

BEPS: Luxembourg Law of 23 December 2016

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In the context of action 13 of the base erosion and profits shifting (“**BEPS**”) action plan, Luxembourg Parliament adopted the Law dated 23 December 2016 implementing country-by-country reporting requirements for entities that are part of a multinational enterprise group (“**MNE Group**”) (“**CBCR Law**”) implementing the Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

A) MNE Groups concerned

MNE Groups are subject to the provision of the CBCR Law provided the total consolidated revenue of the MNE Group amounts to at least EUR 750 million as of January 2015 during the fiscal year preceding the reporting fiscal year.

MNE Groups with a consolidated group revenue lower than EUR 750 million are considered as excluded MNE Groups and are thus not subject to reporting.

B) Reporting entities

Luxembourg resident entities (“**Reporting Entity**”) shall file a country-by-country-report (“**Report**”) with the Luxembourg tax authorities if that entity is either:

1. The “**Ultimate Parent Entity**” of a MNE Group (meaning that it prepares consolidated financial statements under accounting principles generally applied in Luxembourg or would be required to do so if its equity interests were traded on a public securities exchange;

2. A “**Surrogate Parent Entity**” appointed by the MNE Group, as a sole substitute for the non-Luxembourg Ultimate Parent Entity when:

a. the Ultimate Parent

still to be published.

F) Penalties

Each Reporting Entity or constituent entity can incur a fine of up to EUR 250,000 in case of failure to file or late filing of the Report.

G) Automatic exchange of information

The Luxembourg tax administration shall then exchange the information so collected by means of automatic exchange.

- 1 The term “constituent entity” is defined in Section 1, paragraph 6 of the annex of the CBCR Law and basically refers to every entity (separate business unit) that is included in the consolidated financial statements of the MNE Group for financial reporting purposes.

For any further information please contact us or visit our website at www.elvingerhoss.lu.

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

We undertake no responsibility to notify any change in law or practice after the date of this newsletter

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