

Government Notice No. 87 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 (Common Reporting Standard) (Amendment) Regulations 2019.
2. In these regulations –
“principal regulations” means the Income Tax (Common Reporting Standard) Regulations 2018.
3. The principal regulations are amended by inserting, after regulation 12, the following new regulations –

12A. Anti-avoidance

Where –

- (a) a person enters into any arrangement; and
- (b) the main purpose, or one of the main purposes, of the person in entering into the arrangement is to avoid any obligation under these regulations, these regulations shall have effect accordingly as if the arrangement had not been entered into.

12B. 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 under paragraph (1) is imposed 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 –

(A) due to a failure to comply with the due diligence requirements under regulations 6 and 7;

(B) 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 in such manner as specified in section 131AA of the Act.

(10) A person who makes a false statement or omission in respect of any information required to be included on an information return, or for the purposes of self-certification or

for any other reason under these regulations shall be liable to a fine of 5,000 rupees.

4. The principal regulations are amended by revoking the Second Schedule and replacing it by the following Schedule –

SECOND SCHEDULE

[Regulation 3]

Expression	Regulations	The CRS
Account holder		Section VIII(E)(1) of the CRS
Annuity contract		Section VIII(C)(6) of the CRS
CRS	regulation 2	
Cash value insurance contract		Section VIII(C)(7) of the CRS
Controlling person		Section VIII(D)(6) of the CRS
Custodial account		Section VIII(C)(3) of the CRS
Entity		Section VIII(E)(3) of the CRS
Excluded accounts	Fourth Schedule	Section VIII(C)(17) of the CRS
Financial account		Section VIII(C) of the CRS
Financial institution		Section VIII(A)(3) of the CRS
New account		Section VIII(C)(10) of the CRS
Participating jurisdiction	Third Schedule	Section VIII(D)(5) of the CRS
Pre-existing account		Section VIII(C)(9) of the CRS
Pre-existing entity account		Section VIII(C)(13) of the CRS
Reportable account	regulation 5	Section VIII(D)(1) of the CRS
Reporting financial institution		Section VIII(A)(1) of the CRS
Reportable person		Section VIII(D)(2) of the CRS

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5. The Fourth Schedule to the principal regulations is amended –
- (a) in item 3 –
 - (i) in sub-item (a), by deleting the words “or other legal matter on which the third party is acting on behalf of the underlying beneficial owner, for example, an account held by an individual or an entity appointed by the Court to look after the affairs of a vulnerable person”;
 - (ii) in sub-item (d), by deleting the words “Accounts provided by a non-financial intermediary acting in that capacity (such as non-legal escrow type accounts) that meets the conditions above will also be Excluded Accounts. Periodic payment orders in connection with an escrow account are not considered to be reportable Annuity Contracts.”
 - (b) by revoking item 4 and replacing it by the following item –

4. Dormant Accounts

Excluded Accounts also include dormant accounts. An account (other than an Annuity Contract) is a “dormant account” if the annual balance does not exceed 1,000 US Dollars and provided that the following conditions are met –

- (a) the Account Holder has not initiated a transaction with regard to the account or any other account held by the Account Holder with the Reporting Financial Institution during the past 3 years;

- (b) the Account Holder has not communicated with the Reporting Financial Institution that maintains such account regarding the account or any other account held by the Account Holder with the Reporting Financial Institution during the past 6 years; and
- (c) in the case of a Cash Value Insurance Contract, the Reporting Financial Institution has not communicated with the Account Holder who holds such account regarding the account or any other account held by the Account Holder with the Reporting Financial Institution during the past 6 years.

Alternatively, an account (other than an Annuity Contract) may also be considered as a “dormant account” under applicable laws or regulations or the normal operating procedures of the Reporting Financial Institution that are consistently applied for all accounts maintained by such institution, provided that such laws or regulations or such procedures contain substantially similar requirements to those mentioned above.

An account ceases to be a dormant account when –

- (a) the Account Holder initiates a transaction with regard to the account or any other account held by the Account Holder with the Reporting Financial Institution;
- (b) the Account Holder communicates with the Reporting Financial Institution that maintains such account regarding the account or any

other account held by the Account Holder with the Reporting Financial Institution; or

- (c) the account ceases to be a dormant account under applicable laws or regulations or the Reporting Financial Institution's normal operating procedures.

Made by the Minister on 23 April 2019.
