



France provides CbC reporting respite to French subsidiaries of American multinational groups

Global Transfer Pricing Alert 2017-049

The French tax authorities on December 5 released an official position that the voluntary filing of the country-by-country (CbC) report in the United States will satisfy French subsidiaries' filing obligation under French Law.

Background

Under OECD guidance, jurisdictions should require the timely filing of CbC reports by the ultimate parent entities of multinational enterprise (MNE) groups resident in their countries and exchange this information, on an automatic basis, with the jurisdictions in which the MNE group operates and in which subsidiaries meet the requirements for filing the CbC report. France introduced this requirement through article 223 quinquies C of the French Tax Law. A July 6 document issued by the finance minister listed the countries with which France will automatically exchange CbC reports; this list does not include the United States.

However, the OECD guidance includes two procedures that may be applicable when a jurisdiction does not exchange CbC reports or does not implement the requirement for fiscal years beginning on or after January 1, 2016, but has its legislation in place (as is the case in the United States):

- **Surrogate parent filing:** to accommodate voluntary CbC report filing by a constituent entity in a different jurisdiction that allows filing of CbC reports by surrogate parent entities. The country of substitution will share the CbC report with other jurisdictions to which it is bound by bilateral agreements.

- **Ultimate parent surrogate filing:** to accommodate voluntary filing for ultimate parent entities resident in their jurisdiction. This would allow the ultimate parent entities of MNE groups resident in those jurisdictions to voluntarily file their CbC report for fiscal periods commencing on or after January 1, 2016, in their jurisdiction of tax residence.

When such a surrogate filing (including ultimate parent surrogate filing) is available, no other local filing obligation is needed for the subsidiaries of the MNE group in any jurisdiction that has an agreement with the ultimate parent entity jurisdiction of residence, because the CbC report will be automatically provided.

France and the United States have begun to negotiate a competent authority agreement specific to CbC reports to design the way the two tax administrations will exchange the CbC reports filed in their territory. However, the agreement has not been signed yet, which is why the United States is not on the July 6 document.

However, the French tax administration has officially made clear, through comments released on its website, that during this transitional period, the voluntary filing of the CbC report in the United States will allow French subsidiaries of US MNE groups to be deemed to have fulfilled their obligation under French Law. This official position is based on the transitional exception provided by the OECD: according to the French tax administration's analysis, even though the bilateral agreement between France and the United States providing for the automatic exchange of CbC reports has not been signed yet, the bilateral tax treaty between the two countries (signed on August 31, 1994, and last amended on January 1, 2009) allows the United States to spontaneously exchange with France the CbC reports as required by the BEPS recommendations and French Tax Law.

For their part, the United States has formally indicated that it will implement the ultimate parent surrogate filing procedure, thereby committing themselves to voluntarily send CbC reports spontaneously filed in the United States to the French tax administration.

Groups seeking greater legal security may choose to send to the French tax administration, before the end of 2017, a hard copy of the CbC report filed with the IRS, to ensure that the French tax administration has the information expected from the IRS.

To ensure that the French tax administration will not further disseminate the copy of the CbC report automatically to other jurisdictions, this CbC report hard copy may be sent to the French tax administration with a cover letter highlighting that the report is shared only for information purposes, and should not be seen as the MNE group's surrogate filing (as described by the OECD).

[Back to top](#)

Contacts

Grégoire de Vogüé (Paris)

GdeVogue@taj.fr

Eric Lesprit (Paris)

ELesprit@taj.fr

Aymeric Nouaille-Degorce (Paris)

AyNouailleDegorce@taj.fr

Julien Pellefigue (Paris)

JPellefigue@taj.fr

Marie-Charlotte Mahieu (Paris)

MMahieu@taj.fr

[Back to top](#)

Useful links

Resources

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

Get Connected

- [Deloitte tax@hand](#)
- [Join Dbriefs](#)
- [Follow @Deloitte Tax](#)
- www.deloitte.com/tax

[Back to top](#)



Get in touch



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see <http://www.deloitte.com/about> for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's more than 220,000 professionals are committed to making an impact that matters.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte

network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2017. For information, contact Deloitte Touche Tohmatsu Limited.

30 Rockefeller Plaza
New York, NY 10112-0015
United States



Official Professional Services Sponsor

Professional Services means audit, tax, consulting, and advisory.

Copyright © 2016 Deloitte Development LLC. All rights reserved.
36 USC 220506

To no longer receive emails about this topic please send a return email to the sender with the word "Unsubscribe" in the subject line.