

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

NOTIFICATION

New Delhi, the 17th August, 2020

INCOME-TAX

G.S.R. 508(E).—In exercise of the powers conferred by sub-clause (iii) of clause (c) of *Explanation* 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 (20th Amendment) Rules, 2020.

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

2. In the Income-tax Rules, 1962,-

(i) after rule 2DA, the following rules shall be inserted, namely: -

“2DB. Other conditions to be satisfied by the pension fund. - For the purposes of clause (23FE) of section 10, the pension fund shall be required to satisfy the following other conditions, namely: -

(i) it is regulated under the law of a foreign country including the laws made by any of its political constituents being a province, state or local body, by whatever name called, under which it is created or established, as the case may be;

(ii) it is responsible for administering or investing the assets for meeting the statutory 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;

(iii) 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 clause (ii) and no portion of the earnings or assets of the pension fund inures any benefit to any other private person;

(iv) it does not undertake any commercial activity whether within or outside India;

(v) it shall intimate the details in respect of each investment made by it in India during the quarter within one month from the end of the quarter in Form No. 10BBB;

(vi) it shall file return of income on or before the due date specified under sub-section (1) of section 139 and furnish along with such return a certificate in Form No. 10BBC in respect of compliance to the provisions of clause (23FE) of section 10, during the financial year, from an accountant as defined in the *Explanation* below sub-section (2) of section 288.

2DC. Guidelines for notification under clause (23FE) of section 10.- (1) For the purposes of notification under sub-clause (iv) of clause (c) of *Explanation* to the clause (23FE) of section 10, the pension fund shall make an application in Form No. 10BBA enclosing therewith relevant documents and evidence, to the,-

(i) Member (Legislation), Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, North Block, New Delhi during the financial year 2020-2021;

(ii) Member, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, North Block, New Delhi having supervision and control over the work of Foreign Tax and Tax Research Division during the other financial years.

(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down the data structure, standards and procedure of furnishing and verification of Form No 10BBB and Form No 10BBC, and shall be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said forms so furnished under this sub-rule.”;

(ii) in Appendix-II, after Form No. 10BB, the following forms shall be inserted, namely: -

“Form No. 10BBA

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

Application for notification under sub-clause (iv) of clause (c) of *Explanation* 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) is not liable to tax in the foreign country mentioned at (a) above;
- (c) the Pension Fund is responsible for administering or investing the assets for meeting the statutory 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; and
- (e) the pension fund does not undertake any commercial activity whether within or outside India.

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.

Form No 10BBB*

[See rule 2DB]

Intimation by Pension Fund of investment under clause (23FE) of section 10 of the Income-tax Act, 1961

(within one month from the end of the quarter ending on 30th June, 30th September, 31st December and 31st March of the financial year)

To,

The Assessing Officer

Madam/ Sir,

Kindly find statement containing details of investment for the quarter ending _____ of the Financial Year _____ in respect of _____ (Name of the Pension Fund) having PAN _____ and notified under clause (23FE) of section 10 of the Income-tax Act, 1961 *vide* notification no _____, dated _____ (DDMMYYYY) as under:

Sl. No.	Date	Amount	Nature [Debt/ Share Capital (Equity/ Preference)/ Unit]	Rate of Dividend, if any, (Preference Share/ Unit)/ Interest (Debt)	Details of the entity in which Investment made		
					Business Trust/ Company or enterprise or entity/ Alternative Investment Fund	Name	PAN
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.							
2.							
Total							

Verification*

I, _____, son/ daughter/ wife** of Shri _____, solemnly declare that to the best of my knowledge and belief, the information given above is 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 relevant fact or information.

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.

Form No 10BBC

[See rule 2DB]

Certificate of accountant in respect of compliance to the provisions of clause (23FE) of section 10 of the Income-tax Act, 1961 by the notified Pension Fund

I/ We* hereby confirm that I/ we* have examined the relevant accounts, documents and records of _____ (name of the Pension Fund) having PAN _____ and which has been notified under clause (23FE) of section 10 *vide* notification no _____ dated _____ (DDMMYYYY), for the period from _____ (DDMMYYYY) to _____ (DDMMYYYY) and after examination, it is hereby certified that:

- (i) the opening balance (i.e. the closing balance as on the last date of the preceding financial year) of the investment made which is eligible for exemption under clause (23FE) of section 10 is _____ (in rupees) and details of the investment by the Pension Fund during the period are as under:

Sl. No.	Date	Amount	Nature [Debt/ Share Capital (Equity/ Preference)/ Unit]	Rate of Dividend, if any, (Preference Share/ Unit)/ Interest (Debt)	Details of the entity in which Investment made		
					Business Trust/ Company or enterprise or entity/ Alternative Investment Fund	Name	PAN
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.							
2.							
Total							

- (ii) *the pension fund has not sold any of the investments made for the purposes of exemption under clause (23FE) of section 10 of the Income-tax Act, 1961 before the expiry of three years from the date on which the investment was made in respect of the said exemption/the pension fund has sold certain investments made for the purposes of exemption under clause (23FE) of section 10 of

the Income-tax Act, 1961 before the expiry of three years from the date on which the investment was made in respect of the said exemption, the details of which are as under:

Sl. No.	Date of investment	Amount	Nature [Debt/ Share Capital (Equity/ Preference)/ Unit]	Rate of Dividend, if any, (Preference Share/ Unit)/ Interest (Debt)	Details of the entity in which Investment made			Date of sale
					Business Trust/ Company or enterprise or entity/ Alternative Investment Fund	Name	PAN	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.								
2.								
Total								

(iii) the Pension Fund satisfies all the conditions required for the purposes of exemption under clause (23FE) of section 10 of the Income-tax Act, 1961, that is, -

- it 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;
- it is not liable to tax in such foreign country;
- it is responsible for administering or investing the assets for meeting the statutory 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;
- its earnings and assets are used only for meeting statutory obligations and defined contributions for participants or beneficiaries of funds or plans referred to in at clause (ii) and no portion of the earnings or assets of the pension fund inures any benefit to any other private person;
- it does not undertake any commercial activity whether within or outside India; and
- it has complied with the requirement of intimation of the details of investment made by it in India in Form No 10BBB.

Verification†

It has been ensured that the information furnished is true and correct in all respects and no relevant information has been concealed or withheld.

2. Neither I, nor any of my partners, is a director, partner or an employee of the above-mentioned entities or its associated concerns.

3. I/ we* fully understand that any statement made in this certificate, if proved incorrect or false, will render me/us* liable for any penal or other consequences as may be prescribed in law or is otherwise warranted.

Verified today the _____ day of _____

Place _____

(Signature and Stamp/ Seal of the Signatory)

†Accountant _____

Name of the Signatory _____

Membership No. _____

Full Address _____

Notes: 1. *Delete whichever is not applicable.

2. †This certificate is to be given by an accountant as defined in the *Explanation* below sub-section (2) of section 288 of the Income-tax Act, 1961.”.

[Notification No. 67/2020/ 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. No. 499(E) dated the 10th August, 2020.