



Tax Flash News

7 October 2023

Non-residents can file Form No. 10F electronically without obtaining a PAN in India to claim a tax treaty benefit

Background

In order to claim any relief under a tax treaty, a non-resident is required to obtain a Tax Residency Certificate (TRC). The Income-tax Act, 1961 (the Act) was amended to provide that the non-resident should also submit such other documents and information, as may be prescribed.

Consequently, on 16 July 2022, the Central Board of Direct Taxes (CBDT) notified¹ Form 10F which is required to be furnished electronically under a digital signature or through a electronic verification code.

The non-residents were facing certain challenges while filing Form No. 10F electronically for e.g. PAN was mandatory to register on the income tax portal. On consideration of the practical challenges being faced in making compliance, the CBDT had provided certain relaxations that those non-residents who were not having PAN and not required to obtain PAN were exempted from mandatory electronic filing of Form No. 10F till 31 March 2023. In view of the continued practical challenges and to mitigate the genuine hardship being faced by such non-residents, the relaxation was further extended till 30 September 2023.

Now, the tax department has enabled a new category to register on the income tax portal for filing of Form 10F, i.e., 'non-residents not having a PAN and not required to have a PAN'².

Procedure for registration

- On the e-filing portal, i.e., <https://www.incometax.gov.in/iec/foportal>, the non-resident is required to click on the 'Register' option

- Click on the 'others' category to find an option 'non-residents not having a PAN and not required to have a PAN'.
- The non-resident needs to provide name, date of incorporation, tax identification number, status, and country of residence, etc.
- The non-resident also needs to provide the details of the key person, i.e., name, date of birth, etc.
- The non-resident needs to verify contact details, i.e., email address and mobile number, through an OTP.
- Upload certain documents like its TRC, address proof, identification proof, and any other document if required.
- Upon following the above procedure, the non-resident will be able to register on the portal and then it can file Form 10F electronically without having to obtain a PAN in India.

Our comments

This mechanism will provide relief to non-residents who do not have a PAN in India and who are not required to have a PAN' in India. It would be helpful if the CBDT comes with detailed guidelines on the procedure of registration on the portal and related practical difficulties like whether non-residents will require an Indian mobile number for OTP, etc.

¹ Notification No. 03/2022, dated 16 July 2022

² Income-tax website - [Home | Income Tax Department](https://www.incometax.gov.in/iec/foportal)

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