

Hong Kong implements country-by-country reporting notification requirements

February 19, 2019

In brief

Hong Kong formally introduced a transfer pricing regulatory regime and documentation requirements into its tax legislation through enactment of Inland Revenue (Amendment) (No. 6) Ordinance 2018 on July 13, 2018. This includes a legislative framework for Hong Kong to implement the Country-by-Country Reporting (CbCR) and Notification requirements effective from accounting periods beginning on or after January 1, 2019.

The first CbCR Notification deadline is **March 31, 2019** for Hong Kong entities with an Ultimate Parent Entity (UPE) that has a December financial year-end (or three months after the UPE year-end for other financial year-ends). Key provisions of the CbCR Notification requirements — the what, who, when, and how — are provided below.

In detail

What?

A CbCR Notification should be distinguished from a Country-by-Country (CbC) Report. A CbC Report requires aggregating tax jurisdiction-wide information relating to the global allocation of income, taxes paid, and certain indicators of the location of economic activities among tax jurisdictions in which the group operates. The primary obligation of filing a CbC Report is on the UPE/Surrogate Parent Entity (SPE).

The CbC Report is to be exchanged automatically

between tax administrations under relevant exchange arrangements. For tax periods before January 1, 2019, Hong Kong has exchange arrangements with 11 jurisdictions, as of January 29, 2019. These are France, Guernsey, Ireland, Japan, Jersey, Korea, Malta, Netherlands, New Zealand, South Africa, and the United Kingdom.

The network of exchange arrangements has been expanding substantially for taxable periods after January 1, 2019.

If the group's UPE/SPE files in a jurisdiction with no exchange arrangement in place with Hong Kong for the relevant tax period, a local filing of the CbC Report is required in Hong Kong.

Who?

A Hong Kong resident entity (as well as Hong Kong branches/Hong Kong permanent establishments of foreign companies) of a multinational enterprise group whose annual consolidated group revenue for the immediately preceding accounting period reaches the specified threshold amount of HK\$6.8 billion must file a CbCR

Notification containing information relevant for determining the obligation for filing a CbC Return.

For a reportable group with more than one Hong Kong entity, one of the Hong Kong entities of the group can be nominated to file a CbCR Notification for all Hong Kong entities of the group. Where the UPE/SPE of the reportable group is a Hong Kong tax resident, the UPE/SPE must file the CbCR Notification, while other Hong Kong group entities are not required to file the same in Hong Kong.

When?

A CbCR Notification must be filed within three months after the end of the UPE's accounting period. Thus, for groups with a financial year-end of December, the first notification deadline in Hong Kong is March 31, 2019. Since March 31, 2019 is a Sunday, the deadline is postponed to April 1, 2019 (Monday).

The penalty for failure to file CbCR Notification is HK\$50,000 and an additional HK\$500/day during which the offence continues after conviction.

Intentionally providing misleading, false, or inaccurate information in a CbCR Notification is an offence upon conviction and may result in a fine and imprisonment for up to three years.

Filing inaccurate, false, or misleading information in a CbC Report, discovering that such an error exists, and, without reasonable excuse, not notifying the IRD within a reasonable time may result in a fine of HK\$50,000.

How?

A CbCR Notification must be filed electronically through the CbC Reporting Portal.

For purposes of online filing of the CbCR Notification, the reporting entity must authorize an individual (Authorized Person) to hold an e-Certificate or engage a service provider to file on its behalf. For a corporation, the Authorized Person must be a director or officer, and for a non-corporate entity, a principal officer or responsible person. A summary of the CbCR Notification online filing process is provided in the CbCR Notification Guidelines with an online step-by-step demonstration on IRD website.

Before one can gain access to the portal, it is necessary to obtain an e-Certificate from the Hong Kong Post Office. **Observation:** In our experience, this can take some time, so we recommend taxpayers start the process early.

The takeaway

This is the first year of the implementation of the CbCR Notification and CbCR filing requirements in Hong Kong. Hong Kong tax resident entities, and Hong Kong branches and permanent establishments of foreign companies that belong to reportable groups, should prepare for the new filing obligations in Hong Kong.

Meanwhile, as Hong Kong is still expanding its exchange relationships, and Hong Kong's activation of the Multilateral Competent Authorities Agreement on the exchange of CbCR will not take place until accounting periods starting January 1, 2019, uncertainty remains for some of the reportable group's CbCR filing obligations in Hong Kong for tax year 2018. For that year, local filings of CbC reports for foreign-headquartered multinational enterprise groups may be required, unless bilateral exchange agreements are in place. Companies

should keep a close eye on developments.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

Transfer Pricing

Jeff Yuan, *Shanghai*
+86 (21) 2323 3495
jeff.yuan@cn.pwc.com

Cecilia Lee, *Hong Kong*
+852 2289 5690
cecilia.sk.lee@hk.pwc.com

Peter Brewin, *Hong Kong*
+852 2289 3650
p.brewin@hk.pwc.com

Transfer Pricing Global, Americas, and US Leaders

Isabel Verlinden, *Brussels*
Global Transfer Pricing Leader
+32 2 710 44 22
isabel.verlinden@be.pwc.com

Horacio Peña, *New York*
Americas Transfer Pricing Leader
+1 646 471 1957
horacio.pena@pwc.com

Paige Hill, *New York*
US Transfer Pricing Leader
+1 646 471 5192
paige.hill@pwc.com

Our insights. Your choices.

Select 'Tax services' as your *Services and solutions* of interest to receive more content like this.

[Set your preferences today](#)

© 2019 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.

SOLICITATION

This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

At PwC, our purpose is to build trust in society and solve important problems. PwC is a network of firms in 158 countries with more than 250,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com/US.