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Tax Espresso

Transfer Pricing: Inland Revenue Board of Malaysia issues notification formats for Country-by-Country Reporting

Background

In Malaysia, as per Income Tax (Country-by-Country Reporting) Rules 2016 ("CbCR Rules"), CbCR is effective for financial years commencing on or after 1 January 2017 for multinational corporation ("MNC") groups with annual consolidated revenue equal to or exceeding RM3 billion in the financial year preceding the reporting financial year.

As per the CbCR Rules, a Malaysian ultimate holding company or surrogate holding company (called "Reporting Entity") of a MNC group needs to file a CbC report. The surrogate holding company is defined as one of the constituent entities tax resident in Malaysia and appointed by the MNC group as the sole substitute for the ultimate holding company to file the CbC report

(hereinafter referred to as “surrogate parent filing”). The surrogate parent filing is required in the following scenarios:

- The ultimate holding company is not resident in Malaysia and is not obligated to file a CbC report in its jurisdiction of tax residence;
- The jurisdiction in which the ultimate holding company is tax resident does not have a qualifying competent authority agreement in effect to which Malaysia is a party at the time the CbC report is required to be filed; or
- There is a systematic failure of the jurisdiction of tax residence of the ultimate holding company that has been notified by the Director General to the constituent entity tax resident in Malaysia.

Notification requirement and formats

If a MNC group satisfies the above threshold in Malaysia or in the ultimate holding company’s jurisdiction of tax residence (local currency threshold would apply where in-country CbCR regulation has been enacted), notification needs to be given to the Director General of the Inland Revenue Board of Malaysia (“IRB”), in writing, by a constituent entity on or before the last day of the reporting financial year. For example:

- a. If the reporting financial year is 1 January 2017 to 31 December 2017
 - Notify the Director General by 31 December 2017
- b. If the reporting financial year is 1 September 2017 to 31 August 2018
 - Notify the Director General by 31 August 2018

The IRB has issued separate notification letter formats for Reporting Entity (i.e., ultimate holding company or surrogate holding company tax resident in Malaysia) and Non-Reporting Entity.

As per the prescribed formats, to avoid duplication, the notification can be made by one Malaysian constituent entity on behalf of other Malaysian constituent entities of the same MNC group.

Action required by MNC groups

As the immediate next step, a written notification about the reporting entity (i.e., ultimate holding company or surrogate holding company) needs to be provided to the Director General on or before the last day of the reporting financial year.

Failure to notify the Director General within the required time limit may attract penalty for non-compliance with the CbCR Rules.

Our services

The Deloitte Malaysia transfer pricing team can assist in preparing the notification in the prescribed format, conducting BEPS risk and CbCR readiness assessments, review of CbCR, and preparation of master file and local files.

For any queries or assistance, you can reach out to the following contacts:

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