

- (i) "Salaries" or income in the nature of family pension as defined in the *Explanation* to clause (iia) of section 57; or
- (ii) "Income from house property", where assessee does not own more than one house property and does not have any brought forward loss ⁴[or loss to be carried forward] under the head; or
- (iii) "Income from other sources", except winnings from lottery or income from race horses ⁴⁸[and does not have any loss under the head];

be in Form ⁴[SAHAJ] (ITR-1) and be verified in the manner indicated therein:]

⁴⁸[Provided that the provisions of this clause shall not apply to a person who,—

⁴⁹[(1) has assets (including financial interest in any entity) located outside India;

Corr'd from p. 1.227

21-6-1976, IT (Amdt.) Rules, 1976, w.e.f. 1-4-1976, IT (Second Amdt.) Rules, 1972, IT (Amdt.) Rules, 1971, IT (Amdt.) Rules, 1968, IT (Second Amdt.) Rules, 1967, IT (Third Amdt.) Rules, 1964 and IT (Amdt.) Rules, 1962.

- 40. Inserted by the IT (Seventh Amdt.) Rules, 2015, w.e.f. 1-4-2015.
- 41. Inserted by the IT (Ninth Amdt.) Rules, 2016, w.e.f. 1-4-2016.
- 42. Words "or the return of fringe benefits required to be furnished under sub-section (1) or sub-section (2) of section 115WD" omitted by the IT (Third Amdt.) Rules, 2011, w.e.f. 1-4-2011.
- 43. Substituted for "on the 1st day of April, 2007 or any subsequent assessment year" by the IT (Sixth Amdt.) Rules, 2008, w.e.f. 1-4-2008.
- 44. Substituted for "2019" by the IT (First Amdt.) Rules, 2020, w.e.f. 1-4-2020. Earlier, "2019" was substituted for "2018" by the IT (Second Amdt.) Rules, 2019, w.e.f. 1-4-2019, "2018" was substituted for "2017" by the IT (Second Amdt.) Rules, 2018, w.e.f. 1-4-2018, "2017" was substituted for "2016" by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017, "2016" was substituted for "2015" by the IT (Ninth Amdt.) Rules, 2016, w.e.f. 1-4-2016, "2015" was substituted for "2014" by the IT (Seventh Amdt.) Rules, 2015, w.e.f. 1-4-2015, "2014" was substituted for "2013" by the IT (Fourth Amdt.) Rules, 2014, w.e.f. 1-4-2014, "2013" was substituted for "2012" by the IT (Third Amdt.) Rules, 2013, w.e.f. 1-4-2013, "2012" was substituted for "2011" by the IT (Third Amdt.) Rules, 2012, w.e.f. 1-4-2012, "2011" was substituted for "2010" by the IT (Third Amdt.) Rules, 2011, w.e.f. 1-4-2011, "2010" was substituted for "2009" by the IT (Third Amdt.)/(Fourth Amdt.) Rules, 2010, w.e.f. 1-4-2010 and "2009" was substituted for "2008" by the IT (Ninth Amdt.) Rules, 2009, w.e.f. 1-4-2009.
- 45. Substituted by the IT (Fourth Amdt.) Rules, 2010, w.e.f. 1-4-2010.
- 46. Substituted for "an individual" by the IT (Second Amdt.) Rules, 2018, w.e.f. 1-4-2018.
- 47. Inserted, *ibid*.
- 48. Inserted by the IT (Third Amdt.) Rules, 2013, w.e.f. 1-4-2013.
- 49. Substituted for "SARAL-II" by the IT (Third Amdt.) Rules, 2011, w.e.f. 1-4-2011.
- 50. Substituted by the IT (Third Amdt.) Rules, 2013, w.e.f. 1-4-2013. Prior to its substitution, proviso, as amended by the IT (Seventh Amdt.) Rules, 2012, w.e.f. 2-7-2012 and IT (Third Amdt.) Rules, 2012, w.e.f. 1-4-2012, read as under:
⁴⁹Provided that the provisions of this clause shall not apply to a person who is a resident, other than not ordinarily resident in India within the meaning of sub-section (6)* of section 6 and has,—
 - (i) assets (including financial interest in any entity) located outside India; or
 - (ii) signing authority in any account located outside India;"

(Contd. on p. 1.229)

- (IA) has signing authority in any account located outside India;
- (IB) has income from any source outside India;
- (IC) has income to be apportioned in accordance with provisions of section 5A;]
- ⁵²[(ID) has claimed deduction under section 57, other than deduction claimed under clause (iia) thereof;
- (IE) is a director in any company;
- (IF) has held any unlisted equity share at any time during the previous year;
- (IG) is assessable for the whole or any part of the income on which tax has been deducted at source in the hands of a person other than the assessee;]
- (II) has claimed any relief of tax under section 90 or 90A or deduction of tax under section 91; ⁵³[***]
- ⁵⁴[(III) has agricultural income, exceeding five thousand rupees;]
- ⁵⁵[(IV) has total income, exceeding fifty lakh rupees;
- (V) has income taxable under section 115BBDA; ⁵⁶[or]
- (VI) has income of the nature referred to in section 115BBE;]
- (VII) ⁵⁷[***]
- (VIII) ⁵⁷[***]

(Contd. from p. 1,228)

51. Items (I) to (IC) substituted for item (I) by the IT (Second Amdt.) Rules, 2018, w.r.e.f. 1-4-2018. Prior to its substitution, item (I), as amended by the IT (Seventh Amdt.) Rules, 2015, w.r.e.f. 1-4-2015, read as under :
 - "(I) is a resident, other than not ordinarily resident in India within the meaning of sub-section (6)* of section 6 and has,—
 - (i) assets (including financial interest in any entity) located outside India; or
 - (ii) signing authority in any account located outside India; or
 - (iii) income from any source outside India;"
- *Should be read as 'clause (6)'.
52. Items (ID) to (IG) inserted by the IT (Second Amdt.) Rules, 2019, w.e.f. 1-4-2019.
53. Word "or" omitted by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017.
54. Substituted by the IT (Eighth Amdt.) Rules, 2015, w.r.e.f. 1-4-2015. Prior to its substitution, clause (III) read as under :
 - "(III) has income not chargeable to tax, exceeding five thousand rupees;"
55. Inserted by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017.
56. Inserted by the IT (Twelfth Amdt.) Rules, 2020, w.e.f. 29-5-2020. Earlier, it was omitted by the IT (First Amdt.) Rules, 2020, w.e.f. 1-4-2020.
57. Omitted by the IT (Twelfth Amdt.) Rules, 2020, w.e.f. 29-5-2020. Prior to their omission, items (VII) and (VIII), as inserted by the IT (First Amdt.) Rules, 2020, w.e.f. 1-4-2020, read as under :
 - "(VII) owns a house property in joint-ownership with two or more persons; or
 - (VIII) is required to furnish a return of income under seventh proviso to sub-section (1) of section 139."

(b) ⁵⁸[***]

(ba) ⁵⁹[***]

⁶⁰[(c) in the case of a person being an individual [not being an individual to whom clause (a) applies] or a Hindu undivided family where the total income does not include income ⁶¹[under the head] business or profession, be in Form No. ITR-2 and be verified in the manner indicated therein;]

⁶²[(ca) in the case of a person being an individual or ⁶³[a Hindu undivided family, who is a resident other than not ordinarily resident, or a firm, other than limited liability partnership firm, which is a resident] deriving ⁶⁴[income under the head "Profits or gains of business or profession" and such income is computed in accordance with special provisions referred to in section 44AD, section 44ADA and section 44AE of the Act for computation of such income, be in Form SUGAM (ITR-4)] and be verified in the manner indicated therein;]

⁶⁵[**Provided** that the provisions of this clause shall not apply to a person who,—

58. Omitted by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017. Prior to its omission, clause (b) read as under :

'(b) in the case of a person being an individual [not being an individual to whom clause (a) applies] or a Hindu undivided family where the total income does not include any income chargeable to income-tax under the head "Profits or gains of business or profession", be in Form No. ITR-2 and be verified in the manner indicated therein;'

59. Omitted, *ibid*. Prior to its omission, clause (ba), as inserted by the IT (Eighth Amdt.) Rules, 2015, w.r.e.f. 1-4-2015, read as under :

'(ba) in the case of a person being an individual not being an individual to whom clause (a) applies or a Hindu undivided family where the total income does not include any income chargeable to income-tax under the heads "Profits or gains of business or profession" and "Capital gains" and to whom the provisions of clause (I) and clause (II) of the proviso to clause (a) does not apply, be in Form No. ITR-2A and be verified in the manner indicated therein;'

60. Substituted, *ibid*. Prior to its substitution, clause (c) read as under :

'(c) in the case of a person being an individual or a Hindu undivided family who is a partner in a firm and where income chargeable to income-tax under the head "Profits or gains of business or profession" does not include any income except the income by way of any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from such firm, be in Form No. ITR-3 and be verified in the manner indicated therein;'

61. Substituted for "derived from a proprietary" by the IT (Second Amdt.) Rules, 2018, w.r.e.f. 1-4-2018.

62. Inserted by the IT (Third Amdt.) Rules, 2011, w.r.e.f. 1-4-2011.

63. Substituted for "a Hindu undivided family or a firm, other than a limited liability partnership firm," by the IT (Second Amdt.) Rules, 2019, w.e.f. 1-4-2019. Earlier, the quoted words were amended by the IT (Ninth Amdt.) Rules, 2016, w.e.f. 1-4-2016.

64. Substituted for "business income and such income is computed in accordance with special provisions referred to in section 44AD and section 44AE of the Act for computation of business income, be in Form SUGAM (ITR-4S)" by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017.

65. Substituted by the IT (Third Amdt.) Rules, 2013, w.r.e.f. 1-4-2013. Prior to its substitution, proviso, as amended by the IT (Seventh Amdt.) Rules, 2012, w.e.f. 2-7-2012 and IT (Third Amdt.) Rules, 2012, w.e.f. 1-4-2012, read as under:

(Contd. on p. 1.231)

- 66[(I) has assets (including financial interest in any entity) located outside India;
- (IA) has signing authority in any account located outside India;
- (IB) has income from any source outside India;
- (IC) has income to be apportioned in accordance with provisions of section 5A;
- (ID) is a director in any company;
- (IE) has held any unlisted equity share at any time during the previous year;
- (IF) has total income, exceeding fifty lakh rupees;
- (IG) owns more than one house property, the income of which is chargeable under the head "Income from house property";
- (IH) has any brought forward loss or loss to be carried forward under any head of income;
- (IJ) is assessable for the whole or any part of the income on which tax has been deducted at source in the hands of a person other than the assessee;]
- (II) has claimed any relief of tax under section 90 or 90A or deduction of tax under section 91; ⁶⁷["***"]
- 68[(III) has agricultural income, exceeding five thousand rupees;]]
- 69[(IV) has income taxable under section 115BBDA; or
- (V) has income of the nature referred to in section 115BBE;]
- (VI) ⁷⁰["***"]

(Contd. from p. 1.230)

Provided that the provisions of this clause shall not apply to a person who is a resident, other than not ordinarily resident in India within the meaning of sub-section (6)* of section 6 and has,—

- (i) assets (including financial interest in any entity) located outside India; or
- (ii) signing authority in any account located outside India.*

*Should be read as 'clause (6)'.

66. Items (I) to (L) substituted for item (I) by the IT (Second Amdt.) Rules, 2019, w.e.f. 1-4-2019. Prior to its substitution, item (I), as amended by the IT (Seventh Amdt.) Rules, 2015, w.e.f. 1-4-2015, read as under :

“(I) is a resident, other than not ordinarily resident in India within the meaning of sub-section (6)* of section 6 and has,—

- (i) assets (including financial interest in any entity) located outside India; or
- (ii) signing authority in any account located outside India; or
- (iii) income from any source outside India;”

*Should be read as 'clause (6)'.

67. Word “or” omitted by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017.

68. Substituted by the IT (Eighth Amdt.) Rules, 2015, w.e.f. 1-4-2015. Prior to its substitution, clause (III) read as under :

“(III) has income not chargeable to tax, exceeding five thousand rupees;”

69. Inserted by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017.

70. Omitted by the IT (Twelfth Amdt.) Rules, 2020, w.e.f. 29-5-2020. Prior to its omission, item (VI), as inserted by the IT (First Amdt.) Rules, 2020, w.e.f. 1-4-2020, read as under :

“(VI) owns a house property in joint-ownership with two or more persons.”

- (d) in the case of a person being an individual or a Hindu undivided family other than the individual or Hindu undivided family referred to in clause (a) ⁷¹["*"] or clause (c) ⁷²[or clause (ca)] and ⁷³[having income under the head] business or profession, be in ⁷⁴[Form No. ITR-3] and be verified in the manner indicated therein;
- (e) in the case of a person not being an individual or a Hindu undivided family or a company or a person to which clause (g) applies, be in Form No. ITR-5 and be verified in the manner indicated therein;
- (f) in the case of a company not being a company to which clause (g) applies, be in Form No. ITR-6 and be verified in the manner indicated therein;
- (g) in the case of a person including a company whether or not registered under section 25 of the Companies Act, 1956 (1 of 1956)⁷⁵, required to file a return under sub-section (4A) or sub-section (4B) or sub-section (4C) or sub-section (4D) ⁷⁶["*"] of section 139, be in Form No. ITR-7 and be verified in the manner indicated therein;
- (h) ⁷⁷["*"]

⁷⁸[(2) The return of income required to be furnished in Form SAHAJ (ITR-1) or Form No. ITR-2 or Form No. ITR-3 or ⁷⁹[Form SUGAM (ITR-4)] or Form No. ITR-5 or Form No. ITR-6 ⁸⁰[or Form No. ITR-7] shall not be accompanied by a statement showing the computation of the tax payable on the basis of the return, or proof of the tax, if any, claimed to have been deducted or collected at source or the advance tax or tax on self-assessment, if any, claimed to have been paid or any document or copy of any account or form or report of audit required to be attached with the return of income under any of the provisions of the Act:]

⁸¹[Provided that where an assessee is required to furnish a report of audit specified under sub-clause (iv), (v), (vi) or (via) of clause (23C) of section 10, section 10A ⁸²[, section 10AA], clause (b) of sub-section (1) of section 12A, section 44AB ⁸²[, section 44DA, section 50B], section 80-IA, section 80-IB, section 80-IC, section 80-ID, section 80JJAA, section 80LA, section 92E, ⁸³[section 115JB ⁸⁴[, section 115JC]

71. Words "or clause (b)" omitted by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017.
72. Inserted by the IT (Third Amdt.) Rules, 2011, w.r.e.f. 1-4-2011.
73. Substituted for "deriving income from a proprietary" by the IT (Second Amdt.) Rules, 2018, w.r.e.f. 1-4-2018.
74. Substituted for "Form No. ITR-4" by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017.
75. Now section 8 of the Companies Act, 2013.
76. Words "or sub-section (4E) or sub-section (4F)" omitted by the IT (Second Amdt.) Rules, 2019, w.e.f. 1-4-2019. Earlier, the quoted words were inserted by the IT (Seventh Amdt.) Rules, 2015, w.r.e.f. 1-4-2015 and IT (Ninth Amdt.) Rules, 2016, w.e.f. 1-4-2016.
77. Omitted by the IT (Third Amdt.) Rules, 2011, w.r.e.f. 1-4-2011.
78. Substituted, *ibid*. Earlier, sub-rule (2) was amended by the IT (Fourth Amdt.) Rules, 2010, w.r.e.f. 1-4-2010.
79. Substituted for "Form SUGAM (ITR-4S) or Form No. ITR-4" by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017.
80. Inserted by the IT (Seventh Amdt.) Rules, 2013, w.r.e.f. 1-4-2013.
81. Substituted, *ibid*. Prior to its substitution, proviso, as inserted by the IT (Third Amdt.) Rules, 2013, w.r.e.f. 1-4-2013, read as under :
"Provided that where an assessee is required to furnish a report of audit under section 44AB, 92E or 115JB of the Act, he shall furnish the same electronically."
82. Inserted by the IT (Sixth Amdt.) Rules, 2014, w.r.e.f. 1-4-2014.
83. Substituted for "or section 115JB", *ibid*.
84. Inserted by the IT (Twenty-second Amdt.) Rules, 2017, w.e.f. 18-8-2017.

or section 115VW]⁸⁵[or to give a notice under clause (a) of sub-section (2) of section 11] of the Act, he shall furnish the same electronically.]

⁸⁶[(3) The return of income referred to in sub-rule (1) shall be furnished by a person mentioned in column (ii) of the Table below to whom the conditions specified in column (iii) apply, in the manner specified in column (iv) thereof:—

TABLE

Sl. No.	Person	Condition	Manner of furnishing return of income
(i)	(ii)	(iii)	(iv)
87[1	Individual or Hindu undivided family	(a) Accounts are required to be audited under section 44AB of the Act;	Electronically under digital signature;
		⁸⁸ [(b) Where total income assessable under the Act during the previous year of a person, being an individual of the age of eighty years or more at any time during the previous year, and who furnishes the re-	(A) Electronically under digital signature; or (B) Transmitting the data electronically in the return under electronic verification code; or (C) Transmitting the data in the return electronically and thereafter submitting the verification of the

85. Inserted by the IT (Fourth Amtd.) Rules, 2014, w.e.f. 1-4-2014.

86. Substituted by the IT (Seventh Amtd.) Rules, 2015, w.e.f. 1-4-2015. Prior to its substitution, sub-rule (3), as amended by the IT (Fourth Amtd.) Rules, 2014, w.e.f. 1-4-2014, IT (Third Amtd.) Rules, 2013, w.e.f. 1-4-2013, IT (Seventh Amtd.) Rules, 2013, w.e.f. 1-4-2013, IT (Seventh Amtd.) Rules, 2012, w.e.f. 2-7-2012, IT (Third Amtd.) Rules, 2012, w.e.f. 1-4-2012, IT (Third Amtd.) Rules, 2011, w.e.f. 1-4-2011, IT (Sixth Amtd.) Rules, 2011, w.e.f. 1-7-2011 and IT (Seventh Amtd.) Rules, 2010, w.e.f. 9-7-2010, read as under :

⁸⁹[(3) The return of income referred to in sub-rule (1) may be furnished in any of the following manners, namely:—

- (i) furnishing the return in a paper form;
- (ii) furnishing the return electronically under digital signature;
- (iii) transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V;
- (iv) furnishing a bar-coded return in a paper form:

Provided that—

- (a) a person, other than a company and a person required to furnish the return in Form ITR-7, if his or its total income, or the total income in respect of which he is or it is assessable under the Act during the previous year, exceeds five lakh rupees, shall furnish the return for the assessment year 2013-14 and subsequent assessment years in the manner specified in clause (i) or clause (ii);

(Contd. on p. 1234)

Sl. No.	Person	Condition	Manner of furnishing return of income
(i)	(ii)	(iii)	(iv)
		turn in Form number SAHAJ (ITR-1) or Form number SUGAM (ITR-4).]	return in Form ITR-V ⁸⁹ ; or (D) Paper form;
		(c) In any other case	(A) Electronically under digital signature; or (B) Transmitting the data electronically in the return under electronic verification code; or (C) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V ⁸⁹ ;
2	Company	In all cases.	Electronically under digital signature.

(Contd. from p. 1.233)

- (aa) an individual or a Hindu undivided family, being a resident, other than not ordinarily resident in India within the meaning of "sub-section (6) of section 6 having assets (including financial interest in any entity) located outside India or signing authority in any account located outside India and required to furnish the return in Form ITR-2 or ITR-3 or ITR-4, as the case may be, shall furnish the return for assessment year 2012-13 and subsequent assessment years in the manner specified in clause (ii) or clause (iii);
- (aaa) a firm required to furnish the return in Form ITR-5 or an individual or Hindu undivided family (HUF) required to furnish the return in Form ITR-4 and to whom provisions of section 44AB are applicable, shall furnish the return for assessment year 2011-12 and subsequent assessment years in the manner specified in clause (ii);
- (aab) a person claiming any relief of tax under section 90 or 90A or deduction of tax under section 91 of the Act, other than a person to whom clause (aaa) or clause (ab) is applicable, shall furnish the return for assessment year 2013-14 and subsequent assessment years in the manner specified in clause (ii) or clause (iii);
- (aac) a person required to furnish the return in Form ITR-5, other than a firm to which clause (aaa) is applicable, shall furnish the return for the assessment year 2014-15 and subsequent assessment years in the manner specified in clause (ii) or clause (iii);

(Contd. on p. 1.235)

SL No.	Person	Condition	Manner of furnishing return of income
(i)	(ii)	(iii)	(iv)
3	A person required to furnish the return in Form ITR-7	(a) In case of a political party; (b) In any other case.	Electronically under digital signature; (A) Electronically under digital signature; or (B) Transmitting the data in the return electronically under electronic verification code; or (C) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V ⁸⁹ .
4	Firm or limited liability partnership or any person (other than a person mentioned in Sl. 1 to 3 above) who is required to file return in Form ITR-5	(a) Accounts are required to be audited under section 44AB of the Act; (b) In any other case.	Electronically under digital signature; (A) Electronically under digital signature; or (B) Transmitting the data in the return elec-

(Contd. from p. 1.234)

- (ab) a company required to furnish the return in Form ITR-6 shall furnish the return for assessment year 2010-11 and subsequent assessment years in the manner specified in clause (i);
- (b) a person required to furnish the return in Form ITR-7 shall furnish the return for assessment year 2014-15 and subsequent assessment years,—
- (A) in case it is furnished under sub-section (4B) of section 139, in the manner specified in clause (i);
- (B) in other cases, in the manner specified in clause (i) or clause (ii) or clause (iii);

Provided further that a person who is required to furnish any report of audit referred to in proviso to sub-rule (2) electronically, other than a person to whom clause (aaa) or clause (ab) of the first proviso is applicable, shall furnish the return, in Form as applicable to him, in the manner specified in clause (i) or clause (iii)."

*Should be read as "clause (d)".

87. Substituted by the IT (Fourth Amndt.) Rules, 2017, w.e.f. 1-4-2017. Prior to its substitution, serial number 1 read as under :

(Contd. on p. 1.236)

Sl No.	Person	Condition	Manner of furnishing return of income
(i)	(ii)	(iii)	(iv)
			electronically under electronic verification code; or (C) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V ⁸⁹ .

(Contd. from p. 1.235)

*1	Individual or Hindu undivided family	<p>(a) Accounts are required to be audited under section 44AB of the Act;</p> <p>(b) Where (a) is not applicable and,—</p> <p>(I) the return is furnished in Form No. ITR-3 or Form No. ITR-4; or</p> <p>(II) the person, being a resident, other than not ordinarily resident within the meaning of "sub-section (6) of section 6, has, (A) assets (including financial interest in any entity) located outside India; or (B) signing authority in any account located outside India; or (C) income from any source outside India;</p> <p>(III) any relief, in respect of tax paid outside India, under section 90 or 90A or deduction</p>	<p>Electronically under digital signature</p> <p>(A) Electronically under digital signature; or</p> <p>(B) Transmitting the data in the return electronically under electronic verification code; or</p> <p>(C) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V.</p>
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(Contd. on p. 1.237)

(Contd. from p. 1.236)

		<p>of tax under section 91 is claimed; or</p> <p>(IV) any report of audit referred to in proviso to sub-rule (2) is required to be furnished electronically; or</p> <p>(V) total income assessable under the Act during the previous year of the person (other than the person, being an individual of the age of 80 years or more at any time during the previous year and furnishing the return in Form ITR-1 or ITR-2),—</p> <p>(i) exceeds five lakh rupees; or</p> <p>(ii) any refund is claimed in the return of income;</p> <p>(c) In any other case</p>	<p>(A) Electronically under digital signature; or</p> <p>(B) Transmitting the data in the return electronically under electronic verification code; or</p> <p>(C) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V; or</p> <p>(D) Paper form;*</p>
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*Should be read as "clause (d)".

(Contd. on p. 1.238)

Explanation.—For the purposes of this sub-rule “electronic verification code” means a code generated for the purpose of electronic verification of the person furnishing the return of income as per the data structure and standards specified by Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems).]

(4) The “[Principal Director-General of Income-tax (Systems) or Director-General of Income-tax (Systems)] shall specify the procedures, formats and standards for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing the returns “[in the manners (other than the paper form) specified in column (iv) of the Table in sub-rule (3)] “[and the report of audit “[or notice] in the manner specified in proviso to sub-rule (2)].

(5) Where a return of income “[***] relates to the assessment year commencing on the 1st day of April, “[2019] or any earlier assessment year, it shall be furnished in the appropriate form as applicable in that assessment year.]

“[Preparation of return by authorised representative.

12A. Every authorised representative of an assessee, being an authorised representative specified in clause (iii) or clause (iv) or clause (v) or clause (vi) or clause

(Contd. from p. 1.237)

88. Substituted by the IT (Second Amdt.) Rules, 2019, w.e.f. 1-4-2019. Prior to its substitution, item (b) read as under :

- “(b) Where total income assessable under the Act during the previous year of a person,—
- (i) being an individual of the age of 80 years or more at any time during the previous year; or
 - (ii) whose income does not exceed five lakh rupees and no refund is claimed in the return of income,

and who furnishes the return in Form No. SAHAJ ITR-1 or Form No. SUGAM (ITR-4)*

89. See Centralised Processing of Returns Scheme, 2011.

90. Substituted for “Director-General of Income-tax (Systems)” by the IT (Seventh Amdt.) Rules, 2015, w.r.e.f. 1-4-2015.

91. Substituted for “in the manners specified in clauses (i), (iii) and (iv) of sub-rule (3)” by the IT (Eighth Amdt.) Rules, 2015, w.r.e.f. 1-4-2015.

92. Inserted by the IT (Third Amdt.) Rules, 2013, w.r.e.f. 1-4-2013.

93. Inserted by the IT (Fourth Amdt.) Rules, 2014, w.e.f. 1-4-2014.

94. Words “or return of fringe benefits,” omitted by the IT (Third Amdt.) Rules, 2011, w.r.e.f. 1-4-2011.

95. Substituted for “2018” by the IT (First Amdt.) Rules, 2020, w.e.f. 1-4-2020. Earlier, “2018” was substituted for “2017” by the IT (Second Amdt.) Rules, 2019, w.e.f. 1-4-2019, “2017” was substituted for “2016” by the IT (Second Amdt.) Rules, 2018, w.r.e.f. 1-4-2018, “2016” was substituted for “2015” by the IT (Fourth Amdt.) Rules, 2017, w.e.f. 1-4-2017, “2015” was substituted for “2014” by the IT (Ninth Amdt.) Rules, 2016, w.e.f. 1-4-2016, “2014” was substituted for “2013” by the IT (Seventh Amdt.) Rules, 2015, w.r.e.f. 1-4-2015, “2013” was substituted for “2012” by the IT (Fourth Amdt.) Rules, 2014, w.e.f. 1-4-2014, “2012” was substituted for “2011” by the IT (Third Amdt.) Rules, 2013, w.r.e.f. 1-4-2013, “2011” was substituted for “2010” by the IT (Third Amdt.) Rules, 2012, w.e.f. 1-4-2012, “2010” was substituted for “2009” by the IT (Third Amdt.) Rules, 2011, w.r.e.f. 1-4-2011, “2009” was substituted for “2008” by the IT (Third Amdt.)/(Fourth Amdt.) Rules, 2010, w.r.e.f. 1-4-2010, “2008” was substituted for “2007” by the IT (Ninth Amdt.) Rules, 2009, w.e.f. 1-4-2009 and “2007” was substituted for “2006” by the IT (Sixth Amdt.) Rules, 2008, w.e.f. 1-4-2008.

(Contd. on p. 1.239)

(vii) of sub-section (2) of section 288, who has prepared the return of income furnished by the assessee shall, either before making an appearance before the [Assessing Officer] having jurisdiction to assess that assessee, or immediately after making such appearance, furnish to that officer—

- (a) particulars of accounts, statements or other documents supplied to him by the assessee for the preparation of the return of income; and
- (b) where the authorised representative has for the purpose of preparation of the return of income carried out any examination of such accounts, statements or documents, a report on the scope and results of such examination.]

[Statement under sub-section (3A) of section 115R.]

12B. (1) The statement of income distributed shall be furnished as provided in sub-rules (2) and (3) to,—

- (i) the Assessing Officer so designated by the Chief Commissioner or Commissioner of Income-tax, within whose area of jurisdiction, the principal office of the Unit Trust of India or the concerned Mutual Fund is situated;
- (ii) in any other case, to the Assessing Officer within whose area of jurisdiction, the principal office of the Unit Trust of India or the concerned Mutual Fund is situated.

(2) The statement of distributed income which is to be furnished under sub-section (3A) of section 115R by the Unit Trust of India shall be in Form No. 63, duly verified by an accountant in the manner indicated therein.

(3) The statement of distributed income which is to be furnished under sub-section (3A) of section 115R by a Mutual Fund shall be in Form No. 63A, duly verified by an accountant in the manner indicated therein.]

[Statement under sub-section (3) of section 115TA.]

12BA. (1) The statement of income distributed by the securitisation trust shall be furnished as provided in sub-rule (2) to—

- (i) the Assessing Officer so designated by the Chief Commissioner or Commissioner of Income-tax, within whose area of jurisdiction, the principal office of the securitisation trust is situated;

(Contd. from p. 1.238)

96. Inserted by the IT (Amdt.) Rules, 1962.

Where the assessee had, under a letter of authority, authorised a chartered accountant to represent it before the Assessing Officer in the assessment proceedings and had stated in that letter that all statements and explanations made by the chartered accountant would be binding on the assessee, the expression 'statements and explanations' must be construed wide enough to take in all statements and explanations relating to the matters germane to the assessment proceedings, including the claim for deductions put forward by assessee - *Jayasree Chit Funds & Services (P.) Ltd. v. CIT* [1981] 127 ITR 740 (Ker.). For details, see *Taxmann's Master Guide to Income-tax Rules*.

97. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

98. Inserted by the IT (Fourteenth Amdt.) Rules, 2000, w.e.f. 29-8-2000. Sub-section (3A) of section 115R has been omitted with effect from 1-4-2015.

99. Inserted by the IT (Fifteenth Amdt.) Rules, 2013, w.e.f. 4-9-2013. Sub-section (3) of section 115TA has been omitted with effect from 1-4-2015.

(ii) in any other case, to the Assessing Officer within whose area of jurisdiction, the principal office of the securitisation trust is situated.

(2) The statement of distributed income which is to be furnished under sub-section (3) of section 115TA by the securitisation trust shall be in Form No. 63AA, duly verified by an accountant in the manner indicated therein.]

[Statement under sub-section (2) of section 115U.

12C. (1) The statement of income paid or credited shall be furnished by the 30th November of the financial year following the previous year during which such income is paid or credited, to the Chief Commissioner or Commissioner of Income-tax, within whose jurisdiction, the principal office of the Venture Capital Company or the Venture Capital Fund, as the case may be, is situated.

(2) The statement of income paid or credited which is to be furnished under sub-section (2) of section 115U by the Venture Capital Company or the Venture Capital Fund, as the case may be, shall be in Form No. 64, duly verified by an accountant in the manner indicated therein and shall be furnished electronically under digital signature.

(3) The Director General of Income-tax (Systems) shall specify the procedure for filing of Form No. 64 and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished.]

[Statement under sub-section (4) of section 115UA.

12CA. (1) The statement of income distributed by a business trust to its unit holder shall be furnished to the Principal Commissioner or the Commissioner of Income-tax within whose jurisdiction the principal office of the business trust is situated, by the 30th November of the financial year following the previous year during which such income is distributed:

Provided that the statement of income distributed shall also be furnished to the unit holder by the 30th June of the financial year following the previous year during which the income is distributed.

(2) The statement of income distributed shall be furnished under sub-section (4) of section 115UA by the business trust to—

(i) the Principal Commissioner or the Commissioner of Income-tax referred to in sub-rule (1), in Form No. 64A, duly verified by an accountant in the manner indicated therein and shall be furnished electronically under digital signature;

(ii) the unit holder in Form No. 64B, duly verified by the person distributing the income on behalf of the business trust in the manner indicated therein.

(3) The Director General of Income-tax (Systems) shall specify the procedure for filing of Form No. 64A and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished.]

1. Substituted by the IT (Thirteenth Amdt.) Rules, 2013, w.e.f. 5-8-2013. Earlier, rule 12C was inserted by the IT (Fifteenth Amdt.) Rules, 2000, w.e.f. 29-8-2000.

2. Inserted by the IT (First Amdt.) Rules, 2015, w.e.f. 19-1-2015.

[Statement under sub-section (7) of section 115UB.

12CB. (1) The statement of income paid or credited by an investment fund to its unit holder shall be furnished by the person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund to the—

- (i) unit holder by 30th day of June of the financial year following the previous year during which the income is paid or credited in Form No. 64C after generating and downloading the same from the web portal specified by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or the person authorised by him and duly verified by the person paying or crediting the income on behalf of the investment fund in the manner indicated therein; and
- (ii) Principal Commissioner or the Commissioner of Income-tax, as the case may be, within whose jurisdiction the Principal office of the investment fund is situated by 15th day of June of the financial year following the previous year during which the income is paid or credited, electronically under digital signature, in Form No. 64D duly verified by an accountant in the manner indicated therein.

(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall specify the,—

- (i) procedure for filing of Form No. 64D and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements of income paid or credited so furnished under this rule; and
- (ii) procedure, formats and standards for generation and download of statement in Form No. 64C from the web portal specified by him or by the person authorised by him and he shall be responsible for the day-to-day administration in relation to the generation and download of certificates from the web portal specified by him or the person authorised by him.]

3. Substituted by the IT (Eighteenth Amdt.) Rules, 2020, w.e.f. 28-7-2020. Prior to its substitution, rule 12CB, as inserted by the IT (Twentieth Amdt.) Rules, 2015, w.e.f. 11-12-2015, read as under :

"12CB. Statement under sub-section (7) of section 115UB—(1) The statement of income paid or credited by an investment fund to its unit holder shall be furnished by the person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund to the—

- (i) unit holder by 30th day of June of the financial year following the previous year during which the income is paid or credited in Form No. 64C, duly verified by the person paying or crediting the income on behalf of the investment fund in the manner indicated therein; and
- (ii) Principal Commissioner or the Commissioner of Income-tax within whose jurisdiction the Principal office of the investment fund is situated by 30th day of November of the financial year following the previous year during which the income is paid or credited, electronically under digital signature, in Form No. 64D duly verified by an accountant in the manner indicated therein.

(2) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for filing of Form No. 64D and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements of income paid or credited so furnished under this rule."

⁴[Statement under sub-section (4) of section 115TCA.

12CC. (1) The statement of income distributed by a securitisation trust to its investor shall be furnished to the Principal Commissioner or the Commissioner of Income-tax within whose jurisdiction the principal office of the securitisation trust is situated, by 30th day of November of the financial year following the previous year during which such income is distributed:

Provided that the statement of income distributed shall also be furnished to the investor by 30th day of June of the financial year following the previous year during which the income is distributed.

(2) The statement of income distributed shall be furnished under sub-section (4) of section 115TCA by the securitisation trust to—

- (i) the Principal Commissioner or the Commissioner of Income-tax referred to in sub-rule (1), in Form No. 64E, duly verified by an accountant in the manner indicated therein and shall be furnished electronically under digital signature;
- (ii) the investor in Form No. 64F, duly verified by the person distributing the income on behalf of the securitisation trust in the manner indicated therein.

(3) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for filing of Form No. 64E and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished.]

⁵[Prescribed income-tax authority under section 133C.

12D. The prescribed income-tax authority under section 133C shall be an income-tax authority not below the rank of Assistant Commissioner of Income-tax who has been authorised by the Central Board of Direct Taxes^{5a} to act as such authority for the purposes of that section.]

⁶[Prescribed authority under sub-section (2) of section 143.

12E. The prescribed authority under sub-section (2) of section 143 shall be an income-tax authority not below the rank of an Income-tax Officer who has

4. Inserted by the IT (Thirty-third Amdt.) Rules, 2016, w.r.e.f. 1-6-2016. In view of fact that section 115TCA is inserted with effect from 1-4-2017, it is not clear how rule 12CC can come into force from 1-6-2016.

5. Substituted by the IT (First Amdt.) Rules, 2019, w.e.f. 30-1-2019 [as corrected by Corrigendum GSR 93(E), dated 5-2-2019]. Prior to its substitution, rule 12D, as inserted by the IT (Tenth Amdt.) Rules, 2014, w.e.f. 30-9-2014, read as under :

'12D. *Prescribed authority under section 133C.*—The prescribed authority under section 133C shall be the Principal Director General or Director General or Principal Director or Director, as the case may be.

Explanation.—For the purposes of this rule, "Principal Director General or Director General or Principal Director or Director" means the Principal Director General of Income-tax or the Director General of Income-tax or the Principal Director of Income-tax or the Director of Income-tax to whom the Central Board of Direct Taxes may authorise to act as prescribed authority for the purposes of section 133C.'

5a. For notifications issued under section 133C, see Taxmann's Master Guide to Income-tax Rules.

6. Inserted by the IT (Thirty-first Amdt.) Rules, 2016, w.e.f. 16-11-2016.

been authorised by the Central Board of Direct Taxes^{6a} to act as income-tax authority for the purposes of sub-section (2) of section 143.]

Application for extension of time for filing return of income.

13. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

Form of verification under section 142.

14. The information which a person is required by the ⁸[Assessing Officer] to furnish under clause (ii) of sub-section (1) of section 142 shall be verified in the following manner, namely :—

"I declare that to the best of my knowledge and belief, the information furnished in the statement/statements is correct and complete and other particulars shown therein are truly stated."

⁹**Form of audit report under section 142(2A).**

14A. The report of audit of the accounts of an assessee which is required to be furnished under sub-section (2A) of section 142 shall be in Form No. 6B.]

6a. For prescribed income-tax authority, see Taxmann's Master Guide to Income-tax Rules.

7. Prior to its omission, rule 13, as amended by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971.

8. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

9. Inserted by the IT (Second Amdt.) Rules, 1977.

The Assessing Officer should form an opinion that the nature of the accounts maintained by the assessee is complex, in an objective manner on the basis of material before him, and such opinion should be based on relevant considerations. The interest of the Revenue must be adversely affected if special audit is not directed. The Chief Commissioner or Commissioner should apply his mind to all materials placed before him, before granting approval. Guidelines contained in CBDT Instruction dated 12-7-1977 are binding on the authorities, and special auditor can be appointed only if the case falls under any of the clauses mentioned therein - *U.P. Financial Corporation v. It*, CIT[2005] 147 Taxman 21 (All.). It is not for the court to again examine whether the accounts are complex or not, since the writ court does not act as an appellate court over such decisions of the Assessing Officer - *CIT v. Vijay Kumar Rajendra Kumar & Co.* [2004] 271 ITR 337 (MP). The satisfaction of the authorities must be objective and not subjective. What is complex to one person may be simple to another person. It depends upon one's level of understanding or comprehension. Sometimes what appears to be complex on the face of it may not be really so if one tries to understand it carefully. Therefore, special audit should not be directed after a cursory look at the accounts. There should be an honest attempt to understand the accounts of the assessee - *Swadeshi Cotton Mills Co. Ltd. v. CIT* [1988] 171 ITR 634 (All.). Power under section 142(2A) can be exercised even if accounts have been already audited under any other law - *Jagatjit Sugar Mills Co. Ltd. v. CIT* [1994] 210 ITR 468 (Punj. & Har.). Special audit can be ordered even if the accounts of the assessee have not been subjected to special audit in the past - *Guru Nanak Enterprises v. CIT* [2003] 259 ITR 637 (Delhi). The expression 'accounts of the assessee' covers not only the books of account of the assessee but also other documents which are available in the course of an assessment and at any stage subsequent thereto, that may become available to the Assessing Officer - *Rajesh Kumar, Prop. Surya Trading v. Dy. CIT* [2005] 275 ITR 641 (Delhi). Direction for special audit can be issued even in cases where assessee has filed only provisional balance sheet and provisional profit and loss account - *U.P. State Handloom Corporation Ltd. v. CIT* [1988] 171 ITR 640 (All.). When account books called for by the Assessing Officer are not produced by the assessee, special audit can be ordered. If the

¹¹[Guidelines for the purposes of determining expenses for audit].

14B. (1) Every Chief Commissioner shall maintain a panel of accountants, out of the persons referred to in the *Explanation* to sub-section (2) of section 288, for the purposes of sub-section (2A) of section 142.

(Contd. from p. 1.243)

assessee deliberately, knowing the consequences, refuses to produce the account books, the assessee cannot be permitted to raise a hue and cry that the account books have not been perused by the Assessing Officer before ordering special audit - *Sahara India Mutual Benefit Co. Ltd. v. CIT* 2001 Tax L.R. 287 (All.). The expression 'complexity' would mean the state or quality of being intricate or complex or that it is difficult to understand. Difficulty in understanding would, however, not lead to the conclusion that the accounts are complex in nature. No order can be passed on whims or caprice - *Rajesh Kumar v. Dy. CIT* [2006] 157 Taxman 168 (SC). Order for special audit passed without giving opportunity of hearing to assessee and rejecting assessee's request for supply of reasons therefor, would be vitiated in law. Principles of natural justice are required to be applied, *inter alia*, to minimise arbitrariness. If the assessee is put to notice, he could show that the nature of accounts is not such which would require appointment of special auditors. He could further show that what the Assessing Officer considers to be complex is in fact not so. It was also open to him to show that the same would not be in the interest of Revenue. The hearing given, however, need not be elaborate - *Rajesh Kumar v. Dy. CIT* [2006] 157 Taxman 168 (SC). Same view taken later in *Sahara India (Firm) v. CIT* [2008] 169 Taxman 328 (SC). Principles of natural justice pronounced by the Supreme Court in *Sahara India* case (*supra*) will apply prospectively from date of judgment, i.e., 11-4-2008 - *Rajesh Kumar v. Dy. CIT* [2008] 24 SOT 505 (Delhi - Trib.). Recording of reasons by Assessing Officer is not an essential requirements of section 142(2A) - *Ramesh Chand Industries Ltd. v. Union of India* [1998] 100 Taxman 570 (Delhi). Reasons need not be elaborate - *Purvanchal Vidhut Vitran Nigam Ltd. v. Union of India* [2010] 188 Taxman 355 (All.). Where it was found that assessing authority had applied his mind and formation of opinion to have special audit was *prima facie* justified, order of Commissioner granting approval could not be stayed - *Narendra Singh Atwal v. Dy. CIT* [1998] 231 ITR 641 (Cal.). [See also *Uttaranchal Welfare Society v. CIT* [2004] 141 Taxman 560 (All.)]. There is no conflict between the provisions of section 142(2A) and section 44AB. Object and purpose behind the getting of audit report is one and the same - *Pani Devi v. Union of India* [2000] 245 ITR 798 (Pat.). Assessing Officer can resort to section 142(2A) in case of block assessment under Chapter XIV-B - *Triumph Securities Ltd. v. Dy. CIT* [2010] 39 SOT 139 (Mum. - Trib.) (SB). Audit has to be carried out at the premises of the assessee and not at the income-tax premises - *Asstt. CIT v. Badri Ram Choudhary* [2008] 118 TTI (Jodh. - Trib.) 492. For details, see Taxmann's Master Guide to Income-tax Rules.

10. See section 295(2)(ec).
11. Inserted by the IT (Third Amtdt.) Rules, 2008, w.e.f. 5-2-2008. Earlier, rule 14B was omitted by the IT (Fifth Amtdt.) Rules, 1989, w.e.f. 18-5-1989 and amended by the IT (Amtdt.) Rules, 1972 and IT (Second Amtdt.) Rules, 1977.
12. Logically, the remuneration payable to the special auditor under section 142(2D) or at least the parameters on which such remuneration is to be determined need to be fixed before the audit is assigned to him. The auditor, to whom the work is assigned, is not under any obligation to accept the assignment and is very much at liberty, while making offer for appointing him as special auditor or while accepting the assignment, to insist upon payment of such fee as he may deem adequate for the work assigned to him. Therefore, necessarily he needs to know, what will be paid to him for the work proposed to be assigned to him. It would be difficult to accept that the special audit can be assigned to a person without fixing either the remuneration or the norms on which the remuneration is to be calculated after the work is completed and conveying the same to him. Taking such a view would amount to giving an

(Contd. on p. 1.245)

(2) Where the Assessing Officer directs for audit under sub-section (2A) of section 142 on or after the 1st day of June, 2007, the expenses of, and incidental to, audit (including the remuneration of the Accountant, qualified Assistants, semi-qualified and other Assistants who may be engaged by such Accountant) shall not be less than rupees three thousand seven hundred and fifty and not more than rupees seven thousand and five hundred for every hour of the period as specified by the Assessing Officer under sub-section (2C) of section 142.

(3) The period referred to in sub-rule (2) shall be specified in terms of the number of hours required for completing the report.

(4) The Accountant referred to in sub-section (2A) of section 142 shall maintain a time-sheet and shall submit it to the Chief Commissioner or Commissioner, along with the bill.

(5) The Chief Commissioner or the Commissioner shall ensure that the number of hours claimed for billing purposes is commensurate with the size and quality of the report submitted by the Accountant.]

Notice of demand for regular assessment, etc.

¹³15. (1) Subject to the provisions of ¹⁴[rules ¹⁵* * *] 38 and 48A], the notice of demand under section 156 shall be in Form No. 7.

(2) [Omitted by the IT (Third Amdt.) Rules, 1964.]

(Contd. from p. 1.244)

arbitrary power to the Chief Commissioner or the Commissioner, as the case may be, to fix any fee which he may decide to fix irrespective of the quantum of the work and the scale on which the remuneration is to be determined taking the quantum of work into consideration. This is not the scheme of section 142(2D). The scheme of the Act does not envisage any consent being obtained from the assessee in respect of the remuneration payable to the special auditor nor does it envisage any consultation with him before determining the said remuneration. The decision of the Chief Commissioner/Commissioner with respect to the remuneration payable to the special auditor is final and binding upon the assessee. The Commissioner while determining the remuneration under section 142(2D) cannot abdicate his duty to determine the remuneration payable to the special auditors, simply by accepting an amount mutually agreed between the auditor and the assessee. - *Dhanesh Gupta & Co. v. CIT* [2010] 327 ITR 246 (Delhi).

13. Without a valid demand notice, assessee cannot be treated as defaulter for purposes of enforcing recovery proceedings - *Misri Bai v. ITO* [1964] 51 ITR 487 (AP)/ *ITO v. Segu Bechiah Setty* [1964] 52 ITR 538 (SC)/ *Dwarka Nath v. ITO* [1965] 57 ITR 349 (SC)/ *Homely Industries v. STO* [1976] 37 STC 483 (SC)/ *Murlidhar Jalan v. ITO* [1961] 41 ITR 80 (Assam). A wrong notice can be rectified by issue of correct notice - *CIT v. Karnani Industrial Bank Ltd.* [1978] 113 ITR 380 (Cal). Order should precede notice - *Rasiklal Amritlal Doshi v. A. Nundy, Addl. ITO* [1961] 42 ITR 35 (Bom.).

14. Substituted for "rules 16 and 38" by the IT (Fourth Amdt.) Rules, 1964.

15. "16," omitted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971.

¹⁶[PART IIIA**AVOIDANCE OF REPETITIVE APPEALS****Declaration under section 158A.**

16. (1) The declaration referred to in sub-section (1) of section 158A shall be in Form No. 8 and shall be verified in the manner indicated therein.
- (2) The declaration and the verification referred to in sub-rule (1) shall be signed by the person specified in sub-rule (2) of rule 45.
- (3) The declaration referred to in sub-rule (1) shall,—
- (a) in a case where it is furnished to the ¹⁷[Deputy Commissioner (Appeals)] or the Commissioner (Appeals), be in duplicate, and
 - (b) in a case where it is furnished to the Appellate Tribunal, be in triplicate.]

PART IV**TAX EXEMPTIONS ¹⁸[AND RELIEFS]**

¹⁹²⁰**Prescribed authority for approving any institution or body established for scientific research.**

16A. For the purposes of sub-clause (viia) of clause (6) of section 10²¹, the "prescribed authority" shall be the Secretary, Department of ²²[Scientific and Industrial Research], Government of India :

Provided that every case pending on or before the 1st day of June, 1982, with any authority, other than the said Secretary, shall stand transferred to the said Secretary for disposal.]

²³**[Prescribed authority for the purposes of clauses (8A) and (8B) of section 10.**

16B. For the purposes of clauses (8A) and (8B) of section 10, the "prescribed authority" shall be the Additional Secretary, Department of Economic Affairs in the Ministry of Finance, Government of India in concurrence with Member (Income-tax) of the Board.]

16. Inserted by the IT (Third Amdt.) Rules, 1984, w.e.f. 1-10-1984. Original rule 16 was omitted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971.

17. Substituted for "Appellate Assistant Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

18. Inserted by the IT (Amdt.) Rules, 1972.

19. Substituted by the IT (Fourth Amdt.) Rules, 1982, w.e.f. 1-6-1982. Original rule 16A was inserted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971 and later on substituted by the IT (Fifth Amdt.) Rules, 1974, w.e.f. 2-11-1974 and amended by the IT (Seventh Amdt.) Rules, 1977, w.e.f. 1-11-1977.

20. See section 295(2)(g).

21. Section 10(6)(viia) was omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

22. Substituted for "Science and Technology" by the IT (Seventh Amdt.) Rules, 1985, w.e.f. 6-1-1985.

23. Inserted by the IT (Eighteenth Amdt.) Rules, 1993, w.e.f. 30-9-1993.

¹⁶[PART IIIA**AVOIDANCE OF REPETITIVE APPEALS****Declaration under section 158A.**

- 16.** (1) The declaration referred to in sub-section (1) of section 158A shall be in Form No. 8 and shall be verified in the manner indicated therein.
- (2) The declaration and the verification referred to in sub-rule (1) shall be signed by the person specified in sub-rule (2) of rule 45.
- (3) The declaration referred to in sub-rule (1) shall,—
- (a) in a case where it is furnished to the ¹⁷[Deputy Commissioner (Appeals)] or the Commissioner (Appeals), be in duplicate, and
 - (b) in a case where it is furnished to the Appellate Tribunal, be in triplicate.]

PART IV**TAX EXEMPTIONS ¹⁸[AND RELIEFS]**

¹⁹²⁰**Prescribed authority for approving any institution or body established for scientific research.**

16A. For the purposes of sub-clause (viii) of clause (6) of section 10²¹, the “prescribed authority” shall be the Secretary, Department of ²²[Scientific and Industrial Research], Government of India :

Provided that every case pending on or before the 1st day of June, 1982, with any authority, other than the said Secretary, shall stand transferred to the said Secretary for disposal.]

²³**[Prescribed authority for the purposes of clauses (8A) and (8B) of section 10.**

16B. For the purposes of clauses (8A) and (8B) of section 10, the “prescribed authority” shall be the Additional Secretary, Department of Economic Affairs in the Ministry of Finance, Government of India in concurrence with Member (Income-tax) of the Board.]

16. Inserted by the IT (Third Amdt.) Rules, 1984, w.e.f. 1-10-1984. Original rule 16 was omitted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971.

17. Substituted for “Appellate Assistant Commissioner” by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

18. Inserted by the IT (Amdt.) Rules, 1972.

19. Substituted by the IT (Fourth Amdt.) Rules, 1982, w.e.f. 1-6-1982. Original rule 16A was inserted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971 and later on substituted by the IT (Fifth Amdt.) Rules, 1974, w.e.f. 2-11-1974 and amended by the IT (Seventh Amdt.) Rules, 1977, w.e.f. 1-11-1977.

20. See section 295(2)(g).

21. Section 10(6)(viii) was omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

22. Substituted for “Science and Technology” by the IT (Seventh Amdt.) Rules, 1985, w.e.f. 6-1-1985.

23. Inserted by the IT (Eighteenth Amdt.) Rules, 1993, w.e.f. 30-9-1993.

²⁴[**Requirements for approval of a fund under section 10(23AAA).**

16C. (1) The fund shall be formed under a trust and it shall be evidenced by a trust deed.

(2) The contributions to the fund are to be made by the employees by way of periodical subscription.

(3) The application for approval of any fund under clause (23AAA) of section 10 shall be made in Form No. 9 to the Commissioner having jurisdiction over the area or territory in which the accounts are kept and such application shall be accompanied by the documents mentioned therein.

(4) Where the Commissioner is satisfied that all the conditions laid down in clause (23AAA) of section 10 are fulfilled in the case of the fund, he shall record such satisfaction in writing and grant approval to the fund specifying the assessment year or years for which the approval is valid so however that such approval shall, at one time, have effect for such assessment year or years not exceeding three assessment years.

(5) Where the Commissioner is satisfied that one or more of the conditions laid down in clause (23AAA) of section 10 are not fulfilled, he shall reject the application for approval, after recording the reasons for such rejection in writing :

Provided that no order of rejection of an application shall be passed without giving an opportunity of being heard.]

***Form of report of audit prescribed under tenth proviso to section 10(23C)²⁵.**

^{25a}[**16CC.** The report of audit of the accounts of a fund or trust or institution or any university or other educational institution or any hospital or other medical institution which is required to be furnished under the tenth proviso to clause (23C) of section 10 shall be in Form No. 10BB.]

²⁶[**Form of report for claiming deduction under section 10A.**

16D. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (5) of section 10A shall be in Form No. 56F.]

²⁷[**Form of particulars to be furnished along with return of income for claiming deduction under clause (b) of sub-section (1B) of section 10A.**

16DD. The particulars, which are required to be furnished by the assessee along with the return of income under clause (b) of sub-section (1B) of section 10A shall be in Form No. 56FF.]

24. Inserted by the IT (Fifteenth Amdt.) Rules, 1995, w.e.f. 27-7-1995.

25. See Circular No. 19/2020, dated 3-11-2020 (Condonation of delay in filing Form No. 10BB). For details, see Taxmann's Master Guide to Income-tax Rules.

25a. Inserted by the IT (Eighth Amdt.) Rules, 2006, w.e.f. 25-7-2006.

26. Inserted by the IT (Seventeenth Amdt.) Rules, 2000, w.e.f. 27-9-2000. Provisions of section 10A(5) are directory and not mandatory - *CIT v. Axis Computers (India) (P.) Ltd.* [2009] 178 Taxman 143 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

27. Inserted by the IT (Fifteenth Amdt.) Rules, 2003, w.e.f. 26-8-2003.

*Heading is provided by Editor.

²⁸[Form of report for claiming deduction under section 10B.

16E. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (5) of section 10B shall be in Form No. 56G.]

²⁹[Form of report for claiming deduction under section 10BA.

16F. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (5) of section 10BA shall be in Form No. 56H.]

³⁰[Exercise of option, etc., under section 11.

17. (1) The option to be exercised in accordance with the provisions of the *Explanation* to sub-section (1) of section 11 in respect of income of any previous year relevant to the assessment year beginning on or after the 1st day of April, 2016 shall be in Form No. 9A and shall be furnished before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income of the relevant assessment year.

(2) The statement to be furnished to the Assessing Officer or the prescribed authority under sub-section (2) of section 11 or under the said provision as applicable under clause (21) of section 10 shall be in Form No. 10 and shall be furnished before the expiry of the time allowed under sub-section (1) of section 139, for furnishing the return of income.

(3) The option in Form No. 9A referred to in sub-rule (1) and the statement in Form No. 10 referred to in sub-rule (2) shall be furnished electronically either under digital signature or electronic verification code.

(4) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall—

- (i) specify the procedure for filing of Forms referred to in sub-rule (3);
- (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (3), for purpose of verification of the person furnishing the said Forms; and

28. Inserted by the IT (Eighteenth Amdt.) Rules, 2000, w.e.f. 27-9-2000. Provisions of section 10B(5) are directory and not mandatory - *CIT v. Integrated Databases India Ltd.* [2009] 178 Taxman 432 (Delhi)/ *CIT v. Web Commerce (India) (P.) Ltd.* [2009] 178 Taxman 310 (Delhi). Filing of Form No. 56G under section 10B(5) cannot be equated with declaration to be filed under sub-section (8) of section 10B - *Sovika Infotek Ltd. v. ITO* [2008] 23 SOT 271 (Mum. - Trib.). For details, see Taxmann's Master Guide to Income-tax Rules.

29. Inserted by the IT (Seventh Amdt.) Rules, 2004, w.e.f. 31-3-2004.

30. Substituted by the IT (First Amdt.) Rules, 2016, w.e.f. 1-4-2016. Prior to its substitution, rule 17, as substituted by the IT (Eighth Amdt.) Rules, 1989, w.e.f. 1-4-1990 and amended by the IT (Amdt.) Rules, 1971, w.e.f. 1-4-1971 and IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989 read as under :

"17. Notice for accumulation of income by charitable or religious trust or institution or association referred to in clauses (21) and (23) of section 10.—The notice to be given to the Assessing Officer or the prescribed authority under sub-section (2) of section 11 or under the said provision as applicable under clause (21) or clause (23) of section 10 shall be in Form No. 10 and shall be delivered before the expiry of the time allowed under sub-section (1) of section 139, for furnishing the return of income."

- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to Forms so furnished.]

[Application for registration of charitable or religious trusts, etc.³²

17A. (1) An application under clause (aa) or clause (ab) of sub-section (1) of section 12A for registration of a charitable or religious trust or institution shall be made in Form No. 10A and accompanied by the following documents, namely:—

- (a) where the trust is created, or the institution is established, under an instrument, self-certified copy of the instrument creating the trust or establishing the institution;

31. Substituted by the IT (First Amdt.) Rules, 2018, w.e.f. 19-2-2018. Prior to its substitution, rule 17A, as amended by the IT (Second Amdt.) Rules, 1973, w.e.f. 1-4-1973, IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988 and IT (Seventh Amdt.) Rules, 2007, w.e.f. 1-6-2007, read as under :

***17A. Application for registration of charitable or religious trusts, etc.**—An application under clause (aa) of sub-section (1) of section 12A for registration of a charitable or religious trust or institution shall be made in duplicate in Form No. 10A and shall be accompanied by the following documents, namely :—

- (a) where the trust is created, or the institution is established, under an instrument, the instrument in original, together with one copy thereof; and where the trust is created, or the institution is established, otherwise than under an instrument, the document evidencing the creation of the trust or the establishment of the institution, together with one copy thereof :

Provided that if the instrument or document in original cannot conveniently be produced, it shall be open to the Commissioner to accept a certified copy in lieu of the original;

- (b) where the trust or institution has been in existence during any year or years, prior to the financial year in which the application for registration is made, two copies of the accounts of the trust or institution relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up."

32. Even without any activity having been undertaken by trust, it is possible to consider whether trust could be registered under section 12AA - *Ananda Social & Education Trust v. CIT* [2020] 114 taxmann.com 693 (SC). For purposes of entitlement to registration under section 12A, no distinction is made between a 'trust' and an institution created by an individual or by Government - *Mormugao Port Trust v. CIT* [2007] 109 ITD 303 (Panaji - Trib.). Where a trust is not created under an instrument, the words 'documents evidencing the creation of the trust' will embrace evidentiary documents which afford a logical basis for inferring the creation of the trust - *Laxminarayan Maharaj v. CIT* [1984] 150 ITR 465 (MP). Where application for registration is not accompanied with the accounts, the accounts can be produced during the course of hearing before the Commissioner for his consideration - *Sahitya Sadawart Samiti v. CIT* [2008] 23 SOT 49 (Jp. - Trib.)(URO). At the time of considering the application for registration, the Commissioner has to examine whether the application conforms to the requirements of section 12A and rule 17A and whether Form No. 10A has been properly filled, and whether the objects of the trust are charitable. It will not be proper for him to examine the application of income at this stage - *Fifth Generation Education Society v. CIT* [1990] 185 ITR 634 (All). Assessee must be provided opportunity of hearing before refusing condonation of delay in filing the application for registration, since such refusal has adverse consequences for the assessee - *Society of Divine Providence v. Union of India* [1998] 146 CTR (MP) 417. Authority is required to adopt a pragmatic and liberal approach while dealing with an application seeking condonation of delay in making the prayer for registration under section 12A - *CIT v. Shrimanta Sankar Academy* [2010] 325 ITR 261 (Gau.). For details, see Taxmann's Master Guide to Income-tax Rules.

- (b) where the trust is created, or the institution is established, otherwise than under an instrument, self-certified copy of the document evidencing the creation of the trust, or establishment of the institution;
- (c) self-certified copy of registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be;
- (d) self-certified copy of the documents evidencing adoption or modification of the objects, if any;
- (e) where the trust or institution has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of the trust or institution relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up;
- (f) note on the activities of the trust or institution;
- (g) self-certified copy of existing order granting registration under section 12A or section 12AA, as the case may be; and
- (h) self-certified copy of order of rejection of application for grant of registration under section 12A or section 12AA, as the case may be, if any.

(2) Form No. 10A shall be furnished electronically,—

- (i) under digital signature, if the return of income is required to be furnished under digital signature;
- (ii) through electronic verification code in a case not covered under clause (i).

(3) Form No. 10A shall be verified by the person who is authorised to verify the return of income under section 140, as applicable to the assessee.

(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 data structure, standards and procedure of furnishing and verification of Form No. 10A and be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said form so furnished.]

³³[**Audit report in the case of charitable or religious trusts, etc.**

17B. The report of audit of the accounts of a trust or institution which is required to be furnished under clause (b) of section 12A, shall be in Form No. 10B.]

33. Inserted by the IT (Second Amdt.) Rules, 1973, w.e.f. 1-4-1973.

While filing Form No. 10B, an auditor can accept as correct the list of persons covered by section 13(3) by the managing trustees and base his report on the strength of the certificate—*Circular No. 143, dated 20-8-1974*. The direction that the audit report should accompany the return is not mandatory as the omission to do it may be rectified by filing the report at a later stage before the assessment is completed. Where the Assessing Officer did not provide an opportunity to the assessee to file the audit report which was actually available with the assessee, the first appellate authority would be justified in accepting the audit report and directing the Assessing Officer to redo the assessment - *CIT v. Hardeodas Agarwalla Trust* [1992] 198 ITR 511 (Cal.). Requirement of filing audit report is directory and not mandatory

(Contd. on p. 1.251)

³⁴[Forms or modes of investment or deposits by a charitable or religious trust or institution.³⁵

17C. The forms and modes of investment or deposits under clause (xii) of sub-section (5) of section 11 shall be the following, namely :—

- (i) investment in the units issued under any scheme of the mutual fund referred to in clause (23D) of section 10 of the Income-tax Act, 1961;
³⁶[* * *]
- (ii) any transfer of deposits to the Public Account of India;]
- ³⁷[(iii) deposits made with an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;]
- ³⁸[(iv) investment by way of acquiring equity shares of a depository as defined in clause (e) of sub-section (1) of section 2³⁹ of the Depositories Act, 1996 (22 of 1996);]
- ⁴⁰[(v) investment made by a recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter referred to as investor) in the equity share capital of a company (hereafter referred to as investee)—
 - (A) which is engaged in dealing with securities or mainly associated with the securities market;
 - (B) whose main object is to acquire the membership of another recognised stock exchange for the sole purpose of facilitating the members of the investor to trade on the said stock exchange through the investee in accordance with the directions or guide-

(Contd. from p. 1.250)

and it is sufficient if the same is filed during the course of assessment proceedings - *CIT v. Devradhan Madhavlal Genda Trust* [1998] 230 ITR 714 (MP). Where the first appellate authority held that non-filing of the audit report was a 'defect', but nevertheless granted the benefit of exemption under section 11 without receiving the audit report, and the Tribunal affirmed the order, the order of the Tribunal could not be sustained - *Director of Income-tax (Exemptions) v. SPIC Educational Foundation* [2002] 257 ITR 46 (Mad.). Where the fact that the audit report existed and that it was produced before the first appellate authority was not denied by the Revenue, appeal by Revenue under section 260A was liable to be dismissed - *Director of Income-tax (Exemptions) v. Sindhi Panchayat* [2002] 124 Taxman 23 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

See also Circular No. 10/2019, dated 22-5-2019; Circular No. 28/2019, dated 27-9-2019; Circular No. 30/2019, dated 17-12-2019; Circular No. 2/2020, dated 3-1-2020 and Circular No. 3/2020, dated 3-1-2020 [Condonation of delay in filing. Form Nos. 9A & 10]. For details, see Taxmann's Master Guide to Income-tax Rules.

- ³⁴. Inserted by the IT (Eighth Amdt.) Rules, 1990, w.e.f. 29-3-1990.
- ³⁵. In *Dy. DIT v. M.C. Natha Bhatia High School Trust* [2017] 79 taxmann.com 97/163 ITD 460 (Mum. - Trib.) it was held that there is no stipulation under section 11(5) placing restriction on reshuffle of specified investment.
- ³⁶. Omitted by the IT (Sixteenth Amdt.) Rules, 1990, w.r.e.f. 29-3-1990. Earlier, it was inserted by the IT (Eighth Amdt.) Rules, 1990, w.e.f. 29-3-1990.
- ³⁷. Inserted by the IT (First Amdt.) Rules, 1995, w.e.f. 6-1-1995.
- ³⁸. Inserted by the IT (Fifteenth Amdt.) Rules, 1998, w.e.f. 17-9-1998.
- ³⁹. For definition of "depository", see **Appendix**.
- ⁴⁰. Inserted by the IT (Tenth Amdt.) Rules, 2006, w.r.e.f. 26-11-1999.

lines issued under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by the Securities and Exchange Board of India established under section 3 of that Act; and

- (C) in which at least fifty-one per cent of equity shares are held by the investor and the balance equity shares are held by members of such investor;]

^{40a}[(va) investment made by a person, authorised under section 4 of the Payment and Settlement Systems Act, 2007, in the equity share capital or bonds or debentures of a company—

(A) which is engaged in operations of retail payments system or digital payments settlement or similar activities in India and abroad and is approved by the Reserve Bank of India for this purpose; and

(B) in which at least fifty-one per cent of equity shares are held by National Payments Corporation of India.]

⁴¹[(vi) investment by way of acquiring equity shares of an incubatee by an incubator.

Explanation.—For the purposes of this clause,—

(a) “incubatee” shall mean such incubatee as may be notified by the Government of India in the Ministry of Science and Technology;

(b) “incubator” shall mean such Technology Business Incubator or Science and Technology Entrepreneurship Park as may be notified by the Government of India in the Ministry of Science and Technology;]

⁴²[(vii) investment by way of acquiring shares of National Skill Development Corporation;]

⁴³[(viii) investment in debt instruments issued by any infrastructure Finance Company registered with the Reserve Bank of India;]

⁴⁴[(ix) investment in “Stock Certificate” as defined in clause (c) of paragraph 2 of the Sovereign Gold Bonds Scheme, 2015, published in the Official Gazette *vide* notification number G.S.R. 827(E), dated the 30th October, 2015.]

⁴⁵[**Functions of electoral trusts.**⁴⁶

17CA. (1) The functions of an electoral trust referred to in section 13B shall be as provided in this rule.

40a. Inserted by the IT (Seventh Amdt.) Rules, 2020, w.e.f. 5-3-2020.

41. Inserted by the IT (Second Amdt.) Rules, 2007, w.e.f. 1-3-2007.

42. Inserted by the IT (Ninth Amdt.) Rules, 2008, w.r.e.f. 31-7-2008.

43. Inserted by the IT (Thirteenth Amdt.) Rules, 2012, w.e.f. 20-9-2012.

44. Inserted by the IT (Eighth Amdt.) Rules, 2016, w.e.f. 23-3-2016.

45. Inserted by the IT (First Amdt.) Rules, 2013, w.e.f. 31-1-2013.

46. See Electoral Trust Scheme, 2013 and Circular F.No. 173/158/2013-ITA-I, dated 10-12-2013 (Standardizing the process of filing application for approval of an Electoral Trust). For details, see Taxmann's Master Guide to Income-tax Rules.

- (2) The electoral trust may receive voluntary contributions from—
- (a) an individual who is a citizen of India;
 - (b) a company which is registered in India; and
 - (c) a firm or Hindu undivided family or an Association of persons or a body of individuals, resident in India.
- (3) A receipt indicating the following shall be issued by the trust immediately on receipt of any contribution indicating the following:—
- (a) name and address of the contributor;
 - (b) Permanent account number of the contributor or passport number in the case of a citizen who is not a resident;
 - (c) amount and mode of contribution including name and branch of the Bank and date of receipt of such contribution;
 - (d) name of the electoral trust;
 - (e) Permanent account number of the electoral trust;
 - (f) date and number of approval by the prescribed authority; and
 - (g) name and designation of the person issuing the receipt.
- (4) The electoral trust shall not accept contributions—
- (a) from an individual who is not a citizen of India or from any foreign entity whether incorporated or not; ⁴⁷[***]
 - (b) from any other electoral trust which has been registered as a company under section 25⁴⁸ of the Companies Act, 1956 (1 of 1956) and approved as an electoral trust under the Electoral Trusts Scheme, 2013;
 - ⁴⁹[(c) from a Government Company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013)⁵⁰; and
 - (d) from a foreign source as defined in clause (j) of section 2⁵⁰ of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010).]
- (5) The electoral trust shall accept contributions only by way of an account payee cheque drawn on a bank or account payee bank draft or by electronic transfer to its bank account and shall not accept any contribution in cash.
- (6) The electoral trust shall not accept any contribution without the permanent account number of the contributor, who is a resident and the passport number in the case of a citizen of India, who is not a resident.
- (7) A political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951) shall be an eligible political party and an electoral trust shall distribute funds only to the eligible political parties.
- (8) (i) The electoral trust may, for the purposes of managing its affairs, spend up to five per cent of the total contributions received in a year subject to an aggregate limit of rupees five hundred thousand in the first year of incorporation and rupees three hundred thousand in subsequent years;

47. Word "and" omitted by the IT (Twenty-seventh Amdt.) Rules, 2016, w.e.f. 7-10-2016.

48. Now section 8 of the Companies Act, 2013, see **Appendix**.

49. Inserted by the IT (Twenty-seventh Amdt.) Rules, 2016, w.e.f. 7-10-2016.

50. For definition of "Government Company" and "foreign source", see **Appendix**.

(ii) the total contributions received in any financial year along with the surplus from any earlier financial year, if any, as reduced by the amount spent on managing its affairs, shall be the distributable contributions for the financial year;

(iii) an electoral trust shall be required to distribute the distributable contributions received in a financial year, referred to in item (ii), to the eligible political parties before the 31st day of March of the said financial year, subject to the condition that at least ninety five per cent of the total contributions received during the financial year along with the surplus brought forward from earlier financial year, if any, are distributed.

(9) The trust shall obtain a receipt from the eligible political party indicating the name of the political party, its permanent account number, registration number, amount of fund received from the trust, date of the receipt and name and designation of person signing such receipt.

(10) The electoral trust shall not utilize any contributions for the direct or indirect benefit of the members or contributors, or for any of the following persons, namely:—

- (a) the members (including members of its Executive Committee, Governing Committee or Board of Directors) of the electoral trust;
- (b) any relative of such Members;
- (c) where such member or contributor is a Hindu undivided family, a member of that Hindu undivided family;
- (d) any person who has made a contribution to the trust;
- (e) any person referred to in sub-section (3) of section 13 of the Act; and
- (f) any concern in which any of the persons referred to in clauses (a), (b), (c), (d) and (e) has a substantial interest.

(11) (i) An electoral trust shall keep and maintain such books of account and other documents in respect of its receipts, distributions and expenditure as may enable the computation of its total income in accordance with the provisions of the Act;

(ii) The electoral trust shall also maintain a list of persons from whom contributions have been received and to whom the same have been distributed, containing the name, address and permanent account number of each such person along with the details of the amount and mode of its payment including the name and branch of the bank.

(12) Every electoral trust shall get its accounts audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and furnish the audit report in Form No. 10BC along with particulars forming part of its Annexure, to the Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the electoral trust, on or before the due date specified for furnishing the return of income by a company under section 139.

(13) An electoral trust shall maintain a regular record of proceedings of all meetings and decisions taken therein.

(14) Every electoral trust shall furnish a certified copy of list of contributors and a list of political parties, to whom sums were distributed in the manner prescribed in sub-rule (8), to the Commissioner of Income-tax or the Director of Income-tax, as

the case may be, every year along with the audit report as stipulated under sub-rule (12).

(15) Any change in the shareholders, subsequent to the approval granted under the Electoral Trusts Scheme, 2013 shall be intimated to the Board within thirty days of such change.]

⁵¹[**Method of valuation for the purposes of sub-section (2) of section 115TD.**

17CB. (1) For the purpose of sub-section (2) of section 115TD of the Act, the aggregate fair market value of the total assets of the trust or institution, shall be the aggregate of the fair market value of all the assets in the balance sheet as reduced by—

(i) any amount of income-tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of income-tax claimed as refund under the Act, and

(ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset.

(2) For the purpose of sub-rule (1), the fair market value of the asset shall be determined in the following manner, namely:—

(I) Valuation of shares and securities,—

(a) the fair market value of quoted share and securities shall be the following:—

(i) the average of the lowest and highest price of such shares and securities quoted on a recognised stock exchange as on the specified date; or

(ii) where on the specified date, there is no trading in such shares and securities on a recognised stock exchange, the average of the lowest and highest price of such shares and securities on a recognised stock exchange on a date immediately preceding the specified date when such shares and securities were traded on a recognised stock exchange,

(b) the fair market value of unquoted equity shares shall be the value, on the specified date as determined in accordance with the following formula, namely:—

$$\text{Fair market value of unquoted equity shares} = \frac{(A+B-L) \times (PV)}{(PE)}$$

where,

A = book value of all the assets in the balance sheet (other than bullion, jewellery, precious stone, artistic work, shares, securities, and immovable property) as reduced by—

51. Inserted by the IT (Eighth Amdt.) Rules, 2017, w.r.e.f. 1-6-2016.

- (i) any amount of income-tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of income-tax claimed as refund under the Act; and
- (ii) any amount shown in the balance sheet as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset;

B = fair market value of bullion, jewellery, precious stone, artistic work, shares, securities and immovable property as determined in the manner provided in this rule;

L = book value of liabilities shown in the balance sheet, but not including the following amounts, namely:—

- (i) representing contingent liabilities other than arrears of dividends payable in respect of the paid-up capital in respect of equity shares;
- (ii) the amount set apart for payment of dividends on preference shares and equity shares;
- (iii) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
- (iv) any amount representing provision for taxation, other than amount of income-tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of income-tax claimed as refund under the Act, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
- (v) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;
- (vi) any amount cumulative preference shares;

PE = total amount of paid-up equity share capital as shown in the balance sheet;

PV = the paid-up value of such equity share,

- (c) the fair market value of shares and securities other than equity shares shall be estimated to be price it would fetch if sold in the open market on the specified date on the basis of the valuation report from a merchant banker or an accountant in respect of such valuation.

(II) The fair market value of an immovable property shall be higher of the following:—

- (a) price that the property shall ordinarily fetch if sold in the open market on the specified date on the basis of the valuation report from a registered valuer; and
 - (b) stamp duty value as on the specified date.
- (III) The fair market value of a business undertaking, held by a trust or institution, shall be its net assets determined in accordance with the following formula:—
- Fair market value = $(A + B - L)$, which shall be determined in the manner provided in sub-clause (b) of clause (I) of sub-rule (2).
- (IV) The fair market value of any asset, other than those referred to in clauses (I), (II) and (III), shall be the price that the asset shall ordinarily fetch if sold in the open market on the specified date on the basis of valuation report from a registered valuer:

Provided that in case no valuer is registered for valuation of such assets, the valuation report shall be obtained from a valuer who is a member of any one of the professional valuer bodies viz. Institution of Valuers, Institution of Surveyors (Valuation Branch), Institution of Government Approved Valuers, Practicing Valuers Association of India, the Indian Institution of Valuers, Centre for Valuation Studies, Research and Training, Royal institute of Chartered Surveyors; India Chapter, American Society of Appraisers, USA; Appraisal Institute, USA or a valuer who is appointed by any public sector bank or public sector undertakings for valuation purposes.

(3) For the purpose of sub-section (2) of section 115TD of the Act, the total liability of the trust or institution shall be the book value of liabilities in the balance sheet on the specified date but not including the following amounts, namely:—

- (i) capital fund or accumulated funds or corpus, by whatever name called;
- (ii) reserves or surpluses or excess of income over expenditure, by whatever name called;
- (iii) any amount representing contingent liability;
- (iv) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;
- (v) any amount representing provision for taxation, other than amount of tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of income-tax claimed as refund under the Act, to the extent of the excess over the income-tax payable with reference to the income in accordance with the law applicable thereto.

Explanation.—For the purposes of this rule,—

- (a) "accountant" shall mean a fellow of the Institute of Chartered Accountants of India within the meaning of the Chartered Accountants Act, 1949 (38 of 1949) who is not appointed by the trust or institution as an auditor;

- (b) "balance sheet" in relation to any trust or institution, shall mean the balance sheet of such trust or institution (including the notes annexed thereto and forming part of the accounts) as drawn up on the specified date which has been audited by an accountant;
- (c) "merchant banker" shall mean a category I merchant banker registered with Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (d) "quoted share or security" in relation to share or security means a share or security quoted on any recognised stock exchange with regularity from time to time, where the quotations of such shares or securities are based on current transaction made in the ordinary course of business;
- (e) "recognised stock exchange"⁵² shall have the same meaning as assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (f) "registered valuer" means a person registered as a valuer under section 34AB of the Wealth-tax Act, 1957 (27 of 1957);
- (g) "securities"⁵² shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (h) "specified date" means the date referred to in *Explanation* to section 115TD of the Act;
- (i) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property;
- (j) "unquoted share and security" in relation to share or security means share or security which is not a quoted share or security.]

⁵³[**Prescribed foreign projects for the purposes of deduction in respect of profits and gains from projects outside India under section 80HHB.**

17D. For the purposes of sub-clause (iii) of clause (b) of sub-section (2) of section 80HHB, any project for execution of work of exploration, exploitation, development and production of hydrocarbons outside India shall be a foreign project.]

Accommodation and amenities to be provided by hotels.

18. [Omitted by the IT (Third Amdt.) Rules, 1973, w.e.f. 1-4-1974. Original rule 18 was amended by the IT (Third Amdt.) Rules, 1964/1967 and IT (Second Amdt.) Rules, 1968.]

52. For definitions of "recognised stock exchange" and "securities", see **Appendix**.

53. Inserted by the IT (Thirteenth Amdt.) Rules, 1999, w.e.f. 2-6-1999.

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Prescribed authority to certify the daily average number of rehabilitated employees in an industrial undertaking.

18A. [Omitted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976. Original rule 18A was inserted by the IT (Fourth Amdt.) Rules, 1968 and later amended by the IT (Second/Third Amdt.) Rules, 1970.]

Prescribed authority for approval of a hotel under section 80CC.

18AA. [Omitted by the IT (Fifth Amdt.) Rules, 1996, w.r.e.f. 1-4-1993. Original rule 18AA was inserted by the IT (Ninth Amdt.) Rules, 1990, w.e.f. 11-4-1990.]

Prescribed authority for approval of a University or any educational institution of national eminence for the purpose of section 80G.

18AAA. For the purpose of sub-clause (iii) of clause (a) of sub-section (2) of section 80G, the prescribed authority,—

- (a) in relation to a university or any non-technical institution of national eminence, shall be the Director General (Income-tax Exemptions), who shall grant approval with the concurrence of the Secretary, University Grants Commission;
- (b) in relation to any technical institution of national eminence, shall be the Director General (Income-tax Exemptions) who shall grant approval with the concurrence of the Secretary, All India Council of Technical Education.

Explanation.—For the purposes of this rule,—

- (1) "All India Council of Technical Education" means the All India Council of Technical Education established under section 3 of the All India Council for Technical Education Act, 1987 (52 of 1987);
- (2) "University Grants Commission" means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956).]

Prescribed authority for the purpose of receiving separate accounts from trusts or funds or institutions for providing relief to the victims of earthquake in Gujarat.

18AAAA. (1) For the purpose of sub-section (5C) of section 80G, the prescribed authority shall be the Director General of Income-tax (Exemptions).

(2) The trust, the fund or the institution, which is established in India for a charitable purpose and is approved in terms of clause (vi) of sub-section (5) shall maintain separate accounts of income and expenditure for providing relief to the victims of earthquake in Gujarat and get such accounts audited by an accountant, as defined in the *Explanation* to sub-section (2) of section 288 and furnish the report of such audit, duly signed and verified by such accountant to the Director General of

54. Inserted by the IT (Fourteenth Amdt.) Rules, 1993, w.e.f. 6-9-1993.

55. Inserted by the IT (Twenty-second Amdt.) Rules, 2002, w.r.e.f. 3-2-2002.

Income-tax (Exemptions) in Form No. 10AA. Such authority, on receipt of the accounts in the said form, shall give the finding as to whether the donations received for the purpose of providing relief to the victims of earthquake in Gujarat are chargeable to tax in the hands of the trusts or the fund or the institution under clause (23C) of section 10 or under section 12 or not, as the case may be, and determine the extent thereof.

(3) Where the findings of the Director General of Income-tax (Exemptions) are not beneficial to the assessee, such authority shall give an opportunity to the assessee before making the findings.

(4) The Director General of Income-tax (Exemptions) shall bring his findings to the knowledge of the concerned Assessing Officer within one month of making such findings.]

⁵⁶[Guidelines for specifying an association or institution for the purposes of notification under clause (c) of sub-section (2) of section 80G.

18AAAAA. In specifying an association or institution for notification under clause (c) of sub-section (2) of section 80G, the Central Government shall satisfy itself that,—

- (a) the association or institution has as its object the control, supervision, regulation or encouragement in India of the games or sports notified under *Explanation 4* to section 80G;
- (b) the association or institution has a proven record of its dedication towards development of infrastructure of sports or games or promotion of sports or games for at least a period of three years;
- (c) the association or institution does not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it;
- (d) the association or institution applies the amount received by way of donation referred to in clause (c) of sub-section (2) of section 80G for purposes of development of infrastructure for games or sports in India or for sponsoring of games or sports in India;
- (e) the association or institution maintains regular accounts of its receipt and expenditure;
- (f) the association or institution files its return of income regularly;
- (g) the notification issued by the Central Government under clause (c) of sub-section (2) of section 80G shall have effect in relation to the assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued), as may be specified in such notification.]

56. Inserted by the IT (Twenty-sixth Amtd.) Rules, 2002, w.e.f. 29-11-2002.

⁵⁷[Prescribed authority for approval of companies engaged in Scientific and Industrial Research and Development for the purposes of section 80-IA.]

18AAB. For the purposes of sub-section (4B) of section 80-IA, the prescribed authority shall be the Secretary, Department of Scientific and Industrial Research, Ministry of Science and Technology, Government of India.]

⁵⁸[Form of audit report for claiming deduction under section 80HH.]

18B. The report of audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (5) of section 80HH shall be in Form No. 10C.]

⁵⁹[Form of audit report for claiming deduction under section 80HHA.]

18BB. The report of the audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (4) of section 80HHA shall be in Form No. 10CC.]

⁶⁰[⁶¹Form of reports for claiming deduction under section 80HHB or under section 80HHC or under section 80HHD and prescribed authority under section 80HHD.]

18BBA. (1) The report of the audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under clause (i) of sub-section (3) of section 80HHB shall be in Form No. 10CCA.

⁶²[(1A) The report of the audit of the accounts of an assessee which is required to be furnished under clause (i) of sub-section (2) of section 80HHBA shall be in Form No. 10CCAA.]

⁶³[(1B) The certificate from an accountant which is required to be furnished by the assessee under clause (ia) of sub-section (3) of section 80HHB shall be in Form No. 10CCAH.]

⁶⁴[(2) The certificate from the Export House or Trading House which is required to be furnished by the supporting manufacturer under clause (b) of sub-section (4A) of section 80HHC shall be in Form No. 10CCAB.]

57. Inserted by the IT (Tenth Amdt.) Rules, 1996, w.e.f. 1-4-1997.

58. Inserted by the IT (Fifth Amdt.) Rules, 1974. Deduction under section 80HH is not available with effect from the assessment year 2000-01.

59. Inserted by the IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-4-1978. Deduction under section 80HHA is not available with effect from the assessment year 2000-01.

60. Substituted by the IT (Tenth Amdt.) Rules, 1986, w.e.f. 1-4-1987. Original rule 18BBA was inserted by the IT (Seventh Amdt.) Rules, 1982, w.e.f. 1-4-1983. See also Circular No. 1 of 2001, dated 17-1-2001 on filing of auditor's report in old format. Deductions under sections 80HHB, 80HHBA, 80HHC, 80HHD, 80HHE and 80HHF are not allowable with effect from the assessment year 2005-06 onwards.

61. Substituted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989. Earlier, it was substituted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

62. Inserted by the IT (Second Amdt.) Rules, 1999, w.e.f. 15-1-1999.

63. Inserted by the IT (Twelfth Amdt.) Rules, 1999, w.e.f. 1-6-1999.

64. Substituted by the IT (Second Amdt.) Rules, 1989, w.e.f. 1-4-1989.

⁶⁵[(2A) The certificate from the undertaking in the Special Economic Zone which is required to be furnished under proviso to sub-section (4) of section 80HHC by an undertaking referred to in sub-section (4C) of that section shall be in Form No. 10CCABA.]

(3) The report of an accountant which is required to be furnished by the assessee under sub-section (4) or clause (a) of sub-section (4A) of section 80HHC shall be in Form No. 10CCAC.]

⁶⁶[(4) The report of the accountant which is required to be furnished by the assessee under sub-section (6) of section 80HHD shall be in Form No. 10CCAD.]

⁶⁷[(5) For the purposes of section 80HHD, the "prescribed authority" shall be the Director General in the Directorate General of Tourism, Government of India.]

⁶⁸[(6) The certificate from a person making payment to an assessee, engaged in the business of a hotel or of a tour operator or of a travel agent which is required to be furnished under sub-section (2A) of section 80HHD shall be in Form No. 10CCAE.]

⁶⁹[(7) The report of an accountant which is required to be furnished by the assessee under sub-section (4) ⁷⁰[or clause (i) of sub-section (4A)] of section 80HHE shall be in Form No. 10CCAF.]

⁷¹[(8) The certificate from the exporting company which is required to be furnished by the supporting software developer under clause (ii) of sub-section (4A) of section 80HHE shall be in Form No. 10CCAG.]

⁷²[(9) The report of an accountant which is required to be furnished by the assessee under sub-section (4) of section 80HHF shall be in Form No. 10CCAI.]

65. Inserted by the IT (Twenty-first Amdt.) Rules, 2003, w.e.f. 25-9-2003.

Non-furnishing of special audit certificate along with the return is a curable defect under section 139(9), which should be rectified by the Assessing Officer - *Murali Export House v. CIT* [1999] 238 ITR 257 (Cal.) / *CIT v. Magnum Export (P.) Ltd.* [2003] 262 ITR 10 (Cal.). Declaration under sub-section (4A) can be filed at any time before the completion of assessment - *CIT v. G. Krishnan Nair* [2003] 259 ITR 727 (Ker.) / *CIT v. Smt. T. Sarala Pillai* [2003] 131 Taxman 471 (Ker.) / *CIT v. Gupta Fabs* [2005] 274 ITR 620 (Punj. & Har.). Non-filing of audit report in Form No. 10CCAC along with return is a defect under section 139(9), and deduction cannot be denied on a technical ground - *CIT v. Valli Cotton Traders (P.) Ltd.* [2007] 288 ITR 400 (Mad.).

66. Inserted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

67. Inserted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.

68. Inserted by the IT (Sixth Amdt.) Rules, 1992, w.e.f. 1-4-1992.

69. Inserted by the IT (Fourth Amdt.) Rules, 1992, w.e.f. 1-4-1991.

70. Inserted by the IT (Twenty-second Amdt.) Rules, 1998, w.e.f. 23-10-1998.

71. Inserted by the IT (Twenty-third Amdt.) Rules, 1998, w.e.f. 23-10-1998.

72. Inserted by the IT (Eighteenth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

Form of audit report for claiming deduction under section 80-I or 80-IA or 80-IB or section 80-IC].

18BBB. (1) The report of the audit of the accounts of an assessee, which is required to be furnished under sub-section (7) of section 80-IA or sub-section (7) of section 80-I, except in the cases of multiplex theatres as defined in sub-section (7A) of section 80-IB or convention centres as defined in sub-section (7B) of section 80-IB ⁷⁵[or hospitals in rural areas as defined in sub-section (11B) of section 80-IB], shall be in Form No. 10CCB.

(2) A separate report is to be furnished by each undertaking or enterprise of the assessee claiming deduction under section 80-I or 80-IA or 80-IB ⁷⁵[or 80-IC] and shall be accompanied by the Profit and Loss Account and Balance Sheet of the undertaking or enterprise as if the undertaking or the enterprise were a distinct entity.

(3) In the case of an enterprise carrying on the business of developing or operating and maintaining or developing, operating and maintaining an infrastructure facility, the form shall be accompanied by a copy of the agreement of the enterprise with the Central Government or the State Government or the local authority for carrying on the business of developing or operating and maintaining or developing, operating and maintaining the infrastructure facility.

(4) In any other case, the form shall be accompanied by a copy of the agreement, approval or permission, as the case may be, to carry on the activity signed or issued by the Central Government or the State Government or the local authority for carrying on the eligible business.]

73. Substituted by the IT (Twenty-third Amdt.) Rules, 2002 [as amended by the IT (Ninth Amdt.) Rules, 2003], w.e.f. 6-9-2002. Prior to its substitution, rule 18BBB was inserted by the IT (Seventh Amdt.) Rules, 1983, w.e.f. 19-8-1983 and later on amended by the IT (Seventh Amdt.) Rules, 1992, w.e.f. 27-3-1992 and IT (Fifteenth Amdt.) Rules, 1999, w.e.f. 1-4-2000, read as under:

"18BBB. *Form of audit report for claiming deduction under section 80-I or section 80-IA.*—The report of the audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (7) of section 80-I or sub-section (7) of section 80-IA shall be in Form No. 10CCB."

If the assessee fails to file audit report along with return of income but files it subsequently before completion of assessment, deduction can be allowed provided that the delay in filing audit report was for good and sufficient reasons - *CIT v. Panama Chemicals Works* [2007] 292 ITR 147 (MP). Where assessee, claiming deduction under section 80-IB, did not file audit report in Form 10CCB along with return of income but filed same before assessment was completed, requirement of provisions of section 80-IB was duly complied with and, assessee's claim for deduction was to be allowed - *CIT v. AKS Alloys (P.) Ltd.* [2012] 18 taxmann.com 25/205 Taxman 11 (Mag.) (Mad.). For details, see *Taxmann's Master Guide to Income-tax Rules*.

74. Substituted for "section 80-IB" by the IT (Third Amdt.) Rules, 2005, w.e.f. 4-2-2005.

75. Inserted, *ibid*.

⁷⁶[Prescribed authority for approval of hotels located in certain areas.]

18BBC. (1) For the purposes of sub-clause (iii) of clause (c) of sub-section (7) of section 80-IB, the prescribed authority,—

- (a) in relation to hotels located in an area or place referred to in clause (a) of that sub-section, shall be the Director General (Income-tax Exemptions) who shall grant approval on the concurrence of the Director General in the Directorate General of Tourism, Government of India;
- (b) in relation to hotels located in any place referred to in clause (b) of that sub-section, shall be the Director General in the Directorate General of Tourism, Government of India.

76. Substituted by the IT (Nineteenth Amdt.) Rules, 1999, w.e.f. 1-4-2000. Prior to its substitution, rule 18BBC, as inserted by the IT (Seventh Amdt.) Rules, 1992, w.e.f. 27-3-1992 and amended by the IT (Eighth Amdt.) Rules, 1998, w.e.f. 29-5-1998, read as under :

"18BBC. *Prescribed authority for approval of hotels located in certain areas.*—(1) For the purposes of clause (v) of sub-section (4) of section 80-IA, the prescribed authority,

- (a) in relation to hotels located in an area or place referred to in clause (ii) or clause (iia) of that sub-section, shall be the Director General (Income-tax Exemptions) who shall grant approval on the concurrence of the Director General in the Directorate General of Tourism, Government of India;
- (b) in relation to hotels located in any place referred to in clause (iv) or clause (iva) of that sub-section, shall be the Director General in the Directorate General of Tourism, Government of India.

(2) For the purpose of clause (iii) of sub-section (4), and the first proviso to clause (ii) of sub-section (5) of section 80-IA, a hotel shall be approved by the prescribed authority if the following conditions are fulfilled, namely :—

- (a) such hotel is located in an area or place specified under clause (iii) of the said sub-section (4);
- (b) there are not more than 300 hotel rooms of 3-star category and above in the aggregate, in areas or places specified under clause (iii) of the said sub-section (4) within the jurisdiction of the revenue sub-division in which the hotel is located;
- (c) in case the hotel is located in a place where there is need for development of infrastructure for tourism, such place has been specified by the Central Government under clause (iii) of the said sub-section (4) on the recommendations of the Department of Tourism.

(3) For the purpose of clause (iia) of sub-section (4), and the proviso to clause (ii) of sub-section (5) of section 80-IA, a hotel shall be approved by the prescribed authority if the following conditions are fulfilled, namely :—

- (a) such hotel is located in an area or place specified under clause (iia) of the said sub-section (4);
- (b) there are not more than 1,000 hotel rooms of 3-star category and above in the aggregate, in areas or places specified under clause (iia) of the said sub-section (4) within the jurisdiction of the revenue sub-division in which the hotel is located;
- (c) in case the hotel is located in a place where there is need for development of infrastructure for tourism, such place has been specified by the Central Government under clause (iia) of the said sub-section (4) on the recommendations of the Department of Tourism."

(2) For the purpose of clause (a) of sub-section (7) of section 80-IB, a hotel shall be approved by the prescribed authority if the following conditions are fulfilled, namely :—

- (a) such hotel is located in an area or place specified under clause (a) of the said sub-section (7);
- (b) there are not more than 300 hotel rooms of 3-star category and above in the aggregate, in areas or places specified under clause (a) of the said sub-section (7) within the jurisdiction of the revenue sub-division in which the hotel is located;
- (c) in case the hotel is located in a place where there is need for development of infrastructure for tourism, such place has been specified by the Central Government under clause (a) of the said sub-section (7) on the recommendations of the Department of Tourism.]

⁷⁷[Prescribed authority for approval of companies carrying on scientific and industrial research and development.

18BBD. For the purposes of sub-section (4B) of section 80-IA, the prescribed authority shall be the Secretary in the Department of Scientific and Industrial Research and Development, Ministry of Science and Technology, Government of India.]

⁷⁸[Computation of profits of certain activities forming integral part of a highway project for the purpose of section 80-IA.

18BBE. (1) For the purpose of sub-section ⁷⁹[(6)] of section 80-IA, the profits of housing or other activities, which are integral part of a highway project, shall be computed on the basis and manner specified below :—

- (i) in a case where the annual profits of the housing or other activities which are integral part of a highway project can be arrived at in accordance with the regular method of accounting followed, the profits so arrived at as computed under the provisions of the Act;
- (ii) in any other case, the amount of profits arrived at based on the percentage of completion of the activities referred to in clause (i) during the relevant previous year.

(2) Every assessee shall maintain separate accounts for the activities referred to in sub-rule (1) and shall submit a certificate from an accountant, specifying the amount credited to the reserve account and the amount utilised during the relevant previous year for the highway project.

77. Inserted by the IT (Fifth Amdt.) Rules, 1996, w.e.f. 21-11-1996.

78. Inserted by the IT (Third Amdt.) Rules, 1998, w.e.f. 4-2-1998.

79. Substituted for "(7A)" by the IT (Sixteenth Amdt.) Rules, 1999, w.e.f. 1-4-2000.

Explanation.—For the purposes of this rule, “accountant” means,—

- (i) a Chartered Accountant⁸⁰ within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or
- (ii) any person who, in relation to any State, is, by virtue of the provisions in sub-section (2) of section 226⁸¹ of the Companies Act, 1956 (1 of 1956), entitled to be appointed to act as an auditor of companies registered in that State.

(3) The certificate referred to in sub-rule (2) shall be in Form No. 10CCC.]

⁸²[**Eligibility of Industrial Parks for benefits under section 80-IA(4)(iii).**

18C. (1) The undertaking shall begin to develop, develop and operate or maintain and operate an industrial park any time during the period beginning on the 1st day of April, 2006, and ending on the 31st day of March, ⁸³[2011].

(2) The undertaking and the Industrial Park shall be notified⁸⁴ by the Central Government under the Industrial Park Scheme, 2008.

(3) The undertaking shall continue to fulfil the conditions envisaged in the Industrial Park Scheme, 2008.]

⁸⁵[**Prescribed authority for approval of companies carrying on scientific research and development.**

18D. (1) For the purposes of sub-section (8A) of section 80-IB, the prescribed authority shall be the Secretary, Department of Scientific and Industrial Research, Ministry of Science and Technology, Government of India.

80. For definition of “chartered accountant”, see **Appendix**.

81. Now section 141 of the Companies Act, 2013, see **Appendix**.

82. Substituted by the IT (First Amdt.) Rules, 2008, w.e.f. 8-1-2008. Prior to its substitution, rule 18C, as amended by the IT (Sixteenth Amdt.) Rules, 2002, w.r.e.f. 1-4-2001, IT (Twenty-sixth Amdt.) Rules, 1998, w.e.f. 24-12-1998, IT (Fifth Amdt.) Rules, 1996, w.r.e.f. 1-4-1989 and IT (Third Amdt.) Rules, 1975, w.e.f. 1-4-1976, read as under :

“18C. *Eligibility of Industrial Parks and Special Economic Zones for benefits under section 80-IA(4)(iii).*—(1) The undertaking shall begin to operate an industrial park during the period beginning on the 1st day of April, 1997, and ending on the 31st day of March, 2002.

(1A) The undertaking shall begin to develop or develop and operate or maintain and operate a special economic zone any time during the period beginning on the 1st day of April, 2001 and ending on 31st day of March, 2006.

(2) The undertaking shall be duly approved by the Ministry of Commerce and Industry in the Central Government under the scheme for industrial park or Special Economic Zones notified by that Ministry.

(3) The undertaking shall continue to fulfil the conditions envisaged in the scheme.

(4) On approval under sub-rule (2), the Central Board of Direct Taxes, shall notify industrial parks for benefits under section 80-IA.”

83. Substituted for “2009” by the IT (Fifth Amdt.) Rules, 2010, w.e.f. 21-5-2010.

84. See Industrial Park Scheme, 2008.

85. Inserted by the IT (First Amdt.) Rules, 2001, w.e.f. 31-1-2001.

(2) The prescribed authority shall initially grant approval to a company carrying on scientific research and development for a period of three assessment years and subject to satisfactory performance of that company on periodic review extend the said approval for a further period of three assessment years so that the total period of approval is for ten consecutive assessment years, beginning from the initial assessment year.

Prescribed conditions for deduction under sub-section (8A) of section 80-IB.

18DA. (1) Any company carrying on scientific research and development shall be eligible for deduction specified in sub-section (8A) of section 80-IB, if such company—

- (a) is registered in India;
- (b) has its main object the scientific and industrial research and development;
- (c) has adequate infrastructure such as laboratory facilities, qualified manpower, scale-up facilities and prototype development facilities for undertaking scientific research and development of its own;
- (d) has a well formulated research and development programme comprising of time bound research and development projects with proper mechanism for selection and review of the projects or programme;
- (e) is engaged exclusively in scientific research and development activities leading to technology development, improvement of technology and transfer of technology developed by themselves;
- (f) submits the annual return alongwith statement of accounts and annual report within eight months after the close of each accounting year to the prescribed authority.

(2) Every company which is approved under sub-rule (2) of rule 18D shall—

- (a) sell any prototype or output, if any, from its laboratories or pilot plants with the prior permission of the prescribed authority;
- (b) intimate the change, if any, in its memorandum of association and articles of association relating to its main objects and forward the altered copy of its memorandum of association and articles of association to the prescribed authority;
- (c) apply for extension of the approval at least three months before expiry of the approval already granted by the prescribed authority;
- (d) have a system of monitoring the cost of research and development projects.

(3) If, at any stage, it is found that—

- (a) the approval granted to the company referred to in sub-rule (2) of rule 18D is to avoid payment of taxes by its group companies or companies related to its directors or majority of its shareholders;
- (b) any provisions of the Act or the rules have been violated,

the prescribed authority specified may withdraw the approval so granted.

(4) Every company referred to in sub-rule (1) shall make an application to the prescribed authority for the purposes of obtaining approval.

(5) Every application referred to in sub-rule (4) shall be accompanied by—

(a) memorandum of association and articles of association incorporating all amendments duly certified by the company secretary or managing director of the company;

(b) annual report of the company for the last three years, if available;

(c) photocopies of the memorandum of understanding relating to all on-going and future sponsored research projects or programmes.

(6) The prescribed authority may call for any information or document which may be necessary for consideration of the grant of approval under sub-rule (2) of rule 18D.

(7) The prescribed authority shall grant approval within four months from the date of receipt of the application :

Provided that where the approval is not granted, the decision of the said authority shall be communicated to the applicant within the said period of four months :

Provided further that no approval shall be refused unless the applicant has been given an opportunity of being heard.]

⁸⁶[**Prescribed area, facilities and amenities for multiplex theatres and particulars of audit report, for deduction under sub-section (7A) and clause (da) of sub-section (14) of section 80-IB.**

18DB. (1) For the purpose of sub-section (7A) and clause (da) of sub-section (14) of section 80-IB, the multiplex theatre shall have the following area, facilities and amenities :—

- (a) The total built-up area occupied by all the cinema theatres comprised in the multiplex shall not be less than 22,500 square feet, and shall consist at least 50% of the total built-up area of the multiplex excluding the area specified for parking.
- (b) The multiplex theatres shall be comprised of at least three cinema theatres and at least three commercial shops.
- (c) Total seating capacity of all the cinema theatres comprised in the multiplex shall be at least 900 seats, and no cinema theatre should consist of less than 100 seats.
- (d) The total built-up area occupied by all the commercial shops comprised in the multiplex theatre shall not be less than 3000 sq. ft., and the minimum built-up area of each shop shall not be less than 250 sq. ft.
- (e) There shall be at least one lobby or foyer in the cinema theatres, whose area shall be at least 3 sq. ft. per seat.
- (f) The multiplex theatre shall have adequate parking, toilet blocks and other public conveniences, as per local building or cinema regulations,

and shall also fulfil all local building or cinema regulations in respect of fire and safety.

- (g) The cinema theatres comprised in the multiplex theatre shall use modern stereo projection systems with at least two screen speakers per screen and one surround speaker per 25 seats in a theatre.
- (h) The cinema theatres shall use seats with seat pitch not less than 20" (centre to centre).
- (i) Ticketing system employed by the cinema theatres shall be fully computerised.
- (j) The multiplex theatre cinema shall be centrally air-conditioned.

Explanation.—For the purposes of this rule, the expression "modern stereo projection systems" shall consist of xenon lamp, platter and digital sound systems.

(2) A separate report of the audit, shall be furnished along with the return of income in respect of each eligible multiplex theatre, in Form No. 10CCBA and shall be duly signed and verified by an accountant as defined in the *Explanation* below sub-section (2) of section 288.

(3) In the first year of the claim of deduction, the assessee shall enclose along with the audit report, a copy of approvals for exhibition of cinema given by various State or local authorities, which shall, where applicable, include the following :—

- (a) no-objection certificate with respect to the location of the multiplex by the concerned licensing authority;
- (b) permission for construction of the multiplex by the concerned licensing authority;
- (c) permission to construct the building from the town planning authority or municipal corporation;
- (d) completion certificate or occupation certificate, as the case may be, from the town planning authority or municipal corporation, certifying the completion of the multiplex theatre, during the period commencing on the 1st day of April, 2002 and ending on the 31st day of March, 2005; and
- (e) operating license issued by the concerned licensing authority.

(4) After the first year of claim of deduction, in the subsequent four years, the audit report shall be enclosed with the operating license issued from time to time, by the concerned licensing authority for exhibition of cinema.]

⁸⁷[Prescribed area, facilities and amenities for convention centres and particulars of audit report, for deduction under sub-section (7B) and clause (aa) of sub-section (14) of section 80-IB.

18DC. (1) For the purpose of sub-section (7B) and clause (aa) of sub-section (14) of section 80-IB, the convention centre shall have the following area, facilities and amenities,—

87. Inserted by the IT (Eighth Amndt.) Rules, 2004, w.r.e.f. 1-4-2002.

- (i) A convention centre located in a town or city mentioned in column (1) of the table below, shall have a minimum plinth area mentioned in column (2), minimum seating capacity mentioned in column (3) and minimum number of conference or seminar halls mentioned in column (4) of the said Table, as under :—

<i>Town size population (as per 2001 census)</i>	<i>Minimum area covered plinth area (in sq. mtrs.)</i>	<i>Minimum seating capacity range</i>	<i>Minimum number of Conference or Seminar halls</i>
(1)	(2)	(3)	(4)
Below 5 lakhs	2000	200-300	2
5-10 lakhs	5000	500-750	3
10-40 lakhs	10000	1000-1500	5
Above 40 lakhs : Mega cities	15000	1500-2000	7

- (ii) The convention centre shall have conference or seminar halls, auditorium and exhibition halls for holding seminars, conferences.
- (iii) Each conference, seminar hall, exhibition hall and the auditorium of the convention centre shall be equipped with modern public address system, slide and power point projection system and LCD projector or Video screening facility.
- (iv) The convention centre shall also have a documentation centre with computers and printers, telephone with STD/ISD facilities, E-mail, photocopy and scanning facility along with trained operators to provide these facilities.
- (v) The conference or seminar hall, documentation centre, auditorium and the exhibition hall of the convention centre shall be air-conditioned.
- (vi) The convention centre shall have adequate parking facility and other public conveniences as per the local building regulations and should also fulfil all local building regulations in respect of fire and safety.

(2) In addition to facilities mentioned in sub-rule (1), the convention centres may have,—

- (i) an amphi-theatre, landscaped open spaces for outdoor conference or seminar related activities;
- (ii) a kitchen, dining facility, cafeteria or restaurant only to support events in the convention centre.

(3) A separate report of the audit, shall be furnished along with the return of income in respect of each eligible convention centre, in Form No. 10CCBB and shall be duly signed and verified by an accountant as defined in the *Explanation* below sub-section (2) of section 288.

(4) In the first year of the claim of deduction, the assessee shall enclose along with the audit report, a copy of approvals for building of convention centre given by State or local authorities, which shall, where applicable, include the following :—

- (i) permission for construction of the convention centre, from the town planning authority or municipal corporation;
- (ii) completion certificate or occupation certificate, as the case may be, from the town planning authority or municipal corporation, certifying the completion of the convention centre, during the period commencing on the 1st day of April, 2002 and ending on the 31st day of March, 2005.]

⁸⁸[Form of report for claiming deduction under sub-section (11B) of section 80-IB.

18DD. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (11B) of section 80-IB shall be in Form No. 10CCBC.]

⁸⁹[Form of report for claiming deduction under sub-section (11C) of section 80-IB.

18DDA. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (11C) of section 80-IB shall be in Form No. 10CCBD.]

⁹⁰[Prescribed area, minimum seating capacity, facilities and amenities for convention centres; minimum number of convention halls in the convention centres; and particulars of audit report, for deduction under section 80-ID.

18DE. (1) For the purposes of clause (a) of sub-section (6) of section 80-ID, the convention centre shall have the following area, facilities and amenities,—

- (a) A convention centre located in the specified area mentioned in column (1) of the Table below, shall have a minimum covered plinth area mentioned in column (2), minimum seating capacity mentioned in column (3) and minimum number of convention halls, for the purpose of holding conferences and seminars, mentioned in column (4) of the said Table.

TABLE

<i>Specified area</i>	<i>Minimum covered plinth area (in sq. mtrs.)</i>	<i>Minimum seating capacity</i>	<i>Minimum number of convention halls</i>
(1)	(2)	(3)	(4)
National Capital Territory of Delhi, Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad	25000	3000	10

- (b) The convention centre shall have convention halls, whether called conference halls or seminar halls or auditorium or by any other name, for holding seminars and conferences.
- (c) Each convention hall of the convention centre shall be equipped with modern public address system, slide and power point projection system and LCD projector or Video screening facility.

88. Inserted by the IT (Fifth Amtd.) Rules, 2005, w.e.f. 17-2-2005.

89. Inserted by the IT (Eighth Amtd.) Rules, 2008, w.e.f. 22-10-2008.

90. Inserted by the IT (Fifteenth Amtd.) Rules, 2007, w.e.f. 1-4-2008.

- (d) The convention centre shall have a documentation centre with computers and printers, telephone with STD/ISD facilities, E-mail, photocopy and scanning facility along with trained operators to provide these facilities.
 - (e) The convention centre shall be completely centrally air-conditioned.
 - (f) The convention centre shall have adequate parking facility and other public conveniences as per the local building regulations and should also fulfil all local building regulations in respect of fire and safety.
- (2) In addition to the facilities mentioned in sub-rule (1), the convention centres may have,—
- (a) an amphi-theatre and landscaped open spaces for outdoor conference or seminar related activities;
 - (b) a kitchen, dining facility, cafeteria or restaurant only to support events in the convention centre.

(3) For the purposes of clause (iv) of sub-section (3) of section 80-ID, the report of an audit shall be in Form No. 10CCBBA.]

Computation of capital employed in an industrial undertaking or a hotel.

19. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

Computation of capital employed in an industrial undertaking or a ship or the business of a hotel for the purposes of section 80J.

19A. ⁹¹[Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

⁹²[Form of report for claiming deduction under section 80JJAA.

19AB. Report of an accountant which is required to be furnished by the assessee along with the return of income under clause (c) of sub-section (2) of section 80JJAA shall be in Form No. 10DA.]

⁹³[Form of certificate to be furnished under sub-section (3) of section 80QQB.

19AC. (1) The certificate, which is required to be furnished by the assessee under sub-section (3) of section 80QQB from a person responsible for making payment to the assessee, shall be in Form No. 10CCD.

(2) The certificate in Form No. 10CCD duly verified by the person responsible for making the payment to the assessee is required to be furnished along with the return of income.]

91. Prior to its omission, rule 19A was inserted by the IT (Second Amdt.) Rules, 1968, w.e.f. 1-4-1968 and later amended by the IT (Third Amdt.) Rules, 1971, w.e.f. 1-4-1972.

92. Substituted by the IT (Sixth Amdt.) Rules, 2017, w.r.e.f. 1-4-2017. Prior to its substitution, rule 19AB, as inserted by the IT (Twenty-first Amdt.) Rules, 1998, w.e.f. 23-10-1998, read as under :

"19AB. Form of report for claiming deduction under section 80JJAA.—Report of an accountant which is required to be furnished by the assessee along with the return of income under clause (b) of sub-section (2) of section 80JJAA shall be in Form No. 10DA."

93. Inserted by the IT (Nineteenth Amdt.) Rules, 2003, w.r.e.f. 1-4-2003.

***Prescribed authority for purposes of sub-section (2) of section 80RRB and form of certificate to be furnished under sub-section (2) of section 80RRB.**

⁹⁴[19AD. (1) For the purposes of sub-section (2) of section 80RRB, the prescribed authority shall be the Controller, referred to in clause (b) of sub-section (1) of section 2 of the Patents Act, 1970 (39 of 1970)⁹⁵.

(2) The certificate, which is required to be furnished by the assessee under sub-section (2) of section 80RRB from the prescribed authority shall be in Form No. 10CCE.]

***Form of report of accountant to be furnished under sub-section (3) of section 80LA.**

⁹⁶[19AE. The report of the accountant, which is required to be furnished by the assessee under sub-section (3) of section 80LA shall be in Form No. 10CCF.]

⁹⁷[Guidelines for approval ⁹⁸[under clause (xix) of sub-section (2) of section 80C or] under clause (xvi) of sub-section (2) of section 88.

20. The Board, before granting approval to a public company, ⁹⁸[under clause (xix) of sub-section (2) of section 80C or] under clause (xvi) of sub-section (2) of section 88, shall satisfy itself that the application made to it fulfils the following requirements, namely :—

(1) An application for approval has been made in the Form No. 59 by the public company three months before the ⁹⁹[eligible issue of capital].

¹[*Explanation.*—For the purposes of this rule, “the eligible issue of capital” means an issue referred to in clause (i) of the *Explanation* to clause (xix) in sub-section (2) of section 80C or in clause (i) of the *Explanation* to clause (xvi) in sub-section (2) of section 88.]

(2) Every application shall be accompanied by the following documents, namely :—

(a) a copy of the certificate of incorporation under the Companies Act, 1956 (1 of 1956);

(b) audited balance sheets and profit and loss account for three previous years immediately preceding the previous year in which the application is made :

94. Inserted by the IT (Eighteenth Amtd.) Rules, 2003, w.e.f. 5-9-2003.

95. For text of section 2(1)(b) of the Patents Act, 1970, see **Appendix**.

96. Inserted by the IT (Twenty-sixth Amtd.) Rules, 2003, w.e.f. 13-11-2003.

97. Inserted by the IT (Sixth Amtd.) Rules, 1996, w.e.f. 22-11-1996. Earlier existing rule 20 was omitted by the IT (Fifth Amtd.) Rules, 1989, w.e.f. 18-5-1989.

98. Inserted by the IT (Twenty-fourth Amtd.) Rules, 2005, w.e.f. 3-11-2005.

99. Substituted for “public issue” by the IT (Second Amtd.) Rules, 1997, w.e.f. 22-11-1996.

1. Substituted by the IT (Twenty-fourth Amtd.) Rules, 2005, w.e.f. 3-11-2005. Prior to its substitution, *Explanation*, as inserted by the IT (Second Amtd.) Rules, 1997, w.e.f. 22-11-1996, read as under :

Explanation.—For the purpose of this rule, “the eligible issue of capital” means an issue referred to in clause (i) of *Explanation* of clause (xvi) in sub-section (2) of section 88.

*Heading is provided by Editor.

Provided that where a company has been in existence for a period of less than three years, in that case that company may furnish balance sheet and profit and loss account for the period of its existence.

- (3) Every such public company shall invest its total paid-up capital (hereinafter referred to as such capital) raised through equity issue or debentures in the following manner :—
 - (i) twenty-five per cent or more of such capital shall be invested in the infrastructure facility before the end of one year from the date of approval of the Board;
 - (ii) the balance of such capital shall be invested within a period of three years from the date of approval.
- (4) Every such public company shall submit a certificate from an accountant, as defined in the *Explanation* in sub-section (2) of section 288, specifying the amount invested in each year, from the date of approval of the Board.
- (5) The Board shall pass an order in writing granting approval or refusing approval to such public company, as the case may be :
Provided that no order refusing approval shall be passed by the Board before allowing an opportunity of being heard to the public company.
- (6) The Board shall have the power to withdraw the approval granted under sub-rule (5) in the following circumstances, namely :—
 - (a) if such public company fails to make investments as per conditions mentioned in sub-rule (3); or
 - (b) if such public company fails to file the certificate referred to in sub-rule (4).]

²[Guidelines for approval ³[under clause (xx) of sub-section (2) of section 80C or] under clause (xvii) of sub-section (2) of section 88.

20A. (1) For the purpose of ³[clause (xx) of sub-section (2) of section 80C or] clause (xvii) of sub-section (2) of section 88, the prescribed authority shall be the Central Board of Direct Taxes.

(2) An application for approval shall be made in Form No. 59A by the Mutual Fund to the Board referred in sub-rule (1) three months before the public issue.

(3) Every application for approval under sub-rule (2) shall be accompanied by the following documents, namely :—

- (a) audited balance sheets and profit and loss account for three previous years immediately preceding the previous year in which the application is made :

2. Inserted by the IT (Eleventh Amdt.) Rules, 1996, w.e.f. 26-12-1996.

3. Inserted by the IT (Twenty-fourth Amdt.) Rules, 2005, w.e.f. 3-11-2005.

Provided that where a Mutual Fund has been in existence for a period of less than three years, in that case that company may furnish balance sheet and profit and loss account for the period of its existence;

(b) a copy of the certificate of registration issued by the Securities and Exchange Board of India.

(4) Every such Mutual Fund shall invest its total paid-up capital (hereinafter referred to as such capital) raised through equity issue or debentures in the following manner :—

(i) twenty-five per cent or more of such capital shall be invested in the "eligible issue of capital of any company" referred to in "[clause (i) of *Explanation* to clause (xiv) of sub-section (2) of section 80C or in] clause (i) of *Explanation* to clause (xvi) of sub-section (2) of section 88, before the end of one year from the date of approval of the Board;

(ii) the balance of such capital shall be invested within a period of three years from the date of approval.

(5) Every such Mutual Fund shall submit a certificate from an accountant, as defined in the *Explanation* to sub-section (2) of section 288, specifying the amount invested in each year, from the date of approval of the Board.

(6) The Board shall pass an order in writing granting approval or refusing approval to such Mutual Fund, as the case may be :

Provided that no order of refusing approval shall be passed by the Board without an opportunity of being heard given to the Mutual Fund.

(7) The Board shall have the power to withdraw the approval granted under sub-rule (6) under the following circumstances, namely :—

(a) if such Mutual Fund fails to make investments as mentioned in sub-rule (4); or

(b) if such Mutual Fund fails to file the certificate referred to in sub-rule (5).]

[Evidence of payment of security transaction tax for claiming deduction under section 88E.

20AB. The evidence of payment of securities transaction tax which is required to be furnished along with the return of income by the assessee under first proviso to section 88E,—

(i) on the value of transaction entered into by him in a recognised stock exchange, shall be in Form No. 10DB and shall be verified in the manner indicated therein;

(ii) on the value of transaction of sale, by him, of a unit of an equity oriented fund to the Mutual Fund, shall be in Form No. 10DC and shall be verified in the manner indicated therein.]

4. Inserted by the IT (Twenty Fourth Amdt.) Rules, 2005, w.e.f. 3-11-2005.

5. Inserted by the IT (First Amdt.) Rules, 2005, w.e.f. 6-1-2005. No rebate is admissible under section 88E from the assessment year 2009-10 onwards.

Limits for life insurance premia in the case of authors, etc.

21. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

***[Relief when salary is paid in arrears or in advance, etc.]**

21A. ⁷[(1) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance or, by reason of any portion of family pension received by an assessee being paid in arrears or, by reason of his having received in any one financial year salary for more than twelve months or a payment which under the provisions of clause (3) of section 17 is a profit in lieu of salary, his income is assessed at a rate higher than that at which it would otherwise have been assessed, the relief to be granted under sub-section (1) of section 89 shall be—

- (a) where any portion of the assessee's salary is received in arrears or in advance or, any portion of family pension is received by an assessee in arrears, in accordance with the provisions of sub-rule (2);
- (b) where the payment is in the nature of gratuity in respect of past services of the assessee extending over a period of not less than five years, in accordance with the provisions of sub-rule (3);
- (c) where the payment is in the nature of compensation received by the assessee from his employer or former employer at or in connection with the termination of his employment after continuous service for not less than three years and where the unexpired portion of his term of employment is also not less than three years, in accordance with the provisions of sub-rule (4);
- (d) where the payment is in commutation of pension, in accordance with the provisions of sub-rule (5); and
- (e) where the payment is not in the nature of salary paid in arrears or in advance or gratuity in respect of past services or compensation received at or in connection with the termination of employment or in commutation of pension, in accordance with the provisions of sub-rule (6).

6. Inserted by the IT (Amdt.) Rules, 1972, w.r.e.f. 1-4-1971.

Relief under section 89(1) is to be given in the assessment in which the extra payment by way of arrears, advance, etc., is taxed - Circular No. 331, dated 22-3-1982. Relief would also be admissible on encashment of leave salary while in service - Circular No. 431, dated 12-9-1985. For formula for computation of relief on gratuity, see Circular No. 9-D(LIII-6), dated 17-3-1966 as modified by Circular No. 14-D(LIII-7), dated 19-4-1966. Where the Supreme Court awarded lump sum compensation in lieu of back wages and future wages in an industrial dispute with a direction that the lump sum should be spread over the back period, relief under section 89(1) is admissible and it must be quantified before making payment - *Sundaram Motors (P.) Ltd. v. Ameerjan* [1985] 152 ITR 64 (SC). Relief is admissible on arrears of salary paid under orders of court - *Sant Raj v. O.P. Singla* [1987] 163 ITR 588 (SC), *K.C. Joshi v. Union of India* [1987] 163 ITR 597 (SC). Where back wages are paid to assessee pursuant to striking down of termination order by court, relief is admissible - *Satyapal v. Wool & Woollen Export Promotion Council* [1988] 169 ITR 507 (Bom.). Compensation received consequent to resignation is also entitled to relief - *CIT v. J. Visalakshi* [1994] 206 ITR 531 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.

7. Sub-rules (1) and (2) substituted by the IT (Twenty-first Amdt.) Rules, 2002, w.r.e.f. 1-4-2002.

(2)(a) In a case referred to in clause (a) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the salary is received in arrears or in advance or, in which the family pension is received in arrears (such salary or family pension being hereafter in this sub-rule referred to respectively as the additional salary or additional family pension, as the case may be, and such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the additional salary or additional family pension, calculated in the manner specified in clause (b), exceeds the tax or the aggregate tax on the additional salary or additional family pension, calculated in the manner specified in clause (c) or clause (d), as the case may be.

(b) Tax shall be calculated on the total income of the relevant previous year as reduced by the additional salary or additional family pension, as the case may be, as if the total income so reduced were the total income of the assessee, and the amount by which the tax so calculated falls short of the tax on the total income before such reduction shall, for the purposes of clause (a), be taken to be the tax on the additional salary or additional family pension, under this clause.

(c) Where the additional salary or additional family pension, as the case may be, relates to only one previous year, tax shall be calculated on the total income of the said previous year as increased by the additional salary or additional family pension, as if the total income so increased were the total income of the assessee, and the amount by which the tax so calculated exceeds the tax payable by the assessee in respect of the total income of the said previous year shall, for the purposes of clause (a), be taken to be the tax on the additional salary or additional family pension, under this clause.

(d) Where the additional salary or additional family pension, as the case may be, relates to more than one previous year,—

- (i) the previous years to which the additional salary or additional family pension relates and the amount relating to each such previous year shall first be ascertained;
- (ii) tax shall, then, be calculated on the total income of each such previous year as increased by the amount relating to such previous year ascertained under sub-clause (i); as if the total income so increased were the total income of that previous year, and the amount by which the aggregate amount of tax in respect of the aforesaid previous years as calculated under sub-clause (ii) exceeds the aggregate amount of tax payable by the assessee in respect of the total income of the said previous years shall, for the purposes of clause (a), be taken to be the aggregate tax on the additional salary or additional family pension, under this clause.]

(3)(a) In a case referred to in clause (b) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment by way of gratuity is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the

tax on the amount of the gratuity included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such gratuity, calculated at the rate of tax determined under clause (b) or, as the case may be, clause (c).

(b) Where the payment by way of gratuity is made in respect of past services of the assessee extending over a period of not less than five years but less than fifteen years,—

- (i) the total income of the assessee in respect of each of the two previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-half of the amount of the gratuity included in the total income of the relevant previous year, and the average rate of tax for each of the said two previous years shall be calculated as if the total income so increased were the total income of that previous year; and
- (ii) the average of the average rates of tax for the two previous years immediately preceding the relevant previous year, calculated in accordance with sub-clause (i), shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(c) Where the payment by way of gratuity is made in respect of past services of the assessee extending over a period of not less than fifteen years,—

- (i) the total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of the gratuity included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year; and
- (ii) the average of the average rates of tax for the three previous years immediately preceding the relevant previous year, calculated in accordance with sub-clause (i), shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(4)(a) In a case referred to in clause (c) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment by way of compensation is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the amount of the compensation included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such compensation, calculated at the rate of tax determined under clause (b).

(b) The total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of the compensation included in the total income

of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year; and the average of the average rates of tax so calculated for the three previous years shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(5)(a) In a case referred to in clause (d) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment in commutation of pension is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the payment in commutation of pension included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such payment, calculated at the rate of tax determined under clause (b).

(b) The total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of payment in commutation of pension included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year; and the average of the average rates of tax so calculated for the three previous years shall, for the purposes of clause (a), be the rate of tax determined under this clause.

(6) In a case referred to in clause (e) of sub-rule (1), the Board may, having regard to the circumstances of the case, allow such relief as it deems fit.]

⁸[Furnishing of particulars for claiming relief under section 89(1).

21AA. Where the assessee, being a Government servant or an employee in a ⁹[company, co-operative society, local authority, university, institution, association or body], is entitled to relief under sub-section (1) of section 89, he may furnish to the person responsible for making the payment referred to in sub-section (1) of section 192, the particulars specified in Form No. 10E.]

¹⁰[Certificate for claiming relief under an agreement referred to in sections 90 and 90A.

21AB. ¹¹[(1) Subject to the provisions of sub-rule (2), for the purposes of sub-section (5) of section 90 and sub-section (5) of section 90A, the following information shall be provided by an assessee in Form No. 10F, namely:—

(i) Status (individual, company, firm, etc.) of the assessee;

(ii) Nationality (in case of an individual) or country or specified territory of incorporation or registration (in case of others);

8. Inserted by the IT (Eighth Amdt.) Rules, 1987. See section 192(2A).

9. Substituted for "public sector undertaking" by the IT (Ninth Amdt.) Rules, 1991, w.e.f. 16-5-1991.

10. Inserted by the IT (Twelfth Amdt.) Rules, 2012, w.e.f. 1-4-2013.

11. Sub-rules (1), (2) & (2A) substituted for sub-rules (1) and (2) of rule 21AB by the IT (Eleventh Amdt.) Rules, 2013, w.r.e.f. 1-4-2013.

- (iii) Assessee's tax identification number in the country or specified territory of residence and in case there is no such number, then, a unique number on the basis of which the person is identified by the Government of the country or the specified territory of which the assessee claims to be a resident;
- (iv) Period for which the residential status, as mentioned in the certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A, is applicable; and
- (v) Address of the assessee in the country or specified territory outside India, during the period for which the certificate, as mentioned in (iv) above, is applicable.

(2) The assessee may not be required to provide the information or any part thereof referred to in sub-rule (1) if the information or the part thereof, as the case may be, is contained in the certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A.

(2A) The assessee shall keep and maintain such documents as are necessary to substantiate the information provided under sub-rule (1) and an income-tax authority may require the assessee to provide the said documents in relation to a claim by the said assessee of any relief under an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A, as the case may be.]

(3) An assessee, being a resident in India, shall, for obtaining a certificate of residence for the purposes of an agreement referred to in section 90 and section 90A, make an application in Form No. 10FA to the Assessing Officer.

(4) The Assessing Officer on receipt of an application referred to in sub-rule (3) and being satisfied in this behalf, shall issue a certificate of residence in respect of the assessee in Form No. 10FB.]

¹²[**Furnishing of authorisation and maintenance of documents, etc., for the purposes of section 94A.**

21AC. (1) For the purposes of clause (a) of sub-section (3) of section 94A, the authorisation to be submitted by the assessee, shall be in Form No. 10FC.

(2) The assessee shall cause the first copy of the duly filled Form No. 10FC to be deposited with or transmitted to the financial institution referred to in clause (a) of sub-section (3) of section 94A.

(3) The second copy of the Form No. 10FC along with the evidence of the first copy of said Form having been deposited or transmitted to the financial institution shall be submitted by the assessee to the Assessing Officer having jurisdiction over him.

(4) For the purpose of ensuring that the authorisation in Form No. 10FC is legally enforceable, the assessee shall take all necessary steps as are required under any law for the time being in force in India or outside India.

(5) For the purposes of clause (b) of sub-section (3) of section 94A, the assessee who has entered into a transaction with a person located in a notified jurisdictional area (hereinafter referred to as the specified person) shall, in addition to information and documents referred to in sub-rule (1) of rule 10D, keep and maintain the following information and documents, namely:—

- (a) a description of the ownership structure of the specified person, including name and address of individuals or other entities, whether located in the notified jurisdictional area or outside, having directly or indirectly more than ten per cent shareholding or ownership interests;
- (b) a profile of the multinational group of which the specified person is a part along with the name, address, legal status and country of tax residence of each of the enterprises comprised in the group with whom the assessee has entered into a transaction, and ownership linkage among them;
- (c) a broad description of the business of the specified person and the industry it operates in;
- (d) any other information, data or document, which may be relevant for the transaction with the specified person.

(6) The information and documents specified in sub-rule (5) shall be for the period upto the due date of filing of return of income under sub-section (1) of section 139.

(7) The information and documents specified in sub-rule (5) shall be kept and maintained for a period of eight years from the end of the relevant assessment year.]

¹³[**Exercise of option under sub-section (4) of section 115BA.**

21AD. (1) The option to be exercised in accordance with the provisions of sub-section (4) of section 115BA by a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2017, shall be in Form No. 10-IB.

(2) The option in Form No. 10-IB referred to in sub-rule (1) shall be furnished electronically either under digital signature or electronic verification code.

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall—

- (i) specify the procedure for filing of Form referred to in sub-rule (2);
- (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for purpose of verification of the person furnishing the form referred to in the said sub-rule; and
- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to Form so furnished.]

13. Inserted by the IT (Ninth Amndt.) Rules, 2017, w.e.f. 2-5-2017.

^{13a}[**Exercise of option under sub-section (5) of section 115BAA.**

21AE. (1) The option to be exercised in accordance with the provisions of sub-section (5) of section 115BAA by a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall be in Form No. 10-IC.

(2) The option in Form No. 10-IC shall be furnished electronically either under digital signature or electronic verification code.

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall—

- (i) specify the procedure for filing of Form No. 10-IC;
- (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for verification of the person furnishing the said Form; and
- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the Form so furnished.

Exercise of option under sub-section (7) of section 115BAB.

21AF. (1) The option to be exercised in accordance with the provisions of sub-section (7) of section 115BAB by a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall be in Form No. 10-ID.

(2) The option in Form No. 10-ID shall be furnished electronically either under digital signature or electronic verification code.

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall—

- (i) specify the procedure for filing of Form No. 10-ID;
- (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for verification of the person furnishing the said Form; and
- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the Form so furnished.]

^{13b}[**Exercise of option under sub-section (5) of section 115BAC.**

21AG. (1) The option to be exercised in accordance with the provisions of sub-section (5) of section 115BAC by a person, being an individual or Hindu undivided family, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, shall be in Form No. 10-IE.

13a. Rules 21AE and 21AF inserted by the IT (Fourth Amtd.) Rules, 2020, w.e.f. 1-4-2020.

13b. Rules 21AG and 21AH inserted by the IT (Twenty-second Amtd.) Rules, 2020, w.e.f. 1-10-2020.

(2) The option in Form No. 10-IE shall be furnished electronically either under digital signature or electronic verification code.

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall,—

- (i) specify the procedure for filing of Form No. 10-IE;
- (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for verification of the person furnishing the said Form; and
- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the Form so furnished.

Exercise of option under sub-section (5) of section 115BAD.

21AH. (1) The option to be exercised in accordance with the provisions of sub-section (5) of section 115BAD by a person, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, shall be in Form No. 10-IF.

(2) The option in Form No. 10-IF shall be furnished electronically either under digital signature or electronic verification code.

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall,—

- (i) specify the procedure for filing of Form No. 10-IF;
- (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for verification of the person furnishing the said Form; and
- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the Form so furnished.]

Relief when interest on securities is received in arrears.

21B. ¹⁴[Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

PART V

REGISTRATION OF FIRMS¹⁵

Application for registration of a firm.

22. (1) An application for registration of a firm for the purposes of the Act shall be made in accordance with the provisions of sub-rules (2) to (5).

¹⁴ Prior to its omission, rule 21B, as inserted by the IT (Amdt.) Rules, 1972, w.e.f. 1-4-1971.

¹⁵ See section 184 as it stood prior to its substitution by the Finance Act, 1992, w.e.f. 1-4-1993. Under the amended provisions, the scheme of registration of firms has been dispensed with, with effect from 1-4-1993.

(2) The option in Form No. 10-IE shall be furnished electronically either under digital signature or electronic verification code.

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall,—

- (i) specify the procedure for filing of Form No. 10-IE;
- (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for verification of the person furnishing the said Form; and
- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the Form so furnished.

Exercise of option under sub-section (5) of section 115BAD.

21AH. (1) The option to be exercised in accordance with the provisions of sub-section (5) of section 115BAD by a person, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, shall be in Form No. 10-IF.

(2) The option in Form No. 10-IF shall be furnished electronically either under digital signature or electronic verification code.

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall,—

- (i) specify the procedure for filing of Form No. 10-IF;
- (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for verification of the person furnishing the said Form; and
- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the Form so furnished.]

Relief when interest on securities is received in arrears.

21B. ¹⁴[Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

PART V

REGISTRATION OF FIRMS¹⁵

Application for registration of a firm.

22. (1) An application for registration of a firm for the purposes of the Act shall be made in accordance with the provisions of sub-rules (2) to (5).

14. Prior to its omission, rule 21B, as inserted by the IT (Amdt.) Rules, 1972, w.e.f. 1-4-1971.

15. See section 184 as it stood prior to its substitution by the Finance Act, 1992, w.e.f. 1-4-1993. Under the amended provisions, the scheme of registration of firms has been dispensed with, with effect from 1-4-1993.

- (2) Where the application is made before the end of the relevant previous year—
- (i) and where no change in the constitution of the firm or the shares of the partners has taken place during the previous year before the date of the application—
 - (a) the application shall be made in Form No. 11; and
 - (b) it shall be accompanied by the original instrument evidencing the partnership at the date of the application together with a copy thereof. A certified copy of the instrument together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument cannot be produced;
 - ¹⁶(ii) and where any change or changes in the constitution of the firm or the shares of the partners have taken place during the previous year before the date of the application—
 - (a) the application shall be made in Form No. 11A; and
 - (b) it shall be accompanied by the original instrument or instruments, evidencing the partnership as in existence from time to time during the previous year up to the date of the application together with copies thereof. A certified copy of the instrument or instruments together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument or instruments cannot be produced.
- (3) Where after the date of making an application under sub-rule (2), any change or changes in the constitution of the firm or the shares of the partners have taken place during the previous year, a fresh application shall be made after each such change takes place in accordance with the provisions of sub-clauses (a) and (b) of clause (ii) of sub-rule (2) and the time-limit prescribed in sub-section (4) of section 184 shall apply to each such application.
- (4) Where the application is made after the end of the relevant previous year—
- (i) and where no change in the constitution of the firm or the shares of the partners has taken place during the said previous year and up to the date of the application, the application shall be made in accordance with the provisions of sub-clauses (a) and (b) of clause (i) of sub-rule (2);
 - (ii) and where any change or changes in the constitution of the firm or the shares of the partners have taken place during the said previous year and/or after the end of the previous year but before the date of the application—
 - (a) the application shall be made in Form No. 11A; and
 - (b) it shall be accompanied by the original instrument or instruments

16. See *CIT v. K. Damodaran Nair* [1981] 130 ITR 682 (Ker.) and *D.S. Mahadevasa & Co. v. CIT* [1984] 145 ITR 187 (Kar.) on this clause.

evidencing the partnership as in existence from time to time during the previous year and up to the date of the application together with copies thereof. A certified copy of the instrument or instruments together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument or instruments cannot be produced.

(5) The application shall be signed personally by all the partners (not being minors) in the firm as constituted at the date of the application and, in the case of a dissolved firm, personally by all the persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased so, however, that in the case of any partner who is absent from India or is a lunatic or an idiot, the application may be signed by any person duly authorised by him in this behalf, or, as the case may be, by a person entitled under law to represent him.

Intimation regarding subsequent changes in constitution, etc.

23. If after the date of the application, or of the last application where more than one application are made, for registration of a firm for any assessment year and before the assessment for that assessment year is completed by the ¹⁸[Assessing Officer], so far as known to the firm, any change or changes take place in the constitution of the firm or the shares of the partners, the details of such change or changes shall be communicated by the firm to the ¹⁸[Assessing Officer] as soon as possible after each such change takes place.

¹⁹Declaration for continuation of registration.

24. ²⁰The declaration to be furnished under sub-section (7) of section 184 shall be in Form No. 12 and shall be verified in the manner indicated therein and shall be signed by the persons concerned in accordance with sub-rule (5) of rule 22.

²¹[Communication regarding partner who is a benamidar.

24A. (1) The communication required to be made by any partner of a firm under clause (b) of the *Explanation* below sub-section (1) of section 185 shall be in Form No. 12A.

17. See *Srinivasa Stainless Steel & Moulding Works v. CIT* [1987] 32 Taxman 102 (AP) on requirement of signing application.

18. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

19. See *Addl. CIT v. S.V. Ratnaswamy & Sons* [1977] 106 ITR 154 (Kar.) and *Nemichand Rajmal & Co. v. CIT* [1982] 138 ITR 703 (Bom.) on continuation of registration—*Wazid Ali Abid Ali v. CIT* [1988] 169 ITR 761 (SC) on question of signing fresh application for registration where there is a change in its constitution.

20. See also *CIT v. B.L. Agarwalla* [1991] 56 Taxman 21 (Pat.), *CIT v. Toolsidass Jewraj* [1991] 192 ITR 568 (Cal.), *CIT v. India Sea Foods* [1991] 192 ITR 515 (Ker.) and *Paul Mathews & Co. v. CIT* [1991] 98 CTR (Ker.) 12.

21. Inserted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976.

(2) The communication referred to in sub-rule (1) shall be made,—

- (a) in a case where the firm has not been registered under section 184, before the end of the previous year for the assessment year in respect of which registration of the firm is sought :

Provided that where the registration is sought for the assessment year commencing on the 1st day of April, 1976, the communication may be made before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for that assessment year;

- (b) in a case where the registration of the firm has effect under sub-section (7) of section 184 for any assessment year, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for that assessment year.]

Certificate of registration.

25. The certificate under sub-section (4) of section 185 shall be recorded on the last of the instruments evidencing the partnership during the relevant previous year (or on the certified copy submitted in lieu thereof) attached with the application for registration of the firm made in accordance with sub-rules (2) to (4) of rule 22.

PART VI

DEDUCTION OF TAX AT SOURCE²²

²³[²⁴**Rate of exchange for the purpose of deduction of tax at source on income payable in foreign currency.**

26. For the purpose of deduction of tax at source on any income payable in foreign currency, the rate of exchange for the calculation of the value in rupees of such income payable to an assessee outside India shall be the telegraphic transfer buying rate of such currency as on the date on which the tax is required to be deducted at source under the provisions of Chapter XVIIIB by the person responsible for paying such income.

Explanation : For the purposes of this rule, "telegraphic transfer buying rate", in relation to a foreign currency, means ²⁵[the rate or rates of exchange] adopted by

22. For relevant Case Laws & Departmental Clarifications, see Taxmann's Master Guide to Income-tax Rules.

23. Substituted by the IT (Eighth Amdt.) Rules, 1977, w.e.f. 1-11-1977. Original rule 26 was first substituted by the IT (Third Amdt.) Rules, 1967 and later amended by the IT (Second Amdt.) Rules, 1968.

24. See section 192(6).

25. Substituted for "the rate of exchange" by the IT (First Amdt.) Rules, 1993, w.e.f. 5-1-1993.

(2) The communication referred to in sub-rule (1) shall be made,—

- (a) in a case where the firm has not been registered under section 184, before the end of the previous year for the assessment year in respect of which registration of the firm is sought :

Provided that where the registration is sought for the assessment year commencing on the 1st day of April, 1976, the communication may be made before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for that assessment year;

- (b) in a case where the registration of the firm has effect under sub-section (7) of section 184 for any assessment year, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for that assessment year.]

Certificate of registration.

25. The certificate under sub-section (4) of section 185 shall be recorded on the last of the instruments evidencing the partnership during the relevant previous year (or on the certified copy submitted in lieu thereof) attached with the application for registration of the firm made in accordance with sub-rules (2) to (4) of rule 22.

PART VI

DEDUCTION OF TAX AT SOURCE²²

²³[²⁴**Rate of exchange for the purpose of deduction of tax at source on income payable in foreign currency.**

26. For the purpose of deduction of tax at source on any income payable in foreign currency, the rate of exchange for the calculation of the value in rupees of such income payable to an assessee outside India shall be the telegraphic transfer buying rate of such currency as on the date on which the tax is required to be deducted at source under the provisions of Chapter XVII B by the person responsible for paying such income.

Explanation : For the purposes of this rule, "telegraphic transfer buying rate", in relation to a foreign currency, means ²⁵[the rate or rates of exchange] adopted by

22. For relevant Case Laws & Departmental Clarifications, see Taxmann's Master Guide to Income-tax Rules.

23. Substituted by the IT (Eighth Amdt.) Rules, 1977, w.e.f. 1-11-1977. Original rule 26 was first substituted by the IT (Third Amdt.) Rules, 1967 and later amended by the IT (Second Amdt.) Rules, 1968.

24. See section 192(6).

25. Substituted for "the rate of exchange" by the IT (First Amdt.) Rules, 1993, w.e.f. 5-1-1993.

the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), for buying such currency ²⁶[, having regard to the guidelines specified from time to time by the Reserve Bank of India for buying such currency,] where such currency is made available to that bank through a telegraphic transfer.]

²⁷**[Furnishing of particulars of income under the head "Salaries"]²⁸.**

26A. (1) The assessee may furnish to the person responsible for making the payment referred to in sub-section (1) of section 192, the details of the income under the head "Salaries" due or received by him from the other employer or employers referred to in sub-section (2) of that section and of any tax deducted at source from such income in Form No. 12B.

(2) The person responsible for paying any income chargeable under the head "Salaries" shall furnish to the person to whom such payment is made, a statement giving correct and complete particulars of perquisites or profits in lieu of salary and the value thereof in,—

(a) relevant columns provided in Form No. 16, if the amount of salary paid or payable to the employee is not more than one lakh and fifty thousand rupees; or

²⁹[(b) Form No. 12BA, if the amount of salary paid or payable to the employee is more than one lakh and fifty thousand rupees, which shall accompany the return of income of the employee.]

Explanation.—"Salary" for the purposes of this rule shall have the same meaning as given in rule 3.]

³⁰**[Statement of particulars of income under heads of income other than "Salaries" for deduction of tax at source.]³¹**

26B. (1) The assessee may send to the person responsible for making payment under sub-section (1) of section 192, a statement of any income chargeable

26. Inserted by the IT (First Amdt.) Rules, 1993, w.e.f. 5-1-1993.

27. Substituted by the IT (Twenty-second Amdt.) Rules, 2001, w.e.f. 1-4-2001. Prior to its substitution, rule 26A, as inserted by the IT (Eighth Amdt.) Rules, 1987, w.e.f. 29-10-1987, read as under :

'26A. Furnishing of particulars of income under the head "Salaries" received from other employer(s) for deduction of tax at source.—The assessee may furnish to the person responsible for making the payment referred to in sub-section (1) of section 192, the details of the income under the head "Salaries" due or received by him from the other employer or employers referred to in sub-section (2) of that section and of any tax deducted at source from such income in Form No. 12B.'

28. See section 192(2)/(2C).

29. Substituted by the IT (Twenty-fifth Amdt.) Rules, 2002, w.e.f. 1-6-2002. Prior to its substitution, clause (b) read as under :

"(b) in Form No. 12BA, if the amount of salary paid or payable to the employee is more than one lakh and fifty thousand rupees."

under any head of income other than "Salaries" (not being a loss under any such head other than the loss under the head "Income from house property"), received by the assessee for the same financial year, and of any tax deducted on such income.

(2) A verification in the following form shall be annexed to the statement referred to in sub-rule (1),—

FORM OF VERIFICATION

I,(name of the assessee), do declare that what is stated above is true to the best of my information and belief.]

³²[**Furnishing of evidence of claims by employee for deduction of tax under section 192.**

26C. (1) The assessee shall furnish to the person responsible for making payment under sub-section (1) of section 192, the evidence or the particulars of the claims referred to in sub-rule (2), in Form No. 12BB for the purpose of estimating his income or computing the tax deduction at source.

(2) The assessee shall furnish the evidence or the particulars specified in column (3), of the Table below, of the claim specified in the corresponding entry in column (2) of the said Table:—

TABLE

Sl. No.	Nature of claims	Evidence or particulars
(1)	(2)	(3)
1.	House Rent Allowance	Name, address and permanent account number* of the landlord/landlords where the aggregate rent paid during the previous year exceeds rupees one lakh
2.	Leave travel concession or assistance	Evidence of expenditure

(Contd. from p. 1.287)

30. Substituted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003. Earlier, it was inserted by the IT (Eighth Amdt.) Rules, 1987, w.e.f. 29-10-1987 and amended by the IT (Fourteenth Amdt.) Rules, 1998, w.e.f. 14-9-1998. Prior to its substitution, rule 26B read as under :

'26B. *Furnishing of particulars of income under heads of income other than "Salaries" for deduction of tax at source.*—The assessee may send to the person responsible for making the payment referred to in sub-section (1) of section 192, the particulars of any income chargeable under any head of income other than "Salaries" (not being a loss under any such head other than the loss under the head "Income from house property"), received by the assessee for the same financial year, and of any tax deducted on such income in Form No. 12C.'

31. See section 192(2B).

32. Inserted by the IT (Eleventh Amdt.) Rules, 2016, w.e.f. 1-6-2016.

Sl. No.	Nature of claims	Evidence or particulars
(1)	(2)	(3)
3.	Deduction of interest under the head "Income from house property"	Name, address and permanent account number of the lender
4.	Deduction under Chapter VI-A	Evidence of investment or expenditure.]

Prescribed arrangements for declaration and payment of dividends within India.

27. The arrangements referred to in ³³[sections 194 and 236] to be made by a company for the declaration and payment of dividends (including dividends on preference shares) within India shall be as follows :

- (1) The share-register of the company for all shareholders shall be regularly maintained at its principal place of business within India, in respect of any assessment year from a date not later than the 1st day of April of such year.
- (2) The general meeting for passing the accounts of the previous year relevant to the assessment year and for declaring any dividends in respect thereof shall be held only at a place within India.
- (3) The dividends declared, if any, shall be payable only within India to all shareholders.

³⁴[Application for grant of certificates for deduction of income-tax at any lower rates or no deduction of income-tax.

28. (1) An application by a person for grant of a certificate for the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, under sub-section (1) of section 197 shall be made in Form No. 13³⁵ electronically, —

33. Substituted for "sections 80B, 194, 195, 236 and 286" by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996. Earlier "80B" was inserted by the IT (Second Amdt.) Rules, 1968.

34. Substituted by the IT (Eleventh Amdt.) Rules, 2018, w.e.f. 25-10-2018. Prior to its substitution, rule 28, as amended by the IT (Fifth Amdt.) Rules, 1967, IT (Third Amdt.) Rules, 1972, IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973, IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977, IT (Fifth Amdt.) Rules, 1978, w.e.f. 1-6-1978, IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988, IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992, IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993, IT (Seventeenth Amdt.) Rules, 1995, w.e.f. 1-7-1995 and IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003, read as under :

"28. Application for certificates for deduction of tax at lower rates.—(1) An application by a person for a certificate under sub-section (1) of section 197 shall be made in Form No. 13.

(2) to (5) [" "]"

35. With effect from 1-4-2010, the Assessing Officer will not issue a certificate unless the application contains PAN of the applicant (see section 206AA).

"Words "or Aadhaar Number" should be added after "Permanent account Number".

- (i) under digital signature; or
- (ii) through electronic verification code.

(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down procedures, formats and standards for ensuring secure capture and transmission of data and uploading of documents and the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the furnishing of Form No.13.]

Statement by shareholder claiming receipt of dividend without deduction of tax.

28A. ³⁶[Omitted by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.]

³⁷[Certificate for deduction at lower rates or no deduction of tax from income other than dividends.

28AA. (1) Where the Assessing Officer, on an application made by a person under sub-rule (1) of rule 28 is satisfied that existing and estimated tax liability of a person justifies the deduction of tax at lower rate or no deduction of tax, as the case may be, the Assessing Officer shall issue a certificate³⁸ in accordance with the provisions of sub-section (1) of section 197 for deduction of tax at such lower rate or no deduction of tax.

(2) The existing and estimated liability referred to in sub-rule (1) shall be determined by the Assessing Officer after taking into consideration the following:—

- (i) tax payable on estimated income of the previous year relevant to the assessment year;
- (ii) tax payable on the assessed or returned ³⁹[or estimated income, as the case may be, of last four] previous years;
- (iii) existing liability under the Income-tax Act, 1961 and Wealth-tax Act, 1957;
- (iv) advance tax payment ⁴⁰[, tax deducted at source and tax collected at source] for the assessment year relevant to the previous year till the date of making application under sub-rule (1) of rule 28;

36. Prior to its omission, rule 28A, as inserted by the IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977, read as under :

"28A. Statement by shareholder claiming receipt of dividend without deduction of tax.—(1) The statement in writing to be furnished under the first proviso to section 194 shall be in Form No. 14B and shall be verified in the manner indicated therein.

(2) The statement referred to in sub-rule (1) shall be furnished in duplicate to the person responsible for paying the dividend."

37. Substituted by the IT (Second Amdt.) Rules, 2011, w.e.f. 1-4-2011. Prior to its substitution, rule 28AA, as amended by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003, IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993, IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992 and IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988.

38. With effect from 1-4-2010, the Assessing Officer will not issue the certificate unless the application contains the PAN of the applicant (See section 206AA).

39. Substituted for "income, as the case may be, of the last three" by the IT (Eleventh Amdt.) Rules, 2018, w.e.f. 25-10-2018.

40. Inserted, *ibid*.

(v) & (vi) "[***]"

(3) The certificate shall be valid for such period of the previous year as may be specified in the certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.

41[(4) The certificate for deduction of tax at any lower rates or no deduction of tax, as the case may be, shall be issued direct to the person responsible for deducting the tax under advice to the person who made an application for issue of such certificate:

Provided that where the number of persons responsible for deducting the tax is likely to exceed one hundred and the details of such persons are not available at the time of making application with the person making such application, the certificate for deduction of tax at lower rate may be issued to the person who made an application for issue of such certificate, authorising him to receive income or sum after deduction of tax at lower rate.

(5) The certificates referred to in sub-rule (4) shall be valid only with regard to the person responsible for deducting the tax and named therein and certificate referred to in proviso to the sub-rule (4) shall be valid with regard to the person who made an application for issue of such certificate.

(6) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down procedures, formats and standards for issuance of certificates under sub-rule (4) and proviso thereto and the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the issuance of said certificate.]]

42[Certificate of no deduction of tax in case of certain entities.

28AB. (1) Subject to the conditions specified in sub-rule (2), a person—

- (a) in receipt of income or deemed income derived from property held under trust wholly for charitable or religious purposes and who claims exemption under section 11 or section 12; or

41. Omitted by the IT (Eleventh Amdt.) Rules, 2018, w.e.f. 25-10-2018. Prior to their omission, clauses (v) and (vi) read as under :

"(v) tax deducted at source for the assessment year relevant to the previous year till the date of making application under sub-rule (1) of rule 28; and

(vi) tax collected at source for the assessment year relevant to the previous year till the date of making application under sub-rule (1) of rule 28."

42. Substituted, *ibid*. Prior to their substitution, sub-rules (4), (5) and (6), as amended by the IT (Ninth Amdt.) Rules, 2014, w.e.f. 24-9-2014, read as under :

"(4) The certificate for no deduction of tax shall be valid only with regard to the person responsible for deducting the tax and named therein.

(5) The certificate referred to in sub-rule (4) shall be issued direct to the person responsible for deducting the tax under advice to the person who made an application for issue of such certificate.

(6) The certificate for deduction of tax at lower rate shall be issued to the person who made an application for issue of such certificate, authorising him to receive income or sum after deduction of tax at lower rate."

43. Inserted by the IT (Third Amdt.) Rules, 2004, w.e.f. 1-4-2004.

- (b) required to file a return in respect of a scientific research association, news agency, association or institution, fund or trust or university or other educational institution or any hospital or other medical institution or trade union referred to in sub-section (4C) of section 139,

may make an application to the Assessing Officer for the grant of a certificate under sub-section (1) of section 197 authorizing him to receive incomes without deduction of tax at source.

(2) The conditions referred to in sub-rule ⁴⁴[(1)] are the following, namely :—

- (i) the person concerned has furnished the returns of income for all assessment years for which such returns became due on or before the date on which the application under sub-rule (1) is made; ⁴⁵[and]
- (ii) the trust, scientific research association, news agency, association or institution, fund or trust or university or other educational institution or any hospital or other medical institution or trade union referred to in sub-rule (1) is for the time being approved for the purpose of exemption from income-tax; ⁴⁶[***]

(iii) ⁴⁷[***]

(3) An application for the certificate is to be made to the Assessing Officer in accordance with sub-rule (1) of rule 28.

(4) The Assessing Officer may issue a certificate ⁴⁸authorizing payment of incomes without deduction of tax at source if he is satisfied that all the conditions laid down in sub-rule (2) are fulfilled and the issue of any such certificate will not be prejudicial to the interests of revenue.

(5) The applicant may furnish copies of certificate issued under sub-rule (4) to the person responsible for paying the income for the purpose of no deduction of tax at source.

(6) The certificate shall be valid for the financial year specified therein unless it is cancelled by the Assessing Officer at any time before the expiry of the said financial year.

(7) An application for a fresh certificate may be made, if the assessee so desires, after the expiry of the period of validity of the earlier certificate.]

44. Substituted for "(2)" by the IT (Tenth Amndt.) Rules, 2004, w.r.e.f. 1-4-2004.

45. Inserted by the IT (Eleventh Amndt.) Rules, 2018, w.e.f. 25-10-2018.

46. Word "and" omitted, *ibid*.

47. Omitted, *ibid*. Prior to its omission, clause (iii) read as under :

"(iii) the applicant gives a list of deductors from whom amounts are to be received without deduction of tax at source every six months alongwith the names, addresses and the amounts received."

48. With effect from 1-4-2010, the Assessing Officer will not issue the certificate unless the application contains the PAN of the applicant. (See section 206AA)

Certificate of no deduction of tax or deduction at lower rates from dividends.

29. (1) ⁴⁹[The Assessing Officer, on being satisfied that the total income of the shareholder justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, shall, on an application ⁵⁰made under sub-rule (1) of rule 28 by the assessee, give him a certificate authorising the payment of a dividend to him, under sub-section (1) of section 197, without deduction of tax or, as the case may be, after deduction of tax at rates lower than the rates in force only if the following conditions are satisfied, namely :]

(a) The shares in respect of which the certificate is sought for by him—

- (i) are shares in public companies; and
- (ii) stand in his name and are beneficially owned by him, and the dividends therefrom are not includible in the total income of any other person under sections 60 to 64,

or

stand in his name and are held by him under trust wholly for charitable or religious purposes, and the dividends therefrom ⁵¹[are exempt from tax under the provisions of sections 11 to 13].

(b) An application for the certificate is made to the ⁵²[Assessing Officer] in accordance with sub-rule ⁵³[(1)] ⁵⁴[* * *] of rule 28.

⁵⁵(2) The certificate shall be valid for such period (not exceeding three years from the date of certificate), as the ⁵⁶[Assessing Officer] may specify therein, unless it is cancelled by him at any time before the expiry of the specified period. An

49. Substituted for the words beginning with "The Assessing Officer" and ending with the word "namely : " by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993. Prior to their substitution, the said words as substituted by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992, read as under :

"The Assessing Officer may give a certificate authorising the payment of a dividend,—

(i) to a shareholder, other than a company, under the second proviso to section 194,

(ii) to a shareholder, being a non-resident, under sub-section (1) of section 197,

without deduction of tax or, as the case may be, after deduction of tax at rates lower than the rates in force only if the following conditions are satisfied, namely :"

These words were earlier amended from time to time by the IT (Amdt.) Rules, 1967, IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977 and IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988.

50. With effect from 1-4-2010, the Assessing Officer will not issue the certificate unless the application contains the PAN of the applicant. (See section 206AA)

51. Substituted for "qualify for deduction under the provisions of section 80F" by the IT (Twentieth Amdt.) Rules, 1992, w.e.f. 23-12-1992.

52. Substituted for "Income-tax Officer" by the IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988.

53. Substituted for "(2)", *ibid*.

54. Words "or sub-rule (3), as the case may be," omitted by the IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993.

55. Assessee can make an application for a fresh certificate for the succeeding period some time before expiry of the earlier certificate - See Letter F. No. 1(54)-63/TPL, dated 18-5-1963. For details, see Taxmann's Master Guide to Income-tax Rules.

56. Substituted for "Income-tax Officer" by the IT (Third Amdt.) Rules, 1988, w.e.f. 9-6-1988.

application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate.

(3) The certificate shall be valid only for the person named therein, and shall cease to be operative from the date of notice to the company of the transfer of any of the shares mentioned therein to another person, in respect of the shares so transferred.

(4) The certificate shall be issued direct to the principal officer of the company under advice to the applicant shareholder.

(5) ⁵⁷[" * * "].

⁵⁸[Form of certificate to be furnished along with the return of income under sub-section (4) of section 80QQB, sections 80R, 80RR and 80RRA, and sub-section (3) of section 80RRB and the prescribed authority for the purposes of sub-section (4) of section 80QQB and sub-section (3) of section 80RRB.]

29A. (1) The certificate referred to in sub-section (4) of section 80QQB, sub-section (3) of section 80RRB, sections 80R, 80RR and 80RRA shall be in Form No. 10H.

(2) For the purpose of sub-section (4) of section 80QQB and sub-section (3) of section 80RRB, the prescribed authority shall be the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.]

***Form of certificate to be filed with the return of income for claiming deduction under section 80-O.**

⁵⁹[**29AA.** The certificate referred to in second proviso to section 80-O shall be in Form No. 10HA.]

⁶⁰[**Application for certificate authorising receipt of interest and other sums without deduction of tax.**

29B. (1) Any person entitled to receive any interest, or other sum, on which income-tax has to be deducted under sub-section (1) of section 195 may, if he fulfils the conditions specified in sub-rule (2), make an application for the grant of a certificate under sub-section (3) of section 195 authorising him to receive without

57. Omitted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003. Prior to its omission, it read as under :

"(5) The certificate shall be issued in Form No. 15."

58. Substituted by the IT (Nineteenth Amdt.) Rules, 2003, w.r.e.f. 1-4-2003. Earlier, it was inserted by the IT (Fifth Amdt.) Rules, 1997, w.e.f. 19-3-1997. Original rule 29A, as inserted by the IT (Fifth Amdt.) Rules, 1967 and omitted by the IT (Twelfth Amdt.) Rules, 1992, w.e.f. 1-6-1992. Prior to its substitution, rule 29A read as under :

"29A. Form of certification to be filed with the return of income for claiming deduction under sections 80R, 80RR and 80RRA.—The certificate referred to in sections 80R, 80RR and 80RRA shall be in Form No. 10H."

Note : No deduction under sections 80R, 80RR and 80RRA is admissible from the assessment year 2005-06 onwards.

59. Inserted by the IT (Eleventh Amdt.) Rules, 1999, w.e.f. 1-6-1999. No deduction under section 80-O is admissible from the assessment year 2005-06 onwards.

60. Inserted by the IT (Third Amdt.) Rules, 1970. See also section 206AA.

*Heading is provided by Editor.

deduction of tax under sub-section (1) of that section any such income as is specified hereinbelow, namely :—

- (i) where the person concerned is a ^{60a}[*banking company or an insurer*] which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, and which carries on operations in India through a branch, any income by way of interest, not being ⁶¹["interest on securities (other than interest payable on securities referred to in proviso to section 193)"], or any other sum, not being dividends;
- (ii) in the case of any other person who carries on a business or profession in India through a branch, any sum, not being interest or dividends,

insofar as such interest or other sum is receivable by such branch on its own account and not on behalf of its head office or any branch situated outside India, or any other person.

(2) The conditions referred to in sub-rule (1) are the following, namely :—

- (i) the person concerned has been regularly assessed to income-tax in India and has furnished the returns of income for all assessment years for which such returns became due on or before the date on which the application under sub-rule (1) is made;
- (ii) he is not in default or deemed to be in default in respect of any tax (including advance tax and tax payable under section 140A), interest, penalty, fine, or any other sum payable under the Act;
- (iii) ⁶²[""]
- (iv) where the person concerned is not a ^{60a}[*banking company or an insurer*] referred to in clause (i) of sub-rule (1)—
 - (a) he has been carrying on business or profession in India continuously for a period of not less than five years immediately preceding the date of the application, and
 - (b) the value of the fixed assets in India of such business or profession as shown in his books for the previous year which ended immediately before the date of the application or, where the accounts in respect of such previous year have not been made up before the said date, the previous year immediately preceding that year, exceeds fifty lakhs of rupees.

(3) The application under sub-rule (1) by a ^{60a}[*banking company or an insurer*] shall be in Form No. 15C and by any other person [referred to in clause (i) of sub-rule (1)] shall be in Form No. 15D.

^{60a} Substituted for "banking company" by the IT (Twenty-first Amdt.) Rules, 2020, w.e.f. 22-9-2020.

⁶¹ Substituted for "interest on securities" by the IT (Nineteenth Amdt.) Rules, 2017, w.e.f. 4-7-2017.

⁶² Omitted by the IT (Twelfth Amdt.) Rules, 2016, w.e.f. 5-5-2016. Prior to its omission, clause (iii) read as under :

"(iii) he has not been subjected to penalty under clause (ii) of sub-section (1) of section 271;"

(4) The ⁶³[Assessing Officer] may give a certificate authorising the person concerned to receive the income specified in clause (i) or clause (ii) of sub-rule (1), without deduction of tax under sub-section (1) of section 195, if he is satisfied that all the conditions laid down in sub-rule (2) are fulfilled and the issue of any such certificate will not be prejudicial to the interests of revenue.

(5) The certificate shall be valid for the financial year specified therein, unless it is cancelled by the ⁶³[Assessing Officer] at any time before the expiry of the said financial year. An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate, or within three months before the expiry thereof.

^{63a}[Explanation.—For the purposes of this rule, “insurer” shall have the same meaning as assigned to it in sub-clause (d) of clause (9) of section 2 of the Insurance Act, 1939 (4 of 1938)^{63b}.]

(6) ⁶⁴[“ ”].

^{64a}[Application for grant of certificate for determination of appropriate proportion of sum (other than Salary), payable to non-resident, chargeable in case of the recipients.

29BA. (1) An application by a person for determination of appropriate proportion of sum chargeable in the case of non-resident recipient under sub-section (2) or sub-section (7) of section 195 shall be made in Form 15E electronically,—

- (i) under digital signature; or
- (ii) through electronic verification code.

(2) The Assessing Officer, in order to satisfy himself, shall examine whether the sum being paid or credited is chargeable to tax under the provisions of the Act read with the relevant Double Taxation Avoidance Agreement, if any, and if the sum is chargeable to tax he shall proceed to determine the appropriate proportion of such sum chargeable to tax.

(3) The Assessing Officer shall examine the application and on being satisfied that the whole of such sum would not be the income chargeable in case of the recipient, may issue a certificate determining appropriate proportion of such sum chargeable under the provision of this Act, for the purposes of tax deduction under sub-section (1) of section 195.

(4) While examining the application, the Assessing Officer shall also take into consideration, following information in relation to the recipient:—

- (i) tax payable on estimated income of the previous year relevant to the assessment year;

63. Substituted for “Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

63a. Inserted by the IT (Twenty-first Amdt.) Rules, 2020, w.e.f. 22-9-2020.

63b. For text of section 2(9)(d) of the Insurance Act, 1939, see **Appendix**.

64. Omitted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003. Prior to its omission, it read as under :

“(6) The certificate shall be issued in Form No. 15E.”

64a. Inserted by the IT (Fifth Amdt.) Rules, 2021, w.e.f. 1-4-2021.

- (ii) tax payable on the assessed or returned or estimated income, as the case may be, of preceding four previous years;
- (iii) existing liability under the Income-tax Act, 1961 (43 of 1961) and Wealth-tax Act, 1957 (27 of 1957);
- (iv) advance tax payment, tax deducted at source and tax collected at source for the assessment year relevant to the previous year till the date of making application under sub-rule (1).

(5) The certificate shall be valid only for the payment to non-resident named therein and for such period of the previous year as may be specified in the certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.

(6) An application for a fresh certificate may be made, if the assessee so desires, after the expiry of the period of validity of the earlier certificate or within three months before the expiry thereof.

(7) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down procedures, formats and standards for ensuring secure capture and transmission of data and uploading of documents and the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the furnishing of Form No. 15E and issuance of Certificate under sub-rule (3).]

⁶⁵[**Declaration by person claiming receipt of certain incomes without deduction of tax.**

29C. (1) A declaration under sub-section (1) or under sub-section (1A) of section 197A shall be in Form No. 15G and declaration under sub-section (1C) of section 197A shall be in Form No. 15H.

(2) The declaration referred to in sub-rule (1) may be furnished in any of the following manners, namely:—

- (a) in paper form;

65. Substituted by the IT (Fourteenth Amdt.) Rules, 2015, w.e.f. 1-10-2015. Prior to its substitution, rule 29C, as inserted by the IT (Fifth Amdt.) Rules, 1982, w.e.f. 21-6-1982 and later on amended by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988, IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991, IT (Twelfth Amdt.) Rules, 1992, w.e.f. 1-6-1992, IT (Seventh Amdt.) Rules, 1995, w.e.f. 1-7-1995, IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999, IT (Eighth Amdt.) Rules, 2003, w.e.f. 9-6-2003 and IT (Fourteenth Amdt.) Rules, 2003, w.e.f. 1-8-2003, read as under:

29C. Declaration by person claiming receipt of certain incomes without deduction of tax*.—
(1) A declaration under sub-section (1) by an individual or under sub-section (1A) of section 197A by a person (not being a company or firm) shall be in Form No. 15G and shall be verified in the manner indicated therein.

(1A) A declaration under sub-section (1C) of section 197A by an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B shall be in Form No. 15H and shall be verified in the manner indicated therein.

(Contd. on p. 1,298)

(b) electronically after duly verifying through an electronic process in accordance with the procedures, formats and standards specified under sub-rule (7).

(3) The person responsible for paying any income of the nature referred to in sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A, shall allot a unique identification number to each declaration received by him in Form No. 15G and Form No. 15H respectively during every quarter of the financial year in accordance with the procedures, formats and standards specified by the Principal Director General of Income-tax (Systems) under sub-rule (7).

(4) The person referred to in sub-rule (3) shall furnish the particulars of declaration received by him during any quarter of the financial year along with the unique identification number allotted by him under sub-rule (3) in the statement of deduction of tax of the said quarter in accordance with the provisions of clause (vii) of sub-rule (4) of rule 31A.

(5) The person referred to in sub-rule (3) shall furnish the statement of deduction of tax referred to in rule 31A containing the particulars of declaration received by him during each quarter of the financial year along with the unique identification number allotted by him under sub-rule (3) in accordance with the provisions of clause (vii) of the sub-rule (4) of rule 31A irrespective of the fact that no tax has been deducted in the said quarter.

(6) Subject to the provisions of sub-rules (4) and (5), an income-tax authority may, before the end of seven years from the end of the financial year in which the declaration referred to in sub-rule (1) has been received, require the person referred to in sub-rule (3) to furnish or make available the declaration for the purposes of verification or any proceeding under the Act in accordance with the procedures, formats and standards specified by Principal Director General of Income-tax (Systems) specified under sub-rule (7).

(7) The Principal Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of the declaration, allotment of unique identification number and furnishing or making available the declaration to the income-tax authority and shall be responsible for the day-to-day administration in relation to the furnishing of

(Contd. from p. 1.297)

(2) The declaration referred to in sub-rule (1) or sub-rule (1A) shall be furnished in duplicate to the person responsible for paying the "interest on securities" or dividend or interest other than "interest on securities" or, income in respect of units or, as the case may be, any amount referred to in clause (a) of sub-section (2) of section 80CCA.

(3) The person referred to in sub-rule (2) shall deliver or cause to be delivered to the Chief Commissioner or Commissioner, one copy of the declaration referred to in sub-rule (1) or sub-rule (1A) on or before the seventh day of the month next following the month in which the declaration is furnished to him.

Explanation.—For the purposes of sub-rule (3), the Chief Commissioner or the Commissioner means the Chief Commissioner or Commissioner to whom the Assessing Officer having jurisdiction to assess the person referred to in sub-rule (2) is subordinate.

*With effect from 1-4-2010, no declaration in Form No. 15G or Form No. 15H will be treated as valid unless the declarant (deductee) has furnished his correct PAN in such declaration.
(See section 206AA)

the particulars of declaration in accordance with the provisions of sub-rules (4) and (5).

(8) The Principal Director General of Income-tax (Systems) shall make available the information of declaration furnished by the person referred to in sub-rule (3) to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner to whom the Assessing Officer having jurisdiction to assess the person who has furnished the declaration under sub-section (1) or under sub-section (1A) or under sub-section (1C) of section 197A is subordinate.]

⁶⁶[Form of declaration under second proviso/third proviso to clause (i) of sub-section (3) of section 194C.

29D. (1) The declaration under the second proviso to clause (i) of sub-section (3) of section 194C by a sub-contractor shall be in Form No. 15-I and shall be verified in the manner indicated therein by such sub-contractor.

(2) The declaration referred to in sub-rule (1) may be furnished to the contractor responsible for paying or crediting any sum to the account of the sub-contractor before the event of such sum being credited or paid to such sub-contractor.

(3) The particulars under the third proviso to clause (i) of sub-section (3) of section 194C to be furnished by a contractor responsible for paying any sum to such sub-contractor shall be in Form No. 15J.

(4) The particulars referred to in sub-rule (3) shall be furnished,—

(i) to the Commissioner of Income-tax, so designated by the Chief Commissioner of Income-tax, within whose area of jurisdiction, the office of the contractor referred to in sub-rule (3) is situated;

(ii) on or before the 30th June following the financial year.]

⁶⁷[Time and mode of payment to Government account of tax deducted at source or tax paid under sub-section (1A) of section 192⁶⁸.

30. (1) All sums deducted in accordance with the provisions of Chapter XVII-B by an office of the Government shall be paid to the credit of the Central Government—

66. Inserted by the IT (Fourteenth Amdt.) Rules, 2005, w.e.f. 17-6-2005. Section 194C is now substituted by the Finance (No. 2) Act, 2009, w.e.f. 1-10-2009 and thus rule 29C has become redundant.

67. Substituted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. 1-4-2010 (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 30 was amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. 1-4-2009, IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004, IT (Twelfth Amendment) Rules, 2003, w.e.f. 31-7-2003, IT (Amdt.) Rules, 1967, IT (Fifth Amdt.) Rules, 1967, IT (Second Amdt.) Rules, 1968, IT (Third Amdt.) Rules, 1972, IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973, IT (Fifth Amdt.) Rules, 1978, w.e.f. 1-6-1978, IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981, IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988, IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, IT (Twelfth Amdt.) Rules, 1990, w.e.f. 8-6-1990, IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991, IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991, IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992, IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993, IT (Fourth Amdt.) Rules, 1994, w.e.f. 1-6-1994, IT (Twelfth Amdt.) Rules, 1995, w.e.f. 1-7-1995, IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996 and IT (Twenty-fifth Amdt.) Rules, 2002, w.r.e.f. 1-6-2002.

68. See rule 200.

(a) on the same day where the tax is paid without production of an income-tax challan; and

(b) on or before seven days from the end of the month in which the deduction is made or income-tax is due under sub-section (1A) of section 192, where tax is paid accompanied by an income-tax challan.

(2) All sums deducted in accordance with the provisions of Chapter XVII-B by deductors other than an office of the Government shall be paid to the credit of the Central Government—

(a) on or before 30th day of April where the income or amount is credited or paid in the month of March; and

(b) in any other case, on or before seven days from the end of the month in which—

(i) the deduction is made; or

(ii) income-tax is due under sub-section (1A) of section 192.

⁶⁹[(2A) Notwithstanding anything contained in sub-rule (1) or sub-rule (2), any sum deducted under section 194-IA shall be paid to the credit of the Central Government within a period of ⁷⁰[thirty] days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No. 26QB.]

⁷¹[(2B) Notwithstanding anything contained in sub-rule (1) or sub-rule (2), any sum deducted under section 194-IB shall be paid to the credit of the Central Government within a period of thirty days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No. 26QC.]

⁷²[(2C) Notwithstanding anything contained in sub-rule (1) or sub-rule (2), any sum deducted under section 194M shall be paid to the credit of the Central Government within a period of thirty days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No. 26QD.]

(3) Notwithstanding anything contained in sub-rule (2), in special cases, the Assessing Officer may, with the prior approval of the Joint Commissioner, permit quarterly payment of the tax deducted under section 192 or section 194A or section 194D or section 194H for the quarters of the financial year specified to in column (2) of the Table below by the date referred to in column (3) of the said Table:—

TABLE

Sl. No.	Quarter of the financial year ended on	Date for quarterly payment
(1)	(2)	(3)
1.	30th June	7th July

69. Inserted by the IT (Fifth Amdt.) Rules, 2013, w.e.f. 31-5-2013.

70. Substituted for "seven" by the IT (Eleventh Amdt.) Rules, 2016, w.e.f. 1-6-2016.

71. Inserted by the IT (Thirteenth Amdt.) Rules, 2017, w.e.f. 8-6-2017.

72. Inserted by the IT (Fourteenth Amdt.) Rules, 2019, w.e.f. 18-11-2019.

Sl. No.	Quarter of the financial year ended on	Date for quarterly payment
(1)	(2)	(3)
2.	30th September	7th October
3.	31st December	7th January
4.	31st March	30th April

B. Mode of payment

(4) In the case of an office of the Government, where tax has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person by whatever name called to whom the deductor reports the tax so deducted and who is responsible for crediting such sum to the credit of the Central Government, ⁷³[shall submit a statement in Form No. 24G to the agency authorised by the Principal Director of Income-tax (Systems) in respect of tax deducted by the deductors and reported to him.]

⁷⁴[(4A) Statement referred to in sub-rule (4) shall be furnished—

(a) on or before the 30th day of April where the statement relates to the month of March; and

(b) in any other case, on or before 15 days from the end of relevant month.

(4B) Statement referred to in sub-rule (4) shall be furnished in the following manner, namely:—

(a) electronically under digital signature in accordance with the procedures, formats and standards specified under sub-rule (5); or

(b) electronically alongwith the verification of the statement in Form No. 27A or verified through an electronic process in accordance with the procedures, formats and standards specified under sub-rule (5).

(4C) The persons referred to in sub-rule (4) shall intimate the number (hereinafter referred to as the Book Identification Number) generated by the agency to each of the deductors in respect of whom the sum deducted has been credited.]

⁷⁵[(5) The Principal Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification

73. Substituted for the following by the IT (Eleventh Amdt.) Rules, 2016, w.e.f. 1-6-2016 :

"shall—

(a) submit a statement in Form No. 24G within ten days from the end of the month to the agency authorised by the Director General of Income-tax (Systems) in respect of tax deducted by the deductors and reported to him for that month; and

(b) intimate the number (hereinafter referred to as the Book Identification Number) generated by the agency to each of the deductors in respect of whom the sum deducted has been credited."

74. Inserted, *ibid.*

75. Substituted, *ibid.* Prior to its substitution, sub-rule (5) read as under :

"(5) For the purpose of sub-rule (4), the Director General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data,

(Contd. on p. 1.302)

of the statements and shall be responsible for the day-to-day administration in relation to furnishing of the information and verification of the statements.]

(6)(i) Where tax has been deposited accompanied by an income-tax challan, the amount of tax so deducted or collected shall be deposited to the credit of the Central Government by remitting it within the time specified in clause (b) of sub-rule (1) or in sub-rule (2) or in sub-rule (3) into any branch of the Reserve Bank of India or of the State Bank of India or of any authorised bank.

(ii) Where tax is to be deposited in accordance with clause (i), by persons referred to in sub-rule (1) of rule 125, the amount deducted shall be electronically remitted into the Reserve Bank of India or the State Bank of India or any authorised bank accompanied by an electronic income-tax challan.

⁷⁶[(6A) Where tax deducted is to be deposited accompanied by a challan-cum-statement in Form No. 26QB, the amount of tax so deducted shall be deposited to the credit of the Central Government by remitting it electronically within the time specified in sub-rule (2A) into the Reserve Bank of India or the State Bank of India or any authorised bank.]

⁷⁷[(6B) Where tax deducted is to be deposited accompanied by a challan-cum-statement in Form No. 26QC, the amount of tax so deducted shall be deposited to the credit of the Central Government by remitting it electronically within the time specified in sub-rule (2B) into the Reserve Bank of India or the State Bank of India or any authorised bank.]

⁷⁸[(6C) Where tax deducted is to be deposited accompanied by a challan-cum-statement in Form No. 26QD, the amount of tax so deducted shall be deposited to the credit of the Central Government by remitting it electronically within the time specified in sub-rule (2C) into the Reserve Bank of India or the State Bank of India or any authorised bank.]

(7) For the purpose of this rule, the amount shall be construed as electronically remitted to the Reserve Bank of India or to the State Bank of India or to any authorised bank, if the amount is remitted by way of—

(a) internet banking facility of the Reserve Bank of India or of the State Bank of India or of any authorised bank; or

(b) debit card.

⁷⁹[(7A) The Director General of Income-tax (Systems) shall specify the procedure, formats and standards for the purposes of remitting the amount electronically to the Reserve Bank of India or the State Bank of India or any authorised bank and shall be responsible for the day-to-day administration in relation to the remitting of the amount electronically in the manner so specified.]

(Contd. from p. 1.301)

and shall also be responsible for the day-to-day administration in relation to furnishing the information in the manner so specified."

76. Inserted by the IT (Fifth Amdt.) Rules, 2013, w.e.f. 31-5-2013.

77. Inserted by the IT (Thirteenth Amdt.) Rules, 2017, w.e.f. 8-6-2017.

78. Inserted by the IT (Fourteenth Amdt.) Rules, 2019, w.e.f. 18-11-2019.

(8) Where tax is deducted before the 1st day of April, 2010, the provisions of this rule shall apply as they stood immediately before their substitution by the Income-tax (Sixth Amendment) Rules, 2010.]

Credit for tax deducted at source to a person other than the shareholder in certain circumstances.

30A. ⁷⁹[Omitted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003.]

79. Prior to its omission, rule 30A, as inserted by the IT (Sixth Amdt.) Rules, 1968 and amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

***30A. Credit for tax deducted at source to a person other than the shareholder in certain circumstances.**—(1) Subject to the provisions of sub-rule (2), where the dividend on any share is assessable as the income of a person other than the shareholder, any deduction made in accordance with section 194 and paid to the Central Government, shall be deemed to be a payment of tax on behalf of, and the credit in respect thereof shall be given to, such other person in the circumstances specified below, namely :—

- (i) where a company has a right to appoint any person or persons, or where any nominee or nominees of the company has or have been appointed, as a director or directors of any other body corporate, and shares owned by such company in such other body corporate, to an amount not exceeding the nominal value of the shares which are required to be held by a director thereof, are registered in the name of any such person or nominee;
- (ii) where a company owns any shares in its subsidiary and such shares are registered in the name or names of any nominee or nominees of the company, if and insofar as it is necessary so to do, to ensure that the number of members of the subsidiary is not reduced, where it is a public company, below seven, and where it is a private company, below two;
- (iii) where a corporation established by or under a Central, State or Provincial Act owns any shares in a company and such shares are registered in the name or names of any nominee or nominees of the corporation in the circumstances specified in clause (i) or clause (ii);
- (iv) where any person deposits, with any bank, including a co-operative bank or a land mortgage bank, any shares owned by him, for the collection of dividends thereon and such shares are registered in the name of the bank;
- (v) where any person deposits with any other person any shares owned by him, by way of security for the repayment of any loan or the performance of any obligation and such shares are held by, or on behalf of, any of the following, namely :—
 - (a) the Government or the Reserve Bank of India or any body corporate owned by the Government, or the Reserve Bank of India, or in which not less than forty per cent of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank;
 - (b) a local authority;
 - (c) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), or any of its subsidiary banks;
 - (d) any banking company, including a co-operative bank or a land mortgage bank;
 - (e) the Industrial Finance Corporation of India, the Industrial Credit and Investment Corporation of India Ltd., the Madras Industrial and Investment Corporation of India Ltd., and the Refinance Corporation for Industry Ltd.;
 - (f) a State Financial Corporation established under the State Financial Corporations Act, 1951 (63 of 1951);

(Contd. on p. 1.304)

⁸⁰[**Certificate of tax deducted at source to be furnished under section 203.**

31. (1) The certificate of deduction of tax at source by any person in accordance with Chapter XVII-B or the certificate of payment of tax by the employer on behalf of the employee under sub-section (1A) of section 192 shall be in—

(Contd. from p. 1.303)

- (g) an Industrial Development Corporation established in India by a State Government;
- (h) the Life Insurance Corporation of India established under the Life Insurance Corporation of India Act, 1956 (31 of 1956);
- (i) the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);
- (vi) where shares are held by a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913)] and the dividend thereon is received by the trustee on behalf of, or for the benefit of, any person who is a beneficiary of the trust;
- (vii) where the shares owned by a firm are held in the name of any of its partners;
- (viii) where the shares owned by a Hindu undivided family are held in the name of the karta or any other adult member of the family;
- (ix) where the shares have been sold or otherwise transferred by the registered shareholder and action for registering the transfer in the name of the purchaser or other person has been taken in accordance with the provisions of section 108 of the Companies Act, 1956 (1 of 1956);
- (x) where the shares owned by a member of a recognised Stock Exchange in India deposited with the Stock Exchange in accordance with the regulations of the Exchange are registered in the names of the trustees of the Exchange or the bankers of the Exchange.

(2) The credit referred to in sub-rule (1) shall not be given unless the person entitled to such credit furnishes to the Assessing Officer a declaration in Form No. 15B made by him and the shareholder concerned, together with a certificate of deduction of tax at source in Form No. 19.*

80. Substituted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. 1-4-2010 (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 31, as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. 1-4-2009, IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Twenty-fifth Amdt.) Rules, 2002, w.r.e.f. 1-6-2002, IT (Fifth Amdt.) Rules, 2004, w.e.f. 1-4-2004, IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004, IT (Fifth Amdt.) Rules, 1967, IT (Third Amdt.) Rules, 1972, IT (Third Amdt.) Rules, 1973, IT (Fifth Amdt.) Rules, 1978, IT (Ninth Amdt.) Rules, 1988, w.e.f. 1-4-1989, IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991, IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991, IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992, IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993, IT (Eleventh Amdt.) Rules, 1993, w.e.f. 1-7-1993, IT (Fourth Amdt.) Rules, 1994, w.e.f. 1-6-1994, IT (Twelfth Amdt.) Rules, 1995, w.e.f. 1-7-1995 and IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996, read as under :
 "31. *Certificate of tax deducted at source or tax paid under sub-section (1A) of section 192.—*
 (1) The certificate of deduction of tax at source or, the certificate of payment of tax by the employer on behalf of the employee, under section 203 to be furnished by any person deducting tax in accordance with the provisions of—

(a) section 192 shall be in Form No. 16 :

Provided that in the case of an individual, resident in India, where his income from salaries before allowing deductions under section 16 of the Income-tax Act, 1961 does

(Contd. on p. 1.305)

- (a) Form No. 16⁸¹, if the deduction or payment of tax is under section 192; and
- (b) Form No. 16A if the deduction is under any other provision of Chapter XVII-B.

(Contd. from p. 1.304)

not exceed rupees one lakh fifty thousand, the certificate of deduction of tax at source shall be in Form No. 16AA;

- (b) section 193, section 194, section 194A, section 194B, section 194BB, section 194C, section 194D, section 194E, section 194EE, section 194F, section 194G, section 194I, section 194J, section 194K, section 194LA, section 195, section 196A, section 196B, section 196C and section 196D shall be in Form No. 16A.

(2) The certificate mentioned in sub-rule (1) shall be furnished within a period of one month from the end of the month during which the credit has been given or the sums have been paid or, as the case may be, a cheque or warrant for payment of any dividend has been issued to a shareholder :

Provided that where the income by way of interest on securities referred to in section 193 or the income by way of interest referred to in section 194A or the sum referred to in section 194C or the income by way of insurance commission referred to in section 194D or the payment to non-resident sportsmen or sports associations referred to in section 194E or the income by way of commission, remuneration or prize on sale of lottery tickets referred to in section 194G or the income by way of commission or brokerage referred to in section 194H or the income by way of rent referred to in section 194I or the income by way of fees for professional or technical services referred to in section 194J or the interest or any other sum referred to in section 195 or the income of a foreign company referred to in sub-section (2) of section 196A or the income from units referred to in section 196B or the income from foreign currency bonds or shares of an Indian company referred to in section 196C or the income of Foreign Institutional Investors from securities referred to in section 196D is credited by a person to the account of the payee as on the date up to which the account of such person are made, the certificate under sub-rule (1) shall be issued within a week after the expiry of two months from the month in which income is so credited :

Provided further that the certificate in the case of deduction of tax under sub-section (1) of section 192 or, payment of tax by the employer on behalf of the employee, under sub-section (1A) of that section or section 194D may be furnished within one month from the close of the financial year in which such deduction was made :

Provided also that the certificate in cases, other than those mentioned in the second proviso, where payment of income-tax deducted is permitted quarterly in accordance with clause (a) of the proviso to clause (b) of sub-rule (1) of rule 30 may be furnished within fourteen days from the date of payment of income-tax:

Provided also that where more than one certificate is required to be furnished to a payee for deductions of income-tax made during a financial year, the person deducting the tax, may on request from such payee, issue within one month from the close of such financial year a consolidated certificate in Form No. 16A for tax deducted during whole of such financial year.

(3) Where in a case, the TDS certificate issued under this rule is lost, the person deducting tax at source may issue a duplicate certificate of deduction of tax at source on a plain paper giving necessary details as contained in Form No. 16 or Form No. 16A, as the case may be.

(4) The Assessing Officer before giving credit for the tax deducted at source on the basis of duplicate certificate referred to in sub-rule (3), shall get the payment certified from the Assessing Officer designated in this behalf by the Chief Commissioner or the Commissioner and shall also obtain an Indemnity Bond from the assessee."

81. For use of Form No. 16 by Pensioner, See Circular No. 761, dated 13-1-1998.

(2) The certificate referred to in sub-rule (1) shall specify:—

- (a) valid permanent account number (PAN)* of the deductee;
- (b) valid tax deduction and collection account number (TAN) of the deductor;
- (c) (i) book identification number or numbers where deposit of tax deducted is without production of challan in case of an office of the Government;
- (ii) challan identification number or numbers in case of payment through bank;
- (d) (i) receipt number of the relevant quarterly statement of tax deducted at source which is furnished in accordance with the provisions of rule 31A;
- (ii) receipt numbers of all the relevant quarterly statements in case the statement referred to in clause (i) is for tax deducted at source from income chargeable under the head "Salaries".

(3) The certificates in Forms specified in column (2) of the Table below shall be furnished to the employee or the payee, as the case may be, as per the periodicity specified in the corresponding entry in column (3) and by the time specified in the corresponding entry in column (4) of the said Table:—

TABLE

Sl. No.	Form No.	Periodicity	Due date
(1)	(2)	(3)	(4)
1.	16	Annual	By ⁸² [15th day of June] of the financial year immediately following the financial year in which the income was paid and tax deducted.
2.	16A	Quarterly	Within fifteen days from the due date for furnishing the statement of tax deducted at source under rule 31A.

⁸³[(3A) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3), every person responsible for deduction of tax under section 194-IA shall furnish the certificate of deduction of tax at source in Form No. 16B to the payee within fifteen days from the due date for furnishing the challan-cum-statement in Form No. 26QB under rule 31A after generating and downloading the same from the web portal specified by the Director General of Income-tax (System) or the person authorised by him.]

⁸⁴[(3B) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3), every person responsible for deduction of tax under section 194-IB shall furnish the certificate of deduction of tax at source in Form No. 16C to the payee within fifteen days from the due date for furnishing the challan-cum-statement in

82. Substituted for "31st day of May" by the IT (Tenth Amdt.) Rules, 2017, w.e.f. 2-6-2017.

83. Inserted by the IT (Fifth Amdt.) Rules, 2013, w.e.f. 31-5-2013.

84. Inserted by the IT (Thirteenth Amdt.) Rules, 2017, w.e.f. 8-6-2017.

*Words "or Aadhaar Number" should be added after "Permanent Account Number".

Form No. 26QC under rule 31A after generating and downloading the same from the web portal specified by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or the person authorised by him.]

⁸⁵[(3C) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3), every person responsible for deduction of tax under section 194M shall furnish the certificate of deduction of tax at source in Form No. 16D to the payee within fifteen days from the due date for furnishing the challan-cum-statement in Form No. 26QD under rule 31A after generating and downloading the same from the web portal specified by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or the person authorised by him.]

(4) If an assessee is employed by more than one employer during the year, each of the employers shall issue Part A of the certificate in Form No. 16 pertaining to the period for which such assessee was employed with each of the employers and Part B may be issued by each of the employers or the last employer at the option of the assessee.

(5) The deductor may issue a duplicate certificate in Form No. 16 or Form No. 16A if the deductee has lost the original certificate so issued and makes a request for issuance of a duplicate certificate and such duplicate certificate is certified as duplicate by the deductor.

(6) (i) Where a certificate is to be furnished in Form No. 16, the deductor may, at his option, use digital signatures to authenticate such certificates.

(ii) In case of certificates issued under clause (i), the deductor shall ensure that—

- (a) the provisions of sub-rule (2) are complied with;
- (b) once the certificate is digitally signed, the contents of the certificates are not amenable to change; and
- (c) the certificates have a control number and a log of such certificates is maintained by the deductor.

⁸⁶[(6A) The Director General of Income-tax (Systems) shall specify the procedure, formats and standards for the purposes of generation and download of certificates and shall be responsible for the day-to-day administration in relation to the generation and download of certificates from the web portal specified by him or the person authorised by him.]

(7) Where a certificate is to be furnished for tax deducted before the 1st day of April, 2010, it shall be furnished in the Form in accordance with the provisions of the rules as they stood immediately before their substitution by the Income-tax (Sixth Amendment) Rules, 2010.

Explanation.—For the purpose of this rule and rule 37D, challan identification number means the number comprising the Basic Statistical Returns (BSR) Code of the Bank branch where the tax has been deposited, the date on which the tax has been deposited and challan serial number given by the bank.]

⁸⁵. Inserted by the IT (Fourteenth Amdt.) Rules, 2019, w.e.f. 18-11-2019.

⁸⁶. Inserted by the IT (Fifth Amdt.) Rules, 2013, w.e.f. 31-5-2013.

⁸⁷[Statement of deduction of tax under sub-section (3) of section 200.

31A. (1) Every person responsible for deduction of tax under Chapter XVII-B, shall, in accordance with the provisions of sub-section (3) of section 200, deliver, or cause to be delivered, the following quarterly statements to the Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems), namely:—

(a) Statement of deduction of tax under section 192 in Form No. 24Q;

(b) Statement of deduction of tax under sections 193 to 196D in—

(i) Form No. 27Q in respect of the deductee who is a non-resident not being a company or a foreign company or resident but not ordinarily resident; and

(ii) Form No. 26Q in respect of all other deductees.

⁸⁸(2) Statements referred to in sub-rule (1) for the quarter of the financial year ending with the date specified in column (2) of the Table below shall be furnished by the due date specified in the corresponding entry in column (3) of the said Table:

87. Substituted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. 1-4-2010 (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 31A, as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. 1-4-2009, IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Tenth Amdt.) Rules, 2007, w.r.e.f. 1-9-2007, IT (Tenth Amdt.) Rules, 2005, w.r.e.f. 30-3-2005 and IT (Nineteenth Amdt.) Rules, 2005, w.r.e.f. 30-6-2005, read as under :

"31A. Quarterly statement of deduction of tax under sub-section (3) of section 200.—(1) Every person, being a person responsible for deducting tax under Chapter XVII-B shall, in accordance with the provisions of sub-section (3) of section 200, deliver or cause to be delivered to the Director-General of Income-tax (Systems) or the person authorized by the Director-General of Income-tax (Systems), quarterly statement—

(i) in Form No. 24Q in respect of deduction of tax at source under sub-sections (1) and (1A) of section 192; and

(ii) in Form No. 26Q in respect of other cases of deduction of tax at source, on or before the 15th July, the 15th October, the 15th January in respect of the first three quarters of the financial year and on or before the 15th June following the last quarter of the financial year :

Provided that where,—

(a) the deductor is an office of Government; or

(b) the deductor is a company; or

(c) the deductor is a person required to get his accounts audited under section 44AB in the immediately preceding financial year; or

(d) the number of deductees' records in a quarterly statement for any quarter of the immediately preceding financial year is equal to or more than fifty,

the person responsible for deducting tax at source, and the principal officer in the case of a company shall deliver or cause to be delivered such quarterly statements on computer media (3.5" 1.44 MB floppy diskette or CD-ROM of 650 MB capacity):

Provided further that a person other than a person referred to in the first proviso, responsible for deducting tax at source, may at his option, deliver or cause to be delivered the quarterly statements on computer media (3.5" 1.44 MB floppy diskette or CD-ROM of 650 MB capacity):

Provided also that a person responsible for deducting tax at source from the payments referred to in rule 37A shall furnish quarterly statements in accordance with the provisions of rule 37A and rule 37B.

(Amended from p. 1.308)

(2) The person responsible for deducting tax at source and preparing quarterly statements shall,—

- (i) quote his tax deduction and collection account number (TAN) and permanent account number (PAN) in the quarterly statement:

Provided that the permanent account number shall not be required to be quoted where tax has been deducted by or on behalf of the Government;

- (ii) quote the permanent account number of all persons in respect of whose income, tax has been deducted:

Provided that the permanent account number shall not be quoted in respect of the persons to whom the second proviso to sub-section (5B) of section 139A of the Act applies;

- (iii) furnish particulars of the tax paid to the Central Government.

(3) The person responsible for deducting tax at source and preparing quarterly statements on computer media shall, in addition to the provisions in sub-rule (2),—

- (i) prepare the quarterly statement as per the data structure provided by the e-filing Administrator designated by the Board for the purposes of administration of Electronic Filing of Returns of Tax Deducted at Source Scheme, 2003 supported by a declaration in Form No. 27A in paper format:

Provided that in case any compression software has been used for preparing the quarterly statement on computer media, such compression software shall be furnished on the same computer media;

- (ii) affix a label indicating name, permanent account number, tax deduction and collection account number and address of the person responsible for deduction of tax at source, the period to which the statement pertains and the volume number of the said computer media in case more than one volume of such media is used."

88. Substituted by the IT (Eleventh Amdt.) Rules, 2016, w.e.f. 1-6-2016. Prior to its substitution, sub-rule (2), as substituted by the IT (Eighth Amdt.) Rules, 2011, w.e.f. 1-11-2011, read as under :

"(2) Statements referred to in sub-rule (1) for the quarter of the financial year ending with the date specified in column (2) of the Table below shall be furnished by—

- (i) the due date specified in the corresponding entry in column (3) of the said Table, if the deductor is an office of Government; and
(ii) the due date specified in the corresponding entry in column (4) of the said Table, if the deductor is a person other than the person referred to in clause (i)

TABLE

Sl No.	Date of ending of the quarter of the financial year	Due date	Due date
(1)	(2)	(3)	(4)
1.	30th June	31st July of the financial year	15th July of the financial year
2.	30th September	31st October of the financial year	15th October of the financial year
3.	31st December	31st January of the financial year	15th January of the financial year
4.	31st March	15th May of the financial year immediately following the financial year in which deduction is made	15th May of the financial year immediately following the financial year in which deduction is made."

TABLE

Sl. No.	Date of ending of quarter of financial year	Due date
(1)	(2)	(3)
1.	30th June	31st July of the financial year
2.	30th September	31st October of the financial year
3.	31st December	31st January of the financial year
4.	31st March	31st May of the financial year immediately following the financial year in which the deduction is made.

(3) (i) The statements referred to in sub-rule (1) may be furnished in any of the following manners, namely:—

- (a) furnishing the statement in paper form;
- ⁸⁹[(b) furnishing the statement electronically under digital signature in accordance with the procedures, formats and standards specified under sub-rule (5);
- (c) furnishing the statement electronically along with the verification of the statement in Form 27A or verified through an electronic process in accordance with the procedures, formats and standards specified under sub-rule (5).]

(ii) Where,—

- (a) the deductor is an office of the Government; or
- (b) the deductor is the principal officer of a company; or
- (c) the deductor is a person who is required to get his accounts audited under section 44AB in the immediately preceding financial year; or
- (d) the number of deductee's records in a statement for any quarter of the financial year are twenty or more,

the deductor shall furnish the statement in the manner specified in ⁹⁰[item (b) or item (c) of clause (i)].

(iii) Where deductor is a person other than the person referred to in clause (ii), the statements referred to in sub-rule (1) may, at his option, be delivered or cause to be delivered in the manner specified in ⁹⁰[item (b) or item (c) of clause (i)].

⁹¹[(3A) A claim for refund, for sum paid to the credit of the Central Government under Chapter XVII-B, shall be furnished by the deductor in Form 26B electronically under digital signature ⁹²[or verified through an electronic process] in accordance with the procedures, formats and standards specified under sub-rule (5).]

89. Items (b) and (c) substituted for item (b) by the IT (Second Amdt.) Rules, 2013, w.e.f. 19-2-2013. Prior to its substitution, item (b) read as under :

"(b) furnishing the statement electronically in accordance with the procedures, formats and standards specified under sub-rule (5) along with the verification of the statement in Form 27A."

90. Substituted for "item (b) of clause (i)", *ibid*.

91. Inserted, *ibid*.

92. Inserted by the IT (Eleventh Amdt.) Rules, 2017, w.e.f. 5-6-2017.

- (4) The deductor at the time of preparing statements of tax deducted shall,—
- (i) quote his tax deduction and collection account number (TAN) in the statement;
 - (ii) quote his permanent account number (PAN)* in the statement except in the case where the deductor is an office of the Government;
 - (iii) quote the permanent account number⁹³ of all deductees;
 - (iv) furnish particulars of the tax paid to the Central Government including book identification number or challan identification number, as the case may be;
 - ⁹⁴[(v) furnish particulars of amount paid or credited on which tax was not deducted in view of the issue of certificate of no deduction of tax under section 197 by the Assessing Officer of the payee;
 - (vi) furnish particulars of amount paid or credited on which tax was not deducted in view of the compliance of provisions of sub-section (6) of section 194C by the payee;]
 - ⁹⁵[(vii) furnish particulars of amount paid or credited on which tax was not deducted in view of the furnishing of declaration under sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A by the payee;]
 - ⁹⁶[(viii) furnish particulars of amount paid or credited on which tax was not deducted ⁹⁶[or deducted at lower rate] in view of the notification issued under sub-section (1F) of section 197A;]
 - ⁹⁷[(ix) furnish particulars of amount paid or credited on which tax was not deducted or deducted at lower rate in view of the notification issued under second proviso to section 194N or in view of the exemption provided in third proviso to section 194N or in view of the notification issued under fourth proviso to section 194N;]
 - ^{97a}[(x) furnish particulars of amount paid or credited on which tax was not deducted or deducted at lower rate in view of the notification issued under sub-section (5) of section 194A;
 - (xi) furnish particulars of amount paid or credited on which tax was not deducted under sub-section (2A) of section 194LBA;
 - (xii) furnish particulars of amount paid or credited on which tax was not deducted in view of clause (a) or clause (b) of sub-section (1D) of section 197A;
 - (xiii) furnish particulars of amount paid or credited on which tax was not deducted in view of the exemption provided to persons referred to in Board Circular No. 3 of 2002, dated 28th June, 2002 or Board Circular No. 11 of 2002, dated 22nd November, 2002 or Board Circular No. 18 of 2017, dated 29th May, 2017.]

*Words "or Aadhaar Number" should be added after "Permanent Account Number".

93. Inserted by the IT (Second Amndt.) Rules, 2011, w.e.f. 1-4-2011.

94. Inserted by the IT (Eighth Amndt.) Rules, 2011, w.e.f. 1-11-2011.

95. Inserted by the IT (Second Amndt.) Rules, 2013, w.e.f. 19-2-2013.

96. Inserted by the IT (Sixteenth Amndt.) Rules, 2020, w.e.f. 3-7-2020.

97. Substituted, *ibid.*, w.e.f. 1-7-2020. Prior to its substitution, clause (ix), as inserted by the IT (Fourteenth Amndt.) Rules, 2019, w.e.f. 18-11-2019, read as under :

"(ix) furnish particulars of amount paid or credited on which tax was not deducted in view of the exemption provided in clause (iii) or clause (iv) of the proviso to section 194N or in view of the notification issued under clause (v) of the proviso to section 194N."

97a. Inserted by the IT (Sixteenth Amndt.) Rules, 2020, w.e.f. 3-7-2020.

⁹⁸[(4A) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3) or sub-rule (4), every person responsible for deduction of tax under section 194-IA shall furnish to the Director General of Income-tax (System) or the person authorised by the Director General of Income-tax (System) a challan-cum-statement in Form No. 26QB electronically in accordance with the procedures, formats and standards specified under sub-rule (5) within ⁹⁹[thirty days] from the end of the month in which the deduction is made.]

¹[(4B) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3) or sub-rule (4), every person responsible for deduction of tax under section 194-IB shall furnish to the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (System) or the person authorised by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) a challan-cum-statement in Form No. 26QC electronically in accordance with the procedures, formats and standards specified under sub-rule (5) within thirty days from the end of the month in which the deduction is made.]

²[(4C) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3) or sub-rule (4), every person responsible for deduction of tax under section 194M shall furnish to the Principal Director General of Income-tax (Systems) or Director General of Income-tax (System) or the person authorised by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) a challan-cum-statement in Form No. 26QD electronically in accordance with the procedures, formats and standards specified under sub-rule (5) within thirty days from the end of the month in which the deduction is made.]

³[(5) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of the statements or claim for refund in Form 26B and shall be responsible for the day-to-day administration in relation to furnishing and verification of the statements or claim for refund in Form 26B in the manner so specified.]

(6) Where a statement of tax deducted at source is to be furnished for tax deducted before the 1st day of April, 2010, the provisions of this rule and rule 37A shall apply as they stood immediately before their substitution or omission by the Income-tax (Sixth Amendment) Rules, 2010.]

⁴[Statement of collection of tax under proviso to sub-section (3) of section 206C.

31AA. (1) Every collector, shall, in accordance with the provisions of the proviso to sub-section (3) of section 206C, deliver, or cause to be delivered, to the

98. Inserted by the IT (Fifth Amdt.) Rules, 2013, w.e.f. 31-5-2013.

99. Substituted for "seven days" by the IT (Thirteenth Amdt.) Rules, 2016, w.e.f. 1-6-2016.

1. Inserted by the IT (Thirteenth Amdt.) Rules, 2017, w.e.f. 8-6-2017.

2. Inserted by the IT (Fourteenth Amdt.) Rules, 2019, w.e.f. 18-11-2019.

3. Substituted by the IT (Second Amdt.) Rules, 2013, w.e.f. 19-2-2013. Prior to its substitution, sub-rule (5) read as under :

"(5) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing of the statements and shall be responsible for the day-to-day administration in relation to furnishing of the statements in the manner so specified."

4. Substituted by the IT (Sixth Amdt.) Rules, 2010, w.e.f. 1-4-2010 (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 31AA, as amended by the IT (First Amdt.) Rules, 2010, w.e.f. 1-4-2009 [corrected by SO 667(E), dated 23-3-2010], IT

Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems), a quarterly statement in Form No. 27EQ.

(2) Statements referred to in sub-rule (1) for the quarter of the financial year ending with the date specified in column (2) of the Table below shall be furnished by the due date specified in the corresponding entry in column (3) of the said Table:—

(Contd. from p. 1.312)

(Eighth Amdt.) Rules, 2009 (not enforced), IT (Tenth Amdt.) Rules, 2005, w.e.f. 30-3-2005, IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005 and IT (Tenth Amdt.) Rules, 2007, w.e.f. 1-9-2007, read as under :

***31AA. Quarterly statement of collection of tax under sub-section (3) of section 206C.—**

(1) Every person, being a person responsible for collecting tax under section 206C shall, in accordance with the proviso to sub-section (3) of section 206C, deliver or cause to be delivered to the Director-General of Income-tax (Systems) or the person authorized by the Director General of Income-tax (Systems), quarterly statement in Form No. 27EQ on or before the 15th July, the 15th October, the 15th January in respect of the first three quarters of the financial year and on or before the 30th April following the last quarter of the financial year :

Provided that where,—

- (a) the collector is an office of Government; or
- (b) the collector is a company; or
- (c) the collector is a person required to get his accounts audited under section 44AB in the immediately preceding financial year; or
- (d) the number of collectees' records in a quarterly statement for any quarter of the immediately preceding financial year is equal to or more than fifty,

the person responsible for collecting tax at source, and the principal officer in the case of a company shall deliver or cause to be delivered such quarterly statements on computer media (3.5" 1.44 MB floppy diskette or CD-ROM of 650 MB capacity):

Provided further that a person other than a person referred to in the first proviso, responsible for collecting tax at source, may at his option, deliver or cause to be delivered the quarterly statements on computer media (3.5" 1.44 MB floppy diskette or CD-ROM of 650 MB capacity).

(2) The person responsible for collecting tax at source and preparing quarterly statements shall,—

- (i) quote his tax deduction and collection account number (TAN) and permanent account number (PAN) in the quarterly statement:
Provided that the permanent account number shall not be required to be quoted where tax has been collected by or on behalf of the Government;
- (ii) quote the permanent account number of all persons in respect of whose income, tax has been collected;
- (iii) furnish particulars of the tax paid to the Central Government.

(3) The person responsible for collecting tax at source and preparing quarterly statements on computer media shall, in addition to the provisions in sub-rule (2),—

- (i) prepare the quarterly statement as per the data structure provided by the e-filing Administrator designated by the Board for the purposes of administration of Electronic Filing of Returns of Tax Collected at Source Scheme, 2005 supported by a declaration in Form No. 27A in paper format:

Provided that in case any compression software has been used for preparing the quarterly statement on computer media, such compression software shall be furnished on the same computer media;

- (ii) affix a label indicating name, permanent account number, tax deduction and collection account number and address of the person responsible for collection of tax at source, the period to which the statement pertains and the volume number of the said computer media in case more than one volume of such media is used."

TABLE

Sl. No.	Quarter of the financial year ended	Due date
(1)	(2)	(3)
1.	30th June	15th July of the financial year
2.	30th September	15th October of the financial year
3.	31st December	15th January of the financial year
4.	31st March	15th May of the financial year immediately following the financial year in which collection is made

(3) (i) The statement referred to in sub-rule (1) may be furnished in any of the following manners, namely:—

- (a) furnishing the statement in paper form;
- *(b) furnishing the statement electronically under digital signature in accordance with the procedures, formats and standards specified under sub-rule (5);
- (c) furnishing the statement electronically along with the verification of the statement in Form 27A or verified through an electronic process in accordance with the procedures, formats and standards specified under sub-rule (5).]

(ii) Where,—

- (a) the collector is an office of the Government; or
- (b) the collector is the principal officer of a company; or
- (c) the collector is a person who is required to get his accounts audited under section 44AB in the immediately preceding financial year;
- (d) the number of collectee's records in a statement for any quarter of the financial year are twenty or more,

the collector shall furnish the statement in the manner specified in *[item (b) or item (c) of clause (i)].

(iii) Where the collector is a person other than the person referred to in clause (ii), the statement referred to in sub-rule (1) may, at his option, be delivered or cause to be delivered in the manner specified in *[item (b) or item (c) of clause (i)].

(4) The collector at the time of preparing statements of tax collected shall,—

- (i) quote his tax deduction and collection account number (TAN) in the statement;
- (ii) quote his permanent account number (PAN)* in the statement except in the case where the collector is an office of the Government;

5. Items (b) and (c) substituted for item (b) by the IT (Second Amdt.) Rules, 2013, w.e.f. 19-2-2013. Prior to its substitution, item (b) read as under :

*(b) furnishing the statement electronically in accordance with the procedures, formats and standards specified under sub-rule (5) along with the verification of the statement in Form 27A."

6. Substituted for "item (b) of clause (i)" by the IT (Second Amdt.) Rules, 2013, w.e.f. 19-2-2013.

*Words "or Aadhaar Number" should be added after "Permanent Account Number".

- (iii) quote the permanent account number* of all collectees;
- (iv) furnish particulars of the tax paid to the Central Government including book identification number or challan identification number, as the case may be;
- [(v) furnish particulars of amount received or debited on which tax was not collected in view of the furnishing of declaration under sub-section (1A) of section 206C by the buyer;]
- [(vi) furnish particulars of amount received or debited on which tax was not collected,—
 - (a) by the authorised dealer from the buyer under the first proviso to sub-section (1G) of section 206C;
 - (b) by the authorised dealer under fourth proviso to sub-section (1G) of section 206C; and
 - (c) by the authorised dealer or seller of an overseas tour program from the buyer under clause (i) or clause (ii) of the fifth proviso of sub-section (1G) of section 206C or in view of any notification issued under clause (ii) of the fifth proviso of sub-section (1G) of section 206C;
- (vii) furnish particulars of amount received or debited on which tax was not collected from the buyer,—
 - (a) under second proviso to sub-section (1H) of section 206C; and
 - (b) under sub-clause (A) or sub-clause (B) or sub-clause (C), or in view of any notification issued under sub-clause (C), of clause (a) of the Explanation to sub-section (1H) of section 206C.]

[(5) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of the statements and shall be responsible for the day-to-day administration in relation to furnishing and verification of the statements in the manner so specified.]

(6) Where a statement of tax collected at source is to be furnished for tax collected before the 1st day of April, 2010, the provisions of this rule shall apply as they stood immediately before their substitution by the Income-tax (Sixth Amendment) Rules, 2010.]

Annual statement of tax deducted or collected or paid.

31AB. ¹⁰[***]

*Words "or Aadhaar Number" should be added after "Permanent Account Number".

7. Inserted by the IT (Second Amdt.) Rules, 2013, w.e.f. 19-2-2013.

8. Clauses (vi) and (vii) inserted by the IT (Seventeenth Amdt.) Rules, 2020, w.e.f. 1-10-2020.

9. Substituted by the IT (Second Amdt.) Rules, 2013, w.e.f. 19-2-2013. Prior to its substitution, sub-rule (5) read as under :

"(5) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing of the statements and shall be responsible for the day-to-day administration in relation to furnishing of the statements in the manner so specified."

10. Omitted by the IT (Eleventh Amdt.) Rules, 2020, w.e.f. 1-6-2020. Prior to its omission, rule 31AB, as inserted by the IT (Tenth Amdt.) Rules, 2005, w.e.f. 30-3-2005 and later on amended by the IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005, read as under :

(Contd. on p. 1316)

¹¹[Maintenance of particulars of time deposits by a banking company for furnishing quarterly return under section 206A.

31AC. (1) Every branch of a banking company, which is required to make a quarterly return under sub-section (1) of section 206A in respect of interest on time deposits without deduction of tax at source, shall keep and maintain the particulars of such time deposits in Form No. 26QA.

(2) Every branch referred to in sub-rule (1) which is maintaining its daily accounts on computer media, shall keep and maintain the particulars in Form No. 26QA on computer readable media.

Quarterly return under section 206A.

31ACA. (1) The quarterly return to be furnished by a banking company under sub-section (1) of section 206A in respect of time deposits shall be in Form No. 26QAA and shall be verified in the manner indicated therein.

(2) The quarterly return referred to in sub-rule (1) shall be furnished,—

(i) to the Director General of Income-tax (Investigation), New Delhi or the person authorised by the Director General of Income-tax (Investigation), New Delhi;

(ii) on or before the 31st July, the 31st October, the 31st January and the 30th June following the respective quarter of the financial year.

(3) The quarterly return comprising Part A and Part B of Form No. 26QAA, referred to in sub-rule (1), shall be furnished on computer readable media being a CD-ROM (650 MB or higher capacity) or Digital Video Disc (DVD), along with Part A of such Form on paper.

(4) The person responsible for furnishing the return referred to in sub-rule (1) shall ensure that—

(Contd. from p. 1.315)

***31AB. Annual statement of tax deducted or collected or paid.**—The Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems) shall deliver,—

(i) to every person from whose income the tax has been deducted; or

(ii) to the buyer referred to in sub-section (1) or, as the case may be, to the licensee or lessee referred to in sub-section (1C) of section 206C from whom the amount has been collected; or

(iii) to every person in respect of whose income the tax has been paid,

a statement referred to in section 203AA or the second proviso to sub-section (5) of section 206C, in Form No. 26AS by the 31st July following the financial year during which taxes were deducted or collected or paid."

11. Rules 31AC and 31ACA substituted for rule 31AC by the IT (Second Amendment) Rules, 2006, w.e.f. 17-3-2006. Prior to its substitution, rule 31AC, as amended by the IT (Seventeenth Amdt.) Rules, 2005, w.e.f. 28-6-2005, read as under:

***31AC. Quarterly return of non-deduction of tax at source under section 206A.**—(1) The quarterly return to be furnished under sub-section (1) or sub-section (2) of section 206A shall be in Form No. 26QA and shall be verified in the manner indicated therein.

(2) The quarterly return referred to in sub-rule (1) shall be furnished,—

(i) to the Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems);

(ii) on or before the 31st July, the 31st October, the 31st January and the 30th June following the respective quarter of the financial year."

- (i) where the data relating to the return is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished along with the return made on computer readable media;
- (ii) the return is accompanied with a certificate regarding clean and virus free data.

Explanation.—For the purposes of rule 31AC and rule 31ACA, “time deposits” means deposits (excluding recurring deposits) repayable on the expiry of fixed periods.]

13[Form for furnishing certificate of accountant under the first proviso to sub-section (1) of section 201.

31ACB. (1) The certificate from an accountant under the first proviso to sub-section (1) of section 201 shall be furnished in Form 26A to the Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems) in accordance with the procedures, formats and standards specified under sub-rule (2), and verified in accordance with the procedures, formats and standards specified under sub-rule (2).

(2) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of the Form 26A and be responsible for the day-to-day administration in relation to furnishing and verification of the Form 26A in the manner so specified.]

Monthly statement or certificate of deduction of tax from “Salaries”.

32. ¹³[Omitted by the IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996.]

14[Statement of deduction of tax from contributions paid by the trustees of an approved superannuation fund.¹⁵

33. (1) In cases where the trustees of an approved superannuation fund pay any contributions made by an employer, including interest on such contributions, to an employee during his life-time, they shall send within two months from the end of the financial year to the Assessing Officer referred to in rule 36A, a statement giving the following particulars, namely :—

12. Substituted by the IT (Second Amdt.) Rules, 2013, w.e.f. 19-2-2013. Prior to its substitution, rule 31ACB, as inserted by the IT (Eleventh Amdt.) Rules, 2012, w.e.f. 12-9-2012, read as under :
“31ACB. *Form for furnishing certificate of accountant under the first proviso to sub-section (1) of section 201.*—The certificate from an accountant under first proviso to sub-section (1) of section 201 shall be furnished in Form No. 26A.”

13. Prior to its omission, rule 32 was substituted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988 and later on amended by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

14. Substituted by the IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003. Earlier, rule 33 was amended by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988, IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988 and IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996, read as under :

“33. *Return of deduction of tax from contributions paid by the trustees of an approved superannuation fund.*—(1) In cases where the trustees of an approved superannuation fund pay any contributions made by an employer, including interest on such contributions, to an employee during his lifetime, they shall send within two months from the end of the financial year to the Assessing Officer referred to in rule 36A a return in Form No. 22.

(2) [“ ”.]”

15. See rule 6 of Part B of the Fourth Schedule.

- (i) name of the superannuation fund;
- (ii) name and address of the employee;
- (iii) the period for which the employee has contributed to the superannuation fund;
- (iv) the amount of contribution repaid on account of principal and interest;
- (v) the average rate of deduction of tax during the preceding three years; and
- (vi) the amount of tax deducted on repayment.

(2) A verification in the following Form shall be annexed to the statement referred to in sub-rule (1) :

FORM OF VERIFICATION

We/I, the trustee(s) of the above named fund, do declare that what is stated in the above statement is true to the best of our/my information and belief.]

Return in lieu of monthly return under rule 32.

34. [Omitted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.]

Annual return of salaries paid and tax deducted therefrom.

35. [Omitted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.]

Prescribed persons for section 206.

36. ¹⁶[(1)] In the case of offices of the Government the return under ¹⁷[""] section 206 shall be furnished by—

- (a) Civil Audit Officers/Pay and Accounts Officers for all Gazetted Officers and others who draw their pay from Audit Offices/Pay and Accounts Offices on separate bills; and also for all pensioners who draw their pensions from audit offices;
- (b) Treasury Officers for all Gazetted Officers and others who draw their pay from treasuries on separate bills without counter-signature and also for all pensioners who draw their pensions from treasuries;
- ¹⁸[(c) Heads of Civil or Military offices for all Gazetted Officers and others, except those referred to in clause (b), and all non-gazetted officers, whose pay is drawn on establishment bills or on bills countersigned by the Head of Office ;]
- (d) Forest Disbursing Officers and Public Works Department Disbursing Officers in cases where direct payment from treasuries is not made, for themselves and their establishments;
- (e) Head Postmasters for (i) themselves, their gazetted subordinates and the establishments of which the establishment pay bills are prepared by them, and (ii) gazetted supervising and controlling officers of whose

16. Inserted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988.

17. Words "sub-section (1) of" omitted, *ibid*.

18. Substituted by the IT (Amdt.) Rules, 1980, w.e.f. 19-1-1980.

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headquarters post office they are in charge, and (iii) pensioners drawing their pensions through post offices; head record clerks for themselves and all the staff whose pay is drawn in their establishment pay bills; Divisional Engineers in respect of Telegraph and Telephone Engineering Divisions; Accounts Officers, Stores and Workshops for the Stores and Workshops organisation and the Disbursing Officers in the case of the Administrative and Audit offices;

- (f) (i) Controllers of Defence Accounts for Defence Services Officers and others including civilian gazetted officers under their payment control;
- (ii) Officer Commanding Air Force Central Accounts Office, New Delhi—for Air Force Officers and others for whom IRLAs are maintained by them;
- (iii) Supply Officer-in-charge, Naval Pay Office, Bombay—for navy officers and ratings for whom IRLAs are maintained by them;
- (iv) Chief Accounting Officer, London—for Defence Services Personnel serving in or attached to High Commission in UK;
- (g) The Financial Advisor and Chief Accounts Officer/Deputy Financial Advisor and Chief Accounts Officer of the Railways concerned—for all railway employees including the employees of the Railway Audit Department under their payment control;
- (h) Heads of Offices in the Missions and Posts abroad for themselves and for all gazetted and other officers under their administrative control;
- (i) Trade Commissioners abroad, wherever their establishments are independent of the Missions, for themselves and for all gazetted and other officers under their administrative control;
- (j) The Chief Accounts Officers, India Supply Mission, Washington, and India Stores Department, London for themselves and for the gazetted and other officers under their administrative control;
- (k) The Directors/Managers of the tourist offices abroad, for themselves and for the gazetted and other officers under their administrative control.

¹⁹[(2) In the case of a local authority or any other public body or association, the return under section 206 shall be furnished by—

- (a) the secretary, treasurer, manager or agent of the authority, public body or association, or
- (b) any person connected with the management or administration of the local authority, public body or association upon whom the ²⁰[Assessing Officer] has served a notice of his intention of treating him as the person responsible for filing the return.]

¹⁹. Inserted by the IT (Sixth Amndt.) Rules, 1988, w.e.f. 12-7-1988.

²⁰. Substituted for "Income-tax Officer" by the IT (Fifth Amndt.) Rules, 1989, w.r.e.f. 1-4-1988.

Prescribed authority for purposes of section 206.

36A. ²¹[The returns referred to in rules 37 and 37A shall be furnished to the Director General of Income-tax (Systems) or the person or agency authorised by the Director General of Income-tax (Systems)²².]

²³[Prescribed returns regarding tax deducted at source under section 206.

37. Every person, being a person responsible for deducting tax under Chapter XVII-B shall, in respect of a previous year, deliver or cause to be delivered to

21. Substituted by the IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005. Prior to its substitution, rule 36A, as inserted by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988 and amended by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988, read as under :
 *36A. *Income-tax authority for purposes of section 206.*—The returns referred to in rules 37 and 37A shall be furnished to—

- (i) the Assessing Officer, so designated by the Chief Commissioner or Commissioner of Income-tax, within whose area of jurisdiction, the office of the person responsible for deducting tax under Chapter XVII-B is situated; or
- (ii) in any other case, to the Assessing Officer within whose area of jurisdiction, the office of the person responsible for deducting tax under Chapter XVII-B is situated."

22. Person authorised is NSDL.

23. Rules 37 and 37A were substituted for rule 37 by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988. Prior to its substitution, original rule 37, as amended by the IT (Fifth Amdt.) Rules, 1967, IT (Second Amdt.) Rules, 1970, IT (Third Amdt.) Rules, 1972, IT (Third Amdt.) Rules, 1973, w.e.f. 15-7-1973 and IT (Fifth Amdt.) Rules, 1978, w.e.f. 1-6-1978, stood as under :

'37. Returns regarding tax deducted at source in other cases.—(1) In the case of income chargeable under the head "Interest on securities" where the deduction is not made by or on behalf of the Government, the person making deduction of tax under section 193 shall within fourteen days of the date of deduction send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 25.

(2) The person making deduction of tax in accordance with section 194 from dividends shall within fourteen days of the date of deduction send to the Income-tax Officer assessing the company a statement in Form No. 26.

(2A) The person making deduction of tax in accordance with section 194A from income by way of interest other than income chargeable under the head "Interest on securities" shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26A quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter :

Provided that in respect of tax deducted in cases to which item (1) of sub-clause (i) of clause (b) of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the statement relating to the quarter next following the quarter in which the deduction is made.

(2B) The person making deduction of tax in accordance with section 194B from income by way of winnings from lottery or crossword puzzle shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26B quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter.

(2BB) The person making deduction of tax in accordance with section 194BB from income by way of winnings from horse race shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26BB quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter.

the ²⁴[Director-General of Income-tax (Systems) or the person or agency authorised by the Director General of Income-tax (Systems)] referred to in rule 36A, the returns mentioned in column (1) of the Table below in Form No. specified in the corresponding entry in column (2) of the said Table by the end of the month falling in the financial year immediately following the previous year as specified in the corresponding entry in column (3) of the said Table :—

²⁵TABLE

Sl. No.	Nature of returns (1)	Form No. (2)	Month (3)
1.	Annual return of deduction of tax under section 192 from "Salaries"	24	June

(Contd. from p. 1.320)

(2C) The person making deduction of tax in accordance with section 194C from payments made to any contractor or sub-contractor shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 26C quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter :

Provided that in respect of tax deducted in cases to which item (1) of sub-clause (i) of clause (b) of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the statement relating to the quarter next following the quarter in which the deduction is made.

(2D) The person making deduction of tax in accordance with section 194D from income by way of insurance commission shall send to the Income-tax Officer having jurisdiction to assess him—

- (a) a certificate in Form No. 26D quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter :

Provided that in respect of tax deducted in cases to which item (1) of sub-clause (i) of clause (b) of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the certificate relating to the quarter next following the quarter in which the deduction is made;

- (b) a statement in Form No. 26E on or before the 30th day of June in each year in respect of the deduction made by him during the immediately preceding financial year;
- (c) a statement in Form No. 26F on or before the 30th day of June in each year in respect of the insurance commission credited or paid during the immediately preceding financial year without deduction of tax.

(3) The person making deduction of tax in accordance with sections 193, 194 and 195 from any payment made to—

- (i) a person, not being a company, who is a non-resident or a resident but not ordinarily resident, or

(ii) a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, shall within fourteen days of the date of deduction send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 27.

24. Substituted for "Assessing Officer" by the IT (Nineteenth Amndt.) Rules, 2005, w.e.f. 30-6-2005. Earlier, it was substituted for "Income-tax Officer" by the IT (Fifth Amndt.) Rules, 1989, w.r.e.f. 1-4-1988.

25. Substituted by the IT (Twelfth Amndt.) Rules, 2003, w.e.f. 31-7-2003. Prior to its substitution, Table was amended by the IT (Sixth Amndt.) Rules, 1988, w.e.f. 12-7-1988, IT (Twelfth Amndt.) Rules, 1990, w.e.f. 8-6-1990, IT (Sixth Amndt.) Rules, 1991, w.e.f. 28-2-1991, IT (Fifth Amndt.) Rules, 1992, w.e.f. 1-4-1992, IT (Fourth Amndt.) Rules, 1994, w.e.f. 1-6-1994, IT (Twelfth Amndt.) Rules, 1995, w.e.f. 1-7-1995, IT (Fourth Amndt.) Rules, 1997, w.e.f. 19-3-1997, IT (Thirty-second Amndt.) Rules, 1999, w.e.f. 19-11-1999 and IT (Twenty-third Amndt.) Rules, 2001, w.e.f. 11-10-2001, read as under :

(Contd. on p. 1.322)

Sl No.	Nature of returns	Form No.	Month
	(1)	(2)	(3)
2.	Annual return of deduction of tax under section 193 from "Interest on securities", under section 194 from "Dividends", under section 194A from "Interest other than interest on securities", under section 194B from "Winnings from lotteries or crossword puzzles", under section 194BB from "Winnings from horse races", under section 194C from "Payments to any contractor or sub-contractor", under section 194D from "Insurance commission", under section 194EE from "Payments in respect of deposits under the National Savings Scheme, etc.", under section 194F from "Payments on account of repurchase of units by Mutual Fund or Unit Trust of India", under section 194G from "Commission, etc., on sale of lottery tickets", under section 194H from "Commission or brokerage", under section 194I from "Rent", under section 194J from "Fees for professional or technical services", ²⁶ [under	26	June.]

(Contd. from p. 1.321)

TABLE

Sl No.	Nature of returns	Form No.	Month
	(1)	(2)	(3)
1.	Annual return of deduction of tax under section 192 from "Salaries"	24	May
2.	Annual return of deduction of tax under section 193 from "Interest on securities"	25	June
3.	Annual return of deduction of tax under section 194 from "Dividends" or under section 194K from "Income in respect of units"	26	April
4.	Annual return of deduction of tax under section 194A from "Interest other than interest on securities"	26A	June
5.	Annual return of deduction of tax under section 194B from "Winnings from lotteries or crossword puzzles"	26B	May
6.	Annual return of deduction of tax under section 194BB from "Winnings from horse races"	26BB	May
7.	Annual return of deduction of tax under section 194C from "Payments to any contractor or sub-contractor"	26C	June
8.	Annual return of deduction of tax under section 194D from "Insurance commission"	26D	June
9.	[" "]		
10.	Annual return of deduction of tax under section 194EE from "Payments in respect of deposits under National Savings Scheme, etc."	26F	June
11.	Annual return of deduction of tax under section 194F from "Payments on account of repurchase of units by Mutual Fund or Unit Trust of India"	26G	June
12.	Annual return of deduction of tax under section 194G from "Commission, etc., on sale of lottery tickets"	26H	June
13.	Annual return of deduction of tax under section 194H from "Commission or brokerage"	26-I	June
14.	Annual return of deduction of tax under section 194-I from "Rent"	26J	June
15.	Annual return of deduction of tax under section 194J from "Fees for professional or technical services"	26K	June.'

26. Substituted for 'and under section 194K from "Income in respect of units" by the IT (Eleventh Amdt.) Rules, 2005, w.e.f. 30-3-2005.

Sl. No.	Nature of returns	Form No.	Month
	(1)	(2)	(3)
	section 194K from "Income in respect of units" and under section 194LA from "Payment of compensation on acquisition of certain immovable property"]		

Returns regarding tax deducted at source in the case of non-residents.

37A. ²⁷[Omitted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. 1-4-2010.]

Return of interest paid to residents without deduction of tax.

37AA. ²⁸[Omitted by the IT (Fourth Amdt.) Rules, 1997, w.e.f. 19-3-1997.]

Returns regarding tax deducted at source on computer media under sub-section (2) of section 206.

37B. (1) Where a person responsible for deducting tax under Chapter XVII-B is required to file any return or statement referred to in rule 37 or rule 37A on a computer media, he shall deliver or cause to be delivered such return or statement in accordance with such scheme³⁰ as may be specified by the Board in this behalf within the time specified under rule 37 or rule 37A, as the case may be.

²⁷ Prior to its omission, rule 37A as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. 1-4-2009 [As corrected by SO 667(E), dated 23-3-2010], IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Fourth Amdt.) Rules, 2009, w.e.f. 1-4-2009, IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005, IT (Third Amdt.) Rules, 1996, w.e.f. 2-7-1996, IT (Tenth Amdt.) Rules, 1993, w.e.f. 16-6-1993, IT (Eleventh Amdt.) Rules, 1992, w.e.f. 1-6-1992, IT (Sixth Amdt.) Rules, 1991, w.e.f. 28-2-1991, IT (Eleventh Amdt.) Rules, 1991, w.e.f. 1-10-1991, IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988 and IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988, read as under :

"37A. Returns regarding tax deducted at source in the case of non-residents.—The person making deduction of tax in accordance with sections 193, 194, 194E, 195, 196A, 196B, 196C and 196D of the Act from any payment made to—

(i) a person, not being a company, who is a non-resident or a resident but not ordinarily resident, or

(ii) a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, shall send on or before the 15th July, the 15th October, the 15th January in respect of the first three quarters of the financial year and on or before the 15th June following the last quarter of the financial year a statement in Form No. 27Q to the Director General of Income-tax (Systems) or the person or agency authorized by the Director General of Income-tax (Systems) referred to in rule 36A."

²⁸ Prior to its omission, rule 37AA, as inserted by the IT (Fifth Amdt.) Rules, 1967 and later on amended by the IT (Sixth Amdt.) Rules, 1988, w.e.f. 12-7-1988 and IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

"37AA. Return of interest paid to residents without deduction of tax.—The return to be delivered to the Assessing Officer under section 206A, within 30 days from the 31st day of March in each year, shall be prepared in Form No. 27A and shall be verified in the manner indicated therein."

²⁹ Substituted by the IT (Sixteenth Amdt.) Rules, 2003, w.e.f. 26-8-2003. Earlier rule 37B was inserted by the IT (Fifth Amdt.) Rules, 1999, w.e.f. 30-3-1999. Original rule 37B was inserted by the IT (Sixth Amdt.) Rules, 1977, w.e.f. 1-10-1977 and later on amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988 and thereafter omitted by the IT (Fourth Amdt.) Rules, 1997, w.e.f. 19-3-1997. Prior to its substitution, rule 37B read as under :

"37B. Returns regarding tax deducted at source on computer media under sub-section (2) of section 206.—(1) Where a person responsible for deducting the tax under Chapter XVII-B desires to file any return or statement referred to in rule 37 or rule 37A on a computer media,

- (2) The return or statement filed on a computer media shall contain all the information required under rule 37 or rule 37A, as the case may be.
- (3) The return or statement filed on computer media shall be accompanied by Form No. 27A furnishing the information specified therein.]

³¹[Credit for tax deducted at source for the purposes of section 199.

37BA. (1) Credit for tax deducted at source and paid to the Central Government in accordance with the provisions of Chapter XVII, shall be given to the person to whom payment has been made or credit has been given (hereinafter referred to as deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorised by such authority.

- (2) ³²[(i) Where under any provisions of the Act, the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee;

(Contd. from p. 1.323)

he shall deliver or cause to be delivered to the Assessing Officer referred to in rule 36A such return or statement on a computer media within the time specified under rule 37 or rule 37A, as the case may be.

- (2) The return or statement filed on a computer media must contain all the information required under rule 37 or rule 37A, as the case may be.

- (3) The computer media must conform to the following specifications :

- (a) CD ROM of 650 MB capacity;
- (b) 4mm 2 GB/4 GB (90M/120M) DAT Cartridge; or
- (c) 3.5" 1.44 MB floppy diskette.

- (4) While filing the return or statement on a computer media, the person responsible for deducting the tax shall ensure that :

- (i) the return or statement is accompanied with Form No. 27A furnishing the information specified therein;
- (ii) in no case, more than one return or statement is included on one unit of computer media. However, a single return or statement may spawn multiple units of the same computer media. If more than one unit of computer media is used in the case of a particular type of return or statement, then each computer media will be serially numbered;
- (iii) if the data relating to a return or statement is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished along with the computer media return or statement;
- (iv) the return or statement is accompanied with a certificate regarding clean and virus free data."

30. See Electronic Filing of Returns of Tax Deducted at Source Scheme, 2003.

31. Inserted by the IT (Sixth Amdt.) Rules, 2009, w.e.f. 1-4-2009.

32. Substituted by the IT (Eighth Amdt.) Rules, 2011, w.e.f. 1-11-2011. Prior to its substitution, clause (i) read as follows :

"(i) If the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for tax deducted at source shall be given to the other person in cases where—

- (a) the income of the deductee is included in the total income of another person under the provisions of section 60, section 61, section 64, section 93 or section 94;
- (b) the income of a deductee being an association of persons or a trust is assessable in the hands of members of the association of persons, or in the hands of trustees, as the case may be;

(Contd. on p. 1.325)

Provided that the deductee files a declaration with the deductor and the deductor reports the tax deduction in the name of the other person in the information relating to deduction of tax referred to in sub-rule (1).]

(ii) The declaration filed by the deductee under clause (i) shall contain the name, address, permanent account number^{32a} of the person to whom credit is to be given, payment or credit in relation to which credit is to be given and reasons for giving credit to such person.

(iii) The deductor shall issue the certificate for deduction of tax at source in the name of the person in whose name credit is shown in the information relating to deduction of tax referred to in sub-rule (1) and shall keep the declaration in his safe custody.

(3) (i) Credit for tax deducted at source and paid to the Central Government, shall be given for the assessment year for which such income is assessable.

(ii) Where tax has been deducted at source and paid to the Central Government and the income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax.

³³[(3A) Notwithstanding anything contained in sub-rule (1), sub-rule (2) or sub-rule (3), for the purposes of section 194N, credit for tax deducted at source shall be given to the person from whose account tax is deducted and paid to the Central Government account for the assessment year relevant to the previous year in which such tax deduction is made.]

(4) Credit for tax deducted at source and paid to the account of the Central Government shall be granted on the basis of—

- (i) the information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorised by such authority; and
- (ii) the information in the return of income in respect of the claim for the credit,

subject to verification in accordance with the risk management strategy formulated by the Board from time to time.]

³⁴[Furnishing of information for payment to a non-resident, not being a company, or to a foreign company.

37BB. (1) The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum chargeable under the provisions of the Act, shall furnish the following, namely:—

(Contd. from p. 1.324)

(c) the income from an asset held in the name of a deductee, being a partner of a firm or a karta of a Hindu undivided family, is assessable as the income of the firm, or Hindu undivided family, as the case may be;

(d) the income from a property, deposit, security, unit or share held in the name of a deductee is owned jointly by the deductee and other persons and the income is assessable in their hands in the same proportion as their ownership of the asset :

Provided that the deductee files a declaration with the deductor and the deductor reports the tax deduction in the name of the other person in the information relating to deduction of tax referred to in sub-rule (1)."

32a. Words "or Aadhaar Number" should be added after "Permanent Account Number".

33. Inserted by the IT (Tenth Amdt.) Rules, 2019, w.e.f. 1-9-2019.

34. Substituted by the IT (Twenty-first Amdt.) Rules, 2019, w.e.f. 1-4-2016. Prior to its substitution, rule 37BB, as inserted by the IT (Seventh Amdt.) Rules, 2009, w.e.f. 1-7-2009 and

(Contd. on p. 1.326)

- (i) the information in Part A of Form No. 15CA, if the amount of payment or the aggregate of such payments, as the case may be, made during the financial year does not exceed five lakh rupees;
- (ii) for payments other than the payments referred in clause (i), the information,—
 - (a) in Part B of Form No. 15CA after obtaining,—
 - (I) a certificate from the Assessing Officer under section 197; or
 - (II) an order from the Assessing Officer under sub-section (2) or sub-section (3) of section 195;
 - (b) in Part C of Form No. 15CA after obtaining a certificate in Form No. 15CB from an accountant as defined in the Explanation below sub-section (2) of section 288.

(2) The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum which is not chargeable under the provisions of the Act, shall furnish the information in Part D of Form No. 15CA.

(3) Notwithstanding anything contained in sub-rule (2), no information is required to be furnished for any sum which is not chargeable under the provisions of the Act, if,—

- (i) the remittance is made by an individual and it does not require prior approval of Reserve Bank of India as per the provisions of section 5 of the Foreign Exchange Management Act, 1999 (42 of 1999) read with Schedule III to the Foreign Exchange (Current Account Transaction) Rules, 2000; or

(Contd. from p. 1.325)

substituted by the IT (Fourteenth Amdt.) Rules, 2013, w.e.f. 1-10-2013 [IT (Fourteenth Amdt.) Rules, 2013 has superseded the IT (Twelfth Amdt.) Rules, 2013], read as under :

"37BB. Furnishing of information by the person responsible for making any payment including any interest or salary or any other sum chargeable to tax, to a non-resident, not being a company, or to a foreign company.—(1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any interest or salary or any other sum chargeable to tax under the provisions of the Act, shall furnish the following, namely:—

- (i) the information in Part A of Form No. 15CA, if the amount of payment does not exceed fifty thousand rupees and the aggregate of such payments made during the financial year does not exceed two lakh fifty thousand rupees;
- (ii) the information in Part B of Form No. 15CA for payments other than the payments referred to in clause (i) after obtaining—
 - (a) a certificate in Form No. 15CB from an accountant as defined in the Explanation below sub-section (2) of section 288; or
 - (b) a certificate from the Assessing Officer under section 197; or
 - (c) an order from the Assessing Officer under sub-section (2) or sub-section (3) of section 195.

(2) The information in Form No. 15CA shall be furnished by the person electronically to the website designated by the Income-tax Department and thereafter signed printout of the said form shall be submitted to the authorised dealer, prior to remitting the payment.

(3) An income-tax authority may require the authorised dealer to furnish the signed printout referred to in sub-rule (2) for the purposes of any proceedings under the Act.

(4) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture, transmission of data and shall also be responsible for

(Contd. on p. 1.327)

- (ii) the remittance is of the nature specified in column (3) of the specified list below:

SPECIFIED LIST

Sl. No.	Purpose code as per RBI	Nature of payment
(1)	(2)	(3)
1	S0001	Indian investment abroad - in equity capital (shares)
2	S0002	Indian investment abroad - in debt securities
3	S0003	Indian investment abroad - in branches and wholly owned subsidiaries
4	S0004	Indian investment abroad - in subsidiaries and associates
5	S0005	Indian investment abroad - in real estate
6	S0011	Loans extended to Non-Residents
7	S0101	Advance payment against imports
8	S0102	Payment towards imports - settlement of invoice
9	S0103	Imports by diplomatic missions
10	S0104	Intermediary trade
11	S0190	Imports below Rs.5,00,000-(For use by ECD offices)
12	S0202	Payment for operating expenses of Indian shipping companies operating abroad.
13	S0208	Operating expenses of Indian Airlines companies operating abroad
14	S0212	Booking of passages abroad - Airlines companies
15	S0301	Remittance towards business travel
16	S0302	Travel under basic travel quota (BTQ)
17	S0303	Travel for pilgrimage
18	S0304	Travel for medical treatment
19	S0305	Travel for education (including fees, hostel expenses, etc.)
20	S0401	Postal services
21	S0501	Construction of projects abroad by Indian companies including import of goods at project site
22	S0602	Freight insurance - relating to import and export of goods
23	S1011	Payments for maintenance of offices abroad

(Contd. from p. 1.326)

the day-to-day administration in relation to furnishing the information in the manner specified.

Explanation 1.—For the purposes of this rule, "authorised dealer" means a person authorised as an authorised dealer under sub-section (1) of section 10 of the Foreign Exchange Management Act, 1999 (42 of 1999).

Explanation 2.—For the removal of doubts, it is hereby clarified that for payments of the nature specified in column (3) of the specified list below, no information is required to be furnished under sub-rule (1).

(Contd. on p. 1.328)

Sl No.	Purpose code as per RBI	Nature of payment
(1)	(2)	(3)
24	S1201	Maintenance of Indian embassies abroad
25	S1202	Remittances by foreign embassies in India
26	S1301	Remittance by non-residents towards family maintenance and savings
27	S1302	Remittance towards personal gifts and donations
28	S1303	Remittance towards donations to religious and charitable institutions abroad
29	S1304	Remittance towards grants and donations to other Governments and charitable institutions established by the Governments
30	S1305	Contributions or donations by the Government to international institutions
31	S1306	Remittance towards payment or refund of taxes
32	S1501	Refunds or rebates or reduction in invoice value on account of exports
33	S1503	Payments by residents for international bidding.

(Contd. from p. 1.327)

SPECIFIED LIST

Sl No.	Purpose code as per RBI	Nature of payment
(1)	(2)	(3)
1	S0001	Indian investment abroad - in equity capital (shares)
2	S0002	Indian investment abroad - in debt securities
3	S0003	Indian investment abroad - in branches and wholly owned subsidiaries
4	S0004	Indian investment abroad - in subsidiaries and associates
5	S0005	Indian investment abroad - in real estate
6	S0011	Loans extended to Non-Residents
7	S0202	Payment for operating expenses of Indian shipping companies operating abroad
8	S0208	Operating expenses of Indian Airlines companies operating abroad
9	S0212	Booking of passages abroad - Airlines companies
10	S0301	Remittance towards business travel
11	S0302	Travel under basic travel quota (BTQ)
12	S0303	Travel for pilgrimage
13	S0304	Travel for medical treatment
14	S0305	Travel for education (including fees, hostel expenses etc.)
15	S0401	Postal services

(Contd. on p. 1.329)

1.329

(4) The information in Form No. 15CA shall be furnished,—

- (i) electronically under digital signature in accordance with the procedures, formats and standards specified by the Principal Director General of Income-tax (Systems) under sub-rule (8) and thereafter printout of the said form shall be submitted to the authorised dealer, prior to remitting the payment; or
- (ii) electronically in accordance with the procedures, formats and standards specified by the Principal Director General of Income-tax (Systems) under sub-rule (8) and thereafter signed printout of the said form shall be submitted to the authorised dealer, prior to remitting the payment.

(5) An income-tax authority may require the authorised dealer to furnish the signed printout of Form No. 15CA referred to in clause (ii) of sub-rule (4) for the purposes of any proceedings under the Act.

(6) The certificate in Form No. 15CB shall be furnished and verified electronically in accordance with the procedures, formats and standards specified by the Principal Director General of Income-tax (Systems) under sub-rule (8).

(7) The authorised dealer shall furnish a quarterly statement for each quarter of the financial year in Form No. 15CC to the Principal Director General of Income-tax (Systems) or the person authorised by the Principal Director General of Income-tax (Systems) electronically under digital signature within fifteen days from the end of the quarter of the financial year to which such statement relates in accordance with the procedures, formats and standards specified by the Principal Director General of Income-tax (Systems) under sub-rule (8).

(Contd. from p. 1.328)

Sl No.	Purpose code as per RBI	Nature of payment
(1)	(2)	(3)
16	S0501	Construction of projects abroad by Indian companies including import of goods at project site
17	S0602	Freight insurance - relating to import and export of goods
18	S1011	Payments for maintenance of offices abroad
19	S1201	Maintenance of Indian embassies abroad
20	S1202	Remittances by foreign embassies in India
21	S1301	Remittance by non-residents towards family maintenance and savings
22	S1302	Remittance towards personal gifts and donations
23	S1303	Remittance towards donations to religious and charitable institutions abroad
24	S1304	Remittance towards grants and donations to other Governments and charitable institutions established by the Governments
25	S1305	Contributions or donations by the Government to international institutions
26	S1306	Remittance towards payment or refund of taxes
27	S1501	Refunds or rebates or reduction in invoice value on account of exports
28	S1503	Payments by residents for international bidding.*

(8) The Principal Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of Form 15CA, Form 15CB and Form 15CC and shall be responsible for the day-to-day administration in relation to the furnishing and verification of information, certificate and quarterly statement in accordance with the provisions of sub-rules (4), (6) and (7).

Explanation.—For the purposes of this rule "authorised dealer" means a person authorised as an authorised dealer under sub-section (1) of section 10 of the Foreign Exchange Management Act, 1999 (42 of 1999).]

³⁵[**Relaxation from deduction of tax at higher rate under section 206AA.**

37BC. (1) In the case of a non-resident, not being a company, or a foreign company (hereafter referred to as 'the deductee') and not having permanent account number the provisions of section 206AA shall not apply in respect of payments in the nature of interest, royalty, fees for technical services ^{35a}[, dividend] and payments on transfer of any capital asset, if the deductee furnishes the details and the documents specified in sub-rule (2) to the deductor.

(2) The deductee referred to in sub-rule (1), shall in respect of payments specified therein, furnish the following details and documents to the deductor, namely :—

- (i) name, e-mail id, contact number;
- (ii) address in the country or specified territory outside India of which the deductee is a resident;
- (iii) a certificate of his being resident in any country or specified territory outside India from the Government of that country or specified territory if the law of that country or specified territory provides for issuance of such certificate;
- (iv) Tax Identification Number of the deductee in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the deductee is identified by the Government of that country or the specified territory of which he claims to be a resident.]

^{35b}[(3) *The provisions of section 206AA shall not apply in respect of payments made to a person being a non-resident, not being a company, or a foreign company if the provisions of section 139A do not apply to such person on account of rule 114AAB.*]

³⁶[**PART VIA**

³⁷**COLLECTION OF TAX AT SOURCE**

³⁸[**Declaration by a buyer for no collection of tax at source under section 206C(1A).**

37C. (1) A declaration under sub-section (1A) of section 206C to the effect that any of the goods referred to in the Table in sub-section (1) of that section are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes shall be in Form No. 27C and shall be verified in the manner indicated therein.

35. Inserted by the IT (Seventeenth Amdt.) Rules, 2016, w.e.f. 24-6-2016.

35a. Inserted by the IT (Seventeenth Amdt.) Rules, 2020, w.e.f. 24-7-2020.

35b. Inserted by the IT (Nineteenth Amdt.) Rules, 2020, w.e.f. 10-8-2020.

36. Inserted by the IT (Fourth Amdt.) Rules, 1988, w.e.f. 1-6-1988.

37. State Government falls under the category of 'seller' and is liable to collect tax at source on mining and quarry leases - *Govt. of Madhya Pradesh v. Tax Recovery Officer* [2008] 171 Taxman 466 (MP). Section 206C will not apply to an individual whose annual total sales, gross

(2) The declaration referred to in sub-rule (1) shall be furnished in duplicate to the person responsible for collecting tax.

(3) The person referred to in sub-rule (2) shall deliver or cause to be delivered to the Chief Commissioner or Commissioner, one copy of the declaration referred to in sub-rule (1) on or before the seventh day of the month next following the month in which the declaration is furnished to him.

Explanation.—For the purposes of sub-rule (3), the Chief Commissioner or Commissioner means the Chief Commissioner or Commissioner to whom the Assessing Officer, having jurisdiction to assess the person referred to in sub-rule (2), is subordinate.

³⁹**Time and mode of payment to Government account of tax collected at source under section 206C.**

37CA. (1) All sums collected in accordance with the provisions of ^{39a}["*"] section 206C by an office of the Government shall be paid to the credit of the Central Government—

(Contd. from p. 1.330)

receipts or turnover from any business or profession carried on by him does not exceed Rs. 40 lakhs or Rs. 10 lakhs as the case may be - *Madan Mohan Gupta v. Union of India* [1993] 204 ITR 384 (Pat.). Where liquor licence was in partner's name but liquor business was carried on by the firm in which he is partner, the firm would nevertheless be regarded as 'seller' - *Bhagwan Singh v. Union of India* [1994] 76 Taxman 423 (Pat.). Liquor licensees are covered under section 206C only at the stage of their placing orders with manufacturer or supplier and not at the stage of obtaining licence - *Union of India v. Om Prakash S.S. & Company* [2001] 248 ITR 105 (SC). No tax is required to be collected on the licence fee paid by L-14A licensees - *Nareesh Kumar & Co. v. Union of India* [2000] 243 ITR 760 (Punj. & Har.)/*Chander Bhan & Co. v. Union of India* [2000] 112 Taxman 517 (Punj. & Har.)/*Ashok Kumar v. Union of India* [2001] 252 ITR 200 (Punj. & Har.). Tax is to be collected only on the cost price paid by vendors of country liquor to the wholesalers, and not on the excise duty paid to Government - *Ramjee Prasad Sahu v. Union of India* 1993 Tax LR 593/*Bahrain Prasad Choudhary v. Union of India* [1978] 229 ITR 363 (Pat.)/*Fairdeal Trading Co. v. Union of India* [1993] 70 Taxman 121 (Punj. & Har.). Seller is not liable to collect tax on the excise duty element in cases where buyers had directly remitted the excise duty on country liquor into Government account - *ITO v. Shri Bhogavati Sah Sakhar Karkhana Ltd.* [2006] 101 ITD 302 (Pune - Trib.). L-13 licensees could be treated as 'buyer' even after deletion of section 44AC with effect from 1-4-1993 and insertion of *Explanation* in section 206C - *Saini & Co. v. Union of India* [2000] 113 Taxman 55 (HP)(FB) (earlier contrary rulings are overruled). Arrack manufacturer selling arrack to contractors/buyers who were allotted in Government auctions is liable to collect tax at source - *Mysore Sugar Co. Ltd. v. Dy. CIT* [2006] 154 Taxman 447 (Kar.)/*Excise Commissioner v. Mysore Sales International Ltd.* [2006] 286 ITR 136 (Kar.)/*Mysore Sales International Ltd. v. Dy. CIT* [2003] 185 CTR (Kar.) 417. Tax collection at the time of sale is intended to be applied only in respect of forest produce and not with reference to agricultural produce. Therefore, the assessing authorities must first give a finding as to whether an item is categorisable as forest produce before taking the view that the seller is liable to collect tax - *A.P. Forest Development Corporation Ltd. v. Asstt. CIT* [2005] 272 ITR 245 (AP). Where the buyer is a member of a scheduled tribe and he is residing in any of the areas/States specified in section 10(26) of the Act, no tax is collectible on payments made to him, irrespective of the place of payment and so long as the source of income is within the specified areas/States - *Sing Killing v. ITO* [2002] 255 ITR 444 (Gauhati). Certain activities carried out by buyer of tendu leaves did not amount to processing - *Abdul Sattar v. Union of India* [1996] 135 CTR (MP) 352/*Natwarlal v. Union of India* [1998] 233 ITR 490 (MP)/*North Koel Tendu Leaves and Mahulam Leaves v. Union of India* [1997] 228 ITR 630 (Pat.). For details, see Taxmann's Master Guide to Income-tax Rules.

38. Substituted by the IT (Twenty-second Amdt.) Rules, 2003, w.e.f. 30-9-2003. Earlier rule 37C, as inserted by the IT (Fourth Amdt.) Rules, 1988, w.e.f. 1-6-1988.

39. Substituted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. 1-4-2010 (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Earlier, rule 37CA, as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. 1-4-2009, IT (Eighth Amdt.) Rules, 2009 (not enforced), IT (Twenty-second Amdt.) Rules, 2003, w.e.f. 30-9-2003 and IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004.

39a. Words "sub-section (1) or sub-section (1C) of" omitted by the IT (Seventeenth Amdt.) Rules, 2020, w.e.f. 1-10-2020.

- (a) on the same day where the tax is so paid without production of an income-tax challan; and
- (b) on or before seven days from the end of the month in which the collection is made, where tax is paid accompanied by an income-tax challan.

(2) All sums collected in accordance with the provisions of ^{39b}[""] section 206C by collectors other than an office of the Government shall be paid to the credit of the Central Government within one week from the last day of the month in which the collection is made.

(3) In the case of an office of the Government, where tax has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person by whatever name called to whom the collector reports the tax so collected and who is responsible for crediting such sum to the credit of the Central Government, ⁴⁰[shall submit a statement in Form No. 24G to the agency authorised by the Principal Director of Income-tax (Systems) in respect of tax collected by the collectors and reported to him.]

⁴¹[(3A) Statement referred to in sub-rule (3) shall be furnished—

- (a) on or before the 30th day of April where the statement relates to the month of March; and
- (b) in any other case, on or before 15 days from the end of relevant month.

(3B) Statement referred to in sub-rule (3) shall be furnished in the following manner, namely:—

- (a) electronically under digital signature in accordance with the procedures, formats and standards specified under sub-rule (4); or
- (b) electronically along with the verification of the statement in Form No. 27A or verified through an electronic process in accordance with the procedures, formats and standards specified under sub-rule (4).]

⁴²[(4) The Principal Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of the statements and shall be responsible for the day-to-day administration in relation to furnishing of the information and verification of the statements.]

(5) (i) Where tax has been deposited accompanied by an income-tax challan, the tax collected under ^{39b}[""] section 206C shall be deposited to the credit of the Central Government by remitting it within the time specified in clause (b) of sub-rule (1) or

39b. Words "sub-section (1) or sub-section (1C) of" omitted by the IT (Seventeenth Amdt.) Rules, 2020, w.e.f. 1-10-2020.

40. Substituted for the following by the IT (Eleventh Amdt.) Rules, 2016, w.e.f. 1-6-2016 :
"shall—

- (a) submit a statement in Form No. 24G within ten days from the end of the month to the agency authorised by the Director General of Income-tax (Systems) in respect of tax collected by the collectors and reported to him for that month; and
- (b) intimate the number (hereinafter referred to as the Book Identification Number) generated by the agency to each of the collectors in respect of whom the sum collected has been credited."

41. Inserted, *ibid*.

42. Substituted, *ibid*. Prior to its substitution, sub-rule (4) read as under :

"(4) For the purpose of sub-rule (3), the Director General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data, and shall also be responsible for the day-to-day administration in relation to furnishing the information in the manner so specified."

in sub-rule (2) into any branch of the Reserve Bank of India or of the State Bank of India or of any authorised bank.

(ii) Where tax is to be deposited in accordance with clause (i), by persons referred to in sub-rule (1) of rule 125, the amount collected shall be electronically remitted into the Reserve Bank of India or the State Bank of India or any authorised bank accompanied by an electronic income-tax challan.

(c) For the purpose of this rule, the amount shall be construed as electronically remitted to the Reserve Bank of India or to the State Bank of India or to any authorised bank, if the amount is remitted by way of—

- (a) internet banking facility of the Reserve Bank of India or of the State Bank of India or of any authorised bank; or
- (b) debit card.

(7) Where tax is collected before the 1st day of April, 2010, the provisions of this rule shall apply as they stood immediately before their substitution by the Income-tax (Sixth Amendment) Rules, 2010.]

⁴³[Class or classes of buyers to whom provisions of sub-section (1D) of section 206C shall not apply.

37CB. (1) The provisions of sub-section (1D) of section 206C in relation to sale of any goods (other than bullion or jewellery) or providing any service shall not apply to the following class or classes of buyers, namely:—

- (i) Government;
- (ii) embassies, Consulates, High Commissions, Legation or Commission and trade representation, of a foreign State;
- (iii) institutions notified under United Nations (Privileges and Immunities) Act, 1947.]

⁴⁴[Certificate of tax collected at source under section 206C(5).

37D. (1) The certificate of collection of tax at source under sub-section (5) of section 206C to be furnished by the collector shall be in Form 27D.

(2) The certificate referred to in sub-rule (1) shall specify:—

- (a) valid permanent account number (PAN)* of the collectee;
- (b) valid tax deduction and collection account number (TAN) of the collector;
- (c) (i) book identification number or numbers where deposit of tax collected is without production of challan in case of an office of the Government;
- (ii) challan identification number or numbers in case of payment through bank;
- (d) receipt number of the relevant quarterly statement of tax collected at source which is furnished in accordance with the provisions of rule 31AA.

(3) The certificate in Form No. 27D referred to in sub-rule (1) shall be furnished to the collectee within fifteen days from the due date for furnishing the statement of tax collected at source specified under sub-rule (2) of rule 31AA.

⁴³ Inserted by the IT (Twenty-first Amdt.) Rules, 2016, w.e.f. 19-8-2016.

⁴⁴ Substituted by the IT (Sixth Amdt.) Rules, 2010, w.r.e.f. 1-4-2010 (as corrected by Notification No. SO 1736(E), dated 19-7-2010). Prior to its substitution, rule 37D, as amended by the IT (First Amdt.) Rules, 2010, w.r.e.f. 1-4-2009, IT (Eighth Amdt.) Rules, 2009, (not enforced), IT (Twenty-second Amdt.) Rules, 2003, w.e.f. 30-9-2003, IT (Fourth Amdt.) Rules, 1988, w.e.f. 1-6-1988 and IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004.

*Words "or Aadhaar Number" should be added after "Permanent Account Number".

(4) The collector may issue a duplicate certificate in Form No. 27D if the collectee has lost the original certificate so issued and makes a request for issuance of a duplicate certificate and such duplicate certificate is certified as duplicate by the collector.

(5) Where a certificate is to be furnished for tax collected before the 1st day of April, 2010, it shall be furnished in the Form in accordance with the provisions of the rules as they stood immediately before their substitution by the Income-tax (Sixth Amendment) Rules, 2010.]

⁴⁵[Prescribed returns regarding tax collected at source under section 206C(5A).

37E. Every person collecting tax in accordance with the provisions of section 206C shall, in respect of a financial year, deliver or cause to be delivered to the

⁴⁶[Director General of Income-tax (Systems) or the person or agency authorised by the Director General of Income-tax (Systems)] referred to in rule 37F, the return for collection of tax in Form No. 27E by the end of June following the financial year.]

⁴⁷[Returns regarding tax collected at source on computer media under sub-section (5B) of section 206C.

37EA. (1) Where a person responsible for collecting tax under Chapter XVII-BB is required to file any return referred to in rule 37E on computer media, such

45. Substituted by the IT (Eleventh Amdt.) Rules, 2005, w.e.f. 30-3-2005. Prior to its substitution, rule 37E, as inserted by the IT (Third Amdt.) Rules, 1990, w.e.f. 19-2-1990 and amended by the IT (Fourth Amdt.) Rules, 1997, w.e.f. 19-3-1997, IT (Twenty-second Amdt.) Rules, 2003, w.e.f. 30-9-2003 and IT (Thirteenth Amdt.) Rules, 2003, w.e.f. 31-7-2003, read as under :

**37E. Prescribed returns regarding tax collected at source under section 206C(5A).—*Every person collecting tax in accordance with the provisions of section 206C shall, in respect of the period ending on 30th September and 31st March in each financial year, deliver or cause to be delivered to the income-tax authority referred to in rule 37F, the return for collection of tax in Form No. 27E within one month from the end of the period for which the return is required to be filed."

46. Substituted for "income-tax authority" by the IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005.

47. Substituted by the IT (Ninth Amdt.) Rules, 2005, w.e.f. 30-3-2005. Prior to its substitution, rule 37EA, as inserted by the IT (Twenty-fifth Amdt.) Rules, 1999, w.e.f. 2-7-1999, read as under :

**37EA. Returns regarding tax collected at source on computer media under sub-section (5B) of section 206C.—*(1) Where a person responsible for collecting the tax under Chapter XVII-BB of the Act desires to file any return of the nature referred to in rule 37E on a computer media, he shall deliver or cause to be delivered to the Income-tax Officer referred to in rule 37F such return on a computer media within the time specified under rule 37E.

(2) The return on a computer media shall be in the Form No. 27EA or Form No. 27EB or 27EC or 27ED, as the case may be, and contain all the information, details and particulars specified in such Forms.

(3) The computer media shall conform to the following specifications, namely :—

- (a) CD ROM of 650 MB capacity; or
- (b) 4mm 2 GB/4 GB (90M/120M) DAT Cartridge; or
- (c) 3.5" 1.44 MB floppy diskette.

(4) While filing the return on a computer media, the person responsible for collecting the tax shall ensure that :—

- (i) such return is accompanied with Form No. 27B and verified in the manner indicated therein;

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person shall deliver or cause to be delivered such return in accordance with such scheme as may be specified by the Board in this behalf within the time specified under rule 37E.

(2) The return filed on the computer media shall contain all the information required under rule 37E.

(3) The return filed on the computer media shall be accompanied by Form No. 27B [furnishing the information specified therein.]

Prescribed authority for purposes of section 206C(5A).

37F. ⁴⁸[The return referred to in rule 37E shall be furnished to the Director General of Income-tax (Systems) or the person or agency authorised by the Director General of Income-tax (Systems)⁴⁹.]

***[Application for certificate for collection of tax at lower rates under sub-section (9) of section 206C.**

37G. (1) An application by the buyer or licensee or lessee for a certificate under sub-section (9) of section 206C shall be made in Form No. 13 electronically,—

(i) under digital signature; or

(ii) through electronic verification code.

(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down procedures, formats

(Contd. from page 1.334)

(ii) only one return is included on one unit of computer media. However, a single return may spawn multiple units of the same computer media. If more than one unit of computer media is used in the case of a particular type of return, then each computer media will be serially numbered;

(iii) in a case where the data relating to a return is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished along with the computer media return;

(iv) the return is accompanied with a certificate regarding clean and virus free data."

48. Substituted by the IT (Nineteenth Amdt.) Rules, 2005, w.e.f. 30-6-2005. Prior to its substitution, rule 37F, as amended by the IT (Third Amdt.) Rules, 1990, w.e.f. 19-2-1990, read as under :

"37F. Income-tax authority for purposes of section 206C(5A).—The return referred to in rule 37E shall be furnished to :—

(i) the Income-tax Officer so designated by the Chief Commissioner or Commissioner of Income-tax within whose area of jurisdiction the office of the person responsible for collecting tax under Chapter XVII-BB is situated ; or

(ii) in any other case, to the Income-tax Officer within whose area of jurisdiction the office of the person responsible for collecting tax under Chapter XVII-BB is situated."

49. Person authorised is NSDL.

50. Substituted by the IT (Eleventh Amdt.) Rules, 2018, w.e.f. 25-10-2018. Prior to its substitution, rule 37G, as substituted by the IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004 and amended by the IT (Twenty-third Amdt.) Rules, 1999, w.e.f. 29-6-1999 and IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003, read as under :

"37G. Application for certificate for collection of tax at lower rates under sub-section (9) of section 206C.—An application by the buyer or licensee or lessee for a certificate under sub-section (9) of section 206C shall be made in Form No. 13."

and standards for ensuring secure capture and transmission of data and uploading of documents and the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the furnishing of Form No.13.]

Certificate for collection of tax at lower rates from buyer under sub-section (9) of section 206C.

37H. ⁵¹[(1) Where the Assessing Officer, on an application made by a person under sub-rule (1) of rule 37G is satisfied that existing and estimated tax liability of a person justifies the collection of tax at lower rate, the Assessing Officer shall issue a certificate in accordance with the provisions of sub-section (9) of section 206C for collection of tax at such lower rate.

(1A) The existing and estimated tax liability referred to in sub-rule (1) shall be determined by the Assessing Officer after taking into consideration the following, namely: —

- (i) tax payable on estimated income of the previous year relevant to the assessment year;
- (ii) tax payable on the assessed or returned or estimated income, as the case may be, of the last four previous years;
- (iii) existing liability under the Act and the Wealth-tax Act, 1957 (27 of 1957);
- (iv) advance tax payment, tax deducted at source and tax collected at source for the relevant assessment year relevant to the previous year till the date of making application under sub-rule (1) of rule 37G.]

(2) The certificate given under sub-rule (1) shall be valid for the assessment year specified in that certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.

(3) An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate given under sub-rule (1).

(4) The certificate shall be valid only for the person named therein.

(5) The certificate shall be issued direct to the person responsible for collecting the tax under advice to the buyer who made an application for issue of such certificate.]

⁵²[(6) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall lay down procedures, formats and standards for issuance of certificate under sub-rule (5) and the

51. Sub-rules (1) and (1A) substituted for sub-rule (1) by the IT (Eleventh Amdt.) Rules, 2018, w.e.f. 25-10-2018. Prior to its substitution, sub-rule (1), as amended by the IT (Sixteenth Amdt.) Rules, 2004, w.e.f. 30-11-2004 and IT (Twenty-fourth Amdt.) Rules, 2003, w.e.f. 1-10-2003, read as under :

“(1) Where the Assessing Officer is satisfied that the total income of the buyer or licensee or lessee justifies the collection of tax at any lower rate than the relevant rate specified in sub-section (1) or sub-section (1C) of section 206C, he shall, on an application made by the buyer or licensee or lessee under rule 37G, give to him a certificate for collection of tax at such lower rate than the relevant rate specified in sub-section (1) or sub-section (1C) of that section.”

52. Inserted by the IT (Eleventh Amdt.) Rules, 2018, w.e.f. 25-10-2018.

Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the issuance of said certificate.]

⁵³[Credit for tax collected at source for the purposes of sub-section (4) of section 206C.

37-I. (1) Credit for tax collected at source and paid to the Central Government in accordance with provisions of section 206C of the Act, shall be given to the person from whom the tax has been collected, on the basis of the information relating to collection of tax furnished by the person responsible for collection of tax at source (hereinafter referred to as the collector) to the income-tax authority or the person authorised by such authority.

(2) (i) Where tax has been collected at source and paid to the Central Government, credit for such tax shall be given for the assessment year for which the income is assessable to tax.

(ii) Where tax has been collected at source and paid to the Central Government and the lease or license is relatable to more than one year, credit for tax collected at source shall be allowed across those years to which the lease or license relates in the same proportion.

^{53a}[(2A) Notwithstanding anything contained in sub-rule (2), for the purposes of sub-section (1F) or, sub-section (1G) or, sub-section (1H) of section 206C, credit for tax collected at source shall be given to the person from whose account tax is collected and paid to the Central Government account for the assessment year relevant to the previous year in which such tax collection is made.]

(3) Credit for tax collected at source and paid to the account of the Central Government shall be granted on the basis of—

- (i) the information relating to collection of tax furnished by the collector to the income-tax authority or the person authorised by such authority; and
- (ii) the information in the return of income in respect of the claim for the credit,

subject to verification in accordance with the risk management strategy formulated by the Board from time to time.]

⁵⁴[Form for furnishing certificate of accountant under the first proviso to sub-section (6A) of section 206C.

37J. (1) The certificate from an accountant under the first proviso to sub-section (6A) of section 206C shall be furnished in Form 27BA to the Director General of Income-tax (Systems) or the person authorised by the Director General of

53. Inserted by the IT (Sixth Amdt.) Rules, 2009, w.e.f. 1-4-2009.

53a. Inserted by the IT (Seventeenth Amdt.) Rules, 2020, w.e.f. 1-10-2020.

54. Substituted by the IT (Second Amdt.) Rules, 2013, w.e.f. 19-2-2013. Prior to its substitution, rule 37J, as inserted by the IT (Eleventh Amdt.) Rules, 2012, w.e.f. 12-9-2012, read as under :
 "37J. Form for furnishing certificate of accountant under first proviso to sub-section (6A) of section 206C.—The certificate from an accountant under first proviso to sub-section (6A) of section 206C shall be furnished in Form No. 27BA."

- (4) Where the previous year is the financial year or any year ending about the close of the financial year and large profits are made after the 1st March (or the 15th March in cases where the proviso to section 211 applies), in circumstances which could not be foreseen.
- (5) Any case in which the ⁶⁰[Deputy] Commissioner considers that the circumstances are such that a reduction or waiver of the interest payable under section 215 or section 217 is justified.
- ⁶¹[(6) Nothing contained in this rule shall apply in respect of any assessment for the assessment year commencing on the first day of April, 1989, or any subsequent assessment year.]

PART VIIA

TAX CREDIT

Claim for credit.

⁶²40A. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Earlier, it was inserted by the IT (Second Amdt.) Rules, 1968.]

⁶³[PART VIIB

SPECIAL PROVISIONS FOR PAYMENT OF TAX BY COMPANIES AND CERTAIN PERSONS OTHER THAN A COMPANY*

Special provision for payment of tax by certain companies.

40B. The report of an accountant which is required to be furnished by the assessee along with the return of income, under sub-section (4) of section 115JB shall be in Form No. 29B.]

⁶⁴[Special provisions for payment of tax by certain persons other than a company.

40BA. The report of an accountant which is required to be furnished by the assessee under sub-section (3) of section 115JC, shall be in Form No. 29C.]

60. Substituted for "Inspecting Assistant" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

61. Inserted by the IT (Tenth Amdt.) Rules, 1989, w.e.f. 13-9-1989.

62. Prior to its omission, rule 40A, read as under :

"(1) A claim for credit under section 54A shall be made in Form No. 29A and shall contain the particulars specified therein.

(2) The claim shall be signed, in the case of an individual, by the individual himself, and in the case of a company, by the principal officer thereof.

(3) The claim under sub-rule (1) shall be made to the Income-tax Officer exercising jurisdiction under the Act in the case of the claimant."

63. Inserted by the IT (Nineteenth Amdt.) Rules, 2000, w.e.f. 27-9-2000.

64. Substituted by the IT (Ninth Amdt.) Rules, 2012, w.e.f. 1-4-2013. Prior to its substitution, rule 40BA, as inserted by the IT (Ninth Amdt.) Rules, 2011, w.e.f. 1-4-2012, read as under :

⁶⁵40BA. *Special provisions for payment of tax by certain limited liability partnerships.*—The report of an accountant which is required to be furnished by the assessee under sub-section

(3) of section 115JC, shall be in Form No. 29C."

*Heading is provided by Editor.

[PART VII-BA**SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED
INCOME OF DOMESTIC COMPANY FOR BUY-BACK OF SHARES**

Amount received by the company in respect of issue of share.

40BB. (1) For the purposes of clause (ii) of the *Explanation* to sub-section (1) of section 115QA, the amount received by a company in respect of the share issued by it, being the subject matter of buy-back referred to in the said section, shall be determined in accordance with this rule.

(2) Where the share has been issued by a company to any person by way of subscription, amount actually received by the company in respect of such share including any amount actually received by way of premium shall be the amount received by the company for issue of such share.

(3) Where the company had at any time, prior to the buy-back of the share, returned any sum out of the amount received in respect of such share the amount as reduced by the sum so returned shall be the amount received by the company for issue of said share:

Provided that if the sum or any part of it so returned was chargeable to additional income-tax under section 115-O and the company has paid such additional income-tax then such sum or part thereof, as the case may be, shall not be reduced.

(4) Where the share has been issued by a company under any plan or scheme under which an employees' stock option has been granted or as part of sweat equity shares, the fair market value of the share as computed in accordance with sub-rule (8) of rule 3, to the extent credited to the share capital and share premium account by the company shall be deemed to be the amount received by the company for issue of said share.

Explanation.—For the purposes of this sub-rule the expression "sweat equity shares" shall have the meaning assigned to it in clause (b) of the *Explanation* to sub-clause (vi) of clause (2) of section 17.

(5) Where the share has been issued by a company being an amalgamated company, under a scheme of amalgamation, in lieu of the share or shares of an amalgamating company, then, the amount received by the amalgamating company in respect of such share or shares determined in accordance with this rule, shall be deemed to be the amount received by the amalgamated company in respect of the share so issued by it.

(6) The amount received by a company, being a resulting company in respect of shares issued by it under a scheme of demerger, shall be the amount which bears the amount received by the demerged company in respect of the original shares determined in accordance with this rule in the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

(7) The amount received by the demerged company in respect of the original shares in the demerged company shall be deemed to have been reduced by the amount as so arrived under sub-rule (6).

(8) Where the share has been issued or allotted by the company as part of consideration for acquisition of any asset or settlement of any liability then the amount received by the company for issue of such share shall be determined in accordance with the following formula—

$$\text{Amount received} = A/B$$

Where,

A = an amount being lower of the following amounts—

- (a) the amount which bears to the fair market value of the asset or the liability, as determined by a merchant banker, the same proportion as the part of consideration being paid by issue of shares bears the total consideration;
- (b) the amount of consideration for acquisition of the asset or settlement of the liability to be paid in the form of shares, to the extent credited to the share capital and share premium account by the company;

B = the number of shares issued by the company as part of consideration.

Explanation.—For the purposes of this sub-rule, the term “merchant banker” shall have the meaning assigned to in sub-clause (b) of clause (iv) of sub-rule (8) of rule 3.

(9) Where the shares have been issued or allotted by a company on succession or conversion, as the case may be, of a firm into the company or succession of sole proprietary concern by the company, then the amount received by the company for issue of shares shall be determined in accordance with the following formula—

$$\text{Amount received} = \frac{A-B}{C}$$

A = book value of the assets in the balance-sheet as reduced by any amount of tax paid as deduction or collection at source or as advance tax payment as reduced by the amount of tax claimed as refund under the Income-tax Act and any amount shown in the balance-sheet as asset including the unamortized amount of deferred expenditure which does not represent the value of any asset.

Explanation.—For determining book value of the assets, any change in the value of the assets consequent to their revaluation shall be ignored.

B = book value of liabilities shown in the balance-sheet, but does not include the following amounts, namely:—

- (a) capital, by whatever name called, of the proprietor or partners of the firm, as the case may be;
- (b) reserves and surpluses, by whatever name called, including balance in profit and loss account;
- (c) any amount representing provision for taxation, other than amount of tax paid, as deduction or collection at source or as advance tax

payment as reduced by the amount of tax claimed as refund under the Income-tax Act, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

(d) any amount representing provisions made for meeting liabilities, other than ascertained liabilities; and

(e) any amount representing contingent liabilities,

C = number of shares issued on conversion or succession.

(10) Where the share has been issued or allotted, without any consideration, on the basis of existing shareholding in the company, the consideration in respect of such share shall be deemed to be "Nil".

(11) Where the shares have been issued on conversion of preference shares or bond or debenture, debenture-stock or deposit certificate in any form or warrants or any other security issued by the company, the amount received by the company in respect of such instrument as so converted.

(12) Where the share being bought back is held in dematerialised form and the same cannot be distinctly identified, the amount received by the company in respect of such share shall be the amount received for the issue of share determined in accordance with this rule on the basis of the first-in-first-out method.

(13) In any other case, the face value of the share shall be deemed to be the amount received by the company for issue of the share.]

⁶⁶[PART VIII

FRINGE BENEFIT TAX

Valuation of specified security or sweat equity share being a share in the company.

40C. (1) For the purposes of clause (ba) of sub-section (1) of section 115WC, the fair market value of any specified security or sweat equity share, being an equity share in a company, on the date on which the option vests with the employee, shall be determined in accordance with the provisions of sub-rule (2) or sub-rule (3).

(2) In a case where, on the date of the vesting of the option, the share in the company is listed on a recognized stock exchange, the fair market value shall be the average of the opening price and closing price of the share on that date on the said stock exchange :

Provided that where, on the date of vesting of the option, the share is listed on more than one recognized stock exchanges, the fair market value shall be the average of opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share :

Provided further that where, on the date of vesting of the option, there is no trading in the share on any recognized stock exchange, the fair market value shall be—

(a) the closing price of the share on any recognised stock exchange on a date closest to the date of vesting of the option and immediately preceding such date; or

(b) the closing price of the share on a recognised stock exchange, which records the highest volume of trading in such share, if the closing price,

66. Inserted by the IT (Twelfth Amdt.) Rules, 2007, w.e.f. 1-4-2008. See also Circular No. 9/2007, dated 20-12-2007.

as on the date closest to the date of vesting of the option and immediately preceding such date, is recorded on more than one recognized stock exchange.

(3) In a case where, on the date of vesting of the option, the share in the company is not listed on a recognized stock exchange, the fair market value shall be such value of the share in the company as determined by a merchant banker on the specified date.

(4) For the purpose of this rule,—

- (a) "closing price" of a share on a recognised stock exchange on a date shall be the price of the last settlement on such date on such stock exchange: **Provided** that where the stock exchange quotes both "buy" and "sell" prices, the closing price shall be the "sell" price of the last settlement;
- (b) "merchant banker" means category I merchant banker registered with Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (c) "opening price" of a share on a recognised stock exchange on a date shall be the price of the first settlement on such date on such stock exchange: **Provided** that where the stock exchange quotes both "buy" and "sell" prices, the opening price shall be the "sell" price of the first settlement;
- (d) "recognised stock exchange" shall have the same meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (e) "specified date" means,—
 - (i) the date of vesting of the option; or
 - (ii) any date earlier than the date of the vesting of the option, not being a date which is more than 180 days earlier than the date of the vesting;

(f) ⁶⁷[***]

⁶⁸[Valuation of specified security not being an equity share in the company.

40D. For the purposes of clause (ba) of sub-section (1) of section 115WC, the fair market value of any specified security, not being an equity share in a company, on the date on which the option vests with the employee, shall be such value as determined by a merchant banker on the specified date.

Explanation.—For the purposes of this rule, "merchant banker" and "specified date" shall have the meanings assigned to them in clause (b) and clause (e) respectively of sub-rule (4) of rule 40C.]

67. Omitted by the IT (Second Amdt.) Rules, 2008, w.e.f. 1-4-2008. Prior to its omission, clause (f) read as under :

'(f) "equity share" shall have the meaning assigned to it in section 85 of the Companies Act, 1956 (1 of 1956).'

68. Inserted, *ibid*.

⁶⁹[Prescribed conditions for the purposes of sub-clause (iii) of clause (B) of sub-section (2) of section 115WB.

40E. For the purposes of sub-clause (iii) of clause (B) of sub-section (2) of section 115WB, the non-transferable pre-paid electronic meal card (hereinafter called the "card") shall fulfil the following conditions, namely:—

- (i) The card shall be granted by the employer to its employees under a scheme framed by the employer specifying therein the circumstances under which the meal card can be used by the employee.
- (ii) The card under clause (i) shall be issued by the issuing bank.
- (iii) An employee shall not be issued more than one card.
- (iv) The card shall bear the name of the employer along with the name, photograph and signature of the employee to whom the card is issued.
- (v) The card shall be used only by the employee to whom the card is issued.
- (vi) The card shall be used by the employee only for the purpose of purchasing ready to eat food or non-alcoholic beverage from a member establishment.
- (vii) The aggregate amount of ready to eat food or non-alcoholic beverage purchased during a day by an employee shall not exceed one hundred rupees.
- (viii) The details of each transaction of purchases made by the employee against the card shall be maintained by the employer and the member establishment in such manner and for such period as is required under the Act for any other similar transaction.

Explanation.—For the purposes of this rule,—

- (i) "banking company" shall have the same meaning as assigned to in clause (viii) of sub-section (1) of section 36 of the Act;
- (ii) "issuing bank" means a banking company—
 - (a) which issues the card to the employees of an employer in pursuance to an agreement entered into with the employer; and
 - (b) which has entered into a contract with the member establishment authorizing him to allow purchases against the card issued by it in accordance with the conditions stipulated in sub-clause (iii) of clause (B) of sub-section (2) of section 115WB and this rule; and
- (iii) "member establishment" shall mean a restaurant, hotel, canteen or an outlet which sells ready to eat food or non-alcoholic beverage, but shall not include a restaurant, hotel, canteen or an outlet selling alcoholic beverage.]

***Part VIIC not to apply after a certain date**

⁷⁰[**40F.** Nothing contained in this Part, shall apply, in respect of any assessment for the assessment year commencing on the 1st day of April, 2010 or any subsequent assessment year.]

69. Inserted by the IT (First Amdt.) Rules, 2009, w.e.f. 1-4-2009.

70. Inserted by the IT (Thirteenth Amdt.) Rules, 2009, w.r.e.f. 1-4-2009.

*Heading is provided by Editor.

PART VIII**REFUNDS****71 Refund claim.**

41. (1) A claim for refund under Chapter XIX shall be made in Form No. 30.

(2) The claim under sub-rule (1) shall be accompanied by a return in the form prescribed under section 139 unless the claimant has already made such a return to the ⁷²[Assessing Officer].

(3) Where any part of the total income of a person making a claim for refund of tax consists of dividends or any other income from which tax has been deducted under

71. Now redundant in view of omission of sub-section (2) to section 239.

See sections 239(1) and 295(2)(k). The words 'properly chargeable' in section 237 cannot be read as 'properly or legally chargeable'. When an assessee pays self-assessment tax under section 140A, such taxes are, on the own admission of the assessee, amounts properly chargeable under the Act, and they cannot lose that character simply because an assessment stage, etc., would not make the pre-paid taxes unauthorised collections, so as to contend that such taxes should be fully refunded. The assessee can get a refund only if, as provided in section 237, he satisfies the Assessing Officer that there was any excess - *Saraya Sugar Mills Ltd. v. ITO* [1997] 226 ITR 475 (All.). The effect of the failure or inability of the Assessing Officer to make a fresh assessment after the earlier assessment made is set aside or nullified in appropriate proceedings is that it amounts to deemed acceptance of the return filed by the assessee. The Assessing Officer must accept the income disclosed, and refund any tax paid in excess of the liability incurred by the assessee on the basis of the income disclosed - *CIT v. Shelly Products* [2003] 261 ITR 367 (SC). The assessee is not entitled to refund of advance tax paid by him for an assessment year for which no regular assessment was made and it was allowed to become time-barred by the Assessing Officer - *Kamal Kishore Gupta v. ITO* [2004] 141 Taxman 170 (Punj. & Har.). A simple letter claiming refund cannot be treated as a proper application - *Sardar Bahadur Sardar Indra Singh v. CIT* [1954] 26 ITR 670 (Cal.). Claim for refund cannot be rejected on the super-technical ground that the application is not in the prescribed form - *Deep Chand Jain v. ITO* [1984] 145 Taxman 676 (Punj. & Har.)/*Kamal Kishore Gupta v. ITO* (supra). If refund is legitimately due to applicant, mere delay in filing claim should not defeat claim for refund; though while considering application for condonation of delay in filing refund claim, authority must satisfy itself that applicant has a *prima facie* correct and genuine refund claim, yet it does not mean that authority should examine merits of refund claim closely and come to a conclusion that applicant's claim is bound to succeed - *Sitaldas K. Motwani v. Director General of Income-tax (International Taxation)* [2010] 187 Taxman 44 (Bom.). Where assessee applied to CBDT for condonation of delay in filing refund application without explaining the reasons for delay in filing returns, CBDT was justified in rejecting the application on the ground that the returns were filed by the assessee much beyond time deliberately, only to escape scrutiny assessment - *Deep Narayan Gupta v. CBDT* [2004] 135 Taxman 499 (Pat.). CBDT is fully competent to admit an application for refund even after the expiry of period prescribed in section 239 - *Jaswant Singh Bambha v. CBDT* [2005] 142 Taxman 528 (Punj. & Har.)(FB). Where, even after passing of the order for refund of tax along with interest, there was inordinate delay in payment of interest to assessee, the assessee was entitled to be paid interest on the interest amount - *Sandvik Asia Ltd. v. CIT* [2006] 150 Taxman 591 (SC). In *CIT v. Gujarat Fluoro Chemicals* [2014] 42 taxmann.com 1 (SC) it was held that in *Sandvik Asia Ltd.*'s case the Supreme Court was considering the issue whether an assessee who is made to wait for refund of interest for decades be compensated for the great prejudice caused to it due to the delay in its payment after the lapse of statutory period. In the facts of that case, the Supreme Court had come to the conclusion that there was an inordinate delay on the part of the Revenue in refunding certain amount which included the statutory interest and therefore, directed the Revenue to pay compensation for the same, not an interest on interest. Further the Legislature by the Act No. 4 of 1988 (w.e.f. 1-4-1989) has inserted section 244A to the Act which provides for interest on refunds under various contingencies. Thus, it is only that interest as is provided for under the statute which may be claimed by an assessee from the Revenue and no other interest on such statutory interest. See also Circular No. 9/2015, dated 9-6-2015 [Condonation of delay in filing refund claim and claim of carry forward of losses under section 119(2)(b)]. See also Taxmann's Direct Taxes Manual, Vol. 2 for Instructions to subordinate authorities for condonation of delay in filing refund claim.

⁷² Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

the provisions of sections 192 to 194⁷³, section 194A and section 195], the claim shall be accompanied by the certificates prescribed under section 203.

(4) The claim under sub-rule (1) may be presented by the claimant in person or through a duly authorised agent or may be sent by post.

PART IX

TAX CLEARANCE CERTIFICATES

⁷⁴[⁷⁵**Prescribed authority for tax clearance certificates.**

42. (1) For the purposes of sub-section (1) of section 230, the prescribed authority shall be the Chief Commissioner of Income-tax or the Director-General of Income-tax, as the case may be, who has jurisdiction over the persons not domiciled in India or any other income-tax authority authorized by such Chief Commissioner or Director-General in this behalf.

(2) For the purposes of sub-section (1A) of section 230, the prescribed authority shall be the Chief Commissioner of Income-tax having jurisdiction over the persons domiciled in India or any other income-tax authority authorized by him in this behalf:

Provided that in the case of a person domiciled in India referred to in the first proviso to sub-section (1A) of section 230, the application shall be made to the Assessing Officer who has jurisdiction to assess such person.]

⁷⁶[**Forms and certificates for the purpose of sub-sections (1) and (1A) of section 230⁷⁷.**

43. (1) An undertaking to be furnished to the prescribed authority by a person not domiciled in India from the persons referred to in clause (i) or clause (ii), as the case may be, shall be in Form No. 30A.

⁷³. Inserted by the IT (Fifth Amdt.) Rules, 1967.

⁷⁴. Substituted by the IT (Twenty-eighth Amdt.) Rules, 2003, w.e.f. 21-11-2003. Prior to its substitution, rule 42 was amended by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988, read as under:

**42. Application for tax clearance certificate.—*(1) An application under section 230 for a tax clearance certificate or an exemption certificate may be made in Form No. 31 to any competent authority.

(2) Where the applicant is a person domiciled in India or is a person who has been assessed by an Assessing Officer anywhere in India, the application shall be accompanied by an authorisation in Form No. 32 to be obtained by the applicant from the Assessing Officer who has jurisdiction to assess him."

⁷⁵. See section 295(2)(d). Writ petition seeking direction to ITO to issue tax clearance certificate is not maintainable - *Kalinga Air Lines (P.) Ltd. v. ITO* [1972] 85 ITR 443 (Cal.). If no tax is legally due from the applicant, certificate cannot be refused - *ITO v. Mrs. A. Satler* [1973] 92 ITR 576 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

⁷⁶. Substituted by the IT (Twenty-eighth Amdt.) Rules, 2003, w.e.f. 21-11-2003. Prior to its substitution, it read as under:

**43. Form of certificate.—*(1) A tax clearance certificate issued under sub-section (1) of section 230 shall be in Form No. 33 and shall be valid for the period mentioned therein.

(2) An exemption certificate issued under the proviso to sub-section (1) of section 230 shall be in Form No. 34 and shall be valid for the period mentioned therein."

⁷⁷. See section 295(2)(d). See Departmental Instruction No. 1/2004, dated 5-2-2004 [Circumstances in which Tax Clearance Certificate, as required under first proviso to section 230(1A), may be required to be obtained by persons domiciled in India.] See also Circular No. 2/2004, dated 10-2-2004 [Abolition of the requirement of obtaining Income Tax Clearance Certificate (ITCC) by persons entering into commercial contracts]. For details, see Taxmann's Master Guide to Income-tax Rules.

(2) A no-objection certificate to be issued by the prescribed authority under sub-section (1) of section 230 shall be in Form No. 30B and shall be valid for the period mentioned therein.

(3) The information to be furnished by a person domiciled in India shall be in Form No. 30C.

(4) An application under the first proviso to sub-section (1A) of section 230 may be made in Form No. 31.

(5) A tax clearance certificate issued under the first proviso to sub-section (1A) of section 230 shall be in Form No. 33 and shall be valid for the period mentioned therein.

(6) A copy of the undertaking referred to in sub-rule (1) and the no-objection certificate referred to in sub-rule (2) shall be forwarded to the Chief Commissioner or Director General, as the case may be, having jurisdiction over the persons referred to in clause (i) or clause (ii) of sub-section (1) of section 230.]

⁷⁸Production of certificate.

44. Any person leaving India shall, at the request of any Customs Officer, produce to him for examination the tax clearance certificate or the exemption certificate, as the case may be.

⁷⁹[Application for tax clearance certificate for registration of documents in certain cases.]

44A. An application under sub-section (2) of section 230A⁸⁰ for a certificate under sub-section (1) of that section shall be made in duplicate in Form No. 34A to the ⁸¹[Assessing Officer].]

⁸²[Grant of tax clearance certificate or refusal.]

44B. Within 60 days of the receipt of the application referred to in rule 44A, the ⁸¹[Assessing Officer] shall—

- (i) if he is satisfied that the applicant has either paid or made satisfactory provision for payment of all existing liabilities under the enactments specified in clause (a) of sub-section (1) of section 230A or that the registration of the document referred to in the application will not prejudicially affect the recovery of any such liability, grant the certificate and forward the same to the registering officer concerned ; or
- (ii) if he is not so satisfied, pass an order in writing refusing to grant the certificate, recording his reasons therefor.]

78. See section 295(2)(b). See Departmental Instruction No. 1/2004, dated 5-2-2004 [Circumstances in which Tax Clearance Certificate, as required under first proviso to section 230(1A), may be required to be obtained by persons domiciled in India.] See also Circular No. 2/2004, dated 10-2-2004 [Abolition of the requirement of obtaining Income Tax Clearance Certificate (ITCC) by persons entering into commercial contracts]. For details, see Taxmann's Master Guide to Income-tax Rules.

79. Inserted by the IT (Amdt.) Rules, 1965.

80. Omitted w.e.f. 1-6-2001.

81. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

82. Inserted by the IT (Amdt.) Rules, 1965.

⁸³[**PART IX-A**
SETTLEMENT OF CASES]

Form of application for settlement of case ⁸⁴[and intimation to the Assessing Officer].

44C. (1) An application for settlement of a case under sub-section (1) of section 245C shall be made in quintuplicate in Form No. 34B ⁸⁵[and shall be verified in the manner indicated therein.]

⁸⁶[(2) The application referred to in sub-rule (1), the verification appended thereto, the Annexure to the said application and the statements and documents accompanying the Annexure shall be signed by the person specified in sub-rule (2) of rule 45.]

(3) Every application in connection with the settlement of a case shall be accompanied by a fee of five hundred rupees.]

⁸⁷[(4) The assessee shall, on the date on which he makes the application to the Settlement Commission, intimate in Form No. 34BA to the Assessing Officer of having made such application to the Commission.]

⁸⁸[**Disclosure of information in the application for settlement of cases.**]

44CA. (1) The Settlement Commission shall, while calling for a report from the Commissioner under sub-section (2B) of section 245D, forward a copy of the application in Form No. 34B ⁸⁹[(including the Annexure and the statements] and other documents accompanying such Annexure) along with a copy of the order under sub-section (1) of section 245D or, as the case may be, an intimation in respect of an application deemed to have been allowed to be proceeded with under sub-section (2A) of that section 245D.

⁹⁰[(2) Where an application has not been declared invalid under sub-section (2C) of section 245D or an application has been allowed to be further proceeded with under sub-section (2D) of that section, all the material and other information produced by the assessee before the Settlement Commission shall be sent to the Commissioner to enable him to furnish the report under sub-section (3) of section 245D.]

83. Inserted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976.

84. Inserted by the IT (Ninth Amdt.) Rules, 2007, w.e.f. 7-8-2007.

85. Inserted by the IT (Third Amdt.) Rules, 1984, w.e.f. 1-10-1984.

86. Substituted, *ibid*.

87. Inserted by the IT (Ninth Amdt.) Rules, 2007, w.e.f. 7-8-2007.

88. Substituted, *ibid*. Prior to its substitution, section 44CA was inserted by the IT (Third Amdt.) Rules, 1984, w.e.f. 1-10-1984.

89. Substituted for "(other than the Annexure and the statements)" by the IT (First Amendment) Rules, 2014, w.e.f. 15-1-2014.

90. Sub-rules (2) and (3) substituted for sub-rule (2), *ibid*. Prior to its substitution, sub-rule (2) read as under :

"(2) Where an application has not been declared invalid under sub-section (2C) of section 245D or an application has been allowed to be further proceeded with under sub-section (2D) of section 245D, the information contained in the Annexure to the application in Form No. 34B and in the statements and other documents accompanying such Annexure shall be sent to the Commissioner."

(3) Where the proceeding before the Settlement Commission abates, the Commission shall send, all the material and other information produced by the assessee before the Commission and the results of any enquiry held or evidence recorded in the course of proceedings before it, to the Commissioner.]]

Fee for furnishing copy of report.

44D. (1) The following scale of fees shall be levied by the Settlement Commission for furnishing under section 245G a copy of any report or part of any report made by any income-tax authority to the Settlement Commission :—

For the first two hundred words or less ... 80 paise

For every additional hundred words or fraction thereof ... 40 paise.

(2) The fee referred to in sub-rule (1) shall be recovered in advance in cash.

⁹¹[PART IX-B

ADVANCE RULINGS

⁹²[Application for obtaining an advance ruling.]

44E. ⁹³[(1) An application for obtaining an advance ruling under sub-section (1) of section 245Q shall be made in quadruplicate,—

(a) in Form No. 34C in respect of a non-resident applicant referred to in sub-clause (i) of clause (a) of section 245N;

(b) in Form No. 34D in respect of a resident applicant referred to in sub-clause (ii) of clause (a) of section 245N seeking advance ruling in relation to a transaction undertaken or proposed to be undertaken by him with a non-resident; and*

91. Inserted by the IT (Nineteenth Amdt.) Rules, 1993, w.e.f. 2-11-1993.

Resident Indian who is party to contract with applicant cannot be made a party to the application - *Steffen, Robertson & Kirsten Consulting Engineers & Scientists v. CIT* [1997] 95 Taxman 598 (AAR - New Delhi). Rulings will be given only on questions relating to Income-tax Act, and not to other Acts - *Advance Ruling No. P-12, In re* [1997] 228 ITR 61/94 Taxman 157 (AAR - New Delhi). While computing period of stay in India, day of arrival and day of departure should both be included - *Advance Ruling P. No. 7 of 1995, In re* [1997] 223 ITR 462 (AAR - New Delhi).

92. Substituted for "Form of application for obtaining an advance ruling" by the IT (Twelfth Amdt.) Rules, 2014, w.e.f. 28-11-2014.

93. Substituted, *ibid* Prior to its substitution, sub-rule (1), as amended by the IT (Tenth Amdt.) Rules, 1999, w.e.f. 28-5-1999, IT (Thirteenth Amdt.) Rules, 2000, w.e.f. 3-8-2000 and IT (Eighteenth Amdt.) Rules, 2013, w.e.f. 1-4-2015, read as under :

"(1) An application for obtaining an advance ruling under sub-section (1) of section 245Q shall be made in quadruplicate,—

(a) in Form No. 34C in respect of a non-resident applicant;

(b) in Form No. 34D in respect of a resident applicant seeking advance ruling in relation to a transaction undertaken or proposed to be undertaken by him with a non-resident; and

(c) in Form No. 34E in respect of a resident falling within any such class or category of person as notified by the Central Government in exercise of the powers conferred by sub-clause (iii) of clause (b) of section 245N;

(d) in Form No. 34EA, in respect of an applicant referred to in sub-clause (iia) of clause (b) of section 245N of the Act,

and shall be verified in the manner indicated therein."

*Need to be deleted.

- (c) in Form No. 34DA in respect of a resident applicant referred to in sub-clause (iia) of clause (a) of section 245N falling within any such class or category of person as notified⁹⁴ by the Central Government in exercise of the powers conferred by ⁹⁵[item (III) of sub-clause (A) of clause (b)] of that section;
- (d) in Form No. 34E in respect of a resident falling within any such class or category of person as notified⁹⁶ by the Central Government in exercise of the powers conferred by ⁹⁷[item (IV) of sub-clause (A) of clause (b)] of section 245N; and
- (e) in Form No. 34EA, in respect of an applicant referred to in ⁹⁸[item (V) of sub-clause (A) of clause (b)] of section 245N of the Act,

and shall be verified in the manner indicated therein.]

(2) The application referred to in sub-rule (1), the verification appended thereto, the annexures to the said application and the statements and documents accompanying it, shall be signed,—

- (a) in the case of an individual,—
 - (i) by the individual himself;
 - (ii) where, for any unavoidable reason, it is not possible for the individual to sign the application, by any person duly authorised by him in this behalf :
Provided that in a case referred to in sub-clause (ii), the person signing the application holds a valid power of attorney from the individual to do so, which shall be attached to the application;
- (b) in the case of a Hindu undivided family,—
 - (i) by the karta thereof, and
 - (ii) where, for any unavoidable reason, it is not possible for the karta to sign the application, by any other adult member of such family;
- (c) in the case of a company,—
 - (i) by the Managing Director thereof, or where for any unavoidable reason such Managing Director is not able to sign and verify the application, or where there is no Managing Director, by any Director thereof;

94. Notified person is a resident, in relation to his tax liability arising out of one or more transactions valuing rupees one hundred crore or more in total which has been undertaken or proposed to be undertaken - *Vide* Notification No. SO 3014(E), dated 28-11-2014.

95. Substituted for "sub-clause (iia) of clause (b)" by the IT (Seventh Amndt.) Rules, 2018, w.e.f. 13-7-2018.

96. Public sector company has been notified *vide* SO 725(E), dated 3-8-2000.

97. Substituted for "sub-clause (iii) of clause (b)" by the IT (Seventh Amndt.) Rules, 2018, w.e.f. 13-7-2018.

98. Substituted for "sub-clause (iiia) of clause (b)", *ibid*.

- (ii) where, for any unavoidable reason, it is not possible for the Managing Director or the Director to sign the application, by any person duly authorised by the company in this behalf :

Provided that in the case referred to in sub-clause (ii), the person signing the application holds a valid power of attorney from the company to do so, which shall be attached to the application;

- (d) in the case of a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign and verify the application or where there is no managing partner as such, by any partner thereof, not being a minor;
- (e) in the case of an association of persons, by any member of the association or the principal officer thereof; and
- (f) in the case of any other person, by that person or by some person competent to act on his behalf.

¶(3) Every application in the Form as applicable shall be accompanied by the proof of payment of fees as specified in sub-rule (4).

(4) The fees payable along with application for advance ruling shall be in accordance with the following Table:

TABLE

Category of applicant	Category of case	Fee
(1)	(2)	(3)
An applicant referred to in sub-clause (i) or (ii) or (iii) of clause (b) of section 245N	Amount of one or more transaction, entered into or proposed to be undertaken, in respect of which ruling is sought does not exceed Rs. 100 crore.	Rs. 2 lacs
	Amount of one or more transaction, entered into or proposed to be undertaken, in respect of which ruling is sought exceeds Rs. 100 crore but does not exceed Rs. 300 crore.	Rs. 5 lacs
	Amount of one or more transaction, entered into or proposed to be undertaken, in respect of which ruling is sought exceeds Rs. 300 crore.	Rs. 10 lacs
Any other applicant	In all cases	Rs. 10000

Certification of copies of the advance rulings pronounced by the Authority.

44F. The copy of the advance ruling pronounced by the Authority to be sent to the applicant and to the Commissioner having jurisdiction over his case, shall be certified to be true copy thereof by the Commissioner or Deputy Commissioner, Authority for Advance Rulings, as the case may be.]

[PART IX-C

MUTUAL AGREEMENT PROCEDURE

^{1a}[Application seeking to give effect to the terms of any agreement under clause (h) of sub-section (2) of section 295 and the procedure for giving effect to the decision under the Agreement.

44G. (1) Where an assessee, being a resident of India, is aggrieved by any action of the tax authorities of any country or specified territory outside India for the reason that, according to him, such action is not in accordance with the terms of agreement with such other country or specified territory, he may make an application to the Competent Authority in India seeking to invoke the mutual agreement procedure, if provided in such agreement, in Form No. 34F.

(2) Where a reference has been received from the competent authority of any country or specified territory outside India under any agreement with that country or specified territory with regard to any action taken by any income-tax authority in India or by the tax authorities of such country or specified territory, the Competent Authority in India shall convey his acceptance or otherwise for taking up the reference under mutual agreement procedure to the competent authority of the other country or specified territory.

(3) The Competent Authority in India shall, with regard to the issues contained in Form No. 34F or in the reference from the competent authority of a country or specified territory outside India, call for the relevant records and additional document from the income-tax authorities or the assessee or his authorised representative in India, or have a discussion with such authorities or assessee or representative, to understand the actions taken by the income-tax authorities in India or outside that are not in accordance with the terms of the agreements between India and the other country or specified territory.

(4) The Competent Authority in India shall endeavour to arrive at a mutually agreeable resolution of the tax disputes, arising from such actions of the income-tax authorities, in accordance with the agreement between India and the other country or specified territory within an average time period of twenty-four months.

(5) In case the mutual agreement procedure is invoked on account of action taken by any income-tax authority in India, the resolution arrived at under sub-rule (4) in a previous year shall not result in decreasing the income or increasing the loss, as

1. Inserted by the IT (Second Amdt.) Rules, 2003, w.e.f. 6-2-2003 [as corrected by Notification No. 39/2003 (F. No. 480/3/2002-FTD), dated 26-2-2003]. See also Instruction No. 3 of 2004, dated 19-3-2004; Instruction No. 3/2015, dated 10-4-2015 [India-UK]; Instruction No. 10/2007, dated 23-10-2007 (India-US) and Instruction No. 1/2017, dated 4-1-2017 (India-Sweden).

For MAP Guidance - see Letter F. No. 500/09/2016-APA-I, dated 7-8-2020. For details, see Taxmann's Master Guide to Income-tax Rules.

- 1a. Substituted by the IT (Eighth Amdt.) Rules, 2020, w.e.f. 6-5-2020. Prior to its substitution, rule 44G read as under :

"44G. Application for giving effect to the terms of any agreement under clause (h) of sub-section (2) of section 295.—Where a resident assessee is aggrieved by any action of the tax authorities of any country outside India for the reason that, according to him, such action is not in accordance with the terms of agreement with such other country outside India, he may make an application to the Competent Authority in India seeking to invoke the mutual agreement procedure, if any, provided therein, in terms of Form No. 34F."

the case may be, of the assessee in India, as declared by him in the return of income of the said year.

(6) If a resolution is arrived at under sub-rule (4) between the Competent Authority in India and that of the other country or specified territory, the same shall be communicated in writing to the assessee.

(7) The assessee shall communicate his acceptance or non-acceptance of the resolution in writing to the Competent Authority in India within thirty days of receipt of the communication under sub-rule (6).

(8) The assessee's acceptance of the resolution shall be accompanied by proof of withdrawal of appeal, if any, pending on the issues that were the subject matter of the resolution arrived at under sub-rule (4).

(9) On receipt of acceptance under sub-rule (7), the Competent Authority in India shall communicate the resolution arrived at under sub-rule (4) and the acceptance by the assessee alongwith proof of withdrawal of appeal, if any, submitted by the assessee under sub-rule (8), to the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or Director General, as the case may be, who in turn shall forward it to the Assessing Officer.

(10) On receipt of communication under sub-rule (9), the Assessing Officer shall give effect to the resolution arrived at under sub-rule (4), by an order in writing, within one month from the end of the month in which the communication was received by him and intimate the assessee about the tax payable determined by him, if any.

(11) The assessee shall pay the tax as determined under sub-rule (10) within the time allowed by the Assessing Officer and shall submit the proof of payment of taxes to the Assessing Officer who shall then proceed to withdraw the pending appeal, if any, pertaining to subject matter of the resolution under sub-rule (4), which were filed by the Assessing Officer or the Principal Commissioner or Commissioner or any other income-tax authority.

(12) A copy of the order under sub-rule (10), shall be sent to the Competent Authority in India and to the assessee.

(13) The amount of tax, interest or penalty already determined shall be adjusted in accordance with the resolution arrived at under sub-rule (4) and in the manner provided under the Act or the rules made thereunder to the extent that such manner is not contrary to the resolution arrived at.

Explanation.—For the purposes of this rule, the "Competent Authority in India" shall mean an officer authorised by the Central Government for the purposes of discharging the functions as such.]

²[**Procedure to deal with requests for bilateral or multilateral advance pricing agreements.**

44GA. (1) Where a person has made request for a bilateral or multilateral advance pricing agreement in an application filed in Form No. 3CED in accordance with rule 10-I, the request shall be dealt with subject to provisions of this rule.

- (2) The process for bilateral or multilateral advance pricing agreement shall not be initiated unless the associated enterprise situated outside India has initiated process of advance pricing agreement with the competent authority in the other country.
- (3) The competent authority in India shall, on intimation of request of the applicant for a bilateral or multilateral agreement, consult and ascertain willingness of the competent authority in other country or countries, as the case may be, for initiation of negotiation for this purpose.
- (4) In case of willingness of the competent authority in other country or countries, as the case may be, the competent authority in India shall enter into negotiation in this behalf and endeavour to reach a set of terms which are acceptable to the competent authority in India and the competent authority in the other country or countries, as the case may be.
- (5) In case of an agreement after consultation, the competent authority in India shall formalise a mutual agreement procedure arrangement with the competent authority in other country or countries, as the case may be, and intimate the same to the applicant.
- (6) In case of failure to reach agreement on such terms as are mutually acceptable to parties mentioned in sub-rule (4), the applicant shall be informed of the failure to reach an agreement with the competent authority in other country or countries.
- (7) The applicant shall not be entitled to be part of discussion between competent authority in India and the competent authority in the other country or countries, as the case may be; however the applicant can communicate or meet the competent authority in India for the purpose of entering into an advance pricing agreement.
- (8) The applicant shall convey acceptance or otherwise of the agreement within thirty days of it being communicated.
- (9) The applicant, in case the agreement is not acceptable may at its option continue with process of entering into an advance pricing agreement without benefit of mutual agreement process or withdraw application in accordance with rule 10J.]
- Action by the Competent Authority of India and procedure for giving effect to the decision under the agreement.**

44H. ^{2a}[*]]**

2a. Omitted by the IT (Eighth Amdt.) Rules, 2020, w.e.f. 6-5-2020. Prior to its omission, rule 44H read as under :

'44H. Action by the Competent Authority of India and procedure for giving effect to the decision under the agreement.—(1) Where a reference has been received from the competent authority of a country outside India under any agreement with that country with regard to any action taken by any income-tax authority in India, the Competent Authority in India shall call for and examine the relevant records with a view to give his response to the competent authority of the country outside India.

(2) The Competent Authority in India shall endeavour to arrive at a resolution of the case in accordance with such agreement.

(3) The resolution arrived at under mutual agreement procedure, in consultation with the competent authority of the country outside India, shall be communicated, wherever

(Contd. on p. 1.355)

PART X APPEALS

Form of appeal to Commissioner (Appeals)*.

45. (1) An appeal to the Commissioner (Appeals) shall be made in Form No. 35.
- (2) Form No. 35 shall be furnished in the following manner, namely:—
- (a) in the case of a person who is required to furnish return of income electronically under sub-rule (3) of rule 12,—
 - (i) by furnishing the form electronically under digital signature, if the return of income is furnished under digital signature;
 - (ii) by furnishing the form electronically through electronic verification code in a case not covered under sub-clause (i);

Continued from p. 1.354

necessary, to the Chief Commissioner or the Director General of Income-tax, as the case may be, in writing.

(4) The effect to the resolution arrived at under mutual agreement procedure shall be given by the Assessing Officer within ninety days of receipt of the same by the Chief Commissioner or the Director General of Income-tax, if the assessee,—

- (i) gives his acceptance to the resolution taken under mutual agreement procedure; and
- (ii) withdraws his appeal, if any, pending on the issue which was the subject matter for adjudication under mutual agreement procedure.

(5) The amount of tax, interest or penalty already determined shall be adjusted after incorporating the decision taken under mutual agreement procedure in the manner provided under the Income-tax Act, 1961 (43 of 1961), or the rules made thereunder to the extent that they are not contrary to the resolution arrived at.

Explanation.—For the purposes of rules 44G and 44H, 'Competent Authority of India' shall mean an officer authorised by the Central Government for the purposes of discharging the functions as such.

3. Substituted by the IT (Third Amtd.) Rules, 2016, w.e.f. 1-3-2016. Prior to its substitution, rule 45, as amended by the IT (Second Amtd.) Rules, 1973, w.e.f. 1-4-1973, IT (Third Amtd.) Rules, 1976, w.e.f. 1-4-1976, IT (Seventh Amtd.) Rules, 1978, w.e.f. 10-7-1978, IT (Fifth Amtd.) Rules, 1989, w.e.f. 18-5-1989/w.r.e.f. 1-4-1988 and IT (Twentieth Amtd.) Rules, 1998, w.e.f. 22-10-1998, read as under :

*45. *Form of appeal to Commissioner (Appeals).*—(1) An appeal to the Commissioner (Appeals) shall be made in Form No. 35.

(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto relating to an assessee shall be signed and verified by the person who is authorised to sign the return of income under section 140 of the Income-tax Act, 1961, as applicable to the assessee."

4. See sections 249(1) and 295(2)(m). Appeal by HUF should be signed by karta, and not by any other member - *Addl. CIT v. K. Padmalochan Sahu* [1974] 95 ITR 113 (Ori.). Demand notice need not be enclosed with memo of appeal - *Addl. CIT v. Prem Kumar Rastogi* [1978] 115 ITR 503 (All.). Senior Vice President of a company is not competent to sign and verify the form of appeal. Though appeal itself could be dismissed *in limine*, the company could be allowed an opportunity to cure this defect in the form of appeal - *Gold Stone Exports Ltd. v. Asstt. CIT* [2007] 104 ITD 15 (Hyd. - Trib.). Where the first appeal memo was not signed by the appellant, but later appellant filed appeal memo duly signed, and the first appellate authority exercised his discretionary jurisdiction and condoned the delay in filing the appeal, it could not be said that the discretionary power exercised by that authority called for any interference by the Tribunal - *Rajendrakumar Maneklal Sherh (HUF) v. CIT* [1995] 213 ITR 715 (Guj.). For details, see Taxmann's Master Guide to Income-tax Rules.

- (b) in a case where the assessee has the option to furnish the return of income in paper form, by furnishing the form electronically in accordance with clause (a) of sub-rule (2) or in paper form.

(3) The form of appeal referred to in sub-rule (1), shall be verified by the person who is authorised to verify the return of income under section 140 of the Act, as applicable to the assessee.

(4) Any document accompanying Form No. 35 shall be furnished in the manner in which the said form is furnished.

(5) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall—

- (i) specify the procedure for electronic filing of Form No. 35 and documents;
- (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for the purpose of verification of the person furnishing the said form; and
- (iii) be responsible for formulating and implementing appropriate security, archival and retrieval of policies in relation to the said form so furnished.]

Mode of service.

46. (1) The intimation of any such order as is referred to in clause (c) of sub-section (2) of section 249 shall be served in the same manner as is laid down in section 282 for the service of a notice or requisition.

(2) Any other order, not being a notice or requisition, which is to be sent or communicated to, or served on, any person shall be sent, communicated or served either by post or as if it were a summons issued by a Court under the Code of Civil Procedure, 1908 (5 of 1908).

[Production of additional evidence before the ⁸[Deputy Commissioner (Appeals)] ⁹[and Commissioner (Appeals)].

46A. (1) The appellant shall not be entitled to produce before the ⁸[Deputy Commissioner (Appeals)] ⁹[or, as the case may be, the Commissioner (Appeals)], any evidence, whether oral or documentary, other than the evidence

5. See section 295(2)(m).

6. Inserted by the IT (Second Amdt.) Rules, 1973, w.e.f. 1-4-1973.

Rule 46A is not *ultra vires* section 250 or 251 - *Smt. Mohinder Kaur v. Central Government* [1976] 104 ITR 120 (All.). Where Assessing Officer made additions due to non-production of confirmation letters from the creditors by the assessee, and the Commissioner (Appeals) rejected to admit the said letters produced before him as additional evidence, the Tribunal would be justified in holding that the Commissioner (Appeals) ought not to have rejected the additional evidence but should have directed the Assessing Officer to consider the confirmation letters - *CIT v. K. Ravindranathan Nair* [2003] 133 Taxman 743 (Ker.). Where the ITO gave his comments on certain affidavits produced by appellant as additional evidence, but did not ask for the production of the deponents for cross-examination, rule 46A could not be said to have been violated - *CIT v. Subhash Chander Agarwal* [1988] 172 ITR 166 (All.). Where no opportunity was given by the Assessing Officer to the assessee to lead evidence before making certain additions, action of the first appellate authority to allow the assessee to produce additional evidence and to delete the additions after proper examination was justified - *CIT v. Babulal Jain* [1989] 176 ITR 411 (MP). Where Commissioner (Appeals) was acting on being invited by the assessee, there must be some explanation

produced by him during the course of proceedings before the ¹⁰[Assessing Officer], except in the following circumstances, namely:—

- (a) where the ¹⁰[Assessing Officer] has refused to admit evidence which ought to have been admitted; or
- (b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the ¹⁰[Assessing Officer]; or
- (c) where the appellant was prevented by sufficient cause from producing before the ¹⁰[Assessing Officer] any evidence which is relevant to any ground of appeal; or
- (d) where the ¹⁰[Assessing Officer] has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(2) No evidence shall be admitted under sub-rule (1) unless the ¹¹[Deputy Commissioner (Appeals)] ¹²[or, as the case may be, the Commissioner (Appeals)] records in writing the reasons for its admission.

¹³(3) The ¹⁴[Deputy Commissioner (Appeals)] ¹⁵[or, as the case may be, the Commissioner (Appeals)] shall not take into account any evidence produced under sub-rule (1) unless the ¹⁶[Assessing Officer] has been allowed a reasonable opportunity—

¹⁷Correct from p. 1.350.

to show that the failure to adduce evidence earlier but sought to be adduced in first appeal was not wilful and not unreasonable - *Rai Kumar Srinial v. CIT* [1976] 102 ITR 525 (Cal.). Where repeated opportunities were given to the assessee by the Assessing Officer to produce evidence to prove the genuineness of certain disputed cash credits but the assessee did not produce any evidence, it could not be said that the Commissioner (Appeals) exercised his discretion arbitrarily or capriciously while refusing to admit fresh evidence at the appellate stage - *Ram Prasad Sharma v. CIT* [1979] 119 ITR 867 (All.). In the matter of production of additional evidence, the assessee has to show (i) that the Assessing Officer had refused to admit the evidence, (ii) alternatively, that he was prevented by sufficient cause from producing the evidence before the Assessing Officer, (iii) that the evidence was relevant to the grounds of appeal, and (iv) that the Assessing Officer did not afford him sufficient opportunity in regard thereto - *C. Umni Krishnan v. CIT* [1997] 140 CTR (Ker.) 552. Rule 46A does not deal with powers of AAC to make further enquiry or to direct ITO to make further enquiry - *Smt. Prabhavati S. Shah v. CIT* [1998] 231 ITR 1 (Bom.).

7. See section 295(2)(mm).
8. Substituted for "Appellate Assistant Commissioner" by the IT (Fifth Amndt.) Rules, 1989, w.r.e.f. 1-4-1988.
9. Inserted by the IT (Seventh Amndt.) Rules, 1978, w.e.f. 10-7-1978.
10. Substituted for "Income-tax Officer" by the IT (Fifth Amndt.) Rules, 1989, w.r.e.f. 1-4-1988.
11. Substituted for "Appellate Assistant Commissioner", *ibid*.
12. Inserted by the IT (Seventh Amndt.) Rules, 1978, w.e.f. 10-7-1978.
13. The mere fact that notice of hearing of the appeal was given to the Assessing Officer would not meet the requirements of this sub-rule. When a prayer for additional evidence was made, it was an independent and substantive application seeking a new right. Notice of such application was necessary to the Assessing Officer and he ought to have been afforded both an opportunity to oppose it and to test the additional evidence or counter the effect thereof or produce evidence in rebuttal—*CIT v. Valimohmed Ahmedbhai* [1982] 134 ITR 214 (Guj.). A finding by the Tribunal that an opportunity was given by the AAC to the ITO and thus the provisions of rule 46A were not violated, is a finding of fact, from which no question of law would arise—*CIT v. Subhash Chander Agarwal* [1988] 172 ITR 166 (All.). For details, see *Taxmann's Master Guide to Income-tax Rules*.
14. Substituted for "Appellate Assistant Commissioner" by the IT (Fifth Amndt.) Rules, 1989, w.r.e.f. 1-4-1988.
15. Inserted by the IT (Seventh Amndt.) Rules, 1978, w.e.f. 10-7-1978.
16. Substituted for "Income-tax Officer" by the IT (Fifth Amndt.) Rules, 1989, w.r.e.f. 1-4-1988.

- (a) to examine the evidence or document or to cross-examine the witness produced by the appellant, or
- (b) to produce any evidence or document or any witness in rebuttal of the additional evidence produced by the appellant.

(4) Nothing contained in this rule shall affect the power of the ¹⁷[Deputy Commissioner (Appeals)] ¹⁸[or, as the case may be, the Commissioner (Appeals)] to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal, or for any other substantial cause including the enhancement of the assessment or penalty (whether on his own motion or on the request of the ¹⁹[Assessing Officer]) under clause (a) of sub-section (1) of section 251 or the imposition of penalty under section 271.]

²⁰**Form of appeal and memorandum of cross-objections to Appellate Tribunal.**

47. (1) An appeal under sub-section (1) or sub-section (2) of section 253 to the Appellate Tribunal shall be made in Form No. 36 ²¹[, and where the appeal is made by the assessee, the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in ²²[sub-rule (3)] of rule 45].

(2) A memorandum of cross-objections under sub-section (4) of section 253 to the Appellate Tribunal shall be made in Form No. 36A ²¹[, and where the memorandum of cross-objection is made by the assessee, the form of memorandum of cross-objections, the grounds of cross-objections and the form of verification appended thereto shall be signed by the person specified in ²²[sub-rule (3)] of rule 45].

Form of application for reference to High Court²³.

48. An application under sub-section (1) of section 256 requiring the Appellate Tribunal to refer to the High Court any question of law shall be made in Form No. 37.

²⁴**[PART XA**

ANNUITY DEPOSITS

Notice of demand.

48A. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

Estimate of advance deposit.

48B. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

17. Substituted for "Appellate Assistant Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.
18. Inserted by the IT (Seventh Amdt.) Rules, 1978, w.e.f. 10-7-1978.
19. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.
20. See section 295(2)(m). See also Instruction No. 17/2003, dated 23-12-2003 (Priority hearing of appeal), Instruction No. 12/2004, dated 18-10-2004 (Stay petitions before ITAT), Instruction No. 8/2011, dated 11-8-2011 (Procedure for filing appeal), Circular No. 21/2015, dated 10-12-2015 (Monetary limits for filing appeals), Practice Note dated 1-1-2013 (Regulations regarding hearing of appeals by video conferencing) and Circular dated 21-1-2013 (Policy regarding fixing of new appeals). For details, see Taxmann's Master Guide to Income-tax Rules.
21. Inserted by the IT (Second Amdt.) Rules, 1966.
22. Substituted for "sub-rule (2)" by the IT (Tenth Amdt.) Rules, 2018, w.e.f. 23-10-2018.
23. See Circular No. 3/2018, dated 11-7-2018; Letter F. No. 279/Misc/M-93/2018-ITJ, dated 11-12-2018; Letter F. No. 279/Misc-142/2007-ITJ(Pl.), dated 20-8-2018 and Circular No. 5/2019, dated 5-2-2019 (Monetary limits for filing appeals) and Instruction No. 7/2011, dated 24-5-2011 (Procedure for filing appeal).
24. Inserted by the IT (Fourth Amdt.) Rules, 1964.

Estimate of annuity deposit for the assessment year 1964-65.

48C. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Earlier, it was amended by the IT (Amdt.) Rules, 1967.]

²⁵[PART XB

ACQUISITION OF IMMOVABLE PROPERTIES UNDER CHAPTER XXA²⁶

Jurisdiction of competent authorities.

48D. Where any immovable property is situate within the local limits of the jurisdiction of two or more competent authorities, the competent authority within whose jurisdiction the office of the registering officer who registered the instrument of transfer in respect of such property is situate shall be the competent authority to perform the functions of competent authority under Chapter XXA in relation to such property.

²⁷[Statement to be registered with the competent authority under section 269AB.

48DD. (1) The statement required to be registered with the competent authority under sub-section (2) of section 269AB shall be in Form No. 37EE and shall be signed and verified in the manner indicated therein by each of the parties to the transaction referred to in sub-section (1) of that section or by any of the parties to such transaction acting on behalf of himself and on behalf of the other parties.

(2) The statement in Form No. 37EE shall be made in duplicate and shall be furnished to the competent authority within a period of thirty days from the date on which the transaction referred to in sub-section (1) of section 269AB takes place :

Provided that in relation to any such transaction which has taken place between the 1st day of July, 1982 and the date of the publication of the Income-tax (Eighth Amendment) Rules, 1982 in the Official Gazette, the provisions of this sub-rule shall have effect as if for the words "thirty days", the words "sixty days" had been substituted.

(3) Where the competent authority considers that the statement in Form No. 37EE furnished under sub-section (2) of section 269AB is defective, he may intimate the defect to the parties or, as the case may be, the party furnishing such statement and give them an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the competent authority may, in his discretion allow ; and if the defect is not rectified within the period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this rule, the statement in Form No. 37EE shall be treated as an invalid statement and the provisions of the Act shall apply as if the parties to the transaction had not complied with the provision of section 269AB.

(4) The competent authority shall, within a period of sixty days from the date of the receipt by him of the statement in Form No. 37EE or, as the case may be, from the

25. Inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972.

26. Chapter XXA is inoperative, w.e.f. 30-9-1986.

27. Inserted by the IT (Eighth Amdt.) Rules, 1982, w.e.f. 31-7-1982.

date of the rectification of the defects under sub-rule (3), make an order registering the statement under section 269AB; and if no such order is made by the competent authority within the said period of sixty days, the statement shall be deemed to have been registered under section 269AB as on the date on which the said period of sixty days expires.]

Manner of publication of notice for acquisition.

48E. The substance of the notice under sub-section (1) of section 269D in respect of any immovable property shall be made known in the locality in which such property is situate by proclamation in the language of the District by beat of drum or other customary mode.

Form of appeal to the Appellate Tribunal.

²⁸**48F.** An appeal under section 269G to the Appellate Tribunal shall be in Form No. 37F and the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45.

Statement to be furnished in respect of transfers of immovable property.

48G. The statement required to be furnished to the registering officer under sub-section (1) of section 269P shall be in Form No. 37G, and shall be signed and verified by the transferee in the manner indicated therein.

Form of fortnightly return to be forwarded by registering officer to the competent authority.

48H. The return to be forwarded by the registering officer to the competent authority under clause (b) of sub-section (2) of section 269P shall be in Form No. 37H and be verified in the manner indicated therein.]

²⁹**[PART XC**

**PURCHASE OF IMMOVABLE PROPERTIES
UNDER CHAPTER XXC³⁰**

Rate of interest for determination of discounted value of consideration.

48-I. The rate of interest for determination of the discounted value of consideration under sub-clause (1) or sub-clause (2) of clause (b) of section 269UA shall be eight per cent per annum.

Jurisdiction of appropriate authority.

48J. Where any immovable property is situate within the local limits of the jurisdiction of two or more appropriate authorities, the appropriate authority within whose jurisdiction the office of the registering officer appointed under the Registration Act, 1908 (16 of 1908), who is entitled to register any document of

28. Appeal must necessarily be accompanied by certified copy of acquisition order and hence time taken to obtain that order must be excluded while computing limitation period—*Bafna Bros. v. CIT* [1988] 174 ITR 733 (AP).

29. Inserted by the IT (Seventh Amdt.) Rules, 1986, w.e.f. 1-10-1986.

30. Chapter XXC is inoperative in relation to transfer of any immovable property effected on or after 1-7-2002.

transfer in respect of such property, hereinafter, shall be the appropriate authority to perform the function of appropriate authority under Chapter XXC in relation to such property.

Value of immovable property.

48K. The value of any immovable property for the purposes of sub-section (1) of section 269UC shall be, where the agreement for transfer prescribed under the said sub-section—

- (a) is entered into, on or before the 31st day of July, 1995, the apparent consideration of that property exceeding 10 lakh rupees;
- (b) is entered into, after 31st day of July, 1995, the apparent consideration of that property as specified in column (3) of the Table below :

Sl. No.	Area within which the appropriate authorities shall perform their function	Value of any immovable property for the purposes of sub-section (1) of section 269UC
(1)	(2)	(3)
1.	The area comprised in Greater Bombay as notified <i>vide</i> SO 480(E), dated 7th August, 1986	The apparent consideration of the property exceeding Rs. 75 lakhs.
2.	The area comprised in the Union territory of Delhi as notified <i>vide</i> SO 480(E), dated 7th August, 1986	The apparent consideration of the property exceeding Rs. 50 lakhs.
3.	The area comprised in Calcutta Metropolitan Area and Madras Metropolitan Planning Area as notified <i>vide</i> SO 480(E), dated 7th August, 1986	The apparent consideration of the property exceeding Rs. 25 lakhs.
4.	The areas comprised in Bangalore Metropolitan Region and the areas declared as Ahmedabad Urban Development Area and the areas comprised in the city of Ahmedabad as notified <i>vide</i> SO 835(E), dated 21st September, 1987	The apparent consideration of the property exceeding Rs. 25 lakhs.
5.	The areas comprised in the city of Pune as notified <i>vide</i> SO 339(E), dated 8th May, 1989	The apparent consideration of the property exceeding Rs. 25 lakhs.
6.	The areas other than those mentioned at Sl. No. 5 above and notified <i>vide</i> SO 339(E), dated 8th May, 1989; SO 53(E), dated 19th January, 1990 and SO 180(E), dated 14th March, 1991 ³²	The apparent consideration of the property exceeding Rs. 20 lakhs.]

31. Substituted by the IT (Tenth Amdt.) Rules, 1995, w.e.f. 1-8-1995.

32. See notified areas in stated notifications, see Taxmann's Master Guide to Income-tax Rules.

Statement to be furnished under section 269UC(3).

48L. (1) The statement required to be furnished to the appropriate authority under sub-section (3) of section 269UC shall be in Form No. 37-I and shall be signed and verified in the manner indicated therein by each of the parties to the transfer referred to in sub-section (1) of that section or by any of the parties to such transfer acting on behalf of himself and on behalf of the other parties.

"(2) The statement in Form No. 37-I shall be furnished, in duplicate, to the appropriate authority—

- (a) before the 30th day of October, 1987, in a case where the agreement for transfer is entered into before the coming into force of Chapter XXC in the areas comprised in the "Bangalore Metropolitan Region", and "Ahmedabad Urban Development Area" and the areas comprised in the city of Ahmedabad, as referred to in the notification of the Government of India in the Department of Revenue No. SO 835(E), dated 21-9-1987³³;
- (b) before the expiry of 15 days from the date on which the provisions of Chapter XXC come into force in any areas, other than the areas referred to in clause (a) where the agreement for transfer is entered into before such date; and
- (c) before the expiry of 15 days from the date on which the agreement for transfer is entered into, in cases not covered by clauses (a) and (b).]

PART XI**AUTHORISED REPRESENTATIVES****Definitions.**

49. In this Part—

- ³⁵(a) "authorised income-tax practitioner" means any authorised representative as defined in clause (v) or clause (vi) or clause (vii) of sub-section (2) of section 288;

33. Substituted by the IT (Seventh Amdt.) Rules, 1987.

34. Refer [1987] 168 ITR (St.) 155.

35. An authorised representative can be only an individual, and not a firm or legal body. Two or more individuals qualified to be authorised representatives can file a joint power of attorney or vakalatnama - *Notification No. 161-AD (AT)/70, dated 30-12-1971*. While filing power of attorney in favour of a firm, the constitution of the firm must also be intimated - *Notification No. F. 161-AD(AT)/70, dated 8-5-1973*. Persons not authorised to appear under section 288 may be permitted to produce books of account or documents, or to act as messengers for delivery of letters, etc. - *Circular No. 19-D (XL-62) of 1964, dated 3-7-1964*. Person qualified under 1922 Act but not under 1961 Act cannot appear in proceedings under 1961 Act - *Circular No. 18-D (XL-61), dated 3-7-1964*. Brother-in-law/Father-in-law/part-time accountant of assessee can appear as authorised representative, but not an employee who merely holds a power of attorney - *Letter F.No. 21/4/63-IT, dated 14-6-1963*. Stamp duty is leviable on authorisation to be produced before Assessing Officer to represent an assessee - *Saju K. Abraham v. ITO* [2005] 142 Taxman 345 (Kar.). In *Samagra Vikas Mahila Samiti v. CIT* [2013] 35 taxmann.com 390/59 SOT 293 (Agra - Trib.) it was held that a retired Additional Commissioner cannot claim that even without any certificate of registration as ITP he could practice before income-tax authorities and Tribunal; mere possession of educational qualification without undergoing departmental examination conducted by Board itself was not sufficient to have any right to practice as ITP. For details, see Taxmann's Master Guide to Income-tax Rules.

- (b) "prescribed authority" means the prescribed authority referred to in rule 52;
- (c) "register" means the register of income-tax practitioners referred to in rule 53.

³⁶[Accountancy examinations recognised.]

50. The following accountancy examinations are recognised for the purpose of clause (v) of sub-section (2) of section 288, namely :—

- (1) The National Diploma in Commerce awarded by the All-India Council for Technical Education under the Ministry of Education, New Delhi, provided the diploma-holder has taken Advanced Accountancy and Auditing as an elective subject for the Diploma Examination.
- (2) Government Diploma in Company Secretaryship awarded by the Department of Company Affairs, under the Ministry of Industrial Development and Company Affairs, New Delhi.]
- ³⁷[(2A) Final Examination of the Institute of Company Secretaries of India, New Delhi.]
- ³⁸[(3) The Final Examination of the Institute of Cost and Works Accountants of India constituted under the Cost and Works Accountants Act, 1959 (23 of 1959).]
- ³⁹[(4) The Departmental Examinations conducted by or on behalf of the Central Board of Direct Taxes for ⁴⁰[Assessing Officers], Class I or Group 'A', Probationers, or for ⁴⁰[Assessing Officers], Class II or Group 'B', Probationers, or for promotion to the post of ⁴⁰[Assessing Officers], Class II or Group 'B', as the case may be.]
- ⁴¹[(5) The Revenue Audit Examination for Section Officers conducted by the Office of the Comptroller and Auditor General of India.]

Educational qualifications prescribed.

51. The following educational qualifications are prescribed for the purpose of clause (vi) of sub-section (2) of section 288 :—

⁴²A degree in Commerce or Law conferred by any of the following Universities:—

36. Substituted by the IT (Second Amdt.) Rules, 1968.
37. Inserted by the IT (Fourth Amdt.) Rules, 1979, w.e.f. 21-7-1979.
38. Inserted by the IT (Second Amdt.) Rules, 1970.
39. Inserted by the IT (Eleventh Amdt.) Rules, 1986, w.e.f. 12-12-1986.
40. Substituted for "Income-tax Officers" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.
41. Inserted by the IT (Second Amdt.) Rules, 1991, w.e.f. 11-1-1991.
42. Commercial University Ltd., Delhi, is not a university incorporated by any law, and hence, a degree awarded by that institution cannot permit the holder to appear as authorised representative—*Mohan Lal Gumber v. Secretary, Board of Direct Taxes* [1973] 90 ITR 410 (Punj. & Har.)/*Moti Lal v. Secretary, CBDT* [1978] 113 ITR 461 (Punj. & Har.). No distinction need be made between a degree of Law (Academic) and a degree of Law (Professional)—*Taxation Bar Association v. CIT* [1983] 141 ITR 82 (Punj. & Har.). For details, see Taxmann's Master Guide to Income-tax Rules.

- (I) *Indian Universities :*
⁴¹Any Indian University incorporated by any law for the time being in force.
- (II) *Rangoon University.*
- (III) *English and Welsh Universities :*
 The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales.
- (IV) *Scottish Universities :*
 The Universities of Aberdeen, Edinburgh, Glasgow and St. Andrews.
- (V) *Irish Universities :*
 The Universities of Dublin (Trinity College), the Queen's University, Belfast and the National University of Dublin.
- (VI) *Pakistan Universities:*
 Any Pakistan University incorporated by any law for the time being in force.

⁴⁴**[Nature of business relationship.**

51A. For the purposes of sub-clause (viii) of *Explanation* below sub-section (2) of section 288, the term "business relationship" shall be construed as any transaction entered into for a commercial purpose, other than,—

- (i) commercial transactions which are in the nature of professional services permitted to be rendered by an auditor or audit firm under the Act and the Chartered Accountants Act, 1949 (38 of 1949) and the rules or the regulations made under those Acts;
- (ii) commercial transactions which are in the ordinary course of business of the company at arm's length price – like sale of products or services to the auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications, airlines, hospitals, hotels and such other similar businesses.]

⁴⁵**Prescribed authority for section 288(5)(b).**

52. For the purposes of clause (b) of sub-section (5) of section 288, the "prescribed authority" shall be the ⁴⁶[Chief Commissioner or Commissioner] having jurisdiction over the case in the proceedings connected with which the income-tax practitioner is alleged to be guilty of misconduct.

⁴⁷**Register of income-tax practitioners.**

53. Every ⁴⁶[Chief Commissioner or Commissioner] shall maintain in Form No. 38, a register of authorised income-tax practitioners to whom certificates of registration have been issued by him under rule 55.

⁴⁷**Application for registration.**

54. (1) Any person who wishes to have his name entered as an authorised income-tax practitioner in the register shall apply to the ⁴⁶[Chief Commissioner or

43. Osmania University, Mysore University, Travancore University, University of Rajputana and Jammu & Kashmir University are deemed as falling under this category - Circular No. 2 [C.No. 21(25)-IT/50], dated 23-2-1951.

44. Inserted by the IT (Ninth Amdt.) Rules, 2015, w.e.f. 24-6-2015.

45. See section 295(2)(g) and (n).

46. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

47. See section 295(2)(n).

Commissioner] within whose area of jurisdiction he has been practising. The application shall be made in Form No. 39 and shall be accompanied by documentary evidence regarding his eligibility for income-tax practice under clause (v) or clause (vi) ⁴⁸[or clause (via)] or clause (vi) of sub-section (2) of section 288.

(2) The applicant shall also furnish such further information as the ⁴⁹[Chief Commissioner or Commissioner] may require in connection with the disposal of the application.

⁵⁰Certificate of registration.

55. If the ⁵¹[Chief Commissioner or Commissioner] is satisfied that the applicant fulfils the requirements of clause (v) or clause (vi) ⁵²[or clause (via)] or clause (vi) of sub-section (2) of section 288 and has been practising before income-tax authorities for not less than one year on the date of the application, the ⁵¹[Chief Commissioner or Commissioner] shall enter the name of the applicant in the register and issue him a certificate of registration in Form No. 40.

⁵³Cancellation of certificate.

56. (1) A certificate of registration shall stand cancelled when the name of the holder of the certificate is removed from the register under these rules.

(2) When the name of the holder of the certificate is removed from the register, the ⁵¹[Chief Commissioner or Commissioner] maintaining the register shall notify the fact of such removal to the authorised income-tax practitioner concerned and also to other ⁵⁴[Chief Commissioners or Commissioners] of Income-tax (who shall notify the fact of the removal to the income-tax authorities subordinate to them) and to the Appellate Tribunal.

⁵⁵Cancellation of certificate obtained by misrepresentation.

57. (1) If at any time the ⁵⁶[Chief Commissioner or Commissioner] is satisfied that the certificate of registration was obtained by misrepresentation as to an essential fact, he shall order the removal of the name of the income-tax practitioner from the register.

(2) No order under sub-rule (1) shall be passed unless the authorised income-tax practitioner has been given a reasonable opportunity of being heard in regard to the proposed removal.

⁵⁵Removal of name of authorised income-tax practitioner who is insolvent or on whom penalty has been imposed.

58. During the period for which a person whose name has been entered in the register is in the circumstances referred to in clause (b) or clause (c) of sub-section (4) of section 288 disqualified to represent an assessee, his name shall be

48. Inserted by the IT (Fourth Amdt.) Rules, 1979, w.e.f. 21-7-1979.

49. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

50. See section 295(2)(n).

51. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

52. Inserted by the IT (Fourth Amdt.) Rules, 1979, w.e.f. 21-7-1979.

53. See section 295(2)(n).

Where the licence was granted to the petitioner under a mistake of law, the Commissioner can later rectify the mistake by cancelling the licence, even though the petitioner might not have concealed any fact while applying for the licence—*Moti Lal v. Secretary, CBDT* [1978] 113 ITR 461 (Punj. & Har.).

54. Substituted for "Commissioners" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

55. See section 295(2)(n). No prior opportunity of hearing is contemplated before issuing charge-sheet—*N.K. Mehaet v. CIT* [1994] 76 Taxman 319 (Mad.). For details, see *Taxmann's Master Guide to Income-tax Rules*.

56. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

removed from the register and shall be re-entered only after the completion of the aforesaid period.

⁵⁷Prescribed authority to order an inquiry.

59. No order directing that an authorised income-tax practitioner shall be disqualified to represent an assessee shall be passed under clause (b) of sub-section (5) of section 288 except after an inquiry held as far as may be in the manner hereinafter provided in rules 60 to 65.

⁵⁷Charge-sheet.

60. Where the prescribed authority on the basis of information in its possession is of the opinion that *prima facie* an authorised income-tax practitioner is guilty of misconduct in connection with any income-tax proceedings, it shall frame definite charges against the income-tax practitioner and shall communicate them in writing to him together with a statement of the allegations in support of the charges. The authorised income-tax practitioner shall be required to submit within such time as may be specified by the prescribed authority a written statement of his defence and also to state whether he desires to be heard in person.

⁵⁷Inquiry Officer.

61. The prescribed authority shall, unless it proposes to conduct the inquiry itself, appoint an Inquiry Officer, not below the rank of an Assistant Commissioner of Income-tax to conduct the inquiry and shall inform the authorised income-tax practitioner of the appointment of such an Inquiry Officer.

⁵⁸Proceedings before Inquiry Officer.

62. (1) On receipt of the written statement of defence, or if no such statement is received within the time specified, the Inquiry Officer shall inquire into such of the charges as are not admitted.

(2) The Inquiry Officer shall, in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The authorised income-tax practitioner shall be entitled to cross-examine witnesses examined in support of the charges and to give evidence in person. If the Inquiry Officer declines to examine any witness on the ground that his evidence is not relevant or material, he shall record his reasons in writing.

(3) At the conclusion of the inquiry, the Inquiry Officer shall prepare a report of the inquiry, recording his findings on each of the charges together with the reasons therefor.

⁵⁸Order of the prescribed authority.

63. (1) The prescribed authority shall consider the report of the Inquiry Officer and record its findings on each charge and, where it does not agree with the findings of the Inquiry Officer, shall record the reasons for its disagreement.

(2) If the prescribed authority is satisfied on the basis of its findings on the Inquiry Officer's report that the authorised income-tax practitioner is guilty of misconduct in connection with any income-tax proceedings, it shall pass an order directing that

^{57.} See section 295(2)(n). No prior opportunity of hearing is contemplated before issuing charge-sheet—*N.K. Mehaet v. CIT* [1994] 76 Taxman 319 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.

^{58.} See section 295(2)(n).

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the authorised income-tax practitioner shall be disqualified to represent an assessee under sub-section (1) of section 288 for such period as it may determine and his name shall be removed from the register for that period.

(3) The prescribed authority shall while communicating its order under sub-rule (2) furnish to the authorised income-tax practitioner a copy of the report of the Inquiry Officer and a statement of its findings together with the reasons for disagreement, if any, with the findings of the Inquiry Officer.

Procedure if no Inquiry Officer appointed.

64. The procedure prescribed in the aforesaid rules shall *mutatis mutandis* apply when the prescribed authority itself conducts the inquiry without appointing an Inquiry Officer.

Change of Inquiry Officer.

65. If a change of an Inquiry Officer becomes necessary in the midst of an inquiry, the prescribed authority may appoint any other Inquiry Officer not below the rank of an Assistant Commissioner of Income-tax and the proceedings shall be continued by the succeeding Inquiry Officer from the stage at which they were left by his predecessor.

Powers of prescribed authority and Inquiry Officer.

66. For the purposes of any proceedings under rules 59 to 65, the prescribed authority and the Inquiry Officer shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters:—

- (a) discovery and inspection;
- (b) enforcing the attendance of any person including any officer of a banking company and examining him on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

PART XII

RECOGNISED PROVIDENT FUNDS

[Investment of fund moneys.]

67. (1) All moneys contributed to a provident fund (whether by the employer or by the employees) after the 31st day of October, 1974, or transferred after that date from the individual account of an employee in any recognised provident fund maintained by his former employer or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India ⁶³[or in a current account or a Savings Bank Account with any scheduled

59. See section 295(2)(n).

60. See Part A of the Fourth Schedule.

61. Substituted by the IT (Fourth Amdt.) Rules, 1974, w.e.f. 1-11-1974.

62. Rule 67(1) and (2) apply to recognised provident funds and do not apply to gratuity funds - *Surinder Arora v. Durga Das* [1987] 34 Taxman 339 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

63. Substituted for "or in a current account with any scheduled bank" by the IT (Third Amdt.) Rules, 1986, w.e.f. 1-4-1986.

bank; and to the extent such moneys as are not so deposited (such moneys as are not so deposited being hereafter in this rule referred to as investible moneys) shall be invested in the manner specified in sub-rule (2).

Explanation.—For the purposes of this rule and rules 85 and 101,—

- (i) moneys received after the 31st day of October, 1974, on transfer, maturity or realisation of any security or deposit forming part of a fund or by withdrawal from any account in a bank (including a Post Office Savings Bank Account) shall be deemed to be moneys accruing to the fund after that date;
- (ii) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), ^{or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980),} or any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).

^{or}(2) The manner of investment referred to in sub-rule (1) shall be in accordance with the following Table, namely:—

64. Now repealed.

65. Inserted by the IT (Sixth Amdt.) Rules, 1993, w.e.f. 1-4-1993.

66. Substituted by the IT (Thirty-sixth Amdt.) Rules, 2016, w.r.e.f. 1-4-2016. Prior to its substitution, sub-rule (2), as amended by the IT (Ninth Amdt.) Rules, 1978, IT (Eighth Amdt.) Rules, 1979, IT (Ninth Amdt.) Rules, 1980, IT (Ninth Amdt.) Rules, 1985, IT (Third Amdt.) Rules, 1986, w.e.f. 1-4-1986, IT (Sixth Amdt.) Rules, 1993, w.e.f. 1-4-1993, IT (Thirteenth Amdt.) Rules, 1994, w.r.e.f. 1-4-1994, IT (Twentieth Amdt.) Rules, 1995, w.r.e.f. 1-4-1995, IT (Seventh Amdt.) Rules, 1996, w.r.e.f. 1-10-1996, IT (Seventh Amdt.) Rules, 1997, w.r.e.f. 1-4-1997, IT (Sixth Amdt.) Rules, 1999, w.r.e.f. 1-4-1998, IT (Twenty-fourth Amdt.) Rules, 2000, w.r.e.f. 1-4-1999, IT (Tenth Amdt.) Rules, 2003, w.r.e.f. 1-4-2003, IT (Twenty-third Amdt.) Rules, 2005, w.r.e.f. 1-4-2005 and IT (Fifth Amdt.) Rules, 2009, w.e.f. 1-4-2009, read as under:

(2) The manner of investment referred to in sub-rule (1) shall be in accordance with the following Table, namely:—

TABLE
INVESTMENT PATTERN

Sl No.	Investment	Maximum percentage amount to be invested in items referred to in column (2)
(1)	(2)	(3)
(i)	(a) in Government securities; (b) other securities, as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956, the principal whereof and interest whereon is fully and uncondition-	Fifty-five per cent

(Contd. from p. 1368)

SL No.	Investment	Maximum percentage amount to be invested in items referred to in column (2)
(1)	(2)	(3)
	ully guaranteed by the Central Government, or any State Government, except those covered under (ii)(a) below; and/or (c) units of mutual funds set up as dedicated funds for investment in Government securities and regulated by the Securities and Exchange Board of India	
(ii)	(a) Debt securities with maturity of not less than three years tenure issued by Bodies Corporate, including banks and public financial institutions; (b) Term Deposit Receipts of not less than one year duration issued by scheduled commercial banks fulfilling all the following criteria: (i) it has made profit continuously for immediately preceding three years; (ii) it is maintaining a minimum Capital to Risk Weighted Assets Ratio of 9 per cent; (iii) it is having net non-performing assets of not more than 2 per cent of the net advances; and (iv) it is having a minimum net worth of not less than rupees 200 crores; and/or (c) Rupee Bonds having an outstanding maturity of at least three years issued by institutions of the International Bank for Reconstruction and Development, International Finance Corporation and the Asian Development Bank	Forty per cent
(iii)	Money market instruments including units of money market mutual funds	Five per cent
(iv)	Shares of companies on which derivatives are available in Bombay Stock Exchange or National Stock Exchange or equity linked schemes of mutual funds regulated by the Securities and Exchange Board of India	Fifteen per cent :

Provided that any moneys received on the maturity of investments made prior to the 1st day of April, 2009, reduced by obligatory outgoings, shall be invested in accordance with the manner of investment specified in this sub-rule :

Provided further that the investment pattern specified in this sub-rule may be achieved by the end of the previous year; so however that at no time during the year investment in any category should exceed by more than ten per cent of the limit prescribed :

Provided also that, irrespective of the proportion of investments stated in clause (i) of the said Table, exposure of a trust to any individual mutual fund, under sub-clause (c) of the said clause, which has been set up as a dedicated fund for investment in Government securities, shall not exceed five per cent of its total portfolio at any point of time :

(Contd. on p. 1370)

TABLE
INVESTMENT PATTERN

Sl. No.	Investment	Percentage amount to be invested in items referred to in column (2)
(1)	(2)	(3)
I.	Government Securities and Related Investments: (a) Government Securities ²⁷ ; (b) other securities, as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956, the principal whereof and interest whereon is fully and unconditionally guaranteed by the Central Government, or any State Government; and/or (c) units of mutual funds set up as dedicated funds for investment in Govt. securities and regulated by the Securities and Exchange Board of India.	Minimum forty-five per cent and upto fifty per cent
II.	Debt Instruments and Related Investments: (a) Listed (or proposed to be listed in case of fresh issue) debt securities issued by bodies corporate, including banks and public financial institutions, which have a minimum residual maturity period of three years from the date of investment; (b) Basel III Tier-I bonds issued by scheduled commercial banks under the guidelines issued by the Reserve Bank of India;	Minimum thirty-five per cent and upto forty-five per cent

(Contd. from p. 1.369)

Provided also that the trustees shall invest at least 75 per cent of the amount invested under sub-clause (a) of clause (ii) of the said Table in instruments having an investment grade rating from at least one credit rating agency registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992):

Provided also that in the event of the rating of any instruments mentioned in this sub-rule for being rated and their rating falling below the investment grade, as certified by one credit rating agencies registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), then the option of exit from such instruments can be exercised and the released funds shall be invested in accordance with the manner provided in the Table of this sub-rule:

Provided also that the turnover ratio, being the value of securities traded in the year divided by the average value of the portfolio at beginning of the year and the end of the year, should not exceed two.

Explanation 1.—The manner of investment specified in this sub-rule shall apply to the aggregate amount of investible moneys with the fund in the previous year.

Explanation 2.—For the purposes of this sub-rule,—

- (i) the expression "Government securities" shall have the meaning assigned to it in clause (b) of section 2 of the Securities Contracts (Regulation) Act, 1956;
- (ii) the expression "public financial institutions" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);

(Contd. on p. 1.371)

Sl. No.	Investment	Percentage amount to be invested in items referred to in column (2)
(1)	(2)	(3)
	<p>(c) Rupee Bonds having an outstanding maturity of at least three years issued by institutions of the International Bank for Reconstruction and Development, International Finance Corporation and Asian Development Bank;</p> <p>(d) Term Deposit receipts of not less than one year duration issued by scheduled commercial banks, which satisfy the following conditions on the basis of published annual reports for the most recent years, as required to have been published by them under any law for the time being in force:</p> <ul style="list-style-type: none"> (i) having declared profit in the immediately preceding three financial years; (ii) maintaining a minimum Capital to Risk Weighted Assets Ratio of nine per cent or mandated by prevailing norms of Reserve Bank of India, whichever is higher; (iii) having net non-performing assets of not more than four per cent of the net advances; and (iv) having a minimum net worth of not less than two hundred crore rupees and/or <p>(e) Units of debt mutual funds as regulated by Securities and Exchange Board of India;</p> <p>(f) The following infrastructure related debt instruments;</p> <ul style="list-style-type: none"> (i) Listed (or proposed to be listed in case of fresh issue) debt securities issued by body corporates engaged mainly in the business of development or operation and maintenance of infrastructure, or development, construction or finance of low cost housing and including securities issued by Indian Railways or any of the body corporates in which it has majority shareholding, or any Authority of the Government which is not a body corporate and has been formed mainly with the purpose of promoting development of infrastructure; <p>Provided that any structural obligation undertaken or letter of comfort issued by the Central Govern-</p>	

(Contd. from p. 1.370)

- (iii) the expression "public sector company" shall have the meaning assigned to it in clause (36A) of section 2 of the Income-tax Act;
- (iv) the expression "public sector bank" shall have the meaning assigned to it in clause (23D) of section 10 of the Income-tax Act; and
- (v) the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.

67. For definition of term "Government security/securities", see Appendix.

Sl. No.	Investment	Percentage amount to be invested in items referred to in column(2)
(1)	(2)	(3)
	<p>ment, Indian Railways or any Authority of the Central Government, for any security issued by a body corporate engaged in the business of infrastructure, which notwithstanding the terms in the letter of comfort or the obligation undertaken, fails to enable its inclusion as security covered under sub-clause (b) of clause (i), shall be treated as an eligible security under this sub-category:</p> <p>(ii) Infrastructure and affordable housing Bonds issued by any scheduled commercial bank, which meets the conditions specified in sub-clause (d) of clause (ii);</p> <p>(iii) Listed (or proposed to be listed in case of fresh issue) securities issued by Infrastructure debt funds operating as a Non-Banking Financial Company and regulated by the Reserve Bank of India;</p> <p>(iv) Listed (or proposed to be listed in case of fresh issue) units issued by Infrastructure Debt Funds operating as a Mutual Fund and regulated by Securities and Exchange Board of India.</p>	
iii.	<p>Short-term Debt Instruments and Related Investments</p> <p>(a) Money market instruments;</p> <p>(b) Units of liquid mutual funds regulated by the Securities and Exchange Board of India;</p> <p>(c) Term Deposit Receipts of up to one year duration issued by such scheduled commercial banks which satisfy all the conditions mentioned in sub-clause (d) of clause (ii).</p>	Upto five per cent
iv.	<p>Equities and Related Investments</p> <p>(a) Shares of body corporates listed on Bombay Stock Exchange or National Stock Exchange, which have,—</p> <p>(i) Market capitalization of not less than five thousand crore rupees as on the date of investment; and</p> <p>(ii) Derivatives with the shares as underlying, traded in either of the two stock exchanges; and/or</p> <p>(b) Units of mutual funds regulated by the Securities and Exchange Board of India, which have minimum sixty five per cent of their investment in shares of body corporates listed on Bombay Stock Exchange or National Stock Exchange;</p> <p>(c) Exchange Traded Funds/Index Funds regulated by the Securities and Exchange Board of India that replicate the portfolio of either Bombay Stock Exchange Sensex Index or National Stock Exchange Nifty fifty Index;</p> <p>(d) Exchange Traded Funds issued by Securities and Exchange Board of India regulated mutual funds con-</p>	Minimum five per cent and upto fifteen per cent

Sl. No.	Investment	Percentage amount to be invested in items referred to in column(2)
(1)	(2)	(3)
	<p>structured specifically for disinvestment of shareholding of the Government of India in body corporates;</p> <p>(e) Exchange traded derivatives regulated by the Securities and Exchange Board of India having the underlying of any permissible listed stock or any of the permissible indices, with the sole purpose of hedging.</p>	
v.	<p>Asset Backed, Trust Structured and Miscellaneous Investments</p> <p>(a) Mortgage based Securities or Residential mortgage based securities;</p> <p>(b) Units issued by Real Estate Investment Trusts regulated by the Securities and Exchange Board of India;</p> <p>(c) Asset Backed Securities regulated by the Securities and Exchange Board of India;</p> <p>(d) Units of Infrastructure Investment Trusts regulated by the Securities and Exchange Board of India;</p>	Upto five per cent

Provided that the portfolio invested under sub-clause (b) of clause (i) of the said Table shall not be in excess of ten per cent of the total portfolio of the fund:

Provided further that, irrespective of the proportion of investments specified in clause (i) of the said Table, exposure of a trust to any Individual Mutual Fund, under sub-clause (c) of the said clause, which has been set up as a dedicated fund for investment in Government Securities, shall not exceed five per cent of its total portfolio at any point of time and fresh investments made in them shall not exceed five per cent of the fresh accretions in the year:

Provided also that the investment stated in sub-clause (b) of clause (ii) shall be made only in such Tier-I bonds which are proposed to be listed in case of initial offering of the bonds and if such Tier-I bonds are listed and regularly traded, investment shall be made in such bonds of a Scheduled Commercial Bank from the Secondary Market:

Provided also that the total portfolio invested, at any time, in Tier I bonds referred to sub-clause (b) of clause (ii) of the said Table shall not be more than two per cent of the total portfolio of the fund; and

- (i) no investment in initial offerings shall exceed twenty per cent of the initial offering,
- (ii) the aggregate value of Tier I bonds of any particular bank held by the fund at any point of time, shall not exceed twenty per cent of such bonds issued by that Bank:

Provided also that for sub-clause (c) of clause (ii) of the said Table, a single rating of ^{67a}[A] or above by a domestic or international rating agency will be acceptable:

67a. Substituted for "AA" by the IT (Twenty-third Amdt.) Rules, 2020, w.e.f. 1-4-2021.

Provided also that the debt securities covered under sub-clause (b) of clause (i) of the said Table shall be excluded from the securities covered under clause (ii) of the said Table;

Provided also that in sub-clause (e) of clause (ii), fresh investment in Debt Mutual Funds shall not be more than five per cent of the fresh accretions invested in the year and the portfolio invested in them shall not exceed five per cent of the total portfolio of the fund at any point in time;

Provided also that the investment under sub-clauses (a), (b) and items (i) to (iv) of sub-clause (f) of clause (ii) of the said Table shall be made only in such securities which have minimum ^{67b}[A] rating or equivalent in the applicable rating scale from at least two credit rating agencies registered with Securities and Exchange Board of India under Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999;

Provided also that in case of item (iii) of the sub-clause (f) of clause (ii) of the said Table the ratings shall relate to the Non-Banking Financial Company and for item (iv) of the sub-clause (f) of clause (ii) of the said Table the ratings shall relate to the investment in eligible securities rated above investment grade of the scheme of the fund;

Provided also that if the securities or entities have been rated by more than two rating agencies, the two lowest of all the ratings shall be considered;

Provided also that investments under sub-clauses (a), (b) and sub-clause (f) of clause (ii) of the said Table requiring a minimum ^{67b}[A] rating, shall be permissible in securities having investment grade rating below ^{67b}[A] in case the risk of default for such securities is fully covered with Credit Default Swaps issued under Guidelines of the Reserve Bank of India and purchased along with the underlying securities and purchase amount of such Swaps shall be considered to be investment made under this clause;

Provided also that investment stated in sub-clause (a) of clause (iii) of the said Table in paper issued by body corporates shall be made only in such instruments which have minimum rating of A1 + by at least two credit rating agencies registered with the Securities and Exchange Board of India and if paper has been rated by more than two rating agencies, the two lowest of the ratings shall be considered;

Provided also that investment in sub-clause (a) of clause (iii) of the said Table in Certificates of Deposit of up to one year duration issued by scheduled commercial banks will require the bank to satisfy all conditions mentioned in sub-clause (d) of clause (ii) of the said Table;

Provided also that the aggregate portfolio invested in such mutual funds stated in sub-clause (b) of clause (iv) of the said Table shall not be in excess of five per cent of the total portfolio of the fund at any point in time and the fresh investment in such mutual funds shall not be in excess of five per cent of the fresh accretions invested in the year;

Provided also that the portfolio invested in derivatives in terms of contract value shall not be in excess of five per cent of the total portfolio invested in sub-clauses (a) to (d) of clause (iv) of the said Table;

67b. Substituted for "AA" by the IT (Twenty-third Amdt.) Rules, 2020, w.e.f. 1-4-2021.

Provided also that investment under clause (v) of the said Table shall only be in listed instruments or fresh issues that are proposed to be listed:

Provided also that investment under clause (v) of the said Table shall be made only in such securities which have minimum AA or equivalent rating in the applicable rating scale from at least two credit rating agencies registered by the Securities and Exchange Board of India under Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999;

Provided also that in case of the sub-clauses (b) and (d) of the clause (v) of the said Table, the ratings shall relate to the rating of the sponsor entity floating the trust:

Provided also that if the securities/entities have been rated by more than two rating agencies, the two lowest of the ratings shall be considered:

Provided also that any proceeds arising out of exercise of put option, tenure or asset switch or trade of any asset before maturity can be invested in any of the permissible categories in the manner that at any given point of time the percentage of assets under that category shall not exceed the maximum limit prescribed for that category and also shall not exceed the maximum limit prescribed for the sub-categories, if any. However, asset switch because of any Reserve Bank of India mandated Government debt switch would not be covered under this restriction:

Provided also that fresh accretions to the fund shall be invested in the permissible categories specified in this investment pattern in a manner consistent with specified maximum permissible percentage amounts to be invested in each such investment category, while also complying with such other restrictions as made applicable for various sub-categories of the permissible investments:

Provided also that the turnover ratio, being the value of securities traded in the year divided by the average value of the portfolio at the beginning of the year and at the end of the year, should not exceed two:

Provided also that in the event of the rating of any instrument mentioned in the Table for being rated and their rating falling below the investment grade, as confirmed by One Credit Rating Agency registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the option of exit shall be considered and exercised, as appropriate, in a manner that is in the best interest of the subscribers and released fund shall be invested in accordance with the manner provided in the Table:

Provided also that if the fund has engaged services of professional fund manager or asset managers for management of its assets, payment to whom is made on the basis of the value of each transaction, the value of funds invested by them in any mutual fund mentioned in any of the clauses of the Table or Exchange Traded Funds or Index Funds shall be reduced before computing the payment due to them.

Explanation 1.—The manner of investment specified in this sub-rule shall apply to the aggregate amount of investible moneys with the fund in the previous year.

Explanation 2.—For the purposes of this sub-rule,—

- (i) Fresh accretions to the funds shall be the sum of un-invested funds from the past and receipts like contributions to the funds, dividend, interest, commission, amount received on the maturity of investment made prior

to the 1st day of April, 2015 etc., as reduced by obligatory outgo during the financial year.

- (vi) the expression "Government securities"⁶⁸ shall have the meaning assigned to it in clause (b) of section 2 of the Securities Contracts (Regulation) Act, 1956;
- (vii) the expression "Infrastructure" for the purposes of sub-clause (h) of clause (i) of the Table shall have the meaning as referred to in Notification dated 2nd March, 2015 (F. No. 11/14/2013-PR) of Department of Financial Services;
- (viii) the expression "public financial institutions"⁶⁹ shall have the meaning assigned to it under section 2 of the Companies Act, 2013 (1 of 2013);
- (ix) the expression "public sector company"⁷⁰ shall have the meaning assigned to it in clause (36A) of section 2 of the Income-tax Act;
- (x) the expression "securities"⁷⁰ shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.]

[Nomination.

67A. (1) An employee may be allowed by the trustees of the provident fund to make a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the provident fund in the event of his death, before that amount becomes payable or, having become payable, has not been paid. Such a nomination shall be made in Form No. 40A or in a form as near thereto as may be necessary.

(2) If an employee nominates more than one person under sub-rule (1), he shall, in his nomination, specify the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may stand to his credit in the provident fund.

(3) Where an employee has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by an employee in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the employee has no family, the nomination may be in favour of any person or persons, but if the employee subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the employee may be allowed to make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made by an employee may, at any time, be modified by him after giving a written notice to the trustees of his intention of doing so in Form No. 40B or in a form as near thereto as may be. If the nominee predeceases the employee,

68. For definition of term "Government security/securities", see **Appendix**.

69. For definitions of "public financial institutions", "public sector company" and "securities", see **Appendix**.

70. Inserted by the IT (Second Amdt.) Rules, 1971.

For clarification on nomination, see Circular No. 110, dated 13-4-1973. For details, see **Taxmann's Master Guide to Income-tax Rules**.

the interest of the nominee shall revert to the employee, who may thereupon make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the trustees.

Explanation.—For the purposes of this rule, "family" means the employee's spouse, legitimate children, step-children ⁷¹[, deceased son's widow, deceased son's legitimate children, deceased son's step-children] and dependent parents ⁷²[^{***}].]

Circumstances in which withdrawals may be permitted.

68. (1) Withdrawals by employees may be allowed by the trustees of the provident fund in the following circumstances:—

- (a) to pay expenses incurred in connection with the illness of the employee or a member of his family;
- ⁷³[(aa) meeting the cost of higher education, including, where necessary, the travelling expenses of any child of the employee actually dependent on him in the following cases, namely :—
 - (i) education outside India for academic, technical, professional or vocational courses beyond the ⁷⁴[matriculation] stage, and
 - (ii) any medical, engineering or other technical or specialised course in India beyond the ⁷⁵[matriculation stage];]
- (b) to pay for the cost of passage to a place out of India of an employee or any member of his family;
- (c) to pay expenses in connection with marriages, funerals or ceremonies, which by the religion of the employee it is incumbent upon him to perform;
- ⁷⁶[(d) to meet the expenditure on building a house, or purchasing a site ⁷⁷[or a house] or a house and a site and, in the case of an employee whose pay does not exceed rupees ⁷⁸[five thousand] per month also on additions, substantial alterations or improvements necessary to a house:

71. Inserted by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

72. Words ", sisters and minor brothers" omitted by the IT (First Amtd.) Rules, 2007, w.e.f. 15-1-2007.

73. Inserted by the IT (Second Amtd.) Rules, 1966.

74. Substituted for "High School" by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

75. Substituted for "High School stage, provided that the course of study is for not less than three years", *ibid*.

76. Substituted by the IT (Eighth Amtd.) Rules, 1983, w.e.f. 3-10-1981. Clause (d) was first substituted by the IT (Fourth Amtd.) Rules, 1964.

The word 'house' will cover a 'flat' also—*Karnataka Bank Employees Association v. CIT* [1999] 102 ITR 107 (Kar.).

77. Inserted by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

78. Substituted for "two thousand and five hundred" by the IT (Third Amtd.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amtd.) Rules, 1985, w.e.f. 18-12-1985.

Provided that the employee furnishes an undertaking to the trustees not to encumber or alienate such house or site ⁷⁹[or such house and site] or house and site, as the case may be:

⁷⁹**Provided further** that in the case of an employee whose pay does not exceed rupees ⁸⁰[five thousand] per month, such house or site or such house and site shall not be deemed to be an encumbered property merely because such house or site or such house and site is—

- (i) mortgaged, solely for having obtained funds for the purchase of the said house or site or the said house and site or for the building of such house to any of the following agencies, namely, (a) the Central Government; (b) a State Government; (c) a co-operative society, being a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or under any other law for the time being in force in any State relating to co-operative societies; (d) an institution; (e) a trust; (f) a local body; or (g) a housing finance corporation; or
- (ii) held in the name of any of the aforesaid agencies and the employee is precluded from transferring or otherwise disposing of that house or site or that house and site without the prior approval of such agency.]

Explanation : For the purposes of this clause, "pay" shall have the meaning assigned to it in the *Explanation* to sub-rules (2A) and (2B) of rule 69;]

⁸¹[(dd) for repayment of loan previously raised for the purpose of construction or purchase of a house;]

- (e) to pay premia on policies of insurance on the life of the employee or of his wife provided that the policy is assigned to the trustees of the Fund or at their discretion deposited with them and that the receipts granted by the insurance company for the premia are from time to time handed over to the trustees for inspection by the ⁸²[Assessing Officer];
- (f) to meet the cost of legal proceedings instituted by the employee for vindicating his position in regard to any allegations made against him in respect of any act done or purporting to be done by him in the discharge of his official duty or to meet the cost of his defence when he is prosecuted by the employer in any court of law in respect of any official misconduct on his part:

Provided that the advance under this clause shall not be admissible to an employee who institutes legal proceedings in any court of law either in

79. Inserted by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

80. Substituted for "two thousand and five hundred" by the IT (Third Amtd.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amtd.) Rules, 1985, w.e.f. 18-12-1985.

81. Inserted by the IT (Fifth Amtd.) Rules, 1993, w.e.f. 16-3-1993.

82. Substituted for "Income-tax Officer" by the IT (Fifth Amtd.) Rules, 1989, w.e.f. 1-4-1988.

respect of any matter unconnected with his official duty or against the employer in respect of any condition of service or penalty imposed on him;

⁸³[(g) to meet the expenses of the damage caused to the movable or immovable property of the employee as a direct result of—

- (i) flood, cyclone, earthquake or other convulsion of nature; or
- (ii) riot;]

⁸⁴[(h) in the case of an employee whose pay does not exceed rupees ⁸⁵[five thousand] per month,—

- (i) to meet his household expenses if a factory or other establishment, wherein he is working, is locked up or closed down for more than fifteen days for reasons other than a strike rendering him unemployed without any compensation or if he is not in receipt of wages for a continuous period of two months or more;
- (ii) to meet his household expenses if the factory or other establishment wherein he is working, suffers cut in supply of electricity resulting in a loss of one-fourth or more of the total wages of the employee;
- (iii) to meet the cost of purchasing an equipment required by a physically handicapped employee which will minimise his hardship on account of the handicap;
- ⁸⁶[(iv) to meet his household expenses where the employee is discharged or dismissed or retrenched by the employer and such discharge, dismissal or retrenchment, as the case may be, is challenged by the employee in any court or tribunal and the case is pending in that court or tribunal.]

Explanation.—For the purposes of this clause, “pay” shall have the meaning assigned to it in the *Explanation* to sub-rules (2A) and (2B) of rule 69.]

(2) For the purposes of sub-rule (1), “family” means any of the following persons who are wholly dependent on the employee, namely:— the employee’s wife, legitimate children, step-children, parents, sisters and minor brothers.

83. Substituted by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993. Prior to substitution, clause (g) as inserted by the IT (Amdt.) Rules, 1979, w.e.f. 30-1-1979, read as under:

“(g) to meet the expenses of the damage caused to the movable or immovable property of the employee as a direct result of flood, cyclone, earthquake or other convulsion of nature;”

84. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

85. Substituted for “two thousand and five hundred” by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for “one thousand and six hundred” by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

86. Inserted by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993.

Conditions for withdrawal for various purposes.

69. ⁸⁷[(1) The withdrawal ⁸⁸[in connection with expenses on illness as specified in clause (a) of sub-rule (1) of rule 68 or] in connection with expenses on marriages as specified in clause (c) of sub-rule (1) of rule 68, by an employee whose pay exceeds rupees ⁸⁹[five thousand] per month, shall not exceed six months' pay or the total of the accumulation of exempted contributions and exempted interest lying to the credit of the employee, whichever is less.

(1A) The withdrawal for the purposes specified in clause (aa) and clause (c) of sub-rule (1) of rule 68, by an employee, whose pay does not exceed rupees ⁸⁹[five thousand] per month, shall be subject to the following conditions, namely :—

- (a) the amount of withdrawal shall not exceed one-half of the employee's contributions to the fund with interest thereon;
- (b) the employee shall have completed seven years of service;
- (c) the amount of the employee's contributions to the fund with interest thereon is not less than rupees one thousand.]

(2) The withdrawal for the purpose specified in clause (d) ⁹⁰[and clause (da)] of sub-rule (1) of rule 68 ⁹¹[, by any employee whose pay exceeds rupees ⁸⁹[five thousand] per month,] shall be subject to the following conditions:—

- (i) the amount of withdrawal shall not exceed one-half of the amount standing to the employee's credit or the actual cost of the house and/or of the site, whichever is less;
- ⁹²[(ii) the employee shall have completed ⁹³[ten] years of service or is due to retire within the next ten years;]
- (iii) the construction of the house should be commenced within six months of the withdrawal and should be completed within one year from the date of the commencement of the construction;
- (iv) if the withdrawal is made for the purchase of a house and/or a site for a house, the purchase should be made within six months of the withdrawal;
- (v) if the withdrawal is made for the repayment of loan previously raised for the purpose of construction or purchase of a house, the repayment of the loan should be made within three months of the withdrawal;
- (vi) where the withdrawal is for the construction of a house, it shall be permitted in two or more equal instalments (not exceeding four), a later

87. Substituted for sub-rule (1) by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

88. Inserted by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993.

89. Substituted for "two thousand and five hundred" by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

90. Inserted by the IT (Fifth Amdt.) Rules, 1993, w.e.f. 16-3-1993.

91. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.e.f. 3-10-1981.

92. Substituted by the IT (Second Amdt.) Rules, 1964.

93. Substituted for "twenty" by the IT (Eighth Amdt.) Rules, 1980. Earlier "twenty" was substituted for "twenty-three" by the IT (Second Amdt.) Rules, 1971.

instalment being permitted only after verification by the trustees about the actual utilisation of the earlier withdrawal;

- (vii) the withdrawal shall be permitted only if the house and/or site is free from encumbrances and no withdrawal shall be permitted for purchase of a share in a joint property or building or house or land whose ownership is divided;
- (viii) if the amount withdrawn exceeds the actual cost of the purchase or construction of the house and/or site, or if the amount is not utilised for the purpose for which it is withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one lump sum together with interest from the month of such withdrawal at the rate prescribed in sub-rule (4) of rule 71. The amount refunded shall be credited to the employee's account in the provident fund.

“(2A) The withdrawal for the purpose specified in clause (d) of sub-rule (1) of rule 68, by any employee whose pay does not exceed rupees ⁹⁴[five thousand] per month, shall be subject to the following conditions, namely:—

⁹⁵“(i) the amount of withdrawal shall not exceed—

- (a) the employee's basic wages and dearness allowance for ⁹⁶[thirty-six] months; or
- (b) the actual cost of building the house or of purchasing the house or the site or the house and the site; or
- (c) the employee's contribution to the fund together with the specified percentage of the employer's contributions to that fund with interest thereon;

whichever is less.

Explanation.—For the purposes of sub-clause (c), “specified percentage” means—

- (1) 75 per cent of the employee's contribution forming part of the accumulation as on the date of the authorisation of payment, if the period of membership of the employee in the fund is five years or more, but less than ten years;
- (2) 85 per cent of such contribution, if the period of membership of the employee in the fund is 10 years or more, but less than 15 years; and
- (3) 100 per cent of such contribution, if the period of membership of the employee in the fund is 15 years or more ;]

(ii) the employee shall have completed five years of service or is due to retire within the next ten years;

94. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.e.f. 3-10-1981.

95. Substituted for “two thousand and five hundred” by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for “one thousand and six hundred” by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

96. Substituted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.

97. Substituted for “twenty-four” by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

- (iii) the withdrawal shall be permitted only if the house and/or site is free from encumbrances;
- (iv) no withdrawal shall be permitted for purchasing a share in a joint property or a building or a house or land whose ownership is divided except where a site is owned jointly with the spouse;
- (v) where the withdrawal is for construction of a house, the payment of the withdrawal may be sanctioned in such number of instalments (not exceeding four) as the trustees of the fund think fit;
- (vi) where the withdrawal is for the construction of a house, the construction of the house should be commenced within six months of the withdrawal and should be completed within twelve months of the withdrawal of final instalment;
- (vii) if the withdrawal is made for the purchase of a house and/or a site for a house, the purchase should be made within six months of the withdrawal;
- (viii) if the amount withdrawn exceeds the actual cost of the purchase or construction of the house and/or site or if the amount is not utilised for the purpose for which it is withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one lump sum together with interest from the month of such withdrawal at the rate prescribed in sub-rule (4) of rule 71 and the amount so refunded shall be credited to the employee's account in the fund.]

98[(2B) A withdrawal for additions, substantial alterations or improvements necessary to the house owned by the employee or jointly owned by the employee and the spouse may be granted once and in one instalment only to an employee whose pay does not exceed rupees 99[five thousand] per month, up to 1[twelve] months' basic wages and dearness allowance or the employee's own share of contribution with interest thereon or the amount standing to his credit in the fund, whichever is less :

Provided that the said withdrawal shall be admissible only after a period of five years from the date of purchase or completion of the house :

Provided further that where the amount withdrawn is not utilised in whole or in part for the purpose for which it was withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one lump sum together with interest from the month of such withdrawal at the rate prescribed in sub-rule (4) of rule 71 and the amount so refunded shall be credited to the employee's account in the fund.

Explanation.—For the purposes of sub-rules (2A) and (2B), "pay" includes basic wages with dearness allowance, retaining allowance (if any), and cash value of food

98. Inserted by the IT (Eighth Amtd.) Rules, 1983, w.r.e.f. 3-10-1981.

99. Substituted for "two thousand and five hundred" by the IT (Third Amtd.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amtd.) Rules, 1985, w.e.f. 18-12-1985.

1. Substituted for "six" by the IT (Fifth Amtd.) Rules, 1985, w.e.f. 1-8-1985.

concession admissible thereon, to which the employee is entitled at the time when the withdrawal is granted or, in the case of an employee referred to in sub-rule (2) of rule 5 of Part A of the Fourth Schedule, the pay (including increments, if any) which he would have received had he not entered the armed forces of the Union or being taken into or employed in the national service.]

(3) The withdrawal for the purpose specified in clause (f) of sub-rule (1) of rule 68 shall not exceed three months' pay² or Rs. 500, whichever is greater, but shall in no case exceed half the amount to the credit of the employee.

(4) The withdrawal for any other purpose referred to in sub-rule (1) of rule 68 [except as provided in sub-rule (1A)] shall not exceed three months' pay² or the total of the accumulation of exempted contributions and exempted interest lying to the credit of the employee, whichever is less.

(5) For the purpose of this rule [except sub-rules (2A) and (2B)], "pay" means the pay to which the employee is entitled at the time when the withdrawal is granted or, in the case of an employee referred to in sub-rule (2) of rule 5 of Part A of the Fourth Schedule, the pay (including increments, if any) which he would have received had he not entered the armed forces of the Union or been taken into or employed in the national service.

Second withdrawal.

70. (1) Save as in sub-rule (2) [and sub-rule (3)], a second withdrawal shall not be permitted until the sum first withdrawn has been fully repaid.

[(2) A withdrawal may be permitted—

- (a) for any purpose specified in clause (d) or clause (e) of sub-rule (1) of rule 68 notwithstanding that the sum withdrawn earlier for any purpose has not been repaid ;
- (b) for any other purpose specified in sub-rule (1) of rule 68 notwithstanding that any sum withdrawn earlier for any purpose specified in clause (d) or clause (e) of the said sub-rule (1) has not been repaid.]

[(3) A withdrawal, referred to in clause (a) of sub-rule (2), of an amount equal to the difference between the amount of withdrawal admissible under sub-rule (2A) of rule 69 as on the date of application and the amount actually withdrawn by the employee for the purpose specified in clause (d) of sub-rule (1) of rule 68 any time during six years preceding the 3rd day of October, 1981, may be permitted to the employee, whose pay does not exceed rupees [five thousand] per month, subject to the following conditions, namely :—

-
- 2. 'Pay' shall have the same meaning as 'salary'—Letter F. No. 44/13/64-ITJ, dated 6-9-1964. For details, see Taxmann's Master Guide to Income-tax Rules.
 - 3. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.
 - 4. Inserted by the IT (Eighth Amdt.) Rules, 1983, w.e.f. 3-10-1981.
 - 5. Substituted by the IT (Second Amdt.) Rules, 1971.
 - 6. Inserted by the IT (Fifth Amdt.) Rules, 1985, w.e.f. 1-8-1985.
 - 7. Substituted for "two thousand and five hundred" by the IT (Third Amdt.) Rules, 1991, w.e.f. 1-4-1991. Earlier these words were substituted for "one thousand and six hundred" by the IT (Eighth Amdt.) Rules, 1985, w.e.f. 18-12-1985.

- (i) the employee had availed of the first withdrawal for purchase of a site and now proposes to construct a house on the site so purchased; or
- (ii) the employee had availed of the first withdrawal for making initial payment towards allotment or purchase of a house from any of the agencies referred to in the second proviso to clause (d) of sub-rule (1) of rule 68 and now proposes to withdraw the amount for completing the transaction and for acquiring ownership of the house so purchased; or
- (iii) the employee had availed of the first withdrawal for construction of a house but the said construction could not be completed due to shortage of funds.]

Repayment of amounts withdrawn.

71. (1) Subject to the provisions of clause (viii) of sub-rule (2) ⁸[or clause (viii) of sub-rule (2A) or the second proviso to sub-rule (2B)] of rule 69 where a withdrawal is allowed for a purpose specified in ⁹[clause (d) or clause (dd) or clause (e) or sub-clause (i) of clause (h) of sub-rule (1)] of rule 68, the amount withdrawn need not be repaid.

(2) Where a withdrawal is allowed in connection with marriages as specified in clause (c) of sub-rule (1) of rule 68, the amount withdrawn shall be repaid in not more than forty-eight equal monthly instalments.

(3) Where a withdrawal is allowed for any other purpose, the amount withdrawn shall be repaid in not more than twenty-four equal monthly instalments.

(4) In respect of withdrawals referred to in sub-rules (2) and (3) and of the amount referred to in clause (viii) of sub-rule (2) ⁸[or clause (viii) of sub-rule (2A) or the second proviso to sub-rule (2B)] of rule 69, interest shall be paid in accordance with the following Table :—

TABLE

1	2
Where the amount is repaid in not more than 12 monthly instalments	One additional instalment of 4% on the amount withdrawn
Where the amount is repaid in more than 12 monthly instalments but not more than 24 monthly instalments	Two additional instalments of 4% on the amount withdrawn
Where the amount is repaid in more than 24 monthly instalments but not more than 36 monthly instalments	Three additional instalments of 4% on the amount withdrawn
Where the amount is repaid in more than 36 monthly instalments but not more than 48 monthly instalments	Four additional instalments of 4% on the amount withdrawn
Where the amount is refunded under clause (viii) of sub-rule (2) of rule 69	4% of the amount which is refundable :

8. Inserted by the IT (Eighth Amtd.) Rules, 1983, w.r.e.f. 3-10-1981.

9. Substituted for "clause (d) or clause (e) of sub-rule (1)" by the IT (Fifth Amtd.) Rules, 1993, w.e.f. 16-3-1993.

Provided that at the discretion of the trustees of the fund, interest may be recovered on the amount aforesaid or the balance thereof outstanding from time to time at one per cent above the rate which is payable for the time being on the balance in the fund at the credit of the employee.

(5) The employer shall deduct the instalments aforesaid from the employee's salary, and pay them to the trustees of the fund. These deductions shall commence from the second monthly payment of salary made after the withdrawal or, in the case of an employee on leave without pay, from the second monthly payment of salary made after his return to duty.

¹⁰[**Certain rules not to apply.**

71A. The conditions stipulated in rules 68, 69, 70 and 71 shall not apply in respect of withdrawals made after 1st April, 2007 from a fund which fulfils the conditions stipulated in 'sub-rule (ea) of rule 4 of Part A of the Fourth Schedule to the Income-tax Act, 1961.]

Amount withdrawn but not repaid may be deemed as income.

72. In case of default of repayment of instalments due under sub-rule (2) or sub-rule (3) or sub-rule (4) of rule 71 or where the amount withdrawn is not utilised for the purpose for which it is withdrawn, the ¹¹[Chief Commissioner or Commissioner] may at his discretion order that the amount of the withdrawal or the amount outstanding shall be added to the total income of the employee for the year in which the default occurs or the withdrawn amount is finally held not to have been utilised for the purpose for which it is withdrawn, and the ¹²[Assessing Officer] shall assess the employee accordingly.

¹³[**Withdrawal within twelve months before retirement.**

73. Notwithstanding anything contained in rules 68 to 72, it shall be open to the trustees of a provident fund to permit at any time within twelve months before the date of retirement on superannuation of an employee, the withdrawal of upto ninety per cent of the amount standing at the credit of the employee.]

Accounts.

74. (1) The accounts of a provident fund shall be prepared at intervals of not more than twelve months.

(2) An account shall be maintained for each subscriber to the fund and it shall include the particulars shown in Form No. 41.

10. Inserted by the IT (First Amtd.) Rules, 2007, w.e.f. 15-1-2007.

11. Substituted for "Commissioner" by the IT (Fifth Amtd.) Rules, 1989, w.e.f. 1-4-1988.

12. Substituted for "Income-tax Officer", *ibid*.

13. Substituted by the IT (Ninth Amtd.) Rules, 1994, w.e.f. 30-8-1994. Prior to substitution, rule 73 read as under :

"73. Withdrawal on leave preparatory to retirement.—Notwithstanding anything contained in rules 68 to 72, it shall be open to the trustees of a provident fund to permit the withdrawal of ninety per cent of the amount standing at the credit of an employee if the employee takes leave preparatory to retirement, provided that if he rejoins duty on the expiry of his leave he shall refund the amount drawn together with interest at the rate allowed by the fund."

For 'sub-rule' read 'clause' vide Notification No. 16/2007 [F. No. 142/37/2006-TPL], dated 25-1-2007.

(3) Where the accounts of a provident fund are kept outside India, certified copies of the accounts shall be supplied not later than the 15th June in each year to a local representative of the employer in India :

Provided that the ¹⁴[Assessing Officer] may in any year appoint a date later than the 15th June as the date by which the certified copies shall be supplied.

¹⁵[(4) An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a provident fund shall be furnished by the trustees to the Assessing Officer of the area in which the accounts of the fund are kept or if the accounts are kept outside India, to the Assessing Officer of the area in which the local headquarters of the employer are situated, not later than the fifteenth day of June in each year or any other subsequent date fixed by the Assessing Officer. It shall be in the form prescribed in sub-rule (2) of this rule, but shall show only the totals of the various columns thereof for the financial year or other accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof. Similar abstract shall also be furnished in respect of other employees participating in a provident fund who come within the purview of sub-rule (1) of rule 75.]

(5) The account to be made under the provisions of sub-rule (1) of rule 11 of Part A of the Fourth Schedule shall show in respect of each employee (i) the total salary paid to the employee during the period of his participation in the provident fund, (ii) the total contributions, (iii) the total interest which has accrued thereon, and (iv) so far as may be, the percentage of the employee's salary in accordance with which contributions have been made by the employer and employee.

¹⁶[(6) Every employer shall, as soon as possible, after the close of each financial year, send to each member, a statement of his account in the fund showing the opening balance at the beginning of the period, amount contributed during the year, the total amount of interest credited at the end of the period or debited in the period and the closing balance at the end of the period.]

14. Substituted for "Income-tax Officer" by the IT (Fifth Amndt.) Rules, 1989, w.r.e.f. 1-4-1988.

15. Substituted by the IT (First Amndt.) Rules, 2007, w.e.f. 15-1-2007. Prior to its substitution, sub-rule (4), as amended by the IT (Fifth Amndt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

"(4) An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a provident fund in respect of whom a return is required to be furnished under sub-rule (4) of rule 35 shall be furnished by the trustees to the Assessing Officer specified in sub-rule (2) of rule 32 not later than the fifteenth day of June in each year or any other subsequent date fixed by the Assessing Officer. It shall be in the form prescribed in sub-rule (2) of this rule, but shall show only the totals of the various columns thereof for the financial year or other accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof. Similar abstract shall also be furnished in respect of other employees participating in a provident fund who were allowed withdrawals under rules 68 to 70 or who come within the purview of sub-rule (1) of rule 75."

16. Inserted by the IT (First Amndt.) Rules, 2007, w.e.f. 15-1-2007.

Limits for contributions.

75. (1) Where an employee of a company owns shares in the company with a voting power exceeding ten per cent of the whole of such power, the sum of the contributions of the employee and employer to the recognized provident fund maintained by the company shall not exceed Rs. 250 in any month.

(2) For the purpose of clause (a) of sub-rule (4) of rule 5 of Part A of the Fourth Schedule the employer's aggregate contribution in any year, including the normal contribution, to the individual account of any one employee whose salary does not exceed five hundred rupees per mensem shall not exceed double the amount of the contribution of the employee in that year.

(3) The amount of the periodical bonuses and other contributions of a contingent nature which may be credited by an employer in any year under clause (b) of sub-rule (4) of rule 5 of Part A of the Fourth Schedule to the individual account of any one employee shall not exceed the amount of the contributions of the employee in that year :

Provided, however, that the above limit shall not apply to bonus contributions made by an employer under an award by an Industrial Tribunal or under an order of a Court or under an agreement with the employees' union(s) to the individual accounts of employees whose salary does not exceed Rs. 500 per month.

Penalty for assigning or creating a charge on beneficial interest.

76. If an employee assigns or creates a charge upon his beneficial interest in a recognised provident fund, the ¹⁸[Assessing Officer] shall, on the fact of the assignment or charge coming to his knowledge, give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the year in which the fact became known to the ¹⁸[Assessing Officer] and shall be assessed accordingly.

Application for recognition.

77. (1) An application for recognition shall be made by the employers maintaining a provident fund for which recognition is sought and shall be accompanied by the following documents :—

- (a) the trust deed if any in original with one copy thereof, the latter to be retained by the ¹⁹[Chief Commissioner or Commissioner], and
- (b) the rules of the fund :

17. Limit applies to employer's contribution only - *CIT v. Raab Pipe Works (P.) Ltd.* [1997] 226 ITR 710 (Mad.). Limit cannot be applied to statutory funds - *CIT v. Indocan Engineer (P.) Ltd.* [1997] 225 ITR 201/93 Taxman 476 (AP). Limit must be satisfied even after the fund is established - *CIT v. Hyderabad Asbestos Cement Products Ltd.* [1988] 172 ITR 762 (AP). Rule 75(1) limits the ceiling of deduction to Rs. 250 only in respect of contributions made by an employer to the recognized provident fund maintained by the company and contribution to fund under scheme formulated under EPF Act are deductible in full—*CIT v. Indocan Engineer (P.) Ltd.* [1997] 225 ITR 201/93 Taxman 476 (AP). For details, see Taxmann's Master Guide to Income-tax Rules.

18. Substituted for "Income-tax Officer" by the IT (Fifth Amndt.) Rules, 1989, w.r.e.f. 1-4-1988.

19. Substituted for "Commissioner", *ibid.*

Provided that if the original of the trust deed cannot conveniently be produced, it shall be open to the ²⁰[Chief Commissioner or Commissioner] to accept in lieu of the original a copy certified either by a Magistrate or in any manner specified in rule 17 of the Companies (Central Government's) General Rules and Forms, 1956, in which case an additional copy shall be furnished for retention by the ²⁰[Chief Commissioner or Commissioner].

(2) The application shall be submitted through the ²¹[Assessing Officer] of the area in which the accounts of the fund are kept or, if the accounts are kept outside India, through the ²¹[Assessing Officer] of the area in which the local headquarters of the employer are situate.

(3) ²²[The application shall be furnished in Form No. 40C and shall include the following information]:—

- (a) Name of employer and address, his business, profession, etc., also his principal place of business.
- (b) Number of employees subscribing to the fund—
 - (i) in India,
 - (ii) outside India.
- (c) Place where the accounts of the fund are or will be maintained.
- (d) If the fund is already in existence—
 - (i) a copy of the last balance sheet of the fund, where such is maintained,
 - (ii) details of investments of the fund.

²³[(4) The application in Form No. 40C shall be verified in the manner specified therein.]

²⁴[(5) A fund which has been granted recognition on or before 31st March, 2006 or has applied for recognition before the publication of this notification in the Official Gazette, shall make a fresh application in Form No. 40C through the Assessing Officer referred to in sub-rule (2).]

Order of recognition.

78. An order according recognition to a provident fund shall take effect from the last day of the month in which the application for recognition is received by the

20. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

21. Substituted for "Income-tax Officer", *ibid*.

22. Substituted for "The application shall contain the following information" by the IT (First Amdt.) Rules, 2007, w.e.f. 15-1-2007.

23. Substituted, *ibid*. Prior to its substitution, sub-rule (4) read as under :

"(4) A verification in the following form shall be annexed to the application :—

FORM OF VERIFICATION

We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof."

24. Inserted, *ibid*.

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income-tax authority concerned, unless, at the request of the employer, the last day of any later month in the same financial year is specified ;

²⁸ Provided that if the ²⁹[Chief Commissioner or Commissioner] is satisfied that there was sufficient reason for the delay in making such application, he may accord recognition to the fund from a date not earlier than the 1st day of April of the financial year in which the application is made.]

Withdrawal of recognition.

79. (1) The Chief Commissioner or Commissioner may withdraw recognition granted to a provident fund if it does not fulfil the conditions specified in Part A of the Fourth Schedule to the Income-tax Act, 1961 or subsequent to grant of recognition under the Income-tax Act, 1961 the exemption granted under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is withdrawn under sub-section (4) of section 17 of the said Act.

(2) Before withdrawing recognition, the Chief Commissioner or Commissioner shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn.]

Exemption from tax when recognition withdrawn.

80. If the ²⁸[Chief Commissioner or Commissioner] withdraws recognition from a provident fund, the balance to the credit of each employee at the end of the financial year prior to the date of the withdrawal of recognition shall, subject to the provisions of rule 9 of Part A of the Fourth Schedule, be paid to him free of ²⁹[tax] at the time when such employee receives the accumulated balance due to him. The remainder of the accumulated balance due to him shall be liable to ²⁹[tax] as if the fund had never been recognised.

Appeal.

81. An appeal under sub-rule (1) of rule 13 of Part A of the Fourth Schedule shall be in Form No. 42 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred.

25. Inserted by the IT (Second Amdt.) Rules, 1971.

Recognition once granted cannot be reviewed by taxing authorities. They must proceed on the basis that the fund is recognised, until Commissioner, acting under rule 79, withdraws recognition - *Gestetner Duplicators (P.) Ltd. v. CIT* [1979] 117 ITR 1 (SC). For details, see Tammann's Master Guide to Income-tax Rules.

26. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

27. Substituted by the IT (First Amdt.) Rules, 2007, w.e.f. 15-1-2007. Prior to its substitution, rule 79, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

"79. *Withdrawal of recognition.*—Before withdrawing recognition, the Chief Commissioner or Commissioner shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn."

28. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

29. Substituted for "income-tax and super-tax" by the IT (Amdt.) Rules, 1967.

PART XIII**³⁰APPROVED SUPERANNUATION FUNDS****Definitions.****82. In this Part—**

- (1) "beneficiary" means a person referred to in clause (b) of rule 3 of Part B of the Fourth Schedule for whom provision of annuity is made;
- (2) "fund" means a superannuation fund or a part of a superannuation fund ³¹[which includes a fund, by whatever name called, established or constituted with a sole purpose of making payment of pension or family pension by the employer to his employees]; and
- (3) "trust" means the trust under which the superannuation fund is established and "trustee" means a trustee thereof.

Establishment of fund and trust.

83. The fund and the trust shall be established in India.

Conditions regarding trustees.

- 84.** (1) The trust shall have at least two trustees, provided that a company [as defined in clause (i) of sub-section (1) of section 3³² of the Companies Act, 1956 (1 of 1956)] shall not be appointed as a trustee without the prior approval of the ³³[Chief Commissioner or Commissioner].
- (2) The trustees of the fund shall be resident in India and any trustee who leaves India permanently shall vacate his office.

³⁴[Investment of fund moneys.

85. All moneys contributed to the fund after the 31st day of October, 1974, or received or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India or in a current account ³⁵[or in a savings account] with any scheduled bank or utilised in accordance with rule 89 for making payments under a scheme of insurance or for purchase of annuities referred to in that rule; and to the extent such moneys as are not so deposited or utilised shall be invested in the manner specified in sub-rule (2) of rule 67, and for this purpose, the expression "investible moneys" in that sub-rule shall mean the moneys of the fund as are not deposited or utilised as aforesaid.]

30. See Part B of the Fourth Schedule.

31. Inserted by the IT (Eighth Amdt.) Rules, 1996, w.r.e.f. 29-9-1995.

32. Now section 2(20) of the Companies Act, 2013, see **Appendix**.

33. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

34. Substituted by the IT (Fourth Amdt.) Rules, 1974, w.e.f. 1-11-1974.

35. Inserted by the IT (Sixteenth Amdt.) Rules, 1990, w.e.f. 1-4-1991.

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Admission of directors to a fund.

86. Where the employer is a company³⁶ as defined in clause (i) of sub-section (1) of section 3 of the Companies Act, 1956 (1 of 1956), a director of the company may be admitted to the benefits of the fund only if he is a whole-time *bona fide* employee of the company and does not beneficially own shares in the company carrying more than five per cent of the total voting power.

Ordinary annual contributions.

87. The ordinary annual contribution by the employer to a fund in respect of any particular employee shall not exceed³⁸ [twenty-seven] per cent of his salary for each year as reduced by the employer's contribution, if any, to any provident fund (whether recognised or not) in respect of the same employee for that year.

Initial contributions.

88. Subject to any condition which the Board may think fit to specify under clause (iv) of sub-section (1) of section 36, the amount to be allowed as a deduction on account of an initial contribution which an employer may make in respect of the past services of an employee admitted to the benefits of a fund shall not exceed twenty-five per cent of the employee's salary for each year³⁹ [up to the 21st September, 1997 and after 21st September, 1997, twenty-seven per cent of the employee's salary for each year] of his past service with the employer as reduced by the employer's contribution, if any, to any provident fund (whether recognised or not) in respect of that employee for each such year.

Scheme of insurance or annuity.

89. For the purpose of providing the annuities for the beneficiaries, the trustees shall—

36. For definition of "company", see footnote 32 on page 1.390 *ante*.

37. Rules 87 and 88 refer not only to the limits prescribed for the recognition and approval of the provident fund and superannuation fund, as the case may be, but also relate to the contributions thereafter made, whether such contributions are annual contributions or initial contributions.—*CIT v. Hyderabad Asbestos Cement Products Ltd.* [1988] 172 ITR 762 (AP).

For conditions specified under section 36(1)(iv) and the procedure for computing the deduction, refer to Notification No. SO 3433, dated 21-10-1965 and Circular No. 4P (LVIII-30), dated 25-11-1965.

The second condition specified in Notification, dated 21-10-1965 which disentitled the employer to claim deduction of 20 per cent of the initial contribution overstepped the power given to the Board by the second limb of clause (iv), and the third condition allowing deduction over a period of years was also beyond the powers of the Board. Both these conditions are invalid.—*CIT v. Sirpur Paper Mills* [1999] 237 ITR 41 (SC).

For details, see Taxmann's Master Guide to Income-tax Rules.

38. Substituted for "twenty-five" by the IT (Second Amdt.) Rules, 1998, w.r.e.f. 22-9-1997.

39. Inserted, *ibid*.

40. For clarifications on the scheme of insurance annuity, see Circular No. 500, dated 9-12-1987 (Approval to superannuation fund not to be refused merely on ground that employee is entitled to leave service voluntarily before he reached normal age of retirement), Letter F. No. 276/6/77-IT(A-II), dated 7-6-1978 and Circular No. 403, dated 5-12-1984 (Pension benefits to employees in form of an "annuity certain"). Rules 89 and 91 are not arbitrary, and they cannot be said to violate articles 14 and 19(1)(g) of Constitution - *Sasadhar Chakravarty v. UOI* [1997] 90 Taxman 121 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

- (i) enter into a scheme of insurance with the Life Insurance Corporation established under the Life Insurance Corporation Act, 1956 (31 of 1956)⁴¹[or any other insurer as defined in clause (28BB) of section 2 of the Income-tax Act, 1961], or
- (ii) accumulate the contributions in respect of each beneficiary and purchase an annuity from the said Life Insurance Corporation of India⁴²[or any other insurer] at the time of the retirement or death of each employee or on his becoming incapacitated prior to retirement :

⁴³[Provided that nothing in this rule shall apply to a fund established or constituted under an irrevocable trust which has its sole purpose to make payment of pension or family pension, in accordance with the rules or regulations made under the following Central Acts, namely :—

- (i) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970); or
- (ii) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980); or
- (iii) the State Bank of India Act, 1955 (23 of 1955); or
- (iv) the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959); or
- (v) the Industrial Development Bank of India Act, 1964 (18 of 1964); or
- (vi) the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); or
- (vii) the Export-Import Bank of India Act, 1981 (28 of 1981); or
- (viii) the Industrial Reconstruction Bank of India Act, 1984 (62 of 1984); or
- (ix) the Small Industries Development Bank of India Act, 1989 (39 of 1989); or
- (x) the National Housing Bank Act, 1987 (53 of 1987).]

⁴⁴[Commutation of annuity.

90. Any payment in commutation of annuity shall not exceed—

- (a) in a case where the employee receives any gratuity, the commuted value of ⁴⁴[one-third] of the annuity which he is normally entitled to receive, and
- (b) in any other case, the commuted value of ⁴⁵[one-half] of such annuity, such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality.]

41. Inserted by the IT (Fifteenth Amdt.) Rules, 2002, w.r.e.f. 23-10-2000.

42. Inserted by the IT (Eighth Amdt.) Rules, 1996, w.r.e.f. 29-9-1995.

43. Substituted by the IT (Second Amdt.) Rules, 1968.

44. Substituted for "one-fourth" by the IT (Fourth Amdt.) Rules, 1984, w.r.e.f. 1-4-1985.

45. Substituted for "one-third", *ibid*.

Beneficiary not to have any interest in insurance and employer not to have any interest in fund's moneys.

91. (1) No beneficiary shall have any interest in any insurance policy taken out by the trustees under the rules of a fund and he shall be entitled only to an annuity from the fund.

(2) No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund.

Penalty if employee assigns or charges interest in fund.

92. If an employee assigns or creates a charge upon his beneficial interest in a fund, the ⁴⁶[Assessing Officer] shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the previous year in which the fact became known to the ⁴⁶[Assessing Officer] and shall be assessed accordingly.

Arrangements on winding up, etc., of business.⁴⁷

93. Where the employer's trade or undertaking is to be wound up or discontinued, the trustees shall, with the prior approval of, and subject to such conditions as may be imposed by, the ⁴⁸[Chief Commissioner or Commissioner], make satisfactory arrangements for the payment of annuities to the existing employees or, on the death of the employees, to their widows, children or dependents.

Arrangements for winding up, etc., of fund.⁴⁹

94. Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and subject to such conditions as may be imposed by, the ⁴⁸[Chief Commissioner or Commissioner].

Application for approval.

95. (1) The application for approval of a fund or part of a fund under sub-rule (1) of rule 4 of Part B of the Fourth Schedule shall contain the following information :—

- (a) Name of employer and address, his business, profession, etc., also his principal place of business.
- (b) Classes and number of employees entitled to the benefits of the fund—
 - (i) in India;
 - (ii) outside India.

⁴⁶ Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

⁴⁷ An approved superannuation fund cannot be wound up unless necessitated by the winding up or discontinuance of the employer's trade or undertaking - Circular No. 595, dated 5-3-1991. For details, see Taxmann's Master Guide to Income-tax Rules.

⁴⁸ Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

⁴⁹ See Circular No. 595, dated 5-3-1991. For details, see Taxmann's Master Guide to Income-tax Rules.

- (c) Place where the accounts of the fund are or will be maintained.
- (d) If the fund is already in existence, the details of investment of the fund.

(2) A verification in the following form shall be annexed to the application :—

FORM OF VERIFICATION

We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof.

Amendment of rules, etc., of fund.

96. No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the ⁵⁰[Chief Commissioner or Commissioner].

Appeal.

97. An appeal under sub-rule (1) of rule 8 of Part B of the Fourth Schedule shall be made in Form No. 43 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred.

PART XIV

⁵¹GRATUITY FUNDS

Definitions.

98. In this Part—

- (a) "beneficiary" means a person referred to in clause (b) of rule 3 of Part C of the Fourth Schedule for whom provision of gratuity is made;
- (b) "fund" means a "gratuity fund"; and
- (c) "trust" means the trust under which the fund is established and "trustee" means a trustee thereof.

Establishment of fund and trust.

99. The fund and the trust shall be established in India.

Conditions regarding trustees.

100. (1) The trust shall have at least two trustees provided that a company⁵² [as defined in clause (i) of sub-section (1) of section 3 of the Companies Act, 1956 (1 of 1956)] shall not be appointed as a trustee without the prior approval of the ⁵³[Chief Commissioner or Commissioner].

(2) The trustees of the fund shall be resident in India and any trustee who leaves India permanently shall vacate his office.

50. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

51. See Part C of the Fourth Schedule.

52. For definition of "company", see Appendix.

53. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

44[Investment of fund moneys.

101. All moneys contributed to the fund after the ⁵⁵[31st day of October, 1974] or received or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India or in a current account ⁵⁶[or in a savings account] with any scheduled bank or utilised for the purpose of making contributions under Group Gratuity Scheme entered into with the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956) ⁵⁷[or any other insurer as defined in clause (28BB) of section 2 of the Income-tax Act, 1961] ⁵⁸; and to the extent such moneys as are not so deposited or utilised shall be invested in the manner specified in sub-rule (2) of rule 67, and for this purpose, the expression "investible moneys" in that sub-rule shall mean the moneys of the fund as are not deposited or utilised as aforesaid].]

59[Nomination.

101A. (1) An employee may be allowed by the trustees of the gratuity fund to make a nomination conferring on one or more persons the right to receive the amount of gratuity in the event of his death, before that amount becomes payable or, having become payable, has not been paid. Such a nomination shall be made in Form No. 40A or in a form as near thereto as may be necessary.

(2) If an employee nominates more than one person under sub-rule (1), he shall, in his nomination, specify the amount or share payable to each of the nominees in such manner as to cover the whole of the amount of gratuity that may be payable in the event of his death.

(3) Where an employee has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such employee in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the employee has no family, the nomination may be in favour of any person or persons, but if the employee subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the employee may be allowed to make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made by an employee may, at any time, be modified by him after giving a written notice to the trustees of his intention of doing so in Form No. 40B or in a form as near thereto as may be. If the nominee predeceases the employee, the interest of the nominee shall revert to the employee, who may thereupon make a fresh nomination in respect of such interest.

54. Substituted by the IT (Fourth Amtd.) Rules, 1974, w.e.f. 1-11-1974.

55. Substituted for "31st day of March, 1987" by the IT (Fourth Amtd.) Rules, 1987, w.e.f. 1-4-1987 reverting back to original position and rendering the amendment made by the IT (Second Amtd.) Rules, 1987, w.e.f. 1-4-1987 redundant.

56. Inserted by the IT (Sixteenth Amtd.) Rules, 1990, w.e.f. 1-4-1990.

57. Inserted by the IT (Fifteenth Amtd.) Rules, 2002, w.e.f. 23-10-2000.

58. Inserted by the IT (Fourth Amtd.) Rules, 1987, w.e.f. 1-4-1987. See also Circular No. 482, dated 26-3-1987. For details, see Taxmann's Master Guide to Income-tax Rules.

59. Inserted by the IT (Second Amtd.) Rules, 1971.

(6) A nomination or its modification shall take effect to the extent it is valid on the date on which it is received by the trustees.

⁶⁰[*Explanation*: For the purposes of this rule, "family" means the employee's spouse, legitimate children, step-children, deceased son's widow, deceased son's legitimate children, deceased son's step-children, dependent parents, sisters, minor brothers and the dependent parents of the employee's spouse.]]

Admission of directors to a fund.

102. Where the employer is a company⁶¹ as defined in clause (i) of sub-section (1) of section 3 of the Companies Act, 1956 (1 of 1956), a director of the company may be admitted to the benefits of the fund only if he is a wholtime *bona fide* employee of the company and does not beneficially own shares in the company carrying more than five per cent of the total voting power.

Ordinary annual contributions.

⁶²**103.** The ordinary annual contribution by the employer to a fund shall be made on a reasonable basis as may be approved by the ⁶³[Chief Commissioner or Commissioner] having regard to the length of service of each employee concerned so, however, that such contribution shall not exceed $8\frac{1}{3}$ per cent of the salary of each employee during each year.

Initial contributions.

⁶⁴**104.** The amount to be allowed as a deduction on account of an initial contribution which an employer may make in respect of the past services of an employee admitted to the benefits of a fund shall not exceed $8\frac{1}{3}$ per cent of the employee's salary for each year of his past service with the employer.

Penalty if employee assigns or charges interest in fund.

105. If an employee assigns or creates a charge upon his beneficial interest in a fund, the ⁶⁵[Assessing Officer] shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the previous year in which the fact became known to the ⁶⁵[Assessing Officer] and shall be assessed accordingly.

60. Substituted by the 1T (Eighth Amdt.) Rules, 1988, w.e.f. 5-10-1988.

61. For definition of "company", see **Appendix**.

62. Rule 103 cannot be invoked when section 40A(7) is applied — *CIT v. Malayala Manorama Co. Ltd.* [1994] 207 ITR 288 (Ker.). For details, see *Taxmann's Master Guide to Income-tax Rules*.

63. Substituted for "Commissioner" by the 1T (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

64. For clarifications on this rule, see Circular Nos. 30 (XLVII-18), dated 30-11-1964 and 14 [F. No. 19/4/69-IT(A-II)], dated 23-4-1969 and Extracts from Minutes (Item 31) of Ninth Meeting of DTAC held on 5-11-1966 [Tax relief in respect of initial contribution under section 36(1)(v)]. Rule 104 does not specify with any exactitude the actual amount which the assessee is liable to pay as the initial contribution. It lays down the principle that it shall not exceed one month's salary of the employee for each year of his past service with the employer—*Addl. CIT v. Balrampur Raj Electric Supply Co.* [1981] 128 ITR 615/6 *Taxman* 232 (All.). For details, see *Taxmann's Master Guide to Income-tax Rules*.

65. Substituted for "Income-tax Officer" by the 1T (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

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Employer not to have interest in fund moneys.

106. No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund.

Arrangements for winding up, etc., of business.

107. Where the employer's trade or undertaking is to be wound up or discontinued, the trustees shall, with the prior approval of, and subject to such conditions as may be imposed by, the ⁶⁶[Chief Commissioner or Commissioner], make satisfactory arrangements for the payment of gratuity to the existing beneficiaries.

Arrangements for winding up of the fund.

108. Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and to such conditions as may be imposed by, the ⁶⁶[Chief Commissioner or Commissioner].

Application for approval.

109. (1) The application for approval of a gratuity fund under sub-rule (1) of rule 4 of Part C of the Fourth Schedule shall contain the following information :—

- (a) Name of employer and address, his business, profession, etc., also his principal place of business.
- (b) Classes and number of employees entitled to admission to the fund—
 - (i) in India ;
 - (ii) outside India.
- (c) Place where the accounts of the fund are or will be maintained.
- (d) If the fund is already in existence, the details of investment of the fund.

(2) A verification in the following form shall be annexed to the application :—

FORM OF VERIFICATION

We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof.

Amendment of rules, etc., of fund.

110. No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the ⁶⁶[Chief Commissioner or Commissioner].

Appeal.

111. An appeal under sub-rule (1) of rule 8 of Part C of the Fourth Schedule shall be made in Form No. 44 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred.

⁶⁶ Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

PART XV**MISCELLANEOUS**

⁶⁷Application for reduction of the amount of minimum distribution by a company.

111A. [Omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.]

⁶⁸[Conditions for reference to Valuation Officers.

111AA. The percentage of the value of the asset and the amount referred to in sub-clause (i) of clause (b) of section 55A shall, respectively, be 15 per cent and Rs. 25,000.]

67. Prior to its omission, rule 111A was inserted by the IT (Third Amdt.) Rules, 1964, read as under:

"111A. Application for reduction of the amount of minimum distribution by a company.—An application under sub-section (1) of section 107A for reduction of the amount of the minimum distribution required of a company under Chapter XI-D shall be made in Form No. 44A."

68. Inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 1-1-1973.

Section 55A having expressly set out the circumstances under which and the purposes for which a reference could be made to a Valuation Officer, there is no question of the Assessing Officer invoking the general powers of enquiry to make a reference in different circumstances and for other purposes. It is not open to a Valuation Officer to act in his capacity as Valuation Officer otherwise than in discharge of his statutory functions. He cannot be called upon nor would he has the jurisdiction to give a report to the Assessing Officer under the Income-tax Act except when a reference is made under and in terms of section 55A, or to a competent authority except under section 269L - *Smt. Amiya Bala Paul v. CIT* [2003] 130 Taxman 511/262 ITR 467 (SC).

Section 55A can be invoked only for computation of income under 'capital gains' - *Jindal Strips Ltd. v. ITO* [1979] 116 ITR 825 (Punjab & Har.) (FB). Where no question of capital gains is involved, invoking the jurisdiction of the Valuation Officer under section 55A would be wholly inappropriate, and the valuation report could merely be treated as a piece of evidence, which could be rebutted by assessee - *Hotel Amar v. CIT* [1993] 200 ITR 785 (Ori.) [Contra: The powers of the Assessing Officer to refer the valuation of an asset to the Valuation Officer under section 55A are not necessarily confined to cases of capital gains only - *Daulatram v. ITO* [1990] 181 ITR 119 (AP)/ *C.T. Laxmandas v. Asstt. CIT* [1994] 208 ITR 859 (Mad.)]. When the valuation report is not forthcoming, the Assessing Officer can exercise his inherent powers to value the asset - *Shahdara (Delhi) Saharanpur Light Railway Co. Ltd. v. CIT* [1994] 208 ITR 882 (Cal.). If assessment proceedings are completed after making reference to Valuation Officer but before receipt of valuation report, valuation proceedings must be quashed - *Reliance Jute & Industries Ltd. v. ITO* [1984] 150 ITR 643 (Cal.). Where first reference was made to a Valuation Officer who was not competent to value the asset, a second reference to the competent Valuation Officer can be made - *Daulatram v. ITO* [1990] 181 ITR 119 (AP). No completed assessment can be reopened on the basis of valuation report obtained by the Assessing Officer after the assessment was completed - *Bhola Nath Majumdar v. ITO* [1996] 221 ITR 608 (Gauhati). Prior issue of show-cause notice to the assessee is necessary - *Prem Hotel v. ITO* [1997] 93 Taxman 237 (J&K). Reference in respect of assets owned by partners made during the pendency of reassessment proceedings initiated against the firm does not suffer from any legal infirmity warranting interference in writ proceedings - *William De Noronha v. Asstt. CIT* [1997] 227 ITR 27 (All.). Since valuation report can be challenged by way of appeal by assessee, writ for quashing the assessment is not maintainable - *Mohal Chand Bhardwaj v. Union of India* [1997] 228 ITR 590 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

⁶⁹[Form of report of valuation by registered valuer.

111AB. The report of valuation by a registered valuer in respect of any asset shall be furnished in the appropriate form specified in rule 8D of the Wealth-tax Rules, 1957, and shall be verified in the manner indicated in such form.]

⁷⁰[Publication and circulation of Board's order.

111B. Any general or special order of the Board issued under clause (a) of sub-section (2) of section 119, the publication and circulation of which is, in the opinion of the Board, necessary in the public interest, shall be published and circulated in one or more of the following modes, namely :—

- (i) publication of the order in the Official Gazette;
- (ii) despatching copies of the order to Chambers of Commerce and other trade or professional associations which are, for the time being, borne on the mailing list of the Board;
- (iii) displaying copies of the order on the notice board of the office of every ⁷¹[Chief Commissioner or Commissioner], ⁷²[Deputy Commissioner] and ⁷³[Assessing Officer].]

⁷⁴Search and seizure.

112. (1) The powers of search and seizure under section 132 shall be exercised in accordance with sub-rules (2) to ⁷⁵[(14)].

⁷⁶[(2) (a) The authorisation under sub-section (1) of section 132 (other than an authorisation under the proviso thereto) by the ⁷⁷[Director-General or

69. Inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 1-1-1973.

70. Inserted by the IT (Fourth Amdt.) Rules, 1971, w.e.f. 1-4-1971.

71. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

72. Substituted for "Inspecting Assistant Commissioner", *ibid*.

73. Substituted for "Income-tax Officer", *ibid*.

74. See Instruction No. 7/2003, dated 30-7-2003 (matters relating to search and seizure). Section 132 and rule 112 are not violative of articles 14 and 19(1)(f) of the Constitution - *Pooran Mal v. Director of Inspection (Investigation)* [1974] 93 ITR 505 (SC)/ *Jain & Jain v. Union of India* [1982] 134 ITR 655 (Bom.). Immovable property cannot be subject of seizure - *Sardar Parduman Singh v. Union of India* [1987] 166 ITR 115 (Delhi)/ *M.K. Gabriel Babu v. Asst. Director of Income-tax* [1990] 186 ITR 435 (Ker.)/ *CIT v. M.K. Gabriel Babu* [1991] 188 ITR 464 (Ker.). Fixed deposit receipts/titles cannot be treated as 'valuable article or thing' - *Bhagwandas Narayandas v. CIT* [1975] 98 ITR 194 (Guj.). Keeping police officers during search of premises of influential persons will not amount to use of excessive force - *ITO v. Seth Bros.* [1969] 74 ITR 836 (SC). In the absence of any allegation of use of force or excessive force, no exception can be taken to the presence of police personnel - *Subir Roy v. S.K. Chattopadhyay* [1986] 158 ITR 472 (Cal.). The emphasis in a search is on the independent character of witnesses and not on the locality they come from - *Sunder Singh v. State of UP* AIR 1956 SC 411/ *Haruman Traders v. CTO* [1982] 51 STC 76 (Kar.). For details, see Taxmann's Master Guide to Income-tax Rules.

75. Substituted for "(11)" by the IT (Second Amdt.) Rules, 1965. Earlier "(11)" was substituted for "(10)" by the IT (Third Amdt.) Rules, 1964.

76. Substituted for sub-rules (2) and (3) by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975. Sub-rule (2) was first substituted by the IT (Third Amdt.) Rules, 1964 and later amended by the IT (Amdt.)/(Second Amdt.)/(Fifth Amdt.) Rules, 1965.

77. Substituted for "Director of Inspection" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

Director] or the ⁷⁸[Chief Commissioner or Commissioner] or any such ⁷⁹[Deputy Director] or ⁸⁰[Deputy Commissioner] as is empowered by the Board in this behalf shall be in Form No. 45;

- (b) the authorisation under the proviso to sub-section (1) of section 132 by a ⁷⁸[Chief Commissioner or Commissioner] shall be in Form No. 45A;
- (c) the authorisation under sub-section (1A) of section 132 by a ⁷⁹[Chief Commissioner or Commissioner] shall be in Form No. 45B.

(2A) Every authorisation referred to in sub-rule (2) shall be in writing under the signature of the officer issuing the authorisation and shall bear his seal.

(3) Any person in charge of or in any building, place, vessel, vehicle or aircraft authorised to be searched shall, on demand by the officer, authorised to exercise the powers of search and seizure under section 132 (hereinafter referred to as the authorised officer) and on production of the authority, allow him free ingress thereto and afford all reasonable facilities for a search therein.]

(4) If ingress into such building or place cannot be so obtained it shall be lawful for ⁸¹[the authorised officer] executing the authority, with such assistance of police officers ⁸²[or of officers of the Central Government, or of both,] as may be required, to enter such building or place and search therein and in order to effect an entrance into such building or place, to break open any outer or inner door or window of any building or place, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance :

Provided that, if any such building or place is an apartment in actual occupancy of a woman, who according to custom does not appear in public, ⁸¹[the authorised officer] shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it.

⁸³[(4A) If ingress into any vessel, vehicle or aircraft authorised to be searched cannot be obtained because such vessel, vehicle or aircraft is moving or for any other reason, it shall be lawful for the authorised officer with such assistance of police officers or of officers of the Central Government, or of both, as may be required, to stop any such vessel or vehicle or, in the case of an aircraft, compel it to stop or land, and search any part of the vessel, vehicle or aircraft; and in order to effect an entrance into such vessel, vehicle or aircraft, to break open any outer or inner door or window of any such vessel, vehicle or aircraft, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance :

78. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

79. Substituted for "Deputy Director of Inspection", *ibid*.

80. Substituted for "Inspecting Assistant Commissioner", *ibid*.

81. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1965.

82. Inserted by the IT (Second Amdt.) Rules, 1965.

83. Inserted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

Provided that if any such vessel, vehicle or aircraft is occupied by a woman, who according to custom does not appear in public, the authorised officer shall, before entering such vessel, vehicle or aircraft, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing.]

⁸⁴[(4B)] ⁸⁵[The authorised officer] may require any person who is the owner, or has the immediate possession, or control, of any box, locker, safe, almirah or any other receptacle situate in such ⁸⁶[building, place, vessel, vehicle or aircraft], to open the same and allow access to inspect or examine its contents, and, where the keys thereof are not available or where such person fails to comply with any such requirement, may cause any action to be taken including the breaking open of such box, locker, safe, almirah or other receptacle which ⁸⁷[the authorised officer] may deem necessary for carrying out all or any of the purposes specified in the authority issued under sub-rule (2).

⁸⁴[(4C)] ⁸⁵[The authorised officer] may, where it is not practicable to seize the money, bullion, jewellery or other valuable article or thing or any books of account or document, serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of ⁸⁷[the authorised officer], who may take such steps as may be necessary for ensuring compliance with this sub-rule.

⁸⁸[(5) Any person referred to in clause (iia) of sub-section (1) of section 132 may be searched by the authorised officer with such assistance as he may consider necessary. If such person is a woman, the search shall be made by another woman with a strict regard to decency.]

⁸⁸[(6) Before making a search, the authorised officer shall,—

- (a) where a building or place is to be searched, call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situate, and
- (b) where a vessel, vehicle or aircraft is to be searched, call upon any two or more respectable persons, to attend and witness the search and may issue an order in writing to them or any of them so to do.]

(7) The search shall be made in the presence, of the witnesses aforesaid and a list of all things seized in the course of such search and of the places in which they were respectively found shall be prepared by ⁸⁹[the authorised officer] and signed by

⁸⁴. Inserted by the IT (Second Amtdt.) Rules, 1965, as sub-rules (4A) and (4B) respectively, and were later renumbered as sub-rules (4B) and (4C) by the IT (Fourth Amtdt.) Rules, 1975, w.e.f. 1-10-1975.

⁸⁵. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amtdt.) Rules, 1965.

⁸⁶. Substituted for "building or place" by the IT (Fourth Amtdt.) Rules, 1975, w.e.f. 1-10-1975.

⁸⁷. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amtdt.) Rules, 1965.

⁸⁸. Substituted by the IT (Fourth Amtdt.) Rules, 1975, w.e.f. 1-10-1975.

⁸⁹. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer" by the IT (Fifth Amtdt.) Rules, 1965.

such witnesses; but no person witnessing a search shall be required to attend as a witness of the search in any proceedings under ⁹⁰[the Indian Income-tax Act, 1922 (11 of 1922), or] the Act unless specially summoned.

⁹¹[(8) The occupant of the building, place, vessel, vehicle or aircraft searched, including the person in charge of such vessel, vehicle or aircraft, or some person on his behalf, shall be permitted to attend during the search and a copy of the list prepared under sub-rule (7) shall be delivered to such occupant or person. A copy thereof shall be forwarded to the ⁹²[Chief Commissioner or Commissioner], and, where the authorisation has been issued by any officer other than the ⁹²[Chief Commissioner or Commissioner], also to that officer.]

⁹³[(9) Where any person is searched under clause (iia) of sub-section (1) of section 132, a list of all things taken possession of shall be prepared and a copy thereof shall be delivered to such person. A copy thereof shall be forwarded to the ⁹²[Chief Commissioner or Commissioner], and, where the authorisation has been issued by any officer other than the ⁹²[Chief Commissioner or Commissioner], also to that officer.]

⁹⁴[(10) ⁹⁵[The authorised officer] shall place or cause to be placed the bullion, jewellery and other valuable articles and things seized during the search in a package or packages which shall be listed with details of the bullion, jewellery and other valuable articles and things placed therein; every such package shall bear an identification mark and the seal of ⁹⁶[the authorised officer or any other income-tax authority] not below the rank of Income-tax Officer and ⁹⁷[the occupant of the building, place, vessel, vehicle or aircraft, including the person in charge of such vessel, vehicle or aircraft, searched] or any other person in his behalf shall also be permitted to place his seal on them. A copy of the list prepared shall be delivered to such occupant or person. A copy shall be forwarded to the ⁹⁸[Chief Commissioner or Commissioner] ⁹⁹[and where the authorisation has been issued by any officer other than the ⁹⁸[Chief Commissioner or Commissioner], also to that officer].]

90. Inserted by the IT (Third Amdt.) Rules, 1964.

91. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

92. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

93. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

94. Inserted by the IT (Third Amdt.) Rules, 1964 and later substituted by the IT (Second Amdt.) Rules, 1965.

95. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.

96. Substituted for "the Inspecting Assistant Commissioner or any other income-tax authority", *ibid*.

97. Substituted for "the occupant of the building or place searched" by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

98. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

99. Substituted for "and also to the Director of Inspection where the authorisation under sub-rule (2) has been issued by him", *ibid*.

¹⁷[(11)] ³[The authorised officer] may convey the books of account and other documents, if any, seized by him in the course of the search made by him and the package or packages, if any, referred to in sub-rule (10) to the office of any income-tax authority not below the rank of Income-tax Officer (hereinafter referred to as the Custodian). Any money seized in the search referred to above may also be deposited with the Custodian.]

⁴[(12)(i) The Custodian shall take such steps as he may consider necessary for the safe custody of—

- (a) books of account and other documents, and
- (b) the package or packages, conveyed to him.

(ii) The Custodian may deposit for safe custody all or any of the packages with any branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries ⁵[or the authorised bank] or a Government Treasury.

(iii) Where any money has been deposited with the Custodian, he may credit the money, or remit the money through the nearest ⁶[branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any authorised bank] ⁷[" * "] for being credited, in the Personal Deposit Account of the ⁸[Chief Commissioner or Commissioner] in the ⁹[branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any authorised bank] at the place where the office of the ⁸[Chief Commissioner or Commissioner] is situate.]

¹⁰[(13) (i) Whenever any sealed package is required to be opened for any of the purposes of the Act, ¹¹[the authorised officer] may, unless he is himself the Custodian, requisition the same from the Custodian and on receipt of the requisition, such package or packages, as the case may be, shall be delivered to him by the Custodian. ¹²[The authorised officer] may break any seal and open such package in the presence of two respectable witnesses after giving a reasonable notice to the person from whose custody the contents were seized to be present.

(ii) Such person shall be permitted to be present till all or any of the contents of such package are placed in a fresh package or packages and sealed in the manner specified in sub-rule (1) or delivered to such person or the Custodian, as the case may be.]

1. Substituted by the IT (Second Amdt.) Rules, 1965.
2. Renumbered by the IT (Third Amdt.) Rules, 1964.
3. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.
4. Inserted by the IT (Second Amdt.) Rules, 1965.
5. Inserted by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.
6. Substituted for "Government Treasury", *ibid*.
7. Words "free of charge" omitted, *ibid*.
8. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.
9. Substituted for "Government Treasury" by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.
10. Inserted by the IT (Second Amdt.) Rules, 1965.
11. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.
12. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," *ibid*.

¹³[(14) The ¹⁴[Assessing Officer] to whom the books of account or other documents or assets have been handed over under sub-section (9A) of section 132 shall have all the powers conferred on the authorised officer under sub-rules (11) and (13).]

¹⁵[Inquiry under section 132.

¹⁶112A. (1) Where any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) are seized, the ¹⁷[Assessing Officer], shall, within fifteen days of the seizure ¹⁸[, and in a case where the assets are handed over to him by the authorised officer under sub-section (9A) of section 132, within fifteen days from the date on which such assets are handed over to him], issue to the person in respect of whom inquiry under sub-section ¹⁹[(5)] of section 132 is to be made requiring him on the date to be specified therein (not being earlier than fifteen days from the date of service of such notice) either to attend at the office of the ²⁰[Assessing Officer] to explain or to produce or cause to be there produced evidence on which such person may rely for explaining the nature of the possession and the source of the acquisition of the assets.

(2) The ²⁰[Assessing Officer] may issue a notice to the person referred to in sub-rule (1) requiring him on a date specified therein to produce or cause to be produced at such time and at such place as the ²⁰[Assessing Officer] may specify such accounts or documents or evidence as the ²⁰[Assessing Officer] may require and may from time to time issue further notices requiring production of such further accounts or documents or other evidence as he may require.

(3) The ²⁰[Assessing Officer] may examine on oath any other person or make such other inquiry as he may deem fit.

(4) Before any material gathered in the course of the examination or inquiry under sub-rule (3) is used by the ²⁰[Assessing Officer] against the person referred to in sub-rule (1), the ²⁰[Assessing Officer] shall give a reasonable notice to that person to show cause why such material should not be used against him.]

13. Inserted by the IT (Second Amdt.) Rules, 1965 and was later substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

14. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

15. Inserted by the IT (Second Amdt.) Rules, 1965.

16. Requirement of issuing notice under rule 112A(1) is mandatory - *B.P. Abdul Gafoor v. CIT* [1983] 142 ITR 108 (Ker.). Rule 112A(1) is not mandatory in so far as it lays down time-limit of 15 days - *Director of Inspection of Income-tax (Investigation) v. Pooran Mall & Sons* [1974] 96 ITR 390 (SC). The scope of section 132 does not include within its ambit immovable property—*Sardar Parduman Singh v. Union of India* [1987] 166 ITR 115 (Delhi). The words "other valuable article or thing" cannot be understood to take within its ambit immovable property—*M.K. Gabriel Babu v. Asstt. Director of Income-tax* [1990] 186 ITR 435 (Ker.), affirmed in *CIT v. M.K. Gabriel Babu* [1991] 188 ITR 464 (Ker.). Fixed deposit receipts and similar documents of title are not "valuable article or thing"—*Bhagwandas Narayandas v. CIT* [1975] 98 ITR 194 (Guj.).

17. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

18. Inserted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

19. Substituted for "(1B)" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

20. Substituted for "Income-tax officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

21[Release of articles under section 132(5).]

112B. Where in pursuance of sub-section ²²[(5)] of section 132 of the Act, the assets or part thereof have to be released, the ²³[Assessing Officer] shall forthwith deliver the same to the person from whose custody they were seized in the presence of two respectable witnesses.]

24[Release of remaining assets.]

112C. Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) of section ²⁵[132B] are discharged shall be forthwith made over or paid to the person, from whose custody the assets were seized, in the presence of two respectable witnesses.]

26[Requisition of books of account, etc.]

112D. (1) The authorisation under sub-section (1) of section 132A by the ²⁷[Director General or Director] or the ²⁸[Chief Commissioner or Commissioner] shall be in Form No. 45C, shall be in writing under the signature of the officer issuing the authorisation and shall bear his seal.

(2) The officer authorised to make a requisition under sub-section (1) of section 132A (hereinafter referred to as the requisitioning officer) shall make the requisition in writing to the officer or authority referred to in clause (a) or clause (b) or, as the case may be, clause (c) of the said sub-section (hereinafter referred to as the delivering officer or authority) calling upon the delivering officer or autho-

21. Inserted by the IT (Second Amdt.) Rules, 1965.

Rules 112B and 112C are beneficial rules and their validity cannot be impugned - *Bhupendra Ratilal Thakkar v. CIT* [1976] 102 ITR 531 (SC). Where tax liability exceeds value of seized goods, department can insist upon a bank guarantee before ordering the release of goods - *Pooran Sugar Works v. Asstt. CIT* [1996] 219 ITR 221 (All.). However, where regular assessment has been completed, no such bank guarantee could be demanded - *Hariharnath Agarwal & Sons (HUF) v. CIT* [1996] 221 ITR 486 (All.). Criminal court cannot order release of goods seized by police, in respect of which warrant of authorisation has been issued - *Parasnath v. Union of India* [1996] 87 Taxman 349 (MP). For details, see Taxmann's Master Guide to Income-tax Rules.

22. Substituted for "(1B)" by the IT (Fifth Amdt.) Rules, 1965.

23. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

24. Inserted by the IT (Second Amdt.) Rules, 1965 and was later substituted by the IT (Fifth Amdt.) Rules, 1965.

Where delay in refund of seized amounts was caused by respondents other than the Commissioner, only those respondents should pay interest to the petitioner - *Mohd. Usman v. Union of India* [1996] 86 Taxman 165 (Delhi). For details, see Taxmann's Master Guide to Income-tax Rules.

25. Substituted for "132A" by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

26. Inserted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975. Original rule 112D was inserted by the IT (Second Amdt.) Rules, 1965 and was later omitted by the IT (Fifth Amdt.) Rules, 1965.

Mere unexplained possession of amount without anything more would not constitute sufficient information leading to an inference that the amount was undisclosed income - *CIT v. Vindhya Metal Corporation* [1997] 224 ITR 614 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

27. Substituted for "Director of Inspection" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

28. Substituted for "Commissioner", *ibid.*

rity to deliver the books of account, other documents or assets specified in the requisition to him. The requisition shall be accompanied by a copy of the authorisation in Form No. 45C. A copy of the requisition, along with a copy of the authorisation in Form No. 45C, shall be forwarded to the person referred to in clause (a) or clause (b) or, as the case may be, clause (c) of sub-section (1) of section 132A.

(3) The delivering officer or authority shall prepare a list of the books of account or other documents delivered to the requisitioning officer. Before effecting delivery of any bullion, jewellery or other valuable article or thing, the delivering officer or authority shall place or cause to be placed such bullion, jewellery, article or thing in a package or packages which shall be listed with details of such bullion, jewellery, article or thing placed therein. Every such package shall bear an identification mark and seal of the requisitioning officer or of any other income-tax authority not below the rank of Income-tax Officer on behalf of the requisitioning officer, and also of the delivering officer or authority. The person referred to in clause (a) or clause (b) or, as the case may be, clause (c) of sub-section (1) of section 132A or any other person on his behalf shall also be permitted to place his seal on the said package or packages. A copy of the list prepared shall be delivered to such person and a copy thereof shall also be forwarded by the delivering officer to the ²⁹[Chief Commissioner or Commissioner] and also to the ³⁰[Director-General or Director] where the authorisation under sub-rule (1) has been issued by him.

(4) The provisions of sub-rules (11) to (14) (both inclusive) of rule 112 and of rule 112A, rule 112B and rule 112C shall, so far as may be, apply as if the books of account, other documents and assets delivered to the requisitioning officer under section 132A had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or, as the case may be, clause (c) of sub-section (1) of the said section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-rules and rules, the words "the requisitioning officer" were substituted.]

³¹[Form of information under section 133B(1).

112E. The information required to be furnished under sub-section (1) of section 133B shall be in Form No. 45D.]

³²[Class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessment or reassessment of the total income for six assessment years immediately preceding the assessment year.]

112F. The class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made, shall be the cases—

29. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

30. Substituted for "Director of Inspection", *ibid*.

31. Inserted by the IT (Fifth Amdt.) Rules, 1986, w.e.f. 9-7-1986. Marginal heading of the rule has been provided by Editor.

32. Inserted by the IT (Fourteenth Amdt.) Rules, 2012, w.r.e.f. 1-7-2012.

33. See also Circular No. 10/2012, dated 31-12-2012 (Clarification on application of rule 112F). For details, see Taxmann's Master Guide to Income-tax Rules.

- (i) where, as a result of a search under sub-section (1) of section 132 of the Act or a requisition made under section 132A of the Act, a person is found to be in possession of any money, bullion, jewellery or other valuable articles or things, whether or not he is the actual owner of such money, bullion, jewellery, etc.; and
- (ii) where, such search is conducted or such requisition is made in the territorial area of an assembly or Parliamentary constituency in respect of which a notification has been issued under section 30 read with section 56 of the Representation of the People Act, 1951 (43 of 1951), or where the assets so seized or requisitioned are connected in any manner to the ongoing election in an assembly or Parliamentary constituency:

Provided that this rule shall not be applicable to cases where such search under section 132 or such requisition under section 132A has taken place after the hours of poll so notified:

Provided further that this rule shall not be applicable to cases where any assessment or reassessment has abated under the second proviso to section 153A and where any assessment or reassessment has abated under section 153C.]

³⁴[**Disclosure of information respecting assessees.**

113. (1) The application to the ³⁵[Chief Commissioner or Commissioner] under ³⁶[clause (b) of] sub-section (1) of section 138 for information relating to an assessee in respect of any assessment made either under the Act or under the Indian Income-tax Act, 1922 (11 of 1922), on or after the 1st day of April, 1960, shall be made in Form No. 46.

(2) The information under ³⁶[clause (b) of] sub-section (1) of section 138 shall be furnished by the ³⁷[Chief Commissioner or Commissioner] in Form No. 47.

(3) Where it is not possible for the ³⁷[Chief Commissioner or Commissioner] to furnish the information asked for by the applicant under ³⁸[clause (b) of] sub-section (1) of section 138 owing to the fact that the relevant assessment has not been completed, he shall inform the applicant in Form No. 48.

(4) Where the ³⁹[Chief Commissioner or Commissioner] is satisfied that it is not in the public interest to furnish or cause to be furnished the information asked for, he shall intimate the fact to the applicant in Form No. 49.]

⁴⁰[⁴¹**Application for allotment of a permanent account number.**

114. (1) An application under sub-section (1) ⁴²[or sub-section (1A) or sub-section (2) or sub-section (3)] of section 139A for allotment of a permanent account number shall be made ⁴³[***] in Form No. 49A ⁴⁴[or 49AA, as the case may be]:

34. Substituted by the IT (Third Amdt.) Rules, 1964.

35. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

36. Inserted by the IT (Second Amdt.) Rules, 1968.

37. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

38. Inserted by the IT (Second Amdt.) Rules, 1968.

39. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

40. Inserted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976. Original rule 114 was omitted by the IT (Third Amdt.) Rules, 1964.

⁴⁵[**Provided** that an applicant may apply for allotment of permanent account number through a common application form notified ⁴⁶by the Central Government in the Official Gazette, and the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall specify the classes of persons, forms and formats along with procedure for safe and secure transmission of such forms and formats in relation to furnishing of permanent account number.]

^{46a}[(1A) Any person, who has not been allotted a permanent account number but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the permanent account number in accordance with sub-section (5E) of section 139A, shall be deemed to have applied for allotment of permanent account number and he shall not be required to apply or submit any documents under this rule.

(1B) Any person, who has not been allotted a permanent account number but possesses the Aadhaar number may apply for allotment of the permanent account number under sub-section (1) or sub-section (1A) or sub-section (3) of section 139A to the authorities mentioned in sub-rule (2) by intimating his Aadhaar number and he shall not be required to apply or submit any documents under this rule.

(1C) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall on receipt of information under sub-rule (1A) or sub-rule (1B), as the case may be, authenticate the Aadhaar number for that purpose.]

(2) An application referred to in sub-rule (1) shall be made,—

- (i) in cases where the function of allotment of permanent account number under section 139A has been assigned by the ⁴⁷[Chief Commissioner or

(Contd. from p. 1.407)

41. See section 295(2)(eeb). PAN Numbers are allotted on basis of applications without actual *de facto* verification of identity or ascertainment of active nature of business activity, just as a facility to keep track of transactions and, thus, PAN number cannot be blindly and without consideration of surrounding circumstances treated as sufficiently disclosing identity of individual - *N. Tarika Property Invest (P.) Ltd. v. CIT* [2014] 51 taxmann.com 387 (SC) [SLP dismissed against *CIT v. N Tarika Properties Investment (P.) Ltd.* [2014] 221 Taxman 14/ [2013] 40 taxmann.com 525 (Delhi)]. There should be a time-bound programme for the purpose of issuance of PAN number and delivery of PAN card; in case of issuance of PAN number and card the maximum period is three months from the date of application—*Chandrakant Kandlal Sheth v. Union of India* [2002] 255 ITR 407/125 Taxman 975 (Cal.). Mere allotment of PAN under section 139A would not make allottee necessarily a separate entity for purpose of assessment of tax—*Sardar Vallabhbhai Patel Education Society v. ITO* [2017] 85 taxmann.com 336 (Guj.).

42. Substituted for “or sub-section (2)” by the IT (Twenty-fourth Amdt.) Rules, 2001, w.e.f. 31-12-2001.

43. Words “in duplicate” omitted, *ibid*.

44. Inserted by the IT (Seventh Amdt.) Rules, 2011, w.e.f. 1-11-2011.

45. Substituted by the IT (Second Amdt.) Rules, 2017, w.e.f. 9-2-2017. Prior to its substitution, proviso, as inserted by the IT (Fifth Amdt.) Rules, 2015, w.e.f. 10-4-2015, read as under :

“**Provided** that in case of an applicant, being a company which has not been registered under the Companies Act, 2013 (18 of 2013), the application for allotment of a Permanent Account Number may be made in Form No. INC-7 specified under sub-section (1) of section 7 of the said Act for incorporation of the company.”

46. See Footnote No. 61 on page 1.418.

46a. Sub-rules (1A), (1B) and (1C) inserted by the IT (Fifth Amdt.) Rules, 2019, w.e.f. 1-9-2019.

47. Substituted for “Commissioner” by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

Commissioner] to any particular ⁴⁸[Assessing Officer], to that ⁴⁸[Assessing Officer];

- (ii) in any other case, to the ⁴⁸[Assessing Officer] having jurisdiction to assess the applicant.
- (3) The application referred to in sub-rule (1) shall be made,—
 - (i) in a case where the total income of the person or the total income of any other person in respect of which he is assessable under the Act during any ⁴⁹[financial year] exceeds the maximum amount which is not chargeable to income-tax and he has not been allotted any permanent account number, on or before the 31st day of May of the assessment year for which such income is assessable;
 - (ii) in the case of a person not falling under clause (i), but carrying on any business ⁵⁰[or profession], the total sales, turnover or gross receipts of which are or is likely to exceed ⁵¹[five lakh rupees] in any ⁵²[financial year] and who has not been allotted any permanent account number, before the end of that ⁵²[financial year];]
 - ⁵³[(iii) in the case of a person who is required to furnish a return of income under sub-section (4A) of section 139 and who has not been allotted any permanent account number, before the end of the ⁵²[financial year];]
 - ⁵⁴[(iv) in the case of a person who is entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVII-B in any financial year, before the end of such financial year;]
 - ⁵⁵[(v) in the case of a person, being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to two lakh fifty thousand rupees or more in a financial year and which has not been allotted any permanent account number, on or before the 31st day of May immediately following such financial year;
 - (vi) in the case of a person, who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in clause (v) or any person competent to act on behalf of the person referred to in clause (v) and who has not been allotted any permanent account number, on or before the 31st day of May immediately following the financial year in which the person referred to in clause (v) enters into financial transaction specified therein.]

⁵⁶[(4) The application, referred to in sub-rule (1) ⁵⁷[[other than that referred to in the proviso to sub-rule (1)]] in respect of an applicant mentioned in column (2) of the

48. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

49. Substituted for "accounting year" by the IT (Seventh Amdt.) Rules, 2011, w.e.f. 1-11-2011.

50. Inserted by the IT (Twenty-fourth Amdt.) Rules, 2001, w.e.f. 31-12-2001.

51. Substituted for "fifty thousand rupees", *ibid*.

52. Substituted for "accounting year" by the IT (Seventh Amdt.) Rules, 2011, w.e.f. 1-11-2011.

53. Inserted by the IT (Fifth Amdt.) Rules, 1991, w.e.f. 25-2-1991.

54. Inserted by the IT (Seventh Amdt.) Rules, 2011, w.e.f. 1-11-2011.

55. Inserted by the IT (Twelfth Amdt.) Rules, 2018, w.e.f. 5-12-2018.

Table below, shall be filled in the Form mentioned in column (3) of the said table, and shall be accompanied by the documents mentioned in column (4) thereof, as proof of identity, address and date of birth of such applicant:

TABLE

Sl. No.	Applicant	Form	Documents as proof of identity, address and date of birth
(1)	(2)	(3)	(4)
1.	Individual who is a citizen of India	49A	<p>(A) Proof of identity—</p> <p>(i) Copy of,—</p> <p>(a) elector's photo identity card; or</p> <p>(b) ration card having photograph of the applicant; or</p> <p>(c) passport; or</p> <p>(d) driving licence; or</p> <p>(e) arm's license; or</p> <p>(f) AADHAAR Card issued by the Unique Identification Authority of India; or</p> <p>(g) photo identity card issued by the Central Government or a State Government or a Public Sector Undertaking; or</p> <p>(h) Pensioner Card having photograph of the applicant; or</p> <p>(i) Central Government Health Scheme Card or Ex-servicemen Contributory Health Scheme photo card; or</p> <p>(ii) certificate of identity in original signed by a Member of Parliament or Member of Legislative Assembly or Municipal Councillor or a Gazetted Officer, as the case may be; or</p> <p>(iii) bank certificate in original on letter head from the branch (along with name and stamp of the issuing officer) containing duly attested photograph and bank account number of the applicant.</p> <p>Note : In case of a person being a minor, any of the above documents of any of the parents or guardian of such minor shall be deemed to be the proof of identity.</p> <p>(B) Proof of address—</p> <p>(i) copy of the following documents of not more than three months old—</p> <p>(a) electricity bill; or</p>

(Contd. from p. 1.409)

56. Sub-rules (4) and (5) substituted for sub-rule (4) by the IT (Nineteenth Amtd.) Rules, 2013, w.e.f. 23-12-2013. Prior to its substitution, sub-rule (4), as amended by the IT (Seventh Amtd.) Rules, 2003, w.e.f. 29-5-2003 and IT (Seventh Amtd.) Rules, 2011, w.e.f. 1-11-2011, read as under :

* (4) The application referred to in sub-rule (1) in respect of persons mentioned in Column 2 of the Table below shall be filed in Forms mentioned in Column 3 and shall be accompanied by the documents mentioned in Column 4 as proof of identity and address of the applicant :

(Contd. on p. 1.411)

Sl. No.	Applicant	Form	Documents as proof of identity, address and date of birth
(1)	(2)	(3)	(4)
			(b) landline telephone or broadband connection bill; or (c) water bill; or (d) consumer gas connection card or book or piped gas bill; or (e) bank account statement or as per Note 1; or (f) depository account statement; or (g) credit card statement; or (ii) copy of,— (a) post office pass book having address of the applicant; or (b) passport; or (c) passport of the spouse; or (d) elector's photo identity card; or (e) latest property tax assessment order; or

(Contd. from p. 1.410)

TABLE

Sl. No.	Applicant	Form	Documents as proof of identity and address
(1)	(2)	(3)	(4)
1.	Individual who is a citizen of India	49A	(i) Proof of identity— Copy of, (a) school leaving certificate; or (b) matriculation certificate; or (c) degree of a recognised educational institution; or (d) depository account; or (e) credit card; or (f) bank account; or (g) water bill; or (h) ration card; or (i) property tax assessment order; or (j) passport; or (k) voter identity card; or (l) driving licence; or (m) certificate of identity signed by a Member of Parliament or Member of Legislative Assembly or Municipal Councillor or a Gazetted Officer, as the case may be. In case of a person being a minor, any of the above documents of any of the parents or guardian of such minor shall be deemed to be the proof of identity. (ii) Proof of address— Copy of,— (a) electricity bill; or (b) telephone bill; or (c) depository account; or (d) credit card; or (e) bank account; or (f) ration card; or (g) employer certificate; or

(Contd. on p. 1.412)

Sl No.	Applicant	Form	Documents as proof of identity, address and date of birth
(1)	(2)	(3)	(4)
			<p>(f) driving licence; or</p> <p>(g) domicile certificate issued by the Government; or</p> <p>(h) AADHAAR Card issued by the Unique Identification Authority of India; or</p> <p>(i) allotment letter of accommodation issued by the Central Government or State Government of not more than three years old; or</p> <p>(j) property registration document; or</p> <p>(iii) certificate of address signed by a Member of Parliament or Member of Legislative Assembly or Municipal Councillor or a Gazetted Officer, as the case may be; or</p> <p>(iv) employer certificate in original.</p> <p>Note 1 : In case of an Indian citizen residing outside India, copy of Bank Account Statement in country</p>

(Contd. from p. 1.411)

Sl No.	Applicant	Form	Documents as proof of identity and address
(1)	(2)	(3)	(4)
			<p>(h) passport; or</p> <p>(i) voter identity card; or</p> <p>(j) property tax assessment order; or</p> <p>(k) driving licence; or</p> <p>(l) rent receipt; or</p> <p>(m) certificate of address signed by a Member of Parliament or Member of Legislative Assembly or Municipal Councillor or a Gazetted Officer, as the case may be.</p> <p>Note 1 : In case of a minor, any of the above documents of any of the parents or guardian of such minor shall be deemed to be the proof of address.</p> <p>Note 2 : In case of an Indian citizen residing outside India, copy of Bank Account Statement in country of residence or copy of Non-resident External (NRE) bank account statements.</p>
2.	Hindu undivided family	49A	<p>(a) an affidavit by the karta of the Hindu Undivided Family stating the name, father's name and address of all the coparceners on the date of application; and</p> <p>(b) copy of any document applicable in the case of an individual specified in serial number 1, in respect of karta of the Hindu undivided family, as proof of identity and address.</p>
3.	Company registered in India	49A	Copy of Certificate of Registration issued by the Registrar of Companies.
4.	Firm (including Limited Liability Partnership) formed or registered in India	49A	<p>(a) copy of Certificate of Registration issued by the Registrar of Firms/Limited Liability Partnerships; or</p> <p>(b) copy of Partnership Deed.</p>
5.	Association of persons (Trusts) formed or registered in India	49A	<p>(a) copy of trust deed; or</p> <p>(b) copy of Certificate of Registration Number issued by Charity Commissioner.</p>

(Contd. on p. 1.413)

(Contd. from p. 1.412)

Sl No.	Applicant	Form	Documents as proof of identity and address
(1)	(2)	(3)	(4)
6.	Association of persons (other than Trusts) or body of individuals or local authority or artificial juridical person formed or registered in India	49A	<p>(a) copy of Agreement; or</p> <p>(b) copy of Certificate of Registration Number issued by Charity Commissioner or Registrar of Co-operative Society or any other Competent Authority; or</p> <p>(c) any other document originating from any Central Government or State Government Department establishing Identity and address of such person.</p>
7.	Individuals not being a citizen of India	49AA	<p>(i) Proof of identity :—</p> <p>(a) copy of Passport; or</p> <p>(b) copy of person of Indian Origin card issued by the Government of India; or</p> <p>(c) copy of Overseas Citizenship of India Card issued by Government of India; or</p> <p>(d) copy of other national or citizenship Identification Number or Taxpayer Identification Number duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located.</p> <p>(ii) Proof of address:—</p> <p>(a) copy of Passport; or</p> <p>(b) copy of person of Indian Origin card issued by the Government of India; or</p> <p>(c) copy of Overseas Citizenship of India Card issued by Government of India; or</p> <p>(d) copy of other national or citizenship Identification Number or Taxpayer Identification Number duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located; or</p> <p>(e) copy of bank account statement in country of residence; or</p> <p>(f) copy of Non-resident External bank account statement in India; or</p> <p>(g) copy of certificate of residence in India or Residential permit issued by the State Police Authority; or</p> <p>(h) copy of the registration certificate issued by the Foreigner's Registration Office showing Indian address; or</p> <p>(i) copy of Visa granted and copy of appointment letter or contract from Indian Company and Certificate (in original) of Indian Address issued by the employer.</p>
8.	LLP registered outside India	49AA	<p>(a) copy of Certificate of Registration issued in the country where the applicant is located, duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located; or</p> <p>(b) copy of registration certificate issued in India or of approval granted to set up office in India by Indian Authorities.</p>

(Contd. on p. 1.414)

Sl No.	Applicant	Form	Documents as proof of identity, address and date of birth
(1)	(2)	(3)	(4)

of residence or copy of Non-resident External bank account statements shall be the proof of address.

Note 2 : In case of a minor, any of the above documents of any of the parents or guardian of such minor shall be deemed to be the proof of address.

⁵⁸(C) Proof of date of birth—

copy of the following documents if they bear the name, date, month and year of birth of the applicant, namely:—

(Contd. from p. 1.413)

Sl No.	Applicant	Form	Documents as proof of identity and address
(1)	(2)	(3)	(4)
9.	Company registered outside India	49AA	(a) copy of Certificate of Registration issued in the country where the applicant is located, duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located; or (b) copy of registration certificate issued in India or of approval granted to set up office in India by Indian Authorities.
10.	Firm formed or registered outside India	49AA	(a) copy of Certificate of Registration issued in the country where the applicant is located, duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located; or (b) copy of registration certificate issued in India or of approval granted to set up office in India by Indian Authorities.
11.	Association of persons (Trusts) formed outside India	49AA	(a) copy of Certificate of Registration issued in the country where the applicant is located, duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located; or (b) copy of registration certificate issued in India or of approval granted to set up office in India by Indian Authorities.
12.	Association of persons (other than Trusts) or body of individuals or local authority or artificial juridical person formed or any other entity (by whatever name called) registered outside India	49AA	(a) copy of Certificate of Registration issued in the country where the applicant is located, duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located; or (b) copy of registration certificate issued in India or of approval granted to set up office in India by Indian Authorities."

57. Inserted by the IT (Fifth Amdt.) Rules, 2015, w.e.f. 10-4-2015.

58. Substituted, *ibid.* Prior to its substitution, item (C) read as under :

(Contd. on p. 1.415)

Sl. No.	Applicant	Form	Documents as proof of identity, address and date of birth
(1)	(2)	(3)	(4)
			<p>(a) birth certificate issued by the municipal authority or any office authorised to issue birth and death certificate by the Registrar of Birth and Deaths or the Indian Consulate as defined in clause (d) of sub-section (1) of section 2 of the Citizenship Act, 1955 (57 of 1955); or</p> <p>(b) pension payment order; or</p> <p>(c) marriage certificate issued by the Registrar of Marriages; or</p> <p>(d) matriculation certificate or mark sheet of recognised board; or</p> <p>(e) passport; or</p> <p>(f) driving licence; or</p> <p>(g) domicile certificate issued by the Government; or</p> <p>(h) aadhaar card issued by the Unique Identification Authority of India; or</p> <p>(i) elector's photo identity card; or</p> <p>(j) photo identity card issued by the Central Government or State Government or Central Public Sector Undertaking or State Public Sector Undertaking; or</p> <p>(k) Central Government Health Service Scheme photo card or Ex-servicemen Contributory Health Scheme photo card; or</p> <p>(l) affidavit sworn before a magistrate stating the date of birth.]</p>
2.	Hindu undivided family	49A	<p>(a) An affidavit by the karta of the Hindu Undivided Family stating the name, father's name and address of all the coparceners on the date of application; and</p> <p>(b) Copy of any document applicable in the case of an individual specified in serial number 1, in respect of karta of the Hindu undivided family, as proof of identity, address and date of birth.</p>

(Contd. from p. 1414)

"(C) Proof of date of birth—
copy of,—

(a) birth certificate issued by the Municipal Authority or any office authorised to issue Birth and Death Certificate by the Registrar of Birth and Deaths or the Indian Consulate as defined in clause (d) of sub-section (1) of section 2 of the Citizenship Act, 1955 (57 of 1955); or

(b) pension payment order; or

(c) marriage certificate issued by Registrar of Marriages; or

(d) matriculation certificate; or

(e) passport; or

(f) driving licence; or

(g) domicile certificate issued by the Government; or

(h) affidavit sworn before a magistrate stating the date of birth."

S. No.	Applicant	Form	Documents as proof of identity, address and date of birth
(1)	(2)	(3)	(4)
3.	Company registered in India	49A	“(a) Copy of Certificate of Registration issued by the Registrar of Companies; or (b) corporate identity number allotted by the Registrar under section 7 of the Companies Act, 2013 (18 of 2013)"]
4.	Firm (including Limited Liability Partnership) formed or registered in India	49A	(a) Copy of Certificate of Registration issued by the Registrar of Firms/Limited Liability Partnerships; or (b) Copy of Partnership Deed.
5.	Association of persons (Trusts) formed or registered in India	49A	(a) Copy of trust deed; or (b) Copy of Certificate of Registration Number issued by Charity Commissioner.
6.	Association of persons (other than Trusts) or body of individuals or local authority or artificial juridical person formed or registered in India	49A	(a) Copy of Agreement; or (b) Copy of Certificate of Registration Number issued by Charity Commissioner or Registrar of Co-operative Society or any other Competent Authority; or (c) Any other document originating from any Central Government or State Government Department establishing Identity and address of such person.
7.	Individuals not being a citizen of India	49AA	(i) Proof of identity :— (a) copy of Passport; or (b) copy of person of Indian Origin card issued by the Government of India; or (c) copy of Overseas Citizenship of India Card issued by Government of India; or (d) copy of other national or citizenship Identification Number or Taxpayer Identification Number duly attested by “Apostille” (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located or authorised officials of overseas branches of Scheduled Banks registered in India. (ii) Proof of address :— (a) copy of Passport; or (b) copy of person of Indian Origin card issued by the Government of India; or (c) copy of Overseas Citizenship of India Card issued by Government of India; or (d) copy of other national or citizenship Identification Number or Taxpayer Identification Number duly attested by “Apostille” (in respect of countries

59. Substituted for “Copy of Certificate of Registration issued by the Registrar of Companies” by the IT (Fifth Amdt.) Rules, 2015, w.e.f. 10-4-2015.

Sl No.	Applicant	Form	Documents as proof of identity, address and date of birth
(1)	(2)	(3)	(4)
			<p>which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located or authorised officials of overseas branches of Scheduled Banks registered in India; or</p> <p>(e) copy of bank account statement in the country of residence; or</p> <p>(f) copy of Non-resident External bank account statement in India; or</p> <p>(g) copy of certificate of residence in India or Residential permit issued by the State Police Authority; or</p> <p>(h) copy of the registration certificate issued by the Foreigner's Registration Office showing Indian address; or</p> <p>(i) copy of Visa granted and copy of appointment letter or contract from Indian Company and Certificate (in original) of Indian Address issued by the employer.</p>
8.	LLP registered outside India	49AA	<p>(a) Copy of Certificate of Registration issued in the country where the applicant is located, duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located or authorised officials of overseas branches of Scheduled Banks registered in India; or</p> <p>(b) Copy of registration certificate issued in India or of approval granted to set up office in India by Indian Authorities.</p>
9.	Company registered outside India	49AA	<p>(a) Copy of Certificate of Registration issued in the country where the applicant is located, duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located or authorised officials of overseas branches of Scheduled Banks registered in India; or</p> <p>(b) Copy of registration certificate issued in India or of approval granted to set up office in India by Indian Authorities.</p>
10.	Firm formed or registered outside India	49AA	<p>(a) Copy of Certificate of Registration issued in the country where the applicant is located, duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located or authorised officials of overseas branches of Scheduled Banks registered in India; or</p>

Sl. No.	Applicant	Form	Documents as proof of identity, address and date of birth
(1)	(2)	(3)	(4)
			(b) Copy of registration certificate issued in India or of approval granted to set up office in India by Indian Authorities.
11.	Association of persons (Trusts) formed outside India	49AA	(a) Copy of Certificate of Registration issued in the country where the applicant is located, duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located or authorised officials of overseas branches of Scheduled Banks registered in India; or (b) Copy of registration certificate issued in India or of approval granted to set up office in India by Indian Authorities.
12.	Association of persons (other than Trusts) or body of individuals or local authority or person formed or any other entity (by whatever name called) registered outside India	49AA	(a) Copy of Certificate of Registration issued in the country where the applicant is located, duly attested by "Apostille" (in respect of countries which are signatories to the Hague Apostille Convention of 1961) or by Indian embassy or High Commission or Consulate in the country where the applicant is located or authorised officials of overseas branches of Scheduled Banks registered in India; or (b) Copy of registration certificate issued in India or of approval granted to set up office in India by Indian Authorities.

⁶⁰[(5) Every person who has been allotted permanent account number as on the 1st day of July, 2017 and who in accordance with the provisions of sub-section (2) of section 139AA is required to intimate his Aadhaar number, shall intimate his Aadhaar number to the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) or the person authorised by the said authorities.

(6) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall specify the formats and standards along with procedure⁶¹,

60. Sub-rules (5) and (6) substituted for sub-rule (5) by the IT (Seventeenth Amdt.) Rules, 2017, w.e.f. 1-7-2017. Prior to its substitution, sub-rule (5) read as under :

"(5) The Director-General of Income-tax (Systems) shall specify the procedure and manner for the verification of documents filed along with the application in sub-rule (4) above, the formats and standards for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing of the application forms for allotment of permanent account number."

61. See Notification No. 2/2017 [F. No. Pr. DGIT(S)/Tech-eBiz/2008-09], dated 9-3-2017 [Procedure for PAN application through Simplified Proforma for Incorporating Company Electronically (SPICe) (Form No. INC 32)]; Notification No. 7/2018 (F. No. ADC(S)-1/ease of doing business-e-PAN/2017-18/Part), dated 27-12-2018 (Procedure, Formats and Standards of issue of PAN) and Notification No. 7/2017 [F. No. DGIT(S)-1/Aadhaar Seeding/0005/2015/Part 6], dated 29-6-2017 (Procedure for intimating AADHAAR to Income-tax Department). For details, see Taxmann's Master Guide to Income-tax Rules.

for the verification of documents filed with the application ⁶²[under sub-rule (4), intimation of Aadhaar number in sub-rule (5) and issue of permanent account number], for ensuring secure capture and transmission of data in such format and standards and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing of the application forms for allotment of permanent account ⁶³[number, intimation of Aadhaar number and issue of permanent account number].]

^{63a}[(7) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall lay down the formats and standards along with procedure for,—

- (a) furnishing or intimation or quoting of Aadhaar number under sub-rule (1A); or
- (b) intimation of Aadhaar number under sub-rule (1B); or
- (c) authentication of Aadhaar number under sub-rule (1C); or
- (d) obtaining demographic information of an individual from the Unique Identification Authority of India,

for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing or intimation or quoting or authentication of Aadhaar number or obtaining of demographic information of an individual from the Unique Identification Authority of India, for allotment of permanent account number and issue thereof.]

⁶⁴[Application for allotment of a tax deduction and collection account number.

114A. (1) An application under sub-section (1) of section 203A for the allotment of a tax deduction and collection account number shall be made in duplicate in Form No. 49B :

⁶⁵[Provided that an applicant may apply for allotment of a tax deduction and collection account number through a common application form notified⁶⁶ by the Central Government in the Official Gazette, and the Principal Director General of

⁶². Substituted for "under sub-rule (4) or intimation of Aadhaar number in sub-rule (5)" by the IT (Twelfth Amtd.) Rules, 2018, w.e.f. 5-12-2018.

⁶³. Substituted for "number and intimation of Aadhaar number", *ibid*.

^{63a}. Inserted by the IT (Fifth Amtd.) Rules, 2019, w.e.f. 1-9-2019.

⁶⁴. Substituted by the IT (Twentieth Amtd.) Rules, 2004, w.e.f. 8-12-2004. Earlier, rule 114A was amended by the IT (Fifth Amtd.) Rules, 1989, w.e.f. 1-4-1988 and IT (Fifth Amtd.) Rules, 1987.

⁶⁵. Substituted by the IT (Second Amtd.) Rules, 2017, w.e.f. 9-2-2017. Prior to its substitution, proviso, as inserted by the IT (Fifth Amtd.) Rules, 2015, w.e.f. 10-4-2015, read as under :

"Provided that in case of an applicant, being a company which has not been registered under the Companies Act, 2013 (18 of 2013), the application for allotment of a tax deduction and collection account number may be made in Form No. INC-7 specified under sub-section (1) of section 7 of the said Act for incorporation of the company."

⁶⁶. See Notification No. 2/2017 [F. No. Pr. DGIT(S)/ADG-2/TAN Application], dated March 2017 [Procedure for TAN application through Simplified Proforma for Incorporating Company (SPICE) (Form No. INC-32)]. For details, see Taxmann's Master Guide to Income-tax Rules.

Income-tax (Systems) or Director General of Income-tax (Systems) shall specify the classes of persons, applicable forms and formats along with procedure for safe and secure transmission of such forms and formats in relation to furnishing of tax deduction and collection account number.]

(2) An application referred to in sub-rule (1) shall be made,—

- (i) in cases where the function of allotment of tax deduction and collection account number under section 203A has been assigned by the Chief Commissioner or Commissioner to any particular Assessing Officer, to that Assessing Officer;
- (ii) in any other case, to the Assessing Officer having jurisdiction to assess the applicant.

(3) The application referred to in sub-rule (1) shall be made,—

- (i) in a case where a person has deducted tax or collected tax in accordance with the provisions of Chapter XVII under the heading '*B.—Deduction at source*' or '*BB.—Collection at source*', as the case may be, prior to the 1st day of October, 2004, on or before the 31st day of January, 2005;
- (ii) in a case where a person has,—
 - (a) deducted or deducts tax in accordance with the provisions of Chapter XVII under the heading '*B.—Deduction at source*'; or
 - (b) collected or collects tax in accordance with the provisions of Chapter XVII under the heading '*BB.—Collection at source*';

on or after the 1st day of October, 2004, within one month from the end of the month in which the tax was deducted or collected, as the case may be, or the 31st day of January, 2005, whichever is later.]

⁶⁷[**Application for allotment of a tax collection account number.**

114AA. (1) An application under sub-section (1) of section 206CA for the allotment of a tax collection account number shall be made in duplicate in Form No. 49B.

(2) An application referred to in sub-rule (1) shall be made,—

- (i) in cases where the function of allotment of tax collection account number under section 206CA has been assigned by the Chief Commissioner or Commissioner to any particular Assessing Officer, to that Assessing Officer;
- (ii) in any other case, to the Assessing Officer having jurisdiction to assess the applicant.

(3) The application referred to in sub-rule (1) shall be made,—

- (i) in a case where a person has collected tax in accordance with the provisions of Chapter XVII under the heading '*BB.—Collection at source*'

prior to the 1st day of June, 2002, on or before the 30th day of September, 2002;

- (ii) in a case where a person has collected or collects tax in accordance with the provisions of Chapter XVII under the heading 'BB—Collection at source' on or after the 1st day of June, 2002, within one month from the end of the month in which the tax was collected or the 30th day of September, 2002, whichever is later.]

^{67a}[**Manner of making permanent account number Inoperative.**

114AAA. (1) Where a person, who has been allotted the permanent account number as on the 1st day of July, 2017 and is required to intimate his Aadhaar number under sub-section (2) of section 139AA, has failed to intimate the same on or before the 31st day of March, 2020*, the permanent account number of such person shall become inoperative immediately after the said date for the purposes of furnishing, intimating or quoting under the Act.

(2) Where a person, whose permanent account number has become inoperative under sub-rule (1), is required to furnish, intimate or quote his permanent account number under the Act, it shall be deemed that he has not furnished, intimated or quoted the permanent account number, as the case may be, in accordance with the provisions of the Act, and he shall be liable for all the consequences under the Act for not furnishing, intimating or quoting the permanent account number.

(3) Where the person referred to in sub-rule (1) has intimated his Aadhaar number under sub-section (2) of section 139AA after the 31st day of March, 2020*, his permanent account number shall become operative from the date of intimation of Aadhaar number for the purposes of furnishing, intimating or quoting under the Act and provisions of sub-rule (2) shall not be applicable from such date of intimation.

(4) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall specify the formats and standards along with the procedure for verifying the operational status of permanent account number under sub-rule (1) and sub-rule (2).]

^{67b}[**Class or classes of person to whom provisions of section 139A shall not apply.**

114AAB. (1) The provisions of section 139A shall not apply to a non-resident, not being a company, or a foreign company, (hereinafter referred to as the non-resident) who has, during a previous year, made investment in a specified fund if the following conditions are fulfilled, namely:—

- (i) the non-resident does not earn any income in India, other than the income from investment in the specified fund during the previous year;
- (ii) any income-tax due on income of non-resident has been deducted at source and remitted to the Central Government by the specified fund at the rates specified in section 194LBB of the Act; and

^{67a}. Inserted by the IT (Fifth Amdt.) Rules, 2020, w.e.f. 13-2-2020.

^{67b}. Inserted by the IT (Nineteenth Amdt.) Rules, 2020, w.e.f. 10-8-2020.

*31-3-2021 vide Taxation & Other Laws (Relaxation of Certain Provisions) Act, 2020.

(iii) *the non-resident furnishes the following details and documents to the specified fund, namely:—*

- (a) name, e-mail id, contact number;*
- (b) address in the country or specified territory outside India of which he is a resident;*
- (c) a declaration that he is a resident of a country or specified territory outside India; and*
- (d) Tax Identification Number in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the non-resident is identified by the Government of that country or the specified territory of which he claims to be a resident.*

(2) The specified fund shall furnish a quarterly statement for the quarter of the financial year, in which the details and documents referred to in clause (iii) of sub-rule (1) are received by it, in Form No. 49BA to the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or the person authorised by him, electronically and upload the declaration referred to in sub-clause (c) of clause (iii) of sub-rule (1) within fifteen days from the end of the quarter of the financial year to which such statement relates in accordance with the procedures, formats and standards specified by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) under sub-rule (3).

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of Form 49BA and shall be responsible for the day-to-day administration in relation to the furnishing and verification of quarterly statement in accordance with the provisions of sub-rule (2).

Explanation.—*For the purposes of this rule—*

- (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, and which is located in any International Financial Services Centre;*
- (b) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).]*

⁶⁸ [Transactions in relation to which permanent account number is to be quoted in all documents for the purpose of clause (c) of sub-section (5) of section 139A. 114B. Every person shall quote his permanent account number in all documents pertaining to the transactions specified in the Table below, namely:—

TABLE

Sl. No.	Nature of transaction	Value of transaction
(1)	(2)	(3)
1.	Sale or purchase of a motor vehicle or vehicle, as defined in clause (28) of section 2 of the Motor Vehicles Act, 1988 ⁶⁹ (59 of 1988) which requires registration by a registering authority under Chapter IV of that Act, other than two wheeled vehicles.	All such transactions.
2.	Opening an account [other than a time-deposit referred to at Sl. No. 12 and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).	All such transactions.
3.	Making an application to any banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution, for issue of a credit or debit card.	All such transactions.
4.	Opening of a demat account with a depository, participant, custodian of securities or any other person registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).	All such transactions.
5.	Payment to a hotel or restaurant against a bill or bills at any one time.	Payment in cash of an amount exceeding fifty thousand rupees.
6.	Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time.	Payment in cash of an amount exceeding fifty thousand rupees.
7.	Payment to a Mutual Fund for purchase of its units.	Amount exceeding fifty thousand rupees.
8.	Payment to a company or an institution for acquiring debentures or bonds issued by it.	Amount exceeding fifty thousand rupees.

68. Rules 114B to 114D substituted by the IT (Twenty-second Amdt.) Rules, 2015, w.e.f. 1-1-2016. Prior to their substitution, rules 114B to 114D, as inserted by the IT (Sixteenth Amdt.) Rules, 1998, w.e.f. 1-11-1998 and later on amended by IT (Twenty-fourth Amdt.) Rules, 1998, w.e.f. 1-11-1998, IT (Fourth Amdt.) Rules, 1999, w.e.f. 27-1-1999, IT (Eighth Amdt.) Rules, 2002, w.e.f. 19-6-2002, IT (Ninth Amdt.) Rules, 2002, w.e.f. 19-6-2002, IT (Seventeenth Amdt.) Rules, 2004, w.e.f. 1-12-2004 and IT (Fifth Amdt.) Rules, 2011, w.e.f. 1-7-2011, read as under :

Sl. No.	Nature of transaction	Value of transaction
(1)	(2)	(3)
9.	Payment to the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934) for acquiring bonds issued by it.	Amount exceeding fifty thousand rupees.
⁷⁰ [10.	Deposit with,— (i) a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Office.	Cash deposits,— (i) exceeding fifty thousand rupees during any one day; or (ii) aggregating to more than two lakh fifty thousand rupees during the period 9th November, 2016 to 30th December, 2016.]
11.	Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).	Payment in cash for an amount exceeding fifty thousand rupees during any one day.
12.	A time deposit with,— (i) a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act);	Amount exceeding fifty thousand rupees or aggregating to more than five lakh rupees during a financial year.

(Contd. from p. 1.423)

'114B. All documents pertaining to the transactions in relation to which permanent account number to be quoted for the purpose of clause (c) of sub-section (5) of section 139A.—Every person shall quote his permanent account number in all documents pertaining to the transactions specified below, namely :—

- (a) sale or purchase of any immovable property valued at five lakh rupees or more;
- (b) sale or purchase of a motor vehicle or vehicle, as defined in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988), which requires registration by a registering authority under Chapter IV of that Act:

Provided that for the purposes of this clause, the sale or purchase of a motor vehicle or vehicle does not include two wheeled vehicles, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle;

- (c) a time deposit, exceeding fifty thousand rupees, with a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act);
- (d) a deposit, exceeding fifty thousand rupees, in any account with Post Office Savings Bank;
- (e) a contract of a value exceeding one lakh rupees for sale or purchase of securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(Contd. on p. 1.425)

Sl. No.	Nature of transaction	Value of transaction
(1)	(2)	(3)
	(ii) a Post Office; (iii) a Nidhi ⁷¹ referred to in section 406 of the Companies Act, 2013 (18 of 2013); or (iv) a non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934), to hold or accept deposit from public.	
13.	Payment for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by Reserve Bank of India under section 18 of the Payment and Settlement Systems Act, 2007 (51 of 2007), to a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution.	Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than fifty thousand rupees in a financial year.
14.	Payment as life insurance premium to an insurer ⁷¹ as defined in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938).	Amount aggregating to more than fifty thousand rupees in a financial year.
15.	A contract for sale or purchase of securities (other than shares) as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 ⁷¹ (42 of 1956).	Amount exceeding one lakh rupees per transaction.
16.	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange.	Amount exceeding one lakh rupees per transaction.

(Contd. from p. 1.424)

- (f) opening an account not being a time-deposit referred to in clause (c) with a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act);
- (g) making an application for installation of a telephone connection (including a cellular telephone connection);
- (h) payment to hotels and restaurants against their bills for an amount exceeding twenty-five thousand rupees at any one time;
- (i) payment in cash for purchase of bank drafts or pay orders or banker's cheques from a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) for an amount aggregating fifty thousand rupees or more during any one day;
- (j) deposit in cash aggregating fifty thousand rupees or more, with a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) during any one day;

(Contd. on p. 1.426)

Sl No.	Nature of transaction	Value of transaction
(1)	(2)	(3)
17.	Sale or purchase of any immovable property.	Amount exceeding ten lakh rupees or valued by stamp valuation authority referred to in section 50C of the Act at an amount exceeding ten lakh rupees.
18.	Sale or purchase, by any person, of goods or services of any nature other than those specified at Sl. Nos. 1 to 17 of this Table, if any.	Amount exceeding two lakh rupees per transaction:

(Contd. from p. 1.425)

- (k) payment in cash in connection with travel to any foreign country of an amount exceeding twenty-five thousand rupees at any one time.

Explanation.—For the purposes of this clause,—

- (a) "payment in cash in connection with travel" includes payment in cash towards fare, or to a travel agent or a tour operator, or to an authorized person as defined in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999), or for the purchase of foreign currency;
- (b) the expression "travel to any foreign country" does not include travel to the neighbouring countries or to such places of pilgrimage as may be specified by the Board under *Explanation 3* of sub-section (1) of section 139;
- (h) making an application to any banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution, for issue of a credit or debit card;
- (m) payment of an amount of fifty thousand rupees or more to a Mutual Fund for purchase of its units;
- (n) payment of an amount of fifty thousand rupees or more to a company for acquiring shares issued by it;
- (o) payment of an amount of fifty thousand rupees or more to a company or an institution for acquiring debentures or bonds issued by it;
- (p) payment of an amount of fifty thousand rupees or more to the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934) for acquiring bonds issued by it;
- (q) payment of an amount aggregating fifty thousand rupees or more in a year as life insurance premium to an insurer as defined in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);
- (r) payment to a dealer,—
 - (i) of an amount of five lakh rupees or more at any one time; or
 - (ii) against, a bill for an amount of five lakh rupees or more,
 for purchase of bullion or jewellery :

Provided that where a person, making an application for opening an account referred to in clause (c) and clause (f) of this rule, is a minor and who does not have any income chargeable to income-tax, he shall quote the permanent account number of his father or mother or guardian, as the case may be, in the document pertaining to the transaction referred to in said clause (c) and clause (f):

Provided further that any person who does not have a permanent account number and who enters into any transaction specified in this rule, shall make a declaration in Form No. 60 giving therein the particulars of such transaction.

(Contd. on p. 1.427)

Provided that where a person, entering into any transaction referred to in this rule, is a minor and who does not have any income chargeable to income-tax, he shall quote the permanent account number of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction:

Provided further that any person who does not have a permanent account number and who enters into any transaction specified in this rule, he shall make a declaration in Form No. 60⁷² giving therein the particulars of such transaction⁷³ [either in paper form or electronically under the electronic verification code in accordance with the procedures, data structures, and standards specified by the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems)]:

Provided also that the provisions of this rule shall not apply to the following class or classes of persons, namely :—

- (i) the Central Government, the State Governments and the Consular Offices;
- (ii) the non-residents referred to in clause (30) of section 2 of the Act in respect of the transactions other than a transaction referred to at Sl. No. 1 or 2 or 4 or 7 or 8 or 10 or 12 or 14 or 15 or 16 or 17 of the Table :

⁷⁴**Provided also** that a person who has an account (other than a time deposit referred to at S. No.12 of the Table and a Basic Saving Bank Deposit Account) maintained with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) and has not quoted his permanent account number or furnished Form No. 60, as the case may be, at the time of opening of such account or subsequently, he shall furnish his permanent account number or Form No. 60, as the case may be, to the person specified in clause (c) of sub-rule (1) of rule 114C on or before the ⁷⁵[30th day of June], 2017.]

(Contd. from p. 1.426)

114C. *Class or classes of persons to whom provisions of section 139A shall not apply.*—(1) The provisions of section 139A shall not apply to following class or classes of persons, namely :—

- (a) the persons who have agricultural income and are not in receipt of any other income chargeable to income-tax :

Provided that such persons shall make declaration in Form No. 61 in respect of transactions referred to in rule 114B;

- (b) the non-residents referred to in clause (30) of section 2;
- (c) Central Government, State Governments and Consular Offices in transactions where they are the payers.

(2) Every person including,—

- (a) a registering officer appointed under the Registration Act, 1908 (16 of 1908);
- (b) a registering authority referred to in clause (b) of rule 114B;
- (c) any manager or officer of a banking company referred to in clause (c) or clause (i) or clause (j) or clause (l) of rule 114B;
- (d) post master;
- (e) stock broker, sub-broker, share transfer agent, banker to an issue, trustee of a trust deed, registrar to issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediaries registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(Contd. on p. 1.428)

Explanation.—For the purposes of this rule,—

- (1) "payment in connection with travel" includes payment towards fare, or to a travel agent or a tour operator, or to an authorised person as defined in clause (c) of section 276 of the Foreign Exchange Management Act, 1999 (42 of 1999);
- (2) "travel agent or tour operator" includes a person who makes arrangements for air, surface or maritime travel or provides services relating to accommodation, tours, entertainment, passport, visa, foreign exchange, travel related insurance or other travel related services either severally or in package;
- (3) "time deposit" means any deposit which is repayable on the expiry of a fixed period.

Verification of Permanent Account Number in transactions specified in rule 114B.

114C. (1) Any person being,—

- (a) a registering officer or an Inspector-General appointed under the Registration Act, 1908 (16 of 1908);
- (b) a person who sells the immovable property or motor vehicle;
- (c) a manager or officer of a banking company or co-operative bank, as the case may be, referred to at Sl. No. 2 or 3 or 10 or 11 or 12 or 13 of rule 114B;
- (d) post master;

(Contd. from p. 1.427)

- (f) any authority or company receiving application for installation of a telephone by it;
- (g) any person raising bills referred to in clause (h) or clause (k) of rule 114B;
- (h) any person who purchases or sells the immovable property or motor vehicle;
- (i) the principal officer of a company referred to in clause (l) or clause (n) or clause (o) of rule 114B;
- (j) the principal officer of an institution referred to in clause (l) or clause (o) of rule 114B;
- (k) any trustee or any other person duly authorised by the trustee of a Mutual Fund referred to in clause (m) of rule 114B;
- (l) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934),

who has received any document relating to a transaction specified in rule 114B shall ensure after verification that permanent account number has been duly and correctly quoted therein.

114D. *Time and manner in which persons referred to in sub-rule (2) of rule 114C, shall furnish the copies of Form No. 60 and Form No. 61.*—(1) Every person referred to in sub-rule (2) of rule 114C shall forward to the Commissioner of Income-tax (Central Information Branch) having territorial jurisdiction over the area in which the transaction is entered into, the following documents, namely:—

- (a) copies of declaration in Form No. 60 referred to in the second proviso to rule 114B;
- (b) copies of declaration in Form No. 61 referred to in the proviso to clause (a) of sub-rule (1) of rule 114C;

(Contd. on p. 1.429)

- (e) stock broker, sub-broker, share transfer agent, banker to an issue, trustee of a trust deed, registrar to issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediaries registered under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (f) a depository, participant, custodian of securities or any other person registered under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) referred to at Sl. No. 4 of rule 114B;
- (g) the principal officer of a company referred to at Sl. No. 3 or 4 or 8 or 12 or 13 or 15 or 16 of rule 114B;
- (h) the principal officer of an institution referred to at Sl. No. 2 or 3 or 8 or 10 or 11 or 12 or 13 of rule 114B;
- (i) any trustee or any other person duly authorised by the trustee of a Mutual Fund referred to at Sl. No. 7 of rule 114B;
- (j) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934), or of any agency bank authorised by the Reserve Bank of India;
- (k) a manager or officer of an insurer referred to at Sl. No. 14 of rule 114B, who, in relation to a transaction specified in rule 114B, has received any document shall ensure after verification that permanent account number has been duly and correctly mentioned therein or as the case may be, a declaration in Form 60 has been duly furnished with complete particulars.

(Contd. from p. 1.428)

Provided that copies of declaration furnished in respect of transactions referred to in clause (f) of rule 114B shall not be furnished.

(2) The copies of declaration in Form No. 60 and Form No. 61 referred to in sub-rule (1) shall be forwarded to the Commissioner of Income-tax (Central Information Branch) in two instalments, that is, the forms received upto 30th September, shall be forwarded latest by 31st October of that year and the forms received upto 31st March shall be forwarded latest by 30th April of that year.

69. For definition of "motor vehicle" or "vehicle", see **Appendix**.

70. Substituted by the IT (Thirtieth Amdt.) Rules, 2016, w.e.f. 15-11-2016. Prior to its substitution, serial number 10 read as under :

"10. Deposit with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act). Deposits in cash exceeding fifty thousand rupees during any one day."

71. For definitions of "Nidhi", "insurer" and "securities", see **Appendix**.

72. See Notification No. 1/2018 [DGIT(S)/ADG(S)-2/Form 60 Digitization/151/2018], dated 5-4-2018 (Procedure for submission of Form 60). For details, see *Taxmann's Master Guide to Income-tax Rules*.

73. Inserted by the IT (Fourteenth Amdt.) Rules, 2017, w.e.f. 9-6-2017.

74. Inserted by the IT (First Amdt.) Rules, 2017, w.e.f. 6-1-2017.

75. Substituted for "28th day of February" by the IT (Seventh Amdt.) Rules, 2017, w.r.e.f. 1-3-2017.

76. For definition of "authorised person", see **Appendix**.

(2) Any person, being a person raising bills referred to at Sl. No. 5 or 6 or 18 of rule 114B, who, in relation to a transaction specified in the said Sl. No., has issued any document shall ensure after verification that permanent account number has been correctly furnished and the same shall be mentioned in such document, or as the case may be, a declaration in Form 60 has been duly furnished with complete particulars.

“(3) The person referred to in sub-rule (1) or sub-rule (2) who has received any document in which permanent account number is mentioned or as the case may be, a declaration in Form No. 60 has been furnished, shall ensure that the valid permanent account number or the fact of furnishing of Form No. 60, is duly mentioned in the records maintained for the transactions referred to in rule 114B and the permanent account number or the details of Form No. 60 are linked and mentioned in any information furnished to the income-tax authority or any other authority or agency under any provision of the Act or any rule prescribed therein.]

Time and manner in which persons referred to in rule 114C shall furnish a statement containing particulars of Form No. 60.

114D. (1) Every person referred to in,—

(I) ⁷⁸[clauses (a)] to (k) of sub-rule (1) of rule 114C; and

(II) sub-rule (2) of rule 114C and who is required to get his accounts audited under section 44AB of the Act,

who has received any declaration in Form No. 60, on or after the 1st day of January, 2016, in relation to a transaction specified in rule 114B, shall—

(i) furnish a statement in Form No. 61⁷⁹ containing particulars of such declaration to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose and obtain an acknowledgement number; and

(ii) retain Form No. 60 for a period of six years from the end of the financial year in which the transaction was undertaken.

(2) The statement referred to in clause (i) of sub-rule (1) shall,—

(i) where the declarations are received by the 30th September, be furnished by the 31st October of that year; and

(ii) where the declarations are received by the 31st March, be furnished by the 30th April of the financial year immediately following the financial year in which the form is received :

77. Inserted by the IT (First Amdt.) Rules, 2017, w.e.f. 6-1-2017.

78. Substituted for “clauses (b)” by the IT (Twenty-sixth Amdt.) Rules, 2016, w.e.f. 6-10-2016.

79. See Notification No. 2/2018 [DGIT(S)/ADG(S)-2/Notification/106/2018], dated 5-4-2018 [Procedure for registration and submission of Form 61]. For details, see Taxmann's Master Guide to Income-tax Rules.

⁸⁰[**Provided** that the statement in respect of the transactions listed in clause (ii) of column (3) of serial number (10) of the Table under rule 114B shall be furnished on or before the 15th day of January, 2017.]

(3) The statement referred to in clause (i) of sub-rule (1) shall be verified—

(a) in a case where the person furnishing the statement is an assessee as defined in clause (7) of section 2 of the Act, by a person specified in section 140 of the Act;

(b) in any other case, by the person referred to in rule 114C.]

⁸¹[(4) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall specify the procedures, data structures, and standards for ensuring secure capture and transmission of data, evolving and implementing appropriate security, archival and retrieval policies in relation to the statement referred to in sub-clause (i) of sub-rule (1).]

⁸²[**Furnishing of Annual Statement by a non-resident having Liaison Office in India.**

114DA. (1) The annual statement as provided under section 285 for every financial year, shall be furnished in Form No. 49C.

(2) The annual statement referred to in sub-rule (1) shall be duly verified by the Chartered Accountant or the person authorised in this behalf by the non-resident person, who shall be known as the Authorised Signatory.

(3) The annual statement referred to in sub-rule (1) shall be furnished in electronic form along with digital signature.

(4) The Director General of Income-tax (Systems) shall specify the procedure for filing of annual statement referred to in sub-rule (1) and shall also be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to statements so furnished.]

⁸³[**Information or documents to be furnished under section 285A.**

114DB. (1) Every Indian concern referred to in section 285A shall, for the purposes of the said section, maintain and furnish the information and documents in accordance with this rule.

(2) The information shall be furnished in Form No. 49D electronically under digital signature to the Assessing Officer having jurisdiction over the Indian concern within a period of ninety days from the end of the financial year in which any transfer of the share of, or interest in, a company or entity incorporated outside India (hereafter referred to as "foreign company or entity") referred to in *Explanation 5* to clause (i) of sub-section (1) of section 9 has taken place:

80. Inserted by the IT (First Amdt.) Rules, 2017, w.e.f. 6-1-2017.

81. Inserted by the IT (Twenty-sixth Amdt.) Rules, 2016, w.e.f. 6-10-2016.

82. Inserted by the IT (Second Amdt.) Rules, 2012, w.e.f. 1-4-2012.

83. Inserted by the IT (Nineteenth Amdt.) Rules, 2016, w.e.f. 28-6-2016.

Provided that where the transaction in respect of the share or the interest has the effect of directly or indirectly transferring the rights of management or control in relation to the Indian concern, the information shall be furnished in the said Form within ninety days of the transaction.

(3) The Indian concern shall maintain the following along with its english translation, if the documents originally prepared are in foreign languages and produce the same when called upon to do so by any income-tax authority in the course of any proceeding to substantiate the information furnished under sub-rule (2), namely:—

- (i) details of the immediate holding company or entity, intermediate holding company or companies or entity or entities and ultimate holding company or entity of the Indian concern;
- (ii) details of other entities in India of the group of which the Indian concern is a constituent;
- (iii) the holding structure of the shares of, or the interest in, the foreign company or entity before and after the transfer;
- (iv) any transfer contract or agreement entered into in respect of the share of, or interest in, any foreign company or entity that holds any asset in India through, or in, the Indian concern;
- (v) financial and accounting statements of the foreign company or entity which directly or indirectly holds the assets in India through, or in, the Indian concern for two years prior to the date of transfer of the share or interest;
- (vi) information relating to the decision or implementation process of the overall arrangement of the transfer;
- (vii) information in respect of the foreign company or entity and its subsidiaries, relating to,—
 - (a) the business operation;
 - (b) personnel;
 - (c) finance and properties;
 - (d) internal and external audit or the valuation report, if any, forming basis of the consideration in respect of share, or the interest;
- (viii) the asset valuation report and other supporting evidence to determine the place of location of the share or interest being transferred;
- (ix) the details of payment of tax outside India, which relates to the transfer of the share or interest;
- (x) the valuation report in respect of Indian asset and total assets duly certified by a merchant banker or accountant with supporting evidence;
- (xi) documents which are issued in connection with the transactions under the accounting practice followed.

(4) Where there are more than one Indian concerns that are constituent entities of a group, the information may be furnished by any one Indian concern, if,—

- (i) the group has designated such Indian concern to furnish information on behalf of all other Indian concerns that are constituent of the group, and
- (ii) the information regarding the designated Indian concern has been conveyed in writing on behalf of the group to the Assessing officer:

Provided that nothing contained in this sub-rule shall have effect if the designated Indian concern fails to furnish the information in accordance with the provisions of this rule.

(5) The Principal Director General of Income-tax (Systems) or Director General Income-tax (Systems), as the case may be, shall specify the procedure for electronically filing of Form No. 49D and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the information so furnished under this rule.

(6) The information and documents specified in sub-rule (3) shall be kept and maintained for a period of eight years from the end of relevant assessment year.

Explanation.—For the purposes of this rule,—

- (i) “constituent entity” shall have the meaning as assigned to it in clause (d) of sub-section (9) of section 286;
- (ii) “group” shall have the meaning as assigned to it in clause (e) of sub-section (9) of section 286;
- (iii) “intermediate holding company or entity” means a company or an entity that has controlling interest in another company or entity and is itself controlled by, or is subsidiary of, another company or entity;
- (iv) “immediate holding company or entity” means the company or the entity that directly maintains the controlling interest in the Indian concern;
- (v) “ultimate holding company or entity” means a company or an entity that has ultimate control of the Indian concern directly or indirectly and such company or entity is not itself controlled by, or is subsidiary of, any other company or entity.]

⁸⁴[Furnishing of statement of financial transaction.⁸⁵

114E. (1) The statement of financial transaction required to be furnished under sub-section (1) of section 285BA of the Act shall be furnished in respect of a financial year in Form No. 61A⁸⁶ and shall be verified in the manner indicated therein.

84. Substituted by the IT (Twenty-second Amdt.) Rules, 2015, w.e.f. 1-4-2016.

85. Rule 114E [amended by the IT (Seventh Amdt.) Rules, 2016, w.r.e.f. 1-4-2015, IT (Twenty-first Amdt.) Rules, 2005, w.r.e.f. 1-12-2004, IT (Eleventh Amdt.) Rules, 2008, w.e.f. 23-12-2008 and IT (Seventeenth Amdt.) Rules, 2004, w.e.f. 1-12-2004] as applicable for the specified financial transactions carried out during the period from 1-4-2015 to 31-3-2016 shall be as follows :

(2) The statement referred to in sub-rule (1) shall be furnished by every person mentioned in column (3) of the Table below in respect of all the transactions of the nature and value specified in the corresponding entry in column (2) of the said Table in accordance with the provisions of sub-rule (3), which are registered or recorded by him on or after the 1st day of April, 2016, namely:—

(Contd. from p. 1.433)

114E. Furnishing of Annual Information Return or Statement of Financial Transactions.—

(1) The annual information return or statement of financial transactions, as the case may be, required to be furnished under sub-section (1) of section 285BA shall be furnished in Form No. 61A and shall be verified in the manner indicated therein.

(2) The return or statement referred to in sub-rule (1) shall be furnished by every person mentioned in column (2) of the Table below in respect of all transactions of the nature and value specified in the corresponding entry in column (3) of the said Table, which are registered or recorded by him during a financial year beginning on or after the 1st day of April, 2004:—

TABLE

SLNo.	Class of person	Nature and value of transaction
(1)	(2)	(3)
1.	A Banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).	Cash deposits aggregating to ten lakh rupees or more in a year in any savings account of a person maintained in that bank.
2.	A banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or any other company or institution issuing credit card.	Payments made by any person against bills raised in respect of a credit card issued to that person, aggregating to two lakh rupees or more in the year.
3.	A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.	Receipt from any person of an amount of two lakh rupees or more for acquiring units of that Fund.
4.	A company or institution issuing bonds or debentures.	Receipt from any person of an amount of five lakh rupees or more for acquiring bonds or debentures issued by the company or institution.
5.	A company issuing shares through a public or rights issue.	Receipt from any person of an amount of one lakh rupees or more for acquiring shares issued by the company.
6.	Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908.	Purchase or sale by any person of immovable property valued at thirty lakh rupees or more.

(Contd. on p. 1.435)

TABLE

Sl. No.	Nature and value of transaction	Class of person (reporting person)
(1)	(2)	(3)
1.	(a) Payment made in cash for purchase of bank drafts or pay orders or banker's cheque of an amount aggregating to ten lakh rupees or more in a financial year.	A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act).

(Contd. from p. 1.434)

Sl. No.	Class of person	Nature and value of transaction
(1)	(2)	(3)
7.	A person being an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934, who is duly authorized by the Reserve Bank of India in this behalf.	Receipt from any person of an amount or amounts aggregating to five lakh rupees or more in a year for bonds issued by the Reserve Bank of India.

(3) The *return or statement* referred to in sub-rule (1) shall be furnished to the Director of Income-tax (Central Information Branch);

Provided that where the Board has authorised an agency to receive such *return or statement* on behalf of the Director of Income-tax (Central Information Branch), the *return or statement* shall be furnished to that agency.

(4)(a) The *return or statement* comprising Part A and Part B of Form No. 61A referred to in sub-rule (1) shall be furnished on computer readable media being a floppy (3.5 inch and 1.44 MB capacity) or CD-ROM (650 MB or higher capacity) or Digital Video Disc (DVD), along with Part A thereof on paper :

Provided that a person responsible for furnishing the return, may, at his option, furnish the return through online transmission of electronic data to a server designated by the "Annual Information Return or Statement of Financial Transaction - Administrator" referred to in sub-rule (7) for this purpose under the digital signature of the person specified in sub-rule (6):

Provided further that the return shall be prepared in accordance with the data structure specified by the "Annual Information Return or Statement of Financial Transaction - Administrator" referred to in sub-rule (7) in this regard.

(b) The person responsible for furnishing the *return or the statement* shall ensure that—

- (i) if the data relating to the return or statement is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished along with the computer media return or statement;
- (ii) the *return or the statement* is accompanied by a certificate regarding clean and virus free data.

Explanation.—For the purposes of this sub-rule, "digital signature" means a digital signature issued by any Certifying Authority authorised to issue such certificates by the Controller of Certifying Authorities.

(5) The *return or statement* referred to in sub-rule (1) shall be furnished on or before 31st August, immediately following the financial year in which the transaction is registered or recorded.

(6) The *return or statement* referred to in sub-rule (1) shall be signed and verified by—

- (a) in a case where the person furnishing the *return or statement* is an assessee as defined in clause (7) of section 2 of the Act, by a person specified in section 140 of the Act;

(Contd. on p. 1.436)

Sl. No.	Nature and value of transaction	Class of person (reporting person)
(1)	(2)	(3)
	<p>(b) Payments made in cash aggregating to ten lakh rupees or more during the financial year for purchase of pre-paid instruments issued by Reserve Bank of India under section 18 of the Payment and Settlement Systems Act, 2007 (51 of 2007).</p> <p>(c) Cash deposits or cash withdrawals (including through bearer's cheque) aggregating to fifty lakh rupees or more in a financial year, in or from one or more current account of a person.</p>	
2.	Cash deposits aggregating to ten lakh rupees or more in a financial year, in one or more accounts (other than a current account and time deposit) of a person.	<p>(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);</p> <p>(ii) Post Master General^{86a} as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).</p>
3.	One or more time deposits (other than a time deposit made through renewal of another time deposit) of a person aggregating to ten lakh rupees or more in a financial year of a person.	<p>(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);</p> <p>(ii) Post Master General^{86a} as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898);</p>

(Contd. from p. 1.435)

(b) in any other case, by the person referred to in column (2) of the Table below sub-rule (2).

(7) The Board may appoint an officer designated as Annual Information Return - Administrator, not below the rank of the Commissioner of Income-tax for the purposes of day-to-day administration of furnishing of the "Annual Information Return or Statement of Financial Transaction" including specification of the procedures, data structure, formats and standards for ensuring secure capture and transmission of data, evolving and implementing appropriate security, archival and retrieval policies.'

For detailed Departmental Clarifications, see Taxmann's Direct Taxes Manual, Volume 3.

86. See Notification No. 3/2018 [DGIT(S)/ADG(S)-2/Reporting Portal/2017/180], dated 5-4-2018 [Procedure for registration and submission of Form 61A]. For details, see Taxmann's Master Guide to Income-tax Rules.

86a. For definition of "Post Master General", see Appendix.

Sl. No. (1)	Nature and value of transaction (2)	Class of person (reporting person) (3)
		<p>(ii) Nidhi^{86b} referred to in section 406 of the Companies Act, 2013 (18 of 2013);</p> <p>(iv) Non-banking financial company which holds a certificate of registration under section 45-1A of the Reserve Bank of India Act, 1934⁸⁷ [(2 of 1934)], to hold or accept deposit from public.</p>
4.	<p>Payments made by any person of an amount aggregating to—</p> <p>(i) one lakh rupees or more in cash; or</p> <p>(ii) ten lakh rupees or more by any other mode,</p> <p>against bills raised in respect of one or more credit cards issued to that person, in a financial year.</p>	A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act) or any other company or institution issuing credit card.
5.	Receipt from any person of an amount aggregating to ten lakh rupees or more in a financial year for acquiring bonds or debentures issued by the company or institution (other than the amount received on account of renewal of the bond or debenture issued by that company).	A company or institution issuing bonds or debentures.
6.	Receipt from any person of an amount aggregating to ten lakh rupees or more in a financial year for acquiring shares (including share application money) issued by the company.	A company issuing shares.
7.	Buy back of shares from any person (other than the shares bought in the open market) for an amount or value aggregating to ten lakh rupees or more in a financial year.	A company listed on a recognised stock exchange purchasing its own securities under section 68 of the Companies Act, 2013 (18 of 2013).
8.	Receipt from any person of an amount aggregating to ten lakh rupees or more in a financial year for acquiring units of one or more schemes of a Mutual Fund (other than the amount received on account of transfer from one scheme to another scheme of that Mutual Fund).	A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

^{86b}. For definition of 'Nidhi', see Appendix.

⁸⁷. Substituted for "(6 of 1934)" by the IT (Fourth Amdt.) Rules, 2021, w.e.f. 12-3-2021.

Sl. No. (1)	Nature and value of transaction (2)	Class of person (reporting person) (3)
9.	Receipt from any person for sale of foreign currency including any credit of such currency to foreign exchange card or expense in such currency through a debit or credit card or through issue of travellers cheque or draft or any other instrument of an amount aggregating to ten lakh rupees or more during a financial year.	Authorised person ⁸⁸ as referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).
10.	Purchase or sale by any person of immovable property for an amount of thirty lakh rupees or more or valued by the stamp valuation authority referred to in section 50C of the Act at thirty lakh rupees or more.	Inspector-General appointed under section 3 of the Registration Act, 1908 or Registrar or Sub-Registrar appointed under section 6 of that Act.
11.	Receipt of cash payment exceeding two lakh rupees for sale, by any person, of goods or services of any nature (other than those specified at Sl. Nos. 1 to 10 of this rule, if any.)	Any person who is liable for audit under section 44AB of the Act.
⁸⁹ [12.	Cash deposits during the period 9th November, 2016 to 30th December, 2016 aggregating to — (i) twelve lakh fifty thousand rupees or more, in one or more current account of a person; or (ii) two lakh fifty thousand rupees or more, in one or more accounts (other than a current account) of a person.	(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).]
⁹⁰ [13.	Cash deposits during the period 1st April, 2016 to 9th November, 2016 in respect of accounts that are reportable under Sl. No. 12.	(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).]

88. For definition of "authorised person", see Appendix.

89. Inserted by the IT (Thirtieth Amdt.) Rules, 2016, w.e.f. 15-11-2016.

90. Inserted by the IT (First Amdt.) Rules, 2017, w.e.f. 6-1-2017.

(3) The reporting person mentioned in column (3) of the Table under sub-rule (2) [other than the persons at Sl. No. 10 and Sl. No. 11] shall, while aggregating the amounts for determining the threshold amount for reporting in respect of any person as specified in column (2) of the said Table,—

- (a) take into account all the accounts of the same nature as specified in column (2) of the said Table maintained in respect of that person during the financial year;
- (b) aggregate all the transactions of the same nature as specified in column (2) of the said Table recorded in respect of that person during the financial year;
- (c) attribute the entire value of the transaction or the aggregated value of all the transactions to all the persons, in a case where the account is maintained or transaction is recorded in the name of more than one person;
- (d) apply the threshold limit separately to deposits and withdrawals in respect of transaction specified in item (c) under column (2), against Sl. No. 1 of the said Table.

(4)(a) The return in Form No. 61A referred to in sub-rule (1) shall be furnished to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose under the digital signature of the person specified in sub-rule (7) and in accordance with the data structure specified in this regard by the Principal Director General of Income-tax (Systems):

Provided that in case of a reporting person, being a Post Master General or a Registrar or an Inspector General referred to in sub-rule (2), the said return in Form 61A may be furnished in a computer readable media, being a Compact Disc or Digital Video Disc (DVD), along with the verification in Form-V on paper.

Explanation.—For the purposes of this sub-rule, “digital signature” means a digital signature issued by any Certifying Authority authorised to issue such certificates by the Controller of Certifying Authorities.

(b) Principal Director General of Income-tax (Systems) shall specify the procedures, data structures and standards for ensuring secure capture and transmission of data, evolving and implementing appropriate security, archival and retrieval policies.

(c) The Board may designate an officer as Information Statement Administrator, not below the rank of a Joint Director of Income-tax for the purposes of day to day administration in relation to the furnishing of returns or statements.

91. Substituted for “(other than the person at Sl. No. 9)” by the IT (Twenty-sixth Amdt.) Rules, 2016, w.e.f. 6-10-2016.

(5) The statement of financial transactions referred to in sub-rule (1) shall be furnished on or before the 31st May, immediately following the financial year in which the transaction is registered or recorded :

⁹²[**Provided** that the statement of financial transaction in respect of the transactions listed at serial number (12) ⁹³[and serial number (13)] in the Table under sub-rule (2), shall be furnished on or before the 31st day of January, 2017.]

^{93a}[(5A) For the purposes of pre-filling the return of income, a statement of financial transaction under sub-section (1) of section 285BA of the Act containing information relating to capital gains on transfer of listed securities or units of Mutual Funds, dividend income, and interest income mentioned in column (2) of Table below shall be furnished by the persons mentioned in column (3) of the said Table in such form, at such frequency, and in such manner, as may be specified by the Principal Director General of Income Tax (Systems) or the Director General of Income Tax (Systems), as the case may be, with the approval of the Board, namely:—

TABLE

Sl. No.	Nature of transaction	Class of person (reporting person)
(1)	(2)	(3)
1.	Capital gains on transfer of listed securities or units of Mutual Funds	(i) Recognised Stock Exchange; (ii) Depository as defined in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996) ^{93b} ; (iii) Recognised Clearing Corporation; (iv) Registrar to an issue and share transfer agent registered under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).
2.	Dividend income	A company
3.	Interest income	(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Master General ^{93b} as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898). (iii) Non-banking financial company which holds a certificate of registration under

92. Inserted by the IT (Thirtieth Amdt.) Rules, 2016, w.e.f. 15-11-2016.

93. Inserted by the IT (First Amdt.) Rules, 2017, w.e.f. 6-1-2017.

93a. Inserted by the IT (Fourth Amdt.) Rules, 2021, w.e.f. 12-3-2021.

93b. For definitions of "Depository" and "Post Master General", see **Appendix**.

Sl. No.	Nature of transaction	Class of person (reporting person)
(1)	(2)	(3)
		section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934), to hold or accept deposit from public.

Explanation.—For the purposes of this rule,—

- (a) “listed securities” means the securities which are listed on any recognised stock exchange in India;
 - (b) “Mutual Fund” means a Mutual Fund as referred to in clause (23D) of section 10 of the Act;
 - (c) “recognised clearing corporation” shall have the same meaning as assigned to it in clause (o) of sub-regulation (1) of regulation 2 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (d) “recognised stock exchange” shall have the same meaning as assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956)⁹⁴;
 - (e) “securities” shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956)⁹⁴.]
- (6) (a) Every reporting person mentioned in column (3) of the Table under sub-rule (2) ^{94a}[and column (3) of the Table under sub-rule (5A)] shall communicate to the Principal Director General of Income-tax (Systems) the name, designation, address and telephone number of the Designated Director and the Principal Officer and obtain a registration number.
- (b) It shall be the duty of every person specified in column (3) of the Table under sub-rule (2) ^{94a}[and column (3) of the Table under sub-rule (5A)], its Designated Director, Principal Officer and employees to observe the procedure and the manner of maintaining information as specified by its regulator and ensure compliance with the obligations imposed under section 285BA of the Act and rules 114B to 114D and this rule.

Explanation 1.—“Designated Director” means a person designated by the reporting person to ensure overall compliance with the obligations imposed under section 285BA of the Act and the rules 114B to 114D and this rule and includes—

- (i) the Managing Director or a whole-time Director, as defined⁹⁴ in the Companies Act, 2013 (18 of 2013), duly authorised by the Board of Directors if the reporting person is a company;

94. For definitions of “recognised stock exchange”, “securities” and “director”/“managing director”, respectively, see Appendix

94a. Inserted by the IT (Fourth Amdt.) Rules, 2021, w.e.f. 12-3-2021.

- (ii) the managing partner if the reporting person is a partnership firm;
- (iii) the proprietor if the reporting person is a proprietorship concern;
- (iv) the managing trustee if the reporting person is a trust;
- (v) a person or individual, as the case may be, who controls and manages the affairs of the reporting entity if the reporting person is, an unincorporated association or, a body of individuals or, any other person.

Explanation 2.—“Principal Officer” means an officer designated by the reporting person referred to in the Table in sub-rule (2) ^{94b}~~and in sub-rule (5A)]~~.

Explanation 3.—“Regulator” means a person or an authority or a Government which is vested with the power to license, authorise, register, regulate or supervise the activity of the reporting person referred to in the Table in sub-rule (2) ^{94b}~~and in sub-rule (5A)]~~.

(7) The statement of financial transaction referred to in sub-rule (1) ^{94b}~~and sub-rule (5A)]~~ shall be signed, verified and furnished by the Designated Director specified in sub-rule (6):

Provided that where the reporting person is a non-resident, the statement may be signed, verified and furnished by a person who holds a valid power of attorney from such Designated Director.]

⁹⁵**[Definitions.**

114F. For the purpose of this rule and rules 114G and 114H,—

- (1) “financial account” means an account (other than an excluded account) maintained by a financial institution, and includes—

- (i) a depository account;
- (ii) a custodial account;
- (iii) in the case of an investment entity, any equity or debt interest in the financial institution.

Explanation.—For the purposes of this sub-clause “financial account” shall not include any equity interest or debt interest in an entity that is an investment entity solely because it,—

- (a) renders investment advice to, and acts on behalf of; or
- (b) manages portfolios for, and acts on behalf of,

^{94b}Inserted by the IT (Fourth Amdt.) Rules, 2021, w.e.f. 12-3-2021.

⁹⁵ Rules 114F, 114G and 114H inserted by the IT (Eleventh Amdt.) Rules, 2015, w.e.f. 7-8-2015. Rules 114F to 114H are enacted for purposes of section 285BA. See also Agreement between India and USA to implement FATCA [Notification No. SO 2676(E), dated 30-9-2015] Letter F. No. 500/137/2011-FTTR-III, dated 31-8-2015 (Guidance notes on implementation of reporting requirements under rules 114F to 114H) and Notification No. 4/2015 [F.No. DGIT(S)/DIT(S)-2/ITWG on financial sector reporting/12/2015], dated 4-9-2015 [Procedure for registration and submission of report as per section 285BA(1)(k)]. For details, see Taxmann's Direct Taxes Manual, Vol. 3.

a customer for the purpose of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution that is not a non-participating financial institution other than such entity;

- (iv) in the case of a financial institution not described in sub-clause (iii), any equity or debt interest in the financial institution, if the class of interests was established with a purpose of avoiding reporting in accordance with rule 114G and, in case of a U.S. reportable account, if the value of the debt or equity interest is determined, directly or indirectly, primarily by reference to assets that give rise to U.S. source withholdable payments; and
- (v) any cash value insurance contract and any annuity contract issued or maintained by a financial institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an excluded account.

Explanation.—For the purposes of this clause,—

- (a) “depository account” includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a financial institution in the ordinary course of a banking or similar business and also an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon;
- (b) “custodial account” means an account (other than an insurance contract or annuity contract) for the benefit of another person that holds one or more financial assets;
- (c) “equity interest” in a financial institution, being—
 - (i) a partnership firm, means either a capital or profits interest in the partnership firm;
 - (ii) a trust, means any interest held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust;

Explanation.—A person will be treated as a beneficiary of a trust if he has the right to receive directly or indirectly a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.

- (d) “insurance contract” means a contract (other than an annuity contract) under which the issuer agrees to pay an amount upon the

occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk;

- (e) "annuity contract" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals;
- (f) "cash value insurance contract" means an insurance contract (other than an indemnity reinsurance contract between two insurance companies) that has a cash value and in case of a U.S. reportable account such value is greater than an amount equivalent to fifty thousand U.S. dollars.

Explanation.—For the purposes of this clause, a single premium life insurance contract which does not permit an amount to be paid on surrender or termination of the contract and which does not allow amounts to be borrowed under or with regard to the contract, shall not constitute a cash value insurance contract;

- (g) "cash value" means the greater of—

- (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan); and
- (ii) the amount the policyholder can borrow under or with regard to the contract,

but does not include an amount payable under an insurance contract,—

- (A) solely by reason of the death of an individual insured under a life insurance contract including a refund of a previously paid premium provided such refund is a limited risk refund; or
- (B) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against; or
- (C) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an insurance contract (other than a life insurance contract or an annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract; or
- (D) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an insurance contract

under which the only benefits payable are described ⁹⁶[in sub-clause (B)]; or

- (E) as a return of an advance premium or premium deposit for an insurance contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium which will be payable under the contract;

Provided that the provisions contained in sub-clause (A) and sub-clause (E) shall not apply in case of a U.S. reportable account;

(h) "excluded account" means,—

- (i) a retirement account or pension account that satisfies the following requirements, namely:—

(A) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);

(B) the account is tax-favoured where contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross total income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate;

(C) information reporting is required to the income-tax authorities with respect to the account;

(D) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and

(E) either annual contributions are limited to an amount equivalent to fifty thousand U.S. dollars or less, or there is maximum lifetime contribution limit to the account of an amount equivalent to one million U.S. dollars or less, in each case applying the rules specified in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation.

Explanation.—A financial account that otherwise satisfies the requirements of item (E) will not fail to satisfy such requirements solely because such financial account may receive assets or funds transferred from one or more

⁹⁶. Substituted for "in sub-clause (ii)" by the IT (Thirty-fifth Amdt.) Rules, 2016, w.r.e.f. 7-8-2015.

financial accounts that meet the requirements of ⁹⁷[sub-clause (i) or (ii) or from one or more retirement or pension funds that meets with the requirements of clause (E), (F) or (G) of *Explanation* to clause (5)];

(ii) an account that satisfies the following requirements, namely:—

- (A) the account is subject to regulation as a savings vehicle for purposes other than for retirement, or the account (other than U.S. reportable account) is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market;
- (B) the account is tax-favoured where contributions to the account that will otherwise be subject to tax are deductible or excluded from the total income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate;
- (C) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and
- (D) annual contributions are limited to an amount equivalent to fifty thousand U.S. dollars or less, applying the rules specified in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation.

Explanation.—A financial account that otherwise satisfies the requirements of item (D) will not fail to satisfy such requirements solely because such financial account may receive assets or funds transferred from one or more financial accounts that meet the requirements of ⁹⁷[sub-clause (i) or (ii) or from one or more retirement or pension funds that meets with the requirements of clause (E), (F) or (G) of *Explanation* to clause (5)] of this rule;

- (iii) an account established under the Senior Citizens Savings Scheme Rules, 2004 made under the Government Savings Banks Act, 1873 (5 of 1873);
- (iv) a life insurance contract with a coverage period that will end before the insured individual attains age of ninety years, provided that the contract satisfies the following requirements, namely:—

97. Substituted for "item (A) or (B) or from one or more retirement or pension funds that meets with the requirements of clause (e), (f) or (g) of *Explanation* to clause (1)" by the IT (Thirty-fifth Amdt.) Rules, 2016, w.r.e.f. 7-8-2015.

- (A) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age of ninety years, whichever is shorter;
 - (B) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
 - (C) the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
 - (D) the contract is not held by a transferee for value;
- (v) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate;
 - (vi) an account established in connection with any of the following:
 - (A) a court order or judgment;
 - (B) a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements, namely:—
 - (a) the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - (b) the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
 - (c) the assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;

- (d) the account is not a margin or similar account established in connection with a sale or exchange of a financial asset; and
- (e) the account is not associated with a depository account referred to in sub-clause (vi);
- (C) an obligation of a financial institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time;
- (D) an obligation of a financial institution solely to facilitate the payment of taxes at a later time;
- (vii) in the case of an account other than a U.S. reportable account, a depository account that satisfies the following requirements, namely:—
 - (A) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and
 - (B) beginning on or before the 31st December, 2015, the financial institution implements its policies and procedures either to prevent a customer from making an overpayment in excess of an amount equivalent to fifty thousand U.S. dollars, or to ensure that any customer overpayment in excess of an amount equivalent to fifty thousand U.S. dollars is refunded to the customer within sixty days, in each case applying the rules specified in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation and for this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but includes credit balances resulting from merchandise returns;
- (2) "financial asset" includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), insurance contract or annuity contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, insurance contract, or annuity contract;

Provided that "financial asset" shall not include a non-debt and direct interest in an immovable property;

- (3) "financial institution" means a custodial institution, a depository institution, an investment entity, or a specified insurance company.

Explanation.—For the purposes of this clause,—

(a) "custodial institution" means any entity that holds, as a substantial portion of its business, financial assets for the account of others and where its income attributable to the holding of financial assets and related financial services equals or exceeds twenty per cent of its gross income during the three financial years preceding the year in which determination is made or the period during which the entity has been in existence, whichever is less;

(b) "depository institution" means any entity that accepts deposits in the ordinary course of a banking or similar business;

(c) "investment entity" means any entity,—

(A) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer, namely:—

(i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading; or

(ii) individual and collective portfolio management; or

(iii) otherwise investing, administering, or managing financial assets or money on behalf of other persons; or

(B) the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, if the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company, or an investment entity mentioned in sub-clause (A) of this clause.

Explanation 1.—An entity is treated as primarily conducting as a business one or more of the activities described in sub-clause (A) of this clause, or an entity's gross income is primarily attributable to investing, reinvesting, or trading in financial assets for purposes of sub-clause (B) of this clause, if the entity's gross income attributable to the relevant activities equals or exceeds fifty per cent of the gross income of the entity during the shorter of the three-year period ending on 31st March of the year preceding the year in which the determination is made or the period during which the entity has been in existence.

Explanation 2.—The term “investment entity” shall not include an entity that is an active non-financial entity merely because it meets any of the criteria provided in sub-clause (iv), (v), (vi) or (vii) of clause (A) of *Explanation* to clause (6) of this rule;

- (d) “specified insurance company” means any entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract;
- (4) “non-participating financial institution” means a financial institution defined in clause (r) of Article 1 of the agreement between the Government of the Republic of India and the Government of the United States of America to improve international tax compliance and to implement Foreign Account Tax Compliance Act of the United States of America (hereinafter referred to as the FATCA agreement), but does not include,—
- (a) an Indian financial institution; or
- (b) other jurisdiction, being a jurisdiction that has in effect an agreement with the United States of America to facilitate the implementation of Foreign Account Tax Compliance Act (hereinafter referred to as other partner jurisdiction), financial institution, other than a financial institution treated as a non-participating financial institution pursuant to sub-paragraph (b) of paragraph 2 of Article 5 of the FATCA agreement or the corresponding provision in an agreement between the United States of America and other partner jurisdiction;
- (5) “non-reporting financial institution” means any financial institution that is,—
- (a) a Governmental entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a specified insurance company, custodial institution, or depository institution;
- (b) a Treaty Qualified Retirement Fund; a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; or a Pension Fund of a Governmental entity, International Organization or Central Bank;
- (c) a non-public fund of the armed forces, Employees’ State Insurance Fund, a gratuity fund or a provident fund;
- (d) an entity that is an Indian financial institution only because it is an investment entity, provided that each direct holder of an equity interest in the entity is a financial institution referred to in sub-clauses (a) to (c), and each direct holder of a debt interest in such

entity is either a depository institution (with respect to a loan made to such entity) or a financial institution referred to in sub-clauses (a) to (c);

- (e) a qualified credit card issuer;
- (f) an investment entity established in India that is a financial institution only because it,—
 - (I) renders investment advice to, and acts on behalf of; or
 - (II) manages portfolios for, and acts on behalf of; or
 - (III) executes trades on behalf of,
 a customer for the purposes of investing, managing, or administering funds or securities deposited in the name of the customer with a financial institution other than a non-participating financial institution;
- (g) an exempt collective investment vehicle;
- (h) a trust established under any law for the time being in force to the extent that the trustee of the trust is a reporting financial institution and reports all information required to be reported under rule 114G with respect to all reportable accounts of the trust;
- (i) a financial institution with a local client base;
- (j) a local bank;
- (k) a financial institution with only low-value accounts;
- (l) sponsored investment entity and controlled foreign corporation, in case of any U.S. reportable account; or
- (m) sponsored closely held investment vehicle, in case of any U.S. reportable account.

Explanation.—For the purpose of this clause,—

- (A) "Governmental entity" means the Government of a country or territory, any political sub-division of a country or territory (including a State, province, county, or municipality), or any wholly owned agency or instrumentality or controlled entity of a country or territory or of any one or more of the foregoing (where each is also a "Governmental entity") and includes the integral parts, controlled entities, and political sub-divisions of such country or territory.

Explanation.—For the purpose of clause (A),—

- (i) an "integral part" of a country or territory means any person, organisation, agency, bureau, fund, instrumentality, or other body, by whatever name called, that constitutes a governing authority of a country or territory and the net earnings of the governing authority must be credited to its own account or to

other accounts of the country or territory, with no portion inuring to the benefit of any private person:

Provided that an integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity:

Provided further that the income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a Governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of a Department of Government:

Provided also that income is considered to inure to the benefit of private persons if the income is derived from the Governmental entity engaged in a commercial business, such as a commercial banking business, which provides financial services to private persons;

- (ii) a controlled entity means an entity that is separate in form from the country or territory or that otherwise constitutes a separate juridical entity:

Provided that—

- (a) the entity is wholly owned and controlled by one or more Governmental entities directly or through one or more controlled entities;
- (b) the entity's net earnings are credited to its own account or to the accounts of one or more Governmental entities, with no portion of its income inuring to the benefit of any private person; and
- (c) the entity's assets vest in one or more Governmental entities upon dissolution:

Provided further that the income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a Governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of a Department of Government:

Provided also that income is considered to inure to the benefit of private persons if the income is derived from Governmental entity engaged in a commercial business, such as a commercial banking business, which provides financial services to private persons;

- (B) "International Organisation" means any international organization or wholly owned agency or instrumentality thereof including any inter-Governmental organisation,—
- (a) that is comprised primarily of Governments;
 - (b) that has in effect a headquarters or substantially similar agreement with India; and
 - (c) the income of which does not inure to the benefit of private persons;
- (C) "Central Bank" means a bank that is by law or Government sanction the principal authority, other than the Government of the country or territory itself, issuing instruments intended to circulate as currency including an instrumentality that is separate from the Government of the country or territory, whether or not owned in whole or in part by that country or territory;
- (D) "Treaty Qualified Retirement Fund" means a fund established in India, provided that the fund is entitled to benefits under an agreement between India and the Government of any country or territory outside India on income that it derives from sources within such country or territory outside India (or would be entitled to such benefits if it derived any such income) as a resident of India that satisfies any applicable limitation on benefits requirement, and is operated principally to administer or provide pension or retirement benefits;
- (E) "Broad Participation Retirement Fund" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries who are current or former employees (or persons nominated by such employees) of one or more employers in consideration for services rendered:
- Provided that the fund,—**
- (i) does not have any beneficiary with a right to more than five per cent of the fund's assets;
 - (ii) is subject to Government regulation and provides information reporting to the income-tax authorities; and
 - (iii) satisfies at least one of the following requirements, namely:—
 - (a) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
 - (b) the fund receives at least fifty per cent of its total contributions [other than transfer of assets from other plans

referred to in clauses (D) to (G) or from retirement and pension accounts referred to in sub-clause (i) of clause (h) of *Explanation* to clause (I)] from the sponsoring employers;

- (c) distributions or withdrawals from the fund are allowed only in the event of retirement, disability or death [except rollover distributions to other retirement funds referred to in clauses (E) to (G), or retirement and pension accounts referred to in sub-clause (i) of clause (h) of *Explanation* to clause (I)], or penalties which apply to distributions or withdrawals made before such events; or
 - (d) contributions (other than permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed an amount equivalent to fifty thousand U.S. dollars annually, applying the procedures set forth in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation;
- (F) "Narrow Participation Retirement Fund" means a fund established to provide retirement, disability, or death benefits to beneficiaries who are current or former employees (or persons nominated by such employees) of one or more employers in consideration for services rendered:

Provided that,—

- (i) the fund has less than fifty participants;
 - (ii) the fund is sponsored by one or more employers who are not investment entities or passive non-financial entities;
 - (iii) the employee and employer contributions to the fund [other than transfer of assets from retirement and pension accounts referred to in sub-clause (i) of clause (h) of *Explanation* to clause (I)] are limited by reference to earned income and compensation of the employee, respectively;
 - (iv) participants who are not residents in India are not entitled to more than twenty per cent of the fund's assets; and
 - (v) the fund is subject to Government regulation and provides information reporting to the income-tax authorities;
- (G) "Pension Fund of a Governmental entity, International Organisation or Central Bank" means a fund established by a Governmental entity, International Organisation or Central Bank to provide retirement, disability or death benefits to beneficiaries or participants who are current or former employees (or persons nominated by such employees), or who are not current or former employees, if the

benefits provided to such beneficiaries or participants are in consideration of personal services rendered to the Governmental entity, International Organisation or Central Bank;

- (H) "non-public fund of the armed forces" means a fund established in India as a regimental fund or non-public fund by the armed forces of the Union of India for the welfare of the current and former members of the armed forces and whose income is exempt from tax under clause (234A) of section 10 of the Act;
- (I) "Employees' State Insurance Fund" means the fund established as Employees' State Insurance Fund under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), to provide medical expenses of low-income factory workers in India;
- (J) "gratuity fund" means a fund established under the Payment of Gratuity Act, 1972 (39 of 1972), to provide for the payment of a gratuity to certain types of employees of an Indian employer specified in the Payment of Gratuity Act, 1972;
- (K) "provident fund" means a fund established under the Provident Funds Act, 1925 (19 of 1925) or the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) to provide current and former employees of Indian employers retirement benefits in consideration for services rendered:

Provided that fund,—

- (i) does not have any beneficiary with a right to more than five per cent of the fund's assets;
 - (ii) is subject to Government regulation and provides annual information reporting about its beneficiaries to the income-tax authorities;
 - (iii) is generally exempt from tax on investment income due to its status as a provident fund; and
 - (iv) contributions (other than permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed an amount equivalent to fifty thousand U.S. dollars annually, applying the procedures set forth in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation;
- (L) "qualified credit card issuer" means a financial institution satisfying the following requirements, namely:—
- (i) it is a financial institution only because it is an issuer of credit cards and accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
 - (ii) beginning on or before the 1st July, 2014, the financial institution implements policies and procedures either to prevent a cus-

customer from making an overpayment in excess of an amount equivalent to fifty thousand U.S. dollars or to ensure that any customer overpayment in excess of an amount equivalent to fifty thousand U.S. dollars is refunded to the customer within sixty days, in each case applying the rules set forth in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation.

Explanation.—For the purpose of this sub-clause, a customer overpayment does not refer to credit balances to the extent of disputed charges but includes credit balances resulting from merchandise returns;

- (M) "exempt collective investment vehicle" means an investment entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through persons other than,—

- (i) those referred to in sub-clauses (a) to (c) of clause (6); and
- (ii) a non-participating financial institution.

Explanation.—An investment entity which is regulated as a collective investment vehicle does not fail to qualify under this clause as an exempt collective investment vehicle, only because it has issued physical shares in bearer form:

Provided that—

- (i) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after the 31st December, 2012;
 - (ii) the collective investment vehicle retires all such shares upon surrender;
 - (iii) the collective investment vehicle performs the due diligence procedures set forth in rule 114H and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and
 - (iv) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to the 1st January, 2017;
- (N) "financial institution with a local client base" means a financial institution satisfying the following requirements, namely:—
- (i) it has been granted a licence and is regulated as a financial institution under any law for the time being in force;
 - (ii) the financial institution does not have a fixed place of business outside India.

Explanation.—For the purposes of this sub-clause, a fixed place of business does not include a location that is not advertised to

- the public and from which the financial institution performs only administrative support functions; and
- (iii) the financial institution does not solicit customers or account holders outside India.

Explanation.—For the purpose of this sub-clause, a financial institution shall not be considered to have solicited customers or account holders outside India merely because the financial institution,—

- (a) operates a website, provided that the website does not specifically indicate that the financial institution provides financial accounts or services to non-residents, and does not otherwise target or solicit customers or account holders who are resident of any country or territory outside India for tax purposes; or
 - (b) advertises in print media or on a radio or television station which is distributed or aired primarily within India but is also incidentally distributed or aired in other countries, provided that the advertisement does not specifically indicate that the financial institution provides financial accounts or services to non-residents, and does not otherwise target or solicit customers or account holders who are resident of any country or territory outside India for tax purposes;
- (iv) the financial institution is required under any law for the time being in force to identify resident account holders for purposes of either information reporting or withholding of tax with respect to financial accounts held by residents or for purposes of satisfying the due diligence requirements under the Prevention of Money-laundering Act, 2002 (15 of 2003);
- (v) at least ninety eight per cent of the financial accounts by value maintained by the financial institution are held by residents;
- (vi) beginning on or before the 30th June, 2014, the policies and procedures of the financial institution are consistent with those set forth in rule 114H, to prevent the financial institution from providing a financial account to any non-participating financial institution and to monitor whether the financial institution opens or maintains a financial account for any reportable person who is not a resident of India (including a non-resident who was a resident of India when the financial account was opened but subsequently ceases to be a resident of India) or any passive non-financial entity with controlling persons who are reportable persons;
- (vii) such policies and procedures explicitly provide that if any financial account held by a reportable person who is not a resident of India or by a passive non-financial entity with

controlling persons who are reportable persons who are not resident of India is identified, the financial institution shall report such financial account as would be required if the financial institution was a reporting financial institution or close such financial account;

- (viii) with respect to a pre-existing account held by an individual who is not a resident of India or by an entity, the financial institution shall review those pre-existing accounts in accordance with the procedures set forth in rule 114H applicable to pre-existing accounts to identify any reportable account or financial account held by a non-participating financial institution, and shall report such financial account as would be required if the financial institution were a reporting financial institution or close such financial account;
 - (ix) each related entity of the financial institution that is a financial institution must be incorporated or organised in India and, with the exception of any related entity that is a retirement fund referred to in clauses (D) to (G) of this *Explanation*, satisfies the requirements set forth in this clause; and
 - (x) the financial institution must not have policies or practices which discriminate against opening or maintaining financial accounts for individuals who are specified U.S. persons and residents of India;
- (O) "local bank" means a financial institution satisfying the following requirements, namely:—
- (i) the financial institution operates only as (and is licensed and regulated under any law for the time being in force) a bank, or a credit union or similar cooperative credit organisation which is operated without profit;
 - (ii) the business of the financial institution consists primarily of receiving deposits from and making loans to, with respect to a bank, unrelated retail customers and, with respect to a credit union or similar cooperative credit organisation, members, provided that no member has a greater than five per cent interest in such credit union or cooperative credit organisation;
 - (iii) the financial institution satisfies the requirements set forth in sub-clauses (ii) and (iii) of clause (N), provided that, in addition to the limitations on the website referred to in sub-clause (iii) of clause (N), the website does not permit the opening of a financial account;
 - (iv) the financial institution does not have more than an amount equivalent to one hundred seventy-five million U.S. dollars in assets on its balance sheet, and the financial institution and any related entity, taken together, does not have more than an

amount equivalent to five hundred million U.S. dollars in total assets on its consolidated or combined balance sheets; and

- (v) any related entity must be incorporated or organised in India, and any related entity that is a financial institution, with the exception of any related entity that is a retirement fund referred to in clauses (D) to (G) or a financial institution with only low-value accounts referred to in clause (P), must satisfy the requirements set forth in this clause.

Explanation.—Regional Rural Banks constituted under the Regional Rural Bank Act, 1976 (21 of 1976), Urban Cooperative Banks constituted under respective State Cooperative Societies Acts or Multi State Cooperative Societies Act, State Cooperative Banks or District Central Cooperative Banks constituted under respective State Cooperative Societies Act and Local Area Banks licensed under the Banking Regulations Act, 1949 (10 of 1949) and regulated and registered as public limited companies under the Companies Act, 1956 (1 of 1956) or Companies Act, 2013 (18 of 2013), that satisfy the requirement under sub-clause (iv) shall be treated as local bank for the purpose of this clause;

- (P) “financial institution with only low-value accounts” means a financial institution satisfying the following requirements, namely:—

- (i) the financial institution is not an investment entity;
- (ii) no financial account maintained by the financial institution or any related entity has a balance or value in excess of an amount equivalent to fifty thousand U.S. dollars, applying the procedures prescribed in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation; and
- (iii) the financial institution does not have more than fifty million U.S. dollars in assets on its balance sheet, and the financial institution and any related entities, taken together, do not have more than fifty million U.S. dollars in total assets on their consolidated or combined balance sheets;

- (Q) “sponsored investment entity and controlled foreign corporation” means a financial institution described in the following sub-clauses, namely:—

- (i) a financial institution is a sponsored investment entity if—
 - (a) it is an investment entity established in India that is not a qualified intermediary (being an intermediary that is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust; and
 - (b) an entity has agreed with the financial institution to act as a sponsoring entity for the financial institution;

(ii) a financial institution is a sponsored controlled foreign corporation if—

- (a) the financial institution is a controlled foreign corporation established under any law for the time being in force in India that is not a qualified intermediary (being an intermediary which is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust;
- (b) the financial institution is wholly owned, directly or indirectly, by a reporting U.S. financial institution referred to in Article 1 of the FATCA agreement that agrees to act, or requires an affiliate of the financial institution to act, as a sponsoring entity for the financial institution; and
- (c) the financial institution shares a common electronic account system with the sponsoring entity that enables the sponsoring entity to identify all account holders and payees of the financial institution and to access all account and customer information maintained by the financial institution including, but not limited to, customer identification information, customer documentation, account balance, and all payments made to the account holder or payee,

and that complies with the following requirements namely:—

- (I) the sponsoring entity is authorised to act on behalf of the financial institution (such as a fund manager, trustee, corporate director, or managing partner) to fulfil applicable registration requirements of the United States of America;
- (II) the sponsoring entity has registered as a sponsoring entity with the United States of America;
- (III) if the sponsoring entity identifies any U.S. reportable account with respect to the financial institution, the sponsoring entity registers the financial institution pursuant to applicable registration requirements of the United States of America on or before the 31st December, 2015 or the date that is ninety days after such U.S. reportable account is first identified, whichever is later;
- (IV) the sponsoring entity agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements that the financial institution would have been required to perform if it were a reporting financial institution;
- (V) the sponsoring entity identifies the financial institution and includes the identifying number of the financial institution (obtained by following applicable registration requirements of the United States of America) in all its reporting completed on the financial institution's behalf; and
- (VI) the sponsoring entity has not had its status as a sponsor revoked;

- (R) "sponsored, closely held investment vehicle" means a financial institution satisfying the following requirements, namely:—
- (i) it is a financial institution only because it is an investment entity and is not a qualified intermediary (being an intermediary that is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust;
 - (ii) the sponsoring entity is a reporting U.S. financial institution referred to in Article 1 of the FATCA agreement, reporting financial institution, or participating foreign financial institution defined in Annex II of the FATCA agreement, is authorised to act on behalf of the financial institution (such as a professional manager, trustee, or managing partner), and agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements which the financial institution would have been required to perform if it were a reporting financial institution;
 - (iii) the financial institution does not act as an investment vehicle for unrelated parties;
 - (iv) twenty or less than twenty individuals own all the debt interests and equity interests in the financial institution (other than debt interests owned by participating foreign financial institution defined in Annex II of the FATCA agreement and non-reporting financial institutions and equity interests owned by an entity if that entity owns hundred per cent of the equity interests in the financial institution and is itself a sponsored financial institution described in this clause); and
 - (v) the sponsoring entity complies with the following requirements, namely:—
 - (a) it has been registered as a sponsoring entity in terms of the Foreign Account Tax Compliance Act of the United States of America;
 - (b) the sponsoring entity agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements that the financial institution would have been required to perform if it were a reporting financial institution and retains documentation collected with respect to the financial institution for a period of six years;
 - (c) the sponsoring entity identifies the financial institution in all its reporting completed on the financial institution's behalf; and
 - (d) the sponsoring entity has not had its status as a sponsor revoked;

- (6) "reportable account" means a financial account which has been identified, pursuant to the due diligence procedures provided in rule 114H, as held by,—
- (a) a reportable person; or
 - (b) an entity, not based in United States of America, with one or more controlling persons that is a specified U.S. person; or
 - (c) a passive non-financial entity with one or more controlling persons that is a person described in sub-clause (b) of clause (8) of this rule.

Explanation.—For the purpose of this clause,—

- (A) "active non-financial entity" means any non-financial entity which fulfils any of the following criteria, namely:—
- (i) less than fifty per cent of the entity's gross income for the preceding financial year is passive income and less than fifty per cent of the assets held by the entity during the preceding financial year are assets that produce or are held for the production of passive income; or
 - (ii) the stock of the entity is regularly traded on an established securities market or the non-financial entity is a related entity of an entity, the stock of which is regularly traded on an established securities market.

Explanation.—For the purpose of this sub-clause, an established securities market means an exchange that is recognised and supervised by a Governmental authority in which the securities market is located and that has a meaningful annual value of shares traded on the exchange;

- (iii) the entity is a Governmental entity, an International Organization, a Central Bank, or an entity wholly owned by one or more of these entities; or
- (iv) substantially all of the activities of the entity consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a financial institution:

Provided that an entity shall not qualify for this status if it functions as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes; or

- (v) the entity is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a financial institution, provided that the entity shall not qualify for this exception after the date that is twenty four months after the date of the initial organisation of the entity; or

- (vi) the entity was not a financial institution in the past five years, and is in the process of liquidating its assets or is reorganising with intent to continue or recommence operations in a business other than that of a financial institution; or
- (vii) the entity primarily engages in financing and hedging transactions with, or for, related entities which are not financial institutions, and does not provide financing or hedging services to any entity which is not a related entity, provided that the group of any such related entities is primarily engaged in a business other than that of a financial institution; or
- (viii) the entity fulfils all of the following requirements, namely:—
 - (a) it is established and operated in India exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in India and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
 - (b) it is exempt from income-tax in India;
 - (c) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - (d) the applicable laws of the entity's country or territory of residence or the entity's formation documents do not permit any income or assets of the entity to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of the entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the entity has purchased; and
 - (e) the applicable laws of the entity's country or territory of residence or the entity's formation documents require that, upon the entity's liquidation or dissolution, all of its assets must be distributed to a Governmental entity or other non-profit organization, or escheat to the Government of the entity's country or territory of residence or any political sub-division thereof.

Explanation.—For the purpose of this sub-clause, the following shall be treated as fulfilling the criteria provided in the said sub-clause, namely:—

- (I) an Investor Protection Fund referred to in clause (23EA);
- (II) a Credit Guarantee Fund Trust for Small Industries referred to in clause (23EB); and
- (III) an Investor Protection Fund referred to in clause (23EC), of section 10 of the Act;

- (B) "controlling person" means the natural person who exercises control over an entity and includes a beneficial owner as determined under sub-rule (3) of rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005.

Explanation 1.—In determining the beneficial owner, the procedure specified in the following circular as amended from time to time shall be applied, namely:—

- (i) DBOD.AML.BC. No.71/14.01.001/2012-13, issued on the 18th January, 2013 by the Reserve Bank of India; or
- (ii) CIR/MIRSD/2/2013, issued on the 24th January, 2013 by the Securities and Exchange Board of India; or
- (iii) IRDA/SDD/GDL/CIR/019/02/2013, issued on the 4th February, 2013 by the Insurance Regulatory and Development Authority.

Explanation 2.—In the case of a trust, the controlling person means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, the said expression means the person in equivalent or similar position;

- (C) "non-financial entity" means any entity that is not a financial institution;

- (D) "passive non-financial entity" means,—

- (i) any non-financial entity which is not an active non-financial entity; or
- (ii) an investment entity described in sub-clause (B) of clause (c) of the *Explanation* to ⁹⁸[clause (3), which is not located in any of the jurisdictions specified by the Central Board of Direct Taxes in this behalf]; or

- ⁹⁹[(iii) not a withholding foreign partnership or a withholding foreign trust;]

- (E) an entity is a "related entity" of another entity if either entity controls the other entity, or the two entities are under common control.

Explanation.—For the purpose of this clause control includes direct or indirect ownership of more than fifty per cent of the votes and value in an entity;

- (F) "passive income" includes income by way of,—

- (i) dividends;
- (ii) interest;
- (iii) income equivalent to interest;
- (iv) rents and royalties (other than rents and royalties derived in the active conduct of a business conducted, at least in part, by employees of the non-financial entity);

98. Substituted for "clause (3)" by the IT (Fifteenth Amdt.) Rules, 2016, w.e.f. 20-6-2016.

99. Substituted, *ibid* Prior to its substitution, sub-clause (iii) read as under :

"(iii) a withholding foreign partnership or withholding foreign trust;"

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- (v) annuities;
- (vi) the excess of gains over losses from the sale or exchange of financial assets which gives rise to the passive income;
- (vii) the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any financial assets;
- (viii) the excess of foreign currency gains over foreign currency losses;
- (ix) net income from swaps; or
- (x) amounts received under cash value insurance contracts;

Provided that passive income will not include, in the case of a non-financial entity that regularly acts as a dealer in financial assets, any income from any transaction entered into in the ordinary course of such dealer's business as such a dealer.

(7) "reporting financial institution" means,—

- (a) a financial institution (other than a non-reporting financial institution) which is resident in India, but excludes any branch of such institution, that is located outside India; and
- (b) any branch, of a financial institution (other than a non-reporting financial institution) which is not resident in India, if that branch is located in India;

(8) "reportable person" means,—

- (a) one or more specified U.S. persons; or
- (b) one or more persons other than,—
 - (i) a corporation, the stock of which is regularly traded on one or more established securities markets;
 - (ii) any corporation that is a related entity of a corporation mentioned in item (i);
 - (iii) a Governmental entity;
 - (iv) an International organisation;
 - (v) a Central bank; or
 - (vi) a financial institution,

that is a resident of any country or territory outside India (except the United States of America) under the tax laws of such country or territory or an estate of a decedent who was a resident of any country or territory outside India (except the United States of America) under the tax laws of such country or territory;

(9) "specified U.S. person" means a U.S. person, other than the persons referred to in sub-clauses (i) to (xiii) of clause (ff) of Article 1 of the FATCA agreement;

(10) "U.S. person" means,—

- (a) an individual, being a citizen or resident of the United States of America;
- (b) a partnership or corporation organized in the United States of America or under the laws of the United States of America or any State thereof;
- (c) a trust if,—
 - (i) a court within the United States of America would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust; and
 - (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust; or
- (d) an estate of a decedent who was a citizen or resident of the United States of America;

(11) "U.S. reportable account" means a financial account maintained by a reporting financial institution and, pursuant to the due diligence procedures provided in rule 114H, is identified to be held by one or more specified U.S. persons or by an entity not based in the United States of America with one or more controlling persons which is a specified U.S. Person;

(12) "U.S. source withholdable payment" means any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the United States of America:

Provided that a U.S. source withholdable payment shall not include any payment that is not treated as a withholdable payment in relevant Treasury Regulations of the United States of America;

(13) "withholding foreign partnership" means a foreign partnership that has entered into a withholding agreement with the United States of America in which it agrees to assume primary withholding responsibility for all payments which are made to it for its partners, beneficiaries or owners;

(14) "withholding foreign trust" means a foreign trust that has entered into a withholding agreement with the United States of America in which it agrees to assume primary withholding responsibility for all payments which are made to it for its partners, beneficiaries or owners.

Information to be maintained and reported.

114G. (1) The following information shall be maintained and reported by a reporting financial institution in respect of each reportable account, namely:—

- (a) the name, address, taxpayer identification number (assigned to the account holder by the country or territory of his residence for tax

- purposes) and date and place of birth (in the case of an individual) of each reportable person, that is an account holder of the account;
- (b) in the case of any entity which is an account holder and which, after application of due diligence procedures prescribed in rule 114H, is identified as having one or more controlling persons that is a reportable person,—
- (i) the name and address of the entity, taxpayer identification number assigned to the entity by the country or territory of its residence; and
 - (ii) the name, address, date and place of birth of each such controlling person and taxpayer identification number assigned to such controlling person by the country or territory of his residence;
- (c) the account number (or functional equivalent in the absence of an account number);
- (d) the account balance or value (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) at the end of relevant calendar year or, if the account was closed during such year, immediately before closure;
- (e) in the case of any custodial account,—
- (i) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year; and
 - (ii) the total gross proceeds from the sale or redemption of financial assets paid or credited to the account during the calendar year with respect to which the reporting financial institution acted as a custodian, broker, nominee, or otherwise as an agent for the account holder;
- (f) in the case of any depository account, the total gross amount of interest paid or credited to the account during the relevant calendar year;
- (g) in the case of any account other than that referred to in clause (e) or (f), the total gross amount paid or credited to the account holder with respect to the account during the relevant calendar year with respect to which the reporting financial institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the account holder during the relevant calendar year; and
- (h) in the case of any account held by a non-participating financial institution, for calendar years 2015 and 2016, the name of each non-participating financial institution to which payments have been made and the aggregate amount of such payments:

Provided that the information to be reported,—

- (a) with respect to calendar year 2014, is the information referred to in clauses (a), (b), (c) and (d), with regard to U.S. reportable accounts;

- (ii) with respect to calendar year 2015, is the information referred to in clauses (a), (b), (c), (d), (f), (g), (h) and sub-clause (i) of clause (e), with regard to U.S. reportable accounts;
- (iii) with respect to calendar year 2016, is the information referred to in clauses (a) to (h), with regard to all reportable accounts;
- (iv) with respect to calendar year 2017 and subsequent years, is the information referred to in clauses (a) to (g), with regard to all reportable accounts;

Provided further that with respect to each U.S. reportable account which is maintained by a reporting financial institution as on the 30th June, 2014, the taxpayer identification number of any relevant person is not required to be reported if such taxpayer identification number is not in the records of the reporting financial institution.

(2) For the purpose of sub-rule (1),—

- (a) “account holder” means the person listed or identified as the holder of a financial account by the financial institution that maintains the account;

Provided that a person, other than a financial institution, holding a financial account for the benefit or on account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account, and such other person is treated as holding the account:

Provided further that in the case of a cash value insurance contract or an annuity contract, the account holder is any person entitled to receive a payment upon the maturity of the contract or any person entitled to access the cash value or change the beneficiary of the contract and if no person can access the cash value or change the beneficiary, the account holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract;

- (b) “taxpayer identification number” means a number assigned to a person in the country or territory in which he is resident for tax purposes and includes a functional equivalent in case no such number is assigned.

(3) Where the person is a resident of more than one country or territory outside India under the tax laws of such country or territory, the reporting financial institution shall maintain the taxpayer identification number in respect of each such country or territory.

(4) Notwithstanding anything contained in sub-rule (1), with respect to each reportable account which is a pre-existing account, the taxpayer identification number or date of birth is not required to be reported if such taxpayer identification number or date of birth is not in the records of the reporting financial institution:

Provided that the reporting financial institution shall obtain the taxpayer identification number and date of birth with respect to pre-existing accounts by the 31st December, 2016 and shall report it with respect to calendar year 2017 and subsequent years.

(5) Notwithstanding anything contained in sub-rule (1) and sub-rule (4), the taxpayer identification number is not required to be reported if,—

- (i) a taxpayer identification number (including its functional equivalent) is not issued by the relevant country or territory outside India in which the person is resident for tax purposes; or
- (ii) the domestic law of the relevant country or territory outside India does not require the collection of the taxpayer identification number issued by such country or territory.

(6) Notwithstanding anything contained in sub-rule (1), the place of birth is not required to be reported unless it is available in the electronically searchable data maintained by the reporting financial institution.

(7) The statement of reportable account required to be furnished under clause (k) of sub-section (1) of section 285BA shall be furnished by a reporting financial institution in respect of each account which has been identified, pursuant to due diligence procedure specified in rule 114H, as a reportable account:

Provided that where pursuant to such due diligence procedures no account is identified as a reportable account, a nil statement shall be furnished by the reporting financial institution.

(8) The statement referred to in sub-rule (7) shall be furnished in Form No. 61B for every calendar year by the 31st day of May following that year:

Provided that the statement pertaining to calendar year 2014 shall be furnished by the 31st day of August, 2015.

(9) (a) The statement referred to in sub-rule (7) shall be furnished to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose under the digital signature in accordance with the data structure specified in this regard by the Principal Director General of Income-tax (Systems).

Explanation.—For the purposes of this sub-rule, “digital signature” means a digital signature issued by any Certifying Authority authorised to issue such certificates by the Controller of Certifying Authorities.

(b) Principal Director General of Income Tax (Systems) shall specify the procedures, data structures and standards for ensuring secure capture and transmission of data, evolving and implementing appropriate security, archival and retrieval policies.

(10) (a) Every reporting financial institution shall communicate to the Principal Director General of Income-tax (Systems) the name, designation and communication details of the Designated Director and the Principal Officer and obtain a registration number;

(b) The statement referred to in sub-rule (7) shall be signed, verified and furnished by the Designated Director of the reporting financial institution on the basis of information available with the institution:

Provided that where the reporting financial institution is a non-resident, the statement may be signed, verified and furnished by a person who holds a valid power of attorney from such Designated Director;

(c) It shall be the duty of every reporting financial institution, its Designated Director, Principal Officer and employees to observe the procedure and the manner of maintaining information as specified by its regulator.

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

- (a) "Designated Director" means a person designated by the reporting financial institution to ensure overall compliance with the obligations imposed under section 285BA and the rules made thereunder and includes—
- (i) the Managing Director or a whole-time Director, as defined in the Companies Act, 2013 (18 of 2013), duly authorised by the Board of Directors if the reporting financial institution is a company;
 - (ii) the managing partner if the reporting financial institution is a partnership firm;
 - (iii) the proprietor if the reporting financial institution is a proprietorship concern;
 - (iv) the managing trustee if the reporting financial institution is a trust;
 - (v) a person or individual, as the case may be, who controls and manages the affairs of the reporting financial institution if the reporting financial institution is an association of persons or a body of individuals, or any other person;
- (b) "Principal Officer" means an officer designated by the reporting financial institution;
- (c) "regulator" means a person or an authority or a Government which is vested with the power to licence, authorise, register, regulate or supervise the activities of the reporting financial institution.

(11)(a) The regulator referred to in clause (c) of sub-rule (10) shall issue instructions or guidelines to,—

- (i) incorporate the requirements of reporting and due diligence procedure specified under rules 114F to 114H;
- (ii) provide the procedure and manner of maintaining the information by the reporting financial institution; and
- (iii) ensure the availability of the information referred to in sub-rule (1) with the reporting financial institution for meeting its reporting obligation, if such information is not maintained by it under any rule or regulation issued by the regulator.

(b) Every reporting financial institution shall maintain information in respect of financial accounts in accordance with the procedure and manner as may be specified by its regulator from time to time so as to enable reporting of information prescribed under this rule and perform due diligence procedure specified under rule 114H.

Due diligence requirement.

114H. (1) An account shall be treated as a reportable account beginning as on the date it is identified as such pursuant to the due diligence procedure

specified in sub-rule (3) to sub-rule (8) and, unless otherwise provided, information with respect to a reportable account shall be reported annually in the calendar year following the calendar year to which the information relates.

(2) For the purpose of this rule,—

(a) "documentary evidence" includes any of the following, namely:—

- (i) a certificate of residence issued by an authorised Government body, including a Government agency or a municipality, of the country or territory in which the payee claims to be a resident;
- (ii) with respect to an individual, any valid identification issued by an authorized Government body, including a Government agency or a municipality, that includes the individual's name and is particularly used for identification purposes;
- (iii) with respect to an entity, any official documentation issued by an authorized Government body, including a Government agency or a municipality, which includes the name of the entity and either the address of its principal office in the country or territory in which it claims to be a resident or the country or territory in which the entity was incorporated or organized;
- (iv) any financial statement, third-party credit report, bankruptcy filing, or a report of the Government agency regulating the securities market;

(b) "high value account" means a pre-existing individual account with a balance or value that,—

- (i) in case of a U.S. reportable account, exceeds an amount equivalent to one million U.S. dollars as on the 30th June, 2014 or 31st December of any subsequent year; and
- (ii) in case of other reportable account, exceeds an amount equivalent to one million U.S. dollars as on the 31st December, 2015 or 31st December of any subsequent year;

(c) "lower value account" means a pre-existing individual account with a balance or value that,—

- (i) in case of a U.S. reportable account, exceeds an amount equivalent to fifty thousand U.S. dollars but does not exceed an amount equivalent to one million U.S. dollars as on the 30th June, 2014; and
- (ii) in case of other reportable account, does not exceed an amount equivalent to one million U.S. dollars as on the 31st December, 2015;

(d) "new account" means a financial account maintained by a reporting financial institution opened on or after,

- (i) in case of a U.S. reportable account, the 1st July, 2014; and
- (ii) in case of other reportable account, the 1st January, 2016;

(e) "new entity account" means a new account held by one or more entities;

- (f) "new individual account" means a new account held by one or more individuals;
- (g) "other reportable account" means a reportable account which is not a U.S. reportable account;
- (h) "pre-existing account" means a financial account maintained by a reporting financial institution as on,—
 - (I) in case of a U.S. reportable account, the 30th June, 2014; and
 - (II) in case of other reportable account, the 31st December, 2015;
- (i) "pre-existing entity account" means a pre-existing account held by one or more entities;
- (j) "pre-existing individual account" means a pre-existing account held by one or more individuals;
- (k) where a balance or value threshold is to be determined at the end of a calendar year, the relevant balance or value shall be determined as on the last day of the reporting period which ends with or within that calendar year.

(3) The due diligence procedure for the purposes of identifying reportable accounts among pre-existing individual accounts shall be the following, namely:—

- (a) a pre-existing individual account is not required to be reviewed, identified or reported, if,—
 - (i) in case of a U.S. reportable account,—
 - (A) the balance or value as on the 30th June, 2014, does not exceed an amount equivalent to fifty thousand U.S. dollars, subject to sub-clause (vi) of clause (c) of this sub-rule; or
 - (B) which is a cash value insurance contract or an annuity contract, the balance or value does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014, subject to sub-clause (vi) of clause (c) of this sub-rule; or
 - (C) which is a cash value insurance contract or an annuity contract, the reporting financial institution, under any other law for the time being in force in India or of the United States of America, is prevented from selling such contract to a person who is a resident of the United States of America;
 - (ii) in case of other reportable account, which is a cash value insurance contract or an annuity contract, the reporting financial institution, under any other law for the time being in force in India, is prevented from selling such contract to a person who is not a resident of India for tax purposes;
- (b) with respect to lower value accounts among pre-existing individual accounts the following procedures shall apply, namely:—
 - (i) the reporting financial institution must review electronically searchable data maintained by the reporting financial institution for any of

the following indicia, and apply provisions contained in sub-clauses (ii) to (v), namely:—

- (A) identification of the account holder as a resident of any country or territory outside India for tax purposes or unambiguous indication of a place of birth in the United States of America; or
 - (B) current mailing or residence address (including a post office box) in any country or territory outside India; or
 - (C) one or more telephone numbers in a country or territory outside India and no telephone number in India; or
 - [(D) in case of U.S. reportable account, any standing instructions to transfer funds to an account maintained in a country or territory outside India and in case of other reportable account, any standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a country or territory outside India; or]
 - (E) currently effective power of attorney or signatory authority granted to a person with an address in a country or territory outside India; or
 - (F) a "hold mail" instruction or "in-care-of" address in a country or territory outside India if the reporting financial institution does not have any other address on file for the account holder;
- (ii) if none of the indicia listed in sub-clause (i) are discovered in the electronic search, then no further action is required until there is a change in circumstances which results in one or more indicia being associated with the account, or the account becomes a high value account;
- (iii) if any of the indicia listed in items (A) to (E) of sub-clause (i) are discovered in the electronic search, or if there is a change in circumstances which results in one or more indicia being associated with the account, then the reporting financial institution shall treat the account holder as resident for tax purposes of each such country or territory for which an indicium is identified, unless it elects to apply sub-clause (v) and one of the exceptions in the said sub-clause applies with respect to that account;
- (iv) if a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other indicia listed in items (A) to (E) of sub-clause (i) are identified for the account holder, the reporting financial institution shall apply the paper record search referred to in sub-clause (i) of clause (c), or seek to obtain from the account holder a self-certification or documentary

1. Substituted by the IT (Fifteenth Amdt.) Rules, 2016, w.e.f. 20-6-2016. Prior to its substitution, item (D) read as under :

"(D) standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a country or territory outside India; or"

evidence to establish the residence or residences for tax purposes of such account holder:

Provided that if the paper search fails to establish an indicium and the attempt to obtain the self-certification or documentary evidence is not successful, the reporting financial institution shall report the account as an undocumented account;

- (v) notwithstanding a finding of indicia under sub-clause (i), a reporting financial institution is not required to treat an account holder as a resident, for tax purposes,—
 - (A) of United States of America if, the account holder's information unambiguously indicates a place of birth in the United States of America and the reporting financial institution obtains, or has previously reviewed and maintains a record of,—
 - (I) a self-certification that the account holder is neither a citizen of the United States of America nor its resident for tax purposes;
 - (II) a passport or other Government-issued identification evidencing the account holder's citizenship or nationality in a country other than the United States of America; and
 - (III) a copy of the account holder's certificate of loss of nationality of the United States of America or a reasonable explanation of—
 - (1) the reason, the account holder does not have such a certificate despite relinquishing citizenship of the United States of America; or
 - (2) the reason, the account holder did not obtain citizenship of the United States of America at birth;
 - (B) of any country or territory outside India if, the account holder's information contains a current mailing or residence address in any country or territory outside India, one or more telephone numbers in any country or territory outside India (and no telephone number in India) or standing instructions (with respect to financial accounts other than depository accounts) to transfer funds to an account maintained in any country or territory outside India, the reporting financial institution obtains, or has previously reviewed and maintains a record of,—
 - (I) a self-certification from the account holder of the country or territory or countries or territories of residence for tax purposes of such account holder that does not include any country or territory outside India; and
 - (II) documentary evidence establishing the account holder's non-reportable status;
 - (C) of any country or territory outside India if, the account holder's information contains a currently effective power of attorney or

signatory authority granted to a person with an address in a country or territory outside India, or one or more telephone numbers in any country or territory outside India (if an Indian telephone number is also associated with the account), the reporting financial institution obtains, or has previously reviewed and maintains a record of—

- (A) a self-certification from the account holder of the country or territory or countries or territories of residence of such account holder that does not include any country or territory outside India; or
 - (B) documentary evidence establishing the account holder's non-reportable status;
- (c) with respect to high value accounts among pre-existing individual accounts the following enhanced review procedures shall apply, namely:—
- (i) the reporting financial institution must review electronically searchable data maintained by the reporting financial institution for any of the indicia described in sub-clause (i) of clause (b);
 - (ii) if the reporting financial institution's electronically searchable databases do not capture all of the information referred to in sub-clause (ii) of this clause, then the reporting financial institution shall also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the reporting financial institution during the last five years for any of the indicia provided in sub-clause (i) of clause (b),—
 - (A) the most recent documentary evidence collected with respect to the account;
 - (B) the most recent account opening contract or documentation;
 - (C) the most recent documentation obtained by the reporting financial institution pursuant to rules framed under the Prevention of Money-laundering Act, 2002 (15 of 2003) or any other law for the time being in force;
 - (D) any power of attorney or signature authority forms currently in effect; and
 - ²[(E) in case of U.S. reportable account, any standing instructions to transfer funds currently in effect and in case of other reportable account any standing instructions (other than with respect to a depository account) to transfer funds currently in effect:]

Provided that where the electronically searchable databases include fields for, and capture all the information referred to in sub-

2. Substituted by the IT (Fifteenth Amdt.) Rules, 2016, w.e.f. 20-6-2016. Prior to its substitution, item (E) read as under :

"(E) any standing instructions (other than with respect to a depository account) to transfer funds currently in effect:"

- clause (iii) of this clause, then review of the customer master file and documents referred to above shall not be required;
- (iii) a reporting financial institution is not required to perform the paper record search referred in sub-clause (ii) of this clause to the extent the reporting financial institution's electronically searchable information includes the following, namely:—
- (A) the account holder's residence status for tax purposes;
 - (B) the account holder's residence address and mailing address currently on file with the reporting financial institution;
 - (C) the account holder's telephone number or numbers currently on file, if any, with the reporting financial institution;
 - (D) in the case of financial accounts other than depository accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the reporting financial institution or another financial institution);
 - (E) whether there is a current "in-care-of" address or "hold mail" instruction for the account holder; and
 - (F) whether there is any power of attorney or signatory authority for the account;
- (iv) in addition to the electronic and paper record searches provided in sub-clauses (i) to (iii) of this clause, the reporting financial institution shall treat as a reportable account any high value account assigned to a relationship manager (including any financial accounts aggregated with that high value account) if the relationship manager has actual knowledge that the account holder is a reportable person;
- (v) after application of review procedures specified in sub-clauses (i) to (iv) if,—
- (A) none of the indicia referred to in sub-clause (i) of clause (b) are discovered, and the account is not identified as held by a reportable person as per sub-clause (iv), then further action is not required until there is a change in circumstances which results in one or more indicia being associated with the account;
 - (B) any of the indicia referred to in items (A) to (E) of sub-clause (i) of clause (b) are discovered, or if there is a subsequent change in circumstances which results in one or more indicia being associated with the account, then the reporting financial institution shall treat the account as a reportable account with respect to each country or territory outside India for which an indicium is identified unless it elects to apply sub-clause (v) of clause (b) and one of the exceptions in the said sub-clause applies with respect to that account;
 - (C) a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other

indicia referred to in items (A) to (E) of sub-clause (i) of clause (b) are identified for the account holder, the reporting financial institution shall obtain from such account holder a self-certification or documentary evidence to establish the residence or residences for tax purposes of the account holder:

Provided that if the reporting financial institution cannot obtain such self-certification or documentary evidence, it shall report the account as an undocumented account;

- (vi) if a pre-existing individual account is not a high value account as on the 30th June, 2014 (for U.S. reportable account), or as the case may be, 31st December, 2015 (for other reportable account), but becomes a high value account as on the last day of year 2015 (for U.S. reportable account) or last day of any subsequent calendar year (for all reportable accounts), the reporting financial institution shall complete the enhanced review procedures specified in this clause with respect to such account within the calendar year following the year in which the account becomes a high value account and if based on such review the account is identified as a reportable account, the reporting financial institution shall report the required information about such account with respect to the year in which it is identified as a reportable account and subsequent years on an annual basis, unless the account holder ceases to be a reportable person;
- (vii) once a reporting financial institution applies the enhanced review procedures specified in this clause to a high value account, the reporting financial institution is not required to re-apply such procedures, other than an inquiry by the relationship manager provided in sub-clause (iv), to the same high value account in any subsequent year unless the account is undocumented where the reporting financial institution shall re-apply them annually until such account ceases to be undocumented;
- (viii) if there is a change of circumstances with respect to a high value account which results in one or more indicia referred to in sub-clause (i) of clause (b) being associated with the account, then the reporting financial institution must treat the account as a reportable account with respect to each such country or territory outside India for which an indicium is identified unless it elects to apply sub-clause (v) of clause (b) and one of the exceptions in the said sub-clause applies with respect to that account;
- (ix) a reporting financial institution shall implement procedures to ensure that a relationship manager identifies any change in circumstances of an account and where the relationship manager is informed that the account holder has a new mailing address in any country or territory outside India, the reporting financial institution is required to treat the new address as a change in circumstances and, if it elects to apply sub-clause (v) of clause (b), then it is required to obtain the appropriate documentation from the account holder;

(d) review of pre-existing individual account,—

(i) in case of a U.S. reportable account which is high value account as on the 30th June, 2014, shall be completed by the 31st December, 2015 and if based on this review such account is identified as a U.S. reportable account after the 31st December, 2014 and on or before the 31st December, 2015, the reporting financial institution is not required to report information about such account with respect to calendar year 2014, but shall report information about the account on an annual basis thereafter;

³[(ii) in case of a U.S. reportable account which is low value account as on the 30th June, 2014, shall be completed by the 30th June, 2016 and in case of other reportable account which is high value account as on the 31st December, 2015, shall be completed by the 31st December, 2016;]

(iii) in case of other reportable account that is low value account as on the 31st December, 2015, must be completed by the 30th June, 2017;

(e) any pre-existing individual account which has been identified as a reportable account under this sub-rule shall be treated as a reportable account in all subsequent years, unless the account holder ceases to be a resident of any country or territory outside India as per tax laws of such jurisdiction.

(4) The following procedures shall apply for purposes of identifying reportable accounts among new individual accounts, namely:—

(a) unless the reporting financial institution elects otherwise, the following new individual accounts are not required to be reviewed, or reported as U.S. reportable accounts, namely:—

(i) a depository account unless the account balance exceeds an amount equivalent to fifty thousand U.S. dollars at the end of any calendar year;

(ii) a cash value insurance contract unless the cash value exceeds an amount equivalent to fifty thousand U.S. dollars at the end of any calendar year;

(b) in case of a new individual account,—

(i) in respect of a U.S. reportable account, which does not fall under sub-clauses (i) and (ii) of clause (a), upon account opening [or within ninety days after the end of the calendar year in which the account ceases to be covered under sub-clauses (i) and (ii) of clause (a)]; and

(ii) in respect of other reportable account, upon account opening, the reporting financial institution shall obtain a self-certification, which may be part of the account opening documentation, that allows the

3. Substituted by the IT (Fifteenth Amdt.) Rules, 2016, w.e.f. 20-6-2016. Prior to its substitution, sub-clause (ii) read as under :

“(ii) in case of a U.S. reportable account which is low value account as on the 30th June, 2014, or in case of other reportable account which is high value account as on the 31st December, 2015, shall be completed by the 30th June, 2016;”

reporting financial institution to determine the account holder's residence or residences for tax purposes and confirms the reasonableness of such self-certification based on the information obtained by the reporting financial institution in connection with the opening of the account, including any documentation collected in accordance with Prevention of Money-laundering (Maintenance of Records) Rules, 2005;

- (c) where the self-certification obtained under clause (b) of this sub-rule establishes that the account holder is resident for tax purposes in a country or territory outside India, the reporting financial institution shall treat the account as a reportable account and the self-certification shall also include the account holder's taxpayer identification number with respect to such country or territory outside India, subject to sub-rule (5) of rule 114G, and date of birth;
- (d) where a self-certification has been obtained under clause (b) of this sub-rule for a new individual account and if there is a change of circumstances with respect to such account which causes the reporting financial institution to know, or have reason to know, that the said self-certification is incorrect or unreliable, the reporting financial institution shall not rely on the said self-certification and shall obtain a valid self-certification that establishes the residence or residences for tax purposes of the account holder;

Provided that if the reporting financial institution is unable to obtain a valid self-certification, the reporting financial institution shall treat the account as a reportable account with respect to each such country or territory outside India for which an indicium is identified.

(5) The following procedures shall apply for purposes of identifying reportable accounts among pre-existing entity accounts, namely:—

- (a) unless the reporting financial institution elects otherwise, either with respect to all pre-existing entity accounts or, separately, with respect to any clearly identified group of such accounts, a pre-existing entity account with an aggregate account balance or value which does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account), is not required to be reviewed, identified, or reported as a reportable account until the aggregate account balance or value exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as of the last day of any subsequent calendar year;
- (b) a pre-existing entity account that has an aggregate account balance or value that exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account), and a pre-existing entity account that does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account) but the aggregate account balance or value exceeds an amount

equivalent to two hundred and fifty thousand U.S. dollars as of the last day of any subsequent calendar year, shall be reviewed in accordance with the procedure provided in clause (d) of this sub-rule;

- (c) with respect to pre-existing entity accounts referred to in clause (b), only accounts which are held by,—

- (i) one or more entities which are reportable persons; or
- (ii) passive non-financial entity with one or more controlling persons who are reportable persons,

shall be treated as reportable accounts:

Provided that the accounts held by non-participating financial institutions for which aggregate payments as provided in clause (h) of sub-rule (1) of rule 114G are reported shall be treated as reportable accounts;

- (d) for pre-existing entity accounts referred to in clause (b) with respect to which reporting is required, a reporting financial institution, to determine whether the account is held by one or more reportable persons, or by a passive non-financial entity with one or more controlling persons who are reportable persons, or by non-participating financial institutions, shall apply the following review procedures namely:—

- (i) to determine whether the entity is a reportable person, the reporting financial institution shall,—

- (A) review information maintained for regulatory or customer relationship purposes [including information collected in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003)] to determine whether the information indicates that the account holder is a reportable person.

Explanation.—For the purpose of this sub-clause, information indicating that the account holder is a resident of any country or territory outside India as per tax laws of such country or territory includes a place of incorporation or organisation, or an address in a country or territory outside India;

- (B) treat the account as a reportable account, if the information as per item (A) indicates that the account holder is a reportable person, unless it obtains a self-certification from the account holder, or reasonably determines based on information in its possession or that is publicly available, that the account holder is not a reportable person:

Provided that if the information as per item (A) indicates that the account holder is an entity not based in the United States of America which is a financial institution, or the reporting financial institution verifies the account holder's Global Intermediary Identification Number, then the account shall not be treated as a U.S. reportable account;

- (ii) treat the account holder as a non-participating financial institution if,—

- (A) the account holder is an Indian financial institution or other partner jurisdiction financial institution and treated by the United States of America as a non-participating financial institution;
- (B) the account holder, being a financial institution, is not an Indian financial institution or other partner jurisdiction financial institution, unless the reporting financial institution,—
 - (I) obtains a self-certification from the account holder that it is a financial institution referred to in sub-clauses (a) to (m) of clause (5) of rule 114F; or
 - (II) in the case of participating foreign financial institution defined in Annex II of the FATCA agreement or a financial institution referred to in sub-clauses (e) to (m) of clause (5) of rule 114F, verifies the account holder's Global Intermediary Identification Number;
- (iii) the reporting financial institution shall determine whether the account holder is a passive non-financial entity with one or more controlling persons who are resident of any country or territory outside India as per tax laws of such country or territory and in making these determinations the reporting financial institution shall follow the following procedures, namely:—
 - (A) for purposes of determining whether the account holder is a passive non-financial entity, the reporting financial institution shall obtain a self-certification from the account holder to establish its status, unless it has information in its possession or which is publicly available, based on which it can reasonably determine that the account holder is an active non-financial entity or a financial institution other than an investment entity referred to in sub-clause (B) of clause (c) of *Explanation* to clause (3) of rule 114F;
 - (B) for purposes of determining the controlling persons of an account holder, a reporting financial institution may rely on information collected and maintained in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003);
 - (C) for purposes of determining whether a controlling person of a pre-existing account of passive non-financial entity is a reportable person, a reporting financial institution may rely on,—
 - (I) information collected and maintained in accordance with rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003) in the case of pre-existing entity account held by one or more non-financial entity with an aggregate balance or value which does not exceed an amount equivalent to one million U.S. dollars; or
 - (II) a self-certification from the account holder or such controlling person of the passive non-financial entity with an account balance or value which exceeds an amount equivalent to one million U.S. dollars;

- (D) if any controlling person of a passive non-financial entity is a resident of any country or territory outside India for tax purposes, the account shall be treated as a reportable account;
- (e) the following additional procedures shall be applicable to pre-existing entity accounts, namely:—

⁴[(i) review of pre-existing entity accounts with an aggregate account balance or value that exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account) shall be completed by the 30th June, 2016 and review of pre-existing entity accounts with an aggregate account balance or value that exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 31st December, 2015 (in case of other reportable account) shall be completed by the 31st December, 2016;]

- (ii) review of pre-existing entity accounts with an aggregate account balance or value which does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account), but exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 31st December of a subsequent year, shall be completed within the calendar year following the year in which the aggregate account balance or value exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars;
- (iii) if there is a change of circumstances with respect to a pre-existing entity account that causes the reporting financial institution to know, or have reason to know, that the self-certification or other documentation associated with the account is incorrect or unreliable, the reporting financial institution shall re-determine the status of the account in accordance with the procedures set forth in clause (d) of this sub-rule.

(6) The following procedures shall apply for purposes of identifying reportable accounts and accounts held by non-participating financial institutions among new entity accounts, namely:—

- (a) a reporting financial institution, to determine whether the new entity account is a reportable account, shall apply the following review procedures, namely:—

(i) determine whether the entity is a reportable person and for that the reporting financial institution shall,—

(A) obtain a self-certification, which may be part of the account opening documentation, that allows the reporting financial

4. Substituted by the IT (Fifteenth Amdt.) Rules, 2016, w.e.f. 20-6-2016. Prior to its substitution, sub-clause (i) read as under :

⁴(i) review of pre-existing entity accounts with an aggregate account balance or value that exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account) shall be completed by the 30th June, 2016;*

institution to determine the account holder's residence or residences for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the reporting financial institution in connection with the opening of the account, including any documentation collected in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003):

Provided that if the entity certifies that it has no residence for tax purposes, the reporting financial institution may rely on the address of the principal office of the entity to determine the residence of the account holder;

- (B) treat the account as a reportable account, if the information as per item (A) indicates that the account holder is a reportable person, unless it reasonably determines based on information in its possession or which is publicly available, that the account holder is not a reportable person:

Provided that if the information as per item (A) indicates that the account holder is an Indian financial institution, or partner jurisdiction financial institution, which is not a non-participating financial institution or a participating foreign financial institution or a non-reporting financial institution then the account shall not be treated as a U.S. reportable account;

- (ii) determine whether the account holder is a passive non-financial entity with one or more controlling persons who are reportable persons and in making these determinations the reporting financial institution shall follow the following procedures, namely:—

- (A) for purposes of determining whether the account holder is a passive non-financial entity, the reporting financial institution shall rely on a self-certification from the account holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the account holder is not a passive non-financial entity;

- (B) for purposes of determining the controlling persons of an account holder, a reporting financial institution may rely on information collected and maintained in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003);

- (C) for purposes of determining whether a controlling person of a passive non-financial entity is a reportable person, a reporting financial institution may rely on a self-certification from the account holder or such controlling person;

- (b) the reporting financial institution shall determine whether the account holder is a non-participating financial institution and in such case any payment to the account holder shall be reported as per clause (h) of sub-rule (1) of rule 114G.

- (7) The following additional procedures shall apply in implementing the due diligence requirement specified in sub-rules (1) to (6), namely:—

- (a) a reporting financial institution may not rely on a self-certification or documentary evidence if the reporting financial institution knows or has reason to know that the self-certification or documentary evidence is incorrect or unreliable;
- (b) a reporting financial institution may presume that an individual beneficiary (other than the owner) of a cash value insurance contract or an annuity contract receiving a death benefit is not a reportable person and may treat such financial account as other than a reportable account unless the reporting financial institution has actual knowledge, or reason to know, that the beneficiary is a reportable person:

Provided that if a reporting financial institution has actual knowledge, or reason to know, that the beneficiary is a reportable person, it shall follow the procedures specified in clause (b) of sub-rule (3);

Explanation.—For the purposes of this clause, a reporting financial institution shall be deemed to have reason to know that a beneficiary of a cash value insurance contract or an annuity contract is a reportable person if the information collected by the reporting financial institution and associated with the beneficiary contains indicia specified in clause (b) of sub-rule (3).

- (c) the following procedures relating to aggregation of account balance and currency shall apply, namely:—
 - (i) for purposes of determining the aggregate balance or value of financial accounts held by an individual, a reporting financial institution shall be required to aggregate all financial accounts maintained by it, or by a related entity, but only to the extent that the computerised systems of that reporting financial institution links the financial accounts by reference to a data element such as client number or taxpayer identification number, and allows account balances or values to be aggregated;
 - (ii) for purposes of determining the aggregate balance or value of financial accounts held by an entity, a reporting financial institution shall be required to take into account all financial accounts which are maintained by it, or by a related entity, but only to the extent that the computerised systems of that reporting financial institution links the financial accounts by reference to a data element such as client number or taxpayer identification number, and allows account balances or values to be aggregated;
 - (iii) for purposes of determining the aggregate balance or value of financial accounts held by a person to determine whether a financial account is a high value account, a reporting financial institution shall also be required, in the case of any financial accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts;
 - (iv) for the purposes of rules 114F, 114G and this rule, any account maintained in rupees or in any permissible currency (other than the United States Dollar) as designated by the Reserve Bank of India shall be converted to United States Dollar at the end of the reporting

period as per the reference rates of the Reserve Bank of India and such converted amount in the United States Dollar shall be used for determining the balance or value of a financial account provided in such rules.

Explanation 1.—For the purposes of this clause each holder of a jointly held financial account shall be attributed the entire balance or value of the jointly held financial account for purposes of applying the aggregation requirements.

(8) In case of a U.S. reportable account opened on or after the 1st July, 2014 but before the date of entry into force of FATCA agreement, notwithstanding the due diligence procedures specified in sub-rule (4) or sub-rule (6) of this rule for new accounts, the reporting financial institution may, in lieu of the procedures specified in the said sub-rules, apply the following alternative procedures, namely:—

- (a) within one year after the date of entry into force of the FATCA agreement, reporting financial institutions shall,—
 - (i) with respect to a new individual account opened on or after the 1st July, 2014 but before the date of entry into force of FATCA agreement, request the self-certification specified in sub-rule (4) and confirm the reasonableness of such self-certification consistent with the procedures specified in sub-rule (4); and
 - (ii) with respect to a new entity account opened on or after the 1st July, 2014 but before the date of entry into force of FATCA agreement, perform the due diligence procedures specified in sub-rule (6) and request for information as necessary to document the account, including any self-certification, required under sub-rule (6);
- (b) the reporting financial institution shall report on any new account which is identified pursuant to clause (a) of this sub-rule as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable, by the date which is the later of,—
 - (i) the 31st of May next following the date on which the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable; and
 - (ii) forty-five days after the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable;

Provided that the information required to be reported with respect to such a new account shall be information which would have been reportable had the new account been identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable, as of the date the account was opened;

- (c) by the date that is one year after the date of entry into force of the FATCA agreement, reporting financial institutions shall close any new account described in clause (a) for which it was unable to collect the required self-certification or other documentation in accordance with the procedure specified in clause (b):

Provided that in addition, by such date, the reporting financial institutions shall,—

- (i) with respect to such closed accounts which prior to such closure were new individual accounts (without regard to whether such accounts were high value accounts), perform the due diligence procedure specified in clause (c) of sub-rule (3), or
- (ii) with respect to such closed accounts which prior to such closure were new entity accounts, perform the due diligence procedures specified in sub-rule (5); and
- (d) the reporting financial institution shall report the information specified in rule 114G in respect of any closed account which is identified under clause (c) as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable, by the date that is the later of,—
 - (i) the 31st of May next following the date on which the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable; and
 - (ii) forty-five days after the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable;

Provided that in respect of all new entity accounts or a clearly identified group of such accounts which are U.S. reportable accounts opened on or after the 1st July, 2014, and before the 1st January, 2015 the reporting financial institution may, in lieu of the procedure specified in clauses (a) to (d), treat such accounts as pre-existing entity accounts and apply the due diligence procedure related to pre-existing entity accounts specified in sub-rule (5) without regard to the account balance or value threshold specified in clause (a) of sub-rule (5).]

^{4a}[Annual Information Statement.

114-I. (1) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or any person authorised by him shall, under section 285BB of the Income-tax Act, 1961, upload in the registered account of the assessee an annual information statement in Form No. 26AS containing the information specified in column (2) of the table below, which is in his possession within three months from the end of the month in which the information is received by him :

TABLE

Sl. No	Nature of information
(1)	(2)
(i)	Information relating to tax deducted or collected at source
(ii)	Information relating to specified financial transaction
(iii)	Information relating to payment of taxes
(iv)	Information relating to demand and refund
(v)	Information relating to pending proceedings
(vi)	Information relating to completed proceedings

(2) The Board may also authorise the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or any person authorised by him to upload the information received from any officer, authority or body performing any function under any law or the information received under an agreement referred to in section 90 or section 90A of the Income-tax Act, 1961 or the information received from any other person to the extent as it may deem fit in the interest of the revenue in the annual information statement referred to in sub-rule (1).

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of uploading of annual information statement referred to in sub-rule (1).]

⁵Rate of exchange for conversion into rupees of income expressed in foreign currency.⁷

115. ⁸[(1)] The rate of exchange for the calculation of the value in rupees of any income accruing or arising or deemed to accrue or arise to the assessee in foreign currency or received or deemed to be received by him or on his behalf in foreign currency shall be the telegraphic transfer buying rate of such currency as on the specified date.

Explanation.—For the purposes of this rule,—

(1) “telegraphic transfer buying rate” shall have the same meaning as in the *Explanation* to rule 26;

(2) “specified date” means—

(a) in respect of income chargeable under the head “Salaries”, the last day of the month immediately preceding the month in which the salary is due, or is paid in advance or in arrears;

(b) in respect of income ⁹[by way of] “interest on securities”, the last day of the month immediately preceding the month in which the income is due;

5. Substituted by the IT (Eighth Amdt.) Rules, 1977, w.e.f. 1-11-1977. Rule 115 was first substituted by the IT (Third Amdt.) Rules, 1967 and later on amended by the IT (Second Amdt.) Rules, 1968.

6. See section 192(6).

7. On application and interpretation of rule 115, see *CIT v. Chowgule & Co. Ltd.* [1996] 84 Taxman 623 (SC). Where sale consideration was received in Indian currency and then converted into US currency for remittance to seller, rule 115 will not apply.—*CIT v. E.R. Squibb & Sons* [1999] 235 ITR 1 (Bom.). Rule 115 applies also to remittances made outside India—*Director of Income-tax, International Taxation v. Dumez Sogea Borie SAE* [2002] 120 Taxman 800/257 ITR 576 (Delhi). The word ‘income’ in rule 115 cannot be equated with gross receipts. It is not the mandate of the Act that business income should necessarily be computed in Indian rupee. If a foreign company is working in India and is receiving as well as spending in foreign exchange, computation of income can be done in foreign exchange and in the process allowance as per the Act has to be allowed in terms of that foreign exchange only. The income so finally worked out should then be converted into Indian rupees at the prevailing exchange rate on the specified date, viz., the last day of the accounting period. However, where foreign exchange has already been received by the assessee in the Indian bank account, rule 115 will not apply - *Dy. CIT v. Hollandsche Aanneming Maatschappij* [2007] 107 TTJ (Mum. Trib.) 268. For details, see *Taxmann’s Master Guide to Income-tax Rules*.

8. Inserted by the IT (Seventh Amdt.) Rules, 1990, w.e.f. 1-4-1990.

9. Substituted for “chargeable under the head” by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

- (c) in respect of income chargeable under the heads "Income from house property", "Profits and gains of business or profession" [not being income referred to in clause (d)] and "Income from other sources" (not being income by way of dividends ¹⁰) and "Interest on securities"], the last day of the previous year of the assessee;
- (d) in respect of income chargeable under the head "Profits and gains of business or profession" in the case of a non-resident engaged in the business of operation of ships, the last day of the month immediately preceding the month in which such income is deemed to accrue or arise in India;
- (e) in respect of income by way of dividends, the last day of the month immediately preceding the month in which the dividend is declared, distributed or paid by the company;
- (f) in respect of income chargeable under the head "Capital gains", the last day of the month immediately preceding the month in which the capital asset is transferred :]

¹¹[**Provided** that the specified date, in respect of income referred to in sub-clauses (a) to (f) payable in foreign currency and from which tax has been deducted at source under rule 26, shall be ¹²[the date on which the tax was required to be deducted] under the provisions of the Chapter XVII-B.]

¹³[(2) Nothing contained in sub-rule (1) shall apply in respect of income referred to in clause (c) of the *Explanation* to sub-rule (1) where such income is received in, or brought into India by the assessee or on his behalf before the specified date in accordance with the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973).¹⁴]

¹⁵[**Rate of exchange for conversion of rupees into foreign currency and reconversion of foreign currency into rupees for the purpose of computation of capital gains under the proviso to clause (a) of sub-section (1) of section 48 of the Income-tax Act, 1961.**

115A. For the purpose of computing capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company, in the case of an assessee who is a non-resident Indian, the rate of exchange shall be :—

- (a) for converting the cost of acquisition of the capital asset, the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of its acquisition;

10. Inserted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

11. Inserted by the IT (Ninth Amdt.) Rules, 1993, w.e.f. 25-5-1993.

12. Substituted for "the date on which the tax has been so deducted" by the IT (Third Amdt.) Rules, 1995, w.e.f. 9-5-1995.

13. Inserted by the IT (Seventh Amdt.) Rules, 1990, w.e.f. 1-4-1990.

Rule 115(2) is not *ultra vires* of the substantive provisions of the Act. It is really clarificatory, and does not bring about any change in rule 115—*CIT v. Chowgule & Co. Ltd.* [1996] 84 Taxman 623 (SC). For details, see Taxmann's Master Guide to Income-tax Rules.

14. Now Foreign Exchange Management Act, 1999.

15. Inserted by the IT (Fourth Amdt.) Rules, 1991, w.r.e.f. 1-4-1990.

- (b) for converting expenditure incurred wholly and exclusively in connection with the transfer of the capital asset referred to in clause (a), the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of transfer of the capital asset;
- (c) for converting the full value of consideration received or accruing as a result of the transfer of the capital asset referred to in clause (a), the average of the telegraphic transfer buying rate and telegraphic transfer selling rate of the foreign currency initially utilised in the purchase of the said asset, as on the date of transfer of the capital asset;
- (d) for reconverting capital gains computed in the foreign currency initially utilised in the purchase of the capital asset into rupees, the telegraphic transfer buying rate of such currency, as on the date of transfer of the capital asset.

Explanation.—For the purposes of this rule—

- (i) “telegraphic transfer buying rate” shall have the same meaning as in the *Explanation* to rule 26;
- (ii) “telegraphic transfer selling rate”, in relation to a foreign currency, means the rate of exchange adopted by the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), for selling such currency where such currency is made available by that bank through telegraphic transfer.]

Return of interest paid.

¹⁶116. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

Return of dividends paid.

¹⁷117. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

¹⁸[Reduction or waiver of interest payable under section 139.

117A. ¹⁹[In respect of assessment relating to an assessment year commencing on or before the first day of April, 1988, the Assessing Officer] may reduce or waive the interest payable under section 139 in the cases and in the circumstances mentioned below, namely :—

16. Prior to its omission, rule 116, as amended by the IT (Ninth Amdt.) Rules, 1977, w.e.f. 1-4-1978, stood as under :

“116. (1) A return shall be furnished under section 285 by the person responsible for paying interest, not being interest on securities, in respect of amounts of interest or aggregate interest exceeding Rs. 1,000.

(2) The return referred to in sub-rule (1) shall be made in Form No. 50.”

17. Prior to its omission, rule 117 read as under :

“117. (1) A return shall be furnished by the principal officer of a company under section 286 in respect of a dividend or aggregate dividends if the amount thereof exceeds one rupee in the case of a shareholder which is a company and in respect of dividend or aggregate dividends if the amount thereof exceeds Rs. 5,000 in the case of any other shareholder.

(2) The return referred to in sub-rule (1) shall be made in Form No. 51 and shall be delivered to the Income-tax Officer, who assesses the company.”

18. Inserted by the IT (Second Amdt.) Rules, 1964.

19. Substituted for “The Income-tax Officer” by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.

- (i) where the return of income is furnished by a person who has been treated under section 163 as an agent of a non-resident and is assessed in respect of the latter's income;
- (ii) where the return of income is furnished by an assessee whose only source of income during the relevant previous year is a share in the income of an unregistered firm which has been assessed on its total income in respect of that previous year under clause (b) of section 183;
- (iii) where the return of income of a deceased individual is furnished by his legal representative and the legal representative satisfies the ²⁰[Assessing Officer] that he had sufficient cause for not furnishing such return within time;
- (iv) where the return of income has been furnished in pursuance of a notice issued under section 148;
- (v) any case in which the assessee produces evidence to the satisfaction of the ²⁰[Assessing Officer] that he was prevented by sufficient cause from furnishing the return within time :

Provided that the previous approval of the ²¹[Deputy Commissioner] has been obtained where the amount of interest reduced or waived, as the case may be, under clause (iv) or clause (v) exceeds one thousand rupees.

²²[Form of statement under section 222 or section 223.

117B. A statement under section 222 or section 223 shall be drawn up by the Tax Recovery Officer in Form No. 57.]

²³[**Tax Recovery Officer to exercise or perform certain powers and functions of an Assessing Officer.**

117C. (1) The Chief Commissioner or the Commissioner, by general or special order in writing, may authorise a Tax Recovery Officer to exercise or perform the powers and functions conferred on or assigned to an Assessing Officer under section 154 for rectifying any mistake apparent from record in respect of an order passed by the Assessing Officer consequent to which a sum is payable and the Tax Recovery Officer has drawn a Certificate under section 222 in respect of such sum.

20. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.

21. Substituted for "Inspecting Assistant Commissioner", *ibid*.

22. Inserted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.

Section 222 does not violate article 14 of the Constitution - *K. Jagadish Mitter v. Revenue Divisional Commissioner* [1976] 102 ITR 689 (Ori.) (FB). Section 222 and Second Schedule provide a complete procedure for recovery of tax; provisions of any other Act cannot be enforced for recovery of tax - *Gourishankar v. Certificate Officer* [1971] 82 ITR 955 (Ori.). ITO can take recourse to both sections 222 and 226(4) concurrently - *ITO v. Manmohanlal* [1987] 168 ITR 56 (Ori.). Recovery proceedings once begun must be proceeded with reasonable expedition - *Mohd. Ibrahim Khan v. Union of India* [1985] 155 ITR 10 (AP). Certificate can be issued for recovery of advance tax - *Union of India v. Sikri & Sons* [1978] 112 ITR 529 (Cal.). Where certificate has been issued during lifetime of defaulter, recovery proceedings can be continued against legal representative after defaulter's death - *Mariam Misri v. TRO* [1995] 211 ITR 807 (Mad.). For details, see Taxmann's Master Guide to Income-tax Rules.

23. Inserted by the IT (Eleventh Amdt.) Rules, 2007, w.e.f. 16-10-2007.

(2) The Tax Recovery Officer shall exercise or perform such powers and functions concurrently with the Assessing Officer.]

Levy of interest under section 220(2) where a recovery certificate is not issued.

²⁴118. [Omitted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.]

Levy of interest under section 220(2) in a case where a recovery certificate is issued.

²⁵119. [Omitted by the IT (Eleventh Amdt.) Rules, 1989, w.e.f. 30-11-1989.]

Procedure to be followed in calculating interest.

²⁶[²⁷119A. In calculating the interest payable by the assessee or the interest payable by the Central Government to the assessee under any provision of the Act,—

24. Prior to its omission, rule 118, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

"118. (1) Subject to the provision of rule 119 and sub-rule (2) of this rule, the Assessing Officer shall calculate the interest payable under sub-section (2) of section 220 at the end of each financial year if the amount of tax, penalty or other sum in respect of which such interest is payable has not been paid in full before the end of any such financial year and a notice of demand under section 156 shall be issued accordingly.

(2) Subject to the provisions of rule 119, if the amount of tax, penalty or other sum in respect of which such interest is payable is paid up before the end of any financial year, the Assessing Officer shall calculate the interest payable under sub-section (2) of section 220 up to the date on which the payment of such tax, penalty or other sum is completed and a notice of demand under section 156 shall be issued accordingly."

25. Prior to its omission, rule 119, as amended by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988, read as under :

"119. (1) At the time of issuing a certificate under section 222, the Assessing Officer shall calculate the interest payable under sub-section (2) of section 220 on the amount of arrears of tax, penalty or other sum up to the date of the issue of the certificate.

(2) The amount of interest calculated under sub-rule (1) as reduced by the amount of such interest, if any, paid by the assessee before the issue of the certificate shall be indicated in the certificate issued by the Assessing Officer.

(3) The amount of interest referred to in sub-rule (2) and the further interest similarly calculated for the period commencing immediately after the date of the issue of the certificate, shall be recoverable from the defaulter along with the amount of tax, penalty or other sum mentioned in the certificate."

26. Substituted by the IT (Tenth Amdt.) Rules, 1989, w.e.f. 13-9-1989. Prior to its substitution, rule 119A, as inserted by the IT (Sixth Amdt.) Rules, 1974, w.e.f. 1-1-1975, read as under :

"119A. In calculating the interest payable by the assessee or the interest payable by the Central Government to the assessee under any provision of the Act,—

(a) the period for which such interest is to be calculated shall be rounded off to a whole month or months and for this purpose any fraction of a month shall be ignored; and the period so rounded off shall be deemed to be the period in respect of which the interest is to be calculated;

(b) the amount of tax, penalty or other sum in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose any fraction of one hundred rupees shall be ignored; and the amount so rounded off shall be deemed to be the amount in respect of which the interest is to be calculated."

27. See section 295(2)(kk).

- (a) where interest is to be calculated on annual basis, the period for which such interest is to be calculated shall be rounded off to a whole month or months and for this purpose any fraction of a month shall be ignored; and the period so rounded off shall be deemed to be the period in respect of which the interest is to be calculated;
- (b) where the interest is to be calculated for every month or part of a month comprised in a period, any fraction of a month shall be deemed to be a full month and the interest shall be so calculated;
- (c) the amount of tax, penalty or other sum in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose any fraction of one hundred rupees shall be ignored and the amount so rounded off shall be deemed to be the amount in respect of which the interest is to be calculated.]

²⁸[**Modes of payment for the purpose of section 269SU^{28a}.**

119AA. Every person, carrying on business, if his total sales, turnover or gross receipts, as the case may be, in business exceeds fifty crore rupees during the immediately preceding previous year shall provide facility for accepting payment through following electronic modes, in addition to the facility for other electronic modes of payment, if any, being provided by such person, namely:—

- (i) Debit Card powered by RuPay;
- (ii) Unified Payments Interface (UPI) (BHIM-UPI); and
- (iii) Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code).]

Form for furnishing particulars by contractor.

²⁹**120.** [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Earlier, it was inserted by the IT (Amdt.) Rules, 1965.]

Procedure for imposition of fine.

³⁰**121.** [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989. Earlier, it was inserted by the IT (Amdt.) Rules, 1965.]

³¹[³²**Form of statement to be furnished by producer of cinematograph films.**

121A. The statement required to be furnished under section 285B by a person carrying on production of cinematograph films shall be in Form No. 52A.]

28. Inserted by the IT (Sixteenth Amdt.) Rules, 2019, w.e.f. 1-1-2020.

28a. See also Circular No. 32/2019, dated 30-12-2019 (Levy of penalty u/s 271DB). For details, see Taxmann's Master Guide to Income-tax Rules.

29. Prior to its omission, rule 120 read as under :

"120. The particulars required to be furnished under sub-section (1) of section 285A by a contractor shall be in Form No. 52."

30. Prior to its omission, rule 121 read as under :

"121. No order imposing a fine under sub-section (2) of section 285A shall be made unless the contractor has been given a reasonable opportunity of being heard."

31. Inserted by the IT (Third Amdt.) Rules, 1976, w.e.f. 1-4-1976.

32. See section 295(2)(mma).

Notice in respect of properties held benami.

³³122. [Omitted by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 18-5-1989.]

³⁴[Application for obtaining certified copies of certain notices.

123. An application to the ³⁵[Chief Commissioner or Commissioner] under sub-section (2) of section 281A³⁶ for furnishing a certified copy of the notice given under sub-section (1) or sub-section (1A) or sub-section (1B) of that section shall be made in Form No. 54.]

³⁷[Fees for obtaining certified copy of notice.

124. Fees to be paid for the issue of a certified copy of the notice given under sub-section (1) or sub-section (1A) or sub-section (1B) of section 281A³⁸ shall be two rupees for every such copy.]

³⁹[Electronic payment of tax⁴⁰.

125. (1) The following persons shall pay tax electronically on or after the 1st day of April, 2008:—

- (a) a company; and
- (b) a person (other than a company), to whom the provisions of section 44AB are applicable.

(2) For the purposes of this rule :—

- (a) "pay tax electronically" shall mean, payment of tax by way of—
 - (i) internet banking facility of the authority bank; or
 - (ii) credit or debit cards;
- (b) the word "tax" shall have the meaning as assigned to it in clause (43) of section 2 of the Act and shall include interest and penalty.]

33. Prior to its omission, rule 122, as inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972 and amended by the IT (Second Amdt.) Rules, 1984, w.e.f. 24-7-1984, stood as under :
"122. The notice to be given to the Commissioner under sub-section (1) or sub-section (1A) or sub-section (1B) of section 281A by a person claiming to be the real owner of any property held *benami* shall be in Form No. 53."

34. Substituted by the IT (Second Amdt.) Rules, 1984, w.e.f. 24-7-1984. Originally, it was inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972.

35. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.e.f. 1-4-1988.

36. Section 281A has since been repealed by the Benami Transactions (Prohibition) Act, 1988, w.e.f. 19-5-1988.

37. Substituted by the IT (Second Amdt.) Rules, 1984, w.e.f. 24-7-1984. Originally, it was inserted by the IT (Fourth Amdt.) Rules, 1972, w.e.f. 15-11-1972.

38. Section 281A has since been repealed by the Benami Transactions (Prohibition) Act, 1988, w.e.f. 19-5-1988.

39. Inserted by the IT (Fourth Amdt.) Rules, 2008, w.e.f. 13-3-2008. Earlier rule 125 was inserted by the IT (Sixth Amdt.) Rules, 1989, w.e.f. 1-4-1989 and later on omitted by the IT (Thirty-second Amdt.) Rules, 1999, w.e.f. 19-11-1999.

40. Circular No. 5/2008, dated 14-7-2008 provides that with a view to facilitating electronic payment of taxes by different categories of taxpayers, it is clarified that an assessee can make payment of taxes also from the account of any other person. However, the challan electronic payment of taxes must clearly indicate the Permanent Account Number (PAN) of the assessee on whose behalf the payment is made. It is not necessary for the assessee to make payment of taxes from his own account in an authorized bank. Further, it is also clarified that payment of any amount by a deductor by way of tax deducted at source (TDS) or tax collected at source (TCS) shall fall within the meaning of 'tax' for the purpose of rule 125.

⁴¹[Computation of period of stay in India in certain cases.]

126. (1) For the purposes of clause (1) of section 6, in case of an individual, being a citizen of India and a member of the crew of a ship, the period or periods of stay in India shall, in respect of an eligible voyage, not include the period computed in accordance with sub-rule (2).

(2) The period referred to in sub-rule (1) shall be the period beginning on the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage and ending on the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage.

Explanation.—For the purposes of this rule,—

- (a) "Continuous Discharge Certificate" shall have the meaning assigned to it in the Merchant Shipping (Continuous Discharge Certificate-cum-Seafarer's Identity Document) Rules, 2001 made under the Merchant Shipping Act, 1958 (44 of 1958);
- (b) "eligible voyage" shall mean a voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where—
 - (i) for the voyage having originated from any port in India, has as its destination any port outside India; and
 - (ii) for the voyage having originated from any port outside India, has as its destination any port in India.]

⁴²[Service of notice, summons, requisition, order and other communication.]⁴³

127. (1) For the purposes of sub-section (1) of section 282, the addresses (including the address for electronic mail or electronic mail message) to which a notice or summons or requisition or order or any other communication under the Act (hereafter in this rule referred to as "communication") may be delivered or transmitted shall be as per sub-rule (2).

(2) The addresses referred to in sub-rule (1) shall be—

- (a) for communications delivered or transmitted in the manner provided in clause (a) or clause (b) of sub-section (1) of section 282—
 - (i) the address available in the PAN database of the addressee; or
 - (ii) the address available in the income-tax return to which the communication relates; or
 - (iii) the address available in the last income-tax return furnished by the addressee; or
 - (iv) in the case of addressee being a company, address of registered office as available on the website of Ministry of Corporate Affairs:

41. Inserted by the IT (Twelfth Amdt.) Rules, 2015, w.r.e.f. 1-4-2015.

42. Inserted by the IT (Eighteenth Amdt.) Rules, 2015, w.e.f. 2-12-2015.

43. See also Notification No. 2/2016 [DGIT(S)/DIT(S)-3/AST/Paperless Assessment Proceedings/96/2015-16], dated 3-2-2016 and Notification No. 4/2017 [DGIT(S)/DIT(S)-3/AST/Paperless Assessment Proceedings/96/2015-16], dated 3-4-2017 (Procedures, Formats and Standards for ensuring secured transmission of electronic communication). For details, see Taxmann's Master Guide to Income-tax Rules.

Provided that the communication shall not be delivered or transmitted to the address mentioned in items (i) to (iv) where the addressee furnishes in writing any other address for the purposes of communication to the income-tax authority or any person authorised by such authority issuing the communication:

⁴⁴**[Provided further** that where the communication cannot be delivered or transmitted to the address mentioned in items (i) to (iv) or any other address furnished by the addressee as referred to in first proviso, the communication shall be delivered or transmitted to the following address:—

- (i) the address of the assessee as available with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of the said Act); or
- (ii) the address of the assessee as available with the Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898); or
- (iii) the address of the assessee as available with the insurer as defined in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938); or
- (iv) the address of the assessee as furnished in Form No. 61 to the Director of Income-tax (Intelligence and Criminal Investigation) or to the Joint Director of Income-tax (Intelligence and Criminal Investigation) under sub-rule (1) of rule 114D; or
- (v) the address of the assessee as furnished in Form No. 61A under sub-rule (1) of rule 114E to the Director of Income-tax (Intelligence and Criminal Investigation) or to the Joint Director of Income-tax (Intelligence and Criminal Investigation); or
- (vi) the address of the assessee as available in the records of the Government; or
- (vii) the address of the assessee as available in the records of a local authority as referred to in the *Explanation* below clause (20) of section 10 of the Act;]
- (b) for communications delivered or transmitted electronically—
 - (i) email address available in the income-tax return furnished by the addressee to which the communication relates; or
 - (ii) the email address available in the last income-tax return furnished by the addressee; or
 - (iii) in the case of addressee being a company, email address of the company as available on the website of Ministry of Corporate Affairs; or
 - (iv) any email address made available by the addressee to the income-tax authority or any person authorised by such income-tax authority.

⁴⁴. Inserted by the IT (Twenty-fifth Amdt.) Rules, 2017, w.e.f. 20-12-2017.

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedure, formats and standards for ensuring secure transmission of electronic communication and shall also be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to such communication.]

⁴⁵[**Authentication of notices and other documents.**

127A. (1) Every notice or other document communicated in electronic form by an income-tax authority under the Act shall be deemed to be authenticated,—

- (a) in case of electronic mail or electronic mail message (hereinafter referred to as the e-mail), if the name and office of such income-tax authority—
 - (i) is printed on the e-mail body, if the notice or other document is in the e-mail body itself; or
 - (ii) is printed on the attachment to the e-mail, if the notice or other document is in the attachment,
 and the e-mail is issued from the designated e-mail address of such income-tax authority;
- (b) in case of an electronic record, if the name and office of the income-tax authority—
 - (i) is displayed as a part of the electronic record, if the notice or other document is contained as text or remark in the electronic record itself; or
 - (ii) is printed on the attachment in the electronic record, if the notice or other document is in the attachment,
 and such electronic record is displayed on the designated website.

(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the designated e-mail address of the income-tax authority, the designated website and the procedure, formats and standards for ensuring authenticity of the communication.

Explanation.—For the purposes of this rule, the expressions—

- (i) “electronic mail”⁴⁶ and “electronic mail message”⁴⁶ shall have the same meanings respectively assigned to them in *Explanation* to section 66A of the Information Technology Act, 2000 (21 of 2000);
- (ii) “electronic record”⁴⁶ shall have the same meaning as assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000).]

⁴⁷[**Foreign Tax Credit.**⁴⁸

128. (1) An assessee, being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India,

45. Inserted by the IT (Third Amdt.) Rules, 2017, w.e.f. 23-3-2017.

46. For definitions of “electronic mail”, “electronic mail message” and “electronic record”, see **Appendix**.

47. Inserted by the IT (Eighteenth Amdt.) Rules, 2016, w.e.f. 1-4-2017.

48. See Notification No. 9/2017 [F. No. DGIT(S)-ADG-(3)/e-filing Notification], dated 19-9-2017 [Procedure for filing statement of income from a country or specified territory outside India and Foreign tax credit].

by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India, in the manner and to the extent as specified in this rule:

Provided that in a case where income on which foreign tax has been paid or deducted, is offered to tax in more than one year, credit of foreign tax shall be allowed across those years in the same proportion in which the income is offered to tax or assessed to tax in India.

(2) The foreign tax referred to in sub-rule (1) shall mean,—

(a) in respect of a country or specified territory outside India with which India has entered into an agreement for the relief or avoidance of double taxation of income in terms of section 90 or section 90A, the tax covered under the said agreement;

(b) in respect of any other country or specified territory outside India, the tax payable under the law in force in that country or specified territory in the nature of income-tax referred to in clause (iv) of the *Explanation* to section 91.

(3) The credit under sub-rule (1) shall be available against the amount of tax, surcharge and cess payable under the Act but not in respect of any sum payable by way of interest, fee or penalty.

(4) No credit under sub-rule (1) shall be available in respect of any amount of foreign tax or part thereof which is disputed in any manner by the assessee:

Provided that the credit of such disputed tax shall be allowed for the year in which such income is offered to tax or assessed to tax in India if the assessee within six months from the end of the month in which the dispute is finally settled, furnishes evidence of settlement of dispute and an evidence to the effect that the liability for payment of such foreign tax has been discharged by him and furnishes an undertaking that no refund in respect of such amount has directly or indirectly been claimed or shall be claimed.

(5) The credit of foreign tax shall be the aggregate of the amounts of credit computed separately for each source of income arising from a particular country or specified territory outside India and shall be given effect to in the following manner:—

(i) the credit shall be the lower of the tax payable under the Act on such income and the foreign tax paid on such income:

Provided that where the foreign tax paid exceeds the amount of tax payable in accordance with the provisions of the agreement for relief or avoidance of double taxation, such excess shall be ignored for the purposes of this clause;

(ii) the credit shall be determined by conversion of the currency of payment of foreign tax at the telegraphic transfer buying rate on the last day of the month immediately preceding the month in which such tax has been paid or deducted.

(6) In a case where any tax is payable under the provisions of section 115JB or section 115JC, the credit of foreign tax shall be allowed against such tax in the same

manner as is allowable against any tax payable under the provisions of the Act other than the provisions of the said sections (hereafter referred to as the "normal provisions").

(7) Where the amount of foreign tax credit available against the tax payable under the provisions of section 115JB or section 115JC exceeds the amount of tax credit available against the normal provisions, then while computing the amount of credit under section 115JAA or section 115JD in respect of the taxes paid under section 115JB or section 115JC, as the case may be, such excess shall be ignored.

(8) Credit of any foreign tax shall be allowed on furnishing the following documents by the assessee, namely:—

- (i) a statement of income from the country or specified territory outside India offered for tax for the previous year and of foreign tax deducted or paid on such income in Form No. 67 and verified in the manner specified therein;
- (ii) certificate or statement specifying the nature of income and the amount of tax deducted therefrom or paid by the assessee,—
 - (a) from the tax authority of the country or specified territory outside India; or
 - (b) from the person responsible for deduction of such tax; or
 - (c) signed by the assessee;

Provided that the statement furnished by the assessee in clause (c) shall be valid if it is accompanied by,—

- (A) an acknowledgement of online payment or bank counter foil or challan for payment of tax where the payment has been made by the assessee;
- (B) proof of deduction where the tax has been deducted.

(9) The statement in Form No. 67 referred to in clause (i) of sub-rule (8) and the certificate or the statement referred to in clause (ii) of sub-rule (8) shall be furnished on or before the due date specified for furnishing the return of income under sub-section (1) of section 139, in the manner specified for furnishing such return of income.

(10) Form No. 67 shall also be furnished in a case where the carry backward of loss of the current year results in refund of foreign tax for which credit has been claimed in any earlier previous year or years.

Explanation.—For the purposes of this rule "telegraphic transfer buying rate" shall have the same meaning as assigned to it in *Explanation* to rule 26.]

⁴⁹[Form of application under section 270AA.

129. An application to the Assessing Officer to grant immunity from imposition of penalty under section 270A and from initiation of proceedings under section 276C or section 276CC shall be made in Form No. 68.]