

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

NOTIFICATION

New Delhi, the 10th December, 2021

INCOME-TAX

G.S.R. 851(E).—In exercise of the powers conferred by clause (4E) 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 (33rd 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, after rule 21AJ, the following rule shall be inserted, namely:—

“21AK. Conditions for the purpose of clause (4E) of section 10.- (1) The income accrued or arisen to, or received by, a non-resident as a result of transfer of non-deliverable forward contracts under clause (4E) of section 10 of the Act, shall be exempted subject to fulfillment of the following conditions, namely:—

- (i) the non-deliverable forward contract is entered into by the non-resident with an offshore banking unit of an International Financial Services Centre which holds a valid certificate of registration granted under International Financial Services Centres Authority (Banking) Regulations, 2020 by the International Financial Services Centres Authority; and
- (ii) such contract is not entered into by the non-resident through or on behalf of its permanent establishment in India .

(2) The offshore banking unit shall ensure that the condition provided in clause (ii) of sub-rule (1) is complied with.

Explanation.- For the purpose of this rule, the expression,-

- (i) "permanent establishment" shall have the meaning assigned to it in clause (iiia) of section 92F;

- (ii) "a non-deliverable forward contract" shall mean a contract for the difference between an exchange rate agreed before and the actual spot rate at maturity, with the spot rate being taken as the domestic rate or a market determined rate and such contract being settled with a single payment in a foreign currency; and
- (iii) "offshore banking unit" means a banking branch Unit located in an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA of the Act."

[Notification No. 136/2021/F. No. 370142/53/2021-TPL (Part-II)]

UMME FARDINA ADIL, Under Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), *vide* notification number S.O. 969 (E) dated the 26th March, 1962 and were last amended *vide* notification number G.S.R. 831(E) dated 23rd November, 2021.