Public Country-by-Country Reporting – why and what

March 2023

Background

Public Country-by-Country Reporting of financial and tax-related information by multinational enterprise is probably the hottest topic in financial reporting right now. It is the subject of both an increasing number of investor resolutions (witness the Annual General Meetings of Amazon, Cisco and Microsoft in 2022) and legislative requirement (as advancing everywhere from the European Union to Australia). Publishing rates may currently be low, but they are increasing rapidly, especially across Europe.[i]

For many tax justice organisations, public Country-by-Country Reporting (pCbCR) is a number one campaign demand (closely followed by beneficial ownership disclosure).[ii] At the Fair Tax Foundation, we believe that comprehensively implemented pCbCR significantly enhances the ability of 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 and at the right time.

Country-by-Country (CbC) disclosure to tax authorities is now common in many parts of the world[iii], 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.[iv] Tellingly, revenues per employee tend to be higher where headline rates of corporation tax are zero, and in investment hubs.

Say what you pay

Public country-by-country reporting will soon be mandatory for large multinationals (MNCs) operating across the European Union (albeit with some substantial loopholes)[v], with requirements recently announced in Australia also. In the United States, the Securities and Exchange Commission has signalled support for the Financial Accounting Standards board to prioritise pCbCR.[vi] In 2016, under all-party pressure from Parliament, the UK Government agreed that pCBCR was merited and accepted an amendment to the Finance Bill (although, to date, those powers have not been enacted).[vii]

Analysis[viii] by Vienna University of the impact of pCbCR on the European banking sector (a business sector that was required to undertake pCbCR in advance of other sectors in the EU) found that the number of subsidiaries of European banks in tax havens declined significantly after the introduction of mandatory public CbCR.

An increasing number of investors are now urging that MNCs should embrace such tax transparency as a core element of their 'ESG' credentials.[ix] This includes some of the world's largest institutional investors (such as Norges Bank Investment Management[x]) and most influential ratings agencies (such as S&P Global[xi]). PRI, the world's leading proponent of responsible investment, has supported pCbCR for a number of years.[xii]

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

Fair Tax Mark's stipulations for 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, and this should be accompanied with a narrative explanation. For a multinational business to become Fair Tax Mark accredited the majority of the following data[xiv] 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.

The Fair Tax Foundation takes 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 wound-down or sold.

Note: we provide templates and good practice examples in the following areas also:

- Model tax notes
- Model tax policy

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[i] See Tax Transparency by Multinationals: Trends in Country-by-Country Reports Public Disclosure (February, 2023)

[ii] See Tax Justice Network (November 2020).

[iii] 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.

[iv] Corporate Tax Statistics (Fourth Edition). OECD, November 2022

[v] In general, for fiscal years starting after June 22nd 2024, with the first Reports due by end December 2026. But, only applies to MNCs with consolidated revenues over €750m. Jurisdictions to be disaggregated are restricted to a) EU Members States, b) countries on the EU list of non-cooperative jurisdictions for tax purposes (referred to as the 'black list') and c) countries listed for two consecutive years or more on the list of jurisdictions that don't yet comply but have committed to reform (referred to as the 'grey list'). Business may defer disclosure for up to five years in relation to certain countries if they deem the information to be 'commercially sensitive'. See 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

[vi] United States: SEC signals support for country-by-country reporting

[vii] UK opts for public country-by-country reporting (7th September 2016)

[viii] See Eberhartinger, E., Speitmann, R., & Sureth-Sloane, C. (2020). Real Effects of Public Country-by-Country Reporting and the Firm Structure of European Banks. WU International Taxation Research Paper Series No. 2020-01

[ix] 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

[x] One of the world's largest sovereign wealth funds. See Tax and Transparency - expectations towards companies

[xi] Significantly, S&P Global input into the Dow Jones Sustainability Indices. See Five Years of Pushing for Change: Assessing Corporate Tax Strategies

[xii] Supported by the United Nations since 2006. PRI has 5,000 signatories who between them have over US120trn assets under management. See Investors' recommendation on corporate income tax disclosure (2017)

[xiii] https://taxobservatory.shinyapps.io/company_cbcr_data/

[xiv] Note: these requirements are consistent with the GRI-207-4 reporting standard and the OECD BEPS Action 13 disclosure template