

F. No. 370142/25/2017-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, Dated 6th October, 2017

Subject: Framing of rules in respect of Country-by-Country reporting and furnishing of master file – comments and suggestions-reg.

In keeping with India's commitment to implement the recommendations of 2015 Final Report on Action 13, titled "*Transfer Pricing Documentation and Country-by-Country Reporting*", identified under the OECD Base Erosion and Profit Shifting (BEPS) Project, section 286 of the Income-tax Act, 1961 ('the Act') was inserted vide Finance Act, 2016, providing for furnishing of a Country-by-Country report in respect of an international group by its constituent or parent entity. Section 92D of the Act was also amended vide Finance Act, 2016 to provide for keeping and maintaining of Master File by every constituent entity of an international group, which was to be furnished as per rules prescribed in this regard.

2. Consequent to the aforesaid amendments to the Act, it is proposed to insert rules 10DA, 10DB and form nos. 3CEBA to 3CEBE in the Income-tax Rules, 1962 ('the Rules'), laying down the guidelines for maintaining and furnishing of transfer pricing documentation in the Master File and Country-by-Country report. In this regard, the following guidelines are proposed to be prescribed:

2.1 The following rules 10DA and 10DB are proposed to be inserted in the Rules after the existing rule 10D:

"Information and documents to be kept and maintained under proviso to sub-section (1) and to be furnished in terms of sub-section (4) of Section 92D.

10DA. (1) Every person, being a constituent entity of an international group shall,—

(i) if the consolidated revenue of the international group, of which such person is a constituent entity, as reflected in the consolidated financial statement of the international group for the accounting year preceding such previous year, exceeds five hundred crore rupees; and

(ii) the aggregate value of international transactions,—

(A) during the reporting year, as per the books of accounts, exceeds fifty crore rupees, or

(B) in respect of purchase, sale, transfer, lease or use of intangible property during the reporting year, as per the books of accounts, exceeds ten crore rupees,

keep and maintain the following information and documents of the international group:—

(a) a list of all the operating entities of the international group along with their addresses;

(b) a chart depicting the legal status of the constituent entity and ownership structure of the entire international group;

(c) a description of the business of international group during the reporting accounting year including,—

- (I) *the nature of the business or businesses;*
- (II) *the important drivers of profits of such business or businesses;*
- (III) *a description of the supply chain for the five largest products or services of the international group in terms of revenue plus any other products and/or services amounting to more than five per cent. of group turnover or revenue;*
- (IV) *a list and brief description of important service arrangements among members of the international group, other than those for research and development services;*
- (V) *a description of the capabilities of the main service providers within the international group;*
- (VI) *details about the transfer pricing policies for allocating service costs and determining prices to be paid for intra-group services;*
- (VII) *a list and description of the major geographical markets for the products and services offered by the international group;*
- (VIII) *a description of the functions performed, assets employed and risks assumed by the constituent entities of the international group that contribute at least ten per cent. of the revenues, assets and profits of the group; and*
- (IX) *a description of the important business restructuring transactions, acquisitions and divestments during the accounting year;*
- (d) *a description of the overall strategy of the international group for the development, ownership and exploitation of intangibles, including location of principal research and development facilities and their management;*
- (e) *a list of all the entities of the international group engaged in development and management of intangibles along with their addresses;*
- (f) *a list of all the important intangibles or groups of intangibles owned by the international group along with the names and addresses of the group entities that legally own such intangibles;*
- (g) *a list and brief description of important agreements among members of the international group related to intangibles, including cost contribution arrangements, principal research service agreements and license agreements;*
- (h) *a detailed description of the transfer pricing policies of the international group related to research and development and intangibles;*
- (i) *a description of important transfers of interest in intangibles, if any, among entities of the international group, including the name and address of the selling and buying entities and the compensation paid for such transfers;*
- (j) *a detailed description of the financing arrangements of the international group, including the names and addresses of the top ten unrelated lenders;*
- (k) *a list of group entities that provide central financing functions, including their place of operation and of effective management;*
- (l) *a detailed description of the transfer pricing policies of the international group related to financing arrangements among group entities;*
- (m) *a copy of the annual consolidated financial statement of the international group; and*
- (n) *a list and brief description of the existing unilateral advance pricing agreements and other tax rulings in respect of the international group for allocation of income among countries.*

(2) *The report of the information referred to in sub-rule (1) shall be in Form No. 3CEBA and it shall be furnished to the Director General of Income-tax (Risk Assessment) on or before the due date for furnishing the return of income as specified in sub-section (1) of section 139:*

Provided that *the information in Form No. 3CEBA for the reporting accounting year 2016-17 may be furnished at any time on or before the 31st day of March, 2018.*

(3) *Information,—*

(i) *in Part A of Form No. 3CEBA shall be furnished by every person, being a constituent entity of an international group;*

(ii) *in Part B of Form No. 3CEBA shall be furnished by the person referred to in sub-rule (1).*

(4) *Where there are more than one constituent entities of an international group, resident in India, then the report referred to in sub-rule (2) may be furnished by that constituent entity if it has been designated by the international group to furnish the said report and the same has been notified by the international group or the designated constituent entity to the Director General of Income-tax (Risk Assessment) in Form 3CEBE.*

(5) *The notification referred to in sub-rule (4) shall be made at least 30 days before the due date of filing the report as prescribed under sub-rule (2) above.*

(6) *The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for electronic filing of Form No. 3CEBA and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the information furnished under this rule.*

(7) *The information and documents specified in sub-rule (1) shall be kept and maintained for a period of eight years from the end of the relevant assessment year.*

(8) *The terms ‘accounting year’, ‘consolidated financial statement’, ‘international group’ and ‘reporting accounting year’ shall have the same meaning as assigned in sub-section (9) of Section 286.*

Furnishing of Report in respect of an International Group.

10DB. (1) *For the purposes of sub-section (1) of section 286, every constituent entity resident in India, shall, if its parent entity is not resident in India, notify the Director General of Income-tax (Risk Assessment) in Form 3CEBB, the following, namely:—*

(a) *whether it is the alternate reporting entity of the international group; or*

(b) *the details of the parent entity or the alternate reporting entity, as the case may be, of the international group and the country or territory of which the said entities are residents.*

(2) *The notification referred to in sub-rule (1) shall be made on or before sixty days prior to the due date for furnishing of report as prescribed under sub-section (2) of section 286.*

(3) *Every parent entity or the alternate reporting entity, as the case may be, resident in India, shall, for every reporting accounting year, furnish the report referred to in sub-section (2) of section 286 to the Director General of Income-tax (Risk Assessment) in Form 3CEBC.*

(4) A constituent entity of an international group, resident in India, other than the entity referred to in sub-rule (3), shall furnish the report referred to in sub-rule (3) within the time specified therein if the provisions of sub-section (4) of Section 286 are applicable in its case.

(5) If there are more than one constituent entities of an international group, resident in India, other than the entity referred to in sub-rule (3), then the report referred to in sub-rule (4) may be furnished by that entity if it has been designated by the international group to furnish the said report and the same has been notified to the Director General of Income-tax (Risk Assessment), in Form 3CEBD.

(6) For the purposes of sub-section (7) of Section 286, the total consolidated group revenue of the international group shall be 5,500 crore rupees.

(7) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for electronic filing of Form No. 3CEBB, Form No. 3CEBC and Form No. 3CEBD and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the information furnished under this rule.

(8) The terms 'accounting year', 'alternate reporting entity', 'consolidated financial statement', 'international group' and 'reporting accounting year' shall have the same meaning as assigned in sub-section (9) of Section 286."

2.2 Forms 3CEBA to 3CEBE, as reproduced below, are proposed to be inserted in the Rules after the existing Form 3CEB:

"FORM NO. 3CEBA

[See rule 10DA]

MASTER FILE

Report to be furnished under sub-section (4) of Section 92D of the Income-tax Act, 1961

PART – A

1. Name of the assessee –
2. Address of the assessee–
3. Permanent account number of the assessee –
4. Name of the international group of which the assessee is a constituent entity–
5. Address of the international group of which the assessee is a constituent entity–
6. Number of constituent entities of the international group operating in India –
7. Name, permanent account number and address of all the Constituent Entities included in item no. 6

Serial Number	Name of the constituent entities of the international group	Permanent account number of the constituent entities of the international group	Address of the constituent entities of the international group

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PART – B

1. List of all the operating entities of the international group along with their addresses –

Serial Number	Name	Address

2. Chart depicting the legal status of the constituent entity and ownership structure of the entire international group–
3. Written description of the business of the international group during the reporting accounting year in accordance with clause (c) of sub-rule (1) of rule 10DA containing the following, namely:-

(i) the nature of the business or businesses;

(ii) the important drivers of profits of such business or businesses;

(iii) a description of the supply chain for the five largest products or services of the international group in terms of revenue and any other products and services amounting to more than five per cent. of the group revenue or turnover;

(iv) a list and brief description of important service arrangements among members of the international group, other than those for research and development services;

(v) a description of the capabilities of the main service providers within the international group;

(vi) the transfer pricing policies for allocating service costs and determining prices to be paid for intra-group services;

(vii) a list and description of the major geographical markets for the products and services offered by the international group;

(viii) the functions, assets and risks analysis of the constituent entities of the international group that contribute at least ten per cent. of the revenues, assets and profits of the group; and

(ix) a description of the important business restructuring transactions, acquisitions and divestments during the reporting accounting year;

4. Description of the overall strategy of the international group for the development, ownership and exploitation of intangibles, including location of principal research and development facilities and their management-

5. List of all the entities of the international group engaged in development of intangibles and in management of intangibles along with their addresses –

<i>Serial Number</i>	<i>Name of the entity of the international group</i>	<i>Address of the entity of the international group</i>

6. List of all the important intangibles or groups of intangibles owned by the international group along with the names and addresses of the group entities that legally own such intangibles –

<i>Serial Number</i>	<i>Intangibles/group of intangibles</i>	<i>Name of the entity who legally owns the intangibles/group of intangibles</i>	<i>Address of the entity</i>

7. List and brief description of important agreements among members of the international group related to intangibles, including cost contribution arrangements, principal research service agreements and license agreements -

8. Description of the transfer pricing policies of the international group related to research and development and intangibles -

9. Description of important transfers of interest in intangibles, if any, among entities of the international group, including the names and addresses of the selling and buying entities and the compensation paid for such transfers -

10. Detailed description of the financing arrangements of the international group, including the names and addresses of the top ten unrelated lenders -

11. List of group entities that provide central financing functions, including their addresses of operation and of effective management -

12. Detailed description of the transfer pricing policies of the international group related to financing arrangements among group entities -

13. A copy of the annual consolidated financial statement of the international group-

14. A list and brief description of the existing unilateral advance pricing agreements and other tax rulings in respect of the international group for allocation of income among countries –

I son/daughter/wife* of Shri
..... hereby declare that I am furnishing the information in my
capacity as (designation) of (name of
the assessee) and I am competent to furnish the said information and verify it.

Place:

.....

Signature

Date:

.....

Address of the declarant

.....
PAN of the declarant

*Note: *Strike off whichever is not applicable*

FORM NO. 3CEBB

[See rule 10DB]

Notification Report by a constituent entity, resident in India, of a non-resident international group for the purposes of sub-section (1) of Section 286 of the Income-tax Act, 1961

- 1. Name of the constituent entity*
- 2. Address of the constituent entity –*
- 3. Permanent account number of the constituent entity –*
- 4. Name of the international group –*
- 5. Name of the parent entity of the international group –*
- 6. Address of the parent entity of the international group*
- 7. The country of residence of the parent entity*
- 8. Whether the international group has designated an alternate reporting entity in place of the parent entity to furnish the report referred to in sub-section (2) of Section 286 –
Yes/No*
- 9. If yes, name and address of the alternate reporting entity of the international group –*
 - (i) Name of alternate reporting entity*
 - (ii) Address*
- 10. Country of residence of the alternate reporting entity –*

I son/daughter/wife of Shri
..... hereby declare that I am furnishing the information in my
capacity as (designation) of(name of
the assessee) and I am competent to furnish the said information and verify it.*

Place:

.....
Signature

Date:

.....
Address of the declarant

.....
PAN of the declarant

*Note: *Strike off whichever is not applicable*

FORM NO. 3CEBC

[See rule 10DB]

COUNTRY-BY-COUNTRY REPORT

Report by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the purposes of sub-section (2) or sub-section (4) of section 286 of the Income-tax Act, 1961

<i>Name of the reporting entity</i>	
<i>PAN of the reporting entity</i>	
<i>Address of the reporting entity</i>	
<i>Whether the reporting entity is the parent entity of the international group</i>	

PART A - OVERVIEW OF ALLOCATION OF INCOME, TAXES AND BUSINESS ACTIVITIES BY TAX JURISDICTION

[illegible]

Name of the Multinational Enterprise group:

[illegible]

	2.													
	3.													
	1.													
	2.													
	3.													

PART C: ADDITIONAL INFORMATION

<p><i>Name of the Multinational Enterprises group:</i></p>
<p><i>Reportable accounting year :</i></p>
<p><i>Please include any further brief information or explanation that is considered necessary or that would facilitate the understanding of the compulsory information provided in Part A and Part B. (e.g. Source of Data)</i></p>

I son/daughter/wife* of Shri hereby declare that I am furnishing the information in my capacity as (designation) of (name of the assessee) and I am competent to furnish the said information and verify it.

Place:

.....
Signature

Date:

.....
Address of the declarant

.....
PAN of the declarant

Note: *Strike off whichever is not applicable

Notes:

Definitions of Terms used in this Form

Part A

1. In the column titled "Tax Jurisdiction", the Reporting multi-national enterprise (MNE) should list all of the tax jurisdictions in which Constituent Entities of the MNE group are resident for tax purposes. A tax jurisdiction is defined as a State as well as a non-State jurisdiction which has fiscal autonomy. A separate line should be included for all Constituent Entities in the MNE group deemed by the Reporting MNE not to be resident in any tax jurisdiction for tax purposes. Where a Constituent Entity is resident in more than one tax jurisdiction, the applicable tax treaty tie breaker should be applied to determine the tax jurisdiction of residence. Where no applicable tax treaty exists, the Constituent Entity should be reported in the tax jurisdiction of the Constituent Entity's place of effective management.

2. In the three columns of the template under the heading "Revenues", the Reporting MNE should report the following information: (i) the sum of revenues of all the Constituent Entities of the MNE group in the relevant tax jurisdiction generated from transactions with associated enterprises; (ii) the sum of revenues of all the Constituent Entities of the MNE group in the relevant tax jurisdiction generated from transactions with independent parties; and (iii) the total of (i) and (ii). Revenues should include revenues from sales of inventory and properties, services, royalties, interest, premiums and any other amounts. Revenues should exclude payments received from other Constituent Entities that are treated as dividends in the payer's tax jurisdiction.

3. Under the column titled “Profit (Loss) before Income Tax”, the Reporting MNE should report the sum of the profit (loss) before income tax for all Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The profit (loss) before income tax should include all extraordinary income and expense items.
4. Under the column titled “Income Tax Paid (on Cash Basis)”, the Reporting MNE should report the total amount of income tax actually paid during the relevant fiscal year by all Constituent Entities resident for tax purposes in the relevant tax jurisdiction. Taxes paid should include cash taxes paid by the Constituent Entity to the residence tax jurisdiction and to all other tax jurisdictions. Taxes paid should include withholding taxes paid by other entities (associated enterprises and independent enterprises) with respect to payments to the Constituent Entity. Thus, if company A resident in tax jurisdiction A earns interest in tax jurisdiction B, the tax withheld in tax jurisdiction B should be reported by company A.
5. Under the column titled “Income Tax Accrued – Reportable Accounting Year”, the Reporting MNE should report the sum of the accrued tax expense recorded on taxable profits or losses of the year of reporting of all Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The tax expense should reflect only operations in the reportable accounting year and should not include deferred taxes or provisions for uncertain tax liabilities.
6. Under the column titled “Stated Capital”, the Reporting MNE should report the sum of the stated capital of all Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, the stated capital should be reported by the legal entity of which it is a permanent establishment unless there is a defined capital requirement in the permanent establishment tax jurisdiction for regulatory purposes.
7. Under the column titled “Accumulated Earnings”, the Reporting MNE should report the sum of the total accumulated earnings of all Constituent Entities resident for tax purposes in the relevant tax jurisdiction as of the end of the year. With regard to permanent establishments, accumulated earnings should be reported by the legal entity of which it is a permanent establishment.
8. Under the column titled “Number of Employees”, the Reporting MNE should report the total number of employees on a full-time equivalent (FTE) basis of all Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The number of employees may be reported as of the year-end, on the basis of average employment levels for the year, or on any other basis consistently applied across tax jurisdictions and from year to year. For this purpose, independent contractors participating in the ordinary operating activities of the Constituent Entity may be reported as employees. Reasonable rounding or approximation of the number of employees is permissible, providing that such rounding or approximation does not materially distort the relative distribution of employees across the various tax jurisdictions. Consistent approaches should be applied from year to year and across entities.
9. Under the column titled “Tangible Assets other than Cash and Cash Equivalents”, the Reporting MNE should report the sum of the net book values of tangible assets of all Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, assets should be reported by reference to the tax jurisdiction in which the permanent establishment is situated. Tangible assets for this purpose do not include cash or cash equivalents, intangibles, or financial assets.

Part B

10. Under the column titled “Constituent Entities Resident in the Tax Jurisdiction”, the Reporting MNE should list, on a tax jurisdiction-by-tax jurisdiction basis and by legal entity name, all the Constituent Entities of the MNE group which are resident for tax purposes in the relevant tax jurisdiction. As stated

above with regard to permanent establishments, however, the permanent establishment should be listed by reference to the tax jurisdiction in which it is situated. The legal entity of which it is a permanent establishment should be noted (e.g. XYZ Corp – Tax Jurisdiction A PE).

11. *Under the column titled “Tax Jurisdiction of Organization or Incorporation if different from Tax Jurisdiction of Residence”, the Reporting MNE should report the name of the tax jurisdiction under whose laws the Constituent Entity of the MNE is organised or incorporated if it is different from the tax jurisdiction of residence.*

12. *Under the column titled “Main Business Activity(-ies)”, the Reporting MNE should determine the nature of the main business activity(ies) carried out by the Constituent Entity in the relevant tax jurisdiction, by ticking one or more of the appropriate boxes. In this column, if the Reporting MNE chooses the option ‘Other’, then it shall be required to specify the nature of the activity of the Constituent Entity in the “Part C: Additional Information” section.*

FORM NO. 3CEBD

[See rule 10DB]

Notification on behalf of the international group for the purposes of the proviso to sub-section (4) of section 286 of the Income-tax Act, 1961

1. Name of the international group—
2. Name of the parent entity of the international group –
3. Address of the parent entity of the international group
4. Name of the constituent entity designated to furnish the report under sub-section (4) of Section 286 of the Income-tax Act, 1961 –
5. Address of the constituent entity designated to furnish the report under sub-section (4) of Section 286 of the Income-tax Act, 1961 –
6. Permanent account number of the designated constituent entity –
7. Names, permanent account numbers and addresses of all other constituent entities of the international group resident in India –

Sl. No.	Name of the constituent entity	Permanent account number	Address

I son/daughter/wife* of Shri hereby declare that I am furnishing the information in my capacity as (designation) of (name of the assessee) and I am competent to furnish the said information and verify it.

Place:

.....

Signature

Date:

.....

Address of the declarant

.....

PAN of the declarant

Note: *Strike off whichever is not applicable

FORM NO. 3CEBE

[See rule 10DA]

Notification Report by a constituent entity, resident in India, of a non-resident international group for the purposes of sub-section (4) of Section 92D of the Income-tax Act, 1961

1. Name of the constituent entity –
2. Address of the constituent entity –
3. Permanent account number of the constituent entity –
4. Name of the international group –
5. Name of the parent entity of the international group –
6. Address of the parent entity of the international group
7. The country of residence of the parent entity
8. Whether the international group has designated a constituent entity in place of the parent entity to furnish the report referred to in sub-section (4) of Section 92D - Yes/No
9. If yes, name and address of the designated constituent entity of the international group –
(iii) Name
(iv) Address
10. Country of residence of the designated constituent entity –

I,, son/daughter/wife* of Shri hereby declare that I am furnishing the information in my capacity as (designation) of (name of the assessee) and I am competent to furnish the said information and verify it.

Place:

.....
Signature

Date:

.....
Address of the declarant

.....
PAN of the declarant

Note: *Strike off whichever is not applicable”

3. The comments and suggestions of stakeholders and general public on the above draft notification are invited. The comments and suggestions may be sent electronically by 16th October, 2017 at the email address dirtpl1@nic.in.

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