

# United Arab Emirates introduces Country-by-Country Reporting rules: July 2019



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On 30 April 2019, the Cabinet Resolution No. 32 of 2019 (the “Resolution”) on Country-by-Country Reporting (“CbCR”) was issued in the United Arab Emirates (“UAE”). Multinational entity groups (MNE) based and/or operating in the UAE that are part of a multinational group with consolidated revenues equal to or exceeding UAE Dirhams AED 3.15 billion (approx. EUR 764 million or USD 858 million) in the preceding financial year will be required to either file or notify to Competent authority in UAE (Ministry of Finance).

## **Steps to identify whether you will be required to notify/report to the Ministry of finance:**

Step 1: Are you a part of MNE group?

MNE Group:

Any group that includes two or more enterprises, the tax residence for which is in different jurisdictions or includes 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.

And

Has a consolidated revenue equal to or exceeding UAE Dirhams AED 3.15 billion (approx. EUR 764 million or USD 858 million)

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**Step 2: If yes, then see the flow chart as below:**

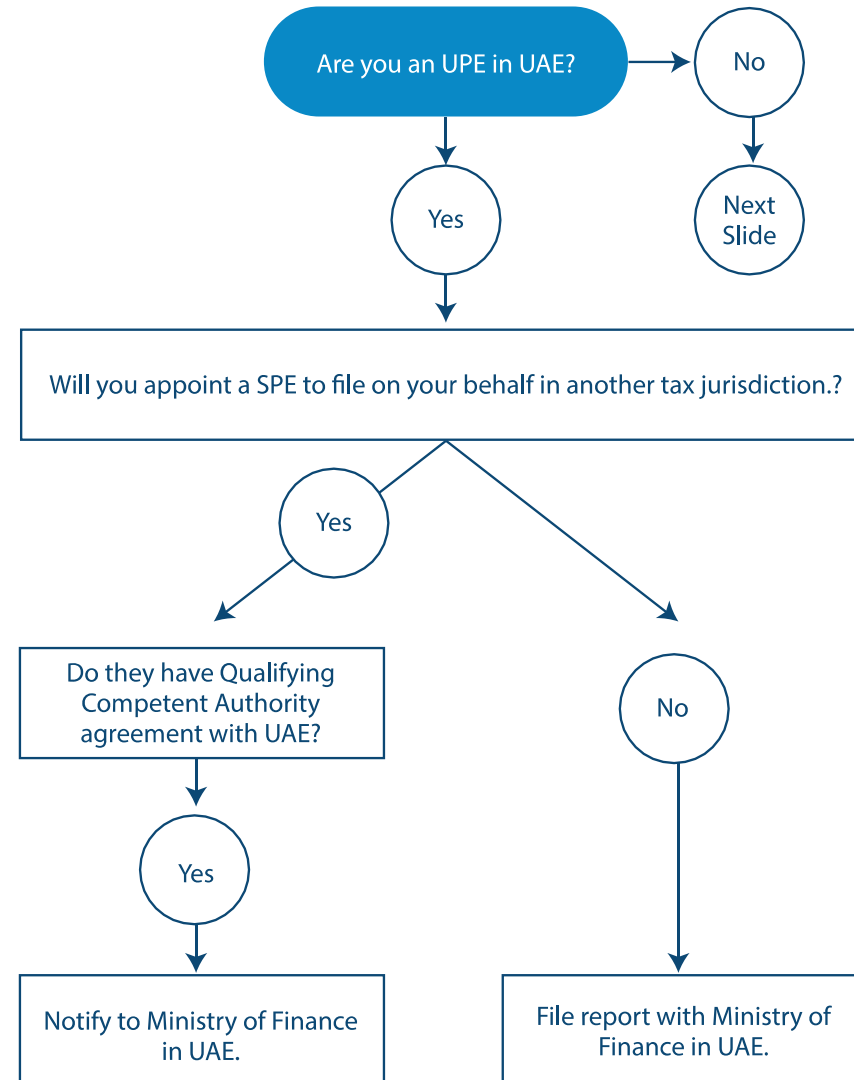
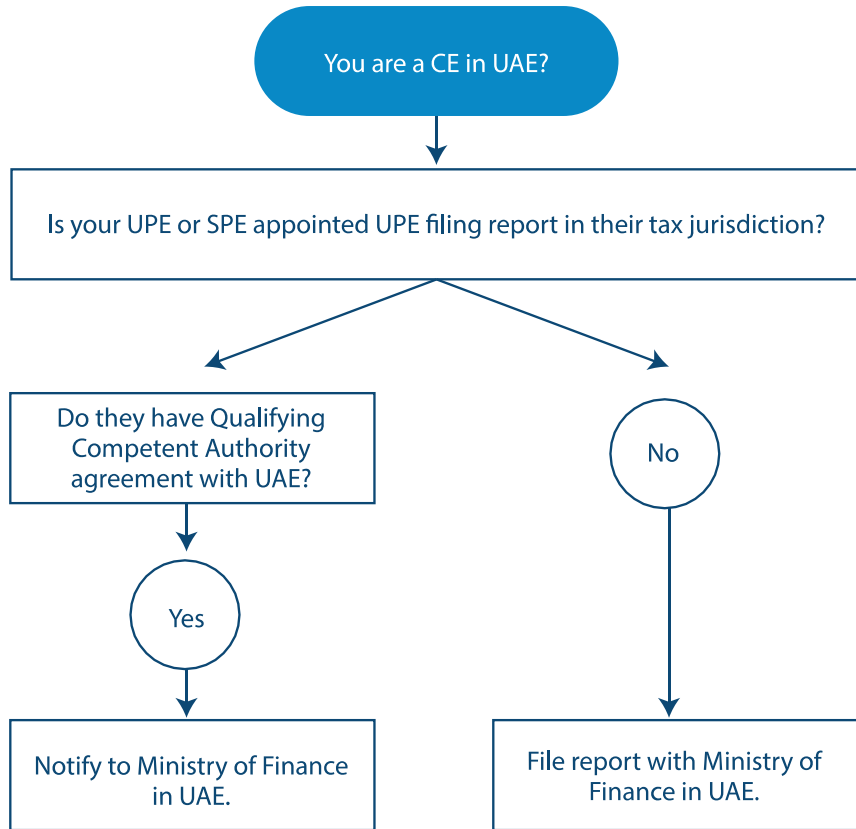
**Ultimate Parent Entity (UPE):** Entity which owns directly or indirectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence.

**Surrogate Parent Entity (SPE):** One Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the Report in that Constituent Entity's jurisdiction of tax residence.

**Constituent Entity (CE):** Any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting preparation purposes and any business unit that is excluded from the MNE Group's Consolidated Financial Statements solely on size or materiality grounds.

And,

Any permanent establishment of any separate business unit of the MNE Group referred to in paragraphs 1 or 2 above, provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting preparation, regulatory, tax reporting, or internal management control purposes.



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## Filing requirements:

The CbC report must be submitted within 12 months of the end of the reporting period. Accordingly, for the financial years commencing on 1 January 2019, the CbC report must be submitted by 31 December 2020. Notifications to the UAE Ministry of Finance shall therefore be due by the last day of the reporting period (i.e., by 31 December 2019).

The content and format of the CbC report is in line with Organization for Economic Co-operation and Development (OECD) CbCR guidance. The CbC report would need to be filed electronically and further guidance on any specific changes to the OECD XML schema adopted by the UAE will be notified by Ministry of Finance.

The CbC report should include the following details:

- Revenues;
- Profits (losses) before income tax;
- Income tax paid;
- Income tax payable;
- Declared capital;
- Accrued profits;
- Number of employees; and
- Non-cash or cash-equivalent assets for each country.

## Penalties for non-compliance:

The UAE CbCR rules outline several penalties for non-compliance, as summarized in the table below:

Criteria	Penalty
Failure to retain the documents and information for at least 5 years	AED 100,000
Failure to provide information to Ministry of Finance	AED 100,000
Failure and delay in submission of CbC report within 12 months of the end of reporting period	AED 1,000,000 + AED 10,000 per day up to a maximum of AED 250,000
Failure to ensure completeness and accuracy of information in CbC report	AED 50,000 to AED 500,000

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**Takeaway:**

UAE has sent a strong signal for its commitment to adopt new legislation to combat BEPS, and to distance itself from being perceived as a tax haven jurisdiction. All qualifying MNE groups should review their position and ensure compliance as per the CbCR reporting requirements as the penalties for non-compliance is huge.

Ministry of Finance will provide further update in coming months with regards to online filing portal, notifications and CbC report filing process, and final XML specifications, if different from the OECD XML schema.

This note has been prepared for general guidance on matters of interest only and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice.

# THANK YOU

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