
STATUTORY INSTRUMENTS

2017 No. 497

The Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) (Amendment) Regulations 2017

Amendment of regulation 3 (filing of CBC reports)

4. For regulation 3 substitute—

“Filing of CBC reports: general provisions

3.—(1) Regulations 3A, 3B, 3C and 3D apply where the Consolidated Financial Statements of an MNE Group (“G”) meet the threshold requirement for a period (“P”) where P—

- (a) commences before and ends on or after 31st December 2015; or
- (b) commences on or after 1st January 2016.

(2) In paragraph (1) the “threshold requirement” means G has a total consolidated group revenue of €750 million—

- (a) as shown in its Consolidated Financial Statements for P; or
- (b) as would have been shown in its Consolidated Financial Statements for P had G been required to produce them by reason of the trading of equity interests in any of the enterprises in G on a public securities exchange.

(3) Where G draws up, or would draw up, its Consolidated Financial Statements in a currency other than euros, the reference to €750 million in paragraph (2) has effect as if it were a reference to the equivalent in that currency at the average exchange rate for P.

(4) When P is a period of more or less than 12 months, the amount of €750 million in paragraph (2) (or the equivalent under paragraph (3)) is increased or decreased proportionately.

(5) In regulations 3A, 3B, 3C and 3D, “G” is the MNE Group.

(6) In regulations 3A, 3B, 3C and 3D, “P+1” is the period immediately following P in respect of which G prepares, or would prepare Consolidated Financial Statements.

Filing of country-by-country reports and notification by Ultimate Parent Entities

3A.—(1) Each Ultimate Parent Entity of G must file a country-by-country report in respect of P+1 by the filing deadline.

(2) Subject to paragraph (4) each Ultimate Parent Entity of G must notify to Revenue and Customs—

- (a) that it is an Ultimate Parent Entity of G responsible for filing a country-by-country report in respect of P+1; and
- (b) the names and unique taxpayer references of all of its Constituent Entities—
 - (i) which are resident in the United Kingdom for tax purposes;
 - (ii) which have a permanent establishment in the United Kingdom; or

(iii) which are partnerships.

(3) The notification required by paragraph (2) must be made by whichever is the later of the last day of P+1 or 1st September 2017 (“the deadline date”).

(4) An Ultimate Parent Entity of G (“UPEG1”) is not required to comply with paragraph (2) if before the deadline date—

- (a) another Ultimate Parent Entity of G (“UPEG2”) has provided a notification in accordance with paragraph (2) and that notification includes the information required to be contained in the notification otherwise to be provided by UPEG1; and
- (b) UPEG1 provides details to Revenue and Customs of—
 - (i) the name of UPEG2; and
 - (ii) the date the notification by UPEG2 was provided.

(5) Where an Ultimate Parent Entity of G is a partnership the requirements imposed on it by this regulation must be complied with by the partner of the Ultimate Parent Entity of G who is required to deliver a return under section 12AA of TMA 1970⁽¹⁾.

Filing of CBC reports by United Kingdom Entities

3B.—(1) This regulation applies to each United Kingdom Entity of G (“UKEG”) if—

- (a) regulation 3A does not apply to the UKEG; and
- (b) one of the conditions in regulation 6 is met.

(2) The requirements in paragraphs (3) and (4) do not apply if exception A or exception B applies.

(3) A UKEG must—

- (a) request from its Ultimate Parent Entity all the information (“filing information”) that the UKEG would need in order to file a country-by-country report in respect of P+1 before the filing deadline; and
- (b) if the UKEG receives the filing information, file a country-by-country report in respect of P+1 by the filing deadline.

(4) If a UKEG does not receive the filing information before the filing deadline, it must by the filing deadline —

- (a) notify Revenue and Customs in writing that its Ultimate Parent Entity has not provided the filing information; and
- (b) file a United Kingdom country-by-country report in respect of P+1.

(5) Exception A applies where before the filing deadline—

- (a) a Constituent Entity of G has filed a country-by-country report in accordance with paragraph (3)(b) or regulation 3D in respect of P+1 and that report includes the information required to be contained in the CBC report otherwise to be filed by the UKEG; and
- (b) the UKEG provides details to Revenue and Customs of—
 - (i) the name of the Constituent Entity which has filed the report; and
 - (ii) the date the report was filed.

(6) Exception B applies where before the filing deadline—

(1) 1970 c. 9. Section 12AA was inserted by the Finance Act 1994 (c. 9).

- (a) a Constituent Entity of G has filed in a jurisdiction other than the United Kingdom the equivalent of a country-by-country report in respect of P+1 and that report includes the information required to be contained in the CBC report otherwise required to be filed by the UKEG;
- (b) the appropriate authority of that jurisdiction has entered into exchange arrangements with Revenue and Customs which apply to the report filed and Revenue and Customs has not notified the UKEG that the arrangements are not operating effectively; and
- (c) the UKEG provides details to Revenue and Customs of—
 - (i) the identity of the Constituent Entity which has filed the report and where the Constituent Entity is resident for tax purposes;
 - (ii) the jurisdiction in which the report was filed; and
 - (iii) the date the report was filed.

Notification by United Kingdom Entities

3C.—(1) This regulation applies to each United Kingdom Entity of G (“UKEG”) if regulation 3A does not apply to the UKEG.

(2) Subject to paragraph (4), a United Kingdom Entity of G (“UKEG”) must notify to Revenue and Customs—

- (a) whether or not the UKEG believes exception A or exception B will apply to it in respect of P+1; and
- (b) if the UKEG does believe exception A or exception B will so apply—
 - (i) the name and unique taxpayer reference (or equivalent) of the Constituent Entity of G which the UKEG believes will file a CBC report or an equivalent report; and
 - (ii) the jurisdiction in which the UKEG believes the Constituent Entity will file the report; and
- (c) the names and unique taxpayer references of all of G’s Constituent Entities:
 - (i) which are resident in the United Kingdom for tax purposes;
 - (ii) which have a permanent establishment in the United Kingdom; or
 - (iii) which are partnerships.

(3) The notification required by paragraph (2) must be made by whichever is the later of the last day of P+1 or 1st September 2017 (“the deadline date”).

(4) A United Kingdom Entity of G (“UKEG1”) is not required to comply with paragraph (2) if before the deadline date—

- (a) another United Kingdom Entity of G (“UKEG2”) has provided a notification in accordance with paragraph (2) and that notification includes the information required to be contained in the notification otherwise to be provided by UKEG1; and
- (b) UKEG1 provides details to Revenue and Customs of—
 - (i) the name of UKEG2; and
 - (ii) the date the notification by UKEG2 was provided.

(5) In this regulation exception A and exception B has the same meaning as in regulation 3B.

Voluntary filing of country-by-country reports by Constituent Entities

3D. A Constituent Entity of G (“CEG”) may file a country-by-country report on behalf of G in respect of P+1 by the filing deadline if—

- (a) the CEG or another Constituent Entity of G is resident for tax purposes in the United Kingdom or has a permanent establishment in the United Kingdom;
- (b) the CEG—
 - (i) is not required to file a country-by-country report under regulation 3A; and
 - (ii) is authorised by the Ultimate Parent Entity of G to file a country-by-country report on behalf of G in respect of P+1 and the Ultimate Parent Entity has notified Revenue and Customs of that authority in writing on or before the filing deadline; and
- (c) one of the conditions in regulation 6 is met.”.