

## **Guide to Automatic Exchange of Information (AEOI) for Financial Account Holders**

### **What is Automatic Exchange of Information (AEOI)?**

AEOI refers to the automatic exchange of financial account information between tax authorities. Under Common Reporting Standard (CRS) released by Organization of Economic Cooperation and Development (OECD), it calls on governments to obtain detailed account information from their financial institutions and exchange that information automatically with other jurisdictions on annual basis using Common Reporting Standard (CRS).

### **What is Common Reporting Standard (CRS)?**

CRS is the standard used for reporting financial account information, which contains the detailed rules and procedures that financial institutions must follow in order to ensure the relevant information is collected and reported.

### **Who does it affect?**

AEOI mainly affects individuals and entities including companies, trusts and others that are not a tax resident in Brunei Darussalam. Financial institutions are required to identify account holders (both individuals and entities) who are not tax resident in Brunei Darussalam and report certain financial information to Revenue Division, Ministry of Finance and Economy. Once received, the information may be exchanged with the tax authority of the jurisdiction in which the account holder is a tax resident. The identification procedures apply to both accounts currently in existence and accounts which will be opened in the future. Brunei Darussalam is committed to implement AEOI CRS starting 2018 for financial accounts in 2017. Starting from 1 January 2017, all individuals or entities opening a financial account will be required to advise the financial institution of where they are tax resident. For pre-existing accounts, for example accounts opened before 1 January 2017, financial institutions can use information on file for the account holder to determine their tax residence, however they may also contact account holders for further information or to verify the information held.

### **How does it work?**

The first step in AEOI relates to the collection of the information to be exchanged. Financial institutions are required to carry out their due-diligence to identify individuals or entities and report the information securely to Revenue Division, Ministry of Finance and Economy through the AEOI Portal. The Revenue Division, Ministry of Finance and Economy will then transmit the information to the tax authority of the jurisdiction in which the individual or entity is tax resident. Revenue Division will only transmit the information to the selected reportable jurisdictions with which there is a legal exchange agreement (such as the CRS Multilateral Competent Authority Agreement) in place and where data security assessments have been satisfied.

## **Who are considered as a tax non-resident of Brunei Darussalam?**

According to Brunei Darussalam Income Tax Act (Chapter 35), a person is not considered a tax resident in Brunei Darussalam if that person resides in Brunei Darussalam for less than 183 days in one calendar year. Hence any Bruneian or Non-Bruneian who resides in Brunei Darussalam less than 183 days in a calendar year will not be considered as a tax resident of Brunei Darussalam (non-tax resident) and will have its financial information transmitted to the tax authorities of the country to where he/she is considered a tax resident and have entered the abovementioned international agreements with Brunei Darussalam.

In the case of entities such as companies, the entities will not be considered as tax resident of Brunei Darussalam if the entities does not exercise its control and management in Brunei Darussalam. Therefore, Revenue Division will transmit the financial account information of these entities to their relevant tax authorities overseas where the entities exercises its control and management of its business and have entered the abovementioned international agreements with Brunei Darussalam.

## **What type of financial institutions and accounts are covered under the CRS?**

The definition of financial institution is quite broad and covers a number of different types of institutions in Brunei Darussalam including banks, investment entities which trade in money market instruments or invest, administer or manage funds or money on behalf of other persons, trusts, investment limited partnerships and certain types of insurance companies that have cash value products or annuities. The account types include deposit accounts, custodial accounts, certain types of investment accounts and insurance and annuities contracts.

## **I am a Brunei tax resident, how does AEOI affect me?**

In order to accurately determine the residence of an individual or an entity, a Bruneian tax resident may be asked to "self-certify" the jurisdiction in which they have a tax resident. Certain types of entities will also be required to obtain self-certifications from their controlling persons. This will all allow the financial institution to confirm the individual or entity's tax residence and whether or not the account is a reportable account.

If you hold financial accounts with institutions in a jurisdiction other than Brunei, and that jurisdiction is also implementing CRS AEOI, subject to international tax agreements with Brunei, the tax authority of that jurisdiction may exchange your financial account information with the Ministry of Finance and Economy.

## **What is a controlling person?**

A controlling person is defined as a natural person who exercises control over an entity. For example, in the case of a trust some of the controlling persons would be the settlor, the trustee, the protector and the beneficiaries.

## **What should I do when asked for this information?**

As financial institutions are legally obliged to report information on non-resident account holders to Ministry of Finance and Economy, account holders should complete self-certifications or provide confirmation of their tax residency when requested which will allow the financial institution to report accurately.

## **What type of information will a financial institution report to Ministry of Finance and Economy?**

Financial institutions are required to report the following account holder information to Ministry of Finance and Economy:

- Name, Address, Tax Identification Number (TIN), Date of birth, Place of birth (where present in the records of the financial institution) and the Account number.
- Account Balance or value including currency domination (if applicable) at year end of calendar year or appropriate reporting period.
- Payments made with respect to the account during the calendar year.

Only information that is legally required are to be reported to Ministry of Finance. Ministry of Finance will validate the information and will only exchange that information with another jurisdiction where there is a legal agreement to do so.

## **What will the foreign tax authorities use the information for?**

The use of information received by tax authorities via AEOI is restricted under the terms of exchange agreements and administrations are required to treat the information in the same manner as if it was received by the tax authority under their domestic laws.

The information exchanged can only be used for tax purposes such as the collection and assessment of tax and disclosed to persons or authorities such as courts or administrative bodies concerned with these functions. Tax authorities are also required to ensure appropriate safeguards are place to ensure information received pursuant to the agreements remains confidential. The same will also apply for financial account information received by Revenue Division, Ministry of Finance and Economy from its treaty partner where the information will only be used for the administration of Brunei's Tax Law (Income tax Act (Chapter 35) and Revenue Division will ensure that the financial account information received will be kept confidential.

## **Data confidentiality**

Financial institutions who request for your information solely for the purposes of reporting under AEOI CRS are not allowed to use the information for any other purposes. The information can only be processed for the purposes of fulfilling their legal obligations under AEOI CRS and

financial institutions are only allowed to provide to the Ministry of Finance and Economy with the information as specified in the Income Tax Act (Chapter 35) and Income Tax (International Tax Compliance Agreement) (Common Reporting Standard) Regulations that is already in place since June 2017. If you have concerns about your data, you can contact the data controller in your financial institution or Ministry of Finance and Finance.

### **Can I open an account without giving this information?**

From 1 January 2017, financial institutions, are legally obliged to obtain specific information from account holders when accounts are being opened. If this information is not provided, a financial institution is not in a position to or cannot open an account.

### **How do I know where I'm tax resident?**

In general tax residence is the place which an individual lives and pays tax, however in some circumstances such as where an individual lives and works in different jurisdictions, it may be unclear. If you are unsure as to your tax residence, you should contact your local tax office. However in the case of Brunei Darussalam, according to Brunei Darussalam tax law (Income Tax Act (Chapter 35)), a person is considered a tax resident in Brunei Darussalam if that person resides in Brunei Darussalam for 183 days or more in one calendar year. For example, a Non-Bruneian who resides in Brunei Darussalam for more than 183 days in 2017, will be considered as a tax resident of Brunei Darussalam for the year 2017 and thus will be subject to Brunei Darussalam's tax law.

In the case of entities such as companies, the entities will be considered as tax resident of Brunei Darussalam if the entities exercises its control and management of its business in Brunei Darussalam.

### **Where should I go for more information?**

If you have a query that relates to an account held in a financial institution, then you should contact that financial institution and they can provide you with details of their nominated information officer.

The Revenue Division's Ministry of Finance and Economy also have a dedicated Automatic Exchange of Information section on their website which outlines the various AEOI initiatives and which can be accessed at <https://www.mofe.gov.bn/Divisions/Automatic-Exchange-of-Information.aspx>.

For further inquiries or clarification, you may contact the following officers:

**International Tax Team (including exchange of information and tax treaty):**

1) Mohammad Noorul Aiman bin Haji Jaman (Mr) Senior Finance Officer Email: <a href="mailto:aiman.jaman@mofe.gov.bn">aiman.jaman@mofe.gov.bn</a>
2) Hj Muhammad Bukhari bin Hj Abd Rajid (Mr) Finance Officer Email: <a href="mailto:bukhari.rajid@mofe.gov.bn">bukhari.rajid@mofe.gov.bn</a>
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**Correspondence for any international matters including exchange of information and tax treaty should be addressed to:**

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