

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 27th December, 2016

INCOME-TAX

S.O. 4168(E).—In exercise of the powers conferred by sub-section (1) of 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. (1) These rules may be called the Income-tax (36th Amendment) Rules, 2016.
(2) It shall be deemed to have come into force from the 1st day of April, 2016.
2. In the Income-tax Rules, 1962, in rule 67, for sub-rule (2), the following shall be substituted, namely:-
“(2) The manner of investment referred to in sub-rule (1) shall be in accordance with the following Table, namely:-

TABLE
INVESTMENT PATTERN

Sl. No.	INVESTMENT	Percentage amount to be invested in items referred to in column(2)
(1)	(2)	(3)
i.	Government Securities and Related Investments: (a) Government Securities; (b) other securities, as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956, the principal whereof and interest whereon is fully and unconditionally guaranteed by the Central Government, or any State Government; and/or (c) units of mutual funds set up as dedicated funds for investment in Govt. securities and regulated by the Securities and Exchange Board of India.	Minimum forty-five per cent. and upto fifty per cent.
ii.	Debt Instruments and Related Investments: (a) Listed (or proposed to be listed in case of fresh issue) debt securities issued by bodies corporate, including banks and public financial institutions, which have a minimum residual maturity period of three years from the date of investment; (b) Basel III Tier-I bonds issued by scheduled commercial banks under the guidelines issued by the Reserve Bank of India;	Minimum thirty-five per cent. and upto forty-five per cent.

	<p>(c) Rupee Bonds having an outstanding maturity of at least three years issued by institutions of the International Bank for Reconstruction and Development, International Finance Corporation and Asian Development Bank;</p> <p>(d) Term Deposit receipts of not less than one year duration issued by scheduled commercial banks, which satisfy the following conditions on the basis of published annual reports for the most recent years, as required to have been published by them under any law for the time being in force:</p> <p>(i) having declared profit in the immediately preceding three financial years;</p> <p>(ii) maintaining a minimum Capital to Risk Weighted Assets Ratio of nine per cent., or mandated by prevailing norms of Reserve Bank of India, whichever is higher;</p> <p>(iii) having net non-performing assets of not more than four per cent. of the net advances; and</p> <p>(iv) having a minimum net worth of not less than two hundred crore rupees and/or</p> <p>(e) units of debt mutual funds as regulated by Securities and Exchange Board of India;</p> <p>(f) The following infrastructure related debt instruments;</p> <p>(i) Listed (or proposed to be listed in case of fresh issue) debt securities issued by body corporates engaged mainly in the business of development or operation and maintenance of infrastructure, or development, construction or finance of low cost housing and including securities issued by Indian Railways or any of the body corporates in which it has majority shareholding, or any Authority of the Government which is not a body corporate and has been formed mainly with the purpose of promoting development of infrastructure:</p> <p>Provided that any structural obligation undertaken or letter of comfort issued by the Central Government, Indian Railways or any Authority of the Central Government, for any security issued by a body corporate engaged in the business of infrastructure, which notwithstanding the terms in the letter of comfort or the obligation undertaken, fails to enable its inclusion as security covered under sub-clause (b) of clause (i), shall be treated as an eligible security under this sub-category;</p> <p>(ii) Infrastructure and affordable housing Bonds issued by any scheduled commercial bank, which meets the conditions specified in sub-clause (d) of clause (ii);</p> <p>(iii) Listed (or proposed to be listed in case of fresh issue) securities issued by Infrastructure debt funds operating as a Non-Banking Financial Company and regulated by the Reserve Bank of India;</p> <p>(iv) Listed (or proposed to be listed in case of fresh issue) units issued by Infrastructure Debt Funds operating as a Mutual Fund and regulated by Securities and Exchange Board of India.</p>	
iii.	<p>Short-term Debt Instruments and Related Investments</p> <p>(a) Money market instruments;</p> <p>(b) Units of liquid mutual funds regulated by the Securities and Exchange Board of India.</p> <p>(c) Term Deposit Receipts of up to one year duration issued by such scheduled commercial banks which satisfy all the conditions mentioned in sub-clause (d) of clause (ii).</p>	Upto five per cent.
iv.	<p>Equities and Related Investments</p> <p>(a) Shares of body corporates listed on Bombay Stock Exchange or National Stock Exchange, which have,-</p> <p>(i) Market capitalization of not less than five thousand crore rupees as on the date of investment; and</p> <p>(ii) Derivatives with the shares as underlying, traded in either of the two stock exchanges; and/or</p> <p>(b) Units of mutual funds regulated by the Securities and Exchange Board of India, which have minimum sixty five per cent. of their investment in shares of body corporates listed on Bombay Stock Exchange or National Stock Exchange;</p>	Minimum five per cent. and upto fifteen per cent.

	<p>(c) Exchange Traded Funds/ Index Funds regulated by the Securities and Exchange Board of India that replicate the portfolio of either Bombay Stock Exchange Sensex Index or National Stock Exchange Nifty fifty Index;</p> <p>(d) Exchange Traded Funds issued by Securities and Exchange Board of India regulated mutual funds constructed specifically for disinvestment of shareholding of the Government of India in body corporates;</p> <p>(e) Exchange traded derivatives regulated by the Securities and Exchange Board of India having the underlying of any permissible listed stock or any of the permissible indices, with the sole purpose of hedging.</p>	
v.	<p>Asset Backed, Trust Structured and Miscellaneous Investments</p> <p>(a) mortgage based Securities or Residential mortgage based securities;</p> <p>(b) units issued by Real Estate Investment Trusts regulated by the Securities and Exchange Board of India;</p> <p>(c) Asset Backed Securities regulated by the Securities and Exchange Board of India.</p> <p>(d) Units of Infrastructure Investment Trusts regulated by the Securities and Exchange Board of India.</p>	Upto five per cent.

Provided that the portfolio invested under sub-clause (b) of clause (i) of the said Table shall not be in excess of ten percent of the total portfolio of the fund:

Provided further that, irrespective of the proportion of investments specified in clause (i) of the said table, exposure of a trust to any Individual Mutual Fund, under sub-clause (c) of the said clause, which has been set up as a dedicated fund for investment in Government Securities, shall not exceed five per cent. of its total portfolio at any point of time and fresh investments made in them shall not exceed five per cent. of the fresh accretions in the year:

Provided also that the investment stated in sub-clause (b) of clause (ii) shall be made only in such Tier-I bonds which are proposed to be listed in case of initial offering of the bonds and if such Tier-I bonds are listed and regularly traded, investment shall be made in such bonds of a Scheduled commercial Bank from the Secondary Market:

Provided also that the total portfolio invested, at any time, in Tier I bonds referred to sub-clause (b) of clause (ii) of the said Table shall not be more than two per cent. of the total portfolio of the fund; and

- (i) no investment in initial offerings shall exceed twenty per cent. of the initial offering,
- (ii) the aggregate value of Tier I bonds of any particular bank held by the fund at any point of time, shall not exceed twenty per cent. of such bonds issued by that Bank.

Provided also that for sub-clause (c) of clause (ii) of the said Table, a single rating of AA or above by a domestic or international rating agency will be acceptable:

Provided also that the debt securities covered under sub-clause (b) of clause (i) of the said Table shall be excluded from the securities covered under clause (ii) of the said Table.

Provided also that in sub-clause (e) of clause (ii), fresh investment in Debt Mutual Funds shall not be more than five per cent. of the fresh accretions invested in the year and the portfolio invested in them shall not exceed five per cent. of the total portfolio of the fund at any point in time.

Provided also that the investment under sub-clause (a), (b) and items (i) to (iv) of (f) of clause (ii) of the said Table shall be made only in such securities which have minimum AA rating or equivalent in the applicable rating scale from at least two credit rating agencies registered with Securities and Exchange Board of India under Securities and Exchange Board of India (Credit Rating Agency) Regulation, 1999.

Provided also that in case of item (iii) of the sub-clause (f) of clause (ii) of the said Table the ratings shall relate to the Non-Banking Financial Company and for item (iv) of the sub-clause (f) of clause (ii) of the said Table the ratings shall relate to the investment in eligible securities rated above investment grade of the scheme of the fund:

Provided also that if the securities or entities have been rated by more than two rating agencies, the two lowest of all the ratings shall be considered:

Provided also that investments under sub-clauses (a), (b) and sub-clause (f) of clause (ii) of the said Table requiring a minimum AA rating, shall be permissible in securities having investment grade rating below AA in case the risk of default for such securities is fully covered with Credit Default Swaps issued under Guidelines of the Reserve Bank of India and purchased along with the underlying securities and purchase amount of such Swaps shall be considered to be investment made under this clause:

Provided also that investment stated in sub-clause (a) of clause (iii) of the said Table in paper issued by body corporates shall be made only in such instruments which have minimum rating of A1 + by at least two credit rating agencies registered with the Securities and Exchange Board of India and if paper has been rated by more than two rating agencies, the two lowest of the ratings shall be considered:

Provided also that investment in sub-clause (a) of clause (iii) of the said Table in Certificates of Deposit of up to one year duration issued by scheduled commercial banks will require the bank to satisfy all conditions mentioned in sub-clause (d) of clause (ii) of the said table:

Provided also that the aggregate portfolio invested in such mutual funds stated in sub-clause (b) of clause (iv) of the said Table shall not be in excess of five per cent. of the total portfolio of the fund at any point in time and the fresh investment in such mutual funds shall not be in excess of five per cent. of the fresh accretions invested in the year:

Provided also that the portfolio invested in derivatives in terms of contract value shall not be in excess of five per cent. of the total portfolio invested in sub-clauses (a) to (d) of clause (iv) of the said Table:

Provided also that investment under clause (v) of the said Table shall only be in listed instruments or fresh issues that are proposed to be listed:

Provided also that investment under clause (v) of the said Table shall be made only in such securities which have minimum AA or equivalent rating in the applicable rating scale from at least two credit rating agencies registered by the Securities and Exchange Board of India under Securities and Exchange Board of India (Credit Rating Agency) Regulations, 1999:

Provided also that in case of the sub-clause (b) and (d) of the clause (v) of the said Table, the ratings shall relate to the rating of the sponsor entity floating the trust:

Provided also that if the securities/entities have been rated by more than two rating agencies, the two lowest of the ratings shall be considered:

Provided also that any proceeds arising out of exercise of put option, tenure or asset switch or trade of any asset before maturity can be invested in any of the permissible categories in the manner that at any given point of time the percentage of assets under that category shall not exceed the maximum limit prescribed for that category and also shall not exceed the maximum limit prescribed for the sub-categories, if any. However, asset switch because of any Reserve Bank of India mandated Government debt switch would not be covered under this restriction.

Provided also that fresh accretions to the fund shall be invested in the permissible categories specified in this investment pattern in a manner consistent with specified maximum permissible percentage amounts to be invested in each such investment category, while also complying with such other restrictions as made applicable for various sub-categories of the permissible investments:

Provided also that the turnover ratio, being the value of securities traded in the year divided by the average value of the portfolio at the beginning of the year and at the end of the year, should not exceed two.

Provided also that in the event of the rating of any instrument mentioned in the Table for being rated and their rating falling below the investment grade, as confirmed by One Credit Rating Agency registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the option of exit shall be considered and exercised, as appropriate, in a manner that is in the best interest of the subscribers and released fund shall be invested in accordance with the manner provided in the Table:

Provided also that if the fund has engaged services of professional fund manager or asset managers for management of its assets, payment to whom is made on the basis of the value of each transaction, the value of funds invested by them in any mutual fund mentioned in any of the clauses of the Table or Exchange Traded Funds or Index Funds shall be reduced before computing the payment due to them.

Explanation 1.— The manner of investment specified in this sub-rule shall apply to the aggregate amount of investible moneys with the fund in the previous year.

Explanation 2.—For the purposes of this sub-rule,—

- (i) Fresh accretions to the funds shall be the sum of un-invested funds from the past and receipts like contributions to the funds, dividend, interest, commission, amount received on the maturity of investment made prior to the 1st day of April, 2015 etc., as reduced by obligatory outgo during the financial year.
- (ii) the expression "Government securities" shall have the meaning assigned to it in clause (b) of section 2 of the Securities Contracts (Regulation) Act, 1956;
- (iii) the expression "Infrastructure" for the purposes of sub-clause (f) of clause (ii) of the Table shall have the meaning as referred to in Notification dated 2nd March, 2015 (F No 11/14/2013-PR) of Department of Financial Services.
- (iv) the expression "public financial institutions" shall have the meaning as assigned to it under section 2 of the Companies Act, 2013 (1 of 2013);
- (v) the expression "public sector company" shall have the meaning assigned to it in clause (36A) of section 2 of the Income-tax Act;
- (vi) the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.]

[Notification No. 122/201, F. No. 370142/4/2016-TPL]

ABHISHEK GAUTAM, Under Secy. (Tax Policy & Legislation)

Note: The principle rules were published vide Notification No. S.O. 969 dated the 26th March, 1962 which has been amended from time to time, the last amendment being S.O. 4110 (E) dated 21st December, 2016.