

## European Union: Country-by-Country Reporting Data

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I [had an article on Bloomberg BNA](#) yesterday under the above title. As I noted:

*Bloomberg BNA has highlighted an issue of enormous public significance, even if it might seem to be deeply technical and inconsequential to most people. The matter in question is whether country-by-country reporting (“CbCR”) data is accounting or tax information.*

*The European Commission and the European Union (“EU”) Parliament both think it accounting data. They want, in varying degrees of detail and geographic spread, that information to be published for public use. The European Council of Ministers has obtained legal opinion that the information in question is tax data. The difference of opinion has enormous consequences. That is because accounting data is subject to Commission and Parliamentary control by majority decision. Tax data is, on the other hand, a devolved responsibility of Member States, and so subject to a requirement of unanimity when it comes to decision making at an EU level. Perhaps unsurprisingly many of the EU's tax havens are desperate to oppose public CbCR for all large multinational companies. You would almost think these places really do want to be considered secrecy jurisdictions—and they have realized that the only way they can beat the Commission and Parliament is by securing this opinion in the Council.*

*So, who is right? The simple answer is, of course, that legally no one knows as yet. The only way to resolve the impasse if negotiation cannot do so is by referral to the Court of Justice of the European Union (“CJEU”) for them to decide. But that does not stop me offering an opinion, and as the creator of the CbCR concept I think I have some right to do so.*

*In my opinion CbCR is now, always has been, and was always intended to be, accounting data. I cannot by any stretch of the imagination think it could be classified as tax data.*

And as I concluded:

*What no one said [until the OECD intervened on country-by-country reporting] was that this was tax data, which it is not. That is because no one, anywhere, will tax a company in CbCR data. No one has said they should. All that anyone including the OECD says, is that CbCR data is accounting data that can, among other uses, be used for the purposes of tax risk assessment: and it's only indicative and not definitive for that purpose. It's just an accounting tool. A tool which can also, importantly, also be used to analyze supply chains, geopolitical risk, employment patterns, investment patterns and a great deal more, none of which are in any way related to tax-making the claim that this is tax data almost impossible to sustain, but making the case that this is accounting data that should be in the public domain if multinational corporations are to be held to account for their actions almost unanswerable, at a time when this is a near universal political demand capable of rocking democracy to its core.*

*So let's stop the nonsense: information extracted from a company's general ledger that is not used for tax assessment purposes and never will be cannot be tax data. It's accounting data and to argue anything else, just because the OECD were persuaded to share the NGO view that this was enormously useful for tax risk assessment purposes, is absurd-or incredible-or just wrong. In which case there is only one decision the CJEU could ever make in this issue, in my opinion.*

The rest [is here](#).