

3 July 2017

The South African Revenue Service
Lehae La SARS, 299 Bronkhorst Street
PRETORIA
0181

ATTENTION: Adele Collins
BY EMAIL: acollins@sars.gov.za

RE: SAIT comment on the draft public notice requiring the submission of CbC, master file and local file returns (updated following the publication of the BRS: CbC and Financial Data Reporting)

We refer to the recent publication of the External Business Requirements Specification: Country-by-Country and Financial Data Reporting (BRS: CbC and Financial Data Reporting). Thank you for the opportunity to provide our updated comment on the draft public notice requiring the submission of CbC, master file and local file returns to be issued in terms of section 25 of the Tax Administration Act.

A. Introduction

Once issued, it is our understanding that the draft notice will require that the persons specified in the schedule will be required to submit returns for reporting fiscal / financial years commencing on or after 1 January 2016. These returns will have to be submitted within 12 months of the last day of each of these years. The returns will have to be in the form and contain the information specified in the BRS: CbC and Financial Data Reporting.

It is our further understanding that the Reporting Entity (other than a Surrogate Parent Entity) resident in South Africa will have to submit returns relating to the CbC Report, master file and the local file. In addition, under these rules, a person's whose potentially affected transactions (as defined) exceeds R100 million will have to submit a return relating to the master file and the local file.

The returns will have to be submitted using SARS eFiling.

B. Comments for consideration

Many taxpayers forming part of multi-national enterprises have been planning and preparing for these anticipated reporting requirements. These taxpayers realise the magnitude of the information expected and are setting-up sophisticated systems to gather and package the information.

From their perspective, it is important that the requirements in South Africa are consistent with the requirements of other countries applicable to group company members, all of which must be based on the OECD guidelines. The initial feedback in respect of the public notice after the publication of the BRS: CbC and Financial Data Reporting is positive. The overall approach is fully in line with the OECD guidelines.

Furthermore, these companies need clarity and certainty so that they can ensure that their systems will be able to provide the information required. The Regulations Specifying the Country-by-Country Reporting Standard for multinational enterprises (issued on 23 December 2016) have provided clarity on the requirements for triggering the CbC Report, which are aligned with the OECD guidelines. The publication of the BRS: CbC and Financial Data Reporting has provided much more clarity on the detailed requirements of the returns. The ultimate test will be when taxpayers implement the BRS: CbC and Financial Data Reporting in practice, to meet their filing obligations. We would request on-going consultation to ensure that the necessary alignment is reached and any residual uncertainty is removed.

We note that the terms “master file” and “local file” are used in the draft notice without being defined for purposes of the draft notice. Certainty should be provided as to the definitions of “master file” and “local file”. This could potentially be done with reference to the BRS: CbC and Financial Data Reporting.

In closing, we again welcome the opportunity to comment on the draft public notice and look forward to future engagements. This matter is important to our members, and they would like to continue to engage so they can best understand what is expected for full compliance. We thank you again for keeping us fully updated in regard to this matter, which is of high interest to our members.

Yours sincerely

Erika de Villiers
Head of Tax Policy