KPMG

Tax News Flash

KPMG in Thailand

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EU Public CbCR

As tackling tax avoidance has become a global focus, the Organisation for Economic Cooperation and Development ("OECD") have introduced 15 action items that seek to address Base Erosion and Profit Shifting ("BEPS") concerns. Among them, BEPS Action 13 was introduced to bring forth Country-by-Country Reporting ("CbCR") requirements which mandated certain multinational enterprises ("MNEs") to prepare an annual country-by-country report containing tax, financial and operational information about the MNE or its group.

On 11 November 2021, the European Parliament formally adopted a directive for public CbCR (the "Directive"). This new Directive adds another layer to the OECD's CbCR requirement by requiring certain MNEs to publish their CbCR on commercial registers and the companies' websites and will be required to be retained for a period of at least five years.

Public CbCR has been sought by the European Commission since January 2016 in the hope to increase tax transparency for MNEs operating in and transacting with European Union ("EU") Member States. Public CBCR will enter into force 20 days after the Directives' publication in the Official Journal of the EU, and EU Member States will have 18 months to implement the Directive into domestic legislation.
Public CBCR requires MNEs with total consolidated annual revenue of more than EUR 750 million (or the equivalent in local currency) in the previous two fiscal years to disclose certain information, on a country-by-country basis, no later than 12 months after the end of the MNEs' financial year, where:

- the MNE is headquartered in the EU; or
- the MNE is headquartered outside of the EU but has a "medium" or "large" EU subsidiary or branch.

For the purposes of the Directive, an EU subsidiary is considered to be "medium" or "large" if it exceeds two of the three following criteria:

1. balance sheet total: EUR 4 million (EU member states may increase this threshold to not exceed EUR 6 million);
2. net turnover: EUR 8 million (EU member states may increase this threshold to not exceed EUR 12 million);
3. employees: 50 on average throughout the financial year.

For EU headquartered MNEs, the disclosure requirement rests with the EU parent company. For non-EU headquartered MNEs, each of the qualifying EU subsidiaries or EU branches are expected to publish and make accessible the report in respect of their ultimate parent undertaking.

Public CbCR should present the information separately for each of the EU member states where the MNE is active, but can be combined where the EU member state comprises several tax jurisdictions. In addition, the information must be presented separately for each jurisdiction included on the EU list of non-cooperative jurisdictions.

Below is the information that is required to be included within public CbCR:

- a brief description of the nature of the companies' activities;
- revenues, including revenue from related parties;
- the amount of profit or loss before income tax;
- the amount of income tax paid on a cash basis;
- the amount of income tax accrued during the relevant financial year;
- the amount of accumulated earnings at the end of the relevant financial year; and
- the number of full-time equivalent employees.

What does this mean for Thai companies?

Ultimate parent companies situated in Thailand that have qualifying subsidiaries or branches operating in an EU member state and meet the EUR 750 million consolidated revenue threshold will be required to comply with public CbCR.

Additionally, Thai companies with EU ultimate parent companies may be requested to disclose the required information to their parent companies in order for the parent companies to be in compliance with their public CbCR obligations.

Considering the proposed implementation timeline, the rules may become applicable to relevant companies from mid-2024 with first reporting likely to be in 2025.

Thai companies will need to consider whether they are obliged to comply with the disclosure requirements under the Directive and should include public CbCR in their tax and financial compliance agendas. Consideration should also be given to what information needs to be reported and ensure that it is available ahead of the reporting obligations.

How can KPMG help?

- By helping you to meet the challenges of reporting.
- By supporting your interactions with other regimes.
- By assisting with the evaluation of the obligation to report.

- Through live workshops and web-based or in-person training.
- Through health checks and operational reviews.

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