

SECTION 92C OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - COMPUTATION OF ARM'S LENGTH PRICE - NOTIFIED TOLERANCE LIMIT UNDER THIRD PROVISO TO SUB-SECTION (2) OF SAID SECTION FOR ASSESSMENT YEAR 2019-20

NOTIFICATION S.O. 2928(E)[NO. 70/2022/F. NO. 500/1/2014-APA-II], DATED 28-6-2022

In exercise of the powers conferred by the third proviso to sub-section (2) of section 92C of the Income-tax Act, 1961 read with proviso to sub-rule (7) of rule 10CA of the Income-tax Rules, 1962, the Central Government hereby notifies that where the variation between the arm's length price determined under section 92C of the said Act and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed one per cent. of the latter in respect of wholesale trading and three per cent. of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for assessment year 2022-2023.

Explanation.— For the purposes of this notification, "wholesale trading" means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:-

- (i) purchase cost of finished goods is eighty per cent. or more of the total cost pertaining to such trading activities; and
- (ii) average monthly closing inventory of such goods is ten per cent. or less of sales pertaining to such trading activities.

INCOME-TAX (TWENTIETH AMENDMENT) RULES, 2022 - AMENDMENT IN RULE 31A AND INSERTION OF FORM NO. 26QF

NOTIFICATION G.S.R. 482(E) [NO. 73/2022/F. NO. 370142/29/2022-TPL (PART-I)], DATED 30-6-2022 AS CORRECTED BY NOTIFICATION G.S.R. 505(E) [NO. 77/2022/F.NO. 370142/29/2022-TPL (PART-I)], DATED 1-7-2022

In exercise of the powers conferred by section 295, read with section 194S of the Income-tax Act, 1961, the Central Board of Direct Taxes, hereby, makes the following rules further to amend the Income-tax Rules, 1962, namely:—

Short title and commencement.

1. (1) These rules may be called the Income-tax (20th Amendment) Rules, 2022.
(2) They shall come into force from 1st day of July, 2022.
2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 31A, —
 - (i) after sub-rule (1), the following shall be inserted, namely: —

"Provided that where the [Exchange] has, in accordance with the guidelines issued under sub-section (6) of section 194S, agreed to pay tax in relation to a transaction of transfer of a virtual digital asset, owned by it as an alternative to tax required to be deducted by the buyer of such asset under section 194S, the Exchange shall deliver or cause to be delivered, a quarterly statement of such transactions in Form No. 26QF to the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) or the person authorised by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems).

Explanation: For the purposes of this sub-rule, —

- (i) "Exchange" means a person that operates an application or platform for [transfer] of virtual digital assets, which matches buy and sell trades and execute the same on their application or platform;
- (ii) "virtual digital asset" shall have same meaning as assigned to it in clause (47A) of section 2."
- (ii) after sub-rule (4D), the following sub-rule shall be inserted, namely,—

"(4E) [The Exchange referred to in sub-rule (1) shall, at the time of preparing the quarterly statement in Form No. 26QF, furnish particulars of amount paid or credited on which tax was not deducted in accordance] with guidelines issued under sub-section (6) of section 194S."

3. In the principal rules, in Appendix II, after Form No. 26QE, the following Form shall be inserted, namely:—

"Form No. 26QF

Quarterly statement of tax deposited in relation to transfer of virtual digital asset under section 194S to be furnished by an exchange for the quarter ending June/

SECTION 2(47A) OF THE INCOME-TAX ACT, 1961 - VIRTUAL DIGITAL ASSET - EXCLUSION OF NOTIFIED VIRTUAL DIGITAL ASSET

NOTIFICATION S.O. 2958(E) [NO. 74/2022/F. NO. 370142/29/2022-TPL (PART-I)], DATED 30-6-2022

In exercise of the powers conferred by proviso to clause (47A) of section 2 of the Income-tax Act, 1961, the Central Government hereby notifies following virtual digital assets which shall be excluded from the definition of virtual digital asset:

- (i) Gift card or vouchers, being a record that may be used to obtain goods or services or a discount on goods or services;
- (ii) Mileage points, reward points or loyalty card, being a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services;
- (iii) Subscription to websites or platforms or application.

This notification shall come into force from the date of publication in the Official Gazette.

SECTION 2(47A) OF THE INCOME-TAX ACT, 1961 - VIRTUAL DIGITAL ASSET - NON-FUNGIBLE TOKEN

NOTIFICATION S.O. 2959(E) [NO. 75/2022/F. NO. 370142/29/2022-TPL (PART-I)], DATED 30-6-2022

In exercise of the powers conferred by clause (a) of Explanation to clause (47A) of section 2 of the Income-tax Act, 1961, the Central Government hereby specifies a token which qualifies to be a virtual digital asset as non-fungible token within the meaning of sub-clause (a) of clause (47A) of section 2 of the Act but shall not include a non-fungible token whose transfer results in transfer of ownership of underlying tangible asset and the transfer of ownership of such underlying tangible asset is legally enforceable.

This notification shall come into force from the date of publication in the Official Gazette.

INCOME-TAX (TWENTY FIRST AMENDMENT) RULES, 2022 - INSERTION OF RULE 21AL

NOTIFICATION G.S.R. 524(E)[NO. 80/2022/F. NO. 370142/11/2022-TPL], DATED 8-7-2022

In exercise of the powers conferred by sub-clause (iv) of clause (a) of Explanation to clause (viia) of section 47 read with section 295 of the Income-tax Act, 1961, the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely: —

Short title and commencement.

1. (1) These rules may be called the Income-tax (21st Amendment) Rules, 2022.
(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 21AK, the following rule shall be inserted, namely: —

“21AL. Other Conditions required to be fulfilled by the original fund. — For the purposes of sub-clause (iv) of clause (a) of Explanation to clause (viia) of section 47 of the Act, the original fund, in a case where a capital asset is transferred to a resultant fund being a Category III Alternative Investment Fund, shall fulfil the condition that the aggregate participation or investment in the original fund, directly or indirectly, by persons resident in India shall not exceed five per cent. of the corpus of such fund at the time of such transfer.

Explanation.— For the purpose of this rule, the expressions “original fund” and “resultant fund” shall have the meanings respectively assigned to them in the Explanation to clause (viia) and clause (viia) of section 47.”;

STANDARDIZING PROCESS OF FILING APPLICATION FOR APPROVAL/RENEWAL OF AN ELECTORAL TRUST UNDER SECTION 2 (22AAA) OF THE INCOME-TAX ACT, 1961

CIRCULAR F.NO. 173/62/2022-ITA-1, DATED 11-7-2022

Under clause (22AAA) of Section 2 of the Income-tax Act, 1961 Central Board of Direct Taxes is empowered to approve an ‘Electoral Trust’ for the benefit of provisions of Section 138 of the Income-tax Act, 1961.

As per clause 5(1)(a) of the Electoral Trust Scheme, 2013, an application for approval under Section 2 (22AAA) of the Act is to be made in duplicate in Form A. In order to avoid procedural delay in processing these applications, the applicants are advised to file alongwith the application in Form A, on or before the prescribed date, the duly filled in and signed check-list accompanied with documents required therein, before the Commissioner of Income Tax/Director of Income Tax under whose jurisdiction their cases fall. The applicant shall also enclose a copy the said check-list while sending the copy of their application to Member (IT&R), CBDT in terms of clause 5(l)(b) of Electoral Trust Scheme, 2013.

In supersession of the order issued in F.No.173/158/2013-ITA-I, dated 10th December, 2013, the Central Board of Direct Taxes has issued the new format of the check-list.

SPECIFYING FORMS, RETURNS, STATEMENTS, REPORTS, ORDERS, BY WHATEVER NAME CALLED, PRESCRIBED IN APPENDIX-LL TO BE FURNISHED ELECTRONICALLY UNDER SUB-RULE (1) AND SUB-RULE (2) OF RULE 131 OF THE INCOME-TAX RULES, 1962

NOTIFICATION NO. 3/2022 [F.NO. DGIT(S)-ADG(S)-3/E-FILING NOTIFICATION/FORMS/2022/3813], DATED 16-7-2022

In exercise of the powers conferred under sub-rule (1) and sub-rule (2) of Rule 131 of the Income-tax Rules, 1962 (‘the Rules’), the Director General of Income Tax (Systems), with the approval of the Board, hereby specifies that the following Forms, returns, statements, reports, orders, by whatever name called, shall be furnished electronically and shall be verified in the manner prescribed under sub-rule (1) of Rule 131:

S. No.	Form	Description
1	3CEF	Annual Compliance Report on Advance Pricing Agreement
2	10F	Information to be provided under sub-section (5) of section 90 or sub-section (5) of section 90A of the Income-tax Act, 1961
3	10IA	Certificate of the medical authority for certifying ‘person with disability’, ‘severe disability’, ‘autism’, ‘cerebral palsy’ and ‘multiple disability’ for purposes of section

		80DD and section 80U
4	3BB	Monthly statement to be furnished by a Stock Exchange in respect of transactions in which client codes have been modified after registering in the system for the month of --
5	3BC	Monthly statement to be furnished by a Recognized Association in respect of transactions in which client codes have been modified after registering in the system for the month of --
6	10BC	Audit report under (sub-rule (1) of rule 17CA) of Income-tax Rules, 1962, in the case of an electoral trust
7	10FC	Authorization for claiming deduction in respect of any payment made to any financial institution located in a Notified jurisdictional area
8	28A	Intimation to the Assessing Officer under section 210(5) regarding the Notice of demand under section 156 of the Income-tax Act, 1961 for payment of advance tax under section 210(3)/210(4) of the Act
9	27C	Declaration under sub-section (1A) of section 206C of the Income-tax Act, 1961 to be made by a buyer for obtaining goods without collection of tax
10	58D	Report to be submitted by a public sector company, local authority or an approved association or institution under clause (ii) of sub-section (5) of section 35AC of the Income-tax Act, 1961 to the National Committee on a notified eligible project or scheme.
11	58C	Report to be submitted under clause (ii) of sub-section (4) of section 35AC of the Income-tax Act, 1961 to the National committee by an approved association or institution
12	68	Form of application U/s 270AA(2) of the Income-tax Act, 1961

This notification shall come into effect immediately.

CONDONATION OF DELAY UNDER SECTION 119(2)(b) OF THE INCOME-TAX ACT, 1961 IN FILING OF FORM NO. 10BB FOR ASSESSMENT YEAR 2018-19 AND SUBSEQUENT YEARS

CIRCULAR NO. 15/2022 [F.NO.197/89/2022-ITA-I], DATED 19-7-2022

In exercise of the powers conferred under section 119(2) of the Income-tax Act, 1961, the Central Board of Direct Taxes (CBDT) by Circular No. 19/2020, dated 3rd November, 2020 issued by F.No. 197/135/2020-ITA-I has directed that: —

- (i) In all the cases of applications for condonation of delay in filing of Form No. 10BB for years prior to AY. 2018-19, the Commissioners of Income-tax are authorized to admit applications for condonation of delay u/s 119(2)(b) of the Act. The Commissioner while entertaining such applications regarding filing Form No. 10BB shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Form within the stipulated time.
- (ii) where there is delay of upto 365 days in filing Form No. 10BB for Assessment Year 2018-19 or for any subsequent Assessment Years, the Commissioners of Income-tax are authorized to admit such applications of condonation of delay under section 119(2) of the Act and decide on merits.

Further to the powers delegated to the field authorities as discussed above, the CBDT hereby directs that where there is delay of beyond 365 days upto three years in Filing Form No. 10BB for Assessment Year 2018-19 or for any subsequent Assessment Years, the Pr. Chief Commissioners of Income-tax / Chief Commissioners of Income-tax are authorized to admit such applications of condonation of delay under section 119(2) of the Act and decide on merits.

The Pr. Chief Commissioner / Chief Commissioner or Commissioners of Income-tax, as the case may be, while entertaining such applications for condonation of delay in filing Form No. 10BB, shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Form within the stipulated time.

Further, the Pr. Chief Commissioner / Chief Commissioner of Income-tax, as the case may be, shall preferably dispose the application within three months of receipt of the application.

CONDONATION OF DELAY UNDER SECTION 119(2)(B) OF THE INCOME-TAX ACT, 1961 IN FILING OF FORM NO. 10B FOR ASSESSMENT YEAR 2018-19 AND SUBSEQUENT YEARS

CIRCULAR NO. 16/2022 [F.NO.197/89/2022-ITA-I], DATED 19-7-2022

In exercise of the powers conferred under section 119(2) of the Income-tax Act, 1961, the Central Board of Direct Taxes (CBDT) by Circular No. 2/2020 [F.No. 197/55/2018-ITA-I], dated 03.01.2020 authorized the Commissioners of Income-tax to admit applications of condonation of delay in filing Form No. 10B for AY 2018-19 or for any subsequent Assessment Years where there is delay of upto 365 days and decide on merits.

Further to the powers delegated to Commissioners of Income-tax as discussed above, the CBDT hereby directs that where there is delay of beyond 365 days upto three years in filing Form No. 10B for Assessment Year 2018-19 or for any subsequent Assessment Years, the Pr. Chief Commissioners of Income-tax / Chief Commissioners of Income-tax are authorized to admit such applications of condonation of delay under section 119(2) of the Act and decide on merits.

The Pr. Chief Commissioner / Chief Commissioner or Commissioners of Income-tax, as the case may be, while entertaining such applications for condonation of delay in filing Form No. 10B, shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Form within the stipulated time.

Further, the Pr. Chief Commissioner / Chief Commissioner of Income-tax, as the case may be, shall preferably dispose the application within three months of receipt of the application.

CONDONATION OF DELAY UNDER SECTION 119(2)(B) OF THE INCOME-TAX ACT, 1961 IN FILING OF FORM NO. 9A AND FORM NO. 10 FOR ASSESSMENT YEAR 2018-19 AND SUBSEQUENT YEARS

CIRCULAR NO. 17/2022 [F.NO.197/89/2022-ITA-I], DATED 19-7-2022

In exercise of the powers conferred under section 119(2) of the Income-tax Act, 1961, the Central Board of Direct Taxes (CBDT) by Circular No. 3/2020 [F.No. 197/55/2018-ITA-I], dated 03.01.2020 authorized the Commissioners of Income-tax to admit applications of condonation of delay in filing Form No. 9A and Form No. 10 for AY 2018-19 or for any subsequent Assessment Years where there is delay of upto 365 days and decide on merits.

Further to the powers delegated to Commissioners of Income-tax as discussed above, the CBDT hereby directs that where there is delay of beyond 365 days upto three years in filing Form No. 9A and Form No. 10 for Assessment Year 2018-19 or for any subsequent Assessment Years, the Pr. Chief Commissioners of Income-tax / Chief Commissioners of Income-tax are authorized to admit such applications of condonation of delay under section 119(2) of the Act and decide on merits.

The Pr. Chief Commissioner / Chief Commissioner of Income-tax, as the case may be, while entertaining such applications for condonation of delay in filing Form No. 9A and Form No. 10, shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Form within the stipulated time. In respect of Form No. 10, the Pr. Chief Commissioner / Chief Commissioner of Income-tax, as the case may be, shall also satisfy themselves that the amount accumulated or set apart has been invested or deposited in any one or more of the forms or modes specified in sub-section (5) of section 11 of the Act.

Further, the Pr. Chief Commissioner / Chief Commissioner of Income-tax, as the case may be, shall preferably dispose the application within three months of receipt of the application.