Country by Country Reporting: Historical evolution and latest updates

CONTEXT

The Organization of Economic Cooperation and Development (OECD) ongoing reviews of the Country-by-Country Reporting ('CbCR') Guidance underscore its commitment to fostering a fair and transparent global tax environment. While significant strides have been made, the reviews highlight the need for continuous improvement and adaptation.

By addressing identified challenges and implementing recommended enhancements, the OECD aims to ensure that CbCR remains a vital tool in the fight against tax avoidance and base erosion, ultimately contributing to a more equitable global economy.

On 27 May 2024, the OECD issued an amended the CbCR Guidance as a follow-up from the historical OECD review series of the CbCR Guidance[1].

(1): https://www.oecd.org/tax/exchange-of-tax-information/guidance-on-country-by-country-reporting-beps-action-13.htm

The Evolution of Country-by-Country Reporting: A historical perspective

2014 — **First Draft of CbCR Guidelines**

The OECD released its first draft of CbCR guidelines as part of the BEPS Action 13 report. This draft outlined the framework for MNEs to report detailed financial and tax information on a country-by-country basis.

2015 — **Final BEPS Action 13 Report**

The final BEPS Action 13 report was published, providing detailed guidance on the implementation of CbCR. It mandated MNEs with annual consolidated group revenue of €750 million or more to file a CbCR with tax authorities in their home countries.

2016 — **Implementation and Guidance**

The OECD released additional guidance to support the implementation of CbCR. This included templates for reporting, detailed instructions on data collection, and clarification on various technical aspects of the reporting process.

2017 — **First Draft of CbC Reporting Guidelines**

The OECD established the Inclusive Framework on BEPS, allowing over 100 countries and jurisdictions to collaborate on the implementation of BEPS measures, including CbCR. This marked a significant step towards global adoption and standardization.

2018 - 2020 — **Further Clarifications and Updates**

The final BEPS Action 13 report was published, providing detailed guidance on the implementation of CbCR. It mandated MNEs with annual consolidated group revenue of EUR 750 million or more to file a CbCR with the tax authorities.

2021 — **Review of the minimum standard**

The OECD conducted a comprehensive review of the CbCR minimum standard to evaluate its effectiveness and identify areas for improvement. The review included stakeholder consultations and analysis of the practical experiences of tax authorities and MNEs.

2022 — **Enhancing exchange mechanisms**

In 2022, the OECD focused on enhancing the mechanisms for data exchange and utilization of CbCR. This included improved protocols for the secure exchange of information between jurisdictions and advanced analytical tools to help tax authorities make better use of CbCR data.

2023 — **Digital Economy updates**

The OECD released updated guidance in 2023 to address the evolving landscape of global business and digital economy. This included specific recommendations on reporting requirements for digital transactions and the treatment of intangible assets.

2024 — **Guidance on the appropriate use of CBC Reporting information**

The OECD released new updates to the existing guidance on the appropriate use of information contained in CbCR in the areas of treatment of dividends received in calculating the profit before tax and income taxes paid / accrued.

The latest May 2024 CbCR update

As jurisdictions have moved into the implementation stage, some questions of interpretation have arisen. To achieve a consistent implementation and certainty for both tax administrations and taxpayers, the Inclusive Framework on BEPS has issued additional guidance to address certain key questions. In the May 2024 additional CbCR guidance, the following points were further updated and clarified:

- **Payments received from other Constituent Entities that are treated as dividends in the payer's tax jurisdiction:** The BEPS Action 13 report clarifies that dividends received from other Constituent Entities should not be taken into account for the calculation of revenues for completion of the CbCR Table 1. It does however not clarify whether dividends from other Constituent Entities should be included / excluded from the Profit (loss) before income tax. In this regard, taxpayers and tax authorities have adopted different approaches in this regard.
- To bring clarity and consistency on this specific point, the updated guidance clarifies that, consistent with Revenue, Profit (Loss) before Income Tax excludes payments received from other Constituent Entities that are treated as dividends in the payer's tax jurisdiction. The updated guidance further clarifies that the expression "payments received from other Constituent Entities that are treated as dividends in the payer's tax jurisdiction" refer to payments that are treated as dividends in the source of data used for the completion of Table 1 with respect to the tax jurisdiction of the payer.
- Also, the updated guidance clarifies that where applicable accounting rules require or permit a Constituent Entity to include in profit before tax for financial reporting purposes an amount representing all or part of the profit of another Constituent Entity, this amount should be treated in the same way as dividends from other Constituent Entities and hence should be excluded from Revenue and Profit (Loss) before Income Tax.

- **Treatment of income tax accrued/income tax paid on such dividends be reflected in the columns "Income Tax Paid (on cash basis)" and/or "Income Tax Accrued (current year)':** Where dividends from other Constituent Entities are included in "Profit (loss) before Income Tax" in Table 1, any income tax accrued or income tax paid on these dividends should be reported in the relevant columns. The updated guidance further adds that these columns should not include information on income tax accrued or income tax paid with respect to dividends from Constituent Entities that are not included in "Profit (loss) before Income Tax".

The Updated Guidance further encourages Inclusive Framework members to apply the updates outlined above as soon as possible, taking into account specific domestic circumstances and, in any event, this guidance applies to all reporting fiscal years of MNE groups commencing on or after 1 January 2025.

Impact and achievements

The OECD's efforts in developing and refining CbC Reporting have had a profound impact on global tax practices:

- **Enhanced Transparency**: CbC Reporting has significantly increased the transparency of MNEs' operations, providing tax authorities with valuable insights into their global activities and tax positions.
- **Improved Risk Assessment**: Tax authorities use CbC data to perform high-level transfer pricing risk assessments and identify areas requiring further scrutiny.
- **Harmonization of Reporting Standards**: The OECD's guidance has led to the harmonization of reporting standards across jurisdictions, facilitating smoother exchange of information and reducing compliance burdens for MNEs.
- **Increased Compliance**: MNEs have adopted more robust compliance mechanisms to meet CbC Reporting requirements, promoting fairer tax practices.

Conclusion

The history of CbCR publications by the OECD reflects a concerted effort to address tax avoidance and enhance global tax transparency. From its inception in the early discussions of the 2000s to its formalization under the BEPS Action Plan and subsequent refinements, CbCR has become a critical tool in the international tax arsenal. As the OECD continues to review and update the CbCR framework, its impact on promoting fairness and transparency in the global tax system is likely to grow, benefiting both tax authorities and compliant businesses worldwide.

For businesses subject to annual CbCR filing, the developments outlined in this article, bring the light onto the necessity to closely monitor the OECD updates as it comes to CbCR. Further, any adjustment to previous positions undertaken, for example on dividends received from a Constituent Entity, there will be a requirement to assess the impact on future CbCR filings and the necessity (or not) the explain these changes in the CbCR Table 3, in instance.

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