

RETROSPECTIVE AMENDMENTS UNDER THE INCOME TAX ACT, 1961

Purpose of the note

The purpose of this note is to summarize the implications arising under the Income tax Act, 1961 ('Act'), pursuant to the certain key amendments introduced by the Finance Act, 2026, with retrospective effect.

- 1. Clarification regarding time limit for completion of assessments wherein filings before the DRP has been made post-receipt of draft assessment orders (Sections 144C, 153 and 153B). Amendment applicable with effect from April 1, 2009 (October 1, 2009 for search cases)**

Background of the issue and ongoing litigation

- Section 153 prescribes the general time limit for completing assessments and reassessments.
- Section 153B prescribes time limits for completing assessments in search and requisition cases.
- Section 144C provides a special procedure in transfer pricing cases and cases relating to non-residents. In these cases:
 - The Assessing Officer first issues a draft assessment order
 - The taxpayer may either accept the draft or file objections before the DRP

- After DRP directions are issued, the final assessment order is passed.
- Litigation had arisen on whether the final assessment order in DRP cases must strictly comply with the time limits for completion of assessments specified under sections 153/153B or whether the separate timelines under section 144C operate independently.
- There have been several decisions including the split verdict decision of the Supreme Court wherein it has been held that the time taken by the DRP in providing directions shall be subsumed within the timelines specified under section 153/ 153B for completion of assessments.

Clarifications provided by the amendment

- The time limits under sections 153 and 153B govern the draft order stage only i.e. the draft is required to be issued within the time limits prescribed under sections 153 or 153B, as applicable.
- Once the draft order is issued, further time available to complete the final assessment order after DRP directions is independently governed by the provisions of section 144C(4) and section 144C(12)/(13). Accordingly, the time limits specified for DRP is not subsumed within the overall time limit for concluding assessment proceedings.
- This position was always deemed to have been the law overriding contrary judicial precedents.

Practical impact

- Final assessment orders passed after DRP directions are protected from limitation-based challenges where section 144C timelines were followed.
- Past and pending disputes challenging DRP-based assessments as time-barred under sections 153/153B no longer valid.

2. Jurisdiction for carrying out proceedings prior to the initiation of reassessment proceedings - "Assessing Officer" Means Jurisdictional AO (JAO) and not the National Faceless Assessment Centre (NFAC). Amendment applicable with effect from April 1, 2021.

Background of the issue and ongoing litigation

- Section 148A of the Act specifies that prior to the issue of notice for initiation of reassessment proceedings under section 148, there is a requirement to issue show cause notice to a taxpayer accompanied by the information which suggests that income chargeable to tax has escaped assessment. The taxpayer is required to respond to the show cause notice providing the reasons as to why there should not be a notice that should be issued under section 148 of the Act.
- Section 148 specifies that prior to carrying out assessment under section 147, there is a requirement to issue notice requiring such taxpayer to furnish the return of income. This notice should be accompanied by the order issued under section 148A of the Act.

- There has been significant litigation arising pursuant to the faceless assessment reforms introduced in 2021, wherein taxpayers challenged the validity of notices issued under sections 148 and 148A and related procedures on the ground that only the NFAC and not JAO was competent to initiate these procedures.

Clarification provided by the amendment

- Section 147A has been introduced to clarify that for the purposes of sections 148 and 148A, the term ‘Assessing Officer’ means and shall always be deemed to have meant the JAO and not the NFAC or any assessment unit referred to in section 144B of the Act.

Practical impact

- Notice under section 148A and 148 issued by JAO since 1 April 2021 are protected from being considered invalid on the ground of jurisdiction.
- Ongoing matters before Courts on this issue no longer valid. Past decisions in favour of taxpayers no longer relevant.

3. Defects in quoting Document Identification Number (‘DIN’) not to invalidate assessments. Amendment effective from October 1, 2019

Background of the issue and ongoing litigation

- Section 292B of the Act specifies that no return of income, assessment, notice, summons or any other proceedings under the Act shall be considered to be invalid merely by reason of any mistake, defect or omission in such return etc, if otherwise in substance and effect, the same are in conformity with the intent and purpose of the Act.
- There is a CBDT Circular (Circular 19 of 2019) which specifies that there is a requirement to quote DIN on assessment orders issued by the tax authorities.
- There have been decisions of High Courts that have held assessments to be invalid on the ground of non-quoting of DIN on every page of the assessment order or non-quoting of the same on the body of the order, even though the same was lawfully generated and quoted in the communication accompanying the said orders.

Clarification provided by the amendment

- Section 292BA has been inserted to clarify (for the purposes of section 292B) that no assessment shall be invalid on account of any mistake, defect, or omission in respect of quoting the DIN, provided the assessment order is referenced by such number in any manner. Any minor defect, inconsistency regarding DIN in the notices, summons etc accompanying the assessment order shall not impact the validity of the assessment order as long as there is a reference of DIN in the assessment order.

Practical impact

- Assessments challenged or annulled for non-quoting of DIN will be invalidated with retrospective effect from October 2019.
- The newly introduced section strengthens the protection already provided under section 292B of the Act.

4. Computation of 60-day time limit for passing Transfer Pricing orders (Section 92CA). Amendment effective from June 1, 2007

Background of the issue and ongoing litigation

- Section 92CA(3A) requires the Transfer Pricing Officer (TPO) to pass an order at least 60 days prior to the expiry of the limitation period for completing assessment specified under section 153 of the Act.
- Regarding the manner of counting the 60-day period, Courts have held that the date of limitation is required to be excluded. This resulted in annulment of several TP orders since the tax officers had passed the order on the date of the expiry of the limitation period.

Clarification provided by the amendment

- The Finance Act 2026 has introduced a new sub-section (3AA) under section 92CA to clarify the exact manner in which the 60-day period is to be computed. It specifies as follows:

- Where the period of limitation expires on March 31 (non-leap year), the transfer pricing order must be made upto January 30 of that year.
- Where the period of limitation expires on March 31 (leap year), the order must be made upto January 31 of that year.
- Where the period of limitation expires on December 31, the order must be made by November 1 of that year.

Practical impact

- Transfer pricing orders previously invalidated on this issue stand validated since the amendment has been retrospective with effect from June 2007.
- Pending appeals on this ground lose merit.

5. Validation of Electronic Approvals for carrying out assessment, reassessment proceedings etc. Amendment with effect from April 1, 2021

Background of the issue and amendments made

- Courts have, in several cases, invalidated approvals for carrying out assessments, reassessments or recomputation given by the Income tax authorities on grounds of such approvals being mechanical, absence of clear reasons, missing digital signatures or non-compliance with certain Rules specified under the Income tax Rules.

- Section 292BC has been incorporated to validate electronic approvals granted by income-tax authorities in assessment, reassessment, or recomputation proceedings. The section clarifies that:
 - Such approvals shall be deemed to be administrative and supervisory in nature.
 - They shall not be treated as invalid by reason of any insufficiency of reasons recorded, or any defect in authentication or communication. This would include circumstances where digital signatures have not been appended — provided the approval was granted electronically.

Practical impact

- Overrides judicial precedents that invalidated approvals on technical and procedural grounds.
- Validates past approvals where digital signatures were absent or reasons recorded were mechanical.

6. Authentication of Electronic Records in Faceless Assessment. Amendment with effect from April 1, 2022

Background of the issue and ongoing litigation

- Disputes had arisen due to absence of digital signatures on notices and orders issued under the faceless regime, with taxpayers contending non-compliance with section 282A and prescribed modes of authentication.

- Section 144B(6)(i)(b) has been amended to provide that assessment units, verification units, technical units and review units operating under the faceless regime may authenticate electronic records by way of electronic communication as opposed to affixing digital signature.

Practical impact

- Validates past faceless assessment proceedings where authentication was by electronic communication rather than digital signature.
- Eliminates a recurring technical challenge to faceless assessments going back to April 2022. Reduces litigation arising from procedural defects in electronic authentication.

Disclaimer:

This document has been prepared based on the Amendments proposed in the Finance Act 2026 as passed on 31.03.2026 and from sources believed to be reliable. For further details, please refer to Finance Act, 2026 and related clarification/circulars issued.

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