

A close-up photograph of a person's hands using a silver pen to interact with a blue tablet device. The person is wearing a white shirt. The background is blurred, suggesting an office or professional setting. A large blue circular graphic is overlaid on the right side of the image, containing white text.

**Overview of BEPS
documentation
requirements:
Country-by-Country (CbC)
Report
and Master File**

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Background: Base Erosion and Profit Shifting (BEPS)

OECD's BEPS project: What led to the changes?

- Substantial global integration of economies, markets and value chains resulting in increased inter-dependencies
- Emergence of low/no-tax MNCs amidst rising fiscal deficits
- Global 'Tug of war' to tax income streams in their jurisdiction
- Political and economic compulsion to intervene and restore confidence in tax systems
 - Ensure profits are taxed where economic activities take place and value is created
 - MNCs to pay their "fair" share of taxes
- BEPS project adopted in Sep 2013 with 15 Action Items along Three key pillars:
 - Introducing coherence in domestic tax rules that affect cross-border activities
 - Reinforcing substance requirements in existing international standards
 - **Improving transparency as well as certainty**

Base Erosion and Profit Shifting – 15 Action Items

Actions	Action Name
1	Address the tax challenges of the digital economy
2	Neutralising the Effects of Hybrid Mismatch Arrangements
3	Designing Effective Controlled Foreign Company Rules
4	Limiting Base Erosion Involving Interest Deductions and Other Financial Payments
5	Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance
6	Preventing the Granting of Treaty Benefits in Inappropriate Circumstances
7	Preventing the Artificial Avoidance of Permanent Establishment Status
8-10	Aligning Transfer Pricing Outcomes with Value Creation
11	Measuring and Monitoring BEPS
12	Mandatory Disclosure Rules
13	Transfer Pricing Documentation and Country-by-Country Reporting
14	Making Dispute Resolution Mechanisms More Effective
15	Developing a Multilateral Instrument to Modify Bilateral Tax Treaties

OECD BEPS Action 13 – Three tiered TP documentation



Local File



Master File



Country-by-Country

To be filed before local tax authorities

- Material related party transactions
- Entity specific
- Detailed functional analysis, economic analysis and reconciliations of TP to accounts

- High level information on global business operations and TP policies
- Supply chain, value drivers, key markets, high level functional analysis
- IP: strategies, owners and R&D centers
- Key service arrangements
- Business restructuring, M&A
- Financing arrangements

Filed in Parent's jurisdiction

- Info for each jurisdiction of operations
- Revenue, PBIT, taxes paid and accrued
- Employees, Stated Capital, retained earnings and tangible assets
- Complete list of entities and PEs for each country

BEPS Action 13 – Indian Regulations

CbC report and Master File compliance requirements in India

- India introduced the CbCR and Master File regime through Finance Act 2016
- Core elements were introduced in the Indian I.T. Act, 1961. The CBDT released the final rules (vide notification no. 92/2017 dated 31 October 2017) providing detailed instructions
- FY 2018-19 is the 3rd year of MF/ CbCR compliances in India

Section	Description
92D	Maintenance and keeping of information and document by persons entering into an international transaction or specified domestic transaction
286	Furnishing of report in respect of international group

Rule	Description
10DA	Information and documents to be kept and maintained under proviso to sub-section (1) of section 92D and to be furnished in terms of sub-section (4) of section 92D
10DB	Furnishing of Report in respect of an International Group

Form	Rule	Description
3CEAA	10DA	Report to be furnished under sub-section (4) of section 92D of the Income-tax Act, 1961
3CEAB	10DA	Intimation by a designated constituent entity, resident in India , of an international group, for the purposes of sub-section (4) of section 92D of the Income-tax Act, 1961
3CEAC	10DB	Intimation by a constituent entity, resident in India , of an international group, the parent entity of which is not resident in India, for the purposes of sub-section (1) of section 286 of the Act
3CEAD	10DB	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 Act
3CEAE	10DB	Intimation on behalf of the international group for the purposes of the proviso to sub-section (4) of section 286 of the Act

Masterfile and CbCR Compliance: Key questions to ask

Is there an
“International
Group?”

Is there a
“Constituent
Entity” in
India?

Where is the
parent entity
of the IG
located? India
or overseas

Does it cross
the prescribed
thresholds?

Which forms
are
applicable?

What are the
deadlines?

Multiple
Constituent
Entities:
Option to
designate
another Entity

Masterfile and CbCR Compliance: Key definitions*

GROUP

includes a parent entity and all the entities in respect of which a consolidated financial statement (CFS) for financial reporting purposes is required to be prepared in the parent's jurisdiction

INTERNATIONAL GROUP

means any **group** that includes two or more enterprises resident of different countries. Also covers 'permanent establishments' in other countries

PARENT ENTITY

means a constituent entity, of an international group that is required to prepare a CFS in its jurisdiction; and, there is no other constituent entity of such group which is required to prepare a CFS

CONSTITUENT ENTITY (CE) means—

- i. any separate entity of an IG that is included in the CFS of the said IG for financial reporting purposes
- ii. would have been included, if the equity share of any CE were to be listed on a stock exchange;
- iii. any such entity that is excluded from the CFS of the IG solely on the basis of size or materiality; or
- iv. any PE of any separate business entity of the IG, if such business unit prepares a separate financial statement for such PE for financial reporting, regulatory, tax reporting or internal management control purposes

Basically, an entity has to be consolidated on a line-by-line basis in the CFS to qualify as a CE

CONSOLIDATED FINANCIAL STATEMENT

means the financial statement of an IG in which the assets, liabilities, income, expenses and cash flows of the parent entity and the constituent entities are presented as those of a single economic entity

* Refer Section 286 of I.T. Act for full definitions

Master File

Master File

Overview



Applicability

- Part A of Form 3CEAA: applies to every constituent entity without any threshold (Amendment in Finance Act 2019)
- Part B of Form 3CEAA: applies to every CE only if prescribed threshold is met
- Parent may be Indian or foreign



Contents

- Part A of Form 3CEAA required basic details. Part B is the detailed Masterfile
- Information for the entire IG for the accounting year of the Parent entity
- Largely consistent with the BEPS A 13 requirements
- Few additional data requirements for India. Need to customize Master File for India



Submission

- File electronically in Form No. 3CEAA with the DGIT (Risk Assessment)
- Master File not part of exchange mechanism. Required to be filed locally in India



Due date

- By the due date for filing the Indian income tax return of the Indian constituent entity (i.e. 30th November of the assessment year)



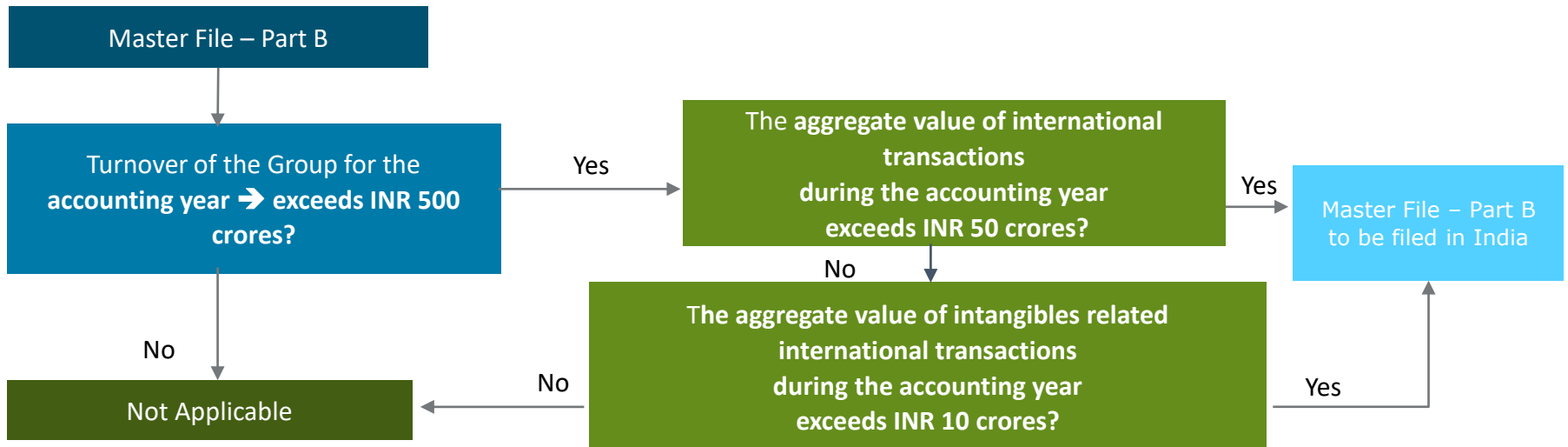
Option for filing one Master File

- Indian head-quartered as well as foreign head-quartered IGs with multiple constituent entities, resident in India can file one Master File (Part A and Part B) on behalf of other Indian constituent entities of an IG
- Requirement to intimate the designated entity in Form No. 3CEAB

Master File

Applicability and threshold- Form 3CEAA

Part	Applicable to	Threshold
Part A	Every constituent entity of an IG	<ul style="list-style-type: none"> MF to be filed by every constituent entity of an IG having international transactions/specified domestic transactions Per Finance Act 2019, from FY 2019-20 onwards, MF to be filed by Constituent Entity of an IG even when there is no international transaction
Part B	Every constituent entity of an IG that meets the threshold / criteria	<ul style="list-style-type: none"> For the accounting year, consolidated group revenue > INR 500 crores; and The aggregate value of international transactions, as per books of accounts, for the accounting year : <ul style="list-style-type: none"> – exceeds INR 50 crores, or – In relation to intangibles exceeds INR 10 crores



Master File requirements

Contents of Form No. 3CEAA - Part A of the Master File

Comprises of basic information relating to the IG and constituent entities of the IG operating in India:

Particulars	Information required
International Group	Name and address
All the constituent entities of the IG operating in India	Name, permanent account number and address
Constituent entity filing Master File in India	Name, permanent account number and address
Accounting year	Accounting year for which the report is submitted



Master File requirements

BEPS requirements vs Indian Master File (Part-B)

Master File Requirement	Summary of OECD BEPS Requirement	Additional requirements as per Indian final rules
Organization structure	<ul style="list-style-type: none"> Chart illustrating IG's legal and ownership structure and geographical location of operating entities 	<ul style="list-style-type: none"> Details (names and addresses) of all entities of the IG
Description of IG's business	<ul style="list-style-type: none"> Description of important drivers of business profit Description of supply chain for 5 largest products and service offerings plus other products or services amounting to more than 5% of IG's revenue and geographical markets Information regarding important service agreements and transfer pricing policies for intra-group services Functional analysis of the principal contributors to value creation Description of important business restructuring transactions, acquisitions and divestments during the fiscal year 	<ul style="list-style-type: none"> Functions, assets and risk analysis (FAR) of entities contributing at least 10% of the IG's revenue OR assets OR profits Major geographical markets for products and services
IG's intangible property	<ul style="list-style-type: none"> IG's strategy for ownership, development and exploitation of intangibles List of important intangibles with ownership Important agreements and corresponding transfer pricing policies in relation to R&D and intangibles Transfer Pricing policy description of important transfers of interest in intangible property 	<ul style="list-style-type: none"> Details (names and addresses) of all entities of the IG engaged in development and management of IP Addresses of entities legally owning important intangible property and entities involved in important transfers of interest in intangible property
IG's intercompany financial activities	<ul style="list-style-type: none"> Description of how the IG is financed, including identification of important financing arrangements with unrelated lenders Identification of entities performing central financing function including their place of operation and effective management Transfer pricing policies related to financing arrangements 	<ul style="list-style-type: none"> Details (names and addresses) of top ten unrelated lenders Addresses of entities providing central financing functions including their place of operation and effective management

Contents of Master File are largely consistent with the BEPS Action 13 requirements - Few important additional data requirements introduced requiring IGs to customize their Master File for India

Master File

Forms and Due date

Purpose of Form	Form No.	Applicable to	Due date
Filing of the Master File	3CEAA	Part A of Form No. 3CEAA – Every constituent entity of an IG, whether or not there is any international transaction – no threshold applies Part B of Form No. 3CEAA – Every constituent entity of an IG meeting the prescribed threshold limit	By income-tax return filing due date i.e. 30 November
Intimation of designated Indian Constituent entity of a IG	3CEAB	Indian Headquartered and Foreign IGs required to file Master File in Form No. 3CEAA and having multiple constituent entities resident in India	30 days prior to the due date for filing Master File

Country by Country (“CbC”) reporting

CbC Report

Overview



Applicability

- Indian head-quartered International Group (IG) meeting the prescribed threshold to file CbC Report in India as per section 286 of the Income Tax Act, 1961
- Indian constituent entity of IG head-quartered overseas (foreign IG) also required to file CbC Report in India under specified circumstances or if appointed as the alternate reporting entity



Threshold

- Threshold of **Euro 750mn** prescribed under Action 13, adopted by India
- CbC report provisions applicable in India if **consolidated group revenue exceeds INR 5,500 crores in the preceding accounting year** (Rule 10DB of Income Tax Rules, 1962)



Contents

- The format of the CbC report aligned with BEPS Action 13 model template
- Definitions of the data points are identical to the original definitions provided under the Action 13 guidance (released in October 2015)
- Additional implementation guidance on various aspects (aggregation, data definitions, applicability for investment funds, etc.) provided by OECD



Manner of submission

- CbC Report required to be filed in **Form No. 3CEAD**
- Form No. 3CEAD to be filed electronically with the DGIT (Risk Assessment)



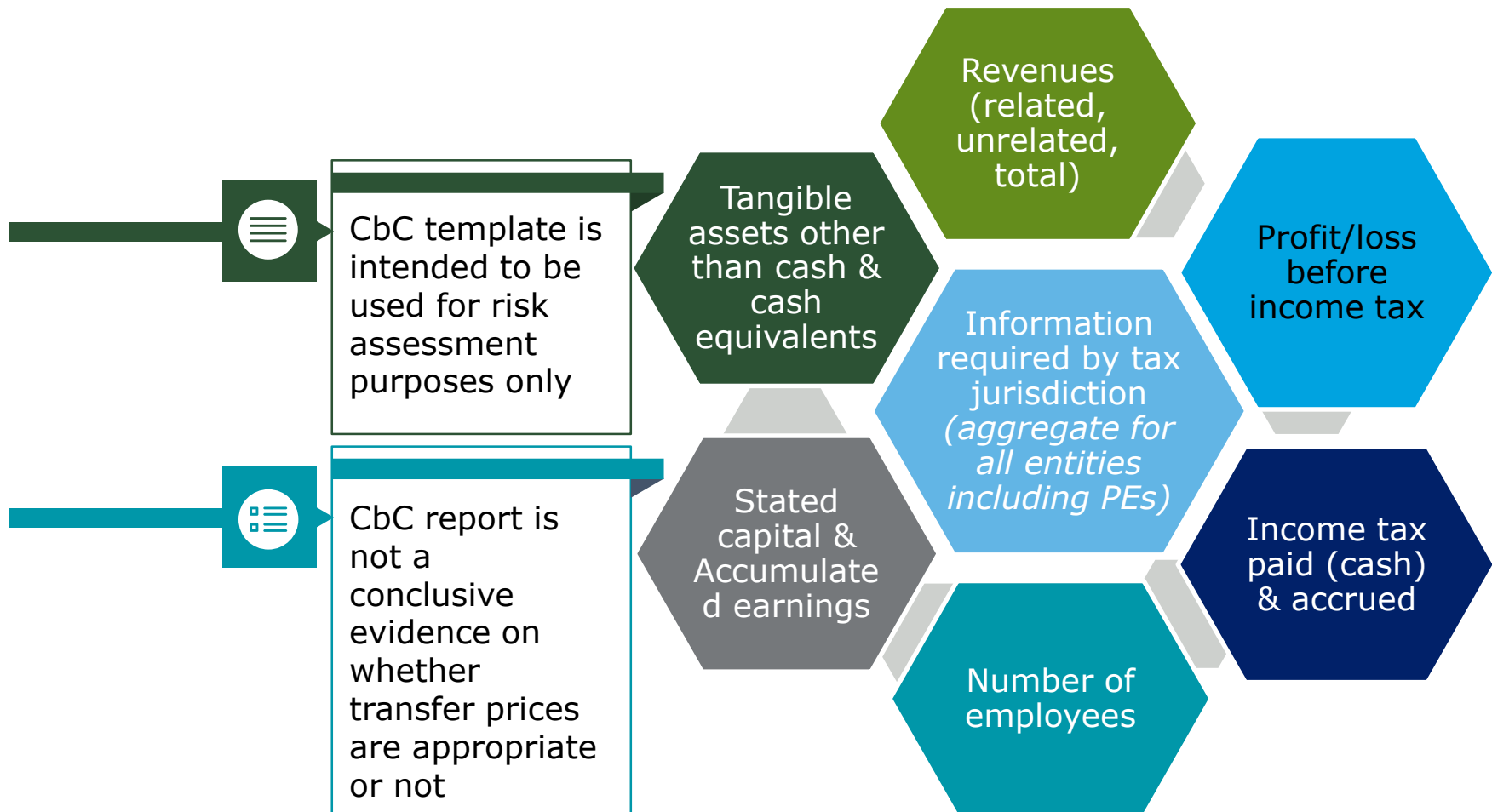
Due date

- Within a period of **12 months** from the end of the reporting accounting year

Reporting requirements

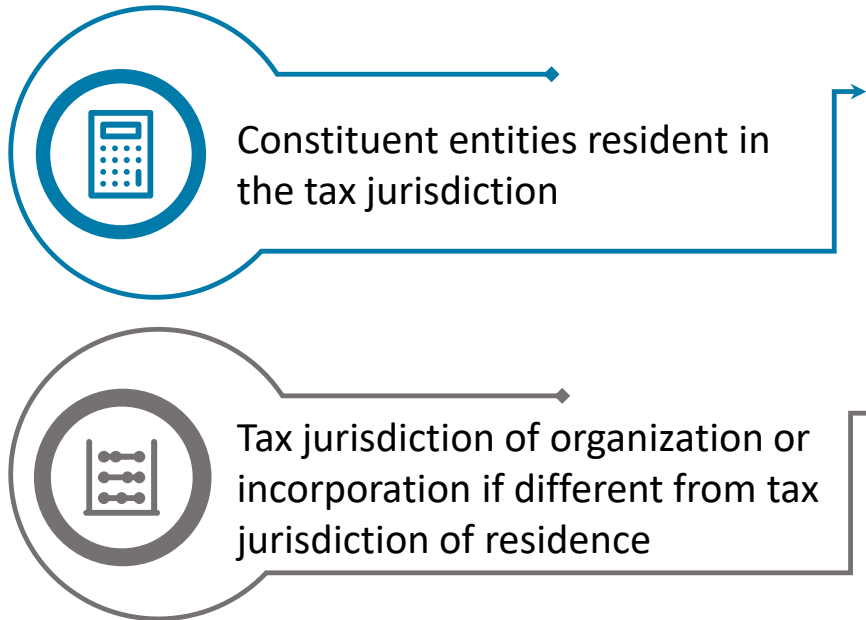
CbC Report – Part A

CbC reporting requires Multinational Enterprises (MNEs) to report the following data **annually** for each tax jurisdiction in which they do business:



Reporting requirements

CbC Report – Part B



Main business activity of each Constituent Entity

A = research and development	B = holding / managing intellectual property	C = purchasing or procurement
D = manufacturing or production	E = sales, marketing, or distribution	F = administrative, management or support services
G = services to unrelated parties	H = internal group finance	I = regulated financial services
J = insurance	K = holding shares or other equity instruments	L = dormant or other

Part C of CbC Report:

To include any further brief information or explanation that taxpayer may consider necessary or that would facilitate the understanding of the compulsory information provided in the CbC Report.

CbC Report

Model template - Table 1

A model template for the Country-by-Country Report

Table 1. Overview of allocation of income, taxes and business activities by tax jurisdiction

Name of the MNE group: Fiscal year concerned:										
Tax Jurisdiction	Revenues			Profit (Loss) Before Income Tax	Income Tax Paid (on cash basis)	Income Tax Accrued – Current Year	Stated capital	Accumulated earnings	Number of Employees	Tangible Assets other than Cash and Cash Equivalents
	Unrelated Party	Related Party	Total							

GUIDANCE ON TRANSFER PRICING DOCUMENTATION AND COUNTRY-BY-COUNTRY REPORTING © OECD 2014

CbC Report

Model template - Table 2

Table 2. List of all the Constituent Entities of the MNE group included in each aggregation per tax jurisdiction

Name of the MNE group: Fiscal year concerned:														
Tax Jurisdiction	Constituent Entities resident in the Tax Jurisdiction	Tax Jurisdiction of organisation or incorporation if different from Tax Jurisdiction of Residence	Main business activity(ies)											
			Research and Development	Holding or Managing intellectual property	Purchasing or Procurement	Manufacturing or Production	Sales, Marketing or Distribution	Administrative, Management or Support Services	Provision of Services to unrelated parties	Internal Group Finance	Regulated Financial Services	Insurance	Holding shares or other equity instruments	Dormant
	1.													
	2.													
	3.													
	1.													
	2.													
	3.													

² Please specify the nature of the activity of the Constituent Entity in the “Additional Information” section.

CbC Report

Model template – Table 3

Table 3. Additional Information

Name of the MNE group:

Fiscal year concerned:

Please include any further brief information or explanation you consider necessary or that would facilitate the understanding of the compulsory information provided in the country-by-country report.

CbC Report

Indian reporting requirements

Indian entity of a foreign MNE group (secondary filing):

- CbC report to be filed in India within a period of 12 months from the end of the reporting accounting year (Notification no. 88/2018/ F. No. 370142/17/2018-TPL dated December 18, 2018), if the parent is resident in a:
 - country where the ultimate parent entity does not have the obligation to file a CbC report as per the laws of its country of residence;
 - country with which India does not have an agreement for exchange of CbC report; or
 - country which fails to automatically exchange such information and such failure is intimated to the Indian entity
- **Designation** of Indian constituent entity for filing of CbC Report in case of multiple resident constituent entities in **Form No. 3CEAE**

Indian entity appointed as the alternate reporting entity of the Group:

- **CbC report to be filed within a period of 12 months from the end of the reporting accounting year**

The Finance Bill, 2019 has introduced a retrospective amendment w.e.f. April 1, 2017 clarifying that in case of an Alternate Reporting Entity resident in India, whose parent entity is a non-resident entity, the 'accounting year' for the purpose of CbC report filed would be the accounting year followed by the Ultimate Parent Entity of the Group.

CbC Report notification



CbC report notification

Applicability

Every Indian constituent entity of a foreign IG to file the CbC report notification in India

Format & manner of filing

Electronically file the CbC report notification in **Form No. 3CEAC** with the Director General of Income-tax (Risk Assessment)

Content

The information required includes –

- **Indian constituent entity** : Name, address and permanent account number;
- Name of the **foreign IG**;
- **Parent entity**: Name, address and country of residency
- **Alternate reporting entity** (if applicable): Name, address and country of residence

Due date

Two months prior to the due date for the filing the CbC report

Currently no option provided for filing a consolidated CbC report notification on behalf of all Indian constituent entities of a foreign IG

CbC Report

Forms and due date

Purpose of Form	Form No.	Applicable to	Due date
CbC report notification	3CEAC	Indian constituent entity of foreign IG	2 months prior to the due date for filing CbC report
Filing of CbC Report	3CEAD	<ul style="list-style-type: none"> Indian headquartered IG Indian entity of foreign IG designated as alternate reporting entity Indian constituent entity of foreign IG required to submit CbC report in India under the specified circumstances 	12 months from the end of the reporting accounting year
		<ul style="list-style-type: none"> Where the parent entity of the constituent entity is resident of a country or territory, where, there has been a systemic failure of the country or territory and the said failure has been intimated to such constituent entity 	6 months from the end of the month in which such systemic failure has been intimated (Notification no. 88/2018/ F. No. 370142/17/2018-TPL dated December 18, 2018)
Intimation of designated Indian constituent entity of foreign IG for filing CbC report in India (under specified circumstances)	3CEAE	Foreign IG required to file CbC report in India under specified circumstances and having multiple constituent entities resident in India	

Penalty

Penalties for non-compliance

Sr. No	Particulars	Default	Penalty
CbC report			
1.	Non-furnishing of CbC report by Indian parent or the alternate reporting entity resident in India	Each day upto a month from due date	₹ 5,000 per day
		Beyond a month from due date	₹ 15,000 per day
		Continuing default beyond service of penalty order	₹ 50,000 per day
2.	Non-submission of information	Beyond expiry of the period for furnishing information	₹ 5,000 per day
		Continuing default beyond service of penalty order	₹ 50,000 per day from date of service of penalty order
3.	Provision of inaccurate information in CbC report	Knowledge of inaccuracy at time of furnishing the report but fails to inform the prescribed authority	₹ 500,000
		Inaccuracy discovered after filing and fails to inform and furnish correct report within fifteen days of such discovery	
		Furnishing of inaccurate information or document in response to notice issued	
Master File			
1.	Non-furnishing of information and documentation	Failure to furnish the information and document to the prescribed authority	₹ 500,000

CbC Report data analysis

CbC Report data analysis

Tax authorities may analyze the following ratios using CbC Report data:

- Cash effective tax rate vs. statutory rate
- Effective tax rate vs. statutory rate
- Tax accrual vs. Total revenue
- Tax paid vs. Total revenue
- PBT to Total revenue
- PBT to Tangible assets
- PBT per employee

- Related party revenue to Total Revenue
- Related to Unrelated Party Revenue
- Stated capital to employees
- PBT to Employees
- Revenue to Employees
- Tangible Assets to employees
- Jurisdiction-wise analysis of above ratios

These ratios may help identify those jurisdictions where revenues and/ or profits have been recorded without adequate substance

Clarificatory amendments in Finance Act, 2019



Effective from FY 2019–20

Master file

Section 92D amended:
Master file compliance requirement applicable even when there is no international transaction undertaken by such constituent entity



Effective retrospectively from FY 2016–17

CbC Report

Section 286 amended:
The accounting year in case of an alternate reporting entity of the International group (where the parent entity is outside India) will be the reporting accounting year of such parent entity

Local File

Local File – Indian regulation

Overview

The disclosure requirements as prescribed under Rule 10D requires mandatory preparation of a documentation report if the aggregate value of the reportable transactions exceeds ₹ 1 crore.

Rule 10D provides a list of information and documents required to be maintained as a part of local file, which primarily includes the following:

Contents of Local File

- 1** Detailed description of the company (organization structure, operational aspects, competitors, description of business environment ownership structure etc.)
- 2** A profile of the multinational or group of which the company is a part of, along with certain details (such name, address, business etc.)
- 3** Transaction details such as nature and terms, quantum and value of each such transactions
- 4** A description of functions performed, risks assumed and assets employed by the company and by the associated undertaking involved in the transaction;
- 5** Comparability analysis - selection of comparables
- 6** Application of transfer pricing methods selected by taxpayers along with reasoning for rejection of other methods

Key Takeaways

Key Takeaways

- Determine there is a “Constituent Entity” part of an “International Group”
- Crossing the prescribed thresholds? 5500 cr for CbCR and 500cr/50cr/10cr for MF

Purpose of Form	Indian Parent entity	Foreign Parent entity
Master File	<ul style="list-style-type: none"> • Prepare and file MF in India by 30 November if exceed threshold • Also designate one entity in Form 3CEAB in case of multiple Indian Constituent Entities (CEs) 	<ul style="list-style-type: none"> • Obtain MF from Parent and customize for India and file by 30 November if exceed threshold • Also designate one entity in Form 3CEAB if multiple Indian CEs
	Assess if MF filing deadlines overseas are earlier than Indian deadline	
CbC report	<ul style="list-style-type: none"> • File in India by March 31st following the accounting year • No notifications required in India 	<ul style="list-style-type: none"> • Determine if IG crosses the Euros 750mn threshold • Only notifications required in India 2 months prior to CbCR filing deadline (usually 31 October following the end of Indian financial year)

Questions & Answers

Annexures

CbC Report

Global Implementation Status

80 countries have implemented the CbC reporting legislation*

As of August 2019, 82 countries have signed the MCAA for automatic exchange of CbC report*

In May 2016, India has signed Multilateral Competent Authority Agreement (MCAA) for the automatic exchange of CbC reports

As of August 2019, India has activated the exchange relationship of CbC reports with 54 countries*

What is Multilateral Competent Authority Agreement (MCAA)

The CbC MCAA is an efficient mechanism that allows signatories to bilaterally and automatically exchange Country-by-Country Reports with each other, as contemplated by Action 13 of the BEPS Action Plan. It will help ensure that tax administrations obtain a better understanding of how MNEs structure their operations, while also ensuring that the confidentiality and appropriate use of such information is safeguarded.

* Source: OECD website

List of signatories to the Multilateral Competent Authority Agreement

As on 30 August 2019, 82 countries* including India are signatories to the MCAA on exchange of CBC reports. India has however not activated the MCAA in relation to any of the other signatories.

S. No.	Country	S. No.	Country	S. No.	Country	S. No.	Country
1	Andorra	22	Czech Republic	43	Jersey	64	Portugal
2	Anguilla	23	Denmark	44	Kajakhstan	65	Qatar
3	Argentina	24	Estonia	45	Korea	66	Romania
4	Australia	25	Finland	46	Latvia	67	Russian Federation
5	Austria	26	France	47	Liechtenstein	68	San Marino
6	The Bhamahas	27	Gabon	48	Lithuania	69	Saudi Arabia
7	Belgium	28	Georgia	49	Luxembourg	70	Senegal
8	Belize	29	Germany	50	Malaysia	71	Seychelles
9	Bermuda	30	Greece	51	Malta	72	Singapore
10	Brazil	31	Guernsey	52	Mauritius	73	Slovak Republic
11	British Virgin Island	32	Haiti	53	Mexico	74	Slovenia
12	Bulgaria	33	Hongkong	54	Monaco	75	South Africa
13	Canada	34	Hungary	55	Morocco	76	Spain
14	Cayman Islands	35	Iceland	56	Netherlands	77	Sweden
15	Chile	36	India	57	New Zealand	78	Switzerland
16	China	37	Indonesia	58	Nigeria	79	Turks and Caicos Islands
17	Costa Rica	38	Ireland	59	Norway	80	United Arab Emirates
18	Colombia	39	Isle of Man	60	Pakistan	81	United Kingdom
19	Croatia	40	Israel	61	Panama	82	Uruguay
20	Curaçao	41	Italy	62	Peru		
21	Cyprus	42	Japan	63	Poland		

*India and United States of America have entered into an agreement on 27 March 2019 for exchange of Country-by-Country Reports

Thank you