

Country-by-country reporting and transfer mispricing

Helsinki
June 2012

Richard Murphy FCA
Tax Research LLP
adviser to the
Tax Justice Network

What is CBC?

- “Country-by-country reporting is in essence a simple idea. All it demands is that multinational corporations publish a profit and loss account and limited balance sheet and cash flow information for almost every jurisdiction in which they trade as part of their annual financial statements.”

CBC: holding globalisation to account locally



CBC: the detail

- Where are you?
- What are you called?
- P & L:
 - Sales
 - Hedging
 - Purchases
 - Labour cost and numbers
 - Financing income and spend
 - Profit
 - Tax, split current and deferred
 - Dividends
 - Extractive industry details if appropriate
- **Note: Red means split between third party and intra group**

CBC: the detail (2)

- Balance sheet:
- Tangible assets
- Intangible assets
- Current assets
- Current liabilities:
 - Tax
 - Other host government
 - Other
- Deferred liabilities
 - Tax
 - Other host government
 - Other
- Net assets

CBC: the detail (3)

- Cash flow:
- Corporation tax paid
- Plus in the case of the Extractive Industries:
- Tax paid
- Rents
- Signing fees
- Profit shares
- etc

CBC: the uses

- Investor appraisal:
 - Geopolitical risk
 - Tax risk
 - Governance risk & tax havens, etc.
- Stakeholder use
 - Holding the corporation to account locally
 - Labour issues
 - Environmental campaigning, etc.
- Extractive industries & EITI
- Regulators:
 - Trade
 - Media
 - Banking
 - Tax, etc.

CBC & Transfer Pricing 1

– risk assessment

- Allows a unitary apportionment calculation with ease on the group:
 - Does the accounting allocation of profit accord with the likely underlying drivers of profit?
 - If not, why not, and where?
 - Is it worth taking transfer mispricing case?
 - Or move on to next case?
- Benefit, massively enhanced allocation of resources to cases with most likely chance of raising revenue and acting as deterrent

CBC & Transfer Pricing 2

– populating databases

- ALP requires “uncontrolled comparables”
- These aren’t available outside OECD (and often within)
- The databases are empty
- CBC does four things:
 - Populates the databases
 - Gives a quality measure on whether the data is third party or not
 - Therefore provides real comparables or proves there none
 - Stops the current process of comparing ‘cost plus’ data with ‘cost plus’ data
- As such, perversely, CBC is just about the only thing that could give ALP a chance

CBC & Transfer Pricing 3

– dispute resolution

- Disputes are on:
 - Databases
 - Methods
 - Profit allocation in vertical supply chains
- CBC:
 - Populates the databases
 - Reveals margins and whether variable or not
 - Reveals vertical supply chains
- As such is allows dispute resolution on the basis of fair allocation of profit throughout the supply chain, ignoring intra-group transfers, which it reveals

CBC & Transfer Pricing

– conclusion

- If we've got to have ALP then CBC gives it the best chance of working
- And provides the data to make it possible outside the OECD
- If we're heading for unitary apportionment then CBC provides the data needed
- And even if unitary is only used as a risk assessment tool it will massively improve tax authority allocation of resources with a significant likely net revenue yield
- So, whichever way you turn CBC helps

Contact details

Richard Murphy FCA

Director

Tax Research LLP

The Old Orchard, Bexwell Road, Downham Market

Norfolk PE38 9LJ

+44 (0) 1366 383500

+44 (0) 777 552 1797

www.taxresearch.org.uk/blog

richard.murphy@taxresearch.org.uk