

10 Practical Tips on Country- by-Country Reporting

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Introduction

Country-by-Country Reporting

- BEPS Action 13
- One of the four minimum standards
- More than 55 jurisdictions have already implemented an obligation for relevant MNEs to file CbC Reports¹
- Over 1,000 exchange relationships between pairs of jurisdictions have already been created.
- The OECD's Inclusive Framework on BEPS has released two a number of sets of guidance and two handbooks to assist and give greater certainty to tax administrations and MNE Groups alike in on the implementation and operation of CbC Reporting:
 - Guidance on the implementation of CbC Reporting
 - Guidance on the appropriate use of information contained in CbC Reports
 - Handbook on Effective Implementation
 - **Handbook on Effective Tax Risk Assessment**
- “The OECD is also developing a *Transfer Pricing Risk Assessment Toolkit*, for release in 2018, to assist jurisdictions, in particular developing countries, in the design and implementation of tools for the assessment of transfer pricing risks posed by MNE groups.”²

¹<https://www.oecd.org/tax/beps/CbC-MCAA-Signatories.pdf>

²BEPS Action 13 Country-by-Country Reporting; Handbook on Effective Tax Risk Assessment

Handbook on Effective Tax Risk Assessment



Chapter 1: Introduction and Background

Chapter 2: The Role of Tax Risk Assessment in Tax Administration

Chapter 3: Overview of CbC Reporting

Chapter 4: Incorporating CbC Reports Into a Tax Authority's Tax Risk Assessment Framework

Chapter 5: Challenges to the Effective Use of CbC Reports for Tax Risk Assessment

Chapter 6: Using CbC Reports alongside data from other sources

Chapter 7: Using the Results of a Tax Risk Assessment Based on CbCR Information

Tax Risk Indicators¹

	Potential tax risk indicator	What this could mean
1.	The footprint of a group in a jurisdiction	A group with a small footprint may have less potential to pose significant tax risk
2.	A group's activities in a jurisdiction are limited to those that pose less risk	A group's activities in a jurisdiction may be of a type that are subject to a lower level of tax (e.g. where dividends and gains earned by a holding entity benefit from a participation exemption)
3.	There is a high value or high proportion of related party revenues in a particular jurisdiction	A high value or proportion of related party revenues might mean that even a small transfer pricing error could have a significant tax impact.
4.	The results in a jurisdiction deviate from potential comparables	Differences between a jurisdiction and the chosen comparable could be driven by BEPS
5.	The results in a jurisdiction do not reflect market trends	Results may be being distorted by BEPS activity
6.	There are jurisdictions with significant profits but little substantial activity	Profits may have been shifted away from the jurisdiction where the underlying economic activity is occurring
7.	There are jurisdictions with significant profits but low levels of tax accrued	A low effective tax rate to indicate that a group is using BEPS to shelter taxable income
8.	There are jurisdictions with significant activities but low levels of profit (or losses)	Profits that are attributable to a jurisdiction may be being shifted to a jurisdiction where they are taxed more favourably
9.	A group has activities in jurisdictions which pose a BEPS risk	A group may be engaged in a known BEPS-related activity

Tax Risk Indicators¹

	Potential tax risk indicator	What this could mean
10.	A group has mobile activities located in jurisdictions where the group pays a lower rate or level of tax	A group may have shifted mobile activities to a jurisdiction to benefit from a favourable tax regime
11.	There have been changes in a group's structure, including the location of assets	Changes in a group's structure may be an opportunity for a group to engage in BEPS and could mean a need to revisit existing transfer pricing policies and methodologies, and re-consider the identification and pricing of related party transactions
12.	IP is separated from related activities within a group	Valuable IP may be used to strip taxable profit from other jurisdictions
13.	A group has marketing entities located in jurisdictions outside its key markets	Marketing entities could be earning profits that are not attributable to the jurisdictions where they are resident
14.	A group has procurement entities located in jurisdictions outside its key manufacturing locations	Procurement entities could be earning profits that are not attributable to the jurisdictions where they are resident
15.	Income tax paid is consistently lower than income tax accrued	A group may be making high tax accruals for uncertain tax positions, which could indicate BEPS-related behaviour
16.	A group includes dual resident entities	Dual resident entities can be used for a number of BEPS purposes
17.	A group includes entities with no tax residence	No residence entities can be used for a number of BEPS purposes
18.	A group discloses stateless revenues in Table 1	Stateless revenue may indicate a BEPS risk if the revenue is not taken into account for tax purposes in any jurisdiction
19.	Information in a group's CbC Report does not correspond with information previously provided by a constituent entity	This could question the accuracy of both the CbC Report and the information previously provided by a constituent entity

How to detect Tax Risk Indicators?

Tip 1: Be aware of audit screening techniques applied by tax authorities

Tip 2: Assess your own tax risk indicators

How to detect Tax Risk Indicators?¹

Tip 1: Be aware of audit screening techniques applied by tax authorities

Tax Jurisdiction	Manual risk detection techniques	Automated risk detection techniques	Risk detection based on data from other (public/internal) sources
Australia	X	X	X
Brazil	X	X	unknown
Canada	X	X	X
Chile	X	unknown	unknown
India	X	X	X
The Netherlands	X	X	X
Spain	X	X	unknown

¹Source: BEPS Action 13 Country-by-Country Reporting; Handbook on Effective Tax Risk Assessment

How to detect Tax Risk Indicators?¹

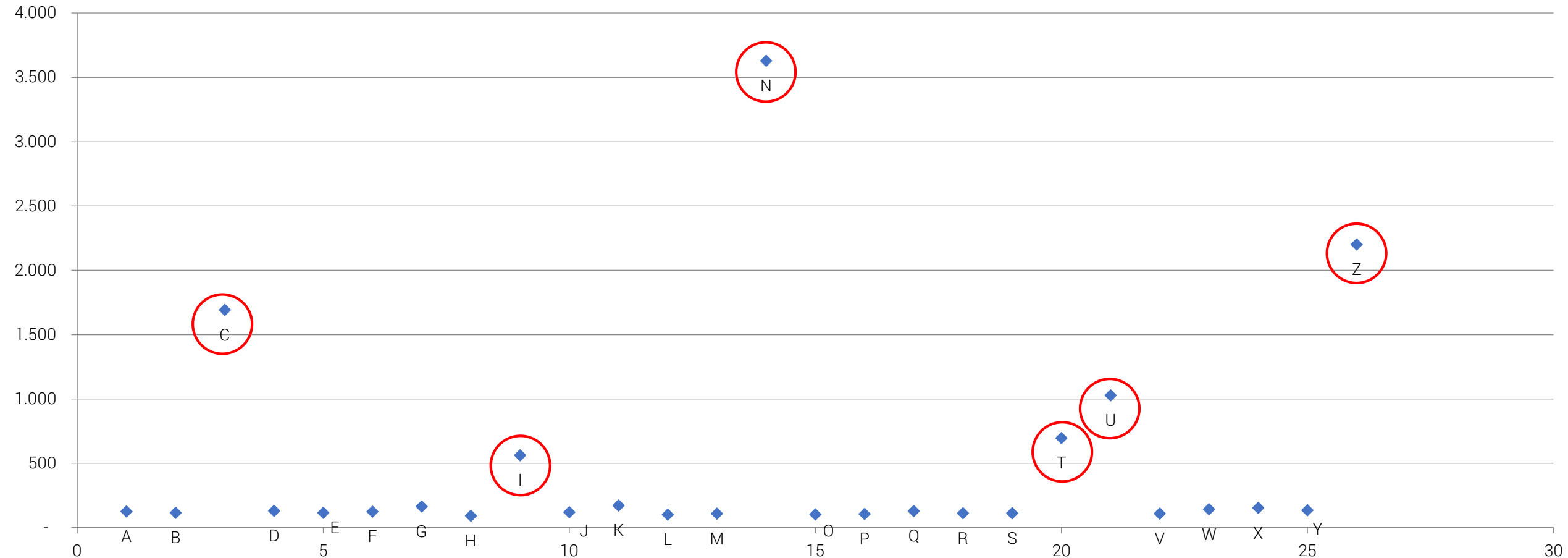
Tip 1: Be aware of audit screening techniques applied by tax authorities

	Proportion of revenues from unrelated parties	Proportion of revenues from related parties	Revenues generated per employee	Pre-tax profit generated per employee	Revenues generated per EUR of tangible assets	Pre-tax profit generated per EUR of tangible assets	Pre-tax return on equity	Post-tax retrun on equity	Profit margin	Effective tax rate
Tax Jurisdiction	Unrelated Party Revenues / Total Revenues	Related Party Revenues / Total Revenues	Total Revenues / Number of employees '000	Profit before tax / Number of employees '000	Total revenues / Tangible assets '000	Profit before tax / Tangible assets '000	Profit before tax / (Stated capital + retained earnings)	(Profit before tax - Income tax accrued) / (Stated capital + accumulated earnings)	Profit before tax / Total Revenues	Income tax accrued / Profit before tax
A	54%	46%	126	13	1.29	0.13	21%	14%	10%	34%
B	99%	1%	114	14	4.97	0.62	19%	12%	12%	33%
C	25%	75%	1,691	220	24.80	3.22	21%	18%	13%	15%
D	30%	70%	130	14	0.99	0.11	28%	20%	11%	28%
E	91%	9%	114	12	6.47	0.65	16%	13%	10%	22%
F	55%	45%	124	14	1.08	0.12	24%	18%	11%	25%
G	90%	10%	163	17	6.18	0.66	19%	17%	11%	11%
H	3%	97%	92	2	0.58	0.01	11%	8%	2%	30%
I	2%	98%	562	22	7.25	0.28	11%	9%	4%	16%
J	92%	8%	119	13	5.08	0.56	13%	11%	11%	16%
K	34%	66%	172	24	1.31	0.18	30%	25%	14%	16%
L	98%	2%	101	10	6.52	0.63	26%	17%	10%	36%
M	40%	60%	108	10	1.26	0.12	28%	19%	10%	35%
N	16%	84%	3,629	1,714	86.72	40.97	425%	425%	47%	0%
O	91%	9%	103	9	7.73	0.69	23%	17%	9%	25%
P	99%	1%	105	12	6.23	0.70	31%	23%	11%	24%
Q	47%	53%	129	13	0.85	0.09	27%	18%	10%	35%
R	99%	1%	112	6	9.62	0.51	20%	15%	5%	27%
S	39%	61%	111	5	12.89	0.62	20%	15%	5%	25%
T	10%	90%	696	226	15.29	4.97	102%	97%	33%	5%
U	5%	95%	1,027	598	8.86	5.16	278%	267%	58%	4%
V	31%	69%	108	6	1.28	0.07	24%	17%	5%	29%
W	95%	5%	142	5	17.42	0.57	23%	16%	3%	31%
X	82%	18%	152	7	10.57	0.48	22%	17%	4%	23%
Y	89%	11%	135	5	10.51	0.41	17%	12%	4%	33%
Z	2%	98%	2,200	642	10.44	3.05	172%	152%	29%	12%

How to detect Tax Risk Indicators?¹

Tip 1: Be aware of audit screening techniques applied by tax authorities

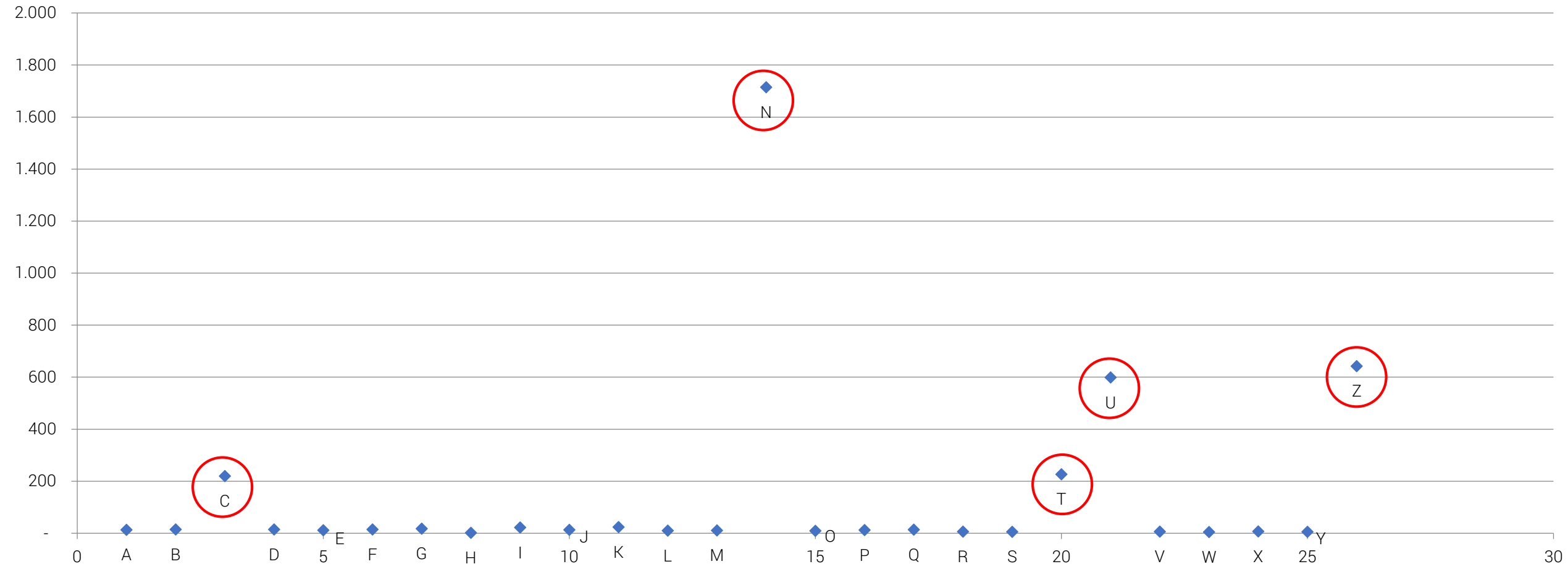
Total revenues per employee by jurisdiction in 2017 ('000)



How to detect Tax Risk Indicators?¹

Tip 1: Be aware of audit screening techniques applied by tax authorities

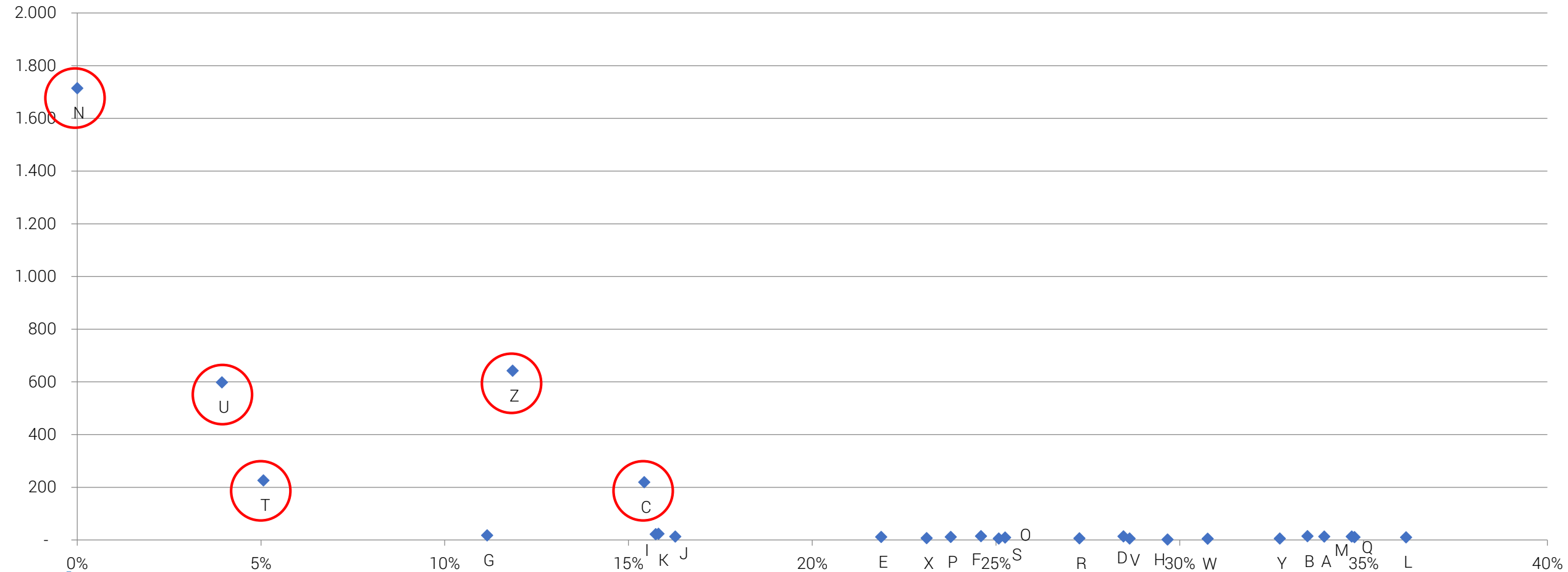
Profit before tax per employee by jurisdiction in 2017 ('000)



How to detect Tax Risk Indicators?¹

Tip 1: Be aware of audit screening techniques applied by tax authorities

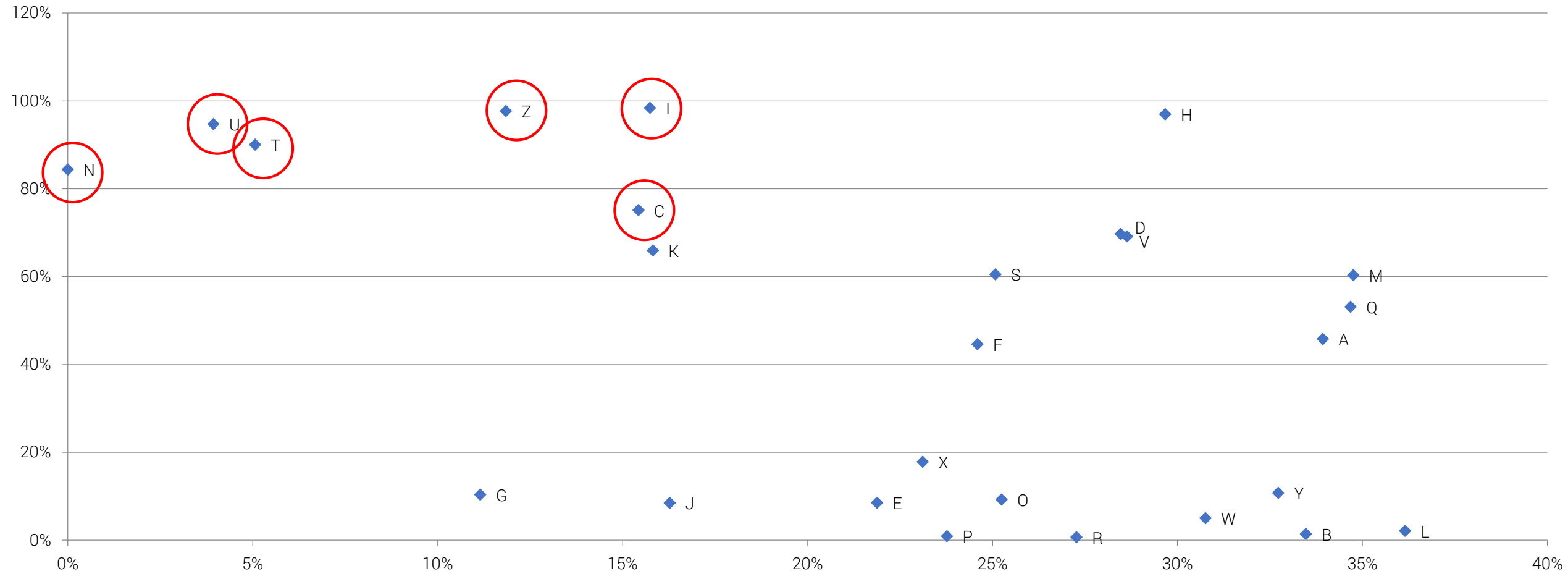
Relationship between profit before tax per employee and effective tax rate



How to detect Tax Risk Indicators?¹

Tip 1: Be aware of audit screening techniques applied by tax authorities

Relationship between proportion of revenues from related parties and effective tax rate



How to detect Tax Risk Indicators?¹

Tip 2: Assess your own tax risk indicators

- What techniques do you apply to detect your own tax risk indicators prior to audit screenings by tax authorities?
- Are you ready if tax authorities will perform 'real time' checks?
- Seven countries have agreed to set up a global tax compliance team, where 'best practices' on screening techniques will be shared. (Australia, Canada, Italy, the Netherlands, Spain, the United Kingdom and the United States)¹

Country-by-Country Report

Table 1. Overview of allocation of income, taxes and business activities by jurisdiction

Tip 3: Readdress critical variables from Table 1

Tip 4: Secure a consistent application of FY2016 vs. FY2017

CbC Reporting

Country-by-Country Report Table 1

Tip 3: Readdress critical variables from Table 1

- How to determine employees? Did you already define your selection from FTEs to quantify significant people functions (“SPFs”)?
- Do you expect your manual modifications to Table 1 will be revealed by tax authorities?
- What is the standard range of ‘profit before tax / number of employees’ across industries?

Country-by-Country Report Table 1*

Tip 4: Secure a consistent application of FY2016 vs. FY2017 CbC Reporting

Tax Jurisdiction	Unrelated Party Revenues	Related Party Revenues	Total Revenues	Profit (Loss) before Income Tax	Income Tax Paid (on Cash Basis)	Income Tax Accrued - Current Year	Stated Capital	Accumulated Earnings	Number of Employees	Tangible Assets other than Cash and Cash Equivalents
A	1%	1%	1%	2%	-2%	5%	0%	11%	9%	6%
B	1%	-11%	1%	0%	5%	4%	0%	9%	8%	4%
C	8%	-1%	1%	4%	15%	8%	0%	9%	7%	3%
D	1%	1%	1%	-4%	2%	2%	0%	10%	7%	8%
E	-5%	16%	-3%	-9%	2%	-10%	0%	9%	7%	-9%
F	2%	-1%	1%	13%	5%	10%	0%	10%	8%	10%
G	1%	7%	1%	16%	20%	8%	0%	1%	5%	6%
H	Newly acquired or incorporated entity, so a relative comparison is not possible									
I	-7%	337%	313%	44%	-2%	0%	0%	10%	25%	7%
J	3%	-15%	1%	-7%	10%	2%	0%	10%	9%	7%
K	2%	83%	44%	106%	58%	52%	88%	22%	9%	6%
L	9%	-5%	9%	20%	30%	21%	0%	10%	6%	5%
M	10%	10%	10%	19%	12%	16%	0%	6%	7%	3%
N	24%	14%	15%	21%	0%	0%	0%	17%	8%	6%
O	8%	8%	8%	12%	3%	7%	0%	9%	7%	7%
P	22%	-15%	21%	54%	30%	34%	0%	12%	6%	38%
Q	10%	-23%	-10%	-17%	-15%	-16%	-12%	3%	7%	8%
R	21%	-5%	21%	2%	43%	7%	0%	14%	6%	15%
S	24%	10%	15%	3%	11%	11%	0%	10%	6%	7%
T	-10%	48%	39%	181%	13%	6%	0%	10%	-7%	5%
U	11%	24%	23%	29%	4%	3%	0%	9%	17%	10%
V	20%	15%	16%	6%	-3%	-6%	0%	10%	8%	10%
W	14%	-7%	13%	9%	-1%	4%	0%	10%	8%	7%
X	13%	12%	13%	3%	17%	-13%	0%	10%	15%	8%
Y	64%	4%	55%	5%	51%	14%	0%	11%	7%	25%
Z	-17%	10%	9%	15%	-30%	22%	0%	11%	0%	6%

Country-by-Country Report Table 1*

Tip 4: Secure a consistent application of FY2016 vs. FY2017 CbC Reporting

	Proportion of revenues from unrelated parties	Proportion of revenues from related parties	Revenues generated per employee	Pre-tax profit generated per employee	Revenues generated per EUR of tangible assets	Pre-tax profit generated per EUR of tangible assets	Pre-tax return on equity	Post-tax return on equity	Profit margin	Effective tax rate
Tax Jurisdiction	Unrelated Party Revenues / Total Revenues	Related Party Revenues / Total Revenues	Total Revenues / Number of employees '000	Profit before tax / Number of employees '000	Total revenues / Tangible assets '000	Profit before tax / Tangible assets '000	Profit before tax / (Stated capital + retained earnings)	(Profit before tax - Income tax accrued) / (Stated capital + accumulated earnings)	Profit before tax / Total Revenues	Income tax accrued / Profit before tax
A	0%	0%	-7%	-6%	-5%	-4%	-6%	-7%	1%	3%
B	0%	-12%	-6%	-7%	-3%	-4%	-7%	-8%	-1%	4%
C	7%	-2%	-6%	-3%	-2%	1%	-2%	-3%	3%	3%
D	0%	0%	-5%	-11%	-6%	-12%	-12%	-14%	-6%	6%
E	-2%	20%	-10%	-15%	6%	0%	-15%	-14%	-6%	-1%
F	1%	-2%	-7%	4%	-8%	3%	4%	5%	12%	-3%
G	-1%	5%	-4%	10%	-4%	9%	15%	16%	15%	-7%
H	Newly acquired or incorporated entity, so a relative comparison is not possible									
I	-78%	6%	230%	15%	284%	34%	34%	46%	-65%	-31%
J	2%	-16%	-7%	-14%	-5%	-13%	-14%	-15%	-8%	9%
K	-29%	27%	32%	89%	36%	94%	58%	69%	43%	-26%
L	0%	-13%	3%	13%	3%	14%	14%	13%	10%	1%
M	0%	0%	3%	11%	7%	16%	14%	16%	8%	-3%
N	7%	-1%	6%	11%	9%	14%	9%	9%	5%	0%
O	0%	-1%	2%	5%	1%	4%	7%	8%	3%	-4%
P	0%	-30%	14%	45%	-12%	12%	46%	53%	27%	-13%
Q	22%	-14%	-16%	-22%	-17%	-23%	-14%	-14%	-7%	0%
R	0%	-21%	14%	-4%	5%	-11%	-2%	-4%	-15%	5%
S	7%	-4%	8%	-3%	7%	-4%	-1%	-3%	-11%	8%
T	-35%	6%	49%	201%	33%	169%	172%	198%	102%	-62%
U	-9%	1%	6%	10%	12%	17%	25%	27%	5%	-20%
V	3%	-1%	8%	-2%	5%	-4%	3%	8%	-9%	-11%
W	1%	-17%	4%	0%	5%	1%	1%	3%	-4%	-4%
X	0%	-1%	-2%	-10%	4%	-4%	-1%	5%	-8%	-15%
Y	6%	-33%	45%	-1%	24%	-16%	2%	-2%	-32%	8%
Z	-24%	1%	9%	15%	3%	8%	4%	4%	5%	6%

Country-by-Country Report

Table 3. Additional Information

Tip 5: Carefully consider how to fill out Table 3

Country-by-Country Report Table 3

Tip 5: Carefully consider how to fill out Table 3

“Please include any further brief information or explanation you consider necessary or that would facilitate the understanding of the compulsory information provided in the Country-by-Country Report.”¹

Some examples:

- Source(s) of data used;
- Level of consolidation;
- Assumptions made for determining number of employees
- Nature of industry (e.g. regulated)
- Explain tax risk indicators and/or risk flags, for example:
 - Countries with ‘0 FTEs’;
 - Stateless entities and stateless revenues.

¹Source: Transfer Pricing Documentation and Country-by-Country Reporting; Action 13: 2015 Final Report

Country-by-Country Reporting and data from other sources

Tip 6: Synchronise your storyline across all information/documentation distributed by your company

Tip 7: Perform your own comparability and industry analysis

Chapter 6: Using CbC Reports alongside data from other sources

- Information held by the tax authority
 - Tax Returns
 - Other domestic tax reporting requirements
 - Master file, Local file, transfer pricing returns and transfer pricing forms
- Information available from other government sources
 - Reports of large financial transactions held by the Financial Intelligence Unit
- Publicly available information
 - Financial reports for listed groups
 - Stock exchange and other public filings
 - Annual reports
- Commercially available information
 - Ratings agencies information
 - Commercial databases

Tip 7: Perform your own comparability and market analysis

Tax Risk Indicator no. 4: “The results in a jurisdiction deviate from potential comparables”

- Profit margin
- Effective tax rate
- Revenue or profits per unit of economic activity (e.g. ‘pre-tax profit generated per employee’)
- Pre-tax return on equity
- Post-tax return on equity

Tax Risk Indicator no. 5: “The results in a jurisdiction do not reflect market trends”

- Growth rate of sales
- Growth rate of profitability

Country-by-Country Reporting and your global Value Chain Analysis

**Tip 8: Synchronise your CbC Report with your global Value
Chain Analysis**

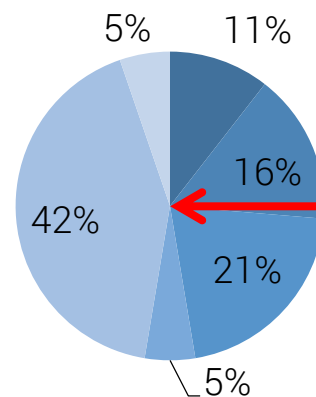
Country-by-Country Reporting and your global Value Chain Analysis

Tip 8: Synchronise your CbC Report with your global Value Chain Analysis

- Does your global value chain analysis tell the same story as the Country-by-Country Report you are going to file to the respective tax authorities?
- Qualitative value chain analysis (e.g. as reported under the Master file, Local file¹ etc.)
- Quantitative value chain analysis²

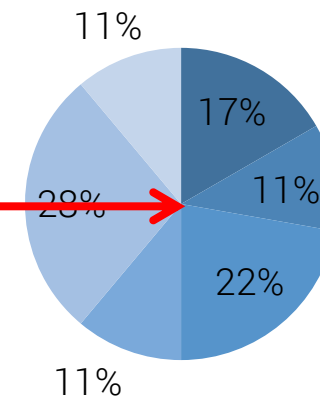
Profit before tax by jurisdiction / Country-by-Country Report

■ A ■ B ■ C ■ D ■ E ■ F



Profit before tax by jurisdiction / Value Chain Analysis

■ A ■ B ■ C ■ D ■ E ■ F



¹see documentation requirements in Germany, China, UK, Australia and South Africa

²see Appendix A – Quantitative Value Chain Analysis

Red Flags

Tip 9: Deal with red flags pro-actively

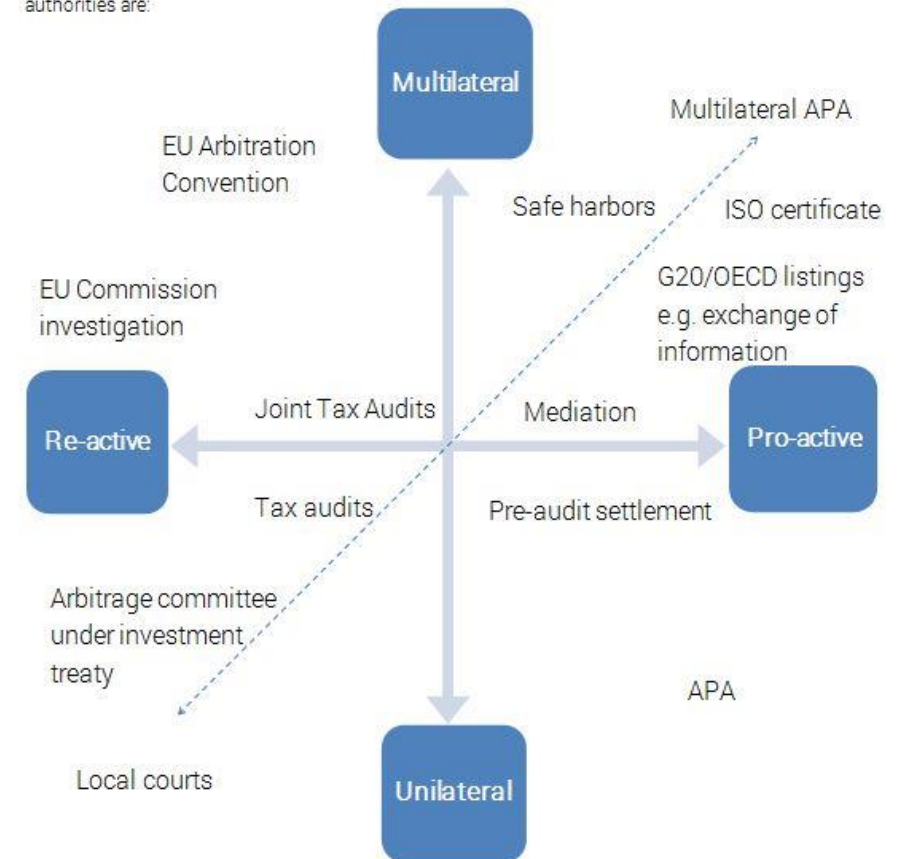
Red Flags¹

Tip 9: Deal with red flags pro-actively

- Pre-defense files
- Prepare your case and pro-actively settle
- Re-address explicit use of your controversy toolbox
- Should you use 'compensating adjustments' or other techniques to synchronise 'value creation' with your tax/transfer pricing reporting?

TPA's Guidance- Dispute avoidance and dispute resolution

The various options proposed by TPA to be used in order to prevent and/or resolve disputes with tax authorities are:



¹see Appendix B – How to manage tax risk traffic lights

Filing the Country-by-Country Report

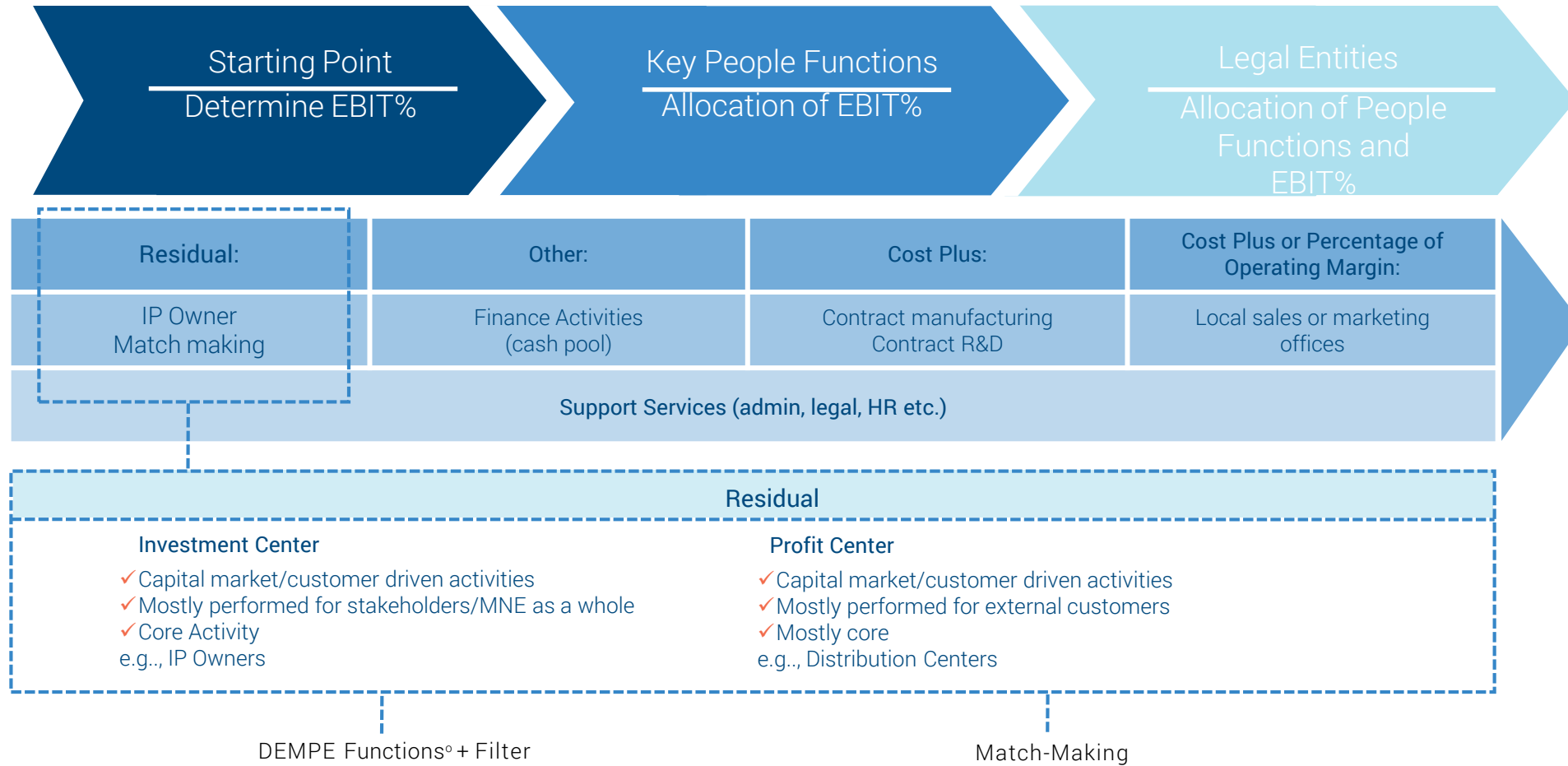
Tip 10: File a cover letter with the tax authorities in the parent country together with your CbC Report

Filing the Country-by-Country Report

Tip 10: File a cover letter with the tax authorities in the parent country together with your CbC Report

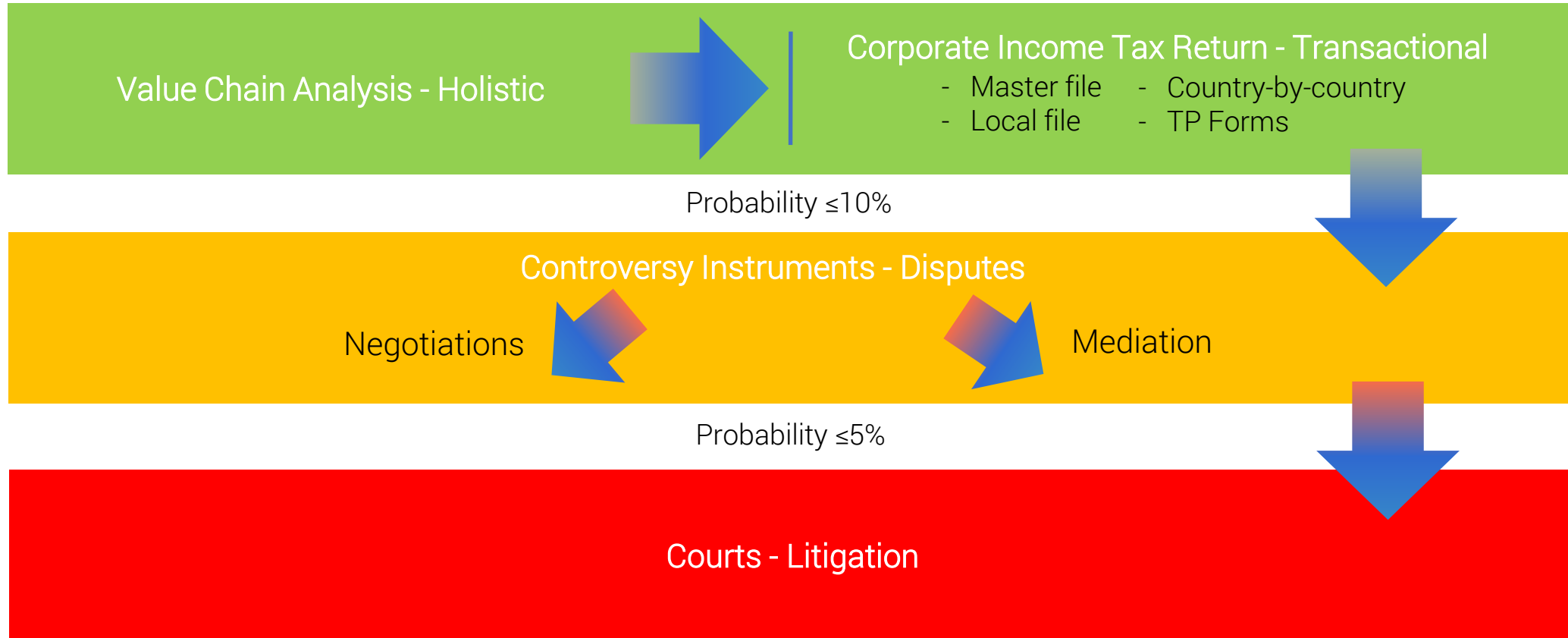
- Confidentiality
 - How to avoid disclosure to the public?
- No exchange to non-ISO certified governments
 - Who secures your tax authority does test the ISO certification status of receiving countries?
- Leaking 'commercial secrets'
 - Who is liable?

Appendix A – Quantitative Value Chain Analysis



Source: TPA Global. - ^aDevelopment Enhancement Maintenance Protection Exploitation Functions.

Appendix B – How to manage tax risk traffic lights?



TPA Global provides international businesses with integrated and value-added solutions in improving financial performance, operational efficiency, strategic development and talent coaching through a cross-border and cross-discipline team of professionals which identifies the right solutions for customers and targets; efficient and streamlined advisory and implementation processes which cut through operational complexities across functions and borders; and superior customer service and support which proactively anticipate the evolving needs of the clients.

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