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Global Tax Alert

News from Americas Tax Center
and Transfer Pricing

Panama issues decree on the Country-by- Country reporting requirement

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Panama's Government published, on 27 May 2019 in the *Official Gazette*, Executive Decree No. 46, which addresses the disclosure of information in the Country-by-Country (CbC) report by tax resident companies in Panama for purposes of the automatic exchange of information. Panama's tax authorities signed the *Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports*, which covers the standards for the automatic exchange of information of related parties or CbC reports, on 24 January 2019.

Entities required to submit CbC reports

Any ultimate parent entity of a multinational group must file the CbC report on an annual basis if it (1) has consolidated revenues that are higher than €750 million or its equivalent in Balboas, at the exchange rate as of January 2015, during a tax year; and (2) is tax resident in Panama.

An ultimate parent entity means an entity in a multinational group that meets the following criteria: (i) the entity owns directly or indirectly a sufficient interest in one or more group entities such that it must prepare consolidated financial statements under applicable local accounting standards, or would be required to do so if its share interest were listed on a stock exchange in its jurisdiction of tax residence; and (ii) there is no other entity of such a multinational group that owns directly or indirectly an interest described in subsection (i) in the first-mentioned entity.

A reporting entity is any entity of a group or multinational group that must file the CbC report in its tax jurisdiction on behalf of the multinational group. The reporting entity is the ultimate parent entity.

Notification

A group or multinational group that is tax resident in Panama must notify the Panamanian Tax Administration of the identity and tax residence of the reporting entity, as well as the fiscal period used by the multinational group. Any entity in the group may provide the notification. The entity doing the reporting must submit the notification using the format and terms and conditions established by the Panamanian Tax Administration.

Contents of the CbC report

The CbC report must include:

- ▶ Information on revenues, taxes and assets, among others, listed by jurisdiction
- ▶ The identity of each member entity of the multinational group and the corresponding tax jurisdiction
- ▶ Additional information or explanation deemed necessary or that allows a better understanding of the mandatory information provided in the CbC report

Filing format and due date

The reporting entity must submit the CbC report annually in an "XML Schema" file within 12 months of the tax year end. The CbC report must meet the guidelines and regulations, which will be defined by the Panamanian Tax Administration.

Tax year 2018 is the first CbC report required to be filed.

Sanctions for non-compliance in the supply of information

Failure to comply with the CbC reporting obligations will result in penalties in accordance with Article 756 of the Panamanian Tax Code. Penalties range from US\$1,000 to \$5,000 and closure of the business for two days. However, failure to comply repeatedly could result in fines of US\$5,000 to \$10,000 and closure of the business for 10 days. If failure to comply persists, a closure of business for 15 days will apply.

Consultations

Executive Decree No. 46 establishes a ruling request procedure for questions regarding the content and scope of the Decree. A list of requirements for the ruling request is set forth in the Decree.

The Tax Administration must respond to the ruling request within two months, except in complex cases in which the Tax Administration requires additional time. Any ruling request that fails to comply with the procedure because of false or inexact information will be considered invalid.

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