
Cyprus introduces rules to implement Country by Country reporting requirements

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In brief

The Cyprus Minister of Finance issued a Decree on 30 December 2016, which introduces a mandatory Country by Country (“CbC”) reporting requirement for multinational enterprise groups generating consolidated annual turnover exceeding €750m (“MNE Group”).

In this respect, MNE Groups with an ultimate Cyprus tax resident parent, are required to file on an annual basis a CbC report which includes specific financial data covering income, taxes, and other key measures of economic activity by territory. Under certain conditions, a CbC reporting requirement may also apply for Cyprus tax resident entities belonging to an MNE Group.

Cyprus tax resident constituent entities of an MNE Group should notify the Cyprus tax authorities of whether they are the reporting entity and if they are not, the details of the reporting entity of the MNE Group.

This Tax Insight discusses the CbC reporting requirements in Cyprus and highlights some of the potential implications for MNEs headquartered or operating in Cyprus.

In detail

New requirements

The Decree is in line with the EU Directive 2016/881 amending Directive 2011/16 as regards mandatory automatic exchange of information in the field of taxation and the OECD BEPS Action 13 on transfer pricing documentation and country by country reporting.

CbC report filing obligation

As per the Decree, a Cyprus tax resident entity that:

- is the ultimate parent entity of an MNE Group, and
- prepares consolidated financial statements, or would be required to prepare such statements if its equity interests were traded on a public securities exchange

is obliged to file electronically a CbC report on behalf of the MNE Group with the Cyprus tax authorities.

Cyprus tax resident entities belonging to an MNE group that has a non Cyprus tax resident ultimate parent may under certain conditions be obliged to submit a CbC report in Cyprus (under the “secondary filing mechanism”) or be designated by the MNE Group as the sole substitute of the ultimate parent entity (under the “surrogate parent” mechanism).

The first CbC report should be prepared for the financial year of the MNE group starting on or after January 1, 2016.

CbC reporting notifications

As per the Decree, each Cyprus tax resident constituent entity of an MNE Group should notify, on an annual basis, the Cyprus tax authorities if it is the reporting entity of the MNE Group (ie the ultimate parent or surrogate parent). In the case where the entity is not the reporting entity, then it should also notify the authorities of the details and tax residency of the reporting entity of

the MNE Group. Such notifications should be submitted before the end of each financial year.

The Decree specifically provides that the first notifications should be made by the 20th of October 2017.

Information to be disclosed

MNE Groups need to disclose on their CbC report the following data for each tax jurisdiction in which they operate:

- The amount of revenue, profit before tax, and corporate taxes paid and accrued.
- Capital, retained earnings and tangible assets, together with the number of employees.
- Identification of each entity within the group doing business in a particular tax jurisdiction, with a broad indication of its economic activity.

The format of the CbC report is consistent with the template

published by the OECD as part of the BEPS project (Action 13) and the EU Directive 2016/881.

Exchange of CbC reports

In line with the relevant EU Directive, the Cyprus tax authorities will apply the EU automatic exchange of information mechanism so as to exchange CbC reports filed by MNE Groups in Cyprus with the tax authorities of the other EU Member States in which the MNE Group operates.

In addition, as Cyprus fully supports the OECD/G20 efforts for increased transparency, it signed on the 1st November 2016 the OECD's Multilateral Competent Authority Agreement on the Exchange of CbC Reports and therefore the Cyprus authorities will be able to exchange automatically CbC reports filed in Cyprus with the competent authorities of all other jurisdictions that have signed the above mentioned agreement.

Penalties

At this stage there is no indication as to the level of penalties for non-compliance that will be imposed in Cyprus. However, these are

expected to be effective, proportionate and dissuasive as required by the relevant EU Directive.

The takeaway

The introduction of CbC reporting requirements in Cyprus will affect Cyprus parented MNE Groups or potentially Cyprus tax resident subsidiaries or permanent establishments of non-Cyprus parented MNE Groups.

In view of these requirements, affected MNE Groups should commence preparation to collect and analyse the necessary information required for preparing a CbC report.

Based on our experience, significant practical challenges may be faced in gathering and reconciling the data required to prepare the CbC report and in ensuring that any risks highlighted by these disclosures can be managed or addressed.

Given the potentially significant impact on the MNE Group's tax profile, the preparation of the CbC report should be seen as part of the MNE Group's strategic tax risk management rather than simply as

a compliance burden for its tax department to deal with.

In this respect, consideration should be given to:

- **Dry run and impact appraisal** – so as to proactively assess the risk that may arise when the MNE Group is formally required to submit a CbC report.
- **Processes and governance** – so as to identify sources and availability of required information and whether additional resources are required to manage the CbC reporting requirements and ongoing compliance.
- **Data and technology** – so as to assess technology capabilities and requirements as they relate to CbC reporting and wider global transfer pricing documentation requirements.
- **Filing strategy** – so as to determine the MNE Group's CbC reporting and notification obligations worldwide and how these can be managed and fulfilled more efficiently.

Let's talk

For a deeper discussion of how this development might affect you or your business, please contact:

Theo C Parperis

Partner
Head of Tax & Legal
theo.parperis@cy.pwc.com

Marios S Andreou

Partner
In charge of Tax Advisory
marios.andreou@cy.pwc.com

Nicos P Chimarides

Partner
In charge of Corporate Compliance
nicos.chimarides@cy.pwc.com

Eftychios G Eftychiou

Partner
Head of Tax Technical
Committee
eftychios.eftychiou@cy.pwc.com

Or your usual PwC contact

PwC Cyprus

PwC Central
43 Demostheni Severi Avenue
CY-1080 Nicosia, Cyprus
P O Box 21612
CY-1591 Nicosia, Cyprus

www.pwc.com.cy