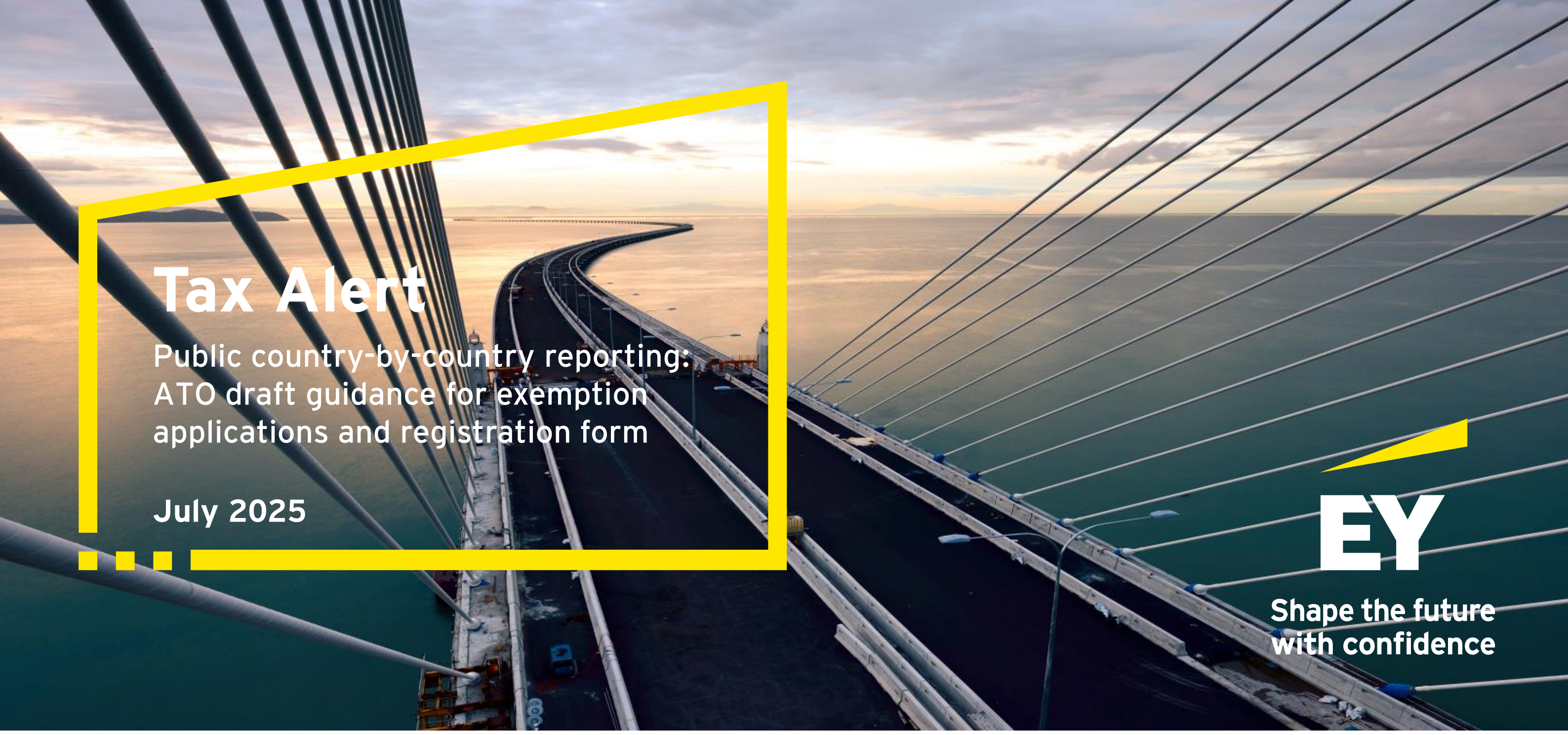

Tax Alert

Public country-by-country reporting: ATO draft guidance for exemption applications and registration form

July 2025

At a glance

- Draft Law Administration Practice Statement PS LA 2025/D1 published for public consultation on proposed instructions to Australian Taxation Office (ATO) staff when considering exemption requests from the public country-by-country reporting (PCbCR) regime.
- Includes range of circumstances that may support granting requests.
- Public CBC reporting parents that may want to apply for exemptions should review the draft PS LA and consider providing comments to the ATO by 5 September 2025.
- ATO has issued a registration form for Public CBC reporting parents.
- Registration is intended to assist ATO administration and engagement and allows authorised contacts to be nominated for queries and report lodgement.
- EY can help with exemption requests, registration, preparation and lodgement of the PCbCR.

The Australian Taxation Office (ATO) has issued new materials in relation to Australia's now operative public country-by-country reporting (PCbCR) regime:

- Draft Law Administration Practice Statement PS LA 2025/D1 (the draft PS LA) which has been published for public consultation. It sets out the proposed instructions to ATO staff when considering exemption requests from the regime or from particular disclosures
- A registration form for public country-by-country reporting parents (Public CBC reporting parents) who will be required to provide PCbCRs.

The PCbCR rules are very wide in scope (impacting both Australian groups and foreign groups with Australian operations). Groups must consider if they are subject to the disclosures and if yes should then consider if:

- You should make an exemption request to the ATO for the 2025 year
- Your systems and processes are in place to provide the ATO with the necessary information by the due date.

The ATO's draft PS LA guidance on exemption requests sets out a range of circumstances which the ATO will consider when deciding whether to exercise its discretion to grant an exemption request or from making particular disclosures. Key elements, discussed further below, include:

- The Commissioner will exercise his discretion in a limited way to consider only exceptional circumstances which are unusual and disproportionate to the transparency intent of the regime.
- Circumstances that may support granting requests include situations where disclosure could affect national security, violate Australian or foreign laws, involve commercially sensitive information resulting in significant consequences for the entity, or where the entity's income is below the public CBC threshold for reporting in the parent entity's jurisdiction but falls within Australia's regime due to exchange rate fluctuations for that period.
- Exemption applications require detailed documentation, as listed in the PS LA. The ATO has developed a standardised exemption application form.
- Exemptions are granted on a year-by-year basis however the ATO may accept short-form applications where there are no changes from the prior year exemption request.

The better the question.
The better the answer.
The better the world works.

Public CBC reporting parents seeking exemptions will need to carefully manage the process and their interactions with the ATO. The PS LA anticipates that the ATO will engage with applicants before making a decision including to request further information where necessary.

Public CBC reporting parents that may want to apply for exemptions should review the draft PS LA and consider providing comments to the ATO by 5 September 2025. Applications can be made before the PS LA is issued in final.

The ATO's PCbCR registration form, though not legally required, helps the ATO manage the regime and engage with affected entities by providing updates and guidance. It also permits a registered Australian tax agent to act as the authorised contact for the Public CBC reporting parent for queries and report lodgement. More details about the form can be found on the ATO website.

The PCbCR measures, enacted in December 2024, apply to financial reporting periods commencing on or after 1 July 2024 with reporting to the ATO within 12 months of year end. For taxpayers with a 30 June 2025 year end, the report is due by 30 June 2026. For taxpayers with a 31 December 2025 year end, the report is due 31 December 2026. The ATO will publish the data on the website https://data.gov.au/.

Draft PS LA on exemptions

The draft PS LA guides ATO staff on granting full or partial PCbCR exemptions for a year. It advises them how to handle exemption requests but does not limit the decision-maker's discretion; each case is judged individually on its own facts and circumstances.

It outlines:

- Considerations relevant to the exercise of the discretion
- The process for seeking an exemption from PCbCR obligations
- The information that applicants should provide with the application for exemption.

Principles to consider when assessing an exemption application

The draft states that the result of granting exemptions should not undermine the transparency and accountability aims of the regime, the integrity of the tax system, nor the public's trust in the Commissioner of Taxation's (the Commissioner's) administration and stewardship of the system.

The discretion will therefore be limited to exceptional circumstances which are unusual and disproportionate to the transparency intent of the regime.

If the information is already in the public domain (or will be), can be readily obtained by the public (for example, by payment of an access fee) or could be deduced from such information, it is unlikely to warrant an exemption. The mere fact that an entity is a private entity or does not have any other public reporting obligations is not in itself a valid circumstance for granting an exemption.

Examples of exceptional circumstances

Examples of circumstances which will be considered in favor of granting requests include if disclosure:

- Would impact national security;
- Would breach Australian or foreign laws;
- Is commercially sensitive and public disclosure would result in severe consequences for the entity; or
- If the entity's income is below the public CBC reporting threshold in the parent entity's jurisdiction but, due to exchange rate fluctuations, falls within Australia's reporting regime for that period.

National security

An exemption from reporting may be granted if disclosing the information affects Australian or other jurisdictions' national security. The ATO provides a list of information types not expected to be disclosed for national security reasons. Simply operating in the defence, intelligence, security, or law enforcement sectors is not enough for an exemption.

The draft includes an example where partial exemptions are given due to Australian national security concerns.

Breach of laws

One factor supporting the granting of a reporting exemption is if the public disclosure of the information violates an Australian or foreign law (unless the foreign law is designed to impede the operation of Australia's PCbCR). The exemption application must specify the relevant law, the particular reporting obligation, and explain how the disclosure of that information contravenes that law.

The draft includes a detailed example illustrating instances where partial exemptions are granted due to concerns regarding violations of laws in a foreign country.

Commercial sensitivity

A consideration in favour of granting a reporting exemption is if the information is commercially sensitive and public disclosure of the information would result in significant consequences (as judged by an objective standard) for the entity.

Commercially sensitive information is data that could undermine or disadvantage a business or entity if disclosed. The draft includes a list of factors identifying when information is considered commercially sensitive. The ATO considers that the fact that information in reports is about a period that ended up to a year before the report is lodged reduces the consequences of information being made public. This means detailed explanations of how particular prior year information could be used against the business is required.

The draft contains a detailed example where partial exemptions are granted due to commercial sensitivity concerns, and another example where an exemption is not granted to a private business entity.

Public CBC threshold in other jurisdictions

The ATO will consider granting an exemption if an applicant's income is under the Public CbC reporting threshold in its home jurisdiction even if it exceeds the Australian AUD$1 billion threshold.

The draft includes an example where a full exemption is granted because the CBC reporting threshold does not align due to the Australian dollar's depreciation against a foreign currency used for compliance measurement.

Form of applications and documentation

Detailed applications for exemptions will be required and the PS LA lists the typical documents which the ATO would expect to receive to support exemption applications. The ATO has developed a standardised exemption application form. Entities are encouraged to register with the ATO prior to lodging an application for an exemption – the registration form is outlined below.

The application must explain the reporting exemption, supported by relevant documents, legislative and legal references and analysis of potential adverse impacts from public disclosure. There should be a clear connection between the information provided and the requested exemption.

The draft includes a non-exhaustive list of the types of evidence required to be provided.

The ATO recognizes that is important to engage with the applicant before an unfavourable decision is made. If the ATO considers that the information provided by the applicant does not support the exemption and further information is required on matters relevant to the exemption request, they are instructed to give the applicant the opportunity to provide that information before making their decision.

Timing of applications

Public CBC reporting parents may apply for an exemption before or after the reporting period ends. Applications can be made before the PS LA is issued in final. It is important that sufficient time is allowed for the ATO's assessment including for ATO queries to be addressed so a decision is obtained before the report of information is due. If notification of the exemption application outcome is not received before the reporting due date then entities should apply for a lodgment extension.

Application decisions

The ATO will inform the applicant in writing about its decision to grant a full exemption, partial exemption, or no exemption. If only part of the application is exempt, the reasons must be provided.

A full exemption removes all publishing obligations for one reporting period. A partial exemption removes some reporting obligations, such as certain pieces of information or information for specific jurisdictions.

If an applicant requests a full exemption, the ATO may instead grant a partial exemption.

Applying for subsequent years

Exemptions apply for one reporting period at a time therefore if an entity was exempted in a prior year and seeks the same exemption, they must reapply. However, for subsequent applications the ATO advises:

- If information has changed, the entity should provide updated reasoning, documents, and financial statements.
- If information has not changed, the entity can submit a statement confirming there are no changes and include updated financial reports if relevant. This is valid for up to 2 periods after the initial exemption.

Review of decisions

Once an exemption application has been decided for a reporting period, that period cannot be reconsidered by the ATO. There is no right to object to the ATO against its exemption decision. Entities will instead need to appeal to the Federal Court against the decision. The court cannot remake the decision but may remit the decision back to the ATO to remake it according to law. It will therefore be vital that applications are thorough, and applicants engage fully with the ATO during its consideration of the application.

Other exemptions not covered by the PS LA

The exemption for Australian government entities in some circumstances (as such entities may be subject to alternative government disclosure or accountability regimes) is not covered in the draft PS LA however these entities can apply for exemptions using the standard exemption application form. The ATO has advised that it will provide further guidance for government-related entities in late 2025.

The draft PS LA does not cover the exemption provided in the law for classes of entities to be exempted by regulation or to be specified in a legislative instrument.

ATO registration form

The ATO has released a registration form and accompanying instructions for Public CBC reporting parents subject to the PCbCR regime.

While not mandated by legislation, the registration process is intended to support the ATO's administration of the PCbCR regime and to facilitate more streamlined interactions and ongoing engagement with the ATO, including for:

- Providing the PCbCR report to the ATO
- Requesting an extension of time to provide a PCbCR report
- Requesting an exemption from reporting obligations for a reporting period.

All Public CBC reporting parents, whether located overseas or in Australia, can register with the ATO. A non-resident Public CBC reporting parent without a current presence in Australia will be issued with an ATO reference number (ARN) as part of this registration process.

The form allows the Public CBC reporting parent to nominate an authorised representative who can satisfy the Public CBC reporting parent obligations. Representatives can include designated officers or employees of the Public CBC reporting parent or a registered Australian tax agent.

The form also requires details of a 100% owned Australian subsidiary of a non-resident Public CBC reporting parent if any (if there are multiple subsidiaries then the most significant or relevant entity that derived the majority of the group's Australian source income is disclosed) or else details of a permanent establishment in Australia are required.

The PCbCR registration form is in a fillable portable document format (PDF), and lodgment is via email to the ATO. Upon lodgment, the ATO will send an email acknowledging receipt.

Managing stakeholders and disclosures

The Australian PCbCR regime is more expansive than the EU directive and confidential CBC reporting under OECD guidelines.

The reporting form will have a modest character limit to provide the required "approach to tax". There is no provision for additional voluntary disclosures to be included in the report to the ATO, which may be needed to assist readers to understand the information published, for example the reasons why a particular jurisdiction may appear to have a low tax burden may not be apparent from what the ATO publishes (e.g. from carry forward tax losses, home country CFC or Pillar Two pickup elsewhere etc.). Groups may therefore want to consider their own additional forms of contemporaneous disclosure to better inform stakeholders. A URL link to these materials might be included in the text for the approach to tax.

Reporting entities should expect scrutiny of the PCbCR by the public, media and NGOs including to compare various PCbCR lodgments and other public financial information to look for inconsistencies. As a result, it will be critical for covered entities to take a coordinated approach to their PCbCR requirements across jurisdictions.

Next steps

Affected multinational enterprises (MNEs) and purely domestic Australian groups will need to ensure systems are in place to comply with these new reporting obligations. MNEs will need to develop a worldwide approach to comply with other reporting regimes, notably including the EU's CbCR directive enacted by member states.

This additional public reporting will also require covered entities to educate their boards, align this reporting with their current environmental, social and governance (ESG) policies and prepare for transparency to have a potential impact across a wider group of stakeholders, including tax authorities, corporate regulators (in Australia and overseas), investors, short sellers, journalists and nongovernmental organizations.

EY continues to actively consult with the ATO regarding further guidance and clarification on lodgment and filing obligations.

How EY can help

EY can assist you to review the ATO draft PS LA on exemption applications and to provide feedback.

We can assist with exemption requests and engagement with the ATO.

We can help you to prepare and lodge the registration form and PCbCR in the approved form issued by the ATO.

We can assist with end-to-end PCbCR tax and data services, including:

- We can assist groups to carry out a preliminary assessment of how the reporting requirements in both Australia and the EU will apply to your organisation and if you are in scope of these transparency measures. This may include an assessment of your Australian sourced income, the availability of any relevant exemptions and how the notionally listed group rules may apply where your organisation is not currently required to consolidate for accounting purposes.
- We can help you to define the data requirements, assess your data readiness, review your information sources, assess how to best obtain the information from your data sources including alignment with your Action 13 CbCR process and provide automation options.
- We can assist in analysing your data disclosures to perform a risk assessment and visualisation of your reporting and how different these will look for Australian and the EU reporting.
- We can help prepare or review your tax strategy and governance frameworks (locally and globally) to consider the current approach to tax in light of the transparency measures.
- We can assist you in determining how the transparency measures sit alongside your ESG commitments and communication strategies on the measures with stakeholders including investors, the Board and management.

Appendix – Overview of the PCbCR rules

- The measures apply to financial reporting periods commencing on or after 1 July 2024.
- They apply to the ultimate parent entity of certain Australian groups and MNEs that have a presence in Australia, which have a global consolidated revenue in excess of AU$1b (a Public CBC reporting parent). This includes Australian groups with solely domestic operations.
- De minimis – An entity is only subject to reporting if the global group has aggregated turnover from Australian sources in excess of AU$10m or more. Aggregated turnover from Australian sources is specifically defined in the ITAA 1997.
- The Public CBC reporting parent must be a constitutional corporation (an Australian or foreign resident corporation) or a partnership of constitutional corporations or a trust with all trustees which are constitutional corporations
- Reporting of selected tax information under the regime is required on a disaggregated country-by-country basis for specified jurisdictions, if the CBC reporting group operates in that jurisdiction, as well as for Australia. Reporting may be made on an aggregated basis for the rest of the world. There are currently 40 specified jurisdictions, these are listed below and is significantly longer than that of the EU PCbCR rules and includes Hong Kong, Switzerland and Singapore.
- Exemptions from disclosing some or all information may be granted on a class or entity basis.
- Significant penalties apply for late reporting or failure to report and if material errors are not corrected within 28 days (up to A$825,000 at current rates, per failure). Criminal penalties may apply in certain situations.
- Covered entities must provide the Commissioner with the selected tax information in an approved form, within 12 months of the end of the relevant financial year. The Commissioner will then facilitate publication on an Australian government website. The format of the required report of PCbCR information to the ATO (using an XML schema which the ATO will publish on data.gov.au) and instructions are expected to be issued soon. A Public CBC reporting parent may apply to the ATO for additional time to provide the information.
- The list of information required is set out below. Quantitative data must be sourced from audited consolidated financial accounts of the Public CBC reporting parent for the reporting period or, if none exist, from equivalent statements which would have been prepared had it been a listed company.
- The information to be disclosed (other than names):
    - Must be identified so as to "best achieve consistency" with disclosures required in the global reporting initiative standard GRI-207: Tax 2019 disclosures in sections GRI 207-1 and 4 (use as primary source of guidance - the disclosures are intended to align with the meaning of those in the GRI 207, even where the terminology is not identical and take precedence over any OECD guidance)
    - Must have regard to the OECD transfer pricing guidelines (2022), OECD Guidance on the Implementation of Country-by-Country Reporting: BEPS Action 13 2022 version (use where provides greater detail on interpretation of particular terms) and any further documents prescribed by regulation.

Specific jurisdictions list

Andorra	Anguilla	Antigua and Barbuda	Aruba
Barbados	Bahamas	Bahrain	Belize
Bermuda	British Virgin Islands	Cayman Islands	Cook Islands
Curacao	Dominica	Gibraltar	Grenada
Guernsey	Hong Kong	Isle of Man	Jersey
Liberia	Mauritius	Monaco	Montserrat
Nauru	Niue	Panama	Republic of Marshall Islands
Saint Kitts and Nevis	Saint Lucia	Saint Maarten (Dutch Part)	Saint Vincent & the Grenadines
Samoa	San Marino	Seychelles	Singapore
Switzerland	Turks and Caicos	US Virgin Islands	Vanuatu

Jurisdictions specified in a legislative instrument registered in December 2024. The instrument may be amended by the Minister to add or delete jurisdictions.

PCbCR disclosures

The reporting requirements are:

- The Public CBC reporting parent is required to publish general information including a description of the group's approach to tax.
- For Australia and each specified jurisdiction that the CBC reporting group operates in, the Public CBC reporting parent must publish, at a group level, certain information (set out in the table below).
- For other non-specified jurisdictions, the Public CBC reporting parent has the choice of publishing the same information for all jurisdictions or alternatively publishing slightly reduced information on an aggregated basis for all non-specified jurisdictions.

The full list of disclosures is below.

Australian PCbCR disclosure requirements	note
Names of Public CBC reporting parent and entities in CBC reporting group	
Approach to tax description	1
Jurisdiction name	2
Main business activities	3
Number of employees at end of reporting period	3
Revenue from unrelated parties	3
Revenue from related parties that are not tax residents of the jurisdiction	3
Profit (Loss) before tax	3
Book value of tangible asset	3
Income tax paid (cash basis)	3
Income tax accrued (current year)	3
Reasons for difference between income tax accrued and profit before tax multiplied by the country tax rate	2
Currency used in calculating and presenting information	
Note 1 – Applies to Public CbC reporting parent only Note 2 – Does not apply to non-specified jurisdictions reporting on an aggregated basis Note 3 – Applies to aggregated reporting for the area consisting of those jurisdictions	

For more information please contact your usual EY advisor or:

Transfer Pricing Sydney

Danielle Donovan
Tel: +61 2 8295 6333
danielle.donovan@au.ey.com

Tony Do
Tel: +61 2 9276 9925
tony.do@au.ey.com

Karol Fernandez
Tel: +61 2 8295 6588
karol.fernandes@au.ey.com

Sam Lavender
Tel: +61 2 8295 6739
sam.lavender@au.ey.com

Kelly Richmond
Tel: +61 2 9276 9837
kelly.richmond@au.ey.com

Jarrod Thomas
Tel: +61 2 9276 9689
jarrod.thomas@au.ey.com

David Tracey
Tel: +61 2 9248 4885
david.tracey@au.ey.com

Jason Vella
Tel: +61 2 9248 4613
jason.vella@au.ey.com

Rose Wen
Tel: +61 2 9248 5163
Rose.Wen@au.ey.com

Jasper Solgaard
Tel: +61 2 8295 6440
jesper.solgaard@au.ey.com

Transfer Pricing Brisbane

Kevin Griffiths
Tel: +61 7 3243 3754
kevin.griffiths@au.ey.com

Andrew Christy
Tel: +61 7 3243 3467
andrew.christy@au.ey.com

APAC Sustainability Tax Hub

Tammy Allman
Tel: +61 2 9248 4127
tammy.allman@au.ey.com

Transfer Pricing Melbourne

Jean Paul Donga
Tel: +61 3 9288 8065
jean.paul.donga@au.ey.com

Michael Jenkins
Tel: +61 3 8664 9812
michael.jenkins@au.ey.com

Jessica Uchida
Tel: +61 3 9288 8011
jessica.uchida@au.ey.com

Transfer Pricing Perth

Joe Lawson
Tel: +61 8 9429 2489
joe.lawson@au.ey.com

Caroline Walker
Tel: +61 8 9217 1897
caroline.walker@au.ey.com

Transfer Pricing Adelaide

Michelle Fardone
Tel: +61 8 8417 1667
michelle.fardone@au.ey.com

Controversy and Governance

Fiona Moore
Tel: +61 2 9248 5931
fiona.moore@au.ey.com

Emily Marsden
Tel: +61 2 9248 5796
emily.marsden@au.ey.com

Tom Ickeringill
Tel: +61 3 8650 7820
Thomas.Ickeringill@au.ey.com

Remali C Vilathgamuwa
Tel: +61 2 9248 5001
remali.vilathgamuwa@au.ey.com

Tax Policy

Alfonso J Capito
Tel: +61 2 8295 6473
alf.capito@au.ey.com

Tony Merlo
Tel: +61 3 8575 6412
Tony.Merlo@au.ey.com