

Government of India,
Ministry of Finance,
Department of Revenue
(Central Board of Direct Taxes)

Notification

New Delhi, the 12th December, 2014.

(Income-tax)

3169

S.O. ___(E).- In exercise of the powers conferred by sub-clause (xiii) of clause (c) of sub-section (8) of section 35AD 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 (14th Amendment) Rules, 2014.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962,
(i) after rule 11-OA, the following rule shall be inserted, namely:-

“Guidelines for notification of a semiconductor wafer fabrication manufacturing unit as specified business under section 35AD.

11-OB. (1) The notification of a semiconductor wafer fabrication manufacturing unit as a specified business under sub-clause (xiii) of clause (c) of sub-section (8) of section 35AD of the Act shall be in accordance with the following procedure, namely:-

- (a) the applicant shall apply for notification of the unit in Form No. 3CS to Member (Income-tax), Central Board of Direct Taxes, Department of Revenue, Ministry of Finance , North Block, New Delhi;
- (b) the Board shall serve a deficiency letter on the applicant if any defect is noticed in the application in Form No. 3CS or if any relevant document is not attached thereto;

- (c) the applicant shall remove the deficiency within a period of fifteen days from the date of service of the deficiency letter or within such further period which, on an application made in this behalf may be extended;
- (d) if the applicant fails to remove the deficiency within the period so allowed, the Board, if satisfied, may pass an order treating the application as invalid;
- (e) the Board may call for such documents or information from the applicant as it may consider necessary and may call for further details or information from the applicant as well as from the income-tax authorities and other Departments or agencies, as it may deem fit;
- (f) the Board may, after considering the application and the documents or the information referred to in clause (e), either issue the notification to be published in the Official Gazette granting approval to the unit or for reasons to be recorded in writing reject the application.
- (g) The Board may, withdraw the approval if it is satisfied that: ---
 - (i) the assessee has ceased its activities relating to the specified business; or
 - (ii) such activities are not genuine or are not being carried out in accordance with all or any of the conditions under section 35AD or under this rule; or
 - (iii) the approval granted by the competent authority on the recommendations of the Appraisal Committee under the Modified Special Incentive Package Scheme of the Department of Electronics and Information Technology has been withdrawn.

- (h) no order treating the application as invalid or rejecting the application or withdrawing the approval or cancellation of the notification, shall be passed without giving an opportunity of being heard to the assessee;
- (i) a copy of the order invalidating or rejecting the application or withdrawing the approval shall be communicated to the applicant and the Assessing Officer and the Commissioner having jurisdiction over the assessee.

(2) A unit shall be considered for notification if it fulfils all of the following conditions, namely: ---

(a) the unit shall be exclusively for the manufacture of semiconductor wafer fabrications;

(b) the unit shall have prior approval of the competent authority on the recommendations of Appraisal Committee under the Modified Special Incentive Package Scheme notified by the Department of Electronics and Information Technology, Ministry of Communications and Information Technology, Government of India;

(c) the date of commencement of operations of the unit shall be on or after the 1st day of April 2014;

(d) the unit may have one or more manufacturing facilities and all the facilities shall be located in India;

(3) The assessee shall maintain separate books of accounts for the unit with complete details of all capital expenditure incurred during the previous year on which it intends to claim the said deduction under section 35AD and shall file the relevant income-tax returns by the due date to the Income-tax Department to avail the tax benefit under section 35AD.

(4) A unit notified under sub-clause (xiii) of clause (c) of sub-section (8) of section 35AD shall continue to be governed by the provisions of this rule to the extent it is not in contravention with the provisions of the Act, as amended from time to time.

(5) In this rule and the Form, –

(a) "competent authority" means the authority approving the unit under the Modified Special Incentive Package Scheme notified by the Government of India, Ministry of Communications and Information Technology, Department of Electronics and Information Technology;

(b) "date of commencement of operations" means the date on which the commercial production of the unit commences;

(c) "semiconductor wafer fabrications" means integrated circuits which are covered in the National Industrial Classification, 2008 under Division 26; Group 261 ; Class 2610 ;Sub class 26103;

(d) "Unit" means manufacturing facility for semiconductor wafer fabrications;"

(ii) in Appendix II, after Form No. 3CR, the following Form shall be inserted, namely:-----

FORM NO. 3CS
[See rule 11-OB(1)(a)]

Application for notification of a semiconductor wafer fabrication manufacturing unit as specified business under section 35AD

1.1 Name and address of the specified business (in full, block letters):-

1.2 Details of the assessee:-

(i) Name (in full, block letters) _____

(ii) Is there any change in the name? If yes, please furnish the old name

(iii) PAN

(iv) Complete address _____

(v) Office Phone Number (with STD code)

(vi) Mobile No. _____ Email Address

(vii) Date of incorporation/formation (DD/MM/YYYY)
(whichever applicable)

(viii) Status

[public company - 1, private company-2, partnership firm - 3, local authority -4, cooperative society - 5, LLP - 6, AOP/BOI artificial juridical person - 7, individual - 8, HUF - 9, any other person - 10 (please specify: _____)]

- (ix) If a domestic company (Tick)
- (x) Income-tax Ward/Circle _____
- (xi) Residential Status (Tick)
 Resident Non-Resident

2.1 Location of the proposed unit:-

- (i) Name of the unit (if any) _____
- (ii) Complete address of location/locations of the proposed unit:-
 a) Location 1. _____
 b) Location 2. _____

2.2 Expected or actual date of commencement of operations of the unit

3.1 Whether each of the following conditions mentioned in sub-rule (2) of rule 11- OB is fulfilled:—

a)	the unit is exclusively for the manufacture of semiconductor wafer fabrications.	Yes/No
b)	the unit has been approved by the competent authority on the recommendations of the Appraisal Committee under the Modified Special Incentive Package Scheme of the Department of Electronics and Information Technology, Ministry of Communications and Information Technology, Government of India	Yes/No
c)	the date of commencement of operations of the project is on or after the 1st day of April 2014;	Yes/No
d)	all the manufacturing facilities of the unit are located in India;	Yes/No

3.2 If answer to 3.1 (b) above is 'yes', then

(a) Date of approval under the Modified Special Incentive Package Scheme of the Department of Electronics and Information Technology; _____

(b) Order No of such approval _____

DECLARATION

I/We hereby undertake to continue to operate the..... unit during the period..... in accordance with the provisions of section 35AD of the Income-tax Act, 1961.

I/We hereby certify that the above statements are true and correct to the best of my/our knowledge and belief.

(Signature of Applicant)

(Name in Block Letters)

(Designation of the Signatory)

Place: _____

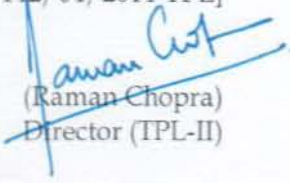
Date: _____

List of Enclosures:-

1. _____
2. _____
3. _____
4. _____

5. _____
6. _____
7. _____

[Notification No. 80 / 2014 / F. No. 142 / 04 / 2014 - TPL]


(Raman Chopra)
Director (TPL-II)

Note :- The principal rules were published in the Gazette of India vide notification number S.O. 969^(E) dated the 26th March, 1962 and was last amended by, vide notification S.O.3015 (E) dated 28/11/2014.