



An Roinn Fiontar,  
Trádála agus Fostaíochta  
Department of Enterprise,  
Trade and Employment

# Public Consultation on the transposition of Directive (EU) 2021/2101 amending Directive 2013/34/EU

as regards disclosure of income tax information by  
certain undertakings and branches

---

# Public Consultation on transposition of Directive (EU) 2021/2101 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches

## Subject of the public consultation

The Department of Enterprise, Trade and Employment is seeking the views of interested parties on the transposition of Directive 2021/2101/EU 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 undertaking and branches.<sup>1</sup>

The new directive aims to enhance the corporate transparency by requiring multinational companies with revenue of more than €750 million to disclose publicly in a specific report the income tax they pay. For the first time, non-European multinationals doing business in the EU through subsidiaries and branches will also have to comply with the same reporting obligations as EU multinational undertakings. The reporting will take place within 12 months of the date of the balance sheet for the financial year in question and stipulates who bears responsibility for ensuring compliance with the reporting obligation.

The Directive allows two policy options for Member States to consider when transposing into national law, and these two options are the focus of this consultation. However, respondents are free to address any related issues in their submissions.

Directive 2021/2101/EU must be incorporated into Irish national law by 22 June 2023. It will apply to all undertakings that fall within the scope of the Directive.

---

<sup>1</sup> Official Journal of the European Union L 429, 1 December 2021. Copy of Directive available at: [EUR-Lex - 32021L2101 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eli/dir/2021/2101/oj)

## Provisions of the EU Directive

The Directive requires that a Multinational Enterprise (MNE) with a turnover of €750 million for the last two consecutive financial years, publish a report on corporation tax paid in each EU Member State and outside the EU. The content of the report on income tax information must include a list of all the subsidiary undertakings along with those of all affiliated undertakings consolidated in the financial statement in respect of the relevant financial year. The report must also include a brief description of the nature of their activities, the number of full-time employees, the revenues which are the sum of the net turnover, the amount of profit or loss before income tax, including the amount of accumulated earnings. This information must be presented using a common template and published within 12 months after the balance sheet date of the financial year for which the report is drawn up.

Where the financial statements of an undertaking are required to be audited, the audit report must state whether the undertaking was required to draw up a report of tax information for the year preceding the financial year for which the audit report was prepared and if so, if the report was published.

In addition, the Directive provides for a review clause where 4 years after date of transposition of the Directive, the Commission must submit a report on the compliance with and the impact of the reporting obligations.

The Directive also stipulates that Member States must provide rules on who bears responsibility for ensuring compliance with the reporting obligation. Penalties for non-compliance with the requirements must be effective, proportionate, and dissuasive.

## What options are for Member States to decide?

The Directive provides for two discretionary Member State options which are detailed below.

### Option 1

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. Any omission must be clearly indicated in the report together with a duly reasoned explanation.

If a Member State takes up this option, it must ensure that information omitted is made public in a later report on income tax information within no more than five years from the date of its original omission. However, information pertaining to tax jurisdictions on the list of non-cooperative jurisdictions for tax purposes may never be omitted.

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.

### Option 2

As outlined above, the report on income tax information must be published within 12 months after the balance sheet date of the financial year for which the report is drawn up on the website of the undertaking or, as the case may be, the subsidiary, or branch. The Directive 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. The website of the undertakings and branches must contain information on the exemption and refer to the website of the relevant register.

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.

### Other relevant issues

Please include your views on any other issues that you might see as relevant to the transposition of this Directive.

THANK YOU FOR YOUR RESPONSES

### Deadline for submissions

The deadline for submissions is **Friday, 18 February 2022**.

Submissions should be sent using the accompanying Response Template by email, to [companylawconsultation@enterprise.gov.ie](mailto:companylawconsultation@enterprise.gov.ie)

Please write **‘response to public consultation on disclosure of income tax by certain undertakings and branches’** in the subject line of the e-mail.

## FREEDOM OF INFORMATION ACT 2014 AND PUBLICATION OF SUBMISSIONS

The Department will make public on its website all submissions received under this consultation. Your attention is also drawn to the fact that information provided to the Department may be disclosed in response to a request under the Freedom of Information Act 2014. Therefore, should you consider that any information you provide is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Department will consult with you regarding information identified by you as sensitive before publishing or otherwise disclosing it.

## GENERAL DATA PROTECTION REGULATION

Respondents should note that the General Data Protection Regulation ('GDPR') entered into force in Ireland on 25th May 2018 and it is intended to give individuals more control over their personal data. The key principles under the Regulation are as follows:

- lawfulness, fairness and transparency;
- purpose limitation;
- data minimisation;
- accuracy;
- storage limitation;
- integrity and confidentiality, and
- accountability.

The Department of Enterprise, Trade and Employment is subject to the provisions of the Regulation in relation to personal data collected by it from 25 May 2018. Any personal information which you volunteer to this Department, will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Acts 1988 to 2018.

DECEMBER 2021