reduce the effective tax rate in their home country.[23] The *Toronto Star* estimated in 2016 that the largest 102 companies in Canada had avoided C$62.9 billion in taxes between 2011-16.[24] A key method for avoiding taxes is to set up subsidiary companies in tax havens, like Bermuda, because dividends from foreign subsidiaries to Canadian parent companies are tax-free.[25]

The 2017 *Toronto Star* investigation found that Brookfield was among the worst tax offenders of all Canadian corporations. It had the lowest effective tax rate, only 6.7%. Brookfield's effective tax rate was even lower than Canada's five big banks, renowned for tax avoidance, whose tax rates were all more than double the tax rate paid by Brookfield (between 13.4% and 17.8%).[26]

Given the lack of corporate transparency and accountability in tax haven jurisdictions, Canadians for Tax Fairness (C4TF) use an employment-to-investment ratio to estimate the extent to which returns are being driven by real economic activity in a particular jurisdiction.[27] C4TF analysis based on 2014 foreign investment statistics found that in tax havens, employees per $1 billion in assets ranged from 1 in Bermuda and 6 in the Cayman Islands, to 250 in Panama. Meanwhile, employees per $1 billion in assets for other countries ranged from 1,240 in Mexico to 1,880 in Malaysia, 2,690 in China and 2,757 in Germany.[28] Bermuda, where Brookfield's key subsidiaries are registered, has the greatest disconnect between investment and employment.

Jobs created per $1 billion invested (2014)



Nobel Laureate Joseph Stiglitz comments on how the tax policy settings in Brookfield's home jurisdiction shape business models:

> *"In Canada, the evidence is that increasingly a larger fraction of income to corporations is related to excessive profits. Lower tax rates encourage firms to engage in more excessive profit seeking. You have greater incentives to create more monopoly power, to lobby (the government), because you get to keep a larger fraction of the returns from the lobbying activity."*[29]

More recent research by Canadians for Tax Fairness (C4TF) indicates that the broader trends of tax avoidance continue in Canada and that Brookfield still leads the way. A report from 2022 estimated a corporate tax gap for Canada's 123 largest corporations of more than C$30 billion in 2021 and found that "largest tax gap for 2017 to 2021 belonged to Brookfield Asset Management."[30] The tax gap measures the difference between taxes paid and what would have been paid if the statutory tax rate were applied to profits. While there are many legitimate reasons why the rate of tax payments would be lower than the official tax rate, Brookfield's exceptional and consistently low rates of tax are a clear warning sign.

A 2023 C4TF report, on the receipt of pandemic subsidies (the Canada Emergency Wage Subsidy (CEWS)), highlighted Brookfield again for several reasons. The report found that Brookfield had "at least six wholly-owned subsidiaries that collected CEWS plus sizable majority stakes in two additional CEWS recipients."[31] The report noted that "ownership of five CEWS recipients passes entirely through a Bermuda-based subsidiary... [and] about 20% of Brookfield's majority ownership in CWC Energy passes through three companies in the Cayman Islands, and another in Bermuda."[32] The report noted that Brookfield had a tax rate of 5.2% in 2021, down from 6.8% in 2020, but up from 5-year averages over the previous 15 years of 3.9%, 5.1% and 4.9%.[33]

Brookfield's estimated tax rate of around 5% over the last fifteen years highlights a clear long-term structural problem, which appears to be driven by aggressive global tax avoidance practices. According to the C4TF analysis, Brookfield's tax gap over the last 5 years (2017-2021) was over C$6.5 billion, with more than half of the total in the most recent year. While Canada's federal public sector workforce, including the Canada Revenue Authority (CRA), went on strike to achieve wage increases that match inflation, Brookfield appears to have avoided billions in tax payments in Canada. Perhaps it's time for Canadian legislation to close tax loopholes and for the CRA to conduct a more thorough investigation?

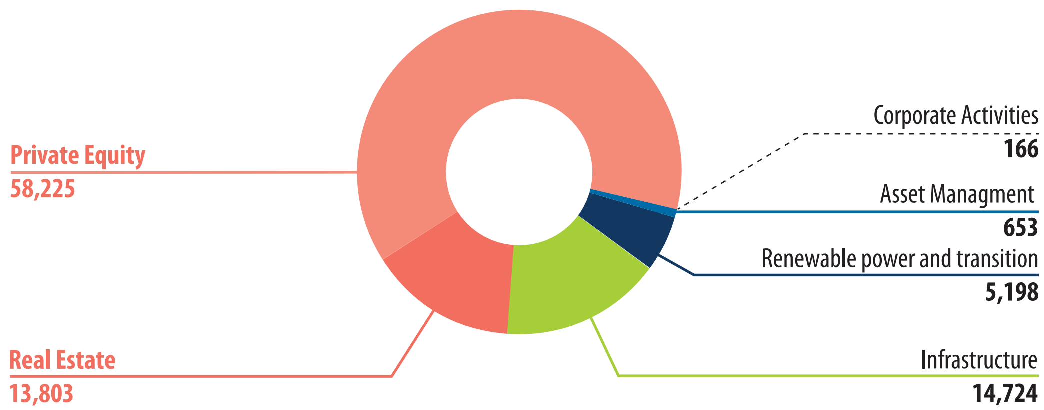
Brookfield Asset Management is located at Brookfield Place in Toronto's financial district.

3. Real estate and private equity case studies

Real estate and private equity represent two of the most prominent asset classes in the Brookfield family, together accounting for roughly half of the assets they manage globally, and almost 80% of global revenue.[34]

Brookfield is one of the world's largest real estate investment managers, managing properties worth over $263 billion. In 2022 this division of the business delivered $13.8 billion in revenue (a 12% increase on the previous year). The first case study looks at how Brookfield has used to a range of tax minimisation strategies to extract capital from its investment in Canary Wharf, its flagship UK real estate project, which also houses its UK Corporate headquarters and the offices of many other multinationals.

Brookfield revenue by type 2022 (US$ million)



The largest share of Brookfield's revenue comes from the $133 billion private equity division. In 2022 the private equity division accounted for 62% of global revenues, some $58.2 billion. This represents an eye-watering 44% return on assets and was a 25% increase ($11,773 million) on the previous year. The second case study looks at Brookfield's acquisition of Healthscope by its private equity division, Australia's second largest private hospital operator, and shows how an apparently unprofitable company can still find ways to deliver cash to Brookfield's Cayman Islands and Bermuda tax shelters.

3.1 Canary Wharf (United Kingdom)

At $25 billion in revenue in 2022, the UK is Brookfield's largest market, representing 28% of the total global revenue.[35] This revenue may be derived from related party investment advisory fees that flow through its UK-based corporate structures, as well as a huge array of major investments beyond the scope of this report, and its controlling stake in Canary Wharf in London.

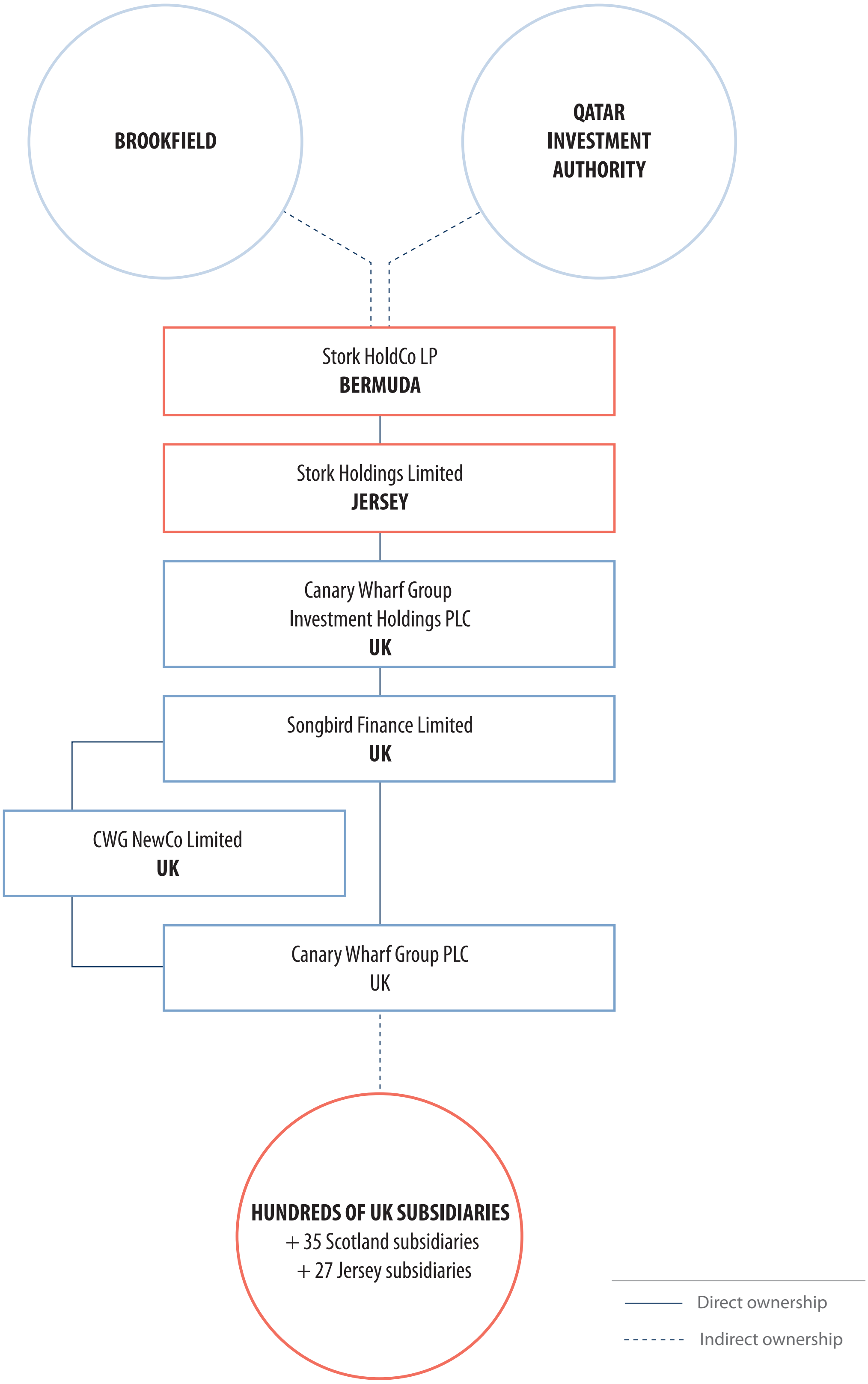
Described as "the largest urban regeneration project in Europe"[36], Canary Wharf has become London's new financial centre and contains some of the tallest buildings in the UK. Canary Wharf, along with the Manhattan West project in New York, are some of Brookfield's "most iconic assets"; these trophy assets represent 70% of Brookfield's "Core Office" portfolio with 31 million square feet across 59 properties, which reportedly "have stable cash flows".[37] Both are joint ventures with the Qatar Investment Authority (QIA), the sovereign wealth fund of the State of Qatar. The Canary Wharf Group also has a 50/50 joint venture with Qatari Diar (also controlled by QIA) to develop London's Southbank Place.[38]

Canary Wharf, London.

The Canary Wharf Group plc was acquired by Brookfield Property Partners and the QIA in 2015 for £2.6 billion.[39] Preceding the purchase of Canary Wharf in 2014, QIA paid $1.8 billion to acquire a 9% interest in Brookfield Property Partners.[40] Brookfield already owned 60% of the shares in Brookfield Property Partners and in 2021 paid $6.5 billion to take the entity private, buying out interests from existing shareholders.[41] QIA may have maintained its ownership in the now-private company.[42] Brookfield's 50% interest in Canary Wharf had a carrying value of over $3.5 billion and net assets of nearly $7.1 billion at the end of 2021, and was by far the most valuable asset its vast property portfolio, which stretches from the United States to Australia, Germany to Brazil.[43] That year, Canary Wharf generated net income of $256 million for its owners, more than any other property investment in the Brookfield portfolio owned through the Bermuda Limited Partnership.[44]

Canary Wharf's tax structure

Simplified Ownership Structure of Canary Wharf



Brookfield Infrastructure Partners is a spin off of Brookfield Asset Management which retains a significant share therein.

Canary Wharf Group plc is 100% indirectly owned by Canary Wharf Group Investment Holdings PLC.[45] The shares in this entity are held by Stork Holdings Limited in Jersey, which is owned through Stork HoldCo LP, registered in Bermuda, which in turn is 50% owned by Brookfield and 50% owned by QIA.[46] Stork Holdings Limited is structured as a Real Estate Investment Trust (REIT), allowing much of its income to be exempted from UK corporate income tax. In theory, shareholders are taxed on the dividend income distributed by REITs. However, when a REIT is based in Jersey with shareholders in Bermuda – with no income tax applied – it is possible that no tax is paid on these dividends and is largely avoided elsewhere in the corporate structure.

Additionally, among the hundreds of subsidiaries in the Canary Wharf Group, mostly in the UK, there are some 35 entities in Scotland and 27 in Jersey.[47] This range of corporate structures - general partners, limited partners, investment holding, and finance companies – may be used to further limit tax liabilities in the UK and elsewhere. Scottish limited partnerships, in particular, have a poor reputation.[48] While there is no suggestion in this case that these structures have been used for anything of this nature, there are questions to be asked as to the purpose of this level of complexity for owning and managing premium London properties. Brookfield also uses a range of other transactions – including placement notes and shareholder loans – to transform Canary Wharf's taxable income into untaxable income.

Private equity firms commonly borrow money through the placement of notes (a form of debt, like a corporate bond) in a recognised offshore stock exchange; when paid to related parties, the interest payments on these notes reduce taxable income where it is earned, producing tax-free interest income offshore. In March 2021, Canary Wharf Group Investment Holdings plc announced the pricing of £900 million in Senior Secured Notes at interest rates from 1.75% to 3.38% on the International Stock Exchange in Guernsey.[49] The Notes were "secured by (i) charges over the shares in Songbird Finance Limited, CWG NewCo Limited ("NewCo") and Canary Wharf Group plc, (ii) assignments of certain existing and future structural intercompany receivables and (iii) certain assets of NewCo pursuant to a floating charge."[50]

Songbird Finance is a direct subsidiary of the Canary Wharf Group Investment Holdings plc. Songbird and Songbird's direct subsidiary "NewCo" are the direct owners of Canary Wharf Group plc. These new "green bonds" were partially used to refinance previous debt, meanwhile other forms of debt continue at significantly higher interest rates. In 2021, total interest paid of £193.9 million resulted in a net cash outflow from operations of £60.1 million for Canary Wharf Group Investment Holdings plc.[51] It is unclear how much of the interest payments and other finance costs may have been paid to related parties. There are many other significant related party transactions, moving large amounts back and forth within the complex Brookfield corporate structures.

As another example of related party debts that may have been used to further reduce taxable income, the Canary Wharf Group "entered into shareholder loan facilities for a total of £170.0m."[52]

Fees of £3.4 million were paid in 2020 and £0.6 million in 2021 to BPY CWG1 Sarl "in accordance with the terms of the facility."[53] According to filings of BPY CWG1 Sarl in Luxembourg, the entity was dissolved at the end of November 2021 by its sole shareholder "BPY Bermuda Holdings IV Limited, a Bermuda limited liability company".[54]

The final annual accounts for this Luxembourg entity, covering 2020, state that it had entered a revolving credit facility with Canary Wharf Financing Limited for a maximum amount of £70 million with an annual interest rate of 7%. The lending agreements have been amended, extended, and expanded over time. On top of the interest rates which range from 5 to 7%, there are 'commitment fees' on the available balances of credit facilities at an annual rate of 1.5%.[55] Interest received was £2.6 million in 2020 and £2.9 million in 2019 and commitment fees were nearly £0.6 million in each year.[56] The note on subsequent events states that the loan facilities "were fully repaid and the funds were subsequently transferred to the shareholder. The shareholder also intends to liquidate the Company in 2021."[57]

Despite an increase in the value of Canary Wharf to £8,087 million, an increase in net assets to £3,792 million (subtracting for debt/liabilities) and total operating revenue of £419.7 million, including £240.7 million in office rental, pre-tax profits were reduced to a mere £51.9 million in 2021.[58] It appears that complex structures and related party transactions may have dramatically reduced the taxable income of the UK's most recognized and valued real estate asset. Taxes paid by the Canary Wharf Group were only £11.5 million in 2021.[59]

3.2 Healthscope (Australia)

Brookfield owns Healthscope – the second largest private hospital operator in Australia – which continues to be shrouded in controversy around its ownership structure and lack of tax payments. Healthscope was acquired by Brookfield in 2019, at which time the opposition leader specifically referring to Brookfield's bid, "accused foreign companies of using Australia as a 'door-mat' for tax havens" and implying that multinationals were "ripping funding away from schools and healthcare."[60]

In the most recent (2020-21) corporate tax disclosure data from the Australian Taxation Office (ATO), the parent company of the Healthscope group, ANZ Hospitals Topco Pty Ltd, ranked 163rd of all companies in Australia in terms of total income, at AUD$2,336 million, but had zero taxable income and paid zero tax.[61] Healthscope's annual financial statements, filed with the Australian corporate regulator, report AUD$7,603 million in revenue in the past three years. Over the same period, net profit totalled only AUD$24.8 million, while Healthscope claimed AUD$46.1 million in tax benefits.[62] This appears to be an ongoing pattern with Healthscope and several other prominent Brookfield-owned companies in Australia and may further jeopardise its social license to operate in one of the corporation's key global markets.[63]

At the time of Brookfield's takeover of Healthscope, several independent MPs also urged the government and opposition to oppose the deal. In one Sydney area public hospital run by Healthscope, MP for the area Zali Steggall stated that it was "not in the national or public interest for Northern Beaches public hospital services to be on-sold to a foreign company, run for profit, and operated out of a tax haven."[64]

Years later, Healthscope is still owned via the Cayman Islands. The 2022 financial statements of ANZ Hospitals Topco Pty Ltd report that "the parent entities of the Group are BCP VIG Holdings L.P. and Brookfield HSO Co-Invest II LP."[65] BCP VIG Holdings L.P. is headquartered at the notorious Ugland House in the Cayman Islands,[66] the registered office address of some 20,000 global shell companies and specifically highlighted by former US President Obama.[67]

While the Bermuda-based private equity vehicle that controls the Healthscope investment seems to show respectable and consistent operating margins, the financial reports in Australia, with a corporate income tax rate of 30%, appear to tell a different story. Brookfield Business Partners L.P. reported that Healthscope contributed US$64 million to Adjusted EBIDTA in 2022, down from US$69 million in 2021.[68] Adjusted EBITDA figures were US$67 million in 2020.[69] Results were down in 2022 due to various pandemic impacts and in 2021 "results benefitted from government viability funding...."[70]

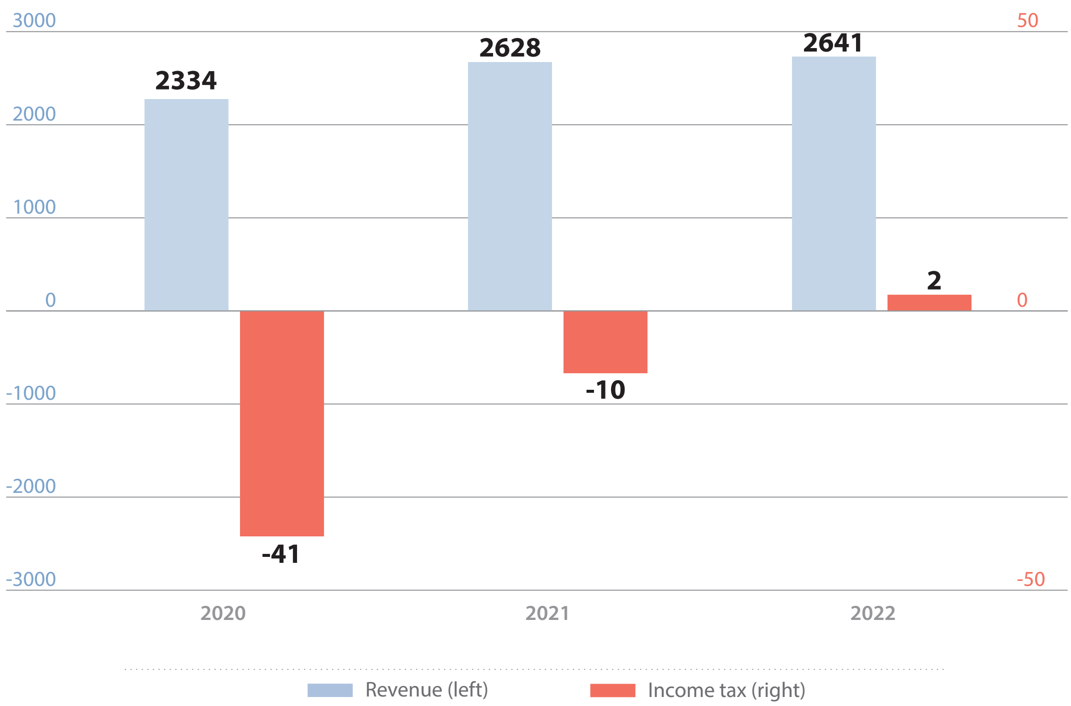
Brookfield's Bermuda-based private equity LP states that Healthscope:

> is a leading private hospital operator and provider of essential social infrastructure to the Australian healthcare system. We operate 39 hospitals, providing doctors and patients with access to operating theaters, nursing staff, accommodations, and other critical care and consumables primarily in support of elective surgery activity. The majority of our healthcare services operations' revenues are generated from private health insurance funds and government-related bodies under Hospital Purchaser-Provider Agreements.[71]

In Australia, private health insurance is underpinned by government subsidies. While the majority of the hospital operator's revenue is directly or indirectly derived from public spending, it has largely avoided income tax payments, and even generated income tax benefits. This is potentially through artificially reducing reported profits in Australia. The filings, using reduced disclosure requirements, provide the least amount of reporting that is legally permissible. The lack of transparency raises concerns but does not allow for further analysis. More disclosure is needed at both global and national levels to get a clearer understanding of Brookfield's tax practices and potential impacts.

Dancing with the ATO

Healthscope revenue vs income tax 2020 -2022 (in millions of AUD)



A Healthscope Hospital in Geelong, Victoria.

While there is no doubt that interest payments on debt weigh down Healthscope's profits, the company's arrangements attracted the attention of the Australian Taxation Office (ATO) in 2021. In contrast to the reports of healthy operating margins in the filing of the Bermuda LP, the Australian entity reported a pre-tax loss of AUD$125.7 million in 2020 and AUD$12.3 million in 2021, reduced in both years by income tax benefits of AUD$40.7 million and AUD$10.3 million, respectively.[72]

The 2021 financial statements report that in May "the Australian Taxation Office (ATO) completed an internal review of an historical tax matter and issued a recommendation letter based on its findings. In June 2021 the ATO issued amended assessments. In August 2021, Healthscope lodged objections to these assessments. As at 31 December 2021, the current tax asset is pending the resolution of the ATO internal review."[73] The 2022 filing reports that Healthscope and the ATO "reached a resolution of an outstanding tax matter in September 2022."[74] While a settlement with the ATO was reached, the company reports that it "is regularly subject to information requests and audit activities by revenue authorities…which may result in further tax payments or refunds…"[75]

The 2022 financial statements report an after-tax profit of AUD$2.1 million, in contrast to the losses in the previous year.[76] Also, in contrast to previous years, an income tax expense of AUD$4.9 million is recorded after a current tax expense of AUD$18.9 million (zero in 2021) was reduced by a "Deferred income tax benefit related to temporary differences".[77] The amount of AUD$18.9 million is subsequently described as "Adjustment in relation to the current tax of prior income years".[78] However, the company still carried forward net deferred tax assets of nearly AUD$200 million which could be used to reduce future income tax payments and may attract further attention from tax authorities.[79] While there is no explanation in the financial statements, the shift to reporting profit and paying tax appears to coincide with the ATO settlement over certain issues.

As with other investments, Brookfield may be testing the legal limits of aggressive tax avoidance in Healthscope. Regardless of any potential legal liabilities, Brookfield's social license to operate a largely publicly funded private hospital business like Healthscope is clearly at risk. Future investments in Australia may face greater scrutiny, particularly under a new government that is pushing significant multinational tax and transparency reforms. In contrast, Ramsay Health Care – Healthscope's top competitor – had a calculated profit margin of 11.6% and paid almost AUD$195 million in corporate income tax in the 2020-21 financial year.[80]

Healthscope's apparent tax avoidance was evident even before its acquisition by Brookfield in June 2019.[81] That year, workers at a hospital operated by Healthscope accused the company of endangering patients, pressuring them to use private health insurance even when entering the hospital as a public patient to ensure better post-hospital care.[82] Criticisms of patient care, particularly at a public hospital operated by Healthscope and leased to the company by the New South Wales state government for AUD$1 per year (if demanded), have not improved under Brookfield's ownership.[83] After the tragic death of a teenager at this hospital, it has been labelled Australia's 'worst privatisation' with the terms of the deal shrouded in secrecy.[84]

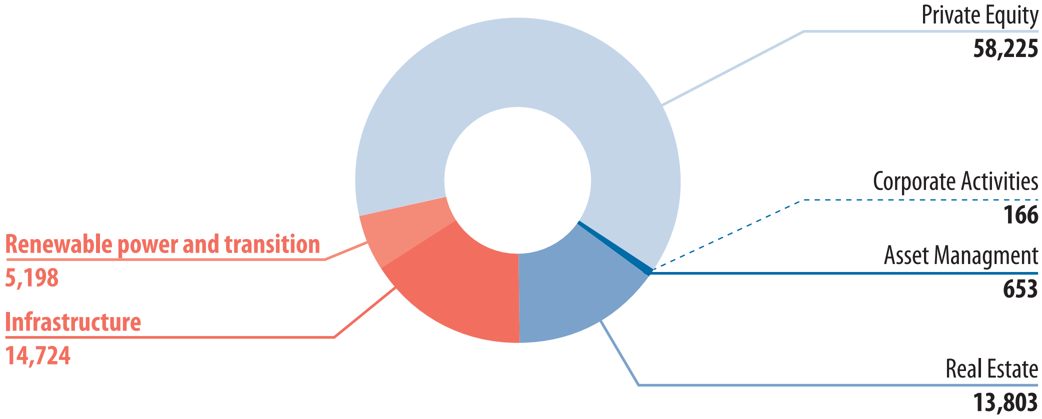
Many of Brookfield's other infrastructure assets in Australia are owned through a pyramid structure, starting with local subsidiary BPIH Pty Ltd and controlled from Bermuda.[85] Through its extensive economic activities in Australia, many of them taxpayer subsidised, Brookfield has generated billions in revenues and many of its controlled entities have paid little or no tax. However, Brookfield has found some money to contribute towards the political process in Australia. Australian Electoral Commission data shows that just one Brookfield entity made contributions to the state and federal branches of the two major political parties of at least AUD$316,700 between 2008/9 and 2013/14.[86] It is likely that there are many more political donations and more recent political donations through individuals and other Brookfield controlled entities.

Ugland House in the Cayman Islands.

4. Privatisation of Public Infrastructure

In recent years, Brookfield has become increasingly focused on the purchase and operation of public infrastructure, both through its "Infrastructure" and "Renewable power and transition" segments. Together these segments accounted for 21% of Brookfield's revenue in 2022. These investments are usually the result of privatisations and have significant impacts on the communities the projects were intended to benefit.

Brookfield revenue by type 2022 (US$ million)



Brookfield often touts its renewable investment credentials, with this segment "benefiting from the global imperative to decarbonize".[87] However companies under Brookfield's ownership include Canadian coalbed methane producer Ember Resources and offshore oil and gas services provider Altera Infrastructure. The Renewable Power and Transition segment delivered $5,198 million in revenue in 2022, a 13.5% increase on the previous year and 5.6% of global revenue. The Infrastructure segment, meanwhile, delivered $14,724 million in 2022 revenue, a 23% increase on 2021.[88]

The case studies below demonstrate the costs involved with Brookfield's acquisitions. The ISAGEN case study below demonstrates how Colombia's renewable electricity infrastructure has provided a pathway to handsome tax-free returns for Brookfield while the cost of electricity for consumers has surged. Its acquisition of Ambiental, a Brazilian water sanitation firm, has benefitted from former Brazilian president Bolsonaro's deregulation of the sector. In both instances, Brookfield appears to use inter-party debt strategies to radically reduce its tax liabilities.

4.1 ISAGEN (Colombia)

The sale of ISAGEN, one of Colombia's largest state-owned electricity companies, to Brookfield in 2016 was opposed by unions and voices across the political spectrum. In the seven years since, ISAGEN has distributed almost a billion dollars in dividends to shareholders. Indeed in 2022 ISAGEN came under severe public criticism as surging electricity prices saw profits double, prompting President Gustavo Petro to invoke emergency constitutional powers in a bid to bring down prices for consumers. This, however, represents less than a third of the wealth that Brookfield has extracted from ISAGEN; using a shareholder loan from its Bermuda-based parent company, ISAGEN has transferred US $2.6 billion to its parent, apparently avoiding $850 million in corporate income tax in the process.

Sogamoso Dam in Santander Departement, Colombia.

Selling ISAGEN

ISAGEN was formed in 1995 after the Colombian Government took a US$250 million World Bank loan conditional upon "structural and regulatory reforms in the [power] sector",[89] including the unbundling of public utility Interconexión Eléctrica, which became transmission company ISA[90] and generation company ISAGEN.[91] Electricity privatisation was slowed by union and civil society resistance, as well as the prevalence of municipal (rather than national) ownership of electricity infrastructure,[92] delaying ISAGEN's sale for decades.

Even once the Santos Government had decided to sell ISAGEN, the sale was delayed on two occasions due to legal challenges.[93] It was opposed by both left-wing ex-mayor of Bogota (and now President) Gustavo Petro and right-wing senator (and former President) Alvaro Uribe, while Colombia's Liberal Party threatened to leave the coalition supporting President Juan Manuel Santos over the sale.[94] It was also opposed by Canadian unions, who said that the "privatisation of essential services further entrenches the neoliberal policies that have wreaked havoc in the price of water, long term loss of revenue by the state, cuts in public services and further unemployment."[95]

While earlier privatisations had been advanced on the basis of poor public sector management, ISAGEN had been a well-managed company with strong financials. The Government therefore promoted the proposed privatisation as necessary to fund the development of its highway network, arguing that poor transport affected Colombia's export opportunities.[96] On 22 January 2016, Brookfield Renewable along with its institutional partners acquired an initial 57.6% controlling interest in ISAGEN – then Colombia's third largest power company – for US$2.2 billion. The deal required Brookfield to conduct two further tender offers for ISAGEN's remaining shares, which took place in May and July 2016, giving Brookfield almost complete control, bar a nominal public shareholding.

According to a 2020 corporate filing,[97] Brookfield's direct and indirect ownership of ISAGEN totals 47%. Brookfield Renewable Group owns 24.08% of these shares (through investments in Brookfield Infrastructure Fund III, domiciled in Delaware), with a 52.6% share held by third party co-investors. Additionally, Brookfield Infrastructure Fund III holds a separate 22.9%

interest. Investors, or "Limited Partners", in this and other Brookfield funds include a wide range of public sector pension plans. By 2022, 99.7% of ISAGEN shares were owned by Brookfield (partially through voting agreements),[98] resulting in virtually complete control by Brookfield.

Price surge drives profit extraction

Demand for electricity in Colombia has outpaced supply, with investment effectively frozen as ISAGEN's competitor, Empresas Publicas de Medellin, builds the massive 2.4GW Ituango hydroelectric project (equal to around 80% of ISAGEN's entire generating capacity). This has left Colombia sensitive to hydrological conditions. In 2021 the dams were full and electricity prices low, but, within a year, spot prices had grown by 183%.[99] Much of this was passed on to consumers. In the year to August 2022, average Colombian electricity prices surged 26%, more than twice the rate of general inflation (10.84%), with some areas on the Caribbean coast experiencing increases of more than 40%.[100]

By January 2023 President Petro had announced that he would "directly and personally" take temporary control of electricity tariffs, bemoaning how spot prices charged by power companies had risen from 200 to 900 pesos.[101] Petro justified the decision with reference to Article 370 of the Constitution, which enables the President to establish "the general policies of administration and efficient control of residential public services".[102]

By the time reporting season rolled around, it had become clear that profits had swelled in line with prices. In the year to 31 December 2022, ISAGEN saw net profit increase by 98%, to US$254 million, in spite of a 30% increase in finance costs. Almost every extra dollar earned in revenue in 2022 was booked as a profit by the firm, with a US$138 million increase in revenue correlating to a $126 million increase in profit.[103]

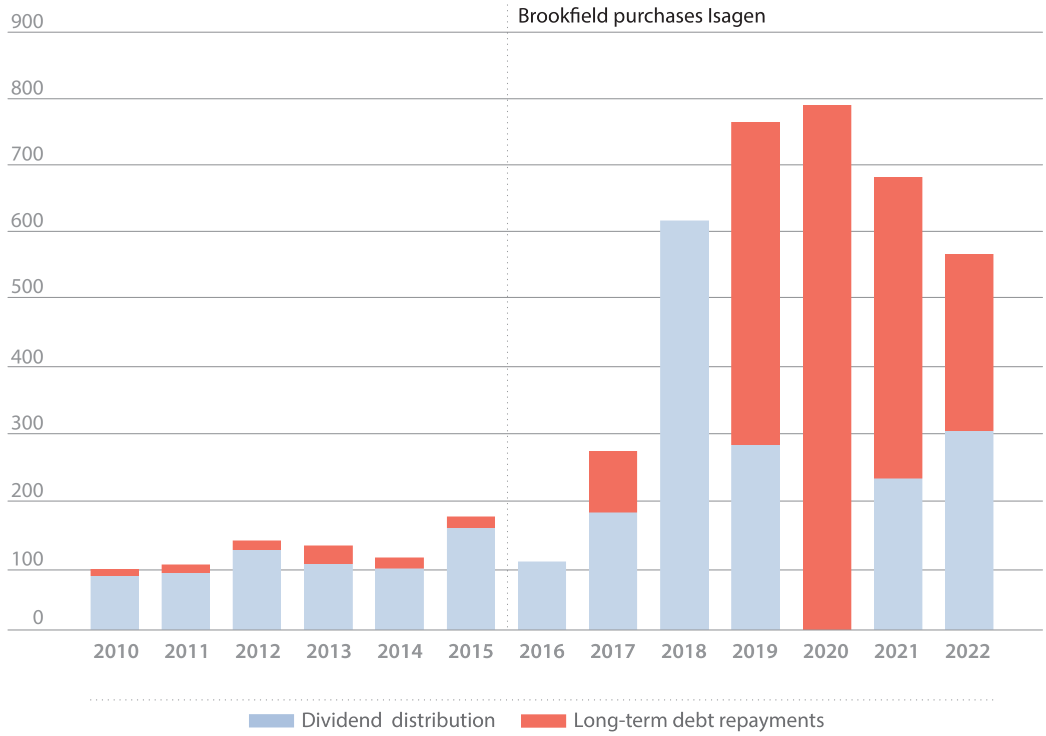
That year ISAGEN distributed US$297 million in dividends, 17% higher than net profit earned for the year and 32% higher than the dividends distributed in 2021. Since privatisation, ISAGEN has distributed US$972 million in dividends to shareholders, equivalent to 99% of net profit earned over that period (US$984 million).[104] The average capital expenditure (including investments into hydropower capacity) for the seven years post-privatisation are less than a third of the average for the previous seven years.[105]

Interest payments as tax-free cash

At 35% in 2022, Colombia charges one of the highest corporate tax rates in the world. The Colombian Government has received US$478 million in income taxes from the company since ISAGEN's privatisation, including US$131 million in 2022.[106] However, these taxes are only levied on the cash that ISAGEN distributes to Brookfield as dividends, not the repayments ISAGEN makes on a substantial shareholder loan.

In 2017 ISAGEN merged with its acquisition vehicle and then-parent company BRE Colombia Holdings SAS, in the process absorbing a US$2 billion shareholder loan with BRE Colombia Hydro Investments Limited.[107] That debt is subordinated behind other senior obligations. However, ISAGEN has the option of making voluntary repayments. Notes to ISAGEN's 2019 financial statements report voluntary repayments of US$867 million in 2019 and US$1,367 million in 2018.[108] Following the absorption of this loan, ISAGEN's long-term debt increased by 183%, to over US$3 billion, staying around similar levels until today despite ongoing repayments.[109] A March 2023 Fitch commentary on this noted that "Isagen's future cash generation would mostly depend on the company's distribution to its shareholders, which could take place as interest payments and prepayments on the [shareholder loan] or as dividends."[110]

ISAGEN cash distribution (US$ million)



In the five years from 2018 to 2022 ISAGEN paid US$2.6 billion in long-term debt repayments, an average of $519 million per year.[111] In 2020 alone (a year in which no dividends were paid), ISAGEN spent US$784 million in debt repayments, equal to 84% of total firm revenue that year. Financial statements from that year show the decline of related party borrowings with BRE Colombia Hydro Finance Limited but additional related party borrowings from a firm called Colombia Subco Holdings Limited ,[112] which also appears to be incorporated in Bermuda.

The US$2.6 billion that ISAGEN has paid in debt repayments – much of which appears to be shareholder loan repayments or other related party transactions to Brookfield controlled companies – is more than double ISAGEN's current net equity. If this income had been booked as profit, we estimate that it would have attracted an additional $850 million corporate tax bill over this period.[113] Debt repayments could have therefore had the effect of reducing the average tax rate paid on income over this period from around 32% to as little as 10%.

It appears that as well as extracting almost a billion from ISAGEN in dividends, Brookfield may have also used shareholder loans and related party transactions to avoid an estimated US$850 million in tax. Privatisation has been promoted as a way of freeing up capital for further investment, but as the Brookfield experience in Colombia shows, it has allowed for extraordinary amounts of cash to be extracted. If this is how Brookfield operates in the Global South, it raises serious questions about the long-term sustainability of these investments in particular, and the dangers of privatisation in general.

4.2 BRK Ambiental (Brazil)

Brookfield also appears to be a major benefactor from the privatisation of water and wastewater management in Brazil. Brookfield's exact income from its haul of government contracts is unknown. However it owns a 70% stake of BRK Ambiental and the financial statements for BRK Ambiental suggest profitability has grown more than twice as fast as revenue over the first three years of a new "framework for sanitation", introduced by the far-right government of Jair Bolsonaro in 2020. In addition, financial statements show that BRK Ambiental have taken on billions in new debt (far in excess of its operational expenses) and then spending $1.4 billion to service that debt, raising suspicions of tax avoidance.

Former president Bolsonaro's sanitation reform was seen by *The Economist* as a first step towards further privatisation of public services.[114] It sought to break state-owned enterprises' dominant share of government contracts for water and sanitation services and simplify sales of publicly run utilities to the private sector.[115] Indeed, Bolsonaro vetoed a provision that would have given state-owned enterprises a two-year period to bring existing contracts into compliance with the new system, instead forcing these contracts to be re-contested.[116]

Brookfield's website celebrated how it was set to benefit from these reforms. "The business is well-positioned to expand its initiatives in Brazil after the 2020 approval of the Basic Sanitation Regulatory Framework, which clears the way for the investments required."[117] One analyst noted at the time that "the most important part of the sanitation bill is that it finally enables the privatisation of those assets. It also limits the growth of SOEs."[118]

Just a few years earlier, in 2017, as noted above, Brookfield acquired a 70% stake in the "largest private water distribution, collection and treatment company in Brazil", that it renamed BRK Ambiental. Notably, this acquisition came after the impeachment of Dilma Rousseff, and shortly before Bolsonaro's election to the presidency in 2018. Predating Brookfield's involvement, it is also notable that Ambiental was previously a part of Odebrecht, one of the companies at the centre of the Lava Jato ('car wash') corruption investigation, which helped devalue the asset prior to Brookfield's acquisition.[119]

Brookfield's 70% stake in BRK appears to be distributed across several of its subsidiaries or holding companies, each of which have assigned their voting rights to the entity "Brookfield Business Corporation (BBUC)".[120] That entity is controlled by Brookfield Business Partners L.P., the same entity controlling the Healthscope private hospital company in Australia, discussed above.[121] Thus, even though the latter entity only has a 26% economic interest in BRK Ambiental, it has a 70% voting interest.[122]

Brookfield Business Partners L.P. is a "Bermuda exempted limited partnership" that is "not subject to Bermudian taxation".[123] Its "general partner" is Brookfield Business Partners Limited.[124] Its ultimate parent is Brookfield Corporation, and its limited partnership units are listed on the stock exchanges of New York and Toronto (BBU and BBU.UN). Its interests in business services and industrial operations are held by Brookfield Business L.P. (referred to in its filings to the SEC as "Holding LP").

One of Brookfield's chief executives said at the time that the company expected to "capture a growing share of the water and sewage improvements planned in Brazil over the next two decades, supporting strong and stable returns for Brookfield Business Partners."[125] Brookfield soon sold off parts of BRK Ambiental – three companies that specialise in industrial wastewater treatment – seemingly to focus its investments in the soon-to-be privatised sanitation contracts.[126]

Brookfield won the first auction for a sanitation services contract under this public-private partnership model, just months after the approval of the new regulations. In September 2020 it was granted a 35-year concession to provide water and sewage services to Maceió, a city of 1.5 million people, for 2bn reais (US $354m). Reuters reported that only 27% of residents had access to sewage services when the concession was granted.[127] Brookfield's BRK quickly became one of the "big five" private providers of water and sewage services that won over 100 of the 178 concession contracts signed in the first year of Bolsonaro's privatisation framework.[128] According to *Forbes*, BRK operate 22 concessions serving 16 million people as of August 2022.[129] These concessions cover over 100 municipalities.[130]

Brookfield's performance under that first concession is already under investigation by Maceió's local government, following numerous complaints.[131] The head of the Special Commission of Inquiry revealed in March 2023 that "third parties" had approached elected representatives and warned them against participation in the Inquiry.[132]

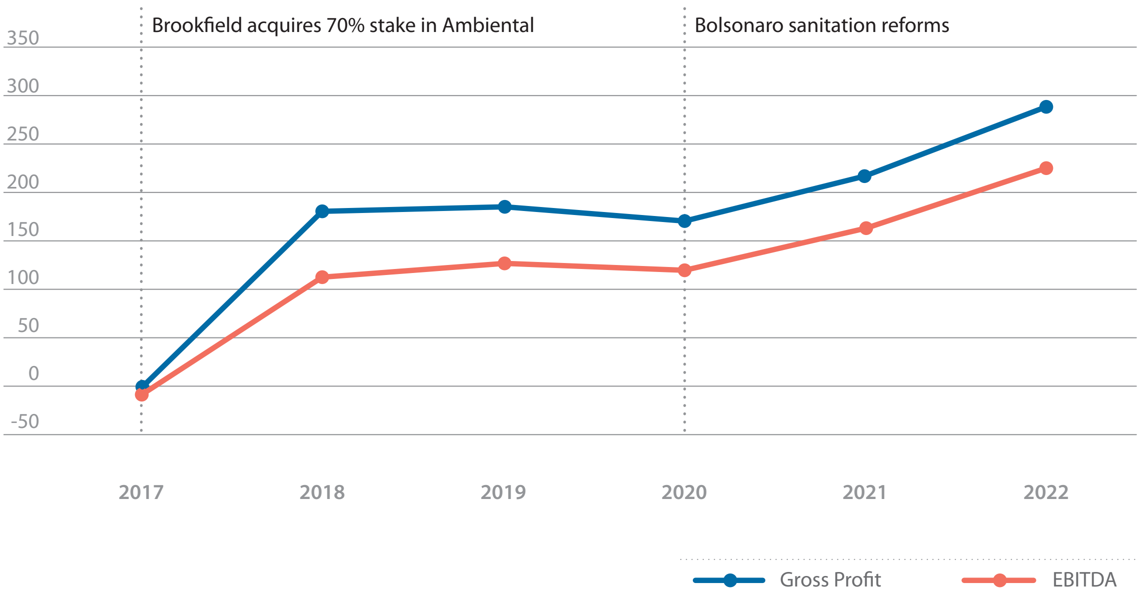
Brookfield markets these profitable investments in the sector as "ESG investing" and fully aligned with the UN's Sustainable Development Goals.[133]

Owners of the minority stake in BRK have changed over the years, and Brookfield may be attempting to buy out its partners. As of July 2022, the other 30% stake was owned by the state-managed workers' severance fund FI-FGTS.[134]

Profits from privatisation

Since its acquisition by Brookfield, BRK Ambiental's profitability has grown substantially. Operating income has increased 150% since 2018, more than twice as fast as revenue growth over the same period. The 2020 sanitation reforms have been a key driver of this, with gross profit rising 72% in the subsequent two years, and earnings before interest, tax, depreciation and amortisation (EBITDA, a key measure of profit) increasing by 92%. Despite this, BRK Ambiental has earned only $105.7 million in net income (i.e. net profit) since 2018. It also pays next to no dividends, totalling only $3.2 million the same period.[135]

Measures of profitability (US$ million)



It has, however, borrowed heavily over the same period, with total debt increasing from only $6.6 million in 2017 to $1.96 billion in 2022, more than double its 2022 revenue. At the same time as this debt has been rising, Ambiental has repaid $1.39 billion in long-term debt in the past five years. In 2022 its debt repayment of US $656 million were almost equal to its total operating expenses ($679 million). The vast majority of this ($1.19 billion) has been in the last three years, since the 2020 sanitation reforms.[136]

Given the almost complete lack of dividends paid over this period, there is concern that a significant component of this debt repayment could be some form of intercompany transfer being paid to Brookfield-linked companies. If correct, the amount extracted from BRK Ambiental dwarfs the actual profit earned by the company from its concessions.

The complexity of BRK's accounts and Brookfield's limited reporting on a country-by-country basis makes it difficult to understand the possible levels of extraction and profit shifting in Brazil. Brookfield does not make public its revenues from its contracts for public water and wastewater services. While the whole situation appears murky, what does seem to be clear is that Brookfield has set itself up to take advantage of Bolsonaro's privatisation push and the people of Brazil are losing. What many Brazilians need is access to water and basic sanitation, not a scheme to extract profits from a basic human right.

5. CONCLUSION

Brookfield's claims of being a responsible investor and advancing a sustainable green economy appear to be in serious doubt. Extracting profits from public infrastructure and avoiding taxes needed to fund basic public services is by no means a sustainable business practice. Brookfield's social license to operate and its unfettered access to workers' retirement savings through public pension funds may be at risk.

Brookfield shareholders have proposed a resolution to require the company to implement the GRI (Global Reporting Initiative) Tax Standard, including public country-by-country reporting. This would substantially increase transparency for investors and all stakeholders and shed light on Brookfield's complex global corporate structures and heavy reliance on tax havens. Why is this complexity necessary and what purposes does it serve? If Brookfield's global profits are artificially inflated by exploiting loopholes in national and global tax systems, investors are placing a risky bet.

Today, many governments face large deficits driven by pandemic public spending and a heightened realisation of the importance of public health and government support in times of crisis. At the same time, global trends towards greater transparency and cracking down on multinational tax avoidance are moving ahead rapidly. Brookfield may be in the crosshairs in multiple jurisdictions but can choose to increase transparency and be more open.

Brookfield has opposed the shareholder resolution on tax transparency and has stated that it does "not believe that Brookfield has any material tax-related negative impacts on the economy, environment, and people, including negative impacts on their human rights." Given the findings and questions raised in this report, on just a handful of case studies out of the hundreds of companies owned by Brookfield, there do seem to be questions to be asked. If, however, the statement is correct, then Brookfield's executives and management should have nothing to fear from greater transparency.

Brookfield claims that it believes that "voluntarily expanding our tax disclosure regime to include country-by-country ("CbC") tax reporting in accordance with the GRI Tax Standards could force disclosure of sensitive information about our operations and put us at a competitive disadvantage." Brookfield does not mention that many major multinational financial firms in Europe have been filing public CbC reports since 2014, with no evidence of any competitive disadvantage. Brookfield acknowledges that it already files a confidential CbC report each year with the Canada Revenue Agency, which is shared with tax authorities in OECD jurisdictions where it operates. This raises questions about what exactly Brookfield perceives to be its competitive advantage.

Brookfield also states that it "intends to comply with the E.U. public CbC reporting requirements that will become effective in 2024 or 2025" and says it "would be premature, however, to adopt voluntary disclosures which could result in disclosures that could put Brookfield at a competitive disadvantage." While the EU requirements are a relatively weak version of public CbC, the Australian government has draft legislation with much stronger requirements for public CbC, which follow the GRI Standard. This requirement will apply to Brookfield and is expected to pass the Australian Parliament in mid-June and go into effect on 1 July 2023.

Brookfield can either be a leader and listen to shareholder demands and agree to implement public CbC or be forced to comply in Australia. Other countries may follow Australia's lead and the global trend towards greater tax transparency is undeniable. In the light of resistance to the introduction of greater transparency, Brookfield's claims that it strives to hold itself "to the highest standards of business conduct, corporate governance and accountability" appear to a mere PR exercise. Brookfield's complex global structures weaving in and out of tax havens, an almost impenetrable web of related party transactions, ongoing allegations of tax avoidance and a long-term pattern of shockingly low effective tax rates are a far cry from high standards of conduct and accountability.

Canada Revenue Agency's National Headquarters is shown in Ottawa, Ontario.

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