

Tax Alert | Delivering clarity

20 August 2020

Amendment to E-assessment Scheme, 2019 and jurisdiction of income-tax authorities

Central Board of Direct Taxes, amends the existing E-Assessment Scheme, 2019 and notifies the jurisdiction of the income-tax authorities to conduct the faceless assessment

Background:

- The Central Board of Direct Taxes (CBDT) had notified¹ the E-assessment Scheme 2019 and relevant amendments to the provisions of the Income-tax Act, 1961 (ITA); to impart greater efficiency, transparency and accountability in the audit / assessment proceedings by, inter alia, eliminating interface between the taxpayer and the Assessing Officer (AO).
- The government on 13 August 2020, launched “Transparent Taxation - Honouring the Honest” platform, the main features of which are faceless assessment; faceless appeal; and the Taxpayers’ Charter.
- The CBDT has now issued notifications² and³ to align the E-assessment Scheme 2019 and relevant provisions of the ITA, with the new “Transparent Taxation - Honouring the Honest” platform. Further, the CBDT has also issued orders⁴ and⁵ to re-constitute the Regional E-Assessment Centres⁶ (ReAC), to amend the jurisdiction of income-tax authorities and to notify the income-tax authorities of the ReAC that would exercise powers and functions of the AO.

Highlights of the notifications:

¹ Refer our previous alert on CBDT introduces E-assessment Scheme, 2019

<https://intaxkm.deloitte.com/DTAAlerts%20and%20Publications/Deloitte%20Tax%20Alert%20-%20CBDT%20introduces%20E-assessment%20Scheme,%202019.pdf>

² https://www.incometaxindia.gov.in/communications/notification/notification_60_2020.pdf

³ https://www.incometaxindia.gov.in/communications/notification/notification_61_2020.pdf

⁴ <https://www.taxesutra.com/sites/taxesutra.com/files/webform/Office%20Order-2.pdf>

⁵ https://www.taxesutra.com/sites/taxesutra.com/files/webform/notifications%2062%20to%2066%20of%202020_0.pdf

⁶ Regional E-assessment Centre to facilitate the conduct of e-assessment proceedings in a centralised in the jurisdiction of Pr.CCIT

| Particulars | Key changes |
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| Renaming the scheme | The scheme has been renamed from 'E-assessment Scheme 2019' to 'Faceless Assessment Scheme 2019' (Scheme) |
| Expansion of coverage | <ul style="list-style-type: none"> The Scheme in addition to the audit / assessment proceedings, would now cover best judgement assessments under section 144 of the ITA; The National e-Assessment Centre (NeAC)⁷ shall intimate the taxpayer that their assessment / audit proceedings will be completed under the Scheme. The provisions of the entire chapter relating to 'procedure for assessment' under the ITA will now apply to the assessment / audit made under the Scheme (subject to the exceptions, modifications and adaptations as notified). |
| Taxpayers' response to NeAC | <ul style="list-style-type: none"> The taxpayer will be required to respond to the NeAC within the timeline mentioned in the notice as against the earlier timeline of 15 days. Further, the taxpayer will have an option to apply to the NeAC for extension of response timeline. In case the taxpayer defaults in complying within the said timelines, then the NeAC shall inform the assessment unit⁸ about the same. The assessment unit, in such case, can make a draft order to the best of its judgement. |
| Verification unit or the technical unit report | It has now been specifically mentioned that the NeAC shall send the verification unit or the technical unit report, to the assessment unit. |
| Suggestions of review unit ⁹ . | The NeAC will be required to forward the suggestions received from the review unit (for modifications to the draft assessment order) to a different assessment unit ¹⁰ (i.e. assessment unit not involved in the preparation of the draft assessment order) through an automated allocation system ¹¹ . |
| Transfer of case to the jurisdictional AO | The Principal Chief Commissioner or the Principal Director General of NeAC can now transfer the case to the jurisdictional AO, only with the prior approval of the CBDT. |
| Appeal proceedings | The taxpayer in addition to the assessment order can now also file an appeal against the penalty order issued under the Scheme. |

⁷ National E-assessment Centre has been set-up to facilitate the conduct of e-assessment proceedings in a centralised manner.

⁸ A unit set up under the Scheme to carry out functions required for making assessment.

⁹ A unit set-up under the Scheme to carry out the function of review of draft assessment orders prepared by the assessment units.

¹⁰ A unit set up under the Scheme to carry out functions required for making assessment.

¹¹ Automated allocation system means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources.

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| Electronic mode of communication. | <ul style="list-style-type: none"> • The NeAC, in addition to the taxpayer and his authorised representative, will now be required to communicate in electronic mode with any other person. • An exception to the electronic mode communication has been made with respect to enquiry or verification conducted by the verification unit¹² under certain circumstances (as may be communicated by the Principal Chief Commissioner or the Principal Director General of the NeAC). |
| Authentication of electronic record | <ul style="list-style-type: none"> • NeAC by affixing digital signature. • The taxpayer or any other person: <ul style="list-style-type: none"> – By digital signature, if required to furnish income-tax return using a digital signature; – In other cases, either by digital signature or under electronic verification code. |
| Personal hearing | The acceptance of taxpayers' request for personal hearing will be at the discretion of Chief Commissioner or Director General in charge of Regional E-assessment Centre. |
| Standards, procedure and process for functioning of NeAC, ReAC and units | <ul style="list-style-type: none"> • The NeAC can now lay down the standards, procedure and process for functioning of the NeAC, ReAC and the units under the Scheme only with the approval of the CBDT. • The NeAC will also lay down the circumstances for: <ul style="list-style-type: none"> – Circumstances for exception to electronic mode of communication by the verification unit; – Circumstances in which personal hearing will be approved. |

Highlights of the orders¹³ and ¹⁴:

- Re-constitution of the ReACs of 30 headquarters spread over 20 cities in pursuance of the Scheme.
- The Principal Commissioners of Income-tax (ReAC) (Technical Unit) will be stationed at Delhi, Mumbai, Chennai and Kolkata and reporting to Principal Chief Commissioner (NeAC), Delhi.
- Amendment of the jurisdiction of the income-tax authorities. Notification of income-tax authorities of ReAC who would exercise the powers and functions of the AOs concurrently in order to facilitate the conduct of faceless assessment proceedings.

¹² A unit set up to perform the function of verification including enquiry, cross verification, examination of books, examination of witnesses, recording of statements etc.

¹³ <https://www.taxsutra.com/sites/taxsutra.com/files/webform/Office%20Order-2.pdf>

¹⁴ https://www.taxsutra.com/sites/taxsutra.com/files/webform/notifications%2062%20to%2066%20of%202020_0.pdf

Comments:

- The new Faceless Assessment Scheme will give greater efficiency and transparency, by eliminating the interface between the AO and the taxpayer.
- The assigning of draft assessment order (updated based on recommendations from the review unit) by the NeAC to a different assessment unit, should impart further transparency to the process.



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