

Mandatory quoting of PAN on sale / purchase of goods or services exceeding Rs 2 lakhs

1. Background:

- 1.1 In his Budget speech for 2015, the Hon'ble Finance Minister – Mr. Arun Jaitley announced a proposal to make quoting of Permanent Account Number ('PAN') mandatory for any purchase or sale exceeding Rs. 1 lakh in value.
- 1.2 After receiving several representations from different trade and other industry bodies as well as holding discussions with key stakeholders, the Central Board of Direct Taxes ('CBDT') *vide* Press Release dated 15 December 2015 announced that in line with recommendations made by the Special Investigation Team (SIT) on Black Money, the sentiment echoed by the Finance Minister in his Budget Speech for 2015 and in order to bring a balance between burden of compliance on legitimate transactions and the need to capture information relating to transactions of higher value, quoting of PAN shall be made compulsory for all sales and purchases of goods and services where payment exceeds Rs. 2 lakhs.
- 1.3 Thereafter the CBDT issued a notification¹ amending the existing rules² with effect from 1 January 2016 providing for mandatory quoting of PAN for any sale or purchase transaction exceeding Rs. 2 lakhs in value undertaken by any person, irrespective of whether such transaction had been carried out through normal banking channels.
- 1.4 The revised rules provide for special provisions for the following situations:
- **Persons exempted from quoting PAN**
Non-residents under the Income-tax Act, 1961 ('the Act'), Central Government, State Governments and Consular Officers have been exempted from quoting PAN for such transactions
 - **Transactions by persons not having PAN**
Such persons are required to make a declaration in Form 60 providing identification details, details of the transaction exceeding Rs. 2 lakhs in value and other details like estimated taxable income for the financial year in which transaction is undertaken.
 - **Transactions by minors**
PAN of either the father or mother or guardian may be quoted if the person undertaking the transaction is a minor not having any income chargeable to income-tax.

¹ Notification No. 95 dated 30 December 2015

² Rules 114B, 114C, 114D and 114E of the Income-tax Rules, 1962

2. Issues:

From an industry / trade stand-point the revised rules are quite onerous and would add to the administrative burden. In light of the above, the following issues have arisen with the introduction of the revised PAN-quotation rules for any transaction of sale / purchase of goods or services exceeding Rs 2 lakhs in value:

A. Dilution of stated purpose

- Considering that the stated intent in the Press Release behind the revised rules is to widen the tax net and collect information of certain transactions from third parties in a non-intrusive manner, the revised rule seeks to collect information of all types of transactions based on the sole criteria that the monetary value of the transaction exceeds the threshold of Rs. 2 lakhs.

B. Obligation on seller of goods / service-provider:

- According to the provisions of Rule 114C the person raising bills in respect of transaction for sale or purchase of goods / services i.e. usually the seller of goods or service-provider, is required to verify the following:
 - PAN of the customer has been correctly furnished;
 - PAN of the customer is mentioned in the document;
 - Declaration in Form 60, if furnished by the customer, has complete particulars.
- Further the provisions of Rule 114D require the seller of goods / service-provider who receives any declaration in Form 60 to:
 - Report online bi-annually in Form 61 all the declarations received in Form 60; and
 - Retain the declarations received in Form 60 for a period of six years from the end of the financial year in which the transaction was undertaken.
- Also according to the provisions of Section 272B of the Act, any failure to comply with the provisions of Section 139A of the Act (under which the revised rules have been notified) would potentially attract a penalty of Rs. 10,000 per transaction.
- Based on the onerous verification, document and reporting requirements outlined above for the seller of goods / service-providers, any potential lapse in PAN-related information provided by a customer may result in a heavier burden for the seller / service-provider as compared to the actual defaulter i.e. the customer.
- At this juncture it is also important to highlight that given the large volume of transactions undertaken during a year, sellers of goods / service-providers would be required to establish new systems, align existing

business processes including record-keeping and accounting systems in order to adhere with these onerous obligations. Consequently, this would result in higher cost for such sellers of goods / service-providers in an already highly competitive business environment.

C. No incremental benefit in respect of transactions conducted through normal banking channels

- With enhanced financial intelligence capabilities through tools such as the Non-Filers Management System (NMS) and the Annual Information Return (AIR), transactions passing through normal banking channels are already monitored and tracked by the income-tax authorities to identify cases of unreported income.
- Considering that the risk of unreported transactions passing through normal banking channels is largely mitigated through the income-tax authorities' use of technology via its systems wing, the additional requirement to quote PAN under the revised Rule 114B provides no incremental benefit to the income-tax authorities.
- On the contrary, the mandatory quoting of PAN for transactions exceeding Rs. 2 lakhs passing through normal banking channels results in hardship and inconvenience to the parties involved that are in any case adopting legitimate means for undertaking the transaction.

3. Our recommendations:

Based on the issues enumerated above, the following measures are recommended in respect of the revised rules for quotation of PAN for transactions of sale / purchase of goods or services by any person exceeding Rs. 2 lakhs per transaction:

a) Exempting transactions undertaken through normal banking channels

Considering that strong mechanisms are already in place to identify any unreported transactions for sale / purchase of goods or services undertaken through normal banking channels, the revised rules may be made applicable only to cash transactions.

b) Enhancing the monetary threshold of Rs. 2 lakhs

Without prejudice to the above, with rising input costs and increasing burden of indirect taxes, a large number of transactions for sale of goods or services exceed Rs. 2 lakhs and accordingly trigger the requirement to quote PAN frequently. In order to rationalize the monetary limit, this threshold may be increased to Rs. 10 lakhs from the existing Rs. 2 lakhs.
