

Update on Transfer Pricing Documentation

**- Local File, Master File &
CbCR**

6th February, 2018

TABLE OF CONTENTS

Sr. No.	Particulars
1	Transfer pricing Documentation
2	Local File – Indian Regulations
3	Applicability for Master File
4	Contents of Master File
5	Country by Country Reporting

TRANSFER PRICING DOCUMENTATION

Transfer Pricing Documentation

OECD has prescribed 3 Tier approach to transfer pricing documentation as under:

1. Local File – Detailed information on all relevant material intercompany transactions of the particular group entity in each country (Transfer Pricing Study Report).
2. Master File – Global information about multinational corporation group, including specific information on intangibles and financial activities, that is to be made available to all relevant country tax administrations.
3. Country by Country Reporting – Report of income, earnings, taxes paid, and certain measures of economic activity.

LOCAL FILE – INDIAN REGULATIONS

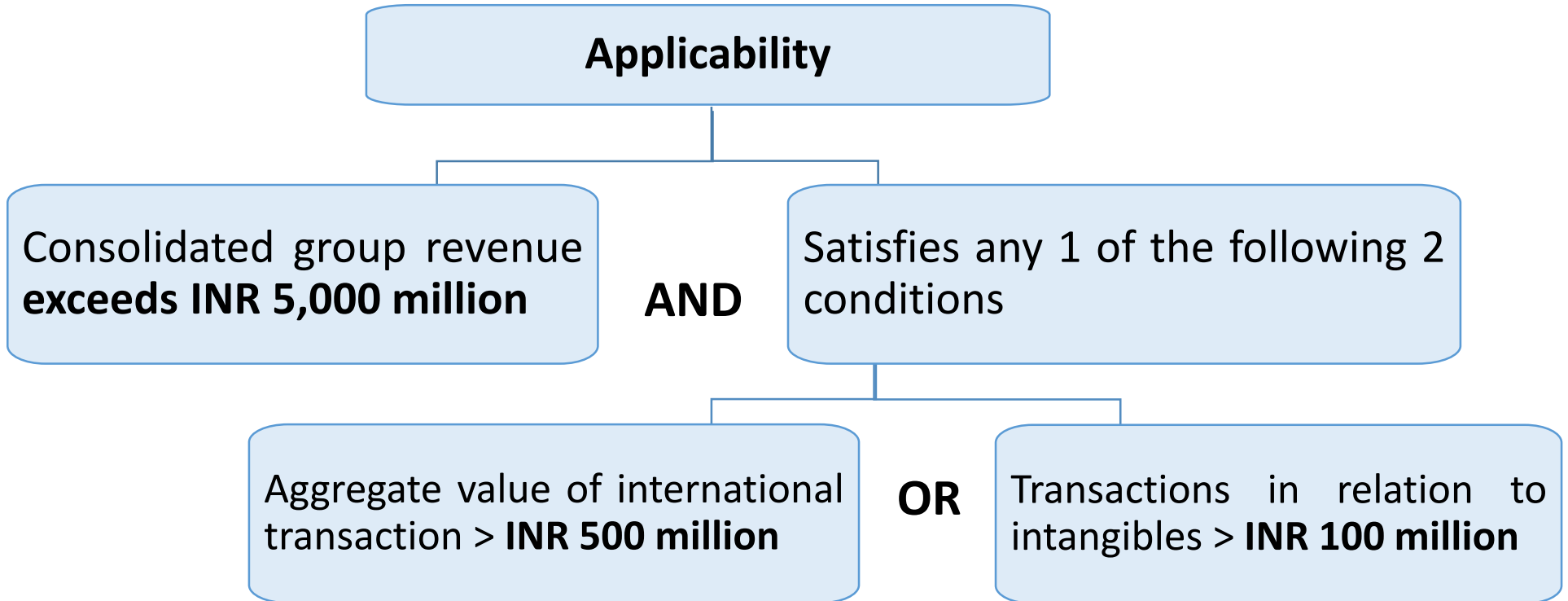
Indian Income Tax Regulations generally require following details to be maintained:

- ✓ Description of ownership structure
- ✓ Profile of MNC group with details of entities with whom there are transactions
- ✓ Broad description of Taxpayer's business and industry
- ✓ Description of nature, terms and details of Inter Company transactions
- ✓ Description of FAR (Functions, Assets and Risk) Analysis for Taxpayer's and its related entities with whom there are transactions
- ✓ Economic and Market analyses, forecasts, budget, etc for business as a whole as well as business segment wise
- ✓ Description of similar uncontrolled transaction, if any

- ✓ Analysis for evaluating comparability with uncontrolled transaction, if any
- ✓ Description of methods considered for determining ALP (Arm's Length Price) along with justification and manner in which it is applied
- ✓ Workings for determining ALP along with Adjustments, if any
- ✓ Assumption, Policies and Price negotiations affecting determination of ALP
- ✓ Any other information, data or document relevant for determining ALP

MASTER FILE

Applicability for Master File



Reporting Due Date :

For FY 2016-17	31 st March 2018
FY 2017-18 onwards	30 th Nov following end of year

Contents of Master File

- I. Organizational Structure
- II. Description of MNE's business(es)
- III. MNE's intangibles
- IV. MNE's intercompany financial activities
- V. MNE's financial and tax positions

Note: Various reporting due dates for Master File compliance are mentioned in the Annexure A at the end.

I. Organizational Structure

Sr. No.	Requirements
1	List of all entities of the group along with their address
2	Chart depicting the legal status of the entity and ownership structure of the entire international group.

II. Description of MNE's Businesses

Sr. No.	Requirements
1	Nature of Business
2	Important Drivers of profit of such business
3	Description of supply chain for 5 largest products in terms of revenue and any other product/service amounting to more than 5% of consolidated group revenue
4	List and description of Important service arrangements among members of the group other than R&D
5	Description of capabilities of main service providers within the group

II. Description of MNE's Businesses

Sr. No.	Requirements
6	Details of Transfer pricing policies for allocating service costs and determining prices to be paid for intra group services
7	List and description of major geographical markets for products/services
8	Description of FAR of all entities contributing at least 10% to revenue or asset or profit
9	Description of Important business restructuring transactions, acquisitions and divestments.

III. MNE's intangibles

Sr. No.	Requirements
1	Description of overall strategy for development, ownership and exploitation of intangible property including location of principal R&D facilities and management
2	List of all entities engaged in development and management of intangible property
3	List of all important intangible property along with name and address of entities that legally own such IP's
4	List and description of Important agreement in relation to intangible property including cost contribution agreements, principal research service agreements and license agreements

III. MNE's intangibles

Sr. No.	Requirements
5	Description of Transfer pricing policies related to R&D and intangible property
6	Description of important transfers of interest in intangible property including name and address of selling and buying entities and compensation paid for such transfers.

IV. MNE's intercompany financial activities

Sr. No.	Requirements
1	Detailed description of financing arrangement including names and addresses of top 10 unrelated lenders
2	List of Group entities providing central financing functions and their place of operation and of effective management
3	Detailed description of Transfer pricing policies for financing arrangement among group entities

V. MNE's financial and tax positions

Sr. No.	Requirements
1	Annual Consolidated Financial Statement of the group
2	List and description of existing unilateral advance pricing agreements and other tax rulings for allocation of income among countries

COUNTRY BY COUNTRY REPORTING

Country by Country Reporting - Applicability

Applicability



The total consolidated group revenue as per CFS in accounting year is **INR 55,000 million or more.**

- ✓ **Reporting template for CbCR is as per OECD regulations.**
- ✓ Indian entity is required to file CbCR, if it qualifies for above threshold and if it is alternate reporting entity of Group or where parent entity is not required to file CbCR in its country/territory or where such country/territory does not have agreement providing exchange of such reports .
- ✓ Various reporting due dates for CbCR is mentioned in Annexure B at the end.

CbCR Template: Part A

Part A: Overview of allocation of income, taxes and business activities by tax jurisdictions.

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>							

CbCR Template: Part A

Content of Part A	Description
Tax Jurisdiction	List all of the tax jurisdictions in which Constituent Entities (CEs) of the MNE group are resident for tax purposes
Revenues	
(i) Unrelated Party	(i) the sum of revenues of all the CEs generated from transactions with associated enterprises
(ii) Related party	(ii) the sum of revenues of all the CEs in the relevant tax jurisdiction generated from transactions with independent parties
(iii) Total	(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 dividend income received from other CEs.

CbCR Template: Part A

Content of Part A	Description
Profit (Loss) before Income Tax	The profit (loss) before income tax should include all extraordinary income and expense items.
Income Tax Paid (on Cash Basis)	The total amount of income tax actually paid during the relevant fiscal year by all the CEs resident for tax purposes in the relevant tax jurisdiction. Taxes paid should include withholding taxes paid by other entities.
Income Tax Accrued – Reportable Accounting Year	Accrued current tax expenses recorded on taxable profits or losses of CEs for tax purposes. It should not include deferred taxes or provisions for uncertain tax liabilities.
Stated Capital	The sum of the stated capital of all the CEs resident for tax purposes.

CbCR Template: Part A

Content of Part A	Description
Accumulated Earnings	The sum of the total accumulated earnings of all the CEs resident for tax purposes
Number of Employees	The Reporting MNE should report the total number of employees on a full-time equivalent (FTE) basis of all the CEs resident for tax purposes
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 the CEs resident for tax purposes. Tangible assets for this purpose do not include cash or cash equivalents, intangibles, or financial assets.

CbCR Template: Part B

Part B: List of all 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.													

CbCR Template: Part B

Content of Part B	Description
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 CEs of the MNE group which are resident for tax purposes.
Tax Jurisdiction of Organisation or Incorporation if different from Tax Jurisdiction of Residence	Report the name of the tax jurisdiction under whose laws the CE of the MNE is organised or incorporated if it is different from the tax jurisdiction of residence.
Main Business Activity(ies)	<p>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.</p> <p>If the reporting MNE chooses the option 'Other', then it has to specify the nature of the activity of the CE in the "Part C: Additional Information" section.</p>

CbCR Template: Part C

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)

Penalty

Particulars	Penalty
Failure to submit Master File	INR 5,00,000
Providing inaccurate information in CbCR report	INR 5,00,000
Failure to furnish CbCR report on or before due date by parent entity or alternate reporting entity, resident in India	Upto one month – INR 5,000 per day Beyond one month – INR 15,000 per day
Failure to furnish Form 3CEB (Transfer Pricing Audit Report)	INR 1,00,000

Penalty

Particulars	Penalty
Failure to report any transactions under Transfer Pricing	Sum equal to 200% of the amount of tax payable on under-reported income
Failure to keep and maintain information and documents under Transfer pricing	Sum equal to 2% of the value of transaction
Failure to furnish information or document as called by the Tax Officer	Sum equal to 2% of the value of transaction

Annexure A – Due dates for Master File

Relevant Forms	To be furnished by	Threshold	Due date		
			FY 2016-17	FY 2017-18 onwards	
3CEAA (Submission of Master File)	Part A: All entities of International Group irrespective of threshold criteria	No Threshold			
	Part B: Constituent entity fulfilling the threshold criteria	1. Consolidated group revenue exceeds INR 5000 million AND 2. Aggregate value of international transactions a. Exceeds INR 500 million or b. In relation to intangibles exceeds INR 100 million	31 st March	30th following of year	Nov end
3CEAB	Intimation by designated constituent entity (Where there are more than 1 entities resident in India)	Not applicable	1st March 2018	31st following of year	Oct end

Annexure B – Due dates for CbCR

Relevant Forms	To be furnished by	Threshold	Due date	
			FY 2016-17	FY 2017-18 onwards
3CEAC	Intimation to be given by Constituent entity resident in India whether it is Alternate Reporting Entity (ARE) of Group or details of Parent Entity/ARE and their country/territory of residence .	Total consolidated group revenue as per CFS in accounting year is INR 55000 million or more.	31st Jan 2018	Atleast 2 months prior to the due date of furnishing of Form 3CEAD
3CEAD (Submission of CbCR)	Parent Entity/Alternate reporting entity /constituent entity resident in India if required to file.		31st March 2018	12 months from the end of accounting year of Reporting entity
3CEAE	Intimation on behalf of group		Not specified	Not specified

When You Win,
We Win!



Address:

Benefice Business House, 3rd
Level, 126, Mathuradas Mills
Compound,
N. M. Joshi Marg, Lower Parel
(W), Mumbai – 400013, India.

Contact Details:

☎: +91 22 3321 37 37

📠: +91 22 3321 38 38

✉: reachus@gbcaindia.com

Disclaimer:

The information contained in this write up is to provide a general guidance to the intended user. The information is based on our interpretation of various prevailing laws, rules, regulations, pronouncements as on date mentioned below. The information should not be used as a substitute for specific consultations. The information has been provided in simplified manner for general reference of the public which can lead to interpretation not intended under law. Hence, we recommend that professional advice is sought before taking any action on specific issues. No part of this document should be distributed or copied by anyone without express written permission of the publisher.