

Country-by-Country Report (CbC) Frequently Asked Questions (FAQs)

a) Regulations:

1. Who is required to file the Country-by-Country Report with SUNAT (National Superintendency of Customs and Tax Administration)?

Those taxpayers whose accrued income (according to the consolidated FS that the parent company of the multinational group must prepare) in the taxable year prior to the one to which the return corresponds, is greater than or equal to S/. 2,700,000,000.00, are obliged to file the return:

- The parent company of the multinational group, domiciled in Peru.
- The taxpayer domiciled in Peru that is a member of the multinational group when, although the parent company is not domiciled in Peru, any of the following situations are verified: (i) The group has designated it as the parent company representative, or (ii) one or more of the conditions set forth subclauses 1 to 3 of subparagraph b) of article 116 of the regulations are met.

Legal basis: Subclause 10.1 of Article 10 of Superintendency Resolution No. 163-2018/SUNAT and subparagraph b) of Article 116 of the RLIR (Income tax law regulations, by its Spanish acronyms).

2. With respect to the provisions of subclause 10.1.2 of Article 10 of Superintendency Resolution No. 163-2018/SUNAT, shall parties required to file the Country-by-Country Report communicate their designation to SUNAT?

Yes, the taxpayer obliged to file the Country-by-Country Report, under the provisions of subclause 10.1.2, must communicate its designation to SUNAT by the last working day of the month prior to the month in which the return must be filed, using the format included in Annex II of Superintendency Resolution No. 163-2018/SUNAT, which must be sent scanned to the e-mail address: fiscalizacioninternacional@sunat.gob.pe, the receipt of which will be confirmed by the same means.

Legal basis: Subclause 10.2 of Article 10 of Superintendency Resolution No. 163-2018/SUNAT and subparagraph b) of Article 116 of the RLIR.

3. With respect to the provisions of subclause 10.1.2 of Article 10 of Superintendency Resolution No. 163-2018/SUNAT, what happens if at the expiration date of the period indicated, the designation of the person responsible for filing the Country-by-Country Report is not communicated to SUNAT?

In such case, all taxpayers that are members of the multinational group and are domiciled in the country shall be considered as responsible parties.

Legal basis: Subclause 10.3 of Article 10 of Superintendency Resolution No. 163-2018/SUNAT.

4. Who are exempt from filing the Country-by-Country Reporting with SUNAT?

By the provisions of the penultimate paragraph of subsection b) of Article 116 of the RLIR and Article 11 of Superintendency Resolution No. 163-2018/SUNAT, for an entity to be considered exempt from filing the DDJJ (Register your Affidavit of Income and Property, by its Spanish acronyms) Country-by-Country Report, it must comply, concurrently with the following assumptions:

1. **Comply with filing the Country-by-Country Reporting on or before the due date** established in Peru for the filing said DDJJ; to that end, it must be verified whether the Representative Parent Company (domiciled or resident in another jurisdiction) has effectively submitted it.
2. **Incurring in one or more of the cases considered in subclause 1 to 3 of subsection b) of article 116 of the RLIR**; that is to say, when any of following conditions occur:
 1. The non-domiciled parent company of the multinational group is not required to file the informative Country-by-Country Reporting in its jurisdiction of domicile or residence;
 2. At the date of expiration of the deadline for filing the informative Country-by-Country Reporting, the jurisdiction of domicile or residence of the parent company has an international treaty or decision of the Commission of the Andean Community in force with Peru, which authorizes the exchange of tax information, but does not have an agreement between competent authorities for the exchange of the Country-by-Country Report in force to which Peru is a party;
 3. In the existence of an international treaty or decision of the Andean Community Commission and an agreement between competent authorities in force with the jurisdiction of domicile or residence of the non-domiciled parent company of the multinational group, there is a systematic noncompliance with the exchange of tax information that has been communicated by SUNAT to the taxpayer domiciled in the country; and
3. **Verify** whether the jurisdiction of domicile or residence of the parent company representing the multinational group to which it belongs, in compliance with the provisions of the penultimate paragraph of subsection b) of Article 116 of the RLIR, complies **with**:
 - i) require the presentation of the Country-by-Country Report in accordance with article 117, subparagraph c);
 - ii) has an agreement between competent authorities in force with Peru as of the date of expiration of the deadline for filing such report;
 - iii) has not notified SUNAT that systematic noncompliance has occurred;
 - iv) exchange the Country-by-Country Report (*); and
 - v) has been informed by the member of the group designated as the representative parent of its status.

As a consequence of the above, the **parent company** must **inform SUNAT about the designation of the representative parent company of the multinational group** to which it belongs, through a letter signed by the legal representative and a **simple copy of the proof of filing or communication presented through the representative parent company**, at the SUNAT office in charge of receiving its paid returns until the expiration of the deadline for filing the return, via the central office and/or virtual central office (MPV, Virtual Party Table, by its Spanish acronyms);

Then, in compliance with the steps described above, it will be understood as excepted to the presentation.

Legal basis: Penultimate paragraph of subsection b) of Article 116 of the RLIR and paragraphs 11.1 and 11.2 of Article 11 of Superintendency Resolution No. 163-2018/SUNAT.

(*) Note that, for Peru to be in a position to start exchanging information contained in the CbC Reports as of January 1, 2019, including information from previous periods, i.e. concerning the years 2017 and 2018, the following should occur sequentially: (i) that the CAAMMF (The Convention on Mutual Administrative Assistance in Tax Matters, by its Spanish acronyms) is in force; (ii) that Peru adheres to the CbC AMAC (Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports), which regulates the exchange of information contained in the CBC Reports; and (iii) after the adherence to the AMAC CBC, sign the Unilateral Declaration under Article 28.6 of the CAAMMF.

It should be noted that on October 15, 2020, the OECD informed Peru that it approved the evaluation of the standard of confidentiality and security of information; therefore, it is able to reciprocally exchange information for the fiscal year 2019 onwards.

Likewise, it should be noted that, if a jurisdiction sends the Country-by-Country Report information for 2017 and/or 2018 and/or 2019 to Peru through the exchange of information, the taxpayer domiciled in the country that is part of a multinational group will not be required to file the aforementioned report for such years.

5. A company domiciled in Peru (member of a multinational group) that is exempted from filing a Country-by-Country Report with SUNAT must upload some type of information in the IR AEOI system?

As long as you are exempt from filing the Country-by-Country Report, you are not required to file and/or upload any information in the IR AEOI system; therefore, you should verify if the provisions of article 11 of the Superintendency Resolution No. 163-2018/SUNAT apply.

Legal basis: Subclause 11.2 of Article 11 of Superintendency Resolution No. 163-2018/SUNAT.

6. To date, which jurisdictions have submitted Country-by-Country Report information to Peru and for which years?

As of 25.01.2021, Country-by-Country Report information for years 2017, 2018 and 2019 has been received from the following jurisdictions:

Country	REPORTING PERIOD		
	2017	2018	2019
Germany	X	X	X
Belgium			X
Cyprus			X
Italy			X
Japan	X	X	X
Netherlands	X	X	X
Switzerland			X

b) IR-AEOI system:

1. How should the Country-by-Country Reporting be filed with SUNAT?

The person obliged to file the report must use the IR AEOI system as of October 1, 2019, for which he/she has to enter the electronic address: <https://aeoi.sunat.gob.pe>

It is worth mentioning that, with respect to the reports filed prior to 10.01.2019, these were made through SUNAT Virtual using Virtual Form No. 3562 - Informative Country by Country Reporting, which not currently in force; therefore, if you wish to rectify the data of these returns, you must do so through the IR AEOI system.

Legal basis: Fourth paragraph of subparagraph g) of article 32-A of the TUO (Single Consolidated Text, by its Spanish acronyms) of the LIR (Income Tax Law, by its Spanish acronyms), approved by Supreme Decree No. 179-2004-EF, as amended, and Superintendency Resolution No. 188-2019/SUNAT.

2. Is it necessary to request authorization from SUNAT to access the IR AEOI System?

Yes, before submitting the Country-by-Country Report, the user must submit a request for access to the system and register the following information:

- i. Contact person's data: name, surname, e-mail address, and telephone number.
- ii. Attach pdf, doc, docx, png, jpg or bmp file, maximum 15 MB, containing **in a single file**:
 - (i) identity card of the contact person and
 - (ii) document issued by the financial institution subject to reporting, duly signed, in which it designates the contact person.
- iii. Select declaration type: CBC Report.
- iv. Indicate the taxpayer's company name and optionally the commercial name.

For further details, we recommend that you review item "**5.2 Considerations for the proper use of the system**" of the "Country-by-Country Report Information Registration" instructions.

Legal Basis: Instructions for Country-by-Country Reporting.

3. Will SUNAT provide any model file and/or template for the construction of the XML?

Yes, the XML template file is available on the SUNAT web page, see the "Test File" button in the following link:

<https://orientacion.sunat.gob.pe/index.php/empresas-menu/impuesto-a-la-renta-empresas/fiscalidad-internacional-empresas/precios-de-transferencia-obligaciones-formales/7121-04-declaracion-jurada-informativa-pais-por-pais>

4. Regarding the uploading of information through the XML file, is it possible to add and/or modify information under the manual option?

No, the XML file has uploaded -upload files option- and the Country-by-Country Report return has been filed, the option to modify and/or correct must be done through the filing of the rectifying return, and under the same modality. To do so, in the new XML file, this must be done by entering the field MessageTypeId **CBC402** (data correction).

Legal Basis: Instructions for Country-by-Country Reporting.

5. What is the structure established for the submission the Country-by-Country Report?

The structure established for the presentation of the Country-by-Country Report declaration consists of four (04) sections, and must be presented in a single XML file showing the following information from the "CbC XML Scheme":

- MessageSpec
- ReportingEntity
- CbCReports
- AdditionalInfo

The details of the elements and their structure are contained in the XML schema, which you can review in the following link:

www.oecd.org/tax/beps/country-by-country-reporting-xml-schema-user-guide-for-tax-administrations-june-2019.pdf

Legal Basis: Instructions for Country-by-Country Reporting.

6. Regarding the "Address_Type" element, in which cases should you use the "AddressFix" and in which the "AddressFree" field?

There are two options for entering the address in the CBC schema: AddressFix and AddressFree. AddressFix should be used for all CBC reports unless the Reporting Entity cannot define the different parts that make up the address of the entities in the group. If AddressFree is chosen, you may enter free text information without system restriction.

Legal Basis: Instructions for Country-by-Country Reporting.

7. Regarding the "ReportingRole" element to be taken into account for the submission of the Country-by-Country Report, what are the possible values I can choose?

CBC701	Ultimate Parent Entity	Parent Entity (Parent company domiciled in Peru)
CBC702	Surrogate Parent Entity	Reporting entity (Representative company - Peru)
CBC703	Local Filing	Reporting entity (Multinational Enterprise member)

Legal Basis: Instructions for Country-by-Country Reporting.

8. Regarding the "Fiscal Year Concerned" field to be taken into account when filing the Country-by-Country Report, what information should be recorded in this field?

The closing date of the fiscal year must be entered. Please note that the system will automatically take as the year to be reported as the year entered in the date of

closing. For example, if the fiscal year close is 03-31-2018, then the system will report with respect to year 2018.

9. Regarding the "Message Reference ID" element to be taken into account for the submission of the Country-by-Country Report, what is the structure of this element?

This element contains the following format:

