

# Transfer Pricing Documentation requirements in Luxembourg

## Country by Country Reporting (CbCR) and Public CbCR

### 1. LEGAL FRAMEWORK FOR CBCR IN LUXEMBOURG

The **CbCR** requirements in Luxembourg are implemented through:

- ▶ **Law of 23 December 2016** - transposes Directive (EU) 2016/881 (DAC4) into Luxembourg law.
- ▶ **Article 1711-7 of the Luxembourg Tax Code**, sets out the legal obligations for Luxembourg-based Multinational Enterprises (MNE).
- ▶ **Administrative Circular L.G. - A no. 61 (2017)**, provides practical guidance on implementation.

These rules apply to MNE groups with consolidated revenues of **€750 million** or more in the previous financial year. The main obligations for Luxembourg entities are:

#### a) CbC Notification:

- ▶ Luxembourg tax resident entities part of a **MNE** group are required to notify the Luxembourg tax authorities (**LTA**) of the identity and jurisdiction of the reporting entity, designated to file CbC report. This notification must be submitted electronically via **MyGuichet.lu** and is **due by the last day of the financial year**.
- ▶ The notification should specify whether the entity responsible for filing the CbC report is the Ultimate Parent Entity (**UPE**) or a Surrogate Parent Entity (**SPE**). Failure to submit this notification on time or at all may result in penalties of up to **€250,000**.

#### b) CbC Report:

- ▶ The CbC report must be filed in Luxembourg by the **UPE** of an MNE only if it is tax resident in Luxembourg. If the UPE is not tax resident in Luxembourg, in specific cases, a **SPE** may be designated to file the report on behalf of the Group. The CbC report must be submitted electronically via **MyGuichet.lu** **within 12 months following the end of the financial year**.
- ▶ The report must include detailed financial and tax information for each jurisdiction in which the MNE operates, including data such as revenue, profit or loss before tax, taxes paid and accrued, and other relevant financial metrics. Non-compliance with the CbC report requirements may result in fines of up to **€250,000**.

## Country by Country Reporting (CbCR) and Public CbCR

### 2. Legal framework for Public CbCR in Luxembourg

In Luxembourg, the **public CbCR Law**, implementing the European Union (EU) directive regarding the Disclosure of Income Tax Information by Certain Undertakings and Branches (2021/2101) (the Public CbCR Directive), has been signed on 15 August 2023, and it is effective for accounting periods beginning on or after **22 June 2024**.

#### a) Entities in scope:

- ▶ The Law applies to MNEs based in the EU and non-EU- based MNEs undertaking business in the EU through a branch or subsidiary, with a consolidated annual revenue of at least EUR 750 million for two consecutive years. The following types of entities are in scope:
- ▶ Private and public limited liability companies (**SARL and SA**) and partnerships limited by shares (SCA).
- ▶ **General and common limited partnerships**, when their direct or indirect partners are organized as limited liability companies or similar entities.
- ▶ **Branches** opened in Luxembourg by MNE groups or standalone companies established outside the EU.

#### b) Public CbCR Report content:

- ▶ The report should include the name of the UPE, the standalone entity, the financial year, and the currency used. It must also detail the nature of activities, number of employees, total net turnover, pre-tax profit, income tax due based on current-year profits in the country, actual tax paid, and accumulated earnings.

#### c) Reporting requirements:

- ▶ The report should be filed with the Luxembourg Trade and Companies Register (**RCS**) **within 12 months after the end of the financial year**.
- ▶ The report should also be published on the company's website (if applicable) and be accessible free of charge for at least five years. If a company does not have its own website, it is possible to publish the report on the website of the parent entity or of an industry association.
- ▶ Failure to comply with these obligations can result in a fine between **EUR 500 and EUR 25,000**.

## Country by Country Reporting (CbCR) and Public CbCR

### 3. Services provided by BDO

BDO's Transfer Pricing team is here to help you navigate the complexities of the CbC reporting rules and ensure full compliance with their requirements.

**Our team of experts can assist you with the following services:**

- ▶ Support in validating if a multinational group is subject to CBCR;
- ▶ Support to identify the Reporting Entity, including whether surrogate parent filing or secondary filing is applicable;
- ▶ Draft and submit the CBC notifications to the Luxembourg tax authorities;
- ▶ Support and guidance with creating the CbC Report using data that exists in the group's financial systems;
- ▶ Support with converting the Excel with information into the XML format needed for submission of the CbC Report;
- ▶ Support with filing the CbCR through the electronic platform of the Luxembourg Tax administration MyGuichet.lu;
- ▶ Other Ad-hoc support regarding the CbC process and any Transfer Pricing Advisory services, as needed.



## INTERESTED?

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