

International Tax Compliance: Country-by-Country Reporting Regulations Introduced in the Cayman Islands 国际税务合规：开曼群岛发布国别报告法规

This alert is intended to aid businesses that may have obligations to report information under the *Tax Information Authority (International Tax Compliance) (Country-by-Country Reporting) Regulations, 2017* (“CbCR Regulations”), which were issued by the Cayman Islands on 15 December 2017 as part of its ongoing commitment to international tax transparency.

The Cayman Islands is party to the OECD Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports and the Inclusive Framework on Base Erosion and Profit Shifting (“BEPS”). The CbCR Regulations implement, in the Cayman Islands, the OECD’s model legislation published pursuant to the OECD’s BEPS Action 13 Report (Transfer Pricing Documentation and Country-by-Country Reporting), which sets out the BEPS minimum standards.

Is the Cayman Entity part of a Qualifying Multinational Enterprise Group?

The CbCR Regulations apply to qualifying multinational enterprise groups (“MNE Groups”). Broadly, a qualifying MNE Group is a collection of enterprises (“Constituent Entities” and each a “Constituent Entity”) that: (i) are tax resident in two or more jurisdictions and are related through ownership or control; (ii) had a total consolidated group revenue of US\$850 million or more in the preceding fiscal year; and (iii) prepare, or would be expected to prepare, consolidated financial statements in at least one tax jurisdiction in which it operates. Any business unit or permanent establishment of an MNE Group will have notification and/or reporting requirements in the

本提示简报旨在协助根据开曼群岛于2017年12月15日为持续推进国际税务透明度而发布的《2017年税务资讯局（国际税务合规）（国别报告）法规》（下称“国别报告法规”）可能有信息申报责任的企业。

开曼群岛是经合组织关于国别报告信息交换的多边主管机关协议和税基侵蚀与利润转移（下称“BEPS”）包容性框架的订约方。国别报告法规在开曼群岛实施经合组织根据BEPS第13项行动报告（转让定价文档和国别报告）公布的示范法例，当中载有BEPS的最低标准。

开曼实体是否属于合格跨国企业集团？

国别报告法规适用于合格跨国企业集团（下称“跨国企业集团”）。一般而言，合格跨国企业集团由以下实体（统称“成员实体”，分别称为“各成员实体”）构成：(i) 属两个或以上司法管辖区的应课税居民企业，且通过拥有或控制权相互关联；(ii) 于上一个财政年度的合并集团总收入达8.5亿美元或以上；及(iii) 会或预期将会在其经营业务所属的至少一个税务司法管辖区编制合并财务报表。倘跨国企业集团为“开曼群岛居民企业”，即(a) 在开曼群岛注册或成立；(b) 实际管理机构位于开曼群岛；或(c) 财务受开曼群岛监督，则其任何业务单位或常设机构均须遵守开曼群岛的告知及/或报送规定。

Cayman Islands if it is "resident in the Cayman Islands", meaning: (a) incorporated or established in the Cayman Islands; (b) having a place of effective management in the Cayman Islands; or (c) subject to financial supervision in the Cayman Islands.

Notification Requirements

Constituent Entities that are resident in the Cayman Islands are required to notify the Tax Information Authority of the Cayman Islands ("TIA") that they are members of an MNE Group and to confirm the name and jurisdiction of the MNE Group's Reporting Entity (defined below), if not itself. Notification is a one-off process and does not need to be repeated annually. Any Cayman Islands entity which subsequently becomes a Constituent Entity must notify the TIA before the end of its fiscal year.

Reporting Requirements

A Cayman Islands' Constituent Entity is only required to file a Country-by-Country Report if it is the 'Ultimate Parent Entity' (owning a sufficient interest in the MNE Group to require it to prepare consolidated financial statements for the group in certain circumstances) or the 'Surrogate Parent Entity' (an appointed sole substitute of the Ultimate Parent Entity) of an MNE Group (each a "Reporting Entity"). Reporting Entities must report the information set out in the model legislation annually for each tax jurisdiction in which they operate. The Schedule for the CbCR Regulations includes the standard template and instructions on Country-by-Country reporting.

Exchange of Information

Once collated, the TIA will exchange the Country-by-Country Reports filed by qualifying MNE Groups in the Cayman Islands with competent authorities in partner jurisdictions that have satisfied the requisite confidentiality and data safeguards and have the appropriate legal instruments and legislative framework in place. This is intended to promote greater transparency by providing tax authorities with information to assess high-level transfer pricing risks and other base erosion and profit shifting related risks.

Timeframes for Reporting

The first fiscal year for Country-by-Country reporting purposes is the fiscal year which began during 2016. The deadline is 31 March 2018 in respect of fiscal years which began from 1 January to 31 March 2016 and within 12 months of the end of any fiscal year beginning after those dates. Each Reporting Entity which is required to file a Country-by-Country Report in

告知规定

属于开曼群岛居民企业的成员实体须告知开曼群岛税务资讯局（下称“税务资讯局”）其是否为某一跨国企业集团的成员，并（若其本身非报送实体）确认跨国企业集团报送实体（定义见下文）的名称及所属司法管辖区。告知为一次性程序，毋须每年重复进行。倘任何开曼群岛实体随后成为成员实体，则必须在其所属财政年度结束前通知税务资讯局。

报送规定

倘开曼群岛成员实体为跨国企业集团的“最终控股企业”（拥有跨国企业集团相当的权益，因此在特定情况下须编制集团合并财务报表）或“代理控股企业”（最终控股企业的唯一指定替代者）（分别称为“报送实体”），则仅须提交国别报告。报送实体须每年向其业务所在的各种税务司法管辖区报送示范法例所列的资料。国别报告法规的附表载有国别报告的标准模板及指示。

信息交换

税务资讯局会在核查开曼群岛合格跨国企业集团提交的国别报告后，与合作司法管辖区内符合必要保密及数据安全规定，且具备适当法定文件及法律框架的主管机关进行交换。此举旨在透过向税务机关提供评估高级别转让定价风险及其他税基侵蚀和利润转移风险的资料而进一步提高透明度。

报送时限

报送国别报告的首个财政年度为2016年起的财政年度。2016年1月1日至3月31日起的相关财政年度的最后报送期限为2018年3月31日，而该等日期之后起的任何财政年度的最后报送期限则为所属财政年度结束后的12个月内。任何须在2018年提交国别报告的报送实体应尽快编制相关报告。

2018 should proceed with preparing such a report as soon as practicable.

Next Steps

Cayman Islands entities should, together with their affiliated group companies, assess whether they fall into the category of an MNE Group. Where a Cayman Islands entity is part of an MNE Group but not an Ultimate Parent Entity or Surrogate Parent Entity, a notification is required to be filed with the TIA. Where a Cayman Islands entity is the Ultimate Parent Entity or Surrogate Parent Entity of the MNE Group, a detailed report will need to be filed with the TIA. The first notification and reporting deadline is 31 March 2018.

Further Information

The TIA is expected to issue further Country-by-Country reporting Guidance on the TIA website (www.tia.gov.ky) later this month and we will provide further information at that time. The OECD's Guidance on the Implementation of Country-by-Country reporting is available here: <https://www.oecd.org/tax/guidance-on-the-implementation-of-country-by-country-reporting-beps-action-13.pdf>

This alert is intended to provide a very high level summary of the CbCR Regulations and, given the complexity of the subject, it is recommended that clients seek specific legal advice if they think that the CbCR Regulations may be relevant to them.

后续步骤

开曼群岛实体及其附属集团公司应评估自身是否属于跨国企业集团。倘开曼群岛实体属于跨国企业集团，但并非最终控股企业或代理控股企业，则须向税务资讯局呈交通知。倘开曼群岛实体为跨国企业集团的最终控股企业或代理控股企业，则须向税务资讯局呈交详细报告。首次告知和报送的截止日期为2018年3月31日。

其他资料

税务资讯局可能会于本月稍后日期在其官网 (www.tia.gov.ky) 进一步发布国别报告指引，届时本所会提供更多资料。经合组织有关实行国别报告的指引可参阅下述文档：<https://www.oecd.org/tax/guidance-on-the-implementation-of-country-by-country-reporting-beps-action-13.pdf>

本提示简报旨在高度概括国别报告法规，鉴于内容较为复杂，倘客户认为国别报告法规与自身密切相关，建议自行征询特别法律意见。

This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.

本文并非法律意见，其内容亦非详尽无遗，只可作为概览及一般参考资料。感谢您的垂阅!

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ABOUT CONYERS DILL & PEARMAN

Conyers Dill & Pearman is a leading international law firm advising on the laws of Bermuda, the British Virgin Islands, the Cayman Islands and Mauritius. Conyers has over 130 lawyers in eight offices worldwide and is affiliated with the Conyers Client Services group of companies which provide corporate administration, secretarial, trust and management services.

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康德明律师事务所是一间具有领导地位的国际律师事务所，就百慕大、英属维尔京群岛、开曼群岛和毛里求斯之法律提供意见。康德明拥有分布于世界各地八间办事处内的逾130位律师，并与康德明客户服务公司集团有联属关系，而康德明客户服务公司集团提供公司管理、秘书、信托和管理服务。