

## **JURISDICTIONS CONTEMPLATED IN ARTICLE 2(2)(ii)(b) OF THE COUNTRY-BY-COUNTRY REGULATIONS SPECIFYING THE CHANGES TO THE COUNTRY-BY-COUNTRY REPORTING STANDARD FOR MULTINATIONAL ENTERPRISES**

One of the outcomes of the G20/OECD Base Erosion and Profit Shifting project was the introduction of Country-by-Country (CbC) Reports for Multinational Enterprise (MNE) Groups. In this context an MNE Group is essentially a group that does business in more than one jurisdiction and has a total consolidated group revenue of €750 million (R10 billion in a South African context) or more. For the purposes of applying the €750 million threshold, regard should be had to the guidance that has been provided that, if a near equivalent amount in domestic currency of €750 million as of January 2015 is reflected in the CbC reporting legislation of the jurisdiction of tax residence of the Ultimate Parent Entity (UPE) of an MNE Group, this near equivalent should be used. (See IV.1. of the [Guidance on the Implementation of Country-by-Country Reporting – BEPS Action 13](#) (OECD Guidance).)

In terms of Article 2(2) of the regulations specifying the changes to the CbC Reporting Standard for Multinational Enterprises, published in Government Gazette No. 40516 of 23 December 2016 (CbC Regulations), a member of an MNE Group resident in South Africa that is not the UPE of the MNE Group may be required to file a CbC Report with SARS under three sets of circumstances. If any one of these sets of circumstances applies and acceptable alternative arrangements are not made by the MNE Group under Article 2(3) of the CbC Regulations, the filing requirement with SARS stands.

- a. The first set of circumstances relates to the absence of an obligation for the UPE of an MNE Group to file a CbC Report in its jurisdiction of tax residence. For purposes of considering whether this set of circumstances applies, regard should be had to the guidance that has been provided in respect of “parent surrogate filing”. (See V.1. of the OECD Guidance.)
- b. The second set of circumstances relates to cases where the jurisdiction in which the UPE of the MNE Group is tax resident has an International Agreement in place with South Africa but does not have a Qualifying Competent Authority Agreement *in effect* by the time the CbC Report must be filed.
- c. The final set of circumstances relates to cases where there has been a Systemic Failure of the jurisdiction in which the UPE of the MNE Group is tax resident. SARS is not aware of any such failures at this time.

The lists below are intended to assist members of MNE Groups tax resident in South Africa in complying with their obligations under the Article 2(2)(ii)(b) of the CbC Regulations.

The process of concluding and activating Qualifying Competent Authority Agreements is ongoing. It is, therefore, the intention to update the list of jurisdictions contemplated in Article 2(2)(ii)(b) of the CbC Regulations for the purposes of Article 2(4) of the CbC Regulations in future. While Article 2(4) provides for the issue of a list for purposes of Article 2(2)(ii)(b), it does not require exclusive reference to the list. Updates [made available by the OECD](#) in respect of Qualifying Competent Authority Agreements for the provision of information to South Africa may also be referred to.

Date of issue: 13 June 2018

	<b>Jurisdictions with both an International Agreement and a Qualifying Competent Authority Agreement in effect</b>	<b>Effective for Reporting Fiscal Years commencing on or after</b>
1	Argentina	1 January 2016
2.	Australia	1 January 2016
3.	Austria	1 January 2016
4.	Belgium	1 January 2016
5.	Bermuda*	1 January 2016
6.	Brazil	1 January 2016
7.	Bulgaria	1 January 2016
8.	Canada	1 January 2016
9.	Cayman Islands*	1 January 2016
10.	Chile	1 January 2017
11.	Colombia	1 January 2016
12.	Croatia	1 January 2016
13.	Cyprus*	1 January 2016
14.	Czech Republic	1 January 2016
15.	Denmark	1 January 2016
16.	Estonia	1 January 2016
17.	Finland	1 January 2016
18.	France	1 January 2016
19.	Germany	1 January 2016
20.	Greece	1 January 2016
21.	Guernsey	1 January 2016
22.	Hong Kong	1 January 2016
23.	Hungary	1 January 2016
24.	Iceland	1 January 2016
25.	India	1 January 2016
26.	Indonesia	1 January 2016
27.	Ireland	1 January 2016
28.	Isle of Man	1 January 2016
29.	Italy	1 January 2016
30.	Japan	1 January 2016
31.	Jersey	1 January 2016
32.	Korea	1 January 2016
33.	Latvia	1 January 2016
34.	Liechtenstein	1 January 2016
35.	Lithuania	1 January 2016
36.	Luxembourg	1 January 2016
37.	Malaysia	1 January 2016
38	Malta	1 January 2016
39.	Mauritius	1 January 2016
40.	Mexico	1 January 2016
41.	Netherlands	1 January 2016
42.	New Zealand	1 January 2016
43.	Norway	1 January 2016
44.	Pakistan	1 January 2016

\* Non-reciprocal: Jurisdictions will supply CbC Reports to South Africa.

	<b>Jurisdictions with both an International Agreement and a Qualifying Competent Authority Agreement in effect</b>	<b>Effective for Reporting Fiscal Years commencing on or after</b>
45.	Poland	1 January 2016
46.	Portugal	1 January 2016
47.	Russia	1 January 2016
48.	Singapore	1 January 2016
49.	Slovak Republic	1 January 2016
50.	Slovenia	1 January 2016
51.	Spain	1 January 2016
52.	Sweden	1 January 2016
53.	Switzerland	1 January 2016
54.	United Kingdom	1 January 2016
55.	United States of America	1 January 2016
56.	Uruguay	1 January 2017

	<b>Jurisdictions with an International Agreement but no Qualifying Competent Authority Agreement in effect</b>
1.	Albania
2.	Algeria
3.	Andorra
4.	Anguilla
5.	Aruba
6.	Azerbaijan
7.	Bahamas
8.	Bahrain
9.	Barbados
10.	Belarus
11.	Belize
12.	Botswana
13.	British Virgin Islands
14.	Cameroon
15.	Chile <sup>†</sup>
16.	China
17.	Cook Islands
18.	Costa Rica
19.	Curacao
20.	Democratic Republic of Congo
21.	Egypt
22.	Ethiopia
23.	Faroe Islands
24.	Georgia
25.	Ghana
26.	Gibraltar
27.	Greenland
28.	Grenada
29.	Guatemala
30.	Iran
31.	Israel
32.	Kazakhstan
33.	Kenya
34.	Lebanon
35.	Lesotho
36.	Macau
37.	Marshall Islands
38.	Moldova
39.	Monaco
40.	Montserrat
41.	Mozambique
42.	Namibia
43.	Nauru
44.	Nigeria
45.	Niue
46.	Oman
47.	Panama
48.	Peru

<sup>†</sup> Only for Reporting Fiscal Years commencing before 1 January 2017.

	<b>Jurisdictions with an International Agreement but no Qualifying Competent Authority Agreement in effect</b>
49.	Qatar
50.	Romania
51.	Rwanda
52.	Saint Kitts and Nevis
53.	Saint Lucia
54.	Saint Vincent and the Grenadines
55.	Samoa
56.	San Marino
57.	Saudi Arabia
58.	Senegal
59.	Seychelles
60.	Sint Maarten
61.	Swaziland
62.	Tanzania
63.	Tunisia
64.	Turkey
65.	Turks & Caicos Islands
66.	Uganda
67.	Ukraine
68.	United Arab Emirates
69.	Uruguay <sup>†</sup>
70.	Zimbabwe

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<sup>†</sup> Only for Reporting Fiscal Years commencing before 1 January 2017.