

## **Legislation to implement EU public country-by-country reporting directive into German domestic law has been enacted**

Final rules are in line with requirements described in EU directive.

On 19 June 2023, Germany's law implementing the provisions of the EU public country-by-country (pCbC) reporting [directive](#) was [published](#) in the federal gazette. After the lower house of parliament had consented to the new rules on 11 May 2023, the upper house of parliament approved the law on 16 June 2023. Thereafter, the law was signed by the president. The new legislation requires disclosure by certain multinational enterprises (MNEs) to the general public of certain income tax information on a country-by-country basis for fiscal years (FYs) beginning on or after 22 June 2024 (i.e., generally FY 25 and onward). The German pCbC reporting rules are in line with the requirements set forth in the EU pCbC reporting rules, but the scope differs from those of the already existing German (non-public) CbC reporting rules.

During the legislative process, the pCbC reporting rules were significantly tightened in two areas, as compared to the original proposal that was introduced by the government. First, the maximum time period during which confidential information ("adverse information") that could result in a significant disadvantage if disclosed does not have to be disclosed in the pCbC report was reduced from five years to four years. On an annual basis during the four-year period, the nondisclosure must be indicated in the pCbC report and the reason for such nondisclosure. Second, the maximum fine for a pCbC report that is not prepared, incorrectly or incompletely prepared, or not disclosed in a timely manner was increased to EUR 250,000. Compared to the government's original proposal, this is a five-fold increase of the applicable administrative fine, which is a clear signal that noncompliance with the pCbC rules is unacceptable.

The new legislation will likely result in an increased administrative burden for affected MNEs, since detailed disclosures of income tax information are required. Due to the potential risk of misinterpretation of the published data by the general public, affected MNEs may wish to supplement the data with additional information and explanations. In addition, affected MNEs may want to organize the data into a suitable external reporting framework (e.g., environmental, social, and governance; sustainability investor reporting). Affected MNEs should analyze what data needs to be published, how the published data reconciles with other financial information, and how the data can be explained to the general public (if required). The importance of the pCbC report and the information contained therein should not be underestimated.

Compared to the already existing German (non-public) CbC reporting rules, the scope of the pCbC reporting rules differ in that they are limited to EU and EU "blacklisted" subsidiaries and branches. For non-EU MNEs, pCbC reporting will trigger new EU reporting and disclosure requirements that must be fulfilled in at least one EU member state. Germany may be a good location, since domestic legislation allows for an election to electronically bridge the already existing German (non-public) CbC reporting into pCbC reporting.

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