

# **Tax Alert: Government notifies e-assessment scheme for faceless scrutiny of income-tax returns**

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## Summary

The Central Board of Direct Taxes has notified the E-Assessment Scheme, 2019 for conducting faceless scrutiny of Income Tax Returns (ITR). The Scheme involves setting up of e-assessment centres at national and regional levels and setting up of assessment units, verification units, technical units and review units to carry out specific functions related to the assessment proceedings.

The Scheme provides that all communication between the taxpayers and Tax Department and also inter se amongst the units would be carried out in electronic mode. While the Scheme provides a facility for personal hearing to the taxpayers, such hearing would be conducted through video conferencing or video telephony rather than a physical appearance.

## Background

The Finance Act 2018 had amended provisions of the Income-tax Act, 1961<sup>1</sup> (Act) empowering the government to notify a new tax assessment scheme whereby the proceedings will be conducted in an electronic mode.

The Finance Minister while presenting the Union Budget in July 2019 also highlighted the government's intention to introduce a scheme of 'faceless e-assessment' in electronic mode involving no human interface.

The Finance Minister had stated that the new scheme would be launched in a phased manner in the current financial year. The government has now notified<sup>2</sup> the E-Assessment Scheme, 2019 (Scheme) laying down the framework to carry out the e-assessments.

## Salient features of the Scheme

### Scope of the Scheme

The Scheme is applicable for scrutiny assessments<sup>3</sup> carried out under the Act.

### Framework for assessments under the Scheme

The Scheme envisages setting up the following e-assessment centres and units which have been entrusted with specific functions related to various aspects of an assessment proceeding:

- (i) National e-assessment centre
- (ii) Regional e-assessment centre
- (iii) Assessment units
- (iv) Verification units
- (v) Technical units
- (vi) Review units

### Functions entrusted to the assessments centres/units

The key functions to be carried out by the centres and units set up under the Scheme are as follows:

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<sup>1</sup> By introduction of three new sub sections (3A, 3B and 3C) in Section 143

<sup>2</sup> Notification No 61 and 62 of 2019 published in the Gazette of India on 12 September 2019

<sup>3</sup> Under section 143(3) of the Act

## (i) National e-assessment centre (NeC)

The NeC would be the nodal point for all the communication between the Tax Department and the taxpayer and would facilitate the conduct of proceedings in a centralised manner. The scope of NeC includes the following:

### Initiate and assist in carrying out the assessment

- **Nodal point for communication:** All communication between the taxpayer and Tax Department to be routed through NeC. Accordingly, the NEC would issue:
  - notice of scrutiny assessment containing various details to be served on the taxpayer
  - appropriate notice or requisition to the taxpayer or any other person for obtaining the information, documents or evidence as requested by the assessment unit
- **Assignment of cases:** The NeC would be responsible for conducting the assessment in a centralised manner. In this regard, the NeC would assign cases to specific assessment units in the regional e-assessment centre through an automated allocation system. Further, the NeC would:
  - **Assign to the verification unit** any request received from the assessment unit for conducting an enquiry or verification regarding any specified matter

- **Assign to the technical unit** in any one regional e-assessment centre, any technical assistance sought by an assessment unit

### Issue of assessment order

The NeC would undertake the following functions:

- examine the draft assessment order submitted by the assessment unit
- assign the draft assessment order to a review unit in any one regional e-assessment centre through an automated allocation system
- communicate suggestions for modifications received from the review unit to the assessment unit
- provide an opportunity to the taxpayer in case a modification is proposed in the draft order<sup>4</sup>
- wherever applicable, issue copy of assessment order and notice for initiating penalty proceedings, if any, along with the demand notice<sup>5</sup>
- after completion of assessment, transfer all the electronic records of the case to the tax officer having jurisdiction over such case

## (ii) Regional e-assessment centre

The regional centre would facilitate the conduct of e-assessment proceedings in the cadre controlling region of a Principal Chief Commissioner.

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<sup>4</sup> By serving a notice calling upon him or her to show cause as to why the assessment should not be completed as per the draft assessment order

<sup>5</sup> Specifying the sum payable by, or refund of any amount due to the assessee on the basis of such assessment

### (iii) Assessment units

The assessment units will facilitate the conduct of e-assessment and carry out the following functions:

- identify points or issues material to determine any liability (including refund) under the Act
- seek information or clarification on points or issues so identified, analyse the material furnished by the taxpayer or any other person, and such other functions as may be required for the purposes of making assessment
- frame the draft assessment order and share the same with the NeC for communication with the taxpayer
- carry out modification or revision in the draft assessment order under direction from the NeC

### (iv) Verification units

Verification units will facilitate the conduct of e-assessment by the assessment unit.

Their function will include enquiry, cross-verification, examination of books of accounts, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification.

### (v) Technical units

Technical units will support the assessment units for any specific technical assistance.

This would include any assistance or advice on legal, accounting, forensics, information technology, valuation, transfer pricing,

data analytics, management or any other technical matter which may be required under this Scheme.

### (vi) Review units

The review units would assist the NeC in carrying out any review of the draft assessment order submitted by the assessment units. This would include:

- checking whether the relevant material evidence has been brought on record
- whether the relevant points of fact and law have been duly incorporated in the draft order
- whether the issues on which addition or disallowance should be made have been discussed in the draft order
- whether the applicable judicial decisions have been considered and dealt with in the draft order
- checking for arithmetical correctness of modifications proposed, if any
- any other functions as may be required for the purposes of review of draft orders

### Key terms used in the Scheme

Certain new terms have been introduced under the Scheme to facilitate the operation of the Scheme. These include:

<b>Mobile app</b>	Application software of the Income Tax Department developed for mobile devices
<b>Real-time alert</b>	Communication sent to the taxpayer so as to alert him or

	her regarding delivery of an electronic communication <sup>6</sup>
<b>Registered email address</b>	<p>This has been given a wide meaning to specify the e-mail address at which an electronic communication may be delivered or transmitted to the addressee including email address available in the:</p> <ul style="list-style-type: none"> <li>- e-filing portal</li> <li>- last income-tax return filed</li> <li>- PAN database</li> <li>- database of UIDAI<sup>7</sup></li> <li>- Official website of MCA<sup>8</sup>, in case of a corporate recipient</li> </ul> <p>Further, it has been clarified that any e-mail address made available to the ITD<sup>9</sup> can also be considered as ‘registered email address’.</p>
<b>Registered mobile number</b>	Mobile number as appearing on the e-filing portal

Further, some of the terms in the Scheme have been aligned with the definitions provided under the Information Technology Act, 2000. These include terms such as addressee, computer system, computer resource, digital signature, electronic record, electronic signature, etc.

<sup>6</sup> By way of SMS on the registered mobile number, or by way of update on the mobile app, or by way of an email at the registered email address

It has, however, been clarified that any word not defined in the Scheme shall have the meaning given under the Act.

### **Penalty proceeding for non-compliance**

The Scheme provides that where any of the units, during the course of the assessment, considers it necessary or expedient to recommend initiation of penalty proceedings, it can make such recommendation to the NeC.

### **Appeal against the assessment order**

The Scheme provides that an appeal against the assessment order may be filed with the jurisdictional Commissioner of Income Tax Appeals [CIT (A)].

### **Exchange of communication electronically**

All the communication, whether internal between the various centres and units or externally with the taxpayer, shall be carried out only by electronic mode.

The electronic modes include emails, upload of documents on e-filing portal, mobile app, real-time alerts, etc.

### **Elimination of personal appearance by taxpayer**

In cases where a taxpayer seeks a personal hearing to present his or her case, the hearing will be facilitated through video conference or video telephony and there will be no scope for a physical appearance or interaction with the assessing officer.

### **Commencement of the Scheme**

The notifications shall come into force on the date of its publication in the Official Gazette.

<sup>7</sup> Unique Identification Authority of India

<sup>8</sup> Ministry of Corporate Affairs

<sup>9</sup> Or any person authorised by such authority

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## Our comments

The Scheme is a step in the right direction. As promised by the government, it seeks to bring transparency in carrying out income-tax assessments and eliminate personal interaction between the Tax Department and taxpayers.

It is desirable that the government consider carrying out an outreach programme to educate the taxpayers across the country on the framework of scrutiny assessment under the Scheme.

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