

# Possible reporting obligations for German group companies - Pillar II and Public CbCR

***New tax reporting obligations may not only apply to the ultimate parent company, especially if it is domiciled outside the EU.***

With effect from 21 June 2024, the obligation for public country-by-country reporting (CbCR) came into force for multinational groups with a global turnover of more than EUR 750 million. In addition, the global minimum tax (Pillar II) applies to groups of this size since 1 January 2024. Even though both regulations primarily aim at the ultimate parent company of the group, domestic subsidiaries and branches may also be affected. We would like to take this opportunity to draw your attention to possible obligations for domestic group entities with foreign parent companies.

## Public CbCR

The obligation to prepare a CbCR has been in force since 2016. However, this reporting only takes place to the tax authorities. The EU is now supplementing this reporting with a public reporting obligation. Germany has implemented the corresponding directive with Sections 342 et seq. HGB.

Medium-sized and large domestic companies as well as domestic branches with a turnover of more than EUR 12 million are required to report, provided that they belong to a group that has generated global turnover of more than EUR 750 million in two consecutive financial years starting on 21 June 2024 and whose parent company is based outside the EU.

Affected domestic group companies and branches are only exempt from their own reporting obligation if the parent company publishes the report in an official EU language on its website and another EU group company has disclosed the report in accordance with the respective national regulations.

The report must be published in the company register and on the company's website within one year of the end of the reporting period and must be available for at least five years. Incorrect, incomplete or late publications or publications that are not made for at least five years can be penalised with a fine of up to EUR 250,000.

In contrast to CbCR, parent companies outside the EU are generally not obliged to prepare a Public CbCR. While there was no separate reporting obligation for the previous CbCR, as there was an automatic exchange of information between Germany and the tax authorities responsible for the parent company, the domestic group companies and branches now have to prepare the public CbCR themselves. However, it is allowed to prepare the report in accordance with the non-public CbCR.

## Minimum Tax Act (Pillar II)

The minimum tax law applies for the first time from 1 January 2024 and affects domestic business units that are part of a group that reports global sales of more than EUR 750 million in two of the four preceding financial years.

The global minimum tax coordinated by the OECD and known as Pillar II basically follows a top-down approach. The obligation to prepare a minimum tax report and to declare the minimum tax should therefore generally be satisfied by the ultimate parent company. Nevertheless, domestic business units may also be affected by the provisions of the Minimum Tax Act.

If the country of residence of the ultimate group company applies the Pillar II regulations, the domestic business unit is exempt from reporting obligations if there is an automatic exchange of information between Germany and the country of residence of the ultimate parent company. Even if there is an exemption from submitting a minimum tax report, it is possible that the domestic business unit may still be obliged to submit a tax return.

The obligation to submit a tax return also applies if no minimum tax is incurred ("zero return").

More extensive reporting and declaration obligations are to be expected where the country of residence of the parent company has not introduced the Pillar II regulations or has only introduced them for periods after 2024. In these cases, the domestic business unit may be obliged to prepare a minimum tax report and file a minimum tax return. As part of the secondary supplementary tax to be applied from 2025, the minimum tax may also include foreign group companies.

Minimum tax reports must be submitted to the Federal Central Tax Office for the first time for the 2024 financial year by 30 June 2026. The same deadline applies to the filing of the corresponding minimum tax return.

Multiple domestic business units form a minimum tax group. The reporting and declaration obligation for the minimum tax group is performed by one of the domestic business units, the so-called group parent. For the 2024 financial year, the group parent must be notified to the Federal Central Tax Office by 28 February 2025.

All domestic business units that are part of a group with a global turnover of more than EUR 750 million are therefore required to review which reporting and declaration obligations apply to them.



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