

e-Tax alert

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Taiwan Ministry of Finance announced list of treaty countries unable to effectively exchange Country-by-Country Report with Taiwan

Once again, it is the busiest tax filing season of the year for companies with fiscal year ended December 31, 2017.

Disclosure Requirements

What is different this year is that Taiwan has adopted the three-tier transfer pricing ("TP") documentation in the local regulations. Hence, Taiwanese entity with the Group's annual consolidated group revenue for 2016 exceeding NTD 27 billion will be required to disclose whether it will be the filing entity for Country-by-Country Report ("CBCR") in Page B6 of the transfer pricing disclosure forms as part of the 2017 corporate income tax ("CIT") return.

If ultimate parent company ("UPE") is a Taiwanese entity

According to Article 22-1 of the Assessment Rules Governing Non-Arm's-Length Transfer Pricing for Profit-Seeking Enterprises Income Tax ("TP Assessment Rules"), where an entity in Taiwan is the UPE of a multinational enterprise ("MNE") group, it shall prepare a CBCR of the current fiscal year in accordance with the prescribed format and submit the same to the local tax authority within one year after the end of the financial year.

If UPE is a foreign entity

Where an MNE Group whose UPE is located outside Taiwan, one of its constituent entities in Taiwan shall submit the CBCR to Taiwan tax authority if one of the following conditions apply:

- The UPE of the MNE Group is not obliged to file a CBCR in its country/ jurisdiction of tax residence.
- The UPE has filed a CBCR in its country/ jurisdiction of tax residence, but such country/ jurisdiction does not have an agreement to exchange CBCR with Taiwan by the CBCR filing deadline in Taiwan.
- The UPE has filed a CBCR in its country/ jurisdiction of tax residence and such country/ jurisdiction has an agreement to exchange CBCR with Taiwan, but Taiwan tax authority is unable to effectively obtain the CBCR in accordance with the agreement.

For foreign entities in Taiwan, if the Group's revenue exceeds the NTD 27 billion threshold or EUR 750 million or a near equivalent amount in other currency, it is important to know if the CBCR filed by the UPE or surrogate parent entity ("SPE") can be successfully exchanged with Taiwan tax authority.

According to Tax Ruling No. 10724507300 issued by Taiwan Ministry of Finance ("MOF") on April 27, 2018, as of now, only New Zealand can effectively exchange CBCR with Taiwan.

In order words, a Taiwanese entity with UPE or SPE located other than New Zealand will have to indicate itself (or another MNE member in Taiwan) as the filing entity for 2017 CBCR under Page B6 of the transfer pricing disclosure forms as part of the 2017 CIT return.

Items to be disclosed

On the disclosure form, the following information would have to be disclosed:

Item	Information to be disclosed
Basic information	<ul style="list-style-type: none"> – MNE Group’s 2016 annual consolidated group revenue – CBCR safe harbor threshold in the functional currency of the UPE/ SPE (whichever applicable)
If the Group is required to file CBCR	UPE’s and SPE’s (if any) company name, tax identification number, resident country/ jurisdiction and country code
Taiwanese entity needs to submit CBCR in Taiwan	Based on the aforementioned rules, to indicate in Page B6 whether the Taiwanese entity will be required to submit the CBCR.

Submission of CBCR

Ongoing discussion on CBCR exchange mechanism

Taiwan MOF is currently in discussion with the following treaty countries for effective CBCR exchange mechanism: Australia, Austria, Belgium, Canada, Denmark, France, Gambia, Germany, Hungary, India, Indonesia, Israel, Italy, Japan, Kiribati, Luxembourg, Macedonia, Malaysia, the Netherlands, Paraguay, Poland, Senegal, Singapore, Slovakia, South Africa, Swaziland, Sweden, Switzerland, Thailand, the U.K. and Vietnam. The list will be updated from time to time.

Filing deadline of CBCR and language

According to Article 22-1 of TP Assessment Rules, the CBCR should be filed within one year after the last day of the reporting fiscal year. Please be reminded that the prescribed language for CBCR in Taiwan is both English and Chinese.

KPMG Observation

In view that 2017 tax year is the first year Taiwan has implemented the requirement on CBCR reporting, only New Zealand can effectively exchange CBCR with Taiwan as of April 27, 2018.

Taxpayer first needs to determine how the Taiwanese entity should disclose the relevant information if it is required to submit the CBCR. If required to submit, then only one shall consider how to submit the CBCR.

As Taiwan MOF may update the list of countries to allow effective CBCR exchange mechanism irregularly, it is recommended that Taiwanese entities of foreign MNE groups seek advice from their tax consultants when completing TP disclosure forms for 2017 CIT return, and to monitor for any further developments regarding the list of treaty countries after the CIT filing.

It is expected that further details/ guidance on practical issues for filing CBCR will be released by the MOF in the near future.

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