

## 1. CBDT eases Compliance of TDS / TCS

### **CBDT Circular no – 10 dated 17.05.2022**

The Central Board of Direct Taxes (CBDT) issued a Circular No. 10/2022 dated 17th May 2022 to modify the earlier Circular No. 11/2021 dated 21.06.2021 subsequent to amendments made in section 206AB (for TDS) and section 206CCA (for TCS) of the Income-tax Act, 1961 by the Finance Act, 2022.

- CBDT has issued a circular dated 21.06.2021 prescribing the rules to follow to use the functionality developed to ease compliance for tax deductors /collectors as mandated under Section 206AB and Section 206CCA of the Income-tax Act, 1961. This circular stated that a person will become a specified person for default in two years. In order to ease compliance burden ,the Income-tax Department came out with functionality "Compliance Check for Sections 206AB & 206CCA", which was made available through reporting portal of the Income- tax Department. It enabled the tax deductor or the collector to feed the single PAN (PAN search) or multiple PANs (bulk search) of the deductee or collectee. The functionality then gave a response if such deductee or collectee was a specified person.
- This circular dated 17.05.2022 stated that now a person can become a specified person for default in one year instead of the earlier provision of default in two years. Accordingly the logic of the functionality has been amended. The new logic for the current financial year is as under:
  1. A list of specified persons is prepared as on the start of the financial year 2022-23, taking previous year 2020-21 as the relevant previous year. List contains names of the taxpayers who did not file return of income for the assessment year 2021-22 and have aggregate of TDS and TCS of fifty thousand rupees or more in the previous year 2020-21.
  2. During the financial year 2022-23, no new names are added in the list of specified persons. This is a taxpayer friendly measure to reduce the burden on tax deductor and collector of checking PANs of non-specified person more than once during the financial year.
  3. If any specified person files a valid return of income (filed & verified) for the assessment year 2021-22 during the financial year 2022-23, his name would be removed from the list of specified persons. This would be done on the date of filing of the valid return of income during the financial year 2022-23.
  4. If any specified person files a valid return of income (filed & verified) for the assessment year 2022-23, his name would be removed from the list of specified persons. This would be done on the due date for filing of the return of income for AY 2022-23 or on the date of actual tiling of valid return (filed & verified), whichever is later.
  5. If the aggregate of TDS and TCS, in the case of a specified person, in the previous year 2021-22 is less than fifty thousand rupees, his name would be removed from the list of specified persons. This would be done on the first due dale under sub-section (1) of section 139 of the Act falling in the financial year 2022-23. For the financial year 2022-23 this due date is 31st July 2022.
  6. Belated and revised TCS & TDS returns of the relevant financial year filed during the financial year 2022-23 would also be considered for removing persons from the list of specified persons on a regular basis.

- CBDT Circular clarifies that the deductor or the collector may check the PAN in the functionality at the beginning of the financial year and then he is not required to check the PAN of non-specified person during that financial year. The list of specified person would be drawn afresh at the start of each financial year and the above process as mention in para 3 to 6 above would have to be repeated. For example, at the beginning of the financial year 2023-24 a fresh list would be prepared with previous year 2021-22 as the relevant previous year. Then, no name would be added to the list of specified persons during the financial year and only name would be removed based on the logic given above.
- The circular further stated that as per the provisos of Section 206AB & 206CCA, the specified person shall not include a non-resident who does not have a permanent establishment (PE) in India. In this regard, it is clarified that Tax Deductors & Collectors are expected to carry out necessary due diligence in respect of non-residents about the applicability of section 206AB and section 206CCA on them.
- CBDT reiterated that this functionality has been developed to ease compliance for tax deductors/collectors and asking the deductee/collectee to produce evidences of their filing of return of income will defeat the purpose of this taxpayer friendly measure.

Readers may refer to complete text of Circular

## **2. GUIDELINES FOR COMPULSORY SELECTION OF RETURNS FOR COMPLETE SCRUTINY DURING FINANCIAL YEAR 2022-23**

**CIRCULAR F. NO. 225/81/2022/ITA-II, dated 11-5-2022 gives parameters for compulsory selection of returns for Complete Scrutiny during Financial Year 2022-23 and procedure for compulsory selection in such cases , which are as under :-**

- ✓ Cases pertaining to survey u/s 133A of the Income-tax Act, 1961 (Act)
- ✓ Cases pertaining to Search and Seizure
- ✓ Cases in which notices u/s 142(1) of the Act, calling for return, have been issued & no return, have been furnished.
- ✓ Cases in which notices u/s 148 of the Act have been issued
- ✓ Cases related to registration/ approval under various sections of the Act, such as 12A, 35(l)(ii)/ (ia)/ (iii), 10(23C), etc.
- ✓ Cases involving addition in an earlier assessment year(s) on a recurring issue of law or fact and/or law and fact
- ✓ Cases related to specific information regarding tax-evasion
- It is clarified that where return has been furnished in response to notice u/s 142(1) of the Act and such notice u/s 142(1) of the Act was issued due to the information contained in NMS Cycle/SFT information/information received from Directorate of I&CI, such return will not be taken up for compulsory scrutiny. Selection of such cases for scrutiny will be done through CASS cycle.
- The cases shall be selected for compulsory scrutiny by the International Taxation and Central Circle charges following the above prescribed parameters and procedure with prior administrative approval of Pr. CIT/Pr.DIT/CIT/DIT concerned.
- The cases which are selected for compulsory scrutiny by the International Taxation and Central Circle charges following the above prescribed parameters and procedure, shall, as earlier, continue to be handled by these charges.
- As per the amendments brought by Finance Act, 2021, the time limit for service of notice u/s 143(2) of the Act has been reduced to three months from end of the Financial Year in which the return is filed. Therefore, selection of cases and transfer of cases, wherein assessments have to be completed in faceless manner, to

NaFAC shall be completed positively by 31-5-2022. In cases selected for compulsory scrutiny, service of notice u/s 143(2) of the Act shall be completed by 30-6-2022

Readers may refer to complete text of Circular

### **3. Updated return of income**

#### **NOTIFICATION G.S.R. 325 (E) [NO. 48/2022/F. NO. 370142/18/2022-TPL (PART-1)] , DATED 29-4-2022**

The Central Board of Direct Taxes, in exercise of the powers conferred by section 139 (8A) of the Act, hereby gives Income-tax (Eleventh Amendment) Rules, 2022. It inserts Rule 12AC and new form – ITR -U

Rule 12AC prescribes form ITR -U for return of income to be furnished under section 139(8A) from assessment year 2020-21 and subsequent assessment years. It also gives format of form ITR-U being “ INDIAN INCOME TAX UPDATED RETURN [For persons to update income within twenty-four months from the end of the relevant assessment year]”

### **4. Mandatory Quoting of PAN under section 139A and Rule 114**

#### **NOTIFICATION G.S.R. 346(E) [NO. 53/2022/F.NO. 370142/49/2020-TPL] , DATED 10-5-2022**

CBDT vide Notification No. 53/2022 dated 10.05.2022 in G.S.R. 346(E) through Income-tax (Fifteenth Amendment) Rules, 2022 amends Rule 114 of the Income-tax Rules, 1962 and inserts new Rule 114BA and Rule 114BB for the purpose of notifying transactions for which it will be mandatorily required to quote PAN as per the provisions of section 139A(1)(vii) and section 139(6A) of the Income-tax Act, 1961.

It shall come into force from 26th May, 2022 i.e after the expiry of 15 days from its publication in the Official Gazette.

- Rule 114 is amended to apply for PAN if any person intends to undertake any prescribed transactions as per clause (vii) of section 139A. A new clause (vii) is inserted in rule 114(3) to prescribe that any person intending to enter into any transaction prescribed under clause (vii) of sub-section (1) of section 139A shall at least 7 days before the date of the transaction apply for allotment of PAN in the prescribed form and manner.
- The Board has prescribed transactions under clause (vii) of sub-section (1) of section 139A and for this purpose, a new Rule 114BA is inserted in the Rules. The following transactions have been notified or prescribed under section 139A(1)(vii) by rule 114BA-
  - A. Deposit of aggregate cash of Rs. 20 Lakh or more in a financial year in one or more accounts of the person maintained with a bank, co-operative bank or a Post Office. All the cash deposits into all the bank accounts of the person in a financial year will be aggregated to calculate the threshold limit of Rs. 20 Lakh.
  - B. Withdrawal of aggregate cash of Rs. 20 Lakh or more in a financial year in one or more accounts of the person maintained with a bank, co-operative bank or a Post Office. All the cash withdrawals from all the bank accounts of the person in a financial year will be aggregated to calculate the threshold limit of Rs. 20 Lakh.
  - C. Opening of a current account or cash credit account by a person with a bank, co-operative bank or a Post Office.
- ✓ Section 139(6A) of the Act provides for mandatory quoting of PAN or Aadhaar number in the prescribed transactions and authentication of such PAN or Aadhaar number in the prescribed manner. A new rule 114BB is inserted to prescribe the person who shall ensure that the PAN is quoted in the documents pertaining to these transactions and the same is authenticated as per the provisions of section 139(6A). Rule 114BB shall come into force from 10th July, 2022 i.e. after the expiry of 60 days from publication of this notification in the Official Gazette

In case cash is deposited or withdrawn from a bank account or a co-operative bank account for Rs. 20 Lakh or more or in case of opening a current account or cash credit account with a bank account or a co-operative bank

account, then the notified person is the bank or the co-operative bank which shall ensure that PAN is quoted in the documents and is authenticated.

In case cash is deposited or withdrawn from a post office account for Rs. 20 Lakh or more or in case of opening a current account or cash credit account with the Post Office, then the notified person is the Post Master General which shall ensure that PAN is quoted in the documents and is authenticated.

## **5. CBDT Issues Instruction to AO on Issue of Notices under section 148A after Supreme Court Decision on Section 148 Notices**

### **INSTRUCTION NO. 1/2022 [F.NO. 279/MISC/M-51/2022-ITJ], DATED 11-5-2022**

CBDT has issued Instruction No. 1 dated 11.05.2022 to the Assessing Officers in issuing Notices under section 148A in respect of Notices already issued under section 148 in-between the period 01-04-2021 and 30-06-2021 subsequent to the decision of Hon'ble Supreme Court validating the notices so issued and directed that such notices shall be deemed to be notices issued under section 148A of the Income-tax Act, 1961.

The Board has issued an SOP to be followed by the AOs for implementing the decision of the Supreme Court in a uniform manner while issuing new notices under amended section 148. The instructions are summarized as under

- ✓ The judgment shall apply to all the reassessment notices whether challenged or not by the assessee.
- ✓ In para 6.3 of the Instruction, the Board has interpreted the judgment in a manner that the decision of the Supreme Court read with the time extension provided by TOLA, 2020 allows the reassessment notices issued between 01.04.2021 and 30.06.2021 to travel back in time to their original date when such notices were to be issued and then new section 149 of the Act shall apply. The Board has reiterated the direction of the Court that all the defences under section 149 shall be available to the assessee and all the rights are available to the AOs under the new law
- ✓ Fresh notices under section 148 can be issued under section 149(1)(a) of the new law as they are within the period of three years from the end of the relevant assessment year
- ✓ Fresh notices for AY 2013-14, AY 2014-15 and AY 2015-16 can be issued if the case falls under section 149(1)(b) of the new law
- ✓ Separate instruction shall be issued in respect of AY 2013-14, AY 2014-15 and AY 2015-16 where the alleged income escaped is less than Rs. 50 Lakh.
- ✓ By 2nd June, 2022 the AO shall provide all the information and material relied upon for issuance of the notices under erstwhile section 148 between 01.04.2021 and 30.06.2021
- ✓ The period of two weeks, within which the assessee to has file a reply, shall be counted from the date of last communication of information and materials.
- ✓ After receiving the reply, the AO shall pass an order under section 148A(d) of the Act or not within one month from the end of the month in which the reply is received from the assessee or within one month from the end of the month in which time or extended time limit to furnish reply expires.
- ✓ If it is a fit case for issuance of notice under section 148, then the same along with the order under section 148A(d) shall be served on the assessee after obtaining the approval under section 151.