

BEST PRACTICES FOR TRINIDAD AND TOBAGO

1. **Institution:** Financial Entities (Multi-National Enterprises), The Inland Revenue Division of the Ministry of Finance and the Registrar General’s Department in the Office of the Attorney General and Ministry of Legal Affairs in Trinidad and Tobago.

2. **Title:** Country-by-Country Reporting (CBCR) by Multinational entities relative to the Base Erosion and Profit Shifting Inclusive Framework in accordance with **Article III (6) of the Convention- Preventative Measures** (government revenue collection and control systems that deter corruption).

3. **Description of the best practice:** Include a brief description and summary of the best practice, as well as the reason why it should be considered a best practice, expressly referring to its sustainability.

The Base Erosion and Profit-Shifting Inclusive Framework (Country-by-Country) Reporting Act, 2024 (herein after referred to as “The Act”), is **Act No. 2 of 2024** and was introduced in the Senate as a bill on the 24th of November, 2023. **Act No. 2 of 2024** has been passed both in the Senate and the House of Representatives and it was assented to the President of the Republic of Trinidad and Tobago on the 19th of March 2024. However, the Act is still awaiting proclamation and will come into operation on such day as is fixed by the President by Proclamation.

The Act seeks to provide country-by-country reporting (CBCR) legislation to meet Trinidad and Tobago’s obligations to the Base Erosion and Profit Shifting Inclusive Framework. The provisions of the Act are considered a best practice as it will enable the Board of Inland Revenue to track the income streams of Multi-National Enterprises (MNEs) in order to ensure tax compliance within Trinidad and Tobago.

- **S.4 (1)** of the Act seek to create a filing obligation as it requires Each Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Trinidad and Tobago to file a country-by-country report with respect to its Reporting Fiscal Year to the Board of Inland Revenue.
- **S. 4 (2)** also requires A Constituent Entity, which is not the Ultimate Parent Entity of an MNE Group to file a country-by-country report.
- **S.6 (2)** of the Act sets out guidance on the contents of the country-by-country report. The report should contain information such as aggregate information relating to the amount of revenue, profit or loss before income tax, income taxes paid, income tax accrued as well as the identification of each Constituent Entity of the MNE Group setting out the jurisdiction

of residence of such Constituent Entity and the nature of the main business activity of such Constituent Entity.

- **S. 10** of the Act also creates a requirement for reporting entities to establish and keep records and those records should be kept for a period of 6 years.
- **S.11** of the Act creates an obligation for the Registrar General of Trinidad and Tobago to forward to the Board of Inland Revenue at least once every six months a list of enterprises registered under various Acts within Trinidad and Tobago.

The submission of a country- by-country report is a best practice as the information contained in the reports requires Multi-National Entities within Trinidad and Tobago to disclosure information about its jurisdiction as well as profits, losses and income taxes paid. The information in these reports will assist the Board of Inland Revenue in determining whether these entities are trying to artificially shift profits to low or no-tax locations to evade paying taxes. The obligation on the registrar general to forward to the Board of Inland Revenue a list of enterprises registered within Trinidad and Tobago is a best practice as the Board can utilize the list to verify whether enterprises specified in the list are constituent entities resident in Trinidad and Tobago for tax purposes. The maintenance of records for a period of 6 years by the entities is also a best practice because this promotes transparency and accountability.

4. Reasons/Importance: Reasons for pursuing best practice should be given. A description should be made of the situation in place before the adoption of the best practice and identification of the problem or problems it is to address

Base Erosion and Profit-Shifting legislation is important as it enhances accountability, assist the government in revenue collection and control systems which will deter corruption.

As mentioned before, **S.4** of the Act will require MNE's to submit a country-by-country-report and **S.6** sets out the information that should be contained in these reports. These sections are important as it creates a new obligation for MNE's in Trinidad and Tobago to report on their Jurisdiction as well as profits acquired and income taxes paid. This information in the country-by-country report is crucial as it will assist in determining whether corporations are evading taxation.

S.11 of the Act is also important as The Board on Inland Revenue can utilize the list from the Registrar General for cross-checking which enterprises are registered in Trinidad and Tobago. From the list of registered enterprises, the Board can determine which entities are constituent entities resident in Trinidad and Tobago and whether these entities should pay corporate taxes.

S.12 of the Act grants The Board the authority to request that a Constituent Entity provide or make available to it, information including copies of relevant books, records, electronically stored information or other documents in its possession or control as the Board may reasonably require.

This is also important as it will allow the board determine whether the Constituent Entity is compliant with the provisions of the Act.

Section 15, 16, 17 and 20 of the Act is also essential as these sections will ensure that corporations are compliant with the best practices created by the Act. **S.15** imposes penalties for submitting a false country by country report while **S.16** prohibits the altering, destroying hiding or removing of a country-by-country report which is submitted to the Board without the written authorization from the board and imposes penalties for doing same. **S. 17** restricts a person from hindering or obstructing the Board from performing a function under the Act while **S. 20** creates penalties for failure by a Reporting Entity to comply with the reporting requirements for the country-by-country report. Failure to comply with **Section 15, 16, 17 and 20** results in penalties in the form of payment of monetary fines as well as imprisonment.

Therefore, **The Base Erosion and Profit-Shifting Inclusive Framework (Country-by-Country) Reporting Act, 2024** is important as the provisions of Act seek to create new obligations for MNE's within Trinidad and Tobago which will hinder the ability of these corporations to evade taxes. As such, this Act will assist the government of Trinidad and Tobago in enhancing accountability, revenue collection and controlling systems which will deter corruption.

5. Approach: What was the proposed design and methodology for applying the best practice? What was considered in its design and methodology? Were other countries' experience taken into account? Was a model law taken into account?

Consideration was given to the Organisation for Economic Co-operation and Development (OECD) model legislation found in the **OECD Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 – 2015 Final Report** and existing legislation in other jurisdictions such as The United Kingdom, The Bahamas, Ireland and other commonwealth jurisdictions in the drafting of **The Base Erosion and Profit-Shifting Inclusive Framework (Country-by-Country) Reporting Act, 2024**.

6. Implementation: How is the best practice being implemented? What were the human and financial resources needed for its implementation?

As mentioned before, **The Base Erosion and Profit-Shifting Inclusive Framework (Country-by-Country) Reporting Act, 2024** was introduced in the Senate as a bill on the 24th of November, 2023. **Act No. 2 of 2024** has been passed both in the Senate and the House of Representatives and it was assented to the President of the Republic of Trinidad and Tobago on the 19th of March 2024. However, the Act is will come into operation on such day as is fixed by the President by Proclamation. Therefore, when the Act is proclaimed, the provisions of the Act will take effect and be implemented within Trinidad and Tobago.

7. Outcome: What is the end result or expected end result of implementing the best practice? What are the benefits and/or success stories? Have they addressed the problems originally identified as necessitating a best practice to be implemented? What has been its impact?

Trinidad and Tobago has identified that Base Erosion and Profit-Shifting creates unfair advantages for businesses operating internationally over those at a domestic level, undermines the fairness of tax systems resulting in little or no corporate tax being paid and can reduce voluntary tax compliance. Therefore, the expected outcome of **The Base Erosion and Profit-Shifting Inclusive Framework (Country-by-Country) Reporting Act, 2024** is to:

1. Provide for country by-country reporting (CBCR) to meet Trinidad and Tobago's obligations under the Base Erosion and Profit Shifting Inclusive Framework and
2. Enable the Board of Inland Revenue to track the income streams of multi-national enterprises (MNEs) in order to ensure tax compliance.

8. Potential for technical cooperation: Can the best practice be adapted and used by other countries? Is it possible to provide technical assistance to other countries in implementing the best practice? Provide the point of contact for the entity that can facilitate the technical assistance.

This practice can be adapted and used by other countries. Provision of technical assistance may be possible based upon specific requests.

9. Follow-up: Who or what groups will monitor the practice's implementation? How will its implementation be monitored? Will there be a Follow-up Report?

There are obligations on the Multi-National Enterprises that are resident in Trinidad and Tobago for tax purposes to file country-by-country reports to the Board of Inland Revenue. Furthermore, these Multi-National Entities must establish and maintain records for a period of 6 years. The Board of Inland Revenue also has obligations to:

- Request information from a Multi-National Enterprise to ensure that these entities are compliant,
- Administer administrative fines for breaches under the Act and
- Issue guidelines for the purpose of assisting with compliance with the Act.

In addition, The Registrar General has to forward to the Board a list of enterprises registered within Trinidad and Tobago at least once every six months. As mentioned before, this information can be utilized by the Board to verify whether enterprises are resident in Trinidad and Tobago for tax purposes. Therefore, The Multi-National Enterprises, The Board of Inland Revenue and the Registrar General will monitor the practice's implementation.

10. Lessons: What are some of the lessons learned in implementing the Best Practice? What are the challenges in implementing the best practice?

The Best Practice has not been fully implemented and only upon full implementation then the lessons learnt can be evaluated.

11. Documentation: Where can further information be found regarding the best practice (e.g., Internet links)

The Base Erosion and Profit-Shifting Inclusive Framework (Country-by-Country) Reporting Act, 2024

<https://www.ttparliament.org/wp-content/uploads/2023/11/a2024-02g.pdf>

12. Contact: Who can be contacted for further information?

The Inland Revenue Division of the Ministry of Finance

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Email: support@ird.gov.tt