

# Introduction of the Public Country-by-Country Reporting

## Income Tax Disclosure Act

On June 21, 2023, the Income Tax Information Disclosure Act (also „Public Country-by-Country Reporting“ or pCbCR) was published in the Federal Law Gazette, thereby transposing Directive (EU) 2021/2101 into national law. The Directive aims to make the activities and tax payments of multinational enterprises with high turnover in the European Union more transparent, thereby promoting compliance in tax matters.

### What transparency measures are already in place?

In 2013, the OECD launched an initiative to combat base erosion and profit-shifting (BEPS). As part of this initiative, Country-by-Country reporting (CbCR) was introduced for multinational enterprises in 2016 (Section 138a German Fiscal Code (AO)): affected companies are obliged to report certain information and key figures (e.g., sales revenue, profits, equity, and income taxes paid) to the relevant tax authorities.

In 2019, the GRI 207 standard „TAX 2019“ was additionally introduced as a measure for more transparency in the sustainability report. The sustainability report is complemented by including a detailed presentation of certain tax information. In addition to information on the tax concept and tax management, information based on the CbCR may have to be published as of 2021.

### Who is affected by the PCBCR directive?

The new law primarily affects companies that are already required to prepare a CbCR in accordance with Section 138a AO. The prerequisite is that the reported (consolidated) sales revenues exceed at least EUR 750 million in two consecutive fiscal years (Section 342b et seq. German Commercial Code (HGB)).

This applies to domestic group parent companies and unrelated companies with (registered) branches, fixed places of business or permanent business activities in at least one other country.

Also affected are domestic medium-sized and large subsidiaries of a non-EU parent company. Domestic registered branches of non-EU companies are only required to disclose information if the sales threshold of EUR 12 million is exceeded in two consecutive financial years.

However, credit institutions are not affected if all required information has already been disclosed elsewhere.

If the enterprise falls within the scope of application described above, the reporting obligation applies from the second financial year in which the sales threshold is exceeded. The reporting obligation ceases to apply if the threshold is not reached in two consecutive years.

### About us

With over 2.500 employees across 27 different locations, BDO is one of the leading companies for auditing and audit-related services, tax and business law consulting, and advisory in Germany.

BDO AG Wirtschaftsprüfungsgesellschaft is the founding member of BDO International (established in 1963). With over 110.000 employees across 167 countries, it is currently the only globally active auditing and consulting organisation with European roots.

[www.bdo.de](http://www.bdo.de)

### Contact us!

BDO AG  
Wirtschaftsprüfungsgesellschaft



#### Dr. Arwed Crüger

Partner, Internationales Steuerrecht & Verrechnungspreise  
Tel.: +49 6995941-548  
[arwed.crueger@bdo.de](mailto:arwed.crueger@bdo.de)

### **What content must be disclosed?**

The information to be published largely resembles that of the CbCR. Among other things, key figures such as the average number of employees, income including income with related parties, income tax paid and retained earnings are required. The companies concerned are required to break down the information by country.

### **How do the contents have to be disclosed?**

The disclosure of the income tax information report (EIB) in Germany is to be made in the company register in German language. In addition, it has to be published on the company website, whereby a reference to the company register is also sufficient. The EIB has to be prepared based on a model form that is not yet known. The report has to be available no later than one year after the end of the reporting period and for at least five years.

In principle, each company included in the consolidated financial statements is obliged to disclose the report in accordance with the respective national law. However, an exemption is provided for domestic subsidiaries or registered branches of third-country companies. Accordingly, it is sufficient that the EIB is published on the parent company website in an official EU language and is disclosed by at least one subsidiary domiciled in the EU in accordance with the respective national law.

### **What other important changes will result from the law?**

In addition to the pure disclosure obligation, there are other changes in the law that affected companies need to observe.

The EIB shall be submitted to the Supervisory Board by the Management Board for the purpose of reviewing disclosure (Sec. 170 German Stock Corporation Act (AG)).

In addition, the auditor shall in the future assess the disclosure obligation as part of the audit of the annual financial statements (Section 317 (3b) HGB).

The provisions on fines and administrative fines in commercial law are being specifically adjusted. This also includes the fact that the publication of income tax information that is not proper, not complete, not on time or not published for at least five years can be punished with a fine of up to EUR 250,000 (Section 342o HGB).

### **When does the law come into force?**

The application applies to all fiscal years beginning after June 21, 2024. However, it should be noted that the Directive has already been applied in Romania, for example, from January 01, 2023. This means that German companies will also have to disclose corresponding data records on the entire group for 2023 - if they fall within the scope of application and if there are links with Romania.

### **Need for action and support from BDO**

The possible effects for your own company should already be examined now in the affected groups of companies. Please feel free to contact your BDO representative for a quick check to identify the need for action. If necessary, we will involve our colleagues from other departments. If necessary, we will work together with the respective BDO Member Firm from our international network in more than 160 countries.

We have compiled the information in this publication with due care. However, they are of a general nature and can naturally lose their currentness over time. Accordingly, the information contained in our publications does not replace individual professional advice, taking into account the specific circumstances of the individual case. Accordingly, BDO assumes no responsibility for decisions taken on the basis of the information contained in our publications, for the currentness of the information at the time it is made available, or for errors and/or omissions.

BDO AG Wirtschaftsprüfungsgesellschaft, a German stock corporation, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. BDO is the brand name for the BDO network and for each of the BDO member firms. © BDO