MALTA INSTITUTE OF TAXATION

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Q&As

TRA 110

The TRA110 was introduced in 2019 as an attachment to the Company Tax Return as an administrative measure to assist in the collection of information relating to activities involving countries on the EU list of non-co-operative jurisdictions. It is intended to gather information on whether any Malta-registered entity has any connection, links or trade with countries included on the list.

TRA 110 Q&As

The Direct Tax Committee of the MIT has submitted questions to the Office of the CfR concerning the scope of the TRA110. The following information is based on the clarifications received:

Click ***here*** to view the list of non-cooperative jurisdictions

The list of non-co-operative jurisdictions is revised periodically and a country which may not have been on the list when the link was established, or the transaction effected may have been added by the time the TRA110 is to be completed and submitted.

The MIT understands that the EU list of the non-cooperative jurisdictions on the CfR website will be updated shortly to show the date of listing and date of de-listing of each of the countries. The TRA110 should be completed if the company

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had any links with a jurisdiction which was listed at any time during that accounting year. If the listing falls on two accounting years, TRA110 should be completed in respect of both of the relative years of assessment.

Is reporting in the tax return to be limited to the list of jurisdictions as appearing at year end? i.e. if any jurisdictions are removed from the list throughout the year should they be ignored for reporting purposes?

Reporting has to be done in respect of any jurisdiction that was listed during that accounting year, even if they were delisted at year end.

Should reporting for a given basis year (e.g. 2019) be limited to that year's list (i.e. the 2019 list) even though the actual tax return is submitted in the subsequent year (2020)?

It is understood that reporting for any basis year should be limited to jurisdictions on the list for that basis year irrespective of the fact that the return is submitted in a subsequent year.

Where a service provider established in one of the listed jurisdictions provides services to various Malta companies within the same group but only raises an invoice in the name of one of the companies, should such transactions be reported in the tax return of the company in whose name the invoice is raised only? or should the expense be split across the various companies?

The reporting should be made by all the companies involved irrespective in whose name the invoice was raised.

If a taxpayer has a shareholding in a company situated in a non-cooperative jurisdiction should this be reported in Part 3?

Yes, this should be reported in Part 3.

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If a taxpayer with a shareholding in a company situated in a non-cooperative jurisdiction advances funds to that entity, should this be reported in Part 2?

Yes, the transaction should be reported in Part 2.

If a taxpayer transacts with an unrelated entity (a supplier or customer) in a non-cooperative jurisdiction, must this be reported in Part 2?

Yes, this should be reported in Part 2.

If a taxpayer's expenditure pursuant to a transaction involving a non-cooperative jurisdiction is disallowed for tax purposes, should it nonetheless be reported since it is part of the TIFD?

Yes expenditure which is disallowed for tax purposes should nonetheless be reported. A comment noting that the expense was disallowed (for example, on the basis that it was not incurred in the production of the income) should be included in the Additional Comments/Information section of the TRA110.

In part 2 of the TRA110, can a series of transactions with the same supplier/client be treated as one transaction and grouped together (i.e. reported as a total) or is it necessary to list each and every transaction separately?

A series of transactions with the same supplier or client, as the case may be, can be grouped and reported in the aggregate if the transactions are similar in nature and reported in the same TIFD code.

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If a taxpayer has received invoices dated in 2020 from a supplier established in a jurisdiction which was on the list of non-cooperative jurisdictions in 2019 but which was removed from the list in 2020, and the services to which the invoices relate were received in 2020 but in connection with year 2019 (for example: professional fees for filing 2019 foreign tax return of a branch) and have been accrued for accordingly in the 2019 accounts - should such transactions be reported in the TRA 110 of the 2019 tax return or in the TRA 110 of the 2020 tax return (subject to whether jurisdiction was still on the list at date invoice was raised)

In principle, if the services were rendered during 2019, then these would have to be reported in the TRA110 of 2019. However if the services were rendered in 2020 but in connection with 2019, we understand that it is the view of the Office of the CfR that the transaction should be reported in both years (i.e. the TRA 110 of the 2019 tax return and the TRA 110 of the 2020 Tax Return.

If a jurisdiction is included on the list of non-cooperative jurisdictions in a given basis year, even if just for one day, should every transaction, link or nexus that a taxpayer company may have with that jurisdiction be reported in the TRA110, even if the transaction date falls outside the listing period in that particular basis year?

Yes all transactions that took place during a basis year should be reported if, at any time during that year, the taxpayer transacted or otherwise had a link with the non-cooperative jurisdiction, even if the said jurisdiction was on the list for a brief period during the basis year and the transaction or link did not coincide with that period.

In the case of a company having a February year-end, if such company had a transaction, link or nexus with an entity located in a jurisdiction in basis year 2019 (01.03.18 to 28.02.19) which was not on the list of non-cooperative jurisdictions at any time throughout that accounting period (but for example was included on the list on a date after the

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accounting period ended), should the transaction be reported in the TRA 110 for basis year 2019?

No, there is no requirement to report the transaction effected during a basis year if, at any time during the accounting period the jurisdiction was not on the list of non-cooperative jurisdictions.

This Q&A document sets out our understanding of some clarifications obtained in connection with the TRA110 form. ***It is for information purposes only and does not constitute official guidance, nor advice, and should not be relied upon as such.***
Any comments or queries concerning the contents of this document should be addressed to the Chief Technical Officer on CTO@maintax.org or MIT@maintax.org

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