

OECD Base Erosion/Profit Shifting Reporting Requirements – What can we learn from these data?

SOI Consultants Panel

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The opinions expressed do not necessarily
reflect the views of the U.S. Treasury
Department

OECD

OECD's Base Erosion and Profit Shifting (BEPS) Action 13 required large multinationals to provide information to tax administrations

- Action 11 attempted to measure BEPS but noted the lack of adequate data and so recommended that tabulations of the data from the Country-by-Country (CbC) reports be aggregated and anonymized for publication by the OECD
- The aim of analyzing these data is to provide governments with information on BEPS and BEPS countermeasures

Overview

- Show MNC allocation of income, taxes, and business activities on a country-by-country basis
- Required for MNCs with worldwide revenue greater than 750 million Euros (\$850 million)
- *Filed* in ultimate parent's country
- *Shared* via treaty with countries where MNC operates

Annex of Action 13

Table 1. Overview of allocation of income, taxes and business activities by tax jurisdiction

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	Accum. earnings	No. of Employees	Tangible Assets other than Cash and Cash Equivalents
	Unrelated Party	Related Party	Total							

Annex of Action 13

Table 2. List of all the Constituent Entities of the MNE group included in each aggregation per tax jurisdiction

		Name of the MNE group: Fiscal year concerned:																
Tax Jurisdiction	Constituent Entities in Tax Jurisdiction	Tax Jurisdiction of organisation or incorporation if differ from Tax Jurisdiction of Residence	Main business activity(ies)															
			R&D	Holding or Managing	Intellectual property Purchasing or Procurement	Manufacturing or Production	Sales, Marketing or Distribution	Admin, Management or Support Services Provision of	Services to unrelated parties Internal Finance	Regulated Financial Services	Insurance	Holding shares or other equity instruments	Dormant	Other				
	1.																	
	2.																	
	3.																	
	1.																	
	2.																	
	3.																	

CbC Data Limitations for Analysis

Likely income and tax figures from financial accounts

Did not collect information on

- Debt
- Interest paid and received
- Royalties paid and received
- Intangible assets
- Tax credits and incentives

Only largest MNCs

- “Sub-group” is all entities in a country

Likely double-counting issues with summing up by country since no consolidated group totals

OECD Proposed Tabulations

By Sector – 2 digit

By Size – absolute or relative

- Unrelated party revenues
- Number of employees
- Tangible assets

By Ratios

- ETR of income tax paid/profit (loss) before tax
- Profit (loss) before tax/equity
- Related party revenues/total revenues
- Total revenues/tangible assets and /number employees

Table 1. Tabulations by Foreign Country of Activity

	Tax Jurisdiction	# of CbCRs	# of CbCR sub-groups	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	# of Entities with Main Business Activity of				
				Unrelated Party	Related Party	Total								Research and Development	Holding or Managing Intellectual Property	Purchasing or Procurement	Etc.	
All Sub-Groups	Country A (headquarters)																	
	Foreign jurisdictions																	
	Country B																	
Country C																		
Sub-Groups with Positive Profits	Country A (headquarters)																	
	Foreign jurisdictions																	
	Country B																	
Country C																		
Sub-Groups with Negative Profits	Country A (headquarters)																	
	Foreign jurisdictions																	
	Country B																	
Country C																		

Table 2. Tabulations by Sector

ISIC Division Code	Tax Jurisdiction	# of CbCRs	# of CbCR sub-groups	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	# of Entities with Main Business Activity of									
				Unrelated Party	Related Party	Total								Research and Development	Holding of Managing Intellectual Property	Purchasing or Procurement	Etc.						
Industry 01	Country A (headquarters)																						
	Foreign jurisdictions																						
	Country B																						
	Country C																						
Industry 02	Country A (headquarters)																						
	Foreign jurisdictions																						
	Country B																						
	Country C																						
Industry 03	Country A (headquarters)																						
	Foreign jurisdictions																						
	Country B																						
	Country C																						
.....	Country A (headquarters)																						
	Foreign jurisdictions																						
	Country B																						
	Country C																						
Industry 99	Country A (headquarters)																						
	Foreign jurisdictions																						
	Country B																						
	Country C																						

Table 3. Tabulations by Size

Size of MNE Group	Threshold	Tax Jurisdiction	# of CbCRs	# of CbCR sub-groups	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	# of Entities with Main Business Activity of				
					Unrelated Party	Related Party	Total								Research and Development	Holding of Managing Intellectual	Purchasing or Procurement	Etc.	
Top 1%		Country A (headquarters)																	
			Foreign jurisdictions																
		Country B Country C																	
Top 5%		Country A (headquarters)																	
			Foreign jurisdictions																
		Country B Country C																	
Top 10%		Country A (headquarters)																	
			Foreign jurisdictions																
		Country B Country C																	
.....		(headquarters)																	
			Foreign jurisdictions																
		Country B Country C																	
Bottom 10%		Country A (headquarters)																	
			Foreign jurisdictions																
		Country B Country C																	

Table 4. Tabulations by ETR of MNC Group

Percentile of ETR of MNE Group	Threshold	Tax Jurisdiction	# of CbCRs	# of CbCR sub-groups	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	# of Entities with Main Business Activity of				
					Unrelated Party	Related Party	Total								Research and Development	Holding of Managing Intellectual	Purchasing or Procurement	Etc.	
Negative Income		Country A (headquarters)																	
			Foreign jurisdictions																
		Country B Country C																	
Minimum - p5		Country A (headquarters)																	
			Foreign jurisdictions																
		Country B Country C																	
p5 - p25		Country A (headquarters)																	
			Foreign jurisdictions																
		Country B Country C																	
.....		Country A (headquarters)																	
			Foreign jurisdictions																
		Country B Country C																	
p95 - Maximum		Country A (headquarters)																	
			Foreign jurisdictions																
		Country B Country C																	

Table 5. Tabulations by ETR of MNC Sub-Group

ETR of MNE Sub-Group	# of CbCRs	# of CbCR sub-groups	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	# of Entities with Main Business Activity of				
			Unrelated Party	Related Party	Total								Research and Development	Holding of Managing Intellectual Property	Purchasing or Procurement	Etc.	
Negative Income																	
ETR less than 5%																	
ETR of 5% to less than 10%																	
ETR of 10% to less than 15%																	
.....																	
ETR of 50%+																	

Chris Carson

SOI COUNTRY-BY-COUNTRY REPORTING

SOI Country-By-Country Reporting – Forms 8975/Schedule A Studies

SOI will collect data from Form 8975 (Country-by-Country Reporting) and Form 8975 Schedule A (Tax Jurisdiction and Constituent Entity Information) beginning with a part-year data file for Tax Year 2016. The result will be a microdata file and tables. More complete studies will be done starting for Tax Year 2017, when filing will be mandatory. Topics of note include:

Background

1. Filed by U.S. parent corporations or partnerships with \$850 million or more in revenue. Foreign Controlled Domestic Corporations (FCDCs) will generally file in the country of the ultimate parent. There are some exceptions. FCDC filings will be coded as such and separated for publication purposes.
2. Forms to be included – Forms 8975 with Forms 1120 and 1065, e-filed and paper or PDF-filed, to the extent reasonably available.
3. The 2016 Tax Year data file will not include early fiscal returns, as filing was not yet required. Therefore, it will not represent a typical SOI study year.
4. Filing for Tax Year 2016 is optional.
5. The accounting method used in reporting is not standardized.
6. Data quality will be an issue, especially in early years. Many data items do not lend themselves to thorough testing.
7. Disclosure is likely to be a problem given the nature of the tables.
8. File completion is tentatively scheduled for October/November 2018.

Project Progress

1. Basic requirements are complete – Data items, navigation, consistency tests
2. Pretesting system programming is nearly complete
3. Reviewed and commented on table proposals
4. Both the corporate and partnership systems have a code to identify returns with Forms 8975/Schedule A
5. E-filed forms are being processed and loaded to the XRDB

Form 8975

<p>Form 8975 <small>(June 2017)</small></p> <p>Department of the Treasury Internal Revenue Service</p>	<h2 style="margin: 0;">Country-by-Country Report</h2> <p>For reporting period beginning _____, 20_____, and ending _____, 20_____.</p> <p>Information about Form 8975 and its separate instructions is at www.irs.gov/form8975.</p> <p>If this is an amended report, check here <input type="checkbox"/></p> <p>Enter the number of Schedules A (Form 8975) attached to this Form 8975 ▶</p>	<p>OMB No. 1545-2272</p>
<p>Part I Identification of Filer</p>		
1a Name of the reporting entity	1b Reporting role code	1c EIN
2 Number, street, and room or suite no. (if P.O. box, see instructions)		
3a City or town	3b State or province	3c Country, and ZIP or foreign postal code
<p>Part II Additional Information</p> <p>Enter any additional information related to the multinational enterprise group.</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>		
<p><small>For Paperwork Reduction Act Notice, see separate instructions.</small> <small>Cat. No. 37798N</small> <small>Form 8975 (6-2017)</small></p>		

Schedule A (Form 8975)

SCHEDULE A (Form 8975) <small>(June 2017)</small> <small>Department of the Treasury Internal Revenue Service</small>	Tax Jurisdiction and Constituent Entity Information For reporting period beginning _____, 20____, and ending _____, 20____	OMB No. 1545-2272
▶ A separate Schedule A (Form 8975) is to be completed for each tax jurisdiction of the multinational enterprise group. ▶ Information about Schedule A (Form 8975) and its separate instructions is at www.irs.gov/form8975 .		
Name of the reporting entity _____		EIN _____

Part I Tax Jurisdiction Information. All financial amounts must be stated in U.S. dollars. See instructions.

1. Revenues			2. Profit (loss) before income tax	3. Income tax paid (on cash basis)	4. Income tax accrued—current year	5. Stated capital	6. Accumulated earnings	7. Number of employees	8. Tangible assets other than cash and cash equivalents
(a) Unrelated party	(b) Related party	(c) Total							

Part II Constituent Entity Information

1. Constituent entities resident in the tax jurisdiction	2. TIN	3. Tax jurisdiction of organization or incorporation if different from tax jurisdiction of residence	4. Main business activities		
			(a) Activity code		