



# Gibraltar Society of Accountants

PO Box 178, Gibraltar  
Tel: +350 200 74015  
[www.gibraltaraccountants.com](http://www.gibraltaraccountants.com)

## Tax Faculty – Newsletter 1/2017

### Country by Country Reporting – clarification of various items

Date 14 September 2017

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Country by Country Reporting was implemented recently in Gibraltar by means of the [Income Tax Act 2010 \(Amendment\) Regulations 2010](#). The provisions introduced are now included in Section 10 Part 1B of the Income Tax Act 2010.

We requested confirmation from the Acting Commissioner of Income Tax on a number of points regarding Country by Country Reporting. The points raised are set out below, together with the response in *italics*.

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#### 1 Form and method of making a Notification

Constituent entities of an MNE group (as defined in the Income Tax Act 2010) are required to make a notification to the Commissioner of Income Tax no later than their tax return filing date. Is there to be a standard form or method of making this notification?

*In order to assist you with your obligations under this regime, the Income Tax Office has prepared a spreadsheet for you to complete in respect of all entities within an MNE group that are resident in Gibraltar (including permanent establishments within Gibraltar of overseas group entities). When completing this spreadsheet please select the classification for each entity on the basis of a drop down menu that provides you with the 4 options referred to above.*

*Once the relevant data for each constituent entity has been inputted, the identity of the person(s) completing the CbCR notification should be recorded. The drop down menus provided can be used to state in what capacity the notification is made. There is also a box to provide any comments or remarks you feel may be necessary and relevant to the notification being made.*

*Please send the completed notification spreadsheet to [CbCR@gibraltar.gov.gi](mailto:CbCR@gibraltar.gov.gi).*

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## 1 Form and method of making a Notification (continued)

Comment by the GSA:

The notification spreadsheet at the time of issue of this Newsletter is attached to the email sent by the GSA circulating this Newsletter. This spreadsheet will also be available from the Income Tax Office's website shortly. We would suggest that going forward, companies use the template from the ITO's website to ensure it is the up to date version.

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## 2 Form and method for making a Report

What is the form and manner for making Reports under CbCR?

*This is to be carried out via a portal, details of which will be made available at a later date.*

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## 3 Countries with which Gibraltar has a "qualifying competent authority agreement" with Gibraltar

Constituent entities of an Multinational Entity group are required to file a County by Country Report in certain circumstances as set out in the Income Tax Act 2010. One of these is where "the jurisdiction in which the ultimate parent entity is resident for tax purposes does not have a qualifying competent authority agreement with Gibraltar".

Can you confirm where an up to date list of such jurisdictions is maintained?

*The link is - <http://www.oecd.org/tax/beps/country-by-country-exchange-relationships.htm>*

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## 4 Fiscal year

The period covered by notifications and reports required under the legislation, and the deadlines for filing these are based on the "fiscal year". We understand that this would normally be the financial year. Where the constituent entity resident in Gibraltar has one financial year end, but the ultimate parent, or surrogate parent has a different year end, which year end is used for the "fiscal year"?

*The definition of 'fiscal year' from the EU Directive states: "The term "Fiscal Year" means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements."*

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## **5 First notifications required**

Can you confirm that the first notifications required are in respect of financial years commencing on or after 1 January 2016? Therefore, assuming a full 12 months financial year, the first notification would be due in respect of the year ended 31 December 2016.

*That is correct.*

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## **6 Deadline for filing a notification**

The deadline for filing a notification is “the last day for filing of the tax return of the notifying constituent entity for the preceding fiscal year”. Can you confirm that this means that, for example, a notification in respect of the year ended 31 December 2016 is due to be filed no later than 30 September 2017?

*That is correct.*

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