



Brazil issues additional guidance on CbC reporting rules

Global Transfer Pricing Alert 2017-023

The Brazilian tax authorities published guidance on 25 May that amends the 2016 normative ruling that introduced the country-by-country (CbC) reporting obligation in Brazil effective from fiscal year 2016.

According to the new guidance -- Normative Ruling 1,709/2017 -- for FY 2016, the Brazilian tax authorities will allow an ultimate parent entity (UPE) that is resident in a country that has not signed a competent authority agreement (CAA) for the exchange of CbC reports with Brazil to be designated as the reporting entity of the group on a conditional basis, provided the UPE's jurisdiction allows for voluntary filing in FY 2016.

If a CAA is not signed with Brazil by 31 December 2017, the Brazilian constituent entity may amend its corporate income tax return (which would have been filed by 31 July 2017) within 60 days (of 31 December 2017) and file the CbC report on behalf of the entire group, or it may designate an adequate surrogate entity.

The new NR provides additional clarification and should be read in conjunction with previous guidance issued by the tax authorities. The authorities acknowledge the challenges facing Brazilian constituent entities that are part of multinational groups with UPEs located in countries that have not yet signed a CAA, and wish to ensure flexibility in this regard.

The possibility that a Brazilian constituent entity may amend its corporate income tax return is an indication from the

authorities that the heavy penalties associated with incorrect filing of a corporate tax return will not be applied to taxpayers that designate their UPEs as the reporting entity on a conditional basis, under the assumption that a CAA will be signed in the short term (for example, the CAA with the United States).

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