



# Italy: Ministerial decree enacting the Italian CbCR regulations

**Tax Alert**  
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**Through ministerial decree of 23 February 2017, published in the Italian Official Gazette on 8 March 2017, Italy has implemented - starting from FY2016 - the provisions on CbCR obligations for MNE Groups following OECD Action 13 recommendations.**

The ministerial decree, enacted by the Ministry of Economy and Finance, following Law no. 208/2015, which implemented the OECD Action 13 recommendations<sup>(1)</sup>, establishes the following.

## Entities that are required to comply with the CbCR obligations

- a) Each **Ultimate Parent Entity** (as defined in OECD Action 13) of an MNE Group that is resident in Italy for tax purposes.
- b) Each properly appointed **Surrogate Parent Entity** (as defined in OECD Action 13) of an MNE Group, provided that the Ultimate Parent Entity is resident in a country that:
  - 1) has not implemented CbCR rules; or
  - 2) does not have a Qualifying Competent Authority Agreement (as defined in OECD Action 13) with Italy; or
  - 3) does not exchange information gathered under the CbCR rules.The Surrogate Parent Entity can also be resident in a non-EU country, provided that all of the above conditions (1, 2 and 3) apply and provided that the Surrogate Parent Entity has notified both its local tax authorities and the Italian tax authorities of its appointment.
- c) Each **Constituent Entity** (as defined in OECD Action 13) of an MNE Group that is resident in Italy for tax purposes, provided that one of the above conditions (1, 2 or 3) applies and that the Ultimate Parent Entity has not appointed a Surrogate Parent Entity.

(1) See our Tax Alerts of [7 January 2016](#) and [23 December 2015](#).

In the event that the MNE Group controls Constituent Entities resident in different EU countries, it can designate one of them to be responsible for CbCR obligations for all EU entities of the Group. In this case, the Italian tax authorities need to be informed.

Should the Ultimate Parent Entity fail to provide the Constituent Entity with all the information required to comply with the CbCR obligations, the Constituent Entity must notify the Italian tax authorities of this when filing the CbC Report.

Under temporary rules for FY2016, an Ultimate Parent Company resident in a country that has not implemented CbCR rules can, under certain conditions, voluntarily comply with CbCR obligations directly.

### Details to be included in the Country-by-Country Report (CbC Report)

The CbC Report of an MNE Group:

- a) contains aggregate information on the revenue, profit (loss) before income tax, income tax payments, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents, for each jurisdiction in which the MNE Group operates;
- b) identifies each Constituent Entity of the MNE Group (including their permanent establishments) and gives details of their jurisdiction (tax or legal residence), legal form and business activities.

### Deadlines

Although the ministerial decree refers to further guidelines to be issued by the Italian tax authorities, explaining the technicalities, it clarifies that, from FY2016, the entity obliged or designated to comply with the CbCR obligations must inform the Italian tax authorities of this within the deadline for filing its annual corporate tax return (i.e. within ninth months of its year-end). Within the same deadline, each Italian entity of an MNE Group must notify the Italian tax authorities of the entity designated to file the CbC Report.

The CbC Report must be filed within 12 months of the year to which it relates.

The Italian tax authorities will exchange CbCR information with other tax authorities within 15 months of the year concerned. An exception is made for FY2016, for which the deadline is 30 June 2018 (18 months after the year-end).

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