

S.I. 25 of 2019

REVENUE ADMINISTRATION ACT

(Cap 308)

**Revenue Administration (Country-by-Country Reporting
Multinational Enterprise Groups) Regulations, 2019**

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Revenue Administration (Country-by-Country Reporting Multinational Enterprise Groups) Regulations, 2019

In exercise of the powers conferred by section 98A of the Revenue Administration Act, the Minister responsible for Finance, Trade, Investment and Economic Planning makes the following Regulations —

1. These regulations may be cited as the Revenue Administration (Country-by-Country Reporting Multinational Enterprise Groups) Regulations, 2019.

Citation

2.(1) The Minister declares that the Republic of Seychelles, by virtue of the Convention on Mutual Administrative Assistance in Tax Matters to which Seychelles is a party, has entered into the Multilateral Competent Authority Agreement on the Exchange of Country by Country Report.

Declaration and list of Qualifying Authorities

(2) The Agreement mentioned in subregulation (1) shall be in accordance with these regulations.

(3) The exchanges of Country-by-Country Reports shall be made with all other jurisdiction that provide a notification under paragraph 8(1)(e) of the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Report.

3. In these Regulations —

Interpretation

“Commissioner General” means the Commissioner General appointed under section 4 of the Seychelles Revenue Commission Act (Cap 322);

“Constituent Entity” means —

- (i) any separate business unit of an MNE Group that is included in the Group Accounts of the MNE Group for financial reporting purpose or would be so included if equity interests in such business unit of MNE Group were traded on a public securities exchange;
- (ii) any such business unit that is excluded from the MNE Group's Group Accounts solely on size or materiality grounds; and
- (iii) any permanent establishment of any separate business unit of the MNE Group included in subparagraphs (i) or (ii) provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;

“Excluded MNE Group” means, with respect to a tax year of the group, a group having total consolidated group revenue of less than 750 million euros during the tax year immediately preceding the reporting tax year as reflected in its Group Accounts for such preceding tax year;

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

“Group Accounts” 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;

“Multinational Enterprise (MNE) Group” means any group that —

- (i) includes two or more enterprises the tax residence for which are in different jurisdictions, or includes an enterprise that is resident for tax purpose in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction; and
- (ii) is not an Excluded MNE Group;

“Person” means an individual, entity, partnership, trust, estate, government, political subdivision of a government, public international organisation or enterprise;

“Qualifying Competent Authority Agreement” means an agreement —

- (i) that is between authorised representative of those jurisdiction that are parties to the tax agreement mentioned under regulation 2 (1); and
- (ii) that requires the automatic exchange of Country-by-Country Reports between the party jurisdictions;

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

“Reporting Tax Year” means that Tax Year the financial and operational results of which are reflected in the Country-by-Country Report defined in regulation 4;

“Tax Year” means —

- (i) a period beginning from 1st January and ending on 31st December of a year; or
- (ii) the tax year of financial year under which an Ultimate Parent Entity has to prepare its annual statement;

“Ultimate Parent Entity” means a Reporting Entity and a Constituent Entity of an MNE Group that fulfill the criteria set out in regulation 5.

4.(1) For the purpose of these regulations, a Country-by-Country Report with respect to an MNE Group shall contain —

- (a) an aggregate information relating to the amount of revenue, profit, loss before income tax, income tax paid, income tax accrued, share capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE group operates; and
- (b) identification of each Constituent Entity of the MNE Group setting out the jurisdiction of tax residence of such Constituent Entity, and where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such Constituent Entity is organised, and the nature of the main business activity or activities of such Constituent Entity.

Requirement
for the
Country-by-
Country Report

(2) The Country-by-Country Report shall be filed in the form set out in the Schedule.

5.(1) An Ultimate Parent Entity shall be a Constituent Entity of an MNE Group that meets the following criteria —

Criteria for
Ultimate
Parent Entity

- (a) it is the only Constituent Entity of an MNE Group that owns directly or indirectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Group Accounts 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 in the same MNE Group that owns directly or indirectly an interest described in paragraph (a)

6. Each Ultimate Parent Entity of an MNE Group that is resident for tax purpose in Seychelles shall file a Country-by-Country Report conforming to the requirements of regulation 4 with the Commissioner General with respect to its Reporting Tax Year on or before the date specified in regulation 8.

Filing of the
Country-by-
Country report

7.(1) A Constituent Entity of an MNE Group that is resident for tax purposes in Seychelles shall notify the Commissioner General whether it is the Ultimate Parent Entity.

Notification
to the
Commissioner
General

(2) A Constituent Entity of an MNE Group that is resident for tax purpose in Seychelles but is not the Ultimate Parent Entity, shall notify the Commissioner General of the identity and tax residence of the Reporting Entity.

Transitional provision

8.(1) The obligation to notify under regulation 7 (1) and 7 (2) shall be made within of 3 months following the last day of the reporting tax year of such MNE group ending on 31st December, 2019 and thereafter not later than the last day of the reporting tax year.

(2) The filing of a Country-by-Country Report under regulation 6 shall be made within 12 months after the tax year ending 31st December, 2019 and thereafter within 12 months after every tax year.

Filing assessment of risk

9.(1) The Commissioner General shall use the Country-by-Country Report for purposes of assessing high level transfer pricing risks and other base erosion and profit shifting related risks in Seychelles, including assessing the risks of non-compliance by members of the MNE group with applicable transfer pricing rules, and where appropriate for economic and statistical analysis.

(2) The Commissioner General shall not issue any notice of assessment to a taxpayer only on the basis of the Country-by-Country Report.

Non-waiver of requirements

10.(1) A person shall not enter into an arrangement where the main purpose or one of the main purposes, of that arrangement is to avoid any requirement of these regulations.

(2) Where a person enters into an arrangement contrary to subregulation (1), that arrangement shall be deemed to be null and void and the requirements of these regulations shall have effect as if the arrangement had not been entered into.

Erroneous information

11. Where an Ultimate Parent Entity becomes aware of an error in the information furnished in the Country-by-Country Report filed under regulation 6, the Ultimate Parent Entity shall provide the correct information not later than 3 months after the Ultimate Parent Entity became aware of the error.

12. A person who —

Offence and penalty

- (a) fails to comply with the requirements of these regulations;
- (b) knowingly provides inaccurate information when filing a Country-by-Country Report under regulation 4; or
- (c) identifies an inaccuracy after submitting the Country-by-Country Report and fails to take reasonable steps to inform the Commissioner General within the time specified in regulation 12,

shall be liable to a penalty of SCR 20,000.

Part 3**Additional Information**

Name of the MNE group:
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

MADE this 16th day of April, 2019.

MAURICE LOUSTAU-LALANNE
MINISTER OF FINANCE, TRADE,
INVESTMENT AND ECONOMIC PLANNING