

British Virgin Islands

1. The British Virgin Islands was first reviewed during the 2017/2018 peer review. This report is supplementary to the British Virgin Islands' 2017/2018 peer review report (OECD, 2018^[1]). Since the last peer review, the British Virgin Islands has introduced primary legislation in order to implement CbC Reporting requirements. The filing obligation for a CbC report in the British Virgin Islands applies to reporting fiscal years commencing on or after 1 January 2018.

Summary of key findings

2. The British Virgin Islands' legislative implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017^[2]).

3. It is recommended that the British Virgin Islands take steps to have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites and with which the British Virgin Islands has an international exchange of information agreement in effect that allows for the automatic exchange of tax information. This recommendation remains in place since the 2017/2018 peer review.

4. It is recommended that the British Virgin Islands 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 A: The domestic legal and administrative framework

5. The British Virgin Islands has primary law¹ in place to implement the BEPS Action 13 minimum standard, establishing the necessary requirements including the filing and reporting obligations.

6. The British Virgin Islands' 2017/2018 peer review included a recommendation that the British Virgin Islands take steps to implement a domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible, taking into account its particular domestic legislative process. The British Virgin Islands now has the primary law in place to impose and enforce CbC requirements. The recommendation with respect to domestic legal and administrative framework issued in the 2017/2018 peer review is removed.

(a) Parent entity filing obligation

7. The British Virgin Islands has primary law which imposes 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 (OECD, 2015).²

8. No inconsistencies were identified with respect to the British Virgin Islands' domestic legal framework in relation with the parent entity filing obligation.

(b) Scope and timing of parent entity filing

9. The first filing obligation for a CbC report in the British Virgin Islands commences in respect of fiscal years beginning on 1 January 2018³. The CbC report must be filed within 12 months of the last day of the fiscal year of the MNE Group.⁴

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

(c) Limitation on local filing obligation

11. The British Virgin Islands' legislation to impose a CbC reporting requirement also imposes a requirement for local filing in circumstances other than those where the requirements for consistency, appropriate use are met. The British Virgin Islands have however published guidance which is clear that the local filing requirement is suspended pending legislative changes to remove the obligation and will remain suspended until those changes are made.

12. No inconsistencies were identified with respect to the limitation on local filing obligation.

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

13. The British Virgin Islands does not have a local filing obligation. No inconsistencies were identified with respect to the limitation on local filing in case of surrogate filing.

(e) Effective implementation

14. The British Virgin Islands has legal mechanisms in place to enforce compliance with the minimum standard: there are registration requirement in place that apply to The British Virgin Islands entities.⁵ There are also penalties in place in relation to the non-filing and false or inaccurate information.⁶

15. There are no specific process in place to take appropriate measures in case the British Virgin Islands 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. This aspect will be further monitored.

Conclusion

16. The British Virgin Islands' 2017/2018 peer review included a recommendation that the British Virgin Islands finalises its domestic legal and administrative framework to impose and enforce CbC requirements as soon as possible. The British Virgin Islands now has the primary law in place to impose and enforce CbC requirements. The recommendation with respect to domestic legal and administrative framework issued in the 2017/2018 peer review is removed.

17. The British Virgin Islands meets all the terms of reference relating to the domestic legal and administrative framework.

Part B: The exchange of information framework

(a) Exchange of information framework

18. As of 31 May 2019, the British Virgin Islands has no bilateral relationships in place for the exchange of CbC reports. It is recommended that the British Virgin Islands 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 British Virgin Islands has an international exchange of information agreement in effect that allows for the automatic exchange of tax information.

(b) Content of information exchanged

19. The British Virgin Islands does not have processes or written procedures in place that are intended to ensure that each of the mandatory fields of information required in the CbC reporting template are present in the information exchanged.

(c) Completeness of exchanges

20. The British Virgin Islands 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 report with which it should exchange information as per the relevant QCAA.

(d) Timeliness of exchanges

21. The British Virgin Islands 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 QCAs.

(e) Temporary suspension of exchange or termination of QCAA

22. The British Virgin Islands 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 would be carried out only as per the conditions set out in the relevant QCAA.

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

23. The British Virgin Islands does not have processes or written procedures in place that are intended to ensure that its Competent Authority consults with the other Competent Authority before making a determination of systemic failure or significant non-compliance with the terms of the relevant QCAA by that other Competent Authority.

(g) Format for information exchange

24. The British Virgin Islands has not confirmed the format that will be used for the international exchange of CbC reports.

(h) Method for transmission

25. The British Virgin Islands has not indicated that it uses the Common Transmission System, or any other mechanism, to exchange CbC reports.

Conclusion

26. The recommendation in the 2017/2018 peer review for the British Virgin Islands to take steps to have QCAs in effect with jurisdictions of the Inclusive Framework which

meet the confidentiality, consistency and appropriate use conditions remains in place and with which it has an international exchange of information agreement in effect that allows for the automatic exchange of tax information

27. Further, it is recommended that the British Virgin Islands 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 British Virgin Islands will not be exchanging CbC reports in 2019.

Part C: Appropriate use

28. No changes were identified in respect of appropriate use. The British Virgin Islands has notified under the CbC MCAA as a non-reciprocal jurisdiction and, as such, will not receive CbC reports submitted to tax authorities in other jurisdictions. It is therefore not necessary for this peer review evaluation to reach any conclusion with respect to the British Virgin Islands' compliance with the terms of reference on appropriate use.

Conclusion

29. The British Virgin Islands 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	-
Part B	Exchange of information framework	It is recommended that the British Virgin Islands take steps to have QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use conditions and with which the British Virgin Islands 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 British Virgin Islands 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 the first exchanges of information.
Part C	Appropriate use	-

Notes

¹ The legislation for CbC reporting is provided in Part IV of Virgin Islands Mutual Assistance (Tax Matters) (Amendment) Arrangement of Sections (“the Amendment”). The Amendment can be accessed at the following link: <http://www.bvi.gov.vg/media-centre/bvi-implements-base-erosion-and-profit-shifting-action-13>.

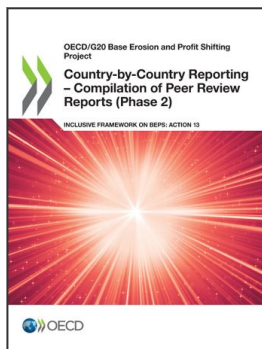
² See sections 37(1) of the Amendment.

³ See section 1(2) of the Amendment.

⁴ See section 40 of the Amendment.

⁵ See section 38 of the Amendment.

⁶ See section 42 (1A) of the Amendment.



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), “British Virgin Islands”, 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/10.1787/96e33f65-en>

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