Update on public Country by Country Reporting (CbCR)

Andrea Carroll, Senior Tax Manager at Deloitte Ireland, provides an update on recent developments in Europe in relation to public Country by Country Reporting.

In April 2016 the European Commission presented a proposal for a Directive by the European Parliament and of the Council that would amend the current Accounting Directive 2013/34/EU to include new obligations regarding public disclosure of income tax information by certain undertakings and branches, with the aim of increasing tax transparency, by providing the public with a picture of the taxes paid by multinationals, and where those taxes are paid.

The amendment would effectively insert additional financial reporting obligations for multinational entities, (MNEs), with consolidated worldwide turnover of €750 million or more, requiring them to disclose tax information on an annual basis in a common template in each tax jurisdiction in which they operate, and this data would be made publicly accessible on the website of the entity. On the same day the entity would also file this information in a public registry managed by the European Commission. Broadly speaking, for multinational groups having their headquarters in the EU, the obligation to provide this information would lie with the ultimate parent enterprise in the EU.

When the ultimate parent is not governed by the law of an EU Member State, the reporting falls on EU subsidiaries or branches. Companies established only in the territory of a single Member State, and in no other tax jurisdiction, shall be exempted from the application of these rules.

This proposal goes a step further than the current CbCR to tax authorities only, in that it provides the public with a geographical picture of the taxes MNEs pay on their corporate income.

Since the proposal was first published on 12 April 2016, both the Irish and Swedish national parliaments submitted reasoned opinions to the European Parliament. The Irish Parliament argued that the proposal breaches subsidiarity, in particular, because 'the objectives of the proposal fall generally within the area of tax policy rather than accounting and thus impinges on a national competency'.

Contributions were also formally submitted by the German, Portuguese, Romanian and Italian Parliaments.


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In the European Parliament, the 'joint committee procedure' is being applied. Therefore, the Committees responsible for the preparation of the European Parliament position are the Legal Affairs Committee (JURI) and Economic and Monetary Affairs Committee (ECON), while the Development Committee (DEVE) has given an opinion. In January 2017, an opinion on the legal basis of the Commission's proposal was also issued by the Committee of Legal Affairs (JURI).

Subsequent to this, a draft report and a number of amendments to the Commission's proposal were tabled. The vote on the report and the amendments to the original proposal took place in a joint committee meeting on 12 June 2017, and was supported at committee level.

As it currently stands, the tax information that will be publically disclosed under the new obligations comprises the following, broken down by tax jurisdiction:
- the name of the ultimate parent and, where applicable, the list of all its subsidiaries, a brief description of the nature of their activities and their respective geographical location
- the number of employees on a full-time equivalent basis
- fixed assets other than cash or cash equivalents
- the net turnover, including distinction between turnover made with related parties and the turnover made with unrelated parties
- the amount of profit or loss before income tax
- the amount of income tax accrued (current year), which is the current tax expense recognised on taxable profits or losses of the financial year by undertakings and branches resident for tax purposes in the relevant tax jurisdiction
- the amount of income tax paid, which is the amount of income tax paid during the relevant financial year by undertakings and branches resident for tax purposes in the relevant tax jurisdiction
- the amount of accumulated earnings
- stated capital
- details of public subsidies received, and any donations made to politicians, political organisations or political foundations
- whether undertakings, subsidiaries or branches benefit from preferential tax treatment due to patent box or equivalent regimes.

MEPs supported measures to protect commercially-sensitive information by allowing Member States to temporarily omit one or more of the specific items of information listed above from the entity's report as regards activities in one or more specific tax jurisdictions, when they are of a nature such that their disclosure would be seriously prejudicial to the commercial position of the companies. Such an omission would have to be accompanied by a reasoned explanation and be subject to the prior approval of the competent national authority. The Member States should notify the Commission of all temporary derogations also and this is to be monitored.

The European Parliament on 4 July 2017 adopted the amendments to the proposal by 534 votes to 98 (with 62 abstentions) and referred it back to the competent committees for interinstitutional negotiations. It will be interesting to see what further progress is made in Europe in the coming weeks and months.

There is no doubt that a number of EU Member States in the Council will oppose the Commission's public CbCR propos