



CONFEDERATION  
FISCALE  
EUROPEENNE

**Opinion Statement PAC 2 and FC 12/2015**

**Response to the European Commission's public consultation  
on further corporate tax transparency**

**Prepared by the CFE Fiscal Committee and Professional Affairs Committee**

**Submitted to the European Commission in September 2015**

*The CFE (Confédération Fiscale Européenne) is the umbrella organisation representing the tax profession in Europe. Our members are 26 professional organisations from 21 European countries (16 OECD member states) with more than 100,000 individual members. Our functions are to safeguard the professional interests of tax advisers, to assure the quality of tax services provided by tax advisers, to exchange information about national tax laws and professional law and to contribute to the coordination of tax law in Europe.*

*The CFE is registered in the EU Transparency Register (no. 3543183647-05).*

## Introduction

On 17 June 2015, the European Commission opened a public consultation on further corporate tax transparency<sup>1</sup>, as part of its Corporate Taxation Action Plan. In the following, the questions contained in the on-line questionnaire are in black, while the responses given or favoured by CFE are in blue. The term “CBCR” shall refer to reporting or publication of tax-relevant information on a country by country basis.

### 1. In terms of corporate tax transparency, which of the following assertions would you support?

- a) Current tax transparency requirements in the EU are sufficient (*In the EU, enterprises have to make public their annual financial statement and consolidated financial statement which contains limited information on taxes. In addition, a country-by-country reporting has to be prepared and made public by extractive and forestry industries under the Accounting and Transparency Directives. And finally, financial institutions have to prepare and make public annually a country-by-country reporting under the Capital Requirement Directive*)
- b) The EU should try to achieve that further transparency initiatives are taken at international level, but it should not act alone and should leave the implementation to Member States
- c) **The EU should implement international initiatives (e.g. BEPS...) at the same pace and to the same extent as its global partners in order to ensure a level playing field**
- d) The EU should be in the forefront and possibly go beyond the current initiatives at international level, for example by extending the current requirements to disclose tax information to the public to all other sectors
- e) No opinion
- f) Other

Please specify your opinion on whether current tax transparency requirements in the EU are sufficient:

**Assertion c: A consistent implementation at worldwide level of BEPS measures is essential. More stringent requirements in the EU could compromise the EU’s competitiveness and companies operating in the EU.**

**An impact assessment should be carried out to understand whether more stringent requirements would bring further/different benefits that would justify different measures specifically for the EU.**

### 2. A possible new EU initiative on corporate tax transparency would aim at a spectrum of objectives.

#### 2a) Do you agree with the following objectives?

- 1. To increase pressure on enterprises to geographically align taxes paid in a country with actual profits, by enhanced scrutiny and decisions of either citizens or tax authorities (“enterprises should pay tax where they actually make profit”)

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<sup>1</sup> [http://ec.europa.eu/finance/consultations/2015/further-corporate-tax-transparency/index\\_en.htm](http://ec.europa.eu/finance/consultations/2015/further-corporate-tax-transparency/index_en.htm)

2. To increase public or peer pressure on countries to take measures that contribute to more efficient and fairer tax competition between Member States, thus ensuring that the country where profits are generated is also the country of taxation (“Member States should stop harmful tax competition”)
3. To assist tax authorities in orienting their tax audits in view of targeting tax evasion or avoidance, i.e. business decisions whereby tax liabilities are circumvented (“help tax authorities orientate their audits on enterprises”)
4. To align corporate tax planning practices with multinational enterprises’ own commitment / statement to corporate responsibility, such as their contribution to local and social development (“enterprises should act as they communicate in terms of contribution to welfare through taxation”)
5. To ensure that enterprise structures and investments are more founded on economic motivations and not exclusively on corporate tax-related motivations (“enterprises should structure their investments based on real economic reasons, not just to avoid taxes”)
6. To remedy market distortions based on corporate intransparency and multinational companies’ comparative advantage over SMEs when engaging in aggressive tax planning (“fairer competition between multinational enterprises and SMEs”)

We agree with the above statements, however:

With regards the wording “*by enhanced scrutiny and decisions of either citizens or tax authorities*” (stated objective 1) we suggest eliminating the possibility of scrutiny by citizens.

The wording “*where a profit is actually made*” (or, elsewhere “*where a profit is generated*”) is not fully clear. To enable a more informed discussion, we would ask the Commission to clarify this, as several interpretations seem possible, e.g.:

- the country where the customer makes the payment,
- the country where the payment is received,
- the country where the goods are dispatched or the services are performed,
- the country where the goods or services are received or used,
- the country where the customer resides,
- the country/-ies where the elements that constitute the value of the good or service (materials, data, workforce, IP rights, infrastructure, business know-how, management) are located or added, etc.

**2b) Would you add other objectives, and if so, which ones? Please explain briefly.**

**3. The following options have been identified by the Commission services (Please note that certain options may be mutually exclusive).**

**Transparency towards tax authorities:**

*Note: OECD BEPS Action 13 recommends that, at State level, very large multinational enterprise (turnover >EUR750m) provide from 2017 onwards a Country-By-Country Report (CBCR) to the relevant tax authority. Tax authorities of G20 and OECD members will then exchange the CBCR submitted to them.*

### **OPTION A: No EU Action**

Please note that even if there is no EU action, some Member States may implement OECD BEPS Action 13 recommendations. This would allow tax authorities to obtain tax-related information and exchange that information with other participating countries. However, not all Member States may implement BEPS 13 – especially as not all EU Member States are OECD Members.

### **OPTION B: Implementation of BEPS 13 at EU level**

The EU would recommend or require, as recommended by BEPS 13, that enterprise disclose tax-related information on a country-by-country basis to the relevant tax authorities. Each ultimate parent enterprise filing a tax return with any of the relevant EU tax authorities would be covered. Its own worldwide consolidated operations would be reported.

### **Transparency towards the public:**

#### **OPTION C: Publication of anonymised/aggregated data by the EU tax authorities**

The EU would recommend or require the disclosure by enterprises of tax-related information to tax authorities (possibly based on BEPS 13 recommendations). Moreover, aggregated or anonymised data would be made available to the public in order for the public to have access to tax-related information.

#### **OPTION D: Public disclosure of tax-related information by either enterprises or tax authorities**

The EU would require enterprises to disclose tax-related information on a country-by-country basis. The information would be made available to the public either directly (e.g. as part of their annual reporting obligations) or by national tax authorities in, for example, a public register. This option may consist in extending to all sectors the country-by-country reporting requirements currently in place for financial institutions.

#### **OPTION E: Publicly available corporate tax policies**

The Commission would require enterprises to report on their approach towards tax compliance and planning (tax management).

### **3a) Are there other appropriate options in relation to extending corporate tax transparency, such as reporting requirements for tax advisors? Please explain briefly.**

Reporting requirements for tax advisers touch on the taxpayers' fundamental rights to privacy and on the right to effective defence/representation and the right not to incriminate oneself. The latter two form part of the right to a fair trial.

We are critical towards any efforts to make tax advisers the tax administration's informant. Already the existence of a reporting obligation for tax advisers interferes with the confidentiality between taxpayers and their advisers. In some countries, professional secrecy already protects the identity of the client.

If introduced, reporting requirements need to respect a number of safeguards to make sure that the clients’ fundamental rights are not undermined:

- Taxpayers should not be obliged to report information where tax advisers are prevented, for reasons of professional secrecy, from reporting. Self-incrimination is a concern. The reporting of a scheme may lead to criminal consequences if the scheme is deemed by tax authorities to be beyond tax avoidance being in fact tax evasion. In practice, there is only a vague distinction between the two. It is one of the very reasons for privilege that the principle of self-incrimination cannot be circumvented by asking somebody else to report!
- For the purpose of a disclosure regime, it is sufficient that the facts are disclosed, correspondence between the taxpayer and the adviser nor preparatory documents (like memoranda or opinions) should not be disclosed, since it would be disproportionate.

**3b) Please rate below how well each option would achieve the identified primary objectives**

Please use the following possibilities:  
 Insert a + (plus) to indicate that the option achieves the objective  
 Insert a 0 (zero) to indicate that the option has no effect with respect to the objective  
 Insert a - (minus) to indicate that the option runs counter to the objective  
 Leave empty to indicate that you have no opinion

	Objective 1: Enterprises should pay tax where they actually make profit	Objective 2: Member states should stop harmful tax competition	Objective 3: Help tax authorities orientate their audits on enterprises	Objective 4: Enterprises should act as they communicate in terms of contribution to welfare through taxation	Objective 5: Enterprises should structure their investments based on real economic reasons, not just to avoid taxes	Objective 6: Fairer competition between multinational enterprises and SMEs
A: No EU Action						
B: Implementation of BEPS 13 at EU level	+	0	+	0	+	+
C: Publication of anonymised/aggregated data by the EU tax authorities	0	0	0	0	0	0
D: Public disclosure of tax-related information by enterprises	+	0	+	+	+	+
E: Publicly available corporate tax policies	0	0	0	0	0	0

**3c) In your opinion, which would be the most appropriate option(s)?**

Please select one or several options

- a. OPTION A: No EU Action
- b. OPTION B: Implementation of BEPS 13 at EU level

- c. OPTION C: Publication of anonymised/aggregated data by the EU tax authorities
- d. OPTION D: Public disclosure of tax-related information by enterprises
- e. OPTION E: Publicly available corporate tax policies

For the sake of a consistent implementation, we would favour option B.

Notwithstanding the above, we believe that none of the proposed measures would contribute to reaching objective 2 (fairer tax competition by countries) which we consider an important one. In this regard, please see our response to question 26.

We do not see how Options C (publication of anonymised or aggregate data by EU tax authorities) or E (publicly available corporate tax policies) contribute to reaching any of the stated Objectives.

Publication of CBCR information (Option D) may help reducing the use of tax avoidance opportunities and establishing fairness in competition between multinationals and domestic operators (Objectives 1, 5 and 6). However, the same can be achieved through transparency to tax authorities, provided that information exchange works (Option B). As will be explained in our answer to question 10 below, we do not support public pressure on companies as an appropriate means to fight tax avoidance.

**The following questions examine in more depth the possible features of each option, and their potential impacts**

#### **OPTION B - EU INITIATIVE ON TRANSPARENCY TOWARDS TAX AUTHORITIES, BASED ON OECD BEPS**

**This section examines the option where the EU would foster the BEPS 13 at EU level by way of an EU-specific initiative. Each ultimate parent enterprise filing a tax return with any of the relevant EU tax authorities would be covered. Its own worldwide consolidated operations would be reported. Ultimately, tax authorities would share this information.**

*Note: OECD BEPS Action 13 recommends that, at State level, very large multinational enterprise (turnover >EUR750m) provide from 2017 onwards a Country-By-Country Report (CBCR) to the relevant tax authority. Tax authorities of G20 and OECD members will then exchange the CBCR submitted to them.*

#### **4. What information should necessarily be disclosed by enterprises to the tax authorities?**

**Please select one or several options**

- a) BEPS 13 information (Name, Nature of activities, Location, List of subsidiaries of the parent enterprise operating in each country, Revenue, Revenues split between related and unrelated parties, Number of employees, Profit or loss before tax, Income tax paid and accrued, Stated Capital, Accumulated earnings, Tangible assets)
- b) Public subsidies received
- c) Explanatory narrative information on tax-related information
- d) Other

- e) No opinion
- f) None

*Please specify what information should necessarily be disclosed by enterprises to the tax authorities:*

Information to be disclosed should be consistent with agreed international standards within OECD BEPS Action 13.

(a) To enable tax authorities to detect irregularities or indications of large-scale tax avoidance and to better target their audits (Objective 3), the information described under a) seems suitable.

(b) We believe that states should be transparent about their spending of public money, so public subsidies should be published by the states, not reported by companies.

(c) We expect that many companies will decide to give additional information of their own motion to explain the figures provided and to prevent misinterpretation, which is in the company's own interest. However, we do not see the benefit of a mandatory narrative, as narratives, such as businesses' activities, will differ greatly and cannot be standardised. A detailed predefined format would impose a considerable burden on businesses.

(d) Also with CBCR to tax authorities only, the necessity of levying and exchanging information should be carefully considered. Even where countries commit themselves to protecting data received from taxpayers or other member states, leaks and cyber attacks on state databases and the resulting loss or disclosure of data are and will remain reality. The more data is levied and exchanged, the more data will be hacked or leaked.

## **5. What EU entities should be covered?**

- a) Very large enterprises with revenue of EUR 750M or larger enterprises + (as recommended in the BEPS 13)
- b) At least large enterprises or groups (to be defined more specifically)
- c) Other
- d) No opinion

Please specify what other EU entities should be covered:

Our answer would be a), to ensure consistency with international CBCR rules and to avoid competitive damages for EU companies.

If the EU should opt for b), it would be useful to refer to categories that already exist in EU law, e.g. large undertakings as defined in Art.3 (4) of the Accounting Directive 2013/34/EU (two of the following three criteria: (a) balance sheet total € 20 million, (b) net turnover € 40 million, (c) average number of employees 250).

To limit administrative burden, SMEs should be exempted from CBCR in any case.

## 6. At enterprise level:

### 6a) How would you assess the extent to which enterprises will need to change their tax planning or structure as a result of being more transparent towards tax authorities?

*Please select one single option*

- a) This will have no effects on enterprises' tax planning
- b) This will ensure that enterprises comply with tax rules and do not use tax gaps, mismatches and/or loopholes in tax rules in order to minimise the taxes they pay
- c) Enterprises will voluntarily shift profits back to where they are generated so that they have to pay more taxes than they did before
- d) Other
- e) No opinion

Please specify in what other ways enterprises will need to change their tax planning or structure as a result of being more transparent towards tax authorities:

The answer is in fact a combination of a) –c). Assuming that the arrangements used by companies are within the law, which should be the case for the overwhelming majority, the obligation to provide CBCR data will not be seen as an immediate reason to adapt tax arrangements. Significant positive effects on tax revenue may occur mid- and long-term, depending on government's reaction to suspected avoidance (see answer to next question).

### 6b) Please explain which mechanism would incentivise enterprises to change:

A transparent and consistent communication and enforcement policy of government towards arrangements deemed abusive or unacceptable will enable and encourage companies to rearrange their tax affairs in a sustainable way. In contrast, a government policy aimed at spreading fear and uncertainty will be detrimental to any long-term planning (Please see also our answer to question 9).

## 7. What consequences would further tax transparency towards tax authorities have in terms of public finance?

*Please select one or several options*

- a) Reallocation of tax bases within Europe
- b) Increase in tax paid in Europe
- c) Decrease in tax paid in Europe
- d) Increase in tax paid outside the EU
- e) Decrease in tax paid outside the EU
- f) Other

Please specify what other consequences would further tax transparency towards tax authorities have in terms of public finance:



There could be a benefit for the tax administration which would be in a better position to detect tax avoidance and react to it, e.g. by targeting audits and closing loopholes.

It cannot reasonably be predicted whether CBCR to tax authorities at EU level will lead to an increase in tax paid outside the EU, as it will depend on many factors, e.g. on the international framework for automatic exchange of information, on other countries' policies with regard to profits generated outside their territories, or on the level of education of tax inspectors in developing countries.

Please explain briefly, if possible with figures, your answer on the possible further consequences tax transparency towards tax authorities would have in terms of public finance: -

**8. Can you provide an estimation of any additional costs and resources that will be incurred by enterprises in preparing a consolidated CBCR in accordance with BEPS 13? Please explain, with details of what information is not currently available and if possible with figures:**

Where the preparation of CBCR data will be done by in-house staff, it will most likely require a review of internal procedures and an investment in new software solutions. It will mean an increase in compliance burden in terms of time consumed in the performance of activities/processes; costs in terms of personnel necessary to perform the functions and to collect, prepare and analyse the data.

Where this activity will be done by external tax advisers or accountants, the additional time spent on this activity will raise the amount of professional fees.

CBCR may also have a side effect on the tax adviser market: Large multinational tax firms are in a much better position to offer global one-stop solutions than their local competitors. As companies prefer to have all their tax-related matters dealt with by one provider, the need to provide country by country tax information may lead many companies acting cross-border to change their tax adviser, choosing a multinational firm. This effect can be mitigated by requiring CBCR only from large companies which are already mainly served by large professional firms.

**9. What consequence would tax transparency towards tax authorities have in terms of fostering a growth friendly environment and the attractiveness of the EU as a place to invest?**

- a) Constitute a feature of a growth friendly environment and foster the attractiveness of the EU as a place to invest.
- b) No consequence
- c) Hamper the fostering of a growth friendly environment and negatively impact the attractiveness of the EU as a place to invest.
- d) No opinion

*Please explain briefly your answer on the consequence tax transparency towards tax authorities would have in terms of fostering a growth friendly environment and the attractiveness of the EU as a place to invest:*

Our answer is b).

CBCR, with or without publication, will lead to additional compliance cost. This compliance cost, not the transparency itself, is a burden for businesses that may negatively impact the attractiveness of the EU as a place to invest. It is a political estimation whether the benefit for tax administration outweighs this disadvantage.

It is often implied that an increase in tax revenue through the closing of tax avoidance opportunities will benefit taxpayers who have not used these opportunities. Unfortunately, experience shows that too often, increases in tax revenue are seen as an end in itself and generally do not translate into tax reductions for the majority of taxpayers (or help for the needy, development aid, protection of the environment etc.). We therefore do not support the statement that tax transparency will make the EU a more attractive place to invest.

Whether country by country reporting will contribute to a growth-friendly environment or achieve the contrary will largely depend on government's reaction to the information gained through the reports. Durable legislative changes as a response to identified tax avoidance will enable long-term planning for businesses, while quick fixes will render the law or its application more complicated. For most businesses, the main hindrance to a growth-friendly environment is neither the amount of tax to be paid nor transparency but the complexity of legislation, the pace of legislative changes and legal uncertainty.

## **OPTIONS C and D - EU INITIATIVE TOWARDS FURTHER PUBLIC TRANSPARENCY OF TAX-RELATED INFORMATION**

**This section examines the options where further tax-related information would be made fully or partially available to the public.**

*Reminder:*

*OPTION C: Publication of anonymised/aggregated data by the EU tax authorities. The EU would recommend or require the disclosure by enterprises of tax-related information to tax authorities (possibly based on BEPS 13 recommendations). Moreover, aggregated or anonymised data would be made available to the public in order for the public to have access to tax-related information.*

*OPTION D: Public disclosure of tax-related information by either enterprises or tax authorities. The EU would require enterprises to disclose tax-related information on a country-by-country basis. The information would be made available to the public either directly (e.g. as part of their annual reporting obligations) or by national tax authorities in, for example, a public register. This option may consist in extending to all sectors the country-by-country reporting requirements currently in place for financial institutions.*

### **10. How would you describe the potential benefits / disadvantages of a public disclosure of information by enterprises as compared to disclosure towards tax authorities only? Please explain briefly:**

#### Effects of public pressure

The publication of a very limited set of tax-related data, as already applies to companies in the extractive sector and for financial institutions, provides little information on whether the company has complied with its tax law obligations. What is created is at most a vague feeling and, in many

cases, prejudice. This is seen by some as a means to apply public pressure on companies to voluntarily pay more taxes than they are legally obliged to.

Not all companies are equally exposed to public perception and thereby to public pressure. A company selling mainly to consumers will face much bigger pressure than a company mainly selling to other businesses. The former may more easily be forced to pay more taxes than legally owed. A strong reliance on public pressure to increase tax revenues will lead to unequal results and create market distortion.

It should also be kept in mind that not all parties seeking to „name and shame“ undertakings are operating for the benefit of society. Information is a weapon. Rogue businesses or persons acting on behalf of these may intentionally misinterpret data and arouse suspicions to damage competitors. Even well-intentioned persons lacking the information to interpret the data published will draw wrong conclusions, blaming compliant operators while overlooking clever avoiders.

#### Fairness and legal certainty

Public discussion often cites concepts of fairness. Although there may be broad public agreement on the unfair nature of certain blatant tax arrangements, views differ greatly on what constitutes a *fair share* of taxes in detail. Public opinion changes quickly and cannot be a proper basis for long-term business planning, let alone the fact that opinion polls by media cannot replace a democratic legislative process. There are recognised concepts such as *abuse of law* and, in some countries, general anti-avoidance rules (GAARs) to tackle arrangements that are contrary to the intention of the legislator. The concept of *fair share*, in contrast, seems arbitrary.

We therefore doubt whether *fairness* is a valid criterion and public pressure is an appropriate tool in the enforcement of tax compliance. Fair and equal results can only be achieved by reliance on (improved) legislation.

#### Business-sensitive information

There have also been concerns as to potential harm of publication of business-sensitive information. These concerns seem justified where detailed information on business models and the value chain is requested. Any duty to publish such information would create a massive competitive disadvantage of companies affected.

We do not see that publication requirements as already apply to companies in the extractive sector or financial institutions would bear such risk. The same would apply to the country-by-country template suggested in the BEPS 13 report of September 2014.

#### Publication of CBCR data by member states

Publication of country by country tax information through member states, not through companies, would render any statutory audits of the information unnecessary. This would be a clear advantage for businesses. There should however be a possibility for businesses to contest the information published and indicate disagreement.

As EU law cannot require non-member states to publish data on tax payments, the benefits of an obligation on states to publish this data would however be limited.

**11. What information would it be *absolutely necessary* to include in a publicly available CBCR (option D)?**

*Please select as many options as necessary among the following 6 categories:*

**- Information required both under CRD IV and BEPS 13 (this information is already publicly disclosed by financial institutions)**

- a) Name
- b) Nature of activities
- c) Location
- d) Revenue
- e) Number of employees
- f) Profit or loss before tax
- g) Income tax (paid and accrued)

**- Additional BEPS 13 information (normally to be made available to tax authorities):**

- h) Revenues split between related and unrelated parties
- i) Stated Capital
- j) Accumulated earnings
- k) Tangible assets
- l) List of subsidiaries of the parent enterprise operating in each country

**- Additional information currently required from financial institutions:**

- m) Public subsidies received **no**

**- Information normally exchanged between tax authorities:**

- n) Tax rulings (based on definition as proposed by the Commission in March 2015) **neutral**

**- Options provided for in the Accounting Directive:**

- o) Employees working through subcontractors **no**
- p) Pecuniary tax-related penalties administered by a country **no**

**- Other tax-related information:**

- q) Narratives explaining certain key features of the tax-related information **no**
- r) None
- s) Other information **no**
- t) No opinion

Please specify what other information would be absolutely necessary to include in a publicly available CBCR:

Please explain briefly your answer on what information would it be absolutely necessary to include in a publicly available CBCR:

a)- g) We doubt the usefulness of publicly available country by country tax information. However, if there would be an obligation to publish CBCR tax information, it should be the information in a) – g).

m) Public subsidies:

We believe that states should be transparent about their spending of public money, so public subsidies should be published. This should however be the responsibility of the states, not companies.

n) Tax rulings:

CFE does not take a view on whether tax rulings should be published or not. If they are published, they have to be published in anonymous form, which is also the case in countries that already publish tax rulings. For more detail, please see our [Opinion Statement FC 9/2015 on mandatory exchange of information on tax rulings](#).

o) Employees working through subcontractors:

We see that this is meant to show the actual size of the workforce working for a company by preventing the company from “hiding” from the statistics personnel that is formerly independent or employed by an independent contractor. However, we see that this criterion will be difficult to administer in practice, e.g. where subcontractors do not render their services on a permanent basis and also serve other, unrelated companies. In the absence of common criteria in the EU and beyond and appropriate guidance, there is a risk that the data reported by different companies will not be comparable. On the other hand, we would like to warn against too detailed rules which would be disproportionately increase administrative effort.

p) Pecuniary tax-related penalties administered by a country:

The amount of tax-related penalties does not give an accurate picture of the company’s tax compliance in a given year, as in most cases, it relates to behaviour of previous years. A company that changes from an aggressive to a circumspect tax strategy would still appear as non-compliant and vice versa, providing a distorted picture.

q) Narratives explaining certain key features of the tax-related information:

We expect that many companies will decide to give additional information of their own motion to explain the figures provided and to prevent misinterpretation, which is in the company’s own interest. However, we do not see the benefit of a mandatory narrative, as narratives, such as businesses’ activities, will differ greatly and cannot be standardised. Apart from the additional burden, a detailed predefined format may achieve the contrary of transparency, as it will require the provision of many irrelevant information and distract from the relevant features. There is a risk that such narrative becomes a public relations exercise rather than financial reporting item.

**12. In the case of tax authorities publishing aggregated/anonymised information based on returns filed by enterprises with them (OPTION C), what information should be provided by those authorities (on a country-by-country basis)?**

*Please select one or several options*

- a) Aggregated revenue
- b) Aggregated number of employees
- c) Aggregated income tax paid and accrued
- d) Aggregated tangible assets

- e) Ratio: Aggregated income tax paid or accrued/aggregated profit or loss before tax
- f) Ratio: Aggregated income tax paid or accrued/aggregated revenue
- g) Analysis per sectors of activity
- h) None
- i) Other
- j) No opinion

Please specify what other information should be provided by those authorities (on a country-by-country basis), in the case of tax authorities publishing aggregated/anonymised information based on returns filed by enterprises with them:

We do not see any benefit in the anonymous publication of country by country tax information. We also doubt that this information can be kept anonymous, as part of it has to be published in annual financial statements, thus making the company identifiable.

**13. Would you or your organisation have an interest in receiving further corporate tax-related information (detailed or aggregated)?**

*Please select one single option*

No.

**14. What entities should be covered?**

**14a) Size** *Please select one single option*

- a) Very large enterprises with revenue of EUR 750M or larger enterprises + (as recommended by the BEPS 13)
- b) At least large enterprises or groups (to be defined more specifically)
- c) Other
- d) No opinion

Please specify what other entities size provisions you would consider:

If publication of CBCR tax information would be required, our answer would be identical as to question 5.

**14b) Connection with EU markets** *Please select one or several options*

- a) Enterprises with securities listed in the EEA
- b) Enterprises established in the EEA
- c) If feasible, enterprises not established in the EEA and controlling operations in the EEA
- d) Other
- e) No opinion

Please specify what other connections with EU markets you would foresee:

If publication of CBCR tax information was required, to minimise the competitiveness risk for companies established in the EU/EEA, non-EU/EEA companies that meet the size threshold should be covered to the widest possible extent. There should however be a nexus to the territory of a member state, e.g. a

subsidiary or a PE, to ensure that the reporting obligation can be enforced. A purely “virtual” or “digital” presence or sales to EU customers do not seem sufficient.

**15. What operations should be covered?** *Please select one single option*

- a) Enterprises’ operations within the EEA only
- b) Enterprises’ operations in the EEA and outside the EEA when controlled from the EEA
- c) If feasible, enterprises’ operations in the EEA and outside the EEA even if not controlled from the EEA.
- d) Other
- e) No opinion

*Please explain briefly your answer on the operations that should be covered:*

One stated purpose of public CBCR of tax information is to obtain a picture of a multinational’s global tax payments and tax planning strategy, and to see whether a multinational pays taxes *somewhere*. Another purpose often stated is that transparency on tax payments in developing countries will increase public accountability of the recipient governments.

Both of these aims will not be reached if public country by country tax information is only made available for EU countries. Such requirement would thus create an unnecessary burden.

**16. Considering that the EU may have stricter rules on tax transparency towards the public than other countries, is there a risk of placing enterprises established/listed in the EU at a competitive disadvantage vis-à-vis non-EU multinational companies operating in the EU?**

What would be the scale and consequences of such a disadvantage? Please explain briefly: What could be done to mitigate the risk?

As set out in our answer to question 14b, to minimise the competitiveness risk for companies established in the EU/EEA, non-EU/EEA companies should be covered to the widest possible extent.

**17. Is there a risk that tax transparency towards the public could have other unintended negative consequences on companies?** *Please select one single option*

Yes.

Please explain briefly the risks and their consequences on companies implied by tax transparency towards the public:

Please see our answer to question 10.

**18. Would you expect measures for enhanced public transparency on tax information in the EU to have an impact on relations with third countries (Developing countries, OECD members, ...)?**

*Please explain briefly:*

It is absolutely essential that multiple CBCR obligations that each require a company to levy different categories of data be prevented, as they will lead to massive administrative effort and would still create confusion in the public.

The European Commission should consult closely with the OECD and with other major economies to make sure that jurisdictions that introduce public CBCR of tax information exempt companies which have to publish CBCR tax information pursuant to EU law.

**19. At enterprise level:**

**19A) How would you assess the extent to which enterprises will need to change their tax planning following further tax transparency towards the public?** *Please select one single option*

- a) This will have no effects on enterprises' tax planning
- b) This will ensure that enterprises comply with tax rules and do not use tax gaps, mismatches and/or loopholes in tax rules in order to minimise the taxes they pay
- c) Enterprises will voluntarily shift profits back to where they are generated so that they have to pay more taxes than they did before
- d) Other
- e) No opinion

Please specify in what other ways enterprises will need to change their tax planning following further tax transparency towards the public:

Please explain briefly your answer on how would you assess the extent by which enterprises will need to change their tax planning following further tax transparency towards the public:

As set out in our answer to question 10, publication of CBCR tax information will affect enterprises in an unequal way. We do not agree that it is desirable that companies are forced by public pressure to change their tax planning to pay more tax than legally owed.

**19b) Please explain which mechanism would incentivise enterprises to change? In particular, please specify to what extent a public disclosure would have a greater effect than a submission only to tax authorities?**

One may consider the development of charters of transparency and tax fairness that companies can decide to join voluntarily. These charters could require commitments to publish certain information or not to engage in certain forms of tax avoidance, exceeding statutory requirements. Signatories would have the right to refer to such charter and use its logo. Compliance with these codes should be audited by independent and qualified experts. Such charters could be developed by private operators, with support from the EU.

As stated before, we remain opposed to the idea of forcing companies to pay more taxes than legally owed.

**20. What additional effect, if any, on public finance would tax transparency towards the public have in addition to transparency for tax authorities only?**

**Please select one or several options**

- a) Reallocation of tax bases within Europe
- b) Increase in tax paid in Europe
- c) Decrease in tax paid in Europe
- d) Increase in tax paid outside the EU



- e) Decrease in tax paid outside the EU
- f) Other
- g) No opinion

Please explain briefly your answer on the possible additional effect tax transparency towards the public would have on public finance in addition to transparency for tax authorities only:

We see possibilities to develop voluntary charters of transparency or fairness but remain opposed to the idea of forcing companies to pay more taxes than legally owed. Please see our response to question 19b.

**21. What consequence would tax transparency *towards the public* have in terms of fostering a growth friendly environment and the attractiveness of the EU as a place to invest?**

**Please select one single option**

- a) Constitute a feature of a growth friendly environment and foster the attractiveness of the EU as a place to invest.
- b) No consequence
- c) Hamper the fostering of a growth friendly environment and negatively impact the attractiveness of the EU as a place to invest.
- d) No opinion

Please explain briefly your answer on the consequence tax transparency towards the public would have in terms of fostering a growth friendly environment and the attractiveness of the EU as a place to invest:

Adding to the negative effects resulting from the additional administrative burden would be the risk of reputational damage and of having to pay more tax than legally owed. As public opinion is largely unforeseeable, these risks are hard to estimate which complicates long-term tax and business planning.

**22. Should the information prepared by enterprises be specifically verified by an independent assurance service provider (e.g. an auditor)? Please select one single option**

- a) No, the information should not be verified
- b) Limited verification is needed (existence of such report, consistency check)
- c) Extensive verification is needed (e.g. audited)
- d) Other
- e) No opinion

Please specify in what other way information prepared by enterprises should be specifically verified by an independent assurance service provider (e.g. an auditor):

Countries will have an interest in checking the information reported by undertakings and can react in case of inconsistencies. This will incentivise undertakings to report accurate data.

Auditors will normally not be in a position to verify the information concerning operations in other countries. Separate audits in each of the countries concerned will be very costly. Reliance on existing audited data from other countries will not always be possible, as the categories of data in accounts may differ and national law may not require an audit in each country concerned.

Member states could be asked to provide this information. In this case, an additional verification would not be necessary.

**23. Should there be additional safeguards in terms of specific rules for the protection of data and business secrets?**

*Please note that in the absence of specific rules, the EU general EU data protection rules would apply.*

*Please select one single option*

Yes

If so, which safeguard are necessary in relation to which types of information?

*Please explain briefly:*

Any obligation to publish CBCR tax information should clearly exclude personal data and business-sensitive information.

**24. Please estimate additional costs and resources entailed by the introduction of further transparency measures for enterprises compared to an implementation of OECD BEPS Action 13 at national level and identify information which is not currently available. You may distinguish between additional cost for public authorities and additional costs for enterprises, based on your preferred option(s). Please explain, if possible with figures:**

The publication of CBCR information will not produce considerable extra cost, compared to CBCR of tax authorities.

However, a mandatory audit of CBCR tax information will produce considerable extra cost (see our answer to question 22).

A number of companies might have to allocate additional resources to public relations, as they may face public accusations of tax avoidance.

**OPTION E - EU INITIATIVE TOWARDS PUBLIC TRANSPARENCY OF CORPORATE TAX POLICY**

This section examines the option where enterprises would make public statements regarding their policy/approach towards tax management. This is not part of the OECD BEPS 13 initiative.

**25. Would you support a mandatory description of tax management policies by enterprises?**

**Please select one single option**

- a) Yes, instead of any public disclosure of tax-related information
- b) Yes, in addition to further public disclosure of tax-related information
- c) No
- d) No opinion

Please explain briefly your answer on your possible support a mandatory description of tax management policies by enterprises:

Please see our answer to question 11, letter (q).

**Final remarks**

**26. Is there anything else you would like to bring to the attention of the Commission?**

[Establish mandatory information exchange and publication of changes in tax law](#)

The focus should not be limited to corporate tax transparency but also aim at countries, providing for a mandatory exchange of information on changes of tax legislation, circulars and other tax-relevant communications between member states and the European Commission. Such mutual notification would allow the Commission and other member states to monitor member states' compliance with EU law and to identify potentially harmful tax competition at an early stage.

This information should be published. Improving taxpayers' information on tax rules in other member states would facilitate their compliance and investment decisions. It could also facilitate cross-border tax advisory services by smaller tax firms that do not operate in an international network.