



Deadline for the Local Filing of 2019 Country by Country Reporting (CBCR) in Turkey is approaching

Summary

With the Presidential Decree No. 2151; OECD BEPS 13 rules including CBCR, Masterfile and local file are in force in Turkey effective from 24.02.2020. The MNEs which have consolidated revenue equivalent, or more than 750 mil Euro are required to file CBCR. The first reporting year will be 2019 and will be submitted until December 31, 2020. As of today; there are not any activated Qualifying Agreement between Turkey and other Competent Authorities which would enable automatic exchange of CBCR. Therefore, in case there will not be effective Qualifying Agreement until the end of 2020; Turkish subsidiaries of eligible MNEs will be required to locally file 2019 Group CBCR in Turkey until the end of 2020. On the other hand; it is currently not clear whether Turkey will accept xml OECD schema 1.0.1 or schema 2 for 2019 CBCR. Therefore in order to meet the deadlines, it is critical for Turkey to announce its technical system and MNEs should take action to be ready to submit the CBCR in Turkey.

Explanations

With the Presidential Decree No. 2151; OECD BEPS 13 rules including CBCR, Masterfile and local file are in force in Turkey effective from 24.02.2020. The MNEs which have consolidated revenue equivalent, or more than 750 mil Euro are required to file CBCR. The first reporting year will be 2019 and will be submitted until 31.12.2020. For special accounting periods; the first year subject to CBCR will be the special accounting period which begins after 2019 and will be delivered within 12 months.

In case the ultimate parent entity (UPE) or surrogate entity of such MNE is in Turkey, CBCR will be filed to Turkish Revenue Administration. In case the UPE or surrogate entity is located abroad Turkey, local filing in Turkey may be required in case there will be not be effective BEPS 13 rules in the country of UPE or surrogate entity or Turkey does not have a Qualifying Agreement to be able to automatically exchange the CBCRs with the countries UPE and/or surrogate entity resides or there are non compliance with appropriate use and confidentiality issues. The local filing rules and Turkey's approach is in line with OECD BEPS 13 Final report.

In the implementation of BEPS 13 rules; activated automatic exchange relationships between countries are very important to avoid local filings. Up today; 88 countries have signed the CBC MCAA which enables automatic exchange of country by country reports between Competent Authorities. For some countries which are not signatory parties of CBC MCAA; the exchange of CBCR are completed through Competent Authority Agreement on the Exchange of Country-by-Country Reports on the Basis of a Double Tax Convention ("DTC CAA") or Competent Authority Agreement on the Exchange of Country-by-Country Reports on the Basis of a Tax Information Exchange Agreement ("TIEA CAA") or MAC CAA.

Turkey has ratified the signature of CbC MCAA as of October 1,2020 by the Presidential Decree No. 3038. The CBC MCAA will be in force after completion of some procedures.



Despite Turkey's efforts to complete the notifications; as of today; there are not any activated and effective Qualifying Agreement between Turkey and other Competent Authorities which would enable automatic exchange of CBCR.

Therefore, in case there will not be effective Qualifying Agreement until the end of 2020; Turkish subsidiaries of eligible MNEs will be required to locally file 2019 Group CBCR in Turkey.

Since the deadline is approaching, we would like to draw attention to some points. First; local filing CBCR in Turkey is stipulated in Turkish law. The penalty of not submitting the CBCR is special irregularity penalty which is an immaterial amount. However filing CBCR is considered as a part of transfer pricing documentation requirements for Turkish taxpayers. Timely and proper transfer pricing documentation eliminates 50 % of the tax penalties due to possible transfer pricing audits. Thus; not fulfilling local CBCR filing requirements will lead to 50 % tax penalty advantage loss which may be important advantage loss for some companies.

Therefore, we highly recommend MNEs locally filing 2019 CBCRs in Turkey. The CBCRs will be delivered through BTRANS system which is electronic data transfer system of Revenue Administration. Taxpayers will apply for new password and username. The username and password will be provided by Tax Administration after the written application of taxpayers.

Regarding the template of the CBCR; it is obvious that Turkey will accept xml format. On the other hand; it is currently not clear whether Turkey will accept xml OECD schema 1.0.1 or schema 2.

As known, many countries are accepting OECD xml schema 1.0.1 for 2019 CBCR reports. There are few countries which accept OECD schema version 2.0 effective from October 2020 (Japan, Australia), November 2020 (Liechtenstein, Singapore), December 2020 (Sweden, Isle of Man) and 10 January 2021 (Germany). Per to OECD; The September 2017 version of the CbC XML Schema and User Guide (xml version 1.0.1) is applicable for all exchanges until 31 December 2020, whereas the second, the new June 2019 version will be in use as from 1 February 2021. Since Turkey will be able to exchange the reports with the completing of all procedures, it is not foreseen that Turkey will exchange any reports before February 2021. Therefore, Turkey will most probably accept OECD xml schema 2 for 2019 reports. However this will lead to bias in terms of local filing since many MNEs will file their 2019 CBCR to their Tax Authorities in xml schema 1.0.1. Therefore MNEs will be required to convert their CBCR both to xml 1.0.1 version and also 2.0 version in case Turkey announced the use of xml schema 2.0. This is also valid for Turkish MNEs which will file in Turkey and file in its surrogate entity's country.

It is known that the CBCRs which will be collected within the context of local filing will not be exchanged by Turkish Competent Authorities. In addition, the 2019 CBCRs of Turkish MNEs will be exchanged by surrogate entity of Turkish MNEs, therefore Turkey may opt not to exchange 2019 CBCRs of Turkish MNEs which have surrogate entities. Therefore if 2019 CBCRs will not be subject to automatic exchange; the accepted schema type would not result in a difference and in order to minimize the conflicts; Turkish Revenue Administration may announce to use Schema 1.

Whether it is OECD schema 1 or 2; it is very important for Turkey to announce the xml schema as soon as possible since MNEs will convert their CBC reports into appropriate versions for Turkey. It should be also noted that an extension for local filing is not expected. Therefore in order to meet the deadlines, it is critical for Turkey to announce its technical



system to be used and MNEs should take action to be ready to submit the CBCR in a different schema than their current version for Turkey.

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