



PM Modi Launches
**A PLATFORM FOR
TRANSPARENT
TAXATION -
HONORING THE
HONEST**



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

AMRITSAR BRANCH OF NIRC NEWSLETTER SEPTEMBER 2020



FACELESS ASSESSMENTS

FACELESS APPEALS

TAXPAYERS' CHARTER



Any assessment, other than exception, outside Faceless Scheme will be invalid



No intrusive and survey actions by field officers – Only Investigation wing and TDS wing can after approval by officer of the level of Chief Commissioner or above

OFFICE BEARERS :-

Chairman	CA SANJAY ARORA
Vice Chairman	CA JATINDER VANSIL
Secretary & Editor in Chief	CA SHASHI PAL
Treasurer	CA IQBAL SINGH GROVER
NICASA Chairperson	CA PALAK BANSAL
Executive Members	CA DEEPAK VERMA CA SUMIT JAITLEY

ADDRESS:-

1. ICAI Bhawan Bhai Gurdas Ji Nagar (New Amritsar)
 2. Room No. 401-402, Aaykar Bhawan, Central Revenue Building, The Mall, Amritsar.
- Phone :
E-mail : amritsar@icai.org, amritsar.icai@gmail.com
Website : nircamritsar.org
Printed and Published by :
Amritsar Branch of NIRC of ICAI
(for Private Circulation Among Members Only)

EDITORIAL BOARD

CA MANISH MIDHA

CA POOJA TRIKHA

CA GAURAV AGGARWAL

CA AJIT PAL ANEJA

CA GAURAV GUPTA

CA NEHA KUNDRA

CA ABHISHEK BERI

CONTENTS

Chairman Message.....	2
Secretary Message.....	3
TAX AUDIT- AUDIT PLAN	4-9
“Transparent Taxation -- Honouring the Honest”	10-17
Decoding Clause 8 of Part-I of the First Schedule of the Chartered Accountants Act, 1949– Communication with the Previous Auditor	18-21



From the Desk of the Chairman.

“Hard work never brings Fatigue, it brings Satisfaction”

-PM Narendra Modi



Esteemed Professional Colleagues

I hope you and your loved ones are keeping well in these unprecedented times. This issue of E-Newsletter highlights “Faceless Assessment Scheme 2020, Taxpayers Charter and Practical Aspects of Tax Audit”. From August 13, 2020, E-Assessment scheme of 2019 is amended to be called Faceless Assessment Scheme . The scheme seeks to eliminate the human interface between the taxpayers and Income tax Department. The Taxpayers Charter The Income Tax Department is committed to provide fair, courteous and reasonable treatment and expects taxpayer to be honest and compliant.

With the implementation of the new assessment system, there will be a significant reduction in the delay in tax assessments and audits because the system would automatically flag unwanted actions or differences. Several units or teams will be set up to assess, review and verify tax demands or orders during the draft stage before being issued to the taxpayers. There will also be a specialized unit to assist in cases that require legal, industry-specific or economic expertise. This scheme takes away the power from regular assessing officers to conduct surveys and search which will also reduce huge unnecessary harassment of taxpayers. The power for survey and search can be done by the investigation and tax deducted at source wing that too only after due authorization from a senior official of Director General or Principal Commissioner rank. This step may remove grey areas of the tax-administration and it will significantly reduce tax litigations stress and encourage voluntary tax compliance.

The Government has been taking several measures to bring in transformation in both direct and indirect taxes. The objective has been to create a taxpayer friendly ecosystem by introducing greater transparency , simplification & ease of meeting compliances.

Friends, COVID-19 is cruel reminder that you can't take anything for granted. The Pre-Covid Era, however is a water under the bridge. Agriculture has come back very quickly, rural India has been less effected by the health challenges and connections to the market has transformed dramatically. Things are coming back to the normal indicators reveal that rebound is faster than what most of us thought.

Atmanirbhar is the call of the day and Indian Enterprenuers have a new spirit in them to battle out the challenges. We should be a strong proponent of Prime Minister Narendra Modis's Make in India and Vocal for Local Campaigns as it will help our industries and nation at large.

Stay Safe, Stay Healthy

With Warm regards.

CA SANJAY ARORA

B.Com., F.C.A., D.I.S.A., (ICAI)

Chairman, 2020-21

Amritsar Branch of NIRC of ICAI

September, 2020



Chairman



From the Desk of the Secretary...

**Respected Members,
Warm Greetings,**

First of all, I congratulate to all the members on Happy Teachers day. We with immense delight present our members a special edition of Faceless Assessment and Citizen's Charter and Tax Audit u/s 44AB for the month of September 2020.

The Taxpayers' Charter launched by Prime Minister Narendra Modi on August 13, 2020 promises to maintain the privacy and confidentiality of income taxpayers and to reduce the cost of compliance with tax laws. The charter lists out the income tax department's commitments to the income taxpayer as well as what the department expects from the taxpayers. The taxpayer's charter is a welcome step that enshrines in law the rights and duties of the taxpayers. Though this was known to most of the taxpayers and officials, the introduction of an exclusive charter changes the perception of both the taxpayers and officials from taxpayers being scrutinised as offenders to being viewed as an equal stakeholder.

Here's what the taxpayer charter says about its commitment to tax payers.

To provide fair, courteous and reasonable treatment: The tax department will provide prompt, courteous and professional assistance in dealings with the tax payers.

Treat taxpayer as honest: The income tax department shall treat every taxpayer as honest unless there is a reason to believe otherwise.

To provide mechanism for appeal and review : The tax department shall provide fair and impartial appeal and review mechanism

To provide complete and accurate information: The department shall provide accurate information for fulfilling compliance obligations under the law.

To provide timely decision : The department shall take decision in every income-tax proceeding within the time prescribed under the law.

To collect the correct amount of tax: The department shall collect only the amount due as per the law.

As already conveyed that We have updated website of Amritsar Branch. In the branch website, new features like Members Directory, Testimonials of Past chairpersons, Gallery, Past events, quick links of Tax sites etc have been added. I request each member to kindly register yourself in the branch directory to make our mission successful.

Members, We have to keep going, the circumstances might be difficult, but this great insight stands relevant in the current state of affairs. The dreaded times the world is facing now will be history soon, and I am sure we will come out from it successfully with much strength and courage. Abraham Lincoln once said, "The most reliable way to predict the future is by creating it." The future of the Accountancy profession is vast and promising. With the sky as our limit, ICAI resolves to continue to imagine, improve and innovate our community and set the economy at new heights.

Dear Students,

ICAI vide notification Dt 05.07.2020 has given exemption to students.

The students, who are registered through the Direct Entry route and are eligible to register in the articleship training on or before 31st July, 2020 are allowed to register in the articleship training and complete Orientation Course and IT Training on or before 31st December, 2020 instead of 31st July, 2020

You have to justify the quote "Accept the challenges so that you can feel the exhilaration of victory". Every one of you is going through a challenge to crack this a very noble Professional CA course. Due to covid-19, students have chance for best preparation for exams. Keep on working for your exams, develop the habits of self motivation and set your goals for the future. You will surely achieve your targets as nothing is impossible in the world.

For the students who have started preparation for November Exams, all the very best and now I would like to conclude with two lines written by Hafeez Banarasi

चले चलिए के चलना ही दलील-ए-कामरानी है...
जो थक कर बैठ जाते है, वो मंजिल पा नहीं सकते...

With Warm regards.

Sd/-

CA Shashi Pal

Editor in Chief

Secretary, ICAI Amritsar Branch

September, 2020





TAX AUDIT- AUDIT PLAN

CA Gaurav Aggarwal
B.Com, FCA, DISA (ICAI)
Gauravca2000@gmail.com

In this Article, we are going to discuss the basic measures required to be followed by a Chartered Accountant for performing Tax Audit of its clients. We will discuss in brief the basic Audit plan that one needs to follow while performing Tax audit so that there is complete compliance of Tax laws alongwith Audit guidelines of ICAI.

1. Introduction of Tax Audit

Tax Audit prescribed under Income Tax Act, 1961 was introduced by section 11 of the Finance Act, 1984, which inserted a new section 44AB with effect from 1st April, 1985 relevant for Assessment Year 1985-86.

At that time, the Central Government was experiencing that Income Tax Authorities must be relieved from checking each and every assessee's books of accounts. So they introduced this section to delegate the authority of checking the Books of

Accounts from Taxation perspective. They selected the members of ICAI, being the highest level of Accounting regulatory body in India, to undertake this work and created a huge work scope for the CAs in practice.

2. Tax Audit u/s.44AB

Tax Audit as prescribed u/s.44AB of the Income Tax Act, 1961, underwent lot of changes with the changes in Business Structures, Business Methodologies and widespread Information technology

3. Who is required to be Audited as per Income Tax Act, 1961:

The turnover of the Business or Profession is the basic criteria for getting Books of accounts audited under this section.

Following category of assessee have to get its Books of Accounts audited u/s.44AB

Sr. No.	Category of Assessee	Turnover Criteria for compulsory Audit
1.	Every person carrying on business	if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds [One crore rupees] in any previous year
1A.	New Proviso to Person carrying on Business applicable w.e.f. 01.04.2020 (A.Y. 2020-21)	The threshold limit of Rs 1 crore for a tax audit is increased to Rs 5 crore with effect from AY 2020-21 (FY 2019-20) if:- (i) the taxpayer's cash receipts are limited to 5% of the gross receipts or turnover, and (ii) if the taxpayer's cash payments are limited to 5% of the aggregate payments.



2.	Every person carrying on Profession	if his gross receipts in profession exceed Rs. 50 Lakhs in any previous year
3.	Every Person Carrying on business eligible for presumptive taxation under Section 44AE, 44BB or 44BBB	Claims profits or gains lower than the prescribed limit under presumptive taxation scheme
4.	Every Person, Carrying on business eligible for presumptive taxation under Section 44AD	1. Declares taxable income below the limits prescribed under the presumptive tax scheme and 2. has total income exceeding the basic threshold limit
5.	The assessee is carrying on business which is declaring profits as per presumptive taxation scheme under Section 44AD i.e. more than 8% or 6% (for banking mode transactions)	If the total sales, turnover or gross receipts does not exceed Rs 2 crore in the financial year, then tax audit will not apply to such businesses.
5A.	The assessee is carrying on the profession eligible for presumptive taxation under Section 44ADA	1. Claims profits or gains lower than the prescribed limit under the presumptive taxation scheme i.e. 50% of the gross receipts and 2. Income exceeds the maximum amount not chargeable to income tax

4. Audit Plan

Standard on Auditing (SA) 300 'Planning an Audit of Financial Statements' deals with the auditor's responsibility to plan an audit of financial statements. While performing a tax audit, a Chartered Accountant in practice or the team members must follow a set of guidelines and they need it to plan to adhere to Professional judgement, Professional skepticism, Integrity, Objectivity and Legal framework.

The auditor must use standard audit programs or audit completion checklists, tailored as needed to reflect the particular engagement circumstances.

5. Tax Audit- Basic Planning and Legal Requirements

5.1 Communication with Previous Auditor

As per Code of Ethics issued by ICAI, the first and foremost thing is to communicate with the Previous auditor in writing and to obtain his No objection certificate before starting any audit.

However, if the auditee is first time getting its books of accounts audited, You need to get a formal appointment letter from the auditee specifying the terms and conditions and scope of work.

5.2 Audit Engagement Letter

The auditor and the client should agree on the terms of the engagement. The agreed terms would need to be recorded in an audit engagement letter or other suitable form of contract.



Revised Standard on Auditing (SA 210) deals with the auditor's responsibilities in agreeing to the terms of the audit engagement with management. SA 210 establishes the preconditions for an audit, terms of an audit engagement and changes thereof, segregates the responsibility of the management and auditors etc.

5.3 Audit Programme

An audit programme is a detailed, written statement designed by the auditor indicating the work to be performed by the audit assistants, specifying the time limit for completion of work, instructions and guidance to the audit staff. In short, it is a tool for planning, directing and controlling the audit work.

An audit programme for conducting tax audit and its various aspects has been discussed as under with a view to cover all the major tax issues involved in Tax Audit:

5.3.1 Opening and Closing Balances

Opening and Closing Balances as shown by the client's ledger should be checked with the corresponding evidences if available. A certified copy of Trial Balance generated from the books of accounts of the assessee is must.

5.3.2 Bank Reconciliation Statement

The bank Statements of various accounts maintained by client should be checked & Reconciled. Confirmation of Bank Balances including Savings, Current, Overdraft, Cash credit, Term Loans, Bank Guarantees etc. must be obtained.

5.3.3 Method of Valuation of Stock

- 1) Quantitative Stock Tally Statement is to be incorporated for the items of the stock.
- 2) Acceptable methods of valuation of Closing Stock
 - a) Cost Basis
 - b) Lower of Actual Cost or Net realizable value
 - c) Weighted Average Cost price method

The valuation of inventory shall be made in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145;

- 3) Cost of Inventories does not include Selling Costs.
- 4) Valuation of goods at Market Price is not an acceptable method.

5.3.4 Method of Accounting

Income chargeable under the head "Profits and gains of business or profession" shall be computed in accordance with:-

- i) cash or
- ii) mercantile system of accounting

and should be regularly employed by the assessee.

The notified Income Computation and Disclosure Standards (ICDS) have to be followed by all assessees (other than an Individual or a HUF who is not required to get his accounts of the previous year audited in accordance with the provisions of Section 44AB), following the mercantile system of accounting, for the purposes of computation of income chargeable to income tax under the head "Profits and Gains of business and profession"

Hybrid system of accounting is not an eligible method.

5.3.4 Capital Asset converted into stock in trade

If any capital asset has been converted into stock in trade by the assessee, that has to be reported in Form 3CD.

Section 45(2) of Income Tax Act deals with the cases where a capital asset is converted into stock in trade. Although conversion of a capital asset into stock in trade is treated as transfer in relation to a capital asset but section 45(2) provides that capital gain/loss shall be calculated on such converted asset in the year in which such asset is actually sold.

It largely happens in the case of assessee who is a jeweler or dealing in building of flats or property.

For example if a person converts his personal jewelry into stock in trade of his business of Jewellery in the year 2016-17 and sell such jewelry in the year 2019-20, then though conversion has taken place in the year 2016-17 but capital gain/loss shall be computed and taxable in the year of sale i.e. 2019-20.

5.3.5 Land and Building transferred during the year for a consideration less than value adopted by Stamp valuation authority



State Government referred to in section 43CA or 50C, the auditor have to report (i) Details of property (ii) Consideration received or accrued (iii) Value adopted or assessed or assessable

It therefore embarks an additional duty on the auditor to go beyond the books of accounts of the assessee and report such details, so that the As per proviso to sub-section (1) of Section 50C ,

If stamp duty value does not exceed 105% of the sale consideration received	Deemed Full value of consideration for computing Capital gains= Consideration actually received
If stamp duty value exceeds 105% of the sale consideration received	Deemed FVC = Stamp Duty Value

However as per Finance Act, 2020, 105% has been replaced with 110% of the sale consideration.

5.3.6 Cash Payments exceeding Rs. 10000/- for Revenue or Capital Expenditure

- 1) Section 40A (3) - Any expenditure, whether Revenue or capital, incurred in respect of which the payment is made exceeding 10,000 in a single day in cash shall be disallowed.
- 2) Payment to transport operator for plying, hiring or leasing goods carriage allowed upto Rs.35000/- in cash in a day.
- 3) Section 40 A (3A), expenditure was incurred in a specific year and payment was made in next financial years- if made more than Rs.10000/- a day, that will also be disallowed.
- 4) Cash payment limit is not applicable to an assessee, who is an authorised dealer or a money changer and makes payment in the course of purchase of foreign currency or travellers cheques. Restrictions in case of other payments still apply to money changer.
- 5) Payments in a single day, on different point of time, is also not allowed if aggregate exceeds Rs. 10000/- in a day.
- 6) Payments can be made less than Rs.10000/- per day to satisfy a payment of more than Rs.10000/- E.g. If you pay commission to a person Rs.18000/- in a year but pays Rs.9000/- each in two different dates, that is an allowable expenditure.

5.3.7 TDS RETURN

Auditor needs to check each and every expense to verify whether it is covered under TDS Provisions of the Act. If yes, whether applicable Tax has been deducted or not. Otherwise a disallowance of 30% of the expenditure would be attracted.

So applicable TDS provisions under Chapter XVII-B must be followed.

The major expenditure needs to be checked are.

- (i) Interest payments to individuals above Rs.5000/- (194A)
- (ii) Brokerage paid to a single assessee more than Rs. 15000/- (194H)
- (iii) Job Work/Fabrication/ Grading/ Printing etc. payments exceeding Rs. 100000/- to a person during the year and Rs.30000/- to a person through single bill. (194C)
- (iv) Rent exceeding Rs. 240000/- per annum (for business purposes) or Rs.50000/- per month (for all assessee) [194I,194IA,194IAB]
- (v) Salary exceeding taxable limit (192)
- (vi) Professional Fees exceeding Rs. 30000 per annum (194J)
- (vii) Foreign payments exceeding specified limits (195)
- (viii) All other payments prescribed under the said chapter

2. TDS Return filing/ late filing needs to be reported.
3. Verification of filing of 15G/15H forms by the assessee



5.3.8 Applicability of Section 269SS, 269T and 269ST Section 26SS

1) A person cannot accept loan or deposit or any other specified sum (specified sum here refers to an advance or otherwise, in relation to the transfer of any immovable property) from another person otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, if :-

Amount or the aggregate amount of loan or deposit or specified sum is Rs. 20,000 or more

2) The specified advance shall mean any sum of money in the nature of an advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place.

3) The **aggregate amount** means total money received on the day including earlier unpaid amounts.

4) Section 269SS does not apply to non-monetary book entry transactions of loans and advances.

5) Provisions of section 269SS would not be violated when money is exchanged inter-se between partners and partnership firm in spite of fact that partnership firm and individual partners are separate assessee.

6) 100% penalty to the tune of advance amount is applicable u/s.271D

Section 269T

Section 269T prohibits any person to repay the loan or deposit or specified sum otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, if –

a. Amount of loan or deposit, including interest amount, is Rs. 20,000 or more, or

b. The aggregate amount of loans or deposits, including the interest amount, held by such person in his own name, or jointly with any person, is Rs. 20,000 or more.

Section 269ST

Section 269ST prohibits any person to receive an amount of Rs.2 lakh and above in cash :-

- in aggregate from a person in a day; or
 - in respect of a single transaction; or
 - in respect of transactions relating to one event or occasion from a person,
- Single bill of Cash sale to any person in a day/ multiple bills aggregating more than Rs.2 lacs in a day to a single person not allowed.
 - Payment of Rs. 2,00,000 or more by partnership firm to partner or vice-versa.
 - Sale of goods exceeding Rs.2 lacs and payment received in cash more than Rs. 2 lacs in cash will be a violation. E.g. A sells goods worth Rs. 4,50,000 in a bill and receives Rs.2,10,000 in cash and balance Rs.2,40,000 in cheque. It is a violation of 269ST.

5.3.9 GST Compliance :-

- a) Sales (Books of Accounts) to be tallied with GSTR 3B/GSTR 1.
- b) Difference Tracking of 3B and GSTR 1 and needs to be reported.
- c) Difference Tracking of 3B & 2A (ITC)- to be minimized to the acceptable level.
- d) Closing Balance of Electronic Credit / Cash Ledger to be tallied with Books. Balance if not tallied, Reconciliation Required.
- e) ITC Reversal to be checked. (If Any)
- f) GST Return filing of the assessee is complete or pending. With the sharing of data/information between the Government agencies, it needs to be checked and compliance be made.

5.3.10 COMPLIANCE WITH FORM 26 AS :-

- a) Income as per 26AS taken in Books of Accounts or not.
- b) TDS taken in Books to be reconciled.
- c) Advance Tax taken in Books or not.
- d) Latest form 26AS contains information relating to SFT transactions reported by various agencies u/s.285BA. That needs to be reconciled with books of accounts.



5.3.11 Corporate Clients

Alongwith checking of various aspects relating to Income Tax, the auditor must also check through the following aspects of a Private Limited company Audit :-

- 1) MGT-7 have been Filed- Annual Return within 60 days of holding of AGM for the period 1st April to 31st March.
- 2) AOC-4 have been filed- Financial Statement: i.e. Balance Sheet along with Statement of Profit and Loss Account and Directors' Report
- 3) DIR – 8 Every Director of the Company in each Financial Year has to file with the Company disclosure of non-disqualification
- 4) Company will send to the members of the Company approved Financial Statement, Directors' Report and Auditor's' Report at least 21 clear days before the Annual General Meeting.
- 5) Deemed Dividend u/s. 2(22)(e) – Loans to Directors (prohibited) provisions to be complied. Deferred Tax Asset/ Deferred Tax liability to be reported as per AS-22

In case of corporate clients, an auditor needs to follow Companies Act, 2013 provisions also.

5.4 Management Representation Letter

SA 580 deals with the auditor's responsibility to obtain written representations from the management and, where appropriate, those charged with governance.

To obtain written representation from management, i.e. Proprietor, Partner, Director, that they believe that they have fulfilled their responsibility for the preparation of the financial statements and for the completeness of the information provided to the auditor.

6. Conclusion

Tax Audit u/s44AB of the Act is a very wide aspect and requires in depth knowledge of Income Tax Provisions for the Auditor. Keeping in view the Principles of Professional competence, the auditor must be well versed with all the latest provisions of the Act and business environment. The provisions discussed above gives a practical insight into the tax audit of a small or mid-corporate client. However, one needs to be proficient to sign the financial statements of a big corporation. If the Audit requirements need extensive knowledge of Taxation laws, Accounting Standards, Foreign laws, Other laws of the land, the auditor must work with Audit engagement team to do justice with his professional requirements.



“Transparent Taxation -- Honouring the Honest”



CA AVISH MAHAJAN
B.Com (H) SRCC, Ca, CS, LLB, DISA
Avishmahajan@gmail.com



Introduction

Our Hon'ble Prime Minister Narendra Modi on 13th of August launched a “Transparent Taxation -- Honouring the Honest” platform that provides faceless assessment and faceless appeal and a taxpayers' charter. He appealed to those not paying taxes despite the capability to come forward and commit them to the cause of making the country self-reliant.

While the faceless assessment and taxpayers' charter came into force on August 13 itself, the faceless appeal system will be available from September 25, birth anniversary of Deendayal Upadhyaya.

The assessment system seeks to eliminate corrupt practices by doing away with the territorial jurisdiction of income-tax offices. With the help of technology, the cases of scrutiny will now be allocated randomly to any official in any part of the country. The document identification numbers will be issued from the central database.

Review of orders will also be done by another team at some other place, chosen randomly using data analytics and artificial intelligence.

The Hon'ble Prime Minister also announced that there would be no intrusive and survey action by the jurisdictional officer. Only investigation wing and TDS wing can carry

on the investigation, that too, after approval by the officer of the level of Chief Commissioner or above.

Implementation of this system would mean abolition of territorial jurisdiction. There will be no physical interface with the jurisdiction officer.

Faceless assessment - a way Forward

From past few years there have been constant efforts by the government to reduce the direct interface between taxpayers and the tax sleuths to stop the rampant practice of corruption in the tax departments. The government started in 2015 by bringing in the pilot project of assessment and communication with the taxpayers in big cities and now in 2020 here we are with a faceless assessment regime for almost all the assessments across the country. The entire journey is as under:

- a. 2015- Pilot Project in 5 big cities inter-alia, Ahmedabad, Bangalore, Chennai, Delhi and Mumbai
- b. 2016 – Two more cities added – Kolkata and Pune.
- c. 2017 - The Income-tax Dept. had developed an integrated platform, i.e., Income Tax Business Application (ITBA) to carry out various electronic functions/proceedings. E assessment at the option of Tax Payer across india



d. 2018 - CBDT through instruction No. 03/2018, dated 20-8-2018, that in all cases where assessment is required to be framed under Section 143(3) during the year 2018-19, assessment proceedings shall be through E-Assessment.

e. Finance Act, 2018, two new Sub-sections (3A) and (3B) to Section 143 of the Income-tax Act, 1961 were introduced enabling Central Government to introduce a scheme for the electronic assessments.

f. 2019- The CBDT notified an 'E-Assessment Scheme, 2019' vide Notification no. 61/2019 & 62/2019, dated 12-09-2019 to conduct e-assessments with effect from September 12, 2019. DIN made mandatory from 1st Oct 2019.

2020 - The Government brings in Faceless assessment scheme amending the title E-assessment scheme and as well as other changes by amending the notifications dated 12 Sept 2019.

Scope of the Scheme Enhanced

a) Unlike the e-assessment scheme faceless assessment scheme also brings into ambit the 'Best Judgment Assessment' under section 144.

b) Further, It is now provided that where a notice of assessment is issued under section 143(2) for a return filed under section 139 or in response to a notice issued u/s 142(1) or u/s 148(1) is issued by the jurisdictional Assessing Officer, the National e-Assessment Centre shall intimate the assessee that assessment in his case shall be completed under this Faceless Assessment Scheme. The same procedure shall apply in case no return is filed by the assessee under the aforesaid cases.

Thus all assessments are now covered under the ambit of the new assessment scheme with few exceptions. The statutory backing to the same has been provided by the Order F No. 187/3/2020 -ITA-I dated 13th August 2020 The CBDT in

exercise of powers under section 119 of the Income-tax Act, 1961 hereby directs that all the assessment orders shall hereafter be passed by National e-Assessment Centre through the Faceless Assessment Scheme, 2019, except as provided hereunder:

1. Assessment orders in cases assigned to Central Charges.
2. Assessment orders in cases assigned to International Tax Charges.

Any assessment order which is not in conformity with Para-2 above, shall be treated as non-est and shall be deemed to have never been passed.

Assessment Centres

Under the scheme, National e-Assessment Centre ("NeAC") and Regional e-Assessment Centers ("ReAC") has been established to facilitate the faceless assessments and contactless proceedings under the Act.

NATIONAL E-ASSESSMENT CENTRE (NEAC)

Constituted as a principal body to facilitate the means to and shall have jurisdiction to conduct assessment proceedings in an electronic mode. It shall be headed by Pr. CCIT and is located in Delhi. It shall specify format, mode, procedures and processes.

NeAC shall be the sole body of the Income Tax Department which will be coordinating with the Assessee(s) during the course of the assessment proceedings vide electronic mode only.

REGIONAL E-ASSESSMENT CENTRES (REAC)

Constituted to facilitate the means to and shall have jurisdiction to conduct assessment proceedings in the cadre controlling region of a Principal Chief Commissioner. It shall be headed by CCIT and there are 8 ReAC across country.

ASSESSMENT UNITS

Constituted to perform functions of making assessment which includes:



- determination of any liability (including refund)
- seeking information or clarification from assessee on points or issues so identified
- analysis of material furnished by the assessee or any other person
- such other functions as may be required

VERIFICATION UNITS

Constituted to perform functions of verification which includes:

- enquiry, cross verification, examination of books of accounts
- examination of witnesses and recording of statements
- such other functions as may be required

TECHNICAL UNITS

Constituted to perform functions of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, audit, transfer pricing, data analytics, management or any other technical matter.

REVIEW UNITS

Constituted to perform functions of review of the draft assessment order, which includes:

- checking whether material evidence has been brought on record
- relevant points of fact and law, issues on which addition or disallowance should be made and applicable judicial decisions have been duly incorporated in the draft order
- checking for arithmetical correctness of modifications proposed
- such other functions as may be required

The overall manpower strength of the NeAC/ ReACs consists of 30 CCsIT, 154 PCsIT, 565 Addl./Jt., 645 DCs/ACsIT and 2830 ITOs. The Office order for setting up of NeAC and ReACs has already been issued.

The following norm has been adopted for creation of hierarchy in each ReAC:

- Each ReAC (AU) will have 1 PCIT, 4 Addl./Jt.CsIT, 4 DCs/ACsIT and 20 ITOs
- Each ReAC (VU) will have 1 PCIT, 4 Addl./Jt.CsIT, 4 DCs/ACsIT and 20 ITOs
- Each ReAC (RU) will have 1 PCIT, 3 Addl./Jt. CsIT, 6 DCs/ACsIT and 9 ITOs
- Each ReAC (TU) will have 1 PCIT, 3 Addl./Jt.CsIT, 6 DCs/ACsIT and 9 ITOs

MODUS OPERANDI OF ASSESSMENT

PROCEEDINGS

The brief procedure of the assessment is as under:

1. Notice Under section 143(2) to be issued by NeAC
 2. Assessee to respond within 15 days
 3. Case is assigned by NeAC to Assessment unit through automated allocation system
 4. **Action by Assessment unit-** Assessment unit shall request NeAC for Obtaining further information/ documents/ evidence from assessee.
- Refer the matter to Verification unit for verification of information
 - Refer to technical unit to seek its opinion

5. Action by NeAC

NeAC shall issue appropriate notice or requisition to assessee for obtaining the information, documents or evidence requisitioned by the assessment unit.

NeAC shall assign function to a specific verification unit in any one ReAC through an automated system. National e-assessment Centre shall then send the report received from the verification unit to the concerned assessment unit.

NeAC shall assign function to a specific technical unit in any one ReAC through an automated system. National e-assessment Centre shall then send the report received from the technical unit to the concerned assessment unit.



6. Notice under **section 144** to be issued by NeAC incase of non compliance

7. **Reply by Assessee** - The assessee shall, within the time specified in the notice referred above or such time as may be extended on the basis of an application in this regard, file his response to the National e-Assessment Centre. Where the assessee fails to file response within the time specified in the notice or within the extended time, if any, the National e-Assessment Centre shall intimate such failure to the assessment unit.

8. **Draft Assessment order by Assessment unit** : After examining all materials gathered, Assessment unit shall prepare a draft assessment order or, in a case where intimation referred to in clause above is received from the National e-Assessment Centre, make in writing, a draft assessment order to the best of its judgment along with penalty proceedings to be initiated if any and send a copy of such order to the National e- assessment Centre.

9. **Examination of Draft order by NeAC** - NeAC shall examine draft assessment order in accordance with the risk management strategy specified by the Board

10. **Action on Draft Assessment Order by NeAC** - After examination, NeAC will either:

- Issue the final order and notice for initiating penalty proceedings or;
- Send draft order to assessee to provide an opportunity to show cause why additions proposed in the draft order should not be made or;
- Assign the draft assessment order to a review unit in any ReAC through an automated allocation system, for conducting review of such order.

11. Review of Draft Order by Review Unit of ReAC

Case 1 - Where after review of the draft order, the review unit concurs with the draft order, NeAC shall either: issue final order or send draft order to assessee to provide an opportunity to show cause why additions proposed in the draft order should not be made.

Case 2 - Where review unit suggests some modification in the draft Assessment Order, NeAC shall assign the case to some other Assessment unit through an automated allocation system. The Assessment unit shall send the final draft assessment order after making the required modifications suggested by review unit to the NeAC for issuing final order or sending the draft order to the assessee to provide opportunity where modification is proposed.

12. Reply of Assessee on Draft order

Case 1 Reply received - Where reply is received, the NeAC shall send back the matter to Assessment Unit and the Assessment Unit will prepare the revised draft order and send it to NeAC.

Case 2 No reply Received - In case no response is received from the Assessee in respect of the draft order in which modifications are proposed, NeAC shall finalize the assessment as per draft assessment order.

13. Action on Revised draft order by NeAC - Assessment unit shall thereafter, considering response furnished, prepare revised draft assessment order and send it to NeAC. Upon receiving revised draft, NeAC shall finalize assessment as per 10(bullet 1) if modification is not prejudicial to interest of assessee or if prejudicial it shall provide opportunity as per 10(bullet 2) and response furnished by assessee shall be dealt as procedure mentioned above.

14. Option for Personal Hearing- Personal Hearing if requested by the assessee shall be provided only through video conferencing subject to certain conditions and approval of Chief Commissioner or the Director General, in charge of ReAC.

15. NeAC shall after completion of assessment transfer electronic record to assessing officer having jurisdiction over such case for such action as may be required under the Act.

16. The Principal Chief Commissioner or the Principal Director General, in charge of National e-assessment Centre may at any stage, if necessary transfer the case to respective AO having jurisdiction.



PENALTY PROCEEDINGS

Penalty proceedings can be initiated by any unit through NeAC for non-compliance of any notice, direction or order.

NeAC shall upon recommendation, serve SCN to assessee. And upon response, respective unit may withdraw draft order for penalty or drop penalty after recording reasons for same.

(1) Any unit may, in the course of assessment proceedings, for non-compliance of any notice, direction or order issued under this Scheme on the part of the assessee or any other person, send recommendation for initiation of any penalty proceedings under Chapter XXI of the Act, against such assessee or any other person, as the case may be, to the National e-assessment Centre, if it considers necessary or expedient to do so.

(2) The National e-assessment Centre shall, on receipt of such recommendation, serve a notice on the assessee or any other person, as the case may be, calling upon him to show cause as to why penalty should not be imposed on him under the relevant provisions of the Act.

(3) The response to show – cause notice furnished by the assessee or any other person, if any, shall be sent by the National e-assessment Centre to the concerned unit which has made the recommendation for penalty.

(4) The said unit shall, after taking into consideration the response furnished by the assessee or any other person, as the case may be, –

- (a) make a draft order of penalty and send a copy of such draft to National e-assessment Centre; or
- (b) drop the penalty after recording reasons, under intimation to the National e-assessment Centre.

(5) The National e-assessment Centre shall levy the penalty as per the said draft order of penalty and serve a copy of the same along with demand notice on the assessee or any other person, as the case may be and thereafter transfer electronic records of the penalty proceedings to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.

APPELLATE PROCEEDINGS

Where any appeal is filed against the assessment order or penalty order passed by the NeAC. In such case, the appeal will lie under the jurisdiction of the Commissioner of Income-tax (Appeals) having jurisdiction over the AO who performed the assessment. Further, the notification dated 13 August 2020 does not provide procedure for appeal proceedings, however, the same is expected to be notified till 25 September 2020.

Issues

Whether only electronic exchange of records is enough for assessment?

Recently an assessment under section 143(3) was completed for A.Y 2017-18, the assessee filed a writ petition that the assessing officer passed the order without correctly appreciating the facts of the assessee. Further, there was no opportunity to the assessee to explain the transactions before the assessing authority.

The Madras High Court in this case held that “The Government of India has introduced E-Governance for conduct of assessment proceedings electronically. It is a laudable step taken by the Income Tax Department to pave way for an objective assessment without human interaction. At the same time, such proceedings can lead to erroneous assessment if officers are not able to understand the transactions and statement of accounts of an assessee without a personal hearing.”

Recently, in 2018, the Supreme Court while hearing the case of Swapnil Tripathi v. Supreme Court of India, on the issue of live streaming of its proceeding held that that access to justice can never be complete without the litigant being able to see, hear and understand the course of proceedings first hand.

We can see many such cases down the line and in my strongest view assessment proceedings being judicial proceedings should be done by way of personal hearing only, though the same should be through the video conferencing mode which are



recorded as well and should be done by somebody (from Departments side) by way of random selection by the computer.

2. Time Consuming

The time required to convert the lengthy physical data into electronic mode will require lot of time and resources as well.

Further the NEAC will communicate with the assessee and not the assessment units. The NeAC will seek data from technical units and Verification units and the share with the assessment units. This automatically will take lot of time to complete the assessments and will unnecessarily prolong the duration of assessment. Also whatever technical unit advises have to be shared with the assessee before using it against the assessee in the light of principles of natural justice. Only the time will tell on how the department plans to look into such legalities.

3. Robust IT infrastructure

The Government will need a robust infra structure to handle this entire process. Also given the GSTN IT problems it will be reasonable for the assesses to apprehend the bad IT systems in place.

4. Non Receipt of notice

There could be possibility in many cases especially in rural areas and tier – III cities where the notice issued by the department may not reach assessee as many assesses in rural and tier 3 cities do not have email ids and neither they are technically equipped enough to understand such things. Even if we help in creating email ids they might not be leaned enough to understand the notices. In many cases the tax practitioners have their emails updated and in case the client has left them or has relocated outside India it will be difficult to serve the notices.

Right to fair hearing

In M. Chockalingam and M. Meyyappan v. CIT, Madras, (1963) 48 ITR 34 (SC), Hidayatullah, J, speaking for the court observed that the authorities acting under the Income-tax Act have to act

judicially and one of the requirements of judicial action is to give a fair hearing to a person before deciding against him.

And Right to fair hearing includes Right to notice - Derived from the Latin word notitia, which means being known, notice is the starting of any hearing. Unless a person knows the issues of the case in which he is involved, he cannot defend himself.

This is the very edifice of the principle of natural justice. There is mandatory requirement of reasonable opportunity of being heard. This pre-requires issuance of a proper notice. The authority has to issue Show Cause to the party/assessee to explain and produce evidence before an adverse inference may be drawn against him. The notice should be specific and unambiguous so that proper compliance can be made by the assessee. Any order passed by the assessing authorities without giving notice is violative of the principles of natural justice.

And now when the notices are not served we can see a huge rise in unnecessary increase in bogus tax demands as well as tax litigation. Further, there are many cases where the jurisdictional AOs tracked down assesses for the reassessments which were reopened on the basis of AIR. Now with this system we can anticipate an increase in assessments under section 144 of the income tax act.

5. There are different Trade practices prevalent in different parts of the country. The opinion of assessment units dealing with metro city clients might not hold true for assesses in small cities and vice versa. For instance the yield of rice varies from state to state. This may lead to increase in litigation if assessment is completed without looking into the area specific issues.

6. Time limit of replying within 15 days whether mandatory?

The act nowhere specifies the time limit to reply to the notice under section 143(2) within 15 days. Whether it is a case of excessive delegation ? There could be litigations on this issue as well and the time limit should be rationalised.



Taxpayer's Charter

The taxpayers' charter not only enlist the tax department's commitment towards taxpayers but also the department's expectations from the taxpayers. The aim of the Charter is to nurture the relationship of mutual trust and respect between the tax authority and taxpayer. In the budget 2020, Finance Minister introduced section 119A under the Act to empower the CBDT to adopt and declare a Taxpayer's Charter and issue such orders, instructions, directions or guidelines to other tax authorities as it may deem fit for the administration of Charter. There has been a citizen's charter earlier but this could be the first time for the charter to be under the Income Tax Act.

The TC unveiled by the PM on 13 August 2020, provides for various rights and obligations of taxpayers. As part of taxpayer's right and obligation of tax authorities, inter alia, includes the following:

Rights

1. provide fair, courteous, and reasonable treatment The Department shall provide prompt, courteous, and professional assistance in all dealings with the taxpayer.
2. Treat taxpayer as honest The Department shall treat every taxpayer as honest unless there is a reason to believe otherwise.
3. provide mechanism for appeal and review The Department shall provide fair and impartial appeal and review mechanism.
4. provide complete and accurate information The Department shall provide accurate information for fulfilling compliance obligations under the law.
5. provide timely decisions The Department shall take decision in every incometax proceeding within the time prescribed under law.
7. Respect privacy of taxpayer The Department will follow due process of law and be no more intrusive than necessary in any inquiry, examination, or enforcement action.
8. maintain confidentiality The Department shall not disclose any information provided by taxpayer to the department unless authorized by law.

9. hold its authorities accountable The Department shall hold its authorities accountable for their actions.

10. enable representative of choice The Department shall allow every taxpayer to choose an authorized representative of his choice.

11. provide mechanism to lodge complaint The Department shall provide mechanism for lodging a complaint and prompt disposal thereof.

12. Provide a fair & just system The Department shall provide a fair and impartial system and resolve the tax issues in a time-bound manner.

13. Publish service standards and report periodically The Department shall publish standards for service delivery in a periodic manner.

14. Reduce cost of compliance The Department shall duly take into account the cost of compliance when administering tax legislation.

Obligations

1. be honest and compliant Taxpayer is expected to honestly disclose full information and fulfil his compliance obligations.

2. Be informed Taxpayer is expected to be aware of his compliance obligations under tax law and seek help of department if needed.

3. Keep accurate records Taxpayer is expected to keep accurate records required as per law.

4. Know what the representative does on his behalf Taxpayer is expected to know what information and submissions are made by his authorised representative.

5. Respond in time Taxpayer is expected to make submissions as per tax law in timely manner.

6. Pay in time Taxpayer is expected to pay amount due as per law in a timely manner.

Tax payer can approach the TC Cell under Principal Chief Commissioner of Income-tax in each zone for compliance to this charter.



The taxpayer's charter unveiled by the Prime Minister Narendra Modi is not the first time the government has come out with such a charter. In 2010, the government had come out with a citizen's charter, a document listing the dos and don'ts for the tax department as well as the taxpayers. The 2010 citizen charter was revamped in 2014 as those grand announcements remained in the documents.

Is the new charter different? Although the intention appears noble, the efficacy of the charter will only depend on its implementation. While how effective the charter this time around that time only will tell.





Decoding Clause 8 of Part-I of the First Schedule of the Chartered Accountants Act, 1949– Communication with the Previous Auditor



CA Bhavesh Mahajan
B.Com, FCA, DISA (ICAI)



Courtesy and Professional behaviour is one of the strongest traits of any professional. It not only enhances the reputation but also helps in strong Professional tie ups and maintaining the harmonious work culture among different Members of the same profession. This is the very crux and the purpose of the Clause 8 of Part-1 of the First Schedule of the Chartered Accountants Act.

The clause reads as follows:-

“A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he accepts a position as auditor previously held by any other chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rule, 1932 without communicating with him in writing”

In this highly competitive era, the auditees sometimes tend to take undue advantage by changing the Auditors to their advantages. It is, therefore, very much necessary that the Auditors should have such a mechanism of correspondence among them to avoid any such mischief of the auditees and also safeguard the interest of the professional brother in a timely manner.

The underlying objective of this Clause is that the Member should have the opportunity to know the reasons for the change in order to be able to safeguard his own interest, the legitimate interest of the public and the independence of the existing accountant. It is not intended, at all to prevent or obstruct the change.

When making the enquiry from the retiring auditor, the one proposed to be appointed or already appointed should primarily find out whether there are any professional or other reasons why he should not accept the appointment.

It is important to remember that every client has an inherent right to choose his accountant; also that he may, subject to compliance with the statutory requirements in the case of limited Companies, make a change whenever he chooses, whether or not the reasons which had impelled him to do so are good and valid. The change normally occurs where there has been a change of venue of business and a local accountant is preferred or where the partner who has been dealing with the clients affairs retires or dies; or where temperaments clash or the client has some good reasons to feel dissatisfied. In such cases, the retiring auditor should always accept the situation with good grace.

The existence of a dispute as regard the fees may not be the root cause of an auditor be changed and neither would this constitute a valid professional reasons on account of which an audit should not be accepted by the member to whom it is offered. However, in case of an UNDISPUTED Audit Fee for carrying out the statutory audit have not been paid, the incoming auditor should in appropriate circumstances use his influence in favour of his predecessor to have the dispute as regard the fees settled. Now the question arises is what is meant by UNDISPUTED Fee and how it shall be determined. In this regard, the Council General Guidelines has been issued in 2008 wherein the Council has explained that the provision for audit fee in the accounts signed by both the auditee and the auditor along with other expenses, if any, incurred by the auditor in connection with the audit, shall be considered as the “Undisputed Audit Fee”. So, it is very much clear from this explanation by the Council that it becomes the



prime responsibility of the Incoming Auditor that if any of such type of Audit related expense is shown as Payable in the last audited Financial Statement, he should ensure that the same had been paid and should procure necessary evidences in respect to such payment being made along with the confirmation of the same from the Previous Auditor. If he fails to do so or does not take such confirmation and rely only on the entry in the books regarding the payment of the same, he shall be held guilty of professional Misconduct.

Other than the reason of payment of Undisputed Fee, the other professional reasons for not accepting the Audit would be:-

(a) Non compliance of the provisions of the Sec 139 and 140 of the Companies Act, 2013 as mentioned in Clause (9) of the Part-I of the First Schedule to the Chartered Accountants act, 1949; and

(a) Issuance of qualified Report.

Now, as per Clause (9), it is compulsory for the Incoming Auditor that the provisions of Sec 139 & Sec 140 of the Companies Act, 2013 should be duly complied with without any exception. Section 139 contains several provisions in the matter of appointment of auditors in different circumstances and situations where- as Section 140 lays down the procedure which must be followed whenever a Company desires to change its auditors. In order that the validity of the appointment of an auditor is not challenged or objected to by shareholders or the retiring auditors at a later date, it has been made obligatory on the Incoming Auditor to ascertain from the Company that the appropriate procedure in the matter of appointment has been faithfully followed. It is obligatory on the incoming auditor to ascertain from the Company that the appropriate procedure in the matter of his appointment has been duly complied with.

In case of Qualified Audit Report, the Incoming Auditor may accept the Audit if he is satisfied that the attitude of the retiring auditor was not proper

and justified. However, if he feels contrary to this, he shall not accept the Audit. In nutshell, there is no rule, written or unwritten, which would prevent an auditor from accepting the appointment offered to him in these circumstances. However, before accepting the audit, he should ascertain the full facts of the case. For nothing will bring the profession to disrepute so much as the knowledge amongst the public that if an auditor is found to be "inconvenient" by the client, he could readily be replaced by another who would not displease the client and this point cannot be too over-emphasised.

After knowing the above provisions of the Law and the Code, the question that comes in to the mind of the Professional Accountant is **"What should be the correct procedure to adopt when a prospective client tells you that he wants to change his auditor and wants you to take up his work?"**

There being two persons involved, the Company and the old auditor, the former should be asked whether the retiring auditor had been informed of the intention to change. If the answer is in the affirmative, then a communication should be addressed to the retiring auditor. If, however, it is learnt that the old auditor has not been informed, and the client is not willing to make the first move, it would be necessary to ask him the reason for the proposed change. If there is no valid reason for a change, it would be healthy practice not to accept the audit. If he decides to accept the audit he should address a communication to the retiring auditor.

The object of this communication with the Previous Auditor is to ascertain of any such circumstances which warrant him not to accept the appointment. For example, where the previous Auditor has been changed due to issuing of Qualified Report or there is something inherent weakness in the administration of the business, the incoming Auditor should carefully consider the facts



provided by the previous Auditor and decide accordingly about the acceptance of such Audit, and if he decides to accept, he must also take into consideration such information provided by previous Auditor while discharging his duties and responsibilities. It, indeed, is also the responsibility of the Retiring Auditor that he should respond to the communication by Incoming Auditor in a professional and supporting manner provide him with all the known information regarding any facts or other information of which, in his opinion, the Incoming Auditor needs to be aware before deciding the acceptance of decline of an Audit Assignment.

The provision of Communication, as provided in the Code of Ethics, also insists on Complete Communication and requires that Members should communicate with the previous auditor in such a manner that there should be conclusive evidence in hand of the delivery of such communication with the addressee. The Council has enlisted the followings as evidence of Complete Communication:-

- (a) Communication by a letter sent through "Registered Acknowledgement due", or
- (b) By hand against a written acknowledgement, or
- (c) Acknowledgement of the communication from retiring auditor's vide email address registered with the Institute or his last known official email address, or
- (d) Unique Identification Number (UDIN) generated on UDIN portal (subject to separate guidelines to be issued by the Council in this regard)

No communication vide sms or WhatsApp is not permissible as an evidence of communication being sent, as required under Clause (8) of Part-I of the First Schedule to the Chartered Accountants Act, 1949.

As mentioned above, in addition to the previous allowed mode of operations through Registered AD or by hand only, the new Code has allowed the communication through E-mail also. In this regard, the communication would be deemed to be complete on receipt of acknowledgment from Retiring Auditor's Email address registered with the Institute or his last known official E-mail address. This E-mail ID of Retiring Auditor can be obtained by Incoming Auditor on phone, or from the client. However, mere sending of mail shall not be a Valid Positive communication without any acknowledgment like "OK" or "Received" from Retiring Auditor. However, in case of Communication sent through Registered AD, the communication received back by the Incoming Auditor with "Office found Locked" written on the Acknowledgement Due shall be deemed as having been delivered to the retiring auditor.

In case the time schedule given for the assignment is such that there is no time to wait for the reply from the Retiring auditor, the Incoming auditor may give a conditional acceptance of the appointment and commence the work which needs to be attended to immediately after he has sent the communication to the Retiring auditor in accordance with this clause. In his acceptance letter, he should make clear to the client that his acceptance of appointment is subject to professional objections, if any, from the Retiring auditor and that he will decide about his final acceptance after taking into account the information received from the Retiring auditor.

Some other points to be noted in respect to the provisions of Clause (8) are:-

▷ The requirement for communicating with the previous auditor being a Chartered Accountant in practice would apply to all types of Audit viz., Statutory Audit, Tax Audit, GST Audit, Internal Audit, Concurrent Audit or any other kind of audit.▷



It would be a healthy practice if a Tax Auditor appointed for conducting special audit under the Income Tax Act, 1961 communicates with the member who has conducted the Statutory Audit.

A Communication is mandatorily required for all types of Audit/Report where the previous auditor is a Chartered Accountant. In case of assignments done by other professionals not being Chartered Accountants, it would also be a healthy practice to communicate.

The definition of "Audit" is given in the Framework for Assurance Engagements (the Framework) issued by the Institute which is as under:

"For assurance engagements relating to historical financial information in particular, such engagements which provide reasonable assurance are called audits".

So, any such assignment or work with the above scope shall be covered by Clause (8) compliance and accordingly should be complied with.

The term "**previous auditor**" means the immediately preceding auditor who held same or similar assignment

comprising same/similar scope of work. The mandatory communication with the previous auditor being a Chartered Accountant is required even in a case where the previous auditor happens to be an auditor for a year other than the immediately preceding year.

As evident from the above discussion, it is an important but one of the most Un-complied and most reported or complained about provisions of the Code of Ethics. Any casual approach of the Member in Practice can subject him to the Disciplinary proceedings because of the complaint from Retiring Auditor because of certain Financial or Non-financial objections on the change of the Auditor by the Auditee. At the same time, it is pertinent to note that the Outgoing Auditor should gracefully and positively respond to any such communication by the proposed Incoming auditor and should object only in case of Undisputed Fee or in case of Non-financial matter, should provide proper information and disclosures to the proposed Incoming Auditor so that he can also take a rightful Professional decision at the time of Acceptance of assignment itself in order to safeguard against any future problem.

Please note that the compliance of any provision of Code of Ethics is a prime responsibility of each and every Member of the Institute in order to keep up the Standard of the Professional services.

Thank You