

CBCR AND MASTER FILE

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BACKGROUND

- As part of Organization for Economic Co-operation and Development (OECD) BEPS Project, it came up with BEPS Action Plan reports containing 15 Action Plans to address range of issues including tax transparency, accountability, information exchange and other potential changes to International taxation regime. Out of the 15 Action Plans, Action plan 13 provided for the reporting framework from transfer pricing perspective. Action Plan 13 introduced a three-tiered standardized approach for transfer pricing documentation. The Reporting Standard consists the following:
 - Local File
 - Master File
 - Country by Country Report (CBCR)

BACKGROUND

THREE TIERED APPROACH

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graph TD; A[THREE TIERED APPROACH] --> B[A master file containing standardized information relevant for all MNE group members.]; A --> C[A local file referring specifically to material transactions of the local taxpayer.]; A --> D[A Country-by-Country Report containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.];
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A master file containing standardized information relevant for all MNE group members.

A local file referring specifically to material transactions of the local taxpayer.

A Country-by-Country Report containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.

INDIAN LEGISLATIVE BACKGROUND

- Indian Legislative Background with respect to Reporting Requirements suggested by BEPS Action Plan:
 - Local file provision is already existing u/s 92D of the Income Tax Act, 1961 [TP documentation and Form 3CEB].
 - The requirement to maintain the Master File ('MF') and CBCR is introduced in the Act by amendment to section 92D and introduction of section 286 vide Finance Act 2016 with effect from AY 17-18. Further, the same is supplemented by insertion of Rule 10DA and 10DB of Income Tax Act Rules 1962.
- 1st Proviso to section 92D(1) provides that constituent entity of an international group shall keep and maintain such information and documents in respect of an international group as may be prescribed.
- Section 92D(4) provides that MF shall be furnished to such authority as may be prescribed.
- Section 286 deals with furnishing of CBCR.

INDIAN LEGISLATIVE BACKGROUND

- Group is defined in section 286(9)(e) - "Group" includes a parent entity and all the entities in respect of which, for the reason of ownership or control, a consolidated financial statement for financial reporting purposes:
 - (i) is required to be prepared under any law for the time being in force or the accounting standards of the country or territory of which the parent entity is resident; or
 - (ii) would have been required to be prepared had the equity shares of any of the enterprises were listed on a stock exchange in the country or territory of which the parent entity is resident;
- International Group is defined in Sec 286(9)(g), which means any Group that includes:
 - Two or More enterprises which are resident of different countries or territories; or
 - An enterprise, being a resident of one country or territory, which carries on any business through a permanent establishment in other countries or territories;

INDIAN LEGISLATIVE BACKGROUND

- Constituent Entity is defined in Sec 286(9)(d), which means an Entity that is:
 - Any separate entity of an international group that is included in the consolidated financial statement of the said group for financial reporting purposes, or may be so included for the said purpose, if the equity share of any entity of the international group were to be listed on a stock exchange; or
 - Any such entity that is excluded from the consolidated financial statement of the international group solely on the basis of size or materiality; or
 - Any permanent establishment of any separate business entity of the international group included in sub-clause (i) or sub-clause (ii), if such business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes.

INDIAN LEGISLATIVE BACKGROUND

- Parent Entity is defined in Sec 286(9)(h), which means any Constituent Entity of International Group holding, directly or indirectly, an interest in one or more of the other constituent entities of the international group, such that:
 - It is required to prepare a consolidated financial statement under any law for the time being in force or the accounting standards of the country or territory of which the entity is resident; or
 - It would have been required to prepare a consolidated financial statement had the equity shares of any of the enterprises were listed on a stock exchange

and there is no other constituent entity of such group which, due to ownership of any interest, directly or indirectly, in the first mentioned constituent entity, is required to prepare a consolidated financial statement, under the circumstances referred to in sub-clause (i) or sub-clause (ii), that includes the separate financial statement of the first mentioned constituent entity;

INDIAN LEGISLATIVE BACKGROUND

- Alternate Reporting Entity is defined in Sec 286(9)(c), which means an Entity that is:
 - Any constituent entity of the international group that has been designated by such group, in the place of the parent entity, to furnish CBCR in the country or territory in which the said constituent entity is resident on behalf of such group.
- Accounting Year [Section 286(9)(a)]
 - A previous year, in a case where the parent entity or alternate reporting entity is resident in India; or
 - An annual accounting period, with respect to which the parent entity of the international group prepares its financial statements under any law for the time being in force or the applicable accounting standards of the country or territory of which such entity is resident, in any other case;
- Consolidated Financial Statement [Section 286(9)(f)] - means the financial statement of an international group 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.

MASTER FILE

- **Master File [Rule 10DA]:** - Rule 10DA prescribes 2 forms, Form 3CEAA (Part A), Form 3CEAA (Part B) and Form 3CEAB. The applicability, due dates and other important information with respect to Master File Forms is summarized below:

MF Form	Brief Overview	Applicability Criteria	Due Date for AY 18-19
Form 3CEAA (Part A)	Basic information relating to the International Group (IG) and the Constituent Entities (CE) of the IG operating in India (such as name, permanent account number and address)	Any Constituent entity of an international group having international transaction.	As prescribed u/s 139(1) i.e. 30.11.2018
Form 3CEAA (Part B)	Comprises of the main Master File information that provides a high level overview of the IG's global business operations and transfer pricing policies.	a. If Consolidated Group Revenue of International Group > INR 500 crores for the accounting year; and b. If International Transaction during accounting year > INR 50 crores as per the books of A/c or c. If International Transaction in respect of intangible property during accounting year > INR 10 crores.	As prescribed u/s 139(1) i.e. 30.11.2018
Form 3CEAB	Intimation as to who would file Form 3CEAA (Part A) or Form 3CEAA (Part B)	Where there are more than one CE of an IG, resident in India, then Form 3CEAA Part A/B may be furnished by that CE if it has been designated by the IG to furnish the said Form 3CEAA Part A/B by intimating the Income Tax Department	30 days prior to due date prescribed u/s 139(1) i.e. 31.10.2018

MASTER FILE

- Applicability of Form 3CEAA (Part B):
 - Revenue- All of the revenues that is (or would be) reflected in the consolidated financial statements should be used. If extraordinary income and gains are required to be included by the laws/accounting standard of entity preparing the CFS, then the same has to be included. **[Guidance on Implementation of Country –By Country Reporting, Sep 2018 Edition]**
 - Conversion of Revenue denominated in Foreign Currency-The rate of exchange for the calculation of the value in rupees of the consolidated group revenue in foreign currency shall be the SBI telegraphic transfer buying rate of such currency on the last day of the accounting year. **[Rule 10DA(8)]**

CBCR

- The requirement to maintain the Country by Country Report ('CBCR') is introduced in the Income Tax Act by introduction of section 286 vide Finance Act 2016 with effect from AY 17-18. Further, the same is supplemented by insertion of rule 10DB of Income Tax Act Rules 1962.
- CBCR Consists of following information:
 - Tax jurisdiction wise: Amount of revenues, profit and loss before tax, income tax paid and accrued, stated capital and accumulated earnings, number of employees, and tangible assets (other than cash and cash equivalents).
 - For all the entities in the group, nature and details of the main business activity.
- Section 286 provides for preparation, maintenance and filing of CBCR as per the prescribed forms by the resident holding company or alternate reporting entity and the constituent entity of an international group.

CBCR - SECTION 286

286. (1) Every constituent entity resident in India, shall, if it is constituent of an international group, the parent entity of which is not resident in India, notify the prescribed income-tax authority (herein referred to as prescribed authority) in the form and manner, on or before such date, as may be prescribed,—

(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, if any, of the international group, and the country or territory of which the said entities are resident.

(2) Every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed authority [*within a period of twelve months from the end of the said reporting accounting year*], in the form and manner as may be prescribed.

CBCR - SECTION 286

(3) For the purposes of sub-section (2) [*and sub-section (4)*], the report in respect of an international group shall include,—

- (a) the aggregate information in respect of the amount of revenue, profit or loss before income-tax, amount of income-tax paid, amount of income-tax accrued, stated capital, accumulated earnings, number of employees and tangible assets not being cash or cash equivalents, with regard to each country or territory in which the group operates;
- (b) the details of each constituent entity of the group including the country or territory in which such constituent entity is incorporated or organised or established and the country or territory where it is resident;
- (c) the nature and details of the main business activity or activities of each constituent entity; and
- (d) any other information as may be prescribed

CBCR - SECTION 286

(4) A constituent entity of an international group, resident in India, other than the entity referred to in sub-section (2), shall furnish the report referred to in the said sub-section, in respect of the international group for a reporting accounting year *[within the period as may be prescribed]*, if the parent entity is resident of a country or territory,—

- *[(a) where the parent entity is not obligated to file the report of the nature referred to in sub-section (2);]*
- *[(aa)]* with which India does not have an agreement providing for exchange of the report of the nature referred to in sub-section (2); or
- (b) there has been a systemic failure of the country or territory and the said failure has been intimated by the prescribed authority to such constituent entity:

CBCR - SECTION 286

- (5) Nothing contained in sub-section (4) shall apply, if, an alternate reporting entity of the international group has furnished a report of the nature referred to in sub-section (2), with the tax authority of the country or territory in which such entity is resident, on or before the date specified *[by that country or territory]* and the following conditions are satisfied, namely:—
 - (a) the report is required to be furnished under the law for the time being in force in the said country or territory;
 - (b) the said country or territory has entered into an agreement with India providing for exchange of the said report;
 - (c) the prescribed authority has not conveyed any systemic failure in respect of the said country or territory to any constituent entity of the group that is resident in India;
 - (d) the said country or territory has been informed in writing by the constituent entity that it is the alternate reporting entity on behalf of the international group; and
 - (e) the prescribed authority has been informed by the ⁸⁴*[entity]* referred to in sub-section (4) in accordance with sub-section (1).

CBCR

- **CBCR [Rule 10DB]** - Rule 10DB prescribes 3 forms, Form 3CEAC, Form 3CEAD and Form 3CEAE. The applicability, due dates and other important information with respect to CBCR Forms are summarized below:

CBCR Form	Details of the Form	Applicability	Due Date for Filing
Form No.3CEAC	Intimation of details of parent entity/alternate reporting entity which will file CBCR needs to be filed by all the CE's resident in India	The threshold for applicability of CBC reporting has been specified as consolidated group revenue of INR 5,500 Crore in the preceding year.	2 months prior to furnishing CBCR.
Form No.3CEAD	Filing of CBCR: Every parent entity or alternate reporting entity resident in India		Within a period of 12 months from the end of the relevant reporting accounting year.
Form No.3CEAD [Situation 2]	If parent entity is not resident in India but it is resident of a country with which India does not have agreement for exchange of information then CBCR or where parent entity is not obligated to file the CBCR or there has been a systemic failure of the country or territory then Form 3CEAD needs to be filed by CE resident in India.		The time limit is yet to be prescribed. <i>[Exception: if alternate reporting entity has filed CBCR, this Form need not filed and filing Form 3CEAC is sufficient]</i>
Form No.3CEAE	If CE's are liable to file CBCR under Form No.3CEAD and there are multiple CE's of IG in India, one entity can file Form 3CEAD. Then the intimation needs to be filed by designated CE in Form 3CEAE.		No time lines mentioned in the Rules. It needs to clarified by CBDT

MASTER FILE

- The MF provides an overview of an MNC group's global business model, specifically covering the following aspects:
 - (a) organisational structure;
 - (b) description of the various businesses;
 - (c) intangibles used in the businesses;
 - (d) intercompany financial transactions; and
 - (e) financial and tax positions.

PART A OF FORM 3CEAA-MF

- Part A of Form 3CEAA requires the basic information pertaining of the international group such as Assessee's name, PAN, address, international group of which the Assessee is a part of etc. The following is required in Part A of Form 3CEAA.
 - Clause 3b: The relevant AY should be selected
 - Clause 4: Name of the Parent Entity or Alternate Reporting Entity who would be preparing the Consolidated Financial Statement for financial reporting purpose.
 - Clause 5: Address of entity specified under clause 4
 - Clause 6: An Annual Accounting Period (Latest 12M or Less), with respect to which the Parent entity prepares its financial statements in accordance with applicable law or accounting standard.
 - Clause 7: Requires the number of constituent entities 'operating in India'.
 - Clause 8: Requires the details such as Name, Address, PAN etc., of constituent entities referred under clause 7. This can be directly keyed in or an CSV file can be used to import data.

PART B OF FORM 3CEAA-CLAUSE 1-3(ii)-MF

- Part B of Form 3CEAA requires detailed description of group's business, profit drivers, intangible property strategies and policies etc.
 - Clause 1: Requires the details such as Name, Address, PAN etc., of all the entities of the international group. This can be directly keyed in or a CSV file can be used to import information.
 - Clause 2: Requires an attachment to be uploaded in the PDF format having details of legal status of the constituent entities such as company or firm or LLP etc., and a chart depicting the Ownership Structure (i.e. % of share held in Constituent Entity which are part of the International Group). The option to upload the PDF as attachment would be available at the time of filing the Master File Online.
 - Clause 3:
 - i. Requires the written description of the nature of business/s of the international group and the description is limited to 1000 characters.
 - ii. The second sub-clause requires the description of important profit drivers of the business. Profit drivers are factors that have a significant impact on your bottom line (example: Sales data with respect to important finished goods and services). The description is limited to 1000 characters.

PART B OF FORM 3CEAA-CLAUSE 3(iii)-MF

- Clause 3:
 - iii. This sub-clause requires to provide a description of the supply chain for the five largest products or services of the international group in terms revenue and any other products including services amounting to more than 5% of the consolidated group revenue.

The required description can take the form of a Chart or Diagram. This can be uploaded as an attachment in the PDF format. The option to upload the PDF as attachment would be available at the time of filing the Master File Online through the e-filing utility.

Information can also be keyed into the relevant rows and columns or data can be keyed in by importing data in CSV format as prescribed and the characters should be limited to 3000

PART B OF FORM 3CEAA-CLAUSE 3(iv)-3(vi)-MF

- Clause 3: Sub Clauses iv, v and vi requires the following information
 1. List of important service arrangements between the constituent entities of the international group;
 2. Description and details of such services;
 3. Functions/Risks/Assets analysis undertaken between constituent entities in respect of such services;
 4. TP policy for allocating service costs and determining prices to be paid;
- Description of service arrangements can be uploaded as an attachment in PDF format.
- Description of capabilities can be alphanumeric and cannot exceed 3000 characters.
- The information can also be imported in an CSV format.

PART B OF FORM 3CEAA-CLAUSE 3(vii)-3(ix)-MF

- Clause 3:
 - vii. Requires list and description of major geographical markets for the products and services offered by the international group. The same can be directly keyed in or it can be imported from a CSV file.
 - viii. If a Constituent Entity contributes, more than 10% in revenue or in assets or in profits to the International Group, then provide FAR Analysis for such Constituent Entity. This has an option for uploading the same in PDF format. Further, the data can also be keyed in or inserted through CSV file.
 - ix. Requires to provide a description of important business restructuring transactions

PART B OF FORM 3CEAA-CLAUSE 4 TO 9-MF

- Clause 4 to 9:
 - Requires the information regarding which entities of the group are engaged in R&D activity, the ownership structure of the entity performing R&D, how the output of the R&D activity is used by another entities and how are they remunerating for the services of R&D.
 - The entity engaged in development of intangibles, list of the important intangibles along with name and address of their owners.
 - List of important agreements between the group entities related to intangibles, cost contribution agreements.
 - Transfer pricing policy related to R&D and Intangibles.
 - Details important transfers of interest in the intangibles among the group entities.
 - The data can also be keyed in or inserted through CSV file.

PART B OF FORM 3CEAA-CLAUSE 10-14 -MF

- Clause 10-12
 - How the international group is majorly funded, whether through equity, debt or any hybrid instrument ?
 - Name and address of top 10 unrelated lenders.
 - List of the constituent entities which provides central financing function within the group.
 - Detailed description of TP policy of the financing arrangement among Group entities.
 - The data can also be keyed in or inserted through CSV file.
- Clause 13 requires attachment of the consolidated financial statements of the international group
- Clause 14 requires to provide description of the existing unilateral APA's and other tax rulings in respect of the international group for allocation of income among group entities.

FORM 3CEAB-MF

- The form requires basic information of the constituent entity which is designated, its address, PAN details, name of the international group, name of parent entity , its address and Accounting year for which the form is submitted. The form should be prepared and submitted online.

FORM 3CEAC-CBCR

FORM NO. 3CEAC

[See rule 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 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. The country of residence of the alternate reporting entity –
11. Reportable Accounting Year –

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:

Date:

.....
Signature**
.....
Address of the declarant
.....
PAN of the declarant

Note: *Strike off whichever is not applicable.

**This form has to be signed by the person competent to verify the return of income under section 140.

FORM 3CEAD-CBCR

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

*Name of the Multinational Enterprise group:
Reportable accounting year:
Currency used:*

<i>Tax Jurisdiction</i>	<i>Revenues</i>			<i>Profit(Loss) before Income Tax</i>	<i>Income Tax Paid (on Cash Basis)</i>	<i>Income Tax Accrued – Reportable Accounting Year</i>	<i>Stated Capital</i>	<i>Accumulated Earnings</i>	<i>Number of Employees</i>	<i>Tangible Assets other than Cash and Cash Equivalents</i>
	<i>Unrelated Party</i>	<i>Related Party</i>	<i>Total</i>							

FORM 3CEAD-CBCR

PART B: LIST OF ALL THE CONSTITUENT ENTITIES OF THE MULTINATIONAL ENTERPRISES GROUP INCLUDED IN EACH AGGREGATION PER TAX JURISDICTION

		Name of the Multinational Enterprise 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 and Support Services	Provision of Services to Unrelated Parties	Internal Group Finance	Regulated Financial Services	Insurance	Holding Shares or other Equity instruments	Dormant	Other
	I.														

PART C: ADDITIONAL INFORMATION

**Name of the Multinational Enterprises group:
Reportable accounting year :**

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)

FORM 3CEAD-CBCR

- Specific Instructions provided in Form 3CEAD (Part A):
 - 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.
 - 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.
 - 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.

FORM 3CEAD-CBCR

- Specific Instructions provided in Form 3CEAD (Part A):
 - 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.
 - 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.
 - 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.

FORM 3CEAD-CBCR

- Specific Instructions provided in Form 3CEAD (Part A):
 - 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.
 - 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.
 - 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.

FORM 3CEAD-CBCR

- Specific Instructions provided in Form 3CEAD (Part B):
 - 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).
 - 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.
 - 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.

EXTRACTS OF FORM 3CEAE-CBCR

INCOME-TAX RULES, 1962

FORM NO. 3CEAE

[See rule 10DB]

Intimation 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:

Date:

.....
Signature**

.....
Address of the declarant

.....
PAN of the declarant

Note: *Strike off whichever is not applicable.

**This form has to be signed by the person competent to verify the return of income under section 140.

PENALTY ON NON COMPLIANCE OF MASTER FILE AND CBCR

Sl. No.	Penalty Provision	Description of the Penalty Provision	Quantum of Penalty
1	271GB(1)	Failure to furnish CBCR (Form 3CEAD)	Rs.5,000/- per day if failure continues till one month. Rs.15,000/- per day if failure continues beyond one month.
2	271GB(2)	Furnishing of information and documentation as per Notice issued by the prescribed authority u/s 286(6)	Rs.5,000/- per day from day of expiration which the period of furnishing the information and documentation expires.
3	271GB(3)	If the failure continues under section 271GB(1) and 271GB(2) even after a penalty order issued by the prescribed authority under section 271GB(1) and 271GB(2)	Rs 50,000 per day from the date of service of such order.
4	271GB(4)	Inaccurate particulars are been furnished inf Form 3CEAD and: a. Entity has knowledge of inaccuracy at the time of furnishing the report; or b. Entity discovers inaccuracy after furnishing report and fails to inform and furnish correct report within 15 days of such discovery; or c. Entity furnished inaccurate information or document in response to the notice u/s 286(6)	Rs.5,00,000/-
5	271AA(2)	Failure to furnish Master File documentation prescribed u/s 92D(4)	Rs.5,00,000/-

CBDT GUIDANCE APPROPRIATE USE OF CBCR [INSTRUCTION NO 2/2018]

- The reports shall be accessed by the Competent Authority (CA) if India (Joint Secretary, FT & TR-I and Joint Secretary, FT & TR-II in CBDT) and Director General and Risk Assessment (DGRA).
- If the case of the constituent entity has been selected for scrutiny then the Jurisdictional TPO will have access to the information relating to that constituent entity.
- The information obtained through CBCR shall be used for high level TP risk assessment, assessment of other BEPS related risks and for economic and statistical analysis which is consistent with the provisions of the tax treaties.
- The CBCR information is not a substitute for detailed TP analysis and TP adjustments should not be proposed only based on this information.
- The CBCR received from other jurisdictions or filed by the constituent entities is subject to the confidentiality requirements of treaties or Act respectively.

CBDT GUIDANCE APPROPRIATE USE OF CBCR

- The CBDT states that Chapter VII of Manual on Exchange of information should be strictly followed by all the officers who handle information contained in CBCR.
- The use of information by TPO will be monitored by jurisdictional CIT(Transfer Pricing) and any breach may be brought to the notice of CA who will further disclose it to OECD's coordinating body secretariat.
- Further, concerns raised by taxpayers on breach of appropriate use conditions will be reported to the CIT(Transfer Pricing) by the TPO and if still unresolved then it will be brought to CA.
- CBDT also states that adjustments made to income of taxpayer based on inappropriate use of CBCR information will be promptly conceded by CA in MAP proceedings.
- Finally, CBDT assures that appropriate use of CBCR will be reviewed regularly through the CA of India, specifies filing of quarterly consolidated report by Principal CIT (International Taxation & Transfer Pricing) within 30 days from end of each quarter [commencing from quarter beginning January 1, 2019]

THANK YOU