

## Transfer Pricing Alert

01 August 2017

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#### **Additional implementation guidance on CbC reporting**

The OECD Guidelines on 18 July released additional guidance on the implementation of the country-by-country (“CbC”) reporting requirement introduced in the BEPS Action 13 final report.

The main guidance refers to:

- CbC financial data should be presented on an aggregated basis for different group entities in a single jurisdiction. However, there are exceptions from this rule;
- Reporting entities are also required to provide an explanatory note on the CbC report if consolidated data is used;
- The provisions regarding parent surrogate filing were updated.



## Additional implementation guidance on CbC reporting

The additional guidance consolidates and expands all of the additional implementation guidance issued by the OECD Guidelines since the release of the Action 13 Report (“Transfer Pricing Documentation and Country-by-Country Reporting”).

To assist jurisdictions with the introduction of consistent domestic rules, the additional guidance addresses two specific issues:

- Whether aggregated or consolidated data for each jurisdiction is to be reported in Table 1 of the CbC report; and
- How to treat an entity owned and/or operated by two or more unrelated multinational enterprise groups (MNE groups).

### **Aggregate versus consolidated data (new guidance)**

The 18 July OECD Guidance addresses whether the CbC financial data should be presented on an aggregated or consolidated basis for different group entities in a single jurisdiction. This issue may be of particular importance in reporting related-party revenue and total revenue.

The additional guidance states that reporting should be done on an aggregate basis. The guidance does provide, however, that jurisdictions may create an exception to this and allow reporting on a consolidated basis, just as long as:

- Consolidated data is reported for each jurisdiction on the CbC report; and
- Consolidation must be used consistently across the years.

Reporting entities are also required to provide an explanatory note on the CbC report if consolidated data is used. Importantly, however, this is applicable only to jurisdictions that have “a system of taxation for corporate groups which includes consolidated reporting for tax purposes, and the consolidation eliminates intra-group transactions at the level of individual line items.”

### **Entities owned and/or operated by more than one unrelated MNE group (new guidance)**

According to the 18 July OECD implementation guidance, if an entity is owned and/or operated by more than one unrelated MNE group, the treatment of that entity for CbC reporting purposes should be determined under the accounting rules applicable to each of the unrelated MNE groups separately.

In addition, if pro rata consolidation is applied to an entity in an MNE group in preparing the group's consolidated financial statements, jurisdictions may allow a pro rata share of the entity's total revenue to be taken into account for the purpose of applying the EUR 750 million threshold. Finally, jurisdictions may also allow an MNE group to include a pro rata share of the entity's financial data in its CbC report, in line with the information included in the MNE group's consolidated financial statements, instead of the full amount of this financial data.

### **Parent surrogate filing (updated guidance)**

When surrogate filing (including parent surrogate filing) is available, it will mean that there are no local filing obligations for the particular MNE in any jurisdiction that otherwise would require local filing in which the MNE has a constituent entity (herein referred to as the local jurisdiction).

For further questions, please contact us.



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