

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 31st, October, 2017

INCOME-TAX

S.O. 3497(E).— In exercise of the powers conferred by proviso to sub-section (1) of section 92D and sub-section (8) of section 286 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. Short title and commencement.

- (1) These rules may be called the Income-tax (Twenty-fourth Amendment) Rules, 2017.
- (2) They shall come into force from the date of its publication in the Official Gazette.

2. In the Income-tax Rules, 1962 (hereafter referred to as the Principal Rules), in Part II, after rule 10D, the following rules shall be inserted, namely:-

“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.

10DA. (1) Every person, being a constituent entity of an international group shall,-

(i) if the consolidated group revenue of the international group, of which such person is a constituent entity, as reflected in the consolidated financial statement of the international group for the accounting year, exceeds five hundred crore rupees; and

(ii) the aggregate value of international transactions,-

(A) during the accounting year, as per the books of accounts, exceeds fifty crore rupees, or

(B) in respect of purchase, sale, transfer, lease or use of intangible property during the accounting year, as per the books of accounts, exceeds ten crore rupees,

keep and maintain the following information and documents of the international group, namely:-

(a) a list of all entities of the international group along with their addresses;

(b) a chart depicting the legal status of the constituent entity and ownership structure of the entire international group;

(c) a description of the business of international group during the accounting year including,-

(I) the nature of the business or businesses;

(II) the important drivers of profits of such business or businesses;

(III) a description of the supply chain for the five largest products or services of the international group in terms of revenue and any other products including services amounting to more than five per cent. of consolidated group revenue;

(IV) a list and brief description of important service arrangements made among members of the international group, other than those for research and development services;

(V) a description of the capabilities of the main service providers within the international group;

(VI) details about the transfer pricing policies for allocating service costs and determining prices to be paid for intra-group services;

(VII) a list and description of the major geographical markets for the products and services offered by the international group;

(VIII) a description of the functions performed, assets employed and risks assumed by the constituent entities of the international group that contribute at least ten per cent. of the revenues or assets or profits of such group; and

(IX) a description of the important business restructuring transactions, acquisitions and divestments;

(d) a description of the overall strategy of the international group for the development, ownership and exploitation of intangible property, including location of principal research and development facilities and their management;

- (e) a list of all entities of the international group engaged in development and management of intangible property along with their addresses;
- (f) a list of all the important intangible property or groups of intangible property owned by the international group along with the names and addresses of the group entities that legally own such intangible property;
- (g) a list and brief description of important agreements among members of the international group related to intangible property, including cost contribution arrangements, principal research service agreements and license agreements;
- (h) a detailed description of the transfer pricing policies of the international group related to research and development and intangible property;
- (i) a description of important transfers of interest in intangible property, if any, among entities of the international group, including the name and address of the selling and buying entities and the compensation paid for such transfers;
- (j) a detailed description of the financing arrangements of the international group, including the names and addresses of the top ten unrelated lenders;
- (k) a list of group entities that provide central financing functions, including their place of operation and of effective management;
- (l) a detailed description of the transfer pricing policies of the international group related to financing arrangements among group entities;
- (m) a copy of the annual consolidated financial statement of the international group; and
- (n) a list and brief description of the existing unilateral advance pricing agreements and other tax rulings in respect of the international group for allocation of income among countries.
- (2) The report of the information referred to in sub-rule (1) shall be in Form No. 3CEAA and it shall be furnished to the Director General of Income-tax (Risk Assessment) on or before the due date for furnishing the return of income as specified in sub-section (1) of section 139:

Provided that the information in Form No. 3CEAA for the accounting year 2016-17 may be furnished at any time on or before the 31st day of March, 2018.

- (3) Information in,—
- (i) Part A of Form No. 3CEAA shall be furnished by every person, being a constituent entity of an international group, whether or not the conditions as provided in sub-rule (1) are satisfied;
- (ii) Part B of Form No. 3CEAA shall be furnished by a person, being a constituent entity of an international group, in those cases where the conditions as provided in sub-rule (1) are satisfied.
- (4) Where there are more than one constituent entities resident in India of an international group, then the report referred to in sub-rule (2) or information referred to in clause (i) of sub-rule (3), as the case may be, may be furnished by that constituent entity which has been designated by the international group to furnish the said report or information, as the case may be, and the same has been intimated by the designated constituent entity to the Director General of Income-tax (Risk Assessment) in Form 3CEAB.
- (5) The intimation referred to in sub-rule (4) shall be made at least thirty days before the due date of filing the report as specified under sub-rule (2).
- (6) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for electronic filing of Form No. 3CEAA and Form No. 3CEAB and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the information furnished under this rule.
- (7) The information and documents specified in sub-rule (1) shall be kept and maintained for a period of eight years from the end of the relevant assessment year.
- (8) The rate of exchange for the calculation of the value in rupees of the consolidated group revenue in foreign currency shall be the telegraphic transfer buying rate of such currency on the last day of the accounting year.

Explanation.— For the purposes of this rule,—

- (A) "telegraphic transfer buying rate" shall have the same meaning as assigned in the Explanation to rule 26;

(B) the terms 'accounting year', 'consolidated financial statement' and 'international group' shall have the same meaning as assigned in sub-section (9) of section 286.

Furnishing of Report in respect of an International Group

10DB. (1) For the purposes of sub-section (1) of section 286, every constituent entity resident in India, shall, if its parent entity is not resident in India, intimate the Director General of Income-tax (Risk Assessment) in Form No. 3CEAC, the following, namely:-

- (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, as the case may be, of the international group and the country or territory of which the said entities are residents.
- (2) Every intimation under sub-rule (1) shall be made at least two months prior to the due date for furnishing of report as specified under sub-section (2) of section 286.
- (3) Every parent entity or the alternate reporting entity, as the case may be, resident in India, shall, for every reporting accounting year, furnish the report referred to in sub-section (2) of section 286 to the Director General of Income-tax (Risk Assessment) in Form No. 3CEAD.
- (4) A constituent entity of an international group, resident in India, other than the entity referred to in sub-rule (3), shall furnish the report referred to in sub-rule (3) within the time specified therein if the provisions of sub-section (4) of section 286 are applicable in its case.
- (5) If there are more than one constituent entities resident in India of an international group, other than the entity referred to in sub-rule (3), then the report referred to in sub-rule (4) may be furnished by that entity which has been designated by the international group to furnish the said report and the same has been intimated to the Director General of Income-tax (Risk Assessment) in Form No. 3CEAE.
- (6) For the purposes of sub-section (7) of section 286, the total consolidated group revenue of the international group shall be five thousand five hundred crore rupees.
- (7) Where the total consolidated group revenue of the international group, as reflected in the consolidated financial statement, is in foreign currency, the rate of exchange for the calculation of the value in rupees of such total consolidated group revenue shall be the telegraphic transfer buying rate of such currency on the last day of the accounting year preceding the accounting year.
- (8) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for electronic filing of Form No. 3CEAC, Form No. 3CEAD and Form No. 3CEAE and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the information furnished under this rule.

Explanation.- For the purposes of this rule,-

- (A) "telegraphic transfer buying rate" shall have the same meaning as assigned in the Explanation to rule 26;
- (B) the terms 'accounting year', 'alternate reporting entity', 'consolidated financial statement', 'international group' and 'reporting accounting year' shall have the same meaning as assigned in sub-section (9) of section 286."

3. In the Principal Rules, in Appendix II, after Form No. 3CEA, the following forms shall be inserted, namely:-

"FORM NO. 3CEAA

[See rule 10DA]

MASTER FILE

Report to be furnished under sub-section (4) of section 92D of the Income-tax Act, 1961

PART – A

1. Name of the assessee –
2. Address of the assessee –
3. Permanent account number of the assessee –
4. Name of the international group of which the assessee is a constituent entity –
5. Address of the international group of which the assessee is a constituent entity –

6. *Accounting Year for which the report is being submitted –*
7. *Number of constituent entities of the international group operating in India –*
8. *Name, permanent account number and address of all the constituent entities included in item No. 7-*

<i>Serial Number</i>	<i>Name of the constituent entities of the international group</i>	<i>Permanent account number of the constituent entities of the international group</i>	<i>Address of the constituent entities of the international group</i>

PART – B

1. *List of all entities of the international group along with their addresses –*

<i>Serial Number</i>	<i>Name</i>	<i>Address</i>

2. *Chart depicting the legal status of the constituent entity and ownership structure of the entire international group–*
3. *Written description of the business of the international group during the accounting year in accordance with clause (c) of sub-rule (1) of rule 10DA containing the following, namely:-*
 - (i) *the nature of the business or businesses;*
 - (ii) *the important drivers of profits of such business or businesses;*
 - (iii) *a description of the supply chain for the five largest products or services of the international group in terms of revenue and any other products including services amounting to more than five per cent. of the consolidated group revenue;*
 - (iv) *a list and brief description of important service arrangements made among members of the international group, other than those for research and development services;*
 - (v) *a description of the capabilities of the main service providers within the international group;*
 - (vi) *the transfer pricing policies for allocating service costs and determining prices to be paid for intra-group services;*
 - (vii) *a list and description of the major geographical markets for the products and services offered by the international group;*
 - (viii) *the functions, assets and risks analysis of the constituent entities of the international group that contribute at least ten per cent. of the revenues or assets or profits of such group; and*
 - (ix) *a description of the important business restructuring transactions, acquisitions and divestments.*
4. *Description of the overall strategy of the international group for the development, ownership and exploitation of intangible property, including location of principal research and development facilities and their management –*
5. *List of all entities of the international group engaged in development of intangible property and in management of intangible property along with their addresses –*

<i>Serial Number</i>	<i>Name of the entity of the international group</i>	<i>Address of the entity of the international group</i>

6. List of all the important intangible property or groups of intangible property owned by the international group along with the names and addresses of the group entities that legally own such intangible property –

Serial Number	Intangible property /group of intangible property	Name of the entity who legally owns the intangible property/group of intangible property	Address of the entity

7. List and brief description of important agreements among members of the international group related to intangible property, including cost contribution arrangements, principal research service agreements and license agreements –

8. Description of the transfer pricing policies of the international group related to research and development and intangible property –

9. Description of important transfers of interest in intangible property, if any, among entities of the international group, including the names and addresses of the selling and buying entities and the compensation paid for such transfers –

10. Detailed description of the financing arrangements of the international group, including the names and addresses of the top ten unrelated lenders –

11. List of group entities that provide central financing functions, including their addresses of operation and of effective management –

12. Detailed description of the transfer pricing policies of the international group related to financing arrangements among group entities –

13. A copy of the annual consolidated financial statement of the international group –

14. A list and brief description of the existing unilateral advance pricing agreements and other tax rulings in respect of the international group for allocation of income among countries –

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:

.....
Signature**

Date:

.....
Address of the declarant

.....
PAN of the declarant

Note 1: *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 NO. 3CEAB

[See rule 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

1. Name of the designated constituent entity –
2. Address of the designated constituent entity –
3. Permanent account number of the designated 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. Accounting Year for which the report is being submitted –

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 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.

	3.														
	1.														
	2.														
	3.														

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)

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:

.....

*Signature***

Date:

.....

Address of the declarant

.....

PAN of the declarant

Note 1: *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.**

Note 2: Specific instructions**Part A**

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

Part B

10. 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).

11. 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.

12. 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.

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:

.....
Signature**

Date:

.....
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.

[Notification No. 92 /2017/ F. No. 370142/25/2017-TPL]

NIRAJ KUMAR, Under Secy. (Tax Policy and Legislation)

Note:— The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii) vide number S.O. 969 (E) dated the 26th March, 1962 and were last amended vide notification number GSR No. 1221(E), dated the 5th of October, 2017.