Comprehensive update on
Notification No. 104/2016
dated 15.11.2016
issued by
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

G.S.R 1068(E).- In exercise of the powers conferred by section 285BA, read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

- 1. (1) These rules may be called the Income–tax (30th Amendment) Rules, 2016.
 - (2) They shall come into force from the date of their publication in the Official Gazette.
- 2. In the Income-tax Rules, 1962 (hereinafter referred to as the said rules), in rule 114B, in the Table, for serial number 10 and entries relating thereto the following serial number and entries shall be substituted, namely:-

Sl. No.	Nature of transaction	Value of transaction
(1)	(2)	(3)
10.	Deposit with,- (i) a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section	Cash deposits,- (i) exceeding fifty thousand rupees during any one day; or (ii) aggregating to more than two lakh fifty thousand rupees during the period 09th November, 2016 to 30th December, 2016
	51 of that Act); (ii) Post Office.	

- 3. In the said rules, in rule 114E,-
 - (i) in sub-rule (2), in the Table, after serial number 11 and entries relating thereto the following serial number and entries shall be inserted, namely:-

Sl. No.	Nature and value of transaction	Class of person (reporting person)	
(1)	(2)	(3)	
12.	Cash deposits during the period 09th November, 2016 to 30th December, 2016 aggregating to— (i) twelve lakh fifty thousand rupees or more, in one or more current account of a person; or (ii) two lakh fifty thousand rupees or more, in one or more accounts (other than a current account) of a person.	 (i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898). 	

(ii) in **sub-rule** (5), the following **proviso** shall be **inserted**, namely:-

"Provided the **statement of financial transaction** in respect of the transactions listed at **serial number** (12) in the Table under sub-rule (2), shall be furnished on or before the **31st day of January, 2017**."

Comments

Rule 114B

{Transactions in relation to which permanent account number is to be quoted in all documents for the purpose of clause (c) of subsection (5) of section 139A}

➤ Rule 114B is made in Income Tax Rules, 1962 {the Rules} in terms of the provisions of section 139A(5)(c) of Income Tax Act, 1961 {the Act} which provides that "every person shall quote such number (PAN) in all documents pertaining to such transactions as may be prescribed by the Board in the interest of the revenue, and entered into by him:".

- ➤ It means that
 - every person
 - shall quote
 - such number (PAN)
 - in all documents
 - pertaining to <u>such</u> transactions
 - as may be <u>prescribed</u> by the Board
 - in the interest of the revenue, and
 - entered into by
 - <u>him</u>
- As per section 2(33) of the Act, "prescribed" means prescribed by rules under the Act.
- As per section 295(2)(eeb), CBDT is empowered to make rules specifying transactions with respect to which permanent account numbers shall be quoted on documents relating to such transactions under section 139A.
- Further, section 139A(8)(b) empowers the Board to make rules providing for "the categories of transactions in relation to which permanent account number (PAN) or the General Index Register Number (GIR) shall be quoted by every person in the documents pertaining to such transactions".
- Accordingly, rule 114B specifies the transaction in respect of which PAN is to be quoted in all documents relating such transactions. The specified transactions are listed in the "Table" provided in the rule 114B, which is as follows:

Summary of Table u/s Rule 114B

SN	Nature of transaction	Value of transaction
1	Sale or Purchase of motor vehicle or vehicle	All transactions
2	Opening of an account with banks (other than Term deposit and BSBDA)	All transactions
3	Application to any bank for issue of debit or credit card	All transactions
4	Opening of a demat account	All transactions

5	Payment to hotel or restaurant at any one time	Cash payment (>) Rs. 50000/-	
6	Payment in connection foreign travel or purchase of foreign currency at any one time	Cash payment (>) Rs. 50000/-	
7	Payment to a mutual fund for purchase of its units	Amount (>) Rs. 50000/-	
8	Payment to a company or institution for acquiring debentures or bonds issued by it	Amount (>) Rs. 50000/-	
9	Payment to RBI for acquiring bonds issued by it.	Amount (>) Rs. 50000/-	
10	Deposits with banks and Co-operative banks	Cash deposits (>) Rs. 50000/- during any one day	
11	Purchase of Bank drafts or pay orders or banker's cheques	Cash payment for an amount (>) Rs. 50000/- during any one day	
12	Time deposit with Bank, Post Office, Nidhi or NBFC	Amount (>) Rs. 50000/- or aggregating to (>) Rs. 500000/- during a financial year	
13	Payment for one or more pre-paid payment instruments	Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to (>) 50000/- in a financial year	
14	Payment as life insurance premium to an insurer	Amount aggregating to (>) Rs. 50000/- in a financial year	
15	A contract for sale or purchase of securities (other than shares)	Amount (>) Rs. 100000/- per transaction	
16	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange	Amount (>) Rs. 100000/- per transaction	

17	Sale or purchase of any immovable property	Amount (>) Rs. 1000000/- or valued by stamp valuation authority referred to in section 50C of the Act at an amount (>) Rs. 1000000/-
18	Sale or purchase, by any person, of goods or services of any nature other than those specified at Sl. No. 1 to 17 of this Table, if any.	Amount (>) Rs. 200000/- per transaction:

The Income-tax (30th Amendment) Rules, 2016 have amended by way of **substitution** only "**serial No. 10**" of the aforesaid Table *w.e.f* 15.11.2016, the analysis of which is as follows:

1949), applies (including any bank or banking institution referred to in section 51 of that Act). (ii) Post Office (iii) Post Office (iv) Act) (iv) (iv) Act)	10.	llows:		
'co-operative bank' signifies that the requirement is in respect of deposits of Rs. 50000/- in one	10	(i) ➤ a banking company or ➤ a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).	exceeding fifty thousand rupees (Rs. 50000/-)	Account holder has to Quote his PAN on the documents relating to deposit (s) in cash with — > a banking company > a co-op. bank > any bank > banking institution > Post Office exceeding Rs. 50000/- during any one day. The use of (s) after the word 'deposit' and the word "during" signifies Rs. 50000/- in one day in cash, which may be in one time or aggregating during one day. The use of (a) before 'banking company' and 'co-operative bank' signifies that the requirement is in respect of deposits

account with a bank or co-operative bank. Clause (ii) The newly inserted Clause (ii) requires that account holder has to Quote his PAN on the documents relating to deposit (s) in cash with -**>** a banking company a co-op. bank > any bank **>** banking institution > Post Office Aggregating to more than exceeding Rs. 250000/during the period from 9.11.2016 to 30.12.2016 Rule 114C(1)(c)/(h) As per rule 114C(1)(c)/(h)the manager / officer / principal officer of the -**>** banking company > co-op. bank > bank **>** banking institution **>** post office are obliged to verify the correctness of PAN since they receive the **deposit** in cash and the documents relating to the transaction.

- ➤ It may be pertinent to mention that deposits in Post Office Accounts and deposits aggregating more than Rs. 250000/- are the <u>new requirements</u>, as inserted by way of substitution of entry of serial No. 10.
- ➤ It may also be pertinent to mention that the requirement of mentioning of PAN as per serial No. 10 shall now apply w.e.f. 15.11.2016 to <u>all deposits</u> in —

- deposits with banking companies;
- deposits with co-operative Banks;
- deposits with Post Offices;
- all banks referred to in section 51 of Banking Regulation Act, 1949;
- all banking institutions referred to in section 51 of Banking Regulation Act, 1949.
- ➤ Therefore, it will also apply to deposits in 'Post Office Accounts', including 'Public Provident Fund Accounts' (PPF) or any other small savings account.
- ➤ It may not be out of place to mention that except the entry in serial No. 10, the <u>other provisions of rule 114B</u> have remained unchanged. Therefore, the same shall now apply to the new entry w.e.f. 15.11.2016, which are being discussed hereunder.
- ➤ Besides the transactions for which PAN is to be mentioned mandatorily, the 1st proviso to the rule provides that where a person, entering into any transaction referred to in this rule, is a
 - minor and
 - who does not have any income chargeable to income-tax,

he shall quote the permanent account number of his -

- father or
- mother or
- guardian,

as the case may be, in the document pertaining to the said transaction:

- Further, 2nd proviso to the rule provides that in case any person who does <u>not</u> have a permanent account number and who enters into any transaction specified in this rule, he shall make a declaration in Form No. 60 giving therein the particulars of such transaction.
- ➤ For this purpose, section 139A(8)(e) empowers the Board to make rules providing for "the form and manner in which the person who has not been allotted a permanent account number (PAN) or who does not have General Index Register Number (GIR) shall make such declaration"
- > Accordingly rule 114D has been made.
- ➤ Further, section 139A(8)(d) empowers Board to make rules proving the "class or classes of person to whom the provisions of this section shall not apply"

- Further, 3rd proviso to the rule provides for exemption to persons from rule 114B, according to which it is provided that the provisions of this rule shall not apply to the following class or classes of persons, namely:-
 - In respect of all the transactions mentioned in the "Table" provided in Rule 114B -
 - the Central Government.
 - the State Governments and
 - the Consular Offices;
 - the non-residents referred to in section 2(30) of the Income Tax Act, 1961 in respect of the transactions other than a transaction referred to at Sl. No. 1 or 2 or 4 or 7 or 8 or 10 or 12 or 14 or 15 or 16 or 17 of the Table. It means that in the case of non-residents the requirement of quoting of PAN shall not apply in respect of following transactions:
- ➤ Section 2(22AA) provides inclusive definition of the word "document", according to which "document" includes as "electronic record" as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.
- As per section 2(1)(t) of the Information Technology Act, 2000, "electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche.
- ➤ The use of word "him" at the end of section 139A(5)(c) of the Act suggest that PAN is to be quoted of such person who enters into such transaction.

Rule 114E

{Furnishing of statement of financial transaction}

- ➤ Section 285BA(1) of the Income Tax Act, 1961 provides that any responsible person specified in clause (a) to (k) shall file a statement of
 - o prescribed specified financial transaction;
 - o prescribed reportable account
 - registered by him or
 - recorded by him or
 - maintained by him
 - o to the
 - prescribed income-tax authority or
 - prescribed other authority or
 - prescribed agency

- > Section 285BA(2) provides that the **statement** referred to in sub-section (1) shall be **furnished**
 - o for the prescribed **period**,
 - o within the prescribed time and
 - o in the prescribed form and
 - o in the prescribed manner,
- > Section 285BA(3) defines "specified financial transaction" for the purpose of section 285BA(1), to mean
 - o the prescribed transaction of purchase
 - of goods or
 - of property or
 - of right in a property or
 - of interest in a property; or
 - o the prescribed transaction of sale
 - of goods or
 - of property or
 - of right in a property or
 - of interest in a property; or
 - o the prescribed transaction of exchange
 - of goods or
 - of property or
 - of right in a property or
 - of interest in a property; or
 - o the prescribed transaction for rendering any service; or
 - o the prescribed transaction under a works contract; or
 - o the prescribed transaction by way of an **investment made or**
 - o the prescribed transaction of an expenditure incurred; or
 - o the prescribed transaction for taking any loan or
 - o the prescribed transaction of accepting any loan or
 - o the prescribed transaction of accepting any deposit
- > 1st proviso to Section 285BA(3) provides that the Board may
 - o prescribe different values for different transactions

in respect of

o different persons

having regard to the nature of such transaction.

- > 2nd proviso to Section 285BA(3) provides that the -
 - the prescribed value of the prescribed transaction or,
 as the case may be,
 - o the prescribed aggregate value of the prescribed transactions
 - o during a financial year
 - o shall **not** be
 - o less than
 - o fifty thousand rupees (Rs. 50000/-)

Prescribed

- It may be seen from the above analysis that word "prescribe" has been used so many times and in relation to various contexts.
- As per section 2(33) of the Act, "prescribed" means prescribed by rules under the Act.
- As per section 295(1), CBDT is empowered to make rules generally for carrying out the purpose of the Act and as per section 295(2)(p) in particular for any other matter which by this Act is to be, or may be prescribed.
- ➤ Therefore, wherever the word "prescribe" has been used, CBDT {the Board, as defined in section 2(12)} has to make rules in respect of the matter for which the word "prescribe" or "prescribed" is used.
- For the purpose of section 285BA, CBDT has to make rules in respect of following matters, which are being reiterated at the expense of repetition, consolidate:
 - o to prescribe reporting financial institutions
 - o to prescribe specified financial transaction
 - o to prescribe reportable account
 - o to **prescribe** income-tax authority with whom the statement is to be furnished
 - o to **prescribe** other authority with whom the statement is to be furnished
 - o to **prescribe** agency with whom the statement is to be furnished
 - o to **prescribe** period for which the statement is to be furnished
 - o to **prescribe** time within which the statement is to be furnished

- o to **prescribe** form in which the statement is to be furnished
- o to **prescribe** manner in which the statement is to be furnished
- o to **prescribe** transaction of purchase of goods
- o to **prescribe** transaction of purchase of property
- o to **prescribe** transaction of purchase of right in a property
- o to **prescribe** transaction of purchase of interest in a property
- o to **prescribe** transaction of sale of goods
- o to **prescribe** transaction of sale of property
- o to **prescribe** transaction of sale of right in a property
- o to **prescribe** transaction of sale of interest in a property
- o to **prescribe** transaction of exchange of goods
- o to **prescribe** transaction of exchange of property
- o to **prescribe** transaction of exchange of right in a property
- o to **prescribe** transaction of exchange of interest in a property
- o to **prescribe** transaction for rendering any service
- o to **prescribe** transaction under a works contract
- o to **prescribe** transaction by way of an investment made
- o to **prescribe** transaction of an expenditure incurred
- o to **prescribe** transaction for taking any loan
- o to **prescribe** transaction of accepting any loan
- o to **prescribe** transaction of accepting any deposit
- o to **prescribe** different values for different transactions in respect of different values for different persons having regard to the nature of such transaction
- o to **prescribe** value of the prescribed transaction during a financial year, being not less than Rs. 50000/-
- o to **prescribe** aggregate value of the prescribed transactions during a financial year, being not less than Rs. 50000/-
- o to **prescribe** the manner in which the correction statement to be furnished
- Accordingly, the Board has made **Rule114E** Furnishing of "statement of financial transaction" {vide Income-tax (22nd Amendment) Rule, 2015 dated 30.12.2015}
- The "statement of financial transaction" required to be furnished under sub-section (1) of section 285BA of the Act shall be furnished in respect of a financial year in Form No. 61A and shall be verified in the manner indicated therein.
- The statement referred to in sub-rule (1) **shall be furnished by every person** mentioned in column (3) of the Table below in respect of all the transactions of the nature and value specified in the corresponding entry in column (2) of the said Table

in accordance with the provisions of sub-rule (3), which are **registered or recorded** by him on **or** after the **1st day of April, 2016**, namely:-

TABLE

SI.	Nature and value of transaction	Class of person (reporting person)
(1)	(2)	(3)
1.	(a) Payment made in cash for purchase of	A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act).
0	Cook domesite annuanction to tax lable	
	Cash deposits aggregating to ten lakh rupees or more in a financial year, in one or more accounts (other than a current account and time deposit) of a person.	 (i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).
3	One or more time deposits	(i) A banking company or

	(other than a time deposit made through renewal of another time deposit) of a person aggregating to ten lakh rupees or more in a financial year of a person.	a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898); (iii) Nidhi referred to in section 406 of the Companies Act, 2013 (18 of 2013);
		(iv) Non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934 (6 of 1934), to hold or accept deposit from public.
4	Payments made by any person of an amount aggregating to - (i) one lakh rupees or more in cash; or (ii) ten lakh rupees or more by any other mode, against bills raised in respect of one or more credit cards issued to that person, in a financial year.	A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act) or any other company or institution issuing credit card.
5	Receipt from any person of an amount aggregating to ten lakh rupees or more in a financial year for acquiring bonds or debentures issued by the company or institution (other than the amount received on account of	A company or institution issuing bonds or debentures.

	renewal of the bond or	
	debenture issued by that company).	
6	Receipt from any person of an amount aggregating to ten lakh rupees or more in a financial year for acquiring > shares > (including share application money) issued by the company.	A company issuing shares.
7	Buy back of shares from any person (other than the shares bought in the open market) for an amount or value aggregating to ten lakh rupees or more in a financial year.	A company listed on a recognised stock exchange purchasing its own securities under section 68 of the Companies Act, 2013 (18 of 2013).
8	Receipt from any person of an amount aggregating to ten lakh rupees or more in a financial year for acquiring units of one or more schemes of a Mutual Fund (other than the amount received on account of transfer from one scheme to another scheme of that Mutual Fund).	A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.
9	Receipt from any person If or sale of foreign currency Including Including	Authorised person as referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

	of an amount aggregating to ten lakh rupees or more during a financial year	
10	Purchase or sale by any person of immovable property for an amount of thirty lakh rupees or more or valued by the stamp valuation authority referred to in section 50C of the Act at thirty lakh rupees or more.	Inspector-General appointed under section 3 of the Registration Act, 1908 or Registrar or Sub-Registrar appointed under section 6 of that Act.
11 A	Receipt of cash payment exceeding two lakh rupees for sale, by any person, of > goods or > services of any nature (other than those specified at Sl. No. 1 to 10 of this rule, if any.	Any person who is liable for audit under section 44AB of the Act.

per sub-rule (3) the **reporting person** mentioned in column (3) of the Table under sub-rule (2) (other than the person at Sl. No. 9) shall, while aggregating the amounts for determining the threshold amount for reporting in respect of any person as specified in column (2) of the said Table,-

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- (a) take into account all the accounts of the same nature as specified in column(2) of the said Table maintained in respect of that person during the financial year;
- (b) **aggregate all the transactions of the same nature** as specified in column (2) of the said Table recorded in respect of that person **during the financial year**;
- (c) attribute the entire value of the transaction **or** the aggregated value of all the transactions to all the persons, in a case where the account is maintained **or** transaction is recorded in the name of more than one person;
- (d) **apply** the **threshold limit separately** to **deposits and withdrawals** in respect of transaction specified in item (c) under column (2), against Sl. No. 1 of the said Table.

➤ The The Income-tax (30th Amendment) Rules, 2016 have amended by way of **insertion** of "**serial No. 12**" in the aforesaid Table *w.e.f* 15.11.2016, the analysis of which is as follows:

S		Class of person (reporting person)	Comments
1	Cash deposits during the period 09th November, 2016 to 30th December, 2016 aggregating to— (i) twelve lakh fifty thousand rupees or more, in one or more current account of a person; or (ii) two lakh fifty thousand rupees or more, in one or more accounts (other than a current account) of a person.	(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).	Clause (i) The Bank shall furnish the details of cash deposits during the period from 9.11.216 to 30.12.2016 aggregating to Rs. 12,50,000/-in one or more current account of a person Clause (ii) The Bank as well as the Post Office shall furnish the details of cash deposits during the period from 9.11.216 to 30.12.2016 aggregating to Rs. 2,50,000/-in one or more account (s) (other than a current account) of a person Other than a current account The threshold of Rs. 2,50,000/- relates to all accounts other than 'current account'. It means that this threshold may be applied to deposits in any bank or post office

		account which is not of the nature of a current account.
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- ➤ Sub-rule (5) provides that the statement of financial transactions referred to in sub-rule (1) shall be furnished on or before the 31st May, immediately following the financial year in which the transaction is
 - > registered or
 - recorded.
- ➤ The amendment rules have further by way of **insertion** of following proviso to sub-rule (5):

"Provided the statement of financial transaction in respect of the transactions listed at **serial number** (12) in the Table under sub-rule (2), shall be furnished **on or before the 31st day of January, 2017.**".

➤ It means that so far as transactions mentioned in **serial number** (12) {as inserted w.e.f. 15.11.2016} is concerned the reporting persons, i.e. the bank and the post office shall furnish the details of deposits of cash in terms of **serial number** (12) in 'statement of financial transactions' **on or before the 31st day of January**, 2017, i.e. for the FY 2016-17, the statement relating to transactions of **serial number** (12) shall be furnished **on or before the 31st day of January**, 2017 instead of 31st day of May, 2017.

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