

Grand Ducal Decree is published: the List of Reportable Jurisdictions

31 March 2017

In brief

On 28 March 2017, the Grand Ducal Decree was published in the Official Gazette (“Mémorial”), indicating the list of jurisdictions considered as Reportable Jurisdictions (in French: “Juridictions soumises à déclaration”) for the purpose of the implementation of the OECD Common Reporting Standard (CRS) in Luxembourg.

In detail

On 28 March 2017, the Grand Ducal Decree on CRS has been published in the Official Gazette. It sets the list of the jurisdictions considered as Reportable Jurisdictions under CRS.

This list defines the territorial scope of the obligations vesting to Financial Institutions (FIs) in Luxembourg under the defined standard with respect to accounts maintained in 2016.

The United States of America are not included neither in the list of Participating nor Reportable Jurisdictions. US entities that qualify as Investment Entities according to Section VIII, A (6) (b) of the CRS commentary (so-called “Managed by Investment Entities”) would be reclassified as Passive Non-Financial Entities (Passive NFEs). Therefore, Luxembourg FIs are required to collect data and/or report (if required) the Controlling Persons of such entities, if those Controlling Persons are resident in a Reportable Jurisdiction.

As it was expected, the list of Reportable Jurisdictions included in the Grand Ducal list differs from the list of Participating Jurisdictions, which has already been published in another Grand Ducal Decree updated on 23 December 2016. Indeed, the following countries are not in the list: Anguilla, Bermuda, British Virgin Islands, Turks and Caicos Islands, Cayman Islands and Trinidad and Tobago. Since these countries have stated that they do not require information from Luxembourg under the CRS, they are not Reportable Jurisdictions from a Luxembourg perspective.

Nevertheless, if an entity tax resident in one of those Jurisdictions is a Passive NFE, it may still be reportable if its Controlling Persons are themselves tax residents in a Reportable Jurisdiction (e.g. a Cayman Islands Passive NFE with Belgian Controlling Persons will be reported to the Belgian tax authorities).

What's next?

The publication of the list of Reportable Jurisdictions allows the FIs now to determine which Account Holders should be included in the first CRS report. Per the relevant legal provisions under Luxembourg law, the deadline for reporting the information with respect to accounts maintained in 2016 to the Luxembourg tax authorities is set on 30 June 2017.

Let's talk

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