

## Canada: ready more than ever for CbC Reporting

Further to the introduction of section 233.8 into the *Income Tax Act* (Canada) (**Act**) in the fall of 2016, the Canada Revenue Agency (the **CRA**), the administrative body responsible for the enforcement of the Act, issued form RC4649, Country-by-Country Report and RC4651 Guidance on Country-by-Country Report. Subject to some notable differences, Canada's guidance is consistent with the Organisation for Economic Co-operation and Development's (**OECD**) recommendations.

On 21 October 2016, federal Finance Minister, Bill Morneau, tabled a notice of ways and means motion that implemented country-by-country reporting into Canadian tax legislation. The measures implemented into Canadian law were consistent with the minimum standard recommended in Action 13 of the OECD's base erosion and profit shifting initiative.

The Canadian legislation requires multinational enterprises with total annual consolidated group revenue of €750 million or more to file country-by-country reports. The filing deadline for a country-by-country report depends on the fiscal year end of the entity. A country-by-country report is required to be filed in Canada for fiscal years of multinational enterprise groups beginning on or after 1 January 2016.

Since the implementation of country-by-country reporting, Canadian tax practitioners urged taxpayers to think about country-by-country reports in advance of the filing deadline in order to ensure consistency between the various tax documents filed. This advice was difficult to adhere to as there was no guidance from the CRA about the precise method of enforcing the newly enacted country-by-country provision. Fortunately, this has changed with the CRA's release of the country-by-country reporting form and its accompanying guidance. Given that the first country-by-country report for a multinational enterprise could be filed this year, is not surprising that the CRA has stated that it intends to provide a reasonable degree of flexibility for filing a country-by-country report in Canada for the initial reporting year.

### RC4649 – Country-by-Country Reporting Form

The RC4649 form released by the CRA follows the format suggested by the OECD. The form requires taxpayers to provide some basic information about the reporting entity, the role of the entity in the OECD's reporting hierarchy (ie. whether the entity is the ultimate parent entity, surrogate parent entity, or constituent entity), and certain other reporting metrics. The country-by-country reporting form also requires taxpayers to provide additional details on constituent entities, including the taxpayer's identification number and the location of the business.

### RC4651 – Guidance on Country-by-Country Reporting Form

The CRA's guidance on country-by-country reporting, a 17 page document, covers many key areas of the country-by-country initiative that are also covered in the OECD guidance. The CRA openly acknowledges that the seeds of the country-by-country reporting were planted by the OECD.

However, the CRA takes a number of views that are divergent from those of the OECD guidance and takes the position that where there are differences between the OECD model legislation and the Canadian country-by-country reporting legislation, the Canadian country-by-country reporting legislation takes precedence. Taxpayers need to be mindful of the differences to ensure that they are fully compliant with Canadian tax law.

Recently, the CRA released the country-by-country reporting form and guidance on the implementation of country-by-country reporting. Certain approaches advocated for by the CRA differ from those recommended by the OECD. Circumstances could arise where Canadian practices differ from those of the OECD. It is expected that in these situations the CRA will likely take a position that is aligned with Canadian practices rather than those of the OECD. As a result, it is extremely important that multinationals with Canadian operations are mindful of the unique aspects of Canadian country-by-country reporting requirements.

**Your Taxand contact for further queries is:**

Craig Webster

T. +1 416 367 6149

E. [CWebster@blg.com](mailto:CWebster@blg.com)

Alex Klyguine

T. +1 416 367 6163

E. [AKlyguine@blg.com](mailto:AKlyguine@blg.com)