

The Government of India issues clarification regarding requirement for furnishing of Country-by Country Report under Section 286(4) of Income Tax Act, 1961

In keeping with India's commitment to implement the Recommendations of the 2015 Final Report on Action 13, titled "Transfer Pricing Documentation and Country-by-Country Reporting", identified under the OECD Base Erosion and Profit Shifting (BEPS) Project, Section 286 of the Income-tax Act, 1961 ('the Act') was inserted vide Finance Act, 2016, which provides for furnishing of a Country-by-Country (CbC) Report in respect of an International Group.

The CbC Report is to be furnished by the ultimate parent entity of an International Group in the country or territory of its residence. As specified under sub-section (2) of Section 286, the said Report is to be furnished on or before the due date specified under Section 139(1) of the Act for furnishing of return of income for the relevant accounting year. The date for furnishing of CbC Report under sub-section (2) of Section 286 for FY 2016-17 was subsequently extended to 31st March, 2018 vide CBDT Circular No. 26 of 2017 dated 25th October, 2017.

Sub-section (4) of Section 286 specifies situations in which the said report shall be furnished in India by the constituent entity of an international group, resident in India, namely, those in which there is failure to obtain CbC Report on account of the parent entity being resident of a country or territory with which India does not have an agreement providing for exchange of CbC reports or where there has been a systemic failure of the country or territory and the same has been intimated to such constituent entity.

It has been brought to the notice of the Government that Constituent Entities of International Groups, resident in India, have apprehensions that the due date of furnishing of CbC Report under sub-section (4) of Section 286 is also 31st of March, 2018. In

order to allay the aforesaid apprehensions, it is hereby clarified by Government that the due date of 31st March, 2018 applies for furnishing of CbC Report under sub-section (2) of Section 286 only and not under sub-section (4) of the said Section.

It is further stated that the Finance Bill, 2018 (as passed by the Lok Sabha) has proposed that the due date for furnishing of CbC Report under sub-section (4) of Section 286 shall be as prescribed. Accordingly, the time for furnishing of CbC Report under sub-section (4) of Section 286 of the Act is proposed to be prescribed after the enactment of Finance Bill, 2018.

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Warm regards,

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