

税务快讯

中国已与 42 个国家建立国别报告信息自动交换关系

根据税基侵蚀和利润转移（即 Base erosion and profit shifting，简称“BEPS”）第 13 项行动计划的最终成果报告，二十国集团和经合组织共同制定了《国别报告实施方案》，各国可以通过以下三个主管税务机关协议模板来交换国别报告，即：

- 《关于国别报告信息交换的多边主管税务机关协议》（Multilateral Competent Authority Agreement on the Exchange of Country-By-Country Reports，以下简称：CbC MCAA）
- 基于《双边税收协定》的国别报告交换协议（Competent Authority Agreement on the Exchange of Country-by-Country Reports on the Basis of a Double Tax Convention，以下简称：DTC CAA）
- 基于《税收信息交换协议》的国别报告交换协议（Competent Authority Agreement on the Exchange of Country-by-Country Reports on the Basis of a Tax Information Exchange Agreements，以下简称：TIEA CAA）。

截至 2018 年 11 月初，包括中国在内的 74 个国家与地区签署了 CbC MCAA，目前已有超过 1,900 个信息自动交换关系搭建完毕。

根据经合组织转让定价国别报告信息交换系统统计信息显示，截至目前，中国已与 42 个国家建立了双向的国别报告信息自动交换关系，分别为：

阿根廷	澳大利亚	奥地利	比利时	巴西	保加利亚	加拿大
克罗地亚	捷克	丹麦	爱沙尼亚	芬兰	法国	德国
希腊	匈牙利	印度	印度尼西亚	爱尔兰	意大利	日本
韩国	拉脱维亚	列支敦士登	立陶宛	卢森堡	马耳他	墨西哥
荷兰	新西兰	挪威	波兰	葡萄牙	俄罗斯	新加坡
斯洛伐克	斯洛文尼亚	南非	西班牙	瑞典	瑞士	英国

此外，中国与塞浦路斯及罗马尼亚两国建立了国别报告信息自动换入关系，即对于跨国企业集团在中国设有成员实体的、国别报告申报国家为塞浦路斯及罗马尼亚的，该集团公司国别报告信息将通过国别报告信息自动交换平台提供给中国税务当局。

中国跨国企业集团申报的首份国别报告在以上建立的国别报告信息自动交换关系下，最早自 2017 年 1 月 1 日或以后开始的财务年度将进行自动信息交换；根据 BEPS 第 13 项行动计划的建议，跨国企业集团财务年度结束之后的 18 个月内完成相应年度国别报告的信息自动交换工作。

德勤评论

2018 年开始，中国税务当局加快了建立国别报告信息自动交换关系的步伐，在与英国、德国、法国成功搭建国别报告信息交换关系的基础上，截至目前，中国已与除美国、沙特阿拉伯以及土耳其以外的所有二十国集团成员成功搭建了国别报告信息自动交换关系，未来预计更多主管税务机关会基于 CbC MCAA 协议与其他国家或地区建立信息自动交换关系。

首次交换年度

经合组织转让定价国别报告信息交换关系统计信息显示，中国对外交换的国别报告信息一般适用于跨国企业自 2017 年 1 月 1 日或以后开始的财务年度。换言之，需要申报国别报告的中国居民企业，在 2018 年 5 月 31 日前通过年度关联业务往来申报表申报的 2017 年国别报告，一般将会在 2019 年 6 月前作为首次交换年度的信息完成自动交换。

国别报告的本地申报

根据 BEPS 第 13 项行动计划，如果主管税务机关在规定条件下因某些原因无法正常获取或使用国别报告，则可以采用合理的补充申报机制（Secondary Mechanism），直接要求跨国企业集团在当地的成员实体在本税收管辖地内进行本地申报（Local Filing）。上述原因主要包括：

- 跨国企业集团的最终控股企业所在税收管辖地不要求提交国别报告；
- 主管当局之间在当前的国际协议下未能及时达成保证国别报告信息交换的主管税务机关协议；
- 尽管双方就信息交换已达成协议，但国别报告实际并未交换成功。

在中国目前已经建立的 42 个国别报告信息交换关系下，如果 2017 年国别报告成功交换，按照 BEPS 行动计划建议，中国跨国企业的境外税收管辖地税务机关，将不会再要求由其当地成员实体进行国别报告本地申报，而是通过主管当局间协议通过信息交换方式自动获得。

为了避免补充申报机制（如本地申报）的滥用，经合组织强调应当由跨国企业集团最终控股企业准备和申报国别报告这一基本原则，并敦促各国之间建立国别报告信息自动交换关系。但是，即使某些中资跨国企业集团的海外成员实体位于已搭建自动信息交换关系的有关国家，相关企业仍需了解该国对本地申报是否有特别要求，以免产生合规性风险。

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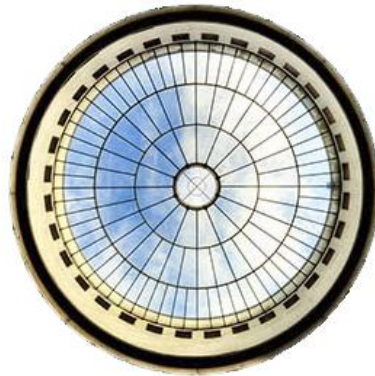
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Tax Newsflash

China has established bilateral CbC report automatic exchange relationships with 42 jurisdictions

Through their work on the final report on BEPS action 13 (*Transfer Pricing Documentation and Country-by-Country Reporting*), the G20 and OECD developed the *Country-by-Country Reporting Implementation Package*, which provides that countries may establish Country-by-Country (CbC) report exchange relationships through the following competent authority agreements:

- The *Multilateral Competent Authority Agreement on the Exchange of Country-By-Country Reports* (CbC MCAA);
- A competent authority agreement on the exchange of CbC reports on the basis of a double tax convention (DTC CAA); or
- A competent authority agreement on the exchange of CbC reports on the basis of a tax information exchange agreement (TIEA CAA).

As of early November 2018, over 1,900 bilateral exchange relationships had been activated with respect to jurisdictions committed to exchanging CbC reports, which include exchanges between the 74 signatories to the CbC MCAA (including China).

According to the information provided on CbC exchange relationships on the OECD website, so far China has established bilateral automatic exchange relationships for CbC reports with the following 42 jurisdictions:

Argentina	Australia	Austria	Belgium	Brazil	Bulgaria
Canada	Croatia	Czech Republic	Denmark	Estonia	Finland
France	Germany	Greece	Hungary	India	Indonesia
Ireland	Italy	Japan	Korea	Latvia	Liechtenstein
Lithuania	Luxembourg	Malta	Mexico	Netherlands	New Zealand
Norway	Poland	Portugal	Russia	Singapore	Slovakia
Slovenia	South Africa	Spain	Sweden	Switzerland	UK

Note: According to the OECD website, Cyprus and Romania have committed to send CbC reports to China, but no relationship has been established yet for Cyprus and Romania to receive CbC reports from China.

Under these CbC exchange relationships, CbC reports submitted by a Chinese MNE first will be automatically exchanged with respect to taxable periods starting on or after 1 January 2017. Under BEPS action 13, CbC reports are to be exchanged no later than 18 months after the end of the relevant period.

Deloitte comments

During 2018, China's tax authorities have accelerated the pace of establishing CbC report automatic exchange relationships. To date, China has successfully established CbC automatic exchange relationships with all G20 members, except for Saudi Arabia, Turkey and the US. In the future, more automatic exchange relationships are expected to be established among competent tax authorities based on the CbC MCAA.

First Year of Exchange

The information provided on CbC exchange relationships on the OECD website indicates that China's outbound exchanges of CbC reports for MNEs generally are effective for taxable periods starting on or after 1 January 2017. In other words, for a Chinese resident enterprise that is required to file a CbC report, the CbC report submitted through the annual related party transactions form before 31 May 2018 will be exchanged automatically, and the first automatic exchanges of CbC reports will take place before the end of June 2019.

Local Filing of CbC Reports

Under BEPS action 13, if the competent tax authority fails to obtain or use the CbC reports for some reason, under certain conditions, a secondary mechanism may be adopted where it is appropriate to directly require a resident constituent entity of an MNE group (rather than the ultimate parent of the group) to file the CbC report in its tax jurisdiction. These reasons mainly include:

- The tax jurisdiction has not required CbC reporting from the ultimate parent entity of the MNE group;
- No competent authority agreement has been agreed in a timely manner under the jurisdiction's current international agreements for the exchange of CbC reports; or
- It has been established that there is a failure to exchange the information with a jurisdiction in practice, after agreeing with that jurisdiction to do so.

As bilateral CbC report exchange relationships have been established between China and 42 countries, once the CbC

reports are successfully exchanged, under BEPS action 13, the tax authorities of overseas tax jurisdictions of Chinese MNEs should no longer require local reporting by resident constituent entities of the MNE group. The CbC reports will be automatically obtained through the information exchange relationship provided for in the competent authority agreement between the tax authorities.

To prevent abuse of the secondary mechanism, the OECD emphasizes the fundamental principle that it should be the ultimate parent entity of the MNE group that prepares and files the CbC report, and urges the establishment of bilateral exchange relationships among countries for CbC reports. Potentially affected MNE groups should take into account the fact that countries where their constituent entities are resident may have special requirements for local filing of CbC reports to avoid any risks of noncompliance.

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