



France publishes decree on country-by-country reporting Global Transfer Pricing Alert 2016-032

The French government on October 1 published an administrative decree defining the filing procedures for and the contents of the country-by-country (CbC) report. The decree is aligned with the recommendations of the OECD's final report on BEPS Action 13.

The CbC reporting requirement applies to companies with annual consolidated group revenue equal to or in excess of EUR 750 million, and must include the following information:

- Revenue resulting from intragroup transactions
- Revenue resulting from transactions with independent companies
- Total revenue
- Before-tax profits
- Income tax paid
- Income tax accrued
- Stated capital
- Accumulated earnings
- Number of employees
- Tangible assets other than cash and cash equivalents

The annual CbC report must be submitted to the French tax authorities within 12 months of the fiscal year-end. It must be filed by the French ultimate parent entity of the group or by a French entity of a foreign group, if the CbC report has not already been filed with a tax authority that would share it automatically with the French tax authorities. All data must be in euros or in the currency used for group consolidation. For each tax jurisdiction, the report must contain the identity of all entities located in the tax jurisdiction, including branches. The

nature of the main activities must be chosen from a list provided in the decree. Finally, the reporting company may use data from consolidated financial statements, corporate accounts of each entities, or internal management accounts.

Public CbC reporting

Although the law has not been enacted yet, the French National Assembly on September 29 voted during a second hearing on the draft provisions on public CbC reporting (article 45 *bis* of the draft bill "Sapin II").

The French public CbC report remains aligned, for the most part, with the proposal submitted at the EU level to amend the 2013/34/EU Directive, the Accounting Directive. The report would include:

- Brief description of the company's activities
- Number of employees
- Net turnover
- Before-tax profits
- Income tax paid, with explanations for possible inconsistencies with the amount of income tax accrued
- Accumulated earnings

Information would have to be provided on a country-by-country basis for:

- Countries that are members of the European Union
- Countries that are listed by the European Union for their lack of transparency
- Countries outside of the European Union if the multinational group has a minimum number of entities in these countries. This minimum number will be determined in a future decree.

Contrary to the proposed changes to the 2013/34/EU Directive, the French public CbC report may require that information be disclosed on a country-by-country basis – rather than an aggregated basis -- for non-EU countries.

For the first two years after enactment, the public CbC report would apply to groups with consolidated sales of EUR 750 million or higher. The threshold would then be lowered to EUR 500 million for another two years, and finally to EUR 250 million.

The public CbC information would have to be freely available online using an open data model. Details on data publication will be provided in a decree.

The date of entry into force would be the day after implementation of the European directive that provides for changes to the 2013/34/EU Directive, but would be, at the latest, January 1, 2018.

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