



Aadhaar number not mandatory for foreign national and non-resident for PAN and Income-tax return

Background

Section 139AA of the Income-tax Act, 1961 (the Act), as introduced by the Finance Act, 2017, provides for mandatory quoting of an Aadhaar number¹/Enrolment ID² by individuals for filing of Income-tax return and for making an application for allotment of Permanent Account Number (PAN) with effect from 1 July 2017. Existing PAN holders also have to link their PAN with their Aadhaar number to keep it active³.

The Press Release dated 5 April 2017 issued by the Central Board of Direct Taxes (CBDT) clarified that such mandatory quoting of an Aadhaar number/Enrolment ID shall apply only to a person who is eligible to obtain an Aadhaar number.

As per the Aadhaar Act only a resident individual is entitled to obtain an Aadhaar number. Resident individual means an individual who has resided in India for a period or periods amounting in all to one hundred and eighty-two days or more in the twelve months immediately preceding the date of application for enrolment.

Please refer our Flash News dated 6 April 2017 for more details on this requirement on the below link:

<http://www.in.kpmg.com/TaxFlashNews-INT/Mandatory-quoting-of-Aadhaar-number-for-PAN-applications-and-filing-return-of-income-1.pdf>

¹ "Aadhaar number" means an identification number issued to an individual under Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (the Aadhaar Act)

² "Enrolment ID" means a 28 digit Enrolment Identification Number issued to a resident at the time of enrolment for Aadhaar number

³ Press Release dated 11 May 2017 issued by CBDT prescribes the process for linking PAN with Aadhaar number

Exclusion for certain individuals

Recently, the central government issued a notification⁴ stating that the provisions of Section 139AA of the Act shall not apply to an individual who does not possess an Aadhaar number or the Enrolment ID and is:

- Residing in the states of Assam, or Jammu and Kashmir or Meghalaya;
- A non-resident as per the Act;
- Of the age of eighty years or more at any time during the relevant financial year;
- Not a citizen of India;

The notification shall be effective with effect from 1 July 2017.

Our comments

The exclusion of foreign nationals and non-residents under the Act from mandatory quoting of an Aadhaar number is a welcome step for expatriate employees and Indians working/settled abroad who have a tax filing obligation in India. Such exclusion is likely to ease their compliance requirement in India as they could have faced practical difficulties in enrolling for an Aadhaar number as per the prescribed process.

It is also pertinent to note that quoting of an Aadhaar number is not required in the tax returns which can be filed up to 30 June 2017 by individuals other than those excluded as mentioned above.

⁴ Notification No. 37/2017, dated 11 May 2017 issued by Ministry of Finance, Government of India

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