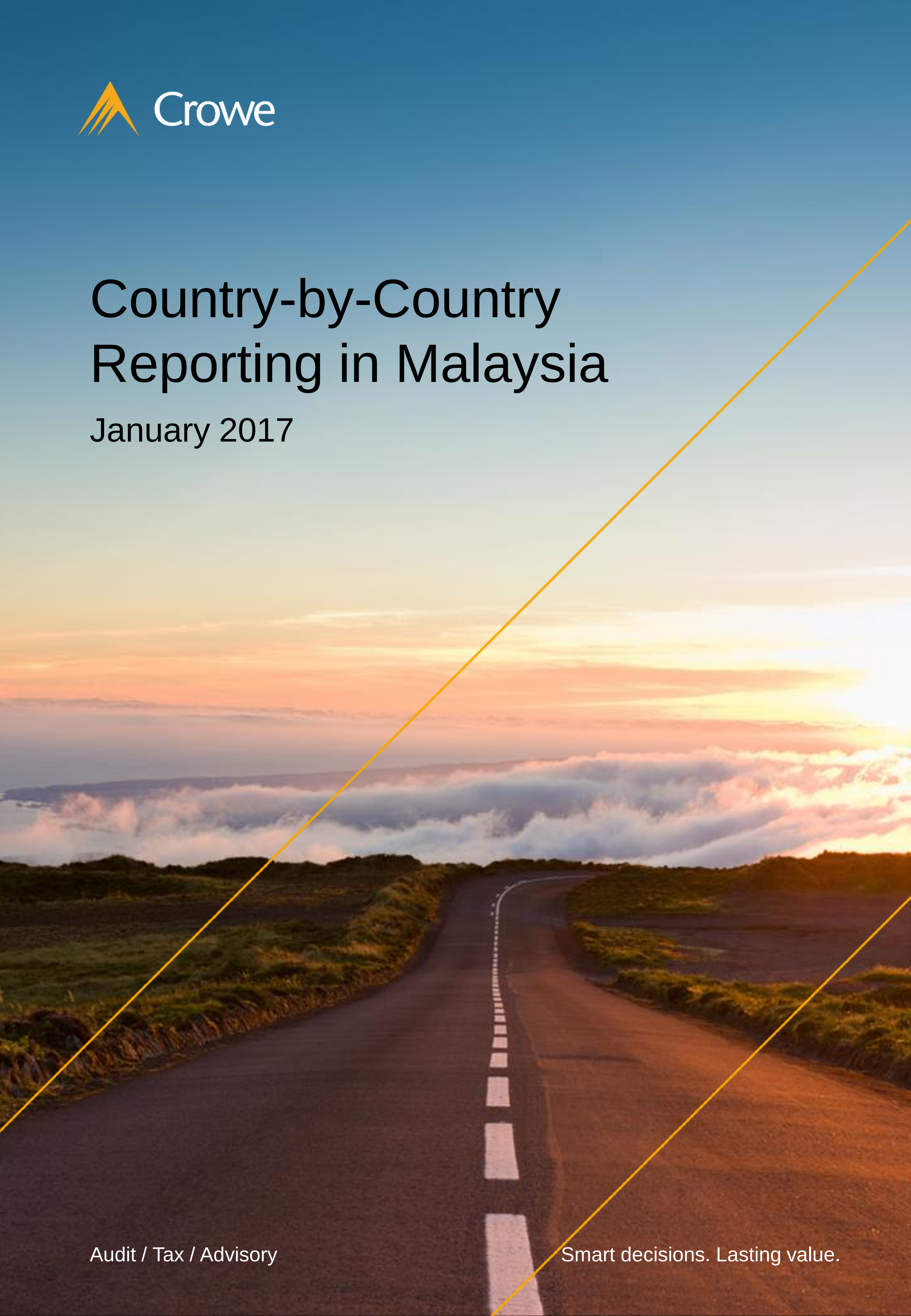

Country-by-Country Reporting in Malaysia

January 2017

Audit / Tax / Advisory

Smart decisions. Lasting value.

Since the release of the Action 13 on Base Erosion and Profit Shifting (BEPS): *Transfer Pricing Documentation and Country-by-Country Reporting ("CbCR")* by the Organisation for Economic Co-operation and Development (OECD), many countries have jumped on the bandwagon to introduce CbCR laws or rules in their countries, including Malaysia. The Malaysian Government has recently issued *Income Tax (Country-by-Country Report) Rules 2016* ("CbCR Rules") on 23 December 2016 to prescribe the rules relating to the compliance of CbCR rules in Malaysia with effective from **1 January 2017**.

What is CbCR?

CbCR is an entirely new reporting requirement aimed to enhance transparency, through disclosure of high level information regarding entities within the MNC to the relevant tax authorities in the relevant countries the MNC operates, e.g. income, profit, fixed assets, headcount, taxes paid, etc..

Who is required to prepare CbCR in Malaysia?

The CbCR Rules are applicable to all MNC Groups with ultimate holding company incorporated in Malaysia, and having reached the total consolidated group revenue of at least **RM 3 billion** in a financial year. Please see the entity that is the "reporting entity" in the table below.

Filing requirements

An Ultimate (or Surrogate) holding company of a MNC group residing in Malaysia should file the CbCR to the Director General of Inland Revenue on or **not later than 12 months** after the last day of the financial year end. For example, a reporting entity with financial year ending on 31 December 2017 shall submit its first CbCR on or before 31 December 2018.

Penalty

Failure to furnish CbCR return is an offence and if committed, would be liable to a fine of **not less than RM20,000 and not more than RM100,000** or to imprisonment for a term not exceeding 6 months or to both, under Section 112A of the Income Tax Act, 1967.

Ultimate Holding Co.	Constituent Entity	Reporting Entity
Malaysia	Malaysia / Other countries	Malaysia
Other country with CbCR rules	Malaysia / Other countries	Country of the Ultimate Holding Co.
Other country without CbCR rules	Malaysia / Other countries with CbCR rules	To appoint a Surrogate Holding Co. to file the CbC Report

CbCR already implemented in

Australia
Austria
Belgium
Canada
China
Croatia
Denmark
Finland
France
Germany
Iceland
India
Ireland
Japan
Luxembourg
Malaysia
Mexico
Netherlands
Norway
Poland
Portugal
Slovenia
South Korea
Spain
United Kingdom
United States

Countries with draft CbCR

Brazil
Bulgaria
Colombia
Czech Republic
Estonia
Israel
Italy
Jersey
Lithuania
Papua New Guinea
Russia
Singapore
Slovakia
South Africa
Sweden
Switzerland
Turkey
Uruguay
Vietnam

How does the new CbCR rules impact businesses?

Companies that are required to observe CbCR rules will be impacted in the following manners:

- Companies need to review the requirements carefully and identify the entity within the Group to be the reporting entity for CbCR purposes.
- Companies need to maintain good records and data should be readily available to facilitate extraction thereof.
- All members within the group must be educated on the CbCR requirements in order to obtain the correct information on a timely manner.
- Greater transparency of the tax and financial information to the tax authorities around the world.
- Increased vigilance by the authorities of the group's transfer prices.
- Increased workload for the finance personnel to comply with the CbCR requirements.

What are some of the possible issues on CbCR concerning groups?

Possible double taxation by the different tax authorities applying the rules differently.

Disclosure of confidential information

Additional reconciliation may be required if the MNC does not share the same accounting period.

Determination of the entity to be part of the MNC Group for CbCR purposes.

Difficulty in reporting complex structures of a MNC where the allocation of income and taxing rights between countries is unclear.

The foreign exchange rate (if the entity is operating in a currency other than Malaysian Ringgit) to be applied in calculating the consolidated group threshold and the financials to be reported in the CbCR.

How can we assist the businesses?

We have a specialized team in Transfer Pricing offering the following services in relation to the CbCR specifically and transfer pricing issues generally:

- Assess whether the Group is required to comply with the CbCR rules.
- Assist the Group in getting ready with the preparation of documentation for CbCR purposes.
- Assist in resolving the above issues arise in compliance with the CbCR requirements.

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About Crowe Malaysia PLT

Crowe Malaysia PLT is the 5th largest accounting firm in Malaysia and an independent member of Crowe Global. The firm in Malaysia has 13 offices, employs over 1,000 staff, serves mid-to-large companies that are privately-owned, publicly-listed and multinational entities, and is registered with the Audit Oversight Board in Malaysia and the Public Company Accounting Oversight Board in the US.

About Crowe Global

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