OECD issues updated Guidance on the Implementation of Country by Country Reporting

The OECD /G20 Inclusive Framework on BEPS has released additional interpretative guidance on the implementation and operation of Country-by-Country ('CbC') Reporting (BEPS Action 13) on 5 November 2019 ('November 2019 Guidance'). The guidance was last updated in September 2018 and gives greater certainty to tax administrations and Multinational Enterprise ('MNE') Groups with respect to the definition of items reported in the CbC template, the entities reported, filing obligation and sharing mechanism. UAE has introduced CbC reporting legislation with effect from years beginning on or after 1 January 2019 and related FAQs and places reliance on OECD guidance for completion of the CbC report.

The key takeaways from the updated guidance are:

1. **Dividends received from other Constituent Entities ('CEs')** must be **excluded** from **'Profit (Loss) before Income Tax'** and thereby from **'Income Tax Accrued' and 'Income Tax Paid'** for fiscal years commencing on or after 1 January 2020. Voluntary application of this guidance is permitted for earlier reporting fiscal years. The previous guidance permitted a flexible approach whereby CEs, although needed to exclude such dividends from the 'Revenue' had a choice of including/ excluding the same in 'Profit (Loss) before Income Tax'.
2. **Reasonable rounding or approximation of data presented in the CbC report may be accepted by the jurisdiction**. As a guide, rounding data to the nearest EUR 1,000, USD 1,000 or JPY 1,000,000 is likely to be considered reasonable, but the amount should be reported in full numbers, including all zeroes, with no shortening.
3. MNEs are required to provide **sufficient information with respect to source of data** that would enable an understanding of the **source of each item of information in the CbC report**. For example, '*Specified items in jurisdiction A and B were obtained from statutory financial statements. Specified items in jurisdiction C and D are obtained from consolidation reporting*

package.' Jurisdictions are mandated to implement this guidance as soon as possible. During the transitional period, voluntary application is encouraged.

4. **CbC report should be prepared by the MNE Group** for the period covered by the consolidated financial statements prepared by the Ultimate Parent entity, **irrespective of whether this period is greater than or less than 12 months.**

In addition to the aforesaid, updated guidance has also been issued with respect to deemed listing provisions, local filing and lodging a unilateral declaration by jurisdictions for the purposes of exchanging CbC reports even before the multilateral competent authority agreement comes into effect for such jurisdictions.

The Guidance also includes a link to the list of common errors made by MNEs in preparing CbC reports compiled by the OECD, basis the concerns faced by tax administrations.

We have tabulated below some of the key common errors identified and related guidance below:

Sr.No.	Particulars	Guidance
1	Tax Identification Number (TIN)[1]	1. NOTIN should only be entered in cases where a CE has not been issued a TIN 2. The TIN field should not be left blank. 3. TIN should not be repeated for multiple CEs, except were the same number is issued to more than one CE by the jurisdiction of tax residence.
2	Currency	A CbC report should not contain multiple currencies and only the functional currency of the Ultimate Parent Entity should be used.
3	Shortening, rounding and lengthening of amounts	1. Use of shortened numbers (e.g. deleting the final three or six digits, as may be done in consolidated financial statements) is not permitted. 2. Jurisdictions may permit rounding of amounts, as long as it is not distortive. 3. No decimals (fractions of a currency unit) should be reported in the CbC report as it may have an effect of multiplying every financial figure by a factor of 100, if the decimal is subsequently deleted (e.g. upon conversion of the CbC report into XML).

[1] *Please note that though this is not a requirement as per the OECD CbC report format, it is required by some jurisdictions at the time of XML conversion and filing of the CbC report.*

Sr.No.	Particulars	Guidance
4	Total Revenues	MNE Groups must ensure that Total Revenue is equal to the sum of Unrelated Party Revenue and Related Party Revenue.
5	Jurisdictions	1. The standard two-digit ISO code must be used as jurisdiction codes[2]. 2. The same tax jurisdiction should be included in Table 1 and Table 2.
6	Non-consolidated CEs	The report must include CEs excluded from the consolidated financial statements on size or materiality grounds and permanent establishments for which separate financial statements are prepared for financial, regulatory, tax or management reporting purposes.

Although CbC reporting is not new for MNE Groups, the different interpretations of local legislation/ OECD guidance by these groups have made it challenging for tax authorities to make a high-level transfer pricing risk assessment and therefore limits the usefulness of CbC Reports. In this situation, documenting relevant positions and assumptions in Table 3 becomes even more relevant.

MNE Groups must therefore review their CbC reports in detail to ensure complete compliance with the guidelines before submission.

If you would like to discuss the above in more detail and understand the specific implications of the developments to your business, please feel free to get in touch with:

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