

HONG KONG TAX

HONG KONG PROPOSES TO ACCELERATE IMPLEMENTATION OF COMMON REPORTING STANDARD



The Common Reporting Standard (CRS), formally referred to as the Standard for Automatic Exchange of Financial Account Information (AEOI), is one of the Organisation for Economic Co-operation and Development (OECD)'s initiatives to enhance tax transparency and combat cross-border tax evasion. It was released by the OECD in July 2014, and more than 100 jurisdictions have committed to implement CRS since then. Both the OECD and the European Union (EU) have been closely monitoring jurisdictions' progress in the implementation of CRS and putting emphasis on a wide network of CRS to ensure a level-playing field. Jurisdictions which fail to meet their specified criteria could be regarded as "non-cooperative" tax jurisdictions and subject to counter measures such as non-deductibility of costs (eg interest, royalties, service fees, etc) to non-cooperative jurisdictions.

In view of the mounting expectations by both OECD and the EU, the Hong Kong SAR Government has passed the Inland Revenue (Amendment) (No 3) Ordinance 2016 in June 2016 to put in place a legal framework for implementing CRS. On 24 March 2017, it published in the Gazette the Inland Revenue (Amendment) (No 3) Bill 2017 to expand the implementation of CRS.

CURRENT POSITION

- Hong Kong put in place in June 2016 a legal framework for implementing CRS and will commence the first exchange by the end of 2018. A financial institution resident in Hong Kong shall provide to the IRD on an annual basis information of financial accounts held by individuals or entities liable to tax by reason of residence in the CRS partner jurisdictions. The IRD will then transmit the information to the tax administration of the relevant jurisdiction of which the account holder is tax resident.
- The automatic exchange of financial account information with other jurisdictions has to be underpinned by the following documents:
 - a) A comprehensive avoidance of double taxation agreement (CDTA) or tax information exchange agreement (TIEA) – this forms the legal basis for AEOI; and
 - b) A competent authority agreement (CAA) – this sets out the modalities of transfer of information collected pursuant to the AEOI standard.
- Hong Kong has already signed CAA with the following tax treaty partners:
 - i. UK and Japan – CAA signed in 2016 and the first exchange of information in 2018;
 - ii. Korea – CAA signed in January 2017 and the first exchange in information in 2019; and
 - iii. Belgium, Canada, Guernsey, the Netherlands, Italy and Mexico – CAA signed on 16 March 2017 and the IRD will later announce first exchange details.

- Hong Kong plans to conclude CAA with more jurisdictions on a bilateral basis. As explained below, however, this may change.

PROPOSED CHANGES

The following has been proposed under the Inland Revenue (Amendment) (No 3) Bill 2017:

1. Expand the list of reportable jurisdictions for CRS

- Financial institutions are now statutorily required to collect and furnish financial account information of tax residents of the UK and Japan covering the period from 1 January 2017 to 31 December 2017 for exchanges in 2018, though practically financial institutions may also collect information of tax residents of other overseas jurisdictions.
- The Government proposes to expand the list of reportable jurisdictions to cover all prospective AEOI partners of Hong Kong (including Korea, Belgium, Canada, Guernsey, the Netherlands, Italy and Mexico) from 1 July 2017 so as to prepare for exchanges with these jurisdictions in the future. Please refer to the attached for a list of the proposed jurisdictions.
- What this means for financial institutions is that they should also collect and provide to the IRD financial account information from 1 July 2017 of tax residents

of jurisdictions on the proposed list. The IRD will retain such information and will only transmit information to the respective jurisdictions after CDTA/TIEA and CAA have been signed.

2. Explore the application of the CRS Multilateral Competent Authority Agreement (MCAA)

- Discussions of CAA with other jurisdictions on a bilateral basis will take time. The OECD has introduced the MCAA whereby each jurisdiction will exchange information with all of the MCAA signatories. As of November 2016, 87 jurisdictions have signed the MCAA¹. These jurisdictions include Australia, the PRC, France and Germany.
- The Government is now considering the possibility of seeking the application of the MCAA to Hong Kong.

THE TAKEAWAY

- Any person with financial assets in Hong Kong should seek professional assistance in their declaration of tax residency to financial institutions if they have questions about tax residency.
- With the implementation of CRS and global trend for more transparency, individuals/entities should carefully review their tax filing basis to ensure proper reporting has been done and tax risk managed.

¹ The list can be downloaded from: <http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/MCAA-Signatories.pdf>

BDO'S SUPPORT AND ASSISTANCE

If you have any questions regarding this publication, please feel free to contact us:

25th Floor, Wing On Centre
111 Connaught Road Central
Hong Kong
Tel: +852 2218 8288
Fax: +852 2815 2239
info@bdo.com.hk

AGNES CHEUNG
Director & Head of Tax
Tel: +852 2218 3232
agnescheung@bdo.com.hk

MAGGIE KWONG
Senior Tax Manager
Tel: +852 2218 2775
maggiekwong@bdo.com.hk

BDO Limited, a Hong Kong limited company, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

This publication has been carefully prepared, but it has been written in general terms and should be seen as broad guidance only. The publication cannot be relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained therein without obtaining specific professional advice. Please contact BDO Limited to discuss these matters in the context of your particular circumstances. BDO Limited, its partners, employees and agents do not accept or assume any liability or duty of care for any loss arising from any action taken or not taken by anyone in reliance on the information in this publication or for any decision based on it.

© 2017 BDO Limited

www.bdo.com.hk

Proposed prospective reportable jurisdictions of Hong Kong	
1. Antigua and Barbuda	37. Israel
2. Argentina	38. Italy
3. Australia	39. Jersey
4. Austria	40. Korea
5. Bahamas	41. Kuwait
6. Belgium	42. Latvia
7. Brazil	43. Lebanon
8. Brunei Darussalam	44. Liechtenstein
9. Bulgaria	45. Lithuania
10. Canada	46. Luxembourg
11. Cayman Islands	47. Malaysia
12. Chile	48. Malta
13. The Mainland of China	49. Mauritius
14. Colombia	50. Mexico
15. Costa Rica	51. Montserrat
16. Croatia	52. Netherlands
17. Curacao	53. New Zealand
18. Cyprus	54. Norway
19. Czech Republic	55. Poland
20. Denmark	56. Portugal
21. Estonia	57. Qatar
22. Faroe Islands	58. Romania
23. Finland	59. Russia
24. France	60. Saint Vincent and the Grenadines
25. Germany	61. Saudi Arabia
26. Gibraltar	62. Seychelles
27. Greece	63. Singapore
28. Greenland	64. Slovak Republic
29. Grenada	65. Slovenia
30. Guernsey	66. South Africa
31. Hungary	67. Spain
32. Iceland	68. Sweden
33. India	69. Switzerland
34. Indonesia	70. United Arab Emirates
35. Ireland	71. Uruguay
36. Isle of Man	72. Vanuatu