

MACAO SPECIAL ADMINISTRATIVE REGION

Administrative Regulation No. 1/2020

Regulation on the multinational enterprise group business activities record

(Unofficial English Translation)

Pursuant to Article 50, subparagraph 5), of the “Basic Law of the Macao Special Administrative Region”, and the provisions of Article 18-A of “Complementary Tax Regulation”, which is approved by Law No. 21/78/M of 9 September “Complementary Tax” and revised by Law No. 6/83/M of 2 July, Decree-Law No. 37/84/M of 28 April, Decree-Law No. 15/85/M of 2 March, Decree-Law No. 37/85/M of 11 May, Law No. 13/88/M of 20 June, Decree-Law No. 48/88/M of 20 June, Law No. 4/90/M of 4 June, Law No. 11/93/M of 27 December, Law No. 4/97/M of 21 April, Law No. 12/2003, Law No. 4/2005 and Law No. 4/2011, and Law No. 21/2019, and after consultation with the Executive Council, the Chief Executive enacts the present supplementary Administrative Regulation.

Article 1 **Objectives**

The present administrative regulation defines the amount referred to in Article 18-A, paragraph 2, subparagraph 1), and the scope of the integral documents and information with respect to the multinational enterprise group business activities record referred to in subparagraph 2) of the same paragraph.

Article 2 **Amount defined**

The amount referred to in the preceding article is MOP7,000,000,000.

Article 3 **Scope of documents and information**

1. The multinational enterprise group business activities record referred to in Article 1 includes the following documents:

- 1) Master file;
 - 2) Local file;
 - 3) Country-by-Country Report.
2. The documents specified in the preceding paragraph shall include the following information of the multinational enterprise group with respect to the fiscal year concerned:
- 1) The master file shall provide the macroeconomic information of the group, including information detailed in Annex I, which is an integral part of the administrative regulation;
 - 2) The local file shall provide the detailed transaction information related to the pricing (hereinafter “Transfer Pricing”) adopted in the Group intercompany business activities, including financial transactions, in each tax jurisdiction, including the information detailed in Annex II, which is an integral part of the administrative regulation.
 - 3) The Country-by-Country Report shall provide information on income, profits, tax paid and indicators of specific operation activities in each tax jurisdiction in which the group operates, including the information detailed in the table of Annex III, which is an integral part of the administrative regulation.
3. For the implementation of the provision of this article, the updated guidelines published by Organization for Economic Cooperation and Development are supplementarily applicable.

Article 4

Entry into force

The present administrative regulation shall enter into force on 26 January 2020.

Enacted on 16 January 2020.

To be published by order of
Chief Executive, Ho Iat Seng

Annex 1
[referred to in Article 3, paragraph 2, subparagraph 1)]

Master file

The master file should include the following information:

1. Regarding the organizational structure, a chart illustrating the following:
 - 1) The legal and ownership structure of the multinational enterprise group (hereinafter “group”);
 - 2) The geographical location of the group constituent entities.
2. Regarding the group’s business(es):
 - 1) An indication of the important drivers of business profit;
 - 2) A description of the supply chain for the group’s five largest products or services by turnover, and any other products or services amounting to more than 5 percent of group turnover;
 - 3) A list and brief description of important service arrangements between constituent entities of the group, other than research and development services, including a description of the capabilities of the principal locations providing the relevant important services and transfer pricing policies for allocating services costs and determining prices to be paid for such intra-group services;
 - 4) A description of the main geographic markets for the group’s products and services as referred in paragraph 2);
 - 5) A brief written functional analysis describing the principal contributions to value creation by constituent entities of the group, including key functions performed, important risks assumed and important assets used;
 - 6) A description of important business restructuring transactions, acquisitions and divestitures occurring during the fiscal year concerned.
3. Regarding the group’s intangibles:
 - 1) A general description of the group’s overall strategy for the development, ownership and exploitation of the intangibles, including location of principal research and development facilities and location of research and development management;
 - 2) A list of intangibles or groups of intangibles of the group which are important for transfer pricing purposes, and which constituent entities legally own or effectively control such intangibles;

- 3) A list of important agreements among constituent entities of the group related to intangibles, including cost contribution arrangements, principal research service agreements and licence agreements;
 - 4) A general description of the group's transfer pricing policies related to research and development of intangibles;
 - 5) A general description of any important transfers of interests in or control over intangibles among constituent entities of the group during the fiscal year concerned, including the constituent entities, tax jurisdictions and compensation amount involved.
4. Regarding the financial activities between constituent entities of the group:
- 1) A general description of how the group is financed, including important financing arrangements with unrelated lenders;
 - 2) The identification of any constituent entities which provide a central financing function for the group, including the jurisdiction whose laws the entity is organized and the place of effective management of such entities;
 - 3) A general description of the group's general transfer pricing policies related to the financing arrangements between the constituent entities.
5. Regarding the group's financial and tax positions:
- 1) The group's consolidated financial statement for the fiscal year concerned;
 - 2) A list and brief description of the group's existing unilateral advance pricing agreements and arrangements, and other tax rulings relating to the allocation of income among tax jurisdictions.

Annex 2
[referred to in Article 3, paragraph 2, subparagraph 2)]

Local file

The following information should be included in the local file:

1. Regarding the local constituent entity:
 - 1) A description of the management structure of the local constituent entity, a local organization chart, and a description of the individuals to whom local management reports and the tax jurisdiction(s) in which such individuals maintain their principal offices;
 - 2) A detailed description of the business and business strategy pursued by the local constituent entity, including an indication whether the local constituent entity has been involved in or affected by business restructurings or intangibles transfers in the concerned fiscal year or previous fiscal year, and an explanation of those aspects of such transactions affecting the local constituent entity;
 - 3) A list of key competitors.
2. Regarding controlled transactions, the following information should be provided for each material category of controlled transactions:
 - 1) A description of the material controlled transactions and the context in which such transactions take place;
 - 2) The amount of payments and receipts for each category of controlled transactions between the local constituent entity and its associated enterprises, such payments and receipts should be broken down by tax jurisdiction of the foreign payor or recipient;
 - 3) An identification of the associated enterprises of the local constituent entity involved in each category of controlled transaction, and the relationship amongst them;
 - 4) Copies of all material agreements concluded by the local constituent entity with any of its associated enterprises;
 - 5) A detailed comparability and functional analysis of the local constituent entity and relevant associated enterprises with respect to each documented category of controlled transactions, including any changes prior to the relevant fiscal year;
 - 6) An indication of the most appropriate transfer pricing method with regard to

the category of transaction and the reason for selecting that method;

- 7) An indication of which associated enterprise is selected as the tested party, if applicable, and an explanation of the reasons for this selection;
- 8) A summary of the important assumptions made in applying the transfer pricing methodology;
- 9) If relevant, an explanation of reasons for performing a multi-year analysis;
- 10) A list and description of selected comparable uncontrolled transactions (internal or external), if any, and information on relevant financial indicators for transfer pricing analysis, including a description of the comparable search methodology and the source of such information;
- 11) A description of any comparability adjustments performed, and an indication of whether adjustments have been made to the results of the tested party, the comparable uncontrolled transactions, or both;
- 12) A detailed description of the reasons for concluding that the controlled transactions were priced on an arm's length basis based on the application of the selected transfer pricing method;
- 13) A summary of financial information used in applying the transfer pricing methodology;
- 14) A copy of existing unilateral, bilateral or multilateral advanced pricing agreements and other tax rulings related to the controlled transactions.

3. Regarding financial information:

- 1) The audited financial statements of the local constituent entity for the fiscal year concerned, if there are no audited statements, existing unaudited statements of the local constituent entity for the fiscal year concerned should be supplied;
- 2) Information and allocation schedules showing how the financial data used in applying the transfer pricing method may be tied to the financial statements;
- 3) Summary schedules of relevant financial data for comparables used in the analysis and the sources from which that data was obtained.

[referred to in Article 3, paragraph 2, subparagraph 3)]

Table 1

[illegible]

Table 2

List of all the constituent entities of the multinational enterprise group

(by tax jurisdiction)

[illegible]

Table 3

Additional information

Name of the multinational enterprise group:
Address:
Fiscal year:
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.