Tax & Legal Weekly Alert

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OECD releases guidance on the implementation of Country-by-Country reporting
Deloitte launched CDX tool

In the context of the OECD's release of Guidance on the Implementation of Country-by-Country (CbC) Reporting and Romania's accession to the BEPS implementation Forum, Deloitte has developed a tool designed to help businesses visualize the potential impact of the Country-by-Country Reporting requirements.

OECD releases discussion draft on revised guidance on profit split

The OECD released on July 4 a Discussion Draft on Revised Guidance on Profit Split. The document does not reflect, at this stage, a consensus position of the governments involved, but it is designed to provide substantive proposals for public review and comment.

The new Norms regarding the deduction for corporate income tax purposes for research and development expenses

The Norms were approved through the joint set out Order 1056/4435/2016. The amendments bring clarifications, as well as some novelty items expected by the business environment.

OECD releases guidance on the implementation of Country-by-Country reporting
Deloitte launched CDX tool

OECD's guidance on the implementation of CbC reporting
The OECD/G20 BEPS Project set out 15 key actions to reform the international tax framework and ensure that profits are reported where economic activities are carried out and value is created. One of the main outcomes of that work has been the adoption of country-by-country (CbC) reporting, as set out in the 2015 BEPS Report on Action 13 "Transfer Pricing Documentation and Country-by-Country Reporting".

Under CbC reporting, MNEs will be required to provide aggregate information annually, in each jurisdiction where they do business, relating to the global allocation of income and taxes paid, together with other indicators of the location of economic activity within the MNE group. It will also cover information about which entities do business in a particular jurisdiction and the business activities each entity engages in.

Following the endorsement of the BEPS Package by G20 Leaders in November, the focus has now shifted to ensuring a consistent implementation, including of the new transfer pricing reporting standards developed under Action 13 of the BEPS Action Plan. To that aim, the guidance released in June sets out:

- Transitional filing options for MNEs that voluntarily file in the Parent jurisdiction;
- Guidance on the application of CbC reporting to investment funds;
- Guidance on the application of CbC reporting to partnerships; and
- The impact of exchange rate fluctuations on the agreed EUR 750 million filing threshold for MNE groups.

The OECD will continue to support the consistent and swift implementation of CbC reporting to ensure a level playing field, but also provide certainty for taxpayers and improve the ability of tax administrations to use CbC reports in their risk assessment work.

For further information about the OECD's work on CbC reporting, follow this LINK.

Memorandum on the approval of Romania's accession as an associate to the BEPS implementation Forum, initiated by OECD
In May 2016, the Ministry of Finance issued a memorandum on the approval of Romania's accession as an associate to the BEPS implementation Forum, initiated by OECD.

In this respect, as BEPS associates, all countries and jurisdictions will collaborate with OECD and G20 to develop standards and to monitor the implementation of the entire BEPS package and to evaluation of the four minimum BEPS standards related to unfair tax practices, abuse of tax agreements and country-by-country reporting requirements.

At the same time, as BEPS associates, countries and jurisdictions commit to introduce BEPS package and to apply it. Moreover, a country's participation to the achievement of BEPS framework will allow that country to implement the BEPS project and will give the certainty that BEPS solutions are applicable to all the countries and jurisdictions involved.

Deloitte's CbC Digital Exchange (CDX)

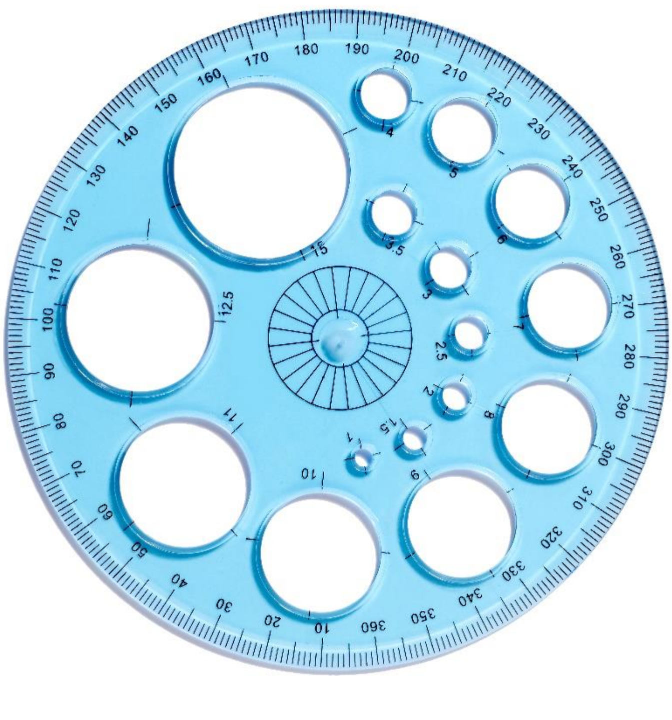
Deloitte's CDX (CbC Digital Exchange) tool was developed to help users visualize the data that may need to be reported for their organization under the OECD model. The tool provides standard visualizations and ratio analyses, including effective tax rate, percent of related revenues to total revenue, number of employees versus unrelated party revenues, profit before tax, stated capital or tangible assets, etc.

CDX can help businesses gauge organizational readiness to collect and aggregate the data needed under new CbC Reporting requirements. Users can preview, through a variety of lenses, how their data might look to stakeholders, including tax authorities and the public, and identify challenges in data collection. This exercise helps businesses to assess priorities and consider proactive steps needed before the CbC Reporting requirements come into effect.

CDX's simple, intuitive user interface offers a flexible upload process, an aggregated view of the data in the OECD format, simulation functionality with the ability to run top-down and bottom-up scenarios and the ability to sort and filter results.

CDX is intended for use by global organizations with annual consolidated group revenues above EUR 750 million. If your organization is audited by Deloitte or is part of a group or affiliated with an entity that is audited by Deloitte, there may be regulatory restrictions relating to the provision of services to your company and we may not be able to provide you access to the tool in its current form.

Please contact us using the details below for assistance in obtaining access to CDX.



OECD releases discussion draft on revised guidance on profit splits

The discussion draft modifies and expands the 2010 OECD Transfer Pricing guidance on profit splits rather than withdraw and replace it in its entirety.

Along with discussing conditions under which transactional profit splits are most appropriate, the discussion draft also articulates the role of a value chain analysis in accurately delineating a transaction and in determining the most appropriate transfer pricing method. The discussion draft specifically indicates that the existence of an integrated value chain does not necessarily imply the use of transactional profit splits, as many multinational enterprises (MNEs) operate through a global value chain.

The tone of the discussion draft has significantly shifted from the tone of the December 2014 non-consensus draft that suggested a broad applicability of profit splits to integrated value chains. If the December 2014 draft could reasonably be interpreted as suggesting formulary apportionment of an MNE's profit as appropriate in certain circumstances, the discussion draft dismisses such an interpretation. The draft contains a number of safeguards and cautions against application of transactional profit splits when it would not be appropriate. The discussion draft also recognizes that profit splits are difficult to apply, and are generally not appropriate when a party makes only routine contributions.

Peppered throughout the discussion draft are a number of specific questions on which interested parties are requested to comment. At this stage, the guidance provided by the discussion draft does not reflect a consensus position of the governments involved and it is not to be relied upon by taxpayers or tax administrations.

Further, comments are expected by September 5, 2016, and a public consultation will be held on October 11-12, 2016, at the OECD Conference Center in Paris, France.

For further questions regarding the aspects mentioned in this alert, please contact us.

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The new Norms regarding the deduction for corporate income tax purposes for research and development expenses

The joint set out Order no. 1056/4435/2016 approving the Norms regarding the deductions for corporate income tax purposes for the research and development expenses was published in the Official Gazette no. 526/13.07.2016. It rescinds the old Order 2086/4504/2010.

The Order brings amendments to the methodological norms for the application of the tax incentives for the research and development ("R&D") activities provided for by the Fiscal Code in force (Art. 20).

For further questions regarding the aspects mentioned in this alert, please contact us.

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