



The Public Country-by-Country Reporting Directive arrives in Italy

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By *Federico Vincenti, Alessandro Valente* August 21, 2023



Federico Vincenti and Alessandro Valente of Crowe Valente/Valente Associati GEB Partners explain the rationale behind Directive (EU) 2017/2101 and what it means for MNEs.

The Italian government, through the European Delegation Law 2022–2023 (*Legge di delegazione europea 2022–2023*) that was approved on June 16 2023, has been delegated to implement European directives and other acts of the EU into the Italian legal system. Directive (EU) 2021/2101 of November 24 2021 (the Public Country-by-Country Reporting Directive), which amends Directive 2013/34/EU concerning the disclosure of income tax information by certain companies and branches, will also be incorporated into Italian legislation.

Directive (EU) 2021/2101 introduces an obligation for multinational companies to disclose their taxes paid in each EU country.

The directive's goals

The main aims of the directive are to:

- Increase tax transparency and fight corporate income tax avoidance;
- Enhance public scrutiny over corporate income taxes paid by multinational companies operating in the EU; and
- Promote an informed debate on the level of tax compliance of certain multinational companies operating in the EU and the impact of tax obligations on the real economy.

Enhanced financial reporting transparency will lead to broader involvement on multiple levels; for example, workers will be better informed, and investors will be less risk averse. Also, companies will benefit from this initiative as it improves relations with stakeholders, resulting in increased stability, easier access to financing thanks to clearer risk profiles, and a better reputation.

The fundamental purpose is to enable anyone to examine all the activities of a group of companies when the group includes certain types of entities established within the EU. In the case of groups conducting activities within the EU solely through subsidiaries or branches, these subsidiaries and branches should publish and make accessible communication from the parent company.

If such information or communication is not available, or if the parent company does not provide the required information to the subsidiaries or branches, the latter should prepare, publish, and make available a communication containing all the information they have obtained, along with a statement certifying that their parent company did not provide the necessary information.

The Public Country-by-Country Reporting Directive enables governments, citizens, and other stakeholders to better understand how multinational enterprises (MNEs) organise their activities and fulfil their tax obligations through tax payments. This helps to prevent aggressive, abusive, and evasive tax practices.

For these reasons, the directive stipulates that it is the member states' responsibility to establish effective, proportionate, and dissuasive sanctions for companies that fail to comply with the obligations of publishing the required information.

Entities within scope

According to the amendments to Directive 2013/34/EU under Directive (EU) 2021/2101, the following entities are obligated to undergo public reporting:

- EU-based MNEs which total consolidated revenue exceeding €750 million (about \$824 million) for each of the last two financial years and that are active in more than one jurisdiction; and
- Non-EU-based MNEs which total consolidated revenue exceeding €750 million for each of the last two financial years and controlling:
 - A medium-sized or large subsidiary “governed by the national laws” of a member state of the EU; or
 - A qualifying branch in any member state.

In general, the reporting requirements for the above entities are lifted when their total revenues at the end of the financial year are less than €750 million for each of the last two consecutive financial years, as evident from the consolidated financial statements.

Information to be reported

The obligation of the aforementioned companies is to make public certain information regarding the activities carried out by each company, according to Directive (EU) 2021/2101; above all, that involving certain “third-country tax jurisdictions which pose particular challenges”. This includes information related to all consolidated subsidiaries for the relevant financial year, including:

- A brief description of the nature of the business;
- The number of full-time equivalent employees;
- Revenues;
- The pre-tax profit or loss;
- Taxes accrued and paid; and
- The amount of undistributed profits for each member state.

For all other third-country operations, the information should be given on an aggregate basis, unless the undertaking wishes to present more detailed information.

The safeguard clause

Considering the sensitivity of the information and to ensure that the disclosure of such information does not harm a company’s commercial position, the directive allows member states to include a safeguard clause that enables multinational companies not to disclose commercially sensitive information for five years.

The increased financial and tax transparency required by Directive (EU) 2021/2101 could also impact the company's strategy, as the disclosed information will be available to the public, competitors, and investors. This could influence the perception of the company among its stakeholders and affect access to financing or commercial partnerships.

The impact on MNEs

Overall, the implementation of Directive (EU) 2021/2101, not only in Italy but across all EU member states, will have a significant impact on multinational companies operating in the EU in terms of the allocation of human and financial resources and the responsibilities of CEOs and CFOs.

Companies will need to be prepared to make new investments to update their compliance models to meet the required obligations.

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Federico Vincenti

PARTNER Crowe Valente/Valente Associati GEB Partners



Alessandro Valente

LAWYER Valente Associati GEB Partners

