

TECHNICAL

Direct Taxation

COUNTRY-BY-COUNTRY REPORTING – LEGISLATIVE ENACTMENTS (2 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.

This e-CTIM provides a brief outline of the contents of the following enactment:

[INCOME TAX \(COUNTRY-BY-COUNTRY REPORTING\) RULES 2016 \[P.U. \(A\) 357/2016\]](#)

Background

Country-by-Country Reporting (CbC Reporting)

Please click on the following link for an overview of CbC Reporting.

<http://www.oecd.org/tax/beps/country-by-country-reporting.htm>

The table below which sets out the Contents of the above [Rules](#), provides an overview of the Rules.

Rule #	Heading	Notes
1	Citation and commencement	The Rules came into operation on 1 January 2017.
2	Application	The Rules apply to a <u>multinational corporation group</u> * (MNC Group) which meet with conditions that are specified in paragraphs (a) to (d). (*See rule 3.)
3	Interpretation	Provides definitions of terms used in these Rules. (Definitions of words which are underlined in this Table are found in rule 3.)
4	Country-by-Country Report	A <u>CbC Report</u> contains information described in paragraphs (1)(a) and (1)(b). Financial information referred to in paragraph (1)(a) is to be denominated in RM. The manner of filing is by way of a prescribed Form (prescribed under S152 of the Income Tax Act 1967) on an electronic medium or through electronic transmission in extensible markup language format.
5	Filing Obligation	The <u>ultimate holding company</u> of an MNC Group which is resident in Malaysia will file a CbC Report (in accordance with rule 4) on or before the date specified in rule 7. Under circumstances which are specified in paragraphs (2)(a) to (2)(c), the CbC Report is to be filed by the <u>surrogate holding company</u> .
6	Notification	Any <u>constituent entity</u> of an MNC Group that is resident in Malaysia shall notify the DG in writing if it is the ultimate holding company or the surrogate holding company, on or before the last day of the <u>reporting financial year</u> . Where such constituent entity is NOT the reporting entity, it must notify the DG in writing of the identity and tax residence of the reporting entity by the same dateline.
7	Time for filing	The CbC Report must be filed not later than 12 months after the

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		last day of the reporting financial year.
8	Use and confidentiality of Country-by-Country Report information	States the ways in which the CbC Report may be used by the DG (<i>"for the purposes of assessing high level transfer pricing (TP) risks and other base erosion and profit shifting related risks in Malaysia..."</i>) and the way in which it is not to be used (<i>"as a substitute for a detailed TP analysis....."</i>) The DG shall preserve confidentiality of information contained in the Report at least to the same extent that would apply if such information were provided to the DG under the provisions of the Convention on Mutual Administrative Assistance in Tax Matters.

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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