

Newsflash:

Overview of Faceless Assessment Scheme and Taxpayer's Charter

17 August 2020



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1.0 Background

In furtherance to the E-assessment Assessment Scheme 2019 introduced last year, the Prime Minister of India introduced the platform of “Transparent Taxation - Honouring the Honest” which presented major reforms like Faceless Appeal and Taxpayers Charter alongwith a revised version of Faceless Assessment Scheme. In lines with the said announcement, the CBDT had released **Notification No. 62/2019/F.No. 370149/154/2019-TPL** dt. 13 August 2020. The said scheme goes on to provide the taxpayers with a Seamless, Painless and Faceless forms of assessments and appeals procedure, whereas the Taxpayers charter discusses about the duties of every taxpayer. This Newsflash provides an overview of the revised Faceless Assessment Scheme and the Taxpayers charter.

2.0 Faceless Assessment/ Appeal Scheme

2.1 Eligibility of the Scheme

The following assessments and appeals would be subject to all the income tax cases including Transfer pricing, etc. except those cases which includes serious frauds, major tax evasions, sensitive and search matters u/s 153A as well as cases which deal with International taxation, Black Money Act and Benami property.

Also, in the following cases, the National e-Assessment Centre (‘NeAC’) shall intimate the assessee that assessment in his case shall be completed under the said Scheme

- a) The assessee has furnished his return of income under section 139 or in response to a notice issued u/s 142(1) or u/s 148(1) and a notice u/s 143(2) has been issued by the Assessing Officer (‘AO’) or the prescribed income-tax authority, as the case may be or
- b) The assessee has not furnished his return of income in response to a notice issued u/s 142(1) by the AO or
- c) The assessee has not furnished his return of income u/s 148(1) and a notice u/s 142(1) has been issued by the AO.

It is pertinent to note the fact that faceless assessment scheme is to be made applicable from 13 August 2020 and faceless appeals is to be made effective from 25 September 2020.

2.2 Features of the Scheme

Some of the salient features of the said scheme are as follows:

- The selection of the assessment unit/ jurisdiction would be made only through system using data analytics and AI

- More focus on Dynamic Jurisdiction and abolition of territorial jurisdiction
- The allocation of cases would be automated and random.
- There would be central issuance of notices with Document Identification No. (DIN)
- No physical interface would exist and there would be no need to visit income tax office
- There would be Team-based assessments and Team based review
- Draft assessment order in one city, review in another city and finalisation in third city
- The objective of the scheme is to provide fair and just order to the assessee.
- Only 2/3rd of the manpower would be utilised for faceless and balance for other functions

2.3 Types of Units to be set up under the Scheme

The CBDT shall set up the following units in order to facilitate smooth functioning of the Scheme:

i. National e-assessment Centre ('NeAC')

NeAC would facilitate the conduct of e-assessment proceedings in a centralised manner, which shall be vested with the jurisdiction to make assessment in accordance with the provisions of this Scheme.

ii. Regional e-assessment Centres

Such Centres would facilitate the conduct of e-assessment proceedings in the cadre controlling region of a Principal Chief Commissioner, which shall be vested with the jurisdiction to make assessment in accordance with the provisions of this Scheme.

iii. Assessment units

Assessment units would perform the function of making assessment, which includes identification of points or issues material for the determination of any liability (including refund) under the Income Tax Act, 1961 ('The Act') seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making assessment.

iv. Verification units

Verification units would perform the function of verification, which includes 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 would perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter which may be required in a particular case or a class of cases, under this Scheme; and

vi. Review units

Review units would perform the function of review of the draft assessment order, which includes checking whether the relevant and 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, and such other functions as may be required for the purposes of review.

2.4 Procedure for the Assessment

- 2.4.1 The National e-Assessment Centre ('NeAC') shall serve a notice on the assessee under section 143(2), specifying the issues for selection of his case for assessment.
- 2.4.2 In response to such notice issued, the assessee may, within fifteen days from the date of receipt of such notice, file his response.
- 2.4.3 Further, the NeAC shall assign the case selected for the purposes of e-assessment under the said Scheme to a specific assessment unit in any one Regional e-assessment Centre through an automated allocation system.
- 2.4.4 The assessment unit to which such case is allotted, may make a request to the NeAC for
- obtaining such further information, documents or evidence from the assessee or any other person, as it may specify
 - conducting of certain enquiry or verification by verification unit and
 - seeking technical assistance from the technical unit
- 2.4.5 The NeAC shall issue appropriate notice or requisition to the assessee or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit. The assessee shall file his response to such notice, within the time specified therein or such time as may be extended on the basis of an application in this regard, to the NeAC.
- 2.4.6 The assessment unit has the authority to request for conducting of certain enquiry or verification by the verification unit and/or request in order to technical assistance from the technical unit. Such request shall be assigned by the NeAC to a respective verification unit/technical unit in any one Regional e-assessment Centres through an automated allocation system. The report of the verification unit/technical unit would be forwarded by the NeAC to the concerned assessment unit.
- 2.4.7 In case where the assessee fails to comply with the notice of NeAC requesting for obtaining further information, documents or evidence from the assessee or notice issued u/s 142(1) or with a direction issued u/s 142(2A), the NeAC shall serve upon such assessee a notice under section 144 giving him an opportunity to show-cause, on a date and time to be specified in

the notice, why the assessment in his case should not be completed to the best of its judgment and the assessee shall, within the time specified in the notice or such time as may be extended on the basis of an application in this regard, file his response to NeAC and in case of failure of the assessee to do so, the NeAC shall intimate such fact to the assessment unit.

- 2.4.8 The assessment unit shall, after taking into account all the relevant material available on the record make in writing, a draft assessment order or, in a case where intimation referred to in Point 2.2.7 is received from the National e-Assessment Centre, make in writing, a draft assessment order to the best of its judgment, either accepting the income, or sum payable by, or sum refundable to, the assessee as per his return or modifying the said income or sum, and send a copy of such order to the NeAC. The details of the penalty proceedings to be initiated therein, if any should also be made a part of the draft assessment order.
- 2.4.9 The NeAC shall examine the draft assessment order in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to, —
- a) finalise the assessment as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; or
 - b) provide an opportunity to the assessee, in case a modification is proposed, by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the draft assessment order; or
 - c) assign the draft assessment order to a review unit in any one Regional e-assessment Centre, through an automated allocation system, for conducting review of such order;
- 2.4.10 The review unit shall conduct review of the draft assessment order, referred to it by the National e-assessment Centre whereupon it may decide to,
- a) concur with the draft assessment order and intimate the National e-assessment Centre about such concurrence; or
 - b) suggest such modification, as it may deem fit, to the draft assessment order and send its suggestions to the National e-assessment Centre;
- 2.4.11 The NeAC shall receive either concurrence or suggestions for modifications from the review unit. On receipt of concurrence, the NeAC shall go on to follow the procedure as mentioned in Point 2.2.9 (a) or (b) ('the specified laid down procedure'), as suitable. Also, upon receipt of suggestions for modifications, the NeAC shall assign the case to an assessment unit, other than the assessment unit which has made the draft assessment order, through an automated allocation system and such assessment unit send the final draft assessment order to the NeAC which would be dealt by NeAC in the specified laid down procedure.
- 2.4.12 The assessee may, in a case where show-cause notice has been served upon him, furnish his response to the NeAC on or before the date and time specified in the notice or within the

extended time, if any. The NeAC shall send the response received from the assessee to the assessment unit and in case of failure of the assessee to furnish such response, the NeAC would finalise the assessment based on the draft assessment order.

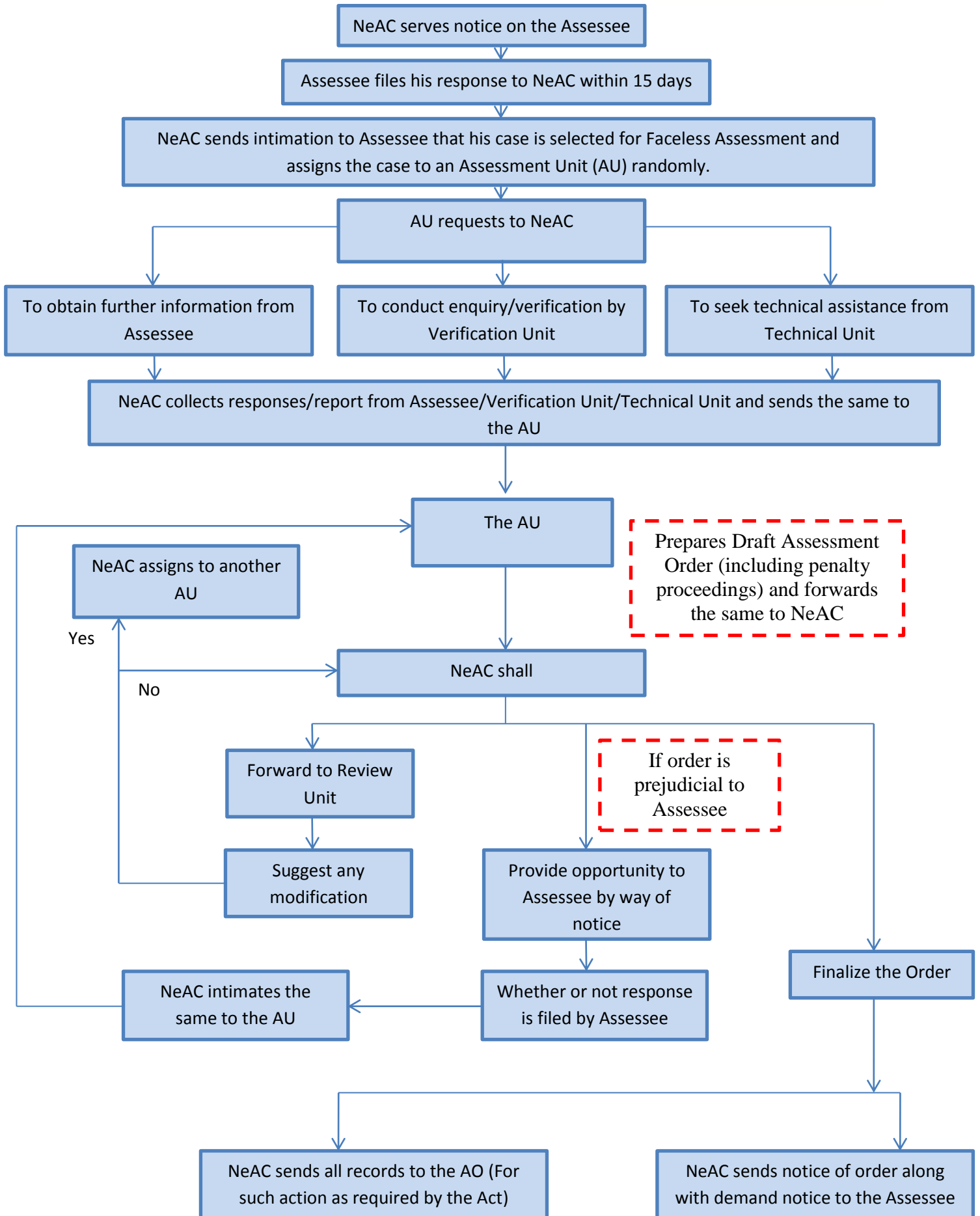
2.4.13 The assessment unit shall, after taking into account the response furnished by the assessee, make a revised draft assessment order and send it to the NeAC.

2.4.14 The National e-assessment Centre shall, upon receiving the revised draft assessment order, shall deal with the same in the following manner:

- a) in case no modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, finalise the assessment; or
- b) in case a modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, provide an opportunity to the assessee, by serving a notice;
- c) the response furnished by the assessee shall be dealt with as per the procedure laid down as mentioned above.

2.4.15 The NeAC shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.

A diagrammatic representation of the above process is provided as below:



2.5 Powers of the Revenue Authorities

2.5.1 In line with the Faceless Assessment Scheme 2019, CBDT **vide Notification No. F No. 187/3/2020-ITA-I** has directed that, henceforth, all the assessment orders shall be passed by National e-Assessment Centre except for the following:

- Assessment Orders in cases assigned to Central charges
- Assessment Orders in cases assigned to International Tax charges

Any order in violation of the above would be treated as Non-est.

2.5.2 In furtherance to the Faceless Assessment Scheme 2019, the CBDT has directed that TDS Commissionerates and Investigation wing Directorates would exclusively act as 'income-tax authority' for the purpose of surveys u/s. 133A of the Income Tax Act, 1961. Thus, the competent authority for approval of such survey u/s 133A shall be DGIT (Inv.) for Investigation wing and Pr. CCIT/CCIT (TDS) for TDS charges.

2.5.3 Also, the Principal Chief Commissioner or the Principal Director General, in charge of the NeAC shall, with the prior approval of the Board, lay down the standards, procedures and processes for effective functioning of the NeAC, Regional e-assessment Centres and the unit set-up under the said Scheme, in an automated and mechanised environment, including format, mode, procedure and processes in respect of the following:

- service of the notice, order or any other communication;
- receipt of any information or documents from the person in response to the notice, order or any other communication;
- issue of acknowledgment of the response furnished by the person;
- provision of "e-proceeding" facility including login account facility, tracking status of assessment, display of relevant details, and facility of download;
- accessing, verification and authentication of information and response including documents submitted during the assessment proceedings;
- receipt, storage and retrieval of information or documents in a centralised manner;
- circumstances in which certain provisions of shall not apply;
- circumstances in which personal hearing shall be approved;
- general administration and grievance redressal mechanism in the respective Centres and units.

3.0 Taxpayer's Charter

The Taxpayer's Charter provides for the rights of the tax authorities and duties of the taxpayers. Although such rights and duties were generally known, exclusive provision of the same in the Taxpayer's Charter enables them to be recognized specifically by the law. Thus, the Taxpayers can approach the Taxpayers' Charter Cell under Principal Chief Commissioner of Income tax in each Zone for compliance to this charter.

The Charter states the obligations of the tax authorities as follows:

Sr. No.	Department's Obligations	Particulars
1	Provide fair, courteous, and reasonable treatment	The Department shall provide prompt, courteous, and professional assistance in all dealings with the taxpayer.
2	Treat taxpayer as honest	The Department shall treat every taxpayer as honest unless there is a reason to believe otherwise
3	Provide mechanism for appeal and review	The Department shall provide fair and impartial appeal and review mechanism.
4	Provide complete and accurate information	The Department shall provide accurate information for fulfilling compliance obligations under the law.
5	Provide timely decisions	The Department shall take decision in every income tax proceeding within the time prescribed under law.
6	Collect the correct amount of Tax	The Department shall collect only the amount due as per the law.
7	Respect privacy of taxpayer	The Department will follow due process of law and be no more intrusive than necessary in any inquiry, examination, or enforcement action.
8	Maintain confidentiality	The Department shall not disclose any information provided by taxpayer to the department unless authorized by law.
9	Hold its authorities accountable	The Department shall hold its authorities accountable for their actions
10	Enable representative of choice	The Department shall allow every taxpayer to choose an authorized representative of his choice.
11	Provide mechanism to lodge complaint	The Department shall provide mechanism for lodging a complaint and prompt disposal thereof.
12	Provide a fair and just system	The Department shall provide a fair and impartial system and resolve the tax issues in a time-bound manner
13	Publish service standards and report periodically	The Department shall publish standards for service delivery in a periodic manner.
14	Reduce cost of compliance	The Department shall duly take into account the cost of compliance when administering tax legislation.

On one hand, where the taxpayer's charter provides obligations for the tax revenue authorities, on the other hand, it imposes certain duties on the taxpayers as follows:

Sr. No.	Taxpayer's Duties	Particulars
1	Be Honest and Compliant	Taxpayer is expected to honestly disclose full information and fulfil his compliance obligations.
2	Be informed	Taxpayer is expected to be aware of his compliance obligations under tax law and seek help of department if needed.
3	Keep accurate records	Taxpayer is expected to keep accurate records required as per law.
4	Know what representative does on his behalf	Taxpayer is expected to know what information and submissions are made by his authorised

		representative.
5	Respond in time	Taxpayer is expected to make submissions as per tax law in timely manner
6	Pay in time.	Taxpayer is expected to pay amount due as per law in a timely manner.

4.0 Other Direct Tax Reforms

4.1 Extension of the scope of reporting specified financial transactions ('SFT')

Certain transactions exceeding the specified threshold limit are to be reported in Specified Financial Transaction ('SFT'). The scope of the reporting transactions would be extended to include the following transactions as well:

- Payment of educational fee /donations above Rs. 1. lakh p.a
- Electricity consumption above lakh Rs. 1. lakh p.a
- Domestic business class air travel/foreign travel
- Payment to hotels above Rs. 20,000
- Purchase of jewellery, white goods, painting, marble, etc. above Rs. 1 lakh
- Deposit/Credits in current account above Rs. 50 lakh
- Deposit/credits in non-current account above Rs. 25 lakh
- Payment of property tax above Rs. 20,000 p.a.
- Life Insurance premium above Rs. 50,000
- Health insurance premium above Rs. 20,000
- Share transactions/ demat accounts/ bank lockers

Note: No specific notification has been issued to expand the list of coverage under SFT

4.2 Mandatory Income Tax Return Filing

The following persons would be mandatorily required to file their income tax return:

- i. person having bank transactions above Rs. 30 lakh or
- ii. all professionals, businesses having turnover above Rs. 50 lakh or
- iii. payment of rent above Rs. 40,000.

There is no notification issued by the CBDT for the purpose of bringing the above mentioned direct tax reforms pertaining to SFT and mandatory income tax return filing and such notification is awaited.

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