BERMUDA

INTERNATIONAL COOPERATION (TAX INFORMATION EXCHANGE AGREEMENTS) AMENDMENT (NO. 3) ACT 2017

2017 : 19

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WHEREAS it is expedient to amend the International Cooperation (Tax Information Exchange Agreements) Act 2005;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the International Cooperation (Tax Information Exchange Agreements) Act 2005 (the "principal Act"), may be cited as the International Cooperation (Tax Information Exchange Agreements) Amendment (No. 3) Act 2017.

Amends section 2

2 Section 2 of the principal Act is amended—

(a) in subsection (1), by inserting the following definitions in the appropriate alphabetical order—

" "competent authority" has the meaning given in section 3(1);

"OECD Model Legislation relating to Country-by-Country Reporting" means the Organisation for Economic Co-operation and Development ("OECD") Model Legislation Related to Country-by-Country Reporting (as may be amended from time to time) contained in Annex IV to Chapter V of the OECD Report of 2015;

"OECD Report of 2015" means the report on Action 13: Transfer Pricing Documentation and Country-by-Country Reporting – 2015 Final Report published by the OECD on 5 October 2015. ";

(b) by inserting after subsection (4) the following—

"(5) The expressions that are used in this Act and regulations relating to Country-by-Country Reporting have the meanings given to them respectively by Article 1 of the OECD Model legislation unless it is expressly otherwise provided in this Act or the regulations relating to Country-by-Country Reporting.".

Amends section 4A

3 Section 4A of the principal Act is amended by inserting after subsection (1) the following—

"(A1) For greater clarity for purposes of subsection (1), where, pursuant to an Agreement for automatic exchange of information, provisions are made or prescribed for implementing OECD model legislation, commentary, guidance or other documentation relating to automatic exchange of information, any person in relation to whom such provisions apply shall comply with such provisions.".

Inserts section 4B

4 The principal Act is amended by inserting after section 4A the following—

"Country-by-Country Reports

4B (1) The OECD Model Legislation relating to Country-by-Country Reporting applies, with such exceptions or modifications as are appropriate, for the purpose of Country-by-Country Reporting and shall be deemed to have effect from 1 January 2016 in relation to Country-by-Country Reporting.

(2) An Ultimate Parent Entity, which is resident in Bermuda for tax purposes, of a Multinational Enterprise Group—

(a) shall provide to the competent authority a Country-by-Country Report in relation to the Multinational Enterprise Group containing information of the description specified in regulations relating to Country-by-Country Reporting—

(i) in such manner and form as may be prescribed;

(ii) in respect of such period or periods as may be prescribed;

(iii) at such interval or intervals and by such date or dates as may be prescribed; and

(b) shall, for the purposes of complying with requirements specified or prescribed pursuant to paragraph (a), comply with such obligations as may be prescribed (including obligations to obtain information from such persons as may be specified in regulations relating to Country-by-Country Reporting).

(3) A Constituent Entity, which is resident in Bermuda for tax purposes, of a Multinational Enterprise Group—

(a) may, in such circumstances as may be prescribed, provide to the competent authority a Country-by-Country Report in relation to the Multinational Enterprise Group; and

(b) shall, in relation to the Country-by-Country Report so provided, comply with the provisions specified or prescribed pursuant to paragraphs (a) and (b) of subsection (2).".

Amends section 7

5 Section 7 of the principal Act is amended by inserting after the words "section 4A" wherever they appear, the words ", or section 4B".

Amends section 9

6 Section 9 of the principal Act is amended in subsections (2) and (3), by inserting after the words "section 4A(1)" the words "or section 4B".

Amends section 13

7 Section 13(1) of the principal Act is amended by inserting after the word "Standard" the words "or Country-by-Country Reporting,".

Commencement

8 (1) This Act shall come into operation on such day as the Minister may by notice in the Gazette appoint.

(2) The Minister may appoint different days for the coming into operation of different provisions of this Act.

[Assent Date: 28 March 2017]

[Operative Date: 21 April 2017]