

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

CIT/MAATC/D.No. 186

13th
New Delhi, the _____ August, 2013

Notification

S.O. It is hereby notified for general information that the organization "Centre for Development of Telematics (C-DOT), New Delhi (PAN-AAATC3895K) has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5D of the Income-tax Rules, 1962 (said Rules), from 01.04.2002 onwards in the category of 'Scientific Research Association', subject to the following conditions, namely:-

- Sb. Ajay
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- (i) The sole objective of the approved 'scientific research association' shall be to undertake scientific research;
 - (ii) The approved organization shall carry out scientific research activity by itself;
 - (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139 of the said Act;
 - (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research in respect of concerned Departments and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2: The Central Government shall withdraw the approval if the approved organization:-

- (f) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (g) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (h) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (i) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (j) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of section 35 of the said Act read with rules 5C and 5D of the said Rules.


(Richa Rastogi)

Under Secretary to the Government of India
(F.No.203/60/2004-ITA-II)


Notification No. 62/2013

To

The Manager,
Govt. of India Press,
Mayapuri, New Delhi

Copy forwarded to:

1. The applicant organization Centre for Development of Telematics(C-DOT), New Delhi
2. DGIT(Exemption), New Delhi
3. DIT(Exemption),New Delhi
4. Comptroller & Auditor General of India.
5. Concerned File
6. Ministry of Law & Justice (Correction Section), New Delhi.
7. DIT(Systems), New Delhi, for placing on the website : incometaxindia.gov.in
8. Guard file. (PAN : AAATC3895K)
9. ITCC, CBDT (4 copies).


(Richa Rastogi)

Under Secretary to the Government of India

(भारत के राजपत्र के भाग II, खंड 3 के उप-खंड (ii) में प्रकाशनार्थ)

भारत सरकार

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, दिनांक: 13th अगस्त, 2013

अधिसूचना

का.आ. सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5घ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उप-धारा (1) के खंड (ii) के प्रयोजनार्थ "सेंटर फॉर डेवलपमेंट ऑफ टेलीमैटिक्स (सी-डॉट), नई दिल्ली, (पैन-एएएटीसी3895के) को 1.4.2002 से निम्नलिखित शर्तों के अधीन 'वैज्ञानिक अनुसंधान संस्था' की श्रेणी में अनुमोदित किया गया है, नामतः-

- (i) अनुमोदित 'वैज्ञानिक अनुसंधान संस्था' का मुख्य उद्देश्य वैज्ञानिक अनुसंधान करना होगा;
- (ii) अनुमोदित संगठन वैज्ञानिक अनुसंधान कार्यकलाप स्वयं करेगा;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग खाता बही रखेगा, जिसमें अनुसंधान करने के लिए प्रयुक्त राशि दर्शाई गई हो, उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा-परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट, मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा;
- (iv) अनुमोदित संगठन प्राप्त दान और संबंधित विभागों के संबंध में वैज्ञानिक अनुसंधान के लिए प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा-परीक्षा रिपोर्ट के साथ लेखा-परीक्षक द्वारा विधिवत सत्यापित ऐसे विवरण की प्रतिलिपि प्रस्तुत करेगा।

2. केंद्र सरकार यह अनुमोदन वापस ले लेगी यदि अनुमोदित संगठन:-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अलग लेखा बही रखने में असफल रहता है; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा-परीक्षा रिपोर्ट प्रस्तुत करने में असफल रहता है; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत करने में असफल रहता है; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को सही नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5घ के साथ पठित उक्त अधिनियम की धारा 35 की उप-धारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा और उनका पालन नहीं करेगा।

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(ऋचा रस्तोगी)

अवर सचिव, भारत सरकार

(फा.सं. 203/60/2004-आ.क.नि.-11)

अधिसूचना सं. 62/2013

सेवा में,

प्रबंधक,

भारत सरकार मुद्रणालय,

मायापुरी, नई दिल्ली

प्रतिलिपि: अंग्रेजी पाठानुसार प्रेषित।

[TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (ii)]

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
[CENTRAL BOARD OF DIRECT TAXES]**

Notification

New Delhi, theday of August, 2013

INCOME – TAX

In exercise of the power conferred under section 92CB read with section 295 of the Income-tax Act, 1961, the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

- SE. Ajay ✓
1. (1) These Rules may be called the Income-tax (...Amendment), Rules, 2013
(2) It shall come into force from the date of its publication in the official Gazette.
 2. In the Income-tax Rules, 1962 (hereinafter referred to as Rules), -
 - (A) In Part-II, in sub-part D, after rule 10T, the following shall be inserted, namely:-

'Safe Harbour Rules

Definitions

10TA. For the purposes of this rule and rule 10TB to rule 10TG, -

(i) "Software development services" mean the following, namely:-

- (a) business application software and information system development using known methods and existing software tools;
- (b) support for existing systems;
- (c) converting and/or translating computer languages;
- (d) adding user functionality to application programmes;
- (e) debugging of systems;
- (f) adaptation of existing software;
- (g) preparation of user documentation,

but does not include the research and development services ;

(ii) "Information Technology Enabled Services" means the following business process outsourcing services provided mainly with the assistance or use of information technology, namely:-

- (a) back Office operations;
 - (b) call centres or contact centre services;
 - (c) data processing and data mining;
 - (d) insurance claim processing;
 - (e) legal databases;
 - (f) creation and maintenance of medical transcription excluding medical advice;
 - (g) translation services;
 - (h) payroll;
 - (i) remote maintenance;
 - (j) revenue accounting;
 - (k) support centres;
 - (l) website services;
 - (m) data search integration and analysis;
 - (n) remote education excluding education content development;
 - (o) clinical database management services excluding clinical trials,
- but does not include the research and development services;

(iii) "Knowledge processes outsourcing services" means following business processes outsourcing services provided mainly with the assistance or use of information technology, namely:-

- (a) geographic information system;
 - (b) human resources Services;
 - (c) engineering and design services;
 - (d) animation or content development and management;
 - (e) business analytics;
 - (f) financial analytics;
 - (g) market research,
- but does not include the research and development services ;

(iv) "intra-group loan" means loan advanced to wholly owned subsidiary being a non-resident, where the loan—

(a) is denominated in Indian rupee;

(b) is not advanced by an enterprise in the nature of financial company including bank or financial institutions or enterprise engaged in lending or borrowing in the normal course of business; and

(c) does not include credit line or any other loan facility which has no fixed term for repayment;

(v) "corporate guarantee" means explicit corporate guarantee in respect of any short-term or long-term borrowing by its wholly owned subsidiary being a non-resident;

(vi) "contract research and development services wholly or partly relating to software development" means the following, namely:-

(a) research and development producing new theorems and algorithms in the field of theoretical computer science;

(b) development of information technology at the level of operating systems, programming languages, data management, communications software and software development tools;

(c) development of Internet technology;

(d) research into methods of designing, developing, deploying or maintaining software;

(e) software development that produces advances in generic approaches for capturing, transmitting, storing, retrieving, manipulating or displaying information;

(f) experimental development aimed at filling technology knowledge gaps as necessary to develop a software programme or system;

(g) research and development on software tools or technologies in specialised areas of computing (image processing, geographic data presentation, character recognition, artificial intelligence and other areas);

(viii) "core auto components" means the following, namely:

(a) engine and engine parts including piston and piston rings; engine valves and parts; cooling systems and parts; and power train components;

(b) transmission & steering parts, including gears, wheels, steering systems, axles and clutches;

- (c) suspension & braking parts, including brake and brake assemblies, brake linings, shock absorbers and leaf springs;

(ix) "Non-core auto components" mean auto components other than core auto components;

- (x) "^{tax}No, or low tax country or territory" means a country or territory in which-
 - (a) maximum marginal rate of income-tax is zero or less than 15 per cent.; or
 - (ii) the associated enterprise of the eligible assessee has paid no tax or tax at a rate which is less than fifteen per cent. of its net profit as per profit and loss account of the associated enterprise for the previous year prepared in accordance with the International Financial Reporting Standards issued by the International Accounting Standards Board, Generally Accepted Accounting Principles, International Accounting Standards or accounting standards notified under the Companies Act, 1956 (10 to 1956), as the case may be.

Eligible assessee

10TB. (1) Subject to provisions of sub rules (2) and (3), "eligible assessee" means a person who has exercised the option for application of safe harbour rules in the manner specified in sub-rule(1) of Rule 10TE, and who -

- (i) is engaged in providing software development services or information technology enabled services or knowledge processes outsourcing services to a non-resident associated enterprise (hereinafter referred as foreign principal);
- (ii) has made any intra-group loan ;
- (iii) has provided a corporate guarantee;
- (iv) is engaged in providing contract research and development services wholly or partly relating to software development to a non-resident associated enterprise (hereinafter referred as foreign principal);
- (v) is engaged in providing contract research and development services wholly or partly relating to generic pharmaceutical drugs to a non-resident associated enterprise (hereinafter referred as foreign principal); or

(vi) is engaged in the manufacture and export of core and non-core auto components and where ninety per cent or more of total turnover during the relevant previous year are in the nature of Original Equipment Manufacturer (OEM) sales.

(2) An eligible assessee referred to in item (i) of sub-rule (1) should satisfy the following conditions, namely:-

(I) The foreign principal performs most of the economically significant functions involved, including critical functions such as conceptualization and design of the product and providing the strategic direction and framework, either through its own employees or through its other associated enterprises, while the eligible assessee carries out the work assigned to it by the foreign principal.

(II) The capital and funds and other economically significant assets including intangibles required, are provided by the foreign principal or its other associated enterprise(s), and the eligible assessee is only provided a remuneration for the work carried out by it;

(III) The eligible assessee works under the direct supervision of the foreign associated principal who not only has the capability to control or supervise but also actually controls or supervises the activities carried out, through its strategic decisions to perform core functions as well as by monitoring activities on a regular basis;

(IV) The eligible assessee does not assume or has no economically significant realized risks, and if the conduct of the foreign principal shows that the eligible assessee is actually doing so, the contractual terms shall not be the final determinant;

(V) The eligible assessee has no ownership right, legal or economic, on any intangible generated or on the outcome of any intangible generated or arising during the course of rendering of services, which vests with the foreign principal as evidenced by the contract as well as from the conduct of the parties.

(3) An eligible assessee referred to in items (iv) and (v) of sub-rule (1) should satisfy the following conditions, namely:-

(I) the foreign principal performs most of the economically significant functions involved in research or product development cycle, including critical functions such as conceptualization and design of the product and providing the strategic direction and framework, either through its own employees or through its associated enterprises while the eligible assessee carries out the work assigned to it by the foreign principal;

- (II) the foreign principal or its associated enterprise(s) provides the funds or capital and other economically significant assets including intangibles required for research or product development and also provides a remuneration to the eligible assessee for the work carried out by it;
- (III) the eligible assessee works under the direct supervision of the foreign principal or its associated enterprise which has not only the capability to control or supervise but also actually controls or supervises research or product development, through its strategic decisions to perform core functions as well as by monitoring activities on a regular basis;
- (IV) the eligible assessee does not assume or has no economically significant realized risks, and if a contract shows that the foreign principal is obligated to control the risk but the conduct shows that the eligible assessee is doing so, the contractual terms shall not be the final determinant; and
- (V) the eligible assessee has no ownership right, legal or economic, on the outcome of the research which vests with the foreign principal and is evidenced by the contract as well as the conduct of the parties.

Eligible international transaction

10TC. 'Eligible international transaction' means an international transaction between the "eligible assessee" and its 'associated enterprise', either or both of whom are non-resident, comprising of:

- (i) the provision of software development services where the aggregate value of such transactions entered into in the previous year does not exceed a sum of one hundred crore rupees;
- (ii) the provision of information technology enabled services where the aggregate value of such transactions entered into in the previous year does not exceed a sum of one hundred crore rupees;
- (iii) the provision of knowledge processes outsourcing services where the aggregate value of such transactions entered into in the previous year does not exceed a sum of one hundred crore rupees;
- (iv) advance of intra-group loan;

- (v) provision of corporate guarantee;
 - (vi) provision of contract research and development services wholly or partly relating to software development;
 - (vii) provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs;
 - (viii) manufacture and export of core auto components;
 - (ix) manufacture and export of non-core auto components,
- by the eligible assessee.

Safe Harbour

10TD. (1) Where an eligible assessee has entered into an eligible international transaction, the transfer price declared by the assessee in respect of such transaction shall be acceptable to income tax authorities in the circumstances as specified in sub-rule (2).

(2) The circumstances referred to in sub-rule (1) in respect of the eligible international transaction specified in column (2) of the Table below shall be as specified in the corresponding entry in column (3) of the said Table:-

SNo (1)	Eligible International Transaction (2)	Circumstances (3)
1.	Provision of software development services referred to in clause (i) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is 20 per cent. or more.
2.	Provision of information technology enabled services referred to in clause (ii) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is 20 per cent. or more.
3.	Provision of knowledge process outsourcing services referred to in clause (iii) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is 30 per cent. or more.
4.	Advancing of intra-group loans referred to in clause (iv) of rule 10TC where the amount of loan	The Interest rate declared in relation to the eligible international transaction is equal to or greater than the base rate of State Bank

	does not exceed fifty crore rupees.	of India (SBI) as on 30 th June of the relevant previous year plus 150 basis points.
5.	Advancing of intra-group loans referred to in clause (iv) of rule 10TC where the amount of loan exceeds fifty crore rupees.	The Interest rate declared in relation to the eligible international transaction is equal to or greater than the base rate of SBI as on 30 th June of the relevant previous year plus 300 basis points.
6.	Providing corporate guarantee referred to in clause (v) of rule 10TC where the amount guaranteed does not exceed fifty crore rupees.	The commission or fee declared in relation to the eligible international transaction is at the rate of 2 per cent or more per annum on the amount guaranteed.
7.	Providing corporate guarantee referred to in clause (v) of rule 10TC where the amount guaranteed exceeds fifty crore rupees.	The commission or fee declared in relation to the eligible international transaction, is at the rate of 1.75 per cent or more per annum on the amount guaranteed.
8.	Provision of contract research and development services wholly or partly relating to software development referred to in clause (vi) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is 30 per cent. or more.
9.	Provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs referred to clause (vii) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is 29 per cent. or more.
10.	Manufacture and export of core auto components	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is 12 per cent. or more.
11.	Manufacture and export of non-core auto components.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is 8.5 per cent. or more.

(3) The provisions of sub-rules (1) and (2) shall be effective for the assessment years 2013-14 and 2014-15.

(4) For the removal of doubts, it is clarified that no comparability adjustment and allowance under second proviso to section 92C(2) shall be made to the transfer price declared by the eligible assessee and acceptable under sub-rules (1) and (2) above.

(5) Where the transfer price declared by an eligible assessee in relation to an eligible international transaction is not acceptable under sub-rules (1) and (2), it shall not be open to the assessee or to the Assessing Officer or the Transfer Pricing Officer, for the purposes of determination of the arm's length price in respect of such eligible international transaction, to take into account the profit margin or the price as specified in sub-rule (2).

Procedure

10TE. (1) Every eligible assessee who has entered into an eligible international transaction during the previous years relevant to the assessment year commencing on the first day of April, 2013 or the first day of April, 2014 shall exercise its option for safe harbour in Form 3CEG.

(2) The Form 3CEG, complete in all respects, shall be furnished to the Assessing Officer on or before the due date specified in *Explanation 2* below sub-section (1) of section 139 for filing the return of income for the relevant assessment year.

(3) On receipt of the Form 3CEG, the Assessing Officer shall verify whether the assessee exercising the option is an eligible assessee and whether the transaction in respect of which the option is exercised is an eligible international transaction or not.

(4) Where after such verification the Assessing Officer finds that the option has been exercised by an eligible assessee in respect of an eligible international transaction, he shall proceed to verify whether the transfer price declared by the assessee in respect of such transaction is acceptable or not considering the circumstances specified in sub-rule (2) of rule 10TD.

(5) For the purposes of this rule, the Assessing Officer may require the assessee, by notice in writing, to furnish such information or documents or other evidence as he may consider necessary, and the assessee shall furnish the same within the time specified in such notice.

(6) Where-

(a) the assessee does not furnish the information or documents or other evidence required by the Assessing Officer; or

(b) the Assessing Officer finds that the assessee is not an eligible assessee; or

(c) the Assessing Officer finds that the transaction in respect of which the option referred to in sub-rule (1) has been exercised is not an eligible international transaction;
or

(d) the Assessing Officer finds that the transfer price declared by the assessee in respect of an eligible international transaction is not acceptable considering the circumstances specified in sub-rule (2) of rule 10TD,

the Assessing Officer shall by order in writing declare the option exercised by the assessee to be invalid, and shall thereupon proceed to determine the arm's length price in respect of the international transactions entered into by the assessee in accordance with section 92C:

Provided that no order declaring the option exercised by the assessee to be invalid shall be passed without giving a reasonable opportunity of being heard to the assessee.

(7) For the purposes of making the verification referred to in sub-rules (3) to (6), the Assessing Officer may make a reference to the Transfer Pricing Officer under section 92CA, and thereupon the provisions of this rule shall apply to the Transfer Pricing Officer as they would apply to the Assessing Officer.

(8) Where no option for safe harbour is exercised under sub-rule (1) by an eligible assessee in respect of an eligible international transaction entered into by the assessee, the arm's length price in relation to the international transaction shall be determined in accordance with the provisions of sections 92C and 92CA.

Safe harbour Rules not to apply in certain cases

10TF. Nothing contained in rule 10TA to rule 10TE shall apply in respect of eligible international transactions entered into with an associated enterprise located in any country or territory notified under section 94A or in a no tax or low tax country or territory.

Not eligible for MAP

10TG. Where transfer price in relation to an eligible international transaction declared by an eligible assessee is accepted by the income-tax authorities under section 92CB, the assessee shall not be entitled to invoke mutual agreement procedure under Part IX-C of the Rules.