



OECD RELEASES FURTHER GUIDANCE ON COUNTRY-BY-COUNTRY REPORTING

On 6 April 2017, the OECD published further guidance for tax administrations and multinationals on Country-by-Country (CbC) reporting (Further Guidance). The purpose of the document is to clarify a number of interpretation issues that arose in relation to the information that should be included in the CbC report, and to provide guidance to jurisdictions when implementing the model legislation of the Action 13 report into their domestic rules.

Overview

The most relevant aspects clarified by the Further Guidance on are the following:

- the definition of revenues;
- the accounting principles / standards for determining the existence of and membership of a group;
- the definition of total consolidated group revenue;
- the treatment of major shareholdings;
- transitional filing options for multinationals (parent surrogate filing).

With regard to the definition of "revenues", the Further Guidance clarifies that also extraordinary income and gains from investment activities are to be included in the second column of Table 1 of the CbC report.

Concerning the second item listed above, the Further Guidance, states that in general if the equity interests of the Ultimate Parent Entity are traded on a public securities exchange, jurisdictions will require the Group to use the consolidation rules in the accounting standards already used by the Group. On the other hand, if the equity interests of the Ultimate Parent Entity are not traded on a public securities exchange, jurisdictions may allow the Group to choose to use either local GAAP of the jurisdiction of the Ultimate Parent Entity or IFRS as its governing accounting standard. However, the Further Guidance, adds that the jurisdictions have some leeway in terms of the accounting standards to be used.

Regarding the definition of total consolidated group revenue, it is clarified that it is allowed to include extraordinary income and gains from investment activities in the total consolidated group revenue if those items are stated in the consolidated financial statements under applicable accounting rules.

With respect to the treatment of major shareholdings, the Further Guidance, clarifies that it will depend on the accounting rules in the jurisdiction of the Ultimate Parent Entity as to whether minority interests held by unrelated parties in a Constituent Entity should be pro-rated for the purpose of applying the 750 million Euro threshold or not.

Furthermore, the Further Guidance lists the countries which have parent surrogate filing available for Ultimate Parent Entities that are resident in their jurisdiction. In this regard, in addition to Japan, Switzerland and the United States, now also Hong Kong, Lichtenstein, Nigeria and Russia have confirmed they will have parent surrogate filing available for fiscal periods commencing on or from 1 January 2016.

Take away

The above clarifications brought by the Further Guidance are very helpful, taking into account that all OECD and G20 countries have committed to implement CbC reporting as set in the Action 13 report. In this respect swift progress has been made by the OECD and G20 countries to introduce CbC reporting into domestic legal frameworks. Therefore a consistent implementation of CbC reporting as set in Action 13, will not only ensure a level playing field but also provide certainty for taxpayers and improve the ability of tax administrations to use CbC reports in their risk assessment framework. It is important to note that although OECD and G20 member countries have enacted legislation on CbC reporting inspired on the OECD Model Legislation, there are no standard templates or formats that apply to all countries and it is expected that some countries will make the use of specific tools and procedures for submitting CbC reporting notifications mandatory. As the CbC reporting notification deadline deviates from country by country, and material penalties are applicable in certain countries, special attention is required to be paid to the notification filing deadlines.

RSM will monitor these interesting developments and keep you updated.