



ASCG • Joachimsthaler Str. 34 • D-10719 Berlin

To: European Commission

submitted online via
Have your say – Public Consultations and Feedback

Published initiative:
Tax paid by multinationals – template and electronic formats for pCbCR

Joint Technical Committee

Phone: +49 (0)30 206412-12-0

E-Mail: info@drsc.de

Berlin, 5 September 2024

Dear Madam / Sir,

Re: Draft implementing regulation laying down a common template and electronic reporting formats for the application of Directive 2013/34/EU of the European Parliament and of the Council as regards the information to be presented in reports on income tax information (Ares(2024)5581829)

The ASCG appreciates the opportunity to comment on the [proposal](#) for a draft implementing regulation.

[Directive \(EU\) 2021/2101](#) amending [Directive 2013/34/EU](#) is part of the European Commission's package of initiatives with the overarching objective of preventing tax avoidance and aggressive tax planning. It requires certain multinational undertakings to disclose more extensive tax information. This is intended to increase transparency in the area of income tax in order to enable public oversight of whether taxes are paid where the undertaking primarily operates and generates income. We recognise the high political importance of the issue of tax justice and tax transparency and are in favour of the European Commission giving this issue a high priority.

However, we do not believe that the intended method of implementation is appropriate for achieving the overarching objective mentioned above. Country-by-country information on income taxes does create a certain degree of transparency through its disclosure alone. However, by comparing this data over several periods or with the corresponding disclosures of other undertakings, we do not believe that it is possible to derive any indications as to whether undertakings are behaving in a tax-compliant manner in the countries in which they are active. It will be difficult to understand and correctly interpret the income tax disclosures, as this regularly requires special expertise and background information on the respective undertaking. The risk of misinterpretation and reputational damage puts the undertakings concerned under a de facto obligation to explain the disclosures to the public.

However, misinterpretation of information not only has an impact on an undertaking's reputation: If publicly available tax information is misinterpreted, this can also lead to increased volatility on the capital markets. In addition, the general confidence of investors in the reporting could decrease, for example due to misunderstandings in the comprehensibility of the tax

Contact:

Joachimsthaler Str. 34
D-10719 Berlin
Phone: +49 (0)30 206412-0
Fax: +49 (0)30 206412-15
E-Mail: info@drsc.de

Bank Details:

Deutsche Bank Berlin
IBAN-Nr.
DE26 1007 0000 0070 0781 00
BIC (Swift-Code)
DEUTDE33HAN

Register of Associations:

District Court Berlin-Charlottenburg, VR 18526 Nz
President:
Georg Lanfermann
Vice President:
Prof Dr Sven Morich



information. Therefore, it is important to explain disclosures to the public, which in turn ties up additional resources in the undertaking and thus causes additional costs. In its [work programme for 2024](#), the European Commission announced to reduce the burdens associated with reporting obligations by 25 percent. Furthermore, additional explanations increase the information overload in the context of financial reporting.

We are therefore of the opinion that the proposed disclosure requirements do not contribute to achieving the primary objective of combating tax avoidance.

The ASCG submitted detailed comments on the [proposed](#) directive at the time and on the [draft](#) legislation for transposition into German law (both comment letters in German only).

For further comments on the technical content of the draft implementing regulation with proposed templates and electronic formats for pCbCR we would like to refer to our attached Appendix to this letter. In this context we would like to point out that the consultation period short and the timing of the consultation during the holiday season is unfavourable. These circumstances affect the quality of feedback and should be taken into account in the future.

Should you wish to discuss any of the above-mentioned issues in more detail, please feel free to reach out to us at any time.

Yours sincerely,

Accounting Standards Committee of Germany (ASCG)

APPENDIX

Technical Comments on the draft implementing regulation laying down a common template and electronic reporting formats for the application of Directive 2013/34/EU of the European Parliament and of the Council as regards the information to be presented in reports on income tax information (Ares(2024)5581829)

Tax paid by multinationals – template and electronic formats for ‘country by country’ reports

We would like to address the following issues specifically with regard to the draft implementing regulation:

Article 5 of the draft implementing regulation (Transitional provisions)

The provisions to use the templates and tag the disclosures are already to be applied for financial years starting on, or after 1 January 2025. In order to provide enough time for undertakings to implement the new provisions, a transition period is necessary (Recital 12 of the draft implementing regulation). This is particularly relevant for undertakings that have little or no experience with tagging disclosures and software providers that have to develop the relevant tools. The new provisions should therefore only be applied for financial years starting on, or after 1 January 2026.

There may be cases in which undertakings do have a financial year different from the calendar year and therefore have to prepare a report before the provisions in the implementing regulation are applicable. We request that the expectations for the reporting of such undertakings be specified, whereby attention should be paid to keeping the administrative burden as low as possible. Alternatively, the provisions of the implementing regulation could be applied earlier on a voluntary basis.

During a transitional period, it could be helpful to be allowed to use XML instead of XBRL. XML as a target format for a working format (such as Excel) is easy to use for undertakings subject to reporting requirements, as Excel/XML conversation tools are already used within the OECD country-by-country reporting, which are technically easy to use and low-cost.

Template in section 2 of annex I to the draft implementing regulation

We see no added value in a double disclosure of countries (“tax jurisdiction” column and “country code” column). The OECD country-by-country reporting (table 1 in part A of section III of annex III to [Council Directive 2011/16/EU](#)) only uses the “country code” column and not the “tax jurisdiction” column. The “tax jurisdiction” column could be completely omitted by defining a mandatory code for “all other tax jurisdictions (aggregated basis)”.



Template according to the draft implementing regulation								
Tax jurisdiction	Country code	Revenues	Profit (loss) before income tax	Income tax paid – on cash basis	Income tax accrued – current year	Accumulated earnings	Number of employees	[Additional columns may be added as necessary]
1. Full name of Member State or tax jurisdiction A								
2. Full name of Member State or tax jurisdiction B								
3. ...								
All other tax jurisdictions (aggregated basis)	-							

Template according to Council Directive 2011/16/EU										
Name of the MNE Group: Fiscal Year concerned: Currency used:										
Tax jurisdiction	Revenues			Profit (loss) before income tax	Income tax paid (on cash basis)	Income tax accrued — current year	Stated capital	Accumulated earnings	Number of employees	Tangible assets other than cash and cash equivalents
	Unrelated party	Related party	Total							

In general, we are calling for this template to be as consistent as possible with the OECD country-by-country reporting template in order to minimise the costs for reporting undertakings. For example, “income tax paid (on cash basis)” is spelt slightly differently.

According to the “Specific reporting instructions”, “With regard to the line with the following heading ‘All other tax jurisdictions (aggregated basis)’ where the jurisdictions disclosed line by line cover all the activities of the reporting standalone undertaking or ultimate parent undertaking, the information reported should be a zero figure or ‘nil’”. This option should be removed for standardisation. Instead, either ‘0’ or ‘nil’ should be mandatory here.

According to the “Specific reporting instructions”, “amounts shall be reported down to the unit with no scaling applied, and with an accuracy deemed appropriate by the reporting undertaking.” More clarification should be given here as to what “accuracy deemed appropriate” means. Would rounding to the nearest million be appropriate for a large company (with the risk that in small countries a 0 is then shown instead of, for example, 300,000)?

Template in section 3 of annex I to the draft implementing regulation

We see no added value in a double disclosure of countries (“tax jurisdiction” column and “country code” column). The OECD country-by-country reporting (table 2 in part A of section III of



annex III to Council Directive 2011/16/EU) only uses the “country code” column and not the “tax jurisdiction” column.

It is positive to note that the reporting undertaking is given the opportunity to disclose the activities in accordance with OECD country-by-country reporting (Article 48c (3) Directive 2013/34/EU). However, if undertakings do not report in accordance with OECD country-by-country reporting (Article 48c (2) Directive 2013/34/EU), the reporting of activities is different. In this case, the activities have to be disclosed in accordance with the NACE codes, which can result in different disclosures depending on whether undertakings report in accordance with OECD country-by-country reporting or not. This can affect the comparability of the disclosures. The reporting of activities should therefore be aligned as closely as possible with OECD country-by-country reporting.

Similar to the template in section 2 of annex I to the draft implementing regulation the following specific reporting instructions should be included: „*Should an information be omitted in the table, this shall be reported in Section 4.*”

Template according to the draft implementing regulation			
Member State or tax jurisdiction	Country code	Name of each subsidiary undertaking in the Member State or tax jurisdiction	Brief description of the nature of activities in the Member State or tax jurisdiction
1. Full name of Member State or tax jurisdiction A		Subsidiary a Subsidiary b Subsidiary c	
Specific reporting instructions regarding the template according to the draft implementing regulation			
<p>The ‘Brief description of the nature of activities in the Member State or tax jurisdiction’ shall be drawn up on the basis of Annex I of Regulation (EC) No 1893/2006 of the European Parliament and of the Council establishing the statistical classification of economic activities NACE, taking account of the activities of the group or standalone company in the country as a whole. For instance, where taking all the activities in a given country into account these cover section C and G of Annex I of Regulation (EC) No 1893/2006, the corresponding text shall be: “manufacturing / wholesale and retail trade; repair of motor vehicles and motorcycles”.</p>			
<p><i>In the case where the information is drawn up on the basis of the reporting instructions referred to in Section III, Parts B and C, of Annex III to Council Directive 2011/16/EU, the ‘Brief description of the nature of activities in the Member State or tax jurisdiction’ shall be drawn up on the basis the following list of main business activities, taking all the activities in a given country into account:</i></p> <ul style="list-style-type: none"> • <i>Research and Development</i> • <i>Holding or Managing Intellectual Property</i> • <i>Purchasing or Procurement</i> • <i>Manufacturing or Production</i> • <i>Sales, Marketing or Distribution</i> • <i>Administrative, Management or Support Services</i> • <i>Provision of Services to Unrelated Parties</i> • <i>Internal Group Finance</i> • <i>Regulated Financial Services</i> • <i>Insurance</i> • <i>Holding Shares or Other Equity instruments</i> • <i>Dormant</i> • Other 			
<p><i>For instance: “Manufacturing or Production / Sales, Marketing or Distribution”. In the case where the activities are reported as ‘Other’, no further description is required.</i></p>			



Template according to Council Directive 2011/16/EU													
Name of the MNE Group: Fiscal Year concerned:													
Tax Jurisdiction	Constituent Entities Resident in the Tax Jurisdiction	Tax Jurisdiction of Organisation or Incorporation if Different from Tax Jurisdiction of Residence	Main Business Activity(ies)										
			Research and Development	Holding or Managing Intellectual Property	Purchasing or Procurement	Manufacturing or Production	Sales, Marketing or Distribution	Administrative, Management or Support Services	Provision of Services to Unrelated Parties	Internal Group Finance	Regulated Financial Services	Insurance	Holding Shares or Other Equity Instruments
	1.												
	2.												
	3.												
	1.												
	2.												
	3.												
(*) Please specify the nature of the activity of the Constituent Entity in the 'Additional information'													

In general, we are calling for this template to be as consistent as possible with the OECD country-by-country reporting template in order to minimise the costs for reporting undertakings. We therefore propose further dynamization of the reference to use the OECD country-by-country reporting. This would have the advantage that when the provisions on OECD country-by-country reporting are updated, these changes could also be used for the purpose of public country-by-country reporting without any differences in the activities. Such differences would be a significant problem in practice because activities for OECD country-by-country reporting and public country-by-country reporting would then have to be collected separately, which should be avoided due to the costs associated with this.

Annex IV

The template in section 2 of annex I to the draft implementing regulation requires the disclosure of revenues in a column. In the list of taxonomy elements in section 2 of annex IV, the revenues are divided into 'related' and 'unrelated'. In our understanding, these taxonomy elements correspond to the reporting requirement under Article 48c(2)(d) of the Directive 2013/34/EU. We would like to see a clarification whether the use of these taxonomy elements is mandatory or optional.

Template in section 2 of annex I according to the draft implementing regulation								
Tax jurisdiction	Country code	Revenues	Profit (loss) before income tax	Income tax paid – on cash basis	Income tax accrued – current year	Accumulated earnings	Number of employees	[Additional columns may be added as necessary]
1. Full name of Member State or tax jurisdiction A								



Taxonomy elements in section 2 of annex IV according to the draft implementing regulation				
RevenuesRelated	X duration	Label	Revenues from transactions with related parties	
RevenuesRelatedOtherTaxJurisdictions	X duration	Label	Revenues from transactions with related parties, other tax jurisdictions	
RevenuesUnrelated	X duration	Label	Revenues from transactions with non-related parties	
RevenuesUnrelatedOtherTaxJurisdictions	X duration	Label	Revenues from transactions with non-related parties, other tax jurisdictions	

The use of the following additional taxonomy elements should be clarified:

- „PublicSubsidiesReceived“;
- „PublicSubsidiesReceivedOtherTaxJurisdictions“;
- „GeneralInformationAbstract“.

Annex III continued

It remains unclear whether the use of extensions to the core taxonomy is necessary for tagging. It should not be necessary to use extensions, as this could impair the comparability of the information.

We consider the provision of guidance to be important, as many preparers of the public country-by-country reporting will have no previous tagging experience. To achieve a common understanding of which information should be tagged with which taxonomy elements and how, the European Commission should publish illustrative examples of XBRL reports with guidance on how to tag information. A good example of such guidance is the “[IFRS Foundation’s document Using the IFRS Taxonomy: A preparer’s guide](#)” which is very clear and provides a good understanding with the help of examples.

The European Commission could support preparers further by providing fully tagged model public country-by-country reports (and templates). With the help of such tagged model reports, preparers would not have to tag their reports themselves but could instead insert their respective information into the model reports.

Further comments

From the perspective of a reporting undertaking, it would be desirable if the intended target format could be easily achieved using a standard working format (e.g. Excel). This is the case with the XML format and is currently practised in this way. Various Excel-XML conversation tools exist for the OECD country-by-country reporting, so that the use of the XML format poses no problems. However, if a different format is to be used (such as XBRL), no additional technical hurdles should be created for reporting undertakings. Regarding the tagging of disclosures, preparers should not have to fulfil more reporting requirements than required by Directive (EU) 2021/2101. This requirement can be derived from the provisions already in place of the ESEF Regulation (Article 4 (2) Delegated Regulation (EU) 2019/815), as “issuers shall, as a minimum, mark up the disclosures (specified in Annex II Delegated Regulation (EU) 2019/815) where those disclosures are already present in the IFRS consolidated financial statements.”