

CBDT's Final Master File and CbCR Rules

The Finance Act 2016 introduced provisions relating to Country by Country Report (CbCR) and master file pursuant to adoption of OECD's BEPS Action Plan-13 in India. While the law was enacted and it was made applicable with effect from 1st April 2017 (i.e. from AY 2017-18 onwards), the detailed rules stipulating relevant threshold, manner and time limit for maintaining and furnishing relevant information was eagerly awaited.

While CBDT released Draft Rules on 6th October 2017, the notification¹ regarding the Final Rules was finally released on 31st October 2017 providing much awaited guidelines with respect to maintenance and furnishing of Master File and CbCR.

Summarized below are salient features of the Final Rules.

Master File and Related Compliances

- A constituent entity of an MNE group meeting the following quantitative threshold will be required to file Master File in 'Form 3CEAA' with the Director General of Income-tax (Risk Assessment):
 - The consolidated revenue of the MNE Group exceeds INR 500 crores (approximately USD 75 million/ Euro 65 million) in the accounting year; and
 - The aggregate value of international transactions exceeds INR 50 crores (approximately USD 7.5 million / Euro 6.5 million) or international transactions relating to intangible property exceed INR 10 crores (USD 1.5 million / Euro 1.33 million) in the reporting accounting year.
- It may be noted that Form 3CEAA has been divided into two parts; Part-A and Part-B. Part-A consists of limited information relating to details of taxpayer, international group to which it belongs to, number of group entities in India and their permanent account number, addresses, etc. Part-B requires exhaustive and descriptive information on more than twenty items listed as part of Master File.
- The Master File has to be furnished by the due date of filing the income-tax return (i.e., 30th November, when Form 3CEB is filed). However, for the Financial Year ended 31st March 2017, the due date has been extended to 31st March 2018.
- In case of more than one Indian constituent entity, the Master File may be furnished by a constituent entity designated by the MNE group. An intimation to this effect

¹ http://www.incometaxindia.gov.in/communications/notification/notification92_2017.pdf

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need to be submitted in Form 3CEAB to the Director General of Income-tax (Risk Assessment) at least 30 days before the due date for filing the Master File.

- The Master File has to be kept and maintained for the period of eight years from the end of the relevant assessment year

CbCR and Related Compliances

- The Final Rules provide the consolidated MNE group revenue threshold of INR 5,500 crores (approximately USD 825 million/ Euro 715 million) in the accounting year preceding the reporting accounting year, for applicability of the CbCR rules
- CbCR needs to be submitted in Form No 3CEAD with the Director General of Income-tax (Risk Assessment) and the disclosure requirements are in line with the requirements under BEPS Action 13.
- Since the Final Rules for furnishing of CbCR have been recently released, the due date for filing the CbCR in India for FY 2016-17 has been extended to 31st March 2018 by CBDT.²
- An Indian constituent entity of a MNE group headquartered overseas is required to file an intimation in India with the Director General of Income-tax (Risk Assessment), reporting the details of the parent or alternate reporting entity.
- The intimation in Form No 3CEAC shall be made at least two months prior to the due date of the filing the CbCR. As per the revised timeline for filing CbCR, the due date for the intimation for FY 2016-17 will be 31st January 2018.
- A constituent entity of an MNE group in India, which is neither a parent entity nor an alternate reporting entity in India, needs to file the CbCR within the above time limit, if, the parent entity ('PE') of such constituent entity is resident in a country;
 - With which India does not have an agreement for exchange of the CbCR; or
 - There has been a systematic failure and such failure is intimated to the Indian constituent entity.
- In case of more than one Indian constituent entity, the CbCR may be furnished by an entity designated by the MNE group. An intimation to this effect needs to be submitted in Form 3CEAE to the Director General of Income-tax (Risk Assessment) – It appears that the Final Rules do not prescribe any timeline for such intimation.

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² http://www.incometaxindia.gov.in/communications/circular/circular26_2017.pdf

Summary of Final Forms and Rules for Master-File

Section 92D (Master File forms)	Purpose	Conditions for Applicability	Who is to file?	Timeline	Filed to whom?	Statutory Source
Form 3CEAA	Part A: - Limited information to be furnished by every constituent entity of an international group.	<ol style="list-style-type: none"> Consolidated revenue > 500 cr; and aggregate international transactions > 50 cr or; intangible related transactions > 10 cr. 	The CE in India.	For FY 2016-17 :- 31 st March 2018 Other years :- Return Date	DGIT (Risk Assessment)	Proviso to S.92D(1) :- For keeping and maintenance of report
	Part B: - Detailed information to be furnished. (Broadly same as OECD Master File)					S.92D(4) :- Furnishing of report
Form 3CEAB	To notify the CE designated for furnishing Master File	When there is more than one CE in India.	The CE designated for furnishing Master File.	30 days prior to timeline for Master File.	DGIT (Risk Assessment)	Rule 10DA :- Contents S.92D(4) Read with Rule 10DA

Summary of Final Forms and Rules for CbCR

Section 286 (CBCR forms)	Purpose	When to File?	Who is to file?	Timeline	Filed to whom?	Statutory Source
Form 3CEAC	To intimate ARE or PE (Whether itself or some other) Note: - Only if PE is not resident in India.	If international consolidated revenue > 5500 crores (If CE is resident in India)	Every CE resident in India.	Two months prior to CBCR filing timeline. For FY 2016-17 :- 31 st January 2018	DGIT (Risk Assessment)	S.286(1)
Form 3CEAD	CBCR Reporting	If international consolidated revenue > 5500 crores	<ul style="list-style-type: none"> By PE/ARE, if PE/ARE are in India If only CE in India, CE to file Form 3CEAC to intimate information on PE/ARE- and GOI shall obtain information through exchange of information If multiple CEs in India, the designated CE (as per Form 3CEAE) to file CbCR 	For FY 2016-17 :- 31 st March 2018 ³	DGIT (Risk Assessment)	S.286(2) :- Furnishing of report S.286(3) :- Contents

³ http://www.incometaxindia.gov.in/communications/circular/circular26_2017.pdf

Form 3CEAE	If there are multiple CE's in India, then one of them will be designated to undertake compliances under S.286	If international consolidated revenue > 5500 crores	The designated CE.	No timeline is prescribed as per the Final Rules.	DGIT (Risk Assessment)	Proviso to S.286(4)
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Consolidated Turnover-Wise Compliance Obligations

Consolidated Turnover (CT)	Compliance Obligations
Upto 500 Crores	Every CE of the international group to file Part A of Form 3CEAA
>500 crores but < 5500 crores International transaction < 50 crore or; Intangible related transactions < 10 crores	
> 500 crores but < 5500 crores; and International transaction > 50 crore; or Intangible related transactions > 10 crores	Part A and Part B of Form 3CEAA
> 5500 crores	CBCR requirements apply
>5500 crores; and International transaction > 50 crores; or Intangible related transactions > 10 crores	Maintain and furnish Master File. Also, CBCR requirements apply.

These are Final Rules issued by the Government of India vide notification⁴ dated 31st October 2017, therefore the taxpayers are advised to undertake the necessary compliances/reporting action and prevent any penal consequences.

Tax Team

The information contained in this newsletter is solely intended to provide general guidance on matters of interest. Nothing herein constitutes professional or legal advice, nor does any information herein constitute a comprehensive or complete statement of the issues discussed. It is recommended that you seek a professional advice to confirm your understanding on the issues dealt above.

⁴ http://www.incometaxindia.gov.in/communications/notification/notification92_2017.pdf