

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 10th August, 2020

INCOME-TAX

G.S.R. 499(E).—In exercise of the powers conferred by clause (d) of sub-section (8) of section 139A and clause (ii) of sub-section (7) of section 206AA 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. Short title and commencement. - (1) These rules may be called the Income-tax (19th Amendment) Rules, 2020.

(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 principal rules), in rule 37BC, after sub-rule (2), the following sub-rule shall be inserted, namely:—

“(3) The provisions of section 206AA shall not apply in respect of payments made to a person being a non-resident, not being a company, or a foreign company if the provisions of section 139A do not apply to such person on account of rule 114AAB.”.

3. In the principal rules, after rule 114AAA, the following rule shall be inserted, namely:—

“Class or classes of person to whom provisions of section 139A shall not apply.

114AAB. (1) The provisions of section 139A shall not apply to a non-resident, not being a company, or a foreign company, (hereinafter referred to as the non-resident) who has, during a previous year, made investment in a specified fund if the following conditions are fulfilled, namely:—

(i) the non-resident does not earn any income in India, other than the income from investment in the specified fund during the previous year;

(ii) any income-tax due on income of non-resident has been deducted at source and remitted to the Central Government by the specified fund at the rates specified in section 194LBB of the Act; and

(iii) the non-resident furnishes the following details and documents to the specified fund, namely:—

- (a) name, e-mail id, contact number;
- (b) address in the country or specified territory outside India of which he is a resident;
- (c) a declaration that he is a resident of a country or specified territory outside India; and
- (d) Tax Identification Number in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the non-resident is identified by the Government of that country or the specified territory of which he claims to be a resident.

(2) The specified fund shall furnish a quarterly statement for the quarter of the financial year, in which the details and documents referred to in clause (iii) of sub-rule (1) are received by it, in Form No.49BA to the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or the person authorised by him, electronically and upload the declaration referred to in sub-clause (c) of clause (iii) of sub-rule (1) within fifteen days from the end of the quarter of the financial year to which such statement relates in accordance with the procedures, formats and standards specified by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) under sub-rule (3).

(3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of Form 49BA and shall be responsible for the day-to-day administration in relation to the furnishing and verification of quarterly statement in accordance with the provisions of sub-rule (2).

Explanation. - For the purposes of this rule-

(a) “specified fund” means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, and which is located in any International Financial Services Centre;

(b) “International Financial Services Centre” shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).”.

4. In the principal rules, in Appendix II, after Form No.49B, the following Form shall be inserted, namely: —

“FORM NO. 49BA

[See rule 114AAB]

Quarterly statement to be furnished by specified fund in respect of a non-resident referred to in rule 114AAB for the quarter of of (Financial Year)

1. Name of specified fund
2. Permanent Account Number / Aadhaar Number:
3. Details of non-resident referred to in sub-rule (1) of rule 114AAB

Sl. No.	Name	E-mail address	Contact number	Address in the country or specified territory outside India of which the non-resident is resident	Tax Identification Number, if any	Unique number on the basis of which the non-resident is identified by the Government of that country or the specified territory of which he claims to be a resident (to be furnished if Tax Identification Number is not available)

Verification

I (full name in block letters), son/daughter of having permanent account number / Aadhaar number, solemnly declare that to the best of my knowledge and belief, the information given above are correct and complete.

Signature

Name and designation

Place

Date

Attachments (to be uploaded)

Declaration received from the non-resident as referred to in sub-clause (c) of clause (iii) of sub-rule (1) of rule 114AAB.”.

[Notification No. 58/2020/F. No. 370133/08/2020-TPL]

ANKUR GOYAL, Under Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part-II Section-3, Sub Section (ii) vide number S.O. 969(E) dated the 26th March, 1962 and last amended by the Income-tax (18th Amendment) Rules, 2020 vide notification number G.S.R. 469(E), dated the 28th July, 2020.