The State Revenue Committee of the Ministry of finance of the Republic of Kazakhstan want to inform the next information.

In accordance with Article 7 paragraph 3 of Transfer Pricing Law, the transfer pricing documentation includes the Country-by-Country Report.

In accordance with Article 7-3 - taxpayers, which are part of the Multinational Group of companies, which meet the conditions of paragraph 4 of this Article (e.g. the consolidated turnover of the group exceeds 750 million EUR) are obliged to prepare this CbC Report. As required by the Order N. 178 of the Minister of Finance of RK from 14 February 2018 these CBC reports are to be submitted in accordance to Article 7-3 pararaph 2 or paragraph 3 of the Transfer Pricing Law to the State Revenue Committee.

In accordance with paragraph 2 of this Article, the taxpayers who are members of the MNE Group either have to submit these reports to the tax administration if the taxpayer is the parent company of the multination group or if the taxpayer is member of the multination group, which was authorized by the multinational group to submit such a report on behalf of this multinational group. In other cases, as established in paragraph 3 of the Article, the tax administration can request the CBCR report from other taxpayers, who are not mentioned in paragraph 2.

The reports submitted by the Parent companies of MNE Groups, which are resident in Kazakhstan will be exchanged with other countries, which concluded the relevant international agreement, which allows exchange of information as is elaborated in the relevant Competent Authority Agreements concluded in the framework of such International Agreements. In this regards, on 23 December 2013 Kazakhstan has signed the Multilateral Convention on Mutual Assistance in Tax Matters, which was also ratified by the Republic Kazakhstan and entered into force on 1August 2015. Furthermore on 12 June 2018 Kazakhstan as a party to Multilateral Convention on Mutual Assistance in Tax Matters has also signed the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports. This agreement especially requires in Section 5 that all information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged. Furthermore, the preamble to the Multilateral Competent Authority Agreement requires that jurisdictions have in place (i) appropriate safeguards to ensure that the information received pursuant to this agreement remains confidential and is used for the purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate, in accordance with Section 5 of this Agreement, (ii) the infrastructure for the effective exchange relationship (including established processes for ensuring timely, accurate and confidential information exchanges, effective and reliable communications and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provision of Section 4 of this Agreement) and (iii) the necessary legislation. The guidance for establishing the relevance legislation is contained in BEPS Action 13 Final report, which also established the conditions for filing and exchanging the relevant CbC Reports.

As established in Article 1 of Transfer Pricing Law, if the international agreement, ratified by the Republic of Kazakhstan provides otherwise, than provided in the Transfer Pricing Law, the rules of the international agreement will prevail.

Accordingly, any request in accordance with Article 7-3 paragraph 1 and paragraph 3 is to be made only when the relevant conditions established in the above mentioned International Agreements and as prescribed by the relevant guidance in paragraph 60 BEPS Action 13 Final Report. The State Revenue Committee is currently developing instructions and methodology for the purposes of implementation the points (i) – (iii) as required by International Agreement mentioned above. The requests under provisions of Article 7-3 paragraph 3 will not be issued until this process is completed. We will inform you about the completion of this process accordingly.