

Облік і оподаткування

UDC 004.9:657:005.93

Chumak Vasyl

PhD Student of the

State Educational-Scientific Establishment

"The Academy of Financial Management"

Чумак Василь Петрович

аспірант

ДННУ «Академія фінансового управління»

ORCID: 0009-0008-3956-6446

ENSURING THE CONFIDENTIALITY OF TAX INFORMATION FOR INTERNATIONAL EXCHANGE

ЗАБЕЗПЕЧЕННЯ КОНФІДЕНЦІЙНОСТІ ПОДАТКОВОЇ ІНФОРМАЦІЇ, ЯКА Є ПРЕДМЕТОМ АВТОМАТИЧНОГО ОБМІНУ

Summary. *Introduction. Today's globalized world requires government agencies and international organizations to ensure effective control over the taxation of multinational companies. One of the biggest problems of international taxation is aggressive tax planning based on the erosion of the tax base and shifting of profits to jurisdictions with low tax rates (Base Erosion and Profit Shifting - BEPS). A special place in these processes is occupied by Transfer Pricing, which is used by international groups of companies (MNEs) to redistribute income between countries in order to minimize tax liabilities.*

The purpose – to analyze the existing practice of ensuring the protection of confidentiality and proper use of information that is subject to automatic exchange as part of the implementation of the BEPS Action Plan.

Materials and Methods. The information base of the research includes: publications in professional scientific journals and journals indexed in

international scientometric databases of economic orientation; monographs, regulatory acts defining the institutional framework for counteracting the erosion of the tax base by the corporate income tax.

The methodological basis of the work is based on general scientific and special methods of studying economic processes and phenomena, in particular: bibliographic analysis, induction, methods of theoretical generalization and comparison, analysis, synthesis, and logical generalization of results.

Results. The article proves, through an analysis of existing international practice, that the implementation of the BEPS Action Plan and the introduction of CbCR reporting contribute to the transparency of taxation of international groups of companies, allowing tax authorities to effectively analyze transfer pricing risks.

It is proved that the confidentiality of tax information remains a serious challenge for the controlling tax authorities. The study identifies that a key prerequisite for the formation of an effective system of financial data transfer through international channels is the standardization of protection and compliance with the confidentiality requirements established by international organizations, in particular, the OECD. An analysis of the current practice of ensuring data confidentiality has revealed that the existing risks of information leakage or misuse may affect the trust between countries and accountable taxpayers.

Based on the analysis of international practice, the author identifies that different jurisdictions apply different mechanisms for protecting the confidentiality of CbCR reports. The author proves that the introduction of internationally agreed standards, such as OECD requirements and multilateral agreements, is critical to ensuring the security of the transmitted information.

In the course of the study, the author identifies the challenges related to ensuring the confidentiality of the transmitted data: the risk of unauthorized access; non-compliance with information security standards; limited control

over the use of the received data. The author proposes ways to overcome these challenges, in particular: creation of an international center for monitoring the security of tax data; introduction of a standardized encryption technology; improvement of mechanisms of liability for breach of confidentiality; and use of blockchain technologies in data exchange processes.

Discussion. Further research should focus on the study of national practices for developing optimal mechanisms for ensuring the security of tax information, analyzing the impact of digital technologies on the efficiency of automatic data exchange, and studying international experience in preventing transfer pricing abuse. This will help to form the institutional basis for further improvement of tax administration in Ukraine.

Key words: BEPS Action Plan, transfer pricing, automatic exchange of tax information, country-by-country report, international group of companies, OECD.

Анотація. Вступ. Сучасний глобалізований світ вимагає від державних органів та міжнародних організацій забезпечення ефективного контролю за оподаткуванням транснаціональних компаній. Однією з найбільших проблем міжнародного оподаткування є агресивне податкове планування, яке базується на розмиванні податкової бази та переміщенні прибутків до юрисдикцій із низькими ставками оподаткування (Base Erosion and Profit Shifting – BEPS). Особливе місце в цих процесах займає трансфертне ціноутворення (Transfer Pricing), що використовується міжнародними групами компаній (MNE) для перерозподілу доходів між країнами з метою мінімізації податкових зобов'язань.

Мета – аналіз існуючої практики забезпечення захисту конфіденційності та належного використання інформації, яка є предметом автоматичного обміну в рамках реалізації заходів Плані дій BEPS.

Матеріали та методи. Інформаційна база проведеного дослідження включає: публікації у фахових наукових виданнях та виданнях, що індексуються у міжнародних наукометричних базах, економічного спрямування; монографії, нормативно-правові акти, що визначають інституціональні засади протидії розмиванню бази оподаткування податком на прибуток.

Методологічну основу роботи становлять загальнонаукові та спеціальні методи дослідження економічних процесів та явищ, зокрема: бібліографічний аналіз, індукція, методи теоретичного узагальнення та порівняння, аналіз, синтез, логічне узагальнення результатів.

Результати. У статті через аналіз існуючої міжнародної практики доведено, що реалізація Плану дій BEPS та запровадження звітності CbCR сприяє прозорості оподаткування міжнародних груп компаній, дозволяючи податковим органам ефективно здійснювати аналіз ризиків трансфертного ціноутворення.

Доведено, що конфіденційність податкової інформації залишається серйозним викликом для контролюючих податкових органів. У ході проведеного дослідження ідентифіковано, що ключовою передумовою формування ефективної системи передачі фінансових даних через міжнародні канали є стандартизація захисту та забезпечення відповідності вимогам конфіденційності, встановлених міжнародними організаціями, зокрема ОЕСР. Аналіз чинної практики забезпечення конфіденційності даних дозволив виявити, що наявні ризики витоку або неправомірного використання інформації можуть вплинути на довіру між країнами та підзвітними платниками податків.

На основі аналізу міжнародної практики ідентифіковано, що різні юрисдикції застосовують неоднакові механізми захисту конфіденційності звітів CbCR. Автором доведено, що запровадження узгоджених на міжнародному рівні стандартів, таких як вимоги ОЕСР та

багатосторонні угоди, є критично важливим для забезпечення безпеки переданої інформації.

У ході дослідження автором виділено виклики, пов'язані із забезпеченням конфіденційності переданих даних: ризик несанкціонованого доступу; невідповідність стандартам захисту інформації; обмежені можливості контролю за використанням отриманих даних. Запропоновано шляхи подолання цих викликів, зокрема: створення міжнародного центру моніторингу безпеки податкових даних; впровадження стандартизованої технології шифрування; удосконалення механізмів відповідальності за порушення конфіденційності; застосування блокчейн-технологій у процесах обміну даними.

Перспективи. Подальші наукові дослідження повинні зосередитися на дослідженні національних практик розробки оптимальних механізмів забезпечення безпеки податкової інформації, аналізі впливу цифрових технологій на ефективність автоматичного обміну даними, а також на вивченні міжнародного досвіду запобігання зловживанням у сфері трансфертного ціноутворення. Це дозволить сформувати інституціональне підґрунтя подальшого удосконалення податкового адміністрування в Україні.

Ключові слова: План дій BEPS, трансфертне ціноутворення, автоматичний обмін податковою інформацією, звіт у розрізі країн, міжнародна група компаній, ОЕСР.

Problem statement. The modern globalized world requires government authorities and international organizations to ensure effective control over the taxation of multinational companies. One of the biggest challenges in international taxation is aggressive tax planning, which is based on base erosion and profit shifting (BEPS) to jurisdictions with low tax rates.

A key aspect of this process is transfer pricing, which multinational enterprises (MNEs) use to allocate income across countries to minimize tax liabilities.

In response to these challenges, the international community, particularly the OECD, has introduced the BEPS Action Plan, which provides for the automatic exchange of tax information between tax authorities in different countries. One of the key mechanisms in this process is Country-by-Country Reporting (CbCR), which allows governments to obtain detailed information on profit allocation, taxes paid, and the economic activities of multinational companies in each jurisdiction where they operate.

Despite the advantages of automatic tax information exchange, several issues arise concerning the confidentiality of such data. The transfer of sensitive financial information between tax authorities of different jurisdictions poses risks of data breaches, improper use, or misuse. Since CbCR reports contain crucial details on transfer pricing and corporate income structuring, their improper use may lead to competitive disadvantages and legal risks for businesses. Moreover, countries have different legal approaches to protecting confidential data, which can complicate mutual information exchange and undermine trust among participants in the process.

Thus, the development of effective mechanisms to ensure tax information confidentiality during automatic exchange remains a pressing issue, particularly in the field of transfer pricing. It is essential to identify the best international practices in this area, assess their compliance with existing standards, and determine key challenges that may hinder their implementation. Special attention should be given to digital security, legal regulation, and the practical application of confidentiality requirements across different countries.

In this context, the study focuses on analyzing approaches to confidentiality protection and the proper use of information within the framework of automatic tax data exchange, in line with OECD international

standards and the BEPS Action Plan, with a particular emphasis on transfer pricing and its impact on global tax transparency.

Literature. The issue of ensuring the confidentiality of tax information subject to automatic exchange has been widely studied by numerous researchers, including Oliinyk Y., Kucheriava M., Krishtopa I., Nikolenko L., Chukhraieva N., Albrecht J. Ph., Jotzo F., Mercer S., Debelva F., Nicolas F., Thomsen S., Bang M., and others [1-10].

Many companies have expressed concerns regarding certain BEPS Action Plan recommendations, particularly the new information exchange requirements and the disclosure of corporate data, which in many cases go far beyond the originally stated objectives of the BEPS initiative. Despite the fact that CbCRs submitted by MNEs to tax jurisdictions may impose a significant additional administrative burden on companies, these reports will be shared with foreign governments on a bilateral basis through treaties and information exchange agreements.

Given that CbCR submission to foreign tax authorities exclusively through information exchange mechanisms ensures the confidentiality and proper use of information by foreign jurisdictions, the issue of establishing confidentiality conditions for personal data—particularly in terms of digital data formats, cross-border data flows, and information management—has not been sufficiently explored.

The purpose is to analyze the existing practices for ensuring the confidentiality and proper use of information subject to automatic exchange within the framework of the BEPS Action Plan measures.

Achieving this goal requires addressing the following objectives:

-summarize the conditions for the exchange of Country-by-Country Reports (CbCRs) across different jurisdictions;

-examine the conditions for ensuring CbCR confidentiality in various countries in accordance with international practices, using different approaches to data protection and proper usage in practice.

Methodology. *The information base* of the research includes: publications in professional scientific journals and journals indexed in international scientometric databases of economic orientation; monographs, regulatory acts defining the institutional framework for counteracting the erosion of the tax base by the corporate income tax.

The methodological basis of the work is based on general scientific and special methods of studying economic processes and phenomena, in particular: bibliographic analysis, induction, methods of theoretical generalization and comparison, analysis, synthesis, and logical generalization of results.

Results. Jurisdictions most frequently exchange tax information with their key trading partners, neighboring countries, and members of the same international organizations or country groups that share common goals in various fields. These include organizations such as the European Union (EU), the Joint International Tax Shelter Information Center (JITSIC), the Forum on Tax Administration (FTA), and the Intra-European Organisation of Tax Administrations (IOTA), among others.

Other key reasons for the systematic exchange of tax information, according to available data, include:

- participation in political unions (as noted by New Zealand) [11];
- significant migration of citizens (according to Serbia's data) [12];
- large-scale investments (in the case of South Korea) [13];
- active cross-border activities (as reported by Denmark) [14];
- a high number of citizens residing in a specific region (data from Poland and the United Kingdom) [15].

The exchange of tax information can be based on several legal mechanisms. The legal grounds for tax information exchange include:

International tax treaties on the avoidance of double taxation, Tax information exchange agreements (TIEAs), The OECD Convention on Mutual Administrative Assistance in Tax Matters (adopted on January 25, 1988), hereinafter referred to as the Convention. The Convention, as amended by the Protocol of May 27, 2010, is open for signing and ratification by all countries, including those that are not members of the OECD. It is intended to serve as a global mechanism for international legal assistance in taxation, with a primary focus on tax information exchange.

The key EU documents governing tax information exchange include:

- Council Directive 2011/16/EU of February 15, 2011, on administrative cooperation in the field of taxation, which establishes the framework for exchange of tax information upon request among EU member states, simultaneous tax audits in two or more EU countries, participation in tax inspections, and document delivery within another EU member state's territory [16]. Furthermore, since 2015, EU countries have been required to implement laws and administrative procedures mandating the automatic (without request) exchange of information on tax periods starting from January 1, 2014.
- European Parliament and Council Directive 2005/60/EC of October 26, 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing [17].
- Council Directive 2003/48/EC of June 3, 2003, on the taxation of savings income in the form of interest payments (as amended by Council Directive 2014/48/EU of March 24, 2014) [18].

Furthermore, a new document regulating the exchange of tax information has recently emerged. During the Seventh Plenary Meeting of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes in Berlin (2014), representatives of 51 countries signed an agreement providing for the annual automatic exchange of data on non-residents' financial accounts. This agreement was signed by all EU member states. At the same time, some

countries that have not formally joined the agreement have expressed their willingness to comply with its provisions. Ukraine has also begun preparations for signing this agreement.

National legislation generally supports the exchange of tax information. Although certain obstacles sometimes arise in its effective implementation, governments have been proactive in amending their legislation to align with international standards. For example:

- Italy and South Korea have introduced changes to their existing procedures to accelerate treaty ratification;
- the Netherlands has amended its domestic rules to improve response times to tax information exchange requests;
- India has developed and implemented new tax declaration forms [19, 20].

However, domestic legislation can sometimes impede full compliance with all forms of international tax information exchange and assistance in tax collection. This is the case in Poland and Serbia, which have stated that certain forms of tax cooperation practiced internationally, such as assistance in tax collection, cannot yet be implemented in their jurisdictions.

Thus, the primary mechanism through which developing countries can gain access to Country-by-Country Reports (CbCRs) is mainly the exchange of information with the tax jurisdiction of the Unified Parent Enterprise (UPE).

However, for such an exchange to take place, several critical preconditions must be met, including the following (see Figure 1):

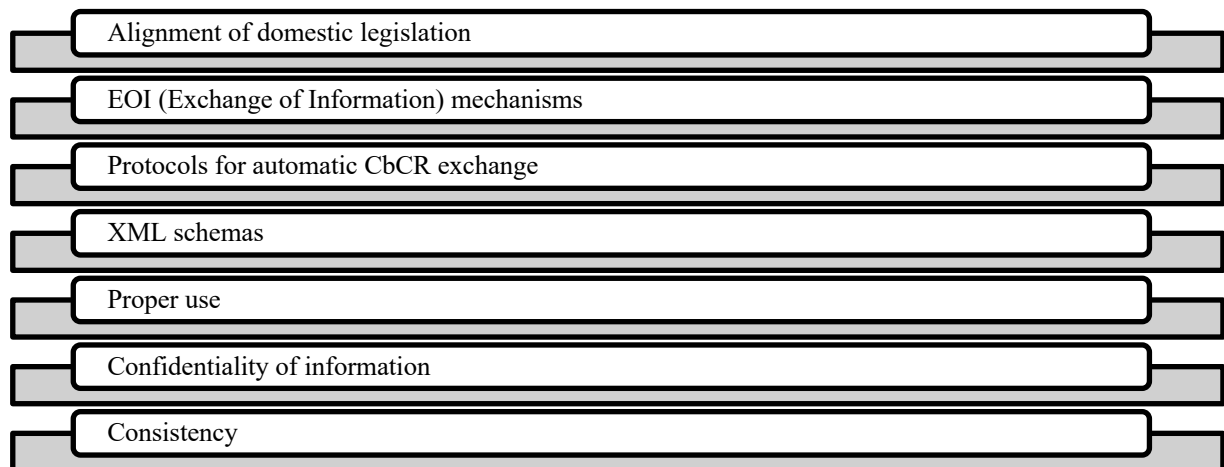


Fig. 1. Conditions for the Exchange of CbCR Reports

Source: summarized by the author on the basis of [21]

1. Domestic Legislation Requirements

A country must have domestic legislation that mandates any local Unified Parent Enterprise (UPE), which is part of a Multinational Enterprise (MNE) group and meets the CbC reporting size criteria, to submit such reports. This requirement must be enforced even if the headquarters of the MNE is not located within the country.

This rule reflects the "principle of reciprocity" in information exchange, including the exchange of CbC reports. It means that countries will not exchange information with other jurisdictions unless those jurisdictions can provide reciprocal access to equivalent information.

According to the OECD Model Tax Convention on Income and Capital, particularly in relation to reciprocity in the exchange of information procedures (EOI), Article 26 states: *"It follows that one Contracting State cannot utilize the information system of another Contracting State if the latter has broader capabilities than its own system. Thus, a state may refuse to provide information if the requesting state is legally prohibited from obtaining or sharing similar information or if the administrative practices of the requesting state (such as a*

lack of sufficient administrative resources) lead to an absence of reciprocity" [22].

2. Existence of Information Exchange Mechanisms

There must be established mechanisms for information exchange. These mechanisms can take the form of: Membership in a multilateral agreement on information exchange, most commonly the Multilateral Convention on Mutual Administrative Assistance in Tax Matters; Tax treaties that include provisions for information exchange; Specific Tax Information Exchange Agreements (TIEA), designed to facilitate the exchange of tax-related data between jurisdictions.

The presence of such agreements and treaties ensures a legal and operational framework for the effective and secure exchange of Country-by-Country Reports (CbCRs) between tax authorities.

3. Availability of Protocols for Automatic Exchange of CbCRs

There must be protocols in place that allow for the automatic exchange of Country-by-Country Reports (CbCRs) under existing agreements. These protocols may take the following forms:

- Multilateral Competent Authority Agreement (MCAA) on the exchange of CbCRs, enabling automatic exchange among signatory jurisdictions.
- Competent Authority Agreement (CAA) for the exchange of CbCRs based on a Double Taxation Convention (DTC CAA), which facilitates exchange under the framework of bilateral tax treaties.
- Competent Authority Agreement (CAA) for the exchange of CbCRs based on a Tax Information Exchange Agreement (TIEA CAA), which enables exchange under specific agreements dedicated to tax data sharing.

The existence of such agreements ensures that tax authorities automatically receive CbCR data from relevant jurisdictions, supporting global tax transparency and compliance with BEPS regulations.

4. Implementation of XML Schemas for CbC Reporting

XML schemas for Country-by-Country (CbC) reports must be implemented. The format used for information exchange between countries must comply with the OECD XML schema, and the data provided must adhere to the OECD CbCR XML Schema User Guide [23].

5. Compliance with the "Appropriate Use" Condition

Jurisdictions must comply with the "appropriate use" requirement, meaning that the received CbCR data must be used exclusively for: General assessment of transfer pricing risks; Evaluation of other BEPS-related risks; Economic and statistical analysis.

Jurisdictions will not exchange CbCRs with countries that fail to meet the appropriate use condition. Additionally, if a jurisdiction requires local filing of reports under circumstances not outlined in BEPS Action 13, this issue will be flagged during the peer review process (as highlighted in paragraph 15 of the OECD report) [24].

6. The confidentiality condition must be strictly adhered to. This involves incorporating confidentiality provisions into national legislation and applying appropriate confidentiality measures in international tax information exchange mechanisms. At a minimum, equivalent protection measures must be in place, ensuring that CbCR data is safeguarded to the same standard as if it were exchanged under the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, a Tax Information Exchange Agreement (TIEA), or a Double Taxation Agreement (DTA) that adheres to internationally agreed standards for exchange of information upon request. According to paragraph 57 of the Final Report on BEPS Action 13 [22], jurisdictions must also have practical mechanisms in place to ensure compliance with these confidentiality requirements.

In Annex 12 of the Report on BEPS Action 13 regarding CbC reporting documents [23], which is required during the peer review process, specific

elements are outlined that are assessed in the confidentiality review. According to these elements, a jurisdiction is required to have the following:

- Mechanisms for international information exchange that ensure any received information is treated as confidential and, unless otherwise agreed by the relevant jurisdictions, may only be disclosed to individuals or entities (including courts and administrative bodies) responsible for assessing or collecting information, enforcement, prosecution, or handling appeals related to taxes covered by the information exchange provision. Such individuals or entities must use the information solely for the aforementioned purposes unless the parties agree otherwise, and in accordance with their respective laws;
- Necessary internal rules or procedures to enforce the restrictions outlined in the International Agreement and the relevant Competent Authority Agreement;
- The existence and ability to ensure legal protection of the confidentiality of information contained in CbC Reports obtained through local filing, maintaining the confidentiality of the CbC Report to a degree at least equivalent to the protection measures applied if such information were provided to the country under the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (OECD, 2011), a Tax Information Exchange Agreement, or a tax treaty that complies with the internationally agreed standard for information exchange upon request, subject to review by the Global Forum;
- The application of effective penalties for unauthorized disclosure or unauthorized use of confidential information;
- Ensuring confidentiality in practice, such as having a verification and monitoring mechanism to detect and address any breaches of confidentiality;

- Compliance with the provisions of the International Agreement and the relevant Competent Authority Agreement, including restrictions on the use of information received for tax periods covered by the agreement.

Many countries have legislation in place to ensure the confidentiality of taxpayer information. Since numerous developing countries are members of the Global Forum on Transparency and Exchange of Information for Tax Purposes, they must analyze their domestic legislation and international agreements to assess whether they provide sufficient guarantees for maintaining confidentiality. This applies to the peer review process for the Exchange of Information on Request (EOIR), which consists of two phases: Phase I, reviewing the legal and regulatory framework, and Phase II, evaluating the practical implementation of the standards.

It has been found that many countries (137) have adequate security measures in place to ensure confidentiality, while another 17 countries have amended their legislation and implemented systems and procedures to safeguard the confidentiality of documentation received upon request from foreign authorities [27].

7. The consistency requirement must be met, as outlined in the Final Report on BEPS Action 13, which clearly states that domestic country-by-country reporting frameworks must be implemented in accordance with internationally agreed standards [24].

Among the listed conditions, this study focuses on the fifth and sixth requirements, namely "appropriate use" and "confidentiality compliance." These conditions are prerequisites for receiving and utilizing CbCR data. Therefore, jurisdictions may require assurances that their exchange partners comply with these conditions.

The issue of appropriate use was examined in detail during the first phase of the research project. As a result, the research team developed a draft national document on appropriate use, based on the OECD model document.

Consequently, further research will focus on these conditions, with a particular emphasis on ensuring confidentiality compliance.

To ensure the confidentiality and appropriate use of CbC reports, jurisdictions are required to meet certain conditions (see Figure 2).

CONFIDENTIALITY

- Mechanisms for international information exchange
- National rules/procedures for enforcing restrictions
- Legal protection of information confidentiality
- Penalties for unauthorized disclosure/use of confidential information
- Practical implementation of confidentiality measures
- Compliance with all agreements on cooperation with competent authorities

APPROPRIATE USE

- Regulatory and administrative measures: High-level transfer pricing (TP) risk assessment; Protection against substituting detailed TP analysis; Prohibition of unilateral proof of TP compliance/non-compliance; Prohibition of making adjustments to taxpayers' income
- Referral of jurisdictional adjustments to the competent authority for review

Fig. 2. Conditions for Ensuring Confidentiality and Proper Use of CbC Reports

Source: summarized by the author on the basis of [24]

With regard to confidentiality, jurisdictions must:

1) have mechanisms for international information exchange that ensure any received information is treated as confidential. Unless otherwise agreed by the relevant jurisdiction, such information may only be disclosed to individuals or entities (including courts and administrative bodies) responsible for assessment, collection, enforcement, prosecution, or handling appeals related to taxes covered by the information exchange provisions. Such individuals or entities must use the information solely for these specified purposes unless the parties agree otherwise, and in accordance with their respective national laws.

2) Have the necessary national rules and procedures in place to enforce the restrictions outlined in the International Agreement and the related Cooperation Agreement with the respective competent authorities;

3) Ensure the availability and application of legal safeguards to protect the confidentiality of information contained in CbCRs submitted through local filing. These safeguards must guarantee a level of confidentiality at least

equivalent to the protections that would apply if such information were exchanged under the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, a Tax Information Exchange Agreement (TIEA), or a tax treaty that complies with the internationally accepted exchange of information on request standard, as reviewed by the Global Forum on Transparency and Exchange of Information for Tax Purposes;

4) have an effective system of penalties for unauthorized disclosure or unauthorized use of confidential information;

5) Ensure practical implementation of confidentiality measures, such as establishing monitoring and oversight mechanisms to detect and address any breaches of confidentiality;

6) Comply with the provisions of the International Agreement and the related Cooperation Agreement with the respective competent authorities, including restrictions on the use of information received for tax periods covered by the agreement.

In the OECD Guidelines on the appropriate use of information contained in Country-by-Country (CbC) Reports, the definition of "appropriate use" states: "A jurisdiction's ability to receive and use CbC reports depends on whether it uses CbCR information appropriately. This condition is described in paragraphs 25 and 59 of the BEPS Action 13 Report and takes effect under Article 6(1) of the model legislation, in Section 5, Paragraph 2 of multilateral and standard bilateral CAAs. For these purposes, appropriate use is limited to: high-level transfer pricing risk assessment; assessment of other base erosion and profit shifting (BEPS) risks; and economic and statistical analysis, where applicable" [27].

The guidance on appropriate use is included in the OECD publication "Country-by-Country Reporting: Handbook on Effective Implementation." The report provides a practical guide on defining appropriate use, the consequences of non-compliance, and measures to ensure compliance (e.g., restricting access

to CbC Reports and ensuring proper confirmation of appropriate use). As a checklist, a jurisdiction must be able to answer "yes" to six key questions or confirm that it will be able to do so before the first CbC Report exchange takes place (see Figure 3).

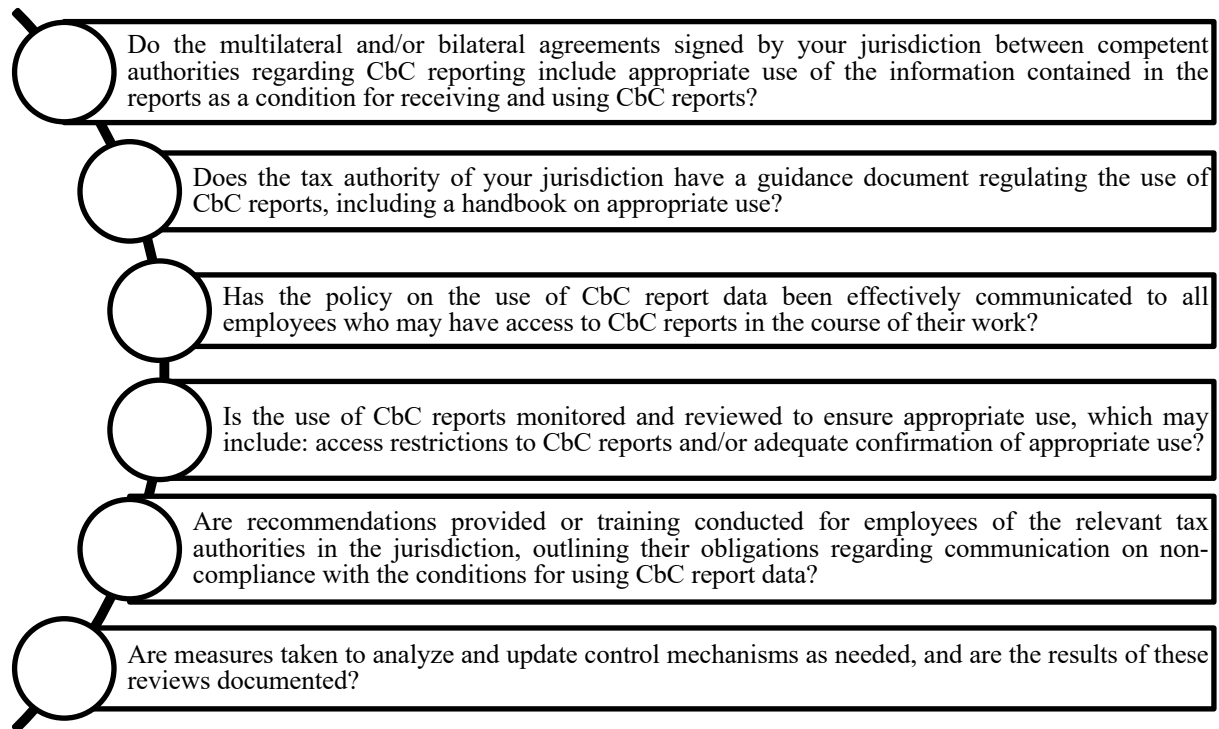


Fig. 3. Questions from the Questionnaire on the Appropriate Use of CbC Reports

Source: summarized by the author on the basis of [27]

Furthermore, jurisdictions must have procedures or mechanisms in place to ensure a consultation process between competent authorities in cases where adjustments to the income of a taxable entity, resulting from further investigations based on CbCR data, lead to undesirable economic consequences.

These measures are similar to those that jurisdictions must implement regarding the Common Reporting Standard (CRS) under the Multilateral Competent Authority Agreement (MCAA). This step, referred to as “Confidentiality and Appropriate Use of Country-by-Country Reports”, is directly linked to the provisions of the Multilateral Competent Authority Agreement on the Exchange of Information.

Summarizing the above, it should be noted that the international automatic exchange of tax information is a key tool for combating tax evasion and promoting transparency in financial reporting. At the same time, there are a number of challenges related to ensuring the confidentiality of the transmitted data, which requires improvement of the mechanisms for their protection. These challenges include, in particular, the risk of unauthorized access; non-compliance with information security standards; and limited control over the use of the data received. The analysis made it possible to formulate proposals for improving the mechanism of tax data protection, as shown in Figure 4.

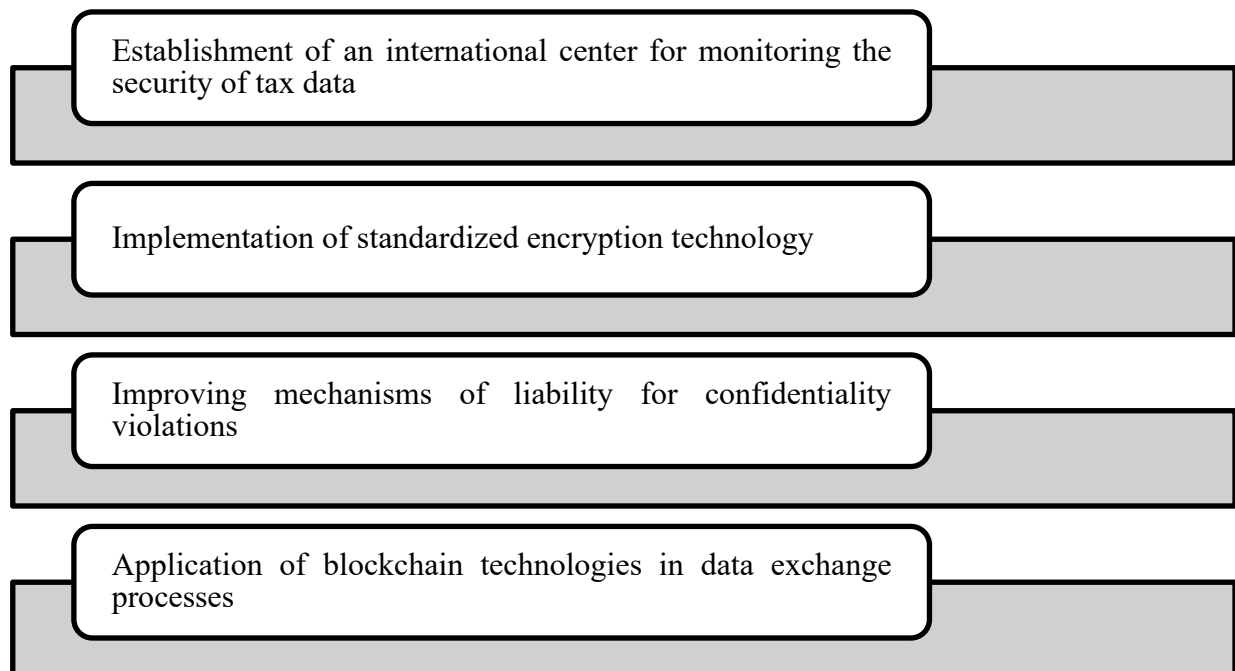


Fig. 4. Areas of improvement of the tax data protection mechanism

Source: developed by author

The automatic exchange of tax data is an important tool for global financial transparency, but its effectiveness largely depends on the level of confidentiality protection. The proposed measures will minimize the risks of information leaks, increase the level of trust between the countries participating in the exchange and promote the harmonization of international standards in this area.

In the context of ensuring the proper use, confidentiality, and security of CbC report information, which is subject to international exchange, it is crucial for Ukraine to analyze the experience of both developed and developing countries.

Conclusions. The implementation of the BEPS Action Plan and the introduction of CbCR reporting contribute to the transparency of taxation for multinational enterprise (MNE) groups, enabling tax authorities to effectively assess transfer pricing risks.

At the same time, the confidentiality of tax information remains a significant challenge for tax authorities. The transmission of sensitive financial data through international channels requires high security standards and compliance with confidentiality requirements established by international organizations, particularly the OECD. The risks of data breaches or unauthorized use may undermine trust between countries and reporting taxpayers.

An analysis of international practices has shown that different jurisdictions apply varying mechanisms to protect the confidentiality of CbCRs. The adoption of internationally harmonized standards, such as OECD requirements and multilateral agreements, is critically important for ensuring the security of exchanged information.

The study identified challenges related to ensuring the confidentiality of transmitted data: the risk of unauthorized access; non-compliance with information security standards; limited control over the use of the data received. The following measures can serve as ways to overcome these challenges: creation of an international center for monitoring the security of tax data; introduction of standardized encryption technology; improvement of mechanisms of liability for breach of confidentiality; application of blockchain technologies in data exchange processes.

Further research should focus on analyzing national practices in developing optimal mechanisms for securing tax information, assessing the impact of digital technologies on the efficiency of automatic data exchange, and studying international experiences in preventing abuses in the field of transfer pricing. Thus, enhancing mechanisms for protecting confidential tax information is a prerequisite for the effective implementation of international tax initiatives and the formation of a transparent global tax environment. This will help to form the institutional basis for further improvement of tax administration in Ukraine.

Література

1. Олійник Я., Кучерява М. Оцінка готовності України до міжнародного автоматичного обміну інформацією в податкових цілях. *Фінанси України*. 2021. № 2. С.85-97.
2. Криштопа І., Ніколенко Л. Звітування у розрізі країн: забезпечення конфіденційності та захисту інформації міжнародних груп компаній. *Фінанси України*. 2021. №8. С.113-124.
3. Чухраєва Н. Міжнародний досвід та типові помилки забезпечення конфіденційності, захисту та використання інформації звітності СбС. *Наукові праці НДФІ*. 2021. № 2. С.146-159.
4. Фатьянов А. А. Проблемы защиты конфиденциальной информации, не составляющей гос. тайну. *Информационное общество*. 2010. № 5. С. 49 -56.
5. Albrecht J. Ph. & Jotzo F. Das Neue Datenschutzrecht der EU. 2016. 126–329.
6. Dessemontet F. Arbitration and confidentiality. URL: <https://www.unil.ch/files/live/sites/cedidac/files/Articles/Arbitration%20%26%20Confidentiality.pdf> (дата звернення: 12.03.2025).
7. Mercer, S. The Limitations of Europe an Data Protection As A Model for Global Privacy Regulation. *AJIL Unbound*, 114, 2020. 20-25 p. doi:

10.1017/aju.2019.83

8. Jaeger Michael C. A cloud environment for data-intensive storage services. EK Kolodner, S Tal, D Kyriazis, D Naor, M Allalouf... *IEEE third international conference on cloud computing technology and science*. 2011. P. 357-366.

9. Debelva F. Privacy and Confidentiality in Exchange of Information Procedures: Some Uncertainties, Many Issues, but Few Solutions. 2017. URL: <https://scholarlypublications.universiteitleiden.nl/handle/1887/62318> (дата звернення: 12.03.2025).

10. OECD. Secretary-general report to G20 Finance Ministers and Central Bank Governors. Buenos Aires, Argentina, March 2018. URL: <https://www.oecd.org/ctp/OECD-Secretary-General-tax-report-G20-Finance-Ministers-Argentina-March-2018.pdf> (дата звернення: 12.03.2025).

11. Guidance on the Common Reporting Standard for Automatic Exchange of Information. Inland Revenue. July 2019. URL: <https://www.ird.govt.nz/-/media/project/ir/home/documents/forms-and-guides/ir1000-ir1099/ir1048/ir1048-2019.pdf> (дата звернення: 12.03.2025).

12. Migration in Serbia: A Country Profile 2008. Publisher: International Organization for Migration. URL: https://publications.iom.int/system/files/pdf/serbia_profile2008.pdf/ (дата звернення: 12.03.2025).

13. Nicolas F., Thomsen S., Bang M. Lessons from Investment Policy Reform in Korea. *OECD Working Papers on International Investment*. 2013. 02. <http://dx.doi.org/10.1787/5k4376zqcpf1-en>.

14. Overcoming Obstacles in Border Regions - Over the border for work, back in time for supper (Denmark-Sweden). European Commission. URL: https://ec.europa.eu/regional_policy/en/information/publications/factsheets/2017/overcoming-obstacles-in-border-regions-over-the-border-for-work-back-in-time-for-supper-denmark-sweden (дата звернення: 12.03.2025).

15. Poland and the EU. Poland's emigration headache. *The Economist*. Nov. 5th 2013. URL: <https://www.economist.com/eastern-approaches/2013/11/05/polands-emigration-headache> (дата звернення: 12.03.2025).

16. COUNCIL DIRECTIVE 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC. URL: <https://www.legislation.gov.uk/eudr/2011/16/contents> (дата звернення: 12.03.2025).

17. Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005. On the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. URL: <https://lexpacency.org/eu/32005L0060/> (дата звернення: 12.03.2025).

18. COUNCIL DIRECTIVE 2014/48/EU of 24 March 2014 amending Directive 2003/48/EC on taxation of savings income in the form of interest payments. URL: <https://www.legislation.gov.uk/eudr/2014/48/introduction> (дата звернення: 12.03.2025).

19. OECD. Transparency and Exchange of Information for Tax Purposes Multilateral Co-operation Changing the World. 10th ANNIVERSARY REPORT. URL: <https://www.oecd.org/tax/transparency/global-forum-10-years-report.pdf> (дата звернення: 12.03.2025).

20. Taxation and Customs Union. Administrative cooperation in (direct) taxation in the EU. URL: https://ec.europa.eu/taxation_customs/taxation-1/tax-co-operation-and-control/general-overview/enhanced-administrative-cooperation-field-direct-taxation_en (дата звернення: 12.03.2025).

21. OECD (2020), BEPS Action 13 on Country-by-Country Reporting – Peer Review Documents: October 2020, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris. URL: <https://www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf> (дата звернення: 12.03.2025).

22. Articles of the Model Convention. URL: <https://www.oecd.org/ctp/treaties/articles-model-tax-convention-2017.pdf>. OECD 2017 (дата звернення: 12.03.2025).

23. OECD (2019), Country-by-Country Reporting XML Schema: User Guide for Tax Administrations, Version 2.0 – June 2019, OECD, Paris. URL: www.oecd.org/tax/beps/country-by-country-reporting-xml-schema-user-guide-for-tax-administrations-june-2019.pdf (дата звернення: 12.03.2025).

24. OECD (2017), BEPS Action 13 on Country-by-Country Reporting – Guidance on the appropriate use of information contained in Country-by-Country reports, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris. URL: www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reportingappropriate-use-of-information-in-CbC-reports.pdf (дата звернення: 12.03.2025).

25. OECD (2015), Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - 2015 Final Report, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris. URL: https://read.oecd-ilibrary.org/taxation/transfer-pricing-documentation-and-country-by-country-reporting-action-13-2015-final-report_9789264241480-en#page24 (дата звернення: 12.03.2025).

26. Data Protection and Privacy Legislation Worldwide. UNCTAD. URL: <https://unctad.org/page/data-protection-and-privacy-legislation-worldwide> (дата звернення: 12.03.2025).

27. OECD (2020). A Toolkit for Becoming a Party to the Convention on Mutual Administrative Assistance in Tax Matters. URL: https://www.oecd.org/tax/transparency/documents/MAAC-toolkit_en.pdf (дата звернення: 12.03.2025).

References

1. Oliinyk, Y. & Kucheriava, M. (2021) 'Assessment of Ukraine's readiness for international automatic exchange of tax information', *Finance of Ukraine*, 2, pp. 85–97.
2. Kryshchop, I. & Nikolenko, L. (2021) 'Country-by-Country Reporting: Ensuring Confidentiality and Protection of International Corporate Group Information', *Finance of Ukraine*, 8, pp. 113–124.
3. Chukhraieva, N. (2021) 'International experience and common mistakes in ensuring confidentiality, protection, and use of CbC reporting information', *Scientific Works of NDFI*, 2, pp. 146–159.
4. Fatianov, A. A. (2010) 'Problems of protecting confidential information that is not a state secret', *Information Society*, 5, pp. 49–56.
5. Albrecht, J. Ph. & Jotzo, F. (2016) *Das Neue Datenschutzrecht der EU*, pp. 126–329.
6. Dessemontet, F. (n.d.) 'Arbitration and confidentiality'. Available at: <https://www.unil.ch/files/live/sites/cedidac/files/Articles/Arbitration%20%26%20Confidentiality.pdf>.
7. Mercer, S. (2020) 'The Limitations of European Data Protection as a Model for Global Privacy Regulation', *AJIL Unbound*, 114, pp. 20–25. doi:10.1017/aju.2019.83.
8. Jaeger, M. C. (2011) 'A cloud environment for data-intensive storage services', in Kolodner, E. K., Tal, S., Kyriazis, D., Naor, D., Allalouf, M. (eds.) *IEEE Third International Conference on Cloud Computing Technology and Science*, pp. 357–366.
9. Debelva, F. (2017) 'Privacy and Confidentiality in Exchange of Information Procedures: Some Uncertainties, Many Issues, but Few Solutions'. Available at: <https://scholarlypublications.universiteitleiden.nl/handle/1887/62318>.

10. OECD (2018) *Secretary-General Report to G20 Finance Ministers and Central Bank Governors*, Buenos Aires, Argentina, March 2018. Available at: <https://www.oecd.org/ctp/OECD-Secretary-General-tax-report-G20-Finance-Ministers-Argentina-March-2018.pdf>.

11. Inland Revenue (2019) *Guidance on the Common Reporting Standard for Automatic Exchange of Information*. Available at: <https://www.ird.govt.nz/-/media/project/ir/home/documents/forms-and-guides/ir1000-ir1099/ir1048/ir1048-2019.pdf>.

12. International Organization for Migration (2008) *Migration in Serbia: A Country Profile*. Available at: https://publications.iom.int/system/files/pdf/serbia_profile2008.pdf.

13. Nicolas, F., Thomsen, S. & Bang, M. (2013) 'Lessons from Investment Policy Reform in Korea', *OECD Working Papers on International Investment*, 2013/02. Available at: <http://dx.doi.org/10.1787/5k4376zqcpf1-en>.

14. European Commission (2017) *Overcoming Obstacles in Border Regions - Over the border for work, back in time for supper (Denmark-Sweden)*. Available at: https://ec.europa.eu/regional_policy/en/information/publications/factsheets/2017/overcoming-obstacles-in-border-regions-over-the-border-for-work-back-in-time-for-supper-denmark-sweden.

15. The Economist (2013) *Poland and the EU. Poland's emigration headache*, 5 November. Available at: <https://www.economist.com/eastern-approaches/2013/11/05/polands-emigration-headache>.

16. Council of the European Union (2011) *Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation*. Available at: <https://www.legislation.gov.uk/eudr/2011/16/contents>.

17. European Parliament and Council (2005) *Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money*

laundrying and terrorist financing. Available at:
<https://lexparency.org/eu/32005L0060/>.

18. Council of the European Union (2014) *Council Directive 2014/48/EU amending Directive 2003/48/EC on taxation of savings income in the form of interest payments.* Available at:
<https://www.legislation.gov.uk/eudr/2014/48/introduction>.

19. OECD (2017) *Transparency and Exchange of Information for Tax Purposes Multilateral Co-operation Changing the World: 10th Anniversary Report.* Available at: <https://www.oecd.org/tax/transparency/global-forum-10-years-report.pdf>.

20. European Commission (n.d.) *Taxation and Customs Union. Administrative cooperation in (direct) taxation in the EU.* Available at:
https://ec.europa.eu/taxation_customs/taxation-1/tax-co-operation-and-control/general-overview/enhanced-administrative-cooperation-field-direct-taxation_en.

21. OECD (2020) *BEPS Action 13 on Country-by-Country Reporting – Peer Review Documents: October 2020.* Available at:
<https://www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf>.

22. OECD (2017) *Articles of the Model Convention.* Available at:
<https://www.oecd.org/ctp/treaties/articles-model-tax-convention-2017.pdf>.

23. OECD (2019) *Country-by-Country Reporting XML Schema: User Guide for Tax Administrations, Version 2.0 – June 2019.* Available at:
www.oecd.org/tax/beps/country-by-country-reporting-xml-schema-user-guide-for-tax-administrations-june-2019.pdf.

24. OECD (2017) *BEPS Action 13 on Country-by-Country Reporting – Guidance on the appropriate use of information contained in Country-by-Country reports.* Available at: www.oecd.org/tax/beps/beps-action-13-on-

country-by-country-reporting-appropriate-use-of-information-in-CbC-reports.pdf.

25. OECD (2015) *Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - 2015 Final Report*. OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris. Available at: https://read.oecd-ilibrary.org/taxation/transfer-pricing-documentation-and-country-by-country-reporting-action-13-2015-final-report_9789264241480-en.

26. UNCTAD (n.d.) *Data Protection and Privacy Legislation Worldwide*. Available at: <https://unctad.org/page/data-protection-and-privacy-legislation-worldwide>.

27. OECD (2020) *A Toolkit for Becoming a Party to the Convention on Mutual Administrative Assistance in Tax Matters*. Available at: https://www.oecd.org/tax/transparency/documents/MAAC-toolkit_en.pdf.