

Amicus Transfer Pricing Alert - CbCR and Master File Regulations (India)

June 18, 2021

Easing of Indian CbCR/Master File Norms

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 notification¹ regarding the Final Rules was released on 31st October 2017 providing much awaited guidelines with respect to maintenance and furnishing of Master File and CbCR.

The Central Board of Direct Taxes (CBDT)², issued amendments to Rule 10DA and 10DB of the Indian Income-tax Rules, 1962. These amendments are applicable from 1st April 2021, relevant to Assessment Year 2021-22.

Summarized below are salient features of the Final Rules after the latest amendment.

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

2. https://incometaxindia.gov.in/communications/notification/notification_31_2021.pdf

Master File and Related Compliances

- After the amendment, a constituent entity of an MNE group meeting the following quantitative threshold will be required to file Master File in 'Form 3CEAA':
 1. The consolidated revenue of the MNE Group exceeds INR 500 crores (approximately USD 77 million/ Euro 65 million) in the accounting year; **and**
 2. 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.

- Part A of Form 3CEAA must be filed by a constituent entity regardless of the satisfaction of conditions 1 and 2 listed above.
- The Master File has to be furnished by the due date of filing the income-tax return (i.e., 31st December) for FY 2020-21.
- After the amendment, in case of more than one Indian constituent entity, the Master File may be furnished by any constituent entity designated by the MNE group. Before this amendment, a designated entity could only file the Master File on behalf of the Indian-resident constituent entities. The non-resident constituent entities were required to file separate Master Files for compliance with India Tax Regulations. An intimation to this effect need to be submitted in Form 3CEAB to the prescribed authority³ at least 30 days before the due date for filing the Master File.
- The Master File has to be kept and maintained for a period of eight years from the end of the relevant assessment year.

3. Joint Director as may be designated by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be

CbCR and Related Compliances

- The Amended Rules provide the consolidated MNE group revenue threshold of **INR 6,400 crores (approximately USD 850 million/ Euro 715 million)** in the year preceding the reporting accounting year for applicability of the CbCR rules
- After the amendment, CbCR needs to be submitted in Form No 3CEAD (by Parent Entity or Alternate Reporting Entity resident in India). The ***disclosure requirements are in line with the requirements under BEPS Action 13***
- As per the Transfer Pricing provisions, CbCR shall be furnished within a period of **twelve months** from the end of the said reporting accounting year, i.e. for FY 2020-21 CbCR should be filed by 31st March 2022
- Under normal circumstances, an Indian constituent entity of MNE group headquartered overseas is required to file only an intimation in India reporting the details of the parent or alternate reporting entity (filing CbCr in the home country)

- The above intimation in Form No 3CEAC shall be made at least two months prior to the due date of the filing the CbCR, i.e. for FY 2020-21 the due date for the intimation will be 31st January 2022
- A constituent entity of an overseas MNE group in India, which is neither the parent entity nor an alternate reporting entity must file CbCR in India only if the parent entity ('PE') of such constituent entity is resident in a country;
 - Where the parent entity is not obligated to file the CbCR
 - With which India does not have an agreement for exchange of the CbCR; or
 - There has been a systemic failure and such failure is intimated to the Indian constituent entity.

Table 1 - 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	<u>Part A:</u> - Limited information to be furnished.	Every constituent entity/designated constituent entity of an international group has to file Part A irrespective of the turnover/ monetary thresholds	The CE designated for furnishing Master File irrespective of its residential status.	For FY 2020-21 :- 31 st December 2021	Joint Director as may be designated by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be. [Earlier DGIT (Risk Assessment)]	Proviso to S.92D(1) :- For keeping and maintenance of report S.92D(4) :- Furnishing of report Rule 10DA :- Contents
	<u>Part B:</u> - Detailed information to be furnished. (Broadly same as OECD Master File)	1. Consolidated revenue > 500 cr (approximately USD 77 million/ Euro 65 million); and 1. aggregate international transactions > 50 cr (approximately USD 7.5 million / Euro 6.5 million) or; intangible related transactions > 10 cr (USD 1.5 million / Euro 1.33 million)				
Form 3CEAB	To notify the CE designated for furnishing Master File	When there is more than one CE irrespective of their residential status.	The CE designated for furnishing Master File irrespective of its residential status. [The CE, resident in India, designated for furnishing Master File]	Thirty days before the due date of filing Form 3CEAA. For FY 2020-21 :- 31 st October, 2021	Joint Director as may be designated by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be. [Earlier DGIT (Risk Assessment)]	S.92D(4) Read with Rule 10DA

Table 2- 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 if PE is not resident in India ARE = Alternate Reporting Entity PE =Parent Entity	If international consolidated revenue > 6400 crores (approximately USD 850 million/ Euro 715 million) and if CE is resident in India) (Earlier	The CE resident in India	Two months prior to the due date for furnishing Form 3CEAD. For FY 2020-21- 31 st January 2022	Joint Director as may be designated by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be. [Earlier DGIT (Risk Assessment)]	S.286(1) Read with Rule 10DB
Form 3CEAD	CBCR Reporting	If international consolidated revenue > 6400 crores (approximately USD 850 million/ Euro 715 million)	<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 <p>CE to file CbCR in India only under limited circumstances ie the ('PE') is resident in a country:</p> <ul style="list-style-type: none"> (i) Where PE is not obligated to file CbCR; or (ii) With which India does not have an agreement for exchange of CbCR; or (iii) There has been a systemic failure 	Within 12 months following the end of reporting accounting year. For FY 2020-21- 31 st March 2022	Joint Director as may be designated by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be. [Earlier DGIT (Risk Assessment)]	S.286(2) :- Furnishing of report S.286(3) :- Contents Read with Rule 10DB

Table 2- Summary of Final Forms and Rules for CbCR

Form 3CEAE	To notify the CE designated for furnishing Form 3CEAD [CBCR]	Where there are multiple CEs	The designated CE	No timeline specified	<p>Joint Director as may be designated by the Principal Director</p> <p>General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be.</p> <p>[Earlier DGIT (Risk Assessment)]</p>	<p>Proviso to S.286(4)</p> <p>Read with Rule 10DB</p>
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Table 3- Consolidated Turnover-Wise Compliance Obligations

Consolidated Turnover (CT)	Compliance Obligations
CT < 500 Crores	
CT > 500 but < 6400 crores and; International transaction < 50 crore; and Intangible related transactions < 10 crores	Every CE/Designated CE of the international group to file Part A of Form 3CEAA
CT > 500 crores but < 6400 crores; and International transaction > 50 crore; or Intangible related transactions > 10 crores	Part A and Part B of Form 3CEAA [Complete Master-file to be filed]
CT > 6400 crores	CBCR filing requirements apply (refer Table 2 above)
CT > 6400 crores; and International transaction > 50 crores; or Intangible related transactions > 10 crores	Maintain and furnish Master File. Also, CBCR requirements apply.

ABOUT AMICUS

Amicus is legal and tax consulting firm with focus on corporate finance, re- structuring, private equity, international taxation, transfer pricing and goods and services tax. The Firm's tax team also represents clients in assessments and litigation including Tax Tribunal and Higher Courts.

The Firm focuses on providing efficient, effective, solution-oriented advice and representation based on specialist knowledge and experience. Amicus' boutique tax practice has been consistently been ranked as a leading practice by Legal 500, Asia Law and World Tax (ITR).





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