

Luxembourg Tax Alert

CBC Reporting Newsletter

Luxembourg CBC Law enacted before year end!

23 December 2016

As part of BEPS Action 13, the Luxembourg law implementing Country-by-Country Reporting (CbC Report) was adopted by the Parliament last week and will be published between Christmas and New Year's Eve.

The law transposes the EU directive 2016/881 (known as DAC4) inspired by the OECD Guidance and requires multinational enterprises (MNEs) having consolidated group revenues of at least 750 million Euros to file a CbC Report by the end of 2017, covering FY 2016.

While a CbC Report will only be required by December 31st 2017 at the earliest, some actions might be required as soon as December 31st, 2016.

The law includes a notification requirement, before the end of 2016 (if the MNE GROUP FYE is Dec 31), to be made by any Lux tax resident subsidiary or branch identifying the Group's reporting entity that will file the CbC Report in 2017.

- Where applicable, choose your reporting entity and define its status for CbC Reporting (e.g. Ultimate Parent entity, Surrogate Parent entity, EU Designated entity...).
- Luxembourg Tax authorities shall make available upon publication of the law an e-notification solution through the web portal "guichet.lu" allowing Luxembourg Constituent entities to notify the identity of the Reporting entity of the Group.
- In theory, an absence of notification - or even a late notification - might entail penalties of a maximum of 250 K€ per Luxembourg Constituent entity.

In practice however, penalties are not automatic. It is therefore reasonable to anticipate that no penalties would apply during the first weeks of 2017.

In summary, despite the probable deferral due to the tight deadline for notification, we recommend that Luxembourg entities of an MNE:

- **Confirm the reporting strategy** of the Group and gather relevant information;
- **Be able to notify** it to the Luxembourg tax authorities;
- **Do so in a reasonable timeframe** following the release of the e-notification system.

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