

AUTOMATIC EXCHANGE OF INFORMATION (COUNTRY-BY-COUNTRY REPORTING)

(in force as of 04.08.2017)

New rules on automatic exchange of information between the tax administrations by means of Country-by-Country Reports (CbCR) are introduced with the changes to the Tax And Social Security Procedure Code, in effect as of 4 August 2017.

Scope of the information subject to the CbCR

The automatic exchange of information will be performed by CbCR and will encompass information about the allocation of revenues, profits, assets and taxes of the entities within a multinational enterprise group.

The template forms for submission of the CbCR should be approved by the Executive Director of the National Revenue Agency (NRA) and should be published on the NRA's official website until 31 October 2017.

Entities obliged to submit CbCR

The new rules on submission of CbCR are addressed to multinational enterprise groups (MNE Groups), which operate through subsidiaries or permanent establishments in different EU member states or third country jurisdictions.

Companies obliged to submit CbCR in Bulgaria

The CbCR should be submitted to the NRA by the following companies:

- **Ultimate parent entity of a MNE Group**

The ultimate parent entity part of a MNE Group should submit a CbCR to the NRA, provided that it is a Bulgarian tax resident and according to the accounting regulations should prepare a consolidated financial report and there is no other constituent entity of the MNE Group, which directly or indirectly controls that ultimate parent entity.

The ultimate parent entity submits a CbCR when the total consolidated turnover of the group exceeds **BGN 100 000 000 (or app. EUR 51 000 000)** for the fiscal year proceeding the reporting fiscal year.

- **Surrogate parent entity of a MNE Group**

If the ultimate parent entity of a MNE Group is not a Bulgarian tax resident, the CbCR is submitted in Bulgaria by a Bulgarian tax resident surrogate entity/ a constituent provided that the total consolidated revenue of the Group exceeds BGN 1 466 872 500 (or app. EUR 750 000 000).

Bulgarian surrogate parent entity of an MNE Group, files the CbCR in Bulgaria, when:

- i. The ultimate parent entity is not obliged to submit a CbCR in the jurisdiction as per its tax residency, or
- ii. The jurisdiction in which the ultimate parent entity is a tax resident has an international agreement in force and Bulgaria is also party to that agreement, but for the period in which the CbCR is due for the reporting fiscal year there is no effective special international agreement.
- iii. The jurisdiction as per tax residency of the ultimate parent entity of the Group systematically does not comply with the rules on exchange of information.

▪ **Constituent entity of a MNE Group**

If the MNE Group does not submit the CbCR by a surrogate entity in Bulgaria, then the CbCR is filed by a constituent entity which is tax resident in Bulgaria.

If a MNE Group has several constituent entities – tax resident in Bulgaria/and or in other EU member state and any of the above described conditions is in place, the MNE Group may appoint one of the constituent entities to submit the CbCR.

If the constituent entity which is appointed to file the CbCR, is a tax resident of Bulgaria, that entity should notify the Executive Director of the NRA that by submission of the CbCR the reporting obligation of any other constituent entities of the MNE Group will be deemed fulfilled.

CbCR submission deadlines

The CbCR will be submitted electronically each year to the Executive Director of the NRA, within a 12-month term as of the end of the fiscal reporting year of the MNE Group.

The primary CbCR, which is filed by the ultimate parent entity of a MNE Group or by the surrogate parent entity of a MNE, which refers to the fiscal year starting on 1 January 2016, should be filed to the NAR **no later than 31 December 2017**.

For primary reporting by a constituent entity - CbCR is first to be prepared and filed for the fiscal years starting on 1 January 2017. **The filing deadline is 31 December 2018**.

Notification deadlines

Any constituent entity of a MNE Group, which is a Bulgarian tax resident, should notify the Executive Director of the NRA, in its capacity as a part of the MNE Group, whether it acts as an ultimate parent entity, a surrogate entity or a constituent entity appointed to submit the CbCR. The notification should be submitted to the NRA no later than the last day of the fiscal reporting year.

In cases where a MNE Group consist of several constituent entities tax resident in Bulgaria and/or other EU member states, the constituent entity appointed to file the CbCR should notify the NRA on its obligation.

Any Bulgarian tax resident constituent entity which is not obliged or appointed to submit the CbCR, should notify the Executive Director of the NRA about the entity liable to submit the CbCR and the jurisdiction of which it is a tax resident. The notification should be submitted no later than the last day of the fiscal reporting year of the MNE Group. The notification should be also submitted by all constituent entities of a MNE Group, which are tax resident in Bulgaria and are not appointed as an entity filing the CbCR.

Primary notifications for the fiscal reporting year starting on 1 January 2016 should be submitted **no later than 31 December 2017**.

Administrative sanctions (penalties)

An entity which fails to provide a CbCR within the statutory deadline could be subject to administrative penalty amounting from BGN 100 000 to BGN 200 000. In case of a second infringement the sanction is higher and amounts from BGN 200 000 to BGN 300 000.

An entity which fails to provide information or provides incorrect information in a CbCR could be penalized with administrative sanction amounting from BGN 50 000 to BGN 150 000. In case of a second violation the sanction amounts from BGN 100 000 to BGN 250 000. This sanction will be also applicable when the incorrect or incomplete information is due to a denial of the ultimate parent entity of a MNE Group to present information.

If a constituent entity fails to notify the NRA that the ultimate parent entity of the MNE Group has denied provision of the necessary information, will be subject to administrative sanction amounting to BGN 10 000.

If a constituent entity fails to notify the NRA it will be subject to administrative sanctions amounting from BGN 50 000 to BGN 150 000 (in case of a second violation the sanction could be up to BGN 200 000).

DELICHEV & PARTNERS