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If a whole or part of a paragraph has been amended, the date of the amending regulation appears in square brackets at the end of the paragraph. If a whole paragraph or sub-paragraph has been deleted, the date of the deletion appears in square brackets beside the deleted paragraph or sub-paragraph.

Republic of Latvia

Cabinet

Regulation No. 397

Adopted 4 July 2017

**Regulations Regarding Country-by-Country Report of Multinational Enterprise Group**

*Issued pursuant to*

*Section 7, Paragraph four, Section 15, Paragraph nine, and Section 18.1, Paragraph three of the law On Taxes and Fees*

**I. General Provisions**

1. This Regulation prescribes:

1.1. the structure and content of a country-by-country report of multinational enterprise group (hereinafter – the report), explanation of the terms used in the report, and also the procedures for the preparation and submission thereof;

1.2. conditions upon setting in of which the report is to be provided;

1.3. the procedures for the automatic exchange of reports between competent authorities of the Republic of Latvia and other European Union Member States or any competent authority of another country with which the competent authority of the Republic of Latvia has, on the basis of the international agreement entered into by the Republic of Latvia, entered into a Qualifying Competent Authority Agreement (hereinafter – the competent authorities of involved countries).

2. The terms used in this Regulation:

2.1. group – a collection of enterprises related through ownership or control which is either required to prepare a consolidated annual statement in accordance with the applicable principles (standards) for preparing financial statements or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;

2.2. MNE group – any group that includes two or more enterprises the tax residence of which is in different countries or territories, or includes an enterprise that is resident for tax purposes in one country or territory and is subject to tax with respect to the economic activities carried out through a permanent establishment in another country or territory, and is not an excluded MNE group;

2.3. excluded MNE group – a group having the total consolidated group revenue (turnover) of less than EUR 750 000 000 or, where the country or territory of tax residence of the parent entity is outside of the euro area, a near equivalent amount in the respective currency during the relevant fiscal year immediately preceding the reporting fiscal year (in accordance with its consolidated annual statement for such previous fiscal year); the near equivalent amount shall also mean a higher amount if the increase in the respective value has resulted from currency fluctuations and the currency fluctuations have occurred after the obligation to submit the country-by-country report of MNE group was introduced in the residence country of the parent entity, and such increase is not substantial;

2.4. constituent entity of an MNE group means any of the following:

2.4.1. any separate unit of an MNE group which carries out economic activities and is included in the consolidated annual statement of the MNE group or would be so included if equity interests in such unit (which carries out economic activities) of the MNE group were traded on a public securities exchange;

2.4.2. any such unit which carries out economic activities and is excluded from the consolidated annual statement of the MNE group solely on size or materiality grounds;

2.4.3. any separate unit of the MNE group referred to in Sub-paragraph 2.4.1 or 2.4.2 of this Regulation if it prepares a separate annual statement;

2.5. reporting entity – the constituent entity of an MNE group that is required to file the report on behalf of its MNE group;

2.6. parent entity – the constituent entity of an MNE group to which all of the following indications apply:

2.6.1. it owns directly or indirectly a sufficient interest in one or more other constituent entities of such MNE group and it is required to prepare an consolidated annual statement in accordance with the principles (standards) for preparing financial statements generally applied in the country or territory of residence selected for tax purposes, or would be so required if its equity interests were traded on a public securities exchange in its country or territory of residence selected for tax purposes;

2.6.2. it does not have any other constituent entity of such MNE group that owns directly or indirectly a sufficient interest in one or more other constituent entities of such MNE group and it is required to prepare a consolidated annual statement in accordance with the principles (standards) for preparing financial statements generally applied in the country or territory of residence of the abovementioned entity selected for tax purposes;

2.7. surrogate parent entity – one constituent entity of an MNE group that has been appointed by such MNE group as the sole substitute for the parent entity, to submit the report in that country or territory of residence of the constituent entity selected for tax purposes on behalf of such MNE group;

2.8. fiscal year – the reporting period for which the parent entity of an MNE group prepares a consolidated annual statement;

2.9. reporting fiscal year – the fiscal year the financial and operational results of which are reflected in the report;

2.10. Qualifying Competent Authority Agreement – an agreement that is between authorised representatives of the Republic of Latvia and a non-European Union country that are parties to an international agreement and that requires the automatic exchange of reports between the Republic of Latvia and the relevant country;

2.11. international agreement:

2.11.1. the Multilateral Convention on Mutual Administrative Assistance in Tax Matters;

2.11.2. any bilateral or multilateral tax convention;

2.11.3. any tax information exchange agreement to which the Republic of Latvia is a party, and that by its terms provides legal authority for the exchange of tax information with a country (including automatic exchange of such information);

2.12. systemic failure – with respect to a country means that the relevant country and the Republic of Latvia have a Qualifying Competent Authority Agreement in effect but it has suspended automatic exchange (for reasons other than those that are connected with the terms of the Qualifying Competent Authority Agreement), or that the relevant country otherwise failed to automatically provide to the Republic of Latvia such reports in its possession that have the entities indicated therein situated in the Republic of Latvia.

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3. The report (Annex) shall consist of three parts:

3.1. Part I “Overview of allocation of income, taxes and business activities by countries or territories of residence selected for tax purposes” contains information on the amount of revenues, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash and cash equivalents in respect of each country or territory where an MNE group is operating;

3.2. Part II “List of all the constituent entities of the MNE group included in each aggregation by countries or territories of residence selected for tax purposes” contains identification information of each constituent entity of an MNE group (specifying the country or territory of residence selected by a constituent entity and, if different from the country or territory of residence selected for tax purposes, the country or territory in accordance with the laws and regulations of which the relevant constituent entity has been organised) and information on the main economic activity or nature of the economic activities;

3.3. Part III “Additional Information” provides additional information or explanations which facilitate the understanding of the compulsory information to be provided in the report.

4. The information referred to in Paragraphs 12, 13, 16, 17, and 28 of this Regulation shall be notified to the State Revenue Service through the Electronic Declaration System of the State Revenue Service.

5. The State Revenue Service is the competent authority for sending the report to the competent authorities of involved countries.

6. The State Revenue Service shall, automatically (without prior notice) in accordance with the procedures laid down in this Regulation, by complying with the regulations included in the Qualifying Competent Authority Agreements entered into by the Republic of Latvia, submit the report to the competent authority of involved countries.

7. The State Revenue Service shall process the information provided in the report in accordance with the following conditions:

7.1. the information provided in the report may be used in order to assess high-level transfer-pricing risks and other risks related to base erosion of taxes to be paid and profit shifting, including to assess the risk that members of the MNE group fail to comply with applicable transfer-pricing regulations, and, where appropriate, to make a corresponding economic and statistical analysis;

7.2. the information provided in the report may be used for a more detailed examination of the information on the transfer pricing procedures of the MNE group or other tax matters during the tax control measures resulting also in the possibility to make appropriate adjustments to the taxable base of the constituent entity of the MNE group;

7.3. the information provided in the report may not be used to:

7.3.1. determine the consistency of transfer prices with the marker price (value);

7.3.2. substitute detailed transfer pricing analysis for each controlled transaction;

7.3.3. adjust the taxable base of the taxpayer.

[*4 February 2020*]

**II. Procedures for Preparing the Report**

8. A reporting fiscal year shall cover 12 months and the first reporting fiscal year shall start on 1 January 2016.

9. A parent entity of an MNE group which is a tax resident in the Republic of Latvia shall, within 12 months of the last day of the reporting fiscal year, prepare and provide the report to the State Revenue Service for the reporting fiscal year.

10. A constituent entity of an MNE group which is a tax resident in the Republic of Latvia and which is not a parent entity of the MNE group shall, by complying with the period referred to in Paragraph 9 of this Regulation, prepare the report for the reporting fiscal year of the MNE Group of which it is a constituent entity and submit it to the State Revenue Service, if any of the following criteria are satisfied:

10.1. the parent entity is not obligated to prepare and submit the report in the country or territory of residence selected for tax purposes;

10.2. the country in which the parent entity is a tax resident has a current international agreement but does not have a relevant Qualifying Competent Authority Agreement in effect for preparing and submitting the report for the reporting fiscal year referred to in Paragraph 8 of this Regulation;

10.3. there has been a systemic failure of the country of residence selected for tax purposes by the parent entity that has been notified by the State Revenue Service to the constituent entity of the MNE group which is a tax resident in the Republic of Latvia.

11. A constituent entity of an MNE group which is required to prepare and submit the report in accordance with Paragraph 10 of this Regulation shall request the parent entity to provide to it all the information provided for in this Regulation which is necessary for preparing the report.

12. If a constituent entity of an MNE group has not obtained or acquired all the required information necessary for completing the report for the MNE group, this constituent entity shall submit the report containing all information in its possession and concurrently notify the State Revenue Service that the parent entity has refused to make the necessary information available.

13. Where there is one or several constituent entities of an MNE group that are tax residents in the Republic of Latvia and which are required to prepare and submit the report in accordance with Paragraph 10 of this Regulation, the MNE group may designate one of the constituent entities of the MNE group to prepare and submit the report for the reporting fiscal year and concurrently notify the State Revenue Service that the reporting requirement of all the constituent entities of such MNE group that are tax residents in the Republic of Latvia is intended to be satisfied with the submission of the report.

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14. If a constituent entity cannot obtain or acquire all the information required for the preparation of the report, in line with Paragraph 11 of this Regulation, then such constituent entity shall not be eligible to be designated to be the reporting entity for the MNE group in accordance with Paragraph 13 of this Regulation.

15. A constituent entity of the MNE group which has the obligation to prepare the report in accordance with Paragraph 10 of this Regulation shall not be required to prepare the report for the reporting fiscal year if the MNE group of which it is a constituent entity has prepared and provided the report for such reporting fiscal year through a surrogate parent entity that submits that report to the competent authority of its country or territory of residence selected for tax purposes by complying with the period referred to in Paragraph 9 of this Regulation and that, in case the surrogate parent entity is tax resident in a country or territory outside the European Union, satisfies the following conditions:

15.1. the obligation to prepare and submit reports is determined in the country or territory of residence selected for tax purposes by the surrogate parent entity;

15.2. the country of residence selected for tax purposes by the surrogate parent entity has a Qualifying Competent Authority Agreement in effect during the time for providing the report;

15.3. the competent authority of the country or territory of residence selected for tax purposes by the surrogate parent entity has not notified the State Revenue Service of a systemic failure;

15.4. the country or territory of residence selected for tax purposes by the surrogate parent entity has been notified by the constituent entity of the MNE group the tax residence of which is in the country or territory that it is the surrogate parent entity no later than on the last day of the reporting fiscal year;

15.5. the State Revenue Service has received the State Revenue Service has received a notification referred to in Paragraph 16 of this Regulation.

16. Any constituent entity of an MNE group that is a resident for tax purposes in the Republic of Latvia shall, no later than on the last day of the reporting fiscal year, notify the State Revenue Service whether it is the parent entity or the surrogate parent entity or the constituent entity of the MNE group which is required to prepare the report in accordance with Paragraph 10 of this Regulation.

17. A constituent entity of an MNE group that is resident for tax purposes in the Republic of Latvia and is not the parent entity nor the surrogate parent entity nor the constituent entity of the MNE group which is required to prepare the report in accordance with Paragraph 10 of this Regulation shall notify the State Revenue Service of the identity and tax residence of the reporting entity no later than on the last day of the reporting fiscal year.

**III. General Procedures for Completing the Report**

18. All amounts shall be provided in euros and cents in the report.

19. The report shall cover the fiscal year of the reporting MNE group. For constituent entities, at the discretion of the reporting MNE group, the report shall reflect either of the following information:

19.1. information on the fiscal year of the relevant constituent entities ending on the same date as the fiscal year of the reporting MNE group or ending within the 12 month period preceding such date;

19.2. information on all the relevant constituent entities reported for the fiscal year of the reporting MNE group.

20. The same sources of data shall be used from year to year in completing the report by complying with the following requirements:

20.1. data from the consolidation reporting packages of the MNG group, entity statutory annual statements, regulatory financial statements, or internal management accounts of a separate subject may be selected as sources of data;

20.2. it is not necessary to reconcile the data to be reported in Part I of the report (the revenues, profit and taxes) with consolidated annual statement;

20.3. if annual statements of separate subjects are used as the basis for preparing the report, all amounts shall be expressed in euros at the average exchange rate for the year stated in Part III of the report. Adjustments need not be made for differences in principles and regulations of assessment of financial statement items applied in different tax countries or territories.

**IV. Special Procedures for Completing the Report**

21. The Table included in Part I of the report shall be completed in accordance with the following procedures:

21.1. in Column 1 “Country or territory of tax residence”, all the countries and territories where constituent entities of the MNE group are residents for tax purposes shall be indicated. A separate line shall be included in the Table for all constituent entities in the MNE group deemed by the reporting MNE group not to be resident in any tax jurisdiction for tax purposes. Where a constituent entity is resident in more than one country or territory for tax purposes, the applicable tax treaty tie breaker shall be applied to determine the tax jurisdiction of residence. Where no applicable tax treaty exists, the constituent entity of the MNE group shall be reported in the tax jurisdiction of the place of effective management of the constituent entity of the MNE group. The place of effective management shall be determined with internationally agreed standards;

21.2. in the three columns with the common title “Revenues”, the sum of revenues (revenues from the sale of inventory and properties, services, royalties, interest, premiums and any other amounts, but shall exclude payments received from other constituent entities of the MNE group that are treated as dividends in the payer’s country or territory selected for tax purposes) of all the constituent entities of the MNE group in the relevant country or territory selected for tax purposes shall be indicated;

21.2.1. in Column 2 “Related parties”, the revenues generated from transactions with constituent entities of the MNE group shall be indicated;

21.2.2. in Column 3 “Unrelated parties”, the revenues generated from transactions with independent entities shall be indicated;

21.2.3. in Column 4 “Total”, the total amount of the columns referred to in Sub-paragraphs 21.2.1 and 21.2.2 of this Regulation shall be indicated;

21.3. in Column 5 “Profit (loss) before income tax”, the sum of the profit (loss) before income tax for all the constituent entities of the MNE group the tax residence of which is in the relevant country or territory shall be indicated. When indicating the profit (loss) before income tax, all extraordinary income and expense items shall be included;

21.4. in Column 6 “Income tax paid (on cash basis)”, the reporting MNE shall indicate the total amount of income tax actually paid during the relevant fiscal year by all the constituent entities thereof the country or territory of tax residence of which is in the relevant country or territory of residence selected for tax purposes. Taxes paid shall include cash taxes paid which the constituent entities of the MNE group have paid to the country or territory of residence selected for tax purposes and to all other countries or territories. Taxes paid shall include withholding taxes paid by other entities (associated enterprises and independent enterprises) with respect to payments to the constituent entities of the MNE group (for example, if a constituent entity resident in a country of residence selected for tax purposes A earns interest in other country B, the constituent entity shall indicate the tax withheld in the country B);

21.5. in Column 7 “Income tax accrued – current year”, the sum of the accrued current tax expense recorded on taxable profits or losses of the reporting year of all the constituent entities of the MNE group the tax residence of which is in the relevant tax jurisdiction shall be indicated. The current tax expense shall reflect only operations in the current year and shall not include deferred taxes or provisions for uncertain tax liabilities;

21.6. in Column 8 “Stated capital”, the sum of the stated capital of all the constituent entities of the MNE group the tax residence of which is in the relevant country or territory shall be indicated. With regard to permanent establishments, the stated capital shall be indicated by the legal entity of which it is a permanent establishment unless there is a defined capital requirement for regulatory purposes in the country or territory of residence of the permanent establishment selected for tax purposes;

21.7. in Column 9 “Accumulated earnings”, the sum of the total accumulated earnings of all the constituent entities of the MNE group the tax residence of which is in the relevant country or territory of residence selected for tax purposes as of the end of the year shall be indicated. With regard to permanent establishments, accumulated earnings shall be reported by the legal entity of which it is a permanent establishment;

21.8. in Column 10 “Number of employees”, the total number of employees on a full-time equivalent (FTE) basis of all the constituent entities of the MNE group the tax residence of which is in the relevant country or territory shall be indicated. The number of employees may be reported as of the year-end or on the basis of average employment levels for the year, or on any other basis consistently applied across various countries or territories of residence selected for tax purposes and from year to year. For this purpose, independent contractors participating in the ordinary economic activities of the constituent entity of the MNE group may be reported as employees. Reasonable rounding or approximation of the number of employees is permissible, providing that such rounding or approximation does not materially distort the relative distribution of employees across the various tax countries or territories. Consistent approaches shall be applied from year to year and across entities;

21.9. in Column 11 “Tangible assets other than cash and cash equivalents”, the sum of the net book values of tangible assets of all the constituent entities of the MNE group the tax residence of which is in the relevant country or territory of residence selected for tax purposes shall be indicated. With regard to permanent establishments, assets shall be indicated by reference to the country or territory of tax residence where the permanent establishment is situated. Tangible assets for this purpose do not include cash or cash equivalents, intangibles, or financial assets.

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22. The Table included in Part II of the report shall be completed in accordance with the following procedures:

22.1. the Column 1 “Country or territory of tax residence” shall be completed in conformity with Sub-paragraph 21.1 of this Regulation;

22.2. in Column 2 “Name of the constituent entity of the MNE group”, all the constituent entities of the MNE group which are tax residents of the relevant country or territory shall be included in breakdown by countries and territories of tax residence by indicating their names. Permanent establishments shall be included in conformity with the country or territory of tax residence where the permanent establishment is situated, and the entity of which it is a permanent establishment shall be indicated;

22.3. in Column 3 “Country or territory of organisation or incorporation if different from country or territory of tax residence”, name of the country or territory under whose legal acts the constituent entity of the MNE group is organised or incorporated shall be indicated if the relevant country or territory is different from the country or territory of tax residence;

22.4. in other columns with the common title “Main business activity(ies)”, one or several types of the main economic activities carried out by the constituent entity of the MNE group in the relevant country or territory of residence selected for tax purposes shall be indicated.

23. A short description of data sources used in drawing up the report shall be provided in Part III of the report. If the data source used is changed every year, the information on the reasons and consequences of such change shall be provided.

**V. Procedures for Submitting, Examining, and Sending the Report**

24. In order to provide the report, a user of the Electronic Declaration System of the State Revenue Service shall select the document “Country-by-country Report of MNE Group” from the group of documents and enter the data in conformity with the selection criteria indicated in the Electronic Declaration System of the State Revenue Service.

25. The State Revenue Service shall, within 15 months after the last day of the fiscal year of the MNE group to which the report applies, ensure sending of the information received from the reporting entity to the competent authority of the involved country in which, based on the information provided for in the report, one or several constituent entities of the MNE group are tax residents or in which the tax for carrying out economic activities through a permanent establishment is applied to them.

26. If the State Revenue Service establishes that the information provided by the reporting entity is incorrect, incomplete or otherwise fails to meet the requirements, it shall, as soon as possible, however not later than within 20 working days after establishment of non-conformity, inform the reporting entity thereof by through the Electronic Declaration System of the State Revenue Service.

27. The reporting entity shall, within two months after receipt of the information referred to in Paragraph 26 of this Regulation from the State Revenue Service, submit the requested or corrected information thereto through the Electronic Declaration System of the State Revenue Service.

28. If the reporting entity has no possibilities to provide the information referred to in Paragraph 26 of this Regulation within the period specified in Paragraph 27 of this Regulation, the reporting entity shall, as soon as possible, however no later than within two months after receipt of the information from the State Revenue Service, inform it of the reasons for the non-submission of the information and the estimated date for the submission of information.

**VI. Final Provisions**

29. When applying Paragraph 25 of this Regulation, the State Revenue Service shall exchange reports for the first reporting fiscal year which begins on 1 January 2016 within 18 months after the last day of the reporting fiscal year.

30. The information referred to in Paragraphs 16 and 17 of this Regulation on the first reporting fiscal year which begins on 1 January 2016 shall be reported by 31 August 2017.

31. The State Revenue Service shall, once a year, send assessment on efficiency of report exchange and information on the practical results reached to the European Commission.

**Informative Reference to European Union Directive**

This Regulation contains legal norms arising from Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

Prime Minister Māris Kučinskis

Minister for Finance Dana Reizniece-Ozola

**Annex**

Cabinet Regulation No. 397

4 July 2017

**Country-by-country Report of MNE Group**

**I. Overview of allocation of income, taxes and business activities by countries or territories of residence selected for tax purposes**

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Name of the MNE group:  Fiscal year concerned:  Currency: | | | | | | | | | | |
| Country or territory of tax residence | Revenues | | | Profit (loss) before income tax | Income tax paid (on cash basis) | Income tax accrued – current year | Stated capital | Accumulated earnings | Number of employees | Tangible assets other than cash and cash equivalents |
| Related parties | Unrelated parties | Total |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |

**II. List of all the constituent entities of the MNE group included in each aggregation by countries or territories of residence selected for tax purposes**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Name of the MNE group:  Fiscal year concerned: | | | | | | | | | | | | | | | |
| Country or territory of tax residence | Name of the constituent entity of the MNE group | Country or territory of organisation or incorporation if different from the country or territory of tax residence | Main business activity(ies) | | | | | | | | | | | | |
| Research and development | Holding or managing intellectual property | Purchasing or procurement | Manufacturing or production | Sales, marketing or distribution | Administrative, management or support services | Provision of services to unrelated parties | Internal group finance | Regulated financial services | Insurance | Holding shares or other equity instruments | Dormant | Other\* |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 |
|  | 1. |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 2. |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 3. |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  | 1. |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 2. |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 3. |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Note. \* The type of activity of the constituent entity of the MNE group shall be indicated in Part III of the report. | | | | | | | | | | | | | | | |

**III. Additional Information**

|  |
| --- |
| Name of the MNE group:  Fiscal year concerned: |
| *Any further brief information or explanation you consider necessary or that would facilitate the understanding of the compulsory information provided in the country-by-country report* |

Minister for Finance Dana Reizniece-Ozola