

Government Notice No. 86 of 2019

THE INCOME TAX ACT

Regulations made by the Minister under sections 76 and 124(3) of the Income Tax Act

1. These regulations may be cited as the Income Tax (Country-by-Country Reporting) (Amendment) Regulations 2019.
2. In these regulations –
“principal regulations” means the Income Tax (Country-by-Country Reporting) Regulations 2018.
3. Regulation 2 of the principal regulations is amended –
 - (a) in the definition of “**Fiscal Year**”, by deleting the words “Ultimate Parent Entity” and replacing them by the words “Reporting Entity”;
 - (b) in the definition of “**MNE Group**”, by adding the word “or” at the end of paragraph (a).
4. Regulation 3 of the principal regulations is amended –
 - (a) in paragraph (2), by deleting the words “the Surrogate Parent Entity shall file with the Director-General a Country-by-Country Report in respect of the Reporting Fiscal Year of the MNE Group on or before the period referred to in regulation 6 and notify the Director-General that the filing is intended to satisfy, in relation to the MNE Group, the filing requirement of the Constituent Entities that are resident for tax purposes in Mauritius.” and replacing them by the words “the Surrogate Parent Entity shall, in accordance with regulation 5, file with the Director-General a Country-by-Country Report in respect of the Reporting Fiscal Year

of the MNE Group on or before the period referred to in regulation 6.”

(b) by revoking paragraph (3).

5. The principal regulations are amended by inserting, after regulation 7, the following new regulation –

7A. Penalty

(1) Where a person fails to comply with any obligation under these regulations, he shall be liable to a penalty of 5,000 rupees.

(2) (a) Where a penalty is imposed under paragraph (1) and the failure to comply continues after a claim has been made, the person shall be liable to a further penalty of 10,000 rupees per month or part of the month during which the failure continues.

(b) The total penalty under subparagraph (a) shall not, in the aggregate, exceed 120,000 rupees.

(3) A person shall be liable to a penalty not exceeding 50,000 rupees where –

(a) in complying with its reporting obligation under these regulations, the person provides inaccurate information; and

(b) (i) the inaccuracy is deliberate on the part of the person;

(ii) the person knows of the inaccuracy at the time the information is provided but does not inform the Director-General at that time; or

(iii) the person discovers the inaccuracy after the information is provided and fails to inform the Director-General of that inaccuracy.

(4) (a) Where a penalty is imposed under paragraph (1), (2) or (3), the Director-General shall make, by registered post, a claim to the person specifying the amount of penalty payable and the reasons for making such a claim.

(b) Where a claim is made under subparagraph (a), the person shall pay the amount of penalty within 28 days from the date of the claim.

(5) The penalties under paragraphs (1), (2) and (3) shall not apply where the person satisfies the Director-General that there is reasonable ground for not complying with the obligation under these regulations or providing inaccurate information under paragraph (3).

(6) For the purpose of paragraph (5), reasonable ground does not include failure to carry out an act either due to insufficiency of funds or reliance upon another person.

(7) A claim under paragraph (4), in respect of a penalty under paragraph (1) or (2), shall be made within a period of 12 months from the date on which the person became liable to the penalty.

(8) A claim under paragraph (4), in respect of a penalty under paragraph (3), shall be made –

(a) within a period of 12 months from the date on which the inaccuracy first came to the attention of the Director-General; and

- (b) within a period of 3 years from the date on which the person became liable to the penalty.

(9) Where a person who has been issued with a claim under paragraph (4) is dissatisfied with the claim, he may, within 28 days of the date of the claim, object to the claim and lodge written representations with the Clerk to the Assessment Review Committee in such manner as specified in section 131AA of the Act.

Made by the Minister on 23 April 2019.
