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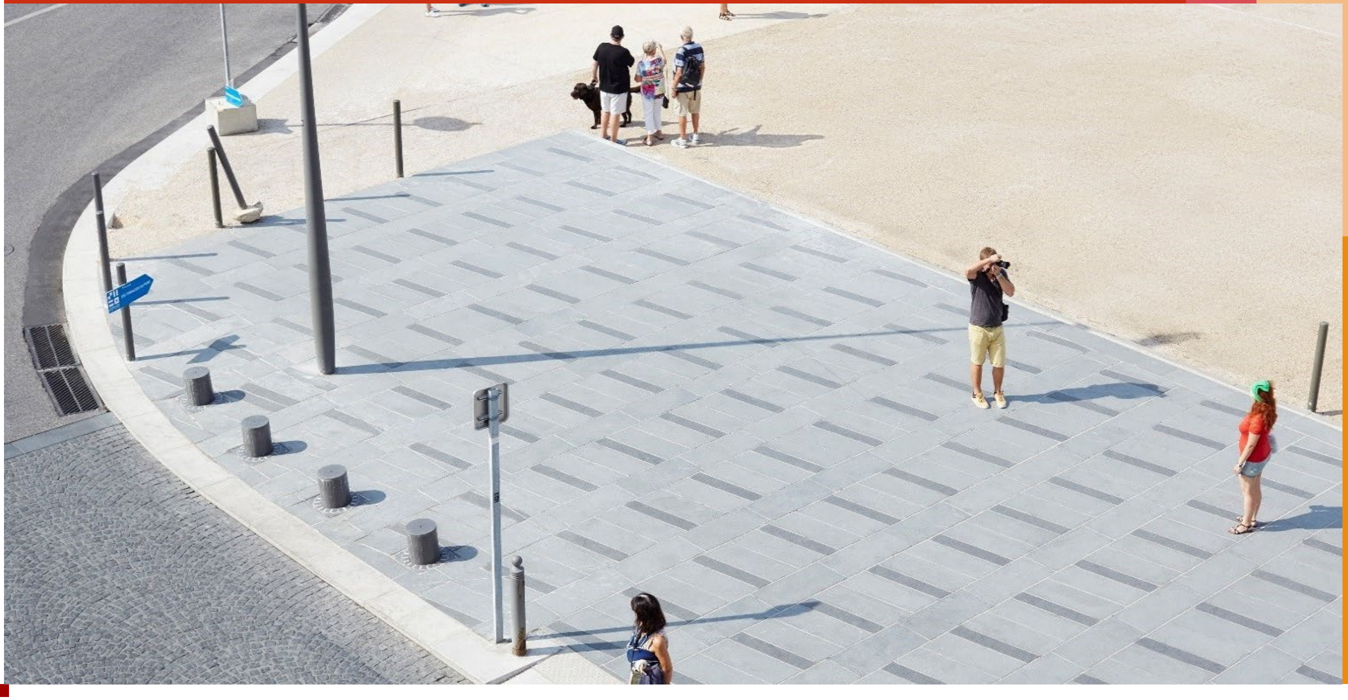
Tax Insight

New regulations on Country-by-Country Report

January, 2019



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Tax Insight: New regulations on Country-by-Country Report

On January 4th, 2019 the local Tax Authority (DGI) issued Resolution 94/019, which contains several provisions relating to the Country-by-Country Report (CbCr). Particularly, it contains information about the conditions and deadlines for the submission of the aforementioned report, as well as of additional/complementary data related to it.

In brief

The Resolution is consistent with the provisions of CbCr included in Law 19,484 and Decree 353/018, which introduced modifications to the transfer pricing documentation standards (three tier approach, as recommended in the BEPS Action Item 13 report).

Said provisions apply for fiscal years started as of January 1st, 2017, onwards.

In detail

- Who should present the CbCr or additional/complementary information?

Taxpayers that integrate a multinational group (MNE) of large economic dimension (i.e. those whose consolidated income is equal or higher than EUR 750 million -or its equivalent- converted into presentation currency of the consolidated financial statements at the year-end exchange rate) and verify the related party assumptions, unless the CbCr is submitted by an entity that integrates the MNE to a foreign tax administration of a jurisdiction with whom Uruguay has an Exchange of Information Agreement (EoIA) in force, and the report can be effectively exchanged with the Tax Authorities of the jurisdictions of the MNE. For these purposes, the list of EoIA available on the DGI portal/webpage has to be considered.

When there is more than one local entity, the report may be submitted by any of them, on behalf of the rest. However, if one of them is the controlling entity or the entity designated to report, the latter must submit it.

- What information should be presented?

- A specific return related to the CbCr with the following content: (i) identification of each of the entities that integrate the MNE, its country of tax residence (or the country of incorporation when it differs from its country of residence), and the activities they develop; (ii) consolidated gross income, distinguishing between those obtained with related and independent entities, income for the year before income taxes, income tax paid during the year, income tax accrued during the year, share capital, accumulated results, number of employees and tangible assets.
- A notification form identifying the reporting entity, the controlling entity and all Uruguayan entities (that integrate the MNE).

- When should the special return and notification be submitted?

-The special return related to the CbCR must be submitted within a period of twelve months, counting from the closing date of the report (i.e. fiscal year for which CbC information is presented). Relief has been granted for CbCr for fiscal years ended December 31, 2017 to November 30, 2018; those have to be filed within 15 months after the closing of the report.

-The notification must be filed annually, prior to the closing date of the report. Relief for notification for the years closing between December 31, 2017 and February 28, 2019 has been granted until March 31, 2019.

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- How must the special return and notification be submitted?

Through the software launched by the DGI to such purpose.

- What can be the CbCr used for?

The CbCr can be used by the DGI for complying with its duties and for the exchange of information with competent authorities of foreign states, in the framework of international agreements and respective protocols of understanding ratified by Uruguay, ensuring confidentiality and reciprocity.

- Will the CbCr be always exhanged?

No. In cases in which an EoIA exists but reports cannot be effectively exchanged/received with/from other jurisdictions, the Uruguayan Tax Office will notify the local taxpayer so that the Uruguayan entity submits the CbCR. These reports will not b automatically exchanged.

The takeaway

With the introduction and effective implementation of the three-tier approach documentation obligations, Uruguay joins the increasing number of countries that formally adopt measures in the light of the OCED's BEPS initiatives (and of Action 13 in particular).

In this context - in which tax authorities are focusing on the transparency and substance of the operations -, it is crucial to make a diagnosis of how the local entities are in this regard and what information is available to meet the new requirements.

PwC Uruguay and its Transfer Pricing team are happy to assist taxpayers fulfill CbCr´s (and transfer pricing) obligations in Uruguay.

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