



## 澳门税务快讯

### 所得补充税规章修改案

根据经济合作与发展组织(简称“OECD”)为打击跨境逃漏税活动所制定的国际标准,澳门特别行政区(简称“澳门”)作为合作框架的会员之一,有义务遵从在该领域所承担的国际义务;而作出这一遵从的前提是要在澳门具备必要的法律基础,故此澳门所得补充税规章修改案<sup>1</sup>于2019年12月16日获立法会通过,自公布后三十日生效。但值得注意的是,当中的补充义务涉及国别报告申报书的申报,已适用自2019年1月1日或之后开始的报送财务年度的信息。

#### 修改案的有关内容如下:

- 作为最终母实体须以 A 组纳税人作所得补充税申报。
- 要求符合或不再符合最终母实体所定条件的公司,须自事实发生起九十日内向财政局作出书面通知。
- 如最终母实体的合并财务报表的总收益达到指定的金额,必须履行以下三项补充义务:
  - a) **文件备有义务:** 准备报送财务年度所涉的跨国企业集团经营活动纪录,且于报送财务年度结束后三个月内通知财政局已履行有关义务。  
例如,2019年12月31日财务年度的澳门最终母实体,若其合并财务报表的总收益达到指定的金额,则必须在2020年3月31日前通知财政局。
  - b) **文件报送义务:** 自报送财务年度结束翌日起十二个月的期间内,按财政局指定文件格式以电子加密方式提交国别报告申报书。  
例如,2019年12月31日财务年度达标的澳门最终母实体,必须在2020年12月31日前按财政局指定文件格式以电子加密方式提交国别报告申报书。

- c) **文件保存义务**：自报送财务年度结束翌日起七年内，妥善保存跨国企业集团经营活动纪录的组成文件及信息。  
例如，2019年12月31日财务年度达标的澳门最终母实体，须妥善保存经营活动纪录至2026年12月31日。
- 由于最终母实体涉及上述的补充义务，因此企业须留意其定义。根据修改案，最终母实体是指同时符合以下两项条件的跨国企业集团的成员实体：
    - a) 直接或间接持有该跨国企业集团一家或多家其他成员实体的充分利益，以致根据其税务居民管辖区一般适用的会计准则须编制合并财务报表，又或其股权在公开证券市场进行交易时须编制合并财务报表；
    - b) 没有被该跨国企业集团的其他成员实体直接或间接持有上一分项所指的利益。
  - 对于不遵守上述补充义务者科处罚款：
    - a) 科一百至一万澳门元罚款；
    - b) 如属故意，科一千至二万澳门元罚款；
    - c) 其他未特别指明的违法行为，科一百至二千澳门元罚款。

#### 补充性行政法规：

考虑到 OECD 的相关标准或会调整，故此所得补充税规章修改案会以补充性行政法规另行规定相关适用范围、文件及信息范围的规定。目前该补充性行政法规仍待公布，所以以下的规定尚未明确：

- 要求履行补充义务所指合并财务报表的总收益金额。但参考财政局对修改《所得补充税规章》法案的咨询文件，该金额可能订为七十亿澳门元
- 文件报送义务中所指的国别报告申报书，其档案的格式、申报的数据和电子加密提交方式。
- 根据行动十三标准，所有参与的管辖区须制定内部法律，要求符合申报条件的跨国企业集团的最终母实体须备有：
  - a) 总体档案：此档案应备有所属集团的宏观经济资料；
  - b) 本地档案：此档案应备有所属集团在每一税收管辖区的详细交易转让定价数据；
  - c) 国别报告申报书：此申报书应备有所属集团于每一经营业务的税收管辖区的收入、利润和缴税金额等信息，以及特定的经营活动指标。

根据修改案，要求保存跨国企业集团的经营纪录的组成文件及信息中，包括国别报告申报书。但总体档案、本地档案、转让定价数据等并未于修改案中提及。

- 关于转让定价制度，在财政局就修□案的咨询项目总结报告中提及，修改案仅限于引入某些申报义务，而不是为了引入转让定价制度；同时，考虑到修改案涉及“转让定价”一词，在行政法规中将引入其解释。目前修改案的内容并不意味着财政局会对纳税人申报收入作出调整，也不代表会对补充义务的最终母实体进行转让定价政策评估或分析所作的陈述来评估转让定价方法。
- 对于最终母实体的要求中提及了合并财务报表，但澳门现行的会计准则并未提及或采用合并财务报表。在财政局就修□案的咨询项目总结报告中提及，财政局已经制定了一项提案，以采用新的财务报告准则。该财务报告准则已完成公众咨询(2019年1月10日至2019年2月18日)，该公众咨询总结报告提及，新《财务报告准则》设有过渡期，自2022年1月1日起强制适用。但截至目前，新的财务报告准则尚未立法通过或生效，从而可能导致部分企业需在新的财务报告准则生效后才符合最终母实体的定义。这不明确因素尚待财政局进一步澄清。

## 国别报告信息的自动交换

截至2019年12月31日，已与澳门签订《税收信息交换协定》或《对所得避免双重征税和防止逃税/偷漏税协议》的国家和地区已增至二十三个，包括葡萄牙、中国内地、比利时、莫桑比克、佛得角、丹麦、法罗群岛、芬兰、格陵兰、冰岛、挪威、瑞典、澳大利亚、印度、牙买加、马耳他、日本、根西岛、英国、阿根廷、爱尔兰、越南以及香港特别行政区。但澳门目前仍未与其他国家和地区<sup>2</sup>启动基于《多边主管当局间协议》(Multilateral Competent Authority Agreement, 简称MCAA)的国别报告自动交换机制。由于上述所得补充税规章修改案刚生效不久，我们认为澳门会逐渐与各税收管辖区签订MCAA来进行国别报告的自动交换。

随着修改案的生效、补充性行政法规的公布，以及更多实务流程的推出，我们将适时推出有关的税务快讯，敬请期待。如对上述有任何疑问，请联系我们的专业服务团队。

## 注释：

<sup>1</sup>修改案(第21/2019法律)详见澳门印务局网站  
[https://bo.io.gov.mo/bo/i/2019/51/lei21\\_cn.asp](https://bo.io.gov.mo/bo/i/2019/51/lei21_cn.asp)

<sup>2</sup>数据详情参见OECD网站<http://www.oecd.org/tax/beps/country-by-country-exchange-relationships.htm>

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如有任何疑问，请联系我们的专业服务团队：

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## Macao Tax Newsflash

### Amendment to Macao Complementary Tax Regulations

Further to the international standards formulated by the Organization for Economic Cooperation and Development (OECD) for preventing the Base Erosion and Profit Shifting (BEPS), Macao Special Administrative Region (Macao), as one of the members of the cooperation framework, in response to the international obligations, passed the amendment to the Macao Complementary Tax Regulations (the Amendment) on 16 December 2019 by the Macao Legislative Assembly. The Amendment will be effective from 30 days after promulgation. One would note that the Amendment involves Country-by-Country Report (CbCR) notification and submission obligations which is retrospective applicable to the financial year starting on or after 1 January 2019.

### Key Contents:

- Ultimate parent entity (UPE) should file Macao Complementary Tax return as group A taxpayer.
- Entity, that satisfy or fail to satisfy the conditions of UPE, should submit the facts in writing to the Financial Services Bureau (the FSB) within 90 days from the day of its occurrence.
- If the total revenue of the consolidated financial statements is equal to or greater than the specified amount, the UPE should meet the following 3 supplementary obligations:
  - a) **Document Preparation Obligation:** the UPE must prepare the documents of its multinational group of companies for the relevant financial year, and notify the FSB of its obligations within 3 months after the end of the relevant financial year.  
**Example:** UPE, with the financial year ended 31 December 2019, must notify the FSB before 31 March 2020 if the total revenue of its consolidated financial statements is equal to or greater than the specified amount.
  - b) **Document Reporting Obligation:** within 12 months after the end of the relevant financial year, the UPE should submit CbCR in accordance with the electronic encryption and file format specified by the FSB.  
**Example:** the UPE, with the financial year ended 31 December 2019, should submit CbCR before 31 December 2020 in accordance with the electronic encryption and file format specified by the FSB.
  - c) **Document Keeping Obligation:** the UPE should properly keep the documents of its multinational enterprise group within seven years after the end of the relevant financial year.  
**Example:** the UPE, with the financial year ended 31 December 2019, should properly keep the documents until 31 December 2026.
- As UPE should comply with the above-mentioned obligations, it is important for an entity to understand the definition of UPE. In accordance to the Amendment, UPE

means a constituent entity of a multinational enterprise group that meets the following 2 conditions:

- a) A entity owns directly or indirectly a sufficient interest in one or more other constituent entities of the group such that it is required to prepare consolidated financial statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange; and
  - b) There is no other constituent entity of the group that owns directly or indirectly the interest described in above a) paragraph.
- UPE, who violates with the above supplementary obligations, will be fined:
    - a) MOP100 to MOP10,000;
    - b) If the violation is deliberate, MOP1,000 to MOP20,000;
    - c) Other unspecific violations, MOP100 to MOP2,000.

### Supplementary Administrative Regulation

Considering the relevant standards of the OECD may be adjusted, Supplementary Administrative Regulation (SAR) to the Amendment will be separately provided for stipulating the scope, file format and data requirement. At present, the SAR has not yet promulgated, so the followings remain uncertain:

- The Amendment has not specified the threshold amount on the total revenue of the consolidated financial statements. However, the FSB's consultation report mentioned that the threshold amount might be set at MOP 7 billion.
- Refer to the "Document Reporting Obligation", the file format, data requirement and electronic encryption of CbCR were not specified in the Amendment.
- According to OECD's action 13 requirements, all participating jurisdictions must have domestic law that require the UPE of a multinational enterprise group to have:
  - a) **Master File:** this file provides high-level overviews of the global business structure and information of a multinational enterprise group.
  - b) **Local File:** this file provides detailed transfer pricing information of the local entity of each tax jurisdiction.
  - c) **Country-by-Country Report:** CbCR provides information relating to the group's income, profits and tax data in each involved tax jurisdictions, together with other data of specific economic activity (CbCR information).

According to the Amendment, the UPE is required to keep the documents of its multinational enterprise group, including CbCR. However, Master File, Local File and



transfer pricing information, etc. were not mentioned in the Amendment.

- Regarding the transfer pricing mechanism, the FSB's consultation report mentioned that the Amendment was aimed at introducing the above obligations, and not at introducing the transfer pricing mechanism. At the same time, given the Amendment has the term "transfer pricing", its interpretation will be introduced in the SAR. The Amendment does not indicate that the FSB will make transfer pricing adjustments to the taxpayer's declared income, nor make transfer pricing analysis to evaluate the transfer pricing method adopted by the UPE.
- The definition of the UPE mentions consolidated financial statements. However, Macao's current financial reporting standards do not mention/require to issue consolidated financial statements. As mentioned in the FSB's consultation report, a proposal was made for adopting the new financial reporting standards. Another FSB's public consultation report about the new financial reporting standards (consultation period from 10 January 2019 to 18 February 2019) mentioned that the new financial reporting standards would be mandatory from 1 January 2022. But as of today, the new financial reporting standards have not been enacted. As a result, some entities may meet the definition of the UPE after the effective date of new financial reporting standards. It is unclear as at today and should wait for further clarification from the FSB.

### **Automatic Exchange of CbCR**

By 31 December 2019, the total number of countries/regions which have signed the Tax information Exchange Agreements or the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income with Macao have increased to 23 including Portugal, Mainland China, Belgium, Mozambique, Cape Verde, Denmark, Faroe Islands, Finland, Greenland, Iceland, Norway, Sweden, Australia, India, Jamaica, Malta, Japan, Guernsey, the United Kingdom, Argentina, Ireland, Vietnam and Hong Kong Special Administrative Region. Macao has not yet signed Multilateral Competent Authority Agreement (MCAA) with other tax jurisdictions for automatic exchange of CbCR. As the Amendment came into effect recently, we believe that Macao government is under the discussions with other tax jurisdictions for MCAA.

Following the effective date of the Amendment, the promulgation of the SAR and the release of practical guidance, we will publish relevant tax newsflash in due course, please pay attention to our newsflash.

### **Reference:**

<sup>1</sup>the Amendment (21/2019 Law), Macao Official Press website  
[https://bo.io.gov.mo/bo/i/2019/51/lei21\\_cn.asp](https://bo.io.gov.mo/bo/i/2019/51/lei21_cn.asp)

<sup>2</sup>OECD website  
<http://www.oecd.org/tax/beps/country-by-country-exchange-relationships.htm>

consult their tax advisors before acting on any information contained in this newsletter.

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