

COUNTRY BY COUNTRY REPORTING

WHAT IS COUNTRY BY COUNTRY REPORTING?

CbC Reporting (“CbCR”) is part of Action 13 of the OECD/G20 Base Erosion and Profit Shifting (“BEPS”) Action Plan and the EU Commission’s Anti-Tax Avoidance Package. It is a new reporting obligation that requires multinational entities (MNE’s) that meet certain conditions to file annually a CbC report containing high-level data on the global allocation of the MNE’s income and taxes, and certain other measures of economic activity. Ireland implemented legislation on the reporting and signed a multilateral agreement to provide an automatic exchange of the information. This was agreed with 30 other countries and was in relation to certain MNEs. The reporting requirement applies for accounting periods beginning on or after 1 January 2016.

WHO IS REQUIRED TO FILE?

CbC Reporting requirements apply to MNE groups with consolidated group revenue of €750 million or more in the immediately preceding fiscal year. The following constituent entities should be required to file CbC reports in Ireland with effect from 1 January 2016:

- An Irish tax resident ultimate parent entity of an MNE Group;
- An Irish tax resident surrogate parent entity of an MNE Group. (A surrogate parent entity can only be appointed in specific circumstances) and
- An Irish tax resident EU designated entity of an MNE Group. (An EU designated entity can only be appointed in specific circumstances)

Where the ultimate parent entity is not required to file a CbC report in their country, the Irish legislative sets out a secondary process which the MNE Group can designate the Irish resident entity to act as a surrogate parent and file a CbC Report with the Irish Revenue on behalf of the group. Additionally, if the ultimate parent or surrogate parent are not filing a report, then the Irish entity should be required to file a local country report with the Irish Revenue known as “an equivalent CbC Report” which only includes information that is within the possession of the Irish resident entity or which it has the power to obtain.

The Irish resident of an MNE group should therefore be required to make certain notifications to the Irish Revenue. This is even if the Irish resident of the MNE group will not have the responsibility for filing the CbC Report either as parent or surrogate parent if either are not required to file a CbC Report.

WHAT INFORMATION IS REQUIRED?

A CbC Report for an MNE Group should contain the following information in respect each jurisdiction in which the MNE Group operates. The following information should be required for the parent of the MNE:

(a) on an aggregate basis, —

- (i)** amount of unrelated party revenue, related party revenue and total revenue;
- (ii)** amount of profit or loss before income tax;
- (iii)** amount of income tax paid;
- (iv)** amount of income tax accrued;
- (v)** amount of stated capital,
- (vi)** amount of accumulated earnings,
- (vii)** number of employees, and
- (viii)** value of tangible assets other than cash or cash equivalents; and

(b) identification and the tax identification number (“TIN”) of each constituent entity carrying on a business or tax resident in each jurisdiction and, where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such constituent entity is organized, and the nature of the main business activity or activities of each constituent entity.

Where an Irish tax resident entity is appointed as a surrogate parent entity, the Irish CbC Reporting Legislation applies as if that entity were an ultimate parent entity and should provide a CbC Report on behalf of the MNE group.

Where there is an Irish subsidiary of a MNE Group with a consolidated group turnover of over €750 million and the parent or surrogate parent are not required to file a CbC Report, the Irish entity should file a secondary report. The ‘equivalent CbC report’ should include the information which the Irish company “has the power to obtain or acquire” i.e. the information which an Irish entity can legally acquire. Information relating to the subsidiaries of the Irish reporting entity would be expected to be included in an equivalent CbC report. This should only be required in the following circumstances

- the ultimate parent entity of an MNE Group is not required to provide a CbC Report in its jurisdiction of tax residence;
- the jurisdiction in which the ultimate parent entity of that MNE Group is resident for tax purposes does not have a qualifying competent authority agreement in effect with Ireland (by the due date for filing the CbC Report) that provides for the exchange of CbC Reports⁹; or
- There has been a systemic failure by the jurisdiction of tax residence of the ultimate parent entity of that MNE Group to provide the CbC Reports in its possession and Revenue has notified the Irish tax resident constituent entity that such a failure has occurred.

A full CbC Report may still be required in another CbC country which the MNE Group has a presence. Such information may not be required for the Irish entity if a company resident in another jurisdiction is nominated as a surrogate entity and files the CbC Report on behalf of the group.

WHEN MUST A REPORT BE FILED?

CbC Reports / Equivalent CbC Reports must be filed with Revenue no later than 12 months after the last day of the fiscal year to which the CbC Report / Equivalent CbC Report relates. For example, a company with a year ended 30 June 2017 must file their report with Revenue no later than 30 June 2018. The penalty for failure to file a CbC Report / Equivalent CbC Report is €19,045 plus €2,535 for each day the failure continues.

Disclaimer

This document contains general information based on Irish law. Please note however that it does not constitute legal or tax advice. Neither is it intended to provide a comprehensive or detailed statement of the law.



HOW CAN WE HELP:

We can help your business to comply with the international reporting requirements by advising on the specific information needed on the preparation and presentation of the reports. For a further discussion of how the CbC reporting might affect your business, please contact a member of our team.



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