

# Israel

## Overview of CbC reporting requirements

First reporting fiscal year: Commencing on or after 1 January 2022. Israel also allowed MNE Groups to file a CbC report on a voluntary basis, for reporting fiscal years commencing between 1 January and 31 December 2021.

Consolidated group revenue threshold: NIS 3.4 billion

Filing deadline: 12 months following the end of the reporting fiscal year

Local filing required: Yes

Surrogate parent entity filing permitted: Yes

First review of the domestic legal framework: 2022/2023

## Summary of recommendations

Area of implementation	Recommendations for improvement
Domestic legal and administrative framework	<p>It is recommended that Israel amend or otherwise clarify the definition of “MNE Group”, “Constituent Entity” and to include a definition of “Consolidated Financial Statements” that is in line with the standard.</p> <p>It is recommended that Israel amend its legislation or otherwise takes steps to ensure that local filing is only required in the circumstances contained in the terms of reference.</p> <p>It is recommended that Israel introduce rules providing that local filing will not apply for a Constituent Entity resident in Israel when the CbC report of the CbC Group to which it belongs has been filed by a Surrogate Parent Entity in its jurisdiction of tax residence.</p> <p>It is recommended that Israel take steps to ensure that enforcement provisions and monitoring relating to the enforcement of CbCR filing obligations are implemented.</p>
Exchange of information framework	None.
Appropriate use	None.

## The domestic legal and administrative framework

Israel’s 2021/2022 peer review confirmed that has a legislative filing requirement in effect but did not include a review of that legislation. Israel’s legislation has now been reviewed.<sup>1 2</sup>

A legislative filing requirement is in effect which applies to all Ultimate Parent Entities of MNE Groups above a certain threshold.<sup>3</sup>

A CbC reporting filing obligation applies in Israel and filing is required within 12 months after the reporting year end.

There are several areas where there are recommendations to improve the legislation.

### ***The definition of MNE Group***

The definition in Israel's legislation refers to two or more related entities where at least one of them is a foreign resident. The definition of MNE Group should also include entities resident in the same jurisdiction, that are subject to tax in different jurisdictions through a permanent establishment, which does not seem to be the case in Israel's legislation.

It is recommended that Israel amend or otherwise clarify the definition of MNE Group to be in line with the standard.

### ***The definition of Constituent Entity***

Israel's legislation refers to the term "Entity", which is defined as "a body of persons, including a business unit of a group of persons for which separate financial statements are prepared". Israel's legislation defines "body or persons" as any "public body, incorporated or amalgamated, and any company, fraternity, fellowship or society, whether incorporated or not." This definition seems narrower than the term under BEPS Action 13, which is intended to cover all types of entities that would have been required to be included in the MNE Group Consolidated Financial Statements, including permanent establishments and entities that would have been excluded from the Consolidated Financial Statements solely on size or materiality grounds.

It is recommended that Israel amend its legislation to include a definition of "Constituent Entity" that is in line with the standard.

### ***The definition of Consolidated Financial Statements***

Israel's legislation does not include a definition of "Consolidated Financial Statements".

It is recommended that Israel amend its legislation to include a definition of "Consolidated Financial Statements" that is in line with the standard.

### ***The local filing provision***

Israel's legislation provides that "The director will be entitled to oblige an entity in the multinational group..., which is a resident of Israel, to submit an ultimate parent entity report, even if it is not an entity required to report...". This provision may impose a local filing obligation to any constituent entity of a foreign MNE Group which is a resident of Israel, regardless of whether the MNE Group meets the revenue threshold to file a CbC report. It should be clarified that local filing only applies to entities in MNE Groups where the threshold for filing a CbC report is exceeded.

Local filing can be required in Israel if the "exchange of information between Israel and the country where the ultimate parent entity report was submitted in a foreign country was suspended contrary to the terms of the competent authority agreement, or no information was received, for some other reason, from that country, regarding multinational groups that include an entity in Israel." This provision may be interpreted in a broader meaning than the situation of a "Systemic Failure" under the term of reference. Under Israel's legislation, local filing may be required in circumstances where there is non-filing of a CbC report in a jurisdiction, which would not constitute a systemic failure to exchange.

It is recommended that Israel amend its legislation or otherwise takes steps to ensure that local filing is only required in the circumstances contained in the terms of reference.

### ***Single entity filing***

There is no explicit provision in Israel's legislation to provide that, where local filing is required and there is more than one Constituent Entity of the same MNE Group that is resident for tax purposes in Israel, one Constituent Entity may be designated to file the CbC report which would satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in Israel. Israel has indicated that, in practice, Israel allows a single Constituent Entity to submit the CbC report on behalf of all Israel resident Constituent Entities. Once a Constituent Entity registers in the filing portal, it should submit a notification listing all Constituent Entities in Israel and can submit the CbC report for all resident Constituent Entities. Israel has indicated that it will further clarify this process in guidance to be published. As such, no recommendation is made but this aspect will be monitored.

### ***Limitation on local filing in case of surrogate filing***

Israel's legislation does not limit local filing in case of surrogate filing.

It is recommended that Israel take steps to amend its legislation or otherwise impose a limitation on local filing in case of surrogate filing in line with the standard.

### ***Effective implementation***

Israel's legislation includes a penalty in relation to the failure to comply with the obligation relating to CbC reports. It is however unclear whether this penalty would apply in cases of incorrect filing or incomplete filing of a CbC report. It is recommended that Israel take steps to ensure that enforcement provisions and monitoring relating to the enforcement of CbCR filing obligations are implemented.

Israel does not have a process 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. As no exchange of CbC reports has yet occurred no recommendation is made but this aspect will be further monitored.

## **The exchange of information framework**

Israel's 2017/2018 peer review included a recommendation that Israel 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 Israel has an international exchange of information agreement in effect that allows for the automatic exchange of tax information. Israel has now activated relationships under the Multilateral Competent Authority Agreement for exchanging CbC reports, and this recommendation is removed.

Israel's 2018/2019 peer review included a recommendation that Israel take steps to implement the necessary 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. These processes are in place and the recommendation is now removed.

## **Appropriate use of CbC reports**

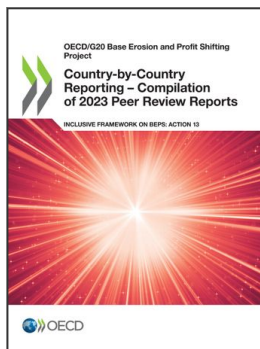
Israel's 2017/2018 included a recommendation that Israel take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. Israel now has controls in place to ensure the appropriate use of CbC reports and this recommendation is removed.

## Notes

<sup>1</sup><https://rfa.justice.gov.il/SearchPredefinedApi/Documents/l~XpSZohpyOH4FFVkJQ6FpRVqnZIJ1Pda2ouBF4pM~20=>

<sup>2</sup> [https://fs.knesset.gov.il/24/law/24\\_lsr\\_645269.pdf](https://fs.knesset.gov.il/24/law/24_lsr_645269.pdf).

<sup>3</sup> Israel's legislation empowers the Minister of Finance with the approval to the Knesset Finance Committee to impose a lower threshold. Local filing cannot be required if the jurisdiction of the UPE has a threshold which is in line with the standard. This is the current situation in Israel and therefore no recommendation is required.



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