

The Bahamas

1. This report is The Bahamas' first annual peer review report. Consistent with the agreed methodology this report covers: (i) the domestic legal and administrative framework, (ii) the exchange of information framework as well as (iii) the appropriate use of CbC reports. The first filing obligation for a CbC report in The Bahamas applies to reporting fiscal years commencing on or after 1 January 2018.

Summary of key findings

2. The Bahamas meets all the terms of reference relating to the domestic legal and administrative framework (OECD, 2017^[2]), with the exception of:

- the deadline for filing a CbC report for certain fiscal years during the first year of implementation.

3. It is recommended that The Bahamas take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which The Bahamas has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.

4. It is recommended that The Bahamas take steps to implement processes or written procedures to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework ahead of its first exchanges of information. It is however noted that The Bahamas will not be exchanging CbC reports in 2019.

Part A: The domestic legal and administrative framework

5. The Bahamas has primary law in place for implementing the BEPS Action 13 minimum standard¹ (the "CbC Act") establishing the necessary requirements, including the filing and reporting obligations.

(a) Parent entity filing obligation

6. The Bahamas has primary law that impose a CbC filing obligation on Ultimate Parent Entities of MNE Groups which have a consolidated group revenue above a certain threshold, whereby all required Constituent Entities of the MNE Group are included in the CbC report and no entity is excluded from CbC Reporting other than permitted by the Action 13 report.² No inconsistencies were identified with respect to The Bahamas' domestic legal framework in relation with the parent entity filing obligation.

(b) Scope and timing of parent entity filing

7. The first filing obligation for a CbC report in The Bahamas commences in respect of fiscal years beginning on 1 January 2018 or later.³ The CbC report must be filed within

12 months of the last day of the fiscal year of the MNE Group. However, according to the section 5(3) of the CbC Act, the CbC report shall be filed no later than 31 March 2019 with respect to the reporting fiscal year that began on or before 31 May 2018. This means that for certain fiscal years (e.g. fiscal year 1 May 2018 - 30 April 2019), MNE Groups may not be in a position to file a CbC report since their fiscal year would not yet have ended. It is therefore recommended that The Bahamas amend the deadline for filing a CbC report with respect to the specific filing deadline relating to the reporting fiscal years that began on or before 31 May 2018.

8. No other inconsistencies were identified with respect to the scope and timing of parent entity filing.

(c) Limitation on local filing obligation

9. The Bahamas does not apply or plan to introduce local filing.

10. It is noted that The Bahamas' legislation includes provisions relating to (i) the deactivation of local filing in case of surrogate filing (see Section 3(4) of the CbC Act) and (ii) the fact that a single Constituent Entity could file a CbC report that satisfies the filing requirement of all Constituent Entities of such MNE Group that are resident in The Bahamas (see Section 3(3) of the CbC Act). While these provisions do not seem to create a filing obligation on Constituent Entities in The Bahamas (being noted that according to Section 3(1) and 3(2), only Ultimate Parent Entities and Surrogate Parent Entities shall file a CbC report in The Bahamas), they may introduce uncertainty for taxpayers. This will be monitored to ensure that no local filing obligations arise from Section 3 of the CbC Act.

(d) Limitation on local filing in case of surrogate filing

11. The Bahamas does not apply or plan to introduce local filing. The Bahamas' legislation requires a "surrogate parent entity" that has been appointed by the MNE group to file in The Bahamas. Surrogate filing is only permitted when certain conditions are met.⁴

(e) Effective implementation

12. The Bahamas has legal mechanisms in place to enforce compliance with the minimum standard: there are notification mechanisms in place that apply to the Ultimate Parent Entity and the Surrogate Parent Entity in The Bahamas.⁵ There are also penalties in place in relation to the filing of a CbC report: (i) penalties for failure to file a CbC report and late filing and (ii) penalties for inaccurate information.⁶

13. There are no specific processes in place that would allow The Bahamas to take appropriate measures in case it is notified by another jurisdiction that such other jurisdiction has reason to believe that an error may have led to incorrect or incomplete information reporting by a Reporting Entity or that there is non-compliance of a Reporting Entity with respect to its obligation to file a CbC report. However, The Bahamas indicates that the penalties will be applied to any person providing inaccurate information under Section 19 of the CbC Act. As no exchange of CbC reports has yet occurred, no recommendation is made but this respect will be further monitored.

Conclusion

14. In respect of paragraph 8 of the terms of reference, The Bahamas has enacted a domestic legal and administrative framework to impose and enforce CbC requirements on the Ultimate Parent Entity of an MNE Group that is resident for tax purposes in The Bahamas. The Bahamas meets all the terms of reference relating to the domestic legal and

administrative framework, with the exception of the deadline for filing a CbC report. It is recommended that The Bahamas amend the deadline for filing a CbC report.

Part B: The exchange of information framework

(a) Exchange of information framework

15. As of 31 May 2019, The Bahamas has no bilateral relationships in place for the exchange of CbC reports. It is recommended that The Bahamas take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which The Bahamas has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.

(b) Content of information exchanged

16. The Bahamas does not have processes or written procedures in place that are intended to ensure that each of the mandatory fields of information as required in the CbC template is present in the information exchanged.

(c) Completeness of exchanges

17. The Bahamas does not have processes or written procedures in place that are intended to ensure that CbC reports are exchanged with all tax jurisdictions listed in Table 1 of a CbC reporting template with which it should exchange information as per the relevant QCAAs.

(d) Timeliness of exchanges

18. The Bahamas does not have processes or written procedures in place that are intended to ensure that the information to be exchanged is transmitted to the relevant jurisdictions in accordance with the timelines provided for in the relevant QCAAs and terms of reference.

(e) Temporary suspension of exchange or termination of QCAA

19. The Bahamas does not have processes or written procedures in place that are intended to ensure that a temporary suspension of the exchange of information or termination of a relevant QCAA be carried out only as per the conditions set out in the QCAA.

(f) Consultation with other Competent Authority before determining systemic failure or significant non-compliance

20. The Bahamas does not have processes or written procedures in place that are intended to ensure that the Competent Authority consults with the other Competent Authority prior to making a determination that there is or has been significant non-compliance with the terms of the relevant QCAA or that the other Competent Authority has caused a systemic failure.

(g) Format for information exchange

21. The Bahamas confirms that it uses the OECD XML Schema and User Guide (OECD, 2017^[3]) for the international exchange of CbC reports.

(h) Method for transmission

22. The Bahamas has not indicated that it uses the Common Transmission System, or any other mechanism, to exchange CbC reports.

Conclusion

23. It is recommended that The Bahamas take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which The Bahamas has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.

24. Further, it is recommended that The Bahamas take steps to implement processes or written procedures to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework ahead of its first exchanges of information. It is however noted that The Bahamas will not be exchanging CbC reports in 2019.

Part C: Appropriate use

25. The Bahamas is a non-reciprocal jurisdiction and, as such, will not receive CbC reports submitted to tax authorities in other jurisdictions, and will not apply local filing. It is not necessary for this peer review evaluation to reach any conclusion with respect to The Bahamas' compliance with paragraph 12 of the terms of reference on appropriate use.

Conclusion

26. In respect of paragraphs 11 and 12 of the terms of reference, The Bahamas is a non-reciprocal jurisdiction and, as such, will not receive CbC reports submitted to tax authorities in other jurisdictions, and will not apply local filing. It is not necessary for this peer review evaluation to reach any conclusion with respect to these paragraphs of the terms of reference.

Summary of recommendations on the implementation of country-by-country reporting

Aspect of the implementation that should be improved		Recommendation for improvement
Part A	Domestic legal and administrative framework	It is recommended that The Bahamas amend the deadline for filing a CbC report.
Part B	Exchange of information framework	It is recommended that The Bahamas take steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions and with which The Bahamas has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.
Part B	Exchange of information framework	It is recommended that The Bahamas take steps to implement processes or written procedures to ensure that the exchange of information is conducted in a manner consistent with the terms of reference relating to the exchange of information framework ahead of its first exchanges of information.
Part C	Appropriate use	-

Notes

¹ The Bahamas issued the Multinational Entities Financial Reporting Act, 2018, which is named as “An act to provide for country by country reporting of profit or losses attributed to entities incorporated or resident within The Bahamas”.

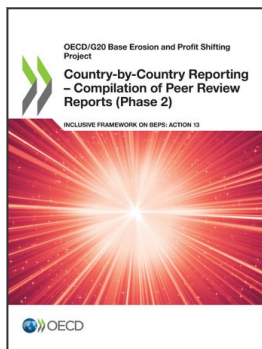
² See Section 2 of the CbC Act.

³ See Section 1 of the CbC Act.

⁴ Which are as follows: (a) the entity is resident in The Bahamas; and (b) one of the following conditions applies – (i) the ultimate parent entity of the MNE Group is not obligated to file a country-by-country report in its jurisdiction of tax residence; (ii) the jurisdiction in which the ultimate parent entity is resident for tax purposes has a current International Agreement to which The Bahamas is a party but does not have a qualifying competent authority agreement in effect to which The Bahamas is a party by the time specified in section 5(3) for filing the report for the reporting fiscal year; or (iii) there has been a systemic failure of the jurisdiction of tax residence of the ultimate parent entity that has been notified by the Authority to the constituent entity resident in The Bahamas.

⁵ See Section 4 of the CbC Act.

⁶ As per Section 9 and 11 of the CbC Act, any Constituent Entity of a MNE Group that is resident in The Bahamas is obliged to keep records of the information related to CbC for six years and to make the information available to Authority for inspection within a specified time frame. Failure to comply constitutes an offence liable to a fine.



From:
**Country-by-Country Reporting – Compilation of
Peer Review Reports (Phase 2)**
Inclusive Framework on BEPS: Action 13

Access the complete publication at:
<https://doi.org/10.1787/f9bf1157-en>

Please cite this chapter as:

OECD (2019), “The Bahamas”, in *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 2): Inclusive Framework on BEPS: Action 13*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/66c9e598-en>

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