



Tax Alert

January 2017

Country by Country Reporting

One of the most far-reaching items that came out of the G20 or Organisation for Economic Co-operation and Development (OECD)'s Base Erosion and Profit Shifting (BEPS) initiative is the so-called Country-by-Country (CbC) Reporting Template.

According to the OECD BEPS initiative CbC reporting is considered to be a minimum standard coming out of the Action Plan (as against best practice). Thus, as a participant in the OECD BEPS Action Plan process South Africa has adopted the related proposals.

The CbC Reporting Template is designed to provide tax authorities with summary data for a global group, by jurisdiction, including revenue, income, taxes, and indicators of economic activity, e.g. number of employees etc. Once completed for the entire group the holding company will submit the document to the tax authorities in its jurisdiction and the relevant tax authority will automatically provide it to all participating countries mentioned on the completed document. Each tax authority may then use the document as a risk assessment tool, to determine whether the group entities in its country need more detailed investigation.

Following South Africa's signing of the Multilateral Competent Authority Agreement on the Exchange of CbC Reports in January 2016, SARS had, on 11 April 2016, published draft

regulations regarding a South African CbC standard for Multinational Enterprises (MNE). These have been finalised and were promulgated into law on 23 December 2016.

The regulations state that they will apply to years of assessment commencing on or after 1 January 2016, i.e. for some taxpayers, the reporting year will already have commenced.

A notification to the South African Revenue Service of whether the constituent entity of an MNE Group resident in South Africa for tax purposes is the Ultimate Parent or the Surrogate Parent Entity or if it is not, then the details of the identity and tax residence of the Reporting Entity, is required to be made no later than 12 months after the last day of the Reporting Fiscal Year of such MNE Group. However, no format or mode of such notification has been provided as yet.

The final regulations state that the CbC Report must contain information set out on, and apply the definitions and instructions contained in, the standard template set out in “Annex III to Chapter V” set out in the *OECD/G20 Base Erosion Project Transfer Pricing Documentation and Country-by-Country Reporting, Action 13- 2015 Final Report*. This report can be accessed using this [link](#).

The Final Country-by-Country Regulations can be accessed using this [link](#).

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