

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 14th January, 2022

G.S.R. 15(E).—In exercise of the powers conferred by clause (4D) of section 10 and sub-section (1B) of section 115AD, read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. Short title and commencement.- (1) These rules may be called the Income tax (1st Amendment) , Rules, 2022.

(2) They shall come into force from the 1st day of April, 2022.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), after rule 21AJ, the following rules shall be inserted, namely:—

‘21AJA. Computation of exempt income of specified fund, attributable to the investment division of an offshore banking unit, for the purposes of clause (4D) of section 10 of the Act- (1) For the purposes of clause (4D) of section 10 of the Act, income of specified fund attributable to the investment division of an offshore banking unit shall be computed in accordance with the following formula, namely:-

$$A+B+C+D$$

where ,—

A = any income accrued or arisen to, or received by the eligible investment division as a result of transfer of a capital asset referred to in clause (viiab) of section 47 of the Act held by it, on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in convertible foreign exchange;

B= any income accrued or arisen to, or received by the eligible investment division as a result of transfer of securities held by it (other than shares in a company resident in India);

C= any income accrued or arisen to, or received by the eligible investment division from securities held by it and issued by a non-resident (not being a permanent establishment of a non-resident in India) and where such income otherwise does not accrue or arise in India;

D = any income accrued or arisen to, or received by the eligible investment division from a securitisation trust which is chargeable under the head "profits and gains of business or profession".

Explanation: Any expenditure incurred for the purposes of making or earning income referred to in items A or B or C or D shall not be allowed as deduction from income from any other activity or source under any provision of the Act, irrespective of the fact that such expenditure has not been allowed as deduction against income referred to in items A or B or C or D, as the case may be.

(2) The eligible investment division shall furnish an annual statement of exempt income in Form No. 10-IK electronically under digital signature on or before the due date, which is duly verified in the manner indicated therein.

(3) For the purposes of item (II) of sub-clause (ii) of clause (c) of the Explanation to clause (4D) of section 10 of the Act, an investment division of an offshore banking unit shall fulfill the following conditions, namely:-

- (a) it shall maintain separate accounts for the registered investment division reflecting the true and fair accounts of all transactions relating to the investment division and which shall ensure that direct and indirect expenses relating to the incomes referred to in sub-rule (1) and other incomes are properly recorded, accounted for, and apportioned to these activities;
- (b) it shall get the accounts, referred to in clause (a), audited by an accountant before the specified date and such accountant shall furnish by that date the report of such audit in Form No. 10-IL electronically under digital signature, which is duly verified in the manner indicated therein;
- (c) it shall maintain proper documentation in respect of,-
 - (i) inbound remittance for buying and selling the investments; and
 - (ii) the use of inward remittance made to India;
- (d) it shall maintain bank statement of all accounts of the registered investment division,;
- (e) it shall maintain contract notes relating to purchase and sale of securities by the registered investment division; and
- (f) it shall maintain a statement of securities issued by the custodian.

(4) The Principal Director-General of Income-tax (Systems) or Director-General of Income-tax (Systems), as the case may be, shall,-

- (i) specify the procedures, formats and standards for ensuring secure capture and transmission of data; and
- (ii) be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to Form No 10-IK and Form No 10-IL.

Explanation. - For the purpose of this rule, the expressions,-

- (a) "accountant" shall have the same meaning as assigned to it in the Explanation below sub-section (2) of section 288 of the Act;
- (b) "due date" shall have the same meaning as assigned to it in the Explanation 2 to sub-section (1) of section 139 of the Act;
- (c) "eligible investment division" shall mean a registered investment division which fulfills the conditions as prescribed under item II of sub-clause (ii) of clause (c) of the Explanation to clause (4D) of section 10 of the Act;
- (d) "investment division of an offshore banking unit" shall have the same meaning as assigned to it in clause (aa) of the Explanation to clause (4D) of section 10 of the Act;
- (e) "registered investment division" shall mean an investment division of an offshore banking unit which fulfills the condition specified under item (I) of sub-clause (ii) of clause (c) of the Explanation to clause (4D) of section 10 of the Act;

- (f) "securities" shall have the same meaning as assigned to it in clause (bb) of the Explanation to clause (4D) of section 10 of the Act;
- (g) "specified date", in relation to the accounts of the registered investment division of the previous year relevant to an assessment year, means a date one month prior to the due date.
- (h) "specified fund" shall have the same meaning as assigned to it in clause (c) of the Explanation to clause (4D) of section 10 of the Act.

21AJAA. Determination of income of a specified fund attributable to the investment division of an offshore banking unit under sub-section (1B) of section 115AD of the Act - (1) For the purposes of sub-section (1B) of section 115AD of the Act, income of a specified fund, being the investment division of an offshore banking unit shall be computed in accordance with the following formula, namely:-

$A+B+C+D+E+F$

where,—

A = income by way of long term capital gain referred to in clause (b) of sub-section (1) of section 115AD, accrued or arisen to, or received by the eligible investment division, as a result of transfer of a security referred to in section 112A of the Act and held by such investment division;

B = income by way of long term capital gain referred to in clause (b) of sub-section (1) of section 115AD, accrued or arisen to, or received by the eligible investment division as a result of transfer of a security, other than that referred to in section 112A of the Act, and held by such investment division;

C= income by way of short term capital gain referred to in clause (b) of sub-section (1) of section 115AD, accrued or arisen to, or received by the eligible investment division as a result of transfer of security referred to in section 111A of the Act and held by such investment division;

D= income by way of short term capital gain referred to in clause (b) of sub-section (1) of section 115AD, accrued or arisen to, or received by the eligible investment division as a result of transfer of a security, other than that referred to in section 111A of the Act, and held by such investment division;

E= income from securities referred to in clause (a) of sub-section (1) of section 115AD of the Act, being in the nature of interest referred to in section 194LD of the Act, held by the eligible investment division;

F= income from securities, held by the eligible investment division, as referred to in clause (a) of sub-section (1) of section 115AD of the Act and not included in item E above.

Explanation: Any expenditure incurred for the purposes of making or earning an income referred to in items A or B or C or D or E or F shall not be allowed as a deduction from income from any other activity or source, irrespective of the fact that such expenditure has been not allowed as a deduction against income referred to in items A or B or C or D or E or F, as the case may be.

(2) The eligible investment division shall furnish an annual statement of income, eligible for taxation under sub-section (1B) of section 115AD of the Act, in Form No. 10-IK electronically under digital signature on or before the due date, which is duly verified in the manner indicated therein.

Explanation.- For the purpose of this rule, the expressions,-

- (a) "due date" shall have the same meaning as assigned to it in the Explanation 2 to sub-section (1) of section 139 of the Act;
- (b) "eligible investment division" shall mean a registered investment division which fulfills the conditions as prescribed under item II of sub-clause (ii) of clause (c) of the Explanation to clause (4D) of section 10 of the Act;
- (c) "investment division of an offshore banking unit" shall have the same meaning as assigned to it in clause (aa) of the Explanation to clause (4D) of section 10 of the Act;
- (d) "registered investment division" shall mean an investment division of an offshore banking unit which fulfills the condition specified under item (I) of sub-clause (ii) of clause (c) of the Explanation to clause (4D) of section 10 of the Act;
- (e) "securities" shall have the same meaning as assigned to it in clause (c) of the Explanation to section 115AD of the Act;
- (f) "specified fund" shall have the same meaning as assigned to it in sub-clause (i) of clause (c) of the Explanation to clause (4D) of section 10 of the Act.'

3. In the principal rules, in the APPENDIX after Form No. 10-IJ, the following Forms shall be substituted, namely: —

“FORM NO. 10-IK

[see rule 21AJA and rule 21AJAA]

Annual Statement of Exempt Income under sub-rule (2) of rule 21AJA and taxable income under sub-rule (2) of rule 21AJAA

Sl. No.										
1.	Name of the Specified Fund (Declarant)									
2.	Address of the registered office of the specified fund:									
3.	Legal status[company/trust/limited liability partnership/body corporate]:									
4.	Permanent Account Number:									
5.	Previous year ending:									
6.	Date of establishment / incorporation		d	d	m	m	y	y	y	y
7.	Date of commencement of operations		d	d	m	m	y	y	y	y
8.	1.	Registration number as per the certificate of registration as a Category-I foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019								
	2.	Date of registration	d	d	m	m	y	y	y	y
9.	Whether conditions as mandated by sub-rule (3) of Rule 21AJA are fulfilled		Yes/No							
10.	Calculation of income exempt under clause (4D) of section 10 of the Act									
	Income accrued or arisen or received by the eligible investment division from transfer of capital asset referred to in clause (viiab) of section 47 of the Act held by it, on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in convertible foreign exchange; [A]		(In Rs)							
	Income accrued or arisen or received by the eligible investment division as a result of transfer of securities held by it (other than shares in a company resident in India);[B]		(In Rs)							
	Income accrued or arisen to, or received by the eligible investment division from securities held by it and issued by a non-resident (not being a permanent establishment of a non-resident in India) and where such income otherwise does not accrue or arise in India;[C]		(In Rs)							
	Income accrued or arisen to, or received by the eligible investment division from a securitisation trust which is chargeable under the head "profits and gains of business or profession D]		(In Rs)							
	Income of the eligible investment division [A + B + C + D]		(In Rs)							
11.	Calculation of income taxable under sub-section (1B) of section		(In Rs)							

115AD	
Income by way of long term capital gain referred to in clause (b) of sub-section (1) of section 115AD of the Act, accrued or arisen to, or received by the eligible investment division, as a result of transfer of a security referred to in section 112A of the Act and which is held by such investment division. (A)	(In Rs)
Income by way of long term capital gain referred to in clause (b) of sub-section (1) of section 115AD, accrued or arisen to, or received by the eligible investment division as a result of transfer of a security, other than that referred to in section 112A of the Act, and held by such investment division.(B)	(In Rs)
Income by way of short term capital gain referred to in clause (b) of sub-section (1) of section 115AD of the Act, accrued or arisen to, or received by the eligible investment division as a result of transfer of security referred to in section 111A of the Act and held by such investment division (C)	(In Rs)
Income by way of short term capital gain referred to in clause (b) of sub-section (1) of section 115AD of the Act, accrued or arisen to, or received by the eligible investment division as a result of transfer of a security, other than that referred to in section 111A of the Act, and which is held by such investment division.(D)	(In Rs)
Income from securities referred to in clause (a) of sub-section (1) of section 115AD of the Act, being in the nature of interest referred to in section 194LD of the Act, held by the eligible investment division.(E)	
Income from securities, held by the eligible investment division, as referred to in clause (a) of sub-section (1) of section 115AD of the Act and not included in item E above. (F)	(In Rs)
Income of the eligible investment division [A+B+C+D+E+F]	(In Rs)

Declaration

I, _____ (Name in full and in block letters) son/daughter/wife of _____ do hereby declare that to the best of my knowledge and belief what is stated in the Form above is correct and complete;

I further declare that I am furnishing such statement in my capacity as _____ (designation) and that I am competent to make this declaration and furnish this statement.

Place:

Date:

Yours faithfully,

Signature

Name.....

Designation.....

FORM NO. 10-IL

[see rule 21AJA]

Verification by an Accountant under sub-rule (3) of rule 21AJA**Verification**

I/We _____ have examined the books of account and other documents showing the particulars of income accrued or arisen to, or received by the eligible investment division of _____ (name of the offshore banking unit which

is exempt under clause (4D) of section 10 and/or is eligible for concessional rates under sub-section (1B) of section 115AD of the Income-tax Act, 1961.

2. Further, I/ We do hereby affirm that the eligible investment division of(name of offshore banking unit) has fulfilled the following conditions:

S.no.	Condition	Whether fulfilled or not fulfilled
(i)	It has maintained separate accounts for the registered investment division;	Yes/No
(ii)	It has got the accounts, referred to in clause (i), audited by an accountant referred to in the Explanation below sub-section (2) of section 288;	Yes/No
(iii)	It has maintained proper documentation relating to inbound remittance for buying and selling the investments;	Yes/No
(iv)	It has maintained proper documentation in respect of the use of inward remittance made to India;	Yes/No
(v)	It has maintained bank statement of all accounts for the registered investment division;	Yes/No
(vi)	It has maintained contract notes relating to purchase and sale of securities by the registered investment division; and	Yes/No
(vii)	It has maintained a statement of securities issued by the custodian.	Yes/No

3. I/We declare that the above particulars are true and correct to the best of my/our knowledge and belief.

Place

(Signature with name of the accountant)

Date _____.”.

[Notification No. 6/2022 F. No. 370142/60/2021-TPL]

NEHA SAHAY, Under Secy.

Note. - The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii) vide notification number S.O. 969(E), dated the 26th March, 1962 and was last amended vide notification number G.S.R 903(E), dated the 29th December, 2021.