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CBDT Circular on Master File for TP transactions and Country by Country Report - salient points

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.

Consequent to the aforesaid, the Central Board of Direct Taxes has on 6 October 2017 released draft guidelines for maintaining and furnishing TP Documentation in Master File and CbC report.

For the sake of your knowledge and information, we have summarized the salient points of the notification under the aforesaid two heads:

1. *Master file*

1.1. A Report is to be furnished to prescribed Income Tax Authority, under section 92D of the Income Tax Act, 1961):

1.2. The salient points of the provisions relating to Master File – TP documentation and filing of Report - are tabulated below:

<i>Major Head</i>	<i>Particulars</i>
Applicability	Such constituent entities whose- Consolidated revenue of the international group, - exceeds Rs. 500 crores, or Aggregate value of international transactions - exceeds Rs. 50 crores or; - In respect of purchase, sale, transfer, lease or use of intangible property, the value exceeds Rs. 10 crores.
Documents to be maintained/ furnished	- list of all operating entities of the international group along with their addresses - chart depicting the legal status of the constituent entity and ownership structure of the entire international group - description of the business of international group

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	<ul style="list-style-type: none"> – Description of overall strategy of the international group for development, ownership and exploitation of intangibles, including location of principal research and development facilities – List of entities of international group engaged in development and management of intangibles, along with their addresses – List of intangibles owned by international group along with names and addresses of group entities that legally own such intangibles – Brief description of important agreements among members of international group related to intangibles – Detailed description of transfer pricing policies of the international group, related to R&D and intangibles – Description of important transfers of interest in intangibles among entities of international group – Description of financial agreements of the international group – List of group entities that provide central financing functions – Detailed description of transfer pricing policies of the international group related to financing agreements among group entities – Copy of annual consolidated financial statement of the international group – List and brief description of the existing unilateral APAs and other tax rulings in respect of the international group for allocation of income among other countries
Applicable Form for the report	Such report shall be filed in Form 3CEBA
Report to be furnished to	Director General of Income Tax (Risk Assessment)
Due date for filing the Report	On or before the due date for filing the Income Tax Return (however for the financial year 2016-17, the form may be filed anytime before 31.03.2018)
When more than one constituent entities are residents of India	Form 3CEBA may be furnished by such entity if it has been designated by the international group to furnish such report and such fact has been notified to the Director General of Income Tax (Risk Assessment) in Form 3CEBE .
Time limit for filing Form 3CEBE	Such notification shall be made at least 30 days before date of filing Form 3CEBA
Procedure for electronic filing of Form 3CEBA	The Principal Director General of Income Tax (Systems) or Director General of Income Tax (Systems) shall specify such procedure.
Period for maintaining/retaining the documents	Eight years from the end of the relevant assessment year

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2. Country-by-Country Report

2.1. Report by parent entity or alternate reporting entity or any other constituent entity, resident in India, under section 286 of the Act.

2.2. The salient points of the provisions relating to CbC report are tabulated below:

Major Head	Particulars
Applicability	Every parent company or the alternate reporting entity, which is resident in India, shall furnish the prescribed report if the total consolidated group revenue of the international group is more than Rs. 5,500 crores.
Applicable form for the report	Such report shall be filed in Form 3CEBC
Report to be furnished to	The Director General of Income-tax (Risk Assessment)
Timelines	Due date for filing return of income
In case of more than one constituent entities	Form 3CEBC 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
Procedure for electronic filing of Form 3CEBB ¹ , 3CEBC and 3CEBD	The Principal Director General of Income-tax (Systems), as the case may be, shall specify the procedure for electronic filing.

¹Form 3CEBB is a report that shall be furnished by a constituent entity to the Director General of Income Tax (Risk Assessment).

The same shall contain information –

- Whether it is the alternate reporting entity of the international group; or
- The details of parent entity or the alternate reporting entity, of the international group and the country/ territory of which the said entities are residents.

Form 3CEBB shall be filed on or before 60 days prior to the date of furnishing Form 3CEBC.