

Chile

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

Summary of key findings

2. Chile's domestic and administrative framework to implement 13 minimum standard meets all applicable terms of reference (OECD, 2017^[2]), except that:

- It is recommended that Chile introduce enforcement measures applicable to Surrogate Parent Entities. This recommendation is unchanged from the 2017/2018 peer review.

3. It is recommended that Chile 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 (OECD, 2017^[2]) relating to the exchange of information framework as soon as possible.

4. It is recommended that Chile take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. This recommendation remains unchanged since the 2017/2018 peer review.

5. The 2017/2018 peer review included recommendations to introduce the definition of "MNE Group" and to amend or otherwise clarify the annual consolidated group revenue threshold calculation rule applies in a manner consistent with the terms of reference. Chile has now introduced this definition in accordance with the terms of reference, as well as clarified the threshold calculation rule via regulatory decree DJ1937.¹ In light of the update provided by Chile, these two recommendations on the parent filing obligation are now removed.

6. The 2017/2018 peer review included a recommendation to implement procedures to exchange reports for the 2016 reporting period. As Chile now has QCAAs in effect for the exchange of reports this recommendation is removed.

Part A: The domestic legal and administrative framework

7. Chile has primary and secondary law² in place to implement the BEPS Action 13 minimum standard that impose and enforce CbC requirements on MNE Groups whose Ultimate Parent Entity is resident for tax purposes in Chile.

(a) Parent entity filing obligation

8. The 2017/2018 peer review included a recommendation to introduce the definition of an "MNE Group". Chile has now introduced this definition in accordance with the terms

of reference via regulatory decree DJ1937.³ In light of the update provided by Chile, this recommendation is now removed.

9. The 2017/2018 peer review also included a recommendation to amend or otherwise clarify that the annual consolidated group revenue threshold calculation rule applies in a manner consistent with the terms of reference. Chile has now introduced this definition in accordance with the terms of reference via regulatory decree DJ1937.⁴ In light of the update provided by Chile, this recommendation is now removed.

(b) Scope and timing of parent entity filing

10. Chile's 2017/2018 peer review included a general monitoring point with respect to the instructions of the item "Income – Related Party", to be included in a CbC Report, in order to issue an updated interpretation or clarification of the definition to ensure consistency with OECD guidance. Chile has now introduced this definition in accordance with the terms of reference via regulatory decree DJ1937.⁵ The updated provision is consistent with the OECD guidance. In light of the update provided by Chile, this recommendation is now removed.

(c) Limitation on local filing obligation

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

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

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

(e) Effective implementation

13. The 2017/2018 peer review included a recommendation that Chile take steps to introduce enforcement measures applicable to Surrogate Parent Entities, as the current penalties only apply to Ultimate Parent Entities. This recommendation remains in place. It also included a monitoring point⁶ that remains in place.

Conclusion

14. Chile meets all the terms of reference relating to the domestic legal and administrative framework, with the exception of the absence of enforcement measures on Surrogate Parent Entities (paragraph 8(e) i. of the terms of reference).

Part B: The exchange of information framework

(a) Exchange of information framework

15. The 2017/2018 peer review included a recommendation to implement procedures to exchange reports for the 2016 reporting period. This recommendation is removed.

16. As of 31 May 2019, Chile has 63 bilateral relationships in place for the exchange of CbC reports activated under the CbC MCAA. Within the context of its international exchange of information agreements that allow automatic exchange of tax information, Chile has taken steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that currently meet the confidentiality, consistency and appropriate use conditions. Regarding Chile's exchange of information framework, no inconsistencies with the terms of reference were identified.⁷

(b) Content of information exchanged

17. Chile does not have processes 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.

(c) Completeness of exchanges

18. Chile does not have processes 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

19. Chile does not have 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.

20. Chile indicates that a number of CbC reports were exchanged late. These late exchanges were due to an operational issue in the access to the platform which was corrected and therefore no specific recommendation is required.

(e) Temporary suspension of exchange or termination of QCAA

21. Chile does not have 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.

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

22. Chile does not have 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.

(g) Format for information exchange

23. Chile 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

24. Chile indicates that it intends to use the Common Transmission System to exchange CbC reports.

Conclusion

25. It is recommended that Chile 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 as soon as possible.

Part C: Appropriate use

26. The 2017/2018 peer review included a recommendation that Chile take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. This recommendation remains in place.

27. No information or peer input was received for the reviewed jurisdiction suggesting any issues with appropriate use.

Conclusion

28. Chile is recommended to take steps to ensure that appropriate use condition is met as soon as possible.

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 Chile introduce enforcement measures applicable to Surrogate Parent Entities.
Part B	Exchange of information framework	It is recommended that Chile 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.
Part C	Appropriate use	It is recommended that Chile take steps to ensure that the appropriate use condition is met as soon as possible.

Notes

¹ http://www.sii.cl/declaraciones_juradas/suplemento/2019/instrucciones_DJ1937.pdf.

² Chile's primary law consists of a general provision in the tax legislation granting power to the Chilean Tax Authority to require information from its taxpayers (article 41, item 6 of Chilean Income Tax Law) and secondary law consists of a Resolution setting the obligation to present CbC report (Resolution No. 126/2016) and is available at www.sii.cl/documentos/resoluciones/2016/reso126.pdf. Annex No. 4 to the Resolution No. 126/2016 provides instructions for filing the CbC report and is available at: www.sii.cl/documentos/resoluciones/2016/reso126_anexo4.pdf.

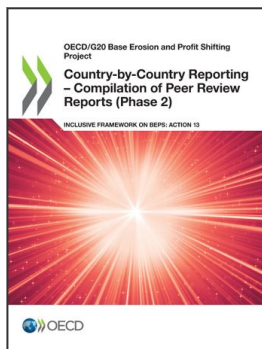
³ Section D of the updated instruction, available at: www.sii.cl/declaraciones_juradas/suplemento/2019/instrucciones_DJ1937.pdf.

⁴ Item A of the updated instruction, available at: www.sii.cl/declaraciones_juradas/suplemento/2019/instrucciones_DJ1937.pdf.

⁵ Section B of the updated instruction, available at: www.sii.cl/declaraciones_juradas/suplemento/2019/instrucciones_DJ1937.pdf.

⁶ Chile's 2017/2018 peer review included a monitoring point relating to the absence of specific processes in place that would allow Chile 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. This monitoring point remains in place.

⁷ 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.



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