

Cayman Islands Country-by-Country Reporting regulations

Briefing Summary: A requirement for Country-by-Country Reporting ("CbC Reporting") is one of the results of the OECD/G20 Base Erosion and Profit Shifting Project and is expected to improve international tax transparency.

Service Area: Taxation and Economic Substance Requirements, Corporate, Regulatory, Corporate Regulation and Compliance

Location: Cayman Islands

Created Date: 17 March 2021

The Cayman Islands has agreed to implement CbC Reporting and will automatically exchange reported information with other jurisdictions which have also agreed to the automatic exchange of such information and are party to the Multilateral Convention for Mutual Administration in Tax Matters or any other tax convention or tax information exchange agreement to which the Cayman Islands is a party.

CbC Reporting in the Cayman Islands is required by The Tax Information Authority (International Tax Compliance) (Country-by-Country Reporting) Regulations, 2017 (the "**CbC Regulations**") that were published on 15 December 2017, in respect of fiscal years commencing on or after 1 January 2016.

Constituent entities

The CbC Reporting regime under the CbC Regulations only applies to a Cayman Islands entity that is a "**Constituent Entity**" as defined in the CbC Regulations, being:

- any separate business unit of an MNE Group that is included in the consolidated financial statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
- any such business unit that is excluded from the MNE Group's consolidated financial statements solely on size or materiality grounds; and
- any permanent establishment of any separate business unit of the MNE Group included in (a) or (b) provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes.

An "**MNE Group**" is any group that:

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- includes two or more enterprises for which the tax residence is in different jurisdictions or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction; and
- has a total consolidated group revenue of more than eight hundred and fifty million United States Dollars during the fiscal year immediately preceding the Reporting Fiscal Year.

For the purposes of the CbC Regulations, a Constituent Entity will be resident in the Cayman Islands (which for such purposes, also means tax resident) if it is incorporated or established, has its place of effective management or is subject to financial supervision in the Cayman Islands.

Reporting entities

A Constituent Entity will be a “**Reporting Entity**” if it is one of the following:

- a Constituent Entity that: (i) is or would be required to prepare consolidated financial statements under the criteria stated above; and (ii) does not have any interest owned directly or indirectly by another Constituent Entity that satisfies such test (“**Ultimate Parent Entity**”); or
- a Constituent Entity appointed by its MNE Group as sole substitute for the Ultimate Parent Entity for CbC Reporting (“**Surrogate Parent Entity**”).

Notification obligations

A Constituent Entity resident in the Cayman Islands must notify the TIA by the last day of its current fiscal year as to whether it is the Ultimate Parent Entity or the Surrogate Parent Entity with respect to its MNE Group. If a Constituent Entity resident in the Cayman Islands is neither the Ultimate Parent nor the Surrogate Parent then it must notify the TIA of the identity and tax residence of the Reporting Entity by the last day of the group’s financial year.

The TIA has established an online portal for the submission of all notifications and reports (see below). The first step in the notification process is for a Constituent Entity to appoint individuals as their primary and secondary contacts. The primary contact will be provided with login credentials and can complete the notification process. If a group has more than one Constituent Entity that is resident in the Cayman Islands then the primary contact can complete the notification for all of those Constituent Entities.

Reporting obligations

A Reporting Entity resident in the Cayman Islands is required to submit reports to the TIA within 12 months of the end of the applicable fiscal year.

CbC Reporting is effected by uploading XML files in the form of the standard templates attached to the CbC Regulations. The following information is required to be reported in respect of an MNE Group:

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- aggregate information relating to revenue, profit (loss) before income tax, income tax paid and accrued, capital, accrued earnings, number of employees and tangible noncash assets for each jurisdiction in which the MNE Group operates; and
- the identity of each Constituent Entity, its jurisdiction of tax residence (and, if different, jurisdiction of organisation) and the nature of its main business activity.

Record keeping

Constituent Entities must retain for at least 6 years all information and records relating to information required to be reported under the CbC Regulations.

Anti-avoidance

Any arrangements entered into with the main purpose of avoiding an obligation under the CbC Regulations are deemed, for purposes of the CbC Regulations, not to have been entered into.

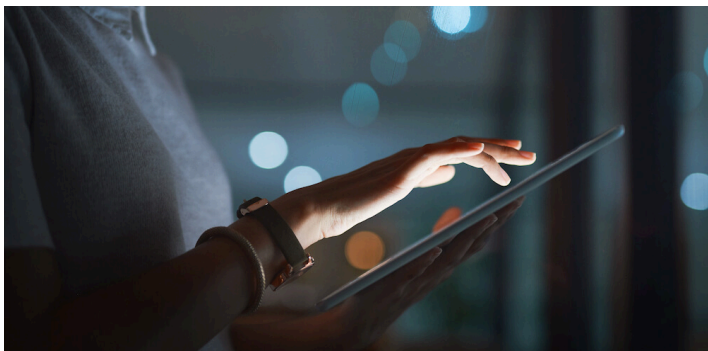
Enforcement

The TIA has additional powers to require production of information and documents by Constituent Entities to determine the accuracy of information reported to it. Failure to comply with the CbC Regulations is an offence punishable on summary conviction by CI\$10,000 (US\$12,200) fine and/or 6 months imprisonment. TIA also has the option of imposing administrative penalties of CI\$4,000 (US\$4,880) for such failures or CI\$5,000 (US\$6,100) for knowingly filing inaccurate information.

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