

MINISTRY OF FINANCE**(Department of Revenue)**

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 31st March, 2017

INCOME-TAX

G.S.R. 318(E).—In exercise of the powers conferred by sub-section (3) of section 115BBF, 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. (1) These rules may be called the Income-tax (5th Amendment) Rules, 2017.
(2) They shall come into force on the 1st day of April, 2017.
2. In the Income-tax Rules, 1962 (hereafter referred to as the principal rules), after rule 5F, the following rule shall be inserted, namely:-

“5G. Option form for taxation of income from patent under section 115BBF.-

(1) For the purposes of exercising the option for taxation of income by way of royalty in respect of a patent developed and registered in India, by an eligible assessee under section 115BBF, the eligible assessee shall furnish Form No. 3CFA duly verified in the manner indicated therein, and the same shall be furnished by the eligible assessee in the following manner, namely:-

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

(2) The form referred in sub-rule (1) shall be complete in all respects and furnished on or before the due date specified in *Explanation 2* below sub-section (1) of section 139 for furnishing the return of income for the relevant assessment year, in case the option is exercised for that assessment year.

(3) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes 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 and verification of the Form referred in sub-rule (1).”

3. In the principal rules, in Appendix II, after ‘Form No. 3CF-III’, the following Form shall be inserted, namely:-

Form No. 3CFA

(See sub-section (3) of section 115BBF

Read with rule 5G)

Form for Opting for taxation of income by way of royalty in respect of Patent

1. General:

- (a) Full name of the assessee:
- (b) Permanent Account Number:
- (c) Address of the assessee:
- (d) Nature of business or activities of the assessee:
- (e) Status

2. Whether the option for offering the income by way of royalty in respect of a patent as per section 115BBF is to be exercised for the assessment year? **Yes/No**

(i) if yes, following details be provided,-

- (1) previous year ended:
- (2) assessment year:
- (3) date of furnishing of return of income for the assessment year (if filed already):
3. Whether the income by way of royalty in respect of the patent is not offered for taxation as per the section 115BBF for any of the five assessment years succeeding the assessment year in which the option for taxation of income by way of royalty under section 115BBF is validly exercised. **Yes/No**
- (i) If yes, following details be provided-
- (a) Previous year ended on which the option for taxation of income by way of royalty under section 115BBF is first validly exercised:
- (b) Assessment year ended on which the the option for taxation of income by way of royalty under section 115BBF is first validly exercised*:
- (c) date of furnishing of return of income for the assessment year mentioned in (b) above:

4. **Eligible Patent

Sl. No	Particulars in respect of patent	Remarks
A.	<p>Patent Details</p> <p>(a) Patent Number granted under the Patents Act, 1970.</p> <p>(b) Date of grant of patent under the Patents Act, 1970.</p> <p>(c) Description of the patent developed and registered in India containing the invention, patent article and patent process as detailed out in section 2 of the Patents Act.</p> <p>(d) Whether the patent is granted to single persons:</p> <p>If Yes:</p> <p>Name of the patentee being the true and first inventor as entered in patent register.</p> <p>If No:</p> <p>Name of the patentees of the patent (patentee being the true and first inventors as entered in patent register).</p>	
B.	<p>Royalty Income from eligible patent</p> <p>(a) Amount of royalty income from eligible patent for the previous year.</p> <p>(b) Nature of royalty income derived from the eligible patent for the previous year as referred to in clause (h) of Explanation to Section 115BBF.</p> <p>(i) transfer of all or any rights (including the granting of a license) in respect of Patent;</p> <p>(ii) imparting of any information concerning the working of, or the use of , a patent;</p> <p>(iii) Use of any patent;</p> <p>(iv) rendering of any services in connection with the activities referred to in sub-clause (i) to (ii)</p>	
C.	<p>Expenditure incurred on eligible patent</p> <p>(a) Total expenditure incurred on the patent assessee for any invention in respect of which patent is granted under the patents Act, 1970.</p> <p>(b) Expenditure incurred in India by the eligible assessee for any invention in respect of which patent is granted under the patents Act, 1970.</p>	

	(c) Expenditure incurred outside India by the eligible assessee for any invention in respect of which patent is granted under the patents Act, 1970.	Yes/ No
	(d) Whether the expenditure incurred in (b) above is seventy five per cent. or more than the expenditure incurred under (a) above?	

***I declare that to the best of my knowledge and belief, the information furnished herein is correct and truly stated.

Yours faithfully,

Place:

Date:

***Signature

Name

Designation/Capacity

Address

Notes:

- * Details for the relevant assessment year or first of the relevant assessment years, as the case may be, to be provided.
- ** Particulars of each eligible patent should be reported separately along with royalty income and expenditure incurred details.
- *** The form should be furnished and verified by the person authorised to sign the return of income under section 140.”

[Notification No. 25 /2017/F. No. 370142/1/2017-TPL]

PITAMBER DAS, Director (Tax Policy And Legislation)

Note: The principal rules were published in the Gazette of India *vide* notification No. S.O. 969(E), dated the 26th March, 1962 and were last amended *vide* notification number S.O. 1006(E), dated the 30th March, 2017.