

MONTSERRAT
STATUTORY RULES AND ORDERS
S.R.O. 11 OF 2023

**TAX INFORMATION EXCHANGE (COUNTRY-BY-COUNTRY
REPORTING) REGULATIONS, 2023**

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**THE TAX INFORMATION EXCHANGE (COUNTRY-BY-COUNTRY
REPORTING) REGULATIONS, 2023 MADE BY THE GOVERNOR
ACTING ON THE ADVICE OF CABINET UNDER SECTION 30 OF
THE TAX INFORMATION EXCHANGE ACT (17.24).**

1. Citation

These Regulations may be cited as the Tax Information Exchange (Country-by-Country Reporting) Regulations, 2023.

2. Interpretation

(1) In these Regulations—

“**Competent Authority**” means the Tax Information Authority designated in section 8 of the Tax Information Exchange Act (Cap. 17.24);

“**Consolidated Financial Statements**” means the financial statements of an MNE Group in which the assets, liabilities, income, expenses, and cash flows of the Ultimate Parent Entity and the Constituent Entities are presented as those of a single economic entity;

“**Constituent Entity**” means—

- (a) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes or would be so included if equity interests in the business unit of an MNE Group were traded on a public securities exchange;
- (b) any business unit that is excluded from the MNE Group’s Consolidated Financial Statements solely on size or materiality grounds; and

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(c) any permanent establishment of any separate business unit of the MNE Group included in paragraph (a) or (b), provided that the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes;

“Country-by-Country Report” means a report described in regulation 3;

“Excluded MNE Group” means, with respect to any fiscal year of the Group, a Group having total consolidated group revenue of less than 750 million Euros during the fiscal year immediately preceding the reporting fiscal year as reflected in its Consolidated Financial Statements for such preceding fiscal year;

“fiscal year” means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements;

“Group” means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;

“International Agreement” means the Multilateral Convention for Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral tax convention or any tax information exchange agreement to which Montserrat is a party and that by its terms provides legal authority for the exchange of tax information between jurisdictions, including the automatic exchange of such information;

“Multinational Enterprise Group” or **“MNE Group”** means any group that—

(a) 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; and

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(b) is not an Excluded MNE Group;

“OECD Final Report” means the document entitled “Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 – 2015 Final Report” published by the Organisation for Economic Co-operation and Development as part of the OECD/G20 Base Erosion and Profit Shifting Project, as amended from time to time;

“Qualifying Competent Authority Agreement” means an agreement that—

(a) is between authorised representatives of those jurisdictions that are parties to an International Agreement; and

(b) requires the automatic exchange of Country-by-Country Reports between the party jurisdictions;

“Reporting Entity” means a Constituent Entity that is required by regulation 4 to file a Country-by-Country Report in its jurisdiction of tax residence on behalf of the MNE Group;

“reporting fiscal year” means the fiscal year, the financial and operational results of which are reflected in the Country-by-Country Report for that fiscal year;

“resident in Montserrat”, in respect of a Constituent Entity, means being established in Montserrat; and

“Ultimate Parent Entity” means a Constituent Entity of an MNE Group that meets the following criteria—

(a) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of the MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence; and

(b) there is no other Constituent Entity of the MNE Group that owns directly or indirectly an interest described in paragraph *(a)* in the first-mentioned Constituent Entity.