

Luxembourg Tax Alert

LTA clarifies timing of first CBCR reporting year in case of demergers/acquisitions

27 August 2021

On 20 August 2021, the Luxembourg tax administration (LTA) clarified the timing of the first reporting year under country-by-country reporting rules (CBCR) in case of demergers/acquisitions and the use of the "NOTIN" code.

On the CBC FAQ [available on its website](#), the LTA has set out the CBCR treatment for multinational enterprises (MNE) in case of demergers/acquisitions.

The OECD Guidance on the Implementation of Country-by-Country Reporting BEPS Action 13 (section VI 1. Scenario 1) lets jurisdictions select one of two options in case a carve-out of a part of an existing MNE group now forms a (new) separate group:

- **Legal independence perspective:** the new MNE did not legally exist as an independent group in year 0; therefore, it is not required to file a CBC report for year 1 but only as from year 2.
- **Economic perspective:** the new MNE already existed from an economic standpoint before the demerger. Therefore, it should be required to file the CBC report for year 1 if the total consolidated revenue from its sub-group of entities in year 0 is equal to or greater than EUR750 million.

The LTA decided to follow the **economic perspective**, effective as from January 2021.

This means a new MNE, which meets the EUR750 million threshold criteria in year 0, would need to report under CBC regulations as of the fiscal year of the demerger/acquisition (year 1). In practice, if the demerger/acquisition occurs in FY 2021 (year 1), and the new MNE met the EUR750 million threshold criteria in FY 2020 (year 0), the new MNE would need to:

- File notifications for FY 2021 before the end of 2021* (year 1); and
- File a CBC report for FY 2021 by the end of 2022*.

*If the ultimate parent's accounts are aligned on calendar year.

On a side note, under point 9 of the FAQ document, the LTA has changed how the "NOTIN" code can be used in a CBC report. Until now, the entity in charge of submitting the CBC report only had to provide a tax identification number (TIN) for Luxembourg entities and could use "NOTIN" for non-Luxembourg entities. From now on, the LTA only allows the use of the "NOTIN" code in the following cases:

- When the entity is in the process of obtaining a TIN; or
- When the entity is located in a jurisdiction that does not provide a TIN.

We hope you find this information useful. If you have any questions, please get in touch.

Your contacts

Xavier Sotillos Jaime

Partner – Transfer Pricing Leader

Tel: +352 45145 4375

xsotillosjaime@deloitte.lu

Balazs Majoros

Partner – Transfer Pricing

Tel: +352 45145 3047

bmajoros@deloitte.lu

Michal Stepien

Director – Transfer Pricing

Tel: +352 45145 4743

mstepien@deloitte.lu

Deloitte Luxembourg
20 Boulevard de Kockelscheuer
L-1821 Luxembourg
Grand Duchy of Luxembourg

Tel: +352 451 451

Fax: +352 451 452 401

www.deloitte.lu

Deloitte is a multidisciplinary service organisation which is subject to certain regulatory and professional restrictions on the types of services we can provide to our clients, particularly where an audit relationship exists, as independence issues and other conflicts of interest may arise. Any services we commit to deliver to you will comply fully with applicable restrictions.

Due to the constant changes and amendments to Luxembourg legislation, Deloitte cannot assume any liability for the content of this leaflet. It shall only serve as general information and shall not replace the need to consult your Deloitte advisor.

About Deloitte Touche Tohmatsu Limited:

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our global network of member firms and related entities in more than 150 countries and territories (collectively, the “Deloitte organization”) serves four out of five Fortune Global 500® companies. Learn how Deloitte’s approximately 330,000 people make an impact that matters at www.deloitte.com.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

© 2021 Deloitte Tax & Consulting

Designed and produced by MarCom at Deloitte Luxembourg