



The Consultative Committee of Accountancy Bodies-Ireland

Chartered Accountants Ireland
The Association of Chartered Certified Accountants
The Chartered Institute of Management Accountants
The Institute of Certified Public Accountants in Ireland

Response to the Public Consultation on disclosure of income tax by
certain undertakings and branches

February 2022

About CCAB-I

The Consultative Committee of Accountancy Bodies–Ireland is the representative committee for the main accountancy bodies in Ireland. It comprises Chartered Accountants Ireland, the Association of Chartered Certified Accountants, the Institute of Certified Public Accountants in Ireland, and the Chartered Institute of Management Accountants.

Cróna Clohisey (crona.clohisey@charteredaccountants.ie) or Gearóid O’Sullivan (gearoid.osullivan@charteredaccountants.ie) at Chartered Accountants Ireland may be contacted if any further details in relation to any points made in this submission are required.

Introduction

CCAB-I has provided below our response to the two questions posed as part of the public consultation on the transposition of Directive (EU) 2021/2101 of the European Parliament and of the Council of 24 November 2021, amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches.

We understand that this Directive must be transposed into Irish national law by 22 June 2023 and aims to enhance corporate transparency and public scrutiny of corporate taxes paid by Multinational Enterprises (MNEs) carrying out activities in the EU. It will apply to all undertakings that fall within the scope of the Directive.

The Directive requires MNEs whether they are headquartered in the EU or not, with a base, subsidiary or a branch in the EU, and revenue over €750 million for each of the last two consecutive financial years, to disclose publicly in a specific report the income tax they pay.

For the first time, European and non-European MNEs doing business through their subsidiaries and branches in the EU will be required to publish information on where profits are made, and taxes are paid across the EU and third countries.

The Directive provides for two discretionary Member State options:

Option one

The Directive sets out the conditions under which a company may defer the disclosure of certain information for a maximum of five years when its disclosure would be seriously prejudicial to the commercial position of the undertakings to which it relates.

Option two

The Directive also gives Member States the option to exempt undertakings from the publishing requirement, if the report is simultaneously made accessible to the public in an electronic reporting format which is machine readable, on the website of the Companies Registration Office (CRO), and free of charge to any third party located in the European Union (subject to certain conditions).

CCAB-I has provided answers to the questions arising from these options which form part of the consultation below.

Question 1

Do you consider that Ireland should take the option to allow for one or more specific items of information, otherwise required to be disclosed to be temporarily omitted from the report, when their disclosure would be seriously prejudicial to the commercial position of the undertakings to which it relates? Please give reasons for your preference.

Yes, CCAB-I believes that Ireland should take the option to allow for specific items of information, otherwise required to be disclosed to be temporarily omitted from the report in certain circumstances.

Irish legislation should provide for the maximum deferral of five years. Irish legislation should also provide that sufficient information may be omitted as to preserve the commercial position of the reporting entity. In particular, the legislator should consider that the term “seriously prejudicial” is a subjective term and its interpretation should be open to the reporting entity.

As regards the question as to allowing “one or more specific items”, it is our view that a wide discretion should be provided to companies in determining what specific items would be “seriously prejudicial” to their commercial position.

While the directive deals with reporting of “tax information”, it potentially has significant commercial implications for groups in making publicly available non-tax information which has hitherto been otherwise unavailable to the public. We are cognisant of privately owned groups where publication could have adverse implications from a privacy and personal security perspective. It is also not clear that the stated objectives of the Directive are as relevant to such privately owned groups.

We are also cognisant of data being misinterpreted given the complexity of group operations. Ireland has robust transfer pricing rules in place which fully comply with international best practice. This is possible because Ireland presently has a robust reporting process and information exchange with national tax authorities.

Question 2

Do you consider that Ireland should take the option to exempt undertakings from the publishing requirement, where the report is simultaneously made accessible to the public on the website of the CRO and free of charge to any third party located in the European Union? Please give reasons for your preference.

Yes, CCAB-I strongly believes that Ireland should take the option to exempt undertakings from the publishing requirement, where the report is simultaneously made accessible to the public on the CRO and free of charge to any third party located in the EU.

It is not efficient to ask companies to report the same or similar information to multiple sources where such information is already available in a public database.

Additional comments

The transposition of the Directive takes place against the backdrop of the ongoing global tax debate. Tax information is best understood by tax authorities tasked with ensuring the efficient functioning of the system. Making sensitive information available to the public must be carefully managed.

Companies already report key information to tax authorities on an annual basis in addition to producing annual accounts for public consumption. Therefore, where possible, the Irish legislator should give as much discretion as possible under the Directive.

Given the commercially sensitive information which may be reported under the Directive, we are encouraging the legislator to provide discretion, as foreseen by the Directive itself, to reporting entities both in terms of delaying reporting of commercially sensitive information and exempting the reporting of information already publicly available.

We look forward to receiving your response to our submission at your earliest convenience.

Yours faithfully,



Peter Vale
Chair, CCAB-I