

# Exchange of tax information with transfer pricing documentation under BEPS (Action 13)

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# Panel

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# Background

- September 2014 Action 13 Report established three goals for transfer pricing documentation:
  - providing tax administrators with data necessary to perform risk assessments;
  - ensuring that taxpayers meet requirements and appropriately report income in transfer pricing transactions; and
  - permitting tax administrations with the required information to audit transfer pricing practices

# Action 13: Framework

- The guidance proposes a three-tiered structure consisting of:
  - a **master file** containing standardized information relevant for all MNC group members
  - a **local file** referring specifically to material transactions of the local taxpayer; and
  - a **country-by-country report** containing certain information relating to the global allocation of the MNC's income and taxes paid together with certain indicators of the location of economic activity within the MNC group
- BEPS Explanatory Statement notes CbC reporting is a minimum standard which all OECD and G20 countries agree to implement.

## Action 13: Highlights

- Recommendation for master file and local file to be filed locally in each country
- Mechanisms will be developed to monitor countries' compliance with their commitments, in addition to 2020 review of implementation
- First CbC reports recommended to be filed for years beginning in 2016; participating countries agree no reporting for earlier years to be required
- Taxpayers to have 12 months after year-end to file
- Only groups with > €750M consolidated group revenue in prior year to be required to file

# Action 13: Highlights

- Participating countries agree to conditions underpinning obtaining and using CbC reports:
  - Confidentiality
  - Consistency
  - Appropriate use
- Agreement parent company country should provide CbC report through automatic EOI to eligible countries
- Agreement to develop implementation package by April: Parent country legislation / sub country “secondary mechanisms”
- Implementing agreements for AEOI

# How CbCR will be shared



MCMAA Signatory

Sharing information is based on...

Non-MCMAA Signatory

1. Multilateral competent authority agreement (“MCAA”)

Must be signatory to Multilateral Convention on Mutual Administrative Assistance (“MCMAA”)

2. OR Tax treaty competent authority agreement  
Bilateral agreement implemented through treaties  
A country can implement with treaty partners not signatory to MCMAA

3. OR Tax information exchange agreement (“TIEA”)  
Alternative bilateral agreement  
A country can operate with non-treaty countries

# Points for discussions

- CbCR - Dispute resolution or dispute creation?
- Will it be used only for risk assessment purposes?
- Is CbCR a passport for Profit Split?
- Use of Global Formulary Apportionment
- What are the rights of a taxpayer?
- Are we moving towards Joint Audits?
- Confidentiality of data
- How are companies preparing for CbCR?
- How are Revenue Authorities preparing?



Thank you!