

## **COUNTRY-BY-COUNTRY REPORTING: UPDATE ON EXCHANGE RELATIONSHIPS AND IMPLEMENTATION**

*(Last updated: May 2017)*

### **OVERVIEW**

Country-by-Country Reporting under the BEPS Action 13 minimum standard will apply to reporting fiscal years of MNE groups commencing on or after 1 January 2016, and the first automatic exchanges of CbC Reports will take place no later than June 2018. The sections below provide an update on important progress that has been made in order to ensure that relationships are in place to start automatic exchanges; on the implementation of ultimate parent entity filing in jurisdictions; on the jurisdictions that will permit surrogate filing and voluntary parent surrogate filing; and on steps that are being taken to ensure that local filing is required only where permitted under the minimum standard and also to avoid an adverse impact on MNE groups where a jurisdiction applies local filing, but the ultimate parent entity or surrogate parent entity of an MNE group will be filing a CbC Report by a later filing deadline that is consistent with the minimum standard.

### **AUTOMATIC EXCHANGE OF CBC REPORTS**

To date, [65 jurisdictions](#) have signed the CbC multilateral competent authority agreement, which sets out conditions and operational aspects for the exchange of CbC Reports under the multilateral convention on mutual administrative assistance in tax matters. Over forty of these jurisdictions have already provided notifications to the Co-ordinating Body Secretariat, setting out the other signatories with which they intend to have an agreement for the exchange of CbC Reports. In addition, CbC Reports will be exchanged automatically between EU Member States under Council Directive 2016/881/EU (referred to as "DAC 4"). In total, this represents over 1000 exchange relationships between jurisdictions. In addition, the United States has now signed 27 bilateral competent authority agreements for the exchange of CbC Reports under Double Tax Conventions or Tax Information Exchange Agreements, with more under negotiation.

- View [complete list of the exchange relationships](#) established so far.

### **ULTIMATE PARENT ENTITY FILING and SURROGATE PARENT ENTITY FILING**

The Action 13 minimum standard provides that the ultimate parent entity (UPE) of an MNE group should file a CbC Report with the tax authority in its residence jurisdiction. While the Action 13 report recommends that jurisdictions provide up to 12 months after the end of the reporting fiscal period for filing of the CbC report, jurisdictions may apply an earlier filing deadline. Currently, around 55 jurisdictions have implemented an obligation for the filing of CbC Reports by resident UPEs.

An MNE group may also nominate a constituent entity to act as a surrogate parent entity (SPE) and file a CbC Report on a voluntary basis. In this case, the SPE may also be the UPE of an MNE group (e.g. this may be done where the jurisdiction of the UPE does not require the filing of CbC Reports for a particular reporting fiscal period, but has its legislation in place and allows filing on a voluntary basis) or it may be a constituent entity in a different jurisdiction that allows filing of CbC Reports by SPEs.

Currently 9 countries have informed the OECD that they will permit voluntary parent surrogate filing by the resident UPE of an MNE group, and more than 45 countries will permit surrogate filing by constituent entities that are not the UPE of their group.

- [View current status of implementation of CbC Reporting in jurisdictions.](#)

## LOCAL FILING

While not forming part of the Action 13 minimum standard, in exceptional circumstances a jurisdiction may require the filing of a CbC Report by a resident constituent entity that is not the UPE of its group (referred to as local filing). There is no requirement for a jurisdiction to apply local filing, but where it does so this may be applied only in three specific circumstances.

1. The UPE of an MNE group is not obligated to file a CbC Report in its residence jurisdiction.
2. The residence jurisdiction of the UPE has a current international agreement (multilateral or bilateral tax convention or tax information exchange agreement providing for the automatic exchange of tax information) with the residence jurisdiction of a constituent entity, but there is no qualifying competent authority agreement in place between the two jurisdictions by the end of 12 months following the end of the fiscal reporting year of the MNE group.
3. There has been a systemic failure to exchange CbC Reports by the residence jurisdiction of the UPE, which has been notified to the constituent entity by the tax authority in its residence jurisdiction.

Even where one of these conditions is met, local filing is not permitted where a CbC Report will be filed by an SPE of the MNE group for the relevant reporting fiscal period (subject to conditions) or where the residence jurisdiction of the constituent entity does not meet conditions in the minimum standard concerning consistency, confidentiality and the appropriate use of CbC Reports.

In order to provide certainty to groups which need to prepare for the filing of CbC Reports by UPEs or SPEs, and avoid local filing wherever possible, the OECD is working with jurisdictions to support them in putting in place as early as possible an obligation on resident UPEs to file a CbC Report and qualifying competent authority agreements with other jurisdictions with which they plan to exchange CbC Reports.

A number of jurisdictions require the filing of CbC Reports by resident UPEs before 31 December 2017 and also have the capacity to impose a local filing obligation on resident constituent entities that are not UPEs. These jurisdictions are keen to ensure that resident constituent entities in MNE groups where a UPE or SPE will file a CbC Report by 31 December 2017 are not impacted by these local filing obligations.

### **Brazil**

In Brazil, CbC Reporting applies to reporting fiscal years commencing on or after 1 January 2016 and resident UPEs are required to file a CbC Report together with their corporate income tax return for the year. This means that the first CbC Reports will be filed by resident UPEs by 31 July 2017, for MNE groups with a calendar fiscal year. This filing deadline also applies to resident constituent entities that are not UPEs, where the requirements for local filing under the minimum standard are met. Brazil's CbC Reporting regulations require resident constituent entities which are not UPEs to notify the tax authority by 31 July 2017 of the identity and tax residence of the reporting entity (i.e. the UPE or SPE) of the group and confirm that the conditions for local filing are not met, if they are to avoid local filing.

A resident constituent entity that wishes to avoid local filing must submit a notification by 31 July 2017, informing the Brazilian tax authority of the identity and tax residence of the group's reporting entity, based on an initial assessment of whether the conditions for local filing are expected to be met as at 31 December 2017. Where this notification subsequently proves to be incorrect, a resident constituent entity may submit an amended notification by 31 December 2017, or comply with local filing.

***People's Republic of China***

In the People's Republic of China (PRC), CbC Reporting applies to reporting fiscal years commencing on or after 1 January 2016. Resident UPEs are required to file a CbC Report together with their annual enterprise income tax return for the reporting fiscal year (i.e. by 31 May in the following year for an MNE group with a calendar fiscal year). Resident constituent entities that are not UPEs are not automatically required to file CbC Reports in the PRC, but may be required by local tax offices to provide the CbC Report in the course of a transfer pricing audit, where the conditions for local filing under the minimum standard are met.

Internal guidance issued to local tax offices makes it clear, where a Chinese constituent entity in a group provides written evidence that a CbC Report for the reporting fiscal period will be filed by the group's UPE or SPE in another jurisdiction which has a later filing deadline, then an extension to the local filing deadline will be granted. Where the UPE or SPE of a group is required to file a CbC Report in accordance with the minimum standard, and the conditions for local filing in the minimum standard are not met, then local filing in China will not be required.