



S.K. BHAGERIA & ASSOCIATES

CHARTERED ACCOUNTANTS

Revamp of Income Escaping Assessment under the Income Tax Act.

The Finance Bill 2021, proposes a paradigm shift in the fundamentals on which the entire scheme of reassessment is based. It substituted the existing sections 147, 148, 149 and 151 and inserted a new section 148A making a complete change in the assessment proceedings related to income escaping assessment and search related cases. Consequential amendments have also been proposed to sections 151A, 153A and 153C.

The new provisions are expected to reduce litigation and provide ease of doing business to taxpayers by reducing the time limit for issuing notices for reassessment. The considerable changes in the reassessment proceedings as proposed in the Finance Bill 2021 have been discussed below.

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Particulars	Old Provision	New Provision	Remarks
When can AO reassess?	<p>If AO has “reason to believe” that income chargeable to tax has escaped assessment then, he may subject to provisions of sections 148 to 153, assess or reassess such income and also any other income and recompute loss or allowance. Reasons to believe consist the following:</p> <ul style="list-style-type: none"> • A later supreme court judgement • Retrospective amendments in law • Evidence in possession of AO that assessee understated income • Mistake apparent from record 	<p>If AO has “information which suggests” that income chargeable to tax has escaped assessment then, he may subject to provisions of sections 148 to 153, assess or reassess such income and also any other income and recompute loss or allowance.</p>	<p>'Reasons to believe' is a subjective proposition and was often disputed by the assessee, therefore, it is removed, thereby widening the scope of such assessment.</p>

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Deemed cases of income escaping assessment	<ul style="list-style-type: none"> Total income > maximum amount not chargeable to tax + income tax return not furnished Income tax return furnished but income understated or excessive loss / deduction / relief / allowance has been claimed Assessee has failed to furnish the report u/s 92E (international transactions) On the basis of information or document received from prescribed authority u/s 133C, it is noticed that assessee has understated income or excessive loss / deduction / relief / allowance has been claimed Assessee has foreign asset (including financial interest in any entity) outside India 	<ul style="list-style-type: none"> Information flagged by the system on basis of risk management strategy formulated by CBDT Final objections raised by C&AG Information received during search / survey / seizure or requisition of assets, books of accounts or documents in case of other person made on or after 01st April, 2021 shall be deemed to suggest that income chargeable to tax has escaped assessment for the three preceding AYs in which the search is initiated or requisition is made or material is seized or survey is conducted 	<ul style="list-style-type: none"> Such flagging of information would largely be done by the computer based system on basis of pre defined algorithms which may not be made public Provisions of sections 153A and 153C have been phased out and are applicable only in respect of search cases initiated up to 31st March, 2021

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Where does AO get information from?	<ul style="list-style-type: none"> Banking company, co-operative banks, corporate entities, mutual funds, Registrar, Sub-Registrar are required to file “statement of financial transactions” furnishing details of persons who have during the year entered into specified transactions exceeding limits prescribed 26AS contains details of all transactions on which TDS is deducted Search / survey of another person Information received from other law enforcement agencies Information received by income tax investigation wing 	The information will be flagged as per data analytics formulated by CBDT and final objections of C&AG. The Risk Management Strategy will use all the sources to gather information.	With technological advancement the department is able to collect all relevant information related to the taxpayer quickly from all other law enforcement agencies, foreign countries and third parties.

Particulars	Old Provision	New Provision	Remarks
How can AO reassess the case?	<ul style="list-style-type: none"> Before making assessment or reassessment or re-computation u/s 147, AO shall serve notice on assessee requiring him to furnish within such period as specified in notice his income tax return The AO shall record his reasons for doing so in writing before issuing such notice 	Before making assessment or reassessment or re-computation u/s 147 and subject to provisions of section 148A, AO shall serve notice along with a copy of order passed under clause (d) of section 148A to assessee requiring him to furnish his income tax return within such period as specified in notice.	Notice u/s 148 will be issued only after AO has given an opportunity of being heard to assessee and considered his reply, if any and is satisfied that it is a fit case of income escaping assessment.

Particulars	Old Provision	New Provision	Remarks
Section 148A	The assessee could ask the AO for reasons to invoke the assessment only after furnishing his income tax return in response to notice u/s 148.	<p>AO shall before issuing notice u/s 148:</p> <ol style="list-style-type: none"> Conduct an enquiry if required, with prior approval of specified authority Provide an opportunity of being heard to assessee with prior approval of specified authority, by serving a show cause notice (within 7 days up to 30 days) Consider the reply of assessee Decide on the basis of materials available including assessee's reply, whether the case is fit for issuing notice u/s 148 by passing an order with prior approval of specified authority 	<ul style="list-style-type: none"> All clauses are mandatory except enquiry under clause (a) Order under this section is to be passed within 1 month from end of the month in which reply is received or if no reply is received then 1 month from the end of the month in which time allowed to furnish a reply expires No need to follow this process in case of search / survey / seizure / requisition of assets, books of accounts or documents of other person

Particulars	Old Provision	New Provision	Remarks
Whose authorisation is required for issuing notice?	<p>If notice is issued within 4 years from the end of relevant assessment year by:</p> <ul style="list-style-type: none"> Additional Commissioner / Deputy Commissioner / Income Tax Officer then, approval of Joint Commissioner is required Joint Commissioner himself, then no approval is required <p>If notice is issued beyond 4 years from the end of relevant assessment year by:</p> <ul style="list-style-type: none"> Any Income Tax Officer then, approval of Commissioner of Income Tax (CIT) / Chief CIT / Principal CIT is required 	<p>If notice is issued within 3 years then, approval of Principal Commissioner / Principal Director / Commissioner / Director is required</p> <p>If notice is issued beyond 3 years then approval of Principal Chief Commissioner / Principal Director General / Chief Commissioner / Director General is required</p>	The Jurisdictional AO has to issue notice otherwise it will be invalid. Approvals are made mandatory from the highest level of income tax authorities.

Particulars	Old Provision	New Provision	Remarks
Time limit for issuing notice u/s 148?	<ul style="list-style-type: none"> Generally within 4 years from the end of relevant assessment year If the AO has reasons to believe that income escaping assessment is > Rs 1,00,000/- then within 6 years from the end of relevant assessment year If income escaping assessment is in relation to foreign asset, then within 16 years from the end of relevant assessment year Notice to the agent of Non-Resident can be issued within 6 years from the end of relevant assessment year 	<ul style="list-style-type: none"> Generally within 3 years from the end of relevant assessment year Incase the AO has in his possession books of accounts / documents / evidence which reveal that income chargeable to tax has escaped assessment for that year and is more than Rs 50,00,000/- represented in the form of an asset, then within 10 years from the end of relevant assessment year 	<ul style="list-style-type: none"> Notice under the new provisions cannot be issued for cases that have become time barred under old provisions It is important to note that here time limit is set for issue of notice whereas u/s 148 the words "notice shall be served" are used. Hence, we can conclude that notice should be issued within the prescribed time but can be served on a later date

Particulars	Old Provision	New Provision	Remarks
Restrictions on time limit for reassessing income escaping cases	Where assessment u/s 143(3) or 147 has already been made, then no action beyond 4 years from the end of relevant assessment year can be taken if, assessee has furnished his income tax return and has disclosed truly and fully all material facts necessary for assessment. This provision is not applicable in case of foreign asset.		There is no such exception provided in new provisions.

Particulars	Old Provision	New Provision	Remarks
Time limit for completion of assessment	The reassessment must be completed within 12 months from the end of the financial year in which notice was served. This shall be extended by 12 months if reference is made to transfer pricing authority.	The reassessment must be completed within 12 months from the end of the financial year in which notice was served. This shall be extended by 12 months if reference is made to transfer pricing authority.	No Change

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