



Country by Country Reporting as tools of tax compliance

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Agenda



- ❖ Background
- ❖ Country by Country Reporting outlook
- ❖ Country by Country Reporting Kenya
- ❖ CbC & Tax Compliance
- ❖ Discussion

Background



- ❖ Quality data dictate the level of tax compliance enforcement & risk profiling by tax administrators
- ❖ C-b-C is anchored on the BEPS Action 13 (Minimum standard)
- ❖ Large MNEs are required to prepare a country-by-country (CbC) report.

Background



- ❖ Where are profits reported
- ❖ Where are the sales recorded
- ❖ Which assets are located where
- ❖ Where the employees are located
- ❖ Where is the income tax paid?

Background



- ❖ Why c-b-c and how does it relate to tax compliance
 - Improve financial transparency of MNE & their operations
 - Data mining for revenue administrations
 - Establish where profits are reported

- ❖ Kenya is a member of the OECD/G20 Inclusive Framework on BEPS
- ❖ Kenya introduced C-b-C requirements through the Finance Act 2021 through the introduction of Section 18B of the Income Tax Act.
- ❖ Section 18B & Regulations becomes effective 1 January 2022

Definitions



- ❖ Group - Collection for enterprises related through ownership or control
- ❖ MNE Group - a group that includes two or more enterprises which are resident in different jurisdictions
- ❖ Constituent Entity Group
 - any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes
 - any permanent establishment of any separate business unit of the MNE Group

Definitions



- ❖ Ultimate Parent Entity - Entity that is resident in Kenya for tax purposes; (b) is not controlled by another entity; and (c) Owns or controls a multinational enterprise group.
- ❖ Surrogate Parent Entity - Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the Country-by-Country Report

C-b-C Draft Regulations



Who should file – Par 3

- ❖ Ultimate Parent Co of an MNE Group with a turnover of 20 Million Euros (including extraordinary and/or investment income) that is resident in Kenya
- ❖ A Constituent Entity which is not the Ultimate Parent Entity of an MNE Group-
 - ❖ Resident in Kenya

C-b-C Draft Regulations



Why C-b-C Par 8

- ❖ Transfer pricing and other BEPS related risk assessments
- ❖ Assess non compliance of MNEs with TP regulations but not making TP adjustments

Notifications – Par. 4



- ❖ Constituent Entity, must notify Commissioner if it's
 - It is ultimate parent entity or surrogate parent entity;
and
 - If not UPE or SPE the identity and tax residence of the Reporting Entity
- ❖ Notification should be made not later than last day of the fiscal year of such MNE Group in a form that will be specified.

Content of the C-b-C- Par. 5



- ❖ The C-b-C report should contain information relating to aggregate:

Information	
Revenue	Profit (loss) before income tax
Income tax paid	Income tax accrued
stated capital, accumulated earnings	No. of employees
Tangible Assets (exc cash & cash equivalents)	

- ❖ An identification of each Constituent Entity of the MNE Group setting out jurisdiction of tax residence and the nature of the main business activity or activities of such Constituent Entity.

Filing Timelines - Par. 7



- ❖ Not later than 12 months after the last day of the fiscal year

Discussion





Next steps

Should you have any questions please let us know

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