

**MINISTRY OF FINANCE**

**(Department of Revenue)**

**(CENTRAL BOARD OF DIRECT TAXES)**

**NOTIFICATION**

New Delhi, the 1st August, 2022

**INCOME-TAX**

**G.S.R. 610(E).**— In exercise of the powers conferred by clause (4E) of section 10 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. **Short title and commencement.**—(1) These rules may be called the Income-tax (Twenty Third Amendment) Rules, 2022.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 21AK, -

(A) in sub-rule (1), -

(a) in the opening paragraph, after the words “non-deliverable forward contracts”, the words “or offshore derivative instruments or over-the-counter derivatives,” shall be inserted;

(b) in clause (i), after the words “non-deliverable forward contract”, the words “or offshore derivative instrument or over-the-counter derivative” shall be inserted;

(c) in clause (ii), after the word “contract”, the words “, instrument or derivative” shall be inserted;

(B) for the Explanation, following shall be substituted, namely:-

“**Explanation.**—For the purpose of this rule, the expression,—

- (i) “derivative” shall have the same meaning as assigned to it in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956(42 of 1956);
- (ii) "a non-deliverable forward contract" shall mean a contract for the difference between an exchange rate agreed before and the actual spot rate at maturity, with the spot rate being taken as the domestic rate or a market determined rate and such contract being settled with a single payment in a foreign currency;
- (iii) "offshore banking unit" means a banking branch Unit located in an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA of the Act;
- (iv) “offshore derivative instrument” shall have the same meaning as assigned to it in clause (o) of sub-regulation (1) of regulation (2) of the SEBI Foreign Portfolio Investor Regulations, 2019;
- (v) “over-the-counter derivatives" shall mean a derivative contract that is not traded on an exchange but instead is privately negotiated between a purchaser and a seller; and
- (vi) "permanent establishment" shall have the meaning as assigned to it in clause (iiia) of section 92F of the Act.

[Notification No. 87/2022/ F. No. 370142/36/2022-TPL]

UMME FARDINA ADIL, Under Secy. (Tax Policy and Legislation Division)

**Note :** The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), *vide* notification number S.O. 969(E) dated the 26<sup>th</sup> March, 1962 and were last amended *vide* notification number G.S.R. 537(E) dated the 12<sup>th</sup> July, 2022.