

OECD releases model documents for implementing country-by-country reporting

Asset Management Insights

This is part of a series of articles that focus on the theme of 'Mastering tax complexity within asset management'. It forms part of our flagship online publication for communicating key asset management issues to our clients on a quarterly basis.

Our specialists will use our online platform to keep you informed about our latest thinking on critical topics such as growth, governance, people, regulation and risk management developments globally.

We hope you enjoy reading about our special topic and welcome your feedback.



pwc

On 8 June 2015, the Organisation for Economic Co-operation and Development (OECD) released a "Country-by-Country Reporting Implementation Package."

The package includes model legislation the OECD suggests could be used by countries to mandate filing of country-by-country reports (CbCRs). The model legislation does not attempt to address the filing of the so-called master file or local file reports. The implementation package also includes three model competent authority agreements that could be used by each country, depending on whether it intends to effect exchange of CbCRs through the 'Multilateral Convention on Mutual Administrative Assistance in Tax Matters', the exchange of information article of a bilateral tax convention, or a bilateral tax information exchange agreement.

Neither the model legislation nor any of the model competent authority agreements contains additional guidance regarding the particular data that multinational enterprises (MNEs) need to provide in the CbCRs. Rather, the model legislation merely sets forth a general description of that data and suggests that it should be provided in a form identical to, and applying the definitions and instructions contained in, the 'standard template' set out either in the OECD Transfer Pricing Guidelines, the final report on BEPS Action 13, or an appendix to the legislation, once adopted. Presumably, the 'standard template' referred to can be expected to look like the CbCR template set forth in the OECD's first report on Action 13 released on

Whether and how countries can actually implement and police these use and confidentiality restrictions, of course, remains to be seen.

16 September 2014. In this regard, however, the introduction to the implementation package indicates that, as a next step, an 'XML Schema' and 'related User Guide' will be developed with a view to accommodating the electronic exchange of the CbCRs. Additional guidance on the CbCR data requirements may emerge once this schema and user guide are issued. Helpfully, the model legislation and model competent authority agreements also reveal the OECD members' current thinking on, among other things:

- how a MNE group is to be comprised for purposes of the filing requirements
- which small MNE groups would be excluded from the requirements
- which entity in the MNE group would be expected to file the CbCR, and
- the intended government use and confidentiality of the CbCR information.

The takeaway

Key takeaways are that the CbC reporting obligation will fall on the ultimate parent entity. If, however, the ultimate parent is not obligated to file, or the jurisdiction

of the ultimate parent does not have an exchange of information agreement in place, or there has been a systematic failure under that agreement, then the MNE group may appoint a surrogate parent entity to do the filing in its country of tax residence. Furthermore, if in the above scenarios the MNE group does not appoint a surrogate, then each constituent entity will have to file the CbCR locally.

The implementation package contains measures meant to address concerns of MNE groups regarding the lack of rigorous safeguards for the commercially sensitive information to be shared among tax authorities under the proposed CbC reporting requirements. Specifically, a country's tax administration shall preserve the confidentiality of the information contained in the country-by-country report at least to the same extent that would apply if such information were provided to it under the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Whether and how countries can actually implement and police these use and confidentiality restrictions, of course, remains to be seen.

As the OECD has now finalised implementation through the model legislation and the next step is now at the local country level, MNEs should evaluate, if they have not done so already, whether they can punctually comply with the CbC reporting proposal. Issues to consider include:

- determining whether MNEs can gather the data (noting that the data points require significant modification from ledger entries);
- performing various analytics on the CbC data to assess risks; and
- evaluating what, if any, issues must be addressed (including quality of data concerns and process and control issues).

This is an extract from the original version of OECD releases model documents for implementing country-by-country reporting: <http://www.pwc.com/gx/en/services/tax/newsletters/tax-policy-bulletin/oecd-releases-model-documents-country-by-country-reporting.html>

Isabel Verlinden

Partner
PwC (Belgium)
+32 2 710 4422
isabel.verlinden@be.pwc.com

Adam Katz

Partner, Tax
PwC (US)
+1 646 471 3215
adam.katz@us.pwc.com

Kathryn Horton-O'Brien

Principal
PwC (US)
+1 202 414 4402
kathryn.horton.obrien@us.pwc.com

www.pwc.com/aminsights

PwC helps organisations and individuals create the value they're looking for. We're a network of firms in 157 countries with more than 195,000 people who are committed to delivering quality in assurance, tax and advisory services. Find out more and tell us what matters to you by visiting us at www.pwc.com.

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PwC does not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

For more information on the Global Asset Management Marketing programme, contact Maya Bhatti on +44 (0) 207 213 2302 or at maya.bhatti@uk.pwc.com.

© 2015 PwC. All rights reserved. PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details.