

OCTOBER 2022

# NEWSLETTER

## TAX

- Income Tax
- Goods and Services Tax



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<b>Income Tax</b>	
<b>1. Notification of a Pension Fund for the purpose of Section 10(23FE) of the Income Tax Act.</b>	
<div style="text-align: right;">CBDT</div> <div style="text-align: right;">Notification No. 114/2022 dated 13.10.2022</div>	
<p>Vide this notification, CBDT has specified the Pension Fund namely, <i>2589555 Ontario Limited</i> as the specified person in respect of Investment made by it in India before 31<sup>st</sup> March, 2024 and after the date of Publication of this notification in the Official Gazette.</p> <p>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.</p> <p>Income of the specified Persons (herein called assessee) will be exempt subject to following conditions:</p> <ul style="list-style-type: none"> <li>➤ The assessee shall file return of income, for all the relevant previous years falling within the period beginning from the date in which the said investment has been made and ending on the date on which such investment is liquidated, on or before the due date specified for furnishing the return of income as per section 139 of the Income Tax Act.</li> <li>➤ The assessee shall furnish along with a certificate in Form No. 10BBC along with Income Tax Return in respect of compliance to the provisions of clause (23FE) of section 10 of the Income Tax Act.</li> <li>➤ The assessee shall intimate the details in respect of each investment made by it in India during the quarter within one month from the end of the quarter in Form No. 10BBB.</li> <li>➤ The assessee shall maintain a segmented account of income and expenditure in respect of such investment which qualifies for exemption under clause (23FE) of section 10 of the Income Tax Act.</li> <li>➤ The assessee shall continue to be regulated under the law of the Government of Ontario, Canada.</li> <li>➤ The assessee shall not have any loans or borrowings [as defined in sub-clause (b) of clause (ii) of Explanation 2 to clause (23FE) of section 10 of the Act], directly or indirectly, for the purposes of making investment in India.</li> <li>➤ The assessee shall not participate in the day to day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in the day to day operations of the investee.</li> <li>➤ The earnings and assets of the assessee should be used only for meeting statutory obligations and defined contributions for participants or beneficiaries of funds or plans and no portion of the earnings or assets of the Pension Fund incurs any benefit to any other private person; barring any payment made to creditors or depositors for loan or borrowing taken for the purposes other than for making investment in India.</li> </ul> <p><a href="#">Notification No.114</a></p>	
<b>2. Notification of a Sovereign Wealth Fund for the purpose of Section 10(23FE) of the Income Tax Act.</b>	
<div style="text-align: right;">CBDT</div> <div style="text-align: right;">Notification No.115/2022 dated 14.10.2022</div>	
<p>Vide this notification, CBDT has specified the sovereign wealth fund, namely, <i>Norges Bank On Account Of The Government Pension Fund Global</i> as the specified person in respect of Investment made by it in India before 31<sup>st</sup> March, 2024 and after the date of Publication of this notification in the Official Gazette.</p> <p>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.</p>	

Income of the specified Persons (herein called assessee) will be exempt subject to following conditions:

- The assessee shall file return of income, for all the relevant previous years falling within the period beginning from the date in which the said investment has been made and ending on the date on which such investment is liquidated, on or before the due date specified for furnishing the return of income as per section 139 of the Income Tax Act.
- The assessee shall get its books of account audited for the previous years referred to in clause (i) by an accountant specified in the Explanation below sub-section (2) of section 288 of the Income Tax Act and furnish the Audit Report in the format annexed at least one month prior to the due date specified for furnishing the return of income under section 139 of the Income Tax Act.
- The assessee shall intimate the details in respect of each investment made by it in India during the quarter within one month from the end of the quarter in Form II.
- The assessee shall maintain a segmented account of income and expenditure in respect of such investment which qualifies for exemption under clause (23FE) of section 10 of the Income Tax Act.
- The assessee shall continue to be owned and controlled, directly or indirectly, by the Government of Norway, and at no point of time should any other person have any ownership or control, directly or indirectly, in the assessee.
- The assessee shall continue to be regulated under the laws of the Government of Norway
- The assessee shall not have any loans or borrowings [as defined in sub-clause (b) of clause (ii) of Explanation 2 to clause (23FE) of section 10 of the Income Tax Act], directly or indirectly, for the purposes of making investment in India.
- The assessee shall not participate in the day to day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in the day to day operations of the investee.
- The earnings of the assessee shall be credited either to the account of the Government of Norway or to any other account designated by that Government so that no portion of the earnings incurs any benefit to any private person, barring any payment made to creditors or depositors for loan taken or borrowing made for purposes other than for making investment in India.
- The asset of the assessee shall vest in the Government of Norway upon dissolution, barring any payment made to creditors or depositors for loan taken or borrowing for purposes other than for making investment in India.

[Notification No.115](#)

### **3. Extension of due date for filing return of income for the Assessment Year 2022-23.**

CBDT

Circular No. 20/2022 dated 26.10.2022

Vide this circular, CBDT has extend the due date of filing of Income Tax Return from **31<sup>st</sup> Oct, 2022 to 7<sup>th</sup> Nov, 2022** for the following category of Assesseees:

- A Company.
- A person (other than a company) whose accounts are required to be audited under Income Tax Act or under any other law.
- A partner of a firm whose accounts are required to be audited under Income Tax Act or under any other law for the time being in force.

[Circular No.20](#)

**4. Extension of due date of filing 26Q-TDS Return.**

CBDT

Circular No. 21/2022 dated 27.10.2022

Vide this circular, CBDT has extend the due date of filing of TDS Return Form 26Q (*Domestic payments Other than Salary*) of 2<sup>nd</sup> Quarter F.Y 22-23 from **31st Oct, 2022 to 30<sup>th</sup> Nov, 2022.**

[Circular No.21](#)

**GST****1. Amendments in GST brought by Finance Act, 2022 are effective w.e.f 1st Oct, 2022.**

CBIC

Notification No. 18,19 and 20 dated 28/09/2022

Vide these notifications, CBDT has made effective, amendments in GST Act brought by Finance Act, 2022 from 1<sup>st</sup> Oct, 2022.

Key changes brought about due to these amendments are as follows :

- **Additional restrictions on claiming Input Tax Credit by the Assessee are put in place if the supplier of the Assessee has made defaults (a and b below) or has obtained a new registration (c below) :**

(a)	has defaulted in paying GST for a period or short paid GST by specified %age.
(b)	has declared output tax liability more in GSTR-1 and paid tax less in GSTR-3B.
(c)	has taken new registration, in which case ITC will not be allowed for a specified period.

**This emphasizes that** in order to avail ITC, your Supplier should be GST compliant. The period and percentage of restriction will be defined in due course of time by the department.

- **Extension of Time Limit to avail GST:**

- For any particular financial year commencing FY 2021-22, the dates in respect of the following extended from 31<sup>st</sup> Oct of the succeeding year to 30<sup>th</sup> Nov of the succeeding year.
  - Availing of ITC for any invoice/debit note of a financial year.
  - Issuance of credit notes for supplies made in a financial year.
  - Rectification of errors in respect of GSTR1, GSTR3B and GSTR8.

- **Cancellation of GST Registration for non-filing of Return:**

- GST officers can cancel registration of the Assessee if :
  - A composite Assessee does not file return for a financial year beyond three months from the due date.
  - A Regular Assessee does not file return for a continuous tax period (*to be defined*). Presently (*before this amendment*) the registration can be cancelled if an Assessee does not file return for 6 months or 2 Quarters.

- **Chronology of the GST Return filings:**

- GSTR-1 and GSTR-3B can be filed only in chronological order i.e. GSTR-1 of May can be filed only if you have filed GSTR-1 of April.

- **Refund of GST:**

- For supplies to SEZ Developer/SEZ Units, refund can be filed within 2 years from the due date on which GSTR 3B is filed.
- A specialized agency of the UNO, Consulate, and Embassy etc. can claim a refund of tax on inward Supply within 2 years from the last day of the quarter in which the supply was made.

[Notification No. 18, 19](#) and [20](#)

**Disclaimer:**

This is not a complete listing of all circulars/notifications issued during the month.  
Instead, it is only a listing of some of the circulars/notifications that we considered important



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