

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

NOTIFICATION

New Delhi, the 13th May 2021

(INCOME-TAX)

S.O. 1855(E).—In exercise of powers conferred by sub-clause (iv) of clause (c) of the *Explanation 1* to clause (23FE) of section 10 of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the “Act”), the Central Government hereby specifies the pension fund, namely, the Government Employees Superannuation Board, (hereinafter referred to as “the assessee”) as the specified person for the purposes of the said clause in respect of the eligible investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 (hereinafter referred to as “said investments”) subject to the fulfillment of the following conditions, namely:-

- (i) the assessee shall file return of income, for all the relevant previous years falling within the period beginning from the date in which the said investment has been made and ending on the date on which such investment is liquidated, on or before the due date specified for furnishing the return of income under sub-section (1) of section 139 of the Act;
- (ii) the assessee shall furnish along with such return a certificate in Form No. 10BBC in respect of compliance to the provisions of clause (23FE) of section 10, during the financial year, from an accountant as defined in the *Explanation* below sub-section (2) of section 288 of the Act, as per the provisions of clause (vi) of rule 2DB of the Income-tax Rules, 1962;
- (iii) the assessee shall intimate the details in respect of each investment made by it in India during the quarter within one month from the end of the quarter in Form No. 10BBB, as per the provisions of clause (v) of rule 2DB of the Income-tax Rules, 1962;
- (iv) the assessee shall maintain a segmented account of income and expenditure in respect of such investment which qualifies for exemption under clause (23FE) of section 10 of the Act;
- (v) the assessee shall continue to be regulated under the law of the Government of Australia;
- (vi) the assessee shall be responsible for administering or investing the assets for meeting the statutory obligations and defined contributions of one or more funds or plans established for providing retirement, social security, employment, disability, death benefits or any similar compensation to the participants or beneficiaries of such funds or plans, as the case may be;
- (vii) not more than ten per cent. of the total value of the assets administered or invested by the assessee are allowed for the purpose other than the purpose listed at clause (vi) provided such assets are wholly owned directly or indirectly by the Government of Australia and such assets vest in the Government of Australia upon dissolution;
- (viii) the earnings and assets of the assessee should be used only for meeting statutory obligations and defined contributions for participants or beneficiaries of funds or plans referred to in clause (vi) and no portion of the earnings or assets of the pension fund inures any benefit to any other private person; barring any payment made to creditors or depositors for loan or borrowing [as defined in sub-clause (b) of clause (ii) of *Explanation 2* to clause (23FE) of section 10 of the Act] taken for the purposes other than for making investment in India;

- (ix) the earning from assets referred to in clause (vii) may be used for purpose other than the purpose listed as in clause (viii) provided that the said earnings are credited either to the account of Government of Australia or any other account designated by such Government so that no portion of the earnings inures any benefit to any private person;
 - (x) the assessee shall not have any loans or borrowings [as defined in sub-clause (b) of clause (ii) of *Explanation 2* to clause (23FE) of section 10 of the Act], directly or indirectly, for the purposes of making investment in India; and
 - (xi) the assessee shall not participate in the day to day operations of investee [as defined in clause (i) of *Explanation 2* to clause (23FE) of section 10 of the Act] but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in the day to day operations of the investee.
2. Violation of any of the conditions as stipulated in the said clause (23FE) of section 10 of the Act and this notification shall render the assessee ineligible for the tax exemption.
 3. This notification shall come into force from the date of its publication in the Official Gazette.

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