

## Tax Alert | Delivering clarity

17 September 2019

### **CBDT introduces E-assessment Scheme, 2019**

CBDT issues notification introducing the e-assessment scheme, 2019 and the exceptions, modifications and adaptations to certain provisions of the Income tax Act, directed by the central government to enable assessment to be made in accordance with the Scheme.

CBDT issues Notification<sup>1</sup> introducing the e-assessment scheme, 2019 and the exceptions, modifications and adaptations to certain provisions of Income tax Act, 1961 to enable e-assessment.

### **Background**

The Central Board of Direct Taxes (CBDT) had first initiated paperless assessment<sup>2</sup> in October 2015 using email communication as a pilot project across 5 locations namely Delhi, Mumbai, Bengaluru, Ahmedabad and Chennai, which was later extended to two more cities namely Hyderabad and Kolkata in May 2016. CBDT had further issued guidelines<sup>3</sup> in February 2016 on paperless assessment of select non-corporate taxpayers to ensure secured transmission of e-communication for e-mail based communication scheme. In April 2017, the CBDT had specified additional procedures, formats and standards<sup>4</sup> for ensuring secured transmission of electronic communication between the department and taxpayer to conduct e-assessment using e-filing portal at the option of the taxpayer. Further, in September 2017, the CBDT vide instruction<sup>5</sup> launched 'e-proceeding' facility in case of time barring cases pending as on 1 October 2017. The Finance Act 2018 introduced three new sub-sections to section 143, to notify a new scheme of faceless and paperless assessments. In August 2018, the CBDT<sup>6</sup> mandated 'e-proceeding' for all scrutiny cases under section 143(3) with certain exceptions. The CBDT has now issued notifications introducing e-assessment scheme 2019 (scheme) and directions for applicability of the said scheme made by the central government to eliminate personal interaction between the taxpayer and the tax department.

The Scheme has come into effect from 12 September 2019.

### **Setting up of the Centre and units for the functioning of the scheme**

The CBDT will set up the following centres and units for the purpose of this scheme:

- National E-assessment Centre to facilitate the conduct of e-assessment proceedings in a centralised manner.
- Regional e-assessment Centre to facilitate the conduct of e-assessment proceedings in the jurisdiction of Principal Chief Commissioner.
- Assessment units to identify issues relevant for determining any liability (including refund), seeking information on points or issues so identified and analysis of information provided by taxpayer for the purpose of making assessment.
- Verification units to perform the function of verification, which includes enquiry, cross verification, examination of books of accounts, examination of witnesses, recording of statements, etc.

<sup>1</sup> S.O.3264(E) and S.O.3265(E) dated 12 September 2019

<sup>2</sup> F.No.225/267/2015-ITA-II dated 19 October 2015

<sup>3</sup> Notification no.2/2016 dated 3 February 2016

<sup>4</sup> Notification no.4/2017 dated 3 April 2017

<sup>5</sup> Instruction no.8/2017 dated 29 September 2017

<sup>6</sup> Instruction No.03/2018 dated 20 August 2018

- Technical units to provide technical assistance with respect to legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter as may be required.
- Review units to perform review of draft assessment order, which includes checking of relevant evidence available on record, checking if relevant points of fact and law are fully incorporated in the draft order, discussing in detail issues on which addition or disallowance is made in draft order, considering applicable judicial decisions, checking arithmetical accuracy of modification proposed, or any other function which is required for the purpose of review.

### **Procedure for assessment**

- National E-assessment centre will be the sole point of contact between the Department and the taxpayer. It will communicate all the relevant details, for the purposes of making assessment among the assessment units, review units, verification units, and technical units. All communication with regard to assessment shall be exchanged exclusively by electronic mode. An electronic record shall be authenticated by the originator by affixing his digital signature.
- The authorities in various units will have Additional Commissioner/Additional Director/Joint Commissioner/Joint Director, Deputy Commissioner/Deputy Director/Assistant Commissioner/Assistant Director/Income-tax Officer or such other income-tax authority, ministerial staff, executive or consultant as considered necessary by the board
- Notice shall be send by the National E-assessment centre on a registered account or registered email address or taxpayer's mobile app. The taxpayer shall file the response to any notice or order through his registered account.
- A person is not required to appear either personally or through authorised representative in connection to any proceedings before the income tax authority at the centres and at units set up under this scheme.
- Where a showcause notice is issued to the taxpayer in connection with adjustments proposed to be made, the taxpayer or his authorised representative can seek personal hearing to make oral submissions or present his case before the income tax authority in any unit set up under this scheme.
- Such hearing shall be exclusively through video conferencing, including use of any telecommunication application software which supports video telephony.
- Any examination or recording of statement of the taxpayer or any other person (other than in survey cases) will be conducted through video conferencing, including use of any telecommunication application software which supports video telephony. CBDT will establish suitable facilities for video conferencing at necessary locations to ensure that this benefit is available to the taxpayer or his authorised representative or any other person whose statement needs to be examined or recorded.
- Any unit can recommend to the National E-assessment Centre for initiation of penalty proceedings. Upon recommendation, the National E-assessment Centre shall serve the notice to the taxpayer and levy penalty after considering the response from the assessee.
- Appeal lies with the jurisdictional Commissioner of Income-tax (Appeals).

## Detailed procedure

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1. The National E-Assessment centre will serve notice to the taxpayer under section 143(2) mentioning the issues in respect of which his case is selected for assessment

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2. The Taxpayer should respond to the notice within **15 days**

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3. The National E-assessment centre will assign the case to a specific **assessment unit** in any one Regional e-assessment Centre through automated allocation system

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4. The **assessment unit** may request the National E-assessment centre for:
  - information, documents, evidences as required; and / or
  - conducting enquiry or verification by verification unit; and / or
  - seeking technical assistance from technical unit

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5. The National E-assessment centre will communicate to:
  - Taxpayer for information / documents and evidence; and / or
  - Verification Unit for conducting enquiry or verification through Automated Allocation System (AAS); and / or
  - Technical Unit for technical assistance through AAS

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6. **Assessment unit** will prepare **DRAFT** assessment order in writing, either accepting or modifying the returned income of the taxpayer, after considering all the relevant material on record and send it to **National E-assessment Centre** along with the details of penalty proceedings to be initiated if any

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7. On receipt of **draft assessment order, the National E-assessment centre** will decide based on risk management strategy and automated examination tool:
  - Finalise and serve copy of the said order to the Taxpayer and initiate penalty proceedings if any; or
  - Issue Show cause notice to the assessee for modification of any adjustment to returned income; or
  - Assign the draft order to the Review Unit through AAS

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8. **Review Unit** will review the draft assessment order and intimate the **National E-assessment Centre** of its concurrence with it or suggest suitable modification

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9. On receipt of concurrence, the **National E-assessment Centre will (a) Finalise the order and serve on the tax payer, or (b) issue show cause notice to the tax payer**

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10. On receipt of modifications, the **National E-assessment Centre** will send the modifications suggested by the review unit to the **assessment unit**

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11. The **Assessment unit** will prepare the **FINAL DRAFT** assessment order and send to **National E-assessment Centre**

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12. On receipt of **Final Draft assessment** order, the **National E-assessment Centre will:**

- Finalise the order and serve on the assessee; or
- Issue showcause notice to the tax payer

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13. Where **showcause notices** is issued, the taxpayer should respond within the stipulated timeline to the **National E-assessment Centre**

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14. If showcause notice is not responded to, the **National E-assessment Centre will finalise the order and serve on the taxpayer**

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15. If showcause notice is responded to, the **National E-assessment Centre** will send the response to the **assessment unit** and follow the procedure as mentioned above

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16. Upon receiving the REVISED draft assessment order, the National E- assessment Centre will:

- In case no modification is made prejudicial to the interest of taxpayer, finalise the **assessment order** and serve to the taxpayer; or
- In case modification is made, follow the procedure for issue of showcause notice to the taxpayer and deal with the response received from the taxpayer as per the procedure mentioned above

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17. The National E-assessment Centre after completion of assessment transfer (all the electronic records of the case to the Assessing Officer having jurisdiction over such case for - (a) imposition of penalty (b) collection and recovery of demand (c) rectification of mistake (d) giving effect to appellate orders (e) submission of remand report or any other report (f) for prosecution and filing of complaint before the court

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18. The National E-assessment Centre at any stage of the assessment if necessary, transfer the case to the Assessing Officer having jurisdiction over such case

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## **Our comments**

The new E-assessment scheme will give greater transparency and accountability, by eliminating the interface between the Assessing officer and the taxpayer.

There are three concepts of a draft Assessment order – (1) the draft assessment order (2) the final draft assessment order and (3) the Revised draft assessment order.

The National E-assessment Centre will take a decision on the draft assessment order based on risk management strategy and automated examination tool.

Further opportunity for personal hearing using video conferencing is also available. It involves use of technology for conducting assessments which have already been adopted by emerged economies, long back. This new scheme of assessment will represent a paradigm shift in the functioning of the Income Tax Department as mentioned by the Finance Minister in her Budget 2019 speech.

Specialisation, e.g. assessment units, technical units, verification units, review units etc. should bring efficiencies and proper analysis of the adjustments to be made.

The taxpayer will have to constantly monitor his emails and login portals to check whether any notices have been received from the department. There are chances that the taxpayer might miss on viewing such email and might miss the timeline by which the response is to be filed. The department may consider this non reply as acceptance by the taxpayer of the adjustments resulting in additions in assessment.

Technological glitches may surface at the time of hearing, through video calls. Even with personal hearing through video conferencing it is possible that the department may misunderstand the contentions of the taxpayer. There are many challenges encountered by various taxpayers in the current e-filing of responses with respect to the file size, non-use of special characters in naming of the file, etc. The chances of litigations may increase further with limited personal interaction, wherein the issues could be explained appropriately and supporting documents provided swiftly.



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