

Tax Flash

“Greece implements country-by-country reporting requirements”

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The new requirements are in line with Action 13 of the OECD's Action Plan.

On July 28th, 2017 the Greek Parliament ratified Law 4484/2017, providing for new transfer pricing documentation requirements. The new law supplements the European Union (EU) Council Directive 2016/881 on mandatory automatic exchange of information in the field of taxation that was initially incorporated in Greek legislation by Laws 4170/2013 and 4474/2017. The new requirements largely follow the guidance on country by country reporting provided under Action 13 of the OECD's Base Erosion and Profit Shifting (BEPS) initiatives. In order to enable the Greek tax Authorities to analyze potential transfer pricing risks, said requirements provide for the preparation and filing of a country-by-country report (“CbC Report”).

The Greek CbC reporting obligations require Greek ultimate parent entities controlling a multinational group of entities (MNEs) with annual total consolidated group revenues exceeding €750 million, to file CBC reports with the Greek tax authorities. In exceptional cases, Greek entities belonging to multinational groups without a Greek resident ultimate parent company may also be obliged to file a CbC Report. The new provisions also provide for notification requirements regarding the entity liable to file the CbC Report.

The new requirements are applicable to fiscal years starting on or after January 1st, 2016. Penalty regime is provided in case of a delayed, inaccurate filling or non-filling of the CbC Report.

New requirements

MNE groups operating in Greece with consolidated annual revenues exceeding EUR 750 million in the preceding fiscal year of the year to be reported are subject to the new CbC reporting requirements and the ultimate parent company of such MNE groups should proceed with the respective filing. The first fiscal year to be reported is the one starting on or after January 1st, 2016 and the filing should take place within 12 months from the lapse of said fiscal year and any subsequent year to the extent that the EUR 750 million threshold is exceeded.

The CbC Report should provide aggregated tax information for each jurisdiction in which the MNE operates. This includes information relating to the global allocation of income, the taxes paid and certain indicators of the locations of economic activity. The report should include a listing of all countries where the MNE group is active specifying the nature of the main business carried out by each entity.

The CbC Report is filed by the ultimate parent company of every liable MNE Group that has its tax residence in Greece.

In certain cases, Greek group companies belonging to MNEs without a Greek-resident ultimate parent may also be obliged to submit the CbC Report. This extension applies in any of the following situations:

- The ultimate parent company of the group is not obliged to file a CbC Report in its jurisdiction of tax residence;
- The ultimate parent entity's tax jurisdiction has not entered into an information exchange agreement with Greece on CbC Reports
- The ultimate parent entity of the MNE group is obliged to file a CbC report in the jurisdiction of its tax residence and there is an agreement in force with Greece that allows the automatic exchange of CbC Reports, but such automatic exchange has been suspended or there is a persistent failure to automatically exchange CbC Reports.

For EU Member States meeting the requirements to exchange information under the EU Council Directive 2016/881, the CbC Reports will be exchanged automatically without requiring a specific bilateral or multilateral agreement to be signed amongst them.

Timeline

The CbC Report of the liable MNEs must be filed to the Greek tax authorities within 12 months after the end of the group's fiscal year. This means that the CbC Report for fiscal years ending on December 31st, 2016 must be submitted by December 31st, 2017 at the latest.

The filed CbC Report will be exchanged automatically by the Greek tax authorities to those authorities that are eligible for the information exchange, within 15 months following the last day of the fiscal year it refers to. Especially for the CbC Report of the first fiscal year beginning on or after January 1st, 2016, an extension has been provided and the CbC Reports may be exchanged within 18 months following the last day of the fiscal year said reports refer to.

CbC Report tables

The information to be included in the CbC Report comprises of specific elements (divided into three tables):

- Table 1: Related party and non-related party revenues, profit before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, tangible assets other than cash and cash equivalents; all cumulatively per jurisdiction that the MNE has a presence.

- Table 2: List of all group entities of the MNE group included in the aggregation per jurisdiction with an indication of their main business activity (-ies)
- Table 3: Additional information and clarifications

Language

The information included in the CbC Report can be in Greek or in any other officially acceptable language of the EU.

Notification

Greek entities that belong to an MNE group subject to country by country reporting requirements must provide notification to the Greek tax authorities regarding the ultimate parent entity or any other entity designated by the group as responsible for filing the CbC Report by the last day of the year to be reported.

The deadline for the filing of the notification relating to CbC Report for the first reported year (starting on or after January 1st, 2016) expires the last day that the CbC Report should be filed. This means that the notification for an MNE group with a fiscal year ended on December 31st, 2016, should be filed by December 31st, 2017.

The notification is relevant to all entities that are tax residents in Greece, not only to ultimate parent entities, to the extent that the MNE group they belong is liable to file a CbC report on any jurisdiction. For the first year of implementation this implies a dual filing of notifications to cover the first and the second year of reporting (2016 and 2017). In certain instances this will also be accompanied with the filing of the CbC report. According to the law, the Independent Authority for Public Revenues can issue circulars on the content and the process of country by country reporting. Please note that there is no specific form/format provided by the law that notification should take.

Key objectives

Purpose of filing the CbC Report

As per the relevant provisions the information included in the CbC Report and communicated between Member States shall be used for the purposes of assessing high-level transfer-pricing risks and other risks related to base erosion and profit shifting, including assessing the risk of non-compliance by members of the MNE group with applicable transfer-pricing rules, and where appropriate for economic and statistical analysis. Transfer pricing adjustments by the competent (Greek) tax authorities shall not be based on the information exchanged pursuant to the new legislation. It is clearly stated that despite the above, there is no prohibition on using the information communicated between Member States as a basis for making

further enquiries into the MNE group's transfer pricing arrangements or into other tax matters in the course of a tax audit, and, as a result, appropriate adjustments to the taxable income of a the entities belonging to said group may be made.

It is noted that the above is in line with the EU Council adopted Directive (EU) 2016/881, however it seems to deviate from the spirit of Article 6 of Model legislation related to country by country reporting as included in Action 13 of the BEPS initiatives, which states that transfer pricing adjustments will not be based on the CbC Report.

Consequences of not meeting the requirements

The penalty for non-filing of the CbC Report is €20,000. In case of a late or inaccurate filling of the CbC Report, the respective penalty is €10,000.

The law does not provide for penalties for non-filing or late filing of notifications regarding the group entity liable to file the CbC Report.

Our tax experts are in a position to advise you on the tax implications arising from a Greek tax perspective in relation to your specific case.

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This information is intended only as a general update for interested persons and should not be used as a basis for decision making. For further details please contact PwC:

268, Kifissias Avenue
15232 Halandri
tel. +30 210 6874400

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