

**SECTION 206AA**  
**OF**  
**INCOME TAX ACT, 1961**  
**{Inserted by the Finance (No. 2) Act, 2009 w.e.f.1-4-2010}**

**A**  
**STUDY**

**206AA : REQUIREMENT TO FURNISH PERMANENT ACCOUNT NUMBER**

1. The Government, with an intention to augment the tax collection at the point of accrual / payment of income chargeable to tax in the hand of a recipient following the cannon of taxation 'pay as you earn', and as mandated by the provisions of section 190(1) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act' ), has inserted section 206AA in Chapter XVII of the Act, which deals with 'collection and recovery of tax' under the Act.

2. **Chapter XVII** of the Act comprises six parts which contains provisions regarding different aspects of collection and recovery of tax, which are as follows:-

- (1) A - General
- (2) B - Deduction at source
- (3) BB - Collection at source
- (4) C - Advance payment of tax
- (5) D - Collection and recovery
- (6) E - Tax payable under provisional assessment
- (7) F - Interest chargeable in certain cases

3. **Part - B** of the Chapter XVII deals with '**deduction of tax at source**', which comprises following sections for such deductions:-

- (1) 192 - Salary
- (2) 193 - Interest on securities
- (3) 194 - Dividends
- (4) 194A - Interest other than "Interest on securities"
- (5) 194B - Winnings from lottery or crossword puzzles
- (6) 194BB - Winnings from horse race
- (7) 194C - Payments to contractors or sub-contractors
- (8) 194D - Insurance commission
- (9) 194E - Payments to non-residents sportsmen or sports associations
- (10) 194EE - Payments in respect of deposits under National Savings Scheme, etc.
- (11) 194F - Payments on account of repurchase of units by Mutual Fund or Unit Trust of India

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- (12) 194G - Commission, etc. on sale of lottery tickets
- (13) 194H - Commission or brokerage
- (14) 194-I - Rent
- (15) 194J - Fees for professional or technical services
- (16) 194K - Income in respect of units
- (17) 194L - Payment of compensation on acquisition of capital asset
- (18) 194LA - Payment of compensation on acquisition of certain immovable property
- (19) 195 - Other sums {payments to non-residents or foreign companies}

4. Sections 192, 193, 194, 194A, 194B, 194BB, 194D, 195 provides that tax is to be deducted at the '**rates in force**', which is defined in **section 2(37A)** of the Act. So far as sections 192, 193, 194, 194A, 194B, 194BB, 194D are concerned, it means "rate or rates of income tax specified in this behalf in the Finance Act of the relevant year"; and so far as section 195 is concerned it means "rate or rates of income tax specified in this behalf in the Finance Act of the relevant year" or the rate or rates of income tax specified in an agreement entered into u/s 90 or notified u/s 90A, whichever is applicable u/s 90 or 90A, as the case may be.

5. Sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194K, 194L and 194LA provides the rates of TDS as follows :-

- (1) 194C : Individual & HUF (1%), Others (2%)
- (2) 194E : 10%
- (3) 194EE : 20%
- (4) 194F : 20%
- (5) 194G : 10%
- (6) 194H : 10%
- (7) 194-I : Plant, Machinery, Equipment (2%)  
: Land, Building and Land appurtenant thereto, Furniture, Fittings (10%)
- (8) 194J : 10%
- (9) 194K : 10%
- (10) 194L : 10% (up to 31.5.2000).
- (11) 194LA : 10%

6. Now, in order to strengthen the PAN mechanism for avoiding the problems being faced by the Income Tax Department in processing of returns of income, granting credit for tax deducted at source and issuing refunds, **section 206AA** has been inserted with effective from 1.4.2010 for making mandatory for every deductee to furnish his valid PAN to the deductor. The salient provisions of the same are as follows :-

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**Section 206AA shall be applicable w.e.f. 1.4.2010**

6.1.1 Section 1(2) of the Finance (No. 2) Act, 2009 provides that **save as otherwise provided in this Act** {the Finance (No. 2) Act, 2009}, section 2 to 84 shall be deemed to be have come into force on the 1<sup>st</sup> day of April, 2009.

6.1.2 Section 69 of the Finance (No. 2) Act, 2009 provides that section 206AA shall be inserted in the Income Tax Act with effect from 1st day of April, 2010.

6.1.3 *Therefore, section 206AA shall be effective from 1.4.2010. Since the section casts an obligation on the deductee to furnish his valid PAN to the deductor, failing which the deductor shall be obliged to deduct tax under Chapter XVIIIB at the rate or rates provided in sub-section (1) of section 206AA, therefore, the point of time of furnishing of the valid PAN 'or' furnishing declaration u/s 197A in Form 15G or 15H containing the valid PAN 'or' filing an application before the Assessing Officer for obtaining a certificate u/s 197 containing PAN is the point of time when the deductor is obliged to deduct tax as per the provisions of respective sections contained in the said chapter or an application is made u/s 197. Hence, the provisions of newly inserted section 206AA shall be effective in respect of tax deducted or proposed to be deducted 'or' a declaration u/s 197A in Form 15G or 15H is furnished or proposed to be furnished to the deductor 'or' an application is filed or proposed to be filed u/s 197 w.e.f. 1.4.2010. It also means that the provisions of section 206AA shall not be effective on tax deducted or to be deducted 'or' a declarations in Form 15G or 15H filed or to be filed 'or' an application for certificate u/s 197 is filed or to be filed before 1.4.2010.*

**Non-obstante clause**

6.2.1 Section 206AA **mandates non-obstante clause** as it starts with the expression “notwithstanding anything contained in any provisions of the Act”, which overrides all other provisions of the Act on the subject dealt in this section. Therefore, the section provides a complete code on the subject.

**Obligation of the deductee, effects and consequences**

6.3.1 Any **person** entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVIIIB ( i.e. deductee) **on or after 1.4.2010** shall be obliged to furnish his Permanent Account Number (PAN) to the person responsible for deducting such tax (i.e. deductor). { 206AA(1)}

6.3.2 The PAN provided by the deductee to the deductor should be **valid** and should belong to him. {206AA(6)}

6.3.3 If the deductee **does not furnish** his **valid** PAN to the deductor **on or after 1.4.2010**, the deductor shall be obliged to deduct tax under all the above mentioned sections at the rate or rates specified in the respective sections 'or' in force 'or' 20% which ever is **higher**. {206AA(1)}

6.3.4 If the deductee **has provided** his PAN to the deductor **on or after 1.4.2010** but the same is either **not valid** for any reason or **does not belong to him**, then it will be deemed that the deductee has not furnished his PAN to the deductor and the deductor shall be obliged to deduct tax under all the above mentioned sections at the rate or rates specified in the respective sections 'or' in force 'or' 20% which ever is **higher**. {206AA(6)}

6.3.5 It may be pertinent to note that a deductee is obliged to intimate his valid PAN to the deductor also u/s **139A(5A)** of the Act, failing which he may be visited with **penalty** of Rs. 10,000/- u/s **272B(2)** of the Act.

*6.3.6 In view of above provisions it is advisable that if any tax is to be deducted under any of the above mentioned section **on or after 1.4.2010**, the deductee should furnish / provide a self attested copy of his PAN Card or PAN Allotment Letter to the deductor, and if possible obtain an acknowledgment for the same.*

#### **Obligation of the deductor, effects and consequences**

6.4.1 Any **person** responsible for deducting tax under Chapter XVIIB of the Act shall be obliged to deduct tax **on and after 1.4.2010** at the rate or rates specified in the respective sections 'or' the rate or rates in force 'or' at the rate of 20% **which ever is higher** if the deductee **fails to furnish** his PAN to the deductor 'or' the PAN provided is **not valid** for any reason 'or' the PAN **does not belong to the deductee**. {206AA(1)/(6)}

*6.4.2 In view of above provision it is advisable that if any tax is to be deducted under any of the above mentioned section **on or after 1.4.2010**, the deductor should obtain a self attested copy of PAN Card or PAN Allotment Letter of the deductee., and if possible issue acknowledgment for the same to the deductee.*

6.4.3 If a deductor does not have **PAN** of a deductee 'or' the PAN furnished / provided by the deductee is not valid 'or' does not belong to the deductee, and the deductor fails to deduct tax (TDS) at the rate or rates specified in the respective sections 'or' the rate or rates in force 'or' at the rate of 20% which ever is higher –

- the deductor shall be deemed to be an assessee in default u/s 201(1) of the Act, and therefore, –
  - the tax can be recovered from the deductor as per the law of recovery in the Act;
  - penalty can be levied on the deductor u/s 221 of the Act for non payment of tax when demanded;
- the deductor also shall be liable for penalty u/s 271C (1)(a) of the Act equal to the amount of tax short deducted;
- the relevant amount, in respect of which the tax was to be deducted {if not deducted} or short deducted, shall be disallowed as expense u/s 40(a)(ia) of the Act.

#### **Declaration u/s 197A**

6.5.1 If a person, being an individual resident in India below the age of 65 years, wants that no tax be deducted u/s 194 (Dividend) ‘or’ u/s 194EE (Payments in respect of deposits under National Savings Scheme, etc.), he is obliged to furnish a declaration in **Form 15G** to the deductor u/s 197A(1) of the Act.

6.5.2 If a person, being an individual resident in India below the age of 65 years, wants that no tax be deducted u/s 193 (interest on securities) ‘or’ u/s 194A (Interest other than interest on securities) ‘or’ u/s 194K (Income in respect of Units), he is obliged to furnish a declaration in **Form 15G** to the deductor u/s 197A(1A) of the Act.

6.5.3 If a person, being an individual resident in India of 65 years of age or more, wants that no tax be deducted u/s 193 (interest on securities) ‘or’ u/s 194 (Dividend) ‘or’ u/s 194A (Interest other than interest on securities) ‘or’ u/s 194EE (Payments in respect of deposits under National Savings Scheme, etc.) ‘or’ u/s 194K (Income in respect of Units) or 197A(1B) {the incomes / amounts referred to in section 193, 194, 194A, 194EE, and 194K}, he is obliged to furnish a declaration in **Form 15H** to the deductor u/s 197A(1C) of the Act.

6.5.4 No declaration furnished **on or after 1.4.2010** u/s 197A(1) / (1A) / (1C) shall be valid unless the person furnishes his PAN in such declaration. {206AA(2)}

6.5.5 If such person failed to furnish his PAN in such Form 15 G or 15H, as the case may be, ‘or’ the PAN furnished is not valid for any reason ‘or’ does not belong to him, then such declaration in **Form 15 G or 15H** shall be deemed to be **invalid**. {206AA(6)}

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6.5.6 In such case the deductor shall be obliged to deduct tax (TDS) at the rate or rates specified in the respective sections 'or' the rate or rates in force 'or' at the rate of 20% which ever is higher. {206AA(3)}

6.5.7 *In this regards it may not be out of place to mention that the obligation to furnish valid PAN in Form 15G and 15H arises in respect of such forms furnished by the deductee to the deductor on or after 1.4.2010 as the provisions of section 206AA comes into force from 1.4.2010. Such forms received by the deductors **before** 1.4.2010 are not governed by the provisions of this section. Therefore the copies of such forms received by the deductors up to 31.3.2010 need not to have the PAN of the deductees and also the copies of such forms to be delivered by the deductors to the Chief Commissioner or Commissioner of Income Tax u/s 197A(2). It may be noted that section 197A(2) requires a deductor to deliver **one copy** of the declaration. Here copy means a copy of such form received by the deductor from the deductee, which he must have at the point of deducting tax and not after.*

#### **Certificate u/s 197**

6.6.1 In the case of any person any tax is required to be deducted from any income or any sum payable to him u/s 192, 193, 194, 194A, 194C, 194G, 194H, 194-I, 194K, 194LA and 195, such person (deductee) may file an application u/s 197(1) of the Act to his Assessing Officer for issue of a **certificate** for no deduction 'or' deduction at a lower rate.

6.6.2 If any person makes an application u/s 197(1) for issues of a certificate then, **on or after 1.4.2010** such person shall be required to mention his PAN in such application, failing which no such certificate shall be granted.{206AA(4)}

6.6.3 *In may be noted that the provision for application for issue of a certificate u/s 197(1) {section 206AA(4)} does not speak of mentioning **valid PAN**, whereas the provision for furnishing declaration in Form 15G and 15H u/s 197A {section 206AA(2)/(3)}, and the provision for furnishing/providing PAN to the deductor {section 206AA(1)/(6)} requires mentioning and furnishing of **valid PAN**. This is for the reason that an Assessing Officer can verify the validity of a PAN, whereas the deductee does not have any source to make such verification; on the contrary he has to rely on the PAN furnished by the deductee. **It is, therefore, advisable that the Deductee should furnish/provide to the deductor a copy of his PAN Card or PAN allotment letter and obtain an acknowledgment from the deductor, so that his valid PAN reaches to the deductor.***

**Obligation of both the deductor and the deductee**

6.7.1 **As from 1.4.2010** the deductee shall furnish his PAN to the deductor and **both** shall indicate **the same** (i.e. the PAN of the deductee) in all the correspondence, bills, vouchers and other documents which are sent to each other. This has been provided to ensure that the deductor knows about the correct PAN of the Deductee. {206AA(5)}

6.7.2 *It may be noted that no penalty or any other adverse consequence is provided under the Act for not indicating the PAN of the deductee in correspondence, bills, vouchers and other documents which are sent to each other.*

7. For the sake of convenience model of letters for providing PAN and acknowledgment of receipt of the the PAN have been drafted, which are neither provide in section 206AA nor are mandatory, but may serve useful purposes and may for avoid any future complications.

**Draft of letter for intimating PAN to deductor**

Dated : .....

To  
M/s.....  
.....

Sub : Intimation of Permanent Account Number (PAN) u/s 139A(5A) r/w section 206AA(1) of the Income Tax Act, 1961

Dear Sir,

1. In compliance of the provisions of section 139A(5A) and section 206AA(1) of the Income Tax Act, 1961, I am / we are intimating and furnishing my / our PAN, which is allotted to me by the Income Tax Department. The PAN is as follows :

“xxxx0000x”  
(Dummy)

2. Please also find enclosed herewith a self attested copy of my / our PAN Card / PAN Allotment Letter.

3. Kindly acknowledge the letter and oblige.  
Thanking you.

Yours faithfully

Signature.....  
Name : .....  
Address : .....

Encl : as above

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**Draft of acknowledgment of receipt of PAN of deductee**

Dated : .....

To

M/s.....  
.....  
.....

Sub : Acknowledgment of intimation of Permanent Account Number (PAN) u/s 139A(5A) r/w section 206AA(1) of the Income Tax Act, 1961

Dear Sir,

1. This is to acknowledge with thanks receipt of you PAN in compliance of the provisions of section 139A(5A) and 206AA(1) of the Income Tax Act, 1961 along with the self attested copy of your PAN card / PAN allotment letter, and the same has been noted as follows :

“xxxx0000x”  
(Dummy)

Thanking you.

Yours faithfully

Signature.....  
Name : .....  
Address: .....

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Thanks.

Dated : 7.4.2010

Conceived and prepared by  
CA. Rajiv Kumar Jain



