

BEPS and EU Requirements for Country-by-Country Reporting

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Introduction



- October 2015: OECD BEPS Action 13 Final Report on "Transfer Pricing Documentation and Country-by-Country Reporting"
 - increasing transparency about the global value chain of MNEs, in order to perform a first assessment as regards transfer pricing risks and BEPS
- April 2016: EC proposal to make certain data of the CbCR available to the public
- May 2016: EU adopts the OECD standards on CbCR as part of its Anti-Tax-Avoidance-Package



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Content: Table 1



Overview of allocation of income, taxes and business activities by tax jurisdiction

Name of the MNE group: Fiscal year concerned: Currency used:										
Tax Jurisdiction	Revenues			Profit (Loss)	Income Tax	Income Tax	Stated Capital	Accumulated	Number of	Tangible Assets other than Cash and Cash
	Unrelated Party	Related Party	Total	before Income Tax	Paid (on Cash Basis)	Accrued – Current Year		Earnings	Employees	than Cash and Cash Equivalents

Content: Table 2



List of all the Constituent Entities of the MNE group included in each aggregation per tax jurisdiction

Name of the MNE group: Fiscal year concerned:															
	Constituent Entities Resident in the Tax Jurisdiction	Tax Jurisdiction of Organisation or Incorporation if Different from Tax Jurisdiction of Residence	Main Business Activity(ies)												
Tax Jurisdiction			Research and Development	Holding or Managing Intellectual Property	Purchesing or Procurement	Manufacturing or Production	Sales, Marketing or Distribution	Administrative, Management or Support Services	Provision of Services to Unrelated Parties	Internal Group Finance	Regulated Financial Services	Insurance	Holding Shares or Other Equity instruments	Dormant	Other ¹
/	1.					\square									
/	2.														
'	3.				\square	\square		\square						\square	
	1.														
	2.	//			\square										
!	3.														

Content: Table 3



Additional Information

Name of the MNE group: Fiscal year concerned:

Please include any further brief information or explanation you consider necessary or that would facilitate the understanding of the compulsory information provided in the Country-by-Country Report.





Preparing the Report



- Key challenges
 - ensure validity and comparability of the provided information
 - avoid misinterpretation
- Questions over how to populate the CbCR
 - Sources of data
 - Application Questions







Sources of Data



- Free choice of sources of data
- Consistent use of the same sources
- Top-down vs bottom-up approach







Application Questions



- Vague definitions
- Number of inconsistencies
- Risk of data misinterpretation or even data misuse (formulary apportionment)





Information Exchange



EU

Administrative Cooperation Directive

• OECD:

- Multilateral Convention on Administrative Assistance in Tax Matters
- Bilateral Tax Conventions
- Tax Information Exchange Agreements





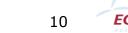


Information Exchange (cont'd)

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- Confidentiality
- Appropriate use
 - Assessing high-level transfer pricing risks
 - Evaluating other BEPS related risks
 - Economic and statistical analysis





Double Taxation



- Increase of double taxation expected
- Remedies of MNEs are insufficient
 - EU Arbitration Convention
 - BEPS Action 14





Inclusive Framework





Implementation BEPS 13 (Exchange of CbCR)

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Conclusions



- Pros: enhanced transparency
- Cons: compliance burden, application questions, usefulness of the data
- Tool to enable tax administrations to "ask the right questions"? Need to read it together with MF and LF
- Questions on sharing information and on data publicity
- OECD Review 2020
 - Lower threshold?
 - Public information?



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Conclusions



- Potential to "change behaviors",
- However need for
 - Resources (personnel and technical)
 - Training
 - Cooperative compliance tools (joint audits, rulings, APAs)
 - Dispute resolution tools (MAP, arbitration, ...)







Many thanks for your attention!





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