

F.No. 504/31/2010-FTD-I  
Government of India  
Ministry of Finance  
Department of Revenue  
(Foreign Tax & Tax Research Division)

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R.No.905,  
'C' Wing, Hudco Vishala Bldg,  
14, Bhikaji Cama Place,  
New Delhi, dated the 21<sup>st</sup> November, 2011

**OFFICE MEMORANDUM**

**Sub: Suggestions for prescribing a proforma for obtaining information relating to Transfer Pricing and in other cases – Reg.**

Kindly refer to the above.

2. Information on tax matters is being sought by field officers of the Income Tax Department from countries/jurisdictions with which India has Double Taxation Avoidance Agreement (DTAA) or Tax Information Exchange Agreement (TIEA) under the relevant 'Exchange of Information' Article of DTAA/TIEA through the office of competent authority viz. the Joint Secretary in the Foreign Tax & Tax Division, CBDT. Presently the above information is being sought obtained in a prescribed checklist/ proforma (copy enclosed as Annexure-A). Further in the case of U.K, for obtaining banking information, a separate proforma has been prescribed by U.K tax authorities (copy enclosed as Annexure-B).

3. Considering the developments at International Forums including the Model Proforma for the exchange of information being developed by the OECD, it is proposed to change the existing proforma. Further, it is proposed to have a separate proforma for obtaining any information relating to Transfer Pricing and prescription of a separate proforma for the same.

4. In view of the above, I am directed to request you to give your comments and views on the following to the FT & TR division by the 15<sup>th</sup> December, 2011:

- a) for developing separate proforma (T.P) for Transfer Pricing cases

b) for any improvement required to be made to the present Proforma prescribed for obtaining information from countries/jurisdictions with which India has DTAA/TIEA.

c) Any other suggestion relating to the above

5. I am also directed to state that, at present, the request may be sent to FT&TR Division by the concerned Commissioner of Income Tax/Director of Income Tax as per the following guidelines:

(a) Request should be made in the checklist/proforma as per Annexure A and Annexure B.

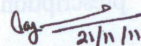
(b) Request for the exchange of information may be addressed by the concerned commissioner of Income Tax/Director of Income Tax to JS (FT&TR-I), CBDT, New Delhi, for the North America including Caribbean Island, Europe and Japan and to JS(FT&TR-II), CBDT, New Delhi, for the rest of the world.

(c) The request for exchange of information for the cases getting time barred on 31<sup>st</sup> December, 2011 should be received in the office of JS (FT&TR-I) or JS(FT&TR-II), as the case maybe, by **15<sup>th</sup> December, 2011**.

(d) Separate requests should be made for different tax payers even if the case pertains to same country or same foreign entity. Further, separate requests should be made for different countries even if the cases pertain to the same assessee.

6. The above may be brought to the notice of all officers of your region. This issues with the approval of Chairman, CBDT.

Encl: As above.

  
21/11/11

(Vipul Agarwal)

Under Secretary (FT&TR-III) (1)

Telefax-26177534

All Chief Commissioners of Income Tax

All Directors' General of Income Tax

## **ANNEXURE - A**

### **"EXCHANGE OF INFORMATION" PROFORMA / CHECKLIST**

#### **PROFORMA FOR SEEKING SPECIFIC INFORMATION UNDER THE PROVISION OF "EXCHANGE OF INFORMATION" ARTICLE OF DOUBLE TAXATION AVOIDANCE AGREEMENT**

1. NAME AND ADDRESS OF THE SPECIFIC TAXPAYER WHOSE TAX LIABILITY IS THE SUBJECT OF INVESTIGATION
2. NAME AND ADDRESS OF THE CONCERNED FOREIGN PERSON(S) / ENTITY / COMPANY ETC.
3. THE SPECIFIC TAX PERIODS (YEARS) INVOLVED. PLEASE SPECIFY THE START DATE AND ENDING DATE OF THE TAX YEAR, eg. APRIL 1, 2002 THROUGH MARCH 31, 2003.
4. THE SPECIFIC TAXES INVOLVED; eg. INDIVIDUAL INCOME, CORPORATE INCOME.
5. THE SPECIFIC QUESTION(S) / POINT(S) ON WHICH INFORMATION IS NEEDED.
6. RELEVANCE OF WHY THE INFORMATION IS NEEDED AND THE ISSUE BEING EXAMINED, E.G. UNREPORTED INCOME, NEED BANK RECORDS FROM TAXPAYER'S ACCOUNT WITH XYZ BANK IN THE CONCERNED COUNTRY. SPECIFY THE TIME PERIOD WHEN RECORDS ARE REQUIRED. IF THE TIME PERIOD IS OUTSIDE THE YEAR(S) UNDER INVESTIGATION, PLEASE SPECIFY WHY THIS ADDITIONAL INFORMATION IS REQUIRED.
7. STATEMENT THAT THE INFORMATION IS REQUIRED PURELY FOR TAXATION PURPOSES AND WILL BE USED SOLELY FOR TAXATION PURPOSES.

(It may be noted that CHECK LIST should be furnished in duplicate, meant for each country separately, if information is required from more than one country)

## ANNEXURE - B

### DETAILS REQUIRED TO OBTAIN BANKING INFORMATION

1. Full name, date of birth and nationality (of both spouses if applicable).
2. Residence position if not of Indian origin (date became resident for tax purposes in India)
3. The date your investigation commenced, and the reasons for the investigation, for instance if living beyond declared means then, a best estimate of annual expenditure should be given together with known/declared income for the years covered by the request.
4. If self employed, the following in respect of for the years covered by the request
  - Nature of business operated
  - Business address (if different from the private address).
  - Annual value of sales (turnover)
5. If employed/ a director, the following in respect of for the years covered by the request
  - a. Name of the employer(S)
  - b. Date employment(s)/directorship (S) commenced/ceased
  - c. Amount of remuneration declared upon personal tax returns (and within company accounts if a director)
  - d. The nature of the employers business
6. Full details of any other declared upon personal tax returns (on a yearly basis) by the family unit in respect of for the years covered by the request.
7. Confirmation of whether or not any interest figure declared upon the personal tax returns in the period covered by the request has been reconciled to known accounts, together with the number of known accounts held
  - a. With Indian banks
  - b. Other banks
  - c. Clarifying whether or not any interest earned on the U K accounts may have been omitted.
8. A comment convening cases involving capital accumulation, detailing the source, if known, or extent of explanation provided.
9. The period of the investigation and the period for which the information is required, it is different

DETAILS REQUIRED TO OBTAIN BANKING INFORMATION

10. A description of the documents/information required. In the case of bank statements all the following is required.
  - a. .name of the bank
  - b. Sort code or branch address.
  - c. Account number.
11. The relevant fact or evidence established so far, identifying the source of the information (that is the taxpayer's statement, third party statements, and documents). Copies of relevant documents should be enclosed.
12. The relevance of the required documents. What you think they will show, how they will assist your investigation and why they are considered essential to the outcome of your investigation, (for instance the extent to which the transactions /income reflected therein are suspected of being suppressed/needed for verification purposes etc.)
13. Details of any other irregularities uncovered by your investigation, any inferences or conclusions drawn so far with reasoning. This is very important, if any irregularities have already been discovered, then this carries a lot of weight before the Commissioners.
14. The actions already taken as part of your investigation to obtain the required documents and the extent of the taxpayers' co-operation in this endeavour, (has the taxpayer made any admissions or denials, or refused to provide either the documents or an authority enabling you to approach the bank direct?). It may be appropriate to say that " All informal avenues have been exhausted".