Documentation Requirement & Clause-by-Clause Analysis of Form 3CEB

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Discussion Points

- Brief Introduction
- TP Introduction and legal provisions
- Documentation Requirement & BEPS Action Plan 13
- Clause by Clause Analysis of Form 3CEB
- Key points to remember

Indian TP Regulations

Sections	Particulars
92	Computation of income from international transaction as per ALP
92A	Associated enterprises
92B	International transaction
92BA	Specified domestic transactions
92C	Arm's length Price
92CA	Reference to TPO
92CB	Safe harbour rules
92CC	Advance Pricing Agreement
92CE	Secondary Adjustment
92D	***Documentation***
92E	***Accountants' Report***
92F	Definitions
94B	Thin Capitalization
286	CbCr Regulations

Rules	Particulars
10A	Meaning of expressions used in computation of arm's length price
10AB	Other method for determination of arm's length price
10B	International transaction
10C	Most Appropriate Method (MAM)
10CA	Computation of Arm's Length Price in certain cases (range from AY 2015-16)
10CB	Computation of interest income pursuant to secondary Adjustments
10D	***Information and documents to be kept and maintained u/s 92D***
10DA	***Master File Rules- AY 2017-18***
10DB	***CbCR Rules-AY 2017-18***
10E	***Report from an accountant to be furnished u/s 92E***
10F to 10T	APA rules
10TA to 10THD	Safe Harbour Rules

Legal Requirement – Section 92E

Every person who has entered into an international transaction or specified domestic transaction during a previous year

Shall obtain a report from an accountant (Form 3CEB)

Form 3CEB must be filed electronically, one month prior to the due date for furnishing the return of income under sub-section (1) of section 139 for the relevant assessment year.

Legal Requirement – Section 92E

- The accountant is required to certify on following points:
  - The Arm's Length Price computed by the taxpayer is correct;
  - Appropriate documentation has been maintained; and
  - Reporting of the transactions is TRUE and CORRECT.

Minimum Threshold to file Form 3CEB??

- For reporting International Transaction – No minimum value;
- For report SDTs – To be reported in case value exceeds INR 20 crores (Section 92BA of ITA)

BEPS Action Plan 13 - Three-tiered Standardized Approach

- Organisation for Economic Co-operation and Development's (OECD), BEPS Action 13 has provided for a three-tier structure for TP documentation, namely Master File, Local File and Country by Country ("CbC") reporting framework.

Objectives of transfer pricing documentation requirements

- to ensure that taxpayers give *appropriate consideration to transfer pricing requirements* in establishing prices and other conditions for transactions between associated enterprises and in reporting the income derived from such transactions in their tax returns;
- to provide tax administrations with the information necessary to conduct an informed *transfer pricing risk assessment*; and
- to provide tax administrations with useful information to employ in conducting a thorough *audit of the transfer pricing practices of entities* subject to tax in their jurisdiction, although it may be necessary to supplement the documentation with additional information as the audit progresses.

BEPS Action Plan 13 - Three-tiered Standardized Approach

Master File

Overview of MNE group business , nature of global business, its overall transfer pricing policies, and its global allocation of income and economic activity

Local File

Detailed information relating to specific intercompany transactions of the local taxpayer

CbCr

Information pertaining to global allocation of the MNE's income and taxed paid together with certain indicators of the location of economic activity within the MNE group

Local File - Legislative Requirement in India – Section 92D read with Rule 10D

- *Section 92D:*
  - Every person who has entered into an international transaction or SDT shall keep and maintain such information and document in respect thereof, as may be prescribed.
- *Rule 10D*
  - Elaborate list of documentation to be maintained by the assessee to substantiate that the international transactions has been undertaken in accordance with arm's length principles.
  - TP documentation may not be required to be maintained in case value of international transaction as recorded in the books of account does not exceed INR 1 crores.
  - Due date is 1 month prior to filing of return of income. Further, this documentation should be in place prior to filing of Form 3CEB.
- *Submitting TP documentation during assessment:*
  - To be submitted within a period of thirty days from the date of receipt of a notice issued.
  - 30 more days may be allowed on filing an application before Assessing Officer/ Commissioner (Appeals).

Master File - Legislative Requirement in India – Section 92D read with Rule 10DA

- *Section 92D(1):*
  - Applicability –
    - Consolidated group revenue of the international group, as reflected in the consolidated financial statement of the international group for the accounting year, exceeds five hundred crore rupees;

      and

    - *the aggregate value of international transactions,—*
      - *during the accounting year, as per the books of account, exceeds fifty crore rupees, or*
      - *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.*
  - *To be filed in Form 3CEAA by due date of Income Tax Return with Director General of Income-tax (Risk Assessment) electronically.*
  - For multiple group entities, one entity to be designated and notification pertaining the same to be filed before 30 days of the due date of filing the MF in Form 3CEAB.
  - Constituent entities not fulfilling the thresholds to file certain general information – Form 3CEAA (Part A).

CbCr - Legislative Requirement in India – Section 286 read with Rule 10DB

- *Section 286:*
  - Applicability – CbCR is applicable to taxpayers having an annual consolidated group turnover of over INR 6,400 crore in the immediately preceding financial year.

Who	Form	When
CE resident in India, which is part of an international group and whose parent is a non-resident	Form No. 3CEAC (Notification)	At least two months prior to the due date of furnishing ROI
Parent entity, or alternate reporting entity, that is: • resident in India; and • part of an international group, the consolidated group revenue of which exceeds the prescribed threshold	Form No. 3CEAD (CbC report)	Within 12 months from the end of the Accounting Year
CE resident in India, that is part of an international group and whose parent is non-resident [and if conditions of section 286(4) of the Indian Income-tax Act ('the Act') are satisfied]	Form No. 3CEAD (CbC report)	Filing date will be contingent to the provisions of section 286(4) of the Act
The designated entity, where there are multiple CEs resident in India that are part of the same international group and whose parent is non-resident [and if conditions of section 286(4) of the Act are satisfied]	Form No. 3CEAE (Intimation)	Not specified, as the filing date will be contingent to the provisions of section 286(4) of the Act

Form 3CEB

Instructions | Form 3CEB | Annexure PART A | Annexure PART B(International Transactions) | Annexure PART C(Specified Domestic Transactions)

Form 3CEB

FORM 3CEB

[See rule 10E]

Report from an accountant to be furnished under section 92E relating to international transaction(s) and specified domestic transaction(s)

1* Select have examined the accounts and records of * Name

Address
*

* PAN relating to the international transaction(s) and specified domestic transaction(s) entered into by the assessee during the previous year ending on 31st March, * Select

2. In opinion proper information and documents as are prescribed * Select kept by the assessee in respect of the international transaction(s) and the specified domestic transaction(s) entered into so far as appears from examination of the records of the assessee.

3. The particulars required to be furnished under section 92E are given in the Annexure to this Form. In opinion and to the best of information and according to the explanations given to , the particulars given in the Annexure are true and correct.

Form 3CEB – Part A

Annexure PART A

ANNEXURE TO FORM NO. 3CEB

Particulars relating to international transactions and specified domestic transactions required to be furnished under section 92E of the Income-Tax Act, 1961.

PART A

1 Name of the assessee*

2 Address*

3 Permanent account number*

4 Nature of business or activities of the assessee*

S.No		Sector	Sub Sector	Code
1	☐	Select	Select	

Add Delete

Form 3CEB – Part A

4 Nature of business or activities of the assessee*

S.No		Sector	Sub Sector	Code
1	☐	Select	Select	

Add Delete

5 Status* Select

6 Previous year ended:*

7 Assessment year*

8 Aggregate value of international transactions as per books of accounts* 0

9 Aggregate value of specified domestic transactions as per books of accounts* 0

Form 3CEB – Part B – Details pertaining to International Transaction

- **Clause 10:** *List of AEs with whom the assessee has entered into international transaction*

S. No.	Name of the associated enterprise	Nature of the relationship with the associated enterprise as referred to in Section 92A(2)	Brief description of the business carried on by the associated enterprise

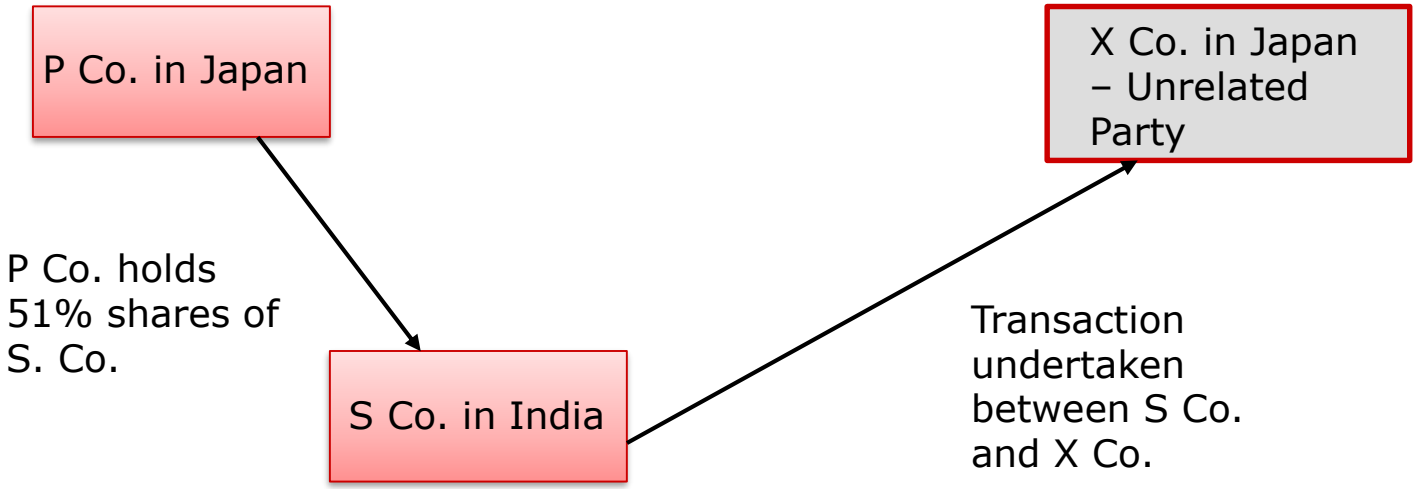
- **Clause 11 to 25:** Form 3CEB 

Form 3CEB – Part B – Details pertaining to International Transactions

Clauses	Brief description of the business carried on by the associated enterprise
10	List of AEs with whom the assessee has entered into international transaction
11A	Particulars in respect of transactions in tangible property – Purchase/sale of raw material, consumables or any other supplies for assembling or processing/manufacturing of goods or articles from/to AEs
11B	Particulars in respect of transactions in tangible property – Purchase/sale of traded or finished goods
11C	Particulars in respect of transactions in tangible property – Purchase, sale, transfer, lease or use of any other tangible property
12	Particulars in respect of transactions in intangible property
13	Particulars in respect of providing of services
14	Particulars in respect of lending or borrowing money
15	Particulars in respect of transactions in the nature of guarantee
16	Particulars in respect of transactions in the nature of purchase or sale of marketable securities, issue and buy back of equity shares, optionally convertible/ partially convertible/ compulsorily convertible debentures/ preference shares.
17	Particulars in respect of mutual agreement or arrangement
18	Particulars in respect of transactions arising due to business restructuring or reorganisations
19	Particulars in respect of any other transactions
20	Particulars in respect of deemed international transactions

Deemed International Transaction – Section 92B(2)

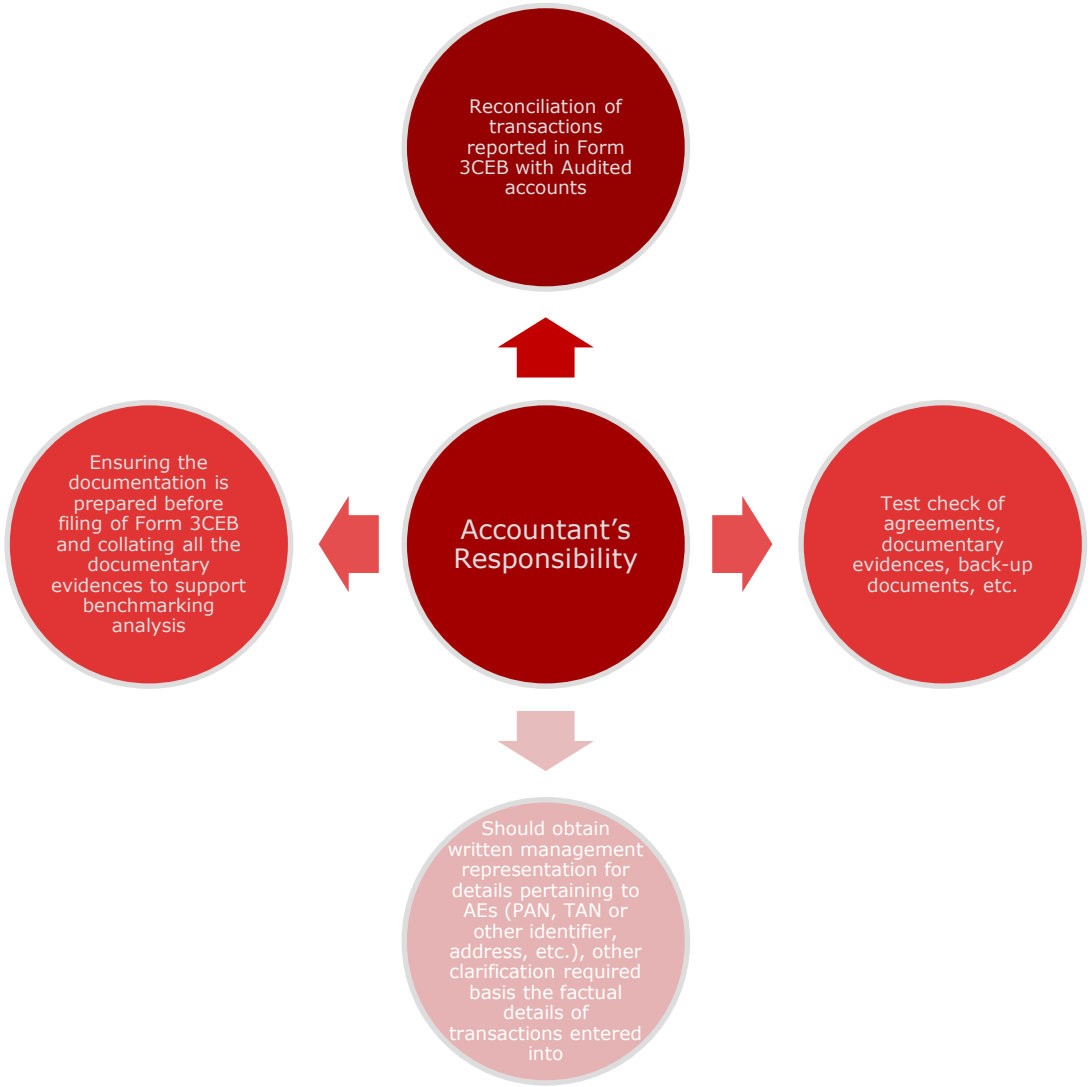
- A transaction between a taxpayer and an unrelated party (whether resident or nonresident), shall be deemed to be a transaction between two AEs if:
  - there is a prior agreement (whether written or oral) in relation to the relevant transaction,
  - or the terms of the relevant transaction are determined in substance between the transacting unrelated party and the AE of the enterprise.



Form 3CEB – Part C – Details pertaining to Specified Domestic Transactions (SDTs)

Clauses	Brief description of the business carried on by the associated enterprise
21	List of AEs with whom the assessee has entered into SDTs
22	Particulars in respect of transactions in nature of transfer or acquisition of any goods or services a) If the unit transferring the goods is as referred to in section 80A(6), 80IA(8) or 10AA of the Act to any other business carried on by the assessee; b) If any unit of the assessee is as as referred to in section 80A(6), 80IA(8) or 10AA of the Act has acquired any goods or services from any other business carried on by the assessee
23	Particulars in respect of transactions with any AEs which has resulted in more than extra ordinary profits to an eligible business unit to which section 80IA(10) or section 10AA applies.
24	Particulars in respect of transactions with any AEs which has resulted in more than extra ordinary profits to an eligible business unit to which section 115BAB applies.
25	Particulars in respect of any other transactions

Key Points to Remember



For any queries, kindly see below contact details:-

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