

Ukraine

Overview of CbC reporting requirements

Ukraine has implemented the BEPS Action 13 (CbC reporting) minimum standard with six recommendations for improvement.

First reporting fiscal year: Ending on or after 1 January 2021

Consolidated group revenue threshold: EUR 750 million

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: 2020/2021

Summary of recommendations

Area of implementation	Recommendations for improvement
Domestic legal and administrative framework	<p>It is recommended that Ukraine amend its legislation or otherwise take steps to ensure that the definition of MNE Group is in line with that required by the Action 13 standard.</p> <p>It is recommended that Ukraine take steps to ensure that local filing only occurs in the circumstances permitted under the minimum standard.</p> <p>It is recommended that Ukraine clarify that the annual consolidated group revenue threshold calculation rule applies in line with the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than Ukraine.</p>
Exchange of information framework	<p>It is recommended that Ukraine 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 Ukraine has an international exchange of information agreement in effect that allows for the automatic exchange of tax information</p> <p>It is recommended that Ukraine 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.</p>
Appropriate use	It is recommended that Ukraine take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information.

The domestic legal and administrative framework

Ukraine's 2017/2018 peer review confirmed that Ukraine has a legislative filing requirement in effect, but did not include a review of this legislation. Ukraine's legislation has now been reviewed.¹

Ukraine has a legislative filing requirement which applies to all Ultimate Parent Entities of MNE Groups above a certain threshold and which requires inclusion of all constituent entities.²

Ukraine's legislation includes a definition of MNE group (International group of companies) which includes two or more enterprises which are tax resident in different countries but does not include an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction. It is recommended that Ukraine amend its legislation or otherwise take steps to ensure that the definition of MNE Group is in line with that required in the Action 13 standard.

A CbC reporting filing obligation applies in Ukraine for fiscal years ending on or after 1 January 2021 and filing is required 12 months after the reporting year end. Ukraine has enforcement requirements to ensure compliance with rules on CbC reporting.

Ukraine has a legislative requirement for local filing which is in effect despite Ukraine not yet meeting all of the consistency, confidentiality and appropriate use conditions. It is therefore recommended that Ukraine take steps to ensure that local filing only occurs in the circumstances permitted under the minimum standard.

With respect to the annual consolidated group revenue threshold where the MNE Group draws up, or would draw up, its Consolidated Financial Statements in a currency other than that specified by Ukraine, the reference to Ukraine's threshold has the effect as if it were a reference to the equivalent in that currency at the average exchange rate for the accounting period. While this provision would not create an issue for MNE Groups whose Ultimate Parent Entity is a tax resident in Ukraine, it may be incompatible with the guidance on currency fluctuations for MNE Groups whose Ultimate Parent Entity is located in another jurisdiction, if local filing requirements were applied in respect of a Constituent Entity (which is an Ukraine tax resident) of an MNE Group which does not reach the threshold as determined in the jurisdiction of the Ultimate Parent Entity of such a Group.

This is an unintended consequence of having a local filing requirement and it is therefore recommended that Ukraine clarify that the annual consolidated group revenue threshold calculation rule applies in line with the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than Ukraine.

Ukraine's domestic legal and administrative framework meets all other terms of reference.

The exchange of information framework

Ukraine has no bilateral relationships in place for the exchange of CbC reports nor processes 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.

It is recommended that Ukraine 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 Ukraine 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.

It is recommended that Ukraine 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. This recommendation remains in place since the 2018/2019 peer review.

Appropriate use of CbC reports

Ukraine does not yet have controls in place to ensure the appropriate use of CbC reports.

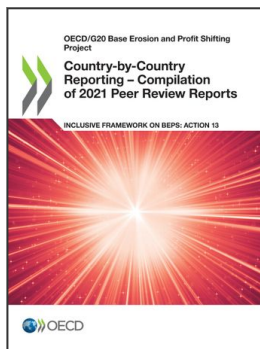
It is recommended that Ukraine take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. This recommendation remains in place since the 2017/2018 peer review.

Notes

¹ Tax Code of Ukraine <https://zakon.rada.gov.ua/laws/show/2755-17#Text>.

Law No 466-IX dated 16.01.2020 <https://zakon.rada.gov.ua/laws/show/466-20#Text>.

The Order of the Ministry of Finance of Ukraine No 764 dated 14.12.2020 "On approval of the Form and the Regulations on compiling the Country-by-Country Report of the International group of companies" <https://zakon.rada.gov.ua/laws/show/z0155-21#Text>.



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