



Cyprus Tax News

Cypriot authorities issue detailed provisions on Country-by-Country Reporting

Introduction

On 30 December 2016, the Cyprus Minister of Finance issued a Decree with respect to Country-by-Country (CbC) Reporting, under the powers conferred by Section 6(16) of the Assessment and Collection of Taxes Law.

The Decree interposes the EU Council [Directive 2016/881](#) ("the EU Directive") into the Cyprus legislation, and thus its provisions are closely aligned to the global standards on CbC Reporting as laid out in the Action 13 Report of the OECD/G20 BEPS Project.

The Decree, together with the Multilateral Competent Authority Agreement on the exchange of CbC Reports (MCAA) signed by Cyprus on 1 November 2016, establish the legislative framework for the Cypriot tax authorities to collect information on Multinational Enterprise (MNE) Groups with a total consolidated group revenue of €750 million or more. The data collected globally under CbC reporting is as per the BEPS Action 13 Report and the EU Directive intended to be used by competent authorities for the purposes of assessing high-level transfer pricing risks and other risks related to base erosion and profit shifting.

CbC information to be reported

An MNE Group will be required to provide annually and for each tax jurisdiction in which it operates (through tax resident entities and/or permanent establishments) aggregate information relating to revenue from independent parties, revenue from associated parties, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees and tangible assets other than cash or cash equivalents.

Furthermore, an MNE Group will need to identify each Constituent Entity along with the jurisdiction of tax residency of each such entity (and where different from the jurisdiction of tax residence, the jurisdiction under the laws of which the entity is organized) and provide an indication of the business activities in which each entity engages.

Such group-wide information (in the form of a CbC Report) will be filed with the Cyprus tax authorities, where the Ultimate Parent Entity (UPE) or the Surrogate Parent Entity (SPE) is tax resident in Cyprus or, under certain circumstances, where there is at least one Constituent Entity tax resident in Cyprus which is neither the UPE or the SPE. The precise conditions related to the requirements to file a CbC Report in Cyprus follow those outlined in the provisions of the EU Directive.

The CbC Report stating the above information shall be filed electronically by the Reporting Entity on an annual basis. The required format of the CbC Report described in the Decree will follow the template provided in the EU Directive.

The first CbC report of an MNE Group will be for the first Reporting Fiscal (Accounting) Year beginning on or after 1 January 2016.

Exchange of information

According to the EU Directive, the CbC information filed by the Reporting Entity on behalf of the MNE Group should be exchanged automatically by the Cyprus tax authorities with other EU Member States in which the MNE Group has a taxable presence (i.e. a tax resident entity or a permanent establishment in such Member State). In addition, CbC information will be exchanged with third countries in which the MNE Group has a taxable presence and which are also fully party to the required automatic exchange of information mechanism with respect to CbC reports, which in practice will usually be identifiable as the countries which have signed the MCAA and are reciprocal parties towards Cyprus under this agreement.

Notifications

The Decree also establishes certain notification obligations with respect to informing the Cyprus tax authorities of the identity of the Reporting Entity. A Constituent Entity of an MNE Group that is tax resident in Cyprus will need to notify the Cyprus tax authorities whether it is a UPE, SPE, or is otherwise the Reporting Entity, and required to file a CbC Report in Cyprus. If the Cyprus tax resident entity is not acting in such a capacity, it shall notify the Cyprus tax authorities of the identity and tax residence of the Reporting Entity of the MNE Group.

The deadline for filing with the Cyprus tax authorities the notifications mentioned above is the last day of the Reporting Fiscal (Accounting) Year of the MNE Group, except for the first notification which by exception is to be filed by 20 October 2017.

Penalties

As currently no specific penalties have been introduced in Cyprus with respect to non-compliance with CbC reporting obligations, the general fines provided for in the Assessment and Collection of Taxes Law will apply until such time as the legislation is amended in this respect. The current penalties that can be imposed under the legislation begin at €100, but specific penalties are likely to be introduced in the near future of a higher amount to provide a more effective disincentive for non-compliance.

Impact for MNE Groups

MNE Groups should be taking steps to:

- (1) assess whether they are in scope of CbC Reporting based on the €750m consolidated group revenue threshold
- (2) ensure that they have the necessary systems in place to collect the information required to be included in the CbC Report
- (3) determine which group entity will be the Reporting Entity
- (4) be clear on CbC reporting deadlines and CbC penalty regimes globally, and not just in Cyprus, as they will likely have at least notification obligations in other jurisdictions in which they operate even if they file a CbC Report in Cyprus
- (5) consider the impact of the information that will be reported and take remedial measures going forward to ensure that global transfer pricing standards are adhered to.

Deloitte Cyprus can assist MNE Groups with assessing the impact of the above and complying with the CbC Reporting requirements.



Get in touch

Nicosia Offices	infonicosia@deloitte.com	tel: +357 22360300
Limassol Offices	infolimassol@deloitte.com	tel: +357 25868686
Larnaca Offices	infolarnaca@deloitte.com	tel: +357 24819494

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