



STATUTORY INSTRUMENTS.

S.I. No. 629 of 2015



TAXES (COUNTRY-BY-COUNTRY REPORTING) REGULATIONS 2015

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The Revenue Commissioners, in exercise of the powers conferred on them by section 891H (inserted by section 33 of the Finance Act 2015 (No. 52 of 2015)) of the Taxes Consolidation Act 1997 (No. 39 of 1997), hereby make the following Regulations:

Citation

1. These Regulations may be cited as the Taxes (Country-By-Country Reporting) Regulations 2015.

Commencement

2. These Regulations shall come into operation on 1 January 2016.

Definitions

3. In these Regulations—

“Commissioners” means the Revenue Commissioners;

“domestic constituent entity” means a constituent entity, which is resident for tax purposes in the State, but does not include an ultimate parent entity or a surrogate parent entity;

“equivalent country-by-country report” means a country-by-country report, but only to the extent the information required to be included in that report is within the custody or possession of the domestic constituent entity or the domestic constituent entity has the power to obtain or acquire the information;

“electronic means” includes electrical, digital, magnetic, optical, electromagnetic, biometric and photonic means of transmission of data and other forms of related technology by means of which data is transmitted;

“principal section” means section 891H of the Taxes Consolidation Act 1997 (No. 39 of 1997).

Domestic constituent entity reporting

4. (1) Subject to Regulation 5, a domestic constituent entity of an MNE group shall provide to the Commissioners an equivalent country-by-country report with respect to a fiscal year, where—

- (a) the ultimate parent entity of that MNE group is not required to provide a country-by-country report in its jurisdiction of tax residence,

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 5th January, 2016.

- (b) the jurisdiction in which the ultimate parent entity of that MNE group is resident for tax purposes does not have in effect, by the latest date specified in Regulation 8, a qualifying competent authority agreement with the State that provides for the exchange of country-by-country reports, or
- (c) there has been a systemic failure by the jurisdiction of tax residence of the ultimate parent entity of that MNE group and the Commissioners have notified the domestic constituent entity that such a failure has occurred.

(2) The notification referred to in paragraph (1)(c) may be made by the Commissioners in such form and manner, including by electronic means, as may be specified by the Commissioners from time to time.

(3) Where paragraph (1) applies and there is more than one domestic constituent entity of the same MNE group—

- (a) the MNE group may designate one of its domestic constituent entities to provide the equivalent country-by-country report, and
- (b) the domestic constituent entity designated under subparagraph (a) shall notify the Commissioners, not later than the latest date specified in Regulation 8, that it has been so designated.

Surrogate parent entity reporting

5. (1) Regulation 4 shall not apply where a MNE group appoints a surrogate parent entity and the following applies:

- (a) one or more of the circumstances set out in Regulation 4(1) apply;
- (b) the jurisdiction in which the surrogate parent entity is resident for tax purposes—
 - (i) requires the filing of country-by-country reports,
 - (ii) has in effect, by the latest date specified in Regulation 8, a qualifying competent authority agreement with the State that provides for the exchange of country-by-country reports,
 - (iii) has not notified the Commissioners of an event mentioned in Regulation 4(1)(c), and
 - (iv) has been notified of the identity of the surrogate parent entity;
- (c) a notification has been provided to the Commissioners in accordance with Regulation 6(2).

(2) A surrogate parent entity resident in the State for tax purposes shall provide a country-by-country report to the Commissioners in accordance with Regulation 8.

Notification obligations

6. (1) An ultimate parent entity resident in the State for tax purposes or a surrogate parent entity resident in the State for tax purposes shall, not later than the last day of the fiscal year to which a country-by-country report relates, notify the Commissioners in writing that it is such an entity.

(2) Subject to paragraph (3), a domestic constituent entity shall, not later than the last day of the fiscal year to which a country-by-country report relates, notify the Commissioners in writing of the identity and jurisdiction of tax residence of the reporting entity.

(3) Where there is more than one domestic constituent entity of the same MNE group, that MNE group may nominate one such domestic constituent entity for the purposes of paragraph (2).

Form and manner of delivery

7. Information required to be provided or notifications required to be made to the Commissioners under the principal section or these Regulations shall be delivered in such form and manner, including by electronic means, as may be specified by the Commissioners from time to time and to such office of the Commissioners as is so specified.

Time by which Country- by- Country Reports are to be provided

8. Country-by-country reports and equivalent country-by-country reports required to be provided under these Regulations shall be provided to the Commissioners not later than 12 months after the last day of the fiscal year to which the country-by-country report relates, being a fiscal year commencing on or after 1 January 2016.

Failure to provide information

9. Subsections (7) and (8) of the principal section shall be construed for the purposes of these Regulations, as if the references to a country-by-country report in those subsections included a reference to an equivalent country-by-country report.

Delegation

10. The Commissioners may nominate, in writing, any of their officers to perform any acts and discharge any functions authorised by these Regulations to be performed or discharged by them.

GIVEN under my hand,
23 December 2015.

NIALL CODY,
Revenue Commissioner.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation)

These Regulations are the second stage in implementing the obligation to provide country-by-country reports. The first stage, enacted by section 33 Finance Act 2015, and introduced by section 891H into the Taxes Consolidation Act 1997, requires an Irish resident company of certain multinational groups to provide annually a country-by-country report to the Revenue Commissioners. The Regulations give effect to the recommendation on a secondary reporting mechanism set out in the final OECD\BEPS report in respect of the provision of country-by-country reports. The manner and form in which country-by-country reports are to be provided is also set out in the Regulations. These Regulations come into force on 1 January 2016.

Regulations 1 and 2 provides for the citation and commencement of the Regulations.

Regulation 3 defines terms used in the Regulations. Where a term is used, but is not defined, it has the same meaning as in Article 1 of the OECD model legislation related to country-by-country reporting contained in the OECD/G20 Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 2015 Final Report published by the OECD on 5 October 2015.

Regulations 4 and 5 provide for entities other than the ultimate parent entity of multi-national groups to provide country-by-country reports or equivalent country-by-country reports, as the case may be.

Regulation 6 sets out the notification obligations for the ultimate parent entity, surrogate parent entity and constituent entities of a multi-national group that are resident in the State for tax purposes.

Regulation 7 allows the Revenue Commissioners to specify the manner and form and means of delivery of information and notifications.

Regulation 8 sets out the return filing date for country-by-country reports and equivalent country-by-country reports.

Regulation 9 provides for the imposition of penalties where a person fails to provide an equivalent country-by-country report.

Regulation 10 allows the Revenue Commissioners to delegate the acts and functions authorised by the Regulations to any of their officers.

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