

CBDT issues guidelines clarifying the availability of Section 10(23FE) exemption in different scenarios

Circular no. 9 of 2022, dated 09-05-2022

Section 10(23FE) of the Income-tax Act provides that income in the nature of dividend, interest, or long-term capital gains of a wholly-owned subsidiary of the Abu Dhabi Investment Authority or a sovereign wealth fund or a pension fund (herein called specified person) shall be exempt from tax.

The CBDT vide notification No. 50/2022, dated 06-05-2022 had notified Rule 2DCA for computation of such investment and exempt income of the specified person. Now, the board has issued guidelines to clarify the availability of exemption in different scenarios. The board has provided guidelines in respect of the availability of exemption under following circumstances:

- a) Transfer of investment within 3 years by the specified person or AIF/ domestic Company/NBFC.
- b) Eligible infrastructure entity, in which the specified person has invested, carrying on other businesses as well.
- c) Violation of 50 percent, 75 percent or 90 percent condition as per item (c), (d) or (e) of sub-clause (iii) section 10(23FE).
- d) Violation of one or more conditions of section 10(23FE) or rules thereunder or under the notification exempting the specified person.
- e) Computation of the capital gains arising to the specified person on account of the transfer of their holding in the domestic company or non-banking finance company.

f) Secondary investment in infrastructure companies.