eJournal of Tax Research

Volume 14, Number 1 July 2016

CONTENTS

4 Country-by-country reporting: An assessment of its objective and scope
Monique Longhorn, Mia Rahim and Kerrie Sadiq

34 A comparative analysis of Australian and Hong Kong retirement systems
Christopher Strano and Dale Pinto

Atax UNSW

eJournal of Tax Research (2016) vol 14, no. 1, pp 4-33

Country-by-country reporting: An assessment of its objective and scope

Monique Longhorn[1], Mia Rahim[2] and Kerrie Sadiq[3]

Abstract

Australia has recently introduced what is known as country-by-country (CbC) reporting. CbC reporting will require certain multinationals to provide reports to the Australian Tax Office outlining their global financial activities. The introduction of CbC reporting is a result of the OECD's recommendations on Action 13 of the Base Erosion and Profit Shifting program. Despite its introduction, civil society groups, international organisations and businesses lack consensus as to the objective and scope of CbC reporting.

1. INTRODUCTION

The Australian Federal Government recently introduced several measures aimed at addressing international tax avoidance by multinational corporations. In particular, on 11 December 2015, the Tax Laws Amendment (Combating Multinational Tax Avoidance) Act 2015 (Cth) received royal assent and introduced three significant measures: amendments to Part IVA of the Income Tax Assessment Act 1936 (Cth), stronger penalties, and country-by-country (CbC) reporting. CbC reporting, the topic of this article,

contradictions regarding the group that should benefit from this reporting. Part four argues that

financial performance figures (apportioned between third party and intra-firm), certain financial position figures (such as fixed assets), and detailed tax charges (including actual tax paid and deferred tax liabilities), all on an individual country basis (Murphy, 2009). 0 X U S ¶V LQIOXHQFH in both the UK and globally can be seen in subsequent legislative enactments.

In March 2011 Caroline Lucas, leader of the UK Green Party, introduced the Tax and Financial Transparency Bill into the House of Commons, which under Clause 3 would require all companies incorporated or operating in the UK to

> publish in its annual financial statements prepared in accordance with the requirements of the Companies Act 2006 [UK] an analysis of the consolidated turnover and profit made by it in each jurisdiction in which it

Beyond the UK, wider acceptance of CbC reporting as a useful tool can be seen in consultations as early as 2010, such as that conducted by the European Commission. From 26 October 2010 to 22 December 2010, the European Union conducted a public consultation to gather stakeholders' opinions on CbC reporting for large companies operating internationally (European Commission, 2010). The consultation paper posed seven questions and considered general CbC reporting requirements (being those stated in [illegible] report and applicable to multinational entities operating in all industries) and specific CbC reporting obligations applicable solely to companies in the extractive industry (European Commission, 2010). The European Commission recognised the primary goals of general CbC reporting to be assisting investors evaluate the various national business activities undertaken by multinational entities and to enhance the transparency of capital flows to improve the enforcement of tax rules (European Commission, 2010). Most recently, on 12 April 2016, the European Commission adopted a proposal for a directive imposing obligations on multinational groups to publically report on an annual basis the profit and tax paid. This proposal will amend an accounting directive (2013/34/EU) and, as such, only a qualified majority (16 member states with a total 65% of the EU population) is required for the amendment be introduced.

2.2 Publish what you pay

Founded in 2002 by a small number of UK-based non-governmental organisations, the Publish What You Pay (PWYP) coalition now has more than 800 member organisations

The first pillar enables stakeholders in resource-rich countries to make informed decisions concerning whether or not to extract and associated extraction rights, in addition to influencing and examining the terms and conditions of extraction contracts established between extractive companies and local governments (PWYP, 2012). The second pillar is the F R D O L W \ L Q L W L D W L Y H concerning revenue transparency, as discussed above. Primarily through budget monitoring, the third pillar achieves accountability from extractive companies and governments to ensure the revenues generated from natural resources benefit the local citizens (PWYP, 2012). The fourth S L O O D U L V D L P H G D W 3 X E O L V K : K D W < R X 3 D \ ¶ V R Z (PWYP, 2012). The coalition campaigns for these four pillars to be considered in the development of international regulation.

commonly recognised as part of the commercial development of oil, natural gas, or minerals. The Act requires extractive companies to report any payment of US$100000 or more made on every individual project they operate (SEC, 2012). Adopted into United States federal law in July 2010, the Act does not represent a comprehensive version of CbC reporting as it is only demands oil, gas and mining companies to disclose payments made to United States and foreign governments. However, due to

2 (& ' ¶ Mformal Task Force on Tax and Developmentwas formed. Task Force members,including OECD and developingcountries,organisationsand civil society groups,areresponsiblefor advisingthe OECD committeeson deliveringa programme to enablefair and efficient tax collectionsby developingcountries(OECD, 2013c) At the first annual Task Force meeting in May 2010, an ad hoc sub-group was establishedto analyseCbC reportingand to developa scopingpaperfor presentation at the next meeting(OECD, 2010c) The reportwasdiscussedat a meetingof the sub-group in December2010,submittedto the TaskForcefor its April 2011meetingand publishedin July 2011