

TECHNICAL

Direct Taxation

AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION – LEGISLATIVE ENACTMENTS (1 OF 2)

Please refer to our [e-CTIM TECH-DT 6/2017](#) dated 18 January 2017 on the issue of Income Tax Rules and Orders on Country-by-Country Reporting, Common Reporting Standard and other related matters.

Common Reporting Standard (CRS)

Information relating to [CRS](#) for the Automatic Exchange of Financial Account Information is provided by the Inland Revenue Board of Malaysia on its website.

This e-CTIM provides brief synopses of the provisions in the following enactment:

[INCOME TAX \(MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION\) ORDER 2016 \[P.U. \(A\) 356/2016\]](#)

This [Order](#) was gazetted on 23 December 2016.

The following table sets out the Contents (with brief synopsis):

Heading	Synopsis
Citation	The Order is to be cited as shown above.
Exchange of Information	Declares that the arrangements specified in the Schedule have been made by the Government of Malaysia and Government which signed the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (the “Agreement”) with a view of exchanging information that is foreseeably relevant in relation to taxation and that it is expedient that those arrangements shall have effect.
SCHEDULE MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION	States the basis and terms of reference forming the “arrangements” specified in the Schedule. Includes a declaration regarding the intention of “ <i>Competent Authorities</i> ” of the jurisdictions to the Agreement to conclude “an agreement to improve international tax compliance based on automatic exchange pursuant to the Convention*, without prejudice to national legislative procedures (if any), respecting EU law (if applicable), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder;” * Refers to the Convention on Mutual Administrative Assistance in Tax Matters
SECTION 1 Definitions	Sets out the definitions of specific terms found in the Order. Note: The terms shown below in <i>italics</i> are all defined in Section 1.
SECTION 2 Exchange of Information with respect to	“ <i>Reportable Account</i> ” (RA) is defined in Section 1. Contains provisions relating to the exchange of information with respect to RAs. Provides for the empowerment of a Competent Authority (CA) to exchange information (as specified in paragraph 2)

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Reportable Accounts	on an automatic basis, by reference to Article 6 and 22 of the Convention. Reference is made to Annex A in Paragraph 1.1, which specifies (and differentiates between) the extent of the entitlement to information to be exchanged in respect of CAs of Jurisdictions listed in Annex A, and those not listed therein. Paragraph 2 specifies the information to be exchanged with respect to each RA of another jurisdiction, and includes particulars such as name, address, TIN(s)(Tax Identification Numbers), and date and place of birth (in the case of individuals) of each Reportable Person (RP) that is an Account Holder of the account as well as the account number.
SECTION 3 Time and Manner of Exchange of Information	States that for the purpose of exchange of information in Section 2, the amount and characterization of payments made with respect to a RA may be determined in accordance with the tax laws of the Jurisdiction exchanging the information. Exchange of information specified in paragraph 2 of Section 2 is to commence from the years as specified in Annex F within 9 months after the end of the calendar year to which the information relates. Other details relating to the manner of exchange of information are also stated.
SECTION 4 Collaboration on Compliance and Enforcement	Provides for the notification of one CA by another where the latter has reason to believe that information reported may be incorrect / incomplete due to error, or there is non-compliance by a <i>Reporting Financial Institution</i> (RFI) with requirements that are consistent with the <i>Common Reporting Standard</i> (CRS).
SECTION 5 Confidentiality and Data Safeguards	States that information exchanged is subject to confidentiality rules and other safeguards provided for in the Convention, including safeguards which may be specified by the supplying CA as required under its domestic law and listed in Annex C. Also imposes a requirement for the <i>Co-ordinating Body Secretariat</i> (CBS) to be notified by a CA in the event of breach of confidentiality, and for the CBS to notify all CAs with respect to which this is an <i>Agreement in effect</i> with the first mentioned CA.
SECTION 6 Consultations and Amendments	Sets out the process for consultation between 2 or more CAs in the event of difficulties arising in the implementation or interpretation of this Agreement, as well as for amendment of this Agreement by consensus by written agreement of all CAs that have the <i>Agreement in effect</i> .
SECTION 7 Term of Agreement	Sets out the details relating to the requirement for notification to be made to the CBS by a CA as soon as possible after its Jurisdiction has the necessary laws in place to implement the CRS. The specific tasks of the CBS in carrying out its coordinating function are stated. Also sets out the circumstances and administrative details relating to the following: <ul style="list-style-type: none"> • Suspension of the exchange of information by a CA with another CA; • Termination of participation (by a CA) in this Agreement, or with respect to a particular CA.
SECTION 8 Co-ordinating Body Secretariat	Specifies the role of the CBS to notify all CAs of any notifications that it has received under this Agreement, and to notify all signatories of the Agreement when a new CA signs the Agreement. Provides for the

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	equal sharing of costs of administering the Agreement by the CBS among all signatories of the Agreement (with exemption for “qualifying countries”).
ANNEX A to ANNEX F	Section 8 is followed by the following: ANNEX A: LIST OF NON-RECIPROCAL JURISDICTIONS [To be completed] ANNEX B: TRANSMISSION METHODS [To be completed] ANNEX C: SPECIFIED DATA SAFEGUARDS [To be completed] ANNEX D: CONFIDENTIALITY QUESTIONNAIRE [To be completed] ANNEX E: COMPETENT AUTHORITIES FOR WHICH THIS IS AN AGREEMENT IN EFFECT [To be completed] ANNEX F: INTENDED EXCHANGE DATES

Members may read the Order in full at the official website of the [Attorney-General's Chambers](#).

You may write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any suggestions, concern or comments you may have on the above [Order](#).

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