

US Country-by-Country Reporting Rules Expected to Finalize Early By Vinh-Khoi Le, J.D. Candidate 2016 | March 13, 2016

Robert Stack, Deputy Assistant Secretary for International Tax Affairs in the US Treasury Department, said that the country expects to [finalize](#) its rules on country-by-country reporting by June 30. This is a full six months earlier than expected under the proposed rules ([REG-109822-15](#)). The reason for the regulation's expedited finalization is that companies meeting threshold level of sales would thereafter be required to file a country-by-country report with their tax return "for all tax years that begin after that date, including years beginning on July 1, 2016, and September 1, 2016." This follows the OECD's Base Erosion and Profit Shifting (BEPS) initiative to push for global country-by-country reporting initiatives, among other international tax reforms, to increase transparency. Finalized on October 5, 2015, the discussion on country-by-country reporting (Action 13) can be found [here](#). The sooner the US regulations are finalized, the sooner the initiative can be implemented.

The proposed rules, released on December 21, 2015, [require](#) US multinational companies that are ultimate parent entities of US multinational enterprise (MNE) groups with annual revenues of at least \$850,000,000 to provide information regarding their operations (revenue, number of employees, taxes paid or withheld, etc.). This information may be shared with other taxing authorities in an Information Exchange Agreement. In reciprocation, IRS will expect to receive similar information from other taxing authorities about the operations of foreign multinational companies doing business in the United States.

A US MNE group is defined by two parts. Firstly, the reporting US parent must control a group of business entities, at least one of which is organized or a tax resident outside of the US. Tax residency would be based on the place of management, place of organization, or other analogous metrics. Secondly, a US MNE group must either actually be required to [consolidate](#) under US GAAP (through majority ownership or otherwise) or be in a position such that it would be required to do so if the equity interests of the US business entity were traded publicly on an American securities exchange.

There are many concerns regarding the handling of the information by tax authorities. Generally, Information Exchange Agreements prohibit parties from using the information for any purpose other than the administration of taxes. However, given the difficulty of undoing the harm resulting from even an accidental breach of confidentiality, agency discretion in the use of such information remains a vital concern. Moreover, even if confidentiality measures taken by the IRS and other taxing authorities are adequate with respect to third parties, concerns remain as to how tax authorities will use the information. How the IRS and other tax authorities address these concerns going forward (or don't) is certainly a development to watch.