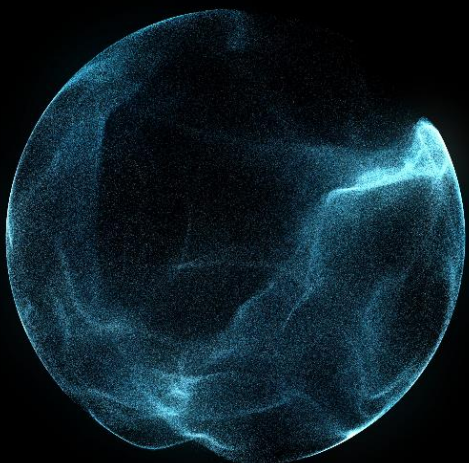


ALERT ON DECREE NO. 132/2020/ND-CP

Country-by-country report
implementation

27 November 2020



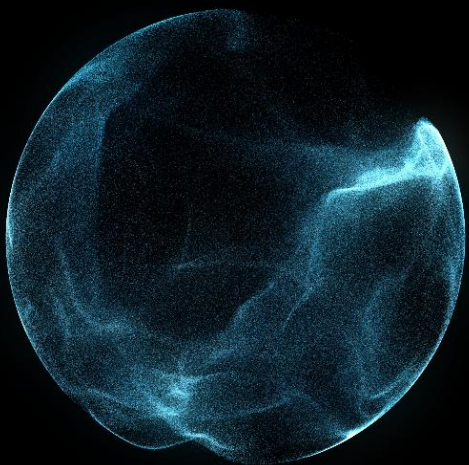
Overview

- On 05 November 2020, the Vietnamese Government issued **Decree No. 132/2020/ND-CP (“Decree 132”)** replacing Decree No. 20/2017/ND-CP from 20 December 2020 and be applicable for the 2020 tax period.
- Article 18, Point 5, Decree 132 provides details on CbCR implementation. In this Alert, Deloitte Vietnam would like to provide our Valued Clients with guidance on matters regarding the Country-by-country report (“CbCR”) as prescribed in Decree 132:
 - Understanding of new used terms in Decree 132
 - CbCR Implementation Cases; and,
 - CbCR Implementation Matrix.

Deloitte will keep you updated on any further guidance of Decree 132 in upcoming Alerts.

Glossary

Terms	Referencing to BEPS Action Plan 13 – CbCR Implementation Package
Competent Authority Agreement (“CAA”)	CAA is Multilateral Convention for Mutual Administrative Assistance in Tax Matters Which is the agreement between authorised representatives of jurisdictions that are parties to an International Agreement and requires the automatic exchange of CbCRs between the party jurisdictions (<i>Article 4, Point 2, Decree 132</i>)
International Agreement (“IA”)	IA is any bilateral or multilateral tax agreement (<i>Article 4, Point 3, Decree 132</i>) IA is any bilateral or multilateral Tax convention or any Tax Information Exchange Agreement to which Vietnam is a party, and that by its terms provides legal authority for the exchange of tax information between jurisdictions, including automatic exchange of such information (<i>BEPS Action 13 – CbCR Implementation package</i>)



CbCR Implementation Cases

A

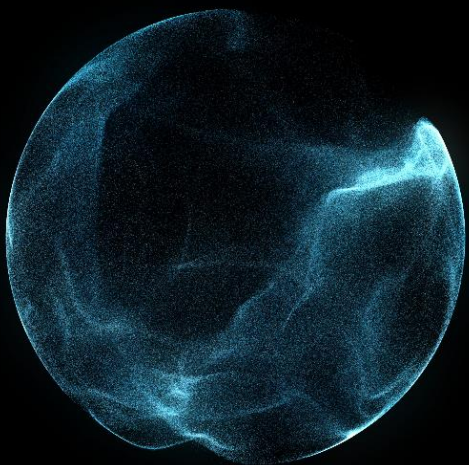
Case A: For cases where the Global Ultimate Parent Company (“GUP”) is a Vietnam tax resident having the global consolidated revenue threshold from VND 18,000 billion

- The GUP shall prepare and submit the CbCR in accordance with Appendix 04 attached to Decree 132
- Submission deadline: No later than 12 months from the last day of the GUP’s reporting fiscal year.

B

Case B: For cases where Vietnam taxpayers, having a GUP obligated to prepare a CbCR at its jurisdiction of tax residence in a foreign country (*Country X*), shall submit (the CbCR) to the Vietnam Tax Authority in the following cases:

- **B1** - Country X has a current International Agreement to which Vietnam is a party but does not have a qualifying Competent Authority Agreement in effect by no later than 12 months from the last day of the GUP’s reporting fiscal year;
- **B2** - Country X has a qualifying Competent Authority Agreement in effect with Vietnam but has suspended the automatic exchange of information (“AEOI”) or otherwise failed to automatically provide Vietnam with the CbCR of the GUP.
- **B3** - Where there are more than one subsidiaries of the same MNE Group that are resident for tax purposes in Vietnam and the foreign GUP (of the MNE Group) designates one of such entities to file the CbCR with the Vietnam Tax Authority, such designated taxpayer shall file the CbCR in Vietnam. The taxpayer is also required to submit the designation letter of the GUP to the Tax Authority on or before the last day of the Fiscal Year (to be reported) of the GUP.



CbCR Implementation Cases (cont.)

C

Case C: For cases where the GUP designates another entity, on its behalf, to file the CbCR with the authority of such entity's jurisdiction of tax residence (in another Country Y) on or before 12 months from the last day of the GUP's reporting fiscal year, and satisfies the following conditions, Case B shall not apply:

- Country Y requires filing of CbCR
- Country Y has a qualifying Competent Authority Agreement in effect to which Vietnam is a party on or before 12 months from the last day of the GUP's Reporting Fiscal Year;
- Country Y does not suspend the AEOI schema and is able to provide Vietnam with the CbCR of the MNE Group;
- The reporting entity is in possess of an official designation letter issued by the GUP on or before the last day of the Fiscal Year of the GUP.

In this case, the Vietnam taxpayer is obligated to submit such designation letter and the following information to Vietnam Tax Authority on or before the last day of the Fiscal Year (to be reported) of the GUP:

- The GUP's name, tax code, jurisdiction of tax residence; or,
- The reporting entity's name, tax code, jurisdiction of tax residence

D&D

Case D: For cases where the GUP is obligated to file the CbCR at its jurisdiction of tax residence ("Country X"), Tax Authority shall proceed with the AEOI schema in accordance with the commitment in the International Tax Agreements of which Vietnam is a party.

Case D: For cases where the GUP is not obligated to file the CbCR in accordance with the regulations of its jurisdiction of tax residence ("Country X"), Multilateral Conventions on Tax Matters shall be applied.

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