



Income Tax Office  
HM Government of Gibraltar

# AEOI: CbCR

---

## REPORTABLE JURISDICTIONS & EXPLANATORY NOTES

11 AUGUST 2023



## Contents

1.	Introduction & General information .....	1
2.	Reportable Jurisdictions .....	1
2.1	Convention on Mutual Administrative Assistance in Tax Matters (MAAC) - Multilateral Competent Authority Agreement (MCAA) .....	1
2.2	Council Directive 2016/881/EU ('DAC 4') up to 31 December 2020.....	3
	CbC MCAA and bilateral agreements.....	3
2.3	Temporarily non-reciprocal (CbC MCAA) .....	5
2.4	Permanently non-reciprocal (CbC MCAA).....	6
2.5	Non-Intended Exchange Partners (CbC MCAA).....	6
3.	Legislation .....	6
4.	OECD Secretariat & CbC MCAA .....	8

## Disclaimer:

*These explanatory notes have been issued as an aid. They do not constitute legal advice and are not, and are not intended to be, a substitute for independent specialist advice or analysis of the applicable legislation. HM Government of Gibraltar disclaims all liability for any loss, damage, liability or expense suffered, directly or indirectly, which may be claimed to result from actions taken, or not taken, based on these explanatory notes, including without limitation, any fault, error or omission.*

## 1. Introduction & General information

This information is published by the Gibraltar Competent Authority.

The Gibraltar Competent Authority uses terms and definitions that are taken from the OECD guidance and can be relied upon for practical application or interpretation when complying with CbCR obligations. Any queries of this nature should be directed to the Competent Authority's mailbox at [aeoi@gibraltar.gov.gi](mailto:aeoi@gibraltar.gov.gi).

The guidance can be found [here](#).

## 2. Reportable Jurisdictions

### 2.1 Convention on Mutual Administrative Assistance in Tax Matters (MAAC) - Multilateral Competent Authority Agreement (MCAA)

Jurisdiction	Year of first exchange
	Fiscal years commencing on or after:
Andorra	1 January 2020
Argentina	1 January 2020
Australia	1 January 2020
Azerbaijan	1 January 2020
Barbados	1 January 2021
Brazil	1 January 2020
Chile	1 January 2020
China	1 January 2020
Colombia	1 January 2020
Costa Rica***	1 January 2020
Faroe Islands	1 January 2023

Jurisdiction	Year of first exchange
	Fiscal years commencing on or after:
Guernsey*	1 January 2018
Hong Kong, China	1 January 2020
Iceland	1 January 2020
India	1 January 2020
Indonesia	1 January 2020
Isle of Man*	1 January 2019
Israel	1 January 2021
Japan	1 January 2020
Kazakhstan	1 January 2020
Korea	1 January 2020
Liechtenstein	1 January 2020
Malaysia	1 January 2020
Maldives	1 January 2023
Mauritius	1 January 2020
Mexico	1 January 2020
Monaco	1 January 2020
New Zealand	1 January 2020
Nigeria	1 January 2020
Norway	1 January 2020
Panama	1 January 2020
Peru	1 January 2020
Russian Federation**	1 January 2020
San Marino	1 January 2020
Saudi Arabia	1 January 2020
Seychelles	1 January 2020
Singapore	1 January 2020
South Africa	1 January 2020
Switzerland	1 January 2020
Thailand	1 January 2021
Türkiye	1 January 2020

Jurisdiction	Year of first exchange
	Fiscal years commencing on or after:
United States*	1 January 2017
Uruguay	1 January 2020

*\*Bilateral Tax Information Exchange Agreement (TIEA) or Double Taxation Agreement (DTA) that includes provision for the automatic exchange of information, together with a Country-by-Country Reporting (CbC) Bilateral Competent Authority Agreement (BCAA).*

*\*\*CbC report exchanges with the Russian Federation have been suspended until further notice.*

*\*\*\*Costa Rica moved to reciprocal exchanges in 2020 but reverted to non-reciprocity in 2022, as directed by the OECD Co-ordinating Body following a tax data breach resulting from a cyber-attack. Gibraltar will therefore withhold data destined for Costa Rica until the OECD completes its investigation and gives the all-clear to resume reciprocal exchanges.*

*Note: The OECD and Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters and the Country-by-Country Multilateral Competent Authority Agreement (MCAA) do not apply bilaterally among British Crown Dependencies and British Overseas Territories (CDOT)s or between Gibraltar and the UK; hence, the need for the negotiation, conclusion, signing and entry into force of bilateral agreements.*

## 2.2 Council Directive 2016/881/EU ('DAC 4') up to 31 December 2020 CbC MCAA and bilateral agreements

Jurisdiction	Year of first exchange
	Fiscal years commencing on or after:
Austria	1 January 2016 / 1 January 2017
Belgium	1 January 2016 / 1 January 2017
Bulgaria*	1 January 2016 / 1 January 2017
Croatia	1 January 2016 / 1 January 2017
Cyprus	1 January 2016 / 1 January 2017
Czechia	1 January 2016 / 1 January 2017
Denmark	1 January 2016 / 1 January 2017

Jurisdiction	Year of first exchange
	Fiscal years commencing on or after:
Estonia	1 January 2016 / 1 January 2017
Finland	1 January 2016 / 1 January 2017
France	1 January 2016 / 1 January 2017
Germany	1 January 2016 / 1 January 2017
Greece	1 January 2016 / 1 January 2017
Hungary	1 January 2016 / 1 January 2017
Ireland	1 January 2016 / 1 January 2017
Italy	1 January 2016 / 1 January 2017
Latvia	1 January 2016 / 1 January 2017
Lithuania	1 January 2016 / 1 January 2017
Luxembourg	1 January 2016 / 1 January 2017
Malta	1 January 2016 / 1 January 2017
Netherlands	1 January 2016 / 1 January 2017
Poland	1 January 2016 / 1 January 2017
Portugal	1 January 2016 / 1 January 2017
Romania**	1 January 2016 / 1 January 2017
Slovakia	1 January 2016 / 1 January 2017
Slovenia	1 January 2016 / 1 January 2017
Spain***	1 January 2016 / 1 January 2017
Sweden	1 January 2016 / 1 January 2017
United Kingdom****	1 January 2016 / 1 January 2017

*First fiscal years within scope of exchange were as follows:*

- *1 January 2016 for ultimate parent entities and surrogate parent entities in Gibraltar.*
- *1 January 2017 for constituent entities carrying out local filing of a CbC Report in Gibraltar.*

*Exchanges in relation to fiscal years commencing 1 January 2020 are carried out under the activated relationships through the Multilateral Competent Authority Agreement on the exchange of country-by-country reports. European Union Member States are signatories of the OECD's Multilateral Convention on Mutual Administrative Assistance in Tax Matters and so information on fiscal years up to those commencing 1 January 2020 are within scope of exchange.*

*\*The Gibraltar Competent Authority previously withheld CbC reports submitted by Gibraltar reporting entities destined for Bulgaria under the CbC MCAA following a data breach in July 2019. On 10 August 2023, the OECD Secretariat's AEOI Peer Review Group approved Bulgaria's post-exchange confidentiality and data safeguards assessment report and as such Bulgaria is determined to be an appropriate partner with respect to the AEOI Standard and is cleared to receive data from exchange partners.*

*\*\*The Gibraltar Competent Authority is withholding CbC reports submitted by Gibraltar reporting entities destined for Romania under the CbC MCAA until such time as an OECD Expert Panel approves the successful completion of a Confidentiality and Data Safeguards Action Plan by each of these jurisdictions. This was not a European Union requirement under Directive 2016/881/EU ("DAC 4").*

*\*\*\*Exchanges made under an International Tax Agreement. The International Agreement on Taxation and the Protection of Financial Interests between the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland regarding Gibraltar; signed by the United Kingdom as the state responsible for Gibraltar's external relations on 4 March 2019; entered into force on 4 March 2021.*

*\*\*\*\*Exchanges made under a bilateral agreement under Article 25 of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Gibraltar for the Elimination of Double Taxation with respect to Taxes on Income and on Capital Gains and the Prevention of Tax Evasion and Avoidance. The underlying bilateral agreement is made between the competent authorities of Gibraltar and the United Kingdom for the exchange of Country-by-Country reports regarding fiscal years commencing on or after 1 January 2019 and ensuring best consistency and continuity of exchanges transitioning from Council Directive (EU) 2016/881 of 25 May 2016 ('DAC 4').*

## 2.3 Temporarily non-reciprocal (CbC MCAA)

Jurisdiction	Year of first information receipt
	Fiscal years commencing on or after:
Aruba	1 January 2020
Liberia	1 January 2024
Macao, China	1 January 2020
Papua New Guinea	1 January 2020
Qatar	1 January 2020

*Gibraltar will receive country-by-country reports from these jurisdictions but will not be required to reciprocate until such time as the OECD's Confidentiality and Data Safeguards jurisdictional assessments are successfully completed or a remedial action*

*plan recommended by an OECD Expert Panel of Assessors is implemented and approved by the Panel.*

## 2.4 Permanently non-reciprocal (CbC MCAA)

Jurisdiction	Year of first information receipt
	Fiscal years commencing on or after:
United Arab Emirates	1 January 2020
Tunisia	1 January 2020

*Gibraltar will receive country-by-country reports but will not be required to reciprocate.*

## 2.5 Non-Intended Exchange Partners (CbC MCAA)

Jurisdiction	Year of first information receipt
	Fiscal years commencing on or after:
Bahrain	-
Oman	-

*These jurisdictions have not included Gibraltar in their CRS MCAA section 8(1)(e)(i) notification of Intended Exchange Partners to the OECD Co-ordinating Body. No exchanges will therefore take place.*

# 3. Legislation

Gibraltar has the necessary legislation in place to require Reporting Entities to file a Country-by-Country (CbC) Report which is consistent with the requirements of the OECD BEPS Action 13 Report. The legislation can be accessed online via the following link:

<https://www.gibraltarlaws.gov.gi/legislations/income-tax-act-2010-2627>

In accordance with the legislation and Gibraltar's CbC MCAA section 8(1)(a) notification submitted to the OECD, the Gibraltar Competent Authority requires the filing of CbC Reports with respect to fiscal years of Reporting Entities commencing on or after 1 January 2020. Gibraltar had, up until 31 December 2020, been exchanging country-by-country reports with EU member states under Directive 2016/881/EU ('DAC 4').



Where an ultimate parent entity is resident in Gibraltar for tax purposes, that ultimate parent entity must provide the Commissioner of Income Tax with a country-by-country report for each fiscal year. A constituent entity resident for tax purposes in Gibraltar that is not an ultimate parent entity must provide the Commissioner with a country-by-country report for each fiscal year if any of the following conditions for local filing in Gibraltar are met:

- (a) the ultimate parent entity of the Multinational Enterprise (MNE) group is not required to provide a country-by-country report in its jurisdiction of tax residence;
- (b) the jurisdiction in which the ultimate parent entity is resident for tax purposes does not have a qualifying competent authority agreement with Gibraltar in force on the date on which the constituent entity must provide the report; or
- (c) there has been a systemic failure by the jurisdiction of tax residence of the ultimate parent entity and the Commissioner has notified the constituent entity resident in Gibraltar that such a failure has occurred.

A country-by-country report must specify the currency of the amounts referred to in the report and must contain the following information in respect of the MNE group concerned:

- (a) with regard to each jurisdiction in which the MNE group concerned operates, aggregate information relating to the amount of its (i) revenue, (ii) profit or loss before income tax, (iii) income tax paid, (iv) income tax accrued, (v) stated capital, (vi) accumulated earnings, (vii) number of employees, and (viii) tangible assets other than cash or cash equivalents; and
- (b) identification of each constituent entity of the MNE group setting out (i) the jurisdiction of tax residence of that constituent entity; (ii) where different from the jurisdiction of tax residence, the jurisdiction under the laws of which that constituent entity is organised; and (iii) the nature of the main business activity of that constituent entity.

An MNE group may designate a constituent entity as a surrogate parent entity if, inter alia, more than one constituent entity of the same MNE group is resident for tax purposes in the same jurisdiction (formerly, in the European Union) and the constituent entity designated can obtain or acquire all the information required to file a country-by-country report for each fiscal year.

A Multinational Enterprise group is excluded with respect to any fiscal year of the group if it has total consolidated group revenue of less than €750m during the fiscal year immediately preceding the reporting fiscal year as reflected in its consolidated financial statements for that fiscal year.

The Gibraltar competent authority shall exchange a country-by-country report received in Gibraltar to any relevant CbC-reporting partner jurisdiction in which, on the basis of the information contained in that report, one or more constituent entities of the MNE group are either resident for tax purposes or subject to tax with respect to the business carried out through a permanent establishment.

Country-by-country reports must be filed no later than 12 months after the last day of the fiscal year to which the country-by-country report relates.

Ongoing communication by the Gibraltar competent authority to the CbC reporting-partner jurisdiction must take place within 15 months of the last day of the fiscal year of the MNE group to which the report relates. The first communication to a CbC reporting-partner jurisdiction under the relevant agreement must take place within 18 months of the last day of the fiscal year.

#### 4. OECD Secretariat & CbC MCAA

Upon signature of the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (CbC MCAA), the Competent Authority of Gibraltar notified the OECD Co-ordinating Body Secretariat that it intended to transmit the information to be exchanged under Section 2 by means of and in accordance with the OECD Common Transmission System, jointly developed by the OECD, the Forum on Tax Administration and the Global Forum on Transparency and Exchange of Information for Tax Purposes.

The Competent Authority of Gibraltar also notified the Co-ordinating Body Secretariat that it had in place the necessary legal framework and infrastructure to ensure the required confidentiality and data safeguards standards in accordance with Article 22 of the Convention on Mutual Administrative Assistance in Tax Matters and Section 5, paragraph 1, of the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports, as well as the appropriate use of the information contained in the CbC Reports as described in Section 5, paragraph 2, of the CbC MCAA.

The CbC MCAA is in effect between two Competent Authorities if they have both indicated their intention to automatically exchange information with each other (Section 8(2) of the CbC MCAA) and the OECD has 'activated' this exchange relationship by publication online. A competent authority can indicate such intention through either a list of intended exchange partners (Section 8(1)(e)(i) notification) or an all-encompassing declaration of its intention to have the CbC MCAA in effect with all other signatory competent authorities (Section 8(1)(e)(ii) notification). Gibraltar has issued a Section 8(1)(e)(i) notification, which it revises as and when new jurisdictions sign the OECD's CbC MCAA.

[End]