

## **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 during the relevant Reporting Fiscal Year. 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: 14 December 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.  | Andorra  | 1 January 2017   |
| 2.  | Argentina  | 1 January 2016   |
| 3.  | Australia  | 1 January 2016   |
| 4.  | Austria  | 1 January 2016   |
| 5.  | Belgium  | 1 January 2016   |
| 6.  | Bermuda*   | 1 January 2016   |
| 7.  | Brazil   | 1 January 2016   |
| 8.  | Bulgaria   | 1 January 2016   |
| 9.  | Canada   | 1 January 2016   |
| 10. | Cayman Islands*  | 1 January 2016   |
| 11. | Chile  | 1 January 2017   |
| 12. | China (People's Republic of)   | 1 January 2017   |
| 13. | Colombia   | 1 January 2016   |
| 14. | Costa Rica*  | 1 January 2016   |
| 15. | Croatia  | 1 January 2016   |
| 16. | Curaçao*   | 1 January 2016   |
| 17. | Cyprus*  | 1 January 2016   |
| 18. | Czech Republic   | 1 January 2016   |
| 19. | Denmark  | 1 January 2016   |
| 20. | Estonia  | 1 January 2016   |
| 21. | Finland  | 1 January 2016   |
| 22. | France   | 1 January 2016   |
| 23. | Germany  | 1 January 2016   |
| 24. | Greece   | 1 January 2016   |
| 25. | Guernsey   | 1 January 2016   |
| 26. | Hong Kong  | 1 January 2016   |
| 27. | Hungary  | 1 January 2016   |
| 28. | Iceland  | 1 January 2016   |
| 29. | India  | 1 January 2016   |
| 30. | Indonesia  | 1 January 2016   |
| 31. | Ireland  | 1 January 2016   |
| 32. | Isle of Man  | 1 January 2016   |
| 33. | Italy  | 1 January 2016   |
| 34. | Japan  | 1 January 2016   |
| 35. | Jersey   | 1 January 2016   |
| 36. | Korea  | 1 January 2016   |
| 37. | Latvia   | 1 January 2016   |
| 38. | Liechtenstein  | 1 January 2016   |
| 39. | Lithuania  | 1 January 2016   |
| 40. | Luxembourg   | 1 January 2016   |
| 41. | Malaysia   | 1 January 2016   |
| 42. | Malta  | 1 January 2016   |
| 43. | Mauritius  | 1 January 2016   |
| 44. | Mexico   | 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. | Netherlands  | 1 January 2016   |
| 46. | New Zealand  | 1 January 2016   |
| 47. | Nigeria*   | 1 January 2016   |
| 48. | Norway   | 1 January 2016   |
| 49. | Pakistan   | 1 January 2016   |
| 50. | Poland   | 1 January 2016   |
| 51. | Portugal   | 1 January 2016   |
| 52. | Qatar  | 1 January 2020   |
| 53. | Romania*   | 1 January 2016   |
| 54. | Russia   | 1 January 2016   |
| 55. | Singapore  | 1 January 2016   |
| 56. | Slovak Republic  | 1 January 2016   |
| 57. | Slovenia   | 1 January 2016   |
| 58. | Spain  | 1 January 2016   |
| 59. | Sweden   | 1 January 2016   |
| 60. | Switzerland  | 1 January 2016   |
| 61. | United Kingdom   | 1 January 2016   |
| 62. | United States of America   | 1 January 2016   |
| 63. | Uruguay  | 1 January 2017   |

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|     | <b>Jurisdictions with an International Agreement but no Qualifying Competent Authority Agreement in effect</b> |
|-----|--|
| 1.  | Albania  |
| 2.  | Algeria  |
| 3.  | Anguilla   |
| 4.  | Antigua and Barbuda (from 1 January 2020)  |
| 5.  | Aruba  |
| 6.  | Azerbaijan   |
| 7.  | Bahamas (from 1 January 2019)  |
| 8.  | Bahrain (from 1 January 2019)  |
| 9.  | Barbados (from 1 January 2017)   |
| 10. | Belarus  |
| 11. | Belize   |
| 12. | Botswana   |
| 13. | British Virgin Islands   |
| 14. | Cameroon   |
| 15. | Chile (from 11 August 2016)  |
| 16. | China <sup>†</sup>   |
| 17. | Cook Islands (from 1 January 2018)   |
| 18. | Democratic Republic of Congo   |
| 19. | Egypt  |
| 20. | Ethiopia   |
| 21. | Faroe Islands  |
| 22. | Georgia  |
| 23. | Ghana  |
| 24. | Gibraltar  |
| 25. | Greenland  |
| 26. | Grenada (from 1 January 2019)  |
| 27. | Guatemala (from 1 January 2018)  |
| 28. | Iran   |
| 29. | Israel (from 1 January 2017)   |
| 30. | Jamaica (from 1 January 2020)  |
| 31. | Kazakhstan   |
| 32. | Kenya  |
| 33. | Kuwait (from 1 January 2019)   |
| 34. | Lebanon (from 1 January 2018)  |
| 35. | Lesotho  |
| 36. | Macau (from 1 January 2019)  |
| 37. | Marshall Islands (from 1 January 2018)   |
| 38. | Moldova  |
| 39. | Monaco (from 1 January 2018)   |
| 40. | Montserrat   |
| 41. | Mozambique   |
| 42. | Namibia  |
| 43. | Nauru (from 1 January 2017)  |
| 44. | Niue (from 1 January 2017)   |
| 45. | Oman   |
| 46. | Panama (from 1 January 2018)   |
| 47. | Peru (from 1 January 2019)   |

<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> |
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| 48. | Qatar <sup>‡</sup>   |
| 49. | Rwanda   |
| 50. | Saint Kitts and Nevis (from 1 January 2017)  |
| 51. | Saint Lucia (from 1 January 2018)  |
| 52. | Saint Vincent and the Grenadines (from 1 January 2017)   |
| 53. | Samoa (from 1 January 2017)  |
| 54. | San Marino   |
| 55. | Saudi Arabia (from 1 January 2017)   |
| 56. | Senegal (from 1 January 2017)  |
| 57. | Seychelles   |
| 58. | Sint Maarten   |
| 59. | Swaziland  |
| 60. | Tanzania   |
| 61. | Tunisia  |
| 62. | Turkey   |
| 63. | Turks & Caicos Islands   |
| 64. | Uganda   |
| 65. | Ukraine  |
| 66. | United Arab Emirates (from 23 November 2018)   |
| 67. | Vanuatu (from 1 January 2019)  |
| 68. | Zimbabwe (from 1 December 2016)  |

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<sup>‡</sup> Only for Reporting Fiscal Years commencing before 1 January 2020.