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F.No.370142/34/2016-TPL (Part)
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)
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New Delhi, April 10, 2018

Sub: Draft notification proposing an amendment to rule 44E, Form 34C, 34D and 34DA as per BEPS action item 5, for improving transparency in relation to tax rulings– comments and suggestions-reg.

Under Base Erosion and Profit Shifting (BEPS) Action 5, exchange of Permanent Establishment (PE) rulings (by Authority for Advance Rulings) are required to be done not only with the countries of residence of all related parties with whom taxpayer enters into transaction but also with the country of residence of the immediate parent company and the ultimate parent company. Therefore, in order to implement the recommendations made under Action 5 of BEPS Action Plan to bring greater transparency in cross national transactions, Form 34C and 34D (Forms for advance rulings) are required to be modified so that details such as name, address and country of the residence of non-resident's immediate parent company or ultimate parent company are captured at application stage itself.

2. Further, vide Finance Act, 2017; the definition of the term "applicant" for the purpose of Advance Rulings has been amended by substituting the clause (b) of section 245N of the Income-tax Act, 1961 (the Act). Therefore, consequential amendment is necessitated in Rule 44E and respective Forms to bring them in harmony with the amendment to the Act.

3. In view of the above and in exercise of the powers conferred by section 295 read with sub-section (1) of section 245Q of the Income-tax Act, 1961 (43 of 1961), an amendment of the Income-tax Rules, 1962 (the Rules) is proposed so as to bring an amendment in the rule 44E and Form 34C, Form 34D and Form 34DA. The draft proposal is as under:-

"1. In the Income-tax Rules, 1962,—

(I) in Rule 44E, in sub-rule (1),—

(i) in clause (c), for the words, brackets and letters "sub-clause (iia) of clause (b)", the words, brackets and letters "item (III) of sub-clause (A) of clause (b)" shall be substituted;

(ii) in clause (d), for the words, brackets and letter "sub-clause (iii) of clause (b)", the words, brackets and letters "item (IV) of sub-clause (A) of clause (b)" shall be substituted;

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(iii) in clause (e), for the words, brackets and letters "sub-clause (iiia) of clause (b)", the words, brackets and letters "item (V) of sub-clause (A) of clause (b)" shall be substituted;

(II) in the Appendix II, in Form 34C,—

(a) in the title, for the words "Form of application" the words "Form of application by a non-resident applicant" shall be substituted;

(b) after item 13, the following items may be inserted, namely:—

"14. Taxpayer Registration Number/ Taxpayer Identification Number/ Functional equivalent/ Any unique number used for identification by the Government of that country/specified territory of which applicant claims to be a resident.

15.	**Particulars of the Parent Company(-ies) of the applicant:**	
	a. Name of Immediate parent company of applicant	
	b. Address of Immediate parent company of applicant	
	c. Country of residence of Immediate parent company of applicant	
	d. Permanent Account Number of Immediate parent company of applicant (if alloted)	
	e. Taxpayer Registration Number/ Taxpayer Identification Number/ Functional equivalent/ Any unique number used for identification of the Immediate parent company of applicant by the Government of that country/specified territory of which it claims to be a resident	
	f. Name of Ultimate parent company of applicant	
	g. Address of Ultimate parent company of applicant	
	h. Country of residence of Ultimate parent company of applicant	
	i. Permanent Account Number of Ultimate parent company of applicant (if alloted)	
	j. Taxpayer Registration Number/ Taxpayer Identification Number/ Functional equivalent/ Any unique number used for identification of the Ultimate parent company of applicant by the Government of that country/specified territory of which it claims to be a resident"	

(III) in Appendix II, in Form 34D, for item 5, the following item may be substituted, namely:—

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"5.	**Particular(s) of the non-resident with whom the transaction is undertaken or proposed to be undertaken**	
	a. Name of the non-resident	
	b. Address of the non-resident	
	c. Telephone and Fax Number of the non-resident	
	d. Permanent Account Number of the non-resident (if alloted)	
	e. Taxpayer Registration Number/ Taxpayer Identification Number/ Functional equivalent/ Any unique number used for identification of the non-resident by the Government of that country/specified territory of which it claims to be a resident.	
	f. Name of Immediate parent company of the non-resident	
	g. Address of Immediate parent company of the non-resident	
	h.Country of residence of Immediate parent company of the non-resident	
	i. Permanent Account Number of Immediate parent company of the non-resident (if alloted)	
	j. Taxpayer Registration Number/ Taxpayer Identification Number/ Functional equivalent/ Any unique number used for identification of the Immediate parent company of the non-resident by the Government of that country/specified territory of which it claims to be a resident	
	k. Name of Ultimate parent company of the non-resident	
	l. Address of Ultimate parent company of the non-resident	
	m. Country of residence of Ultimate parent company of the non-resident	
	n. Permanent Account Number of Ultimate parent company of the non-resident (if alloted)	
	o. Taxpayer Registration Number/ Taxpayer Identification Number/ Functional equivalent/ Any unique number used for identification of the Ultimate parent company of the non-resident by the Government of that country/specified territory of which it claims to be a resident"	

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(IV) in Appendix II, in Form 34DA, in the title, for the word, figures, brackets and letters "section 245N(b)(iia)", the words, figures, brackets and letters "section 245N(b)(A)(III)" shall be substituted."

4. 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 25th April, 2018 at the email address, ts.mapwal@nic.in

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