

❑ **EXTENSION OF DUE DATES FOR FILING 2nd QUARTER TDS & TCS RETURNS.**

CIRCULAR No 09/2023 [F. No. 370149/109/2023-TPL] DATED 28-06-2023

CBDT has in exercise of the powers conferred by section 119 of the Income-tax Act, 1961 (43 of 1961), extended the time-limit for filing TDS returns in Form 26Q and 27Q from 31st July 2023 to 30th September 2023. Similarly, it has extended time-limit for filing TCS returns in Form 27EQ from 15th July 2023 to 30th September, 2023.

❑ **IMPORTANT CHANGES W.R.T LIBERALISED REMITTANCE SCHEME (LRS) AND TAX COLLECTED AT SOURCE (TCS) - NO CHANGE IN RATE OF TCS FOR ALL PURPOSES UNDER LRS AND FOR OVERSEAS TRAVEL TOUR PACKAGES, REGARDLESS OF MODE OF PAYMENT, FOR AMOUNTS UP TO RS. 7 LAKH PER INDIVIDUAL PER ANNUM - GOVERNMENT GIVES MORE TIME FOR IMPLEMENTATION OF REVISED TCS RATES AND FOR INCLUSION OF CREDIT CARD PAYMENTS IN LRS - INCREASED TCS RATES TO APPLY FROM 1ST OCTOBER, 2023.**

CIRCULAR No 10/2023 [F. No. F. No. 370142/23/2023-TPL] DATED 30-06-2023

As per the above circular, the following changes have been notified:

- (1) Threshold of Rs. 7 lakh per financial year per individual in clause (a) of sub-section (1G) of section 206C shall be restored for TCS on all categories of LRS payments, through all modes of payment, regardless of the purpose: Thus, for first Rs 7 lakh remittance under LRS there shall be no TCS. Beyond this Rs 7 lakh threshold, TCS shall be at the rate of -
0.5% (if remittance for education is financed by loan taken from a financial institution);
5% (in case of remittance for education/medical treatment);
20% for others.

For purchase of overseas tour program package under clause (b) of sub-section (1G) of section 206C, the TCS shall continue to apply at the rate of 5% for the first Rs 7 lakh per individual per annum; the 20% rate will only apply for expenditure above this limit.

- (2) Increased TCS rates to apply from 1 October, 2023: The increase in TCS rates; which were to come into effect from 1st July, 2023 shall now come into effect from 1st October, 2023 with the modification as in (1) above. Till 30th September, 2023, earlier rates (prior to amendment by the Finance Act, 2023) shall continue to apply.

❑ **CLARIFICATION REGARDING TAXABILITY OF INCOME EARNED BY A NON-RESIDENT INVESTOR FROM OFF-SHORE INVESTMENTS IN INVESTMENT FUND ROUTED THROUGH AN ALTERNATIVE INVESTMENT FUND**

CIRCULAR No. 12 /2023 [F. No. 225/79/2019-ITA-H] DATED 12-07-2023

CBDT Circular NO.14/2019 dated 03.07.2019 was issued to clarify the taxability of income earned by a non-resident investor from outside India (off-shore investment) routed through investment fund as defined in Explanation 1 (a) to Chapter X11-FB of the Income-tax Act, 1961 (the Act). This Circular was made applicable to Category I or Category 11 Alternative Investment Funds (AIFs), regulated under Securities and Exchange Board of India (SEBI) regulations.

By Finance Act, 2023, the definition of 'investment fund' under the Income-tax Act was amended to include reference to International Financial Services Centers Authority (Fund Management) Regulations, 2022 under International Financial Services Centers Authority (IFSCA) Act, 2019.

In view of the aforesaid amendment in the definition of 'investment fund'. Para 3 of the Circular NO.14/2019 dated 03.07.2019 is to be read as under:

- "3. Chapter XI/-FB contains special provisions relating to tax on income of investment funds and income received from such fund. Under Chapter XII-FB, Section 115UB of the Act (Tax on income of investment fund and its unit holders,) is the applicable provision to determine the income and tax-liability of (investment fund & their investors. In this context, 'Investment fund is defined in Explanation

of Chapter XII-FB to mean any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a category 1 or Category II Alternative investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centers Authority (Fund Management) Regulations, 2022 made under the international Financial Services Centers Authority Act, 2019 (50 of 2019). Thus, provisions of section 115UB apply only to Category 1 or Category II AIFs regulated by Securities and Exchange Board of India (SEBI) or International Financial Services Centers Authority (IFSCA)."

All the other contents of the Circular dated 03.07.2019 remain same.

❑ **CLARIFICATORY AMENDMENT REGARDING INVESTMENT FUND**

NOTIFICATION No. 49/2023/F. No.225/79/2019-ITA-II, DATED 14-07-2023

In exercise of the powers conferred by sub-section (1C) of section 139 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Finance, (Department of Revenue), Number 55/2019, dated the 26th July, 2019, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), vide number S.O. 2672(E), dated 26th July, 2019, namely: -

In the said notification, - Clause (a) of the Explanation to first para is substituted as under:

"Explanation: - For the purposes of this paragraph, -

- a. "investment fund" means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centers Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centers Authority Act, 2019 (50 of 2019);"

This notification shall come into force with effect from the date of its publication in the Official Gazette.

❑ **CBDT NOTIFIES 12th INCOME TAX AMENDMENT RULES**

NOTIFICATION No. 50/2023/ F. No.370142/22/2023-TPL, DATED 17-07-2023

In exercise of the powers conferred by clause (i) of sub-section (3) of section 80LA, clause (4E) of section 10, sub-section (7) of section 115UB, clause (d) of sub-section (8) of section 139A and clause (ii) of sub-section (7) of section 206AA 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) These rules may be called the Income-tax (Twelfth Amendment) Rules, 2023.
- (2) They shall come into force from the date of their publication in the Official Gazette.
- (3) In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules),
 - (i) in rule 21AK, for sub-rule (1), the following sub-rule shall be substituted, namely: —

"(1)The income accrued or arisen to, or received by, a non-resident as a result of

 - (a) Transfer of non-deliverable forward contracts or offshore derivative instruments or over-the counter derivatives; or
 - (b) Distribution of income on offshore derivative instruments, under clause (4E) of section 10 of the Act, shall be exempted subject to fulfilment of the following conditions, namely: —
 - i. the non-deliverable forward contract or offshore derivative instrument or over-the-counter derivative is entered into by the non-resident with an offshore banking unit of an International Financial Services Centre which holds a valid certificate of registration granted under International Financial Services Centers Authority (Banking) Regulations, 2020 by the International Financial Services Centers Authority; and
 - ii. such contract, instrument or derivative is not entered into by the non-resident through or on behalf of its permanent establishment in India.";
 - (ii) in rule 114AAB, in the Explanation, for clause (a), the following clause shall be substituted, namely: —

'(a) 'specified fund' means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centers Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centers Authority Act, 2019 (50 of 2019) and which is located in any International Financial Services Centre or a specified fund referred to in sub-clause (i) of clause (c) of Explanation to clause (4D) of section 10.

(4) In the principal rules, in APPENDIX II, —

(i) Form No. 10CCF is substituted with new Form No. 10CCF

(ii) in Form No. 64D, —

(A) against serial number 7, for paragraph (i), the following paragraph shall be substituted, namely: —

“(i) Whether registered as Alternative Investment Fund with Securities and Exchange Board of India under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 or the International Financial Services Centers Authority (Fund Management) Regulations, 2022:”

(B) in serial number 12, for the paragraph starting with “Attach a copy of the certificate of registration” and ending with “Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.”, the following paragraph shall be substituted, namely:— *“Attach a copy of the certificate of registration under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 or the International Financial Services Centers Authority (Fund Management) Regulations, 2022.”*