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PwC Tax Alert

FIRS reinstates local filing of Country-by-Country Reports in Nigeria

January 2022

Introduction

In May 2021, the Federal Inland Revenue Services (FIRS) issued a public notice suspending the local filing of Country-by-Country (CbC) reports by Nigerian subsidiaries and permanent establishments whose headquarters are not in Nigeria. This was in order to complete the review of Nigeria's confidentiality and data safeguard processes, and the review of Nigeria's submission for reciprocal exchange of CbC reports.

Following the completion of the review, the FIRS in January 2022 has issued a public notice reinstating the local filing of CbC reports by such companies and permanent establishments.

Background

In 2018, Nigeria introduced Country-by-Country Reporting (CbCR) Regulations. The CbCR Regulations are effective for financial years commencing after 1 January 2018 and apply to multinationals with operations in two or more jurisdictions and whose consolidated group revenues exceed ₦ 160billion (or € 750million) in any given year.

Based on the Regulations, under certain circumstances, a Nigerian subsidiary or permanent establishment of a foreign multinational group that meets the revenue threshold may be required to file the CbC report directly with the FIRS. Local filing is applicable for such entities where: a) the ultimate parent entity (UPE) is not obligated to submit the CbC report in its home jurisdiction (b) the tax authority of the UPE and the FIRS do not have an activated CbC report exchange relationship at the time of the filing deadline c) the tax authority in the UPE's jurisdiction has suspended automatic exchange of CbC reports with Nigeria.

As a general rule this meant that Nigerian subsidiaries or permanent establishments were required to file the CbC report with the FIRS if they belonged to a foreign multinational group (meeting the threshold) and the country of the UPE was not on the list of countries for which Nigeria had activated the exchange relationship.

Objectives of the CbC report

The objectives of the CbC report and consequently its filing is that it: (a) provides the tax authorities with information about the global taxes, profits and activities of multinational enterprises (b) provides tax authorities with information for efficient assessment of the risks of tax voidance c) improves transparency in the tax practices of multinationals d) prevents tax avoidance or evasion through base erosion and profit shifting.

Who is impacted by the notice?

Based on the withdrawal of the prior suspension, the local filing requirement under Regulation 4 of the CbCR Regulations is now active. It is applicable to Nigerian subsidiaries and permanent establishments belonging to foreign multinational groups that exceed the ₦ 160billion (or € 750million) revenue threshold; and the country of the ultimate parent entity (UPE) [or the country of the group member that will file on behalf of the UPE] is not on the list of the 78 countries, which Nigeria has activated its exchange relationship with.

Regulatory Reporting, timeline and penalties

Regulatory Reporting

The CbC report must be filed in a form identical to and applying the definitions and instructions contained in the model template set out in the First Schedule to the CbCR Regulations and the guidelines on CbCR issued by the FIRS. The report will also need to be filed online using the FIRS's designated portal – **TPplat**.

Timeline

In line with Regulation 9 of the CbCR Regulations, the CbC report must be filed not later than 12 months after the last day of the reporting accounting year of the multinational group and for which the CbC report relates. i.e. filing on or before 31 Dec 2022 for the CbC report for accounting year end of 31 Dec 2021.

Penalty

Non-compliance with the local filing requirements attracts a penalty of ₦10 million in the first instance, and ₦1 million for every month in which default continues.

Takeaway

The public notice has an effective date 1 January 2022, therefore all constituent entities of foreign multinational groups that meet the relevant conditions are expected to comply with the CbC local filing requirements going forward. Taxpayers must ensure they prepare well in advance to avoid the penalties for non-compliance.

On the tax authority side, it would appear that the FIRS has made strides in increasing the number of activated relationships to 78 from the previous number of 55 prior to the suspension of the local filing requirement. More importantly, what would be more interesting to see is how the data received from tax authorities in other jurisdictions as well as the local filing will be used by the FIRS to curb tax evasion or avoidance practices.

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