



Argentina issues country-by-country reporting rules

Global Transfer Pricing Alert 2017-042

The Argentine Revenue Administration (AFIP, from its Spanish acronym) on September 20 published a general ruling that implements a country-by-country (CbC) reporting regime for constituent entities of multinational entity (MNE) groups and the tax jurisdictions where they operate, which applies to fiscal years beginning on or after January 1, 2017.

The new ruling -- General Ruling No. 4130/E -- was issued as part of the commitments assumed by Argentina as signatory to the Convention for Mutual Administrative Assistance in Tax Matters and the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports, which define international standards for the development of research and control actions in the international taxation area.

The ruling excludes from the CbC regime all MNE groups whose total annual consolidated turnover does not exceed EUR 750 million or its equivalent in the local currency of the parent company's tax jurisdiction, at the exchange rate prevailing on January 31, 2015.

CbC report

The CbC report must be prepared by any of the following entities:

- An ultimate parent entity (UPE) that is resident in Argentina for tax purposes

- A surrogate entity¹ resident in the country, appointed by the parent entity to file the report on its behalf
- A constituent entity, resident in the country, that is part of the MNE group (other than entities listed above), provided at least one of the following assumptions is true:
 - The ultimate parent entity is not required to file a CbC report in its tax jurisdiction.
 - On the deadline² for filing the CbC report, the tax jurisdiction of the ultimate controlling entity has not signed a qualified competent authority agreement (QCAA)³ with Argentina, even if both jurisdictions may be signatories to an international agreement⁴ in force.
 - In the event of a systemic failure to exchange by the tax jurisdiction of the ultimate parent entity.

The resident constituent entities that are part of the MNE group included under the third bullet point above will be exempt from filing the CbC report if the report has already been filed by a surrogate entity not residing in Argentina with the tax authority of its local tax jurisdiction, provided the following conditions are met:

- The tax jurisdiction has a CbC report filing scheme in place
- The tax jurisdiction is signatory to a qualified competent authority agreement to which Argentina is a party
- No systemic failure to exchange has been reported to or verified by AFIP
- The constituent entity resident in that jurisdiction has notified the tax authorities of its appointment as surrogate parent entity.

The constituent entities of the MNE group resident in the country should inform the tax authorities that the report has been filed with the corresponding tax jurisdiction by the last business day of the second month following the deadline for filing the CbC report.

Content of the CbC report

The CbC report must include the following information for each jurisdiction where the MNE group operates:

- The group's total turnover
- Pretax income
- Income tax paid and accrued for the current fiscal year, including any withholdings applied
- Capital stock
- Retained earnings
- Number of employees
- Tangible assets, cash, and cash equivalents.

¹ Only entities with shareholders' equity equal to or higher than ARS 50 million or that comply with other operational and/or functional structure requirements may be appointed as surrogate entities for purposes of filing the CbC report.

² The last business day on the 12th month after the last day of the reporting fiscal year of the ultimate controlling entity of the MNE group.

³ An agreement entered into between authorized representatives of the jurisdictions that are signatories to an international convention, for the automatic exchange of CbC reports between such jurisdictions.

⁴ This list may be checked in the AFIP web page.

For each constituent entity of the MNE group within each jurisdiction, the following information must be included:

- Argentine Tax Identification Number (CUIT) or tax identification number (TIN) in the country of residence if the entity is a foreign person
- Corporate name
- Tax jurisdiction and country of organization
- Main business activity and description of the same

The report must be filed no later than the last business day of the 12th month following the end of the reporting fiscal year of the ultimate parent entity of the MNE group. Filing must be done through the AFIP's web page, in the section "Country-by-Country Reporting Scheme," under the option "File Report," on information return form F. 8097.

MNE group constituent entities resident in Argentina

The constituent entities of the MNE group that reside in Argentina are required to provide the following information:

- Regarding the Ultimate Parent Entity:
 - Corporate name
 - Argentine Tax Identification Number (CUIT), Foreign Investor Identification (CIE) or tax identification number (TIN) in the residence country, as applicable
 - Type of entity
 - Tax domicile
 - Date and place of organization
 - Tax jurisdiction
 - Fiscal year closing date
 - Total consolidated turnover for the fiscal year immediately prior to the reporting year
 - Whether the MNE group is subject to the CbC reporting requirement because it exceeds the EUR 750 million threshold
 - Whether it is required to act as reporting entity under the CbC reporting scheme
- Regarding the reporting entity, other than the ultimate parent company:
 - Corporate name, Argentine tax identification number (CUIT), foreign investor identification (CIE), or tax identification number (TIN) in the residence country, as applicable,
 - Type of entity
 - Tax domicile
 - Date and place of organization
 - Tax jurisdiction
 - Fiscal year closing date
 - Total consolidated turnover for the fiscal year immediately prior to the reporting year

- Whether the entity files a CbC report as surrogate parent entity nominated by the ultimate parent entity, or as a constituent entity.

The information listed above must be filed no later than the last business day of the third month following the end of the reporting fiscal year of the ultimate parent entity. Filing must be through AFIP's web page, in the section "Country-by-Country Reporting Scheme" under the option "Registration process," on the information return form F. 8096.

Record-keeping requirements

Records and documentation supporting the CbC report must be kept for a term of five years after the statute of limitations for the reporting fiscal year has run out.

Penalties

Failure to comply with this filing obligation will be considered a key indicator of the need for assessment and verification of risks associated with transfer prices, base erosion, and profit shifting in relation to the MNE's constituent entities.

Furthermore, failure to comply with the obligations set forth by the new ruling will be subject to the penalties provided by Act 11683. Specifically, failure to comply may result in any of the following actions:

- Rating under a higher risk category, under the provisions set forth in General Ruling No. 3985 – Risk Assessment System (SIPER).
- Suspension or exclusion, as applicable, from any special tax registries where the entity may be registered.
- Suspension of any application for an exclusion or nonwithholding certificate

Other considerations

The information included in the CbC report may be used by AFIP for several purposes, including the assessment of risks associated with transfer prices, base erosion and profit shifting, and the development of economic and statistical analysis, when applicable.

Notwithstanding the above, this reporting scheme does not repeal the transfer pricing regime established by General Ruling 1122/2001.

The CbC reporting obligation applies for the fiscal years of each ultimate parent entity in the MNE group beginning on or after January 1, 2017.

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