- Where can I see my financial transaction reported to Income Tax Department by Sources/Reporting Entities?

The financial transactions gathered by Income Tax Department are about your receipts which attract TDS/TCS, immovable property purchase or sale, bank deposits, investment in shares/mutual funds, time deposits etc. All these transactions can be viewed by you in the AIS portal of your income tax account for FY 2020-21 onwards. The steps involved are:

(a) Login to e-filing portal by using the URL https://eportal.incometax.gov.in/

(b) On the home page click the tab "Services"

(c) Select "Annual Information Statement (AIS)" in the menu under the tab "Services", you will be taken to the AIS portal

(d) On the AIS portal, select the relevant Financial Year and click on "Annual Information Statement" to view the financial transactions.

- What should I do if I find a transaction which is incorrectly recorded or which does not pertain to me?

As detailed above, once you are viewing information under AIS, click on a specific information. Once the information details are seen, on the right side is a feedback button by using which taxpayer can provide feedback from the menu options available.

- What happens after I raise my objection to any transaction reported in AIS?

Income Tax Department will initiate a process of contacting the Source/Reporting Entity which reported the information/transaction and will seek confirmation about the correctness of the data.

Once this process is rolled out then:

i. If the Source/Reporting Entity agrees that there has been a mistake, the data will be corrected in due course of time after the Source/Reporting Entity files its corrected statement. This process is done through an automated Information Technology driven procedure.

ii. If the Source/Reporting Entity stands by the data and does not support your objection, further explanation/evidence will be called from you under the e-Verification Scheme which is explained in the following questions.

- What is the e-Verification Scheme, 2021?

i. When a financial transaction reported by a Source/Reporting Entity is not considered/included by you while filing your Return of Income, a computerized process of identification of such mismatch is undertaken.

ii. A communication is sent to the Source/Reporting Entity seeking confirmation of the transaction/data reported by it. The Source/Reporting Entity can either confirm the information

provided by it or can state that it has wrongly reported and can change the information by revising its statements filed earlier.

iii. If the Source/Reporting Entity confirms the information, proceedings under the e-Verification Scheme will be initiated for the taxpayer, in appropriate cases. A notice u/s 133(6) will be issued to the taxpayer, electronically through theCompliancePortal which is accessible throughhttps://eportal.incometax.gov.in, seeking explanation/evidence to support why the transaction has not been considered/included in the Return of Income. The notice could also be issued through Speed Post in exceptional circumstances.

iv. The explanation/evidence/compliance to the notice u/s 133(6) of the IT Act, 1961 is to be done by the taxpayer through electronic means, using the Compliance Portal (https://eportal.incometax.gov.in)

v. Based on the explanation/evidence provided, a view will be formed by the Prescribed Authority conducting the e-Verification about the transaction having been/not having been suitably reflected in the return of income.

vi. After this process, a communication will be sent to the taxpayer informing:

a) No further clarification on the issue under verification proceedings is presently required from taxpayer, or

b) The explanation is not found sufficient to explain the mismatch in the specific information and the taxpayer may consider updating the return of income u/s 139(8A) of the Act, if eligible.

- What is the usefulness of the e-Verification Scheme, 2021?

Various steps have been taken to facilitate voluntary compliance. Sharing of information through AIS and pre-filling of return of income being the most recent. The e-Verification Scheme is another such step. It will help:

• Correct inaccuracy in data/information provided by Source/Reporting Entity

• To inform the taxpayer about any transaction which could have been missed in computing income and taxes, and in filing Return of Income.

• To provide an opportunity to the taxpayer to correct any omissions in Return of Income by filing an updated return of Income and pay tax due on the income missed in the original Return of Income.

• To provide an opportunity to the taxpayer to explain a transaction being verified before any further action by way of Assessment or Re-assessment is undertaken.

- Is the e-Verification Scheme same as e-Verification of return?

After filing the income tax return (ITR), you need to verify it to complete the return filing process. Without verification within the stipulated time, an ITR is treated as invalid. e-Verification is the most convenient and instant way to verify your ITR. You can e- Verify your return online using OTP on mobile number registered with Aadhaar, net banking, digital signature etc.

The e-Verification Scheme 2021 is totally different from e-Verification of return.

- Where do I see the notice u/s133(6) issued to me seeking my explanation on a transaction not included by me in the Return of Income? How do I file my response to the notice u/s 133(6) issued under the e-Verification Scheme, 2021?

Where do I see the notice u/s 133(6) issued to me seeking my explanation on a transaction not included by me in the Return of Income? How do I file my response to the notice u/s 133(6) issued under the e-Verification Scheme, 2021?
or
What should I do when I receive notice for e-Verification?

The notice u/s 133(6) issued under the e-Verification Scheme will be visible to you in the Compliance Portal (accessible through https://eportal.incometax.gov.in). Normally you will also be alerted through an SMS on your registered mobile phone and will also receive it on your registered email address. The steps involved in accessing the notice u/s 133(6) and filing the response electronically are:

Step 1: Taxpayer will Login to the e-filing portal by using the URL https://eportal.incometax.gov.in/

Step 2:Go to “Pending Actions” tab, click on “Compliance Portal” and select “e-Verification”

Step 3: Click on applicable Financial Year

Step 4: Click on the 'DIN' to download the notice.

Step 5: Click on 'Submit' link to provide the response.

Step 6: Enter the remarks, attach the supporting document and click on "Submit" to submit the response to the notice.

Step 7: Enter the remarks, attach the supporting document and click on "Submit" to submit the response to the notice.

Responses have to be filed electronically as detailed in the steps above

- At the time of responding to the notice of e-Verification, after log in, nothing appears and only a blank screen page opens up. What should I do?

Please enable the ‘pop ups’ from ‘Privacy and Security’ settings in Google chrome, Firefox, etc.

- How do I know that notice under e-Verification has been issued to me?

The Income Tax Department will send a notice u/s 133(6) of the Income Tax Act, 1961.

This will be visible on your e-filing portal account on incometax.gov.in. The notice is also emailed to the latest email address submitted to the Income Tax Department while filing the return of income. You will also receive SMS on the latest mobile number registered with your PAN.

- What do I do in case I am having difficulty in accessing the Compliance Portal for viewing notices or submitting responses?

You may log your complaint at the helpdesk for the "Compliance" portal by calling 18001034215. Please note that helpline number is unique for each portal. Please use helpline for Compliance Portal for redressal of difficulties.

- How does the taxpayer verify the genuineness of the notice received?

Very soon a facility will be provided for verification of the genuineness of the notice from the DIN mentioned in the notice. The taxpayer will be enabled to verify the DIN from the e-portal and see if the notice is genuine by clicking on the Authenticate Notice/Order Issued by ITD link in the Quick Linkssection found in the e-portal and following the process as mentioned in the e-portal.

The taxpayer has to furnish the response to the notice only through the Compliance Portal of the Income Tax Department https://eportal.incometax.gov.in and not through email. The instructions for furnishing the information are mentioned in the Annexure-2 of the notice issued to the taxpayer.

- While responding to the notice issued u/s.133(6) of the Income-tax Act in the Compliance portal, the system/portal is not accepting the attachments of size above 10 MB. How to submit such large documents?

With each response, 10 documents of size 10MB each can be uploaded as attachments. Large documents which are to be attached can be split into documents of less than 10 MB parts and can be attached and uploaded.

- What happens if my explanation is found to be satisfactory?

A communication is sent to taxpayer informing that "No further clarification on the issue under verification proceedings is presently required from you". However, this could change if any additional evidence/information comes to the knowledge of Income Tax Department subsequently.

- What happens if the explanation is not found satisfactory?

If the explanation is not found satisfactory, the e-Verification proceedings will be concluded with a communication to the taxpayer informing: "The explanation is not found sufficient to explain the mismatch in the specific information and the taxpayer may consider updating the return of income u/s 139(8A) of the Act, if eligible." Subsequently if the taxpayer does not Update the Return of Income within the due time, Income Tax Department will undertake risk-assessment based initiation of proceedings like Assessment or Re-assessment which could lead to tax demand and penalty etc.

- What can I do if I realize that I have missed a transaction while calculating my income in the Return of Income already filed by me?

You may consider Updating your Return of Income under Section 139(8A)) of the I.T. Act, 1961, if eligible, by paying tax on the missed income along with additional tax to avoid further proceedings in the form of assessment/re-assessment which could lead to tax demand and penalty.

- Can I respond to the notice u/s133(6) of the I.T. Act, 1961 that I have updated my return of income by paying additional tax on the transaction being e-verified by Income Tax Department?

Yes. This should be explicitly stated in the response. The updated return of Income will be verified with the information and an appropriate decision will be taken by the Income Tax Department.

- Do I need to pay any penalty while updating my return?

No, there is no penalty as such. However, you have to pay an additional tax. The additional tax on an updated return depends on when it is filed after the relevant assessment year:

  - 25% if filed within 12 months from the end of the relevant assessment year.
  - 50% if filed after expiry of 12 months but before completion of 24 months from the end of the relevant assessment year,
  - 60% if filed between 24 months but before completion of 36 months from the end of the relevant assessment year,
  - 70% if filed between 36 months but before completion of 48 months from the end of the relevant assessment year,

of the total tax and interest payable.

Note: However, the Finance Act, 2025 prohibits filing of an updated return after 36 months from the end of the relevant assessment year if a notice under Section 148A has been issued. Further, the assessee may still be eligible to file an updated return if the Assessing Officer subsequently passes an order under Section 148A(3) stating that it is not a fit case for issuing a reassessment notice under Section 148.

- Is it possible for me to have a physical hearing with the officer?

This scheme does not allow for any physical hearing by the Prescribed Authority. You are requested to file your reply online through the portal. In case of any query or clarification the Prescribed Authority will communicate through the portal and give you adequate opportunity to

clarify along with supporting documents. There is provision for video conference facility in exceptional case. This facility is under development.

- Why should I update my return?

The Income Tax Department is giving you an opportunity to pay tax on the income that was not shown by you in your return but about which the Income Tax Department had received information. In the event of you not availing this opportunity to pay tax on such income and update your return, the Income Tax Department may, based on facts, initiate appropriate proceedings under the IT Act, 1961.

- What is updated return and its utility to the taxpayer?

Finance Act 2022 has inserted a new section, section 139(8A) in Income Tax Act. This new section provides for filing of 'Updated Return' by the taxpayers. The taxpayer can file an updated return within two years from the end of the relevant Assessment Year. However, effective April 1, 2025, an updated return can be filed within 48 months from the end of the relevant assessment year. Thus, in the financial year 2025-26, a person can file an updated return for Assessment Years 2021-22, 2022-23, 2023-24, and 2024-25.

Updated return can be filed irrespective of the fact, whether the original return was filed by the taxpayer or not. However, to file an updated return, the taxpayer has to meet the conditions prescribed in section 139(8A) of the IT Act 1961, including:

1. The updated return can be filed only if the taxpayer has to disclose any additional income, which was missed / omitted earlier, and pay the additional tax thereon.

2. Updated return cannot be filed to reduce any income and report loss or increase the loss thereby resulting in reduction of tax liability or increase in tax refund.

3. The option of updated return can be opted only once for one assessment year.

4. If the updated return is being filed within 12 months from the end of the relevant assessment year, then an additional income tax of 25% and interest thereon shall be payable. If the return is filed within 24 months, from the end of the relevant assessment year, then an additional income tax of 50% and interest thereon shall be payable. If the return is filed within 36 months, from the end of the relevant assessment year, then an additional income tax of 60% and interest thereon shall be payable. If the return is filed within 48 months, from the end of the relevant assessment year, then an additional income tax of 70% and interest thereon shall be payable.

This facility of filing an updated return can also be viewed as an opportunity to disclose the earlier missed income and pre-empt further proceedings under the I.T. Act.

- How is the e-Verification Scheme different from scrutiny assessments/reassessments?

This is primarily a preliminary verification based on the information received by the IT Dept from various reporting entities. No order is required to be passed in this case because this is not a

notice for assessment or reassessment. This is only for verification. Once information is verified as correctly reflected in ITR, further steps may not be taken by the Income Tax Department with reference to the specific information verified. If information is not included in the return of income, then the taxpayer can update the tax return as mentioned above.

- What should the taxpayer do if information provided by the Income Tax Department is not correct? | What should I do if the duplicate entries are there in notice received by me under the e-Verification Scheme?

If you go through the notice and find that the information as mentioned in the notice does not belong to you or is a duplicate entry or is incorrect (fully or partially), you should clearly state the same in the response filed on Insight and provide supporting evidence for the same, where applicable. The Income Tax Department would then confirm with the source the veracity of the information and take appropriate action.

- What if you agree to the mismatch between return of income and information explained to you in the notice u/s 133(6) of the IT Act, 1961, under e-Verification Scheme?

The taxpayer can update his ITR under section 139(8A) of the Act, and pay the additional taxes. A response can be submitted that the mismatch is accepted and ITR has been updated or will be updated.

- What are the possible reasons for difficulties faced in filling responses to the notice u/s 133(6) of the IT Act, 1961?

Common reasons:

• Response of Taxpayer is to be submitted on compliance portal which is accessible via e-filing portal(www.incometax.gov.in). Other portals of Income Tax Department are for other specified compliances and will not accept responses to notice under e-Verification Scheme.

• Web browser used by the taxpayer is not updated to the latest version and hence the website is not supported by the browser.

• POP-UP Blocker of the web browser is enabled and it is blocking the access to the response window.

- What is intimation under Section 143(1)?

Intimation refers to the processing of returns by the Centralised Processing Centre (CPC). In this, all Income-tax returns filed under Section 139 or in response to a notice under Section 142(1) are processed to verify and fix the arithmetical errors, apparent errors, tax calculation, and tax payments. At this stage, no verification of the income is undertaken.

- Which adjustments shall be made by CPC to compute total income or loss while processing the ITR?

Income-tax return is processed to compute total income or loss after making the following adjustments:

a. Any arithmetical error in the return;

b. An incorrect claim apparent from any information in the return;

c. Any such inconsistency in the return, with respect to the information in the return of any preceding previous year, as may be prescribed

d. Disallowance of loss claimed if the return of the previous year for which set-off of loss is claimed was furnished beyond the due date;

e. Disallowance of expenditure or increase in income indicated in the audit report but not considered in computing the total income in return;

f. Disallowance of deduction claimed under Section 10AA or Chapter VIA under the heading "C-Deductions in respect of certain incomes", if the return of income is furnished beyond the specified due date;

- What is the meaning of an incorrect claim?

'An incorrect claim apparent from any information in the return' means a claim on the basis of an entry in the Income-tax return:

a. Which is inconsistent with another entry of the same or some other item in such return;

b. In respect of which, information required to be furnished to substantiate such claim, has not been furnished;

c. In respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction.

- What is the time limit to issue intimation under section 143(1)?

Intimation is required to be issued within 9 months from the end of the financial year in which the return is furnished by the assessee.

- What is the time limit allowed to the assessee to explain and rectify the arithmetical error or incorrect claim found by the CPC?

Before making any adjustment, an opportunity shall be provided to the assessee to explain and rectify the arithmetical error or incorrect claim within 30 days from the date of issue of intimation.

- How to submit the response against the adjustment made by the CPC?

The response against the adjustment made by CPC has to be submitted through the e-filing account of the assessee without any need to visit the income tax department.

FAQs on interest under section 234A, 234B, 234C and 234D

- When is interest under Section 234A levied?

Interest under section 234A shall be levied if the Income-tax return is furnished after the due date or is not furnished.

- What is the rate of interest that shall be charged under Section 234A?

Simple interest shall be charged at the rate of 1% per month or part thereof.

- Which period shall be considered for interest under Section 234A if the return is furnished belatedly?

If the income-tax return is furnished after the due date specified in section 139(1), the interest shall be charged for the period commencing from the date immediately following the due date for filing of return of income and ending with the date on which the return of income is furnished.

The Circular No. 2/2015 [F.No.385/03/2015-IT(B)], dated 10-02-2015, has clarified that no interest under section 234A is chargeable on the amount of self-assessment tax paid by the assessee before the due date of filing of return of income.

- Which period shall be considered for interest under Section 234A if the return is not furnished?

If the income-tax return is not furnished, interest shall be charged for the period commencing from the date immediately following the due date for filing of return of income and ending with the date on which the best judgment assessment is completed.

- Which period shall be considered for interest under section 234A if the return is furnished belatedly in re-assessment?

Where return of income is required by a notice issued under section 148 (Income escaping assessment), but it is furnished after the expiry of the time allowed under such notice, the interest shall be charged for the period commencing from the day immediately following the expiry of the time allowed under the notice and ending on the date of furnishing of return.

Interest shall be charged on the amount by which the tax determined under re-assessment exceeds the tax determined as per the completed assessment.

- Which period shall be considered for interest under Section 234A if the return is not furnished in re-assessment?

Where return of income is required by a notice issued under Section 148 (Income escaping assessment), but it is not furnished, the interest shall be charged for the period commencing from the day immediately following the expiry of the time allowed under the notice and ending on the date of completion of re-assessment.

Interest shall be charged on the amount by which the tax determined under re-assessment exceeds the tax determined as per the completed assessment.

- Which period shall be considered for interest under Section 234A if the return is not furnished and an updated return is filed?

If the income-tax return is not furnished by the assessee and subsequently he files an updated return, interest shall be charged on the amount of self-assessment tax payable on the total income as declared in such updated return.

The interest shall be charged for the period commencing from the date immediately following the due date for filing the original return of income and ending with the date on which the updated return is furnished.

- Which period shall be considered for interest under section 234A if the return is furnished and an updated return is also filed?

An assessee shall not be required to pay interest at the time of furnishing of the updated return if he has already filed the original return, revised return, or belated return for the relevant assessment year.

- Whether interest under Section 234A shall be levied on the additional income tax payable under Section 140B?

No

- When is interest under Section 234B levied?

Interest under Section 234B shall be levied if the assessee has the liability to pay the advance tax, but he fails to pay the same or the amount paid as advance tax is less than 90% of the 'assessed tax'.

- What is the meaning of assessed tax?

'Assessed tax' means the tax on the total income determined in summary assessment or the regular assessment *less* TDS or TCS, MAT Credit or AMT Credit, Relief under Section 89, and Foreign Tax Credit under Sections 90, 90A or 91.

- What is the rate of interest that shall be charged under Section 234B?

Simple interest shall be charged at the rate of 1% per month or part thereof.

- Which amount shall be considered to calculate interest under Section 234B if advance tax is not paid?

Where the assessee has the liability to pay the advance tax, but he failed to pay the same, the interest shall be charged on the whole amount of tax computed on his total income.

- Which amount shall be taken to calculate interest under Section 234B if the advance tax paid is less than 90% of the assessed tax?

Where the advance tax paid by the assessee is less than 90% of the assessed tax, the interest shall be charged on the amount of assessed tax less advance tax paid.

If tax is paid on the basis of self-assessment under Section 140A, interest will be calculated on the amount by which advance tax paid falls short of assessed tax up to the date of payment of self-assessment tax, after that interest will be calculated on the amount by which aggregate of advance tax and self-assessment tax paid under Section 140A falls short of the assessed tax.

- Which period shall be considered for interest under section 234B if self-assessment tax is not paid?

If the assessee did not pay the self-assessment tax, the interest shall be charged for the period commencing from April 1 of the assessment year and ending on the date of determination of income underSection 143(1) and where a regular assessment is made to the date of such regular assessment.

However, if the return is accepted as is filed by the assessee and no addition is made during the assessment, then interest shall be charged till the date of filing of the return by the assessee.

- Which period shall be considered for interest under Section 234B if self-assessment tax is paid?

If the assessee has paid the self-assessment tax, the interest under this provision shall be computed for the two periods:

a. The first period starts on April 1 of the relevant assessment year and ends on the date on which the self-assessment tax is paid.

b. The second period starts from the date on which the self-assessment tax was paid and ends on the date on which the assessment is completed (if the tax liability is increased during the assessment).

- Which period shall be considered for interest under Section 234B in case of re-assessment without regular assessment?

If the assessment is made for the first time under Section 147 (Income escaping assessment), interest is payable from April 1 of the assessment year till the date of such assessment order.

- Which period shall be considered for interest under Section 234B in case of re-assessment after the regular assessment?

If proceedings under Section 147 are initiated after the determination of tax under Section 143(1) (summary assessment) or Section 143(3) (scrutiny assessment), the interest shall be leviable from April 1 of the assessment year till the order of re-assessment.

The interest shall be charged on the amount of tax determined in re-assessment less the amount of tax determined in summary or scrutiny assessment.

- Whether interest under Section 234B shall be levied on the amount of additional income tax payable under Section 140B?

No

- What are the due dates for payment of advance tax?

The advance tax shall be payable by an assessee in 4 instalments on or before the prescribed due dates as specified in the below table:

Due date for payment of advance tax	*Advance tax to be payable*
On or before June 15 of the previous year	At least 15% of advance tax
On or before September 15 of the previous year	At least 45% of advance tax
On or before December 15 of the previous year	At least 75% of advance tax
On or before March 15 of the previous year	100% of advance tax
Note: Any tax paid, on or before 31st March, shall also be treated as advance tax paid during the financial year.	

- When interest under Section 234C shall be levied?

The interest under Section 234C shall be levied if payment of advance tax in an instalment is less than the prescribed percentage (given in the above table). However, the interest shall be levied if:

a. Advance tax paid on or before 15th June is less than 12% of the assessed tax.

b. Advance Tax paid on or before 15th September is less than 36% of the assessed tax.

c. Advance Tax paid on or before 15th December is less than 75% of the assessed tax.

d. Advance Tax paid on or before 15th March is less than 100% of the assessed tax.

- What is the due date for payment of advance tax if the assessee has opted presumptive taxation scheme under Sections 44AD or 44ADA?

An assessee, who has opted presumptive taxation scheme of Section 44AD or Section 44ADA, can pay the whole amount of his advance tax liability on or before March 15th of the previous year. Thus he can pay the 100% of advance tax in a single instalment on or before March 15th of the previous year.

- When shall interest under Section 234C be charged if the assessee has opted presumptive taxation scheme of Sections 44AD or 44ADA?

If the assessee has opted for the presumptive taxation scheme of Section 44AD or Section 44ADA, the interest under this provision shall be levied if the advance tax paid on or before 15th March of the financial year is less than 100% of the advance tax payable.

- How to calculate interest under section 234C?

When is interest payable?	*Period of interest*	*Amount on which interest shall be payable*
If the advance tax paid on or before June 15 is less than 12% of the assessed tax	3 months	15% of assessed tax *less* tax deposited on or before June 15
If the advance tax paid on or before September 15 is less than 36% of the assessed tax	3 months	45% of assessed tax *less* tax deposited on or before September 15
If the advance tax paid on or before December 15 is less than 75% of the assessed tax	3 months	75% of assessed tax *less* tax deposited on or before December 15
If the advance tax paid on or before March 15 is less than 100% of the assessed tax	1 month	100% of assessed tax *less* tax deposited on or before March 15

- How to calculate interest under Section 234C if the assessee has opted presumptive taxation scheme of Section 44AD or 44ADA?

If the assessee has opted presumptive taxation scheme of Sections 44AD or 44ADA and advance tax paid on or before March 15th is less than 100% of the assessed tax, simple interest at the rate of 1% shall be charged for 1 month on the shortfall amount (i.e. 100 % of assessed tax less tax deposited on or before March 15).

- What are the exceptional cases where a shortfall in payment of advance tax shall be ignored for calculation of interest under section 234C?

If a shortfall in payment of tax happens on account of underestimating or failure to estimate the accrual of the following income, then such shortfall shall be ignored while determining the interest under Section 234C:

a. Gains arising from the transfer of capital assets;

b. Any winnings from lotteries, crossword puzzles, races including horse races, card games, or any other sort of gambling;

c. First-time accrual of income under head' Profits and gains from business or profession';

d. Dividend income.

This exception is available provided the assessee pays the whole amount of tax in respect of such income as part of the remaining instalments of advance tax which are immediately due after the accrual of such income, or if no instalment is due, then such tax is paid before the end of the financial year.

- When is interest under Section 234D levied?

Where any refund is granted to an assessee on summary assessment but it is found on completion of regular assessment that no refund is due to the assessee or the amount refunded exceeds the amount refundable on regular assessment, the assessee shall become liable to pay interest under Section 234D on such amount of refund which was not actually due to him.

- What is the rate of interest that shall be charged under Section 234D?

Simple interest shall be charged at the rate of 0.5% per month or part thereof.

- Which amount shall be taken to calculate interest under Section 234D?

Where the amount is refunded on summary assessment, but no refund is found due on regular assessment, the interest shall be charged on the whole amount of the tax refund.

Further, if any refund is granted to the assessee after summary assessment and the refund so granted exceeds the amount refundable on regular assessment, the interest shall be charged on the such excess amount refunded to the assessee.

- Which period shall be considered for interest under Section 234D?

The interest shall be charged for the period commencing from the date of grant of refund on completion of summary assessment under Section 143(1) and ending on the date on completion of regular assessment.

- What is Income Tax Informants Reward Scheme, 2018?

The Income Tax Informants Reward Scheme, 2018 ("the Scheme") is a reward scheme introduced by the CBDT for payment of rewards to a person who is an informant under this scheme. A person who is an 'Informant' can get a reward of up to Rs. 5 crores by giving specific information about the evasion of Income tax on income and assets in India and abroad. The scheme is effective from 23-04-2018.

- What is the scope of this scheme?

This scheme shall regulate the grant and payment of rewards to informants in cases where information is received by a JDIT (Inv.) from the Informant on or after the date of issue of this scheme that leads to the detection of substantial tax evasion under the provisions of Income Tax Act, 1961 and/or the Black Money (Undisclosed Foreign Income & Assets) and Imposition of Tax Act, 2015. This scheme shall not be applicable to information regarding the recovery of irrecoverable taxes as the Central Board of Direct Taxes has issued separate Guidelines for the same vide F. No. 385/2112015-IT (B) dated 26-8-2015.

- Who is considered an Informant under this scheme?

A person will be considered an informant for the purposes of this scheme only if he has furnished specific information of substantial tax evasion in a written statement in Annexure - A to this Scheme and, based upon which, an Informant Code has been allotted to him by the prescribed authority.

- Can any government servant be an 'informant' and claim a reward under the scheme?

No reward shall be granted under this scheme to any government servant who furnishes information or evidence obtained by him in the course of normal duties as a Government

Servant. A person employed by the following shall be deemed to be a Government Servant for the purpose of this scheme:

a. Central Government;
b. State Government;
c. Union Territory Government;
d. Nationalised bank;
e. Local authority;
f. Public sector undertaking;
g. Corporation, body corporate or establishment, set up or owned by the Central Government or State Government or Union Territory Government.

- What is considered information?

'Information' includes material in any form, such as records, documents, emails, data held in any electronic form and photographs which are relevant for the detection of undisclosed income under the Income-tax Act, 1961 and/or Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, provided either in person or by email or letter in accordance with this scheme.

Information given in any other manner, e.g., WhatsApp or SMS or phone or post on social networking site or publishing a letter in the newspaper or any other media, etc., shall not be treated as information.

In a case where information is received in instalments, the Informant shall furnish information in Annexure-A separately, and his entitlement for reward shall be computed with reference to the additional tax realised or realisable which is directly attributable to the information provided in each Annexure-A.

- What is "substantial tax evasion"?

'Substantial tax evasion' means evasion of taxes of not less than Rs. 5 crores of undisclosed income detected by Investigation Directorates of Mumbai, Delhi, Kolkata, Chennai, Hyderabad, Ahmedabad, Pune or Bangalore and not less than Rs. 1 crore of undisclosed income detected by other Investigation Directorates. If relevant cases are spread across more than one Investigation Directorate, substantial tax evasion means evasion of taxes of not less than Rs. 5 crores in aggregate in such cases on undisclosed income detected by the Investigation Directorates concerned.

- Whether a person will be entitled to a reward if he furnishes specific information other than through Annexure-A?

A person cannot claim any reward under the scheme if he is not an informant under the scheme, even if such a person has furnished specific information of income or assets in any

other manner, e.g., through letter, email, CD, WhatsApp, SMS, phone, posting in social networking site or publishing letter in a newspaper or any other media.

- Whether confidentiality be maintained in the context of the Informant's identity and information provided by the Informant?

The identity of the Informant, the information given by him (including all related documents/annexures), or the reward paid to him shall not be disclosed to any person/authority except when expressly required under any law for the time being in force or by order of any court of law. The documents/annexures relating to identity and information shall remain confidential and be dealt with accordingly. After allotment of the Informant Code, the person shall be identified with Informant Code only.

- Whom should a person contact if he has information about substantial tax evasion?

A person who wants to give information about substantial tax evasion in expectation of reward under this scheme may contact the DGIT (Inv.)/PDIT (lnv.)/JDIT (Inv.) concerned. If he appears before DGIT (lnv.)/PDIT (Inv.), they will direct him to appear before JDlT (Inv.) concerned to furnish the information in Annexure-A.

- What is the course of action if JDIT(Inv.) considers the information actionable?

If the jurisdictional JDlT (Inv.) considers the information prima facie actionable, the person shall have to submit the information in the prescribed format in Annexure - A by appearing in person before the JDlT (Inv.), when called. In case of any difficulty, the person desirous of giving specific information may contact the PDIT (Inv.) of the area. The decision of PDIT (Inv.) will be final in the matter of allotment of the Informant Code under this scheme.

- What is the course of action where a foreign person is in possession of information?

Where a foreign person wants to give information on undisclosed foreign income/ assets of a person liable to tax in India, he may contact the Member (Investigation), CBDT, North Block, New Delhi-110001 either in person or by post or by communication at email id member.inv@incometax.gov.in with a copy to citinv-cbdt@nic.in for further action.

- Who is a foreign person?

'Foreign person' means an individual or group of individuals residing outside India.

- What is the process if the information is furnished by a group of informants?

If the information is furnished by a group of informants (more than one Informant working together), the prescribed form, statements, etc., must be filled and signed by all such Informants jointly, and an Informant code will be allotted to each of them separately. The reward payable in such cases shall be disbursed in equal proportion unless specified otherwise by such informants at the time of furnishing information in Annexure-A.

Further, if an informant furnishes information in respect of more than one group of cases, Annexure-A shall be filled and signed separately for each such group. However, in such a situation, the Informant Code for such Informant shall remain one and the same.

- What are the consequences if an informant furnishes false information?

If an Informant furnishes false information, such an act is considered an offence, and the person giving false information/evidence/ statement will be liable to be prosecuted for such offence.

- What is the quantum of interim reward for information on undisclosed foreign income/assets liable under the Black Money (Undisclosed Foreign Income and Assets) Act, 2015?

Interim reward up to 3% of the additional taxes levied (which is directly attributable to the information furnished by him) under the Black Money (Undisclosed Foreign Income and Assets), Act, 2015, may be granted on the statutory determination of undisclosed foreign asset/income following completion of assessment proceedings under Section 10(3)/(4) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, subject to a ceiling of Rs. 50 lakhs to an Informant for the information given at a time in a single Annexure - A form when the authority competent is satisfied that the assessment made is likely to be sustained in appeal and taxes levied are likely to be recovered.

- What is the quantum of interim reward for information of undisclosed income/assets liable under the Income Tax Act, 1961?

Interim reward up to 1% of the additional taxes realisable, which is directly attributable to the information furnished by the Informant, on the undisclosed income detected by the Investigation Directorate under the Income-tax Act, 1961, may be granted subject to a ceiling of Rs. 10 lakhs to an informant for the information given at a time in a single Annexure- A form when the competent authority is satisfied that the additional taxes on the income detected are likely to be recovered.

Where specific information of unaccounted/undisclosed cash is given by the Informant, which leads to seizure of the cash exceeding Rs. 1 crore as undisclosed income/asset during search & seizure action under Section 132 of the Income-tax Act, 1961, the ceiling of interim reward shall be Rs. 15 lakhs even though the rate will be same at 1% as specified above.

- What is the time limit for the payment of the interim reward?

All reward-granting authorities shall endeavour to pay the interim reward to an informant eligible for such reward within:

a. 4 months of completion of the relevant assessments under Section 10(3)/(4) of the Black Money(Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, in cases information of undisclosed foreign income/assets is given;

b. 4 months of forwarding of the final investigation report by the Investigation Directorate concerned to the Assessing Officer in cases where information of undisclosed income/assets liable under the Income-tax Act, 1961, is given.

- What is the quantum of the Final reward for information on undisclosed foreign income/assets liable under the Black Money (Undisclosed Foreign Income and Assets) Act, 2015?

The maximum amount of reward payable to an informant who has furnished information about undisclosed foreign income or assets of a person liable to tax in India under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, shall not exceed 10% of the additional taxes levied and realised under the said Act, which are directly attributable to the information furnished by him, subject to a ceiling of Rs. 5 crores after the assessment has become final on the issues relevant for determination of reward by appeals, revision, rectification etc.

- What is the quantum of the Final reward if the Informant is eligible for a reward under Income Tax Informants Reward Scheme, 2018 and Benami Transactions Informants Reward Scheme, 2018?

If the Informant has claimed the reward for giving information of evasion of tax payable under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, as well as benami properties based upon substantially the same facts and has been found eligible for grant of reward under both the schemes, the total amount of reward under both the schemes taken together shall not exceed Rs. 5 crores.

- What is considered an Additional Tax?

Additional taxes means Income-tax and surcharge, if any, which is directly attributable to the information given by the Informant. It, however, does not include interest, cess, penalty and any other levy/fee imposed or imposable under the Income-tax Act, 1961 and/or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

- What is Additional taxes realisable under this scheme?

'Additional taxes realisable' means Income-tax and surcharge, if any, which is payable on the amount of income directly attributable to the information given by the Informant out of total additional income detected as per the Appraisal Report or final survey report or other final investigation report by the Investigation Directorate, over and above income disclosed in the return, if any, filed by the assessee.

- What is the quantum of reward if the Informant is eligible for a reward under Income Tax Informants Reward Scheme, 2018, and Benami Transactions Informants Reward Scheme, 2018?

If the Informant has claimed reward under this scheme as well as Benami Transactions Informants Reward Scheme, 2018, based upon substantially the same facts (as was given for claiming reward under this scheme) and if the same is separately found eligible for grant of reward in accordance with these schemes, the total amount of reward under both the schemes taken together shall not exceed the maximum permissible amount under the Income Tax Informants Reward Scheme, 2018, or this Scheme, whichever is higher.

In other words, if an informant is found eligible for reward under both the schemes for information relating to the PBPT Act and the Income Tax Act, 1961, the total maximum reward under the two schemes shall be restricted to Rs. 1 crore as is the limit in this scheme and if an informant is found eligible for a reward under both the Schemes for information relating to the Act and the Black Money (Undisclosed Foreign Income and Assets) Act, 2015, the total maximum reward under the two Schemes shall be restricted to Rs. 5 crores as is the limit in Income Tax Informants Reward Scheme, 2018.

- When shall the final reward be processed?

The final reward for information of undisclosed foreign income/assets liable under the Black Money (Undisclosed Foreign Income and Assets), 2015 or for information of undisclosed income/assets liable under the Income Tax Act, 1961 shall be processed on the realisation of additional taxes directly attributable to the information given by the Informant.

- What are the different stages that are considered for processing the final award?

Such processing may be initiated at different stages, which may include the following:

a. Where relevant assessments/appeals have attained finality, i.e., against which no appeal/further appeal/revision/rectification etc. is pending or a period of 12 months has elapsed from the statutory time limit for filing such appeal/revision/rectification etc.;

b. Where relevant case(s) is/are settled by the ITSC by way of an order under section 245D(4) of the Income-tax Act, 1961, and such order has attained finality, i.e., against which no litigation/rectification etc., is pending and a period of 12 months has elapsed from the date of such order of ITSC; or

c. Where the relevant case(s) are under litigation on certain issues but the informant requests for grant of final reward based upon the undisputed additional taxes realised directly attributable to the information furnished by him, till the date of his request and gives an unconditional written undertaking signed in the presence of the JDIT (Inv.) concerned that he will have no further claim of reward in the relevant group of cases.

- Whether the amount of the Final reward is in addition to the Interim reward?

No, the amount of the interim reward already paid shall be reduced while granting the final reward.

- What is the time limit for the payment of the final reward?

All reward-granting authorities shall endeavour to pay the final reward to an informant eligible for such reward, within 6 months of fulfilment of the conditions mentioned in this scheme.

- What are the different modes for the payment of rewards to a non-resident informant?

The reward granted to a foreign person, who is an informant, may be paid by regular banking channel as per guidelines issued by the Reserve Bank of India (otherwise than cash), to his bank account in India or abroad, as requested in writing by the Informant, in Indian Rupees or its equivalent US Dollar at the exchange rate prevailing at the time of actual payment of the reward. Commission or charges for payment in US Dollars shall be deducted from the gross reward amount granted.

- Who is considered a Competent Authority to grant reward?

a. Interim reward: The authority competent to grant Interim reward shall be a Committee consisting of the concerned (i) DGIT (Inv.), (ii) PDIT (Inv.) & (iii) JDIT (Inv.). The JDIT (Inv.) concerned shall also act as Secretary of the Committee. Formal sanction order for payment of the reward shall be issued by the PDIT (Inv.) concerned.

b. The authority competent to grant the Final reward shall be a Committee consisting of the concerned: (i) DGIT (Inv.), (ii) PDIT (Inv.); (iii) PCIT & (iv) JDIT (Inv.). The JDIT (Inv.) concerned shall also act as Secretary of the Committee. Formal sanction order for payment of the reward shall be issued by the PDIT (Inv.) concerned. The PCIT here refers to the PCIT under whose charge the cases relevant to the determination of reward are assessed to tax pursuant to the receipt of the report from the Investigation Directorate. Where the cases relevant to the determination of reward are assessed across many PCIT charges, the PCIT for the purpose of the Committee shall be the PCIT of whose charge the assessed cases contribute to the maximum amount of relevant additional taxes. However, inputs from all other PCsIT will be taken and considered by the Committee before the grant of the reward.

c. In case of any difficulty in deciding the composition of the Committee, the DGIT (Inv.) concerned may refer the matter to the Member (Investigation), CBDT and form the Committee in consultation with him.

- What are the relevant factors that are considered for the determination of Interim or Final reward?

The following factors may be considered for the grant and payment of interim or final reward:

a. Fulfilment of conditions for grant of interim or final reward, as the case may be, mentioned in this scheme.

b. Accuracy and precision of the information furnished by the Informant.

c. Extent of the usefulness of information, including supporting documents etc. provided by the Informant.

d. Extent and nature of assistance rendered by the Informant in the detection of undisclosed income/asset.

e. In the case of the final reward, the amount of additional taxes levied and realised on the undisclosed income/asset detected, which is directly attributable to the information received from the Informant.

f. Risk and trouble undertaken and expenses incurred by the Informant in securing and furnishing the information.

- Circumstances in which the Informant is not eligible for any reward

No reward shall be granted to an informant under the following circumstances:

a. Where the information is not provided in accordance with the scheme;

b. Where the terms and conditions of the scheme are not fulfilled;

c. Where the information given is not of substantial tax evasion;

d. Where the information given is vague/non-specific and/or of general nature;

e. Where the information given is already available with the Income Tax Department;

f. Where the information is not received directly from the Informant but through any organisation other than Income Tax Department;

g. Where additional taxes on the undisclosed income detected are not directly attributable to the information given by the Informant;

h. Where Income Tax Department has evidence that the information given by the Informant has been shared by him or any other person authorised by him, with any other entity/agency, including media; or

i. In respect of incidental or collateral benefit which may arise to revenue in any other case as a result of the information furnished by the Informant.

The following are some illustrative situations in which Informant will not be entitled to reward:

j. In a case where an informant has furnished information pertaining to modus operandi only without any specific information regarding parties involved/assets generated/transactions entered, etc. and pursuant to such information, the investigation conducted by Investigation Directorate leads to detection of undisclosed income, the Informant will not be eligible for any reward for the information even if the modus operandi is found to be correct;

k. In a case where an informant has furnished specific information pertaining to bogus expenses/purchase or modus operandi or income or assets, etc., in respect of some persons and pursuant to such information, the investigation conducted by Investigation Directorate leads to the detection of bogus expense/purchase or modus operandi or income or assets etc. in respect of additional persons also, the Informant will not be eligible for any reward in respect of the bogus expense/purchase or modus operandi or income or assets etc. of the additional persons, irrespective of the fact that the Informant had explained the modus operandi etc.

l. In a case where search & seizure has been conducted, and additional taxes have been levied and realised, but such additional taxes are not directly attributable to the information provided by the Informant.

m. In a case where an informant has furnished specific information pertaining to undisclosed assets and pursuant to such information, the investigation conducted by Investigation Directorate does not lead to the detection of the undisclosed assets in respect of which the information was furnished, the Informant will not be eligible for any reward even if any other undisclosed asset was detected in the investigation and the Informant had explained the modus operandi.

n. In a case where an informant has furnished specific information pertaining to some undisclosed assets and pursuant to such information, the investigation conducted by Investigation Directorate leads to the detection of some undisclosed assets in addition to those informed by him, the Informant will not be eligible for any reward in respect of the additional undisclosed assets detected, even if the Informant had explained the modus operandi.

- Is there any possibility of not taking cognisance of the information furnished by an informant?

In case it is found that the antecedents of the Informant, the nature of the information furnished by him in past, and his conduct justify not taking cognisance of the information furnished by him, the matter shall be referred by the JDIT (Inv.) to the PDIT (Inv.) concerned and, if approved by the PDIT (Inv.), it would be open to the JDIT (Inv.) to ignore the information furnished by the Informant.

- What are the provisions with respect to the non-disclosure of information regarding the taxpayer/assessee?

The CBDT or the Income Tax Department does not provide feedback and/or update on the information received or subsequent actions taken thereon. Disclosure of information regarding specific taxpayers is prohibited except as provided under section 138 of the income-tax Act, 1961 and Section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, read with section 138 of the Income-tax Act, 1961. Directorates-General of Income Tax (Investigation) are exempt from providing information under Section 24 of the Right to Information Act, 2005 read with the Second Schedule thereof.

In case of any grievance, the Informant may contact the PDIT (Inv.) concerned, who shall take necessary steps to redress the grievance expeditiously.

- Can the Informant file an appeal against the amount of reward?

Reward in accordance with this scheme shall be ex-gratia payment granted at the absolute discretion of the authority competent to grant reward. The decision of the authority shall be final, and it shall not be subject to any litigation, appeal, adjudication and arbitration except review as provided in this scheme.

- Is there any remedy for Final reward available to the Informant if the Informant alleges injustice in the decision of the competent authority?

In case an informant alleges grave injustice in the decision of the competent authority for final reward due to either non-adherence to the Reward Scheme issued by the Board or due to factual incorrectness, he may file a review petition within one month of receipt of the decision, before the DGIT (Inv.).

In such petition, he has to clearly bring out the basis of the alleged grave injustice with specific reference to the provisions of the Reward Scheme, which have not been followed by the reward committee or instances of factual incorrectness. No cognisance will be taken of a review

petition if it is not mentioned as to which provision of the Reward Scheme was not followed or instances of factual incorrectness.

- Will an assignment of the reward by the Informant be recognised?

Since the reward under this scheme is in the nature of an ex-gratia payment, no assignment thereof made by the Informant will be recognised. The authority competent to grant reward may, however, grant reward to the legal heirs or nominees of an Informant who has passed away. But the provisions of the scheme shall apply to the heir as would have applied had the Informant not died. For this purpose, the Informant shall specify the nominee at the time of furnishing the information. If there is more than one legal heir or nominee, the reward shall be distributed in equal share unless indicated otherwise in Annexure - A or the right is relinquished by any or more of the legal heirs.

FAQs on charitable or religious trusts

- What is the meaning of charitable purpose?

Section 2(15) of the Income-tax Act provides an inclusive definition of 'charitable purpose'. It includes the following:

a. Relief of the Poor;
b. Education;
c. Yoga;
d. Medical Relief;
e. Preservation of the environment (including watersheds, forests, and wildlife);
f. Preservation of monuments or places or objects of artistic or historic interest; and
g. Advancement of any other object of general public utility.

- When shall the advancement of any other object of general public utility not be treated as a charitable purpose?

The advancement of any other object of a general public utility shall not be a charitable purpose if it involves the carrying on of any activity in the nature of trade, commerce or business (or any activity of rendering any service in relation to any trade, commerce or business) for a cess or fee or any other consideration.

This exception, however, does not apply if such activity is undertaken in the course of the actual carrying out of such advancement of any other object of general public utility and the aggregate receipts from such activity during the previous year do not exceed 20% of the total receipts of such trust during that previous year.

- What is the validity period of a registration obtained under Section 12AB?

The registration obtained under Section 12AB shall remain valid for a period of 5 years. However for trusts or institutions whose total income before exemption does not exceed Rs.5 crores in each of the two previous years preceding the year of application, the validity of registration is extended to ten years.

- Which form is required to file for conversion of provisional registration into regular registration?

The trust or institution provisionally registered under Section 12AB shall be required to convert such provisional registration into normal registration by filing an application in Form 10AB at least 6 months before the expiry of the period of the provisional registration or within 6 months of commencement of its activities, whichever is earlier.

- When the registration of trust shall become inoperative?

The registration under Section 12AB shall become inoperative if approval is obtained under Section 10(23C) or the institution is notified under Section 10(23EC) or Section 10(46) or Section 10(46A).

- What is the validity period of a provisional registration?

Provisional registration shall be valid for a period of 3 years. The trust or institution shall subsequently file an application for conversion of provisional registration into regular registration in Form 10AB.

- When can a trust or institution apply for direct regular registration?

Until 30-09-2023, the trust or institution has to apply for two registrations (provisional and regular) simultaneously, even if it has commenced the activities. However, on or after 01-10-2023, the trusts or institutions satisfying the following two conditions can apply directly for regular registration:

a. A trust/institution that has already commenced its activities.

b. No income or part thereof of the said trust or institution has been excluded from the total income on account of applicability of Section 10(23C)(iv)/(v)/(vi)/(via), or Section 11 or Section 12, for any previous year ending on or before the date of such application, at any time after the commencement of such activities.

- When maintenance of books of account is mandatory for a trust?

It is mandatory for a trust to keep and maintain books of account and other documents if the total income of the charitable trust, without giving effect to the provisions of Sections 11 and 12, exceeds the maximum amount which is not chargeable to income tax in the previous year.

- What is the time period defined to keep and maintain books of account and other documents?

The books of account and other documents shall be kept and maintained for a period of 10 years from the end of the relevant assessment year.

- When books of accounts are required to be audited?

The books of accounts are required to be audited where the total income of the trust before exemption under Sections 11 and 12 exceeds the maximum amount not chargeable to tax. The accounts of the trust for that year should be audited by a Chartered Accountant.

- What is the due date for submission of an audit report by a trust?

The audit report has to be furnished by trust in Form 10B or Form 10BB at least one month prior to the due date of submission of the return of income.

- Who is required to file an audit report in Form 10B?

The trusts or institutions registered under Section 12AB or approved under Section 10(23C) which satisfy any of the following conditions must file an audit report in Form 10B.

a. If the total income of the trust or institution, without giving effect to the provisions of Sections 11 and 12 or Section 10(23C) (*iv*), (*v*), (*vi*), (*via*) of the Act, exceeds Rs. 5 crores during the previous year;

b. If such trust or institution has received any foreign contribution during the previous year; or

If such trust or institution has applied any part of its income outside India during the previous year.

- Who is required to file an audit report in Form 10BB?

The trusts or institutions registered under Section 12AB or approved under Section 10(23C) satisfying all of the following conditions must file an audit report in Form 10BB:

a. If the total income of the trust or institution, without giving effect to the provisions of sections 11 and 12 or Section 10(23C) (*iv*), (*v*), (*vi*), (*via*) of the Act, is up to Rs. 5 crores;

b. If such trust or institution has not received any foreign contribution during the previous year; and

c. If such trust or institution has not applied any part of its income outside India during the previous year.

- When the filing of a return of income is mandatory for a trust?

The entities registered under Section 12AB are required to file the return of income under Section 139(4A) if the total income, without giving effect to the provisions of Sections 11 and 12, exceeds the maximum amount not chargeable to Income-tax.

- What is the provision for the accumulation of income?

An organisation can accumulate 15 per cent of its income indefinitely. The amount so accumulated by the trust shall be utilised for the charitable and religious purposes for which it has been created. Until its utilisation, the amount shall be invested in the statutory forms as specified in Section 11(5).

- When is a trust required to file Form 10?

As per Section 11(2), if a trust is not able to apply 85 per cent of its income in a particular year, it can accumulate the shortfall to be used for religious or charitable purposes within the next 5 years.

This accumulation is allowed if the assessing officer is informed about the purpose of the accumulation and the period for which the income is being accumulated. The information is to be furnished in Form 10 at least two months prior to the due date specified under Section 139(1) for furnishing the return of income for the previous year.

- When is a trust required to file Form 9A?

Even if a charitable institution cannot utilise 85% of its income for charitable or religious purposes in India, it shall be deemed to be applied for such purposes in the situations described below.

a. Where income has not been received in the previous year;

b. Where income could not be applied due to other reasons.

Such deemed application of income shall be considered when the institution furnishes the details electronically in Form 9A at least two months prior to the due date specified under Section 139(1) for furnishing the return of income for the previous year.

- What are the permissible modes for investment or deposit under Section 11(5) read with Rule 17C?

The fund shall be invested or deposited in the following permissible modes:

(a) Immovable property;

(b) Investment in Government Savings Certificates;

(c) Deposit in any Post Office Savings Bank Account;

(d) Deposit in any account with any scheduled bank or a cooperative bank (including a cooperative land mortgage bank or cooperative land development bank);

(e) Investment in units of UTI;

(f) Investment in Central Government or State Government Securities;

(g) Investment in debentures of any corporate body, the principal whereof and the interest whereon are guaranteed by the Central or a State Government;

(h) Investment or deposit in any public sector company. It is to be noted that if the company ceases to be a public sector company subsequent to investment or deposit, the investment in shares will be considered as valid for 3 years from the date the company ceases to be a public sector company. Any other investment or deposit will be considered valid until the company repays them.

(i) Investment or deposits in any bonds issued by a financial corporation engaged in providing long-term funds for industrial development in India, if the corporation is eligible for deduction under Section 36(1)(vii);

(j) Investment or Deposits in any bonds issued by any public sector company carrying on the business of providing long-term finance for the construction or purchase of houses in India for residential purposes, provided the company is eligible to claim deduction under Section 36(1)(viii);

(k) Deposits with a public sector company or investment in any bonds issued by a public sector company providing long-term finance for urban infrastructure in India.

(l) Deposits with IDBI;

(m) Investment in the units issued under any scheme of mutual fund;

(n) Investment in any transfer of deposit to the Public Account of India;

(o) Deposits with authority constituted in India under any law for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;

(p) Investment by way of acquiring equity shares of a depository as defined in section 2(1)(e) of the Depositories Act, 1996;

(q) Investment in certain securities by a recognised stock exchange;

(r) Investment by way of acquiring equity shares of an incubatee by an incubator;

(s) Investment by way of acquiring shares of National Skill Development Corporation;

(t) Investment in debt instruments issued by any infrastructure finance company registered with the RBI;

(u) Investment in 'stock certificate' as defined in paragraph 2(c) of the Sovereign Gold Bonds Scheme, 2015;

(v) Investment made by a person authorised under section 4 of the Payment and Settlement Systems Act, 2007 in the equity share capital or bonds or debentures of a company:

- Which is engaged in operations of retail payments system or digital payments settlement or similar activities in India and abroad and is approved by the RBI for this purpose; and
- In which at least 25% of equity shares are held by the National Payments Corporation of India.

(w) Investment made by a person authorised under Section 4 of the Payment and Settlement Systems Act, 2007 in the equity share capital or bonds or debentures of Open Network for Digital Commerce Ltd, being a company incorporated under Section 7(2)*read with*Section 8(1) of the Companies Act, 2013, for participating in network-based open protocol models which enable digital commerce and inter-operable digital payments in India.

- What is the provision for the treatment of corpus donation?

Any voluntary contributions received by a trust or an institution, created wholly for charitable or religious purposes, with a specified direction (corpus donations) that they shall form part of the corpus of the trust or institution shall not be included in the total income.

The corpus donation shall be invested or deposited in one or more of the forms or modes specified in Section 11(5) maintained specifically for such corpus.

- What is the meaning of anonymous donation?

'Anonymous Donation' means any voluntary contribution where the person receiving such contribution does not maintain a record of the identity of the donor indicating his name, address, and such other particulars as may be prescribed.

- What is the taxability of anonymous donation?

The anonymous donations are taxable in the hands of specified trusts (except a religious trust) and institutions only if it exceeds higher of the following limit:

a. Rs. 1 lakh; or

b. 5% of total donation received.

The tax shall be levied only on the amount which exceeds higher of the above-referred limit. Anonymous donations are chargeable to tax at the rate of 30% (*plus* Surcharge and Health & Education Cess).

- When does the provision of accreted income apply?

Income-tax Act provides for the levy of tax on accreted income of a specified person. Such tax is levied to ensure that the benefit conferred to a charitable trust over the years by way of tax exemption is not misused by converting it into a non-charitable organisation.

The tax on accreted income is levied in the following circumstances:

a. If a trust is converted into any form which is not eligible for registration under Section 12AA or Section 12AB or approval under sub-clause (iv)/(v)/(vi)/(via) of Section 10(23C);

b. If a trust is merged with an entity which is not having similar objectives and is not registered under Section 12AA or Section 12AB or approved under sub-clause (iv)/(v)/(vi)/(via) of Section 10(23C);

c. In case of dissolution, the trust fails to transfer all its assets to any other trust or institution registered under Section 12AA or Section 12AB or approved under sub-clause (iv)/(v)/(vi)/(via) of Section 10(23C) within 12 months from the end of the month in which the dissolution takes place.

- When is a specified trust or institution deemed to be converted?

A specified trust or institution shall be deemed to have been converted into any form not eligible for registration under Section 12AA or Section 12AB or approval under Section 10(23C) in the following cases:

(a) If registration granted to it under Section 12AA or Section 12AB or approval under Section 10(23C) has been cancelled; or

(b) If the specified person has modified its objects which do not conform to the conditions of registration or approval and it:

- has not applied for fresh registration under Section 12AA or Section 12AB or approval under Section 10(23C);
- has filed an application for fresh registration under Section 12AA or Section 12AB or approval under Section 10(23C), but the said application has been rejected.

(c) If any trust or institution fails to make an application under Section 10(23C) or Section 12A(1)(ac) for:

- Re-registration/re-approval;
- Conversion of provisional registration/approval to regular registration/approval;
- Renewal of registration/approval within the specified period.

- How to calculate accreted income?

Accreted income shall be the amount of aggregate fair market value (FMV) of the total assets of the specified trust or institution as reduced by the total liability as on the specified date.

- What is the specified date for the purpose of calculation of accreted income?

The specified date shall be the following:

a. the date of the order cancelling the registration under Section 12AA or Section 12AB, or approval under Section 10(23C) as the case may be;
b. the date of adoption or modification of any object;
c. the last date for making an application for registration or approval expires;
d. the date of merger with an entity which is not having similar objectives and is not registered under Section 12AA or Section 12AB or approved under Section 10(23C);
e. the date of dissolution where the specified trust or institution fails to transfer all its assets to any other registered trust or institution.

- What is the tax rate applicable on accreted income?

The tax on accreted income shall be levied at the maximum marginal tax rate, and this tax is in addition to income-tax chargeable in the hands of a specified person.

If the specified trust or institution fails to pay the tax on the accreted income within the specified time, simple interest at the rate of 1% for every month or part thereof on the amount of such tax shall be charged for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

- What is the provision for Section 115BBI?

Exemption Section 11 is available to a trust with respect to the income applied for charitable or religious purposes in India. If the income is applied for purposes other than religious or charitable purposes, it shall be taxable under Section 115BBI. Section 115BBI provides a special rate to tax the following specified income of a specified charitable institution:

a. Income accumulated or set apart in excess of 15% of the income where such accumulation is not allowed under any specific provisions of the Act;

b. Deemed income as referred to in Section 11(1B) [option is exercised but the income is not applied in the year of receipt or immediately following the year of receipt or accrual];

c. If accumulated income is applied for purposes other than religious or charitable purposes or ceases to be accumulated or set apart for application to religious or charitable purposes;

d. If the amount is applied for purposes other than the objects of the institution approved under Section 10(23C)(iv), (v), (vi) and (via) or ceases to be accumulated or set apart for application thereto;

e. If accumulated income ceases to remain invested in the statutory form of investment specified under Section 11(5);

f. If it is not utilised for the purpose for which it is so accumulated within the allowed period of 5 years;

g. If accumulated income is credited or paid to any other trust or institution registered under Section 12AA/12AB or approved under Section 10(23C)(iv), (v), (vi) and (via);

h. any income which is not exempt under Section 10(23C) on account of investment in impermissible mode as referred to in Section 11(5);

i. any income which is not exempt under Section 11/12 on account of investment in impermissible mode as referred to in Section 11(5);

j. any income which is not exempt under Section 10(23C) on account of its application for the benefit of any interested person;

k. any income which is not exempt under Section 11/12 on account of its application for the benefit of any interested person;

l. any income which is not excluded from total income due to its application towards charitable purposes outside India.

The aggregate of the specified income shall be charged to tax at the rate of 30% *plus* applicable surcharge and cess.

- What are the specified violations when the registration of a trust can be cancelled?

The following shall be considered as *'Specified Violation'*:

a. If any income derived from a property held under trust, wholly or in part, has been applied other than for the objects of the trust or institution.

b. If the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives.

c. If separate books of account are not maintained by the trust or institution in respect of the business, which is incidental to the attainment of its objectives.

d. If the trust or institution has applied any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public.

e. If the trust or institution established for charitable purposes has applied any part of its income for the benefit of any particular religious community or caste.

f. If any activity being carried out by the trust or institution is not genuine or is not being carried out in accordance with the conditions subject to which it was registered.

g. If the trust or institution has not complied with the requirement of any other law for the time being in force as is material to achieve its objects, and the order, direction, or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality.

h. If the application referred to in Section 12A(1)(ac) is incomplete or contains false or incorrect information. Hence, the PCIT/CIT can also initiate the cancellation proceedings if the registration application filed by the trust or institution is incomplete or contains false or incorrect information.

- What are the consequences of cancellation of registration?

The following consequences may arise on the cancellation of the registration of a trust:

a. The exemption under Sections 11 and 12 would not be available;

b. The income will be computed under the normal provisions of the Act;

c. Any donation or aid to an individual will be regarded as his income taxable under Section 56(2)(x) if it exceeds the threshold limit of Rs. 50,000;

d. The approval granted under Section 80G may be cancelled;

e. Levy of accreted tax under Section 115TD.

- Under which circumstances an exemption of Sections 11 and 12 will be withdrawn?

The exemption to a charitable or religious organisation will be withdrawn if any of the provisions of Section 13 are violated, even if other conditions of Sections 11, Section 12, and Section 12A are complied with. An organisation, under the following circumstances, may lose its exemptions under Section 11 and Section 12:

a. If any part of the income from the property held under a trust for private religious purposes does not enure for the benefit of the public.

b. If a charitable trust or institution is created for the benefit of any particular religious community or caste, no part of the income applied to such purposes is exempt from tax.

c. If part of the income is used or applied for the benefit of an interested person, then only such part of the income shall not be considered for the exemption to the trust or institution. The exemption for the balance income shall not be withdrawn just because a part of the income is applied for the benefit of the interested person.

d. If funds are deposited or invested in impermissible mode, then only income to the extent of such deposit or investment shall not be considered for the exemption. The exemption for the balance income shall not be withdrawn just because funds are deposited or invested in an impermissible mode.

e. The exemptions under Section 11 and Section 12 shall not be available in respect of the anonymous donations taxable as per the provisions of Section 115BBC.

f. If the trust violates the *proviso* to Section 2(15). In other words, if a trust is engaged in business activity and the aggregate receipts from such activity during the previous year exceed 20% of the total receipts.

The exemption shall not be available for the amount accumulated under section 11(2) if the Form 10 and Income-tax return for the corresponding financial year are not submitted within the due date prescribed under Section 139(1).

- Which persons are treated as interested persons?

The following persons are categorised as 'interested persons':

a. The author of the trust or the founder of the institution;

b. Any person who has made a total contribution up to the end of the relevant previous year of an amount exceeding Rs. 1 lakh or his total contribution during the lifetime of the trust up to the end of previous year exceeds Rs.10 lakhs.

c. Where the author, founder or person is a HUF, a member of the HUF;

d. Any trustee of the trust or manager of the institution;

e. Any relative of such author, founder, substantial contributor, member, trustee or manager as aforesaid; and

f. Any concern in which any of the persons referred to above [other than (b)] has a substantial interest.

Relative in relation to an individual means:

g. Spouse of the individual;

h. Brother or sister (and their spouses) of the individual;

i. Brother or sister (and their spouses) of the spouse of the individual;

j. Any lineal ascendant or descendant (and their spouses) of the individual;

k. Any lineal ascendant or descendant (and their spouses) of the spouse of the individual;

l. Any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.

- What is the meaning of substantial interest?

A person is deemed to have a substantial interest in concern if he (or along with 'interested persons' as mentioned above) at any time during the previous year:

a. Holds at least 20% of equity share capital, in case of a company; or

b. Entitled to at least 20% of profits in the case of any other concern.

- When is an Interested Person deemed to be benefited?

The income or the property of the trust shall be deemed to have been applied for the benefit of an interested person in the following cases:

a. Loan without adequate interest or security

b. Use of property without adequate rent

c. Excess payment of salary

d. Inadequate remuneration for services rendered

e. Excess payment for purchases of any share, security or other property

f. Inadequate consideration for sales of any share, security or other property

g. Diversion of income or property where the aggregate value exceeds Rs. 1,000

h. Investment in concern in which an interested person has a substantial interest

- What is Benami Transactions Informants Reward Scheme, 2018?

The Benami Transactions Informants Reward Scheme, 2018 ('the Scheme') is a reward scheme **introduced by the CBDT** for informants giving information about the Benami property actionable under the Prohibition of Benami Property Transactions Act, 1988 ('PBPT Act').

A person who satisfies the definition of 'informant' under the scheme can get a reward of up to Rs. 1 crore for giving specific information about the benami property. The identity of the Informant shall be kept confidential.

- Who is considered an 'Informant' under this scheme?

'Informant' means a person, including an individual or a group of individuals, who has fulfilled all of the following conditions:

a. at any time, given specific information about one or more movable or immovable benami properties of which the fair market value, as defined in the Act, of movable property, and circle rate, as defined in this scheme, of immovable property is more than Rs. 1 crore, in a single Annexure - A form;

b. furnished information in the prescribed form in Annexure - A to the scheme; and

c. received an 'Informant Code' from the authority prescribed in the scheme.

- Whether any 'government servant' can be an 'informant' and is eligible to be rewarded under the scheme?

No reward shall be granted under this scheme to any government servant who furnishes information or evidence obtained by him in the course of normal duties as a government servant.

A person employed by the following shall be deemed to be a Government Servant for the purpose of this scheme:

a. Central Government;

b. State Government;

c. Union Territory Government;

d. Nationalized bank;

e. Local authority;

f. Public sector undertaking;

g. Corporation, body corporate or establishment, set up or owned by the Central Government or State Government or Union Territory Government.

- What if a person giving such specific information is not allotted an Informant Code?

If the person giving such information is aggrieved in the matter of giving information and allotment of Informant Code, he may approach the PDIT/DIT (Inv.) concerned, whose decision in the matter shall be final.

- Whether a person will be entitled to a reward if he furnished specific information of benami property in any manner other than through prescribed form in Annexure A?

A person shall not be entitled to any reward under the scheme if he is not an informant under the scheme, even if such person has furnished specific information of benami property in any other manner, e.g., through letter, e-mail, CD, WhatsApp, SMS, phone, posting in social networking site or publishing letter in a newspaper or any other media. A person shall be entitled to reward only if he furnishes specific information of benami property in the prescribed form in Annexure A

- What is "Specific Information" as per the scheme?

The information given by the Informant can be treated as specific information under the scheme only if it includes:

a. Verifiable particulars of the benami property;

b. Name and address of the person in whose name the property has been acquired (Benamidar); and

c. Credible basis, including supporting evidence for the information that the property was actually benami property.

- Whom should a person contact if they have specific information as mentioned in the scheme?

A person who wants to give specific information in expectation of reward may contact the Joint Commissioner of Income Tax/Additional Commissioner of Income Tax (Benami Prohibition) ['JCIT/Addl. CIT (BP)'] having jurisdiction over the place where the benami property is situated.

If there is more than one benami property located at different places, the person may give information to any JCITs/Addl. CITs (BP) having jurisdiction over any of these properties.

Where the person gives information about benami properties to any other Income Tax authority, such other authority shall forward such information and guide him to the jurisdictional JCIT/Addl. CIT (BP). Where there is more than one BP unit at a place, such a person may be directed to approach the jurisdictional DGIT (Investigation).

- What is the course of action if JCIT/Addl. CIT (BP) considers the information actionable?

If the JCIT/Addl. CIT (BP) feels that the person has given specific information of benami property, he will give one set of prescribed form as per Annexure-A to such person who shall fill, sign and submit it to the JCIT/Addl. CIT (BP).

- What is the course of action when a foreign person is in possession of information?

Where a foreign person wants to give information on benami property actionable under the Act, he may contact the Member (Investigation), CBDT, North Block, New Delhi-l l0001 either in person or by post or by communication at email-id member.inv@incometax.gov.in with a copy to citinv-cbdt@nic.in for further action. He may take the assistance of Income Tax Overseas Units (ITOU) working in Indian missions in some foreign countries in this regard.

- What is the process if the information is furnished by a group of informants?

If the information is furnished by a group of persons, the prescribed form, statements, etc., shall be filled and signed by all such persons jointly, and the Informant code will be allotted to each of them separately. The reward payable in such cases, if any, shall be disbursed in equal proportion unless specified otherwise by such persons at the time of furnishing information in the prescribed format.

- Whether a person can furnish details of benami property on multiple occasions?

A person may give information about more than one benami property either on one or multiple occasions, but in Annexure-A, which shall be filled and signed separately on each occasion. One form may be used for multiple properties only if such properties pertain to either the same Benamidar or the same beneficial owner. However, he will be given only one Informant Code, and his reward will be computed on the basis of entitlement individually for each benami property.

- Whether confidentiality be maintained in the context of the Informant's identity and information provided by the Informant?

The identity of the Informant, the information given by him (including all related documents/annexure), or the reward paid to him shall not be disclosed to any person/authority except when expressly required under any law for the time being in force or by order of any court of law. The documents/annexure relating to identity and information shall remain confidential and be dealt with accordingly.

- What are the consequences if an informant furnishes false information?

If an informant furnishes false information, such an act is considered as an offence, and the person giving false information/evidence/ statement will be liable to be prosecuted for such offence.

- Conditions required to be fulfilled to be eligible for Interim Reward

An interim reward can be granted on fulfilment of the following conditions:

a. The Informant has given specific information about benami property in Annexure-A and obtained the informant code under the scheme;

b. Provided assistance required, if any, by the Addl./JCIT (BP) or any other investigating officer to whom the JCIT/Addl. CIT (BP) concerned may assign the investigation into the information given by the Informant; and

c. Pursuant to such information, the benami property has actually been provisionally attached under Section 24(4) of the Act.

- Conditions required to be fulfilled to be eligible for Final Reward

A final reward can be granted on fulfilment of the following conditions:

a. The Informant has given specific information about benami property in Annexure-A and obtained the informant code under the scheme;

b. Provided assistance required, if any, by the Addl./JCIT (BP) or any other investigating officer to whom the JCIT/Addl. CIT (BP) concerned may assign the investigation into the information given by the Informant;

c. The benami property has been confiscated under Section 27 of the Act; and

d. Such confiscation has become final in judicial proceedings after the confiscation order is passed. The confiscation shall be deemed to be final if two years have passed from the date of confiscation and there is no litigation pending against such confiscation.

- What is the quantum of interim reward under this scheme?

Interim reward up to 1% of the fair market value, as defined in the Act, of movable property, and circle rate, as defined in this scheme, of immovable property, provisionally attached under section 24(4) of the Act may be granted by the competent authority on fulfilment of eligibility conditions under the scheme subject to the maximum ceiling of an amount of interim reward of Rs. 10 lakhs in respect of the information of a single benami property.

- What is the quantum of the Final reward under this scheme?

Final reward up to 5% of fair market value, as defined in the Act, of movable property, and circle rate, as defined in this scheme, of immovable property confiscated under the Act may be granted by the competent authority on fulfilment of eligibility conditions under the scheme. While granting the final reward, the amount of interim reward paid, if any, shall be reduced from the total final reward granted. However, the maximum amount of total reward (interim and final) in respect of a single benami property shall be limited to Rs. 1 crore.

- What is 'Circle Rate'?

"Circle Rate", in respect of immovable property, means the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of transfer of such immovable property on the date of transaction of acquisition of such property by or for the Benamidar.

- What is the quantum of reward where more than one benami property is involved?

If more than one benami property is informed in a single Annexure - A form, the reward shall be computed on the basis of entitlement applying the above percentage rates and maximum limits individually for each benami property.

- What is the quantum of reward if the Informant is eligible for a reward under Income Tax Informants Reward Scheme 2018 and Benami Transactions Informants Reward Scheme 2018?

If the Informant has claimed reward under this Scheme as well as Income Tax Informants Reward Scheme, 2018, based upon substantially the same facts (as was given for claiming reward under this scheme) and if the same is separately found eligible for grant of reward in accordance with this Scheme as well as the Income Tax Informants Reward Scheme, 2018, the total amount of reward under both the schemes taken together shall not exceed the maximum permissible amount under the Income Tax Informants Reward Scheme, 2018, or this Scheme, whichever is higher.

In other words, if an informant is found eligible for a reward under both the schemes for information relating to the PBPT Act and the Income Tax Act, 1961, the total maximum reward under the two Schemes shall be restricted to Rs. 1 crore as is the limit in this scheme and if an informant is found eligible for a reward under both the Schemes for information relating to the PBPT Act and the Black Money (Undisclosed Foreign Income and Assets) Act, 2015, the total maximum reward under the two Schemes shall be restricted to Rs. 5 crores as is the limit in Income Tax Informants Reward Scheme, 2018.

- What is the time limit for the payment of the reward?

Every endeavour shall be made to grant:

a. interim reward within 4 months of actual provisional attachment of the benami property under Section 24(4) of the Act; and

b. final reward within 6 months of the order of confiscation of the benami property becoming final. The confiscation shall be deemed to be final if two years from the date of confiscation have passed and there is no litigation pending against such confiscation.

- What are the different modes for the payment of rewards if the Informant is a foreign person?

The reward to an informant who is a foreign person may be paid by regular banking channel as per guidelines issued by the Reserve Bank of India (otherwise than cash), to his bank account in India or abroad, as requested in writing by the Informant, in Indian Rupees or its equivalent US Dollar at the exchange rate prevailing at the time of actual payment of the reward. Commission or charges for payment in US Dollars shall be deducted from the gross reward amount granted.

- Who is considered a Competent Authority to grant rewards?

The authority competent to grant any reward under the scheme shall be a committee consisting of:

a. DGIT (lnv.) holding jurisdiction over the JCIT/Addl. CIT (BP) concerned who has received the information;

b. PDIT (Inv.)/DIT (Inv.) holding jurisdiction over the JCIT/Addl. CIT (BP) concerned who has received the information;

c. Principal Commissioner of Income Tax nominated by the Principal Chief Commissioner of Income Tax of the area where provisional attachment order or, as the case may be, confiscation order, is passed by the competent authority;

d. The JCIT/Addl. CIT (BP) concerned shall be the Secretary of the committee.

- What are the relevant factors that are considered for granting and determining the quantum of reward?

The following factors may be considered for the grant and payment of interim or final reward:

a. Fulfilment of conditions mentioned in this scheme;

b. Specific nature, precision, accuracy, usefulness of information, and quality of evidence furnished by the Informant;

c. Extent and nature of assistance rendered by the Informant;

d. Risk and trouble undertaken and the expenses incurred by the Informant in securing and furnishing the information.

- Circumstances in which the Informant is not eligible for any reward

No reward shall be granted to an informant under certain circumstances, which may include the following:

a. If information is not provided in accordance with the scheme;

b. If the terms and conditions of the scheme are not fulfilled;

c. Where the information given is vague/non-specific and/or of general nature;

d. Where the information given is already available with the Income Tax Department;

e. Where the information is not received directly from the Informant but through any organization other than Income Tax Department;

f. Where additional taxes on the undisclosed income detected are not directly attributable to the information given by the Informant; or

g. Where any incidental or collateral benefit arises to the Government in respect of any other property which is not mentioned in the information furnished by the Informant in Annexure-A. In other words, the entitlement of the Informant shall be restricted to only the property(ies) mentioned in Annexure - A under this Scheme and shall not extend to any other property as the Department may find out by investigation into the information furnished by the Informant.

- Is there any possibility of not taking cognizance of the information furnished by an informant?

In case it is found that the antecedents of the Informant, the nature of the information furnished by him and his conduct justify not taking cognizance of the information furnished by him, the JCIT/Addl. CIT (BP) may ignore the information furnished by the Informant after recording detailed reasons for doing so.

- What are the provisions with respect to the non-disclosure of information regarding the taxpayer/assessee?

While maintaining the secrecy of the information and Informant, the information received from the Informant can be used by the Income Tax Department for such purposes as are considered appropriate by the Department. The Informant shall not have any right to receive any feedback regarding action taken or outcome achieved in any case. He may get feedback and/or update

only about whether his information has been acted upon and, if yes, whether he is likely to get any reward. Accordingly, Directorates General of Income Tax (Investigation), who are exempt from providing information under Section 24 of the Right to Information Act, 2005 read with Second Schedule thereof, shall not be bound to provide any information about the action taken or outcome achieved except as provided in the said Act.

- Can the Informant file an appeal against the amount of reward?

The reward under the scheme is an ex-gratia payment which may be granted at the absolute discretion of the competent authority. The decision of the authority shall be final, and it shall not be subject to any litigation, adjudication, and arbitration except review as provided in this scheme.

- Is there any remedy for final reward available to the Informant if the Informant alleges injustice in the decision of the competent authority?

In case an informant alleges grave injustice in the decision of the competent authority for final reward due to either non-adherence to the Reward Scheme issued by the Board or due to factual incorrectness, he may file a review petition within one month of receipt of the decision, before the DGIT (lnv.). In such a petition, he has to clearly bring out the basis of the alleged grave injustice with specific reference to the provisions of the Reward Scheme, which have not been followed by the reward committee or instances of factual incorrectness.

No cognizance will be taken of a review petition if it is not mentioned as to which provision of the Reward Scheme was not followed or the instances of factual incorrectness. The DGIT (Inv) shall cause such a petition to be placed before a review committee consisting of:

a. Principal CCIT (CCA) of the region where the reward committee was located;

b. A CCIT nominated by the Principal CCIT (CCA); and

c. DGIT (Inv) concerned.

In case there is no CCIT in the region, the Principal CCIT may nominate a Principal CIT for the review committee. JCIT/Addl. CIT (BP) concerned shall be the Secretary of the committee. The review committee shall examine such grievance, take necessary action and communicate the decision to the Informant, preferably within 3 months of the receipt of the petition.

- Will an assignment of the reward by the Informant be recognized?

If the reward is assigned by the Informant in favour of some other person, the same will not be recognized. The authority competent to grant reward may, however, grant reward to the legal heirs or nominee(s) of an informant who has deceased before receiving the reward. The provisions of the scheme shall apply to the heir as would have applied had the Informant not died. For this purpose, the Informant shall specify nominee(s) in Annexure-A at the time of furnishing the information. If there is more than one legal heir or nominee, the reward amount shall be distributed in equal share unless indicated otherwise in Annexure- A or the right is relinquished by any or more of the legal heirs.

- Is the reward received by the Informant tax-free?

The reward has not been notified for exemption under Section 10(17A)(ii) of the Income-Tax Act, 1961. So, it is not tax-free.

FAQs on Benami Property

- What is the meaning of Benami property?

The term “Property" is defined in Section 2(26) of the Prohibition of Benami Property Transactions Act, 1988 (PBPT Act) as under:

a. “Property" means assets of any kind, whether movable or immovable, tangible or intangible, corporeal or incorporeal;

b. It includes any right or interest or legal documents or instruments evidencing title to or interest in the property;

c. It also includes the converted form of any property where such property is capable of conversion into some other form;

d. It also includes the proceeds from the property.

Therefore, all forms of assets come under the definition of “property", bringing into its scope real estate, shares, vehicles, fixed deposits, bank deposits, Bank lockers, private lockers, etc.

The scope of the term “Benami Property" as defined in Section 2(8) of the PBPT Act covers:

- any property which is the subject matter of a Benami transaction; and
- proceeds from such property.

Benami properties are those that an owner holds through proxies. The property is purchased in the name of or held in the name of a person who neither paid for it nor actually enjoys it. It may even be held in the name of a non-existent person. Such a front person is known as 'Benamidar'. This name is only an alias for the actual owner, the 'Beneficial Owner'. Thus, the Benami property transaction is where the 'Beneficial Owner' buys the property in the name of a Benamidar but seeks to enjoy it himself.

- What is the meaning of the Benami transaction?

A Benami transaction means the following transactions or arrangements:

(a) A transaction or an arrangement:

(A) Where a property is transferred to or is held by a person, and the consideration for such property has been provided, or paid by, another person; and

(B) The property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration.

However, a transaction or an arrangement which satisfies conditions (A) and (B) above is not treated as benami when the property is held by:

I. A Karta, or a member of a HUF, as the case may be, and the property is held for his benefit or the benefit of other members in the family, and the consideration for such property has been provided or paid out of the known sources of the HUF;

II. A person standing in a fiduciary capacity for the benefit of another person towards whom he stands in such capacity and includes a trustee, executor, partner, director of a company, a depository, or a participant as an agent of a depository under the Depositories Act, 1996 and any other person as may be notified by the Central Government for this purpose;

III. Any person being an individual in the name of his spouse or in the name of any child of such individual, and the consideration for such property has been provided or paid out of the known sources of the individual;

IV. Any person in the name of his brother or sister or lineal ascendant or descendant, where the names of brother or sister or lineal ascendant or descendent and the individual appear as joint-owners in any document, and the consideration for such property has been provided or paid out of the known sources of the individual.

Examples

- *Mr. A buys a house in the name of his sister-in-law Mrs. B. Payment has been made by A. He and his family live in that house. Even if B is a rich lady, the transaction is benami. B is the Benamidar, and A is the beneficial owner. [Illustration from "Keep away from Benami Transaction" leaflet issued by the Income Tax Department].*

It would, however, not be a benami transaction if it can be proved that consideration was paid out of HUF funds and the property was purchased for the benefit of the HUF family [Exception *(i)* to Section 2(9)(A)]. It would also not be a benami transaction if it can be proved that the sister-in-law B was in a fiduciary relationship *vis-a-vis Mr.* A [Exception *(ii)* to Section 2(9)(A)]

- *Mr. P wants to take a liquor license from the government. He pays the money in the name of employee Mr. K, and the contract is awarded to Mr.K, but Mr. P is deriving benefit from the liquor license. The transaction is a benami transaction. Mr. K is the benamidar. Mr. P is the beneficial owner and profits from such liquor business shall be the benami property. [Illustration from "Keep away from Benami Transaction" leaflet issued by the Income Tax Department].*

(b) A transaction or an arrangement in respect of a property carried out or made in a fictitious name;

Example: Fixed deposits kept in the name of fictitious persons is a benami transaction/benami property[Illustration from "Keep away from Benami Transaction" leaflet issued by the Income Tax Department].

(c) A transaction or an arrangement in respect of a property where the owner of the property is not aware of, or denies knowledge of, such ownership;

Example: Cash kept in a bank locker in the name of his employee/relative who denies knowledge is a benami property [Illustration from the leaflet "Keep away from Benami Transaction" issued by the Income-Tax Department].

(d) A transaction or an arrangement in respect of a property where the person providing the consideration is not traceable or is fictitious.

- Who is Benamidar?

Benamidar means a person or a fictitious person, as the case may be, in whose name the benami property is transferred or held and includes a person who lends his name. Benamidar is only an alias for the actual owner, the 'Beneficial Owner'.

- Who is the Beneficial Owner?

Beneficial owner means a person, whether his identity is known or not, for whose benefit the benami property is held by a Benamidar. Sometimes the Benamidar cannot know or disclose the identity of the real owner. He may have only taken the money and placed some signatures. Even in these conditions, the property will be benami.

- What is the definition of property?

Property means assets of any kind, whether movable or immovable, tangible or intangible, corporeal or incorporeal. It also includes any right or interest of legal documents or instruments evidencing title to or interest in the property and where the property is capable of conversion into some other form, then the property in the converted form and also includes the proceeds from the property.

- What is the meaning of transfer?

A transfer includes a sale, purchase, or any other form of transfer of right, title, possession, or lien.

- Whether property held as benami is liable to confiscation?

Yes, any property, which is a subject matter of benami transaction, shall be liable to be confiscated by the Central Government.

- What are the prosecution provisions for a person who enters into a Benami transaction?

Whoever enters into any benami transaction on or after 01-11-2016 shall be punishable in accordance with Section 53 of the Act. Section 53(1) provides

that where any person enters into a benami transaction in order to defeat the provisions of any law, to avoid payment of statutory dues or to avoid payment to creditors, the following shall be guilty of the offence of benami transaction:

  - Beneficial owner,
  - Benamidar and
  - Any other person who abets or induces any person to enter into a benami transaction

Where any person is found guilty of the offence of benami transaction as above,

  - he shall be punishable with rigorous imprisonment for a term not less than one year but which may extend to 7 years and
  - he shall also be liable to a fine which may extend to 25% of the fair market value of the property.

However, the Initiating Officer may tender to benamidar or any other person (other than beneficial owner) immunity from penalty, with the previous sanction of the competent authority as referred to in section 55, on condition of his making a full and true disclosure of the whole circumstances relating to the benami transaction (w.e.f. 01-10-2024).

- Can a Benamidar re-transfer the Benami property to the beneficial owner or any other person?

No. Re-transfer of the Benami property by the Benamidar to the beneficial owner or any other person acting on his behalf is prohibited, and such a re-transfer is deemed to be null and void.

Example: If A, the beneficial owner, purchases a property in the name of Benamidar B. To avoid confiscation, Benamidar B re-transfers the benami property either to A, the Beneficial Owner, or to P, a person acting on behalf of the Beneficial Owner. Both these transactions are null and void [Illustration from "Keep away from Benami Transaction" leaflet issued by the Income Tax Department].

- Can a Benamidar sell away Benami property to avoid confiscation? Can the property be confiscated from the purchaser?

Section 27(2) of the PBPT Act protects the interests of a genuine purchaser/holder of property by providing that Adjudicating Authority shall not confiscate property adjudicated to be benami property if such property was held or acquired by a person from the Benamidar for adequate consideration prior to the issue of notice by Initiating Officer and without his having knowledge of the Benami transaction.

Further, Section 57 of the PBPT Act provides that where, after the issue of a notice under Section 24, any property referred to in the said notice is transferred by any mode whatsoever, such transfer shall, for the purposes of the proceedings under this Act, be ignored. If such property is subsequently confiscated by the Central Government then the transfer of such property shall be deemed to be *null* and *void*.

- Who are the authorities under the PBPT Act?

The following shall be the authorities for the purposes of this Act:

  - Initiating Officer;
  - Approving Authority;
  - Administrator; and
  - Adjudicating Authority.

- What are the powers of the authorities to initiate a proceeding under the PBPT Act?

The powers vested with the authorities are as follows:

a. Power to issue summons;

b. Power requiring certain authorities to assist in the enquiry;

c. Power to call for information;

d. Power to impound documents produced before him;

e. Power of the authority to conduct an enquiry.

- What is the procedure for confiscation of Benami property?

The procedure for attachment, adjudication and confiscation of benami property is explained in Sections 24 to 29 of the PBPT Act.

- Notice and attachment of property involved in Benami transaction (Section 24)
- Manner of service of notice (Section 25)
- Adjudication of Benami property (Section 26)
- Confiscation and vesting of Benami property (Section 27)
- Management of properties confiscated (Section 28)
- Possession of the property (Section 29)

The authorities shall follow the above procedure to confiscate the Benami property.

- What is the pre-requisite to issue a show-cause notice under Section 24?

Pre-requisites under Section 24 for the IO to issue a show-cause notice to the Benamidar for confiscation of the alleged Benami property:

a. The material is collected by the Income-Tax Department and is in the possession of IO;

b. Based on the material in possession, IO forms a belief that property is held Benami by a Benamidar, and he has reasons for that belief;

c. IO records reasons for belief that property is held Benami by a Benamidar.

When the above conditions are satisfied, the IO can issue a show-cause notice to the person he has reasons to believe is a Benamidar in respect of any property to show cause within the time specified in the notice why property mentioned in show cause notice should not be treated as a Benami property.

- How is the show-cause notice to be served?

Section 25 provides that the notice under Section 24(1) may be served on the person named therein either by post or as if it were a summons issued by a Court under the Code of Civil Procedure, 1908. The notice may be addressed:

a. In the case of an individual, to such individual;

b. In the case of a firm, to the managing partner or the manager of the firm;

c. In the case of a HUF, to karta or any member of such family;

d. In the case of a company, to the principal officer thereof;

e. In the case of any other AOP or BOI, to the principal officer or any member thereof;

f. In the case of any other person (not being an individual), to the person who manages or controls his affairs.

- Whether the show-cause notice has to be served to the beneficial owner also?

The copy of the show-cause notice has to be sent to the beneficial owner, if known.

- What is the procedure for the provisional attachment of property specified in the show-cause notice during the pendency of the inquiry?

Provisional attachment can be made if IO is of the opinion that noticed property would be alienated during the period specified in the show-cause notice. The provisional attachment can be made only with the previous approval of the Approving Authority.

The provisional attachment cannot be for more than 90 days* from the end of the month in which the show-cause notice is issued. The said period of 90 days* cannot be extended.

Within the said 90 days* period, the following activities are to be completed by IO:

a. necessary inquiries and investigations are to be completed;

b. necessary reports or evidence to be called for;

c. reply if received to SCN to be considered; and

d. based on the above, decision is to be arrived at whether the initial *bona fide* doubt that the property is benami has been dispelled and IO is satisfied that it is not benami property. If so, with prior approval of Approving Authority, the provisional attachment shall be revoked, proceedings dropped, and no reference to Adjudicating Authority shall be made for adjudication;

e. if initial *bona fide* doubt that it is benami property is strengthened or is not dispelled, then it is a case to be referred to Adjudicating Authority. If so, with prior approval of the Approving Authority, IO shall pass the order continuing the provisional attachment till Adjudicating Authority completes adjudication and passes order under Section 26(3). If not already provisionally attached, IO shall, with prior approval of Approving Authority, pass the order of attachment till Adjudicating Authority completes adjudication and passes order under Section 26(3).

In case of *(e)* above, the case to be referred to Adjudicating Authority within 15 days** of the date of the attachment (i.e. within 15 days** from the date of passing order confirming provisional attachment/order of attachment, as the case may be).

* The time limit of 90 days is applicable till 30-09-2024. W.e.f. 01-10-2024, the limitation period is 4 months from the end of the month in which notice under section 24(1) is issued.

** The time limit of 15 days is applicable till 30-09-2024. W.e.f. 01-10-2024, the limitation period is one month from the end of the month in which the order under section 24(4)(a)(i) or 24(4)(b)(i) has been passed

- What is the procedure for the adjudication before the Adjudicating Authority?

Section 26 provides for the adjudication hearing before Adjudicating Authority, culminating in an adjudication order holding the property/case referred by IO to be benami property or not and confirming or revoking IO's provisional attachment.

The procedure for adjudication hearings under Section 26, in a nutshell, is as follows:

(a) Receipt of reference under Section 24(5) from IO in respect of any alleged benami property;

(b) Where in the course of proceedings before it, the Adjudicating Authority has reason to believe that a property, other than a property referred to it by the IO is benami property, it shall provisionally attach the property, and the property shall be deemed to be a property referred to it on the date of receipt of the reference under Section 24(5);

(c) The Adjudicating Authority may, at any stage of the proceedings, either on the application of any party, or *suo motu*, strike out the name of any party improperly joined or add the name of any person whose presence before the Adjudicating Authority may be necessary to enable him to adjudicate upon and settle all the questions involved in the reference;

(d) Notice to be issued by Adjudicating Authority under Section 26(1) within 30 days of receiving a reference from IO;

(e) Notice should allow not less than 30 days for compliance with its requirement;

(f) The Adjudicating Authority shall consider the reply, if any, to the notice issued;

(g) The Adjudicating Authority may make or cause to be made such inquiries and calling for such reports or evidence as Adjudicating Authority deems fit;

(h) The Adjudicating Authority shall take into account all relevant materials;

(i) The Adjudicating Authority shall provide an opportunity of being heard to the person specified as a Benamidar in the notice, the Initiating Officer, and any other person who claims to be the owner of the property;

(j) Where the Adjudicating Authority is satisfied that some part of the properties in respect of which reference has been made to him is benami property, but is not able to specifically identify such part, he shall record a finding to the best of his judgment as to which part of the properties is held benami;

(k) The Adjudicating Authority shall pass an order under Section 26(3):

(i) holding the property not to be a benami property and revoking the attachment order; or

(ii) holding the property to be a benami property and confirming the attachment order, in all other cases.

(l) No order under Section 26(3) shall be passed after the expiry of one year from the end of the month in which the reference from IO is received under Section 24(5).

- What is the procedure for the confiscation of the property when an adjudication order passed under Section 26 holds it to be a Benami property?

Section 27 provides for the confiscation and vesting of benami property as under:

a. Where an order is passed in respect of any property under Section 26(3) holding such property to be a *benami* property, the Adjudicating Authority shall, after giving an opportunity of being heard to the person concerned, make an order confiscating the property held to be a *benami* property.

b. Where an appeal has been filed against the order of the Adjudicating Authority, the confiscation of property shall be made subject to the order passed by the Appellate Tribunal under Section 46.

c. The confiscation order as above cannot be made if property adjudged benami property in order under Section 26(3) was held or acquired

    - by a person from the *benamidar*
    - for adequate consideration,
    - prior to the issue of show cause notice under Section 24(1)
    - without his having knowledge of the *benami* transaction.

d. Where an order of confiscation has been made as above, all the rights and title in such property shall vest absolutely in the Central Government free of all encumbrances, and no compensation shall be payable in respect of such confiscation.

e. Any right of any third person created in such property with a view to defeat the purposes of this Act shall be null and void.

f. Where no order of confiscation is made upon the proceedings under this Act attaining finality, no claim shall lie against the government.

Section 28(1) provides that the Administrator shall have the power to receive and manage the property in relation to which an order of confiscation under Section 27(1) has been made, in such manner and subject to such conditions, as may be prescribed.

Section 29 stipulates the procedure to be followed by the Administrator for taking possession of confiscated property. The Administrator shall:

g. by notice in writing, order within seven days of the date of the service of notice to any person, who may be in possession of the *benami* property, to surrender or deliver possession thereof to the Administrator or any other person duly authorised in writing by him in this behalf;

h. in the event of non-compliance of the order in (a) above, or if in his opinion, taking over of immediate possession is warranted, for the purpose of forcibly taking over possession, requisition the service of any police officer to assist him and it shall be the duty of the officer to comply with the requisition.

- What is the time limit to file an appeal to Appellate Tribunal?

Any person, including the Initiating Officer, aggrieved by an order of the Adjudicating Authority (order of adjudication under Section 26(3) either holding property to be not benami property and revoking attachment order or holding property to be benami property and confirming the attachment) may prefer an appeal to the Appellate Tribunal within a period of 45 days from the date on which such order is received by the Initiating Officer or received by such person.

- What is the process where a person dies during the course of any proceeding?

Where a person dies during the course of any proceeding under this Act, any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased.

- What is the time limit to rectify a mistake apparent on the face of the record?

The Appellate Tribunal or any authority may, in order to rectify any mistake apparent on the face of the record, amend any order passed by it within a period of 1 year from the end of the month in which such order was passed.

However, no amendment shall be made if the amendment is likely to affect any person prejudicially unless he has been given notice of intention to do so and has been given an opportunity of being heard.

- What is the time limit to file an appeal to High Court?

Any party aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within a period of 60 days from the date of communication of the decision or order of the Appellate Tribunal to him on any substantial question of law arising out of such order.

- What is the punishment for false information submitted by the person who is required to furnish information under this Act?

Where any person, who is required to furnish information under this Act, knowingly gives false information to any authority or furnishes any false document in any proceeding under this Act, he shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to five years and shall also be liable to fine which may extend to 10% of the fair market value of the property.

FAQs on Annual Information System (AIS) and Taxpayer Information Summary (TIS)

- What is Annual Information Statement (AIS)?

Section 285BB of the Income-tax Act provides that the Income-tax authority or any other person authorised on this behalf shall make available an Annual Information Statement to the assessee containing information on various financial transactions made by him during the year.

Annual Information Statement (AIS) is a statement that provides complete information about the prepaid taxes and prescribed financial transactions entered into by taxpayer for a particular financial year.

- What is Taxpayer Information Summary (TIS)?

Taxpayer Information Summary (TIS) is a category-wise taxpayer summary of such information.

- Which types of information are covered in AIS?

Section 285BB *read with* Rule 114-I of the Income-tax Rules, 1962 provides that the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or any person authorised by him shall upload such annual information statement which contains the following information in respect of an assessee for a particular financial year:

a. Information relating to TDS and TCS;
b. Information relating to Specified Financial Transactions (SFT);
c. Information relating to the payment of taxes;
d. Information relating to demand and refund;
e. Information relating to pending proceedings;
f. Information relating to completed proceedings;
g. Information received from any officer, authority, or body performing any functions under any law or information received under an agreement referred under section 90 or section 90A;
h. Information relating to GST return;
i. Foreign remittance information reported in Form 15CC;
j. Information in Annexure-II of the Form 24Q TDS Statement of the last quarter;
k. Information in the ITR of other taxpayers;
l. Interest on Income Tax Refund;
m. Information in Form 61/61A where PAN could be populated;
n. Off Market Transactions Reported by Depository/Registrar and Transfer Agent (RTA);
o. Information about dividends reported by Registrar and Transfer Agent (RTA);
p. Information about the purchase of mutual funds reported by Registrar and Transfer Agent (RTA); and

q. Information received from any other person to the extent it may be deemed fit in the interest of the revenue.

The CBDT has authorised the Director General of Income-tax (Systems) to upload information relating to points (h) to (p) in the AIS within 3 months from the end of the month in which the information is received by him.

- How to access AIS/TIS?

An assessee can access AIS/TIS information by logging into his income-tax e-filing account or through the mobile app "AIS for Taxpayer". If he feels that the information furnished in AIS is incorrect, duplicated, or relates to any other person, etc., he can submit his feedback thereon directly from the income-tax e-filing portal, or using an offline utility.

FAQs on agricultural income (Section 2(1A) and Rule 7)

- When can income derived from the land be treated as agricultural income under Section 2(1A)(a)?

Income derived from land can be termed agricultural income if the following conditions are satisfied:

a. Rent or revenue should be derived from the land;

b. Land should be situated in India; and

c. Land should be used for agricultural purposes.

- What is the provision of Section 2(1A)(b)(ii)?

Any income derived by performing the marketing process by the cultivator is an agricultural income if the following conditions are fulfilled:

a. The process to which the agricultural produce is subjected should be ordinarily employed by a cultivator or receiver of rent-in-kind.

b. The process should be employed to render the produce fit to be taken to market and not for any other purpose.

- What is the provision of Section 2(1A)(b)(iii)?

Any income arising to the cultivator or receiver of rent-in-kind from the sale of produce of any land (situated in India and used for agricultural purposes) is agricultural income, provided the produce should not be subjected to any process except the process ordinarily employed to render the produce fit for sale.

- When income from farm building may be treated as agricultural income under Section 2(1A)(c)?

Income from a farm building may be treated as agricultural income if the following conditions are satisfied:

(a) If such a building is:

- Owned and occupied by the receiver of revenue or rent; or
- Occupied by the cultivator or receiver of rent-in-kind;

(b) If such building is on or in the immediate vicinity of the land, situated in India, and used for agricultural purposes;

(c) If such building is used as a dwelling-house, as a store-house, or as an out-building (out-house) by the receiver of the rent or revenue (in cash) or the cultivator or the receiver of rent-in-kind because of his connection with the land;

(d) If the land is assessed to land revenue in India or is subject to a local rate. Where it is not assessed to land revenue or local rate, it should be situated in a rural area.

- When agricultural land is considered situated in a rural area?

Agricultural land is considered situated in a rural area if it is situated beyond the jurisdiction of a municipality or cantonment board having a population of 10,000 or more, and does not fall within the following distances (to be measured aerially):

a. Up to 2 km from local limits of the municipality or cantonment board if the population of such municipality or cantonment board exceeds 10,000 but does not exceed 1,00,000;

b. Up to 6 km from local limits of the municipality or cantonment board, if the population of such municipality or cantonment board exceeds 1,00,000 but does not exceed 10,00,000;

c. Up to 8 km from the local limits of the municipality or cantonment board, if the population of such municipality or cantonment board exceeds 10,00,000.

- When income from nursery operation shall be deemed agricultural income?

Any income derived from saplings or seedlings grown in a nursery shall be deemed agricultural income.

- What is the provision of Rule 7 of the Income-tax Rules, 1962?

Rule 7 applies to the income, which is partially agriculture income and partially business income.

Rule 7 provides that where the cultivator or receiver of rent-in-kind utilizes agricultural produce in his business as raw material, the market value of such produce is deducted while computing the taxable profits of such business.

Similarly, if sale receipts of the agricultural produce are included in the accounts of the business, it shall be deducted.

No further deduction is permissible in respect of any expenditure incurred by the assessee as cultivator or receiver of rent-in-kind.

- How to determine the market value of agricultural produce where produce is ordinarily sold in the market?

If agricultural produce is ordinarily sold in the market in its raw state or after the application of any process ordinarily employed by the cultivator or the receiver of rent-in-kind to render it fit for the market, the market value is determined according to the average price at which the produce has been sold during the relevant previous year.

- How to determine the market value of agricultural produce where produce has no market?

If produce has no market in its raw form or after the application of ordinary marketing process, the market value shall be the aggregate of the following:

a. Expenses of cultivation;

b. Land revenue or rent paid for the area in which it was grown; and

c. Such amount of profits as the Assessing Officer may find reasonable, having regard to the circumstances of the case.

- What is the provision of Rule 7A of the Income-tax Rules, 1962?

Rule 7A prescribes that the income derived from the sale of the following produce of rubber plants grown in India shall be computed as if it were income derived from normal business:

a. Centrifuged latex;

b. Cenex;

c. Latex based crepes (such as pale latex crepe);

d. Brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe, or flat bark crepe);

e. Technically specified block rubbers manufactured or processed from field latex;

f. Coagulum obtained from rubber plants.

35% of such income shall be deemed to be income liable to tax, and 65% of such income is treated as agriculture income.

- Which deduction is allowed while computing income from the sale of the produce of rubber plants?

While computing such income, the assessee is entitled to claim the deduction in respect of the cost of planting rubber plants in replacement of plants that have died or become permanently useless in an area already planted if such area has not previously been abandoned.

However, in determining such cost, no deduction shall be allowed in respect of the amount of any subsidy which is received from or through the Rubber Board constituted under Section 4 of the Rubber Act, 1947.

- What is the provision of Rule 7B of the Income-tax Rules, 1962?

Rule 7B prescribes that the income in respect of the sale of coffee grown and cured in India shall be computed as if it were income derived from a normal business. 25% of such income is deemed as business income, and 75% of such income is deemed as agriculture income.

Further, income derived from the sale of coffee grown, cured, roasted, and grounded in India, with or without mixing chicory or other flavouring ingredients, shall be computed as if it were income derived from a normal business. 40% of such income shall be deemed to be income liable to tax, and 60% of such income is treated as agriculture income.

- Which deduction is allowed while computing income from the sale of coffee grown, cured, roasted, and grounded in India?

Rule 7B prescribes that the income in respect of the sale of coffee grown and cured in India shall be computed as if it were income derived from a normal business. 25% of such income is deemed as business income, and 75% of such income is deemed as agriculture income.

Further, income derived from the sale of coffee grown, cured, roasted, and grounded in India, with or without mixing chicory or other flavouring ingredients, shall be computed as if it were income derived from a normal business. 40% of such income shall be deemed to be income liable to tax, and 60% of such income is treated as agriculture income.

- What is the provision of Rule 8 of the Income-tax Rules, 1962?

Rule 8 prescribes that the income in respect of the business of growing tea leaves and manufacturing tea is computed as if it were derived from normal business after making all permissible deductions. 40% of such income is deemed as business income, and 60% of such income is deemed as agriculture income.

- Which deduction is allowed while computing income in respect of the business of growing tea leaves and manufacturing tea?

While computing such income, the assessee is entitled to claim the deduction in respect of the cost of planting bushes in replacement of bushes that have died or become permanently useless in an area already planted if such area has not previously been abandoned.

However, in determining such cost, no deduction shall be allowed in respect of the amount of any subsidy which is received from or through the Tea Board established under Section 4 of the Tea Act, 1953.

- What is the tax treatment of agriculture income?

Agricultural income is exempt from tax under Section 10(1) of the Income-tax Act. However, the agriculture income is included in the total income of a specified assessee (individual, HUF, BOI, AOP, or Artificial Juridical Person) where such income exceeds Rs. 5,000 and the non-agricultural income exceeds the maximum exemption limit.

The manner of tax computation in the case of partial integration regime is as below:

Step 1: Calculate net agricultural income.

Step 2: Calculate tax on the aggregate of non-agricultural total income and net agricultural income, as if such income is the total income.

Step 3: Calculate tax on the aggregate of net agricultural income and maximum exemption limit as if such income is the total income.

Step 4: The amount of tax calculated in Step 2 shall be reduced by the amount of tax calculated in Step 3.

Step 5: The result of Step 4 shall be reduced by rebate under Section 87A, if applicable. The resultant figure shall be increased by surcharge and health and education cess.

- What is the taxability of capital gain arising from the sale of agricultural land?

For capital gain purposes, agricultural land is classified into two categories;

a. Rural Agricultural Land and

b. Urban Agricultural Land.

Any gain arising from the transfer of rural agricultural land is not chargeable to tax under the head Capital Gains because such land is specifically excluded from the definition of a capital asset. Whereas the gain arising from the transfer of urban agricultural land is chargeable to tax under the head Capital Gains.

FAQs on Faceless Income-tax Proceedings

- What are the salient features of 'E-Proceedings' functionality on the 'e-filing' portal of the Income Tax department?

As a part of the e-governance initiative to facilitate the conduct of assessment proceedings electronically, the Income tax department has launched an 'e-proceeding' facility. It is a simple way of communication between the assessing authority and assessee, through electronic means, without the necessity to visit the Income-tax office to conduct the assessment proceedings.

In the e-proceedings initiatives, all the letters, income tax notices, questionnaires, intimations, orders and other communications are directly sent to the taxpayers' registered account on the 'e-filing' portal of the Income-tax department. The taxpayers can submit the responses electronically by uploading the same along with attachments. The responses submitted by the assessee are viewed by the assessing authority electronically in Income-Tax Business

Application (ITBA) module. Besides saving the precious time of the assessee, this initiative also provides a 24X7 anytime/ anywhere convenience to the taxpayers to submit the responses to departmental queries during assessment proceedings.

By completing the entire assessment proceedings online and electronically, the taxpayer has easy access to the 'e-proceedings' and all documents and information submitted in the process. This initiative is taxpayer-friendly and environment-friendly as assessment proceedings have become 'faceless', 'paperless', and 'jurisdiction-less'.

- How does the new 'Faceless Assessments' system under Section 144B of the Income Tax Act differ from the 'Conventional Manual Mode of Assessments'?

Under the 'conventional manual mode of assessments', the jurisdictional assessing authority used to issue a scrutiny notice either under Section 143(2)/142(1) of the Income-tax Act and served such notice to the assessee at his registered address. The assessee (or his authorized representative) used to file the corresponding responses, explanations and supporting documents in physical form (hard copies) to the jurisdictional assessing authority by personally visiting the income tax offices. After a series of personal interactions and deliberations between the assessee/authorized representative and the assessing authority, the assessment was concluded.

As against this, under the new provisions of 'Faceless Assessments' under Section 144B, all the letters, income tax notices, questionnaires, assessments, orders and other communications from the assessing authorities are directly sent electronically to the taxpayers' registered 'e-filing account'. The taxpayer can submit the 'e-responses' electronically by uploading the same along with attachments on the 'e-Filing' portal. The 'e-responses' submitted by the assessee are viewed by the assessing authority electronically in Income-Tax Business Application (ITBA) module. The assessee is not required to have any personal interface or interaction with the assessing authority.

Thus, the elementary difference between conventional manual assessments and the 'faceless assessments' is the mode of the interface between the assessee and the assessing authority. In the conventional manual assessments, the mode of the interface was physical and personal, whereas in the 'faceless assessments', the mode is electronic.

- Which are the different Income Tax Units under the new ecosystem of Faceless Assessments under Section 144B?

The different Income Tax Units under the new ecosystem of Faceless Assessments under Section 144B are:

a. National Faceless Assessment Centre;

b. Assessment Unit;

c. Technical Unit;

d. Verification Unit;

e. Review Unit

- Which Income Tax Unit will do all the electronic communication/interface with the assessee under the New Scheme of Faceless Assessments under Section 144B?

The National Faceless Assessment Centre will do all the electronic communication/interface with the assessee under the New Scheme of Faceless Assessments under Section 144B.

- Where can I see if any query has been raised against my response given against an adjustment made under Section 143(1)(a)?

You can view the queries raised by the Income Tax Department under e-Proceedings.

- What notices/orders can I respond to under e-Proceedings?

All notices/intimations/letters issued by the Income Tax Department and CPC are available under e-Proceedings, which you can view and submit the response along with attachments by uploading the same on the e-filing portal. You can view and submit responses to the following notices through this service:

- Defective Notice under Section 139(9)
- Intimation under Section 245 – Adjustment against demand
- Prima Facie Adjustment under Section 143(1)(a)
- Suo-moto Rectification under Section 154
- Notices issued by Assessing Officer under Section 143(2)/142(1)/148
- Seek clarification communication under Section 133(6)

- What is the permissible size of files that can be uploaded in the response window?

The maximum permitted size for a single attachment is 5 MB. In case you have more than 1 document to upload, you can put them together in a zipped folder and upload the folder. The maximum size of all attachments in a zipped folder should be 50 MB. If the size of the single document or the zipped folder exceeds the permitted limit, you can optimize the document/folder by reducing the file size.

- Do I need to log in to the e-Filing portal to view and submit a response?

Yes, you will be required to log in to the e-Filing portal to view and submit a response using the e-Proceedings service.

- Do I need to e-Verify the response/submission made using the e-Proceedings service?

Yes, you will be required to e-Verify the response submitted by you using the e-Proceedings service.

- I have 4 days left before the proceeding limitation date. Why am I unable to submit my response?

If your proceeding status is open, the submit response option will be available only till 7 days prior to the proceeding limitation date till 6 PM. If there is no proceeding limitation date, the Income Tax Authority can close the e-submission option. However, at the option of the Income Tax Authority, the submission window can be re-enabled till the proceeding limitation date.

- Can I view the response I have submitted to the notice issued to me?

Yes, you can view the response submitted by you or by your authorized representative.

- Can I edit my response after responding to a notice on the e-Filing portal?

No, you cannot edit your response once submitted on the e-Filing portal.

- Can I respond to a seek clarification notice without logging on to the e-Filing portal?

No, you will be required to log in to seek clarification communication. You will not be able to either view the notice or submit the response to the notice issued to you without log in.

- Can somebody else on my behalf respond to the notices issued to me by the Income Tax Authority using the e-Proceedings service?

Yes, you can add an authorized representative to respond to a notice on your behalf using the e-Proceedings service, except in the case of Intimation under Section 245.

- Can I remove an already added /existing Authorized Representative?

Yes, you can remove or withdraw the representative authorized by you.

- Can I add two Authorized Representatives to respond to the notice issued to me?

No, you can only have one active authorized representative at a time for a proceeding.

- How do I know if there is any outstanding demand pending against my PAN?

You can check if there is any outstanding demand through the e-Filing portal. Log in to the e-Filing portal and click *Pending Actions* > *Response to Outstanding Demand*. You will be redirected to the outstanding demand page. If there are demands outstanding against your PAN, the option against each of such outstanding demands will be Pending Payment/Response. You can click to Pay Now/Submit Response.

- Why do I need to submit a response to an outstanding demand?

The Income Tax Department may find some Outstanding Tax demands against your PAN. In order to confirm if the stated demand is correct, an opportunity is given to you to respond. If you do not respond, the demand will be confirmed and will be adjusted against your refund (if any) or shown as a demand payable against your PAN (in case no refund is due).

- What can I do if I disagree with the amount of outstanding demand?

You can choose 'Disagree with Demand (Either in Full or Part)'. After you select the option, you need to select from the list of reasons due to which you disagree with the amount of demand. After selecting the relevant option from the list, you need to provide details for each reason before submitting the response. If you partially disagree with the demand, you should pay the undisputed portion of the demand (i.e. with which you agree).

- What can I do if the reason for disagreement with the outstanding demand is not listed?

You can select ‘Others’ as a reason after you choose ‘Disagree with Demand (Either in Full or Part)’. After selection, you can enter the required details for the reasons.

- Where can I view the past responses I have submitted?

After you log in to the e-Filing portal, click *Pending Actions* > *Response to Outstanding Demand,* and you will be redirected to the ‘*response to outstanding demand*’ page. Among the list of past and existing outstanding demands, click on *‘View against the particular demand’*. You will only be able to see the view option for the demands for which you have already submitted at least one response.

- While selecting reasons on the ‘Response to Outstanding Demand’ page, I get the message “No records found for revised/rectified return for the assessment year”. What can I do?

Please try again. If the problem persists, please validate the Acknowledgement no. received after the submission of your Rectification/Revised Return request.

- How do I pay the outstanding tax demand?

You can make payment of your Income Tax Demand through the e-Filing portal in the following ways:

  - Directly pay tax by clicking the 'Pay Now' option for the respective DRN (Demand Reference Number) on the 'Response to Outstanding Demand' page; or

Using the 'Pay Now' option while submitting the response to the outstanding demand (in case you agree or you partially agree with the outstanding demand).

- What are the different ways in which I can make the payment?

You can make payment through the e-Filing portal. You can use the following online methods to make tax payments:

  - Net-banking; or
  - Debit Card; or
  - Payment Gateway (using Credit Card/Debit Card of Non-Authorized Banks/Net Banking of Non-Authorized Bank/UPI)

  You can use the following offline methods to make tax payments:

  - NEFT / RTGS (the Mandate Form generated may be submitted to the bank or used for online transfer using Net-banking); or
  - Pay over the Counter (through Cash / Cheque / Demand Draft).

- What if I do not have the copy of the challan to be attached? Where can I find it?

You can reprint/regenerate your challan from your respective bank account using Net Banking or visit the bank branch.

- When do I need to submit a rectification request?

A rectification request can be submitted on the e-Filing portal if there is any mistake apparent from the record in:

  - An intimation issued under Section 143(1);
  - Order under Section 154 by the CPC or by the Assessing Officer (where CPC transfers rectification rights).

    A rectification request can be submitted only for returns that are already processed by CPC.

- What kinds of errors can be corrected by submitting a rectification request?

You can submit a rectification request for errors in the processing of your income tax return by CPC. Only mistakes apparent from the record are considered for rectification, such as:

  - Total Tax Liability. *For example*, tax payments not matched as per the CPC order, cancellation of adjustment of earlier demand, variance in interest/tax computation, amending assessment order or intimation.
  - Gross Total Income. *For example*, income charged to tax under a wrong head considered, mismatch in salary income, brought-forward losses not allowed, incorrect set-off of current year losses, etc.
  - Total Deductions. *For example*, details of deductions under Chapter VI-A wrongly considered, MAT/MATC or AMT/AMTC not allowed/partially allowed, amending assessment order to allow a deduction for late remittance of foreign exchange.
  - Personal Information. *For example*, a request to correct the gender of the taxpayer, residential status, etc.

    The above categories cover all types of taxpayers registered on the e-Filing portal. Do not use the rectification request for changing bank account or address details in your ITR or any other mistake on your part, which can be corrected with a revised return.

- What are the different request types for income tax rectification?

The different request types for income tax rectification are as under:

  - Reprocess the Return
  - Tax Credit Mismatch Correction
  - Additional Information for Section 234C Interest

- Status Correction (applicable to ITR-5 and ITR-7, applicable till AY 2018-19)
- Exemption Section Correction (applicable to ITR-7 only, applicable till AY 2018-19)
- Return Data Correction (Offline)
- Return Data Correction (Online)

- When prosecution under Section 275A may be launched?

Prosecution under Section 275A may be launched if a person fails to comply with the order of the authorities to not deal with the goods that are impracticable to be seized.

- What is the punishment and fine for the offence under section 275A?

Such offence shall be punishable with rigorous imprisonment which may extend to 2 years and shall also be liable to fine.

- When prosecution under Section 275B shall be launched?

Prosecution under Section 275B shall be launched if a person fails to provide the facility to the authorised officer to inspect any books of accounts or other documents during the search and seizure.

- What is the punishment and fine for the offence under section 275B?

Such offence shall be punishable with rigorous imprisonment which may extend to 2 years and shall also be liable to fine.

- When prosecution under Section 276 shall be launched?

Prosecution under Section 276 shall be launched if a person fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, to prevent the recovery of tax.

- When prosecution under Section 276A can be launched?

Prosecution under Section 276A can be launched where any person, appointed as liquidator of a company, has committed any of the following defaults:

a. He fails to give notice of his appointment within 30 days to the Assessing Officer having jurisdiction over such company;
b. He fails to set aside the amount, notified to him by the Assessing Officer, to meet the tax demand;
c. He parts with any of the assets of the company or properties in hand, until the amount to be set aside, is notified by the Assessing officer, without the prior approval of the prescribed tax authority; or
d. He parts with any of the assets of the company or properties in hand until the amount of tax demand notified by the Assessing Officer is set aside.

No proceedings shall be initiated under this provision on or after 01-04-2023.

- What is the punishment and fine for the offence under section 276A?

Such offence shall be punishable with rigorous imprisonment which may extend to 2 years. In the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be less than 6 months.

- When penalty under Section 276B shall be imposed?

Prosecution under Section 276B shall be launched if any of the following defaults are committed:

a. Failure to deduct tax at source (whole or partly);

b. Failure to pay dividend distribution tax;

c. Failure to pay or ensure payment of tax in respect of the winnings in kind, whether wholly or partly, where the cash part is not sufficient to meet the liability for deduction of tax in respect of whole winnings as referred to in Section 194B;

d. Failure to ensure payment of tax in respect of the winnings from the online game in kind, whether wholly or partly, where cash part is not sufficient to meet the liability for deduction of tax in respect of whole winnings from online games as referred to in Section 194BA;

e. Failure to ensure payment of tax in respect of the benefit or perquisite in kind, whether wholly or partly, where cash part is not sufficient to meet the liability for deduction of tax in respect of the whole of such benefit or perquisite as referred to in Section 194R;

f. Failure to ensure payment of tax in respect of the consideration for transfer of virtual digital asset (VDA) in kind, whether wholly or partly, where cash part is not sufficient to meet the liability for deduction of tax in respect of such consideration for the transfer of VDA as referred to in Section 194S.

Note 1: No prosecution shall be launched if the payment of tax deducted in respect of a quarter has been made to the credit of the Central Government at any time on or before the time prescribed for filing the TDS statement of such quarter (w.e.f 01-10-2024).

Note 2: No prosecution shall be launched if the payment of tax collected in respect of a quarter has been made to the credit of the Central Government at any time on or before the time prescribed for filing the TCS statement of such quarter (w.e.f 01-04-2025).

- What is the punishment and fine for the offence under section 276B?

Such person shall be punishable with rigorous imprisonment for a term which shall not be less than 3 months but which may extend to 7 years and with fine.

However, if any person is convicted again of a similar offence under this provision, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than 6 months but which may extend to 7 years and with fine.

- When prosecution under Section 276BB shall be launched?

Prosecution under Section 276BB shall be launched on a person who after collecting tax at source under section 206C, fails to pay the same (either whole or any part of it) to the credit of the Central Government. However, this section doesn't apply if the tax collected at source is paid to the Central Government on or before the due date for filing the TCS statement related such tax collected.

- When prosecution under Section 276C(1) shall be launched?

Prosecution under Section 276C(1) shall be launched where a person wilfully attempts to evade any tax, penalty or interest chargeable or imposable under this Act or under-reports his income.

- What is the meaning of a wilful attempt to evade tax?

Wilful attempt to evade tax, penalty or interest chargeable or imposable or payment thereof shall include the following:

a. Where any person has in his possession or controls any books of account or other documents (relevant to any proceedings under this Act) containing any false entry or statement;

b. Where any person makes or causes to be made any false entry or statement in such books of account or other documents;

c. Where any person wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

d. Where any person causes any other circumstances to exist which have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

- When prosecution under Section 276C(2) shall be launched?

Prosecution under Section 276C(2) shall be launched where a person wilfully attempts to evade payment of tax, penalty or interest chargeable or imposable under this Act.

- What is the punishment and fine for the offence under section 276C(2)?

Such person shall be punishable with rigorous imprisonment for a term which shall not be less than 3 months but which may extend to 2 years and with fine.

- When prosecution under Section 276CC shall be launched?

Prosecution under Section 276CC shall be launched if a person fails to furnish the return of income under the following provisions:

a. In accordance with Section 139(1);

b. In response to a notice issued under Section 142(1)(i);

c. In response to a notice issued under Section 148 for re-assessment; or

d. In response to a notice issued under Section 153A for assessment in case of search.

- When prosecution under section 276CC shall not be launched?

No prosecution under this provision shall be launched for failure to furnish return of income under section 139(1), if:

a. The return is furnished by the assessee before the expiry of the assessment year or an updated return is furnished within 48 months from the end of the relevant assessment year; or

b. The tax payable by such person (not being a company) on the total income determined on regular assessment, as reduced by advance tax or self-assessment tax paid before the expiry of the assessment year or tax deducted or tax collected at source, does not exceed Rs. 10,000.

- What is the punishment and fine for the offence under section 276CC?

a. Rigorous imprisonment for a term which shall not be less than 6 months but which may extend to 7 years and with fine, where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds Rs. 25,00,000;

b. With imprisonment for a term which shall not be less than 3 months but which may extend to 2 years and with fine, in any other case.

If any person is convicted again of the similar offence under this provision, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than 6 months but which may extend to 7 years and with fine.

- When prosecution under Section 276CCC shall be launched?

Prosecution under Section 276CCC shall be launched where a person wilfully fails to furnish in due time return of total income which he is required to furnish by notice given under section 158BC(a).

However, no prosecution is launched under this provision where the search is initiated under Section 132 or books of account, other documents or assets are requisitioned under section 132A after 31-05-2003. In such a case, on failure to furnish a return of income in response to a notice issued by the assessing officer, the prosecution shall be launched under Section 276CC.

- What is the punishment and fine for the offence under section 276CCC?

Such person shall be punishable with imprisonment for a term which shall not be less than 3 months but which may extend to 3 years and with fine.

- When prosecution under Section 276D shall be launched?

Prosecution under Section 276D shall be launched if a person commits any of the following defaults:

1. Willful failure to produce or causes to be produced such accounts and documents as required in a notice issued by the Assessing Officer under Section 142(1); or

2. Willful failure to get the accounts audited or inventory valued on the directions issued by the assessing officer for special audit or inventory valuation under Section 142(2A).

- What is the punishment and fine for the offence under section 276D?

Such person shall be punishable with rigorous imprisonment for a term which may extend to 1 year and with a fine.

- When prosecution under Section 277 shall be launched?

Prosecution under Section 277 shall be launched if a person makes a statement in any verification under this Act, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true.

- What is the punishment and fine for the offence under section 277?

    a. With rigorous imprisonment for a term which cannot be less than 6 months but which may extend to 7 years and with fine, where the amount of tax, that would have been evaded if the statement or account had been accepted as true, exceeds Rs. 25,00,000;

    b. With rigorous imprisonment which shall not be less than 3 months but which may extend up to 2 years and with fine, in any other case.

If any person is convicted again of a similar offence under this provision, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than 6 months but which may extend to 7 years and with fine.

- When prosecution under Section 277A shall be launched?

Prosecution under Section 277A shall be launched if the following conditions are satisfied:

    a. A person makes or causes to make any entry or statement;

    b. Such entry or statement is false or he either knew it to be false or does not believe it to be true;

    c. Such entry or statement is found in any books of account or document relevant to or useful in any proceeding under the Act against him or any other person;

    d. The entry or statement is made wilfully and with intent; and

    e. Such entry or statement enables any other person ('the other person') to evade any tax or interest or penalty chargeable or imposable under the Act.

- When prosecution under Section 278 shall be launched?

Prosecution under Section 278 shall be launched if a person commits any of the following defaults:

a. Abets or induces another person to make and deliver an account or a statement or declaration, relating to any income which is chargeable to tax, which is false and which he either knows to be false or does not believe to be true; or

b. Abets or induces another person to evade any tax, penalty or interest chargeable or imposable or to under-report his income under this Act as referred under Section 276C(1).

- What is the punishment and fine for the offence under section 278?

a. With rigorous imprisonment for a term which shall not be less than 6 months but which may extend to 7 years and with fine, if the amount of tax, penalty or interest that would have been evaded exceeds Rs 25 lakhs, if such declaration or account or statement had been accepted as true;

b. With rigorous imprisonment for a term which shall not be less than 3 months but which may extend to 2 years and with fine, in any other case.

If any person is convicted again of a similar offence under this provision, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than 6 months but which may extend to 7 years and with fine.

- When prosecution under Section 280 shall be launched?

Section 138(2) provides that the Central Government may direct that certain information or document may be furnished or produced by a public servant to the specified authorities.

Prosecution under Section 280 shall be launched where a public servant furnishes or produces (before any person or authority) any such document or record or any information or computerised data or part thereof as comes into his possession during the discharge of official duties in contravention of the provisions of Section 138(2). To initiate prosecution under this provision, the prior approval of the Central Government shall be required.

- What is the punishment and fine for the offence under section 280?

Such person shall be punishable with imprisonment which may extend to 6 months and shall also be liable to fine.

FAQs on Penalty provision under IT Act

- When penalty under Section 221 shall be imposed?

Penalty under Section 221 shall be imposed if an assessee is in default or is deemed to be in default in payment of tax.

- What is the amount of penalty levied under section 221?

Such amount as the Assessing Officer may impose subject to a maximum limit of tax in arrears

- When penalty under Section 270A may be imposed?

Penalty under Section 270A may be imposed for under-reporting and misreporting of income (not being an unexplained income).

- What is under-reporting of income?

Cases	*Income assessed under normal Provisions*	*Income assessed under MAT/AMT Provisions*
Return of Income is filed	Income assessed is greater than the income determined in the return processed u/s 143(1)(a)	The deemed total income assessed or reassessed as per the provisions of section 115JB/115JC, is greater than the deemed total income determined in the return processed under section 143(1)(a)
No Return of Income is filed or return is filed for the first time under section 148	The income assessed is greater than the maximum exemption limit	The deemed total income assessed as per the provisions of section 115JB/115JC, is greater than the maximum exemption limit.
Case of Reassessment	The income reassessed is greater than the income assessed or reassessed immediately before such reassessment	The deemed total income reassessed as per the provisions of section 115JB/115JC, is greater than the deemed total income assessed or reassessed immediately before such reassessment.
Loss Assessed	The income assessed or reassessed has the effect of reducing the loss or converting such loss into income	The income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

- What is misreporting of income?

The following cases will be considered as misreporting of income:

a. Misrepresentation or suppression of facts;
b. Failure to record investments in the books of account;
c. Claim of expenditure not substantiated by any evidence;
d. Recording of any false entry in the books of account;

e. Failure to record any receipt in books of account having a bearing on total income; and

f. Failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.

- What is the amount of penalty levied under section 270A?

The penalty shall be a sum equal to 50% of the amount of tax payable on under-reported income.

However, if under-reported income is in consequence of any misreporting thereof by any person, the penalty shall be equal to 200% of the amount of tax payable on under-reported income.

- When penalty under Section 271A may be imposed?

Penalty under Section 271A may be imposed if any person fails to keep and maintain any books of account and other documents as required under Section 44AA. Further, the penalty may also be imposed on failure to retain such books of accounts and other documents for 6 years.

- What is the amount of penalty levied under section 271A?

Rs. 25,000

- When penalty under Section 271AA may be imposed?

Penalty under Section 271AA may be imposed if any of the following defaults are committed by the assessee:

a. Failure to keep and maintain information and documents, as referred under Section 92D, in respect of an international transaction or specified domestic transaction entered by it;

b. Failure to report the international transaction or specified domestic transaction which he is required to do so;

c. Maintaining or furnishing incorrect information or document in respect of an international transaction or specified domestic transaction.

- What is the amount of penalty levied under section 271AA?

The penalty shall be a sum equal to 2% of the value of each international transaction or specified domestic transaction entered into by the taxpayer.

However, if a constituent entity of an international group fails to furnish information and documents as required under Section 92D(4), the Director-General of Income-tax (Risk Assessment) may impose a penalty of Rs 500,000.

- When penalty under Section 271AAA shall be imposed?

Penalty under Section 271AAA shall be imposed where a search has been initiated before 1-7-2012 and undisclosed income found.

- What is the amount of penalty levied under section 271AAA?

10% of undisclosed income

- When penalty under Section 271AAB(1) may be imposed?

Penalty under Section 271AAB(1) may be imposed where a search has been initiated on or after 1-7-2012 but before 15-12-2016 and undisclosed income found.

- What is the amount of penalty levied under section 271AAB(1)?

    a. 10% of undisclosed income of the specified previous year if assessee admits the undisclosed income; substantiates the manner in which it was derived; and on or before the specified date pays the tax, together with interest thereon and furnishes the return of income for the specified previous year declaring such undisclosed income

    b. 20% of undisclosed income of the specified previous year if assessee does not admit the undisclosed income, and on or before the specified date declare such income in the return of income furnished for the specified previous year and pays the tax, together with interest thereon;

    c. 60% of undisclosed income of the specified previous year if it is not covered by (a) or (b) above.

- When penalty under Section 271AAB(1A) may be imposed?

Penalty under Section 271AAB(1A) may be imposed where a search has been initiated on or after 15-12-2016 and undisclosed income found. These provisions don't apply where a search has been initiated on or after 1-09-2024.

- What is the amount of penalty levied under section 271AAB(1A)?

    a. 30% of undisclosed income of the specified previous year if assessee admits the undisclosed income; substantiates the manner in which it was derived; and on or before the specified date pays the tax, together with interest thereon and furnishes the return of income for the specified previous year declaring such undisclosed income

    b. 60% of undisclosed income of the specified previous year in any other case.

- When penalty under Section 271AAC may be imposed?

Penalty under Section 271AAC may be imposed where income determined by the Assessing Officer includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C, or section 69D for any previous year. [if such income is not included by the assessee in his return or tax in accordance with section 115BBE has not been paid].

- What is the amount of penalty levied under section 271AAC?

10% of tax payable under section 115BBE

- When penalty under Section 271AAD may be imposed?

Penalty under Section 271AAD may be imposed if, during any proceedings under this Act, it is found that in the books of account maintained by any person there is:

a. A false entry in the books of accounts; or

b. An omission of any entry, which is relevant for computation of total income, to evade tax liability.

- What is the amount of penalty levied under section 271AAD?

100% of such false entries or omitted entry

- When penalty under Section 271AAE may be imposed?

Penalty under Section 271AAE may be imposed for violation of the provisions of 21st proviso to section 10(23C) or section 13(1)(c) pertaining to passing of unreasonable benefits to trustees or specified person.

- What is the amount of penalty levied under section 271AAE?

a. For the first violation: To the extent of income applied by the institution for the benefit of any interested person referred to in section 13(3);

b. For any violation in subsequent years: Twice the amount of such income so applied.

- When penalty under Section 271B may be imposed?

Penalty under Section 271B may be imposed if a person fails to get his accounts audited or fails to furnish a report of audit under Section 44AB in Form 3CA and Form 3CB or Form 3CD, as the case may be, by the due date.

- What is the amount of penalty levied under section 271B?

The penalty shall be 0.5% of total sales, turnover, or gross receipts (as the case may be) or Rs. 150,000, whichever is less.

- When penalty under Section 271BA shall be imposed?

Penalty under Section 271BA shall be imposed if a person, who has entered into an international transaction or specified domestic transaction, fails to furnish a report from a Chartered Accountant in the Form 3CEB on or before the due date.

- What is the amount of penalty levied under section 271BA?

Rs. 1,00,000

- When penalty under Section 271BB may be imposed?

Penalty under Section 271BB may be imposed for failure to subscribe any amount to units issued under scheme referred to in section 88A(1) (omitted w.e.f AY 26-27).

- What is the amount of penalty levied under section 271BB?

20% of such amount (omitted w.e.f. AY 26-27)

- When penalty under Section 271C shall be imposed?

Penalty under Section 271C shall be imposed for the following defaults:

a. Failure to deduct tax at source, whole or part thereof;

b. Failure to pay dividend distribution tax;

c. Failure to pay or ensure payment of tax in respect of the winnings in kind, whether wholly or partly, where cash part is not sufficient to meet the liability for deduction of tax in respect of whole winnings as referred to in Section 194B;

d. Failure to ensure payment of tax in respect of the winnings from online game in kind, whether wholly or partly, where cash part is not sufficient to meet the liability for deduction of tax in respect of whole winnings from online games as referred to in Section 194BA;

e. Failure to ensure payment of tax in respect of the benefit or perquisite in kind, whether wholly or partly, where cash part is not sufficient to meet the liability for deduction of tax in respect of whole of such benefit or perquisite as referred to in Section 194R;

f. Failure to ensure payment of tax in respect of the consideration for transfer of virtual digital asset (VDA) in kind, whether wholly or partly, where cash part is not sufficient to meet the liability for deduction of tax in respect of such consideration for the transfer of VDA as referred to in Section 194S.

- What is the amount of penalty levied under section 271C?

The penalty shall be a sum equal to the amount of tax which such person has failed to deduct or pay.

- When penalty under Section 271CA shall be imposed?

Penalty under Section 271CA shall be imposed if a person fails to collect the whole or any part of tax which is required to be collected in accordance with Section 206C.

- What is the amount of penalty levied under section 271CA?

The penalty shall be a sum equal to the amount of tax which such person has failed to collect.

- When penalty under Section 271D shall be imposed?

Penalty under Section 271D shall be imposed if a person takes or accepts any loan or deposit (or specified sum) in cash or in a mode which is in contravention to Section 269SS. "Specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.

- What is the amount of penalty levied under section 271D?

The penalty shall be a sum equal to the amount of loan or deposit (or specified sum) so taken or accepted.

- When penalty under Section 271DA shall be imposed?

Penalty under Section 271DA shall be imposed if a person receives Rs. 200,000 or more from a person in cash or in a mode in contravention to Section 269ST.

- What is the amount of penalty levied under section 271DA?

The penalty shall be a sum equal to the amount of such receipt.

- When penalty under Section 271DB shall be imposed?

Penalty under Section 271DB shall be imposed if a person, carrying on a business, having total sales, turnover or gross receipts in excess of Rs. 50 crores during the immediately preceding previous year, fails to provide the facility for accepting payment through prescribed electronic modes as referred to in Section 269SU.

- What is the amount of penalty levied under section 271DB?

Rs. 5,000 rupees for every day of default

- When penalty under Section 271E shall be imposed?

Penalty under Section 271E shall be imposed if any person repay any loan or the deposit (including interest) or specified advance in cash or in a mode in contravention to Section 269T.

"Specified advance" means any sum of money in the nature of advance, by whatever name called, in relation to a transfer of immovable property, whether or not the transfer takes place.

- What is the amount of penalty levied under section 271E?

The penalty shall be a sum equal to loan or deposit or specified advance so repaid.

- When penalty under Section 271FA may be imposed?

Penalty under Section 271FA may be imposed if a person fails to furnish a Statement of Financial Transaction or Reportable Account under Section 285BA on or before the specified due date.

- What is the amount of penalty levied under section 271FA?

Rs. 500 per day of default

Further, if a person fails to furnish such statement within the due date, the tax authorities may issue a notice to such person directing him to file the statement within a period not exceeding 30 days from the date of service of such notice. In case such person fails to file the statement within the time specified in the notice, then a penalty of Rs. 1,000 per day shall be levied from the day immediately following the day on which the time specified in the notice expires.

- When penalty under Section 271FAA may be imposed?

Penalty under Section 271FAA may be imposed if any person provides inaccurate information in the Statement of Financial Transaction or Reportable Account under Section 285BA. The penalty may be levied if:

a. The inaccuracy is due to a failure to comply with the due diligence or is deliberate on the part of that person;

b. The inaccuracy is due to false or inaccurate information submitted by the holder of reportable accounts;

c. The person knows the inaccuracy at the time of furnishing the statement but does not inform the tax authorities; or

d. The person discovers the inaccuracy after furnishing the statement but he fails to inform and furnish correct information within 10 days.

However, w.e.f. 01-10-2024, the penalty of Rs. 50,000 shall be attracted in any of the following circumstances:

v. furnishing inaccurate information in the statement shall be liable;

vi. failure to comply with due diligence requirement in the statement;

However, no penalty shall be imposable if the assessee proves that there was reasonable cause for such failure.

- What is the amount of penalty levied under section 271FAA?

Rs. 50,000

Further, an additional penalty of Rs. 5,000 per reportable account is imposed on the reporting financial institutions if there is any inaccuracy in statement of reportable account and such inaccuracy is due to false or inaccurate information submitted by the holder of reportable accounts.

- When penalty under Section 271FAB may be imposed?

Penalty under Section 271FAB may be imposed if an eligible investment fund fails to furnish a statement in Form 3CEK, containing information relating to the fulfilment of the conditions as referred to under Section 9A or any other information or document, within the prescribed time limit.

- What is the amount of penalty levied under section 271FAB?

Rs. 5,00,000

- When penalty under Section 271G may be imposed?

Penalty under Section 271G may be imposed if a person, who has entered into an international transaction or specified domestic transaction, fails to furnish any information or document as required by the Assessing Officer or Commissioner (Appeals) in the course of proceedings as referred to in Section 92D.

- What is the amount of penalty levied under section 271G?

The penalty shall be a sum equal to 2% of the value of the international transaction or specified domestic transaction for each such failure.

- When penalty under Section 271GA may be imposed?

Section 285A provides for reporting by an Indian concern if following two conditions are satisfied:

a. Shares or interest in a foreign company or entity derive substantial value, directly or indirectly, from assets located in India; and

b. Such foreign company or entity holds such assets in India through or in such Indian concern.

In this case, the Indian entity shall furnish the prescribed information for the purpose of determination of any income accruing or arising in India under Section 9(1)(i).

In case of any failure, the Indian concern shall be liable to pay a penalty under section 271GA.

- What is the amount of penalty levied under section 271GA?

a. 2% of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of transferring the right of management or control in relation to the India concern, whether directly or indirectly;

b. a sum of Rs. 5,00,000 in any other case.

- When penalty under Section 271GB(1) may be imposed?

Section 286 of the Income-tax Act requires a parent entity resident in India or an alternate reporting entity resident in India to furnish a 'Country by Country Report' (CbCR) in respect of the international group of which it is a constituent in Form 3CEAD. The penalty under section 271GB(1) may be imposed if a reporting entity fails to furnish a report in Form No. 3CEAD.

- What is the amount of penalty levied under section 271GB(1)?

a. Where the period of failure does not exceed 1 month, Rs. 5,000 for every day for which the failure continues;

b. Where the period of failure exceeds 1 month, Rs. 15,000 for every day for which the failure continues; and

c. Where the failure continues after service of the order to pay penalty, Rs. 50,000 for every day beginning from the date of service of such order.

- When penalty under Section 271GB(2) may be imposed?

Penalty under Section 271GB(2) may be imposed if a reporting entity fails to produce the information or documents, as required by the Director-General of Income-tax, within the period allowed for it.

- What is the amount of penalty levied under section 271GB(2)?

    a. Rs. 5,000 for every day during which the failure continues. The penalty shall be levied from the day immediately following the day on which the period allowed for it expires; and

    b. If the failure continues after service of an order to pay penalty, Rs. 50,000 for every day beginning from the date of service of such order.

- When penalty under Section 271GB(4) may be imposed?

Penalty under Section 271GB(4) may be imposed if a reporting entity provides inaccurate information in the report furnished and:

a. The entity has knowledge of the inaccuracy at the time of furnishing the report but fails to inform the Director-General of Income-tax;

b. The entity discovers the inaccuracy after the report is furnished but fails to inform the Director-General and fails to furnish a correct report within 15 days of such discovery; or

c. The entity furnishes inaccurate information or document in response to the notice issued.

- What is the amount of penalty levied under section 271GB(4)?

Rs. 5,00,000

- When penalty under Section 271H may be imposed?

Penalty under Section 271H may be imposed if a person fails to furnish the TDS Statement or TCS Statement on or before the due dates or furnishes inaccurate information in such Statements.

- What is the amount of penalty levied under section 271H?

Penalty shall not be less than Rs. 10,000 but may extend to Rs. 1,00,000.

- When penalty under Section 271-I may be imposed?

Penalty under Section 271-I may be imposed if a person, responsible for paying to a non-resident, fails to furnish information in Form 15CA or Form 15CB or Form 15CC, as the case may be, or furnishes inaccurate information.

- What is the amount of penalty levied under section 271-I?

Rs. 1,00,000

- When penalty under Section 271J may be imposed?

Penalty under Section 271J may be imposed if a Chartered Accountant, a Merchant Banker or a registered valuer furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder.

- What is the amount of penalty levied under section 271J?

Rs. 10,000 for each incorrect report or certificate

- When penalty under Section 271K may be imposed?

Penalty under Section 271K may be imposed on failure to deliver a statement of donation or on failure to furnish a certificate of donation by the following institutions:

a. A research association, university, college or other institutions as referred to in Section 35(1)(ii) or Section 35(1)(iii);

b. A company referred to in Section 35(1)(iia); or

c. Any institution or fund referred to in Section 80G.

- What is the amount of penalty levied under section 271K?

Penalty shall not be less than Rs. 10,000 but may extend to Rs. 1,00,000.

- When penalty under Section 272A(1) shall be imposed?

Any person who commits any of the following defaults is liable to pay a penalty under section 272A(1):

a. Refusal to answer a question put to a person (who is legally bound to state the truth of any matter relating to his assessment) by an income-tax authority;

b. Refusal to sign any statement made by him in the course of any proceedings under this Act;

c. Failure to comply with summons issued under Section 131(1) to attend the office to give evidence and produce books of account or other documents;

d. Failure to comply with a notice under Section 142(1) for enquiry before an assessment or Section 143(2) for scrutiny assessment;

e. Failure to comply with the direction issued under Section 142(2A) for special audit.

- What is the amount of penalty levied under section 272A(1)?

Rs. 10,000 for each failure/default

- When penalty under Section 272A(2) shall be imposed?

Any person who commits any of the following defaults is liable to pay a penalty under section 272A(2):

Section	*Description*
94(6)	Failure to furnish information within the prescribed time-limit by any person in respect of shares or securities held by him
176(3)	Failure to give notice of discontinuance of business or profession within 15 days
133	Failure to furnish information required by the Assessing Officer
134	Failure to allow inspection of register or any entry in such register or failure to allow copies of such register or any entries therein to be taken
139(4A)	Failure to furnish the return of a charitable trust within the prescribed time-limit
139(4C)	Failure to furnish the return of other institutions within the prescribed time-limit
192(2C)	Failure to furnish a statement giving correct and complete particulars of perquisites or profits in lieu of salary provided by an employer to his employees
197A	Failure to deliver in due time a copy of the declaration furnished for nil deduction of tax
203	Failure to issue a TDS Certificate
206A	Failure to deliver the quarterly statement by a banking company or a co-operative society or a specified public company
206C	Failure to issue a TCS Certificate
206C(1A)	Failure to furnish a copy of the declaration by the buyer of forest produce or alcoholic liquor in due time to the effect that no tax to be collected
226(2)	Failure to deduct tax at source from salary income as directed by the Tax Recovery Officer
285B	Failure to furnish statement within the prescribed time by any person carrying on the production of a cinematograph films or engaged in

	any specified activity, or both, showing payments exceeding Rs 50,000 made by him or due from him to any person engaged by him in such production or specified activity

- What is the amount of penalty levied under section 272A(2)?

Rs. 500 for every day during which failure continues.

However, the maximum penalty under this provision shall not exceed the amount of tax-deductible or collectible, as the case may be, for failure in relation to a declaration mentioned in Section 197A or TDS/TCS certificate.

- When penalty under Section 272AA shall be imposed?

The Income-tax authorities are empowered under Section 133B to enter the place of business of the taxpayer to collect information which may be useful under the Act. The information required to be furnished shall be furnished in Form 45D. If a person fails to furnish such information, a penalty shall be imposed on him under section 272AA.

- What is the amount of penalty levied under section 272AA?

Not exceeding Rs. 1,000

- When penalty under Section 272B may be imposed?

Penalty under Section 272B may be imposed for the following defaults:

a. Failure to apply for Permanent Account Number (PAN), if it is required to be applied;

b. Failure to quote PAN or Aadhaar in returns, challans etc.;

c. Failure to intimate PAN or Aadhaar to the person responsible for deduction or collection of tax;

d. Quoting or intimating a PAN or Aadhaar which is false or and which he either knows or believes to be false or does not believe to be true;

e. Failure to quote PAN or Aadhaar in documents pertaining to financial transactions as prescribed under Rule 114B;

f. Failure to authenticate PAN or Aadhaar;

g. Obtaining multiple PAN.

- What is the amount of penalty levied under section 272B?

Rs. 10,000 for each default

- When penalty under Section 272BB may be imposed?

Penalty under Section 272BB may be imposed in the following circumstances:

a. If a person, responsible for deduction or collection of tax at source, fails to apply for Tax Deduction and Collection Account Number (TAN);

b. If a person fails to quote TAN on the documents on which it is required to be quoted; or

c. If a person quotes a TAN which is false, and which he either knows or believes to be false or does not believe to be true.

- What is the amount of penalty levied under section 272BB?

Rs. 10,000

- When penalty under Section 271GC may be imposed?

Penalty under section 271GC may be imposed on failure to submit statement under section 285. If a person required to furnish a statement under Section 285 fails to do so within the prescribed period, the Assessing Officer may impose a penalty of:

a. Rs. 1,000 per day of delay, if the failure is within three months, or

b. Rs. 1,00,000 in any other case.

FAQs on ICDS

- What is the scope of ICDS-III?

ICDS-III provides that the revenue from, and cost of, a construction contract shall be determined in accordance with this ICDS. The revenue and costs associated with a co nstruction contract shall be recognised by reference to the percentage of completion of a contract at the reporting date.

- Whether ICDS-III shall apply to a service contract?

ICDS-III shall not apply to a service contract.

- What is the meaning of a Construction Contract?

'Construction Contract' is a contract specifically negotiated for the construction of an asset or a combination of assets that are closely interrelated or interdependent in terms of their design, technology, and function or their ultimate purpose or use, and it includes:

(a) Contract for the rendering of services which are directly related to the construction of assets, i.e., services of project managers, architects, etc.

(b) Contract for destruction or restoration of assets and the restoration of the environment after the demolition of the asset.

The inter-relation or inter-dependency of assets shall be checked with reference to their design, technology, and function or their ultimate purpose or use.

- What is the process for combining or segmenting contracts in accordance with ICDS?

In some cases, a single contract may represent multiple, separately identifiable contracts, or multiple contracts may be considered as a single contract due to their terms and conditions. In

order to comply with ICDS, the contractor may be required to combine multiple contracts into one contract or to segregate a single contract into multiple separate contracts.

- What disclosures are required in Form 3CD for construction contracts?

The following disclosures are required in Form 3CD for construction contracts:

  - The amount of contract revenue recognised as revenue in the period; and
  - The method used to determine the stage of completion of contracts in progress A person shall disclose the following details for contracts in progress at the reporting date:
  - Amount of cost incurred and profit recognised (less recognised losses) up to the reporting date;
  - The amount of advances received; and
  - The amount of retentions.

- What is the scope of ICDS-IV?

ICDS-IV deals with the recognition of revenue arising from the ordinary activities of a person, including the sale of goods, rendering of services, and the use of resources yielding interest, royalties, or dividends.

- Does ICDS-IV apply to construction contracts?

No, ICDS-IV does not apply to construction contracts. The revenue from construction contracts should be determined in accordance with ICDS-III.

- Does ICDS-IV apply to incomes in the nature of interest, royalty, or fees for technical services?

Yes, the provisions of ICDS-IV shall also apply for the computation of incomes in the nature of interest, royalty, or fees for technical services, which are taxable on a gross basis in the hands of non-residents under Section 115A.

- What are the disclosure requirements for ICDS-IV?

The following information is required to be disclosed in Form 3CD in relation to revenue recognition:

(a) In a transaction involving the sale of goods, the total amount that was not recognised as revenue during the previous year due to a lack of reasonable certainty of its ultimate collection, along with the nature of the uncertainty.

(b) The amount of revenue from service transactions that was recognised as revenue during the previous year.

(c) The method used to determine the stage of completion of service transactions in progress.

(d) For service transactions in progress at the end of the previous year:

  - The amount of costs incurred and recognised profits (less recognised losses) up to the end of the previous year;

    - The amount of advances received; and
    - The amount of retentions.

- What is the scope of ICDS-V?

ICDS-V provides guidance on classifying an asset as a tangible fixed asset and for calculating the actual cost of tangible assets.

- What is considered a tangible fixed asset?

A tangible fixed asset is defined as land, building, machinery, plant or furniture held with the intention of being used for the purpose of producing or providing goods or services and is not held for sale in the normal course of business. Assets held for administrative purposes may also be considered tangible fixed assets if they are not held for sale in the ordinary course of business.

- What disclosures are required to be made in respect of tangible fixed assets for ICDS-V?

The following disclosures are required to be made in Form 3CD in respect of tangible fixed assets:

(a) Description of asset or block of assets;

(b) Rate of depreciation;

(c) Actual cost or written down value, as the case may be;

(d) Additions or deductions made during the year, along with the dates.

In case of the addition of an asset, the date of put to use shall also be disclosed along with the following information:

    - Input tax credit claimed and allowed under the GST Acts
    - Gains or losses due to change in rate of exchange of currency
    - Subsidy or grant or reimbursement, by whatever name called

(e) Depreciation allowable; and

(f) Written down value at the end of the year.

- What is the scope of ICDS-VI?

ICDS-VI deals with the treatment of transactions in foreign currencies, translating the financial statements of foreign operations and treatment of foreign currency transactions in the nature of forward exchange contracts.

- Does ICDS-VI apply to the foreign exchange gain or loss arising in respect of capital assets purchased from a foreign country?

No, the provisions of ICDS-VI shall not deal with the foreign exchange gain or loss arising in respect of capital assets purchased from a foreign country, as it is dealt with in accordance with Section 43A.

- What disclosures are required to be made for ICDS-VI?

No, disclosure is required in Form 3CD in regard to ICDS-VI.

- What is the scope of ICDS-VII?

ICDS-VII deals with the treatment of Government Grants. The government grants may be called by other names such as subsidies, cash incentives, duty drawbacks, waiver, concessions, reimbursements, etc.

This ICDS does not deal with:

(a) Government assistance other than in the form of Government grants; and

(b) Government participation in ownership of an enterprise.

- What is the meaning of Government Grant?

'Government Grant' refers to assistance provided in cash or kind by Government to a person for past or future compliance with certain conditions. It does not include the following:

(a) Assistance which does not have any value placed upon them, such as free technical or marketing advice.

(b) Transactions with the Government which cannot be distinguished from normal trading transactions.

- What disclosures are required to be made in respect of government grants for ICDS-VII?

Following disclosures are required to be made in Form 3CD in respect of nature and extent of government grants:

(a) Grants recognised during the previous year by way of deduction from actual cost of asset or from WDV of block of assets.

(b) Grants recognised during the previous year as income.

(c) Grants not recognised during the previous year by way of deduction from actual cost of asset or from WDV of block of assets and reasons thereof.

(d) Grants not recognised during the previous year as income and reasons thereof.

- What is the scope of ICDS-VIII?

ICDS-VIII deals with securities held as stock-in-trade. This ICDS provides guidance for the valuation of securities held as stock-in-trade and for the valuation of securities held by the Scheduled Banks and Public Financial Institutions.

- What is ICDS?

ICDS stands for Income Computation and Disclosure Standards. These have been issued by the Central Government in the exercise of the powers conferred by Section 145(2) of the Income-tax Act, 1961 to bring uniformity in the accounting policies and provisions of the Income-tax Act and to reduce litigations. The following are the notified ICDS:

1. ICDS I: Accounting Policies

2. ICDS II: Valuation of inventories
3. ICDS III: Construction contracts
4. ICDS IV: Revenue Recognition
5. ICDS V: Tangible fixed assets
6. ICDS VI: The effects of change in Foreign exchange rates
7. ICDS VII: Government Grants
8. ICDS VIII: Securities
9. ICDS IX: Borrowing costs
10. ICDS X: Provisions, Contingent Liabilities, and Contingent Assets

ICDS is applicable only for the computation of taxable income and not for the maintenance of books of account.

- What is the meaning of Securities?

The securities under ICDS shall include shares (listed or unlisted), scrips, mutual funds, bonds, debentures, Govt. securities, units, rights or interest in securities, except derivatives.

- Which transaction or securities are not covered in the ambit of ICDS-VIII?

This ICDS shall not deal with the following:

(a) Basis for recognition of interest and dividends on securities (dealt with ICDS IV - Revenue Recognition).

(b) Securities held by the person engaged in the business of insurance.

(c) Securities held by mutual funds, venture capital funds, banks and public financial institutions formed under an Act or so declared under the Companies Act.

- What is the scope of ICDS-IX?

ICDS-IX deals with the treatment of borrowing costs. This ICDS provides guidance for the calculation of borrowing cost in case of specific and general borrowing, which shall be capitalised with the actual cost of the asset.

- What is the meaning of borrowing cost?

Borrowing cost means interest and other cost incurred by a person in connection with the borrowing of funds. It includes commitment charges, amortised amount of discounts or premiums relating to borrowings, processing charges, charges incurred under the finance lease or any other similar arrangements. The CBDT, vide Circular No. 10/2017, dated 23-3-2017, has clarified that bill discounting charges and other similar charges are also treated as borrowing costs.

- What is the treatment of borrowing costs?

The treatment of borrowing costs shall depend on the purpose for which it has been incurred. It may either be capitalised with the actual cost of the asset or recognised as an expense in the

profit and loss account. The capitalisation of borrowing cost shall apply for that portion of the borrowing cost which is otherwise allowable as a deduction under the Act.

- What disclosures are required to be made in respect of government grants for ICDS-IX?

The following disclosures are required to be made in Form 3CD in respect of borrowing costs:

(a) The accounting policy adopted for borrowing costs; and

(b) The amount of borrowing costs capitalised during the previous year.

- What is the scope of ICDS-X?

ICDS-X deals with the provision, contingent assets and liabilities, except those resulting or arising from financial instruments, executory contracts, insurance business from the contract with policyholders, recognition of revenue (as it dealt with ICDS-IV) and depreciation, impairment of assets and doubtful debts as an adjustment to carrying value of the asset (as these are dealt with ICDS-V).

- What is the meaning of provision?

'Provision' is a liability which can be measured only by using a substantial degree of estimation.

- What is the meaning of contingent assets?

'Contingent Asset' is a possible asset that arises from past events the existence of which will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the person.

- What is the meaning of contingent liability?

'Contingent Liability' is:

(a) A possible obligation/liability that arises from past events. Its existence is confirmed only by the occurrence or non-occurrence of one or more uncertain future events which a person cannot control wholly.

(b) A present obligation that arises from past events but is not recognised because:

    - It is not reasonably certain that an outflow of resources embodying economic benefits will be required to settle the obligation; or
    - A reliable estimate of the amount of the obligation cannot be made.

- Who is required to comply with ICDS?

Every assessee earning income taxable under the head of 'Profit and gains from business or profession' or 'income from other sources' or both are required to compute taxable income in accordance with notified ICDS. However, the ICDS shall be followed only if the assessee maintains accounts as per the 'Mercantile system' of accounting.

- What is the meaning of executory contracts?

'Executory Contracts' are contracts under which both the party has not performed any of their obligations or both parties have partially performed their obligations to an equal extent.

- When shall a provision be recognised as per ICDS-X?

As per ICDS-X, a provision shall be recognised when:

(a) There is a present obligation as a result of the past event to settle the liability;

(b) Outflow of resources embodying economic benefits to settle the liability is reasonably certain; and

(c) The amount of the liability can be reasonably estimated.

- What disclosures are required to be made in respect of provisions for ICDS-X?

Following disclosures are required to be made in Form 3CD in respect of each class of provision:

(a) A brief description of the nature of the obligation;

(b) The carrying amount at the beginning and end of the previous year;

(c) Additional provisions made during the previous year, including increases to existing provisions;

(d) Amounts used (incurred and charged against the provision) during the previous year;

(e) Unused amounts reversed during the previous year; and

(f) The amount of any expected reimbursement, stating the amount of any asset that has been recognised for that expected reimbursement.

- What disclosures are required to be made in respect of contingent assets for ICDS-X?

Following disclosures are required to be made in Form 3CD in respect of each class of asset and related income:

(a) A brief description of the nature of the asset and related income.

(b) The carrying amount of asset at the beginning and end of the previous year.

(c) Additional amount of asset and related income recognised during the year, including increases to assets and related income already recognised.

(d) Amount of asset and related income reversed during the previous year.

- Is there any threshold limit for the applicability of ICDS?

No, the ICDS shall apply mandatorily without any threshold benefit.

- Whether ICDS applicable to all Individuals and HUFs?

Yes, except for an individual or HUF who is not required to get his books of account audited under Section 44AB for the relevant previous year.

- Whether ICDS applicable to the assessees opting for a presumptive taxation scheme?

The CBDT, vide Circular No. 10/2017, dated 23-3-2017, has clarified that the relevant provisions of ICDS shall also apply to the persons computing income under the relevant presumptive taxation scheme.

For example, for computing the presumptive income of a partnership firm under section 44AD which is deriving income from construction activities, the provisions of ICDS on Construction Contract or Revenue recognition shall apply for determining the receipts or turnover, as the case may be.

- Whether the ICDS are applicable in the case of MAT and AMT Computation?

The CBDT, vide Circular No. 10/2017, dated 23-3-2017, has clarified that the provisions of ICDS are applicable for the computation of income under the regular provisions of the Act. Thus, the provisions of ICDS shall not apply to the computation of MAT. However, where the assessee is liable to pay AMT under the provisions of Section 115JC, the provisions of ICDS shall be applicable for computation of AMT.

- Whether ICDS are applicable to banks, NBFCs, insurance companies, etc?

The CBDT, vide Circular No. 10/2017, dated 23-3-2017, has clarified that the general provisions of ICDS shall apply to all persons, including banks, NBFCs, insurance companies, etc., unless there are sector specific provisions contained in the ICDS or the Act. For example, ICDS-VIII (Securities) contains specific provisions for banks and certain financial institutions and Schedule I of the Act contains specific provisions for the Insurance business.

- If there is a conflict between ICDS and the Income-tax Act, which one prevails?

In the event of a conflict between the provisions of the Income-tax Act or Rules and ICDS, the provisions of the Act or Rule shall prevail over ICDS.

- What happens if an assessee does not follow the ICDS for the computation of income?

If the assessee does not follow the ICDS for the computation of income, the Assessing Officer may proceed to make the best judgment assessment.

- What is the scope of ICDS-I?

ICDS-I deals with significant accounting policies. The ICDS-I (Accounting Policies) provides for (a) Fundamental Accounting Assumptions; (b) Significant Accounting Policies; and (c) Disclosure of Accounting Policies.

- What are the disclosures required of accounting policies in ICDS-I?

Following disclosures are required to be made in Form 3CD in respect of accounting policies:

(a) All significant accounting policies adopted by a person shall be disclosed;

(b) Any change in an accounting policy which has a material effect shall be disclosed. Where it is possible to ascertain the effect, the amount by which any item is affected by such change shall be disclosed. Where it is not possible to ascertain the effect, whether wholly or in part, the fact shall be indicated;

(c) Any change in an accounting policy which does not have a material effect in the current previous year but which is reasonably expected to have a material effect in later previous years, then such change shall be disclosed in both the years – the year in which change is adopted and year in which such change has material effect for the first time; and

(d) Where fundamental accounting assumptions are followed, no specific disclosure is required. However, where these assumptions are not followed, the fact shall be disclosed.

- What is the scope of ICDS-II?

ICDS-II deals with the valuation of inventories. This ICDS provides that the inventory shall be valued at a lower of its cost of purchase or the net realisable value. For determining the cost of acquisition, the ICDS also provides acceptable methods for the computation of the value of inventory.

- What are the exceptions where ICDS-II does not apply?

This ICDS shall be applied for the valuation of inventories, except to the following assets:

a) Work-in-progress arising under 'construction contract' including directly related service contract, which is dealt with by the ICDS-III (Construction Contracts);

b) Work-in-progress, which is dealt with by other ICDS;

c) Shares, debentures, and other financial instruments held as stock-in-trade, which is dealt with by the ICDS-VIII (Securities);

d) Producers' inventories of livestock, agriculture and forest products, mineral oils, ores and gases which are measurable at net realisable value; and

e) Machinery spares, which can be used only in connection with a tangible fixed asset and their use is expected to be irregular, shall be dealt with in accordance with the ICDS-V (Tangible Fixed Assets).

- What is the definition of “Inventories”?

'Inventories' are assets:

(a) Held for sale in the ordinary course of business;

(b) In the process of production for such sale;

(c) In the form of materials or supplies to be consumed in the production process or in the rendering of services.

- What is the value of opening inventory as per ICDS-II?

The value of the inventory as of the beginning of the previous year shall be -

(a) the cost of inventory available, if any, on the day of the commencement of the business when the business has commenced during the previous year; and

(b) the value of the inventory as on the close of the immediately preceding previous year, in any other case.

- Whether interest and other borrowing costs shall be included in the cost of inventories?

Interest and other borrowing costs shall be included in the costs of inventories if they meet the criteria for recognition of interest as a component of the cost as specified in ICDS-IX (Borrowing Costs).

- Which value shall be taken for inventory valuation on the date of dissolution of a partnership firm or AOP or BOI?

In case of dissolution of a partnership firm or association of person or body of individuals, notwithstanding whether the business is discontinued or not, the inventory on the date of dissolution shall be valued at the net realisable value.

- What disclosures are required to be made in respect of Inventories?

The following disclosures are required to be made in respect of Inventories:

  - The accounting policies adopted in measuring inventories, including the cost formulae used. If standard costing has been used as a measure of cost then details of such inventories and a confirmation that standard cost approximates the actual cost; and
  - The total carrying amount of inventories and its classification appropriate to the person.