

BELIZE:

**MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS
(AUTOMATIC EXCHANGE OF COUNTRY-BY-COUNTRY
REPORTS) REGULATIONS, 2020**

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BELIZE:

STATUTORY INSTRUMENT

No. 57 of 2020

REGULATIONS made by the Minister responsible for Finance in exercise of the powers conferred upon him by Section 30 (1) of the Mutual Administrative Assistance in Tax Matters Act, No. 15 of 2014 (as amended by Act No. 18 of 2017), and all other powers thereunto him enabling.

(Gazetted 18th April, 2020.)

1. These Regulations may be cited as the

Citation.

**MUTUAL ADMINISTRATIVE ASSISTANCE
IN TAX MATTERS (COUNTRY-BY-COUNTRY
REPORTING) REGULATIONS, 2020.**

2. In these Regulations -

Interpretation.

“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;

“electronic means” includes electrical, digital, magnetic, optical, electromagnetic, biometric or photonic means of transmission of data and other forms of related technology by means of which data is transmitted;

“international agreement” means the MCAA CbC, any bilateral or multilateral tax convention, or any tax information

exchange agreement to which Belize 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;

“qualifying competent authority agreement” means an agreement that –

- (i) is between authorised representatives of those jurisdictions that are parties to an international agreement; and
- (ii) requires the automatic exchange of CbC reports between the party jurisdictions;

“reporting fiscal year” means that financial year the financial and operational results of which are reflected in the CbC report defined in section 8E of the Act.

3. (1) The ultimate parent entity of an MNE group under section 8C of the Act, in respect of its first reporting financial year and every subsequent reporting year, shall file the CbC report in the format as set out in Schedule 1.

(2) The CbC report shall be submitted electronically to the competent authority in accordance with the OECD’s Extensible Markup Language.

(3) The competent authority shall develop an information technology system to collect and exchange the CbC report.

(4) A CbC report which is made otherwise than in accordance with this regulation shall be treated as not having been made.

4. A CbC report made by a surrogate parent entity or constituent entity on behalf of the ultimate parent entity shall be –

CbC report
format.
Schedule 1.

CbC reporting
by surrogate
or constituent
entity.

- (a) taken to have been made by that ultimate parent entity, unless the ultimate parent entity proves that the return was made without the ultimate parent entity's authority;
- (b) in accordance with the OECD's guidance on currency fluctuations in respect of the threshold required for filing of that CbC report.

5. (1) The reporting entity shall provide the Department with a master file containing the information set out in *Schedule 2*, which may be used for the purpose of a high-level overview of the MNE group's operations and policies.

Master file
and local file.
Schedule 2.

(2) The reporting entity shall use prudent business judgment in determining the level of detail to be supplied and shall consider information to be relevant if its omission would affect the reliability of assessments.

(3) The reporting entity shall provide the Department with a local file containing the detailed information set out in *Schedule 2*, which may be used for the purpose of supplementing the master file.

Schedule 2.

6. (1) A CbC report required, shall be filed electronically using such technology as may be approved or provided by the Competent Authority.

Electronic CbC
report.

(2) An electronic means shall incorporate an electronic validation process.

(3) Unless the contrary is proved –

- (a) the use of an electronic means is presumed to have resulted in the making of the CbC report only if this has been successfully recorded as such by the relevant electronic validation process;

- (b) the time of making the CbC report is presumed to be the time recorded as such by the relevant electronic validation process; and
- (c) the person delivering the CbC report is presumed to be the person identified as such by any relevant feature of the electronic means.

Records.

7. (1) Every reporting entity shall keep records that the MNE group obtains or creates for the purpose of complying with these Regulations, including records of documentary evidence.

(2) Every reporting entity required by these Regulations to keep records that does so electronically shall retain them in an electronically readable format for the retention period specified in sub-regulation (4).

(3) Every reporting entity that obtains or creates records, as required under these Regulations, in a language other than English shall, upon request, provide an English translation to the competent authority.

(4) Every reporting entity that is required to keep, obtain or create records under these Regulations shall retain records for a period of at least six years following the end of the last calendar year in respect of which the record is relevant.

Inspection of books, etc. and provision of information and assistance.

8. (1) The competent authority may, by notice in writing, require a reporting entity to give the officer within such time, not being less than fourteen days, as may be provided by the notice, such information (including copies of any relevant books, records or other documents) as the competent authority may reasonably require for any purpose relating to the administration or enforcement of these Regulations.

(2) The competent authority may require a reporting entity to –

- (a) produce books, records or other documentation;
- (b) provide information, explanations and particulars; and
- (c) give all assistance which the competent authority may reasonable require relating to the administration or enforcement of these Regulations.

(3) The Competent Authority may make extracts from or copies of all or any part of the books, records or other documents or other material made available to the competent authority or require that copies of books, records or other documents be made available to the competent authority for any purpose relating to the administration or enforcement of these Regulations.

(4) The audit and powers pursuant to sections 27 and 29 of the Tax Administration and Procedure Act shall, where applicable, be administered in addition to the powers set out in the Act and these Regulations in respect of the inspection of books.

Act No. 8 of 2019.

9. The administrative penalty pursuant to section 8H(3) of the Act shall apply in the following circumstances –

Impeding or obstructing of the competent authority.

- (a) where any person obstructs or impedes or insults or molests the competent authority or other officer lawfully authorised by the Act or Regulations in the discharge of his duties or in his official capacity or in the exercise of his powers;
- (b) where a person fails, without reasonable excuse, to provide such reasonable assistance as the competent

authority or other officer lawfully authorised by the Act or Regulations may require when the competent authority or other officer is exercising his powers under the Act;

- (c) where a person intentionally alters, suppresses or destroys any information that has been specified in a notice under section 8D of the Act.

Use and confidentiality of CbC report information.

10. (1) The Department shall use the CbC report for purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks in Belize, including assessing the risk of non-compliance by members of the MNE Group with applicable transfer pricing rules, and where appropriate for economic and statistical analysis.

(2) Transfer pricing adjustments by the Department shall not be based on the CbC Report.

(3) The Department shall preserve the confidentiality of the information contained in the CbC report at least to the same extent that would apply if such information were provided to it under the provisions of the Convention.

Participating jurisdiction.

11. The competent authority shall exchange the CbC reports with the competent authorities of participating jurisdictions in the reciprocal or non-reciprocal manner as is mutually agreed between Belize and that other jurisdiction.

Anti-avoidance

12. If—

- (a) a person enters into any arrangements; and
- (b) the main purpose, or one of the main purposes, of the person in entering into the arrangements is to avoid any obligation under these Regulations, these Regulations are to have effect as if the arrangements had not been entered into.

SCHEDULE 1

[Regulation 3(1)]

**MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX
MATTERS ACT**

Belize Tax Services - CbC Report Form

For reporting period beginning, 20....., and
ending, 20.....

For Official Use Only

Date of receipt	
Received by	

Identification of Person Filing	
Name of reporting entity	
Number, street, and room or suite no.	
State or province	
City or town	
Country, and ZIP or foreign postal code	

[INSERT FORM]

SCHEDULE 2

[Regulation 5(2)&(3)]

**MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX
MATTERS ACT**

The following information should be included in the master file:

Organisational structure

- Chart illustrating the MNE's legal and ownership structure and geographical location of operating entities.

Description of MNE's business(es)

- General written description of the MNE's business including:
 - Important drivers of business profit;
 - A description of the supply chain for the group's five largest products and/or service offerings by turnover plus any other products and/or services amounting to more than 5 percent of group turnover. The required description could take the form of a chart or a diagram;
 - A list and brief description of important service arrangements between members of the MNE group, other than research and development (R&D) services, including a description of the capabilities of the principal locations
 - providing important services and transfer pricing policies for allocating services costs and determining prices to be paid for intra-group services;
 - A description of the main geographic markets for the group's products and services that are referred to in the second bullet point above;
 - A brief written functional analysis describing the principal contributions to value creation by individual entities within the group, i.e. key functions performed, important risks assumed, and important assets used;

- A description of important business restructuring transactions, acquisitions and divestitures occurring during the fiscal year.

MNE's intangibles (as defined in Chapter VI of these Guidelines)

- A general description of the MNE's overall strategy for the development, ownership and exploitation of intangibles, including location of principal R&D facilities and location of R&D management.
- A list of intangibles or groups of intangibles of the MNE group that are important for transfer pricing purposes and which entities legally own them.
- A list of important agreements among identified associated enterprises related to intangibles, including cost contribution arrangements, principal research service agreements and licence agreements.
- A general description of the group's transfer pricing policies related to R&D and intangibles.
- A general description of any important transfers of interests in intangibles among associated enterprises during the fiscal year concerned, including the entities, countries, and compensation involved.

MNE's intercompany financial activities

- A general description of how the group is financed, including important financing arrangements with unrelated lenders.
- The identification of any members of the MNE group that provide a central financing function for the group, including the country under whose laws the entity is organised and the place of effective management of such entities.

- A general description of the MNE's general transfer pricing policies related to financing arrangements between associated enterprises.

MNE's financial and tax positions

- The MNE's annual consolidated financial statement for the fiscal year concerned if otherwise prepared for financial reporting, regulatory, internal management, tax or other purposes.
- A list and brief description of the MNE group's existing unilateral advance pricing agreements (APAs) and other tax rulings relating to the allocation of income among countries.

OECD Local file guidance

The following information should be included in the local file:

Local entity

- A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.
- A detailed description of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.
- Key competitors.

Controlled transactions

For each material category of controlled transactions in which the entity is involved, provide the following information:

- A description of the material-controlled transactions (e.g. procurement of manufacturing services, purchase of goods, provision of services, loans, financial and performance guarantees, licences of intangibles, etc.) and the context in which such transactions take place.
- The amount of intra-group payments and receipts for each category of controlled transactions involving the local entity (i.e. payments and receipts for products, services, royalties, interest, etc.) broken down by tax jurisdiction of the foreign payor or recipient.
- An identification of associated enterprises involved in each category of controlled transactions, and the relationship amongst them.
- Copies of all material intercompany agreements concluded by the local entity.
- A detailed comparability and functional analysis of the taxpayer and relevant associated enterprises with respect to each documented category of controlled transactions, including any changes compared to prior years.
- An indication of the most appropriate transfer pricing method with regard to the category of transaction and the reasons for selecting that method.
- An indication of which associated enterprise is selected as the tested party, if applicable, and an explanation of the reasons for this selection.
- A summary of the important assumptions made in applying the transfer pricing methodology.
- If relevant, an explanation of the reasons for performing a multi-year analysis.
- A list and description of selected comparable uncontrolled transactions (internal or external), if any, and information on

relevant financial indicators for independent enterprises relied on in the transfer pricing analysis, including a description of the comparable search methodology and the source of such information.

- A description of any comparability adjustments performed, and an indication of whether adjustments have been made to the results of the tested party, the comparable uncontrolled transactions, or both.
- A description of the reasons for concluding that relevant transactions were priced on an arm's length basis based on the application of the selected transfer pricing method.
- A summary of financial information used in applying the transfer pricing methodology.
- A copy of existing unilateral and bilateral/multilateral APAs and other tax rulings to which the local tax jurisdiction is not a party, and which are related to controlled transactions described above.

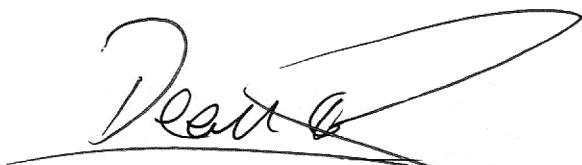
Financial information

- Annual local entity financial accounts for the fiscal year concerned. If audited statements exist, they should be supplied and if not, existing unaudited statements should be supplied.
- Information and allocation schedules showing how the financial data used in applying the transfer pricing method may be tied to the annual financial statements.
- Summary schedules of relevant financial data for comparables used in the analysis and the sources from which that data was obtained.

Note

To the extent this functional analysis duplicates information in the master file, a cross-reference to the master file is sufficient.

MADE by the Minister responsible for Mutual Administrative Assistance in Tax Matters this 25th day of January, 2020.

A handwritten signature in black ink, appearing to read 'Dean O. Barrow', with a large, sweeping flourish extending to the right.

RT. HON. DEAN O. BARROW
Minister responsible for Finance