

Direct Tax Updates (May, 2021)

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1. Notices issued by bearing logo of NeAC to be deemed as issued by NaFAC: The CBDT in exercise of powers under section 119 of the Act, vide Circular F.No.187/3/2020 dated 8th April, 2021 has directed that all orders/notices/letters/instructions/any other communications issued by the 'National Faceless Assessment Centre' (NaFAC) on or after 1-4-2021 bearing the logo and name 'National e-Assessment Centre' (NeAC) shall be deemed to have been issued by 'National Faceless Assessment Centre' (NaFAC). In addition to above, it is also directed that in the notices, communications and orders etc. issued by the NaFAC, wherever the sections 143(3A) and/or 143(3B) are mentioned, the same shall be read as Section 144B of the Act. This order comes into effect from the 1st day of April, 2021.

2. Clarification regarding Vivad se Vishwas Scheme: Sections 10 and 11 of Vivad se Vishwas empower the Central Government/Central Board of Direct Taxes to issue directions or orders in public interest or to remove difficulties. In order to facilitate the taxpayers, clarifications under the said sections in form of answers to frequently asked questions (FAQs) were issued *vide* Circular No. 9/2020 dated 22nd April, 2020 (covering FAQ 1-55) and Circular No. 21/2020 dated 4th December, 2020 (covering FAQ Nos. 56-89). FAQ No. 70 of Circular No. 21/2020 clarified eligibility for search case under Vivad se Vishwas. Vide Circular No.4 dated 4/2021 dated 23.3.2021 it was clarified that if the assessment order has been framed in the case of a taxpayer under section 143(3)/144 of the Income-tax Act based on the search executed in some other taxpayer's case, it is to be considered as a 'search case' under Vivad se Vishwas. Several representations have been received seeking further clarity with regard to the classification of a case as a 'search case' for the purposes of Vivad se Vishwas. The matter has been examined. In order to remove any uncertainty in this regard, and in exercise of powers under sections 10 and 11 of Vivad se Vishwas, it is hereby clarified that a 'search case' means an assessment or reassessment made under sections 143(3)/144/147/153A/153C/158BC of the Income-tax Act in the case of a person referred to in section 153A or section 153C or section 158BC or section 158BD of the Income-tax Act on the basis of search initiated under section 132, or requisition made under section 132A of the Income-tax Act. The FAQ No. 70 of Circular No. 21/2020 stands modified to this extent.

3. Deferment of clauses 30C and 44 in Form 3CD of tax audit report: The CBDT vide Circular No.5/2021 dated 25.3.2021 have deferred the reporting requirements under clause 30C and clause 44 of the tax audit report in Form No.3CD in view of global pandemic due to Covid-19. It has been decided by the Board that the reporting under clause 30C and clause 44 of the Tax Audit Report shall be kept in abeyance till 31st March, 2022.

4. Instruction regarding resolving of one PAN allotted to two or more taxpayers: Through Instruction No.9 dated 25th March, 2021 the guidelines for resolving the issue of one PAN to 2 or more persons was issued. Instances of allotment of one PAN to two persons and in rare cases even to more than two persons have come to the notice of Directorate of Income-tax (Systems). In this regard the Directorate formulated a policy and the same was issued *vide* AIS Instruction No. 82 dated 21-6-2013 which stated that the person who has been (allotted) PAN earlier in time will be the actual owner of that PAN and the same will be retained by him and the person who has been inadvertently allotted the same PAN later in time, will have to obtain a new PAN by surrendering his wrongly allotted PAN.

However, application of the said instruction has resulted in some grievances. After considering the grievances raised and with the approval of Competent Authority the above instruction is partially modified as follows:-

Sl. No.	First PAN holder	Second PAN holder	Resolution
1.	Not filing ITR	filing ITR	First PAN holder will be allotted a new PAN as per existing procedure and second PAN holder will continue to retain the original PAN
2.	Not filing ITR	Not filing ITR	Existing procedure will be followed <i>i.e.</i> first allottee will retain the original PAN and second allottee will be given a new PAN
3.	Filed ITR for part years	Filed ITR for part years	To be resolved after gathering information with regard to the pending demands and refunds in respect to those returns filed, with the approval of ADG(System)-I
4.	Any other case not covered above		Resolution will be made after gathering information with regard to the pending demands and refunds in respect to the returns filed by the PAN holders, with the approval of ADG (System)-I.

Therefore, it is requested that the field officers and RCCs may be directed to deal with such type of cases relating to allotment of one PAN to two or more taxpayers as per this instruction after proper analysis of PAN details along with examination of audit log of PAN under consideration.

5. Format, Procedure and Guidelines for submission of Statement of Financial Transactions (SFT) for dividend declared: The CBDT vide Notification No.1 of 2021 dated 20th April,2021 issued the format, procedure and guidelines for submission of SFT for dividend income under section 285BA. For the purposes of pre-filling the return of income, CBDT has issued Notification No. 16/2021 dated 12.03.2021 to include reporting of information relating to dividend income. The new sub rule 5A of rule 114E specifies that the information shall be furnished in such form, at such frequency, and in such manner, as may be specified by the Director General of Income Tax (Systems), with the approval of the Board. Notification No. 3 of 2018 dated 5.04.2018 may be referred for the procedure for registration.

Reporting entities are required to prepare the data file in prescribed format from their internal system. An Excel based report preparation utility has also been provided to assist small reporting entities in preparing data file. The data files prepared by internal system/report preparation utility should be validated using Text File Validator /Submission Utility. After validation, the text file is required to be compressed, encrypted and signed using the Text File Submission Utility before uploading on the reporting portal (<https://report.insight.gov.in/>). Reporting entities, having large number of data files, can also submit the data files using SFTP Server (specific request may be made for SFTP upload). The statement of financial transactions shall be furnished on or before the 31st May, immediately following the financial year in which the transaction is registered or recorded. The statement of financial transaction shall be signed, verified and furnished by the specified Designated Director. Where the reporting person is a non-resident, the statement may be signed, verified and furnished by a person who holds a valid power of attorney from such Designated Director. The data files are required to be uploaded at the reporting portal through the login credentials (PAN and password) of the designated director.

The reporting entities are advised to provide information of dividend income, reported to the Income Tax Department, to the taxpayers which will enable them to reconcile the information displayed in the Annual Information Statement i.e. Form No.26AS. In case, the reporting person / entity comes to know or discovers any inaccuracy in the information provided in the statement or defects have been communicated to it, then it is required to remove the defects by submitting a correction / deletion statement. The reporting entity is required to document and implement appropriate information security policies and procedures with clearly defined roles and responsibilities to ensure security of submitted information and related information / documents. The reporting person / entity is also required to document and implement appropriate archival and retrieval policies and procedures with clearly defined roles and responsibilities to ensure that submitted information and related information / documents are available promptly to the competent authorities.

6. Extension of certain timelines in the light of the raging pandemic: The CBDT vide Press Release dated 24th April, 2021 have extended certain timelines which were earlier extended up to 30th April, 2021 through various notifications issued under the Taxation and Other Laws (Relaxation) and Amendment of Certain Provisions Act, 2020. Now the Central Government has decided to extend the time limit up to 30th June, 2021 in the following cases: (i) Time limit for passing of any order for assessment or reassessment under the Income-tax Act, 1961 the time limit for which is provided under section 153 or section 153B thereof; (ii) Time limit for passing an order consequent to direction of DRP under section 144C(13) of the Act; (iii) Time limit for issuance of notice under section 148 of the Act for reopening the assessment where income has escaped assessment; (iv) Time limit for sending intimation of processing of Equalization Levy under section 168(1) of the Finance Act, 2016; and (v) Time for payment of amount payable under the Direct Tax Vivad se Vishwas Act, 2020 without an additional amount.