

Tax - Breaking News

July 2017



The Greek Parliament will be voting today on a bill regarding implementation in Greek legislation of the provisions of the EU Council Directive 2016/881 regarding mandatory automatic exchange of information in the field of taxation.

The new provisions of Law 4170/13 will apply as of 5 June 2017 and provide the following:

Multinational Groups (MNE Groups) are obliged to file a Country by Country Report (CbyC Report)

- The Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Greece or any other entity within the scope of the respective provisions, must file a CbyC Report.
- The first CbyC Report will be filed with respect to the MNE Group's Fiscal Year commencing on or after 1 January 2016.
- MNE Groups with total consolidated group revenue less than EUR 750 million during the immediately preceding fiscal year are exempted.
- The CbyC Report is filed electronically with the International Economic Relations Directorate of the Independent Authority for Public Revenue by using a standardized form which is the same as the CbyC Report template provided in Action 13 of the OECD's Action Plan for Base Erosion and Profit Shifting (BEPS).
- The CbyC Report will be communicated by the International Economic Relations Directorate through the mandatory automatic exchange of information, to those Member States in which entities of the MNE Groups are either resident for tax purposes, or subject to tax with respect to business carried out through a permanent establishment.
- An MNE Group which has an entity in Greece may delegate the filing of the CbyC Report to the Greek entity, as a Surrogate Parent Entity, if the following criteria are satisfied:
 - the Ultimate Parent Entity of the MNE Group is not obliged to file a CbyC Report in its jurisdiction of tax residence
 - the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement but does not have a Qualifying Competent Authority Agreement with Greece in effect, as specified in the respective legislation
 - there has been a systemic failure of the jurisdiction of tax residence of the Ultimate Parent Entity regarding the automatic exchange of CbyC Reports.

Information to be included in the Country by Country Report (CbyC Report)

- The CbyC Report shall contain the following information with respect to the MNE Group:
 - aggregate information with respect to each tax jurisdiction in which the MNE Group operates relating to the amount of revenue, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents
 - an identification of each entity of the MNE Group setting out the jurisdiction of tax residence of that entity and, where different from the jurisdiction of tax residence, the jurisdiction under the laws of which that entity is organized, and the nature of the main business activity or activities of the entity.
- This information shall be used for the purposes of assessing high-level transfer pricing risks and other risks related to base erosion and profit shifting.

Important deadlines

- The CbyC Report should be filed within 12 months of the last day of the Reporting Fiscal Year to which it relates, i.e. the first filing will take place by 31 December 2017 with respect to 2016.
- Entities of an MNE Group that are resident for tax purposes in Greece are obliged to notify the Greek tax authorities with respect to the filing of the CbyC Report, no later than the last day of the Reporting Fiscal Year to which it relates. Especially for the first fiscal year the notification deadline has been extended to coincide with the filing deadline of the CbyC Report, i.e. 31 December 2017.
- Communication of the CbyC Report through the automatic exchange of information shall take place within 15 months of the last day of the Reporting Fiscal Year to which it relates. Be exception, the first CbyC Report shall be communicated within 18 months, i.e. the first automatic exchange of information will take place by 30 June 2018.

Penalties

- In the case of non-filing of a CbyC Report a penalty of EUR 10 000 will be imposed.
- In the case of late filing or of the filing of an inaccurate CbyC Report a penalty of EUR 5 000 will be imposed.

KPMG comments

- These new provisions enhance transparency for MNE Groups which is an essential part of tackling base erosion and profit shifting.
- These provisions refer to the automatic exchange of CbyC Reports between member states of the European Union. A new bill is anticipated with respect to the automatic exchange of CbyC Reports between OECD member states according to Action 13 of the OECD BEPS Action Plan.
- Taking into consideration the above mentioned obligations, it is important for Greek Groups subject to the above mentioned criteria for the filing of a CbyC Report, to be prepared to fulfill this obligation without delay.
- With the implementation of the new provisions, the number of tax audits carried out by Greek and foreign tax authorities is expected to increase with an anticipated increase of tax disputes. For this reason, it is important that the information contained in the CbyC Report is accurate so that the risk of dispute by the tax authorities regarding the Group's transfer pricing policy, is minimized.

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This Newsletter aims to provide the reader with general information on the above-mentioned matters. No action should be taken without first obtaining professional advice specifically relating to the factual circumstances of each case.

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