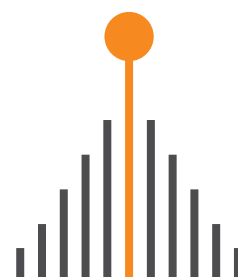


BEPS in the Spotlight

# Can you satisfy your BEPS CbCR and notification obligations with a spreadsheet?



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## UPCOMING DEADLINES

CbC reports and notifications are due at various times throughout 2018 for the 2017 calendar year. Below are a few upcoming deadlines.

**Brazil:** CbC report and notification are due in July. Notification is part of the CbC report and has to be submitted in a .text format, even if the rest of the CbC report is submitted by the ultimate/surrogate parent jurisdiction.

**U.S.:** CbC reporting to commence in September for MNEs choosing voluntary filing for 2017 year (no notification requirements).

**China:** CbC report due 31 May (for companies headquartered in China) with notification due for all Chinese constituent entities.

**Chile:** The deadline to submit the CbC report is the last business day of June following the close of 2017 fiscal year.

**Luxembourg:** All constituent entities resident in Luxembourg must provide notification to the Luxembourg tax authorities by the end of the fiscal year concerned. However, the Luxembourg authorities have extended the deadline for the notification for the first year to 31 March 2017.

**Sweden:** CbC report must be submitted within 12 months following the close of 2017 fiscal year. However, the first notification deadline is extended to 30 April 2017 for fiscal years ending before 1 April 2017.

## HAVE YOU FILED THESE NOTIFICATIONS ON TIME?

For multinational enterprises with a January 1, 2017 FY start date, notifications should already be filed in the following countries by December 31, 2017 if the company had a sub/branch/PE (regardless of headquarters location):

- Austria
- Bulgaria
- Czech Republic
- Denmark
- Greece
- Finland
- Ireland
- Spain

Notifications for other countries are due at various times throughout 2018.

## The right way to deliver on your BEPS CbCR and notification obligations

As countries around the world enact legislation in accordance with Action 13 of the Action Plan on Base Erosion and Profit Shifting (BEPS) set forth by the Organisation for Economic Co-operation and Development (OECD), Multinational Enterprises (MNEs) have common misconceptions, particularly when it comes to the requirements of the revised standards for transfer pricing documentation and Country-by-Country Reporting (CbCR) obligations, including Country-by-Country (CbC) notification forms.

**MYTH:** CbCR and notification obligations can be met with standard, spreadsheet-based software.

**REALITY:** CbCR and notification obligations require centralized data management and automation, as well as reliance on a trusted provider for up-to-date research and advanced software to meet multiple country-specific compliance obligations, including supporting country-specific reporting formats and country-specific transmission formats.

Currently, 86 countries have implemented, or pledged to implement, CbCR requirements<sup>1</sup>—and the list continues to grow. Globally, approximately 10,000 MNEs meet the threshold of EUR 750 million of annual consolidated group revenue, making them subject to these requirements.

While not all countries have finalized their implementation requirements, keeping track of evolving, country-specific legislation is a time-consuming task. Further adding to the complexity is the fact that countries who have yet to implement can do so retroactively.

Additionally, CbC exchange mechanisms in countries are not universal. While many other countries have signed the multilateral agreement, some countries, such as the U.S., want bilateral agreements, and will need to enter into separate and individual Bi-Lateral Competent Authority Agreements, which need to be negotiated between all jurisdictions (i.e., no one multilateral agreement may cover all jurisdictions).

Even countries that have signed the multilateral agreement may not agree to exchange with all other signatories and may also have different effective dates. As a result, an MNE may not be able to rely on just filing the CbCR once with the tax authority of the parent jurisdiction, but rather may have to file directly in several local constituent entity jurisdictions or file in one or more surrogate parent jurisdictions. This presents a number of subsequent scenarios requiring compliance with generating multiple country-specific CbC formats and country-specific transmission formats.

Given these considerations, MNEs are realizing that in order to comply with CbCR and CbC notification obligations, a specific software solution is necessary.

## Understanding CbC Notification vs. CbC Reporting

While CbCR obligations are well covered, the related notification requirements are often overlooked. Many multinationals have likely already missed certain CbC notification deadlines, and in turn, may be subject to penalties.

Where required, CbC notifications must be filed directly to the local tax authority, and most jurisdictions have implemented the notification requirement (the U.S. being one of the few exceptions). In some jurisdictions, these notifications require electronic machine-to-machine submission requirements, which can be supported with an advanced software solution.

MNEs will likely have obligations that require multiple notifications in multiple file formats and multiple transmission formats (and possibly multiple CbC reports in multiple file and transmission formats). To meet the requirements of both format conversion and electronic submission, it is likely that a BEPS-specific technology solution is needed.

<sup>1</sup> At the date of publication June 8, 2018

**CBC REPORTING PENALTIES**

- Monetary penalties
  - Luxembourg: up to EUR 250,000
  - Australia: up to AUD 525,000
- Criminal penalties
  - Netherlands: Up to EUR 820,000 and criminal prosecution
  - Malaysia: Between RM 20,000 to RM 100,000 will apply. Imprisonment for a term not exceeding 6 months is possible
- Other penalties/considerations
  - Mexico: Ban to be a supplier of the public sector
  - Withdrawal of the importer permit

## The Impact of Non-Compliance

### Penalties for Missed Notification Deadlines

Furthering the urgency for compliance is the fact that MNEs that do not meet notification requirements could be fined or required to file locally in countries where notifications were not made. For example, Luxembourg charges up to EUR 250,000 in notification penalties and Poland fines up to PLN 1,000,000.

Irrespective of whether an MNE can file a CbCR once to fulfill all obligations, there will likely be multiple notification filings in several countries. Some countries require these notifications to be in a specific format (XML, .txt, or .csv) and also require them to be submitted via machine-to-machine communication. This is currently the case in Australia, Brazil, Japan and Slovakia.

Fortunately, advances in tax technology solutions can alert MNEs to upcoming notifications, as well as which entity or entities within their MNE group are required to make the notification and how to make the notification—even for countries that enact rules with retroactive effect.

### Penalties for Missed or Incorrect CbC Reports

Financial and reputational risks are real and set to increase as governments enforce CbC legislation. Because the data collection and validation process can take several months, companies must start early to ensure accuracy and timeliness.

To avoid penalties, companies should look for a solution that can file CbC reports in multiple jurisdictions with country-compliant CbC tables and forms, and proper transmission to tax authorities, all while leveraging one set of source data.

## The Need for a Comprehensive BEPS Solution

For MNEs, the reality is that spreadsheet-based software will not satisfy CbC reporting and notification requirements. Because each country has specific rules for production and submission, companies need a solution that can keep track of filing deadlines and produce and file all reports and notifications per each country's specific requirements. Choosing a single provider to meet this need is increasingly becoming a best practice.

#### Advantages of a Comprehensive BEPS Solution

- Centralized data management
- Complete transparency into analyses and deliverables from source to end product
- Spot inefficiencies and red flags in real time
- Static costs of compliance—predictable cost year over year
- Regulatory changes updated automatically
- Eliminate concerns of knowledge transfer amidst internal turnover or team restructuring
- Advanced software capable of meeting global compliance obligations, including jurisdiction-specific filing and transmission formats for both CbC notifications and filings

#### Risks of Excel and Custom-Built Solutions

- Data managed in multiple systems
- Lack of transparency into final deliverables
- Spot inefficiencies and red flags only when project team raises them
- Fluctuating costs of compliance year over year
- Special projects need to be commissioned whenever regulations change
- Staff turnover can result in the loss of critical knowledge in the project team
- Incapable of generating certain country-specific reporting formats and incapable of initiating electronic transmission to tax authorities

In the end, an integrated platform that offers robust features for tax teams, including predictable implementation for IT departments and scalable workflow management for outside parties, such as consultants and advisors, is becoming a necessity for CbC notification and reporting compliance.

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