

MINISTRY OF FINANCE**(Department of Revenue)**

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 9th August, 2021

G.S.R. 545(E).—In exercise of the powers conferred by clause (4D) of section 10 and sub-section (1A) 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 Amendment (22nd Amendment), Rules, 2021.

(2) They shall come into force from the date of its publication in the Official Gazette.

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

‘21AI. Computation of exempt income of specified fund for the purposes of clause (4D) of section 10.— (1). For the purpose of clause (4D) of section 10, income attributable to units held by non-resident (not being the permanent establishment of a non-resident in India) in a specified fund shall be computed in accordance with the following formula, namely:—

Income exempt under clause (4D) of section 10 = $A * C1 + B * C2 + D * F1 + E * F2$, where

A = any income accrued or arisen to, or received by a specified fund as a result of transfer of capital asset referred to in clause (viiab) of section 47, 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 a specified fund as a result of transfer of securities (other than shares in a company resident in India);

C1 = ratio of the aggregate of daily ‘assets under management’ of the specified fund held by non-resident unit holders (not being the permanent establishment of a non-resident in India) to the aggregate of daily total ‘assets under management’ of the specified fund, from the date of acquisition of the capital asset referred to in clause (viiab) of section 47 to the date of transfer of such capital asset.

C2 = ratio of the aggregate of daily ‘assets under management’ of the specified fund held by non-resident unit holders (not being the permanent establishment of a non-resident in India) to the aggregate of daily total ‘assets under management’ of the specified fund, from the date of acquisition of the security (other than shares in a company resident in India) to the date of transfer of such security.

D = any income accrued or arisen to, or received by a specified fund from securities 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;

E = any income accrued or arisen to, or received by a specified fund from a securitisation trust which is chargeable under the head "profits and gains of business or profession"; and

F1 = ratio of the ‘assets under management’ in the specified fund held by non-resident unit holders (not being the permanent establishment of a non-resident in India) to the total ‘asset under management’ of the specified fund, as on the date of receipt of such income from securities 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.

F2 = ratio of the 'assets under management' in the specified fund held by non-resident unit holders (not being the permanent establishment of a non-resident in India) to the total 'asset under management' of the specified fund, as on the date of receipt of such income from a securitisation trust which is chargeable under the head "profits and gains of business or profession".

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

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income tax (Systems), as the case may be, shall specify the procedure for filing of the Form No. 10IG and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished under this rule.

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

- (a) "assets under management" means the closing balance of the value of assets or investments of the specified fund as on a particular date;
- (b) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005)
- (c) "permanent establishment" shall have the same meaning as assigned to it in clause (iiia) of section 92F;
- (d) "securities" shall have the meaning as assigned to it in clause (bb) of the *Explanation* to clause (4D) of section 10;
- (e) "due date" shall have the same meaning as assigned to it in the *Explanation 2* to sub-section (1) of section 139;
- (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; and
- (g) "unit" shall have the same meaning assigned to it in clause (f) of *Explanation* to clause (4D) of section 10.

21AJ.Determination of income of a specified fund attributable to units held by non-residents under sub-section

(1A) of section 115AD.- (1) For the purposes of sub-section (1A) of section 115AD, the income of a specified fund by way of short-term or long-term capital gains, referred to in clause (b) of sub-section (1) of section 115AD, attributable to the units held by non-resident (not being the permanent establishment of a non-resident in India) shall be calculated in accordance with the following formula, namely:—

$$A = B * C$$

Where,

A = income attributable to the units held by non-resident (not being the permanent establishment of a non-resident in India)

B = income arising from transfer of the security

C = ratio of the aggregate of daily 'assets under management' of the specified fund held by non-resident unit holders (not being the permanent establishment of a non-resident in India) to the aggregate of daily total 'assets under management' of the specified fund, from the date of acquisition of the security to the date of transfer of such security.

(2) For the purposes of sub-section (1A) of section 115AD, the income of a specified fund by way of income received in respect of securities, referred to in clause (a) of sub-section (1) of section 115AD, attributable to the units held by non-resident (not being the permanent establishment of a non-resident in India) shall be calculated in accordance with the following formula, namely:—

$$X = Y * Z$$

Where,

X = income attributable to the units held by non-resident (not being the permanent establishment of a non-resident in India)

Y = income received in respect of securities

Z = ratio of the ‘assets under management’ in the specified fund held by non-resident unit holders (not being the permanent establishment of a non-resident in India) to the total ‘asset under management’ of the specified fund, as on the date of receipt of such income.

(3) The specified fund shall furnish an annual statement of income eligible for concessional taxation in Form No 10IH electronically under digital signature on or before the due date, which is duly verified in the manner indicated therein.

(4) The Principal Director General of Income-tax (Systems) or the Director General of Income tax (Systems), as the case may be, shall specify the procedure for filing of the Form No. 10IH and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished under this rule.

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

- (a) “assets under management” means the closing balance of the value of assets or investments of the specified fund as on a particular date;
- (b) “permanent establishment” shall have the same meaning as assigned to it in clause (iiia) of section 92F;
- (c) "securities" shall have the same meaning as assigned to it in clause (bb) of the *Explanation* to clause (4D) of section 10;
- (d) “due date” shall have the same meaning as assigned to it in the *Explanation 2* to sub-section (1) of section 139;
- (e) "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; and
- (f) “unit” shall have the same meaning as assigned to it in clause (f) of *Explanation* to clause (4D) of section 10.’

2. In the principal rules, after Form No.10IF, the following Forms shall be inserted, namely :-

“Form No.10IG
[See sub-rule (2) of rule 21AI]

Statement of Exempt income under clause (4D) of section 10 of the Income-tax Act, 1961

| S.no. | | | |
|-------|---|---|------------|
| 1. | Name of the Specified Fund: | | |
| 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. | (i) | Registration number as per the certificate of registration issued by the International Financial Services Centre Authority: | |
| | (ii) | Date of registration: | Dd/mm/yyyy |
| 7. | Total Income of Specified Fund during Previous Year | | (In Rs) |

Details of Exempt Income under clause (4D) of section 10

| | Nature of Income of the Specified Fund | Total Income (In Rs) | Income attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) |
|----|---|---|--|
| 8. | Income accrued or arisen to, or received as a result of transfer of capital asset referred to in clause (viiab) of section 47, 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) | Total of Column (5) in Part I of Annexure I | Total of Column (9) in Part I of Annexure I |
| 9. | Income accrued or arisen to, or received as a result of | Total of | Total of Column (9) in Part |

| | | | |
|-----|--|--|--|
| | transfer of securities (other than shares in a company resident in India)(B) | Column (5) in Part II of Annexure 1 | II of Annexure 1 |
| 10. | Income from securities 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) | Total of Column (5) in Part I of Annexure 2 | Total of Column (9) in Part I of Annexure 2 |
| 11. | Income from a securitisation trust which is chargeable under the head "Profits and gains of business or profession"(E) | Total of Column (5) in Part II of Annexure 2 | Total of Column (9) in Part II of Annexure 2 |
| 12. | Total Exempt Income under clause (4D) of section 10 | | |

Declaration

I, _____ (Name in full and in block letters) son/daughter/wife of _____ do hereby declare that:

- (i) to the best of my knowledge and belief what is stated above and in the Annexure(s), including the documents accompanying such Annexure(s), is correct and complete;
- (ii) the fund has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (iii) the fund is located in an International Financial Services Centre;
- (iv) all the units of the Specified Fund are held by non-residents other than units held by a sponsor or a manger.

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.....

Notes:

1. Attach a copy of the certificate of registration under Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.
2. "Assets under management" means the closing balance of the value of assets or investments of the specified fund as on a particular date.
3. "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).
4. "International Financial Services Centre Authority" means an Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019 (50 of 2019).
5. "Permanent establishment" shall have the meaning assigned to it in clause (iiia) of section 92F.
6. "Securities" shall have the meaning assigned to it in in clause (bb) of the Explanation to clause (4D) of section 10.
7. "Specified fund" shall have the same meaning assigned to it in sub-clause (i) of clause (c) of the Explanation to clause (4D) of section 10.
8. "Unit" shall have the same meaning assigned to it clause (f) of Explanation to clause (4D) of section 10.
9. All amount to be mentioned in Indian rupees.

Annexure 1

| S. No. | Name of security | Date of acquisition (dd/mm/yyyy) | Date of transfer (dd/mm/yyyy) | Capital Gain (In Rs) | Aggregate of daily 'assets under management' of the specified fund held by non-resident unit holders (not being the permanent establishment of a non-resident in India) from the date of acquisition of the capital asset/ security to the date of transfer of such capital asset/ security | Aggregate of daily total 'assets under management' of the specified fund, from the date of acquisition of the capital asset/security to the date of transfer of such capital asset/security. | Ratio | Income attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) |
|---|------------------|----------------------------------|-------------------------------|----------------------|---|--|-----------------|--|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) = (6) / (7) | (9) = (5) * (8) |
| Part I. Income from of transfer of securities referred to in clause (viib) of section 47, on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such | | | | | | | | |
| 1. | | | | | | | | |
| Total | | | | | | | | |
| Part II. Income from Transfer of securities (other than shares in a company resident in India) | | | | | | | | |
| 2. | | | | | | | | |
| Total | | | | | | | | |

+ add rows depending upon number of securities

Annexure 2

| S. No. | Name of Security | Nature of income [^] | Date of receipt of income (dd/mm/yyyy) | Income (In Rs) | Assets under management held by non-resident unit holders (not being the permanent establishment of a non-resident in India) as on the date of receipt of income | Total 'asset under management as on the date of receipt of income. | Ratio | Income attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) |
|--------|------------------|-------------------------------|--|----------------|--|--|-------|--|
|--------|------------------|-------------------------------|--|----------------|--|--|-------|--|

| Part I. Income from Securities 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. | | | | | | | | |
|--|-----|-----|-----|-----|-----|-----|-------------|--------------|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8)=(6)/(7) | (9)= (5)*(8) |
| 1. | | | | | | | | |
| Total | | | | | | | | |
| Part II. Income from a securitisation trust which is chargeable under the head "Profits and gains of business or profession. | | | | | | | | |
| 2. | | | | | | | | |
| Total | | | | | | | | |

+ add rows as required

^Relevant code to be selected

1. Dividend
2. Interest
3. Other Income. Please specify

Form No.10IH

[See sub-rule (3) of rule 21AJ]

Statement of income of a Specified fund eligible for concessional taxation under section 115AD of the Income-tax Act, 1961

| S. No. | | | |
|--------|---|---|------------|
| 1. | Name of the Specified Fund: | | |
| 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. | (i) | Registration number as per the certificate of registration issued by the International Financial Services Centre Authority: | |
| | (ii) | Date of registration: | dd/mm/yyyy |
| 7. | Total Income of Specified Fund during Previous Year | | (In Rs) |

Details of income of specified fund attributable to non-residents and eligible for concessional taxation under section 115AD (in Rs)

| S. No. | Income/ Loss of the Specified Fund | Amount | Income attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) |
|--------|---|--|--|
| 8. | Long Term Capital Gain income arising from transfer of securities as provided in clause (b) of sub-section (1) of section 115AD and which is chargeable @10% u/s 112A(A1) | Total of Column (5) in Part A1 of Annexure 1 | Total of Column (9) in Part A1 of Annexure 1 |
| 9. | Long Term Capital Gain income arising from transfer of securities as provided in clause (b) of sub-section (1) of section 115AD and which is chargeable @10% (other than section 112A) (A2) | Total of Column (5) in Part A2 of Annexure 1 | Total of Column (9) in Part A2 of Annexure 1 |

| | | | |
|-----|---|--|--|
| 10. | Short Term Capital Gain income arising from transfer of securities as provided in clause (b) of sub-section (1) of section 115AD and which is chargeable @15% u/s 111A (A3) | Total of Column (5) in Part A3 of Annexure 1 | Total of Column (9) in Part A3 of Annexure 1 |
| 11. | Short Term Capital Gain income arising from transfer of securities as provided in clause (b) of sub-section (1) of section 115AD and which is chargeable @30% (A4) | Total of Column (5) in Part A4 of Annexure 1 | Total of Column (9) in Part A4 of Annexure 1 |
| 12. | Income from securities as provided in clause (a) of sub-section (1) of section 115AD and which is chargeable @10 % (X1) | Total of Column (5) in Part X1 of Annexure 2 | Total of Column (9) in Part X1 of Annexure 2 |
| 13. | Income from securities as provided in clause (a) of sub-section (1) of section 115AD and which is chargeable @5% (X2) | Total of Column (5) in Part X2 of Annexure 2 | Total of Column (9) in Part X2 of Annexure 2 |

Declaration

I, _____ (Name in full and in block letters) son/daughter/wife of _____ do hereby declare that:

- (i) to the best of my knowledge and belief what is stated above and in the Annexure(s), including the documents accompanying such Annexure(s), is correct and complete;
- (ii) the fund has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (iii) the fund is located in an International Financial Services Centre;
- (iv) all the units of the Specified Fund are held by non-residents other than units held by a sponsor or a manger.

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.....

Notes:

1. Attach a copy of the certificate of registration under Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.
2. "Assets under management" means the closing balance of the value of assets or investments of the specified fund as on a particular date.
3. "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).
4. "International Financial Services Centre Authority" means an Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019 (50 of 2019).
5. "Permanent establishment" shall have the meaning assigned to it in clause (iiia) of section 92F.
6. "Securities" shall have the meaning assigned to it in clause (bb) of the Explanation to clause (4D) of section 10.

7. "Specified fund" shall have the same meaning assigned to it in sub-clause (i) of clause (c) of the Explanation to clause (4D) of section 10.
8. "Unit" shall have the same meaning assigned to it clause (f) of *Explanation* to clause (4D) of section 10.
9. All amount to be mentioned in Indian rupees.

Annexure 1

| S. No. | Name of security | Date of acquisition (dd/mm/yyyy) | Date of transfer (dd/mm/yyyy) | Capital Gain (In Rs) | Aggregate of daily 'assets under management' of the specified fund held by non-resident unit holders (not being the permanent establishment of a non-resident in India) from the date of acquisition of the security to the date of transfer of such security | Aggregate of daily total 'assets under management' of the specified fund, from the date of acquisition of the security to the date of transfer of such security. | Ratio | Income attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) |
|---|------------------|-------------------------------------|----------------------------------|-------------------------|---|--|---------------|--|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) = (6)/(7) | (9) = (5)*(8) |
| Part A1. Long Term Capital Gain income arising from transfer of securities as provided in clause (b) of sub-section (1) of section 115AD and which is chargeable @10% u/s 112A | | | | | | | | |
| 1. | | | | | | | | |
| Total | | | | | | | | |
| Part A2. Long Term Capital Gain income arising from transfer of securities as provided in clause (b) of sub-section (1) of section 115AD and which is chargeable @10% (other than section 112A). | | | | | | | | |
| 2. | | | | | | | | |
| Total | | | | | | | | |
| Part A3. Short Term Capital Gain income arising from transfer of securities as provided in clause (b) of sub-section (1) of section 115AD and which is chargeable @15% u/s 111A. | | | | | | | | |
| 3. | | | | | | | | |
| Total | | | | | | | | |
| Part A4. Short Term Capital Gain income arising from transfer of securities as provided in clause (b) of sub-section (1) of section 115AD and which is chargeable @30%. | | | | | | | | |
| 4. | | | | | | | | |
| Total | | | | | | | | |

+ add rows depending upon number of securities

Annexure 2

| S. No. | Name of security | Nature of income [^] | Date of receipt of income (dd/mm/yyyy) | Income (In Rs) | Assets under management held by non-resident unit | Total asset under management as on the | Ratio | Income attributable to units held by non- |
|--------|------------------|-------------------------------|---|----------------|---|--|-------|---|
|--------|------------------|-------------------------------|---|----------------|---|--|-------|---|

| | | | | | holders (not being the permanent establishment of a non-resident in India) as on the date of receipt of income | date of receipt of income. | | resident (not being a permanent establishment of a non-resident in India) |
|---|-----|-----|-----|-----|--|----------------------------|---------------|---|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) = (6)/(7) | (9) = (5)*(8) |
| Part X1. Income from Securities which is chargeable @10 % under clause (a) of sub-section (1) of section 115AD | | | | | | | | |
| 1. | | | | | | | | |
| Total | | | | | | | | |
| Part X2. Income from Securities which is chargeable @5% (194LD) under clause (a) of sub-section (1) of section 115AD | | | | | | | | |
| 2. | | | | | | | | |
| Total | | | | | | | | |

+ add rows as required

^Relevant code to be selected

1. Dividend
2. Interest
3. Other Income. Please specify.”.

[Notification No. 90/2021/ F. No. 370142/20/2021-TPL]

NEHA SAHAY, Under Secy. (Tax Policy and Legislation Division)

Note:- The principal rules were published in the Gazette of India Extraordinary, Part III, section 3, sub-section (ii), *vide* notification number S.O. 969 (E), dated the 26th March, 1962 and last amended *vide* notification number G.S.R. 514 (E) dated the 29th July, 2021.