

# Cyprus updated its Country by Country reporting requirements

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## In brief

The Cyprus Minister of Finance has issued a new Decree on 26 May 2017, which has updated the Country by Country (“CbC”) reporting requirements for multinational enterprise groups generating consolidated annual turnover exceeding €750m (“MNE Group”).

MNE Groups with an ultimate Cyprus tax resident parent are required to file in Cyprus, 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.

This Tax Insight discusses the updates to 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 new Decree is in line with the EU Directive 2016/881 (DAC4) 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 CbC report filing obligation arises in Cyprus for a Cyprus tax resident entity that is the ultimate parent entity (“UPE”) of an MNE Group, or has been designated by the MNE Group as the sole substitute of the UPE (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.

The CbC report should be filed within 12 months from the end of each reporting year.

### Secondary filing mechanism

Cyprus tax resident entities belonging to an MNE group that has a non-Cyprus tax resident UPE may under certain conditions be obliged to submit a CbC report in Cyprus (under the “secondary filing mechanism”).

In the case where the UPE refuses to provide the Cyprus tax resident constituent entity with the information to be included in the CbC report, then the Cyprus tax resident constituent entity should proceed to notify the Cyprus tax authorities of such refusal and disclose on the CbC report only information it has in its possession (this is called the “Equivalent CbC report”).

The secondary filing mechanism will apply for financial years starting on or after January 1, 2017. CbC reports filed under the secondary filing mechanism should be filed within 12 months from the end of each reporting year.

### 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 (i.e. the UPE or surrogate parent). In the case where the entity is not the reporting entity, then it should also notify the Cyprus tax authorities of the details and tax residency of the reporting entity of the 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 20<sup>th</sup> 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.

### **Exchange of CbC reports**

Cyprus signed on the 1<sup>st</sup> of November 2016 the OECD's Multilateral Competent Authority Agreement on the Exchange of CbC Reports and therefore the Cyprus tax 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.

In addition, 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 group operates.

CbC reports filed with the Cyprus tax authorities under the secondary filing mechanism will not be subject to automatic exchange with other relevant jurisdictions.

### **Documentation requirements**

The new Decree has introduced a requirement for the maintenance of supporting documentation relating to the preparation of the CbC report. Such documentation will need to be retained for 6 years

and be made available to the Cyprus tax authorities if requested.

### **Penalties**

At this stage the general penalties as per the Cyprus tax legislation apply for non-compliance with CbC reporting obligations. However, additional penalties for non-compliance specific to CbC reporting may be introduced at a later stage.

### **The takeaway**

The introduction of CbC reporting requirements in Cyprus will affect Cyprus-parented MNE Groups and Cyprus tax resident subsidiaries or Cyprus permanent establishments of non-Cyprus-parented MNE Groups (if certain conditions are met).

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 group's tax profile, the preparation of the CbC report should be seen as part of the group's strategic tax risk management rather than simply as a compliance burden for the group's tax department to deal with.

In this respect, consideration should be given to:

- **Filing strategy** – so as to determine the group's CbC reporting and notification obligations worldwide and how these can be managed and fulfilled more efficiently.
- **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.
- **Impact appraisal** – so as to proactively assess the risks that may arise upon submission of the CbC report and consider the wider global transfer pricing documentation requirements.

## **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](mailto:theo.parperis@cy.pwc.com)

**Marios S Andreou**  
Partner  
In charge of Tax Advisory  
[marios.andreou@cy.pwc.com](mailto:marios.andreou@cy.pwc.com)

**Nicos P Chimarides**  
Partner  
In charge of Corporate Compliance  
[nicos.chimarides@cy.pwc.com](mailto:nicos.chimarides@cy.pwc.com)

**Eftychios G Eftychiou**  
Partner  
Head of Tax Technical  
Committee  
[eftychios.eftychiou@cy.pwc.com](mailto: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](http://www.pwc.com.cy)