

2018/FMP/WKSP1/010

Session: 4

Implementation of Three-Tiered Transfer Pricing Documentation in Base Erosion and Profit Shifting Action 13

Submitted by: Chinese Taipei



Technical Meeting on Advancing Base Erosion and Profit Shifting and Automatic Exchange of Information Priorities in APEC Port Moresby, Papua New Guinea 23-27 July 2018

Advancing BEPS and AEOI priorities in APEC workshop



Implementation of Three-tiered TP Documentation in BEPS Action 13

Chinese Taipei July 23, 2018



Outline

1. Domestic legislation

2. Exchange of CbC Report

3. Future Challenge





Exchange of CbC Report

Future Challenge

A. Timeline

November 2017

 Amendment of "Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's-Length Transfer Pricing" (TP Regulations)

December 2017

 Decree No. 10604700690 concerning Safe Harbor Rule for Master File and CbC Report



Exchange of CbC Report

Future Challenge

B. Three-tiered TP Documentation Requirements

(Articles 21-1, 22, and 22-1 of the TP Regulations)

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		TP Report	Master File(new)	CbC Report(new)
	Reporting Entity	Enterprises undertaking controlled transactions	Constituent entities of an MNE group	a. UPEb. SPEc. Constituent entities of an MNE group
	Submitting / Preparing Time	a. Preparing when filing the tax returnb. Providing upon the investigation notice received	a. Preparing when filing the tax returnb. Submitting within one year after the end of the fiscal year	Submitting within one year after the end of the fiscal year
	Content	Consistent with the OECD guidance		
	Effective Year	Fiscal years of 2017 (Fiscal years beginning on or after 1 January 2017)		

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Exchange of CbC Report

Future Challenge

C. Safe Harbor Rule (Decree No. 10604700690)

	Criteria	
Master File (new)	Revenue < NTD 3 billion "or" Annual amount of cross-border controlled transactions < NTD 1.5 billion	
CbC Report (new)	Annual consolidated group revenue in the immediately preceding fiscal year < NTD 27 billion (approximately equivalent to EUR 750 million)	



Exchange of CbC Report

Future Challenge

D. Disclosure Obligation

(Article 21 of the TP Regulations)

TP Report

Information regarding related parties and controlled transactions

Master File

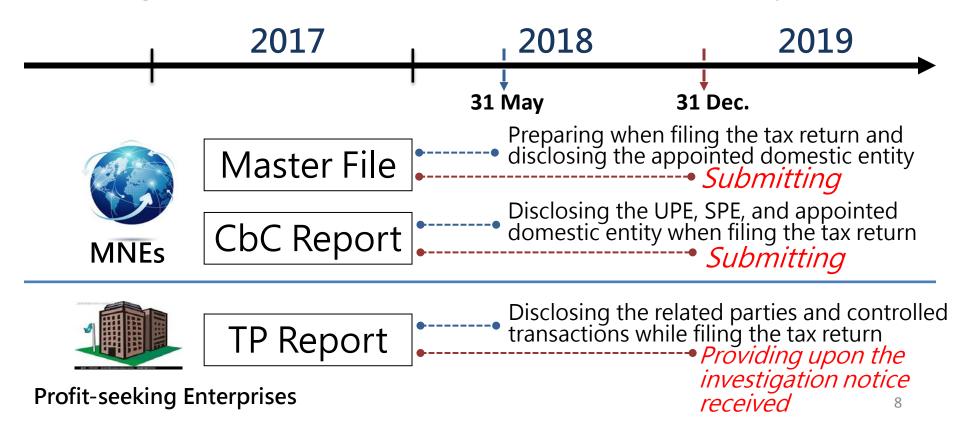
Information of the domestic entity appointed by the MNE group to submit the master file

CbC Report

Information regarding the UPE, the SPE and the domestic entity appointed by the MNE group to submit CbC Report



E. Timing of Three-tiered TP Documentation Requirements





Exchange of CbC Report

Future Challenge

F. Legal Basis for Transfer Pricing Adjustments

(Articles 6, 7 and 8 of the TP Regulations)



Tax authorities are required only to apply the *arm's-length principles* when investigating or making adjustment to TP cases

CbC Report shall not be used as a direct reference by tax authorities for making TP adjustment





2. Exchange of CbC Report



A. Domestic Legislations for Carrying out Such Exchange

Exchange of CbC Report June 2017

 Amendment to Articles 5-1 of the "Tax Collection Act"

Future Challenge December 2017

 Regulations Governing the Exchange of Tax Information Concerning Agreements on Tax Matters



B. Adopting the Bilateral Method for Carrying out Such Exchange

There are 32 Tax Treaties in place

Exchange of CbC Report

<u>CA Letters</u> were sent to those 32

Questionnaire, consultation and drafting BCAA

Future Challenge Consulting with 5 treaty partners and more will join



Exchange of CbC Report

C. Public Announcement regarding The **Application of Local Filing Rule**

)(Should discrepancy due to translation occur, the Chinese version shall poresi.

PUBLIC ANNOUNCEMENT

Issuance of Notice No. 10724507500 by the Ministry of Figure on April 27, 2018;

Publicly announcing the reference him of Jurisdictions with which the Republic of China (Taiwan) is unable to exchange Country by Country Reports effectively in accordance with the enging Agreements in force.

In accordance with Paragraph 7 of Article 22-1 of the Regulations Governing Assessment of nn auctoraumor wenn rumagraph i os numur 44°1, us um nospansions vocessaring, executation or Profit-Seeding Enterprise Boomie Tus on Non-Arm's Length Transfer Pricing (hereinafter referred to as the Regulations), the Ministry of Finance announces that:

- The Juntofactions mentioned in Subparagraph 3, Paragraph 2 of Article 22-1 of the Regulations any componential measures an output egypting a readpose a concentration of the second basing A greeneds in force with Taiwan but from which tax collection authorities of Taiwan are unable to acquire Country-by-Country (hereinafter referred to as CbC) Reports in ace usesne to acquire. Leuteny-cy-county tentament assures to de UNIV response to accordance with such agreements are Australia, Austria, Belgium, Clauda, Destruct, France, жологиванск муно инде перетопинения иле решения, същима, потерито, чишния, от перето, чишния, Venucions, Venucione, consegue y, maine, momentume, mayo, empo, empo, empose, manuscate, Maccelonia, Malaysia, the Netherlands, Paragany, Poland, Stringal, Singapore, Slovaida, South reasconness, reminy pure, use: a volunte motors; a nargory; remove, strategies, sengage, and volunte.
 Africa, Swanziand, Sweden, Swatzerland, Thulland, the United Kingdom, and Vietnam.
- A Juristiction mentioned in Subparagraph 2, Paragraph 3 of Article 22-1 of the Regulations from which Taiwan may acquire CoC Reports in accordance with relevant Agreements in force is New Zeuland. However, according to the provise of Puragraph 7 of Article 22-1 of the Regulation, in the case that tax collection surfacilities of Tayran evertability are unable to acquire the CbC Reports from this kind of Jurisdiction, the Constituent Entities which are Profit-section enterprises in Yawan shall only a substantially, you variables, tender when are profit-section enterprises in Tawan shall subset CUC Reports within one mouth after receiving a written solice sent by lax collection authorities of Taiwan.
- Where the Ultimate Parent Entities or Surrogate Parent Entities of Multinational Enterprise THEN ONE VARIABLE CAPADA ANALOSS WE VANISHED TO THE WASHINGTON THE PROJECT OF THE preceding two Paragraphs, the Conditures Emilies of these Midlinational Enterprise groups processing year range spars, and oversalises assume as tunes considerable an entry of the profit of
- Meserwhile, the Ministry of Finance is actively conducting discussions with Jurisdictions numerous, we remainly or russion to solvery conventing nationalists some positioned in Paragraph 1 for cooperation in exchanging CVC Reports. This reference list nationalism and restain aprel 1 and compressions an excussioning color reports will be updated confinuously per the progress made in these discussions.

It says Constituent Entity belonging to a New Zealand's MNE Group will not be subject to the local CbC Reporting

This Announcement will keep updating per the progress made with the 31 treaty partners



D. Transmission Method and Confidentiality

Currently

 Transmitting via a physical vehicle that contains encrypted data which is constructed in accordance with the OECD's Schema in Extensible Markup Language

Exchange of CbC Report

Foreseeable **Future**

- Establishment of our own platform (a secured pipeline or tube) for transmission
- Planning to build it by reference to the US's IDES system

Confidentiality

- Law, policy and practice are following the international standard
 ISO/IEC27001:2013 is acquired
- Conformance and performance environments are considering to be EVSSL certified



3. Future Challenge



Raising public awareness and keeping communications

of CbC Reports Expending treaty network

Learning knowledge from treaty partners

Future Challenge

Becoming an "appropriate jurisdiction" for the exchange



