

Those who claim country-by-country reporting doesn't pr...

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At the hearing I attended at the Bundestag on Monday a senior representative of BASF had the gall to argue that he could see no use whatsoever that a lay person, untrained in tax, could make of country-by-country reporting data. What could seven variables possibly tell any lay person and why then should they be published, he asked?

He went on to argue that he thought it was entirely appropriate and right that the data go to tax authorities. I am sure that this has not always been his position. I am equally sure that the opinion he offered on the usefulness of this data to the public is not a summary of his real belief because it is glaringly obviously untrue for many reasons, all of which he must have known. First though let me summarise what publication of CBCR would require.

It would require a statement of each and every country in which the company operated.

And it would require disclosure of the names of its subsidiaries operating in those places.

Then it would require a description to be supplied of what each subsidiary does in sufficient detail to understand this with reasonable accuracy.

After that for the country as a whole it would require disclosure, if the OECD template were to be followed (and there is no reason why it has to be, but let's assume it is for the time being) of the following data for each country in which the group operates, with the data to be supplied on a consolidated basis:

- 1) Third party sales i.e. those to real customers
- 2) Intra-group sales i.e. those to companies in the same group
- 3) Profit before tax
- 4) The current tax charge accrued for the year i.e. the anticipated tax arising on the profit for the year

5) The tax actually paid in the year

6) The total number of employees engaged, on average, in the year

7) The capital engaged in the country, split between share capital and retained reserves.

So, the first thing to say is that there is a lot more than seven items of data. BASF forgot to mention all the narrative information.

Then there is the point to note that none of this data will have ever been available in this form before unless, of course, the company has only ever traded in one country, when it has been universal for a long time.

That said, let me offer a few examples of what almost anyone might learn from this. Glaringly obviously they can work out the relative importance of different markets to the company. All they have to do is rank the variables in size order by country to do this. Is it really beyond the wit of BASF to think that people may not be interested in knowing this, and that they might not be able to do it?

They could also work out if the company operates in tax havens. Those places will either be on the list, or not. Again, is that so hard to do?

And last (although I could go on, and on) they could work out whether the use of tax havens was artificial, or not. If a company makes use of a location like Cayman, but appears to only make intro-group sales from it and has high profits in that location but no tax due and almost no employees and only limited assets do BASF really think it beyond the wit of anyone to work out that tax abuse might be happening?

I suggest BASF knows all these things.

In that case I question the evidence they gave to the Bundestag.

They might have said they felt that disclosing this information was not helpful to the company. They could have used the hackneyed argument that it would prejudice their ability to make profits (although economically that contravenes all market theory on transparency and so is obviously untrue unless they had referred to monopoly profits). But they did not do these things. They said the user would not understand the data supplied.

They are wrong. Even in its basic form this data is incredibly powerful.

But let me then add the obvious rejoinder. If they really thought that seven items of data were not useful as published wouldn't they have a duty to explain them? Isn't that what being accountable is all about? And isn't that what companies are meant to be?

BASF shot itself in the foot at this hearing. I think everyone knew it.