

FBR to prescribe documentation, CbC reporting requirements

The Federal Board of Revenue (FBR) has decided to prescribe new documentation and country-by-country (CbC) reporting requirements under Multilateral Competent Authorities Agreements for taxpayers to furnish CbC reports and other information pertaining to related parties' transactions to the FBR, besides the commissioners. The FBR has recently issued SRO 99(I)/2018 to propose amendments to the Income Tax Rules, 2002.

A tax expert said that the Multilateral Competent Authorities Agreement is related to exchange of country-by-country reports (CbC MCAA) aimed at sharing detailed financial and tax information of companies with OECD member countries. Recently, the FBR issued SRO 99(I)/2018 requesting comments from interested parties on proposed draft amendments to Chapter VIA of the Income Tax Rules 2002 prescribing documentation and CbC reporting requirements.

Under SRO 99(I)/2018, expert explained that the proposed amendment to rule 27A (2) would oblige taxpayers to furnish CbC reports, master files, local files and other information pertaining to related parties transactions to the FBR, besides the commissioners under section 108 of the Income Tax Ordinance 2001. Under SRO 99(I)/2018, the FBR has introduced a new proviso in rule 27E to provide that the provisions of rule 27E will not be applicable to a constituent entity if the ultimate parent entity or the surrogate parent entity is not required to file CbC report in its jurisdiction of residence due to the reason that total consolidated group revenue, near equivalent amount in domestic currency, is less than EUR 750 million.

The amendment in rule 27G (1) will provide that for tax year 2017, an ultimate parent entity or surrogate parent entity will file the CbC report within 15 months from the end of the reporting fiscal year of the MNE group instead of March 31, 2018 and amendment in rule 27G (2) would provide that for tax year 2017, the CbC reports must be exchanged within 18 months from the end of the reporting fiscal year of the MNE group instead of 30 June 2018.

Under SRO 99(I)/2018, the FBR has introduced sub-rule (3) under rule 27G to provide that provisions of rule 27G will not be applicable for tax year 2017 in respect of constituent entity required to file CbC report under rule 27E and introduced rule 27P to provide that a taxpayer may file an application to the FBR for relaxation of deadlines for furnishing CbC report, master file, local file or other information under these rules. The FBR may recommend an appropriate time period for compliance.

The proposed draft amendments will be considered by the FBR after 7 days of its publication in the Official Gazette. Any objection or suggestion received before the expiry of the aforementioned period will be considered by the FBR. The draft amendment is available on the FBR's website, the FBR added.

Following is the text of the SRO 99(1)/2018 recently issued by the FBR: The following draft of certain further amendments in the Income Tax Rules, 2002, which the Federal Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001), is hereby published for information of all persons

likely to be affected thereby and, as required by sub-section (3) of said section 237, notice is hereby given that objection and suggestions thereon, if any, may be sent to the Federal Board of Revenue within seven days of publication of the draft amendments in the official Gazette.

Any objection or suggestion, which may be received from any person, in respect of the said draft, before the expiry of the aforesaid period, shall be considered by the Federal Board of Revenue, namely:-

DRAFT AMENDMENTS

In the aforesaid Rules, in Chapter VIA,-

(1) in rule 27A,-

(a) in sub-rule (2), after the word "the" occurring for the second time, the words "Board and the" shall be inserted; and

(b) in sub-rule (4), for clause (e), the following shall be substituted, namely:-

"(e) "entity" means a company or association of persons.";

(2) in rule 27E, in the proviso, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that the provisions of this rule shall not apply to a constituent entity if the ultimate parent entity or the surrogate parent entity of the constituent entity is not required to file country-by-country in its jurisdiction of residence only for the reason that as per rules of the jurisdiction of the ultimate parent entity or the surrogate parent entity, total consolidated group revenue, near equivalent amount in domestic currency, is less than seven hundred and fifty million euros.";

(3) in rule 27G,-

(a) in sub-rule (1), in the proviso, for the expression "by thirty first day of March, 2018" the words "not later than fifteen months after the last day of the reporting fiscal year of the MNE group" shall be substituted;

(b) in sub-rule (2), in the proviso, for the expression "by thirtieth day of June, 2018" the words "not later than eighteen months after the last day of the reporting fiscal year of the MNE group" shall be substituted; and

(c) after sub-rule (2), the following new sub-rule shall be added, namely:-

"(3) This rule shall not have effect for tax year 2017 in respect of constituent entity required to file country-by-country report under rule 27E."; and

(4) after rule 270, the following new rule shall be added, namely:-

"27P. Where any time or period has been specified under any of the rules in this Chapter, within which any document, information, file or report is required to be furnished to the Board by certain persons, the Board may, on an application filed by the person, permit through an order in writing, such person to furnish documents, information, files or reports, as the case may be, within such time or period as the Board may consider appropriate subject to such limitations or conditions as may be specified in the order."

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