

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

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PRESS RELEASE

Amendment in Rule 10CB of IT Rules, 1962 in respect of computation of interest income pursuant to secondary adjustment u/s 92CE of IT Act, 1961 – Comments and suggestions

In order to make the actual allocation of funds consistent with that of the primary adjustment, section 92CE was inserted in the Income-tax Act, 1961 ('the Act') vide Finance Act, 2017 with effect from 1st April, 2018, to provide for secondary adjustment by attributing income to the excess money lying in the hands of the associated enterprise (AE).

The time within which the excess money, which is available with the associated enterprise of an assessee as a result of primary adjustment to the transfer price, which leads to an increase in the total income or reduction in the loss of the assessee, shall be repatriated to India, was prescribed in accordance with the provisions of section 92CE(2) by inserting Rule 10CB of the Income-tax Rules, 1962 ('the Rules') vide Notification No. GSR 590(E) dated 15th June, 2017.

Under Rule 10CB(1), a uniform time limit of 90 days, starting from different dates, is prescribed for repatriation of excess money. This is done in order to provide for uniform treatment in respect of the different types/situations of primary adjustments specified under sub-section (1) of section 92CE.

Certain difficulties have been noted in implementing the provisions of Rule 10CB(1) in respect of primary adjustment that arises on account of Agreement for Advance Pricing (APA) entered into by the assessee, or on account of an agreement reached under the Mutual Agreement Procedure (MAP). In order to remove these difficulties, it is proposed to amend Rule 10CB.

In this regard, draft notification providing for said modification has been framed and uploaded on the website of the Income Tax Department www.incometaxindia.gov.in for comments from stakeholders and general public.

Comments and suggestions on the draft rules may be sent by 9th July, 2018 electronically at the email address ustpl3@nic.in.

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