

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 17th July, 2023

G.S.R. 514(E).— In exercise of the powers conferred by clause (i) of sub-section (3) of section 80LA, clause (4E) of section 10, sub-section (7) of section 115UB, clause (d) of sub-section (8) of section 139A and clause (ii) of sub-section (7) of section 206AA 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 (Twelvth Amendment) Rules, 2023.

(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),

(i) in rule 21AK, for sub-rule (1), the following sub-rule shall be substituted, namely:—

“(1) The income accrued or arisen to, or received by, a non-resident as a result of

- (a) transfer of non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives; or
- (b) distribution of income on offshore derivative instruments,

under clause (4E) of section 10 of the Act, shall be exempted subject to fulfilment of the following conditions, namely:—

- (i) the non-deliverable forward contract or offshore derivative instrument or over-the-counter derivative 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, instrument or derivative is not entered into by the non-resident through or on behalf of its permanent establishment in India.”;
- (ii) in rule 114AAB, in the *Explanation*, for clause (a), the following clause shall be substituted, namely:—

“(a) “specified fund” means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International

Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019) and which is located in any International Financial Services Centre or a specified fund referred to in sub-clause (i) of clause (c) of *Explanation* to clause (4D) of section 10;’.

3. In the principal rules, in APPENDIX II,—

(i) for Form No. 10CCF, the following Form shall be substituted, namely:-

“FORM NO. 10CCF

[See rule 19AE]

Report under section 80LA(3) of the Income-tax Act, 1961

1. I/We have examined the accounts and records of (name and address of the assessee with Permanent Account Number or Aadhaar Number) relating to the business of:

(Tick as applicable)

(a) Offshore Banking Unit(s)/ which is/are situated in the Special Economic Zone (name of the Special Economic Zone), or

(b) Unit of an International Financial Services Centre,

owned by the assessee, which is/are carried on by the assessee during the year ended on 31st March _____ .

2. I/We certify that the deduction to be claimed by the assessee under subsection (1)/subsection (1A) of section 80LA of the Income-tax Act, 1961, in respect of the assessment year is Rs _____, which has been determined on the basis of the income received by the assessee in convertible foreign exchange. The said amount has been worked out on the basis of the details in Annexure A to this Form.

Date :

Signed

Place :

Accountant

ANNEXURE A	
1. Name of the assessee	
2. Assessment year	
3. Permanent account number and Aadhaar number (If applicable)	
4. Name and address of the (Tick as applicable) (a) Offshore Banking Unit(s) in any Special Economic Zone, or (b) the Unit of an International Financial Services Centre, owned by the assessee— (Please enclose a copy of the permission(s) obtained under clause (a) of sub-section (1) of section 23 of the Banking Regulation Act, 1949 or the International Financial Services Centres Authority Act, 2019 (50 of 2019)	
5. First assessment year of claim of deduction under sub-section(1) or sub-section (1A) of section 80LA by the assessee	
6. Gross income of the units referred to in sub-section (2) of section 80LA (in Rs.)	
Less :	
7. Out of 6 above, gross income which is not received in convertible foreign exchange (in Rs.)	
8. Gross eligible income (in Rs.)	
Less :	
9. Expenses attributable to the gross eligible income (item 8) (in Rs.)	
10. Income eligible for deduction under section 80LA (8-9) (in Rs.)”;	

(ii) in Form No. 64D, —

(A) against serial number 7, for paragraph (i), the following paragraph shall be substituted, namely:—

“(i) Whether registered as Alternative Investment Fund with Securities and Exchange Board of India under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 or the International Financial Services Centres Authority (Fund Management) Regulations, 2022:”

(B) in serial number 12, for the paragraph starting with “Attach a copy of the certificate of registration” and ending with “Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.”, the following paragraph shall be substituted, namely:— “Attach a copy of the certificate of registration under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 or the International Financial Services Centres Authority (Fund Management) Regulations, 2022.”

[Notification No. 50/2023/ F. No.370142/22/2023-TPL]

AMRIT PRITOM CHETIA, 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.457 (E) dated 23rd June, 2023.