

Section 92D shall be substituted for the existing section 92D by the Act No. 23 of 2019, w.e.f. 01-04-2020 :

92D. (1) Every person, -

(i) who has entered into an international transaction or specified domestic transaction shall keep and maintain such information and document in respect thereof as may be prescribed

(ii) being a constituent entity of an international group, shall keep and maintain such information and document in respect of an international group as may be prescribed (Rule 10DA)

Meaning of constituent entity & Accounting Year

- ▶ Any separate entity of an international group that is included in the consolidated financial statement of the said group for financial reporting purpose.

Accounting year Means :-

- (i) A previous year , in a case where the parent entity is resident in India or
- (ii) An annual accounting period , with respect to which the parent entity of the international group prepares its financial statement 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

Meaning of Parent entity & International group

- Parent entity means a constituent entity of an 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 standard of the country or territory of which the entity is resident.
- International group 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.

Why Master file introduced by CBDT (Section 92D Sub-section 1) ?

As per Organization for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting (BEPS) action plan 13 in addition to the country-by-country report companies also need to prepare & file Master file. Since India is the member of G-20 countries , So therefore India introduced a few BEPS Action Plans in Finance Act, 2016. The major one has been the introduction of the concepts of Master File & Country by Country (CbC) reporting in the Indian transfer pricing (TP) regulations with effect from the financial year beginning 1st April 2016 , in line with BEPS Action Plan 13.

Rule 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 account, 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 arrangement 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

Rule 10DA (Continue)-

- (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;
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- (d) A description of the overall strategy of the international group of 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;

Rule 10DA (Continue)-

- (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 arrangement 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 information and document specified under sub-rule (1) shall be furnished to the joint commissioner referred to in sub-rule(1) of rule 10DB, in Form No. 3CEAA on or before the due date for furnishing the return of income as specified under sub-section(1) of section 139.
- (3) The constituent entity shall furnish Part A of Form No. 3 CEAA even if the conditions specified under sub-rule (1) are not satisfied
- (4) Where there are more than one constituent entities resident in India of an international group, the Form No. 3CEAA may be furnished by any one constituent entity , if
- (a) The international group has designated such entity for this purpose and
 - (b) The information has been conveyed in Form No. 3CEAB to the Joint Commissioner referred to in sub-rule (1) of rule 10DB, in this behalf thirty days before the due date of furnishing the Form No. 3CEAA

Rule 10DA (Continue)-

- (5) The principal Director General of Income tax or Director General of Income - Tax, 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.
- (6) 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.
- (7) 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. (Rule 26)

Forms



3CEAB



3CEAA