

Overview of Country-by-Country Reporting in Mauritius



In view of the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports ("CbC MCAA") that has been signed by Mauritius in January 2017, the Income Tax (Country-by-Country Reporting) Regulations 2018 ("Regulations") have been proclaimed on 22 February 2018.

The regulations apply to Multinational Enterprises ("MNE") groups whose consolidated group revenue is at least EUR 750 million (approx. MUR 30 billion) and where the MNE group has 2 or more enterprises which are tax residents in different jurisdictions.

The Regulations will be effective for the accounting years beginning on or after 1 July 2018.

Background

The BEPS Action 13 report (Transfer Pricing Documentation and Country-by-Country Reporting) provides a template for MNE groups to report annually on information such as the names of the MNE groups' entities, their jurisdiction of tax residence and the aggregate revenue, profit/loss before income tax, income taxes paid/accrued, stated capital, tangible assets, accumulated earnings and number of employees in each jurisdiction in which the MNE groups operate. This report is called the Country-by-Country Report ("CbC report").

Mauritius, being an associate of the OECD's Inclusive Framework, has committed to implement the minimum standard of Country-by-Country Reporting ("CbCR"). By signing the CbC MCAA in January last year, Mauritius has agreed to bilaterally and automatically exchange CbC reports with other signatories in line with Action 13 of the BEPS Action Plan.

The exchange of CbC reports is aimed to provide tax administrations in different jurisdictions with adequate and reliable information to conduct an efficient and robust transfer pricing risk assessment analysis.

Requirement for filing CbC report in Mauritius

A CbC report should be filed in Mauritius when:

- the MNE group's ultimate parent entity ("UPE") is a tax resident in Mauritius; or
- the MNE group nominates an entity which is tax resident in Mauritius as the Surrogate Parent Entity ("SPE").

The SPE is an entity of the MNE group that has been appointed by the MNE group as the sole substitute for the UPE to file CbC report.

Notification and filing in Mauritius

The Mauritius Revenue Authority ("MRA") should be notified whether or not the Mauritius tax resident entity of the MNE group is the UPE or the SPE of the MNE group. The notification should be done not later than 12 months from the last day of the accounting year of the MNE group. Where the Mauritius tax resident entity of the MNE group is neither the UPE nor the SPE of the MNE group, it should give a written notice to the MRA on the identity and tax residence of the UPE or the SPE of the MNE group.

The CbC report should be filed in Mauritius not later than 12 months from the last day of the accounting year of the MNE group, where applicable.

Format of CbC Report

The CbC report format set out by the MRA is similar to that proposed by the OECD under BEPS Action 13 and consists of three tables:

- Table 1 - Overview of group income, taxes and business activities by tax jurisdictions;
- Table 2 - Overview of the constituent entities of the MNE group; and
- Table 3 - Any additional relevant information.



Offences

Failure to comply with the Regulations shall entail a fine not exceeding MUR5,000 and imprisonment not exceeding a term of 6 months.

Our Comments

MNE groups should firstly evaluate whether the Regulations would be applicable to them by taking into account their annual consolidated group revenue and the tax residency of the entities within the group.

Once the requirement for CbCR has been established, they should then ensure that the required information is readily available. We suggest that the information gathering process starts as early as possible as it may prove difficult to collect all the information within a short delay due to the size and complexity of the MNE group's business structure and the different geographical locations in which it operates.

Although a CbC report may not be required to be filed in Mauritius, the Mauritius entity of the MNE group may still be required to provide information to the UPE or SPE of the MNE group.

MNEs should also ensure that their transfer pricing policies are supported with robust transfer pricing documentation since the CbC report would allow tax authorities to link substance and scale of operations in different countries of operations of the MNE group to the value created and taxes being paid there.

How we can help

We welcome any opportunity to discuss and analyse the relevance of CbCR to your business.

Contact Us

Wasoudeo Balloo

Partner, Head of Tax

T: 406 9891

E: wballoo@kpmg.mu



Bobby Yerkiah

Associate Director, Tax

T: 406 9768

E: byerkiah@kpmg.mu



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This document is based on our interpretation of the current income tax law and international tax principles. These principles are subject to change occasioned by future legislative amendments and court decisions. You are therefore cautioned to keep abreast of such developments and are most welcome to consult us for this purpose.

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