BEPS Country-by-Country Reporting: The Practical Impact for Corporate Tax Departments

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PREVIEW

- The Organisation for Economic Co-operation and Development (OECD) released the final version of its recommended Action 13 country-by-country reporting template in September 2014 as part of its Action Plan on Base Erosion and Profit Shifting (BEPS).
- Planning for and complying with BEPS country-by-country reporting and dealing with the additional audit activity it is likely to cause will place significant resource demands on multinational corporations' tax departments.
- The reporting requirements also represent a real risk that confidential information provided in the template will eventually be disclosed to the public through information leaks or formal disclosure requirements by individual countries.

On Sept. 16, 2014, the Organisation for Economic Co-operation and Development (OECD) released its first set of deliverables regarding its Action Plan on Base Erosion and Profit Shifting (BEPS). Included was the highly anticipated final version of its recommended Action 13 country-by-country template, which multinational companies will use to report their income, taxes paid, and other indicators of economic activity. The template requires multinational companies to report annually and for each tax jurisdiction in which they do business the amount of revenue, profit before income tax, and income taxes paid and accrued. It also requires them to report their total employment, capital, retained earnings, and tangible assets in each tax jurisdiction. Finally, multinational companies must identify each entity within the group doing business in a particular tax jurisdiction and describe the business activities of each.

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For the first time, taxing authorities throughout the world will be able to ascertain how multinational companies allocate their income and tax payments to a specific country, and other countries as well. The template will also serve as an essential tool for taxing authorities to identify and select companies to be audited.

On Feb. 6, the OECD followed up with implementation guidance on country-by-country reporting. It recommended that multinational companies file the initial template for fiscal years beginning on or after Jan. 1, 2016. A multinational company is required to file the template within one year after the close of its fiscal year. For example, a calendar-year company would be required to file its initial template for 2016 by Dec. 31, 2017. The guidance explains that the fiscal year means the multinational company's consolidated financial reporting period, and not the tax year or financial reporting period of individual entities. As a result, both the template and tax returns for local jurisdictions will be due at approximately the same time.

The intent is to improve the risk-assessment capabilities of taxing authorities by providing them the country-by-country information of multinational companies at an early stage. All multinational companies will be required to file the annual template, unless the group has less than €750 million (approximately $840 million) of consolidated financial revenue for any given year. The guidance also provides no exceptions for special industries, investment funds, and noncorporate entities or nonpublic corporate entities. Before countries are permitted to receive the template, they must satisfy certain conditions and safeguards.

Specifically, countries must have in place (1) legal protections to preserve the confidentiality of the country-by-country reporting; (2) a legal requirement that the multinational group's ultimate parent resident in their jurisdiction file the template, as required; and (3) a restriction to use the template only in assessing high-level transfer-pricing risks or other BEPS-related risks. However, how these underlying conditions and safeguards will be enforced remains an open question. It was also agreed that the country-by-country report be filed with the tax administrator in the multinational's ultimate parent's tax jurisdiction; thereafter the parent's tax jurisdiction is responsible for submitting the template to other tax jurisdictions in which the group operates.

The template will also serve as an essential tool for taxing authorities to identify and select companies to be audited.

If the first taxing authority does not provide the template as required, the OECD guidance calls for a "secondary mechanism," which could include either local filings or moving the obligation to exchange the template to the next entity in the chain of ownership. The primary method for automatically exchanging the template between tax administrators will be using government-to-government mechanisms, such as bilateral tax treaties, tax information exchange agreements, and *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters.*[1] The OECD stated that further guidance will be forthcoming regarding draft legislation and the "secondary mechanism."

Based upon the above guidance, tax administrators will begin exchanging the first templates in 2017.

The template clearly constitutes one of the most critical elements of the overall BEPS initiative, and there is a consensus within the tax community that it is not an overstatement to say that country-by-country reporting is a game changer for multinational companies. According to Pascal Saint-Amans, director of the OECD's Centre for Tax Policy and Administration, in his Sept. 16 briefing,

> 44 countries, which are participating in all BEPS projects on an equal footing with OECD countries, account for 90% of the global economy. They include the OECD's 34 members, among them the world's advanced economies, and eight non-OECD G-20 members. The nonmembers are the five BRICS countries—Brazil, Russia, India, China, and South Africa—as well as Argentina, Indonesia, and Saudi Arabia, and also Colombia and Latvia; two OECD accession countries, which also are participating.[2]

Furthermore, Saint-Amans indicated that the United States, India, South Africa, Brazil, and the European countries have all agreed to adopt the country-by-country reporting template.[3]

Country-by-country reporting is also inevitable, global leaders say: "Government officials from the United States, the U.K., Australia, and Canada, participating in a round table on the OECD's base erosion and profit-shifting project November 30 2014, at the 66th annual

1. OECD and Council of Europe, *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD Publishing 2011).
2. Mitchell and Bell, "OECD Issues Work on Seven BEPS Actions; Tax Chief Saint-Amans Predicts Immediate Impact on Tax Planning," 23 *Tax Mgmt. (BNA) Transfer Pricing Report* 643 (Sept. 18, 2014).
3. Id.

conference of the Canadian Taxation Foundation, agree that the implementation of the country-by-country reporting is inevitable."[4]

As is discussed in this article, country-by-country reporting will severely test how corporate tax departments manage their financial data in complying with these new reporting requirements. This article also outlines the more important practical and implementation issues that corporate tax departments will likely face as a result of this new and transformational reporting requirement, as well as some potential solutions for those issues.

Challenges and Considerations (Looks Can Be Deceiving)

Much has been reported recently about how the OECD has significantly reduced the amount of financial information required in its final version of the country-by-country template, relative to the draft template published in January 2014.

Specific differences include:

- The number of financial items that must be reported has been reduced from 14 to eight;
- Companies have now been given the flexibility to use a wide variety of organized sources of financial information (e.g., consolidated financial packages, separate entity statutory statements, regulatory financial statements, or internal management books), as long as the source chosen is used consistently from year to year;
- It is no longer necessary to disclose information for each entity operating in a country; the final template requires the disclosure of only the total amount of each item by country;
- It is not necessary to reconcile the revenue, profit, and tax reporting in the template to the consolidated financials; and
- Companies are now not required to make adjustments for differences in accounting principles applied in different tax jurisdictions.

Certainly, even with this reduced financial information burden and increased flexibility in the final template, the report would still pose significant challenges for companies to comply. However, the question remains whether this reduced information reporting requirement and increased flexibility is indeed significant and/or substantial for in-house tax departments, or instead merely "window dressing" as a practical matter. It is the author's view that it is the latter.

Although the final template eliminated the reporting of certain financial information (in particular intercompany interest, royalties, and other payments), it is widely anticipated that the template will be expanded later and tailored to meet the specific needs of the various taxing authorities, particularly in developing countries. For example, Argentina, Brazil, China, Colombia, India, Mexico, South Africa, and Turkey have all indicated a desire to expand the information captured in the template beyond what is required in the final OECD template. These countries will likely require reporting intercompany interest income, royalty income, and service fees.

It is also likely the template will require that it be prepared using a country's local currency and its local accounting standard. Certainly, countries retain sovereignty over tax matters, so country-by-country reporting can potentially be implemented by different counties in distinct ways. This is a real concern voiced by both the business community and some U.S. Treasury officials.

4. Gupta, "Country-by-Country Reporting Inevitable, Global Leaders Say," 76 *Tax Notes International* 866 (Dec. 8, 2014).

EXECUTIVE SUMMARY

- The Organisation for Economic Co-operation and Development's Action Plan on Base Erosion and Profit Shifting (BEPS) includes a new requirement that multinational companies report their business activities using a template on a country-by-country basis.
- The final version of the recommended template will require businesses to report revenue, profit before income tax, income taxes paid and accrued, total employment, capital, retained earnings, and tangible assets in each tax jurisdiction. Individual countries can, however, modify the template to require additional information.
- The result of the new requirements will be to impose significant new burdens on multinational corporations' tax departments because of practical difficulties involved in preparing the templates and dealing with audit activity initiated by countries due to information reported on them.
- Multinationals will also face the practical requirement of reconciling public financial statements, legal entity books, local tax returns, and the templates.
- An additional significant concern with country-by-country reporting is confidentiality; many corporations and practitioners believe that at least some taxing jurisdictions will make the information reported publicly available or that information will be leaked to the public.

Although the information required in the country-by-country report has been reduced, there is no guarantee that countries will be consistent and not ask for additional information, as has been suggested by Carol Doran Klein, vice president and international tax counsel at the U.S. Council for International Business.[5]

Although a company now has the flexibility to use a wide variety of sources of financial information to prepare the template, as a practical matter, to ensure accuracy and provide a defensible trail for future audits, the company's corporate tax department will still have to reconcile its public financial statements to the country-by-country template, no matter what sources of information are actually used in its annual preparation. Specifically, this will necessitate a reconciliation of (1) the multinational's public financial statements and accounts to (2) its legal entity books and accounts (as reported in all currencies and in all accounting standards) to (3) the local tax returns prepared and filed, and, finally, to (4) the filed template reports. Additionally, as all tax departments are well aware, this type of ongoing reconciliation process will only get more difficult as new companies are acquired, new intercompany transactions arise, new legal entities are created, global expansion occurs, internal operational changes occur, changes are made to the internal management books format, tax planning initiatives are implemented, and so on.

It is an understatement to say that this reconciliation process in today's world will not be an easy task for most companies, especially since their accounting systems are not designed to produce the necessary tax information.

Although the final OECD template requires the information reporting be done on a country basis rather than a legal-entity basis, this represents a Pyrrhic victory at best. Again, to ensure the template is accurate, its preparation will still necessitate that legal entity books be prepared (using all appropriate accounting methods and local currencies) and thereafter the financial legal entity information and the related intercompany transactions allocated on a country-by-country basis.

Country-by-country reporting for branches and by country will cause additional complexity for corporate tax departments.

A further complication, which has not been widely reported in the press, arises when companies do business around the world through branches. There is no clearly defined borderline between activities conducted through foreign and domestic branches of the same legal entity. Country-by-country reporting for branches and by country will cause additional complexity for corporate tax departments.

In addition, although the final template does not require reconciliation, it would be difficult to envision that a country would not later request a reconciliation of the template to the locally filed tax returns. In fact, it is widely believed that countries are certain to request their own set of information regarding local transactions, to match those with the affiliated entities operating within their tax jurisdictions. Also, because the template will be used by taxing authorities as a high-level risk assessment tool, although not specifically required, management must be able to reconcile the reported data to the filed tax returns, either in response to taxing authorities' requests or as part of the company's internal risk management process.

For many multinational companies, this process will be an issue because the preparation of the statutory legal entity books used in the local income tax return filings is typically accomplished outside of their financial accounting systems. Local tax returns are prepared by gathering and presenting information from these local income statements, which in most cases are also prepared outside of the tax department's control. A material disconnect in the financial results between the two reports could have significant negative repercussions to a company, causing a loss of credibility with the global taxing authorities. If this were to occur, a company should expect intensified scrutiny by these same taxing authorities.

Again, as noted above, to help ensure accuracy and provide a trail for future audits, country-by-country reporting will necessitate a reconciliation of (1) the multinational company's public financial statements to (2) its legal entity books and accounts (as reported in all currencies and in all accounting standards) to (3) the local tax returns prepared and filed to (4) the filed country-by-country template reports.

Finally, although multinational companies are not technically required to make adjustments for differences in accounting methods by jurisdiction in preparing the country-by-country template, it is widely anticipated some countries will tailor the template to fit their own needs. In any case, it is difficult to envision that a country's taxing authority would not require a company to reconcile its filed template to the local statutory books and records used to prepare the local income tax returns.

What makes the above reconciliation process difficult for many companies is that their financial accounting systems are substantially disconnected from the income tax reporting process. The primary causes of these "data management"

5. See Carol Doran Klein comments in Burow, "Did the OECD Misinterpret the CbC Reporting Mandate?" 74 *Tax Notes International* 1092 (June 23, 2014).

problems include the existence of multiple and disparate general ledger systems, the existence of nonstandardized general ledger accounts, and financial accounting systems that do not produce information in the required legal entity format (i.e., legal entity books).

Throughout the author's 33-year career in a number of corporate tax departments in multiple industries, it was rare for the company's accounting systems to generate a full set of legal entity books. Many in-house tax departments say that this is the No. 1 data management issue they face today. The few times these data management issues do not arise (and, thus, the accounting systems generate a complete set of legal entity books) are when the multinational company (1) is not significantly acquisitive of other companies; (2) does not have a significant number of different general ledger systems; (3) does not have a significant number of different businesses; and/or (4) does not have a significant number of material legal entities.

Simply put, the lack of an integrated financial accounting system that can simultaneously produce a complete set of internal management books/regulatory financial statements, legal entity statements, and local statutory books is the core problem. Country-by-country reporting will now place greater stress on this disconnection between the accounting systems and the income tax reporting process.

Case Study

The following case study is intended to highlight some common data management issues, as well as illustrate why reliance on internal management books/regulatory financial statements in preparing the country-by-country template may be a problem. In addition, the case study illustrates why a full reconciliation is necessary to ensure accuracy and prevent unpleasant surprises. The case study is also intended to illustrate the expanded transparency, which will for the first time be available to the taxing authorities as they review the template.

The case study is limited to the allocation of pretax book income by country and therefore does not illustrate other financial measurements required to be reported in the template.

Case Study Facts

Corp *A* is a U.S. corporation that is publicly traded on the New York Stock Exchange and is the U.S. parent of a multinational group of companies. The companies are leading global manufacturers and marketers of consumer products and sell products in over 100 countries.

With the exception of the United Kingdom, Germany, France, the Netherlands, Poland, Switzerland, and Denmark, Corp *A* manufactures and sells the company's products throughout the world, either directly to third-party customers or through independent commission agents.

However, in the seven European countries noted above, the following global structure is employed:

1. The Swiss affiliate (tax resident in Switzerland) and Corp *A* entered into an intercompany license agreement that grants the Swiss affiliate exclusive rights to use certain valuable patents. The licensed patents (which Corp *A* continues to own) are used in the manufacturing process for the consumer products ultimately sold in the seven European countries.
2. The Swiss affiliate and Corp *A* also entered into an intercompany research and development (R&D) agreement, whereby Corp *A* performs R&D services for the Swiss affiliate and that are attributable to the consumer products ultimately sold in the seven European countries.
3. The Swiss affiliate and a Dutch affiliate entered into an intercompany license agreement, in which the Dutch affiliate is granted the exclusive rights to use the valuable patents. Because of the license, the Dutch affiliate manufactures the consumer products in the Netherlands and sells the products to third-party customers in the Netherlands. Under the intercompany license agreement, the Swiss affiliate assumes nearly all of the manufacturing risks and selling risks of the Dutch affiliate. In addition, all selling risks contractually assumed by the Dutch affiliate in No. 4, below, are also assumed by the Swiss affiliate. Accordingly, at the end of the day, because nearly all of the Dutch affiliate's economic risks are assumed by the Swiss affiliate, the Dutch affiliate will earn a minimal risk-free return on its routine manufacturing and selling activities.
4. The Dutch affiliate entered into intercompany sales agreements with each of its six affiliated distributors, which are residents of the United Kingdom, Germany, France, Poland, Switzerland, or Denmark for tax purposes. Under the intercompany sales agreement, the six distributors purchase the manufactured consumer products from the Dutch affiliate and resell the products to third-party customers, which are located in the same country in which each distributor has its operations. The six sales agreements require that the Dutch affiliate assume nearly all of the distributor's selling risks. Accordingly, each of the six distributor affiliates will earn a minimal risk-free return on its routine selling activities.
5. Because of No. 1–No. 4, the Swiss affiliate is entitled to earn a substantial amount of the business profits or losses attributable to the seven European countries.

The company does not have integrated financial accounting systems that would enable it to generate legal entity books, which are necessary to adequately perform its income tax reporting obligations. Instead, the company maintains three separate sets of books and records as follows:

1. U.S. GAAP financial books (denominated in U.S. dollars) are used by management in evaluating the ongoing performance of the worldwide business operations and are used by the U.S. corporate accounting department in preparing the worldwide pretax book income for its quarterly and annual SEC filings. As is typically the case, the U.S. GAAP financial books do not incorporate any of the intercompany tax transfer pricing described above. Accordingly, the Swiss affiliate is completely ignored on these sets of books because it only has intercompany accounts. The set of books for the Dutch affiliate and the other European distributors contain records of their individual cost centers and their respective third-party customer sales only.
2. U.S. GAAP legal entity books (denominated in U.S. dollars) are used by the U.S. tax department to prepare the U.S. income tax returns, as well as the company's worldwide income tax provision for its quarterly and annual SEC filings. The set of books has all of the intercompany transactions described above. However, because the U.S. GAAP financial books are not in a legal entity format, the U.S. tax department/U.S. corporate accounting department has to manually compute the legal entity books (including transfer pricing), by relying on a combination of spreadsheets and manual processes.
3. Local statutory legal entity books are individually maintained by the seven European companies and are generated outside of the financial accounting systems used by the U.S. corporate accounting department. The U.K., Danish, Polish, and Swiss affiliates' sets of books are denominated in their respective currencies. The German, French, and Dutch affiliates' sets of books are all denominated in euros. With the exception of the Danish and Dutch affiliates, which use the IFRS accounting standard in preparing their financials, all the other affiliates use local GAAP accounting standards as the countries mandate. All seven sets of books are audited annually by an outside accounting firm. Any related audit adjustments almost never are recorded on the U.S. GAAP financial books until the following year.

Absent internal system changes, additional time-consuming manual processes and resources will now be required on an annual basis.

Case Study Analysis

The tax department would not be able to rely on the U.S. GAAP financial books financial accounting systems (as allowed under the recent OECD guidance). Instead, to ensure accuracy, the tax department would use the U.S. GAAP legal entity books each year in preparing the template to allocate pretax book income by country.

In addition, since the local statutory legal entity books used to prepare the income tax returns for the seven European countries will be different from what is being reported for them on the template (e.g., different accounting standards, currencies, and the timing of local audit adjustments), although not required by the OECD, a reconciliation between the two is also advisable from a risk management perspective. The fact that the taxing authorities in the seven countries will receive the local tax returns and the template at approximately the same time is another reason that reconciliation is a best practice.

Finally, the significant amount of pretax book income earned by the Swiss affiliate in relation to the other six European countries will, for the first time, be transparent to the taxing authorities as they review the country-by-country template.

Other significant practical and implementation challenges for corporate tax departments should be considered in complying with the new reporting requirements. First, one must assume that the template itself will be audited by the various taxing authorities because of its inherent importance to them as an initial audit risk assessment tool. As a result, companies should expect immediate inquiries (and thereby additional time required to respond to these initial inquiries) regarding the information being provided in the country-by-country templates.

Another result of the template that is widely expected is increased transfer-pricing-related disputes with the taxing authorities. David Ernick, a principal at PwC and a former associate international tax counsel at the U.S. Treasury Department, when discussing country-by-country reporting with Tax Analysts, said that he believes that the OECD has taken a fundamentally different approach to transfer-pricing documentation:

> The [transfer-pricing] focus has since shifted to [a multinational entity] providing high-level information on its global value chain and allocation of income, economic activity, and taxes paid among countries that generally will be unrelated to the specific transfer pricing arrangement.

He also added that this shift in approach could lead to more cross-border disputes.[6]

6. Burow, "Did the OECD Misinterpret the CbC Reporting Mandate?" 74 *Tax Notes International* 1092 (June 23, 2014).

In addition, full-scale audits should also be anticipated over whether a company has a tax presence in a particular country in which income tax returns are not being filed. Another equally important concern expressed by the tax community is whether the taxing authorities will inappropriately use the country-by-country template to attribute income to the market jurisdiction even if the company does not maintain a taxable presence in that jurisdiction.

Finally, the BEPS Action Plan recommendations likely will be interpreted differently among the various tax jurisdictions. Countries are already taking unilateral measures even before the OECD completes its BEPS Action Plan. These unilateral measures include general anti-abuse rules, interest deduction limitations, rules relating to the deemed avoidance of permanent establishments, hybrid mismatches, and tougher controlled foreign corporation rules. Since 2014, more than 20 countries have proposed and/or enacted one or more of these unilateral measures. Consequently, instead of eliminating double taxation among jurisdictions, double taxation may be increased.[7]

In all cases, it is widely expected multinational companies will see a significant increase in their local tax examination caseload going forward as a direct result of the country-by-country template.[8] Therefore, tax departments should begin to evaluate the need for additional tax audit management resources.

Since emerging and developing countries rely heavily on tax revenue from multinational companies to fund their government programs, and since much of this country-by-country information was not available to their taxing authorities in the past, additional tax audit management resources will likely need to be devoted to these countries. However, this also extends beyond revenue. Multinational companies are also (rightly or wrongly) seen by many taxpayers as undermining the credibility of the tax system. All practitioners are aware of cases where publicly traded companies have had to openly respond to governments and to the press about their tax affairs. Therefore, it would be prudent to plan for an uptick in tax controversy with the developed nations as well because of the country-by-country template. An additional factor that will undoubtedly need to be considered by tax departments and senior management when evaluating whether additional tax audit management resources are required is that the escalation of tax disputes could lead to greater reputational risk.

The most serious and significant challenge for multinational companies in this new era of reporting is the practical and real concern of confidentiality.

Absent internal system changes, additional time-consuming manual processes and resources will now be required on an annual basis. This is certainly the case for most large companies since many of their financial accounting systems are substantially disconnected from the type of information that is required to be reported in the country-by-country template.

As a result of country-by-country template inquiries, increased tax examinations, and the likely increase in manual processes necessary to prepare numerous versions of the template in each country, the overall availability of additional human resources becomes an even greater and more pressing issue for tax departments.

The required reporting of cash income taxes (including withholding taxes paid) and current income tax accrual broken down on a country-by-country basis will be difficult for many tax departments, especially for those that rely on manual processes and spreadsheets to do their income tax provision. An additional concern is whether certain governments will later require the current income tax accrual reported on their country-by-country templates to include any related uncertain tax position (UTP) accruals. Armed with this additional information, the taxing authorities would then have the opportunity to "size up" the company's UTP accrual by simply taking the difference between the accrued and cash income tax amounts.

Accounting periods for entities within the multinational company group will not likely always match. As previously stated, the OECD guidance requires the template to be based on the multinational company's consolidated financial accounting period. So where any of the affiliated entities have a tax year that is different, an additional reconciliation will likely be required to tie the template's information back to their locally filed tax returns.

Finally, perhaps, the most serious and significant challenge for multinational companies in this new era of reporting

7. On Nov. 4, 2014, the International Chamber of Commerce (ICC) expressed concern that the OECD Action Plan on combating BEPS "may inadvertently incur severe collateral damage on compliant taxpaying companies of all sizes as a result of well-meaning measures undertaken unilaterally by states to mitigate double-non-taxation." It also warned that an "enhanced tax dispute resolution mechanism" is necessary to be in place, to prevent intensifying double taxation any further (ICC press release (Nov. 4, 2014)).
8. Burow, "Tax Departments Must Be Proactive as Audits Grow More Aggressive," 76 *Tax Notes International* 497 (Nov. 6, 2014).

is the practical and real concern of confidentiality. While a public disclosure requirement of the template is not foreseeable in the near future, there is a substantial risk the information will likely become publicly available at some future date; this is reasonably foreseeable. Many tax professionals and multinational companies today are highly skeptical that limited disclosure will be sustained.[9]

There is also the lurking vulnerability of confidential information mismanagement between governments, as well as information transfer and cross-border sharing security risk, which is too apparent to be ignored. With the number of governments that will be receiving this information on an annual basis, leaks to the press are inevitable. It is also possible that, in the future, a government will pass laws requiring the information be made publicly available. Therefore, the question is whether taxpayers can rely on governments to keep their information secure and assure confidentiality, and whether they can depend on countries' installing the appropriate safeguards and information-transfer controls.

Also, the scrutiny and the involvement of the press, bloggers, social activists, and nongovernment organizations are now unprecedented.[10] This is well-illustrated by the recent leak of tax documents related to negotiations that PwC held with Luxembourg on behalf of its clients that were made publicly available on the internet last year. According to its own report, the International Consortium of Investigative Journalists (ICIJ) released the documents on its website with a description of some of the documents' contents.

Overall, the ICIJ released 548 documents related to more than 340 taxpayers.[11] The amount of influence journalists and others will exert on governments to make these templates public should not be understated. In addition, a public release of the country-by-country information would effectively require a multinational company to respond in public as to how its public financial statements are reconciled to the template. If the template contains unintended errors or estimates that could be misinterpreted, unfair reputational risk to the company could result.

Looking Ahead and Next Steps

A number of countries are expected to adopt country-by-country reporting in 2016, with reporting commencing as early as 2017 (for calendar/fiscal tax years beginning on or after Jan. 1, 2016). Already, the United Kingdom and Spain have publicly announced they will be adopting the OECD's recommended reporting requirements. On Feb. 28, 2015, the U.S. Treasury also announced that the United States plans to implement the country-by-country template using the €750 million filing threshold. The government plans on developing a form for multinationals with U.S. parents that looks like the country-by-country template.

Based upon the author's personal experience, there is a natural tendency for tax departments to place new reporting requirements "on the back burner" because of other ongoing challenges. However, the lead time necessary to prepare the company's internal systems and processes for this paradigm and historical reporting shift in transparency should not be underestimated. Given the potential impact on the multinational company's worldwide tax profile, the preparation of the country-by-country template should not simply be considered another compliance burden. Instead, it should be reviewed as a strategic risk management issue.

It is critical that tax departments immediately assess whether their existing financial accounting systems will allow their companies to comply with these new reporting requirements. They will also need to evaluate their internal processes and whether additional staff may be required. In addition, the assessment should include strategies to deal with the new compliance and tax audit requirements that will likely arise as a direct result of the country-by-country template.

Of course, all of these added costs will need to be factored into the tax departments' budgets and discussed with their CFOs, senior management, audit committees, and other stakeholders as soon as possible. Lastly, medium-size and large multinational companies will need to actively consider technology solutions to collect, store, analyze, and prepare the templates in an accurate fashion. ■

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9. Former General Electric Co. Chief Tax Counsel Peter Barnes warned that country-by-country reporting likely will lead to public disclosure of information about companies' tax payments to different countries despite reassuring statements from the OECD on the subject. See "Former GE Tax Counsel Peter Barnes Gives Views on BEPS, Country-by-Country Reporting, Documentation," 22 *Tax Mgmt. (BNA) Transfer Pricing Report* 17 (Jan. 9, 2014).
10. Id. at 2.
11. Wayne, et al., *Luxembourg Leaks: Global Companies' Secrets Exposed* (ICIJ, Nov. 5, 2014), available at icij.org/project/luxembourg-leaks. See also Young, "Leaked Tax Documents Detail PwC Deals With Luxembourg," 2014 WTD 215-2 (Nov. 6, 2014), where it was reported that "[t]he ICIJ said that the documents were leaked but did not describe how they were obtained. Some documents were previously reported on in 2012, but 'most of the PwC documents have never before been analyzed by reporters,' the ICIJ said."