



# Egyptian Practical Manual for Country-by-Country Reporting



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## ***Glossary***

### **BEPS**

Base Erosion and Profit Shifting

### **BEPS Action 13 Final Report**

Transfer Pricing Documentation and Country-by-Country Reporting Action 13 Final Report.

### **CbC Reporting**

Country-by-Country Reporting

### **CbCR**

Country-by-Country Report

### **EGP**

Egyptian Pound

### **Egyptian Parented GAE**

A parent entity that is resident in Egypt for tax purposes (See definition of Parent entity below).

### **ETA**

The Egyptian Tax Authority

### **Executive Regulations**

The Executive Regulations of Income Tax Law No. 91 of 2005

### **FAQs**

Frequently asked questions

### **G20**

The Group of 20: An international forum for the governments and central bank governors from 19 countries and the European Union.

### **Group of Associated Enterprises (GAE)<sup>1</sup>**

Two or more associated enterprises with business activities in the same country or in two or more countries

### **Law**

Income Tax Law No. 91 of 2005

### **MNE**

Multinational enterprises

### **OECD**

Organisation for Economic Cooperation and Development

### **OECD Transfer Pricing Guidelines**

OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations

### **Parent entity**

The entity which directly or indirectly owns a sufficient interest in one or more entities of the GAE such that it is required to prepare Consolidated Financial Statements under the domestic Accounting Standards.

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<sup>1</sup> For the purpose of this Manual, the term “GAE” is similar to the term “Group” as defined in Article 1.1 of the OECD CbCR Model Legislation, Annex IV to Chapter V, OECD Transfer Pricing Guidelines.

## ***Practical Manual for Country-By-Country Reporting***

The purpose of this document is to address frequently asked questions (“**FAQs**”) in connection with the interpretation of legislation and regulations which implement Country-by-Country Reporting (“**CbC Reporting**”) in Egypt.

### **I. CbC Reporting filing obligations**

#### **Q1. What is CbC Reporting and whom does it apply to?**

CbC Reporting is part of Action 13 of the Organisation for Economic Cooperation and Development (“**OECD**”) and the Group of twenty’s (“**G20**”) Base Erosion and Profit Shifting (“**BEPS**”) Action Plan. In October 2015, the OECD/G20 published the Transfer Pricing Documentation and Country-by-Country Reporting Action 13 Final Report (the “**BEPS Action 13 Final Report**”). The BEPS Action 13 Final Report recognised that enhancing transparency for tax administrations, by providing them with adequate information to conduct transfer pricing risk assessments, is an essential part of tackling the BEPS problem.

The BEPS Action 13 Final Report requires large multinational enterprises (“**MNE**”) to file a country-by-country report (“**CbCR**”) that will provide a breakdown of the amount of revenue, profits, taxes and other indicators of economic activities for each tax jurisdiction in which the MNE group does business. CbC Reporting only applies to MNE Groups with annual consolidated group revenue of Euro 750 million or more in the preceding fiscal year.<sup>2</sup> Where the Parent Entity of an MNE Group is tax resident in Egypt, the Parent Entity should file CbCR with ETA if the annual consolidated group revenue of the MNE Group is equal to or exceeding Egyptian pound (“**EGP**”) 3 billion.

CbC Reporting will give tax administrations a global picture of the operations of MNE Groups. Tax authorities can then use this information to perform high-level transfer pricing risk assessments and to evaluate other BEPS-related risks. For CbC Reporting purposes, the definition of Group of Associated Enterprises (“**GAE**”) shall be considered as the same meaning of MNE Group.<sup>3</sup>

#### **Q2. What is the OECD/G20 guidance on CbC Reporting?**

The BEPS Action 13 Final Report and the Guidance on the implementation of Country-by-Country Reporting (<http://www.oecd.org/tax/beps/guidance-on-country-by-country-reporting-beps-action-13.htm>) (“the OECD interpretation guidance”) are the primary OECD/G20 guidance on CbC Reporting.

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<sup>2</sup> The fiscal year relates to the reporting period for consolidated financial statement purposes, and not to taxable years or to the financial reporting periods of the subsidiaries.

<sup>3</sup> This clarifies that:

(1) In reference to footnote 7, page 14 of the Egyptian Transfer Pricing Guidelines, for the purpose of CbCR, the term “GAE” is similar to the term “Group” as defined in Article 1.1 of the OECD CbCR Model Legislation, Annex IV to Chapter V, OECD Transfer Pricing Guidelines; and  
(2) The description in the Egyptian Transfer Pricing Guidelines, “CBCR will be required only if the Egyptian Parented GAE has a foreign subsidiary/subsidiaries” should also apply to Foreign Parented GAEs, which implies the same meaning that CbCR filing is required to the “MNE Group” as defined in Article 1.2 of the OECD CbCR Model Legislation, Annex IV to Chapter V, OECD Transfer Pricing Guidelines, except for Article 1.2 (ii) (Excluded MNE Group).

Article 1.2 (i) states that “The term “MNE Group” means any group that (i) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction.

In accordance with Article 1.2 of the OECD CbCR Model Legislation, permanent establishments should be taken into account.

### **Q3. What is the Egyptian legislation governing CbC Reporting?**

The legislation that implements CbC Reporting in Egypt is contained in the Law (Article 30, and its executive regulations Articles 38, 39, and 40), Ministerial Decrees No. 221 and No 547 of 2018, and Part 1 of the updated Egyptian Transfer Pricing Guidelines issued in October of 2018.

### **Q4. How should terms contained in the Egyptian CbC Reporting legislation and these FAQs be interpreted?**

A number of terms used in these FAQs are defined in the Egyptian Transfer Pricing Guidelines. Whilst these FAQs provide further information to assist with the interpretation of some of these terms, the reader is referred to the Country-by-country Reporting Model Legislation of Chapter V of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (“**OECD Transfer Pricing Guidelines**”) for a full definition of all relevant terms.

### **Q5. When must a CbCR be filed with the Egyptian Tax Authority (“ETA”)?**

In accordance with the Egyptian Transfer Pricing Guidelines, CbCRs must be filed with ETA no later than 12 months after the last day of the fiscal year to which the CbCR relates.

### **Q6. When do the CbC Reporting requirements come into effect in Egypt?**

CbC Reporting requirements apply in Egypt for fiscal years ending on or after December 31, 2018. Hence, the first CbCRs should be filed by December 31, 2019.

### **Q7. Who will be required to file a CbCR in Egypt?**

In Action 13, CbC Reporting requirements apply to MNE Groups with consolidated group revenue equal to or exceeding Euro 750 million (or an amount in local currency approximately equivalent to Euro 750 million) during the fiscal year immediately preceding the reporting year as reflected in its consolidated financial statements for such preceding fiscal year.<sup>4</sup>

For CbC Reporting purposes in Egypt:

- Where the Parent Entity of an MNE Group (i.e. GAE) is tax resident in Egypt, the Parent Entity is obliged to file a CbCR with ETA if the consolidated group revenue of the MNE Group is equal to or exceeding EGP 3 billion.
- Where the Parent entity of an MNE Group (i.e. GAE) is tax resident in other jurisdictions, the threshold of Euro 750 million applies to MNE Groups (i.e. GAE) in this case according to the BEPS Action 13 standard.<sup>5</sup> ETA can obtain the CbCRs of such MNE Group through exchange of information mechanisms with other tax administrations.<sup>6</sup>

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<sup>4</sup> As mentioned in Question 4 above, the definition of Fiscal Year, Reporting Fiscal Year and Consolidated Financial Statements are as defined in the OECD Transfer Pricing Guidelines.

<sup>5</sup> To apply the EUR 750 million threshold to the GAE where the ultimate parent entity is not tax resident in Egypt, IV.1 and IV.2.1 of the OECD interpretation guidance should be referred to. Thus, the rules of the jurisdiction of the ultimate parent entity should be applied including the local currency amount approximately equivalent to Euro 750 million.

<sup>6</sup> Only CbCRs that meet the requirements of the BEPS Action 13 minimum standard (including the threshold of EUR 750 million) could be exchanged with other tax jurisdictions through the exchange of information framework, once the framework is established.

## II. Contents of the CbCR

### Q8. What information should a CbCR contain?

A CbCR shall be filed in a form identical to and applying the definition and instructions contained in the Annex III to Chapter V of the OECD Transfer Pricing Guidelines.

On this basis, a CbCR for a GAE must contain the following information in respect of each jurisdiction in which the GAE operates:

(a) on an aggregate basis:

- (i) amount of unrelated party revenue, related party revenue and total revenue;
- (ii) amount of profit or loss before income tax;
- (iii) amount of income tax paid;
- (iv) amount of income tax accrued;
- (v) amount of stated capital,
- (vi) amount of accumulated earnings,
- (vii) number of employees, and
- (viii) value of tangible assets other than cash or cash equivalents; and

(b) identification of each constituent entity carrying out a business or tax resident in each jurisdiction. Where different from jurisdiction of tax residence, the jurisdiction under the laws of which such constituent entity is incorporated, and the nature of the main business activity or activities of each constituent entity should be identified.

### Q9. Is there any specific guidance on how to complete the CbCR?

The CbCR is intended to apply for a multitude of entity types across a broad range of industries. Therefore, it is not practical to draft guidance on the completion of CbCRs that provides a definitive answer for every type of entity / industry.

The Egyptian Transfer Pricing Guidelines along with the instructions and guidance on how to complete CbCRs provided in this manual address practical aspects which may arise when completing CbCRs, and therefore, should be reviewed in full in advance of completing CbCRs.

Further, the Guidance on the Implementation of Country-by-Country Reporting should be referred to for interpreting the Action 13 standard (<http://www.oecd.org/tax/beps/guidance-on-country-by-countryreporting-beps-action-13.htm>).

The ultimate parent entity<sup>7</sup> in Egypt should adopt a reasonable, practical and consistent approach to the completion of CbCRs. Furthermore, the ultimate parent entity should complete CbCRs to the best of its ability, taking into account the guidance provided in the Egyptian Transfer Pricing Guidelines and the BEPS Action 13 Final Report, having regard to the specific facts and circumstances of the MNE Group and the industry in which it operates. The onus is on the ultimate parent entity to ensure that the CbCR is complete and accurate.

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<sup>7</sup> “Ultimate parent entity” as defined in Article 6 of the OECD CbCR Model Legislation, Annex IV to Chapter V, OECD Transfer Pricing Guidelines.

***A. What should be included in the “revenues” column on Table 1 of the CbCR?***

In line with the BEPS Action 13 Final Report, “revenues” should include income from sales of inventory and properties, services, royalties, interest, premiums and any other amounts. Payments received from other constituent entities<sup>8</sup> that are treated as dividends in the payor’s tax jurisdiction should be excluded.

When financial statements are used as the source of the data to complete the CbCR template, Item 1.2 of the OECD interpretation guidance should be referred to in order to decide which items should be included in the “revenues”.

ETA is of the view that an Egypt tax resident ultimate parent entity of a GAE is best placed to interpret the definition of “revenues”, taking into account the guidance provided in the BEPS Action 13 Final Report as well as the Guidance on the Implementation of CbCR issued by the OECD, having regard to the specific facts and circumstances of the GAE and the industry in which it operates.

ETA expects the ultimate parent entity to take a reasonable, practical and consistent approach. The onus is on the ultimate parent entity to ensure that the CbCR is complete and accurate.

***B. How should in-country intercompany transactions be reflected in Table 1 of the CbCR?***

All columns in Table 1 require the reporting entity to include aggregated results on a country-by-country basis. In particular, for the purposes of completing Table 1, financial results of all intercompany dealings within the same country must be aggregated and not consolidated. Table 3 (Additional Information) of the CbCR can be utilised to explain levels of in-country intercompany dealings, if required.

***C. In what circumstances should contractors or employees on secondment be included as employees of a particular constituent entity?***

In line with the BEPS Action 13 Final Report, independent contractors participating in the ordinary operating activities of the constituent entity may be reported as employees.

ETA is of the view that ultimate parent entity is best placed to decide whether contractors participate in the ordinary operating activities of the business and therefore should be included as employees on the CbCR.

Similarly, with regard to employees that have been seconded within a GAE, from one group entity to another group entity, the ultimate parent entity is also best placed to decide in which entity’s headcount seconded employees should be included for the purposes of the CbCR.

As noted above, reporting entity should adopt a reasonable, practical and consistent approach to the completion of CbCRs. Furthermore, the ultimate parent entity should complete CbCRs to the best of its ability, taking into account the guidance provided in the Egyptian Transfer Pricing Guidelines, considering the individual facts and circumstances of the GAE and the industry in which it operates. The onus is on the ultimate parent entity to ensure that the CbCR is complete and accurate.

***D. What should be included in Table 3 (Additional Information) of the CbCR?***

The ultimate parent entity may wish to include any further brief information or explanation which it considers necessary or that would facilitate the understanding of the compulsory information provided in the CbCR.

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<sup>8</sup> “Constituent entity” as defined in Article 4 of the OECD CbCR Model Legislation, Annex IV to Chapter V, OECD Transfer Pricing Guidelines.

***E. How should permanent establishment (including branch) data be reflected on Table 1 of the CbCR?***

In line with the BEPS Action 13 Final Report, permanent establishment data should be reported by reference to the tax jurisdiction in which the permanent establishment is situated and not by reference to the tax jurisdiction of residence of the business unit of which the permanent establishment is part. Residence tax jurisdiction reporting for the business unit of which the permanent establishment is part should exclude financial data related to the permanent establishment.

Annex III (Transfer Pricing Documentation – CbCR) to Chapter V, OECD Transfer Pricing Guidelines, sets out specific rules with regard to the balance sheet items on Table 1, that is, Stated Capital, Accumulated Earnings and Tangible Assets other than Cash and Cash Equivalents.

The specific rules with regard to permanent establishments are as follows:

- ***Stated Capital:*** The stated capital of the permanent establishment should be reported by the legal entity/head office of which it is a permanent establishment unless there is a defined capital requirement in the permanent establishment tax jurisdiction for regulatory purposes.
- ***Accumulated Earnings:*** Accumulated earnings of the permanent establishment should be reported by the legal entity of which it is a permanent establishment.
- ***Tangible Assets other than Cash and Cash Equivalents:*** Assets of the permanent establishment should be reported by reference to the tax jurisdiction in which the permanent establishment is situated.

***F. What information should be included in the Income Tax Accrued column on Table 1 of the CbC Report?***

In accordance with the BEPS Action 13 Final Report this column should contain the sum of the accrued current tax expense recorded on taxable profits or losses. The current tax expense should reflect only operations in the current year and should not include deferred taxes or provisions for uncertain tax liabilities.

***G. What factors should be used to classify the main business activity of group entities?***

The ultimate parent entity should determine the nature of the main business activity/activities carried out by each of the constituent entities in the GAE and should tick one or more of the appropriate boxes on Table 2 of the CbCR. Where the “Other” business activity is selected for one or more constituent entities, the ultimate parent entity should specify the nature of the activity of such constituent entity/entities in Table 3 of the CbCR.

ETA is of the view that the ultimate parent entity is best placed to determine which combination of factors should be taken into account when determining the nature of the main business activity/activities carried out by each constituent entity, taking into account the guidance provided in the BEPS Action 13 Final Report, having regard to the specific facts and circumstances of the GAE and the industry in which it operates.

ETA expects the ultimate parent entity to take a reasonable, practical and consistent approach. The onus is on the ultimate parent entity to ensure that the information provided in the CbCR is complete and accurate.

**Q10. What sources of data should be used to complete the CbCR?**

The ultimate parent entity in Egypt may choose to use data from its consolidation reporting packages, from separate entity statutory financial statements, regulatory financial statements, or internal management accounts.

ETA is of the view that ultimate parent entity is best placed to decide which approach works best for that particular GAE, taking into account the guidance provided in the BEPS Action 13 Final Report, having regard to the specific facts and circumstances of the MNE Group and the industry in which it operates.

ETA expects the ultimate parent entity to take a reasonable, practical and consistent approach. In particular, the ultimate parent entity should consistently use the same sources of data from year to year in completing the CbCR. The onus is on the ultimate parent entity to ensure that the information provided in the CbCR is complete and accurate.

**Q11. Will ETA seek to reconcile the CbCR to the consolidated financial statements of a GAE?**

In accordance with the BEPS Action 13 Final Report, it is not necessary to reconcile the revenue, profit and tax reported in the CbCR to the consolidated financial statements. The requirement to disclose aggregated figures, as opposed to consolidated numbers, means that, even where consolidated financial statements are the source of information used in the CbCR, the CbCR may not reconcile to the consolidated financial statements.

**III. Filing formality**

**Q12. How should the CbCR be filed?**

CbCRs should essentially be completed in XML format in accordance with the XML Schema published on the OECD website. (<http://www.oecd.org/ctp/country-by-country-reporting-xml-schema-user-guide-for-taxadministrations.htm>).

However, taxpayers are expected to submit CbCRs to ETA in paper filing format (at least for the first filing year). Therefore, CbCRs could be submitted in the same format as the CbCR template contained in the BEPS Action 13 Final Report to facilitate paper filing.

Upon the completion of ETA's business process re-engineering project, it is anticipated that filing of CbCRs in Egypt will be made - in accordance to the XML Schema - by electronic means similar to other tax submissions that will be made electronically by taxpayers to ETA.

**IV. Total consolidated group revenue computation**

**Q13. When the preceding fiscal year of an Ultimate Parent Entity was less than 12 months, how is it treated for the EGP 3 billion threshold purposes?**

Where the preceding fiscal year of an Egyptian Parented GAE was less than 12 months, the threshold of EGP 3 billion should be correspondingly prorated. For example, if the preceding fiscal year of the Egyptian Parented GAE was 4 months, the threshold to be applied should be EGP 1 billion.

**Q14. What elements should be included in the total consolidated group revenue?**

For Egyptian Parented GAEs, the threshold of EGP 3 billion is tested with the consolidated group revenue during the fiscal year immediately preceding the reporting fiscal year as reflected in its consolidated financial statements for such preceding fiscal year. For computing the total consolidated group revenue, all sales revenue, gains from investment, and extraordinary income shown on the consolidated financial statements should be included. For further guidance, refer to IV2.1 and 2.2 of the OECD interpretation guidance.

## **V. Notification**

### **Q15. What notifications are required for CbC Reporting purposes in Egypt?**

A constituent entity of a MNE Group (i.e. GAE) that is tax resident in Egypt will need to notify the ETA whether it is the ultimate parent entity or not. If the Egypt tax resident constituent entity is not acting as an ultimate parent entity, it shall file a notification with the ETA containing the identity and tax residence of the ultimate parent entity and the reporting entity of the GAE, in accordance with the CbC Reporting notification form included in Annex I of this manual.

### **Q16. What is the deadline for making CbC Reporting notifications to the ETA?**

All notifications must be made no later than the last day of the fiscal year to which the CbCR relates. For example, for CbCRs relating to the fiscal year ended December 31, 2019, notifications must be made to ETA before the close of the GAE's 2019 fiscal year.

However, for the first CbCR filing relating to the fiscal year ending December 31, 2018 which will take place in 2019, an extension will be granted whereby notifications must be made to ETA no later than September 30, 2019.

### **Q17. How should CbC Reporting notifications be made to the ETA?**

Taxpayers are expected to submit CbC Reporting notifications to ETA in paper format.

Upon the completion of ETA's business process re-engineering project, it is anticipated that the submission of CbC Reporting notifications in Egypt will be made by electronic means similar to other tax submissions that will be made electronically by taxpayers to ETA.

### **Q18. Is it possible to amend a CbC Reporting notification after it has been submitted?**

Where an ultimate parent entity needs to amend the notification after it has been submitted to ETA, the entity should submit a revised notification. In such circumstances, ETA will disregard the first notification in its entirety. Therefore, the second complete notification will replace the original notification. An amended CbC Reporting notification should be submitted to ETA no later than the filing date of the CbCR to which the amended notification relates.

## **VI. Confidentiality, and Appropriate use**

### **Q19. How will ETA safeguard the confidentiality of information provided on CbCRs?**

ETA will abide by the secrecy of information clauses as stipulated under the Law, Article 101, and will ensure the confidentiality of the information provided within the CbCR. Moreover, ETA shall preserve the confidentiality of the information contained in the CbCR to the extent that would apply if such information were provided to ETA under the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

**Q20. What will the information provided on a CbCR be used for?**

The BEPS Action 13 Final Report sets out three permitted uses for information contained in CbCRs, namely:

- ✓ to assess high level transfer pricing risks;
- ✓ to assess other BEPS-related risks; and
- ✓ for economics and statistical analysis, where appropriate.

Egypt is committed to using information provided on CbCRs in accordance with the permitted uses. ETA will not use CbCR data, by itself, to make adjustments to the income of a taxpayer.

**Annex I – Notification form**



**CbC Reporting Notification Form**

*Taxpayer details*

<b>Legal name of taxpayer</b>	
<b>Tax file identification</b>	
<b>Address</b>	

*CbC Reporting Notification*

	<b>To tick/complete</b>
<b>1. Ultimate parent entity</b>	
Your company is the ultimate parent entity	<input type="checkbox"/>
<b>When your company is not the ultimate parent entity, please provide the following:</b>	
Name of ultimate parent entity	
Country of the ultimate parent entity	
Tax identification number of the ultimate parent entity	
Address of the ultimate parent entity	
<b>2. Reporting entity</b>	
The reporting entity is the ultimate parent entity	<input type="checkbox"/>
<b>When the reporting entity is not the ultimate parent entity, please provide the following:</b>	
Name of the reporting entity	
Country of the reporting entity	
Tax identification number of the reporting entity	
Address of the reporting entity	
<b>3. Other information</b>	
Date of CbCR submission	
Reporting Fiscal Year	