

Colombia

1. Colombia was first reviewed during the 2017/2018 peer review. This report is supplementary to Colombia's 2017/2018 peer review report (OECD, 2018^[1]). The first filing obligation for a CbC report in Colombia commences in respect of periods commencing on or after 1 January 2016.

Summary of key findings

2. Colombia's implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017^[2]).

3. Colombia's 2017/2018 peer review included a recommendation that Colombia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. Colombia now has measures in place to ensure the appropriate use of information in all six areas identified in the OECD *Guidance on the Appropriate Use of Information contained in CbC Reports* (OECD, 2017^[4]). Therefore, the recommendation with respect to appropriate use issued in the 2017/2018 peer review is removed.

Part A: The domestic legal and administrative framework

4. Colombia has primary and secondary laws¹ (hereafter the "regulations") in place to implement the BEPS Action 13 minimum standard, establishing the necessary requirements including the filing and reporting obligations. Guidance has also been published²

(a) Parent entity filing obligation

5. Colombia's 2017/2018 peer review included a general monitoring point relating to the definition of a UPE. Colombia committed to clarifying the reading of its definition of a UPE through guidance. Colombia has issued a clarification on its Colombian Tax Administration (DIAN) website.³ Colombia also confirms that to date there have been no enquiries from taxpayers on this point. The monitoring point is therefore removed.

(b) Scope and timing of parent entity filing

6. Colombia's 2017/2018 peer review included a monitoring point relating to the filing deadline for the first filing obligation, which was longer than the general rule. Colombia confirmed that a longer deadline for the first filing obligation has not had any impact on its obligations relating to the exchange of information under the terms of reference. For the 2017 fiscal year onwards, the deadline has been established within 12 months after the end of the taxable year, which is in line with the terms of reference. In view of this update and of the establishment of a deadline for the upcoming years this monitoring point is removed.

(c) Limitation on local filing obligation

7. No changes were identified with respect to the limitation on local filing obligation.

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

8. No changes were identified with respect to the limitation on local filing in case of surrogate filing.

(e) Effective implementation

9. Colombia's 2017/2018 peer review included a monitoring point concerning the fact that was no specific process that would allow it to take appropriate measures in case Colombia 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. Since the 2017/2018 peer review, Colombia has provided updated information, explaining that, in case that the DIAN detect errors in the CbC report, a tax auditor from the International Audit Unit would contact the taxpayer to fill an amended CbC report.⁴ Once a corrected CbC report has been submitted to the DIAN, it will then be exchanged with other jurisdictions shortly thereafter. In view of this update and specific process, the monitoring point is removed.

Conclusion

10. There is no change to the conclusion in relation to the domestic legal and administration framework for Colombia since the previous peer review. Colombia 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

11. As of 31 May 2019, Colombia has 64 bilateral relationships in place, including those activated under the CbC MCAA and under bilateral CAAs. Within the context of its international exchange of information agreements that allow automatic exchange of information, Colombia has taken steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions.⁵ Regarding Colombia's exchange of information framework, no inconsistencies with the terms of reference were identified.

(b) Content of information exchanged

12. Colombia has written procedures in place that are intended to ensure that each of the mandatory fields of information as required in the CbC template are present in the information exchanged. It has provided details in relation to these procedures.

(c) Completeness of exchanges

13. Colombia has 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. It has provided details in relation to these procedures.

(d) Timeliness of exchanges

14. Colombia has processes 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. It has provided details in relation to these procedures.

(e) Temporary suspension of exchange or termination of QCAA

15. Colombia has processes 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. It has provided details in relation to those processes.

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

16. Colombia has processes 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. It has provided details in relation to those procedures.

(g) Format for information exchange

17. Colombia 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

18. Colombia indicates that it uses the Common Transmission System to exchange CbC reports.

Conclusion

19. Colombia has in place the necessary processes and 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. Colombia meets all the terms of reference regarding the exchange of information.

Part C: Appropriate use

20. The 2017/2018 peer review included a recommendation that Colombia take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. Colombia now has measures in place to ensure the appropriate use of information in all six areas identified in the *OECD Guidance on the Appropriate use of Information contained in CbC Report*.

21. Since the 2017/2018 peer review, Colombia has provided details in relation to these measures, enabling it to answer “yes” to the additional questions on appropriate use.

22. In light of the update provided by Colombia the recommendation on appropriate use is removed. No concerns were reported for Colombia in respect of the appropriate use condition.

Conclusion

23. Colombia meets all the terms of reference relating to the appropriate use of CbC reports.

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 | - |
| Part C | Appropriate use | - |

Notes

¹ Primary law consists of Article 108 of Law 1819 of 2016, which modified Article 260-5 of the Colombian Tax Code (CTC). Secondary law consists of Decree No. 2120/2017.

² Guidance was issued and consists of DIAN Resolution No.71 of 28 December 2017, available at www.dian.gov.co/normatividad/Normatividad/Resolución%20000071%20de%2028-12-2017.pdf.

³ www.dian.gov.co/Transaccional/GuaServiciosLinea/FAQ_DIAN_PAISXPAIS.PDF.

⁴ Pursuant to article 5, Resolution DIAN No. 71/2017.

⁵ No inconsistency with the terms of reference will be identified where a QCAA is not in effect with one or more jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions, but this is due to circumstances that are not under the control of the reviewed jurisdiction. This may include, for example, where the other jurisdiction intends to exchange CbC reports using the MCAA but it does not have the Convention in effect for the relevant fiscal period, or where the other jurisdiction has declined to have a QCAA in effect with the reviewed jurisdiction.



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), “Colombia”, 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/10.1787/99fc3c41-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.