



Panama establishes regulatory framework for country-by-country report

Global Transfer Pricing Alert 2019-026

Panama's government on May 27 issued an executive decree that establishes the regulatory framework for submission of the country-by-country (CbC) report.

Background

The Republic of Panama joined the OECD's Inclusive Framework for the implementation of BEPS actions on October 31, 2016.

Among the minimum standards contemplated in the BEPS actions is the strengthening of the Transfer Pricing Documentation, expanding the requirements for the local Report, known as the transfer pricing study and creating new reports such as the Master Report and the Country-by-Country Report, through Action 13, which the Republic of Panama is committed to implementing.

Panama then issued Executive Decree 390 of October 24, 2016, which establishes the master file requirement. Executive Degree No. 46 of May 27, 2019, establishes the regulatory framework for the CbC report.

Obligation to submit CbC report

Every ultimate parent entity of a multinational entity (MNE) group that has consolidated income exceeding EUR 750 million or its equivalent in Panamanian currency (the balboa) (at the exchange rate as of January 2015) and is domiciled

in Panama for tax purposes will be required to submit a CbC report annually.

Notification of the CbC report

The entity that belongs to an MNE group that is domiciled in Panama for tax purposes must notify the Panamanian tax authorities of the identity and fiscal residence of the reporting entity, as well as the fiscal period used by the MNE group.

Contents of CbC report

The MNE group's CbC report must include the following information:

- Amount of income, profit or loss before taxes, income tax paid, income tax accrued, declared capital, retained earnings, number of employees, and tangible assets other than cash or cash equivalents, regarding each one of the jurisdictions in which the MNE group operates.
- Identity of each entity in the MNE group, and the tax jurisdiction of each entity. When an entity's jurisdiction of tax residence differs from the jurisdiction in which it was legally constituted, the reporting entity must provide the name of the jurisdiction under which the entity was legally constituted. The report also must include the nature of the main business activity of that entity.
- Any additional information or explanation that is necessary or facilitates the understanding of the information contained in the CbC report.

Filing format and submission due date

Reporting entities must submit the CbC report annually in the "XML Schema" format, following the regulations and guidelines provided by the tax authorities. The CbC report must be submitted electronically through an internet portal established for that purpose. The report must be filed within 12 months following the end of the tax year.

The first CbC reports that must be filed are those for the 2018 tax year.

Inquiries

The executive decree provides a procedure for the submission of inquiries regarding the CbC report to the tax authorities. Whoever has a personal and direct interest may submit an inquiry, based on an actual situation, to the tax authorities to clarify the meaning and scope of Executive Decree 46 and any other current or future provision that regulates the automatic exchange of CbC reports.

Individuals may formulate their inquiries by themselves; however, legal entities must formulate their inquiries through a legal representative and, in both cases, the requirements established for that purpose must be met. The authorities must respond to any inquiry that meets the

requirements within a two-month period, unless a longer period is required.

Contacts

Yaremis Pérez Aguilera (Panama)

yaremispez@deloitte.com

Ruben Irigoyen (Panama)

ririgoyen@deloitte.com

Jonathan Pacheco (Panama)

jonpacheco@deloitte.com

Rosemari Cordero (Panama)

rcordero@deloitte.com

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