
Italy issues dates for implementation of country-by-country reporting

March 29, 2017

In brief

In its Decree of February 23, 2017 (the Decree), the Italian Ministry of Economy and Finance implemented EU Directive 2016/881 dated May 25, 2016 (the EU Directive), setting out the procedures to be applied in meeting country-by-country (CbC) reporting requirements in Italy and establishing January 1, 2016 as the relevant date for its application.

The Decree renders operative the provisions of the 2015 Finance Act, which implemented the original proposals on CbC reporting. The underlying law was discussed in Tax Insight dated January 11, 2016 entitled [*Italy introduces legislation to implement country-by-country reporting*](#). Further guidance on CbC report compilation and on linguistic arrangements is still to be issued by the Italian Revenue Agency in the form of a Regulation.

In detail

The Finance Act of 2015 introduced into Italian law the CbC report requirements from Action 13 of the OECD Base Erosion and Profit Shifting (BEPS) Project and provided a framework for their implementation. The Decree now enacts the EU Directive that established a pan-EU framework for reporting such data and for its subsequent exchange among tax authorities.

The Decree confirms that CbC reporting in Italy will apply to fiscal periods from January 1, 2016. In practice, this covers accounting periods commencing on or after that date.

Reporting and communication mechanisms

Reporting and communication timeframes set out in the Decree reflect those in the EU Directive. Italian resident taxpayers required to submit a CbC report must do so within 12 months of the end of the relevant fiscal reporting period. As regards the notification of the filing entity required from all Italian entities belonging to an MNE Group that meets the consolidated turnover threshold, the Decree has taken advantage of the latitude granted by the EU Directive. The time limit has been set at nine months after the end of the fiscal reporting period, i.e., the date of presentation of the tax return.

The Decree reflects the detailed provisions of the 2015 Action 13 Report and of EU Directive 2016/881 in identifying the various entities that may be required to file a CbC report in Italy (i.e., the Reporting Entity), which include:

- the Ultimate Parent Entity of an Italian-based MNE Group with consolidated revenue of Euro 750 million or more;
- an Italian entity required to make a local or secondary filing as a Constituent Entity because the jurisdiction of its Ultimate Parent Entity does not require CbC reporting or does not have an appropriate competent authority

agreement with Italy to permit information exchange or where such exchange has been suspended or suffers from systemic failure;

- a ‘Surrogate Parent Entity’, i.e., an entity other than the Ultimate Parent Entity that will file the CbC report in its jurisdiction of tax residence as the sole substitute of the Ultimate Parent Entity and on behalf of the entire MNE group;
- an EU Designated Entity (resident in Italy) appointed to file the CbC report in its tax jurisdiction in order to satisfy the requirement for secondary filing on behalf of all EU entities.

The Decree takes advantage of the provision in the EU Directive to grant relief for 2016 in respect of secondary filing. Hence, an Italian tax-resident entity with an Ultimate Parent Entity resident in a jurisdiction with no CbC reporting obligation may avoid a local filing obligation in Italy when the Ultimate Parent Entity voluntarily files a CbC report with its local tax authority and such local jurisdiction introduces CbC report obligations into domestic legislation by December 31, 2017. This final provision makes the concession relatively restrictive.

On presentation of its tax return, each entity that itself is required to make a CbC submission must communicate the fact to the Italian Revenue Agency and state under which head it will file. Italian companies that are part of an MNE Group that meets the consolidated turnover threshold for filing a CbC report, but are not required to file any report themselves, should state the name and tax jurisdiction of the group entity that will do so.

Information to be reported

The information to be reported follows the format in the Action 13

Report and the EU Directive 2016/881. The Decree does not provide any further technical reporting guidance. This will be included in a separate regulation to be issued by the Italian Revenue Agency at a future date, which will also address linguistic arrangements.

In accordance with the EU Directive, the Decree provides that an Italian tax resident entity required to file a CbC report under the secondary mechanism must indicate if the Ultimate Parent Entity has not made available all the necessary information for filing a complete CbC report, while submitting a report to the best of its ability. It is not possible to act as an EU Designated Entity while filing such a statement.

Tax authority information exchange

The Decree incorporates the information exchange time frameworks set out in the EU Directive, undertaking that the Italian Revenue Agency will exchange the CbC reports it receives with EU tax authorities and other competent authorities with which it has appropriate agreements within 15 months of the last day of the fiscal year to which the report relates. However, 18 months will be allowed for exchange of information in the first year.

Penalty regime and information use

A penalty regime was introduced in the 2016 Finance Act and remains unchanged in the Decree. Failure to file a CbC report or disclosure of incomplete or inaccurate information entails penalties from Euro 10,000 to Euro 50,000.

The Decree clarifies that the CbC report may be used by the Italian tax authorities for transfer pricing or other BEPS-related risk assessments

and as a basis for making further audit enquiries. However, CbC report information alone is not to serve as a basis for transfer pricing adjustments.

The takeaway

Italy has now set out a detailed administrative framework for implementing CbC reporting in line with the 2015 EU Directive. All Italian entities need to assess if their MNE Group falls within the CbC reporting regime (i.e., if the consolidated group revenue exceeds Euro 750 million) and, if so, determine which entity will be the Reporting Entity, taking account of the status of CbC reporting implementation in the countries where the MNE is located.

The timeframes for determining the Reporting Entity and gathering the relevant information are relatively short, especially in view of the extent to which such information will be reviewed and shared among tax authorities. Although financial penalties for Italian entities may appear moderate given the dimension of the MNE group affected, cumulative penalties across the group could become significant. The main risk in incomplete or inconsistent information consists in triggering deeper tax audit inquiries related to transfer pricing policies and other BEPS issues

Let's talk

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

Transfer Pricing

Gianni Colucci, *Milan*
+39 02 9160 5500
gianni.colucci@it.pwc.com

Luigi Mira, *Milan*
+39 02 9160 5512
luigi.mira@it.pwc.com

Ugo Cannavale, *Milan*
+39 02 9160 5503
ugo.cannavale@it.pwc.com

Alessandro Caridi, *Milan*
+39 02 9160 5003
alessandro.caridi@it.pwc.com

Paolo Francesco Tripoli, *Milan*
+39 02 9160 5517
paolo.francesco.tripoli@it.pwc.com

Tax Project Delivery Group

Davide Rotondo, *Milan*
+39 02 66720515
davide.rotondo@it.pwc.com

Andrea Ruffo, *Milan*
+39 02 66720218
andrea.ruffo@it.pwc.com

Transfer Pricing Global and US Leaders

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

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

Stay current and connected. Our timely news insights, periodicals, thought leadership, and webcasts help you anticipate and adapt in today's evolving business environment. Subscribe or manage your subscriptions at: pwc.com/us/subscriptions

Tune into **TP Talks**, PwC's global Transfer Pricing podcast series. Listen to PwC professionals sharing perspective and the latest insights on today's key transfer pricing developments around the world.

SOLICITATION

© 2017 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.

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

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