

### Revised PAN application forms



The Central Board of Direct Taxes has, vide Notification dated 17th October, 2011, made changes to the Rule 114 of the Income Tax Rules, 1962 pertaining to application for allotment of a Permanent Account Number (PAN). This amendment has come into force from 1st November 2011.

Old form 49A has undergone certain changes and a new form 49AA has been introduced specifically for foreign citizens and foreign entities. According to the amended provisions, now any person who receives any sum or income or amount on which tax is required to be deducted has to apply for PAN before the end of the financial year in which the tax is deductible as per the Income Tax Act (ITA). The amended form 49A as well as the new form 49AA specify the details to be furnished by a Registered LLP also. Thus now LLPs are also required to apply for PAN.

In the form 49AA which is required to be furnished by foreign citizens and foreign entities, the following

types of entities are covered:

- ◆ Individual not being a citizen of India
- ◆ LLP registered outside India
- ◆ Company registered outside India
- ◆ Partnership firm formed or registered outside India
- ◆ Association of persons (Trust and other than Trusts) or Body of Individuals or local authority or artificial juridical person formed or any other entity (by whatever name called) registered outside India

The notification lists the documents required for each category of applicants. Apart from the details as provided earlier for PAN application, a new clause for providing KYC details in case of Foreign Institutional Investors and Qualified Foreign Investors is added in the new form 49AA.

A comparison between the old Form 49A and the amended form 49A and the new form 49AA bringing out the changes is given on the next page.

<b>Comparison chart for Old and New Form 49A and 49AA</b>				
<b>Sr. No.</b>	<b>Particulars</b>	<b>Old Form 49A</b>	<b>New Form 49A</b>	<b>New Form 49AA</b>
1	Photographs	Only one photograph was to be affixed in case of individuals	Two photographs are to be affixed in case of individuals	Two photographs are to be affixed in case of individuals
2	Name to be printed on the PAN card	Full name was to be filled in	Full name is to be filled in. For companies, it has been clarified that the words "Private" and "Limited" should be written in full and not abbreviated. However, there is an option to print abbreviated name on the PAN Card. If the applicant wants, then the choice should be marked in the form.	Full name is to be filled in. For companies, it has been clarified that the words "Private" and "Limited" should be written in full and not abbreviated. However, there is an option to print abbreviated name on the PAN Card. If the applicant wants, then the choice should be marked in the form.
3	Gender	This clause was not appearing in the old form	New clause is inserted	New clause is inserted
4	Address / Residence Address	Country Name was not present in this clause	Country Name has been added in the Address column	Country Name has been added in the Address column
5	Address / Office Address	Country Name was not present in this clause	Country Name has been added in the Address column	Country Name has been added in the Address column
6	Telephone Number and Email ID details	Mobile no. details were not called for	Mobile no. details are now required to be given	Mobile no. details are now required to be given
7	Registration Number	Regn. No. of Firm/Company was to be mentioned	Regn. No. of LLP has also been included	Regn. No. of LLP has also been included
8	Citizen of India	Answer in "Yes" or "No" to be given in the form	The new form requires AADHAAR number if allotted. Since the form does not apply to non Indians, citizenship is not asked for	Country of Citizenship and ISD code of the country of Citizenship to be given
9	Representative Assessee (RA)	No Change	No Change	This form requires details of Representative Assessee OR Agent of the Applicant in India
10	KYC details	This clause was not appearing in the old form	Not in the New Form	This details are to be filled in by FIIs & QFIs as defined in the regulations issued by SEBI. Under this clause, eight sub clauses are required to be filled in providing various details

### Special provisions affecting FIIs and QFIs:

In the new form 49AA, for Foreign Institutional Investors (FIIs) and Qualified Foreign Investors (QFIs), the following additional KYC information is required to be submitted:

- a) In case of individuals:
  - i) Marital status
  - ii) Citizenship status
  - iii) Country of citizenship (in case of foreigners)
  - iv) Occupation details
- b) In case of non individuals:
  - i) Type of entity
  - ii) Whether it has few person or persons of the same family holding beneficial ownership and control (for this purpose, “control” shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholder agreements or voting agreements or in any other manner. Also, reference has to be made to the definition of “control” in SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 1997. Similarly, “beneficial owner” means the natural person who ultimately owns or controls the applicant and/or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a judicial person. Also, reference has to be made to the definition of “beneficial owner” in para 5.1 of SEBI circular dated 31<sup>st</sup> December,

2010 on Anti Money Laundering.)

- iii) In case of a public company, whether listed on a stock exchange and if yes, name of the stock exchange
- c) In all cases:
  - i) Gross Annual Income in INR and Networth (assets less liabilities) in INR
  - ii) Whether the applicant is involved in / providing any of the following services:
    - ◆ Foreign exchange, money changer services
    - ◆ Gaming/Gambling/Lottery services (casinos and betting syndicates)
    - ◆ Money lending, pawning
  - iii) Whether the applicant or applicant’s authorised signatories/trustees/office bearers is/are:
    - ◆ A politically exposed person
    - ◆ Related to a politically exposed person (for this purpose, for definition of “politically exposed person”, reference is to be made to the Prevention of Money Laundering Act)
  - iii) Taxpayer Identification Number in the country of residence

It would be relevant to note that although these new forms have come into force with effect from 1<sup>st</sup> November, 2011, practically, the same are not yet usable as the two nodal agencies in charge of accepting PAN applications – NSDL and UTIITSL – have not yet uploaded these new forms on their respective websites and are not geared up to accept the new forms. Upon making personal inquiries with NSDL, we were informed that for the time being, applications should be made in the old format for all categories of applicants.

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