

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

NOTIFICATION

New Delhi, the 16th November, 2022

(INCOME-TAX)

S.O. 5345(E).—In exercise of powers conferred by sub-clause (vi) of clause (b) of *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 sovereign wealth fund, namely, Public Investment Fund (PAN: AAAJP1787D), (hereinafter referred to as “the assessee”) as the specified person for the purposes of the said clause in respect of the 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 “the said investments”) subject to the fulfilment 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 on 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 get its books of account audited for the previous years referred to in clause (i) by an accountant specified in the *Explanation* below sub-section (2) of section 288 of the Act and furnish the Audit Report in the format annexed as Annexure to this notification at least one month prior to the due date specified for furnishing the return of income under sub-section (1) of section 139 of the Act;
- (iii) the assessee shall furnish a quarterly statement within one month from the end of each quarter electronically in Form II as annexed to Circular No. 15 of 2020 dated the 22nd July, 2020 with F. No. 370142/26/2020-TPL issued by the Ministry of Finance, Department of Revenue, Central Board of Direct Taxes (Tax Policy and Legislation Division), in respect of each investment made by it during the said quarter;

- (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 owned and controlled, directly or indirectly, by the Government of the Kingdom of Saudi Arabia, and at no point of time should any other person have any ownership or control, directly or indirectly, in the assessee;
 - (vi) the assessee shall continue to be regulated under the laws of the Government of the Kingdom of Saudi Arabia;
 - (vii) the earnings of the assessee shall be credited either to the account of the Government of the Kingdom of Saudi Arabia or to any other account designated by that Government so that no portion of the earnings inures any benefit to any private person, barring any payment made to creditors or depositors for loan taken or borrowing [as defined in sub-clause (a) of clause (ii) of *Explanation 2* to clause (23FE) of section 10 of the Act] made for purposes other than for making investment in India;
 - (viii) the assessee shall not have any loan or borrowing [as defined in sub-clause (a) 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;
 - (ix) the assets of the assessee shall vest in the Government of the Kingdom of Saudi Arabia upon dissolution, barring any payment made to creditors or depositors for loan taken or borrowing for purposes other than for making investment in India;
 - (x) 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 any 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; and
 - (xi) the investment of the assessee shall be held for at least three years as required under sub-clause (ii) of clause (23FE) of section 10 of the Act.
2. Violation of any of the conditions as stipulated in 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.

ANNEXURE

Audit Report to be filed by the Sovereign Wealth Fund claiming exemption under section 10 of the Income-tax Act, 1961

Part I

*I/we report that the statutory audit of M/s. (Name and address of the assessee with Permanent Account Number or Aadhaar Number), the particulars of which are given in Part II was conducted by *me/ us/ M/s. as per the requirement under the Notification No/..... dated published in the Official Gazette on

2. In *my/ our opinion and to the best of *my/ our information and according to examination of books of account including other relevant documents and explanations given to *me/us, it is certified that the assessee *has/ has not complied with the conditions as laid down under clause (23FE) of section 10 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”) and those provided in the said notification specifying the assessee being the Sovereign Wealth Fund (hereinafter referred to as the “SWF”) as specified person for the purposes of claiming exemption under the said clause (23FE) of the Act.

2.1 *The conditions not complied with by the assessee are as under:-

- (a)
- (b)

7.*the SWF has not sold any of the investments made for the purposes of exemption under clause (23FE) of section 10 of the Act before the expiry of three years from the date on which the investment was made in respect of the said exemption/the SWF has sold certain investments made for the purposes of exemption under clause (23FE) of section 10 of the Act before the expiry of three years from the date on which the investment was made in respect of the said exemption, the details of which are as under:

Sl. No.	Date of investment	Nature of investment (Note 4)	Nature of income (Note 5)	Amount of income on investment during the year	Details of the entity in which Investment made			Date of sale
					Nature of entity (Note 6)	Name	PAN	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.								
2.								
Total								

8. The SWF satisfies all the conditions required for the purposes of exemption under clause (23FE) of section 10 of the Act, that is, -

(a)	Whether the Government of foreign country wholly owns and controls the SWF, directly or indirectly	Yes/No
(b)	Mention the name of the Government of foreign country which owns and controls the SWF, directly or indirectly	
(c)	Whether the Government of foreign country owns and controls the SWF, directly or indirectly	Directly/ Indirectly
(d)	If the Government of foreign country owns and controls the SWF indirectly, give details of the chain of ownership	
(e)	Name of the law(s) under which the SWF is set up and regulated	
(f)	Whether the earnings of the said fund are credited either to the account of the Government of that foreign country or to any other account designated by that Government so that no portion of the earnings inures any benefit to any private person, barring any payment made to creditors or depositors for loan taken or borrowing made for purposes other than for making investment in India.	Yes/No
(g)	Whether the asset of the said fund vests in the Government of such foreign country upon dissolution, barring any payment made to creditors or depositors for loan taken or borrowing made for purposes other than for making investment in India.	Yes/No
(h)	If answer to (f) or (g) is No, then provide the following details: (i) Name of such private person (ii) Amount of benefit provided during the year	
(i)	Whether it participates in the day to day operations of any of the investee, as defined in clause (i) of <i>Explanation 2</i> to clause (23FE) of section 10 of the Act, barring any monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director	Yes/No

(j)	If answer to (i) is yes, then provide the following details: (i) Name of such investee (ii) PAN of the investee (iii) Amount of investment in such investee at the end of the year	
(k)	Whether it has complied with the requirement of intimation of the details of investment made by it in India in Form No II issued vide circular No 15/2020 dated 22.07.2020	Yes/No
(l)	Whether it has loans or borrowings, as defined in sub-clause(a) of clause (ii) <i>Explanation 2</i> to clause (23FE) of section 10 of the Act, directly or indirectly, for the purposes of making investment in India	Yes/No
(m)	If answer to (l) is yes, then provide the following details: (i) Name of the person from whom such loan or borrowing has been taken (ii) Amount of loan or borrowing at the beginning of the year (iii) Amount of loan or borrowing received during the year (iv) Amount of loan or borrowing repaid during the year (v) Amount of loan or borrowing at the end of the year	
(n)	Whether separate segmented account is maintained for income and investment in respect of investment which qualifies for exemption under clause (23FE) of section 10 of the Act	Yes/No

Place:

Date:

**(Signature and stamp/ Seal of the signatory)

Name of the signatory

Full address

Membership No.....

UDIN.....

Note:

1. *Delete whichever is not applicable.

2.** This report is to be given by an accountant as defined in the *Explanation* below sub-section (2) of section 288 of the Act.3. An “investee” shall have the same meaning as assigned to it in clause (i) to *Explanation 2* to clause (23FE) of section 10 of the Act and “loan and borrowing” shall have the same meaning as assigned to it in sub-clause (a) of clause (ii) of *Explanation 2* to clause (23FE) of section 10 of the Act.

4. One of the following codes is to be selected:

Nature of Investment	Code
Debt	1
Equity	2
Preference Shares	3
Others (Please specify)	4

5. One of the following codes is to be selected:

Nature of Income	Code
Interest	1
Dividend	2
Capital Gains	3
Others	4

6. One of the following codes is to be selected:

Nature of entity in which investment is made	Code
Business Trust referred to in item (a) of sub-clause (iii) of clause (23FE) of section 10 of the Act	1
Company or enterprise or entity referred to in item (b) of sub-clause (iii) of clause (23FE) of section 10 of the Act	2
Alternative Investment Fund referred to in item (c) of sub-clause (iii) of clause (23FE) of section 10 of the Act	3
Domestic company referred to in item (d) of sub-clause (iii) of clause (23FE) of section 10 of the Act	4
Infrastructure Finance Company/Infrastructure Debt Fund-NBFC referred to in item (e) of sub-clause (iii) of clause (23FE) of section 10 of the Act	5

[Notification No. 125/2022//F. No. 500/SWF2/S10(23FE)/FT&TR-II(Pt.1)]

APOORV TIWARI, Under Secy.