



TAX Alert

Thailand to adopt and exchange information following the Common Reporting Standard (CRS)

On 30 March 2023, the Thai government announced Emergency Decree and published in the Royal Gazette for Thailand to exchange financial account information, following the Common Reporting Standard (CRS), with countries participating in the Automatic Exchange of Information (AEOI). Effective from 31 March 2023 onwards, the Emergency Decree outlines the main legal framework for CRS implementation. The framework includes setting the requirements for financial institutions to collect and provide information on the accounts held directly or indirectly by their customers who are tax residents of the CRS participating countries to the Thai Revenue Department for further exchange with the tax authorities of those participating countries. The information is due every 30 June of the following calendar year.

What is the Common Reporting Standard (CRS)?

The CRS, developed by the Organisation for Economic Co-operation and Development (OECD), is an internationally agreed standard to report financial account information and enable the automatic exchange of such information amongst countries participating in the Multilateral Competent Authority Agreement (MCAA) for AEOI on an annual basis.

The implementation of CRS is the output of the Base Erosion and Profit Shifting (BEPS) initiative to combat tax evasion by taxpayers made possible through offshore bank accounts and other financial accounts. The CRS brings the offshore accounts to light by requiring financial institutions falling within the definition of reporting entities to conduct due diligence on their customers and report the information collected from the reportable accounts to the local tax office, i.e., in Thailand to the Thai Revenue Department, for further exchange of information with the tax office in the CRS participating countries.

Which financial institutions are considered reporting entities, and what information needs to be reported?

The *financial institutions* considered reporting entities under the CRS are, for instance, depository institutions, investment entities, specified public financial institutions, life insurance companies, custodial companies, credit card companies, specified trustees, and other entities as may be prescribed by the laws. Meanwhile, the *reportable account* is any account opened in the reporting entities and held by one or more reportable persons. A *reportable person* is defined as any person, either an individual or an entity,

who is identified as a resident for tax purposes in a CRS participating country and is not excluded from such reporting.

Based on the new legislation, the information to be reported in the CRS are as follows:

- (i) personal information of the taxpayer or a controlling person on behalf of the taxpayer that holds a financial account in Thailand. For instance, the report includes name, address, tax identification number, birth information, place of registration/incorporation (for entities), entity type (for entities), etc.;
- (ii) financial account information such as account number, account balance, interest received, and amount paid to the account; and
- (iii) information of the reporting financial institution, such as name and identification information of the reporting entity.

The information to be reported is the information available at the end of the calendar year. CRS reporting is an ongoing process, and financial institutions must monitor and perform continued due diligence procedures to ensure that the information reported is fairly presented.

How will the implementation of CRS affect financial institutions and taxpayers?

With the new CRS law in place, the reporting financial institutions must perform due diligence and reporting of their pre-existing and new accounts. Therefore, processes and system reconfigurations are needed to ensure compliance with the reporting obligations. In this regard, financial institutions are recommended to think about:

- Performing gap analysis between the information already available and the information required for reporting to understand your company's current position and readiness for CRS;
- Setting pre-existing accounts and new accounts onboarding due diligence processes and procedures. This includes preparing self-certification form for new accounts and contacting pre-existing account customers for information updates;
- Drafting CRS policy and governance;
- Working with the IT department to develop the needed data field for CRS reporting; and
- Training C-suite management and relationship managers so that they have an understanding of CRS for further communication with the customers.

Furthermore, although it may appear that the CRS law mainly affects the financial institutions, the impact will also be on the taxpayers due to the increased transparency brought about by the exchange of information. For instance, the Thai Revenue Department will now have access to Thai tax residents' offshore accounts held in other jurisdictions and could question whether taxes have been sufficiently paid and accounted for in Thailand. Consequently, Thai tax residents with offshore accounts would need to ensure more than ever that their offshore assets are correctly reported (where required) for tax purposes and comply with the Thai tax laws. Otherwise, the taxpayer could be exposed to non-compliance risks and be subject to additional tax liabilities.

What's next?

Supplementary laws and administrative regulations including the Ministerial Regulation, the Notification of the Revenue Department, and the Ministry of Finance by law should be released within 30 days of the Decree's gazette. However, in practice, it may take a bit of time before they come out. Once published, taxpayers can refer to these laws to provide detailed guidelines and clarifications on the Decree. To illustrate, some of the information expected to be included are the details of financial account information covered, exclusions of financial account information, financial institutions and reportable persons; due diligence procedures to be followed by financial institutions, administrative procedures in reporting and submission of the required information; and implementation timeframe for financial information accounts and the list of the participating CRS countries.

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