

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

**NOTIFICATION**

New Delhi, the 15th June, 2017

**G.S.R. 590(E).**— In exercise of the powers conferred by sub-section (2) to section 92CE and 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 (15<sup>th</sup> Amendment) Rules, 2017.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Income-tax Rules, 1962, after rule 10CA, the following rule shall be inserted, namely:—

**‘10CB. Computation of interest income pursuant to secondary adjustments.**— (1) For the purposes of sub-section (2) of section 92CE of the Act, the time limit for repatriation of excess money shall be on or before ninety days,—

- (i) from the due date of filing of return under sub-section (1) of section 139 of the Act where primary adjustments to transfer price has been made suo-moto by the assessee in his return of income;
- (ii) from the date of the order of Assessing Officer or the appellate authority, as the case may be, if the primary adjustments to transfer price as determined in the aforesaid order has been accepted by the assessee;
- (iii) from the due date of filing of return under sub-section (1) of section 139 of the Act in the case of agreement for advance pricing entered into by the assessee under section 92CD ;
- (iv) from the due date of filing of return under sub-section (1) section 139 of the Act in the case of option exercised by the assessee as per the safe harbour rules under section 92CB;or

- (v) from the due date of filing of return under sub-section (1) section 139 of the Act in the case of an agreement made under the mutual agreement procedure under a Double Taxation Avoidance Agreement entered into under section 90 or 90A;
- (2) The imputed per annum interest income on excess money which is not repatriated within the time limit as per sub-section (1) of section 92CE of the Act shall be computed,—
- (i) at the one year marginal cost of fund lending rate of State Bank of India as on 1st of April of the relevant previous year plus three hundred twenty five basis points in the cases where the international transaction is denominated in Indian rupee; or
- (ii) at six month London Interbank Offered Rate as on 30<sup>th</sup> September of the relevant previous year plus three hundred basis points in the cases where the international transaction is denominated in foreign currency.

*Explanation-* For the purposes of this rule “International transaction” shall have the meaning assigned to it in section 92B of the Act.’

[Notification No. 52/2017, F.No.370142/12/2017 -TPL]

PITAMBAR DAS, Director (Tax Policy And Legislation)

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 last amended by the Income-tax (14<sup>th</sup> Amendment) Rules, 2017, vide notification number G.S.R 569(E), dated the 9<sup>th</sup> June, 2017.

#### Explanatory Memorandum

Notification No. 52/2017, dated 15<sup>th</sup> June, ,2017

In order to make the actual allocation of funds consistent with that of the primary transfer pricing adjustment, Finance Act, 2017 inserted Section 92CE in the Income-tax Act, 1961 with effect from 1<sup>st</sup> day of April, 2018 to provide for secondary adjustment by attributing income to the excess money lying in the hands of the associated enterprise. The provision shall be applicable to primary adjustments exceeding one crore rupees made in respect of the assessment year 2017-18 and on wards.

The said rule prescribes the time limit of repatriation of excess money and the rate at which the interest income shall be computed in the case of failure to repatriate the excess money within the prescribed time limit. In order to provide for an uniform treatment in respect of various types /situations of primary adjustments as referred to in sub-section(1) of section 92CE, it prescribes for a time limit of 90 days for repatriation of excess money .

With regard to the rate of interest to be computed in the case of failure to repatriate the excess money within the prescribed time limit, it provides for separate interest rates for international transactions denominated in Indian rupee and those denominated in foreign currency. The rate of interest is applicable on annual basis.