

Transfer Pricing Newsletter

FIRS issues Country-by-Country Reporting Regulations

KPMG in Nigeria

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The Federal Inland Revenue Service (FIRS) published the Income Tax (Country-by-Country Reporting) Regulations, 2018 (CbCR Regulations) on Tuesday, 19 June 2018. The summary of the key provisions of the Regulations which became effective on 1 January 2018 are as follows:

1. Commencement date and filing deadline

Multinational Enterprises (MNE) Groups whose Ultimate Parent Entity (UPE) is tax resident in Nigeria are required to file CbCR with the FIRS annually. The basis period for the first CbCR is the new accounting year of the Group starting from or after 1 January 2018. The Report is to be submitted not later than one year after the end of each accounting period to which the Report relates.

2. Information required in CbCR

The Regulations adopted the Organisation for Economic Cooperation and Development's (OECD) template. Section 7 of the Regulations provides that the CbCR for each MNE Group shall contain the following information for each Constituent Entity in the jurisdiction of tax residence where such Entity operates:

- amount of revenue
- profit or 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.

3. Compliance Entity

The UPE of MNE Groups headquartered in Nigeria with consolidated revenue of N160 billion or above is required to file the CbCR. Where the UPE of an MNE Group is not tax resident in Nigeria and the CbCR has not been implemented in the jurisdiction where the UPE is tax resident, or such jurisdiction has no relevant exchange of information agreement with Nigeria, the Constituent Entity that is tax resident in Nigeria is required to file the CbCR. This may however not apply where the MNE Group has appointed another Constituent Entity to file CbCR on behalf of the MNE Group in a jurisdiction with relevant exchange of information agreement with Nigeria.

4. Notification of the FIRS

A qualifying Nigerian tax resident is required to notify the FIRS of the identity of the entity within the Group that will file the CbCR. The notification is to be provided not later than the last day of the reporting accounting year of the MNE Group.

5. Penalties for non-compliance

The Regulations impose the following penalties for non-compliance:

- Failure to file CbCR within the statutory deadline attracts a penalty of ₦10million and ₦1million for every month in which the failure continues:
- Filing incorrect or false report attracts a penalty of ₦10 million:
- Failure to notify the FIRS of the entity that will file the CbCR within the statutory period attracts a penalty of ₦5 million and ₦10,000 for every day in which the failure continues.

Comments

With the CbCR Regulations in force, the FIRS is now able to obtain and share relevant information on the global business operations, financial results and tax position of qualifying MNE Groups. This implies that the FIRS will have better insights into MNE operations and greater capability to assess TP and other Base Erosion and Profit Shifting (BEPS) related risks. It is, therefore, important that MNE Groups evaluate their TP and BEPS risks and proactively take necessary actions to address them.



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