

Country by country reporting

2016/0107(COD) - 12/04/2016 - Legislative proposal

PURPOSE: to complement existing obligations of companies to disclose financial information in order to improve fairness and tax transparency.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: in recent years, the challenge posed by corporate income tax avoidance has increased considerably and has become a major focus of concern within the Union and globally.

The Commission in its communications entitled '[Commission Work Programme 2016 - No time for business as usual](#)' and '[Commission Work Programme 2015 - A New Start](#)' identified as a priority the need to move to a system whereby the country in which profits are generated is also the country of taxation.

The Commission announced in March 2015, a comprehensive list of initiatives in its [Action Plan on a Fairer Corporate Tax System](#) and proposed as part of the subsequent Anti-Tax Avoidance Package (ATAP), to implement in the Union Action 13 of the OECD Action Plan endorsed by the G20 to fight base erosion and profit shifting (hereafter, BEPS).

Responding to the calls from the G20 and elsewhere, **greater transparency on the side of companies** is needed to enable public scrutiny of whether tax is paid where profits are produced.

The European Parliament in its [resolution](#) of 16 December 2015 on bringing transparency, coordination and convergence to corporate tax policies in the Union acknowledged that increased transparency in the area of corporate taxation can improve tax collection, make the work of tax authorities more efficient and ensure increased public trust and confidence in tax systems and governments.

IMPACT ASSESSMENT: the preferred option identified in the impact assessment is the one concerning a public **country-by-country reporting** on worldwide operations broken down by EU Member State and aggregated for non-EU operations.

In terms of societal benefits, this initiative responds to the increased demand for transparency regarding the tax affairs of multinational enterprise groups. By providing more information in a more convenient form, it should also contribute to increasing public trust in the fairness of the tax systems.

CONTENT: this proposal seeks to amend [Directive 2013/34/EU](#) with a view to providing the tax administration with a complete set of information required to consider potential harmful tax practices rather than to provide the wider public with a general set of country-by-country data to improve transparency. It requires the multinational enterprises to **disclose publicly** certain items of the information submitted to tax authorities.

Scope of the proposal: the proposal applies to all EU and non-EU MNEs with a **consolidated turnover of at least EUR 750 million**, having activities in the EU by way of at least an establishment. This is the same threshold as that set out in the OECD/BEPS and in the ATAP.

According to the OECD, based on this threshold, only 10-15% of MNEs will be required to submit a CBCR; but the turnover of those MNEs will represent approximately 90% of the turnover of all MNEs. Small and medium-sized companies, who represent more than 95% of all companies in the EU, are not affected by the proposal.

For any MNE headquartered in a third country, the **obligation will fall on its subsidiaries or branches in the EU** unless the non-EU MNE makes the CBCR group report publicly accessible and indicates which subsidiary or branch in the EU is responsible for the publication of the CBCR on behalf of the "parent" company.

Banking groups: where these are multinational enterprises which fall within the scope of this initiative, they will be exempted from the obligation to report on income tax information, provided that the report disclosed under Article 89 of [Directive 2013/36/EU](#) encompasses the activities of the ultimate parent undertaking in the EU and of all of its affiliated undertakings.

Content of the report on income tax information: disclosed information includes: (i) the nature of the activities, (ii) the number of persons employed; (iii) the net turnover made (including with related parties); (iv) the profit made before tax; (v) the amount of income tax due in the country as a reason of the profit made in the current year; (vi) the actual payments made to the country's treasury during that year; (vii) the amount of accumulated earnings.

In order to ensure a level of detail that will enable citizens to better assess how MNEs contribute to welfare in each Member State, the information should be **broken down by Member State**. In addition, because some third countries refuse to respect good governance standards in taxation and pose specific tax challenges, the information on operations of MNEs should also be shown with a **high level of detail**.

Publication: the consolidated report on income tax information will be published in a business register with the objective of ensuring certainty and availability over time. Moreover, as the objective of this initiative is to enable public scrutiny, those reports will also be made **accessible to the public on company websites**. To allow for comparisons over time, reports will remain accessible for **at least five consecutive years on the websites**.

Enforcement: enforcement of this initiative will be ensured with a combination of provisions. Member States should introduce **collective responsibility** of the administrative, management and supervisory bodies for these reports.

The statutory auditor of any local subsidiary in charge will have to verify whether the CBCR has been provided and made accessible on the Internet. In the case of a branch of a third country multinational enterprises, that responsibility will be borne by those persons in charge of disclosure formalities.

Lastly, Directive 2013/34/EU will apply, ensuring that **infringements will be sanctioned** by effective, proportionate and dissuasive penalties for MNEs or their subsidiaries or branches.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.