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German Tax and Legal News

## BMF Circular from July 11, 2017 related to Country-by-Country reporting in Germany

The German Federal Ministry of Finance published administrative principles on the “Requirements for the Country-by-Country Report”. This letter comprises a clarification of the Country-by-Country Report (“CbCR”) production and filing requirements within the meaning of Sec. 138a of the German General Tax Code (Abgabenordnung) and Action Point 13 of OECD BEPS.

On July 11, 2017, the German Federal Ministry of Finance (BMF) published [administrative principles on the “Requirements for the Country-by-Country Report”](#).

This letter comprises a clarification of the Country-by-Country Report (“CbCR”) production and filing requirements within the meaning of Sec. 138a of the German General Tax Code (Abgabenordnung) and Action Point 13 of OECD BEPS. The guidance is applicable as of now and already effective for the CbCRs to be filed for fiscal year 2016 until December 31, 2017 by German headquartered companies as well as non-German headquartered entities which function as so-called surrogate parent entities.

In addition to a brief summary of the legal basis of the Country-by-Country Report as well as the temporary applicability of these legal frameworks, the letter particularly details the required data format in which the CbCR has to be produced and submitted to the tax authorities. This data format equals the XML schema as [published by the OECD on 22 March 2013](#).

The letter also summarizes the requirements for each of the CbCR tables, specifically:

Table 1: Overview of the distribution of income taxes and operations by tax jurisdiction. This table provides details in accordance with Sec. 138a Para. 2 No. 1 General Tax Code, with all information classified per tax jurisdiction

- Revenue and other income from transactions with related and third-party companies as well as the sum thereof,
- Income taxes paid in the fiscal year,
- Income taxes paid and deferred in the current fiscal year which are related to the current fiscal year,
- Profit before income taxes,
- Equity,
- Retained earnings,
- Number of employees and
- Tangible assets.

Table 2: List of all companies and Permanent establishments of the group according to tax jurisdiction with their most important operations. This table provides details of the most important business activities of all companies in accordance with Sec. 138a Para. 2 No. 2 General Tax Code and relates to the same tax jurisdictions as shown in Table 1.

Table 3: Additional information. This table should include any additional information pursuant to Sec. 138a Para. 2 No. 3 General Tax Code which, in the opinion of the group parent company, is necessary for an understanding of the overview. Whereas the entire CbCR *can be* filed in English, the information submitted in table 3 *must be* provided in English.

With regard to the data format in which the CbCR has to be produced and submitted the letter clarifies that the tables outlined above are of illustrative character only. In fact, due to the applicability of the XML schema provided by the OECD, the information to be transmitted to the tax authorities goes beyond the data to be included in the tables 1 to 3 as shown in the appendices to the administrative principles and outlined in Sec. 138a General Tax Code. In particular, in addition to the aggregated financial data, constituent entity specific information such as tax ID and other master data shall be submitted to the

tax authorities.

Finally, the letter contains a reference to the CbCR website of the [BZSt](#), which is however, provided in German language.

With regard to the technical requirements of the filing procedure, the BZSt website states (as of July 11, 2017) that the CbCR must be transmitted as a so called "De-Mail" to the tax authorities at least in years 2017 and 2018. De-Mail is a specific form of authenticated, secured communication widely unknown outside Germany and not entirely compatible with regular e-mail. A De-Mail account must be acquired from one of the (currently four) German telecommunication providers that have obtained a respective official accreditation. The filing via De-Mail can only be carried out by the obligated German headquarter itself, an assigned group company or their delegated tax advisor. As of 2019, the CbCR data should be transmitted via the BZSt online portal using a specific mass data interface (ELMA).

In light of the above, it is highly recommended to make a dry-run of the data conversion into the XML schema as soon as possible in order to make adjustment to the draft CbCR where necessary. Further, care should be taken that the necessary steps are taken to ensure timely transmission of the CbCR via De-Mail.

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