



## New rules for filing before NRA for groups of multinational enterprises with presence in Bulgaria

The National Assembly of Bulgaria adopted amendments to the Tax and Social Security Procedural Code (TSSPC), which implement the rules of Directive (EU) 2011/16/EU (as amended by Directive 2015/2376 and Directive 2016/881) on mandatory automatic exchange of information in the field of taxation (country-by-country (CbC) reporting).

The rules are addressed to the multinational enterprise groups (MNE groups), the tax residence for which is in different jurisdictions (in the EU or in third countries), as well as MNE groups subject to tax with respect to a business carried out through a permanent establishment in an jurisdiction other than the jurisdiction of the principal.

According to the adopted amendments, a MNE group is obligated to report the Bulgarian revenue administration (NRA) when the ultimate parent entity is a resident for tax purposes in Bulgaria and the consolidated revenue of the group exceeds BGN 100 million (approx. EUR 51 million) for the fiscal year preceding the reporting fiscal year.

In certain cases, the report must be submitted in Bulgaria even where the ultimate parent is not a Bulgarian tax resident.

## Terminology framework of the Directive

### Ultimate parent entity

The criteria for identifying an enterprise as an *ultimate parent entity* are based on its obligation to prepare consolidated financial statements for the group.

### Other reporting entities

The law also defines other entities from the MNE group, which under certain conditions, report instead of the ultimate parent entity. Such entities are a surrogate entity and constituent entity. The qualifying conditions for surrogate/constituent entity under the TSSPC coincide with the qualifying conditions under the Directive.

Regardless which is the reporting entity, the reporting threshold should be determined as per the jurisdiction of which the ultimate parent is tax resident of.

### Fiscal year

The fiscal year is the period with respect to which the ultimate parent entity of the MNE group prepares its financial statements. To this end, when the ultimate parent entity is a Bulgarian tax resident, the fiscal year coincides with the calendar year.

### Scope of the report

The country-by-country report should contain aggregated information for each Member State or other jurisdiction in which the MNE group conducts business activity with respect to:

- **the amount of:** (i) revenue, (ii) profit (loss) before income tax, (iii) income tax paid, (iv) income tax accrued, (v) registered capital, (vi) accumulated earnings;
- **number of employees;**

- **tangible assets other than cash or cash equivalents;**
- **data for each constituent entity of the MNE group**, indicating: (i) Member State or other jurisdiction of tax residence, (ii) the country / jurisdiction under the legislation of which the constituent entity is organized, when different from the country / jurisdiction of tax residence, and (iii) the nature of the main business activity or activities.

By 31st of October 2017, the Executive Director of the NRA shall issue an order approving the country-by-country report template.

### Deadlines

The country-by-country report should be submitted electronically within 12 months of the last day of the reporting fiscal year of the MNE group.

In addition to the filing obligation for each fiscal year, the law also provides for an obligation to notify the administration which entity of the MNE group will submit the CbC report. The notification is also submitted electronically.

### First notification

By December 31, 2017, a constituent entity of the MNE group which is a Bulgarian tax resident shall notify the Executive Director of the NRA whether it is an ultimate, surrogate or constituent entity, obligated to submit the CBC report for the fiscal year, beginning on January 1, 2016 or until the end of 2016.

As of January 1, 2018, the notification should be made no later than the last day of the reporting fiscal year of the MNE group. Thus, if the ultimate parent entity of the MNE group is a Bulgarian tax resident, the notification for 2018 should be submitted by December 31, 2018.

## First CbC report

The deadline for submission of the first CbC report depends on the reporting entity.

Reporting entity	Fiscal year of the MNE group, covered by the CbC report	Deadline for submission of the CbC report	Deadline for submitting the first CbC report when the ultimate parent entity of the MNE group is a Bulgarian tax resident
Ultimate parent / Surrogate parent entity	Fiscal year commencing on January 1, 2016 or until the end of 2016	12 months of the last day of the reporting fiscal year of the MNE group	By December 31, 2017
Constituent entity other than the above two types	Fiscal year commencing on January 1, 2017 or until the end of 2017	12 months of the last day of the reporting fiscal year of the MNE group	By December 31, 2018

## Penalties

The law provides for significant penalties in case of noncompliance with the CbC reporting obligation, the obligation for notification or in case of provision of incomplete information.

The provision of information will facilitate the Bulgarian revenue administration in gaining more complete and clear picture of the scale of multinational companies based in Bulgaria. The fact that the reporting threshold adopted by Bulgaria is significantly lower than the Directive threshold (BGN 100 million under local law vs BGN 1,466 million under the Directive) is a possible indication of the NRA's interest in transfer pricing issues on transaction, in which such groups are involved.

## Deloitte Comment

The new rules are adopted in fulfillment of the commitment Bulgaria has as an EU Member State, as well as a party to the OECD Inclusive Framework for implementation of the tax measures under BEPS Action 13. The main objective of the rules is to achieve greater transparency in the field of taxation of multinational companies.

Although the information in the reports cannot be used independently for assessment of tax liabilities or determination of market prices, we expect that NRA will use collected data upon selection of companies for transfer pricing audits.

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