

CAYMAN ISLANDS



Tax Information Authority Law

**TAX INFORMATION AUTHORITY
(INTERNATIONAL TAX COMPLIANCE)
(COUNTRY-BY-COUNTRY REPORTING)
REGULATIONS, 2017**

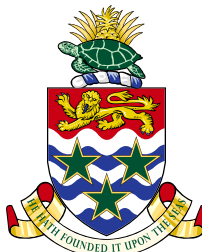
(SL 99 of 2017)

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TAX INFORMATION AUTHORITY (INTERNATIONAL TAX COMPLIANCE) (COUNTRY-BY-COUNTRY REPORTING) REGULATIONS, 2017

(SL 99 of 2017)

The Cabinet, in exercise of the powers conferred by section 25 of the Tax Information Authority Law (2017 Revision), makes the following Regulations —

Citation

1. These Regulations may be cited as the Tax Information Authority (International Tax Compliance) (Country-By-Country Reporting) Regulations, 2017.

Definitions

2. (1) In these Regulations —

“**Authority**” means the Tax Information Authority designated under section 4 of the Law, or a person designated by the Authority to act on behalf of the Authority;

“**Consolidated Financial Statements**” means the financial statements of an MNE Group in which the assets, liabilities, income, expenses and cash flows of the Ultimate Parent Entity and the Constituent Entities are presented as those of a single economic entity;

“**Constituent Entity**” means —

- (a) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
- (b) any such business unit that is excluded from the MNE Group's Consolidated Financial Statements solely on size or materiality grounds; and
- (c) any permanent establishment of any separate business unit of the MNE Group included in (a) or (b) provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes;

“Excluded MNE Group” means, with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of less than eight hundred and fifty million United States Dollars during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year;

“Fiscal Year” means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements;

“Group” means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;

“International Agreement” means the Multilateral Convention for Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral Tax Convention or any Tax Information Exchange Agreement to which the Cayman Islands is a party and that, by its terms, provides legal authority for the exchange of tax information between jurisdictions including the automatic exchange of such information;

“MNE Group” means any Group that —

- (a) includes two or more enterprises for which the tax residence is in different jurisdictions or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction; and
- (b) is not an Excluded MNE Group;

“OECD Final Report” means the document entitled “Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - 2015 Final Report” published by the Organization for Economic Co-operation and



Development as part of the OECD/G20 Base Erosion and Profit Shifting Project as may be amended from time to time;

“Qualifying Competent Authority Agreement” means an agreement that —

- (a) is between authorised representatives of those jurisdictions that are parties to an International Agreement; and
- (b) requires the automatic exchange of Country-by-Country Reports between the party jurisdictions;

“Reporting Entity” means the Constituent Entity which is required to file a Country-by-Country Report conforming to the requirements in regulation 6 in its jurisdiction of tax residence on behalf of the MNE Group and which may be the Ultimate Parent Entity or the Surrogate Parent Entity;

“Reporting Fiscal Year” means the Fiscal Year to which the operational results in the Country-by-Country Report (described in regulation 6) relate;

“resident in the Islands” for a Constituent Entity means —

- (a) being incorporated or established in the Islands;
- (b) having a place of effective management in the Islands; or
- (c) being subject to financial supervision in the Islands;

“Surrogate Parent Entity” means one Constituent Entity of the MNE Group that has been appointed by the MNE Group as a sole substitute for the Ultimate Parent Entity to file the Country-by-Country Report in that Constituent Entity’s jurisdiction of tax residence on behalf of the said MNE Group when one or more of the conditions set out in regulation 4(2)(b) applies;

“Systemic Failure” with respect to a jurisdiction means that the jurisdiction has a Qualifying Competent Authority Agreement in effect with the Cayman Islands, but has suspended automatic exchange (for reasons other than those that are in accordance with the terms of that Agreement) or otherwise persistently failed to automatically provide to the Cayman Islands Country-by-Country Reports in its possession of MNE Groups that have Constituent Entities in the Cayman Islands; and

“Ultimate Parent Entity” means a Constituent Entity of an MNE Group that meets the following criteria —

- (a) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of the MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on public securities exchange in its jurisdiction of tax residence; and

- (b) there is no other Constituent Entity of the MNE Group that owns directly or indirectly an interest described in paragraph (a) in the first mentioned Constituent Entity.
- (2) For the purposes of these Regulations, unless the context otherwise requires, the words “jurisdiction of tax residence”, “tax residence” and “resident for tax purposes” shall each be considered as incorporating a reference to “resident in the Islands”.
- (3) In these Regulations, a word or expression used in these Regulations and defined in the OECD Final Report but not in these Regulations has the meaning assigned to it in the OECD Final Report.

Effective date

- 3. These Regulations shall enter into force in the Islands on the date of publication and are effective for Reporting Fiscal Years of MNE Groups beginning on or after 1 January 2016.

Filing obligation

- 4.
 - (1) Each Ultimate Parent Entity of an MNE Group that is resident in the Islands shall file with the Authority a Country-by-Country Report conforming to the requirements of regulation 6 with respect to its Reporting Fiscal Year on or before the date specified in regulation 6(3).
 - (2) A Surrogate Parent Entity shall file with the Authority on or before the date specified in regulation 6(3) a Country-By-Country Report conforming to the requirements of these Regulations with respect to the Reporting Fiscal Year of an MNE Group of which it is a Surrogate Parent Entity if —
 - (a) the entity is resident in the Islands; and
 - (b) one of the following conditions applies —
 - (i) the Ultimate Parent Entity of the MNE Group is not obligated to file a Country-By-Country Report in its jurisdiction of tax residence;
 - (ii) the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which the Cayman Islands is a party but does not have a Qualifying Competent Authority Agreement in effect to which the Cayman Islands is a party by the time specified in regulation 6(3) for filing the Report for the Reporting Fiscal Year; or
 - (iii) there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified by the Authority to the Constituent Entity resident in the Islands.



Notification obligation

5. (1) Any Constituent Entity that is resident in the Islands shall notify the Authority of whether it is the Ultimate Parent Entity or the Surrogate Parent Entity no later than the last day of the Reporting Fiscal Year of the MNE Group except that such notification shall be filed by 31 March, 2018 with respect to the Reporting Fiscal Year of the MNE Group that began during 2016.
- (2) Where a Constituent Entity that is resident in the Islands is not the Ultimate Parent Entity nor the Surrogate Parent Entity, it shall notify the Authority of the identity and tax residence of the Reporting Entity no later than the last day of the Reporting Fiscal Year of such MNE Group except that notification under paragraph (1) shall be filed by 31 March, 2018 with respect to the Reporting Fiscal Year of the MNE Group that began during 2016.

Country-by-Country Report

6. (1) For the purposes of these Regulations, a Country-by-Country Report with respect to an MNE Group is a report containing —
- (a) aggregate information relating to the amount of revenue, profit (or loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates; and
 - (b) an identification of each Constituent Entity of the MNE Group setting out the jurisdiction of tax residence of such Constituent Entity and, where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such Constituent Entity is organized and the nature of the main business activity or activities of such Constituent Entity.
- (2) The Country-by-Country Report shall be filed in a form identical to the standard template set out in Tables 1, 2 and 3 in Part 1 of the Schedule to these Regulations and the instructions contained in Part 2 of the Schedule shall apply.
- (3) The Country-by-Country Report required by these Regulations shall be filed no later than twelve months after the last day of the Reporting Fiscal Year of the MNE Group except that the Country-by-Country Report required with respect to the Reporting Fiscal Year that began on or before 31 March 2016 shall be filed no later than 31 March 2018.

Use and Confidentiality of Country-by-Country Report Information

7. (1) The Authority shall use the Country-by-Country Report and any other information obtained pursuant to these Regulations for purposes of collaboration on compliance and enforcement with other Competent Authorities pursuant to a Qualifying Competent Authority Agreement.

- (2) The Authority shall preserve the confidentiality of the information contained in the Country-by-Country Report at least to the same extent that would apply if such information were provided to it under the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

Compliance with notification and filing obligations

8. (1) A Constituent Entity shall comply with notification and filing obligations in the form and manner specified through use of the electronic portal or such other method as may be prescribed by the Authority.
- (2) The Authority shall notify Constituent Entities of the method of compliance with the notification and filing obligations by —
- (a) a post on an official website providing information generally; or
 - (b) a notice given to a particular Constituent Entity.
- (3) Unless the contrary is proved, the Authority shall assume that a return that has been accepted by the electronic portal or such other method of compliance as may be prescribed —
- (a) has been made as required under paragraph (1); and
 - (b) was made —
 - (i) when the return was accepted by the portal or such other method of compliance as may be prescribed;
 - (ii) by the person who made the return by using the portal; and
 - (iii) with the authority of the Constituent Entity on whose behalf the return purports to have been made.
- (4) For the purposes of this regulation —
- “electronic address” includes an email address and the address of a digital mailbox;
- “electronic portal” means the Authority’s electronic portal for the automatic exchange of information; and
- “official website” means —
- (a) the website of the Department for International Tax Cooperation;
 - (b) a website of the Authority; or
 - (c) any another Government website about international tax cooperation.

Guidance

9. The Authority may issue guidance for complying with these Regulations.



Compliance measures

- 10.** (1) The Authority may, by notice given to a Constituent Entity, require the Constituent Entity —
- (a) to provide to the Authority, within a time specified by the Authority, any information, such information including a copy of a relevant book, document, electronically stored information or other record as may be in the Constituent Entity's possession or under its control that the Authority reasonably requires to determine the accuracy of information that the Constituent Entity gave to the Authority ; or
 - (b) to make available to the Authority for inspection, at a time specified by the Authority, any book, document, electronically stored information or other record that is in the Constituent Entity's possession or under its control that the Authority reasonably requires to determine the accuracy of information provided by the Constituent Entity to the Authority.
- (2) If information the Authority requires for inspection or otherwise is outside of the Islands and the Authority requires the Constituent Entity to bring the information to the Islands, the Authority shall specify a time period that will enable the Constituent Entity to bring the information to the Islands and the Constituent Entity shall comply with the requirement of the Authority.
- (3) A Constituent Entity shall retain for six years any book, document, electronically-stored information or other record that relates to the information required to be reported to the Authority under these Regulations.

Arrangement to avoid obligation

- 11.** If a person enters into an arrangement, a main purpose of which is to avoid an obligation under these Regulations, the arrangement, for the purposes of these Regulations, shall be deemed to be one which was not entered into and these Regulations shall have effect as if the arrangement had never been in existence.

Offence to contravene notification, reporting and monitoring regulations

- 12.** A person commits an offence if that person contravenes regulations 4, 5, 6, 8 or 10.

Tampering

- 13.** A person commits an offence if the person —
- (a) alters, destroys, mutilates, defaces, hides or removes information in a way that causes the person or anyone else to contravene these Regulations in relation to the information; or
 - (b) authorizes, advises or counsels someone else to do anything referred to in paragraph (a).

Hindering

- 14.** A person commits an offence if the person hinders the Authority in performing a function under these Regulations.

Reasonable excuse defence

- 15.** (1) In proceedings against a person for an offence under these Regulations, it is a defence to prove that the person had a reasonable excuse.
- (2) Neither insufficiency of funds nor reliance on an agent or reliance on any other person is a reasonable excuse.
- (3) If a defendant had a reasonable excuse for committing an offence but the excuse ceases to exist, the defendant shall be considered as still having the reasonable excuse if the offence was remedied without undue delay after the excuse ceased to exist.

Punishment on summary conviction

- 16.** Subject to regulation 17, a person who commits an offence under these Regulations is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of six months, or to both.

Authority's power to impose administrative penalty for offences

- 17.** (1) The Authority may impose an administrative penalty of four thousand dollars where a person contravenes regulation 12, 13 or 14.
- (2) An administrative penalty imposed under this regulation shall be in accordance with the provisions in regulations 18 and 22.
- (3) Where the Authority decides to impose an administrative penalty it shall notify the person of its decision.
- (4) A notice under these Regulations may be in such form as the Authority determines and shall include the person's name, the reasons for imposing the penalty, the amount of the penalty and when it becomes due.

Administrative penalty not to apply

- 18.** (1) Where a person is convicted in a court of law of an offence under these Regulations, that person shall not also be liable to an administrative penalty under these Regulations in relation to the same facts.
- (2) Where an administrative penalty is imposed under these Regulations, the person liable for that penalty shall not be subsequently or simultaneously charged with an offence under these Regulations in relation to the same facts.
- (3) Any administrative penalty payable under these Regulations may be recovered by the Crown in a court as a civil debt.



Daily default penalty

- 19.** (1) A person who fails to pay the administrative penalty imposed under regulation 17 shall be liable to an additional penalty of an amount of two hundred dollars for each day during which the penalty imposed under regulation 17 remains unpaid.
- (2) Where the Authority decides to impose a daily default penalty it may only do so where it notifies the person who has failed to pay the administrative penalty of its decision.
- (3) A notice under these Regulations may be in such form as the Authority determines including the person's name, the reasons for imposing the penalty, the amount of the penalty and when it becomes or became due.

Administrative penalties for inaccurate information

- 20.** (1) A person is liable to an administrative penalty of five thousand dollars, if —
- (a) the person provides inaccurate information when filing a Country-By-Country Report; and
- (b) satisfies condition A or B in paragraphs (2) and (3).
- (2) Condition A is that the person knows of the inaccuracy at the time that the information is provided in the Report but does not inform the Authority of the inaccuracy at that time.
- (3) Condition B is that the person —
- (a) discovers the inaccuracy after the information is provided in the Report to the Authority; and
- (b) fails to take reasonable steps to inform the Authority of the inaccuracy.

Matters to be disregarded in relation to liability to administrative penalties

- 21.** (1) Liability to an administrative penalty under these Regulations does not arise if there is a reasonable excuse for the failure to comply with the relevant provisions or for the provision of inaccurate information.
- (2) For the purposes of this regulation, neither of the following is a reasonable excuse —
- (a) that there is an insufficiency of funds to do something; or
- (b) that a person relies upon another person to do something.
- (3) If a person had a reasonable excuse for a failure to comply but the excuse has ceased to exist, the person is to be treated as having continued to have the excuse if the failure is remedied without undue delay after the excuse had ceased to exist.

Imposition of administrative penalties

- 22.** (1) If a person becomes liable to an administrative penalty under these Regulations, the Authority may impose the penalty in accordance with this regulation.
- (2) If the Authority intends to impose an administrative penalty, the Authority must notify the person of its intention and the notice must specify —
- (a) the Authority's reasons for holding the person liable to an administrative penalty; and
- (b) a reasonable period (which may not be less than fourteen days) within which the person to whom the notice is given may make representations to the Authority, and where such representations are made, the Authority shall take them into account in deciding whether to impose the administrative penalty.
- (3) An administrative penalty under regulation 17 or 19 may only be imposed within the period of twelve months beginning with the date on which the person became liable to the penalty.
- (4) An administrative penalty under regulation 20 may only be imposed —
- (a) within the period of twelve months beginning with the date on which the inaccuracy first came to the attention of the Authority; and
- (b) within the period of six years beginning with the date on which the person became liable to the penalty.
- (5) The Authority shall provide written reasons to the person on whom a penalty is imposed for any decision to impose an administrative penalty within a reasonable period of time of the decision.

Right of appeal

- 23.** (1) A person upon whom an administrative penalty is imposed may, subject to this regulation, appeal against it to the Grand Court and such appeal shall act as a stay on the enforcement of the administrative penalty.
- (2) An appeal under this regulation may be made on questions of law or fact or both and the Grand Court may affirm or reverse the penalty or substitute its own penalty for that imposed by the Authority.
- (3) A person upon whom an administrative penalty is imposed may appeal it on the ground that liability to a penalty does not arise.
- (4) A person upon whom an administrative penalty is imposed may appeal against the amount imposed by the Authority.
- (5) For the avoidance of doubt, this regulation does not limit or otherwise affect any obligation of the person or Constituent Entity under these Regulations.



SCHEDULE

(Regulation 6)

Standard template for Country-by-Country Report

Part 1

Table 1. Overview of allocation of income, taxes and business activities by tax jurisdiction										
Name of the MNE Group:										
Fiscal year concerned:										
Currency used:										
Tax Jurisdiction	Revenues			Profit (Loss) before Income Tax	Income Tax Paid (on Cash Basis)	Income Tax Accrued - Current Year	Stated Capital	Accumulated Earnings	Number of Employees	Tangible Assets other than Cash and Cash Equivalents
	Unrelated Party	Related Party	Total							



Tax Jurisdiction	Constituent Entities Resident in the Tax Jurisdiction	Tax Jurisdiction of Organisation or Incorporation if Different from Tax Jurisdiction of Residence	Main Business Activity or Activities
	1		Research and Development
	2		Holding or Managing Intellectual Property
	3		Purchasing or Procurement
	1		Manufacturing or Production
	2		Sales, Marketing or Distribution
	3		Administrative, Management or Support Services
	1		Provision of Services to Unrelated Parties
	2		Internal Group Finance
	3		Regulated Financial Services
	1		Insurance
	2		Holding Shares or Other Equity instruments
	3		Dormant
	1		Other ¹

¹ Please specify the nature of the activity of the Constituent Entity in the “Additional Information” section.

Table 3. Additional Information	
Name of the MNE Group:	
Fiscal year concerned:	
Please include any further brief information or explanation you consider necessary or that would facilitate the understanding of the compulsory information provided in the Country-by-Country Report.	

Part 2 - General and Specific Instructions for Standard Template Country-by-Country Report

A. General instructions

1. Purpose

Table 1 to this Schedule contains a template for reporting a multinational enterprise's (MNE) group allocation of income, taxes and business activities on a tax jurisdiction-by-tax jurisdiction basis. These instructions form an integral part of the model template for the Country-by-Country Report.

2. Definitions

(a) Reporting MNE

A Reporting MNE is the ultimate parent entity of an MNE group.

(b) Constituent Entity

For purposes of completing the Country-by-Country Report, a Constituent Entity of the MNE group is -

- (i) any separate business unit of an MNE group that is included in the Consolidated Financial Statements of the MNE group for financial reporting purposes, or would be so included if equity interests in such business unit of the MNE group were traded on a public securities exchange;
- (ii) any such business unit that is excluded from the MNE group's Consolidated Financial Statements solely on size or materiality grounds; and

- (iii) any permanent establishment of any separate business unit of the MNE group included in subparagraphs (i) or (ii) provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes.

(c) **Treatment of Branches and Permanent Establishments**

The permanent establishment data should be reported by reference to the tax jurisdiction in which it is situated and not by reference to the tax jurisdiction of residence of the business unit of which the permanent establishment is a part. Residence tax jurisdiction reporting for the business unit of which the permanent establishment is a part should exclude financial data related to the permanent establishment.

(d) **Consolidated Financial Statements**

The Consolidated Financial Statements are the financial statements of an MNE group in which the assets, liabilities, income, expenses and cash flows of the ultimate parent entity and the Constituent Entities are presented as those of a single economic entity.

3. Period covered by the annual template

The template should cover the fiscal year of the Reporting MNE. For Constituent Entities, at the discretion of the Reporting MNE, the template should reflect on a consistent basis either -

- (i) information for the fiscal year of the relevant Constituent Entities ending on the same date as the fiscal year of the Reporting MNE, or ending within the 12 month period preceding such date; or
- (ii) information for all the relevant Constituent Entities reported for the fiscal year of the Reporting MNE.

4. Source of data

The Reporting MNE should consistently use the same sources of data from year to year in completing the template. The Reporting MNE may choose to use data from its consolidation reporting packages, from separate entity statutory financial statements, regulatory financial statements, or internal management accounts. It is not necessary to reconcile the revenue, profit and tax reporting in the template to the Consolidated Financial Statements. If statutory financial statements are used as the basis for reporting, all amounts should be translated to the stated functional currency of the Reporting MNE at the average exchange rate for the year stated in the “Additional Information” section of the template.

Adjustments need not be made, however, for differences in accounting principles applied from tax jurisdiction to tax jurisdiction.

The Reporting MNE should provide a brief description of the sources of data used in preparing the template in the “Additional Information” section of the template. If a



change is made in the source of data used from year to year, the Reporting MNE should explain the reasons for the change and its consequences in the “Additional Information” section of the template.

B. Specific instructions for standard template Country-by-Country Report

1. Overview of allocation of income, taxes and business activities by tax jurisdiction (Table 1)

(a) Tax Jurisdiction

In the first column of the template, the Reporting MNE should list all of the tax jurisdictions in which Constituent Entities of the MNE group are resident for tax purposes.

A tax jurisdiction is defined as a State as well as a non-State jurisdiction which has fiscal autonomy. A separate line should be included for all Constituent Entities in the MNE group deemed by the Reporting MNE not to be resident in any tax jurisdiction for tax purposes.

Where a Constituent Entity is resident in more than one tax jurisdiction, the applicable tax treaty “tie breaker” should be applied to determine the tax jurisdiction of residence.

Where no applicable tax treaty exists, the Constituent Entity should be reported in the tax jurisdiction of the Constituent Entity’s place of effective management. The place of effective management should be determined in accordance with the provisions of Article 4 of the OECD Model Tax Convention and its accompanying Commentary.

(b) Revenues

In the three columns of the template under the heading Revenues, the Reporting MNE should report the following information -

- (i) the sum of revenues of all the Constituent Entities of the MNE group in the relevant tax jurisdiction generated from transactions with associated enterprises;
- (ii) the sum of revenues of all the Constituent Entities of the MNE group in the relevant tax jurisdiction generated from transactions with independent parties; and
- (iii) the total of (i) and (ii).

Revenues should include revenues from sales of inventory and properties, services, royalties, interest, premiums and any other amounts.

Revenues should exclude payments received from other Constituent Entities that are treated as dividends in the payor’s tax jurisdiction.

(c) Profit (Loss) before Income Tax

In the fifth column of the template, the Reporting MNE should report the sum of the profit (loss) before income tax for all of the Constituent

Entities resident for tax purposes in the relevant tax jurisdiction. The profit (loss) before income tax should include all extraordinary income and expense items.

(d) Income Tax Paid (on Cash Basis)

In the sixth column of the template, the Reporting MNE should report the total amount of income tax actually paid during the relevant fiscal year by all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. Taxes paid should include cash taxes paid by the Constituent Entity to the residence tax jurisdiction and to all other tax jurisdictions. Taxes paid should include withholding taxes paid by other entities (associated enterprises and independent enterprises) with respect to payments to the Constituent Entity.

Thus, if company A resident in tax jurisdiction A earns interest in tax jurisdiction B, the tax withheld in tax jurisdiction B should be reported by company A.

(e) Income Tax Accrued (Current Year)

In the seventh column of the template, the Reporting MNE should report the sum of the accrued current tax expense recorded on taxable profits or losses of the year of reporting of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction.

The current tax expense should reflect only operations in the current year and should not include deferred taxes or provisions for uncertain tax liabilities.

(f) Stated Capital

In the eighth column of the template, the Reporting MNE should report the sum of the stated capital of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, the stated capital should be reported by the legal entity of which it is a permanent establishment unless there is a defined capital requirement in the permanent establishment tax jurisdiction for regulatory purposes.

(g) Accumulated Earnings

In the ninth column of the template, the Reporting MNE should report the sum of the total accumulated earnings of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction as of the end of the year. With regard to permanent establishments, accumulated earnings should be reported by the legal entity of which it is a permanent establishment.

(h) Number of Employees



In the tenth column of the template, the Reporting MNE should report the total number of employees on a full-time equivalent (FTE) basis of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The number of employees may be reported as of the year-end, on the basis of average employment levels for the year or on any other basis consistently applied across tax jurisdictions and from year to year. For this purpose, independent contractors participating in the ordinary operating activities of the Constituent Entity may be reported as employees. Reasonable rounding or approximation of the number of employees is permissible, providing that such rounding or approximation does not materially distort the relative distribution of employees across the various tax jurisdictions.

Consistent approaches should be applied from year to year and across entities.

(i) **Tangible Assets other than Cash and Cash Equivalents**

In the eleventh column of the template, the Reporting MNE should report the sum of the net book values of tangible assets of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, assets should be reported by reference to the tax jurisdiction in which the permanent establishment is situated. Tangible assets for this purpose do not include cash or cash equivalents, intangibles, or financial assets.

2. List of all the Constituent Entities of the MNE group included in each aggregation per tax jurisdiction (Table 2)

(a) **Constituent Entities Resident in the Tax Jurisdiction**

The Reporting MNE should list, on a tax jurisdiction-by-tax jurisdiction basis and by legal entity name, all the Constituent Entities of the MNE group which are resident for tax purposes in the relevant tax jurisdiction. As stated above with regard to permanent establishments, however, the permanent establishment should be listed by reference to the tax jurisdiction in which it is situated. The legal entity of which it is a permanent establishment should be noted (e.g. XYZ Corp - Tax Jurisdiction A PE).

(b) **Tax Jurisdiction of Organisation or Incorporation if Different from Tax Jurisdiction of Residence**

The Reporting MNE should report the name of the tax jurisdiction under whose laws the Constituent Entity of the MNE is organised or incorporated if it is different from the tax jurisdiction of residence.

(c) **Main Business Activity or Activities**

The Reporting MNE should determine the nature of the main business activity or activities carried out by the Constituent Entity in the relevant tax jurisdiction, by ticking one or more of the appropriate boxes.

Business Activities
Research and Development
Holding or Managing Intellectual Property
Purchasing or Procurement
Manufacturing or Production
Sales, Marketing or Distribution
Administrative, Management or Support Services
Provision of Services to Unrelated Parties
Internal Group Finance
Regulated Financial Services
Insurance
Holding Shares or Other Equity Instruments
Dormant
Other ¹

- ^{1.} Please specify the nature of the activity of the Constituent Entity in the “Additional Information” section.

Made in Cabinet the 15th day of December, 2017.

Davina Wilson Acting
Clerk of the Cabinet.

