

# Romania implements country-by-country reporting requirements

21 June 2017

## In brief

The Romanian Government passed legislation on 9 June 2017 to implement country-by-country (CbC) reporting requirements in Romania, transposing the provisions of Directive (EU) 2016/881 dated 25 May 2016 into the national legislation.

The new CbC reporting provisions follow the OECD Base Erosion and Profit Shifting (BEPS) Project Action 13 initiative.

As such, Romanian ultimate parent entities controlling a Multinational Enterprise (MNE) group with total consolidated group revenue of more than EUR 750 million will have to file CbC reports with the Romanian tax authorities in line with the new regulations. These provisions will also affect other Romanian companies that are part of an MNE group but are not necessarily parent companies.

## In detail

The Romanian Government passed on 9 June 2017 Emergency Ordinance no. 42/2017 to align the Romanian Fiscal Procedure Code and local legislation with the provisions of Directive (EU) 2016/881 dated 25 May 2016.

The new legislation is mainly in line with the EU Directive, but some additional clarifications are provided, such as regarding the penalty regime and the specific provisions detailed below.

### Filing requirements

According to the new provisions, a Romanian tax-resident entity that:

- is the ultimate parent entity of an MNE group with consolidated revenues of

EUR 750 million or more, and

- is required to prepare consolidated financial statements of the group,

has to file a CbC report with the Romanian tax authorities within 12 months of the last day of the MNE group's reporting fiscal year.

CbC reports received by the Romanian tax authorities will be communicated to other interested foreign tax authorities by means of automatic exchange of information within 15 months of the last day of the fiscal year. For an MNE group's first fiscal year, however, commencing on or after 1 January 2016, the CbC report would have to be communicated within 18 months of the last day of the fiscal year.

The Romanian legislation also provides for filing of CbC reporting by a so-called "surrogate parent", i.e. a Romanian tax-resident entity may be appointed by the MNE group to file a CbC report in Romania on its behalf.

In addition, other Romanian resident entities will be required to file a CbC report if one of the criteria below is met:

- The ultimate parent entity of the group does not have the obligation to file a CbC report in its own jurisdiction of tax residence;
- The jurisdiction in which the ultimate parent entity is resident for tax purposes has a current international agreement to which Romania is a party but does

- not have a qualifying competent authority agreement in effect to which Romania is a party;
- There is a persistent failure in the automatic exchange procedure with the competent authority of the ultimate parent company required to file CbC reporting.

#### **Content of the CbC report**

The information to be included in a CbC report is as follows:

- Aggregated information for each jurisdiction in which the MNE group operates regarding total revenues, profit / loss before income tax, number of employees, income tax paid, income tax accrued, stated capital, undistributed profits, tangible assets other than cash and cash equivalents;
- Information regarding all constitutive entities of the MNE group and their jurisdiction with indications of their main business activities.

The template and the content for CbC reports, including the notification template, is to be published by the National Agency for Fiscal Administration Order.

#### **Penalties**

Under the law, failure to provide the CbC report, failure to do so in time or providing

incomplete / incorrect data would trigger the following penalties:

- For failing to file a CbC report, the penalty ranges from RON 70,000 to RON 100,000;
- For late filing of a CbC report or for incomplete / incorrect data in a CbC report, the penalty ranges from RON 30,000 to RON 50,000.

#### **Languages in which CbC reports will be shared**

The new legislation provides that CbC reports could be exchanged by the Romanian tax authorities with other member states in the Romanian language or in any other official language of the European Union.

#### **Notifications**

Romanian resident entities part of MNE groups have to notify the Romanian tax authorities if they are the ultimate parent, the surrogate parent or other Romanian resident entity required to file the CbC report. Alternatively, the Romanian resident entity has to notify the Romanian tax authority regarding the identity of the MNE member filing the CbC report and its residency.

According to the new law, this notification is due by the last day of the MNE group's

reporting fiscal year, but no later than the deadline for filing a tax return for the respective constituent entity for the preceding fiscal year.

#### **Entry into force**

The effective date of the new legislation is 23 June 2017. The legislation will apply to fiscal years beginning on or after 1 January 2016.

#### **The takeaway**

The introduction of CbC reporting is an important step in Romanian TP legislation, as it's the first time that Romanian MNE groups have encountered transfer pricing reporting requirements.

In view of these rules, Romanian parent-entities, but also regular members of large MNE groups and PEs, should:

- Assess whether Romanian subsidiaries would be subject to the new requirements and how these would impact on their operations and compliance obligations;
- Commence preparations for collecting and reviewing the information needed to be filed under the CbC reporting requirements;
- Undertake a risk assessment exercise to identify potential red flags and implement a mitigation strategy.

---

**Let's talk**

For a deeper discussion of how this issue might affect your business, please contact:



Mihaela Mitroi, *Partner,*  
*Tax and Legal Leader*  
[mihaela.mitroi@ro.pwc.com](mailto:mihaela.mitroi@ro.pwc.com)



Ionut Simion, *Country*  
*Managing Partner*  
[ionut.simion@ro.pwc.com](mailto:ionut.simion@ro.pwc.com)



Daniel Anghel, *Partner,*  
*Indirect Tax Leader*  
[daniel.anghel@ro.pwc.com](mailto:daniel.anghel@ro.pwc.com)



Diana Coroaba, *Partner,*  
*Indirect and Financial*  
*Services*  
[diana.coroaba@ro.pwc.com](mailto:diana.coroaba@ro.pwc.com)



Ionuț Sas, *Partner,*  
*Direct Tax*  
[ionut.sas@ro.pwc.com](mailto:ionut.sas@ro.pwc.com)

**PwC Romania**

Lakeview Building  
301-311 Barbu Văcărescu Street  
Sector 2, Bucharest  
Tel.: + 40 21 225 3000  
Fax: + 40 21 225 3600