

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

New Delhi, the 27th December, 2021

**G.S.R. 883(E).**—In exercise of the powers conferred by clause (23FF) 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 (34<sup>th</sup> Amendment) Rules, 2021.

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

2. In the Income-tax Rules, 1962 (hereafter referred to as the principal rules), after rule 2DC, the following rule shall be inserted, namely:—

**“2DD. Computation of exempt income of specified fund for the purposes of clause (23FF) of section 10.**-(1) For the purpose of clause (23FF) of section 10, income of the nature of capital gains, arising or received by a specified fund, which is attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) in such specified fund shall be computed as under:-

(i) where the specified fund files Form No. 10-II in accordance with sub-rule (2), the Income exempt under clause (23FF) of section 10=  $[A*B/C]$ , where,-

A = income of the nature of capital gains, arising or received by a specified fund, which is on account of transfer of shares of a company resident in India, by the specified fund and where such shares were received by the specified fund, being resultant fund, in relocation from the original fund, or from its wholly owned special purpose vehicle, and where such capital gains would not be chargeable to tax if the relocation had not taken place;

B = aggregate of daily ‘assets under management’ of the specified fund which are held by non-resident unit holders (not being the permanent establishment of a non-resident in India), from the date of acquisition of the share of a company resident in India by the specified fund to the date of transfer of such share.

C = aggregate of daily total ‘assets under management’ of the specified fund, from the date of acquisition of the share of a company resident in India by the specified fund to the date of transfer of such share.

(ii) where no Form No.10-II is filed by the specified fund, the exempt income shall be NIL.

(2) The specified fund shall furnish an annual statement of exempt income in Form No.10-II electronically under digital signature on or before the due date, which is duly verified in the manner indicated therein.

(3) It shall get the annual statement, referred to in sub-rule (2), certified by an accountant before the specified date and such accountant shall furnish by that date the certificate in Form No. 10-IJ electronically under digital signature, which is duly verified in the manner indicated therein.

(4) The Principal Director General of Income-tax (Systems) or the Director General of Income tax (Systems), as the case may be, shall specify the procedure for filing of the Form Nos. 10-II and 10-IJ and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished under this rule.

**Explanation:-** For the purposes of this rule, the expressions,-

- (a) “assets under management” means the closing balance of the value of assets or investments of the specified fund as on a particular date;
- (b) “due date” shall have the meaning assigned to it in the *Explanation 2* below sub-section (1) of section 139;
- (c) “original fund” , “relocation” and "resultant fund" shall have the meanings respectively assigned to them in the *Explanation* to clause (viiac) and clause (viid) of section 47;
- (d) “permanent establishment” shall have the meaning assigned to it in clause (iiia) of section 92F;
- (e) "securities" shall have the meaning assigned to it in clause (bb) of the *Explanation* to clause (4D) of section 10;
- (f) “specified date” in relation to the certification of the annual statement in Form 10-II, means the date one month prior to the due date;
- (g) "specified fund" shall have the meaning assigned to it in sub-clause (i) of clause (c) of the *Explanation* to clause (4D) of section 10; and
- (h) “unit” shall have the meaning assigned to it clause (f) of the *Explanation* to clause (4D) of section 10.”.

3. In the principal rules, in Appendix II, after Form 10-IH, the following Forms shall be inserted, namely:-

**“Form No. 10-II**

**Statement of exempt income under clause (23FF) of section 10 of the Income-tax Act, 1961**

[See sub-rule (2) of rule 2DD]

S.No.										
1.	Name of the specified fund									
2.	Permanent Account Number of the specified fund									
3.	Registered address of the specified fund									
4.	Legal status of the specified fund [company/trust/limited liability partnership/body corporate]		<b>(Drop down)</b>							
5.	Date of establishment / incorporation		d	d	m	m	y	y	y	y
6.	Date of commencement of operations		d	d	m	m	y	y	y	y
7.	1.	Registration number as per the certificate of registration issued by the International Financial Services Centres Authority								
	2.	Date of registration	d	d	m	m	y	y	y	y
8.	Whether all the units of the specified Fund are held by non-residents other than units held by a sponsor or a manger		Yes/No							

9.	Name of the original fund and its wholly owned special purpose vehicle						
10.	Registered address of the original fund and its wholly owned special purpose vehicle						
11.	Whether the original fund is a person resident in India						Yes/No
12.	Whether the original fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into; or is established or incorporated or registered in a country or a specified territory as may be notified by the Central Government in this behalf						Yes/No
13.	Whether the original fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident						Yes/No
14.	Whether the original fund fulfils conditions as may be prescribed under clause (viia) of section 47						Yes/No
15.	Country of residence of the original fund						
16.	Legal status of the original fund and its wholly owned special purpose vehicle [company/trust/limited liability partnership/body corporate]						(drop down)
17.	Taxpayer's registration number or any unique identification number of the original fund allotted and its wholly owned special purpose vehicle in the country of residence						
18.	Details of the shares transferred :-						
	S.No.	Name of the company resident in India whose shares are transferred	No. of Shares	Date of acquisition	Cost of acquisition	Date of transfer	Sale consideration
		(A)	(B)	(c)	(d)	(E)	(F)
19.	<b>Computation of the exempt income under clause (23FF) of section 10 of the Income-tax Act, 1961</b>						
	Income of the nature of capital gains, arising or received by the resultant fund, on account of transfer of share of a company resident in India (1)					Rs.	
	Aggregate value 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 share of a company resident in India by the specified fund to the date of transfer of such share (2)						
	Aggregate value of daily total 'assets under management' of the specified fund, from the date of acquisition of the share of a company resident in India by the specified fund to the date of transfer of such share. (3)						
	Ratio as prescribed under rule 2DD (4)					(2)/(3)	
Income attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) (5)					(1)*(4)		

I, \_\_\_\_\_(Name in full and in block letters) son/daughter/wife of \_\_\_\_\_ do hereby solemnly declare that to the best of my knowledge and belief what is stated above, including the accompanying documents to this form, is correct and complete. I further declare that I am furnishing such statement in my capacity as \_\_\_\_\_ (designation) and that I am competent to furnish this statement and verify it. It is also verified that the certification of the accountant in Form 10IL has been filed on \_\_\_\_\_.

Verified today the \_\_\_\_\_ day of \_\_\_\_\_

Place \_\_\_\_\_

Signature

**Form No. 10-IJ**

**Certificate to be issued by accountant under clause (23FF) of section 10 of the Income-tax Act, 1961**

**[See sub-rule (3) of rule 2DD]**

I/We \_\_\_\_\_ have examined the books of account, if any, and other documents, including the annual statement in Form No.10-II, showing the particulars of income of the nature of capital gains, arising or received by \_\_\_\_\_ (name of the specified fund), on account of transfer of share of a company resident in India, by the specified fund to the extent attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) which is exempt under clause (23FF) of section 10 of the Act and the total income exempt under the said clause for the previous year ending \_\_\_\_\_.

2. I/We declare that the above particulars are true and correct to the best of my/our knowledge and belief.

Place \_\_\_\_\_

(Signature with name of the accountant)

Date \_\_\_\_\_

**Instructions:** 1 Where the specified fund has floated multiple schemes, the specified fund shall separately furnish the annual statement of exempt income in Form No. 10-II for each scheme; and

2. All amounts to be mentioned in Indian rupees.”.

[Notification No. 138/2021/ F. No. 370142/58/2021-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. 851(E) dated 10th December, 2021.