

March 4, 2020

Mr. Angel Gurría
Secretary-General, OECD
2, rue André Pascal
75016 Paris
France

RE: Public Consultation Document: Review of Country-by-Country Reporting (BEPS Action 13)

Dear Secretary-General Gurría,

As organizations representing tens of thousands of small business owners in the United States, we write to urge the members of the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) to support increased tax transparency for companies operating in multiple countries under BEPS Action 13.

Small business owners often find themselves in competition with multinational corporations – that is simply a fact of life for our members. But governments must not put their thumbs on the scale to advantage large companies over small ones — multinationals over wholly domestic ones — especially when those policies present tangible harm to the vast majority of businesses and the larger economy. We are seeking a fair and level playing field.

Numerous studies have found that large, multinational companies in the United States and around the world use provisions in the tax code to shift profits and avoid paying taxes that they would otherwise be required to pay. The effective tax rates of many of the largest U.S. companies are far lower than what is paid by millions of smaller entrepreneurs. A recent study by the Institute on Taxation and Economic Policy found 91 profitable Fortune 500 companies paid no U.S. federal income tax in 2018 and another 56 paid between 0 and 5 percent.¹

The high levels of tax avoidance by large corporations, estimated in the hundreds of billions of dollars in annual losses globally, harms small business competitiveness — increasing the risks to the larger business environment in which we operate. Small businesses are often the ones asked to pick up the tab to pay for the lost revenue to balance budgets or cover the costs of public services. If taxes are not collected, a lack of adequate revenue can lead to rising public debt which then impacts our members' ability to access capital or face deteriorating services that harm the ability of small businesses to attract customers. For example, if there is insufficient funding for new infrastructure projects, a larger chain might be able to build its own access road to its newest superstore, but a local retailer is not able to do the same.

One significant roadblock to a better understanding of how tax policies impact differing constituencies is that, currently, we do not have access to the necessary information. We cannot even engage in an informed discussion. Multinational companies rely on the opacity of basic financial information to shift the tax burden to their competitors in the small business community,

¹ Matthew Gardner, Lorena Roque, Steve Wamhoff, "Corporate Tax Avoidance in the First Year of the Trump Tax Law", *Institute on Taxation and Economic Policy*, December 16, 2019; <https://itep.org/corporate-tax-avoidance-in-the-first-year-of-the-trump-tax-law/>.

among others. What little information we do have suggests there is an enormous imbalance. Consider the following:

1. A 2018 analysis by Professor Kimberly Clausing estimates that, after the passage of the Tax Cuts and Jobs Act, U.S. multinational corporations will avoid taxes on \$300 billion of offshore profits.²
2. U.S. Internal Revenue Service data from the first reports filed by companies under the Inclusive Framework's country-by-country reporting agreement show in 2017 that more profits from U.S. multinationals were booked in known tax haven countries — including the Cayman Islands, Bermuda, and Singapore — than in China, Canada, and Mexico.³ The latter are the three largest U.S. trading partners.

The Inclusive Framework member nations have already agreed to require the largest multinational companies to report some basic financial information at a country-by-country level to tax authorities. While that may well be helpful to certain tax authorities to catch flagrant tax evasion, it is of little use to policymakers and others in efforts to understand whether there exists an equitable distribution of tax responsibilities.

The diverse business organizations signed onto this letter may not all agree on what an appropriate tax system looks like, but we are united in a call for the disclosure of the necessary information to engage in a responsible debate.

Specifically, we would encourage the Inclusive Framework's member nations to adopt the new tax transparency standard created by the Global Reporting Initiative (GRI). The new standard for GRI member companies was negotiated with a diverse set of stakeholders. Both the data and narrative requirements provide companies the opportunity to present information in context. The standard calls for limited amounts of data that help create a clear picture of a company's tax strategy without requiring overly burdensome accounting measures. Several companies have already moved to adopt the standard and many more are considering doing so. Due to the value of the information and the simplicity of meeting the requirements of the standard, we see the GRI standard as the emerging global norm. To minimize costs on potentially covered businesses, we ask the Inclusive Framework's nations to take advantage of the emerging consensus around the GRI standard.

Similarly, we are concerned that the current reporting threshold of €750 million (\$850 million) in annual revenues exempts the vast majority of multinational corporations from the Inclusive Framework's disclosure requirements. The U.S. Securities and Exchange Commission, for example, institutes an annual revenue threshold of \$100 million in determining whether a business can qualify as a "Smaller Reporting Company" with reduced reporting obligations.⁴ As such, we believe that the annual revenue threshold for tax disclosures under the Inclusive Framework should be closer to \$100 million.

² Clausing, Kimberly A., Profit Shifting Before and After the Tax Cuts and Jobs Act (January 20, 2020). Available at SSRN: <https://ssrn.com/abstract=3274827> or <http://dx.doi.org/10.2139/ssrn.3274827>.

³ Internal Revenue Service, "Table 1A: Country-by-Country Report (Form 9975): Tax Jurisdiction Information (Schedule A: Part I) by Major Geographic Region and Selected Tax Jurisdiction, Tax Year 2017", <https://www.irs.gov/pub/irs-soi/17it01acbc.xlsx>.

⁴ See: <https://www.sec.gov/smallbusiness/goingpublic/SRC>

In conclusion, we urge the Inclusive Framework members to conform their country-by-country reporting agreement to the GRI Tax Standard, lower the annual revenue threshold for reporting to \$100 million, and require public access to the information.

We thank you for your consideration of our views. If you have questions, please feel free to contact Awesta Sarkash (asarkash@smallbusinessmajority.org) at Small Business Majority.

Sincerely,

American Sustainable Business Council
Main Street Alliance
National Small Business Network
Small Business Majority