

CbC reporting extension for Australian Local File Part A lodgments

27 April 2018

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In brief

In relation to the Australian Country-by-Country (CbC) reporting rules, the Australian Taxation Office (ATO) has released the timeframes for filing the Australian Local Files for the year ended 31 December 2017 ('Year 2' Australian Local Files) or later. Specifically, affected taxpayers that wish to lodge 'Part A' of their Local File instead of completing certain questions on the International Dealings Schedule (IDS), will have until 14 September 2018 to lodge Part A. However, this extended due date does not alter other reporting obligations including the date for lodging income tax returns, and preparing transfer pricing documentation (for taxpayers wishing to be eligible to establish a reasonably arguable position on their transfer pricing). The ATO has advised that there will be no extension in relation to Full Local File lodgment (inclusive of Part A, Part B, Short Form and Master File), which will be due on 31 December 2018 for the 31 December 2017 year.

The ATO also intends to conduct compliance activities to identify and follow up taxpayers who have failed to comply with their reporting obligations for the first year. Financial penalties of up to AUD525, 000 per statement can apply for non-compliance.

In detail

Local File updates

As outlined in [previous Tax Insights alerts](#), the Australian CbC reporting rules require 'significant global entities' operating in Australia to submit a unique 'Local File' to the ATO each year. Taxpayers are also required to file a Master File with the ATO, and ensure that a CbC report is either filed in a jurisdiction that will automatically exchange it with the ATO, or file it directly with the ATO.

The ATO has provided an 'administrative solution' for taxpayers who wish to avoid duplication in the intercompany transaction details reported in Part A of the Local File and the IDS, which is required to be lodged with the Australian income tax return. This allows taxpayers to file Part A of the Local File early instead of completing some of the disclosures (in questions 2-17) of the IDS.

Ordinarily, to apply the administrative solution, taxpayers should file Part A of the Local File by the due date of the income tax return. However, the ATO will provide an extended filing date of 14 September 2018 for Part A lodgments for the 31 December 2017 and 31 January 2018 periods, to allow time for the ATO and software developers to implement and test software updates to accommodate changes in the Local File Schema that the ATO is introducing for Year 2.

The Year 2 Schema changes include:

- Changes in the reporting of foreign exchange gains and losses arising from related party dealings, with reduced reporting obligations to apply to certain common transaction types (such as payments for goods or services) which are settled on a regular basis.
- Additional fields included, which enable taxpayers to report branch details when they are dealing with a foreign branch of a related entity.
- Changes in the way that certain financial dealings are reported, including separate disclosure fields for debt balances, capitalised interest, and receivables factoring.
- The option to add comments explaining transactions reported in the Local File.

These changes apply to 'Year 2' Local Files, i.e. income years ending 31 December 2017 or later. For 'Year 1' Local Files that are yet to be lodged, the ATO's Year 1 Schema can still be used.

Taxpayers filing Part A of the Local File under the administrative solution can also choose to lodge other sections of the Local File (e.g. Part B and the Short Form) with Part A, or at some other time prior to the due date of the full Local File (12 months after the reporting year end). In many cases, the Master File will not be available until later, so a subsequent lodgment for the Master File will be needed by the due date.

The ATO provided a transitional concession to some taxpayers in relation to the Master File for Year 1, which provided relief from submitting a Master File if there was no requirement to prepare or file a Master File in any other jurisdiction. This was a one year concession, and required a commitment from the taxpayer to submit a Master File for the second reporting year. As such, the ATO will expect all taxpayers to submit a Master File in Year 2, unless a specific exemption has been granted.

For Year 1, the ATO granted a blanket extension until 15 February 2018 for all 31 December 2016 and 31 January 2017 CbC report, Master File and Local File lodgments. No such extension is expected to be granted for Year 2. Therefore, 31 December 2017 filings (including Full Local Files) will need to be completed by 31 December 2018.

Compliance activities

We understand the ATO intends to undertake compliance activities to identify and follow up taxpayers who have not complied with their obligations under the Australian CbC reporting rules. This will include reviewing CbC reports received through automatic exchange arrangements to identify Australian constituent entities which have not lodged a Local File. In some cases, the local entity may not have been required to submit a Local File (e.g. because they were not a 'significant global entity' as defined in Australian law, or only became a significant global entity for the first time during the year). For these taxpayers, no penalties should arise. However, the ATO may consider whether it is appropriate to issue determinations to some taxpayers indicating that they are significant global entities, which will trigger future reporting obligations.

Entities already subject to the CbC reporting rules which have failed to comply with their Australian obligations will be at risk of penalties. The penalties that can apply for failing to lodge a statement required under the CbC reporting rules can be up to AUD525, 000 per statement. The CbC report, Master File and Local File are each separate statements, so the total penalty exposure for an entity that fails to comply with all three of these obligations is up to AUD1.575 million. Taxpayers should therefore ensure they have carefully considered their lodgment obligations under these rules, and should consider proactively dealing with any omissions that have occurred.

The takeaway

For many taxpayers this year, the extended filing deadline makes the ATO's administrative solution appealing. Taxpayers who have completed a Year 1 Local File will understand there is a significant amount

of work involved and therefore, even with the extended filing date, it will be important to plan ahead to allow enough time to compile the data, consider the impacts of the Year 2 changes, and complete the relevant review and approval processes.

It is also important to remember the deadlines for lodging the income tax return and preparing transfer pricing documentation have not changed. This means that for 31 December 2017 entities, this needs to be done by 16 July 2018, or a relevantly approved extended due date.

Any taxpayers who may have overlooked a Year 1 reporting obligation should consider addressing this proactively given the significant penalty risk if they are subsequently detected by the ATO.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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