

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

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATIONNew Delhi, the 26th April, 2021**INCOME-TAX**

G.S.R. 291(E).—In exercise of the powers conferred by sub-clause (iii) of clause (c) of *Explanation 1* to the clause (23FE) of section 10 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 (11th Amendment) Rules, 2021.
 - (2) They shall come into force from the date of their publication in the Official Gazette.
2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 2DB,-
 - (i) after clause (ii), the following proviso shall be inserted, namely:-

“Provided that the condition in clause (ii) shall be deemed to have been satisfied with respect to assets being administered or invested, if the following conditions are satisfied; namely:-

 - (a) value of such assets is not more than ten per cent. of the total value of the assets administered or invested by such fund;
 - (b) such assets are wholly owned directly or indirectly by the Government of a foreign country; and
 - (c) such assets vests in the Government of such foreign country upon dissolution.”;
 - (ii) after the proviso to clause (iii), the following proviso shall be inserted, namely:-

“Provided further that the provisions of clause (iii) shall not apply to earning from the assets referred to in the proviso of clause (ii), if the said earning are credited either to the account of the Government of that foreign country or to any other account designated by such Government so that no portion of the earnings inures any benefit to any private person;”
3. In the principal rules, in the APPENDIX II, for Form No. 10BBA the following Form shall be substituted, namely:-

“Form No. 10BBA

[See sub-rule (1) of rule 2DC]

Application for notification under sub-clause (iv) of clause (c) of *Explanation 1* to the clause (23FE) of section 10 of the Income-tax Act, 1961**(Pension Fund)**

To,

The Member (Legislation), CBDT (For application during Financial Year 2020-2021)**/

The Member (Having control over the Foreign Tax and Tax Research Division) (For application during other financial year)**

Madam/Sir,

The applicant is a Pension Fund and interested in making investment in terms of clause (23FE) of section 10 of the Income-tax Act, 1961 and therefore, it is requested that necessary notification may kindly be issued, the details for which are as under:

- (a) Name of the Pension Fund :
- (b) Address of the Pension Fund :

- (c) Tax Identification Number of the country of residence :
- (d) Country of residence :
- (e) Permanent Account Number (PAN) :

2.. It is hereby certified that-

- (a) the Pension Fund is created or established under the law of _____ (please mention the name of the foreign country including any of its political constituents like province/state/local body etc.) and is regulated under that law;
- (b) the Pension Fund is not liable to tax in the foreign country mentioned at (a) above or if liable to tax, exemption from taxation for all its income has been provided by such foreign country;
- (c) the Pension Fund is responsible for administering or investing the assets for meeting the statutorily obligations and defined contributions of one or more funds or plans established for providing retirement, social security, employment, disability, death benefits or any similar compensation to the participants or beneficiaries of such funds or plans, as the case may be/not more than ten per cent. of the total value of the assets administered or invested by the Pension Fund are invested in plans other than the plans established for providing retirement, social security, employment, disability, death benefits or any similar compensation to the participants or beneficiaries of such funds or plans and such assets are wholly owned directly or indirectly by the Government of the foreign country mentioned at (a) and upon dissolution vests in the Government of such foreign country (strike off which ever is not applicable);
- (d) the earnings and assets of the Pension Fund are used only for meeting statutory obligations and defined contributions for participants or beneficiaries of funds or plans referred to in (c) above and no portion of the earnings or assets of the pension fund inures any benefit to any other private person barring any payment made to the creditors or depositors or loan or borrowing taken for purposes other than for making investment in India/the earning and assets of the Pension Fund from plans other than the plans established for providing retirement, social security, employment, disability, death benefits or any similar compensation to the participants or beneficiaries of such funds or plans are credited either to the account of the Government of the foreign country mentioned at (a) or to any other account designated by such Government so that no portion of the earnings inures any benefit to any private person; (strike off whichever is not applicable) and
- (e) the Pension Fund does not participate in the day to day operations of investee ^ barring any monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director .

3. In support of the claims made above, the following documents are attached:

- (a) documents constituting the Pension Fund and any later amendment thereto, and
- (b) any other relevant document or information.

Verification*

I, _____, son/daughter/wife** of Shri _____, solemnly declare that to the best of my knowledge and belief, the information given in this application and the annexures and documents, if any, accompanying it are correct and complete and particulars shown therein are truly stated.

2. I further declare that to the best of my knowledge; I have not concealed any fact or information which could be relevant for this application.

3. I also declare that I am making this application in my capacity as _____ (designation) and that I am holding PAN/Aadhaar** _____ and I am competent to make this application and verify it.

Verified today the _____ day of _____

Place _____

(Signature) _____

Name _____

Notes: 1. ~~**Delete whichever is not applicable.~~

2. *To be signed by the person competent to verify the return of income under section 140 of the Income-tax Act, 1961.

3.^ An “investee” shall have the same meaning as in clause (i) of Explanation 2 to clause (23FE) of section 10 of the Income-tax Act, 1961.

4. ¥ loan and borrowing shall have the same meaning as in sub-clause (b) of clause (ii) of Explanation 2 to clause (23FE) of section 10 of the Income-tax Act, 1961.”.

[Notification No. 37/2021/F. No. 370142/28/2020-TPL]

KAMLESH CHANDRA VARSHNEY, Jt. Secy.

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. 274 dated the 15th April, 2021.