



March 2017
AK Position Paper

Draft Directive to amend Directive 2013/34/EU
on the disclosure of income tax information by
certain undertakings and branches

About us

The Austrian Federal Chamber of Labour is by law representing the interests of about 3.4 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.

Organisation and Tasks of the Austrian Federal Chamber of Labour

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

Rudi Kaske
President

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 560.000 - amongst others unemployed, persons on maternity (paternity) leave, community and military service - of the 3.4 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labour.

Christoph Klein
Director

Executive Summary

The draft directive 2013/34/EU as regards disclosure of income tax information by international groups (country by country reporting) is welcomed in principle by the Austrian Federal Chamber of Labour (BAK). However, in order to better combat aggressive tax planning in tax havens, in the opinion of the BAK the following amendments to the legislative proposal are required:

- Instead of limiting application of the directive to groups with a net turnover of more than 750 million euros, it should be linked to classification based on size which requires a consolidated financial statement to be issued. However, the new regulation should apply to all companies that are required to compile consolidated financial statements.
- All legal entities within the scope of application of IFRS 10 should be subject to the disclosure requirements.
- In order to ensure transparency it is essential that companies publish a country-specific declaration for all countries where they are active.
- Groups must also publish all performance relationships with legal entities not covered by consolidation with regard to their activities in defined tax havens.
- In order to ensure transparency, legal relationships regarding ownership or the actual beneficiaries of these companies and other legal entities must be disclosed.

The AK's position in detail

The Austrian Federal Chamber of Labour essentially welcomes this draft to amend Directive 2013/34/EU, which is intended to ensure more transparency as regards disclosure of income tax information by international groups (country by country reporting). Detailed, country-specific information on the actual payment of income tax by multinational groups are an indispensable prerequisite to effectively combatting the problems linked to aggressive tax planning and shifting profits to low-tax countries and tax havens. However, on analysing this draft amendment of the above directive, some items have caught our attention which should be included in the negotiations on the actual details of country-by-country reporting in order to create really effective measures to ensure greater transparency.

The draft directive stipulates that its application will be limited to groups with a global consolidated net turnover of more than 750 million euros. Experience and publications of recent years on the tax avoidance strategies of multinational groups have shown clearly that even much smaller groups utilise such strategies. We consider it essential that it be linked to the sizes of companies that are required to publish a consolidated annual financial statement. In our opinion, all companies/groups required to publish consolidated accounts should in fact be subject to CBC reporting. This requirement should not apply to groups which can claim exemption (e.g. according to Austrian law: Art. 245 or Art. 246 UGB (Austrian Business Enterprise Code)).

We believe that the inclusion of all legal entities covered by the scope of application of IFRS 10 is necessary with regard to disclosure requirements. That means that reports would have to be compiled for countries where special purpose vehicles, for example, are set up in addition to subsidiaries.

The draft directive stipulates that the disclosure requirements would be applied on a country-by-country basis for EU Member States and tax havens, the latter to be defined and included in a list. For third countries not included in that list it would suffice if the financial statements are aggregated. No country-specific publication is necessary in this case. In order to create genuine transparency it is essential that country-specific declaration obligations have in fact to be published individually for all countries.

Since many tax avoidance strategies in connection with tax havens are applied outside normal corporate structures, we believe that further information is required in addition to the disclosure requirements stipulated in the draft directive. In order to ensure the greatest transparency, it seems to us to be important that groups must also publish all performance relationships with legal entities that are not covered by consolidation with regard to their activities in defined tax havens.

This draft is an important step towards more transparency. However, in order to be able to combat tax avoidance and tax evasion effectively in connection with tax havens, we consider it essential that legal relationships regarding ownership or the actual beneficiaries of these companies and other legal entities must also be disclosed.

Should you have any further questions
please do not hesitate to contact

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