

INCOME-TAX (TENTH AMENDMENT) RULES, 2013 - INSERTION OF RULES 6AAF, 6AAG, 6AAH AND FORM NOS. 3CQ & 3CR

NOTIFICATION NO. 54/2013 [F.NO.142/29/2012-SO(TPL)/SO 2166(E), DATED 15-7-2013

In exercise of the powers conferred by section 295 read with sub-section (2) of section 35CCD 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. (1) These rules may be called the Income-tax (10th Amendment) Rules, 2013.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Income-tax Rules, 1962 (hereafter referred to as the said rules), after rule 6AAE, the following shall be inserted, namely:—

'6AAF. *Guidelines for approval of skill development project under section 35CCD.*—(1) A skill development project shall be considered for notification if it is undertaken by an eligible company and the project is undertaken in separate facilities in a training institute.

(2) The eligible company, before undertaking any skill development project, shall make an application for notification of such project under sub-section (1) of section 35CCD, in duplicate, in Form No. 3CQ, to the National Skill Development Agency (hereinafter referred to as the NSDA).

(3) The eligible company shall also send a copy of the application in Form No. 3CQ to the Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the case, accompanied by the acknowledgement receipt as evidence of having furnished the application form in duplicate to the NSDA.

(4) The application shall be accompanied by the following, namely :—

- (a) detailed note on the skill development project to be undertaken by the eligible company;
- (b) details of the expenditure expected to be incurred on the project and expected date of completion of the project; and
- (c) a letter of concurrence from the training institute in which the skill development project is to be undertaken.

(5) If any defect is noticed in the application referred to in sub-rule (2) or if any relevant document is not attached thereto, the NSDA shall, before the expiry of one month from the date of receipt of the application in its office, intimate the defect to the applicant for its rectification.

(6) The applicant shall remove the defect within a period of fifteen days from the date of such intimation or within such further period as, on an application made in this behalf, may be extended by the NSDA, so however, that the total period for removal of the defect does not exceed thirty days, and if the applicant, fails to remove the defect within such period so allowed, the NSDA shall send its recommendation for treating the application as invalid to the CBDT.

(7) On receipt of recommendation of the NSDA under sub-rule (6) the CBDT, if satisfied, may pass an order treating the application as invalid.

(8) If the application form is complete in all respects, the NSDA may make such inquiry or call for such documents from the eligible company or the training institute as it may consider necessary for satisfying itself regarding the genuineness of the current and proposed activity of the applicant and send its recommendation to the CBDT for grant of approval or rejection of the application before the expiry of the period of two months to be reckoned from the end of the month in which the application form complete in all respects was received in its office.

(9) The Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the case shall send his recommendation to the NSDA for grant of approval or rejection of the application, after considering the compliance of the applicant with the various provisions of Income-tax Act, 1961 and Wealth-tax Act, 1957, before the expiry of the period of one month to be reckoned from the end of the month in which the copy of the application was received in his office.

(10) If the NSDA recommends the grant of approval under sub-rule (8), the CBDT shall, within a period of fifteen days from the end of the month in which it receives the report from the NSDA, under sub-section (1) of section 35CCD, issue a notification in Form No. 3CR to be published in the Official Gazette specifying the skill development project subject to conditions mentioned in rule 6AAG or such other conditions, as it may deem fit, to be effective for such period not exceeding three assessment years and if the NSDA recommends the rejection of the application under sub-rule (8), the CBDT shall pass an order rejecting the application.

(11) If the CBDT is satisfied with the activities of the skill development project during the period of notification, it may notify the said project for a further period in consultation with the NSDA.

(12) A copy of the notification issued under sub-rule (10) or sub-rule (11) shall be sent to the applicant, the NSDA, the training institute and the Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the case.

(13) The CBDT may rescind the notification issued under sub-rule (10) or sub-rule (11) at any time, if it is satisfied that the eligible company or the training institute, as the case may be, has ceased its activities or its activities are not genuine or the activities of the skill development project are not being carried out in accordance with all or any of the relevant provisions of the Act or this rule or rule 6AAG or the conditions subject to which the notification was issued.

(14) An order rescinding the notification shall not be passed unless the applicant has been given an opportunity of being heard in the matter.

(15) A copy of any order invalidating or rejecting the application or rescinding the notification shall be sent to the applicant, the training institute, the NSDA and the Commissioner of Income-tax or the Director of Income-tax, as the case may be, having jurisdiction over the case.

6AAG. Conditions subject to which a skill development project is to be notified under section 35CCD.—(1) The company undertaking skill development project shall maintain separate books of account of the skill development project notified under sub-section (1) of section 35CCD, and get such books of account audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288.

(2) The audit report referred to in sub-rule (1) shall include the comments of the auditor on the true and fair view of the books of account maintained for skill development project, the genuineness of the activities of the skill development project and fulfilment of the conditions specified in the relevant provisions of the Act or the rules or the conditions mentioned in the notification issued under sub-rule (10) or sub-rule (11) of rule 6AAF.

(3) A skill development project in respect of existing employees of the company shall not be eligible for notification under sub-section (1) of section 35CCD, where the training of such employees commences after six months of their recruitment.

(4) All expenses (not being expenditure in the nature of cost of any land or building), incurred wholly and exclusively for undertaking a notified skill development project shall be eligible for deduction under section 35CCD :

Provided that any expenditure incurred on the skill development project which is reimbursed or reimbursable to the company by any person, whether directly or indirectly, shall not be eligible for deduction under section 35CCD.

(5) The company shall, on or before the due date of furnishing the return of income under sub-section (l) of section 139, furnish the audited statement of accounts of the skill development project for the previous year along with the audit report and amount of deduction claimed under sub-section (1) of section 35CCD to the Commissioner of Income-tax or the Director of Income-tax, as the case may be.

(6) If the Commissioner of Income-tax or the Director of Income-tax, as the case may be, is satisfied that the,—

- (a) company has not maintained separate books of account for the skill development project or has not got such books of account audited by an accountant in accordance with sub-rule (1);
- (b) company has not furnished the documents referred to in sub-rule (5);
- (c) company has ceased to carry out activities of skill development project;
- (d) activities of skill development project of the company are not genuine; or
- (e) activities of the skill development project of the company are not being carried out in accordance with the relevant provisions of the Act or the rules or the conditions subject to which the notification was issued, he shall, after making appropriate inquiries, furnish a report on the circumstances referred to in clause (a) to (e) to the C6DT for appropriate action under sub-rule (13) of rule 6AAF.

(7) If the NSDA is not satisfied about the genuineness of the activities of the notified skill development project, the NSDA shall send its recommendation to the CBDT for appropriate action under sub-rule (13) of rule 6AAF.

6AAH. *Meaning of expressions used in rule 6AAF and rule 6AAG.*—For the purposes of rule 6AAF and rule 6AAG—

- (i) "eligible company" means a company, which is—
 - (a) engaged in the business of manufacture or production of any article or thing, not being an article or thing mentioned at serial number 1 and serial number 2 of the list of articles or things specified in the Eleventh Schedule; or
 - (b) engaged in providing services mentioned in column (2) of the Table below:

TABLE

S.No.(1)	Particulars (2)
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1.	Accounting services
2.	Architect services
3.	Automobile repair or maintenance
4.	Banking, insurance and financial services including ATM installation, maintenance and operations or banking correspondents or insurance agents
5.	Beauty and cosmetology, including hair styling or manicurists or pedicurists
6.	Cable operators or Direct To Home (DTH) services
7.	Cargo Handling and stevedoring services
8.	Construction including painting or woodwork or plumbing or flooring or electrical wiring or installation or maintenance of lifts
9.	Courier services
10.	Design services including fashion or gems and jewellery or apparel or industrial designing
11.	Event management
12.	Facilities management, housekeeping, cleaning services
13.	Fire and safety services
14.	Food processing or preservation services, including post harvesting and post farm-gate skills
15.	Health and Wellness services including spa or nutritionists or weight management or health instructors or yoga or gym trainers
16.	Home decor services, landscaping
17.	Hospital and Healthcare services, such as Lab technicians, nursing and other paramedical staff
18.	Hospitality, including culinary skills or catering services
19.	Logistics and Transportation by any mode, including by air, sea, road, rail or pipelines, and related services such as driving or operation of heavy machinery equipment, forwarding agents, packers and movers
20.	Market research services
21.	Media or film or advertising
22.	Mining and extraction of mineral resources, including hydrocarbons
23.	Packaging and Warehousing, including both ambient temperature storage and cold storage, operation of Internal Container Depots and Container Freight Stations
24.	Port and maritime services such as dredging, piloting, tug boat operations, shipbuilding, ship scrapping,

	bunkering
25.	Power Sector Services, including those required for erection or installation or maintenance of equipment or towers, etc. in generation, transmission or distribution sector projects
26.	Private Security, including guards, supervisors, installation and maintenance of security equipment etc.
27.	Refrigeration and air-conditioning
28.	Repair and maintenance services, including Installation and servicing of household goods or white goods
29.	Retail marketing, including shop floor assistants or merchandisers
30.	Telecom services, including erection and maintenance of towers
31.	Travel and tourism, including guides or ticketing or sales or cab drives

- (ii) "Training institute" means a training institute set up by the Central or State Government or a local authority or a training institute affiliated to National Council for Vocational Training or State Council for Vocational Training.
- (iii) "National Council for Vocational Training" means the National Council for Training in Vocational Trades established by the resolution of the Government of India in the Ministry of Labour (Directorate General of Resettlement and Employment) No.TR/E.P. - 24/56, dated the 21st August, 1956 and re-named as the National Council for Vocational Training by the resolution of the Government of India in the Ministry of Labour (Directorate General of Employment and Training) No.DGET/12/21/80-TC, dated the 30th September, 1981,
- (iv) "State Council for Vocational Training" means a State Council for Training in Vocational Trades established by the State Government.'

3. In Appendix II of the said rules, after Form No. 3CP, the following forms shall be inserted, namely:—

"FORM NO. 3CQ

[See rule 6AAF]

**Application form for approval under sub-section (1) of section 35CCD
of the Income-tax Act, 1961**

1. (i) Name of the applicant company.
- (ii) Address of the registered office of the applicant company.
- (iii) Address of the principal place of business if it is different from registered office.
- (iv) PAN of the Company.
- (v) Date of incorporation of the company.
- (vi) Enclose a copy of the Memorandum and Articles of Association.

(vii) If the skill development project of the company was notified earlier under sub-section (1) of section 35CCD, mention the notification number and date of the latest notification and furnish a copy of the same.

(viii) Nature of business

(ix) If notification issued under sub-section(1) of section 35CCD was rescinded in the past, mention reasons on account of which the notification was rescinded.

[Enclose a copy of the Order(s) rescinding notification(s)]

(x) Date from which notification of skill development project is requested for.

(xi) Expected date of completion of project.

2. Purpose of the skill development project (Give a brief write up on the requirement of skill development project indicating the objectives of the project, stages of implementation, expected results and usefulness of the project.)
3. Details of expenses (other than land or building) expected to be incurred for skill development project.
4. Skill development projects undertaken by the applicant:
 - (i) skill development projects, if any, undertaken by the company during last five years alongwith their current status.
 - (ii) details of skill development projects, if any, which have been taken up in the past and which are underway on the date of filing of application.
5. Name and address of the training institute in which the skill development project is to be undertaken. (Enclose a copy of letter of concurrence from the training institute in which the skill development project is to be undertaken).
6. Details of Return of Income filed for the last three Assessment years:

<i>Assessment Year</i>	<i>Turnover/Gross receipts</i>	<i>Total income</i>	<i>Tax payable as per return</i>	<i>Tax Paid</i>	<i>Assessed income details</i>

7. Enclose copy of audited annual accounts of the company for the last three years.
8. Whether any penalty under clause(c) of sub-section (1) of section 271 was levied on the company during the last five years and details thereof.
9. Whether any tax demand is outstanding on the date of filing application.

Certified that the above information is true to the best of my knowledge and belief.

Place

.....
Signature

Date.....

.....
Designation

.....
Full Address

FORM NO. 3CR

[See rule 6AAF]

**Form for notification of skill development project under sub-section (1) of section 35CCD
of the Income-tax Act, 1961**

1. Name, address and PAN of the company
2. Name and address of the training Institute in which the skill development project is to be undertaken
3. Title of the skill development project
4. Purpose of the skill development project
5. Reference No. and date of the application
6. Date of commencement of the skill development project
7. Duration of the skill development project in months
8. Assessment year(s) for which the skill development project was notified (not exceeding three years)
9. Total expenses likely to be incurred for the skill development project (other than land or building)
10. Conditions, if any, subject to which skill development project is notified.

Place:

.....
Signature

Date:

.....
(Name and Designation)

Copy to:

- (1) The applicant.
- (2) Training institute.
- (3) National Skill Development Agency.
- (4) The Commissioner of Income-tax/Director of Income-tax."

