

The Implementation of BEPS Action 13 in LATAM

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A Presentation by

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Presentation of TPA Global LATAM Desk

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BEPS in LATAM: The Implementation of BEPS Action 13 in LATAM

LATAM: Specifications of the Region

- 21 Countries / 10 Dependencies in the region
- 2 OECD Members: Mexico and Chile
- 3 G20 Members: Argentina, Brazil and Mexico
- Countries have different: tax legislations, capability of tax administrations, accounting systems, level of expertise, development level.
 - The OECD BEPS Plan as it is does not fit every country, as each country has its particularities and a uniform set of tax measures is difficult to apply.

Implementation of BEPS in LATAM Countries

Mexico

The first to introduce the CbCR, MF and LF and the only one that has already begun implementing the BEPS elements in the region

Colombia, Peru, Uruguay

In December 2016, the CbCR, MF and LF (in Uruguay: CbCR and MF) were introduced into general legislation. However, there is no Regulation with further details. The CbCR and MF are required for fiscal year 2017 (to be delivered in 2018). The LF is required for FY 2016.

Brazil, Chile

The CbCR was introduced, only for FY 2016.


Costa Rica

As from April 2017, a new Regulation requires the taxpayers to retain information that resembles MF and LF, to be delivered upon request. There are intentions of implementing the CbCR.


Rest of the Countries

Nothing was implemented yet. (but there are intentions of implementing the CbCR in Argentina and Panama; and the MF in Argentina).


Action 13 implemented by Argentina

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Argentina	Intentions	Intentions	-	<ul style="list-style-type: none">• TP Informative Returns.• TP Study.	✓


Action 13 implemented by Bolivia

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Bolivia	-	-	-	<ul style="list-style-type: none">• TP Informative Return.• TP Study.	-

Action 13 implemented by Brazil

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Brazil	✓	-	-	<ul style="list-style-type: none"> • Fiscal Accounting Bookkeeping. • Supporting Documentation for TP methods and calculations performed. 	✓


Action 13 implemented by Chile

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Chile	✓	-	Intentions	<ul style="list-style-type: none"> • TP Informative Return. • Declaration of Global Tax Characterization (new). 	✓


Action 13 implemented by Colombia

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Colombia	Legislation, no Regulation	Legislation, no Regulation	Legislation, no Regulation	<ul style="list-style-type: none"> • TP Informative Return.. • TP Study. 	-


Action 13 implemented by Costa Rica

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Costa Rica	Intentions	Group information similar to MF	Local entity information similar to LF	<ul style="list-style-type: none"> • TP Informative Return. • TP Study. 	✓


Action 13 implemented by Ecuador

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Ecuador	-	-	-	<ul style="list-style-type: none"> • Annex for Transactions with Related Parties. • TP Study. 	-


Action 13 implemented by El Salvador

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
El Salvador	-	-	-	<ul style="list-style-type: none">• TP Informative Return.• TP Study.	-


Action 13 implemented by Guatemala

	CbCR	MF	LF	Other local requirements / TP forms	MCAA onCbCR
Guatemala	-	-	-	<ul style="list-style-type: none">• Annex for Transactions with Related Parties.• TP Study.	-


Action 13 implemented by Honduras

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Honduras	-	-	-	<ul style="list-style-type: none">• TP Informative Return.• TP Study.	-

Action 13 implemented by Mexico

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Mexico	✓	✓	✓	<ul style="list-style-type: none">• TP Informative Return.• TP Study.	✓


Action 13 implemented by Nicaragua

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Nicaragua	-	-	-	<ul style="list-style-type: none">TP Study.	-


Action 13 implemented by Panama

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Panama	Intentions	-	-	<ul style="list-style-type: none"> • TP Informative Return. • TP Study. 	-


Action 13 implemented by Paraguay

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Paraguay	-	-	-	<ul style="list-style-type: none">• TP Informative Return.• TP Study.	-


Action 13 implemented by Dominican Republic

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Dominican Republic	-	-	-	<ul style="list-style-type: none"> • TP Informative Return. • TP Study. 	-


Action 13 implemented by Peru

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Peru	✓	✓	✓	<ul style="list-style-type: none"> • <u>For FY2015 and before:</u> TP Informative Return + TP Study. • <u>For FY2016 and after:</u> LF for substantial transactions. • <u>For FY2017 and after:</u> LF + MF + CbCR. 	-

Action 13 implemented by Uruguay

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Uruguay	Legislation, no Regulation	Legislation, no Regulation	-	<ul style="list-style-type: none"> • TP Informative Return. • TP Study. 	✓

Action 13 implemented by Venezuela

	CbCR	MF	LF	Other local requirements / TP forms	MCAA on CbCR
Venezuela	-	-	-	<ul style="list-style-type: none">• TP Informative Return.• TP Study.	-

Conclusion

What to do?

- Emphasize the number of employees, functions and risks attributed to each entity of a multinational group, as well as its asset management, when defining the group's tax policy.
- Review the existing documentation, and ensure that the transfer prices applied with related entities are in line with current substance.
- As transfer pricing documentation is required locally as appendices to the corporate income tax return, in order to organize these appendices in the most efficient manner, a "Pan-LATAM MF" would be the solution.



Q&A session

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*Thank
you*



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