

Instructions for the Country-by-Country Report

This form is for a multinational enterprise's (MNE) group which is prescribed in accordance with Article 22-1 of the Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's-Length Transfer Pricing (shall submit the Country-by-Country Report) and does not conform to the Explanatory Decree NO. 10604700690 issued by the MOF on 13 December 2017. The ultimate parent entity (UPE) shall fill out the MNE group allocation of income, taxes and business activities on a tax jurisdiction in accordance with the prescribed format and instructions of the Country-by-Country Report.

General instructions

1. Constituent Entity

In accordance with Subparagraph 1, Paragraph 5, Article 22-1 of the Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's-Length Transfer Pricing, a Constituent Entity of the Country-by-Country Report shall mean an entity that meets any one of the following conditions:

- (1) Any profit-seeking enterprise that is included in the consolidated financial statements of the MNE Group under the law or accounting principles generally applied in its jurisdiction of tax residence of the UPE;
- (2) Any profit-seeking enterprise that is not included in the consolidated financial statements in the preceding item, but would be so required if equity interests in the UPE were traded on a public securities exchange in its jurisdiction of tax residence;
- (3) Any such profit-seeking enterprise that is excluded from the MNE Group's consolidated financial statements in the preceding two items solely on size or materiality grounds; and
- (4) Any permanent establishment of any profit-seeking enterprise of the MNE group included in the preceding three items provided the profit-seeking enterprise prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes.

2. Branches and Permanent Establishments

The financial data of the branches and permanent establishments should be reported individually by reference to the tax jurisdiction in which it is situated and not by reference to the tax jurisdiction of residence of the business unit of which the permanent establishment is a part. Residence tax jurisdiction reporting for the business unit of which the branches and permanent establishment is a part should exclude financial data related to the branches and permanent establishment.

3. Period covered by the annual template

The Country-by-Country Report should cover the fiscal year of the UPE. A difference in fiscal year between the Constituent Entity and the UPE may be made according to one of the following methods, with the exception of special circumstances, provided that whichever is used shall not be changed afterward:

- (1) Information for the fiscal year of the relevant Constituent Entities ending on the same date as the fiscal year of the UPE, or ending within the 12-month period preceding such date, or
- (2) Information for all the relevant Constituent Entities reported for the fiscal year of the UPE.

4. Source of data

(1) The Reporting MNE is required to use the same sources of data consistently from year to year. The source of data might be derived from its consolidation reporting packages, separate constituent entity statutory financial statements, regulatory financial statements, or internal management accounts.

(2) It is not necessary to reconcile the revenue, profit and tax reporting in the template to the consolidated financial statements. If statutory financial statements are used as the basis for reporting, all amounts should be translated to the stated functional currency of the Reporting MNE at the average exchange rate for the year stated in the Table 3. Adjustments need not be made, however, for differences in accounting principles applied from tax jurisdiction to tax jurisdiction.

(3) The Reporting MNE should provide a brief description of the sources of data used in preparing the template in the Table 3. If a change is made in the source of data used from year to year, the Reporting MNE should explain the reasons for the change.

5. Language

The Country-by-Country Report shall be filled out both in Chinese and English.

Specific instructions

Table 1: Overview of allocation of income, taxes and business activities by tax jurisdiction

1. Tax Jurisdiction (A): Please list all of the tax jurisdictions in which Constituent Entities of the MNE group are resident for tax purposes and the tax jurisdictions of permanent establishments in which it is situated according to the table of Country Code. A tax jurisdiction is defined as a State as well as a non-State jurisdiction which has fiscal autonomy.

(1) A separate line should be included for all Constituent Entities in the MNE group deemed by the Reporting MNE not to be resident in any tax jurisdiction for tax purposes.

(2) Where a Constituent Entity is resident in more than one tax jurisdiction, the applicable tax treaty tie breaker should be applied to determine the tax jurisdiction of residence. Where no applicable tax treaty exists, the Constituent Entity should be reported in the tax jurisdiction of the Constituent Entity's place of effective management.

2. Revenues (B): Including revenues from sales of inventory and properties, services, royalties, interest, premiums and any other amounts. Revenues should exclude payments received from other Constituent Entities that are treated as dividends in the payor's tax jurisdiction. Aggregated data should be reported per jurisdiction regardless of whether the transactions occurred cross-border or within the jurisdiction, or between related parties or unrelated parties in which there is more than one Constituent Entity in a jurisdiction of the MNE group. The data that is reported for the jurisdiction consist of consolidated data which eliminates intra-jurisdiction transactions between Constituent Entities in the jurisdiction shall not be considered.

(1) Unrelated Party (B1): the sum of revenues of all the Constituent Entities of the MNE group in the relevant tax jurisdiction generated from transactions with independent parties;

(2) Related Party (B2): the sum of revenues of all the Constituent Entities of the MNE group in the relevant tax jurisdiction generated from transactions with associated enterprises;

(3) Total (B3): the total of (1) and (2).

3. Profit (Loss) before Income Tax (C): The Reporting MNE should report the sum of the profit (loss) before income tax for all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The profit (loss) before income tax should include all extraordinary income and expense items.

4. Income Tax Paid (on Cash Basis) (D): The Reporting MNE should report the total amount of income tax actually paid during the relevant fiscal year by all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. Taxes paid should include cash taxes paid by the Constituent Entity to the residence tax jurisdiction and to all other tax jurisdictions. Taxes paid should include withholding taxes paid by other entities (associated enterprises and independent enterprises) with respect to payments to the Constituent Entity. Thus, if company A resident in tax jurisdiction A earns interest in tax jurisdiction B, the tax withheld in tax jurisdiction B should be reported by company A.

5. Income Tax Accrued-Current Year (E): The Reporting MNE should report the sum of the accrued current tax expense recorded on taxable profits or losses of the year of reporting of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The current tax expense should reflect only operations in the current year and should not include deferred taxes or provisions for uncertain tax liabilities.

6. Stated Capital (F): The Reporting MNE should report the sum of the stated capital of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, the stated capital should be reported by the legal entity of which it is a permanent establishment unless there is a defined capital requirement in the permanent establishment tax jurisdiction for regulatory purposes.

7. Accumulated Earnings (G): The Reporting MNE should report the sum of the total accumulated earnings of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction as of the end of the year. With regard to permanent establishments, accumulated earnings should be reported by the legal entity of which it is a permanent establishment.

8. Number of Employees (H): The Reporting MNE should report the total number of employees on a full-time equivalent (FTE) basis of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction, including independent contractors participating in the ordinary operating activities. The number of employees may be reported as of the year-end, on the basis of average employment levels for the year, or on any other basis consistently applied across tax jurisdictions and from year to year. Consistent approaches should be applied from year to year and across entities.

9. Tangible Assets other than Cash and Cash Equivalents (I): The Reporting MNE should report the sum of the net book values of tangible assets of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. Tangible assets for

this purpose do not include cash or cash equivalents, intangibles, or financial assets. With regard to permanent establishments, assets should be reported by reference to the tax jurisdiction in which the permanent establishment is situated.

Table 2: List of all the Constituent Entities of the MNE group included in each aggregation per tax jurisdiction

1. Tax Jurisdiction (A): Please refer to Column A of Table 1.

2. Constituent Entities Resident in the Tax Jurisdiction (J): The Reporting MNE should list Tax Identification Number (TIN) on a tax jurisdiction-by-tax jurisdiction basis and by legal entity name, all the Constituent Entities of the MNE group which are resident for tax purposes in the relevant tax jurisdiction. The permanent establishment should be listed by reference to the tax jurisdiction in which it is situated. The legal entity of which it is a permanent establishment should be noted (e.g. XYZ Corp – Tax Jurisdiction A PE).

TIN refers to a number used by the tax administration of the tax jurisdiction in which the Constituent Entity is resident in order to identify the Constituent Entity, or any other identification number with equivalent functions for tax purpose (TIN of the profit-seeking enterprise in the ROC is Business Administration Number); if TIN is not available, please fill in the English full name of the Constituent Entity.

3. Tax Jurisdiction of Organization or Incorporation if Different from Tax Jurisdiction of Residence (K): The Reporting MNE should report the name of the tax jurisdiction under whose laws the Constituent Entity of the MNE is organized or incorporated if it is different from the tax jurisdiction of residence.

4. Main Business Activity(ies) (L): The Reporting MNE should determine the nature of the main business activity(ies) carried out by the Constituent Entity in the relevant tax jurisdiction, by ticking one or more of the appropriate boxes. Please specify the nature of the activity of the Constituent Entity in the ***Table 3: Additional Information*** section when selecting “other”.

Table 3: Additional Information

1. Please provide a brief description of the sources of data used in Table 1. If a change is made in the source of data used from year to year, please explain the reason for the change and its consequences.

2. Please explain the stated functional currency of the UPE at the average exchange rate for the year when filling out separate entity statutory financial statements on the Source of Data of Table 1.

3. Please specify the nature of the activity of the Constituent Entity when selecting “other” on the Main Business Activity(ies) of Table 2.

