



IRS launches country-by-country reporting web pages

Global Transfer Pricing Alert 2017-029

The IRS recently launched several new webpages providing information about country-by-country (CbC) reporting on irs.gov. These pages provide background information on CbC reporting and other useful resources. The main IRS [CbC reporting page](#) provides links to CbC information for US MNEs, CbC reporting guidance and resources, CbC frequently asked questions (FAQs), the IRS CbC newsletter, and several other related items.

Here are some highlights of recent IRS updates.

Final Versions of Form 8975, Schedule A (Form 8975), and Instructions

The IRS has issued final versions of Form 8975, *Country-by-Country Report*, Schedule A, *Tax Jurisdiction and Constituent Entity Information*, and the accompanying instructions. The IRS [CbC reporting guidance webpage](#) includes the final versions of the forms and instructions.

The final versions of Form 8975 and Schedule A are essentially identical to the draft versions. The final instructions are substantially the same as the draft instructions; however, a few updates have been made, as outlined below:

- The description of “applicable financial statement” has been moved to a reorganized definitions section. The language of the definition is identical to the language regarding the applicable financial statement that was

included in the "When to File" section of the draft instructions.

- The description of "reporting period" has been moved to a reorganized definitions section. The language of the definition is identical to the language regarding the reporting period that was included in the "When to File" section of the draft instructions.
- Information on paper filing has been added to the "Where to File" section of the instructions.
- Information on filing multiple Schedules A for a single tax jurisdiction has been moved to an earlier point in the instructions.
- The instructions for entering information on Lines 1a and 1b have been corrected. In the draft instructions, the instructions for entering Lines 1a and 1b were reversed.

IRS CbC FAQs

The IRS has issued CbC FAQs on its CbC reporting website. The FAQs currently include 14 questions and answers, separated into four categories: General Questions, Data Format and Structure, Exchange of Information, and Reporting Requirements.

Of note are Questions 4.4 and 4.5. Question 4.4 addresses how US limited liability companies (LLCs) should be reported on Form 8975. The IRS provides that in general, US LLCs that do not elect to be treated as corporations for federal income tax purposes are treated as being "stateless." As such, the financial and employee information of these "stateless" LLCs should be included on a Schedule A (Form 8975) for stateless entities. However, if a US LLC does not elect to be treated as a corporation for federal income tax purposes and is wholly and directly owned by a business entity that is organized in and has its tax jurisdiction of residence in the United States, then the LLC will be considered a US business entity with its tax jurisdiction of residence in the United States. If that US LLC wholly and directly owns another US LLC, the other LLC will also be considered a US business entity that has its tax jurisdiction of residence in the United States.

If a US LLC meets the above criteria and is treated as having its tax jurisdiction of residence in the United States, it will be listed as a Constituent Entity on Schedule A (Form 8975) for the United States. The LLC's financial and employee information should be aggregated with that of other US constituent entities of the US MNE group, and should not be reflected on the Schedule A for stateless entities.

Question 4.5 addresses what circumstances would subject the foreign subsidiaries of a US MNE group to a local filing requirement in a foreign tax jurisdiction. The IRS provides that a US MNE group's foreign subsidiaries cannot be subject to a local filing requirement unless one of two situations occurs: (1) the United States has an instrument in place that allows for automatic exchange of information with the foreign jurisdiction but has not entered into a CbC competent authority agreement (CAA) by the end of 12 months following

the end of the fiscal reporting year of the US MNE group, or (2) the United States has had a systemic failure. A systemic failure on the part of the United States would occur when either: (1) there is a CAA in place, but the United States suspends automatic exchange for reasons other than those in accordance with the terms of the CAA, or (2) the United States persistently fails to automatically exchange CbC reports. Additionally, the foreign jurisdiction cannot require local filing if it does not meet the OECD standards of confidentiality, consistency, and appropriate use.

The IRS also provides that if a US MNE group determines that it does not need to file a CbC report because it does not meet the revenue threshold under the US Treasury regulations, the foreign jurisdiction cannot require local filing merely because the US MNE group exceeds the revenue threshold in the foreign jurisdiction.

The IRS will update the [CbC FAQ webpage](#) as additional information and guidance become available. The webpage includes a link that allows for the submission of comments and questions to the IRS CbC reporting mailbox. The IRS plans to review the submitted comments and questions and make updates to the FAQs as necessary.

IRS CbC Reporting Newsletter

The IRS will periodically send out a CbC reporting newsletter, which will include information on the latest IRS news and guidance related to CbC reporting. This [webpage](#) includes instructions on how to register for the newsletter.

Competent authority agreements for exchange of CbC reports

The United States continues to expand its network of bilateral competent authority arrangements (CAAs) for the exchange of CbC reports, and has now finalized 12 such agreements. The agreements are listed on an IRS webpage, "[CbC Reporting Jurisdiction Status Table](#)."

The United States has signed CAAs for the exchange of CbC reports with the following countries:

- Canada -- 6/7/2017
- Denmark – 6/21/2017
- Guernsey – 6/22/2017
- Iceland – 5/5/2017
- Ireland – 6/15/2017
- Latvia – 6/21/2017
- Netherlands – 4/11/2017
- New Zealand – 5/11/2017
- Norway – 4/26/2017
- Republic of Korea – 6/22/2017

- Slovakia – 6/21/2017
- South Africa – 5/26/2017

At the time of this writing, only the agreements with Iceland, the Netherlands, New Zealand, Norway, the Republic of Korea, and South Africa had been published. Typically, CAAs like these are published in full by the IRS and the treaty or TIEA partner, as long as both competent authorities agree to do so.

For more information on the initial CbC CAAs, including a detailed discussion of the US-Netherlands CbC CAA, see [Global Transfer Pricing Alert 2017-025](#) (May 30, 2017). To date, all CbC CAAs published by the IRS have been substantially similar to the US Model CbC CAA for DTCs.

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Useful links

Resources

- [2016 Global Transfer Pricing Country Guide](#)
- [Arm's length standard](#)
- [Transfer pricing alerts](#)

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