



**Asia-Pacific  
Economic Cooperation**

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**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**



# 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



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# 1. Domestic legislation

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## A. Timeline

Domestic  
legislation

November  
2017

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

Exchange  
of CbC  
Report

December  
2017

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

Future  
Challenge



## B. Three-tiered TP Documentation Requirements

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

Domestic  
legislation

Exchange  
of CbC  
Report

Future  
Challenge

	TP Report	Master File(new)	CbC Report(new)
Reporting Entity	Enterprises undertaking controlled transactions	Constituent entities of an MNE group	a. UPE b. SPE c. Constituent entities of an MNE group
Submitting / Preparing Time	a. Preparing when filing the tax return b. Providing upon the investigation notice received	a. Preparing when filing the tax return b. 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)		

## C. Safe Harbor Rule (Decree No. 10604700690)

Domestic  
legislation

Exchange  
of CbC  
Report

Future  
Challenge

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



## D. Disclosure Obligation

(Article 21 of the TP Regulations)

Domestic  
legislation

### TP Report

Information regarding related parties and controlled transactions

Exchange  
of CbC  
Report

### Master File

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

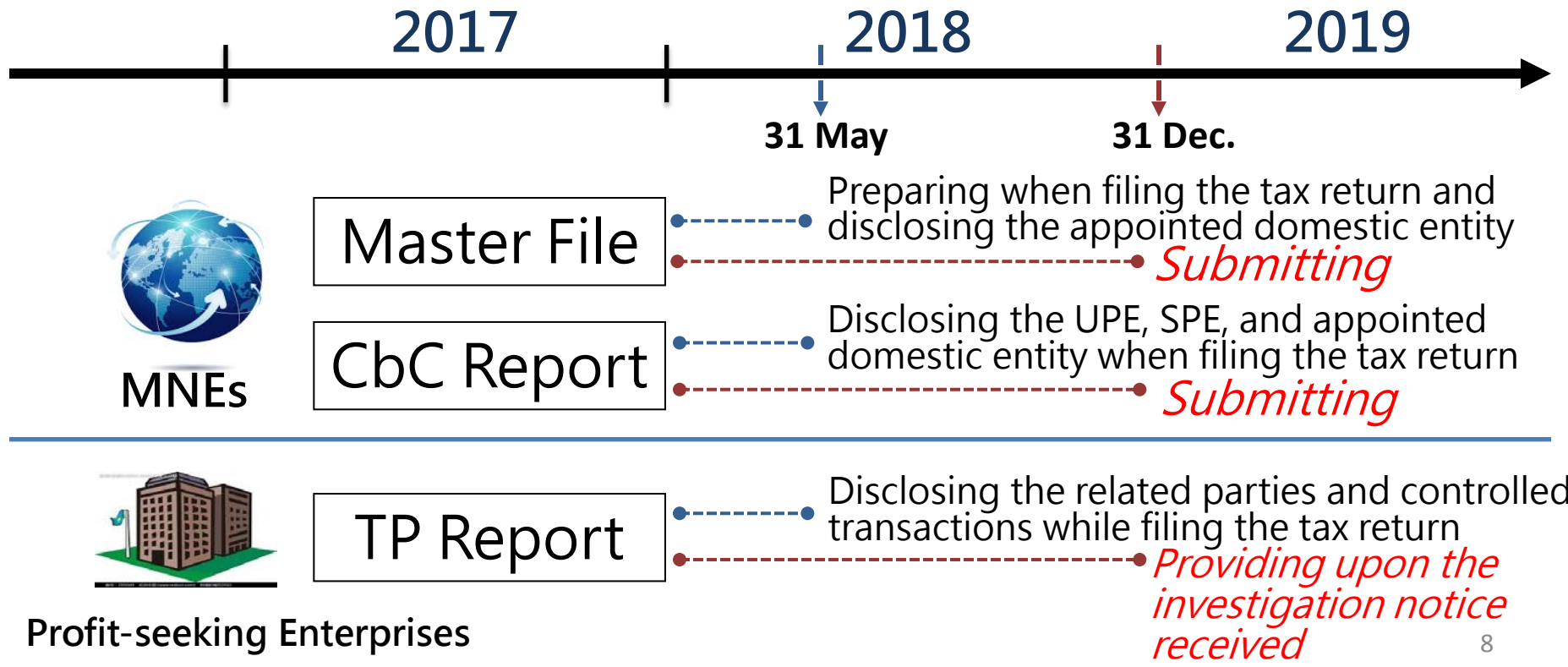
Future  
Challenge

### 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



## F. Legal Basis for Transfer Pricing Adjustments

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

Domestic  
legislation

Exchange  
of CbC  
Report

Future  
Challenge



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





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## 2. Exchange of CbC Report

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## A. Domestic Legislations for Carrying out Such Exchange

Domestic legislation

Exchange of CbC Report

June 2017

- Amendment to Articles 5-1 of the “Tax Collection Act”

December 2017

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

Future Challenge



Domestic  
legislation

Exchange  
of CbC  
Report

Future  
Challenge

## B. Adopting the Bilateral Method for Carrying out Such Exchange

There are 32 Tax Treaties in place

CA Letters were sent to those 32

Questionnaire, consultation and drafting BCAA

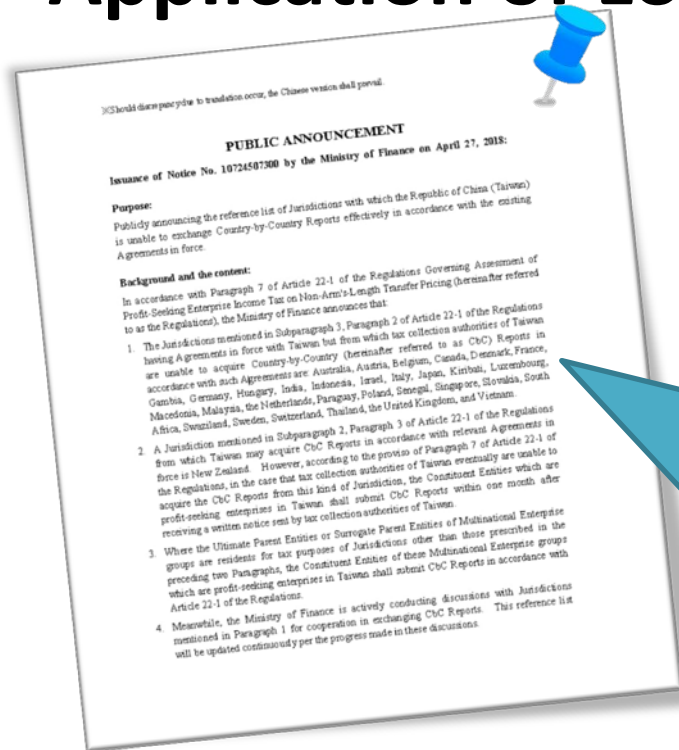
Consulting with 5 treaty partners and more will join

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

Domestic  
legislation

Exchange  
of CbC  
Report

Future  
Challenge



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

Domestic  
legislation

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

Future  
Challenge

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



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# 3. Future Challenge

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Domestic  
legislation

Raising public awareness and keeping communications

Exchange  
of CbC  
Reports

Expanding treaty network

Learning knowledge from treaty partners

**Future  
Challenge**

Becoming an “appropriate jurisdiction” for the exchange



Thank You!

