

**i. Overview of Country by Country Reporting**

1. Large multinational enterprises are increasingly in the spotlight concerning their global tax affairs and how they structure their businesses in order to minimise their tax liabilities.
2. The Organisation for Economic Cooperation and Development (OECD) has recognised that greater transparency in the operations of large multinational enterprises is vital in assisting tax authorities to tackle this problem.
3. With this in mind, the OECD has developed a 15-point action plan to shed light on the way that these enterprises conduct their business internationally, with a view to addressing Base Erosion and Profit Shifting (BEPS) – tax planning strategies which exploit gaps, mismatches and rate differentials in cross-border tax legislation to avoid paying tax.
4. The OECD’s BEPS Action 13 includes Country-by-Country (CbC) Reporting, aimed at giving tax authorities greater visibility of where, why and how multinationals operate across borders.
5. CbC Reporting requires the largest multinational enterprises to provide a report which breaks down their key economic, finance and tax indicators for each tax jurisdiction in which the multinational enterprise does business.
6. This provides unprecedented insight into the multinational enterprise’s international business activities, including how much tax it suffers in each jurisdiction in which it operates.
7. The CbC Report is then shared with the tax authorities in all jurisdictions in which the multinational operates, and for which a lawful exchange agreement is in place.
8. CbC reports will help tax authorities to ensure that the correct amount of tax is declared and paid by the largest multinational entities in each jurisdiction.

**ii. Domestic Law**

1. CbC Reporting in Montserrat has been introduced through the Tax Information Exchange (CBC Reporting) Regulations – Statutory Rules and Orders number 11 of 2023. The regulations came into force on 27 April 2023 and will apply to fiscal years (or accounting periods) commencing on or after 01 January 2024.
2. The regulations are largely modelled on the OECD template legislation, to the extent that they are relevant to Montserrat as a small, developing island state. This ensures a standard approach across all participating jurisdictions.
3. The regulations require that where a Montserrat tax resident company:
  - a. Is the ultimate parent company of a multinational group; and
  - b. Such a group has consolidated group revenue of not less than seven hundred and fifty million Euro (€750m) in the preceding fiscal year,

a CbC report must be filed by that Montserrat tax resident company to Montserrat's Competent Authority.

**CbC Reporting does not apply to a Montserrat tax resident company if neither of the above two conditions are met.**

4. Under the Tax Information Exchange Act, Montserrat's Competent Authority is the Tax Information Authority – this is a position held by the Comptroller of Inland Revenue.
5. The CbC report to be used is that included within the OECD's 'Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 – 2015 Final Report', and all relevant instructions included within that report should be followed.
6. Annex 1 to this document contains the CbC report template which is required to be used, and Annex 2 contains the instructions to follow when completing the report.
7. The deadline for filing the report with the Competent Authority is 12 months from the end of the fiscal year concerned.
8. On receipt of the CbC Report, Montserrat will then automatically exchange the report with the Competent Authorities of all relevant tax jurisdictions with which Montserrat has a lawful exchange agreement in place.
9. **Companies in Montserrat expected to be impacted by the introduction of CbC Reporting regulations in Montserrat are encouraged to seek independent professional advice to ensure that they understand and comply with their obligations.**

**iii. Use of Country-by-Country Reports**

1. Montserrat is a non-reciprocal jurisdiction for the purposes of CbC reporting. This means that, while Montserrat will receive, use and exchange those reports filed by ultimate parent companies to the Competent Authority in Montserrat, Montserrat will not receive CbC reports filed in other jurisdictions.
2. Montserrat's Inland Revenue Division of the Montserrat Customs and Revenue Service will use the reports filed in Montserrat for the purposes of high-level transfer pricing risk analysis, and, from time to time, for economic and statistical analysis.
3. The reports will be used to identify risk areas, but cannot be used as the only basis to make a transfer pricing adjustment. Further documents and information will be sought by the Inland Revenue to substantiate any risks prior to making any adjustment.

**iv. Exchanges**

1. The Competent Authority will annually exchange on an automatic basis the CbC Report received from each Reporting Entity that is resident in Montserrat.
2. The CbC Report will be included in the CbC Message transmitted to any other jurisdiction in which a Constituent Entity contained in the CbC Report is resident for tax purposes, but only if Montserrat has a Qualifying Competent Authority Agreement in effect with that jurisdiction.
3. Qualifying Competent Authority Agreements (QCAAs) contain the rules on the modalities of the exchange between the Competent Authorities of participating jurisdictions in CbC reporting. QCAAs also contain representations on confidentiality, safeguards and the existence of the necessary infrastructure for an effective exchange relationship.
4. Other Competent Authorities may use the CbC Reports for the purposes of assessing high-level transfer pricing risks, however, as in Montserrat, any transfer pricing adjustment cannot be based on the CbC report alone.
5. Information provided to or received by the Competent Authority for the facilitation of the automatic exchange of information or otherwise for tax purposes shall be kept confidential as provided in accordance with Section 5 of the International Tax Compliance (CBC Reporting) Regulations and Part 5 of the Tax Information Exchange Act.

**v. Offences and Penalties**

1. The regulations set out a number of offences which may be committed by a reporting entity in Montserrat.
2. Such offences include failing to file a CbC Report when otherwise required to do so and the filing of a false report due to fraud or negligence.
3. If, on summary conviction, a reporting entity is found guilty of an offence, the reporting entity is liable to a fine of up to EC\$10,000.



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

| Name of the MNE Group:<br>Fiscal Year concerned: |   |   |                             |  |                           |                             |                                  |   |  |                        |                              |           |  |         |        |
|--|---|---|-----------------------------|--|---------------------------|-----------------------------|----------------------------------|---|--|------------------------|------------------------------|-----------|--|---------|--------|
| Tax Jurisdiction                                 | Constituent Entities Resident in the Tax Jurisdiction | Tax Jurisdiction of Organisation or Incorporation if different from Tax Jurisdiction of Residence | Main Business Activity(ies) |  |                           |                             |                                  |   |  |                        |                              |           |  |         |        |
|  |   |   | Research & Development      | Holding or Managing of Intellectual Property | Purchasing or Procurement | Manufacturing or Production | Sales, Marketing or Distribution | Administrative Management or Support Services | Provision of Services to Unrelated Parties | Internal Group Finance | Regulated Financial Services | Insurance | Holding Shares or other Equity Instruments | Dormant | Other* |
|  |   |   |                             |  |                           |                             |                                  |   |  |                        |                              |           |  |         |        |
|  |   |   |                             |  |                           |                             |                                  |   |  |                        |                              |           |  |         |        |
|  |   |   |                             |  |                           |                             |                                  |   |  |                        |                              |           |  |         |        |

\* Please specify the nature of the activity of the constituent entity in the “Additional Information” Section of Table 3.

**Table 3: Additional Information.**

| Name of the MNE Group:<br>Fiscal Year concerned:   |
|--|
| Please include any further brief information or explanation you consider necessary or that would facilitate the understanding of the compulsory information provided in the Country by Country Report. |
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## Annex 2: Specific instructions for Completion of a CbC Report

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

**Tax Jurisdiction:** In the first column of the template, the Reporting MNE should list all of the tax jurisdictions in which Constituent Entities of the MNE group are resident for tax purposes. A tax jurisdiction is defined as a State as well as a non-State jurisdiction which has fiscal autonomy. 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. 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. The place of effective management should be determined in accordance with the provisions of Article 4 of the OECD Model Tax Convention and its accompanying Commentary.

**Revenues:** In the three columns of the template under the heading Revenues, the reporting MNE should report the following information: (i) the sum of revenues of all the Constituent Entities of the MNE group in the relevant tax jurisdiction generated from transactions with associated enterprises; (ii) the sum of revenues of all the Constituent Entities of the MNE group in the relevant tax jurisdiction generated from transactions with independent parties; and (iii) the total of (i) and (ii). Revenues should include 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.

**Profit (Loss) Before Income Tax:** In the fifth column of the template, 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.

**Income Tax Paid (on Cash Basis):** In the sixth column of the template, 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.

**Income Tax Accrued (Current year):** In the seventh column of the template, 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.

**Stated capital:** In the eighth column of the template, 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.

**Accumulated earnings:** In the ninth column of the template, 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.

**Number of Employees:** In the tenth column of the template, 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. 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. For this purpose, independent contractors participating in the ordinary operating activities of the Constituent Entity may be reported as employees. Reasonable rounding or approximation of the number of employees is permissible, providing that such rounding or approximation does not materially distort the relative distribution of employees across the various tax jurisdictions. Consistent approaches should be applied from year to year and across entities.

**Tangible Assets other than Cash and Cash Equivalents:** In the eleventh column of the template, 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. With regard to permanent establishments, assets should be reported by reference to the tax jurisdiction in which the permanent establishment is situated. Tangible assets for this purpose do not include cash or cash equivalents, intangibles, or financial assets.

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

**Constituent Entities resident in the Tax Jurisdiction:** The Reporting MNE should list, 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. As stated above with regard to permanent establishments, however, 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).

**Tax Jurisdiction of organisation or incorporation if different from Tax Jurisdiction of Residence:** The Reporting MNE should report the name of the tax jurisdiction under whose laws the Constituent Entity of the MNE is organised or incorporated if it is different from the tax jurisdiction of residence.

**Main business activity(ies):** 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.

**Table 3: Additional Information**

If the business activity is identified as “Other” in Table 3 you should also specify the nature of the activity of the Constituent Entity in this section along with any other information or explanation you consider necessary.