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**FACELESS**



## INTRODUCTION TO FACELESS ASSESSMENTS

The main objective of introducing the Faceless Assessment was to impart greater efficiency, transparency and accountability by :

- (a) Eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible
- (b) Optimising utilisation of the resources through economies of scale and functional specialisation; and
- (c) Introducing a team-based assessment with dynamic jurisdiction

# PROLOGUE

The Prime Minister of India, Shri Narendra Modi, on August 13, 2020 launched platform for 'Transparent Taxation – Honoring the Honest' to carry forward the journey of direct tax reforms. The objective was simplifying India's tax system and increasing trust between taxpayers and the Income-tax Department. The following pathbreaking measures were incorporated to translate its objective into reality:

## a) Faceless assessment and appeal

The 'faceless' mechanism for Income-tax proceedings, including tax assessments, appeals and various other procedures under the Income- tax law were introduced. The objective behind the introduction of the faceless mechanism was to reduce the physical interface between the Department and taxpayers, enable optimal utilisation of resources, introduce team- based assessment (and thereby reduce arbitrary exercise of discretion by tax officers in concluding assessments and appeals). Technology is at the very heart of the faceless mechanism and the main intention of the Income- tax Department is to collate information from various sources and harness the Data with the use of various data analytics techniques. This is expected to ensure effective and efficient collection of tax revenues by the Income-tax Department and reduce revenue leakage.

## b) Taxpayers' Charter

The Taxpayers' Charter' introduced in the Income-tax Act, 1961 (the Act) makes a commitment whereby the Income-tax Department will ensure fair administration of taxation for taxpayers. Its introduction by amendment to section 119A of the Act, will have a legal binding. With the introduction of the Charter, the Govt. is committed to take measures to ensure that the citizens are free from harassment of any kind. The charter emphasised the need for trust between the tax payers and the Govt., which is only possible when the same is inducted in the statute. The Charter consists of 14 obligations that illustrate the level of services the taxpayers can expect from the Department. The Charter also includes 6 obligations from the tax payers, making it a two way responsibility.

In this deliberation we shall discuss the following:

- a) An Overview of Faceless Assessment and Appeal scheme and provisions.
- b) A look into the procedures introduced for faceless Assessment and Appeal.
- c) Basic idea on how the Assessee's can handle the faceless interface with the Department
- d) Key takeaways from the faceless initiative

The Government's faceless assessment scheme represents a new and unexplored territory for taxpayers, necessitating a swift adaptation to this paradigm shift. The anticipated changes, particularly in the nature of inquiries and data reconciliation, will compel taxpayers to reevaluate their policies and practices related to assessment preparation.

This deliberation also highlights key areas where additional guidance and amendments from the tax administration would be beneficial. As our experience with significant transformations in tax administration processes has shown, transitions of this magnitude require substantial adjustments from both taxpayers and the Income Tax Department. This journey will involve a phase of learning and experimentation for all stakeholders before the system achieves stability. Consequently, the need for continued guidance and refinements during this process of adaptation is to be expected.

# Brief History

Although the faceless regime have been introduces recently, The Govt. e-initiative in Income tax proceedings can be traced back to 2006. Here is brief journey of the e-initiatives of the Department.

**2006:** Launch of e-filing of returns

**2007:** Mandatory e-filing of returns for corporate Assesseees and Assesseees who are required to have their accounts audited under Section 44AB of the Act, and thereafter, for other taxpayers at different points in time

**2009:** Establishment of the Centralised Processing Centre Online (CPC) and viewing of Form 26AS

**2015:** Online verification of tax returns through Aadhaar and Electronic Verification Code

The e-Governance initiatives were introduced to ensure the accurate and secure filing of tax returns while facilitating their swift processing at the Centralized Processing Center (CPC). However, the Government of India (GoI) identified the need to enhance taxpayers' interactions with the Income-tax Department concerning assessment and appeal proceedings. This was aimed at simultaneously improving the department's audit quality and fostering nationwide consistency in its procedures and decision-making.

To address these goals, the Central Board of Direct Taxes (CBDT), the apex tax authority, initiated a paperless environment for tax assessment proceedings in **2015**. As part of a pilot project, it used email correspondence with select taxpayers in specific cities, allowing them to respond to notices and questionnaires electronically (via emails).

In **April 2017**, the CBDT expanded this initiative by introducing the e-Proceeding facility, enabling electronic communication between tax officers and taxpayers

through the Income-tax e-Filing portal. This facility allowed tax officers to upload notices and provided taxpayers with the option to respond directly on the portal. It eliminated the need for physical or email submissions of responses. Although comprehensive, the e-Proceeding facility was optional, allowing taxpayers to opt out.

By **August 2018**, the CBDT made the use of the e-Proceeding facility mandatory for all assessments conducted in the financial year 2018-19, with certain exceptions.

In her **2018** Budget Speech, the Hon'ble Finance Minister introduced the concept of faceless assessment (initially referred to as the e-Assessment scheme). The scheme aimed to enhance efficiency, transparency, and accountability in tax assessments. To achieve these objectives, the Finance Act, 2018, amended the Income-tax Act to empower the Govt. to establish a new electronic and faceless tax assessment framework.

The Finance Act, 2018 amended Section 143(3A) and inserted sub-section (3B) and (3C) to prescribe a new scheme. Subsequently, the e-Assessment scheme was formally notified on September 12, 2019, through SO 3264 [Notification No.61/2019 (F No.370149/154/2019-TPL)] and 3265 [Notification No.62/2019 (F No.370149/154/2019-TPL)], automating key assessment procedures outlined in the Act.



On 13 August 2020, the Hon'ble Prime Minister introduced a revamped scheme for tax assessments, with certain modifications to make it faceless. Accordingly, the Govt. renamed the e-Assessment scheme as the faceless assessment scheme and issued notification no 2745(E) [Notification No.60/2020 (F No.370149/154/2019-TPL)] and 2746(E) [Notification No.61/2020 (F No.370149/154/2019-TPL)] both dated 13th August 2020 with the details of the faceless scheme. With this scheme, the Govt. announced the introduction of 'Faceless Appeal' and the 'Taxpayers' Charter'.

### a) Faceless assessment

With the implementation of faceless assessment, all tax assessment cases, except those assigned to central and international tax jurisdictions, will now be allocated through an automated system powered by artificial intelligence (AI) and machine learning tools. The use of these advanced technologies indicates a comprehensive 360-degree profiling of taxpayers, aiming to conduct more targeted and meaningful assessments compared to earlier practices. The faceless assessment system incorporates a team-based approach, involving multiple layers of specialized units established by the CBDT.

### b) Faceless appeal

The Government of India has expanded the faceless regime to include CIT(A) proceedings. These appeal proceedings now operate under principles similar to faceless assessments, incorporating the concept of dynamic jurisdiction. This initiative aims to enhance the objectivity of appeal orders while promoting efficiency and transparency in the process

### c) Taxpayers' Charter

The Income-tax Department has always aimed to provide fair and transparent tax administration for taxpayers in the country. The Citizen's Charter, available on the department's website, outlines its mission, vision, expectations from taxpayers, and their rights. However, it lacked statutory backing and served merely as a good governance initiative. With the introduction of the Taxpayers' Charter through an amendment to the Income-tax law (i.e. section 119A), it now holds legal authority. This Charter aims to strengthen the relationship between taxpayers and the Income-tax Department in the new system. Its primary goal is to

Foster trust between the department and taxpayers while improving the efficiency of the department's service delivery.

With these reforms, the Gol aims to:

- Implement policy-driven governance by establishing clear and unambiguous policies, thereby eliminating grey areas and reducing the scope for perceived discretion in administrative process. Bridge the trust deficit between taxpayers and the Income-tax Department
- Reduce human interaction and replace it with technology-driven models to enhance the administrative systems of the Government of India.
- Integrate the elements of 'efficiency, integrity and sensitivity' in the governance system.
- Reduce tax litigation at various levels
- Improve India's ranking on the 'Ease of doing business' list of rankings.

The implementation of the faceless assessment scheme initially raised questions about whether the Government of India had the authority to establish such a scheme through a notification and whether this constituted excessive delegation of powers. To address these concerns, the faceless assessment scheme was formalized into the Income-tax Law (section 144B of the Act) through 'The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020,' which took effect on 1 April 2021.

The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 also expanded the scope of the faceless regime to various other proceedings under the Act, which are as follows:

Reference to the Transfer Pricing Officer [Section 92CA(8)]	Faceless collection and recovery of tax [Section 231]
Faceless jurisdiction of Income-tax authorities [Section 130]	Filing of Departmental Appeal to Income-tax Appellate Tribunal [Section 253(8)]
Faceless collection of information [Section 135A]	Faceless revision of orders [Section 264A]
Faceless inquiry or valuation [Section 142B]	Faceless order-giving effect [Section 264B]
Reference to Dispute Resolution panel [Section 144C(14B)]	Prosecution and compounding of offences [Section 279(4)]
Faceless reassessment [Section 151A]	Faceless approval or registration [Section 293D]
Faceless rectification [Section 157A]	

With the incorporation of these proceedings in the Act, the legislature has made provisions to also make other proceedings faceless. The Govt. is expected to notify the faceless scheme with respect to such proceedings shortly.

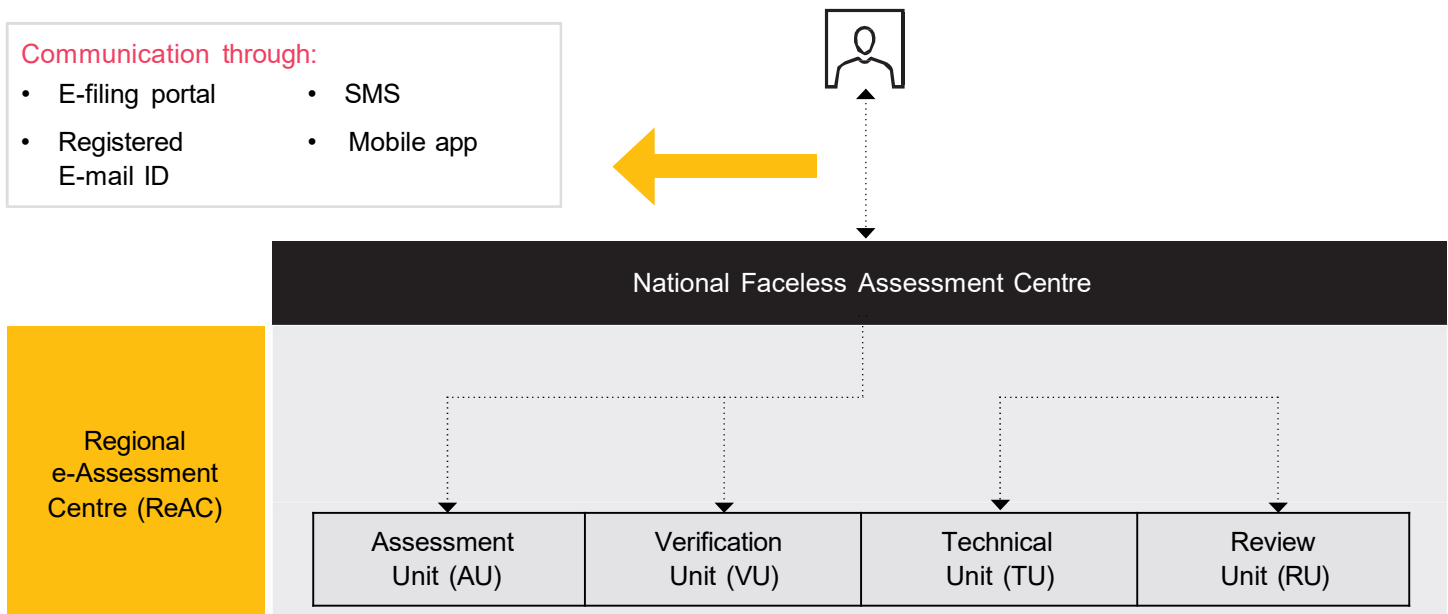


# Structure

## Procedure for Faceless Assessment

### Communication through:

- E-filing portal
- Registered E-mail ID
- SMS
- Mobile app



Before examining the structure of faceless assessment, it is important to understand the workings of the existing assessment procedure and the rationale behind the Government of India's decision to introduce a new regime.

Under the previous system, a taxpayer's case was selected for assessment either through the system, manually, or based on specific information available with the Income-tax Department. The assessment process was carried out by the jurisdictional tax officer. However, this approach had certain inherent limitations, including:

- 1) The issuance of notices, both through the system and manually (prior to the introduction of the Document Identification Number), made record-keeping challenging and frequently resulted in disputes between taxpayers and the Income-tax Department.
- 2) The process often required multiple in-person meetings between taxpayers and Income-tax Department officials, typically involving long waiting times before taxpayers could interact with a tax officer.

- 3) The discretionary powers granted to tax officers often resulted in subjective approaches and inconsistent interpretations, both within the same location and across different jurisdictions, on similar issues.

- 4) A large machinery of the Income-tax Department was involved in the tax assessment process.

To address these limitations, it became imperative to revamp the assessment process to ensure transparency, efficiency, accountability, and the effective use of technology. The faceless assessment framework has been structured to tackle these challenges.

The Government established a parallel jurisdiction for assessment proceedings by granting the National Faceless Assessment Centre (NFAC) the authority to conduct assessments.

Consequently, all ongoing assessment proceedings previously handled by jurisdictional tax officers have been reassigned to the NFAC.

A taxpayer's case is expected to be selected for assessment using advanced technology tools, including AI and machine learning. The structure and key facets of the faceless assessment process are outlined below::

- **NFAC at the apex**

At the top of the structure is the National Faceless Assessment Centre (NFAC), which is responsible for managing faceless assessment proceedings in a centralized manner.

- **Issuance of notices**

The NFAC will issue notices to taxpayers under the Income-tax Law, specifying the issues that triggered the selection of their cases for assessment [Section 143(2)]. These notices will be sent via the e-filing portal, registered email IDs, or the Income-tax Department's mobile app, followed by real-time alerts.

Taxpayers are required to respond to these notices within 15 days of receipt. Although there is currently no provision for extending the time limit for the first notice, it is anticipated that the law will incorporate provisions for extension in specific cases. For subsequent notices, taxpayers must respond within the specified timeframe or within an extended time limit if an adjournment is requested

- **Case allocation**

The NFAC will assign cases to an Assessment Unit (AU) within a Regional Faceless Assessment Centre (RFAC) through an automated allocation system, minimizing human intervention. If the AU requests assistance from the Technical Unit (TU) or the Verification Unit (VU), the NFAC will assign the request to the appropriate unit using the same automated allocation system

- **Personal hearing**

The faceless assessment mechanism allows for personal hearings only after the issuance of a draft assessment order. Such requests are subject to the discretion of the Chief Commissioner or Director General overseeing the RFAC. Furthermore, all personal hearings will be conducted exclusively through video conferencing or video telephony

Concerns have been raised about whether a taxpayer can be denied a personal hearing when such a request is made to the Chief Commissioner or Director General of Income-tax. Additionally, if such a request is denied, questions arise as to whether this could be deemed arbitrary and contrary to the principles of natural justice if challenged by the taxpayer..

- **Completion of assessment order**

Upon serving an assessment order or draft assessment order to the taxpayer, along with the demand or refund notice and any notice for initiating penalty proceedings (if applicable), the NFAC concludes the assessment process. Subsequently, the NFAC transfers the records to the jurisdictional tax officer overseeing the taxpayer.

- **Functions**

The functions of the NFAC and the various units to implement the scheme of faceless assessment are broadly described below:

- **NFAC**

The National Faceless Assessment Centre (NFAC) serves as the central gateway for all communication between taxpayers and field officers, ensuring anonymity between the Income-tax authorities and taxpayers. Based in Delhi, the NFAC is headed by a Principal Chief Commissioner of Income-tax. However, at any point during the assessment, the NFAC may, with the approval of the CBDT, transfer a case to the jurisdictional tax officer responsible for that case.

- **RFAC**

The Regional Faceless Assessment Centre (RFAC) is tasked with facilitating faceless assessment proceedings. Each RFAC comprises Assessment Units (AUs), Verification Units (VUs), and Review Units (RUs), supported by Technical Units. An RFAC is headed by a Chief Commissioner of Income-tax, who oversees its operations.

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### Assessment Unit (AU)

The AU will be responsible for conducting the assessment proceedings. Broadly, its functions will include:

- Identifying points and issues that are material for determination of a tax liability or refund
- Seeking information or clarification on issues identified for a taxpayer
- Seeking assistance from the VU and the TU
- Analysing the material or submissions furnished by the taxpayer or any other person
- Preparing the draft assessment order and determining whether penalty proceedings should be initiated
- Preparing a final draft assessment order based on receipt of comments from the RU.

### Verification Unit (VU)

Handles requests for examining evidence, conducting inquiries, and verifying facts or documents submitted by taxpayers.

### Technical Unit (TU)

Provides expert advice on technical issues, including complex tax matters, legal interpretations, and industry-specific concerns.

### Review Unit (RU)

The RU will perform the following functions:

- Check whether the relevant and material evidence has been put on record
- Check whether the relevant points of fact and law have been incorporated in the draft order
- Check whether applicable judicial decisions have been considered and dealt with in the draft order
- Verify the arithmetical accuracy of modifications proposed
- Review the draft assessment order and decide on whether it will concur with it or make modifications to it, and accordingly, communicate this to the NFAC.



**The AU, TU, VU and RU will be taken care of by officers of the following ranks:**

1. Additional Commissioner, Additional Director, Joint Commissioner or Joint Director
2. Deputy Commissioner, Deputy Director, Assistant Commissioner, Assistant Director or Income-tax Officer
3. Other Income-tax authority, ministerial staff, executive or consultant, as required by the CBDT.

**On perusal of the structure of faceless assessment and the functioning of different units and centres, the key pointers that emerge are as follows:**

- A tax officer has no discretion in selecting cases, as the process is entirely automated.
- The taxpayer's case is randomly assigned to Assessment Units (AUs). As a result, the assessment of a taxpayer in one city could be handled by a tax officer located in a different city, and a tax officer from yet another city may be responsible for reviewing it. This system eliminates the possibility of individual tax officer discretion and encourages a collaborative, team-based approach to assessments.
- Taxpayers must authenticate their submissions, which, in the case of corporate entities, can be done by an authorized person designated to sign the tax return. Each submission under the faceless regime must be authorized either through a digital signature certificate or an electronic verification code.
- All notices issued under the faceless assessment scheme will be sent electronically with a valid Document Identification Number (DIN). Any notice lacking a DIN will be deemed invalid.

- The scheme will save time for taxpayers and their representatives by eliminating the need for multiple visits to a tax office. However, the opportunity to personally explain one's case and address any queries raised by a tax officer will no longer be available. In a case where an opportunity was not availed for in person explanation, there have been instances of high pitched assessments arbitrarily.
- the functions of the Verification Unit (VU), it is still undecided how the unit will cross-examine individuals, books of accounts, or other documents without the possibility of a personal hearing.
- At any stage of the assessment, the National Faceless Assessment Centre (NFAC) has the authority to transfer the assessment to a tax officer with jurisdiction over the case. However, the said transfer can only be done with prior approval of the Board [Section 144B(8)]

With the introduction of faceless assessments, India has become a pioneer in integrating technology and AI into tax administration, aiming to improve accountability, transparency, and efficiency within the system.



# FACELESS APPEALS

## Structure & Procedure

### Background

The Finance Act, 2020 amended the Income-tax law [Section 250(6B)] and empowered the Govt. to prescribe Faceless Appeal scheme. The Faceless Appeal Scheme 2020 [Notification No. 76/2020/F. No. 370142/33/2020-TPL]; [Notification No. 77/2020/F. No. 370142/33/2020-TPL] was notified on 25 September 2020. The objective of the Govt. in introducing the said scheme is akin to its reason for initiating faceless assessment.

According to a press release dated 25 September 2020, the Faceless Appeal Scheme will not be applicable for Income-tax proceedings in relation to serious fraud, major tax evasion, and matters pertaining to searches, international tax, the Black Money Act and other sensitive issues.

The CBDT will set up the National Faceless Appeals Centre (NFAPC), Regional Faceless Appeal Centres (RFAPCs) and Appeal Units to conduct faceless appeal proceedings in accordance with the provisions of the scheme.

### Structure of faceless appeals

In essence, the procedure of faceless appeal will be conducted online under a dynamic jurisdiction. The entire process of an appeal, from the communication of notice, questionnaire, verification, enquiry and finally communication of the appellate order will be online, will dispense with the need for any physical interface between taxpayers and their authorised representatives and the Income-tax authorities. The scheme also prescribes the electronic process for filing of additional grounds, admission of additional evidence, penalty proceedings for non-compliance of notices and rectification proceedings.

### **Against this backdrop, we present below the structure of faceless appeals with its various facets:**

(A) At the top of the pyramid is the NFAPC, which will be responsible for the overall conduct of the appeal proceedings in a centralised manner. All communication between the appeal unit and the taxpayer or any other person, or the NFAC or the

Assessing Officer with respect to the information, documents, evidence or any other details, as may be required, will be through the NFAPC, exclusively through the electronic mode. The NFAPC will send notices to taxpayers on their e-filing portals, registered email IDs and the Income-tax department's mobile app. This will be followed by a real-time alert.

(B) Under the NFAPC, there will be the RFAPC, which will be responsible for facilitating appeal-related proceedings and disposal of appeals. Every RFAPC will have multiple Appeal Units and each Appeal Unit will have one or more CITs (A) and other Income-tax authority or staff, as required by the CBDT.

### Procedure of faceless appeal

The functions and procedures of taxpayers and the NFAPC will remain largely the same during and after appellate proceedings, as they do in the current 'physical hearing' environment. Furthermore, with regard to the internal functioning and procedures of the NFAPC and its various units, these will be similar to faceless assessment proceedings.

The scheme with requires that any additional grounds for appeal filed by an appellant is to be forwarded to the AO or the NFAC for their comments before such grounds are admitted. It is important to emphasise here that Income-tax Law empowers absolute discretion to the CIT (A) for admission of any additional ground, on being satisfied that the omission is not wilful or unreasonable. Hence, it seems that the provisions of the scheme may need to be reconsidered by the GoI in order to avoid increased litigation.

A notable feature in the Faceless Appeal Scheme is its proposal for review of orders. Under the scheme, a draft appeal order will be mandatorily reviewed by an Appeal Unit other than the Appeal Unit that has issued the draft appeal order, if the aggregate amount payable in respect of issues disputed in appeal exceeds the threshold to be prescribed by the CBDT. With respect to other orders, these will be subject to review, based on the risk management strategy specified by the CBDT.

The NFAPC will have to send a draft order to another Appeal Unit for preparing a revised draft appeal order, if it has sent the draft order to a review appeal unit and which has provided its comments on the order. In this process, it seems that the original appeal unit may not have an opportunity to give its comments, which may not fit into the basic tenets of judicial principles. Therefore, it is suggested that an appeal exceeding the threshold limits should be heard by larger appeal units, which meet the requirements of the judicial process, and are efficient as well as beneficial to taxpayers who can present their cases to all the concerned units.

As far as a personal hearing is concerned, taxpayers or their authorised representatives will have to make a request for such hearings. The Chief Commissioner or the Director General of the RFAPC may approve their request.



# KEY POINTERS

- ✓ The Government of India has taken a significant step toward addressing long-standing issues in the country's tax administration by implementing advanced technology, team-based assessments, and optimized internal resource usage. While there may be initial challenges, the long-term outlook suggests a robust assessment system that resolves issues like missing historical records, long waiting times at tax offices, and disputes arising from administrative delays.
- ✓ To ensure the success of the faceless assessment regime, a reliable and streamlined IT infrastructure is essential, requiring investment from both the Income Tax Department and taxpayers.
- ✓ The scheme also outlines that cases will be chosen for assessment using specific risk management parameters. However, the exact nature of these parameters and how cases will be selected are yet to be clarified through official notifications. It is anticipated that rather than broad questionnaires, targeted questions based on these parameters will be used.
- ✓ A core goal of the faceless regime is to minimize physical interaction. Consequently, taxpayers may lose the opportunity to personally explain business complexities or the rationale behind their tax positions, which is currently possible in the existing system. A limited provision for video conferencing will be available, but only after detailed written submissions have been filed. In these circumstances, it is very important for taxpayers to ensure that appropriate documents with factual matrix are available and filed, and their written submissions (including submissions on legal aspects) are comprehensive, but brief and to the point.
- ✓ The faceless appeal regime should bring in increased efficiency to achieve speedy disposal before the CIT (A). This would not only enhance certainty, but will also help in ease of doing business in India.
- ✓ The security and confidentiality of taxpayers' data has never been compromised, and it is critical that this standard is maintained in the future under the new system, under which huge documents will be filed and the entire process will run online.



# ENHANCING EFFICIENCY IN FACELESS ASSESSMENT AND APPEAL SCHEMES

## SOME RECOMMENDATIONS

While the introduction of the scheme is overall a positive step in the right direction, it would help substantially if the tax administration considered the following:

### A. Faceless assessment

#### IT infrastructure

- ❑ Given the pivotal role of technology in the faceless assessment framework, it is essential to have a robust IT infrastructure in place. Currently, the Income Tax e-Filing portal permits a maximum of ten attachments at a time, with each attachment limited to 5 MB. For certain taxpayers, supporting documents for specific transactions can span hundreds of pages, making the current system inadequate to handle such requirements.
- ❑ Furthermore, while the security and confidentiality of taxpayer data have always been maintained, safeguarding this trust in the future is crucial. As new systems evolve and all documents are submitted and stored online, ensuring data protection will be vital to maintaining taxpayer confidence.

#### Personal hearing

- ❑ Restricting taxpayers to request a virtual hearing only after an internal draft assessment order is issued may result in unnecessary delays, particularly in cases involving complex issues that require detailed explanations early in the process. Therefore, provisions should be made to accommodate taxpayers' requests for virtual hearings at any stage, not just post-issuance of an internal draft assessment order.
- ❑ Additionally, there is uncertainty about how the Verification Unit (VU) will conduct cross-examinations in the absence of in-person hearings.

Moreover, the CBDT has yet to issue standardized procedures for conducting personal hearings via video conferencing or video telephony. Implementing this effectively will also necessitate substantial improvements in infrastructure, connectivity, and its accessibility).

#### Scope of review

- ❑ Since the Income-tax Department does not have the right to appeal against an order passed by the Tax Officer, Section 263 of the Act was introduced to empower Income-tax Commissioners to revise orders of Tax Officers that are erroneous and prejudicial to the Department's interests. However, given the team-based assessment approach under the new faceless assessment scheme, the invocation of Section 263 of the Act is expected to decrease significantly, as outcomes will now be determined collectively at the assessment level by the respective units.

#### Other points

- ❑ Requiring a managing director or director to digitally sign every submission can be burdensome. Specific guidance on this matter should be issued to simplify the process.
- ❑ Clear criteria must be established for circumstances under which assessment proceedings may be transferred to jurisdictional Income-tax Officers.
- ❑ General Standard Operating Procedures (SOPs) are needed to address procedural aspects, including instances where personal hearings will be allowed and when enquiries or verifications can be conducted outside the electronic mode. Prompt clarification from the CBDT on these procedural aspects will facilitate a smoother transition to the new system.



## B. Faceless appeals

- ❑ In the present context, various jurisdictional courts and tribunals establish positions on issues that serve as binding precedents within the jurisdiction where these courts and tribunals operate. For faceless appeals, it is anticipated that the NFAC will adhere to the rulings issued by the appellate tribunals or high courts relevant to the taxpayer's jurisdiction.
- ❑ The expectation is that the faceless appeal authorities will pass a speaking order or provide the opportunity of a hearing to the taxpayer in respect of the following matters:
  - Where an appeal is rejected due to a delay in filing
  - Where an appeal is rejected due to non-payment of taxes
  - Where an additional ground is rejected
  - Where additional evidence is rejected
  - There is a rebuttal or cross-examination of any report, evidence or witness produced by the NFAC or AO.
- ❑ Under the traditional appeal system, it was permissible to submit extensive paper books and written submissions. However, under the new framework, it will be essential for both the Government of India and taxpayers to establish robust IT infrastructure to ensure smooth uploading of large volumes of documents and submissions, without any technical issues.

# TAXPAYER'S READINESS FOR THE NEW SYSTEM

**As Winston Churchill once said, "He who fails to plan is planning to fail." This quote perfectly encapsulates the importance of taxpayers being prepared to navigate the challenges of the faceless ecosystem. The Income-tax Department is increasingly embracing technology, including AI and machine learning, while leveraging data analytics through Project Insight<sup>1</sup> to focus on the following objectives :**

- (i) Promotion of voluntary compliance by taxpayers and deterrence of non-compliance
- (ii) Promotion of a fair and judicious tax administration.

Over a period of time, the use of technology tools has improved the Income-tax Department's ability to process and analyse humongous amounts of data. It therefore seems that the Gol has an edge over taxpayers in terms of incorporation of technology in administration processes.

**In this context, the following are the specific aspects pertaining to taxpayers' preparedness under the faceless interface regime:**

## **A. Maintaining documentation in advance of assessment**

Under the current system, assessments and appeal hearings involve direct face-to-face interactions, allowing taxpayers ample opportunities to present their cases and substantiate their positions verbally. However, in the faceless regime, personal hearings will generally not be allowed, except through video conferencing or video telephony, and only at the discretion of the Income-tax Department under specific prescribed circumstances. In short, taxpayers will have a very limited opportunity to request a personal hearing.

In the faceless regime, the Income-tax Department will set clear timelines for taxpayers to submit their details and submissions, and the window for seeking adjournments will be narrow. As a result, it is crucial for taxpayers to be fully prepared for assessments and have a clear understanding of their facts to support the legal positions they take.

### **Here are some best practices for taxpayers to consider**

- Regularly monitor the Income-tax portal for updates and notices to ensure no deadlines are missed and responses are submitted on time
- It is essential to maintain thorough documentation to support the positions taken in Income-tax returns, as well as to substantiate claims of expenditures and disallowances made in previous years by the Income-tax Department.
- Data provided during the assessment process must be consistent with that submitted to other statutory or non-statutory authorities.
- Written submissions should be concise yet comprehensive, covering both the factual details and legal arguments.
- During personal hearings, taxpayers or their authorized representatives must ensure that their representations are clear, succinct, and consistent with the written submissions made earlier.
- Accounting entries should be self-explanatory, enabling taxpayers to provide accurate explanations when required by the Income-tax Department.
- In the faceless regime, responses to pre-assessment queries should be prompt, as any delay could lead to a more detailed assessment.

<sup>1</sup> Project insight is an initiative by the Income-tax Department focusing on the use of data analytics to garner additional information of the taxpayer so as to ascertain their income patterns and purchasing patterns in order to determine his overall tax liability.

## B. Technology-driven processes

Taxpayers will need to embrace technology more than ever to manage, reconcile, and present data effectively. This will necessitate investments in IT infrastructure, including the adoption or upgrading of ERP systems, as well as the implementation of video conferencing and video telephony.

## C. Specific action points

- Taxpayers should regularly update their email IDs and contact numbers on the Income Tax e-Filing portal, along with validating their bank account details. They must stay vigilant about communications from the Income-tax Department (via the e-Filing portal, email, and SMS) and ensure timely responses within the prescribed deadlines.
- Taxpayers will be required to adhere to specific timelines and keep their assessment-related information and necessary supporting documents prepared in advance, leveraging technology wherever possible.
- Traditional practices of leaving certain questions in a notice unanswered and providing verbal explanations to tax officers will no longer be available. Therefore, taxpayers must respond to each query in the notice and support their submissions with the appropriate documentation and evidence.
- Previously, taxpayers were typically expected to provide sample evidence, such as invoices supporting expenses. However, with the increasing use of technology-driven tools, the Income-tax Department may request 100% backup data or documents. As a result, taxpayers must ensure they can provide such data and documents, necessitating the maintenance of comprehensive documentation for every transaction.
- It will be crucial to reconcile various data points, submissions, and filings at every stage, ensuring that any discrepancies can be explained. Additionally, taxpayers must align the information submitted to the Income-tax Department with that shared with other authorities, including GST, SEBI, and RBI filings.
- Taxpayers will need to maintain ratio analysis for large expense categories and compare them with previous year's figures. This will assist in providing explanations for questions raised by the Income-tax Department regarding the business impact of any variations in these expense heads.

- Over time, the filing requirements for taxpayers have become more detailed, demanding comprehensive and precise information in return-filing forms. Taxpayers must ensure they maintain robust records and backups to support these disclosures. This includes detailed calculations for forex conversion, bond stripping, cost allocation, stock valuation, and other related data. Additionally, the Government of India has introduced an updated Form 26AS / AIS, which now incorporates a wider range of details, such as cash deposits, high-value transactions, and GST-related information, further emphasizing the need for meticulous documentation and preparation

- The Government of India (GoI) has implemented several measures to enhance compliance and transparency, including:

- Establishing a reporting portal for filing statements of specified financial transactions
- Expanding the scope of TDS and TCS provisions
- Restricting cash transactions through various legislative amendments to Income-tax laws
- Broadening the network of information exchange agreements with other countries and facilitating better coordination among its department

The Income-tax Department has significantly enhanced its data collection capabilities through digital transformation and integration of taxpayer information using PAN, Aadhaar, and the Annual Information Return. This seamless assimilation covers bank accounts, income, expenses, and investments. By leveraging these data streams, the Department uses automated triggers to identify transactions that appear disproportionate to a taxpayer's reported income or scale of operations. These advancements aim to expand the compliance base, pinpoint defaulters, and make inquiries more precise and targeted. To address such inquiries effectively, taxpayers must ensure they maintain comprehensive documentation and provide clear explanations for their business transactions.

The faceless regime requires taxpayers to adapt significantly, with the process expected to evolve continuously as the new system develops



# Thank You



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THANK YOU