

SOUTH AFRICAN REVENUE SERVICE

No.

20 October 2017

**RETURN TO BE SUBMITTED BY PERSONS IN TERMS OF SECTION 25 OF THE
TAX ADMINISTRATION ACT, 2011 (ACT NO. 28 OF 2011)**

In terms of section 25 of the Tax Administration Act, 2011, I, Thomas Swabihi Moyane, Commissioner for the South African Revenue Service, hereby require that the persons specified in paragraph 2 of the attached Schedule must submit returns in the form and manner and by the dates prescribed in the Schedule, for the following periods:

- (a) in the case of persons specified in paragraph 2.1 or 2.2, for Reporting Fiscal Years commencing on or after 1 January 2016 and for subsequent Reporting Fiscal Years; and
- (b) in the case of persons specified in paragraph 2.3, for financial years commencing on or after 1 October 2016 and for subsequent financial years.

T S Moyane

COMMISSIONER: SOUTH AFRICAN REVENUE SERVICE

Schedule

1. General

Any term or expression contained in this notice to which a meaning has been assigned in a “**tax Act**” as defined in section 1 of the Tax Administration Act, 2011, (“the Act”) or the Country-by-Country Regulations, has the meaning so assigned unless the context indicates otherwise and the following terms have the following meaning—

“**BRS: CbC and Financial Data Reporting**” means the Country-by-Country and Financial Data Reporting external business requirement specification reporting schema;

“**Country-by-Country Regulations**” means the regulations for purposes of paragraph (b) of the definition of “international tax standard” in section 1 of the Act promulgated under section 257 of the Act, specifying the changes to the Country-by-Country Reporting Standard for Multinational Enterprises, and published in *Government Gazette* No. 40516 of 23 December 2016;

“**potentially affected transaction**” means an “affected transaction”, as defined in section 31 of the Income Tax Act, without regard to paragraph (b) of the definition, but excludes any transaction, operation, scheme, agreement or understanding contemplated in section 31(5), (6) or (7) of the Income Tax Act; and

“**ultimate holding company in respect of the Group**” means a person that is a resident and owns directly or indirectly a sufficient interest in one or more other entities within the Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in the Republic or would be so required if its shares were listed shares and there is no other entity within the Group that owns directly or indirectly an interest so described in the person.

2. Persons required to submit returns and form of returns

2.1 A Reporting Entity (other than a Surrogate Parent Entity) that is a resident must submit a return in the form and containing the information specified in the BRS: CbC and Financial Data Reporting relating to a CbC Report, a master file and a local file.

2.2 Where a filing obligation exists in terms of paragraph 2 of Article 2 of the Country-by-Country Regulations and the exceptions under paragraph 3 of Article 2 do not apply, a resident that is a Constituent Entity as identified in paragraph 2 of Article 2, must submit a return in the form and containing the information specified in the BRS: CbC and Financial Data Reporting relating to a CbC Report, a master file and a local file.

- 2.3 If the aggregate of a person's potentially affected transactions for the year of assessment, without offsetting any potentially affected transactions against one another, exceeds or is reasonably expected to exceed R100 million, and that person is a resident, the person must submit a return in the form and containing the information specified in the BRS: CbC and Financial Data Reporting relating to a—
- 2.3.1 master file, where the ultimate holding company in respect of the Group that the person is a member of is a resident, or where a master file that substantially conforms with Annex I to Chapter V of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017 is prepared by any other entity within the Group that the person is a member of; and
 - 2.3.2 local file.

3. Due date for submitting a return

- 3.1 A return referred to in paragraph 2.1 or 2.2 must be submitted within 12 months from the last day of the Reporting Fiscal Year.
- 3.2 A return referred to in paragraph 2.3 must be submitted within 12 months from the date on which the person's financial year ends.

4. Manner of submitting a return

A return must be submitted electronically by using the SARS eFiling platform.