

114TH CONGRESS
1ST SESSION

H. R. 4297

To impose certain requirements on the Secretary of the Treasury relating to transmittals of country-by-country reports for purposes of the Base Erosion and Profit Shifting Action Plan.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18, 2015

Mr. BOUSTANY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose certain requirements on the Secretary of the Treasury relating to transmittals of country-by-country reports for purposes of the Base Erosion and Profit Shifting Action Plan.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REQUIRED MEASURES RELATING TO TRANS-**
4 **MITTALS OF COUNTRY-BY-COUNTRY RE-**
5 **PORTS AND MASTER FILE INFORMATION.**

6 (a) PROHIBITION.—The Secretary is expressly pro-
7 hibited from collecting from a United States person or

1 transmitting to any foreign jurisdiction any country-by-
2 country report information of any United States person
3 with respect to taxable years beginning before January 1,
4 2017.

5 (b) SUSPENSION OF TRANSMITTAL OF CBCRS.—The
6 Secretary shall suspend the transmittal of country-by-
7 country report information of any United States person
8 to a foreign jurisdiction if the Secretary determines that
9 the foreign jurisdiction is—

10 (1) abusing master file documentation require-
11 ments; or

12 (2) failing to safeguard the confidentiality of in-
13 formation required in the master file.

14 (c) FACTORS IN DETERMINING ABUSE OF MASTER
15 FILE DOCUMENTATION REQUIREMENTS.—For purposes
16 of this section, a foreign jurisdiction is abusing master file
17 documentation requirements if, in connection with the ad-
18 ministration of the transfer pricing documentation stand-
19 ards set forth in Action 13 of the Base Erosion and Profit
20 Shifting Action plan, the foreign jurisdiction is seeking—

21 (1) any trade, business, industrial, commercial
22 or professional secret or trade process;

23 (2) group consolidated financial statements that
24 are not filed with the United States Securities and
25 Exchange Commission;

1 (3) confidential communications between a cli-
2 ent and an attorney, solicitor or other admitted legal
3 representative where such communications are—

4 (A) produced for the purposes of seeking
5 or providing legal advice, or

6 (B) produced for the purposes of use in ex-
7 isting or contemplated legal proceedings;

8 (4) information if the disclosure would be con-
9 trary to United States public policy (*ordre public*);
10 or

11 (5) information the Secretary otherwise deter-
12 mines to be inappropriate for purposes of this sec-
13 tion.

14 (d) REPORTS.—Not later than January 31 of each
15 calendar year, the Secretary shall furnish to the Com-
16 mittee on Ways and Means of the House of Representa-
17 tives, the Committee on Finance of the Senate, and the
18 Joint Committee on Taxation a report on allegations or
19 reports received concerning abuse of master file require-
20 ments, and any actions taken with respect to such allega-
21 tions, including—

22 (1) the instances in the preceding calendar year
23 the Secretary determined under subsection (b) the
24 abuse of master file documentation requirements

1 and failures to safeguard the confidentiality of infor-
2 mation required in the master file, and

3 (2) the nature of each such abuse or failure.

4 (e) DEFINITIONS.—For purposes of this section—

5 (1) BASE EROSION AND PROFIT SHIFTING
6 PLAN.—The term “Base Erosion and Profit Shifting
7 Action Plan”, known as “BEPS”, means the plan
8 released by the Organization for Economic Coopera-
9 tion and Development.

10 (2) COUNTRY-BY-COUNTRY REPORT.—The term
11 “country-by-country report”, known as “CbCR”,
12 means a report contemplated under Action Item 13
13 of the Base Erosion and Profit Shifting Action Plan.

14 (3) MASTER FILE.—The term “master file”
15 means the documentation contemplated under Ac-
16 tion Item 13 of the Base Erosion and Profit Shifting
17 Action Plan and necessary to provide a high-level
18 overview in order to place a United States person’s
19 transfer pricing practices in their global economic,
20 legal, financial, and tax context, in order to provide
21 backdrop to country-by-country report data reported.

22 (4) SECRETARY.—The term “Secretary” means
23 the Secretary of the Treasury, or the Secretary’s
24 delegate.

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