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फा.सं. NaFAC/Delhi/CIT-1/2022-23/112/92

दिनांक: 03/08/2022

To,

The Pr. Chief Commissioner of Income-tax (CCA),
(All regions)

Madam/Sir,

Sub: Standard Operating Procedure (SOP) for Assessment Unit (AU), Verification Unit (VU), Technical Unit (TU) and Review Unit (RU) under the Faceless Assessment provisions of Section 144B of the Income-tax Act.

Kindly find enclosed Standard Operating Procedure (SOPs) issued under Section 144B(6)(xi) of Income-tax Act, 1961, for AU, VU, TU and RU. The same may be disseminated among the Units under your region for compliance.

2. The SOPs provide guidance to the Units and outline the process for facilitating assessments as envisaged under the provisions of Section 144B of the Income-tax Act.
3. All care has been taken in preparation of the SOPs. However, in implementation of the SOPs if any practical difficulty or conflict with the statute is noticed, then the provisions of Statute shall prevail.
4. These SOPs are strictly for departmental use only.
5. This is issued with the prior approval of the CBDT.

Enclosed: As above.

Yours faithfully,

(Ashish Abrol)
Commissioner of Income-tax-1,
National Faceless Assessment Centre,
Delhi

Standard Operating Procedure (SOP) under the Faceless Assessment provisions of Section 144B of the Income-tax Act

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**Government of India
Ministry of Finance
Central Board of Direct Taxes
National Faceless Assessment Centre
New Delhi**

Dated: 03.08.2022

**Subject: Standard Operating Procedure (SOP) for Assessment Unit (AU)
Under the Faceless Assessment provisions of Section 144B of the Income-tax Act**

The Principal Chief Commissioner of Income Tax, National Faceless Assessment Centre, with the prior approval of the Central Board of Direct Taxes, New Delhi, lays down the following SOP for Assessment Unit (AU) under the Faceless Assessment provisions of Section 144B of the Income-tax Act. This is issued under Section 144B(6)(xi) of the Income-tax Act.

A. Assignment of cases

Following class of cases, other than cases excluded u/s 144B(2), shall be assigned to AU:

- A.1 CASS category
- A.2 Compulsory Scrutiny Cases
- A.3 Set Aside Cases
- A.4 Reopened Cases

B. Preliminary Examination and Action

- B.1 On initial assignment of case, AU must verify whether the case has been correctly assigned for Faceless assessment, and refer to NaFAC if not correctly assigned.
- B.2 Refer the case for transfer, if it falls under the exclusions under Section 144B(2),
 - B.2.1 Within 5 days of assignment, or
 - B.2.2 Within 5 days of receipt of information on the basis of which the case is identified as covered under exclusion under Section 144B (2).

B.3 In reopened cases:

B.3.1 Where no return of Income is filed within the time specified in the notice under Section 148, issue notice under Section 142(1) wherever the same has not been issued.

B.3.2 Where return of Income is filed, issue notice u/s 143(2) wherever the same has not been issued.

C. Initial Questionnaire u/s 142(1)

C.1 Initial questionnaire u/s 142(1) shall be, preferably, issued by AU within 15 days of assignment of cases.

C.2 Before issuing the initial Questionnaire, AU shall:

C.2.1 Consider all internal data bases of the Department - 360 degree in ITBA, Insight, E-filing AO Portal available to the AU;

C.2.2 Consider Structured questions, if available, and Guidance notes for each issue/scenario maintained by Insight, on the points of enquiry;

C.2.3 Structured questions, if available, on the points of enquiry may be modified, as required;

C.2.4 In Reopened cases - The initial questionnaire shall seek specific information/evidence on the grounds that led to reopening;

C.2.5 In Set aside cases - The initial questionnaire shall seek specific information/evidence on the grounds that led to the case being set-aside;

C.2.6 In Compulsory scrutiny cases - The initial questionnaire shall seek specific information arising from the return of income or information available on record that led to the case being under compulsory scrutiny.

C.3 Due care may be taken to ensure:

C.3.1 Assessee is not asked to submit documents / information already filed by the Assessee and available on record that is accessible to the AU.

C.3.2 The initial questionnaire is comprehensive, so that multiple notices u/s 142(1) are avoided.

C.3.3 Questions are asked relating to specific details of change in status of the

assessee, due to events like restructuring, merger, demerger, amalgamation, cessation, death or dissolution etc. at the time of assessment proceedings.

C.3.4 If so required, questions seeking PAN/TAN, correspondence address, emails etc. are asked in relation to third parties, to facilitate verification/ inquiry.

D. Process for issuance of notice u/s 142(1)

D.1 Notice is to be served on the assessee with the approval of Unit Head of the AU, under the digital signature of the Assessment Unit through NaFAC.

D.2 To ensure adherence to the principles of natural justice and reasonable opportunity to the assessee, timelines to be given for obtaining response to the initial questionnaire shall be:

D.2.1 With regard to the initial notice –

D.2.1.1 Response time of 15 days from the date of final generation of notice.

D.2.1.2 Response time of 15 days may be curtailed, keeping in view the limitation date for completing the assessment.

D.2.2 With regard to subsequent notices –

D.2.2.1 Response time of 7 days from the date of final generation of notice.

D.2.2.2 Time may be curtailed keeping in view the limitation date for completing the assessment.

D.3 Where there is no response to the initial notice under Section 142(1) within the compliance date:

D.3.1 AU shall issue a communication (as per prescribed proforma – Annexure AU-1), on all registered email IDs of the assessee available on ITBA/ Insight, with a request to comply within 5 days.

D.3.2 The communication will only refer to non-compliance, without giving specific details of the case, so as to ensure that confidentiality of the queries, raised in the questionnaire accompanying the notice under section 142(1), is maintained, and the assessee responds through the e-filing portal only.

E. Grant of adjournment to notice u/s 142(1) on request of assessee or suo-motu adjournment

E.1 Where adjournment is granted, AU to ensure that adequate time is given to the assessee to respond:

E.1.1 Adjournment up to 7 days where assessee seeks adjournment using the online option;

E.1.2 Suo motu adjournment up to 7 days may be granted by the AU, if required.

F. Analysis of Information submitted in response to questionnaire u/s 142(1) and Issue of Additional Questionnaire

F.1 Examine reply of the assessee with reference to the issue involved in the case; and

F.2 Cross-verify reply of the assessee with the information available to the AU;

F.3 AU will decide, generally within 10 days of receipt of reply,

F.3.1 Whether reference to VU / TU is required;

F.3.2 Where the assessee contests or gives information at variance with that available with the AU, such information/ data may be re-verified through:

F.3.2.1 Insight - in case of SFT data, Financial Institutions and Government Agencies,

F.3.2.2 ITBA- in other cases;

F.3.3 Whether additional questionnaire u/s 142(1) is required to be issued to obtain further information/ clarification.

G. Non-compliance of notice u/s 142(1)

G.1 **Initiation of penalty under Section 272A or under Section 271(1)(b)**

G.1.1 Penalty may be initiated in cases of non-compliance of notice u/s 142(1).

G.1.2 Penalty may not be initiated where returned Income is proposed to be accepted on the basis of material already on record showing due application of mind.

G.2 Issue of SCN u/s 144 as per Sec 144B(1)(ix) after due application of mind

G.2.1 Show Cause Notice, as to why assessment should not be completed to the best of judgement, u/s 144, must be issued in case of non-compliance where any variation is proposed.

G.2.2 In case of non-compliance, where returned Income is proposed to be accepted on the basis of material already on record, no show cause u/s 144 is to be issued.

G.3 Centralized Communication to improve compliance of notice under section 142(1)

G.3.1 In all cases where assessee is not responsive to the notice under section 142(1), on directions of NaFAC, Insight shall:

G.3.1.1 Prepare centralized communication, as per format, about non-responsiveness;

G.3.1.2 Send physical letter at the latest known address through Speed Post; and

G.3.1.3 Send SMS about non-responsiveness, on the latest available mobile number of the assessee.

G.3.2 All attributes of the communication, including PAN, AY, address at which the letter is sent, speed post tracking ID, date on which letter is sent, mobile number on which SMS is sent along with the date and time of sending, will be updated in the database accessible to AU on Insight;

G.3.3 To ensure completeness of record, the AU shall enter all the details referred in Para G.3.2 above, along with the date of delivery, if any, of the Speed Post letter in the Case History.

H. Assessment Procedure in case of non-compliance of notice under Section 142(1) & passing of Best Judgement assessment under Section 144 of the Act in a fair & reasonable manner

H.1 Where variation prejudicial to the assessee is proposed in non-responsive cases, a Show Cause Notice for passing order under Section 144, containing such variations, shall be issued.

- H.2 In cases referred to VU, such SCN shall be issued ordinarily after receipt of Verification Report.
- H.3 If assessee complies with the requirements of the notice at any stage/SCN, AU shall proceed to make assessment under Section 143(3) as per procedure prescribed under Section 144B and not under Section 144.
- H.4 If assessee does not comply with the requirements of the notice/SCN, AU shall proceed to make assessment under Section 144 as per procedure prescribed under Section 144B.
- H.5 To ensure that the best judgment assessment in Non-Responsive case is demonstrably reasonable, the AU shall ensure that all the details referred in Para G.3.3 above are included in the final order.
- H.6 Order under Section 144 read with Section 144B is to be passed by AU, based on material available on record, with estimation of income in accordance with law.

I. Enquiry/Verification by AU in Faceless mode only

Functions of AU include:

- I.1 Enquiry,
- I.2 Cross Verification,
- I.3 Examination of books of account,
- I.4 Examination of witnesses and recording of statements,
- I.5 Such other functions as may be required for the purposes of making faceless assessment.

J. Reference to Verification Unit (VU)

- J.1 AU may, if required, make reference to VU in following instances:
 - J.1.1 Non availability of digital footprint of 'any other person';
 - J.1.2 Electronic/ online verification is not possible on account of no response by 'any other person' to notice issued by AU;
 - J.1.3 Physical verification is required, regardless of the presence of digital footprint.

- J.2 Prior to making reference, reasons must be recorded in writing in case history noting on ITBA.
- J.3 Approval of PCIT of the AU must be obtained in references falling under Para J.1.2 and Para J.1.3.
- J.4 Reference is to be made to VU through Insight, in prescribed format (Annexure AU-2), ensuring that reference for each PIN code involved is made separately.
- J.5 AU may request VU for verification which may include:
 - J.5.1 Enquiry;
 - J.5.2 Cross-verification;
 - J.5.3 Examination of books of accounts;
 - J.5.4 Examination of Witnesses;
 - J.5.5 Recording of Statements.
- J.6 Prior to making the reference, AU must analyse all the material available on record that includes replies, any other material available on Insight or in public domain such as MCA, SEBI, Court Orders, research entities etc.
- J.7 The proposed matter for verification to be done by VU must be specific.
- J.8 Care may be taken to avoid multiple references in the same case, unless new points for verification emerge later.
- J.9 Where report is received from a VU, stating that the subject of verification is not in its physical proximity, AU may refer to the proximate VU for physical verification. (Refer SOP for VU)
- J.10 Where VU reports non-compliance of notice u/s 133(6)/ 131 and refers for initiation of penalty, AU shall initiate penalty proceedings.

K. Reference to VU where assessee seeks Cross examination of Witness not having digital footprint

- K.1 The AU shall schedule a VC for the assessee using 131(1)(b) tab, through ITBA, containing date, time and link of the VC;
- K.2 VC should generally be scheduled giving at least 15 days to facilitate service of summons to the witness by VU;

- K.3 Reference shall be made to VU having physical proximity to the Witness, along with details mentioned in Para K.1;
- K.4 The Cross Examination of the Witness by assessee on the scheduled date and time shall be conducted in the presence of the VU and the AU through VC;
- K.5 AU/VU may re-examine the Witness after conclusion of cross-examination;
- K.6 Where VU reports that reasonable adjournment is sought by the Witness for an alternative date and time, AU may reschedule VC and make a fresh reference to VU, following the procedure as per this Para;
- K.7 Where VU reports that the Witness is available at some other address not in physical proximity to that VU, AU may reschedule VC and make a fresh reference to the VU based on new address Pin code, following the procedure as per this Para.

L. Reference to Technical Unit (TU)

- L.1 AU may seek assistance of TU on matters provided in Section 144B(1)(iv)(c) and Section 144B(3)(iv).
- L.2 Reference shall be made in prescribed formats (Annexure AU-3,4,5,6).
- L.3 Prior to seeking Legal Assistance, AU must:
 - L.3.1 Refer to the guidance note on ITBA homepage;
 - L.3.2 Take care that Legal issues already covered by decision of jurisdictional High Court or Supreme Court are not referred to TU;
 - L.3.3 Obtain approval of PCIT of the AU;
- L.4 In other Technical references, approval of PCIT of the AU shall be obtained as per the requirement in law.
- L.5 Timeline for making reference to TU should generally be made:
 - L.5.1 Where requisite information is received from assessee/third party - within 10 days of receipt.
 - L.5.2 Where requisite information is already available (for reference to TPO etc)- within 15 days from the date of allocation of case.

M. Reference to NaFAC for Special Audit under Section 144B(7)

M.1. Following process is to be followed:

M.1.1 The opinion, that the case requires audit by special auditor, is to be formed by AU, considering:

M.1.1.1 Nature and complexity of accounts, or

M.1.1.2 Volume of accounts, or

M.1.1.3 Doubts about correctness of accounts, or

M.1.1.4 Multiplicity of transactions in accounts, or

M.1.1.5 Specialized nature of business activity of the assessee, and

M.1.1.6 In the interest of revenue.

M.1.2 Providing reasonable opportunity to the assessee to explain its case;

M.1.3 Drafting detailed reference based on submissions of assessee and material on record;

M.1.4 Submitting the reference along with supporting material, to PCCIT(NaFAC) through PCIT of the AU.

M.2 Reference to PCCIT(NaFAC) must be made at least 2 months before the date of limitation.

M.3 Upon receipt of information, that PCCIT(NaFAC) has considered it appropriate to invoke provisions of Section 142(2A) and has forwarded the reference to the concerned PCCIT, AU shall stop working on the case, so that the case can be then transferred out of Faceless, under Section 144B(8), to the jurisdictional assessing officer.

M.4 Upon receipt of information, that PCCIT(NaFAC) has not considered it appropriate to invoke provisions of Section 142(2A) and has not forwarded the reference to the concerned PCCIT, AU shall proceed to complete the assessment as per procedure prescribed under Section 144B.

N. Process of Assessment

N.1 **Show Cause Notice (SCN)** shall be issued in the prescribed format (Annexure AU-7), in all cases where any variation prejudicial to the assessee is proposed -

- N.1.1 SCN shall be drafted after conduct of all necessary enquiry/verification and collection of relevant information.
 - N.1.2 SCN should contain:
 - N.1.2.1 Complete description of the issues involved;
 - N.1.2.2 Details of dates of all notices/opportunities given;
 - N.1.2.3 Details of dates of compliance/non-compliance of the assessee;
 - N.1.2.4 Summary of all submissions of the assessee, to demonstrably reflect application of mind and consideration of all submissions;
 - N.1.2.5 Specific Information/material proposed to be used against the assessee;
 - N.1.2.6 Variations proposed on the basis of reasonable inferences drawn.
 - N.1.3 To ensure adherence to the principles of natural justice and reasonable opportunity to the assessee, timelines to be given for obtaining response to the SCN shall be:
 - N.1.3.1 Response time of 7 days from the issue of SCN.
 - N.1.3.2 Response time of 7 days may be curtailed, keeping in view the limitation date for completing the assessment.
 - N.2 Personal Hearing against SCN**
 - N.2.1 Wherever personal hearing is sought by the assessee through the button on the e-filing portal, AU shall accord personal hearing to the assessee through Video Conferencing (VC) facility.
 - N.2.2 To ensure adherence to the principles of natural justice and reasonable opportunity to the assessee, VC must be given within 2-3 days of request by the assessee.
 - N.3 Income & Loss Determination Proposal (ILDLP)**
 - N.3.1 ILDP is to be prepared in all cases, containing all the essential ingredients of the assessment order.
 - N.3.2 In cases involving variation prejudicial to the assessee, ILDP shall be prepared after completion of the process of SCN and or VC, if any.
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N.3.3 In cases involving variation prejudicial to the assessee, it must be ensured that the ILDP is prepared after considering:

N.3.3.1 Reply of the assessee in response to the SCN; and

N.3.3.2 Submissions made by the assessee in personal hearing through Video Conference, if any.

N.3.3 ILDP should be speaking, fair and judicious.

N.3.4 The model format of ILDP may be used (Annexure AU-8).

N.3.5 Care must be taken to submit the ILDP for Risk Analysis within reasonable time, and generally:

N.3.5.1 Not later than 10 days of receipt of complete information; and

N.3.5.2. 45 days prior to the date of limitation of passing of order.

N.3.5 ILDP flagged for Review shall be referred to the Review Unit.

N.4 Post Review Stage

N.4.1 AU may accept or reject, some or all modifications suggested by RU within 5 days from receipt of Review Report.

N.4.2 Detailed reasons must be recorded in the Case History wherever the modification suggested by RU is fully or partly rejected.

N.4.3 To meet the requirements of principles of natural justice, additional SCN/Questionnaire must be issued where any modification prejudicial to the assessee, other than those shared in SCN, is prima facie found acceptable.

N.5. Draft Order

N.5.1 Draft Order shall be prepared keeping in view the principles of natural justice, and after considering:

N.5.1.1 The Review Report, if the case was referred to RU;

N.5.1.2 Inquiries conducted and response of assessee, if additional SCN/Questionnaire is issued as per Para N.4.3 above.

N.5.2 Draft Order shall be prepared within 3 -5 days of completion of Risk Analysis/ Review Report.

N.5.2 Draft Order in case of Eligible Assessee shall be passed under Section 144C(1) using the specific functionality for 144C in ITBA;

N.5.3 All draft orders are to be sent to NaFAC, using the specific functionality in ITBA.

N.6. Final Assessment Order

N.6.1 In cases other than that of eligible assessee:

N.6.1.1 On receipt of Draft Order, AU shall:

N.6.1.1.1 Initiate all relevant penalty proceedings on the ITBA, where applicable, and

N.6.1.1.2 Pass final assessment order within 3 days of communication by NaFAC.

N.6.2 In case of Eligible Assessee:

N.6.2.1 Upon receipt of communication, about acceptance of the draft order from the assessee within the specified time under Section 144C(2), AU shall:

N.6.2.1.1 Capture the response in ITBA;

N.6.2.1.2 Initiate all relevant penalty proceedings on the ITBA, where applicable, and;

N.6.2.1.3 Pass final order as per provisions of Section 144C, within 3 days of communication.

N.6.2.2 Upon receipt of communication, about no objection having been received from the assessee within the specified time under Section 144C(2), AU shall:

N.6.2.2.1 Capture the fact in ITBA;

N.6.2.2.2 Initiate all relevant penalty proceedings on the ITBA, where applicable, and;

N.6.2.2.3 Pass final order as per provisions of Section 144C within 3 days of communication.

N.6.2.3 Upon receipt of communication, about filing of objection by the assessee (along with copy of objections filed before DRP) within the specified time u/s 144C(2), AU shall:

N.6.2.3.1 Capture the response in ITBA within 3 days of receipt of communication;

N.6.2.3.2 Upon receipt of Directions of DRP, initiate all relevant penalty proceedings on the ITBA, where applicable, and;

N.6.2.3.4 Pass final assessment order in conformity to DRP directions within 3 days of communication of Directions of DRP.

O. Passing of Final Assessment Order

O.1 The final Assessment Order, using the prescribed format (Annexure AU-9), must include the following:

O.1.1 Complete description of the issues involved;

O.1.2 Details of dates of all notices/opportunities given including the details of centralized communication as per Para G.3 above;

O.1.3 Details of dates of compliance/non-compliance of the assessee;

O.1.4 Summary of all submissions of the assessee;

O.1.5 Information/material collected which is being used against the assessee;

O.1.6 Reply of the assessee in response to the SCN including additional SCN/questionnaire, if any;

O.1.7 Submissions made by the assessee in personal hearing through Video Conference, if any;

O.1.8 If assessee sought VC without filing complete or any submissions against SCN then the same must also be made part of the order;

O.1.9 Inferences on the basis of which variations are being made;

O.1.10 All relevant penalty proceedings initiated, where applicable.

O.2 AU must preview the assessment, prior to issue, to ensure that the assessment order has been framed:

- O.2.1 In accordance with ILDP;
- O.2.2 Taken into account all information/facts gathered; and
- O.2.3 Principles of natural justice have been observed.

O.3 Feedback must be given prior to passing of the assessment order in the format on ITBA.

P. About Case History Noting

P.1 Case History noting must also include:

- P.1.1 All relevant facts, particularly those relating to non-compliance or delay in response by assessee/ third party;
- P.1.2 Relevant events that hamper/delay the assessment process such as technical and systems issues, delays in response etc.

Q. Handling PAN marked as Fraud PAN by ITBA

Q.1 Where PAN has been marked as Fraud, the AU shall refer the matter to VU through Insight.

Q.2 AU must ensure that where adverse Report is received from VU, the same is:

- Q.2.1 Forwarded to Technical Unit through ITBA for appropriate action, if required;
- Q.2.2 Forwarded to JAO through ITBA, for information;
- Q.2.3 Taken into account while passing the Assessment Order by the AU.

R. Handling Clarifications sought by VU / TU

R.1 Clarification may be sought by VU or TU through inter unit communication functionality.

R.2 AU must respond to clarification within 2-3 days of receipt.

S. Other Miscellaneous functions to be performed by AU

S.1 Role of AU with reference to Sec 241A of the Act:

- S.1.1 Upon receipt of information through MIS / NaFAC, regarding the determination of refund becoming due u/s 143(1), AU shall examine the case records of the relevant PAN/AY.
- S.1.2 Where grant of refund is likely to adversely affect revenue:
 - S.1.2.1 Record reasons in writing;
 - S.1.2.2 Obtain approval of PCIT of the AU (to be given within 7 days); and
 - S.1.2.3 Communicate the same to JAO, through issue letter functionality - 241A dropdown in ITBA.
- S.1.3 Where grant of refund is not likely to adversely affect revenue, communicate the same to JAO through issue letter functionality -241A dropdown in ITBA.
- S.1.4 The power to withhold refund till the date of assessment, vests with the Jurisdictional Assessing Officer.

S.2 Process with reference to Sec 281B of the Act:

- S.2.1 Where AU is of the opinion that it is necessary for the purpose of protecting the interest of the Revenue, it shall:
 - S.2.1.1 Record reasons for provisional attachment in writing;
 - S.2.1.2 Submit such proposal to PCIT of the AU;
 - S.2.1.3 Obtain approval of PCIT of the AU (to be given within 7 days);
 - S.2.1.4 Pass an order in writing;
- S.2.2 Communicate to JAO, through ITBA, to give effect to the order of attachment.

**Government of India
Ministry of Finance
Central Board of Direct Taxes
National Faceless Assessment Centre
New Delhi**

Dated: 03.08.2022

**Subject: Standard Operating Procedure (SOP) for Verification Unit (VU)
Under the Faceless Assessment provisions of Section 144B of the Income-tax Act**

The Principal Chief Commissioner of Income Tax, National Faceless Assessment Centre, with the prior approval of the Central Board of Direct Taxes, New Delhi, lays down the following SOP for Verification Unit (VU) under the Faceless Assessment provisions of Section 144B of the Income-tax Act. This is issued under Section 144B(6)(xi) of the Income-tax Act.

A. Functions of Verification Unit (VU)

A.1 Verification functions include:

- A.1.1 Enquiry,
- A.1.2 Cross Verification,
- A.1.3 Examination of books of account,
- A.1.4 Examination of witnesses and recording of statements,
- A.1.5 Such other functions as may be required for the purposes of verification.

A.2 Role of VU:

- A.2.1 Verification/ Enquiry referred by AU
- A.2.3 Nodal point for coordination with SFT filer, Financial Institution or Government Agency.

B. Types of Verification References made by AU

- B.1 Non availability of digital footprint of 'any other person';
- B.2 Electronic/ online verification is not possible on account of no response by 'any other person' to notice issued by AU;
- B.3 Physical verification is required, regardless of the presence of digital footprint.

C. Modes of Verification

- C.1 In instances referred in Paras B.1 and B.2, wherever possible, VU may conduct enquiry/ verification in an electronic manner;
- C.2 VU may also access information on public domain and portals of regulatory agencies/ databases; geospatial analysis/GIS reports available on Insight and other resources;
- C.3 Address Verification: Verification of address and person/business at the address;
- C.4 Physical Verification: Physical examination of the tangible assets including property, plant and equipment;
- C.5 Document Verification: Inspection, examination of books, examination and collection of specific record, document, supporting document etc available with government agencies, financial institutions or third parties;
- C.6 Issue of Summons and recording of statement on oath u/s 131(1)(b) in physical mode.
- C.7 Follow up with reporting entities/ SFT Filers/Financial Institutions etc.

D. Procedure for Handling References received from AU

- D.1 On receipt of reference from AU, the VU shall:
 - D.1.1 Examine the reference to ensure it is:
 - D.1.1.1 Complete and contains requisite documents,
 - D.1.1.2 Has approval of PCIT of the AU, in case of references falling under Para B.2 and B.3;
 - D.1.2 Seek clarification through inter unit communication functionality in case of any deficiency;

- D.1.3 Clarification must be sought within 2-3 days of receipt of reference;
- D.1.4 Carry out the verification requested;
- D.1.5 In case of physical verification or service of notice/ summons:
 - D.1.5.1 Where any new address is found, VU shall conduct verification at the new address if it is in physical proximity of the VU,
 - D.1.5.2 Where the new address is not in physical proximity of the VU, the VU may close the verification after reference to the proximate VU for physical verification;
- D.1.6 Prepare a Verification Report as per format, along with Case History Details of Verification proceedings and any other findings, generally within 2-3 days of completion/ closure of verification;
- D.1.7 Forward the Verification Report to the AU through Insight.

E. Procedure for Cross-examination of Witness not having digital footprint, by Assessee

- E.1 VC for the assessee using 131(1)(b) tab, through ITBA, containing date, time and link of the VC shall be scheduled by the AU and communicated to VU;
- E.2 VU shall issue summons, to enforce attendance of the Witness in the office of the VU or the designated place, on the date and time of VC scheduled by AU;
- E.3 The cross examination of the Witness by assessee shall be conducted in the presence of the VU and the AU;
- E.4 AU/VU may re-examine the Witness after conclusion of cross-examination;
- E.5 After completion of VC, VU shall prepare a report of its proceedings and send to AU through Insight immediately;
- E.6 VU shall communicate the details to AU, where:
 - E.6.1 Adjournment is sought by the Witness for an alternative date and time, or
 - E.6.2 The Witness is available at some other address;
- E.7 Where the Witness is not traceable, the same shall be recorded and included in the report of the VU;
- E.8 VU shall include all the findings in its Report as per format.

F. Elements of Verification Report

F.1 Verification Report must include:

- F.1.1 Reason(s) for verification referred by AU;
- F.1.2 Mode of Verification;
- F.1.3 Facts gathered during verification/enquiry;
- F.1.4 All evidences collected during verification/enquiry;
- F.1.5 Clear findings emanating from the enquiry;
- F.1.6 Statements recorded by VU, if any;
- F.1.7 Complete report of proceedings;
- F.1.9 Reference to AU to initiate penalty for non-compliance to notice u/s 133(6) or 131, if any;
- F.1.10 Hindrances faced in the verification process, if any.

**Government of India
Ministry of Finance
Central Board of Direct Taxes
National Faceless Assessment Centre
New Delhi**

Dated: 03.08.2022

**Subject: Standard Operating Procedure (SOP) for Technical Unit (TU)
Under the Faceless Assessment provisions of Section 144B of the Income-tax Act**

The Principal Chief Commissioner of Income Tax, National Faceless Assessment Centre, with the prior approval of the Central Board of Direct Taxes, New Delhi, lays down the following SOP for Technical Unit (TU) under the Faceless Assessment provisions of Section 144B of the Income-tax Act. This is issued under Section 144B(6)(xi) of the Income-tax Act.

A. Scope of Technical Assistance:

- A.1 As per Section 144B (1)(iv)(c) -technical assistance sought by AU on matters related to:
 - A.1.1 Determination of Arm's Length Price
 - A.1.2 Valuation of Property
 - A.1.3 Withdrawal of Registration, Approval, Exemption
 - A.1.4 Any other Technical Matter

- A.2 As per Section 144B (3)(iv)-providing technical assistance in:
 - A.2.1 Legal Matters
 - A.2.2 Accounting
 - A.2.3 Forensic
 - A.2.4 Information Technology
 - A.2.5 Valuation
 - A.2.6 Transfer Pricing
 - A.2.7 Data Analytics

- A.2.8 Management
- A.2.9 Agreement entered into under Sec 90 or 90A
- A.2.10 Any other Technical Matter

B. Seeking clarification from AU

- B.1 TU may seek clarification from AU as per prescribed format. (Annexure TU-1)
- B.2 Clarification if required, must be sought within 2-3 days of receipt of reference.

C. Tools for facilitating Technical Assistance

- C.1 TU may view case records through status Monitor;
- C.2 TU shall take assistance of all resources available including Knowledge Management Portal, Insight, Public domain, CMIE, MCA, other databases;
- C.3 TU must monitor developments pertaining to Legal Issues assigned to them.

D. Procedure for Handling and Forwarding References by TU

- D.1 References are to be forwarded to the designated authority/expert in the following matters:
 - D.1.1 Transfer Pricing;
 - D.1.2 Valuation of Property;
 - D.1.3 Withdrawal of Registration, Approval, Exemption;
 - D.1.4 Agreement entered into under Sec 90 or 90A;
 - D.1.5 Any other Technical Matter.
- D.2 Care may be taken that all references, made in the prescribed format by AU, are complete in all respects.
- D.3 Reference in case of Para D.1.1 (Transfer Pricing) must be forwarded, using only the 'TP reference' button (not through 'Issue letter functionality') on Technical Reference work-item on ITBA, to enable creation of work-item for the TPO.
- D.4 Reference in cases of paras D.1.2 to D.1.5 (Other than Transfer Pricing) must be made through 'Issue letter functionality' on Technical Reference work-item on ITBA.
- D.5 All references must be made to the designated authority in the prescribed formats on ITBA.

- D.6 All References must be made within 7 days of receipt of reference.
- D.7 References made must be followed up periodically considering the time limit available to the designated authority/ expert and the time limit for limitation.

E. Procedure for Rendering Technical assistance on Legal References

E.1 Evaluation:

- E.1.1 Examine the reference made by AU in detail;
- E.1.2 Consider Judgements of Supreme Court, High Court and ITAT;
- E.1.3 Decision of the High Court or ITAT, having jurisdiction over the location of the PAN, will have precedence in the absence of judgment of Supreme Court;
- E.1.4 Apply tools for interpretation of statutes such as Explanatory notes and Memorandum to the Finance Bill.

E.2 Ensuring Consistency in Interpretation

- E.2.1 In the absence of a binding decision, all interpretations must be referred to the PCIT of the TU;
- E.2.2 PCIT, along with his team, shall ensure that as far as possible, consistency is maintained in the interpretation of the issue.

E.3 Report

- E.3.1 Report to the AU must be specific and answer the questions posed by the AU along with detailed reasoning.
- E.3.2 Report must be sent to the AU within 10 days of receipt of Reference / Clarification by AU.
- E.3.3 Time to send the report may be curtailed keeping in view the time barring date of the case.
- E.3.4 After submission of Report to the AU, interpretation arrived by the PCIT of the TU and his team, along with the facts and circumstances and reasoning, shall be forwarded to NaFAC for compilation of Guidance Notes.

F. Procedure for Rendering Technical assistance on TP References

- F.1 TP References may refer to:
 - F.1.1 International transaction disclosed in form 3CEB by the assessee;
 - F.1.2 International transaction(s) not disclosed by the assessee;
 - F.1.3 Specified domestic transaction disclosed by the assessee;
 - F.1.4 Specified domestic transaction not disclosed by the assessee;
 - F.1.5 Where the case is selected on the basis of CbCR data.
- F.2 On receipt of reference from AU, for determination of ALP by TPO, TU must ensure:
 - F.2.1 Reference is complete and contains the requisite documents;
 - F.2.2 Reference has the approval of PCIT of the AU as per the prescribed format.
(Annexure TU-2)
- F.3 Forwarding of reference to TPO shall be made as per Para D.3 within 2-3 days of receipt/ clarification.
- F.4 TP order under Section 92CA(3) shall be forwarded to the concerned AU within 2 days of receipt.

G. Procedure for Rendering Technical assistance on References for Valuation of Property / Asset/ Investment etc.

- G.1 On receipt from AU, TU must ensure that Reference is complete and contains the requisite documents as per prescribed format.
- G.2 Reference to the Valuation Officer shall be made as per Para D.4 within 2-3 days of receipt/ clarification.
- G.3 Valuation Report shall be forwarded within 1-2 days of receipt:
 - G.3.1 To the concerned AU-where relevant assessment proceedings are pending; who shall share it with the assessee
 - G.3.2 To the JAO - where the relevant proceedings are completed.
- G.4 On receipt of technical objection of assessee, through AU, the objection shall be forwarded within 1-2 days of receipt to the Valuation Officer for appropriate action.
- G.5 Report of Valuation Officer on objection of assessee shall be forwarded within 1-2 days of receipt:

- G.5.1 To the concerned AU where the relevant assessment proceedings are pending
- G.5.2 To the JAO where the relevant proceedings are completed.

- G.6 TU must follow up with Valuation Officer periodically to monitor timely submission of final report.
- G.7 TU must maintain and update database of Valuation Officers in coordination with the Office of PCCIT CCA.

H. Procedure for Rendering Technical assistance on reference involving information relating to agreement entered under Section 90 or 90A

- H.1 On receipt of reference from AU, TU must ensure that:
 - H.1.1 Reference in the prescribed format (Annexure TU-3) is complete and contains the requisite documents;
 - H.1.2 Reference has the signature of PCIT of the AU.
- H.2. TU must examine:
 - H.2.1 Whether the request for information is sought from the foreign jurisdiction, with which India has DTAA/ TIEA/ any other agreement covered under Section 90 or 90A;
 - H.2.2 Whether the request made by the AU conforms to the Manual on Exchange of Information issued by CBDT.
- H.3 The reference shall be forwarded to the concerned JS, FT&TR (Competent Authority) within 7 days of receipt of request/ clarification from AU.
- H.4 The acknowledgement of reference sent by the Competent Authority shall be communicated to the AU within 2-3 days of receipt.

- I. Procedure for handling reference relating to withdrawal of Registration, Approval, Exemption**
- I.1 On receipt from AU, TU must ensure that Reference is complete and contains the requisite documents as per prescribed format. (Annexure)
 - I.2 Reference to concerned Approving Authority shall be made as per Para D.4 within 2-3 days of receipt/ clarification.
 - I.3 Where reference was made under proviso to Section 143(3) [refer to J.5.1 of SOP for AU], the decision of the Approving Authority shall be forwarded within 1-2 days of its receipt.
- J. Procedure for handling any other Technical References including Accounting, Forensic, Information Technology, Data Analytics, Translation of documents:**
- J.1 On receipt from AU, TU must ensure that Reference is complete and contains the requisite documents.
 - J.2 Reference to the concerned resource person shall be made as per Para D.4 within 2-3 days of receipt/ clarification.
 - J.3 Report from the resource person shall be forwarded within 1-2 days of receipt to the AU.
 - J.6 TU must follow up with resource person to monitor timely submission of report.
 - J.7 TU must maintain and update database/panel of resource persons.
 - J.8 Payment to the resource persons, wherever applicable, shall be made by PCIT of the TU as per GFR.

**Government of India
Ministry of Finance
Central Board of Direct Taxes
National Faceless Assessment Centre
New Delhi**

Dated: 03.08.2022

**Subject: Standard Operating Procedure (SOP) for Review Unit (RU)
Under the Faceless Assessment provisions of Section 144B of the Income-tax Act**

The Principal Chief Commissioner of Income Tax, National Faceless Assessment Centre, with the prior approval of the Central Board of Direct Taxes, New Delhi, lays down the following SOP for Review Unit (RU) under the Faceless Assessment provisions of Section 144B of the Income-tax Act. This is issued under Section 144B(6)(xi) of the Income-tax Act.

A. Handling of case received for Review

A.1 Upon receipt of reference from AU, RU shall -

A.1.1 Examine the ILDP in the light of case records and material accessible to RU.

A.1.2 Check the ILDP, whether:

A.1.2.1 Relevant and material evidence has been brought on record;

A.1.2.2 Relevant points of fact and law have been duly incorporated;

A.1.2.3 Issues requiring addition or disallowances have been incorporated;

A.1.2.4 Such other issues required to be incorporated, have been included.

A.1.3 Prepare a Review Report as per prescribed format.

A.1.4 The Review Report may:

A.1.4.1 Accept the ILDP, or

A.1.4.2 Propose any modifications in the ILDP after giving reasons for the same.

A.1.5 Forward the Review Report to NaFAC.

A.2 After forwarding of Review Report, where variation was proposed, a note along with the facts and circumstances and reasoning in prescribed format, shall be forwarded through PCIT of the RU, to NaFAC for compilation of Guidance Notes for future references.

B. Timely submission of Review Report

B.1 Review Report should be generally submitted to NaFAC within 5 days of receipt of reference.

B.2 The date of submission to NaFAC should be advanced keeping in view the limitation date for completing the assessment.


(Ashish Abrol) 3.8.22.

Commissioner of Income Tax -1,
National Faceless Assessment Centre, New Delhi

**Standard Operating Procedure (SOP) under the Faceless Assessment provisions of Section
144B of the Income-tax Act**

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Annexure

AU-1

Format of Communication to be issued through "Issue letter functionality" to all available mails of assessee in case of non-compliance of Initial notice u/s142(1) – SOP D.3.1

Dear Taxpayer,

Kindly refer to the ongoing assessment proceedings in your case for AY XXX-XX

2. Records show that you have not complied with the statutory notice(s) issued in your case.
3. Records of proceedings including notices issued are available in your account at e-filing portal (www.incometax.gov.in)
4. This is to remind that you are required to furnish your reply to the notice within the due time through your account at e-filing portal(www.incometax.gov.in). You must submit your reply within 5 days of receipt of this mail.
5. Please appreciate that your replies to notices would enable passing of a fair assessment order taking into account the information and explanation provided by you.
6. Failure to file complete reply shall lead to passing of ex-parte assessment order u/s144 of the Act and to other penal consequences as provided in the Income-tax Act, which is avoidable.

Assessment Unit

Income-tax Department.

AU-2

Format for reference to Verification Unit through Insight - SOP J.4

To,

The Designated Verification Unit,

PAN:	Name of the assessee :	Assessment Year:	Date:
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Sub : Reference for Physical Verification in select non-responsive cases

Madam/Sir,

Brief description of enquiry/verification proposed to be assigned to designated VU by AU	
Verification proposed to be done in physical enquiry	
Justification for physical enquiry as to how they fall in Para J of SOP for AU.	
Date and time of email by which approval of PCIT AU taken	

Yours faithfully,

Assessment Unit,

Income Tax Department

(Kindly attach relevant documents with the reference)

****Each reference should have one pin-code enquiry only. Kindly enter correct pin-code while making reference.**

***** Kindly read Insight QRG for Verification reference for further information.**

AU-3

Format for reference to Technical Unit through ITBA for assistance/advice on legal issue – SOP Para L

To,
The Technical Unit,

PAN:	Name of the assessee :	Assessment Year:	Date:
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Sub : Reference for assistance/advice on legal issue

Madam/Sir,

Kindly refer to the above subject. Your assistance/advice is being sought on legal issue(s) as detailed hereunder:

<Tables can be added as per number of issues>

2. Issue <n> :

1	Section(s) (if specifiable)	
2	Brief description of issue being referred	<i><Free text></i>
3	Contention of assessee (<i>Reply of assessee on the issue may be attached</i>)	<i><Free text & attachment options></i>
4	Points on which legal advice is sought (Questions may be framed)	<i><Free text></i>
5	Remarks (Any other information)	<i><Free text></i>

3. The advice in the matter may kindly be tendered by *<Date>*

Yours faithfully,
Assessment Unit,
Income Tax Department

(References are to be made Issue/Head wise as per drop down in ITBA because specific legal issues have been allocated to designated TUs)

AU-4

Format for reference to Technical Unit through ITBA for assistance/advice on Transfer Pricing adjustment - SOP Para L

To,
The Technical Unit,

PAN:	Name of the assessee :	Assessment Year:	Date:
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Sub :Reference for assistance/advice on Transfer Pricing adjustment

Madam/Sir,

Kindly refer to the above subject. Your assistance/advice is being sought on determination of arms length price of the transaction(s) as per Sec 92CA of the Act.

2. Description:

1	Copy of TP Report (Form 3CEB)	<i>(To be attached, except where not available in some cases selected on basis of CbCR)</i>
2	Whether any transaction with Associate Enterprise found not disclosed, if yes description thereof alongwith supporting documents	<i>(Description alongwith attachment of supporting documents)</i>
3	Date of approval of PCIT of AU	<i><To be automatically filled by ITBA workflow></i>
4	Remarks (Any other information)	<i><Free Text></i>

Yours faithfully,
Assessment Unit,
Income Tax Department

AU-4

Format for reference to Technical Unit through ITBA for assistance for Valuation- SOP Para L

To,

The Technical Unit,

PAN:	Name of the assessee :	Assessment Year:	Date:
-------------	-------------------------------	-------------------------	--------------

Sub : Reference for assistance for Valuation

Madam/Sir,

Kindly refer to the above subject. Your assistance is being sought for valuation as detailed hereunder:

<Tables can be added as per number of references>

2. Valuation reference<n> :

1	Section under which valuation is sought	
2	Details of the property/investment/asset along share of assessee therein, with supporting documents.	<i><Free text & attachment options></i>
3	Location of the property	<i>State- District- Mohalla-Pin code</i>
4	Value declared by assessee Copy of valuation report submitted by the assessee to be attached, if any.	<i><Free text & attachment options></i>
5	Brief reason of requirement of valuation.	<i><Free Text></i>
6	Any other remarks	<i><Free Text></i>
7.	Valuation required as on	

2. Complete Address and e-mail of the Assessee :-

3. The report in the matter may kindly be forwarded by <Date>

Yours faithfully,

Assessment Unit,

Income Tax Department

AU-6

**Format for making reference to TU for withdrawal of Approval, Registration, Exemption, etc
by Approving Authority - SOP Para L**

To,
The Technical Unit,

PAN:	Name of the assessee :	Assessment Year:	Date:
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Sub : Reference for withdrawal of Approval, Registration, Exemption, etc by Approving Authority

Madam/Sir,

Kindly refer to the above subject. Your assistance is being sought for withdrawal of Registration, approval, exemption as detailed hereunder:

1	Name	
2	PAN	
3	Assessment Year	
4	Address	
5	Section under with Approval/Registration/Exemption granted.	
6	Proposal containing findings in assessment proceedings based on which withdrawal of approval/Registration/Exemption is proposed.	To be attached.
7	Copy of final draft order after approval of Unit Head (to be downloaded and attached)	To be attached
8	Whether limitation of assessment is to be extended in view of proviso to section 143(3) of the Act	Yes/No

Yours faithfully,
Assessment Unit,
Income Tax Department

AU-7

Format for Show Cause Notice to assessee - SOP L.1

Show Cause Notice

In all cases of variation proposed, SCN is to be issued. The format of SCN in ITBA is fixed and for giving the details of variation space for free text has been provided. In the space of free text- the following format may be used to the extent feasible.

1. Details of opportunities given:

Type of notice/communication	Date of notice/communication	Date of compliance given	Response of the assessee received/not received	Date of response if received	Response type (Full/part/adjournment)	Remarks if any.

2. Variation proposed

- 2.1 Complete description of issues involved (issue wise)
- 2.2 Synopsis of all submissions of the assessee relating to the issue and indicating the dates of submission.
- 2.3 Summary of information/evidence collected which proposed to be used against it (attach documents if required)
- 2.4 Variation proposed on the basis of inference drawn (specify the basis of inference and quantify the variation proposed, if possible)

(Compliance date should give adequate opportunity and Personal hearing through VC is mandatory, if asked in response to SCN)

AU-8

Format for ILDP - SOP N.3.4

ILDP is to be prepared in all situations **whether variation proposed or not**. The format is however similar and is given in free text in Systems. The following format for ILDP may be used to the extent feasible.

1 Reasons for selection of the Case and Type of Case and background facts

2 Details of opportunities given:

Type of notice/communication	Date of notice/communication	Date of compliance given	Response of the assessee received/not received	Date of response if received	Response type (Full/part/adjournment)	Remarks if any.

3 Cases where variation is not proposed:

- 3.1 Complete description of issues (issue wise)
- 3.2 Synopsis of all submissions of the assessee relating to the issue and indicating the dates of submission.
- 3.3 Summary of information/evidence collected which proposed to be used against it (attach documents if required).
- 3.4 **Reasons for inference drawn that no variation is required on this issue.**

4 In cases where variation is proposed -

- 4.1 Update the table of opportunities given (at point 2 above) to include the details of SCN or additional SCN issued and further notices including personal hearing through VC given.
- 4.2 Use the text of SCN issued to reproduce:-
 - Complete description of issues involved (issue wise)
 - Synopsis of all submissions of the assessee relating to the issue and indicating the dates of submission
 - Summary of information/evidence collected which proposed to be used against it (attach documents if required)

- Variation proposed on the basis of inference drawn

4.3 Synopsis of the reply of the assessee to SCN and additional SCN(if any)

4.4 Summary of information evidence collected after SCN (if any).

4.5 Point-wise rebuttal of reply of the assessed including analysis of any case law relied upon.

4.6 Conclusion drawn

5 Table of variations:

Sl No	Description	Amount (in INR)
1	Income as per Return of Income filed	
2	Income as computed u/s143(1)(a)	
3	Variation in respect of issue of <> (if any)	
4	Variation in respect of issue of <> (if any)	
5	Total Income/Loss determined as per the above proposal	

AU-9

Format for Final Assessment Order - SOP O.1

The format is fixed in ITBA and for giving the details of variation space for free text has been provided. In the space of free text- the following format may be used to the extent feasible.

1 Facts of the case in brief

2 Details of opportunities given:

Type of notice/communication	Date of notice/communication	Date of compliance given	Response of the assessee received/not received	Date of response if received	Response type (Full/part/adjournment)	Remarks if any.

3 Cases where variation is not proposed:

Complete description of issues (issue wise)

- 3.1 Synopsis of all submissions of the assessee relating to the issue and indicating the dates of submission.
- 3.2 Summary of information/evidence collected which proposed to be used against it (attach documents if required).
- 3.3 Reasons for inference drawn that no variation is required on this issue.
{ As per the assessment accepting assessment}

4 In cases where variation is proposed

- 4.1 Update the table of opportunities given to include the details of SCN or additional SCN issued and further notices including personal hearing through VC given.
- 4.2 Use the text of SCN issued to reproduce:-
 - Complete description of issues involved (issue wise)
 - Synopsis of all submissions of the assessee relating to the issue and indicating the dates of submission
 - Summary of information/evidence collected which proposed to be used against it (attach documents if required)
 - Variation proposed on the basis of inference drawn

- 4.3 Synopsis of the reply of the assessee to SCN and additional SCN(if any)
- 4.4 Summary of information evidence collected after SCN (if any).
- 4.5 Point-wise rebuttal of reply of the assessed including analysis of any case law relied upon.
- 4.6 Conclusion drawn

5 **Final computation of taxable income :**

Sl No	Description	Amount (in INR)
1	Income as per Return of Income filed	
2	Income as computed u/s143(1)(a)	
3	Variation in respect of issue of <> (if any)	
4	Variation in respect of issue of <> (if any)	
5	Total Income/Loss determined	

- 6 **Assessed** under section XX of the Income-tax Act. Penalty proceedings under section XX,XX etc have been initiated through notice(s) issued separately. Computation of income and demand notice u/s156 of the Act is attached. {Editable to meet the requirements of case}

TU-1

Format for Seeking clarification - SOP TU B.1

To,
The Assessment Unit,

Sub : Clarification from AU

Madam/Sir,

Kindly refer to the above subject. Your assistance/advice is being sought on legal issue(s) as detailed hereunder

Format for seeking clarification from AU	
1. Clarification in respect of question number – XXX	
2. Description of clarification sought -	<hr/> <hr/> <hr/>
3. Brief reasons for seeking clarification -	<hr/> <hr/> <hr/>
4. Whether clarification is on facts or on application of any particular case law –	<hr/> <hr/> <hr/>
5. Any other remarks -	<hr/> <hr/> <hr/>

Yours faithfully,
Technical Unit,
Income Tax Department

TU-2

Format for TP reference received after approval of PCIT of AU – SOP TU F.2.2

To,
The Technical Unit,

PAN:	Name of the assessee :	Assessment Year:	Date:
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Sub : Reference for assistance/advice on Transfer Pricing adjustment

Madam/Sir,

Kindly refer to the above subject. Your assistance/advice is being sought on determination of arms length price of the transaction(s) as per Sec 92CA of the Act.

2. Description:

1	Copy of TP Report (Form 3CEB)	<i>(To be attached, except where not available in some cases selected on basis of CbCR)</i>
2	Whether any transaction with Associate Enterprise found not disclosed, if yes description thereof alongwith supporting documents	<i>(Description alongwith attachment of supporting documents)</i>
3	Date of approval of PCIT of AU	<i><To be automatically filled by ITBA workflow></i>
4	Remarks (Any other information)	<i><Free Text></i>

Yours faithfully,
Assessment Unit,
Income Tax Department

TU-3

Format for making reference involving information relating to agreement entered under section 90 or 90A – SOP TU H.1.1

APPENDIX: Form A: Request for Information under the Provisions of Tax Treaties

Part I of Form A

Request for Information			
1.	Taxpayer under investigation/examination in India	Name	
		Full Address	
		PAN	
		Current Jurisdiction	
2.	Country/jurisdiction to whom request is being made		
3.	Contact details of Assessing Officer/ DDIT(Investigation)/ Transfer Pricing Officer	Name	
		Designation	
		Address	
		Email	
		Telephone and Fax	
4.	Contact details of Range/Unit Head	Name	
		Designation	
		Address	
		Email	
		Telephone and Fax	
5.	Contact details of Pr. CIT/CIT/Pr. DIT/DIT concerned	Name	
		Designation	
		Address	
		Email	
		Telephone and Fax	
6.	Name of the foreign taxpayer/holder of information if referred to in the request (Row 15 of Part B)		

Part II of Form A

2	To:		
3	From:		
5	Contact Point	Name:	
		Email:	
		Telephone:	
		Fax:	
4	Legal Basis:		
5	Reference numbers and related matters	Reference number:	
		Initial request:	Please check the box: <input type="checkbox"/> Yes <input type="checkbox"/> No
		If no, please provide reference number(s) and date(s) of any related request(s):	
		Acknowledgement needed:	Please check the box: <input type="checkbox"/> Yes <input type="checkbox"/> No
		Number of attachments to the request:	
Total number of pages for all attachments:			
6	Urgency of reply	Urgent reply required due to:	Please check the box: <input type="checkbox"/> Statute of limitation <input type="checkbox"/> Suspected fraud <input type="checkbox"/> Court case <input type="checkbox"/> Other reasons (please specify):
7	Identity of person(s)		

	under examination or investigation:	
8	Request to refrain from notifying the taxpayer(s) involved:	<p>Please check the box:</p> <p>No <input type="checkbox"/></p> <p>Yes <input type="checkbox"/></p> <p>Reasons:</p> <p>If yes, the competent authority confirms that the requesting country would be able to refrain from notifications in similar circumstances.</p>
9	Time period or taxable event for which or in relation to which the information is sought:	
10	Tax(es) to which the request relates:	

	Tax purpose for which the information is requested:	Please check the box: <input type="checkbox"/> determination, assessment and collection of taxes, <input type="checkbox"/> recovery and enforcement of tax claims, <input type="checkbox"/> investigation or prosecution of tax matters , <input type="checkbox"/> other (please specify):	
	Relevant background:		
13	Information requested:		
14	Grounds for believing that the requested information is held in the requested jurisdiction or is within the possession or control or is within the possession or control of a person within its jurisdiction:		
15	Name and address of any person believed to be in possession of the information requested (to the extent known):		
16	Form, if any, in which information is requested:	For copies of documents what type of authentication, if any, is requested:	
		other form requirements, if any:	
17	Translation of reply requested:	Please check the box: <input type="checkbox"/> Yes <input type="checkbox"/> No Language requested:	

In making the request, the requesting competent authority states that:

- (a) All information received in relation to the request will be kept confidential and used only for the purposes permitted in the agreement which forms the basis for the request.
- (b) The request is in conformity with Indian laws and administrative practice and is further in conformity with the agreement on the basis of which it is made.
- (c) Such information would be obtainable under Indian laws and the normal course of administrative practice in similar circumstances.
- (d) We have pursued all means available in our own territory to obtain the information, except those that would give rise to disproportionate difficulties.

Signature of the Pr.CIT of AU

Name and Designation

General Instructions for filling up Form A

1. Both Parts I and Parts II of this Form should be filled up by the Pr.CIT/Pr.DIT/CIT/DIT concerned and sent to the Competent Authority, i.e., JS (FT&TR-I) and JS(FT&TR-II), as the case maybe. The request for information in this Form should not be routed through the office of Pr.CCIT/Pr.DGIT/CCIT/DGIT but a copy may be sent to that office for information.

1. Part I contains basic information about the taxpayer under investigation/examination in India and the officers making the request. This Part needs to be filled up for record purposes and is not sent to foreign authorities.

2. Part II is modelled on the lines of the template formulated by the OECD and is essentially the same as Annexure-D of the Manual on Exchange of Information issued in 2013. Part II of Form A is forwarded to the foreign authorities and thus all the relevant information mentioned in covering letters, assessment orders etc. must be captured in this Part II. The background note, summary of the case, factual analysis etc. should be included in Part II and if necessary, Annexures may be added to this Part of the Form. Since the information sent is treated as confidential by the tax authorities in other jurisdictions, copies of relevant incriminating documents seized can and should be enclosed if the same are considered useful for the foreign tax administration, in order to facilitate the obtaining of information by them.

3. Where EOI requests are to be made in a group of cases under inquiry/investigation, separate Forms should be filled up for different taxpayers. Further, separate Forms need to be filled up for EOI requests to different countries/jurisdictions in the case of the same taxpayer. Thus, for instance, if three members of a family have received gifts from persons located in three different jurisdictions, the total number of Forms to be filled in would be nine.

4. Row wise instructions for filling up the Form are provided in the later part of these Instructions which must be followed by the CIT/DIT concerned. The guidelines for assistance in preparing the

references have been provided in Para 3.5.1 to 3.5.21 of the Manual on Exchange of Information which should be followed by the officers concerned.

5. It shall be ensured that request for only that information is made which has demonstrable "foreseeable relevance" to the investigation carried out in India. Further, before making the request, efforts should be made to obtain information in India and this fact should be mentioned in the request. Not satisfying these conditions may result in the request being treated as "defective" and will be returned in original to be resubmitted again after removing these deficiencies

7. In time barring cases, the requests should be made at least three months before the cases are getting time barred giving sufficient time in the office of Competent Authority to process the requests and allow re-submission in cases where the original requests are found to be defective. In exceptional cases, where requests need to be made at the last moment, for instance on account of some new evidence becoming available, the reasons for the same should be clearly explained in the covering letter of the P.CIT/Pr.DIT/CIT/DIT concerned.

8. It would be responsibility of the Range/Unit Head that requests for information under the provisions of tax treaties are made in all appropriate cases including carrying out multi-level enquiry to take the investigation to their logical conclusion. They are also responsible for ensuring that clarifications and feedback are provided in a timely manner and this aspect should be monitored by the Pr.CIT/Pr.DIT/CIT/DIT concerned and appropriate action should be taken wherever required.

Instructions for filling up Part I of Form A

1. The purpose of filling up Part I of Form A is to have basic records of the taxpayer under investigation in India and the contact details of the officers making the request in the office of the Competent Authority so that the information provided by the foreign authorities or their requests for clarifications are sent to the correct jurisdiction.

2. In **Row 1**, the name, full address, PAN and the current jurisdiction of the taxpayer under investigation in India should be mentioned.

3. The country/jurisdiction to whom the request is made should be mentioned in **Row 2**.

4. The contact details of officers handling the Investigation presently should be mentioned in **Rows 3, 4 and 5**.

5. The name of the foreign person/entity or the holder of the information in a foreign country if mentioned in the request may be stated in **Row 6** for statistical purposes.

Instructions for Filling up Part II of Form A

- Part II of Form A is essentially the same as Annexure-D of the Manual on Exchange of Information issued in 2013 and only this Part will be sent to the Competent Authority of the country/jurisdiction from where the request for information will be made. Accordingly all the information which may be useful for the foreign tax authorities for providing assistance, including copies of the documents etc., must be captured here, if necessary through Annexures.
- Row wise instructions for filling up Part II of Form A are given below:

Row	Description
Row 1	The name of the country/jurisdiction from where the information is requested should be mentioned.
Row 2	The name and designation of the Indian Competent Authority, i.e., JS (FT&TR-I) and JS (FT&TR-II) as the case maybe needs to be mentioned here. This will be filled up by FT&TR Division and thus should be left blank.
Row 3	The contact details of the officers in the FT&TR Division needs to be mentioned in this row. This will be filled up by FT&TR Division and thus should be left blank.
Row 4	The legal basis of making the request, for instance Article 26 of the DTAA between India and ----- or Article 5 of the TIEA between India and ----- or Article 4 of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters or Article 5 of the SAARC Multilateral Limited Agreement should be mentioned here. There may be more than one legal instrument available for administrative assistance with the same country. In such situations, the instrument having the provision for particular administrative assistance required may be selected. If the administrative assistance required is available in more than one instrument, the one which is wider in scope should be selected.
Row 5	This row contains reference number, acknowledgment etc. These details will be filled up by FT&TR Division and should be left blank.
Row 6	The reasons for urgency of reply, if any, for example on account of statute of limitation, necessity of conducting investigation quickly on account of suspected fraud, court case etc. should be mentioned here. If in the request it is mentioned that information should be provided by a particular date, it should be added, in appropriate cases, that the information received after date will be useful in penalty or appellate proceedings.
Row 7	Full details of the person under investigation or examination by the Indian tax authorities, including PAN, date of birth/date of incorporation, full address and other details as available in the records should be mentioned here. As explained in Para 2.2.2 of the Manual on Exchange of Information, the tax treaties do not restrict administrative assistance to residents of either Contracting States and thus information about residents of third countries can also be requested. However, relevance of the information about residents of third countries vis-a-vis the person under investigation in India must be clearly explained in the request.
Row 8	Under the laws of certain countries/jurisdictions, the taxpayer or the holder of the information has certain rights including a right to be informed or notified that a

	request concerning him for information under a tax treaty has been made. The requesting country, however, in certain exceptional cases can make a request that the taxpayer/holder of information may not be so notified. If a request to refrain from notifying the taxpayer(s) concerned is made, the reasons for the same must be clearly explained. Such reasons could be that the information is of a very urgent nature and the process of prior notification to the taxpayer will delay supply of information or the prior notification is likely to undermine the success of the investigation being conducted. A request to refrain from notifying the taxpayer should not be made in a routine manner and such request should be made only if it is essential and can be justified on the basis of documentary evidence. The reason that the taxpayer concerned is likely to file an appeal against the supply of information may not be a valid reason for making such a request.
Row 9	The time period or the taxable event (e.g. the date on which withholding tax is imposed) for which the information or in relation to which the information is sought should be mentioned. If the information is relevant for the current period, this fact should also be mentioned.
Row 10	The taxes for which the request is made should be mentioned. As stated in Para 2.2.2 of the Manual on Exchange of Information, in most of the tax treaties, requests for information regarding taxes not cover by the treaty, such as indirect taxes or taxes levied by State Government, can be made.
Row 11	The relevant box needs to be ticked and if necessary more than one box may be ticked.
Row 12	Detailed background of the case should be mentioned clearly including the fact that how the information requested is foreseeably relevant for administration and enforcement of the domestic tax laws of India. This background information should also include a brief summary of the ongoing examination or investigation and how the requested information relates to this examination or investigation. The efforts made for collecting the information in India and the results thereof should be clearly specified. Details of foreign taxpayers related to the person under investigation/examination in India, as available in the records, and which may be of the assistance to the foreign tax authorities in providing the information may be mentioned as part of the background information.
Row 13	<p>The information which is requested from the foreign Competent Authority should be listed point-wise preferably as questions. The information sought should be specific and should be described as clearly as possible. The language should be simple and easily understandable to foreign authorities who may not be aware of India's tax laws and procedures or the terminologies used. The questions should be framed in such a manner that they can be answered directly on the basis of documents and other information available and the details requested should be specific.</p> <p>The information requested should be foreseeably relevant to the administration or enforcement of the Indian tax laws and their relevance should be clearly explained in light of the background information provided. Information in the form of "fishing expedition" should not be requested.</p> <p>In some cases, it has been observed that a large number of Questions are asked in the request for EOI even though some of the questions do not appear to emanate</p>

	<p>from the issues under investigation and the relevant questions which should actually be asked are not specifically stated. Request for voluminous information should be avoided as it may become counter-productive on account of the following reasons:</p> <ul style="list-style-type: none"> ➤ The request may be considered as having been made in a casual and perfunctory manner and may be responded to accordingly by the foreign tax authorities ➤ More critical information which is actually required may be missed by the foreign tax authorities in a request with a long list of questions and the useful information may not be received ➤ Though the foreign tax authorities may be genuinely trying to provide assistance they may not be able to do so as they would need to collect the requested information from various sources which they may not be able to do in a timely manner ➤ This may also adversely affect our reputation on a bilateral and multilateral basis and may impact on our ability and moral authority to request information even in genuine cases
Row 14	The grounds for believing that the information is available in the requested jurisdiction should be mentioned.
Row 15	The name and address (to the extent known) of the person believed to be in possession of the information should be mentioned. This could be name and address of the Bank (in case of bank accounts), tax administration of the other country (in case of return of income or taxes paid), name and address of agents/service providers (in case of say financial accounts requested from offshore financial centres) etc. The purpose of this information is to assist the foreign tax authorities to locate the information quickly and should be mentioned only to the extent known.
Row 16	The form in which the information is required for evidentiary value, for example, the specific forms for deposition of witnesses or the manner in which copies of original documents are authenticated may be mentioned.
Row 17	If the information is requested in English, the same may be indicated here.
Row 18	Before making the request, it should be ensured that the four conditions mentioned here have been satisfied as before making the request undertaking to this effect needs to be given.

3. The name and designation of the Pr. CIT/CIT/Pr. DIT/DIT concerned making the request should be mentioned and he should sign and verify the content of the information contained in the request.

