

# PAN not mandatory for foreign investors of AIFs in IFSCs

Updated on August 11, 2020

- The move will ease compliance, making foreign investment more attractive, say experts.

The Income Tax Department has exempted foreign investors, who put money into funds set up in International Financial Services Centres (IFSCs), from obtaining Permanent Account Number (PAN).

Experts feel that this will ease compliance and make foreign investment more attractive. PAN is an alpha numeric identity with 10 characters, known as financial identity and is mandatory in certain financial transactions.

The Central Board of Direct Taxes (CBDT), the apex policy-making body for corporate tax and personal income tax, has notified new norms for a “class or classes of persons to whom provisions of Sec. 139A (of Income Tax Act) for mandatory obtaining PAN shall not apply”. This section is related to obtaining and using PAN. Here it has been said that the provision of the said section will not be apply “to a non-resident, not being a company or a foreign company who has, during a previous year, made investment in a specified fund.”

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. It needs to have registration as a Category I or Category II Alternative Investment Fund (AIF). It should be regulated by SEBI and located in any IFSC.

For getting this exemption, some conditions need to be fulfilled. First, the non-resident does not earn any income in India, other than the income from investment in the specified fund during the previous year. Second, any income tax due on income of the non-resident has been deducted at source and remitted to the Central Government by the specified fund at the rates prescribed by law.

Third, the non-resident furnishes the following details and documents to the Specified Fund, namely — declaration containing name, address, country of residence and Tax Identification Number in the country or specified territory of his residence. In case no such number is available, then a unique number needs to be submitted, on the basis of which the non-resident is identified by the government of that country or the specified territory of which he claims to be a resident.

The fund is required to submit a statement every three months giving details about disclosers made by and details of income of the foreign investor. The tax department has also amended its rules to ensure no higher TDS (Tax Deducted at Source) is effected in the absence of PAN.

According to Sunil Gidwani, Partner at Nangia Andersen LLP, it has been a long-pending demand of the foreign investor community that they should be exempted from tax compliance since the fund in the IFSC would be withholding tax payable by investors. “This would go a long way in making it easy for fund managers to attract foreign investors in a fund set up in the IFSC and would give an impetus to IFSC as a fund jurisdiction,” he said.