

TaxNewsFlash

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United States: IRS guidance on country-by-country reporting by “specified national security contractors”

The IRS today released an advance version of Notice 2018-31 that provides guidance concerning country-by-country (CbC) reporting requirements of certain U.S. multinational enterprise (MNE) groups that are identified as “specified national security contractors.”

Notice 2018-31 [PDF 21 KB] addresses concerns expressed in comments made in response to Treasury regulations for the need for a national security exception to the CbC information reporting requirements.

Background

Final regulations require annual CbC reporting on Form 8975, *Country-by-Country Report*, by certain U.S. persons that are ultimate parent entities of U.S. MNE groups that have annual revenue for the preceding reporting period of \$850 million or more. The final regulations do not provide a general exception for information that may relate to national security, but the preamble to the final regulations stated that the Defense Department would continue to consider the national security implications of CbC reports in particular fact patterns. Read [TaxNewsFlash](#)

Notice 2018-31

Today’s notice states that the IRS and Treasury Department have determined that national security interests require modifications to the reporting requirements for U.S. MNE groups that are specified national security contractors.

A U.S. MNE group is a “specified national security contractor” if more than 50% of the U.S. MNE group’s annual revenue (determined in accordance with U.S. generally accepted accounting principles) in the preceding reporting period is attributable to

contracts with the Defense Department or other U.S. government intelligence or security agencies.

Notice 2018-31 states that the IRS and Treasury intend to modify the regulations to reflect this guidance. The future regulations will set forth the manner how U.S. MNE groups that have a Form 8975 filing obligation and are specified national security contractors may provide Form 8975 and Schedules A (Form 8975), as follows:

- Complete Form 8975 with a statement at the beginning of Part II, Additional Information, that the U.S. MNE group is a specified national security contractor
- Complete one Schedule A (Form 8975) for the “Tax Jurisdiction” of the United States with aggregated financial and employee information for the entire U.S. MNE group in Part I, Tax Jurisdiction Information, and only the ultimate parent entity’s information in Part II, Constituent Entity Information
- Complete one Schedule A (Form 8975) for the Tax Jurisdiction “Stateless” with zeroes in Part I, Tax Jurisdiction Information, and only the ultimate parent entity’s information in Part II, Constituent Entity Information.

The IRS stated that no other Schedule A (Form 8975) or additional information is required.

Today’s notice also addresses situations when a specified national security contractor that has already filed Form 8975 and Schedules A (Form 8975) for prior reporting periods may file an amended federal income tax return and attach an amended Form 8975 and Schedules A (Form 8975) with the amended report checkbox on Form 8975 marked. Specified national security contractors that do not electronically file their amended federal income tax returns are directed to file an amended federal income tax return with an amended Form 8975 and Schedules A (Form 8975), and mail a copy of page one of their amended Form 8975 to the IRS Service Center in Ogden, Utah.

Notice 2018-31 states that specified national security contractors that are filing amended Form 8975 and Schedules A (Form 8975) in order to supersede an already-filed Form 8975 and Schedules A (Form 8975) need to take this action by April 20, 2018, if filing an amended federal income tax return on paper, or by May 25, 2018, if filing electronically to avoid the automatic exchange of the CbC reports with other tax administrations.

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