

**Andres Garcia,  
Internal Revenue Service  
Room 6526,  
1111 Constitution Avenue NW,  
Washington, DC 20224**

March 3, 2023

Submitted electronically via [pra.comments@irs.gov](mailto:pra.comments@irs.gov)

**RE: Proposed Collection; Requesting Comments on Form 8975 and  
Schedule A (Form 8975)  
OMB Control No. 1545-2272**

Dear Mr Garcia,

This letter responds to the request for comment from the Internal Revenue Service (IRS) on proposed and/or continuing information collections on Form 8975, Country-by-Country Report, Schedule A (Form 8975), Tax Jurisdiction and Constituent Entity Information. We welcome the opportunity to comment on Form 8975 and Schedule A. The comments provided below focus on points a and c.

The EU Tax Observatory is an independent research laboratory hosted at the Paris School of Economics. It conducts innovative research on taxation, contributes to a democratic and inclusive debate on the future of taxation, and fosters a dialogue between the scientific community, civil society, and policymakers in the European Union and worldwide.

**Comments on Form 8975 and Schedule A (Form 8975)**

Form 8975 provides new useful information on multinationals' activities, that should be enhanced to allow monitoring of multinationals' behaviours, especially with the view of the Pillar II implementation.

As documented by Nessa et al. (2022), Form 8975 provides the Internal Revenue Service with incremental information about U.S. multinationals' international operations in both low-tax and non-low-tax countries in particular relative to Form 5471 filings. This additional information can assist the IRS in identifying and potentially curbing tax-motivated income shifting. In addition, this information is contributing to the advancement of research work on multinational companies of the EU Tax Observatory and more generally the academic and policy

community. Recently, this data was one of the key assets used to evaluate the introduction of Pillar II measures and enhance international collaboration on tax reform and enforcement.

The quality and usefulness of Form 8975 could be enhanced mainly in two ways: by clarifying the definitions of existing variables and by adding additional variables. First, Aliprandi and von Zedlitz (2023) observe in the context of voluntarily published CbCRs that multinationals might implement different variable definitions (e.g. include inventory in tangible assets or not) which would hamper the comparability of Form 8975 between multinationals. Comparing multinationals with each other would be crucial to identify suspicious reports and behaviours. To enhance the data quality and improve comparability between multinationals it would be useful to clarify and make uniform the treatment and computation of:

- **Equity accounted units**, if not properly detected might bias the interpretation of the data and the comparison across variables. This is because when a parent entity exercises significant influence but no control over an entity, as is typically the case with associates and joint ventures, the group's share of the entity's *after-tax* profit or loss is usually included in a single line of the group's consolidated income statement but no information on tangible assets or revenues would be presented in other accounts. If the same treatment is applied also to compute CbCR figures, there is a risk of biasing statistics using the profit variable (such as the effective tax rate). This is because *after-tax* profit would be recorded in some jurisdictions but not the corresponding amount of tangible assets employees etc;
- **“Accumulated earnings” and “Stated capital”** seem to be particularly subject to double counting.

Second, to enhance the utility of Form 8975 it would be useful to collect additional information that would complement the one already collected. In particular, in addition to the existing variables it would be useful to collect on a country-by-country basis:

- **The amount of wages**, as this would provide a relevant indicator of economic activities completing the information provided with the variable “number of employees”;
- **The amount of intangibles**, as this is both a crucial production factor of modern multinationals and a mobile factor that might facilitate profit shifting;
- **R&D expenses** would allow evaluation of the effects of different incentives increasingly put in place by governments and understanding of how they are used by companies;

- **Intracompany management and administration fees, dividends, royalties and interests**, which are mobile flows commonly used for base erosion purposes and would allow monitoring of the use made by multinationals;
- **Sales by destination**, would complete the picture provided by revenues that record sales by origin.

Pursuant to the authority relied upon by the IRS in promulgating the regulations under 26 C.F.R. 1.6038-4, the IRS and Treasury also have the authority to require additional information with respect to each of these categories as doing so may be helpful in ensuring tax compliance, improving tax enforcement, and otherwise aiding in tax administration (including as it relates to international collaboration).

Thank you very much for considering the EU Tax Observatory's thoughts on this topic. Should you have any questions, please feel free to contact [contact@taxobservatory.eu](mailto:contact@taxobservatory.eu).

## References

Nessa et al., (2022) " The Effect of U.S. Country-by-Country Reporting on U.S. Multinationals' Tax-Motivated Income Shifting and Real Activities"

Aliprandi and von Zedlitz, "Benchmarking Country-by-Country Reports", EU Tax Observatory, *Forthcoming*