Fair Tax®

Public Country-by-Country Reporting

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Background

Country-by-country (CbC) disclosure to tax authorities is now common in many parts of the world[i], however, Fair Tax Mark accreditation requires that this information (or equivalent) should be publicly disclosed. Ideally, this information would be provided in an open data format and be machine readable.

A recent OECD analysis of anonymised and aggregated CbC disclosures by 7,000 multinationals to tax authorities confirms that there is still a significant misalignment between the location where profits are reported and the location where economic activities actually occur.[ii] Tellingly, revenues per employee tend to be higher where headline rates of corporation tax are zero, and in investment hubs.

Public country-by-country reporting will soon be mandatory for large multinationals (MNCs) operating across the European Union (albeit with some substantial loopholes)[iii], with similar requirements recently announced in Australia. An increasing number of institutional investors and asset managers are now urging that all MNCs should embrace such tax transparency as a core element of their 'ESG' credentials.[iv]

The EU Tax Observatory maintains a CbC Reports database, and features Fair Tax Mark accredited exemplars such as Atlantia, Lush, Orsted and SSE.[v]

Fair Tax Mark pCbCR disclosures

Comprehensively implemented country-by-country reporting significantly enables stakeholders across the world to form an informed opinion as to whether a business is paying the right amount of tax in the right place at the right time. It provides an indication of the economic footprint within a jurisdiction and may signal emerging financial and reputational risks (of particular interest to investors). Crucially, it provides essential insights as to whether a business is complying with the commitments detailed in their public tax policy.

In addition to the taxes declared and paid (or claimed back) in each jurisdiction, stakeholders should be able to discern income, profit and the resources deployed.

Multinational businesses that engage in aggressive tax planning and artificial profit shifting to low-tax or secrecy jurisdictions are unlikely to voluntarily publicise their results on a country-by-country basis, as this would better enable stakeholders to question unusual or disproportionate financial reporting. Conversely, voluntary pCbCr disclosure demonstrates to stakeholders that an MNC has confidence in its accounting, transfer pricing approach and is adhering to its responsible tax policy commitments.

In order for country-by-country reporting to be meaningful and significant, a broad range of data should be disclosed. For a multinational business to become Fair Tax Mark accredited the majority of the following data should be reported on a country-by-country basis:

- A full list of subsidiary companies and permanent establishments, and their country of registration
- Tax residencies for each subsidiary and permanent establishment
- External revenues (based on place declared)
- Inter-company revenues
- Total revenues declared
- Profit (loss) before taxes

- Current tax
- Deferred taxes
- Cash taxes paid
- Gross assets
- Number of employees
- Employment costs
- Gross liabilities
- Net assets
- Reconciliation with consolidated accounts – numerical or explanatory

We have prepared a template country-by-country reporting table that can be used – and which, if completed fully, would score full points in section 3 of our Global MNC Standard assessment.

Note: we take an incremental view to disclosures, especially in the first Fair Tax Mark accreditation cycle, with an expectation of agreed additional disclosures progressing in future cycles. We are also pragmatic about the need to produce quantitative disclosures connected to entities that are in the process of being wind-down or sold.

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[i] The OECD minimum standard described in BEPS Action 13 requires large multinationals (consolidated revenues of €750m and over) to privately disclose CbCRs to an appropriate tax authority starting from the fiscal year 2016. More than 100 jurisdictions have now introduced such CbCR obligations.
[ii] Corporate Tax Statistics (Fourth Edition). OECD, November 2022.
[iii] DIRECTIVE (EU) 2021/2101 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2021, amending Directive 2013/34/EU as regards disclosure of income tax information by certain.
undertakings and branches https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021L2101&from=EN
[iv] We have a produced an exhaustive analysis of the history of pCbCR and other 'Essential Elements of Global Corporate Standards for Responsible Tax Conduct' (to June 2020) here.
[v] https://taxobservatory.shinyapps.io/company_cbcr_data/