



## ERGO

*Analysing developments impacting business*

### PAN EXEMPTION FOR NON-RESIDENTS INVESTING IN IFSC BASED CATEGORY I AND CATEGORY II AIFS

12 August 2020

The Central Board of Direct Taxes (CBDT) has granted a much-awaited wish of investors and fund managers mulling over at starting operations in International Financial Services Centre (IFSC) at Gujarat International Finance Tec-City (GIFT City). The newly inserted Rule 114AAB, notified vide the Income-tax (19<sup>th</sup> Amendment) Rules 2020 (Rules) exempts all (i) non-residents (except for a company) and (ii) foreign companies (together referred to as 'Non-Resident') from the mandatory requirement of obtaining the permanent account number (PAN).

A Non-Resident, who has, during a previous year, made investment in an alternative investment fund (AIF) located in IFSC and is registered as a Category I AIF or Category II AIF, shall not be required to obtain PAN from the income tax authorities, if the following conditions are met:

- the Non-Resident does not earn any income in India, other than the income from investment in IFSC based Category I AIFs or Category II AIFs, during the previous year;
- any income tax due on income of Non-Resident has been deducted at source and remitted to the Central Government by such IFSC based Category I AIF or Category II AIF, in accordance with section 194LBB of the Act; and
- the Non-Resident furnishes the requisite details and documents to such IFSC Category I AIF or Category II AIF as prescribed by the Rules. These details would include contact details and address of the Non-Resident, declaration of residence of such Non-Resident outside India, and the tax identification number or unique identification number allocated to such Non-Resident in its country of residence.

Further, section 206AA (that mandates the requirement to furnish PAN) would also not apply to payments made to a Non-Resident, by virtue of the exemption granted to it under Rule 114AAB.

IFSC based Category I AIFs and Category II AIFs would be required to furnish a quarterly statement laying down the aforementioned details and documents received by it from Non-Resident investors, within 15 days from the end of the quarter of the financial year, as per the specified procedures, formats and standards.

A step closer towards "onshoring the offshore"?

Non-residents earning income from IFSC based AIFs (*CBDT Notification No. 55/2019 dated 26 July 2019*) already enjoy an exemption from filing income tax returns in relation to such income. This newly introduced PAN exemption for specified Non-Residents investing in IFSC based Category I AIFs and Category II AIFs certainly makes GIFT City more attractive as a fund destination for non-resident investors looking to invest in India. This move will now facilitate offshore investors to directly pool capital in the IFSC based AIFs, instead of coming through an offshore feeder fund. Further, feeder funds may relocate to IFSC, with their operations directly being controlled by offshore fund managers. Offshore fund managers may also use IFSC based AIFs as feeder funds to invest in offshore funds. This exemption for Non-Residents certainly acts as a pertinent milestone in the journey of GIFT City as an IFSC, to emerge as a fortified financial services regime for investment funds, globally.

- Siddharth Shah (Partner) and Ishita Khare (Associate)

For any queries please contact: [editors@khaitanco.com](mailto:editors@khaitanco.com)

*We have updated our [Privacy Policy](#), which provides details of how we process your personal data and apply security measures. We will continue to communicate with you based on the information available with us. You may choose to unsubscribe from our communications at any time by clicking [here](#).*

**For private circulation only**

The contents of this email are for informational purposes only and for the reader's personal non-commercial use. The views expressed are not the professional views of Khaitan & Co and do not constitute legal advice. The contents are intended, but not guaranteed, to be correct, complete, or up to date. Khaitan & Co disclaims all liability to any person for any loss or damage caused by errors or omissions, whether arising from negligence, accident or any other cause.

© 2020 Khaitan & Co. All rights reserved.

**Mumbai**

One Indiabulls Centre, 13<sup>th</sup> Floor  
Tower 1 841, Senapati Bapat Marg  
Mumbai 400 013, India

T: +91 22 6636 5000  
E: [mumbai@khaitanco.com](mailto:mumbai@khaitanco.com)

**New Delhi**

Ashoka Estate, 12th Floor  
24 Barakhamba Road  
New Delhi 110 001, India

T: +91 11 4151 5454  
E: [delhi@khaitanco.com](mailto:delhi@khaitanco.com)

**Bengaluru**

Simal, 2nd Floor  
7/1, Ulsoor Road  
Bengaluru 560 042, India

T: +91 80 4339 7000  
E: [bengaluru@khaitanco.com](mailto:bengaluru@khaitanco.com)

**Kolkata**

Emerald House  
1 B Old Post Office Street  
Kolkata 700 001, India

T: +91 33 2248 7000  
E: [kolkata@khaitanco.com](mailto:kolkata@khaitanco.com)