

By e-mail: barry.sterland@treasury.gov.au

Mr Barry Sterland
Australian G20 Finance Deputy
The Treasury, Australian Government
Langton Crescent, Parkes ACT 2600
Australia

16 September 2014

Subject: Confidentiality country-by-country reporting

Dear Mr Sterland,

As the world business organization, the International Chamber of Commerce (ICC) applauds the efforts of the G20 and individual governments to globalize taxation standards. The G20's tax agenda will lead to changes in international and domestic tax systems, thereby impacting the business community and international trade. ICC welcomes the opportunity to remain actively engaged in this vital process.

In light of the above, ICC would like to respectfully urge the G20 to stand by its decision, embodied in the OECD's July 2013 Base Erosion and Profit Shifting (BEPS) Action Plan, to maintain the confidentiality of the country-by-country (CbC) report to be made by multinational enterprises of financial information regarding their business operations and taxes. The decision to submit such a report to tax authorities only – improving their ability to conduct tax risk assessment – and not to require or allow such information to be made public, was based upon a specific request made by the G8 Leaders at their June 2013 Lough Erne Summit. This request was fully endorsed by the G20 Finance Ministers at their July 2013 Moscow meeting and by the G20 Leaders at their September 2013 Saint Petersburg Summit.

It has come to ICC's attention that some actors in the debate on BEPS have recently called for public disclosure of tax data and CbC reports in the context of transparency and a public "right to know". ICC fully acknowledges and endorses the importance of ensuring that tax authorities have access to adequate information to determine that businesses are paying the correct amount of tax. However, the business community strongly believes that such reports should not be made public, and that disclosure would be counterproductive to efficient tax administration. The relationship between taxpayers and tax authorities should be characterized by openness and trust and the disclosure of tax data would negatively impact this important dynamic. Therefore, in order to preserve the OECD-encouraged strategy of "cooperative compliance" – enhancing administrative efficiency by greater transparency by taxpayers leading to payment of the right amount of tax at the right time – the CbC report should not be made public as further explained below.


Firstly, the public release of this itemized CbC information would effectively require reconciliation to companies' public financial accounts. This would be the case because a public company would not wish to (and in some cases legally could not) release publicly two unreconciled financial statements concerning the company. In developing the CbC template, the OECD fully acknowledged that the varying accounting rules applicable to companies

operating in multiple countries meant that companies would need the flexibility – in extracting the detailed breakdown of data necessary to complete the report – to rely upon country-specific records which would not lend themselves to reconciliation with the global financial statement without enormous administrative cost and burden. Thus, fundamental decisions concerning the feasibility, scope, and burden associated with CbC reports would require significant revision if these reports were to be made public.

Secondly, the detailed CbC breakdown of data required by the report risks revealing information legitimately viewed as commercially sensitive by businesses. Since a report only has to be filed once a company engages in any cross-border activity, this may discourage cross-border trade and investment. For example, the information will be especially sensitive for SMEs since they are smaller and the information is potentially more revealing to competitors. Even for large multinational enterprises the report will often reveal commercially sensitive information, since profit margins are important competitive information and reporting on a CbC basis may reveal otherwise non-public information about profit margins on business lines, e.g. if the company conducts only one line of business in a particular country. Furthermore, the form of constituent entities cross linked with the activity codes and number of employees could be perceived differently.

ICC emphasizes that the objective of the CbC report is to provide tax authorities with a high level risk assessment tool and that the information enclosed in the report is commercially sensitive and complex. Both companies and tax administrations have legitimate reasons to be concerned about its potential public release. Consequently, I hope that the G20 continues to take a firm stand on both transparency with tax authorities and confidentiality of sensitive information.

Sincerely,



Dr Christian Kaeser
Chair, ICC Taxation Commission