



Malaysia issues sample notification letters for country-by-country reporting

Global Transfer Pricing Alert 2017-040

Malaysia's Internal Revenue Board (IRB) has issued sample notification letters for entities subject to the country-by-country (CbC) reporting notification requirement.

Two different sample notification letters have been provided, one for [reporting entities](#) (ultimate holding companies or surrogate holding companies that are tax resident in Malaysia) and the other for [non-reporting](#) entities.

To avoid duplication, notification may be provided by one Malaysian constituent entity on behalf of other Malaysian constituent entities of the same multinational enterprise (MNE) group.

Malaysia's CbC rules

Under Malaysia's Income Tax (Country-by-Country Reporting) Rules 2016, the CbC reporting requirement is effective for financial years commencing on or after 1 January 2017 for MNE) groups with annual consolidated revenue equal to or exceeding MYR 3 billion in the financial year preceding the reporting financial year.

Under the CbC reporting rules, a Malaysian ultimate parent company or surrogate parent company (referred to as ultimate holding company and surrogate holding company in the CbC reporting rules) of an MNE group must file a CbC report. A surrogate holding company is defined as one of the constituent entities that is tax resident in Malaysia and is appointed by the

MNE group as the sole substitute for the ultimate holding company to file the CbC report (“surrogate parent filing”).

Surrogate parent filing is required in the following scenarios:

- The ultimate holding company is not resident in Malaysia and is not obligated to file a CbC report in its jurisdiction of tax residence;
- The jurisdiction in which the ultimate holding company is tax resident does not have a qualifying competent authority agreement in effect for the automatic exchange of CbC reports to which Malaysia is a party at the time the CbC report is required to be filed; or
- There is a systematic failure of the jurisdiction of tax residence of the ultimate holding company regarding the automatic exchange of that has been notified by the director general to the constituent entity that is tax resident in Malaysia.

Notification requirement and formats

If an MNE group meets the CbC reporting threshold in Malaysia or in the ultimate holding company’s jurisdiction of tax residence (the local currency threshold would apply when CbC reporting regulations have been enacted in that jurisdiction), written notification must be provided to the director general of the IRB by a constituent entity on or before the last day of the reporting financial year. For example:

- If the reporting financial year is 1 January 2017 to 31 December 2017, the director general must be notified by 31 December 2017
- If the reporting financial year is 1 September 2017 to 31 August 2018, the director general must be notified by 31 August 2018

Action required by MNE groups

As an immediate next step, a written notification listing the reporting entity for the MNE group (the ultimate holding company or surrogate holding company) must be provided to the director general on or before the last day of the reporting financial year.

Failure to notify the director general within the required time frame may incur a penalty for noncompliance with the CbC reporting rules.

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