

Global Tax Update

India

Deloitte Tohmatsu Tax Co.

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1. India releases¹ the final rules on Country-by-Country Reporting and Master File requirements²

On May 5, 2016, India introduced core elements of the Country-by-Country (“CbC”) reporting requirement and the concept of Master File in the Indian Income Tax Act, 1961 (“the Act”) through Finance Act 2016, effective from 1 April 2016.

The CBDT has on 31 October 2017 released the rules on CbC reporting and Master File requirements in India.

We have provided below a brief snapshot of the key provisions of the rules:

(1) Master File

- Following entities are required to file the Master File in India (Form No. 3CEAA)

Part A of Master File – Part A comprises of basic information relating to the International Group (“IG”) and the constituent entities of the IG operating in India (such as name, permanent account number and address). The final rules have clarified that Part A of the Master File will be required to be filed by every constituent entity of an IG, without applicability of any threshold;

Part B of Master File – 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. Every constituent entity of an IG that meets the following threshold will be required to file Part B of Master File:

- the consolidated group revenue for the accounting year exceeds INR 5,000 million; and
- for the accounting year, the aggregate value of international transactions exceeds INR 500 million, or aggregate value of intangible property related international transactions exceeds INR 100 million.

- The Master File information required to be submitted in India is largely consistent with BEPS Action 13 requirements. However, few additional data requirements have been incorporated in the final rules, requiring IGs to customize their Master File for India.
- The final rules provide that the accounting year for which the Master File is being submitted has to be specified in Part A of the Master File.
- The Master File has to be furnished by the due date of filing the income-tax return i.e. 30 November following the financial year. However, for financial year 2016-17 (“FY 2016-17”), the due date is extended to 31 March 2018. IGs with multiple constituent entities in India can designate one Indian constituent entity to file the Master File in India, provided an intimation to this effect is made in Form No. 3CEAB, 30 days prior to the due date for filing the Master File in India.

(2) CbC report

- The threshold for applicability of CbC reporting has been specified as consolidated group revenue of INR 55,000 million in the preceding year.

1 vide notification no. 92/2017

2 Transfer pricing related compliances

- The format of the CbC report (Form No. 3CEAD) is aligned with the BEPS Action 13 template.
- The due date for filing the CbC report in India continues to be the due date for filing the income-tax return i.e. 30 November following the financial year. However, for FY 2016-17, the due date is extended to 31 March 2018³

(3) CbC report notification

- Every Indian constituent entity of an IG headquartered outside India (“foreign IG”) is required to file the CbC report notification in the prescribed format (Form No. 3CEAC).
- The “reportable accounting year” has to be specified in the Form No. 3CEAC.
- The CbC report notification is required to be filed atleast two months prior to the due date for filing the CbC report, that is aligned to the due date for filing the income-tax return of the Indian constituent entity. As mentioned above, the due date for filing the CbC report for FY 2016-17 has been extended to 31 March 2018 and accordingly, the due date for the first CbC report notification for FY 2016-17 has also been extended to 31 January 2018.
- Currently no option has been provided for filing a consolidated CbC report notification for multiple Indian constituent entities of a foreign IG.

For more details, please refer [this Alert](#) (Deloitte India Website)

2. All exporters to furnish letter of undertaking (LUT) in place of a bond for export without payment of Integrated Goods and Services tax (IGST)⁴

Goods and Services Tax (GST)⁵ law initially prescribed that export without payment of IGST could be done only after filing a bond and LUT, as applicable to the exporter.

Furnishing of bond was time consuming and caused lot of hardships to the exporters.

To ease out the export process, Government has prescribed furnishing of LUT in place of a Bond, for

all exporters (including Japanese companies in India undertaking exports out of India), on complying with specified conditions.

The provisions of this notification apply in the same way to zero rated supply of goods or services made by a registered person to an special economic zones or units registered there, without payment of IGST.

3. Exemption from payment of GST for supplies received from unregistered persons⁶

GST registered person was earlier liable to pay tax under reverse charge for supplies, where the aggregate value exceeded Rs. 5,000/- in a day, received from an unregistered supplier.

The Government has now exempted supplies of goods or services received by a registered person from any supplier, who is not registered, from the whole of the tax until 31st March 2018.

4. Introduction of a new invoice format for supplies to unregistered person⁷

The Central Goods and Services Tax Rules, 2017, have been amended to introduce the Concept of “Invoice cum Bill of Supply” where a taxable person supplies taxable as well as exempted goods or services or both to an unregistered person, a single “invoice cum bill of supply” may be issued.

Earlier, “Tax Invoices” were issued for taxable supplies and “Bill of Supply” was issued for exempt supplies.

5. Issuance of a consolidated invoice by a banking company/financial institution/non-banking financial company⁸

A banking company, financial institution including non-banking financial company shall issue “consolidated tax invoice”, in lieu of “tax invoice” “for supply of services made during a month” at the end of the month.

³ As per the CBDT Circular 26/2017 released on 25 October 2017.

⁴ Notification No. 37/2017 – Central Tax dated 4th October, 2017

⁵ The new indirect tax law in India that was implemented from 1 July 2017.

⁶ Notification No. 32/2017 – Integrated Tax (Rate) dt. 13-10-2017 and Notification No. 38/2017 – Central Tax (Rate) dated 13th October, 2017

⁷ Notification No. 45/2017 – Central Tax dated 13th October, 2017

⁸ Notification No. 45/2017 – Central Tax dated 13th October, 2017

6. Changes in the Customs Valuation Rules for determining the value of imported goods⁹

Rule 10(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 which provide for inclusions in the value of imported goods to determine the Assessable Value has been amended vide Notification dated 26 September 2017.

Prior to the amendment, the Rules mandated inclusion of cost of loading, unloading and handling charges at the place of importation in the assessable value at a notional rate of 1% of the sum of FOB (Free on board) value, cost of transportation and cost of insurance irrespective of the actual cost.

The notional 1% inclusion of cost of loading, unloading and handling charges associated with the delivery of imported goods at the place of importation has now been done away with and only the actual cost is required to be included in the Assessable Value, if ascertainable.

The 'place of importation' has now been defined to mean customs station where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse.

If the cost of transportation, loading, unloading and handling charges is not ascertainable, the same shall be taken as 20% of the FOB value (In case of import of goods by air the same shall be restricted to 20% of the FOB Value where actual cost is more).

Further, prior to the amendment, only the freight charges incurred for movement of imported goods by sea from the port of entry to the Inland Container Depot or Container Freight Station were excluded from the computation of transaction value. However now the cost of insurance, transport, loading, unloading and handling charges associated with transshipment shall be excluded when the goods imported by sea or air are transshipped to another customs station in India.

⁹ Notification No. 91/2017-Customs (N.T.) dated 26 September 2017

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