



Tax Alert – Country-by-Country Report Spain – Notification Obligation

Dear Sirs/Madams

If your entity (which is a tax resident of Spain) belongs to a group with a Turnover of at least 750 million Euros in the twelve months before the beginning of the fiscal year 2016, please take into account the following.

- 1. The obligation to notify which entity of the group which will be presenting the Country-by-Country Report (article 13 of the Corporate Income Tax Regulation)***
DEADLINE: Before the end of fiscal year 2016

Those entities (tax residents of Spain) belonging to a group with the obligation to file the Country-by-Country Report (described in paragraph 2 below) **must notify to the Tax Authorities the identity and the country or territory of residence of the entity bearing the obligation to prepare this information** (advise if the entity concerned is the Ultimate Parent, a subsidiary or a Surrogate entity, for more details about these classifications please see paragraph 2.1 below) **before the end of fiscal year 2016.**

To date, a form for making this notification has yet to be published; nonetheless, the notification must be made. **The notification may be carried out by any means or through the website belonging to the Tax Authorities (Agencia Estatal de la Administración Tributaria or AEAT).** For any clarification, please do not hesitate to contact us.

Please bear in mind that this notification must be made **annually before the end of each fiscal year** and in addition to the obligations related to the Country-by-Country Report described below (paragraph 2).

2. Country-by-Country Report (art. 13 and 14 of the Corporate Income Tax Law Regulation) **DEADLINE: 12 months after the end of fiscal year 2016**

2.1. Entities bearing the obligation to file the Country-by-Country Report (art. 13 and 14 of the Corporate Income Tax Law Regulation)

Those entities belonging to a group with a Turnover of at least 750 million Euros in the twelve months before the beginning of the fiscal year 2016 must prepare a Country-by-Country Report.

Who bears the obligation to prepare the Country-by-Country Report?

- Entities residing in Spanish Territory which are the dominant entity of the group and are not dependent on another entity (**Ultimate Parent Entity**);
- Entities residing in Spanish Territory which are directly or indirectly dependent on another non-resident entity, which is not dependent on another entity or the permanent establishments of non-resident entities, as long as the following circumstances are met (with reference to the **Subsidiary**):
 - a) They have been designated by their non-resident Parent entity to prepare said report.
 - b) There is no obligation for the non-resident entity to file the Country-by-Country Report in analogous terms to those set out in this section in its country or territory of tax residence.
 - c) The non-existence of any agreement on automatic exchange of information with the country or territory of which the non-resident entity is a tax residence.
 - d) In the event that such an agreement on automatic exchange of information were to exist with the country or territory of which the non-resident entity is a tax residence, the Spanish Tax Authorities were to have notified its dependent entities or permanent establishments residing in Spanish territory of the systematic non-compliance of said agreement.
- **Surrogate Parent entity**

This Country-by-Country Report shall be compulsory for the fiscal years beginning as of 1st January, 2016 with a filing period of 12 months from the end of the tax period.

2.2 Content of the Country-by-Country Report (art. 14 of the Corporate Income Tax Regulation)

Although the content of the Country-by-Country Report is defined in Article 14.2 of the Corporate Income Tax Regulation, the actual tax form for filing said report has yet to be published, although there is in existence a Draft (Ministerial) Order, which will approve the corresponding tax form (Modelo 231). The following link provides more details of its projected content:

http://www.agenciatributaria.es/static_files/AEAT/Contenidos_Comunes/La_Agencia_Tributaria/Normativas/Normas_tramitacion/Modelo_231/Anexo_OM_231.pdf.

However, please bear in mind that its final content may vary.

Furthermore, every country or tax territory shall have its own tax form and applicable laws.

In case of any doubts or questions regarding this matter, please do not hesitate to contact us.

Kind regards.

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