

# BEPS- Action Plan 13– An Overview

*“Transfer Pricing Documentation and Country-by-Country Reporting”*

# BEPS-AP 13- A likely introduction in Budget, 2016<sup>1</sup>

## India to change laws in Union Budget to make country-by-country reporting mandatory for Indian multinationals

- India will change laws in the upcoming budget to make country-by-country reporting mandatory for Indian multinationals to ensure they follow so-called base erosion and profit shifting (BEPS) guidelines
- Country-by-country reporting is part of the minimum standards that governments are expected to adopt by 2017 as part of BEPS.
- The exercise will provide local tax authorities information about the entire operations of a company and reveal if the company is shifting its profits to a low-tax jurisdiction to evade taxes where they are due
- Provisions on interest deductibility require that only interest payments as a certain percentage of the earnings before interest, tax, depreciation and amortization are permitted to be deducted from profits. But this provision will adversely hit Indian companies saddled with high amounts of debt
- CFC rules are aimed at ensuring that companies do not evade taxes by transferring profits to low-tax jurisdictions. India already has a similar version in the Place of Effective Management rules, or POEM, announced in the last budget.

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1.Source : live mint 30 Januray 2016

# Background -AP-13

## Requirement:

To enhance transparency for tax administration , taking into consideration compliance cost for business

MNE's to provide all relevant Governments with needed information on :-

- Global allocation of income ;
- Economic activity ;
- Taxes paid among countries

such reporting to be according to a common template

# Three-Tiered standardized approach to TP documentation

## Master File

To be provided by MNE's to all relevant tax administrations with high level information regarding their: -

- global business operations ;
- transfer pricing policies

## Local File

To be delivered by MNE's to local tax administrations : -

- Identification of material related party transactions (“RPT”);
- Detailed transfer pricing documentation ;
- Amounts involved in the transactions ;
- Company's TP determination analysis

# Three-Tiered standardized approach to TP documentation

## Country - by- Country Report

To be filed in the ultimate tax jurisdiction of the ultimate parent but share with countries by automatic exchange of information (Tax Information Exchange Agreements {"TIEA"} or DTAA): -

- Revenue/profits ;
- No of employees ;
- Capital ;
- Retained Earnings ;
- Tangible assets ;
- Business activity of each entity

# Objectives

## For tax administrations to :-

- Identify cases of artificial shifting substantial amounts of income into tax advantaged environments;
- Understanding controlling and tacking BEPS behaviors ;
- Assess TP risks ;
- Provide implementation to commence and target audit enquiries

# Adaptations

BEPS Action 13- Final report claims to have considered following apparently conflicting goals and to have struck a balance , viz:-

- Tax administrator's information needs ;
- Concerns about inappropriate use of information and confidentiality issues ;
- Compliance costs

# Applicability

Applies to MNE's with annual consolidated group revenue > Euro 750 mn (or INR 5500 crores)

To apply for F.Y. beginning on or after 1.1.2016

Need for more effective dispute resolution mechanism is addressed

To review in 2020



# Going Forward

## Details of Action Plan 13

- Specifics of various details ;
- Time frame ;
- Materiality ;
- Mode of implementation ;
- Penalties ;
- Formats ;
- Draft Agreement for Authorize exchange of information ;



# Thank You