

Transfer Pricing Master File and CbC Reporting Norms Decoded

November 2017

(Privileged and Confidential)

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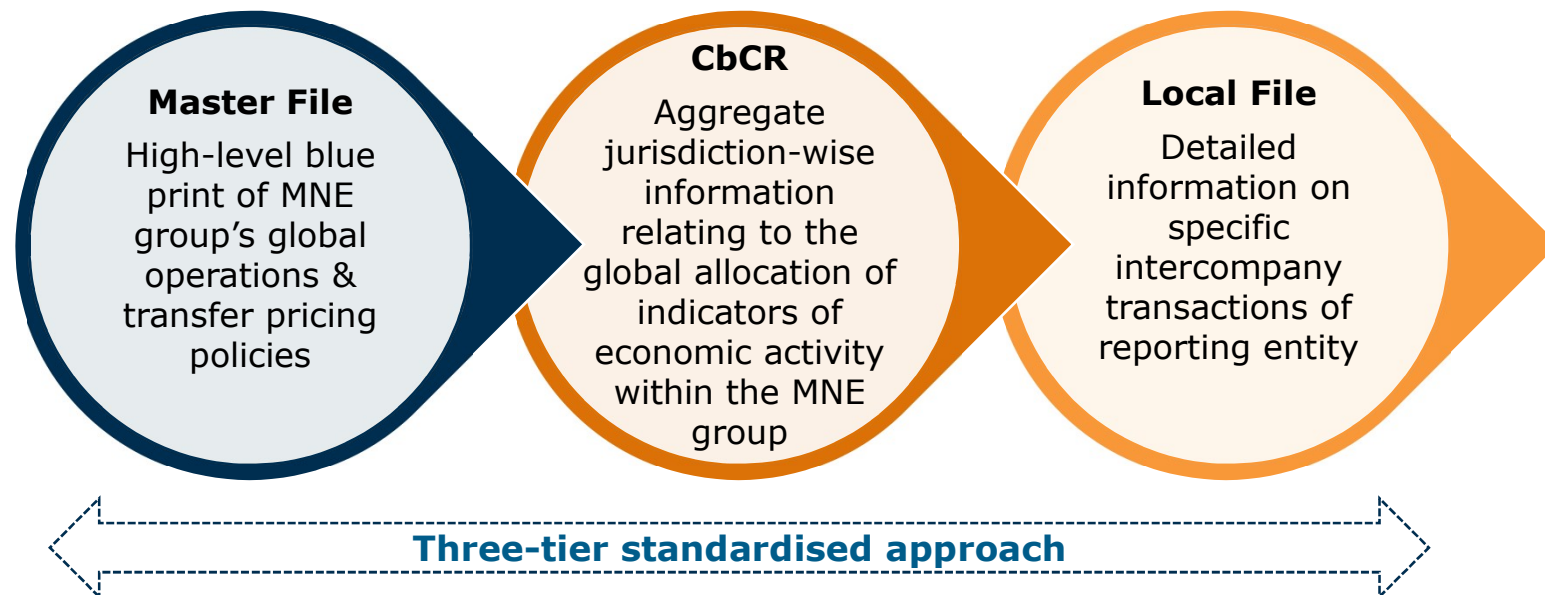
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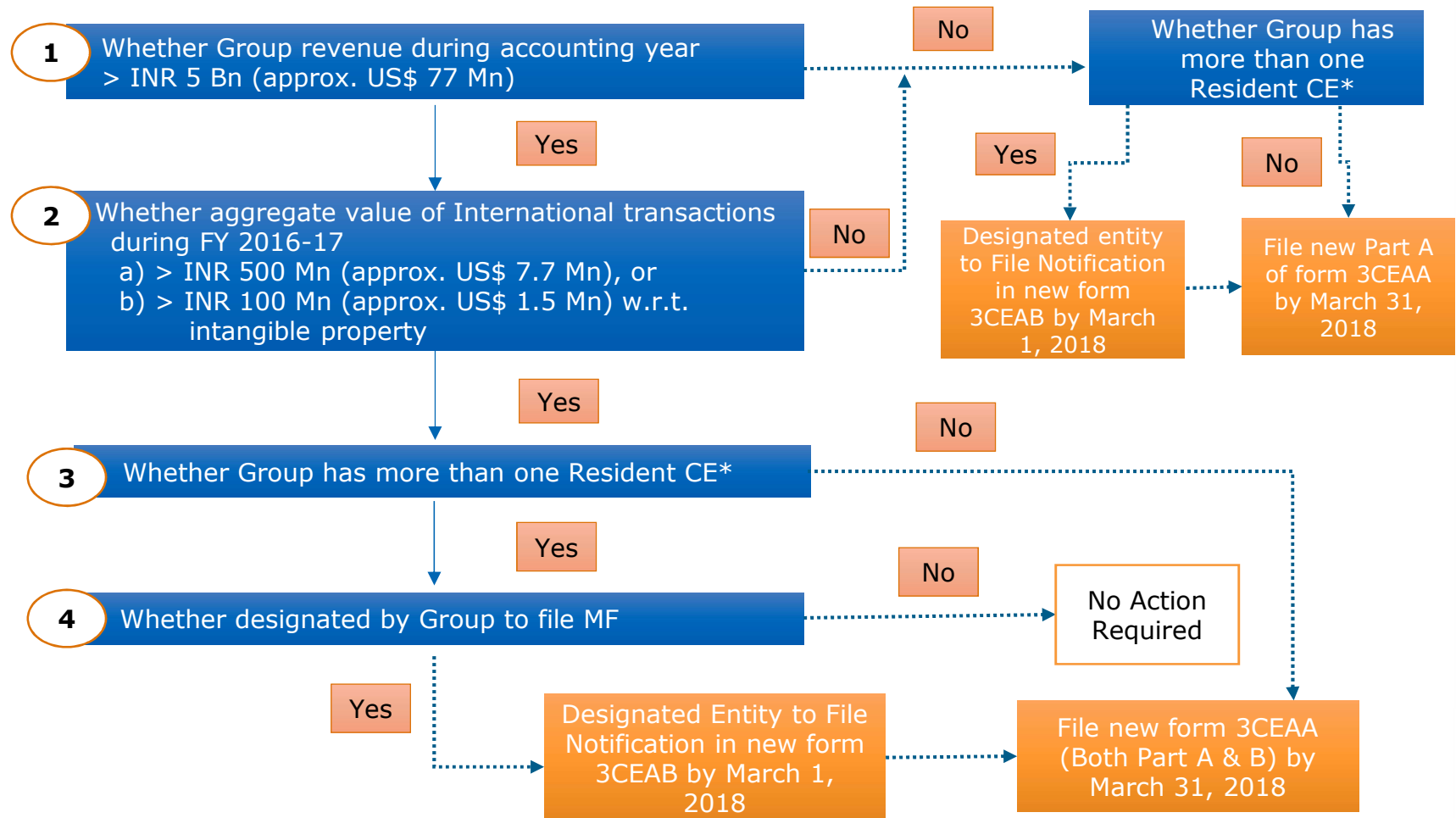
New Approach to Transfer Pricing Documentation

- ❑ India introduced Master File ('MF') & Country-by-Country Reporting ('CbCR') norms through Fiscal Budget 2016
- ❑ Reporting requirements largely in line with BEPS Action Plan 13* with a few additional measures and significant penalties in case of violation
- ❑ Detailed rules laying down guidelines, procedures and formats released on October 31, 2017

OECD's report on BEPS Action Plan 13 (issued in October 2015) provides a framework for a **3-tier standardized approach to Transfer Pricing Documentation to tackle the nuances of base erosion and profit shifting by MNE groups.*



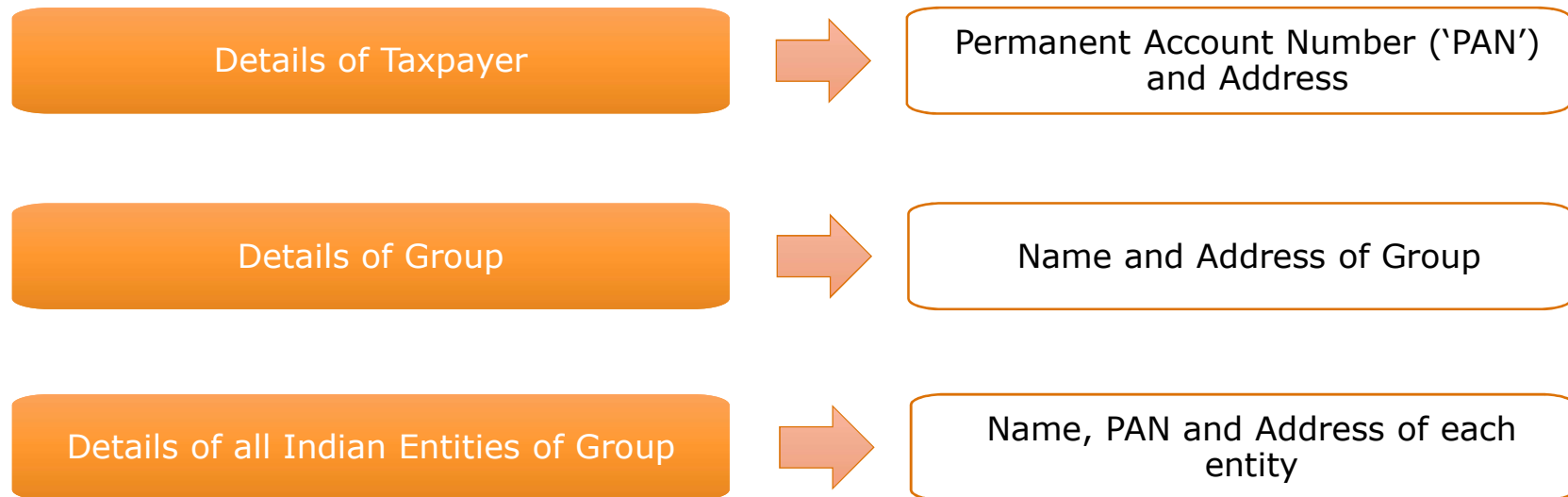
Master File – Eligibility Test



*CE – Constituent Entity

Contents of Master File – Form 3CEAA (Part A)

Part A is mandatory for e-filing by every constituent entity even if prescribed threshold is not met



Contents of Master File – Form 3CEAA (Part B)

Part B is mandatory for e-filing by every Constituent Entity satisfying the prescribed threshold

Exhaustive and Descriptive Information of Group

Organizational Structure

- Chart depicting legal & ownership structures and location of operating entities
- Nature of Business, key profit drivers, supply chain
- Major geographical markets served
- Important Intra-group service agreements and policy
- FAR analysis of main entities having > 10% revenue or assets or profits
- Important business reorganization, acquisition, disposal

Financial and Tax Positions

- Annual Consolidated financial statement
- List and brief description of unilateral APA
- Tax Ruling for allocation of income

Intangibles

- List of important intangible property owned
- Overall strategy on development, ownership and exploitation
- Principal R&D facility & management
- Entities engaged in R&D and owners of Intangibles
- Inter-co agreements and TP policies
- Important transfers of interest in Intangibles

Intercompany Financial Activities

- Description of Intra-group financing arrangement
- Particulars of top 10 unrelated lenders
- Details of entities providing central financing functions including place of operation & effective management
- TP policies related to financing arrangements between related entities

Master File – Timelines & Other Considerations

Key Aspect	Particulars
Due Date of Filing	Master File - On or before Due date of filing ROI i.e. November 30 th of Assessment Year <i>(Extended to March 31, 2018 for FY 2016-17)</i> Notification – 30 days prior to due date of filing Master File <i>(i.e. by March 1, 2018 for FY 2016-17)</i>
Mode of Filing	Electronic*
Signing Person	Person competent to verify the ITR i.e. Managing Director or any other Director or person holding a valid Power of Attorney
Penalty	Failure to Furnish Master File – INR 500,000 (approx. US\$ 7,700)
Conversion Rate (for computing INR value of Group Revenue)	Telegraphic transfer ('TT') buying rate on last day of accounting year, as quoted by State Bank of India ('SBI') <i>(Refer Appendix 1)</i>
Meaning of Accounting Year	In case of resident entity - FY 2016-17 In case of foreign entity – 12-month period for which financial statements are prepared pursuant to the law of country of residence of such foreign entity

*Filing format/utility yet to be specified

Master File – Our Service Offerings

Examining Eligibility Criteria

- Analysing impact of the revised documentation norms from Indian TP perspective

Assistance in Preparation of Global Documentation

- Identification of Master File Documentation requirement under Indian TPR
- Ensuring reporting of information consistent with Other Local filings

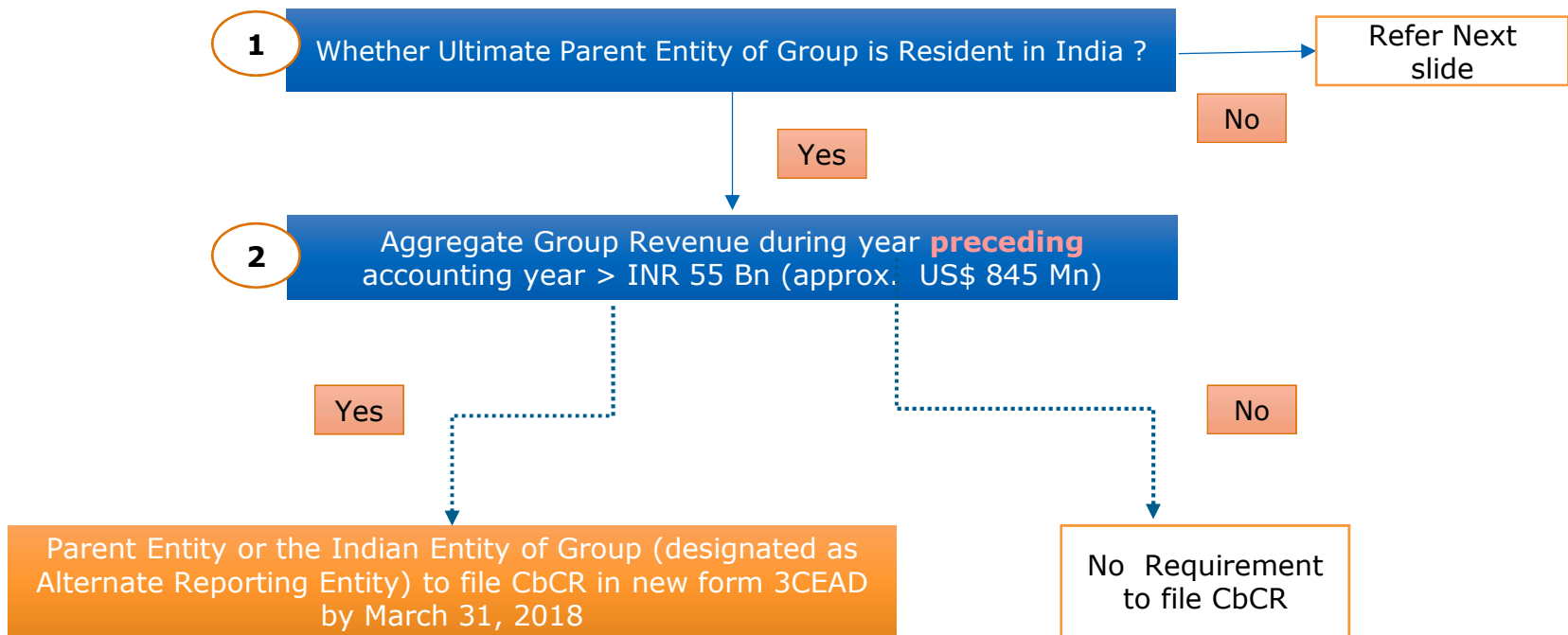
Review of Existing Documentation

- Assessing the additional documentation requirements from Indian TP perspective
- Review of information disclosed in Master File and Local File and identify any inconsistencies and offer remedial actions

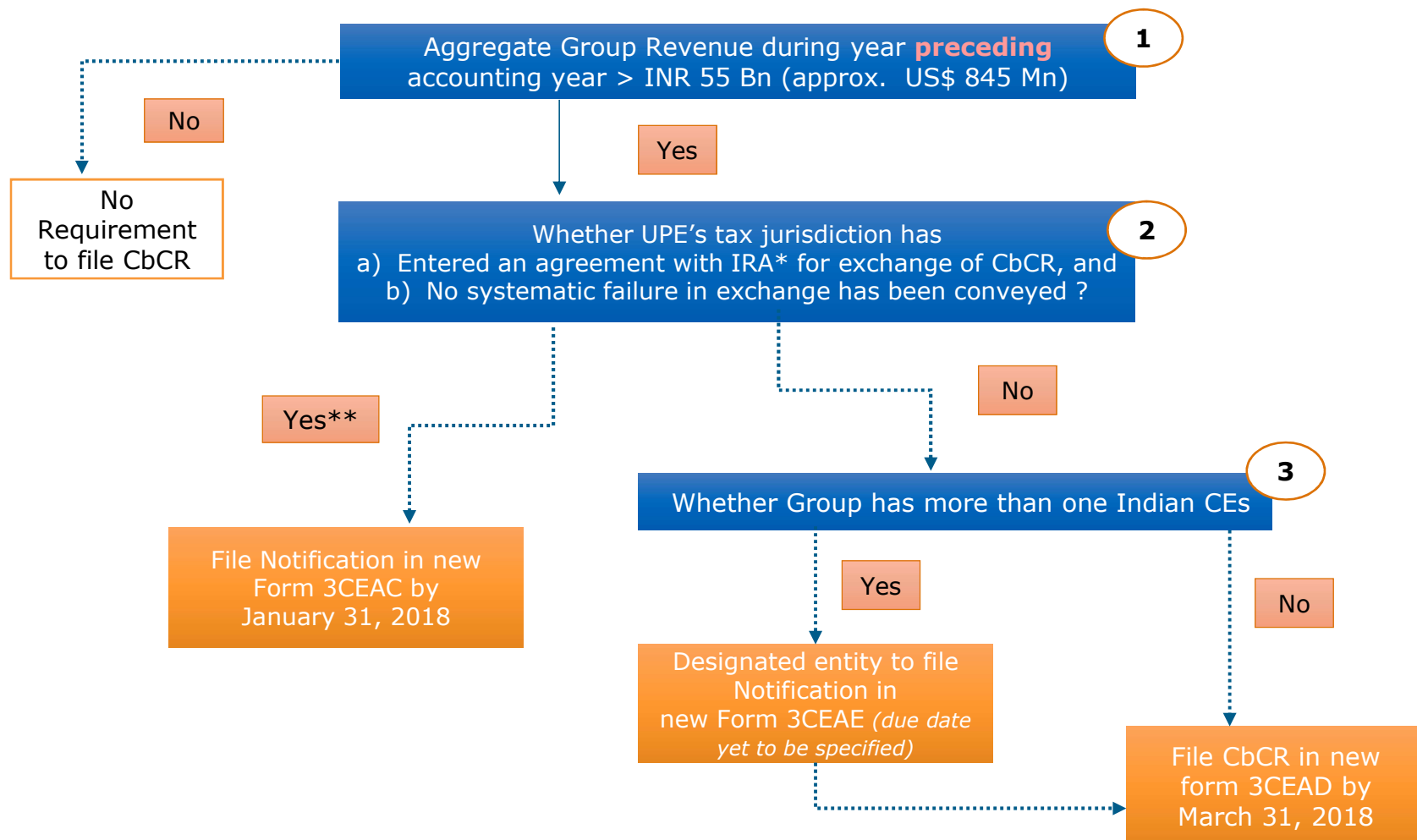
Furnishing Information in Prescribed Forms before IRA

- Filing of Notification before prescribed authorities
- Assistance in E-filing of Master File in Form 3CEAA

CbCR – Eligibility Test (Indian Outbound Group)



CbCR – Eligibility Test (Foreign Inbound Group)

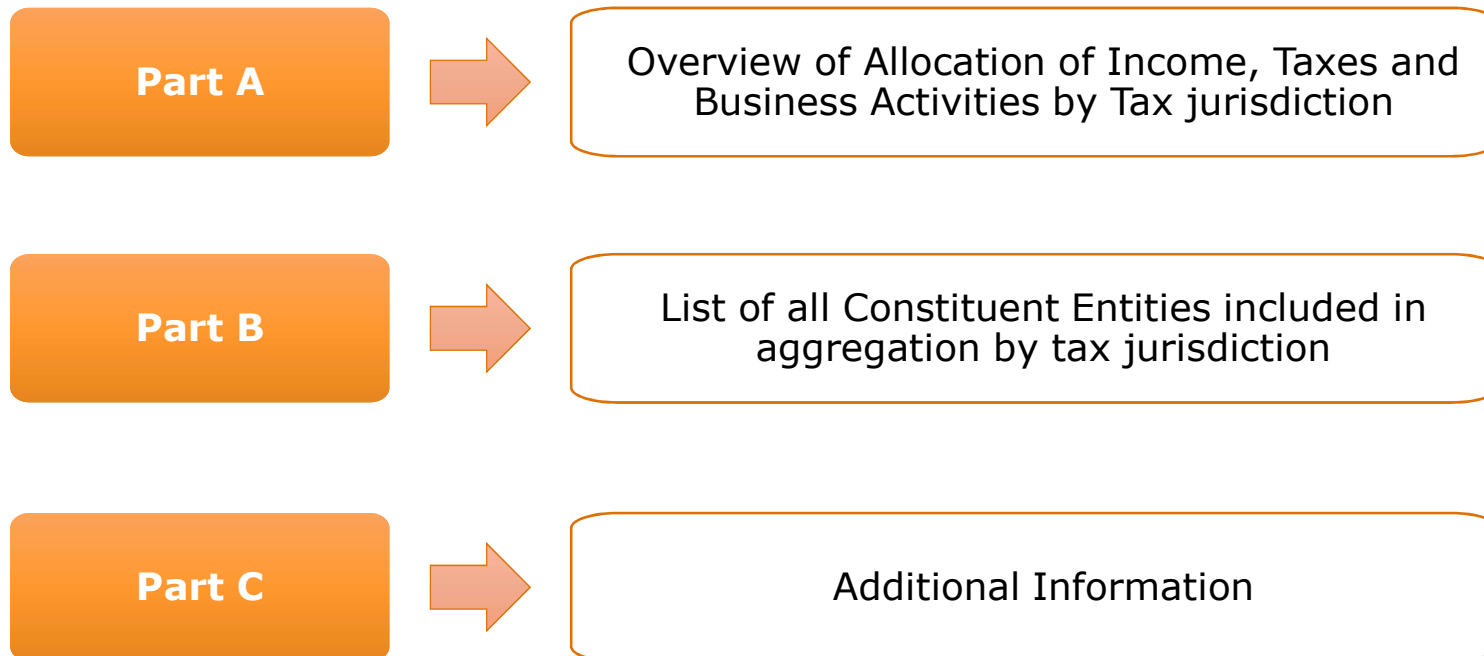


* IRA –Indian Revenue Authorities

** Indicates a scenario when CbCR can be shared amongst tax authorities

Contents of CbC Reporting– Form 3CEAD

CbC reporting form is divided in three Parts



CbC Reporting – Timelines & Other Considerations

Key Aspect	Particulars
Due Date of Filing	CbC Reporting - On or before Due date of filing ROI i.e. November 30 th of Assessment Year <i>(Extended to March 31, 2018 for FY 2016-17)</i> Notification – 2 months prior to due date of filing CbCR (i.e. <i>January 31, 2018 for FY 2016-17</i>)
Mode of Filing	Electronic
Signing Person	Person competent to verify the ITR i.e. Managing Director or any other Director or person holding a valid Power of Attorney
Conversion Rate (for computing INR value of Group Revenue)	Telegraphic transfer ('TT') buying rate on <i>last day of the year preceding</i> the accounting year, as quoted by State Bank of India ('SBI') <i>(Refer Appendix 1)</i>
Meaning of Accounting Year	For Indian resident entity - FY 2016-17 For foreign entity – 12-month period for which financial statements are prepared pursuant to the law of country of residence of such foreign entity

CbC Reporting – Penalties on Non-compliance

Nature of Default	Penalty	
Non-furnishing of CbC Report	Less than a month from due date	INR 5,000 (approx. US\$ 77) per day
	Beyond a month from due date	INR 15,000 (approx. US\$230) per day for period exceeding a month
	Continuing Default beyond service of penalty order	INR 50,000 (approx. US\$ 780) per day from date of service of penalty order
Non-submission of information called by IRA	Upon service of penalty order	INR 5,000 (approx. US\$ 77) per day
	Continuing Default beyond service of penalty order	INR 50,000 (approx. US\$ 780) per day from date of service of penalty order
Furnishing inaccurate particulars in CbC Report	INR 500,000 (approx. US\$ 7,700)	

CbC Reporting – Our Service Offerings

Examining Eligibility Criteria

- Analysing impact of the revised documentation norms from Indian TP perspective

Assistance in Preparation of CbC Report

- Identification of CbC Reporting requirement under Indian TPR
- Ensuring reporting of information consistent with Other Local filings including Master File and Local File

Review of Existing CbC Report

- Assessing the additional documentation requirements from Indian TP perspective
- Review of information disclosed in CbC Report and identify any inconsistencies vis-à-vis Master File and Local File and offer remedial actions

Furnishing Information in Prescribed Forms before IRA

- Filing of Notification before prescribed authorities
- Assistance in E-filing of CbCR in Form 3CEAD

Appendix 1 – Foreign Exchange Rate

(Amounts in INR)

Accounting Year Ended	1 USD	1 GBP	1 JPY
September 30, 2015	65.45	98.99	0.5440
December 31, 2015	65.75	97.15	0.5440
September 30, 2016	66.00	85.31	0.6474
December 31, 2016	67.19	82.14	0.5735
March 31, 2016	65.92	94.27	0.5843
March 31, 2017	64.10	79.64	0.5695

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