

REPORTING-PARTNER JURISDICTIONS FOR THE PURPOSES OF THE AUTOMATIC EXCHANGE OF COUNTRY-BY-COUNTRY REPORTS

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Gibraltar Competent Authority

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https://www.youtube.com/watch?v=oDbzeX9L_xU&feature=youtu.be

CbC MCAA & Bilateral Agreements

Jurisdiction	FYs commencing on or after 1 Jan
Andorra	2020
Argentina	2020
Australia	2020
Brazil	2020
Chile	2020
Colombia	2020
Guernsey*	2018
Hong Kong, China	2020
Iceland	2020
India	2020
Indonesia	2020
Isle of Man*	2019
Japan	2020
Korea	2020
Mauritius	2020
Mexico	2020
New Zealand	2020
Norway	2020
Peru	2020
Russian Federation	2020
San Marino	2020
Seychelles	2020
South Africa	2020
Switzerland	2020
United States*	2017
Uruguay	2020

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

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; hence, the need for the negotiation, conclusion, signing and entry into force of bilateral agreements.

Council Directive 2016/881/EU of 25 May 2016 ('DAC 4') amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

Jurisdiction	FYs commencing on or after 1 Jan
Austria	2016 (UPE or SPE); 2017 (s100 const entity)
Belgium	2016 (UPE or SPE); 2017 (s100 const entity)
Bulgaria	2016 (UPE or SPE); 2017 (s100 const entity)
Croatia	2016 (UPE or SPE); 2017 (s100 const entity)
Cyprus	2016 (UPE or SPE); 2017 (s100 const entity)
Czechia	2016 (UPE or SPE); 2017 (s100 const entity)
Denmark	2016 (UPE or SPE); 2017 (s100 const entity)
Estonia	2016 (UPE or SPE); 2017 (s100 const entity)
Finland	2016 (UPE or SPE); 2017 (s100 const entity)
France	2016 (UPE or SPE); 2017 (s100 const entity)
Germany	2016 (UPE or SPE); 2017 (s100 const entity)
Greece	2016 (UPE or SPE); 2017 (s100 const entity)
Hungary	2016 (UPE or SPE); 2017 (s100 const entity)
Ireland	2016 (UPE or SPE); 2017 (s100 const entity)
Italy	2016 (UPE or SPE); 2017 (s100 const entity)
Latvia	2016 (UPE or SPE); 2017 (s100 const entity)
Lithuania	2016 (UPE or SPE); 2017 (s100 const entity)
Luxembourg	2016 (UPE or SPE); 2017 (s100 const entity)
Malta	2016 (UPE or SPE); 2017 (s100 const entity)
Netherlands	2016 (UPE or SPE); 2017 (s100 const entity)
Poland	2016 (UPE or SPE); 2017 (s100 const entity)
Portugal	2016 (UPE or SPE); 2017 (s100 const entity)
Romania	2016 (UPE or SPE); 2017 (s100 const entity)
Slovakia	2016 (UPE or SPE); 2017 (s100 const entity)
Slovenia	2016 (UPE or SPE); 2017 (s100 const entity)
Spain	2016 (UPE or SPE); 2017 (s100 const entity)
Sweden	2016 (UPE or SPE); 2017 (s100 const entity)
United Kingdom	2016 (UPE or SPE); 2017 (s100 const entity)

UPE: Ultimate Parent Entity; SPE: Surrogate Parent Entity

Gibraltar has the necessary laws in place to require Reporting Entities to file a CbC Report which is consistent with the requirements of the BEPS Action 13 Report. The legislation, which consists of sub-sections 10L to 10ZD of the Income Tax Act 2010, can be accessed via the following link: [https://www.gibraltarlaws.gov.gi/uploads/legislations/income-tax/2010-21o\(23-03-20\).pdf#viewer.action=download](https://www.gibraltarlaws.gov.gi/uploads/legislations/income-tax/2010-21o(23-03-20).pdf#viewer.action=download).

In accordance with the aforementioned law, Gibraltar will require the filing of CbC Reports with respect to fiscal years of Reporting Entities commencing on or after 1 January 2020. Gibraltar has hitherto been exchanging country-by-country reports with EU member states under Directive 2016/881/EU with respect to fiscal years of Reporting Entities commencing on or after 1 January 2016 (1 January 2017 for Income Tax Act 2010 sub-section 100 constituent entities).

The Competent Authority of Gibraltar has notified the OECD Co-ordinating Body Secretariat that it intends to transmit the information to be exchanged under Section 2 of the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports by means of and in accordance with the OECD Common Transmission System, which was 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 has also notified the Co-ordinating Body Secretariat that it has 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 of 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 same agreement.

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 (i) a list of intended exchange partners (Section 8(1)(e)(i)), or (ii) a declaration of its intention to have the CbC MCAA in effect with all other competent authorities (Section 8(1)(e)(ii)).

Where an ultimate parent entity is resident in Gibraltar for tax purposes, that ultimate parent entity must provide the Commissioner of Income 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 where:

- (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;

(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 that jurisdiction of tax residence, the jurisdiction under the laws of which that constituent entity is organized; 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 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.

Where the Commissioner receives a country by country report under Part 10ZB of the Income Tax Act 2010, he shall communicate that report to any CbC-reporting partner jurisdiction in which, on the basis of the information 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 required to be provided under Part 10T of the Income Tax Act 2010 shall be provided to the Commissioner no later than 12 months after the last day of the fiscal year to which the country by country report relates.

The communication by the Commissioner 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. In the case of Directive 2016/881/EU (the 'DAC 4'), the first communication was in relation to the fiscal year of the MNE group commencing on or after 1 January 2016 (1 January 2017 in the case of s100 constituent entities) and took place within 18 months of the last day of the fiscal year.