

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

New Delhi, the 15th April, 2021

INCOME-TAX

G.S.R. 274(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 (10th 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 (iii), the following proviso shall be inserted, namely:-

“Provided that the provisions of clause (iii) shall not apply to any payment made to creditors or depositors for loan taken or borrowing for the purposes other than for making investment in India;”;
 - (ii) clause (iv) shall be omitted;
 - (iii) after clause (vi), the following *Explanation* shall be inserted, namely:-

‘Explanation: For the purposes of this rule, “loan and borrowing” shall have the same meaning as assigned to it in sub-clause (b) of clause (ii) of Explanation 2 to clause (23FE) of section 10.’
3. In the principal rules, in rule 2DC, in sub-rule (1), for the word “Explanation”, the word and figure “Explanation 1” shall be substituted.
4. 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;
- (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; 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. 32/2021/ F. No.370142/28/2020-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. 250(E) dated the 5th April, 2021.