

e-Tax alert

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The Ministry of Finance released safe harbor exemption regarding "Master file" and "Country-by-country" reports submission

Taiwan Ministry of Finance (MOF) announced amendments made to "Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's-Length Transfer Pricing" ("TP assessment Rules") on November 13, 2017. Most of the amendments reflect the requirements listed under OECD BEPS Action 13 Report. Major amendments include multinational enterprises (MNE) who have members in Taiwan may be required to file Master File and

Country-by-Country Report. This amendment will be applicable from fiscal years of 2017 onward.

In view of the compliance cost of MNEs for preparing transfer pricing documents, On December 11, 2017, MOF released Safe Harbor Rules for Master File and Country-by-Country Report in Taiwan after taking into accounts of international practices, national conditions in Taiwan and public opinions.

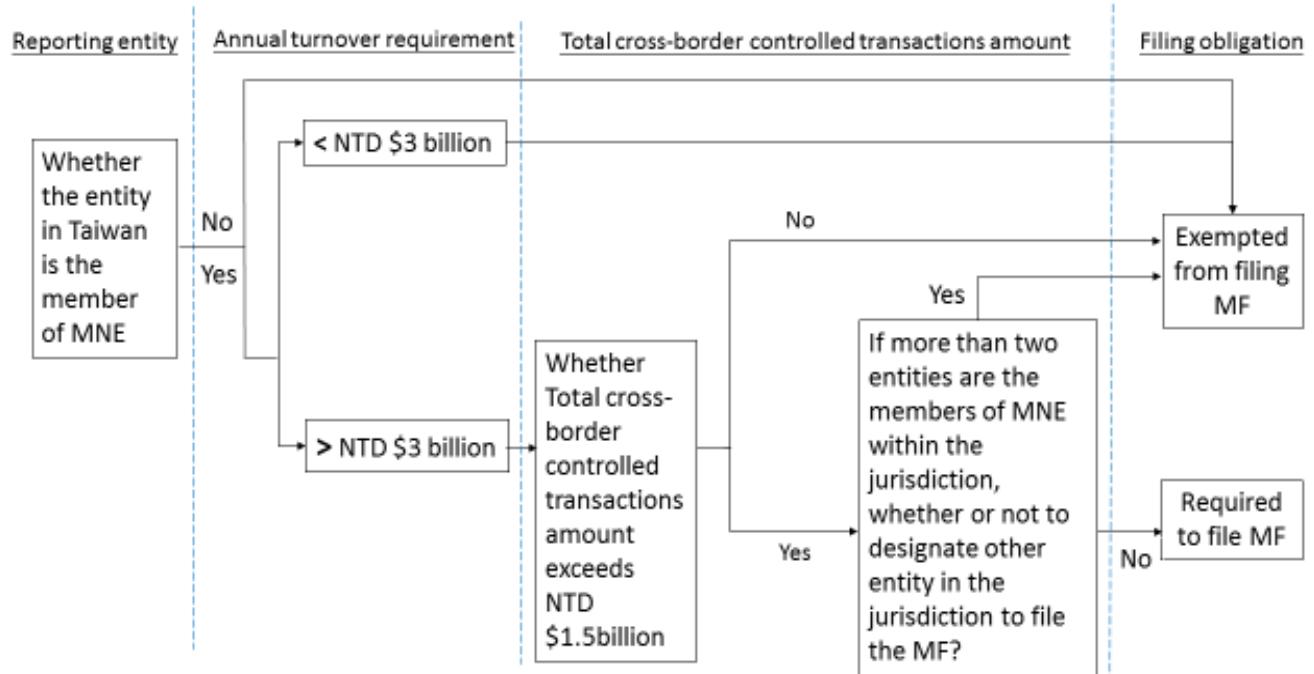


Master File Requirement

Reporting Entity	Taiwanese Constituent Entities of an MNE Group
Prepared Deadline	When filing income tax return (i.e. May 31 for calendar year company)
Filing Deadline	Within 12 months after the last day of the reporting fiscal year
Language	<p>The report should be in Chinese. If it is reported in foreign language, a Chinese translation shall also be attached.</p> <p>If it is reported in English, taxpayer may submit English report by deadline and provide Chinese translation within one month upon receiving the written request from Taiwan tax authority. Company who cannot provide the Chinese translation within the deadline, it may present the reasons to apply for an extension with tax authority before due date; the extension can only be granted once and cannot exceed one month.</p>
Threshold	<p>A Taiwanese entity meet any one of the following conditions will be exempted from filing the Master File:</p> <ul style="list-style-type: none"> - The Taiwanese entity's total annual turnover (include operating and non-operating) has not exceeded NTD 3 billion, or - The Taiwanese entity's total cross-border controlled transaction amount has not exceeded NTD 1.5 billion.
MNE with more than two entities in Taiwan	<ul style="list-style-type: none"> - MNE with more than two members in Taiwan shall apply the safe harbor rules separately to each member; - MNE with more than two members in Taiwan can designate one of the entities to file the MF.

Please see following illustrations of safe harbor of MF:

Master File Safe Harbor



Source: Ministry of Finance, R.O.C.

CBCR Requirement

Reporting entity	<ul style="list-style-type: none"> - The entity in Taiwan is an Ultimate Parent Entity (UPE) or a Surrogate Parent Entity (SPE) of MNE; - The Taiwanese entity of a foreign group if Taiwan tax authority cannot obtain CBCR from other tax jurisdiction when there is no CBCR regulations in the tax jurisdiction of UPE/SPE, no CBCR exchange agreement with Taiwan, or failed to exchange CBCR.
Notification requirement	A Constituent Entity of MNE Groups in Taiwan will need to disclose the relevant information of the UPE or the SPE that will submit the CBCR when filing income tax return.
Time for filling	<p>Within 12 months after the last day of the reporting fiscal year;</p> <p>If Taiwan tax authority is not able to obtain CBCR of MNE groups from other tax jurisdictions which have CBCR exchange agreement with Taiwan, Taiwanese entity should file CBCR to tax authority within one month after receiving tax authority's request. There is a one-time one month extension.</p>
Language	The language has not been prescribed, however, according to the International trends, it is expected to be in English or Chinese.



Threshold	<p>An enterprise in Taiwan meeting any of the following conditions will be exempted from filling of CBCR:</p> <ul style="list-style-type: none">- UPE of a MNE Group is Taiwanese entity and with annual consolidated group revenue in the immediately preceding fiscal year of less than NTD \$27 billion.- A Taiwanese subsidiary/branch with UPE outside of Taiwan, and meets one of the followings:<ol style="list-style-type: none">(1) The jurisdiction of tax residence of UPE have statutory provisions to file the CBCR, and also meet the exemption requirements to file CBCR.(2) The jurisdiction of tax residence of UPE do not have the statutory provisions to file CBCR, MNE appoints one of the members to act as SPE to file the CBCR, which meets the exemption requirements to file CBCR.(3) The jurisdiction of tax residence of UPE do not have the statutory provisions to file CBCR, nor do they appoint any other members as SPE, but meet the exemption requirements to file CBCR in Taiwan (annual consolidated group revenue during the fiscal year immediately preceding the reporting fiscal year that does not exceed NTD \$27 billion)
MNE with more than two entities in Taiwan	<p>For foreign MNE groups with two or more members in Taiwan, it can designate one of the members to file the CBCR, and to notify the rest of the members in Taiwan as well as their governing Taiwanese tax offices.</p>



KPMG Observation

The safe harbor threshold for the preparation of master file is lower than those for CBCR. Hence, the Taiwanese entity of a MNE group should evaluate if it needs to prepare the MF. If yes, the MF needs to be ready when filing the income tax return and needs to be submitted with Taiwan tax authority within 12 months after the last day of the reporting fiscal year.

For foreign MNE groups, the MF is usually centrally prepared at headquarters' level. We recommend Taiwanese subsidiaries/branches of a foreign MNE to inform their headquarters as early as possible to make sure the MF can be ready by filing deadline (e.g. end of May for calendar year taxpayer) and to obtain a copy of MF for submission.

As Taiwan also has transfer pricing documentation requirement, it is also suggested to double check if the content in the MF is consistent with the Taiwanese transfer pricing report.

As for CBCR, if the revenue of a foreign MNE groups exceed the CBCR threshold of NTD 27 billion or if the entity do not qualify for the above thresholds, we recommend Taiwanese subsidiaries/branches of a foreign MNE to take the following actions:

- Ask the headquarters for the information of the CBCR filing entity (i.e. UPE or SPE);
- Disclose the information of UPE or SPE on the disclosure forms to be attached with tax return at time of filing; and
- If it is expected Taiwanese tax authority cannot obtain a copy of CBCR through tax information exchange mechanism, the Taiwanese entity should obtain a copy of the CBCR for submission.

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