

MINISTRY OF FINANCE**(Department of Revenue)**

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 27th May, 2020

INCOME-TAX

G.S.R.315(E).—In exercise of the powers conferred by section 295 read with clause (m) of sub-section (3) of section 9A 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 (10th Amendment) Rules, 2020.

(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), -

(a) in rule 10V,-

(i) after sub-rule (10), the following shall be inserted, namely: -

“(11) The provisions of sub-rule (5) to sub-rule (10) shall not apply on or after the 1st day of April, 2019.

(12) the amount of remuneration to be paid by the fund to a fund manager, referred to in clause (m) of sub-section (3) of section 9A, shall be calculated in the following manner, namely: -

(i) In case where the fund is Category-I foreign portfolio investor referred to in item (i), item (ii) or item (iii), and sub-item III of item (iv) of clause (a) of regulation 5 of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), the amount of remuneration shall be 0.10 per cent of the asset under management.

(ii) In other cases, the amount of remuneration shall be, -

(a) 0.30 per cent. of the asset under management; or

(b) 10 per cent. of profits derived by the fund in excess of the specified hurdle rate from the fund management activity undertaken by the fund manager, where it is entitled only to remuneration linked to the income or profits derived by the fund; or

(c) 50 per cent. of the management fee, whether in the nature of fixed charge or linked to the income or profits derived by the fund from the management activity undertaken by the fund manager, paid by such fund in respect of the fund management activity undertaken by the fund manager as reduced by the amount incurred towards operational expenses including distribution expenses, if any:

Provided that the provisions of this sub-clause shall apply only in case the fund is also making payment of management fee to any other fund manager :

Provided further that in case where the amount of remuneration is lower than the amount arrived at under *clause* (i) or *clause* (ii), the fund may, at its option, apply to the Member, Central Board of Direct Taxes referred to in sub-rule (2) of rule 10VA seeking approval of the Board under said rule for that lower amount to be the amount of remuneration, and, on receipt of such application the Board may, after satisfying itself considering the relevant facts, approve such lower amount to be the amount of remuneration.

Explanation. - For the purposes of this rule.—

(a) “asset under management” means the annual average of the monthly average of the opening and closing balances of the value of such part of the fund which is managed by the fund manager;

(b) “management fee” means the amount as mentioned in the certificate obtained from an accountant, as defined in *clause* (i) of *Explanation* to rule 11UB, for this purpose;

(c) “specified hurdle rate” means a pre-defined threshold beyond which the fund agrees to pay a share of the profits earned by the fund from the fund management activity undertaken by the fund manager.

(13) The fund manager shall, in addition to any report required to be furnished by it under section 92E, obtain a report from the accountant in respect of activity undertaken for the fund and furnish such report on or before the specified date in the Form No. 3CEJA duly verified by such accountant in the manner indicated therein and all the provisions of the Act shall apply as if it is a report to be furnished under section 92E.”;

- (ii) sub-rule (11) and sub-rule (12) shall be renumbered as sub-rule (14) and sub-rule (15) respectively.”;
- (b) In the principal rules, in Appendix II, -
- (i) after Form No 3CEJ, the following shall be inserted, namely: -

“FORM No. 3CEJA

[See rule 10V (13)]

Report from an accountant to be furnished for purpose of section 9A regarding fulfilment of certain conditions by an eligible investment fund

*I/We have examined the accounts and records of (name and address of the fund manager with PAN) relating to the fund management activity and other transactions or services rendered by the fund manager to the eligible investment fund/ funds during the previous year ending on 31st March,

1. In*my/our opinion proper information and documents as are prescribed have been kept by the fund manager in respect of fund management activity and other transactions or services rendered by the fund manager to the fund/funds so far as appears from *my/our examination of the records of the fund manager.
2. The particulars required to be furnished for the purpose of section 9A are given in the Annexure to this Form. In*my/our opinion and to the best of my/our information and according to the explanations given to *me/us, the particulars given in the Annexure are true and correct.

**Signed:

Name:

Address:

Membership No.:

Place:

Date:

Notes:

1. *Delete whichever is not applicable.
2. **This report has to be signed by an accountant as defined in the Explanation below sub-section (2) of section 288.

ANNEXURE TO FORM No. 3CEJA

Particulars relating to fund management activity required to be furnished for the purposes of section 9A of the Income-tax Act, 1961

1. Name of the Fund Manager:
2. Address
3. Permanent account number
4. Nature of business or activities of the fund manager
5. Status
6. Residential status
7. Details of SEBI registration:
 - (a) Regulation under which registered
 - (b) Registration number and date
 - (c) Foreign portfolio investor category, if applicable
8. Previous year ended
9. Whether Fund Manager and Fund are related in terms of provision under section 92B. Yes/ No
10. Aggregate value of remuneration received from the eligible fund/ funds as per books of account
11. List of eligible investment funds for whom the fund manager has

undertaken the fund management activity, with the following details:

- (a) Name of the offshore fund.
- (b) Country of residence of the fund
- (c) Whether the fund manager is an employee of the fund
- (d) Whether the fund manager is a connected person of the Fund Yes/ No
- (e) The amount of profit accruing or arising, during the previous year, to the fund from the activities carried out through the fund manager Yes/ No
- (f) The amount out of (e) to which the fund manager along with its connected persons is, directly or indirectly, entitled to

12. Particulars of remuneration received in respect of each eligible investment fund and each activity undertaken (if such activity is separately remunerated):

- (a) Name and address of the fund for which the fund management activity has been undertaken.
- (b) Description of the activity.
- (c) Total amount received or receivable in respect of the activity-
- i) as per books of account;
- i) as computed by the fund manager having regard to the amount prescribed in this behalf.

13. Particulars in respect of any other transaction undertaken by the fund manager with/on behalf of the eligible investment fund:

- (a) Has the fund manager entered into any other transaction or rendered any other service to the eligible investment fund or on behalf of the fund, but not specifically referred to above? Yes/ No
- (b) If 'yes' provide the following details in respect of each fund and each transaction or service:
- (i) Name and address of the eligible investment fund with which the transaction has been entered or to whom services have been rendered
- (ii) Description of the transaction/ nature of service.
- (iii) Amount paid/ received or payable/ receivable on account of such transaction/ service-
- as per books of account;
 - as computed by the fund manager having regard to the arm's length price.
- (iv) Method used for determining the arm's length price [See section 92C(1)]

**Signed:

Name:

Address:

Place:

Date:

Notes:** This report has to be signed by an accountant as defined in the *Explanation* below sub-section (2) of section 288.”;

- (ii) For Form No 3CEK, the following Form shall be substituted, namely:-

“FORM No. 3CEK

[See rule 10VB]

Statement to be furnished by an eligible investment fund to the Assessing Officer

Sl No.	Heading	Details	Remarks if any
1	Financial Year for which the Statement is being submitted		
2	Name of the eligible fund		
3	Address of the fund		
4	Permanent Account Number (if Allotted)		
5	Country of Residence		
5A	Tax Identification No., if any, of country of residence		
6	Accounting year of the Fund		
7	Details of Approval if any granted by CBDT		
8	Whether during the Financial Year the fund has satisfied all the conditions specified in section 9A and in case of Approved Fund whether conditions subject to which approval was granted, have also been fulfilled. YES/NO		
9	If answer to 8 is No then provide details and period of non-fulfilment and the reasons thereof		
10	Whether any person resident in India had any participation interest directly or indirectly in the fund during the year? Yes/NO		
11	If answer to 10 is Yes provide details of person(s) and percentage interest		
12	Details of any shareholding agreement entered during the year in respect of any Indian Concern		
13	Details of Fund Manager(s) in India rendering services for or on behalf of the Fund and their SEBI registration number(s)		
14	Whether remuneration paid to the Fund manager (s) is not less than the amount prescribed and the basis on which it has been calculated		
15	Details of any other Activity carried out by the Fund or on behalf of the fund in India other than through the fund manager indicated in 13		
16	Amount of profit made by the Fund on its investments		
17	Contact details of representative(s) of the Fund		

VERIFICATION

I,[full name in block letters]son/daughter of..... holding(Designation) on behalf of the above mentioned (Name of Fund) solemnly declare that to the best of my knowledge and belief, the information given in the form is correct and complete and that the other particulars shown therein are truly stated. I further declare that I am submitting this form in my capacity as and I am also competent to make this submission and verify it.

Verified today the day of

Place

Signature of Authorised Signatory

Name”

[Notification No. 29/2020/ F. No. 142/15/2015-TPL]

NEHA SAHAY, Under Secy. (Tax Policy and Legislation Division)

Note: The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii) *vide* number S.O. 969 (E) dated 26th March, 1962 and were last amended *vide* notification number G.S.R. 304 (E) dated 20.05.2020.