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DEPARTMENT OF REVENUE
FOREIGN TAX AND TAX RESEARCH DIVISION

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**GUIDANCE NOTES ON IMPLEMENTATION OF REPORTING
REQUIREMENTS UNDER RULES 114F TO 114H OF THE
INCOME-TAX RULES**

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1. Introduction

1.1 New Global Standards on Automatic Exchange of Information

To combat the problem of offshore tax evasion and avoidance and stashing of unaccounted money abroad requiring cooperation amongst tax authorities, the G20 and OECD countries working together developed a Common Reporting Standard (CRS) on Automatic Exchange of Information (AEOI). The CRS on AEOI was presented to G20 Leaders in Brisbane on 16th November, 2014. The Hon'ble Prime Minister of India speaking on the occasion supported the new global standard as it would be instrumental in getting information about unaccounted money hoarded abroad and in its eventual repatriation. The CRS on AEOI requires the financial institutions of the "source" jurisdiction to collect and report information to their tax authorities about account holders "resident" in other countries, such information having to be transmitted "automatically" on yearly basis. The information to be exchanged relates not only to individuals but also to shell companies and trusts having beneficial ownership or interest in the "resident" countries. Further, the reporting needs to be done for a wide range of financial products, by a wide variety of financial institutions, including banks, depository institutions, collective investment vehicles and insurance companies. The Standard and its Commentary are available at <http://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-information-in-tax-matters.htm>.

1.2 Enactment of FATCA and signing of IGA

Earlier, in 2010, the USA enacted a law known as FATCA with the objective of tackling tax evasion through obtaining information in respect of offshore financial accounts maintained by USA residents and citizens. The provisions of FATCA essentially provide for 30% withholding tax on US source payments made to Foreign Financial Institutions (FIs) unless they enter into an agreement with the Internal Revenue Service (IRS) to provide information about accounts held with them by USA persons or entities (firms/companies/trusts) controlled by USA persons. Since domestic laws of sovereign countries, (including India) may not permit sharing of client confidential information by FIs directly with USA, USA has entered into Inter-Governmental Agreement (IGA) with various countries. The IGA between India and USA was signed on 9th July, 2015, which provides that the Indian FIs will provide the necessary information to Indian tax authorities, which will then be transmitted to USA automatically. Under the IGA, USA will also provide substantial information about Indians having financial assets in USA although the exchange of information is not fully reciprocal as yet. The text of the IGA signed between India and USA is available at

http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/375/india_iga_final-india_english.pdf.

1.3 Commitment to Implement CRS on AEOI

In keeping with its leadership role in developing the new global standards, India is one of the early adopters of the CRS and has committed to exchange information automatically by 2017 as under:

- First exchange in September, 2017 for new accounts (both individuals and entity) opened after 1.1.2016 and for pre-existing (as on 31.12.2015) individual high value accounts (balance more than USD 1,000,000)
- Exchange in September, 2018 of pre-existing (as on 31.12.2015) individual low value accounts and pre-existing (as on 31.12.2015) entity accounts

The Government of India has also joined the Multilateral Competent Authority Agreement (MCAA) on 3rd June, 2015, for exchanging information as per the above timelines. By August, 2015, 93 jurisdictions have committed to exchange information as per the new global standards, 58 of them from 2017 and the balance 35 from 2018. 61 of the 93 jurisdictions have also joined the MCAA. Table in Annexure provides a list of the 93 jurisdictions and the time time for exchanging information.

1.4 Steps taken for Implementation of CRS on AEOI and IGA

In view of our commitment to implement the CRS on AEOI and also the IGA with USA, and with a view to provide information to other countries, necessary legislative changes have been made through Finance (No. 2) Act, 2014, by amending section 285BA of the Income-tax Act, 1961. Income-tax Rules, 1962 were amended vide Notification No. 62 of 2015 dated 7th August, 2015 by inserting Rules 114F to 114H and Form 61B to provide a legal basis for the Reporting Financial Institutions (RFIs) for maintaining and reporting information about the Reportable Accounts. These Rules have been developed in consultation with Regulators and Financial Institutions in order to smoothen the reporting requirements and to address their concerns wherever possible. A copy of the Notification No. 62 of 2015 modifying the Income-tax Rules, 1962, is at <http://www.incometaxindia.gov.in/communications/notification/notification%20no.%2062%20dated%2007-08-2015.pdf>.

1.5 Purpose of the Guidance Note

The purpose of this Guidance Note is to provide guidance to the Financial Institutions, Regulators and officers of the Tax Department for ensuring