

Tax Alert

Public country-by-country reporting: preliminary eligibility issues and ATO draft instructions

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At a glance

- Draft Australian Tax Office (ATO) instructions for completing the public country-by-country reporting (PCbCR) regime report issued for consultation.
- Groups must consider the application of the regime, including assessing threshold questions to determine if they are subject to the disclosures.
- EY can help with exemption requests, registration, preparation and lodgement of the PCbCR.
- The draft ATO instructions:
 - Provide step-by-step practical guidance for preparers, with a general overview and six more detailed sections
 - Clarify how to complete each section and field in the report form, including where exemptions have been obtained
 - Address some common scenarios in determining disclosures.

The Australian Taxation Office (ATO) has released draft instructions for consultation, for completing the public country-by-country reporting (PCbCR) annual report form (Public CBC report).

This follows the recent ATO release of the XML approved schema for report submissions with accompanying business implementation guide instructions.

The PCbCR rules are very wide in scope (impacting both large Australian groups and large foreign groups with Australian operations). The first Public CBC reports to the ATO are due by 30 June 2026, for the ATO to subsequently publish on data.gov.au. Completion of reports may require extensive preparatory work to be able to identify the necessary information. The global parent entity (the public CBC reporting parent) has the requirement to submit, regardless of whether it is an Australian or overseas entity.

Groups must consider the application of the regime, including assessing threshold questions to determine if they are subject to the disclosures. If yes, you should then consider:

- Whether you should make an exemption request to the ATO for the 2025 year – consider the ATO's draft instructions to their staff for considering requests, in draft Law Administration Practice Statement PS LA 2025/D1.
- Completing the ATO registration form for public CBC reporting parents who will be required to provide Public CBC reports.
- The reporting regime will require large multinational enterprises with Australian-sourced income of AU\$10m or more to publish specified information on a country-by-country basis; whether the \$10 million threshold is met is determined by aggregated turnover test.
- Whether your systems and processes are in place to provide the ATO with the necessary information by the due date, including to assess gaps in information for example for the approach to tax, description of activities, related party revenue from outside the jurisdiction and explanation of difference between tax accrued and profit before tax times standard tax rate.

We set out below a number of interpretative issues that are arising when determining if the PCbCR rules apply, which may require detailed consideration and further action.

The draft ATO instructions:

- Provide step-by-step practical guidance for preparers, with a general overview and six more detailed sections.

- Clarify how to complete each section and field in the report form, including where exemptions have been obtained.
- Address some common scenarios in determining disclosures.

There is overlap of information with the ATO's business implementation guide and the two documents should be used together: the business implementation guide for technical XML schema compliance, and the instructions to assist practical completion.

The draft instructions are open for comment until 28 November 2025 and EY is engaging with the ATO on the content and suggestions for clarifications and improvements.

While the instructions include many valuable comments on the application of the law, they are not an ATO guidance product and so do not include detailed ATO views on technical elements of the rules. We summarise the report instructions below.

Further information on the PCbCR rules and the ATO's draft PS LA for exemption requests is in our previous EY Tax Alert - [EY Tax Alert: Public country-by-country reporting: ATO draft guidance for exemption applications and registration form](#).

We are still waiting for the final version of the ATO's draft PS LA 2025/D1 (issued July 2025) regarding exemption requests.

PCbCR threshold issues

It is essential for groups to consider threshold requirements to determine whether the PCbCR regime applies.

We note the ATO has not issued any detailed guidance on the threshold issues for:

- Inclusion under the "constitutional corporations" rule.
- Who is a member of a "country by country reporting group" for the regime.
- The AUD 10 million of Australian source third party turnover threshold.

Where a group determines that the PCbCR rules do not apply to it because it does not meet one or more of the threshold requirements, they must ensure their position is carefully documented for penalty protection purposes as a reasonably arguable position.

Some groups might consider seeking binding private rulings from the ATO on the application of the rules to their circumstances.

Requirement to be a "constitutional corporation"

A key threshold requirement for Australia's PCbCR regime is that the entity is:

- A constitutional corporation;

- A partnership in which each of the partners is a constitutional corporation; or
- A trust of which each of the trustees is a constitutional corporation.

The Australian Constitution provides that the Federal Parliament has the legislative power to make laws with respect to *"foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth"*. This restricts the types of organisations over which the Federal Parliament is able to make valid law.

In non-tax contexts, the Courts have found that an entity is not a "foreign corporation" merely because of its classification under foreign law, but by reference to substantive legal attributes. These include, but are not necessarily limited to, independent legal personality and capacity to own property, contract, sue and be sued in its own name.

Multinational groups that are not ultimately owned by or through traditional corporate structures, such as foreign limited partnerships, need to consider this threshold requirement closely. Practical challenges faced by such groups include determining whether the PCbCR regime applies at all and, if so, which entity is the ultimate parent entity and what needs to be disclosed.

Requirement for the existence of a group

One of the Australian public CbCR requirements is that the CBC reporting entity is a member of a "country by country reporting group" at any time during the reporting period. This requires the identification of a group of entities that:

- Is consolidated for accounting purposes as a single group; or
- Would be required to be consolidated for accounting purposes as a single group if another entity in the group were a listed company.

This threshold requirement needs to be closely examined by entities, such as investment funds, which might not be a part of a consolidated group for accounting purposes. This may require an extensive review of ownership and ownership relationships.

Requirement for AUD 10 million of Australian source third party turnover

A key threshold requirement for the PCbCR regime is that the sum of "aggregated turnover" for an income year "from an Australian source" must be AUD 10 million or more. Broadly speaking, "aggregated turnover" is the sum of the annual turnover of an entity and its related parties *excluding* amounts derived from related party dealings.

In ordinary circumstances, a multinational group with an Australian subsidiary with less than AUD 10 million of third-party revenue is unlikely to be required to disclose publicly its CbCR.

However, a multinational group may still be required to disclose publicly its CbCR if one of its foreign members:

- Has AUD 10 million or more of Australian source income; and/or
- Attributes AUD 10 million or more income to an Australian branch.

We recommend this issue be given close attention by any group looking to rely on the de-minimis exception and especially multinational groups:

- With no Australian subsidiary or where the Australian subsidiary recognises less than AUD 10 million of income –this is commonly an issue for certain business models, such as private capital and liquidity trading, where there might be no or limited physical presence in Australia but substantial share or derivate trading in, or lending or equity investment into, Australia.
- Where the Australian subsidiary is entirely (or almost entirely) remunerated through related party dealings –this may be a consideration for multinational groups where “routine” activities are performed in Australia and remunerated on a “cost plus” basis.

Draft ATO instructions summary

Section A – Entity information

The information in Section A is necessary for ATO administration purposes and we have clarified with the ATO that it does not form part of the published report. Similarly, the ATO has confirmed that if there is a full exemption, nothing needs to be submitted.

The instructions confirm that the Global Reporting Initiative GRI-207: Tax 2019 standard is the leading guidance which takes precedence over OECD guidance.

Section A includes instructions on reporting entity declarations, report years and public global parent details.

The form asks for the reporting entity's ATO reference number (ARN) or alternatively their Australian Business Number (ABN). Note an entity without an ABN or ARN will only be issued a ARN for PCbCR reporting where they lodge the ATO PCbCR registration form.

Section B: Member entities and approach to tax

The information in Section B includes guidance on listing member entities of the CBC reporting group, including the reporting entity, and the approach to tax.

The data field for the approach to tax is a maximum of 5,000 characters. Where this is not sufficient, text for a plain text URL reference (not link) to refer readers to a web page for additional information can be included. The ATO require that the reference is to provide additional information and not an alternative to providing an approach to tax overview.

Section C: Australia and specified jurisdictions

Section C outlines how information for Australia and specified jurisdictions is to be determined and reported for each data field requirement. A separate section C must be completed for Australia and each specified jurisdiction or where a choice is made to report on a CBC basis for all jurisdictions then also for those other jurisdictions.

It includes guidance to consolidate information of multiple members in a single jurisdiction.

Section D: Rest of the world (aggregated information)

Section D outlines how information for non-specified jurisdictions is to be determined and reported for each data field requirement, where a choice has not been made to report all jurisdictions on a CBC basis.

The instructions are similar to those in corresponding items in Section C however they clarify that information is reported on a consolidated or aggregated basis. There are reduced disclosures for aggregated information compared to disclosure on a CBC basis.

Section E: Submitting your Public CBC report

The instructions confirm:

- The Public CBC report must be submitted electronically as a valid XML file generated by business management software. The XML file must conform to the structure, rules and data types defined in the ATO-developed XML Schema.
- The report is to be emailed to the ATO.
- The ATO will validate the submission and advise if it is complete for publication or if there are any errors or omissions such that it cannot be published.

Section F: Correcting your Public CBC report

Material errors must be corrected within 28 days of the reporting entity becoming aware of the error.

The instructions advise that to amend your Public CBC report, you must complete the approved form again with the corrected information and submit it using the same reporting submission process. All fields must be completed in the amended report, including fields that have not been changed.

The instructions do not include any further information concerning what is “material” for requiring corrections or when the ATO would consider an entity should have become aware of the need to correct. Given the substantial penalties for not correcting errors in the required time it will be vital for groups to monitor events subject to lodgement and to quickly analyse whether a corrected report must be submitted. ATO extensions for submission of corrections for material errors may be available upon application.

How EY can help

EY 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 Environmental, Social, and Governance (ESG) commitments and communication strategies on the measures with stakeholders including investors, the Board and management.

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

We can help you to prepare and lodge the registration form and the Public CBC report in the approved ATO form.

For more information please contact your usual EY advisor or:

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