

### **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:<br>Fiscal year concerned:<br>Currency used: |                 |               |       |                      |                         |                           |                |             |           |   |
|--|-----------------|---------------|-------|----------------------|-------------------------|---------------------------|----------------|-------------|-----------|---|
| Tax Jurisdiction   | Revenues        |               |       | Profit (Loss)        | Income Tax              | Income Tax                | Stated Capital | Accumulated | Number of | Tangible Assets other<br>than Cash and Cash |
|  | Unrelated Party | Related Party | Total | before<br>Income Tax | Paid (on Cash<br>Basis) | Accrued –<br>Current Year |                | Earnings    | Employees | than Cash and Cash<br>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:<br>Fiscal year concerned: |   |   |                             |  |                           |                             |                                     |   |   |                        |                                 |           |   |           |                    |
|--|---|---|-----------------------------|--|---------------------------|-----------------------------|-------------------------------------|---|---|------------------------|---------------------------------|-----------|---|-----------|--------------------|
|  | Constituent Entities<br>Resident in the Tax<br>Jurisdiction | Tax Jurisdiction<br>of Organisation or<br>Incorporation if Different<br>from Tax Jurisdiction of<br>Residence | Main Business Activity(ies) |  |                           |                             |                                     |   |   |                        |                                 |           |   |           |                    |
| Tax Jurisdiction                                 |   |   | Research and Development    | Holding or Managing<br>Intellectual Property | Purchesing or Procurement | Manufacturing or Production | Sales, Marketing or<br>Distribution | Administrative, Management<br>or Support Services | Provision of Services to<br>Unrelated Parties | Internal Group Finance | Regulated Financial<br>Services | Insurance | Holding Shares or Other<br>Equity instruments | Dormant   | Other <sup>1</sup> |
| /  | 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





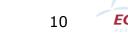


## Information Exchange (cont'd)

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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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