

CbCR a tool for tax administrations and taxpayers

| Name of the MNE group: L Corporation and Affiliates | | | | | | | | | | |
|---|-----------------|---------------|--------|---------------------------------|---------------------------------|-----------------------------------|----------------|----------------------|---------------------|--|
| Fiscal year concerned: 2020 | | | | | | | | | | |
| Currency used: USD (in thousands) | | | | | | | | | | |
| Tax Jurisdiction | 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 |
| | Unrelated Party | Related Party | Total | | | | | | | |
| United States | 12,000 | 500 | 12,500 | 5,000 | 1,750 | 1,750 | 1,000 | 15,000 | 300 | 5,000 |
| Ireland | 15,000 | 0 | 15,000 | 5,800 | 725 | 725 | 10 | 30,000 | 15 | 500 |
| Germany | 0 | 157.5 | 157.5 | 15.75 | 4.72 | 4.72 | 10 | 35 | 1 | 10 |
| Japan | 0 | 113 | 113 | 11.3 | 3.57 | 3.57 | 10 | 20 | 1 | 5 |

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| Name of the MNE group: L Corporation and Affiliates | | Fiscal year concerned: 2020 | | Main Business Activity(ies) | | | | | | | | | | | | | |
|---|---|---|--------------------------|---|---------------------------|-----------------------------|----------------------------------|--|--|------------------------|------------------------------|-----------|--|---------|--------------------|--|--|
| Tax Jurisdiction | Constituent Entities Resident in the Tax Jurisdiction | Tax Jurisdiction of Organization or Incorporation if Different from Tax Jurisdiction of Residence | Research and Development | Holding or Managing Intellectual Property | Purchasing or Procurement | Manufacturing or Production | Sales, Marketing or Distribution | Administrative, Management of Support Services | Provision of Services to Unrelated Parties | Internal Group Finance | Regulated Financial Services | Insurance | Holding Shares or Other Equity Instruments | Dormant | Other ¹ | | |
| United States | L Corporation | | X | X | | X | X | | | | | | | | | | |
| Ireland | L Ireland | | X | X | | X | X | | | | | | | | | | |
| Germany | L Germany GmbH | | | | | | X | | | | | | | | | | |
| Japan | L Japan GK | | | | | | X | | | | | | | | | | |

Action 13

CbC MCAA Adoption

- Many countries have agreed to the automatic exchange of CbCRs by signing the Multilateral Competent Authority Agreement on the Exchange of CbC Reports (the "CbC MCAA")
 - The MCAA is meant to ease and ensure the automatic transfer of CbCRs among signatories
- As of October 2018, 74 countries have signed the CbC MCAA
- As of September 2018, more than 1,800 exchange agreements have been activated between signatories of the CbC MCAA
- The United States has not signed the CbC MCAA but is instead negotiating bilateral agreements for the exchange of CbCRs
- In the U.S., CbC reports are "return information" under Section 6103
- As of November 2018, the United States has signed bilateral agreements with 41 countries for CbCR exchange, and has publicly disclosed that it is in negotiations with 7 others

BEPS Action 13: Master File

- **Master file is expected to assist tax administrations in evaluating the presence of significant transfer pricing risk**
- **Master file requirements (2017 OECD TPG, Chapter V, Annex I):**
 - A chart demonstrating the MNE's legal and ownership structure and location of operating entities
 - A description of the MNE's business(es), including profit drivers, supply chains for certain of the group's largest products/service offerings and their main geographic markets, important service arrangements, and important business transactions
 - A description of the MNE's intangibles, including the group's strategy for intangibles, the locations of R&D facilities and management, a list of the group's intangibles that are important for transfer pricing purposes, and a list of important agreements related to intangibles
 - A description of the MNE's intercompany financial activities, including how the group is financed, which group members provide central financing functions for the group and where they are managed, and the transfer pricing policies applicable to related-party financing arrangements
 - The MNE's financial and tax positions

BEPS Action 13: Local File

- **The information required in the local file supplements the master file and helps to meet the objective of assuring that the taxpayer has complied with the arm’s length principle in its material transfer pricing positions affecting a specific jurisdiction.**
- **Local file requirements (2017 OECD TPG, Chapter V, Annex II):**
 - A description of the local entity management structure, local org chart, and a detailed description of the local entity’s business, business strategy, and key competitors
 - Detailed information regarding material controlled transactions, including a description of the transactions and the context in which they occurred, the amount of intra-group receipts and payments for controlled transactions involving the local entity (by transaction category and tax jurisdiction of foreign payor/recipient), a “detailed comparability and functional analysis of the taxpayer and associated enterprises” related to each category of controlled transactions, and identification of the most appropriate transfer pricing method for each category of transaction and why and how it was applied
 - Detailed financial information for the local entity and summaries of relevant financial data for comparables

Country-by-Country Reporting: Common Ground between Section 6038 and OECD TPG

- The information required in Form 8975 and BEPS Action 13 is identical
 - Part I “Tax Jurisdiction Information” in Form 8975 asks for the same data as Table 1 “Overview of allocation of income, taxes and business activities by tax jurisdiction” in Annex III to Chapter V
 - Part II “Constituent Entity Information” in Form 8975 has the same main business activities as Table 2 “List of all the Constituent Entities of the MNE group included in each aggregation per tax jurisdiction” in Annex III to Chapter V

- **SCHEDULE A (Form 8975)**

(June 2017)
Department of the Treasury
Internal Revenue Service
Name of the reporting entity

Tax Jurisdiction and Constituent Entity Information
For reporting period beginning _____, 20____, and ending _____, 20____.
▶ A separate Schedule A (Form 8975) is to be completed for each tax jurisdiction of the multinational enterprise group.
▶ Information about Schedule A (Form 8975) and its separate instructions is at www.irs.gov/form8975.

OMB No. 1545-2272

EIN _____

Part I Tax Jurisdiction Information. All financial amounts must be stated in U.S. dollars. See instructions.

| 1. Revenues | | | 2. Profit (loss) before income tax | 3. Income tax paid (on cash basis) | 4. Income tax accrued—current year | 5. Stated capital | 6. Accumulated earnings | 7. Number of employees | 8. Tangible assets (net book value and cash equivalents) |
|---------------------|-------------------|-----------|------------------------------------|------------------------------------|------------------------------------|-------------------|-------------------------|------------------------|--|
| (a) Unrelated party | (b) Related party | (c) Total | | | | | | | |
| | | | | | | | | | |

Part II Constituent Entity Information

| 1. Constituent entities resident in the tax jurisdiction | 2. TIN | 3. Tax jurisdiction of organization or incorporation if different from tax jurisdiction of residents | 4. Main business activities | |
|--|--------|--|-----------------------------|--|
| | | | (a) Activity code | (b) If you entered the code in "Other", describe the business activity |
| | | | | |
| | | | | |

- CBC501 Research and development
- CBC502 Holding or managing intellectual property
- CBC503 Purchasing or procurement
- CBC504 Manufacturing or production
- CBC505 Sales, marketing, or distribution
- CBC506 Administrative, management, or support services
- CBC507 Provision of services to unrelated parties
- CBC508 Internal group finance
- CBC509 Regulated financial services
- CBC510 Insurance
- CBC511 Holding shares or other equity instruments
- CBC512 Dormant
- CBC513 Other

BEPS Action 13: Master File

- Master file is expected to assist tax administrations in evaluating the presence of significant transfer pricing risk
- There is no corollary to the master file in the Section 6662 regulations and no master file requirement in the U.S.
- Why the Concern?
 - A global overview of a MNE's business can reveal sensitive information about its supply chain, business operations, intangibles and financial and tax positions
 - While CbCR is provided only to the parent country and then distributed through existing treaty networks, the master file will be directly reported to countries in which the MNE operates
- What to Do?
 - “High-level”
 - Balance to make sure reported information is not harmful if publicly disclosed

BEPS Action 13: Local File

- The information required in the local file supplements the master file and helps to meet the objective of assuring that the taxpayer has complied with the arm's length principle in its material transfer pricing positions affecting a specific jurisdiction
- The local file requirements are similar to those in Treas. Reg. § 1.6662-6(d)(2)(iii)(B)
 - Business overview
 - Organizational structure
 - A description of (1) the method selected and the reason why it was selected; (2) the alternative methods considered and rejected; (3) the controlled transactions and internal data used to analyze them; and (4) the comparables used, how comparability was evaluated, and what adjustments were made
 - An explanation of the economic analysis and projections relied on
 - A summary of additional data acquired post-tax year but before filing return