

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

NOTIFICATION

New Delhi, the 16th June, 2022

G.S.R. 455(E).—In exercise of the powers conferred by the proviso to item (III) of sub-clause (i) of clause (c) of the *Explanation* to clause (4D) 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 (Seventeenth Amendment) Rules, 2022.

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

2. In the Income-tax Rules, 1962 (hereafter referred to as the principal rules),—

(i) in rule 21AI, after sub-rule rule (2), the following sub-rule shall be inserted, namely:—

“(2A) The income attributable to units held by non-resident (not being the permanent establishment of a non-resident in India) in a specified fund shall not be exempt under clause (4D) of section 10 of the Act unless the specified fund complies with sub-rule (2).”;

(ii) after rule 21AI, the following rule shall be inserted, namely:—

“21AIA. Other conditions required to be fulfilled by a specified fund referred to in clause (4D) of section 10 of the Act.—(1) For the purposes of the proviso to item (III) of sub-clause (i) of clause (c) of the *Explanation* to clause (4D) of section 10 of the Act, the “other conditions” required to be fulfilled by a specified fund shall be that —

- (a) the unit holder of the specified fund, other than the sponsor or manager of such fund, who becomes a resident under clause (1) or clause (1A) of section 6 of the Act during any previous year subsequent to the previous year in which such unit or units were issued, shall cease to be a unit holder of such specified fund within a period of three months from the end of the previous year in which he becomes a resident;
- (b) for the purposes of clause (a), the specified fund shall maintain the following documents in respect of its unit holders,—
 - i. name of the unit holder;
 - ii. tax identification number of the unit holder in the country of residence at the time the units were issued;
 - iii. permanent account number, if available;
 - iv. total number of units held;
 - v. total value of units held;
 - vi. whether unit holder is a sponsor or a manager;
 - vii. the previous year in which the unit holder became resident and;
 - viii. date of exit from specified fund.

(2) The specified fund shall certify that it has fulfilled the conditions under sub-rule (1) and furnish information in respect of units held by residents in the annual statement of exempt income in Form No. 10-IG.

(3) The income attributable to units held by non-resident (not being the permanent establishment of a non-resident in India) in a specified fund shall not be exempt under clause (4D) of section 10 unless the specified fund complies with sub-rule (2).

Explanation.—For the purpose of this rule, “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.”;

(iii) in rule 21AJ, after sub-rule rule (3), the following sub-rule shall be inserted, namely:—

“(3A) The income of a specified fund referred to in clause (a) and clause (b) of sub-section (1) of section 115AD, attributable to the units held by a non-resident (not being the permanent establishment of a non-resident in India),

shall not be eligible for tax rates specified in section 115AD unless it furnishes the annual statement of income eligible for concessional taxation in Form No. 10-IH in accordance with the provision of sub-rule (3).”;

(iv) in rule 21AJA, after sub-rule rule (3), the following sub-rule shall be inserted, namely:-

“(3A) The income of a specified fund attributable to an eligible investment division shall not be exempt under clause (4D) of section 10 unless it furnishes the annual statement of exempt income in Form No. 10-IK and the report of audit in Form 10-IL in accordance with the provisions of sub-rule (2).”;

(v) in rule 21AJAA, after sub-rule (2), the following sub-rule shall be inserted, namely:-

“(2A) The income of an eligible investment division referred to in clause (a) and clause (b) of sub-section (1) of section 115AD shall not be eligible for tax rates specified under section 115AD unless the eligible investment division furnishes an annual statement of income, eligible for taxation under sub-section (1B) of section 115AD of the Act, in Form No. 10-IK in accordance with sub-rule (2).”.

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

“Form No.10-IG

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

[See sub-rule (2) of rule 21AI and sub-rule (2) of rule 21AIA]

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			
S.No.	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 1	Total of Column (9) in Part I of Annexure 1
9.	Income accrued or arisen to, or received as a result of transfer of securities (other than shares in a company resident in India) (B)	Total of Column (5) in Part II of Annexure 1	Total of Column (9) in Part 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		
13.	Whether conditions under sub-rule (1) of rule 21AIA are fulfilled		Yes/No

14.	Details of units held by residents under clause (1) or clause (1A) of section 6 of the Act during the previous year									
	S.No.	Name of resident unit holder	PAN of resident, if available	Tax Identification Number in country of residence during the previous year when unit was issued	Total Number of units held	Value of units held in Rs.	Whether sponsor or manager Yes/No	Whether the resident has become a resident under clause (1) or clause (1A) of section 6 of the Act during this previous year subsequent to the previous year in which such unit or units were issued? Yes/No	If yes date of exit from fund dd/mm/yyyy	
	Total									
15.	Aggregate value of units (Rs. in crore) during the previous year									
16.	Aggregate number of units during the previous year									
17.	Proportion of units (value) held by residents during the previous year									
18.	Proportion of units (number) held by residents during the previous year									

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 manager or those who have become resident during this year subsequent to the previous year in which units were issued.

I further declare that during the previous year.....yyyy- yyyy the aggregate value and number of the units, held by resident unit holder or unit holders, as referred to under clause (1) or (1A) of section 6, other than units held by a sponsor or a manager, who were non-resident during the previous year when such unit or units were issued, does not exceed five percent and that they have ceased to be unit holders within a period of three months from the end of the previous year in which they became residents.

It is further certified that during the previous year.....yyyy- yyyy the units held by residents are not counted as units held by non-residents, for the purposes of computation of exempt income under sub-rule (1) of rule 21AJ and sub-rule (1) and (2) of rule 21AJ.

*I further declare that I am furnishing this 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 the 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 Centre Authority Act, 2019 (50 of 2019);
5. "permanent establishment" shall have the same meaning as assigned to it in clause (iiia) of section 92F;
6. "securities" shall have the same meaning as assigned to it in clause (bb) of the Explanation to clause (4D) of section 10;
7. "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
8. "unit" shall have the same meaning as assigned to it clause (f) of Explanation to clause (4D) of section 10;
9. All amounts 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 Gains (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 or security to the date of transfer of such capital asset or security	Aggregate of daily total 'assets under management' of the specified fund, from the date of acquisition of the capital asset or security to the date of transfer of such capital asset or 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 transfer of securities referred to in clause (viia) 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

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8) = (6) / (7)	(9) = (5) * (8)
Total								
Part II. Income from Transfer of securities (other than shares in a company resident in India)								
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8) = (6) / (7)	(9) = (5) * (8)
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)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)=(6)/(7)	(9) = (5)*(8)
Part I. Income from Securities attributable to units held 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)
Total								
Part II. Income from a securitization trust which is chargeable under the head "Profits and gains of business or profession.								
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)=(6)/(7)	(9) = (5)*(8)
Total								

+ add rows as required

[^] Relevant code to be selected

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

[Notification No. 64/2022/F. No. 370142/24/2022-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 number S.O. 969(E) dated the 26th March, 1962 and was last amended vide notification number G.S.R. 404 (E) dated 31st May, 2022.