

TAX REFORMS

[AS ANNOUNCED BY HON'BLE PM ON 13TH AUGUST 2020]

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INTRODUCTION

- The Hon'ble PM Shri Narendra Modi dreamed of corruption free India taking help of Information and Technology and conceived the idea of Digital India.
- In a national Conclave of Tax officials, he desired to introduce a faceless assessment scheme with a view to help honest taxpayers and impart greater efficiency, transparency & accountability in the assessment process.
- To make his dreams come true, the Central Government in the last few years has taken various steps to reduce human interface between the Taxpayer and the Tax Administration to ensure **consistency, transparency and increase efficiency in the ability of Tax Administration with the help of information and technology.**

TRANSPARENT TAXATION - HONORING THE HONEST

- Hon'ble PM Narendra Modi rolled out a taxpayers charter and faceless assessment as part of the government's effort to easing the compliance for assesseees and reward the "honest taxpayer". He also launched the "Transparent Taxation - Honoring The Honest" platform, in what he said will strengthen efforts of reforming and simplifying the country's tax system.
- Following are the key announcement regarding tax reforms:-
 1. Faceless Assessment from 13th August, 2020.
 2. Faceless Appeals from 25th September, 2020.
 3. Taxpayers' Charter
 4. Proposed Expansion of Reportable Transaction under SFT.
 5. Change in Power of Survey

1. ANALYSIS OF LEGAL PROVISIONS OF FACELESS ASSESSMENT

- Central Government by Finance Act, 2018, inserted 2 new sub-section i.e. 143(3A) & 143(3B) which read as follows:

Section 143(3A): The CG may make a scheme, by notification in the Official Gazette, **for the purposes of making assessment of total income or loss of the assessee under sub-section (3)** so as to impart greater efficiency, transparency and accountability by—

- Eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;
- Optimizing utilization of the resources through economies of scale and functional specialization;
- Introducing a team-based assessment with dynamic jurisdiction.

Section 143(3B): The CG may, for the purpose of giving effect to the scheme made under sub-section (3A), by notification in the Official Gazette, direct that any of the provisions of this Act relating to assessment of total income or loss shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

Provided that no direction shall be issued after the 31st day of March, 2020.

- Thereafter, Finally, the Government notified a Scheme names as "E-Assessment Scheme, 2019" u/s 143(3A) vide Notification No. 61/2019 dated 12.09.2019 (further supplemented by the direction u/s 143(3B) vide Notification No.62/2019 dated 12.09.2019) to conduct e-Assessments proceedings w.e.f. 12.09.2019
- Scope of E-assessment Scheme, 2019:-** As per the definition of "Assessment" provided in E-assessment Scheme, assessment means **"the assessment of total income/loss u/s 143(3) of the Act"**.

- **CG Vide Finance Act, 2020 made following amendments in section 143(3A) & 143(3):-**
 - In Section 143(3A), Word “Section 144” inserted. Now CG can also make scheme for the purpose of making assessment u/s 144 of the Act in addition to assessment u/s 143(3).
 - In Proviso to Section 143(3B), “Year 2020” is substituted with “Year 2022”. It means now CG can issue direction for scheme notified u/s 143(3A) upto 31st March, 2022.
- Hon’ble PM on 13th August 2020 announced that all the assessment proceeding from 13th August, 2020 shall be conducted in Faceless Manner.
- To give the effect to PM’s announcement, CG issued following two notification
 - i. **Notification No. 60 of 2020:-** In exercise of the power conferred u/s 143(3A) of the Act, CG amend the E-Assessment Scheme, 2019 and rename it is as Faceless Assessment Scheme, 2019. Further in the definition of “Assessment” assessment u/s 144 is also included which means now assessment order u/s 143(3) and best judgment assessment u/s 144 shall be passed under Faceless Assessment Scheme, 2019.
 - ii. **Notification No. 61 of 2020:-** In exercise of the power conferred u/s 143(3B) of the Act, CG amends direction issued vide notification no. 62 of 2019.
- To give the effect to PM’s announcement CBDT issued an order u/s 119 of the Act dated 13th August, 2020 and directs that all the assessment orders shall be passed by NeAC through Faceless Assessment Scheme, 2019 except the following two assessment order:-
 - i. Assessment order in case assigned to Central Charges.
 - ii. Assessment order in case assigned to International Charges.

- After reading the order of CBDT, it can be concluded that all the assessment order after 12th August, 2020 shall be passed by NeAC in faceless manner except the assessment order passed by central charges or international tax charges.

Now the question arose that whether assessment or reassessment in case of Income Escaping Assessment u/s 147 shall also be required to passed by NeAC in faceless manner?

Now to answer this question we have to examine some important aspects of the assessment or reassessment under Income Tax Act, 1961, which is as under:-

- As per Section 2(8) of the Act “assessments” include “reassessment”.
- For making an assessment or reassessment of income chargeable to tax has escaped u/s 147, AO is required to issue notice u/s 148 of the Act requiring the assessee to furnish his ROI. It is also provided in section 148 that ROI furnished by the assessee in response to a notice issued u/s 148 of the Act shall be treated as return filed u/s 139 of the Act and all the provision of the Act shall apply accordingly. Therefore provision of Section 142 & 143 of the Act will apply in income escaped assessment as if return has filed u/s 139 of the Act.
- Under Faceless Assessment Scheme, 2019, “Assessment” means assessment of total income or loss of the assessee under sub-section (3) of section 143 or section 144 of the Act.
- Now we can answer the question that Assessment or Reassessment order u/s 147 r.w.s. 143(3) shall also be required to passed under Faceless Assessment Scheme, 2019.

AMENDMENT IN FACELESS ASSESSMENT SCHEME, 2019

Amendment in Faceless Assessment Scheme, 2019 (Earlier called E-assessment Scheme, 2019)

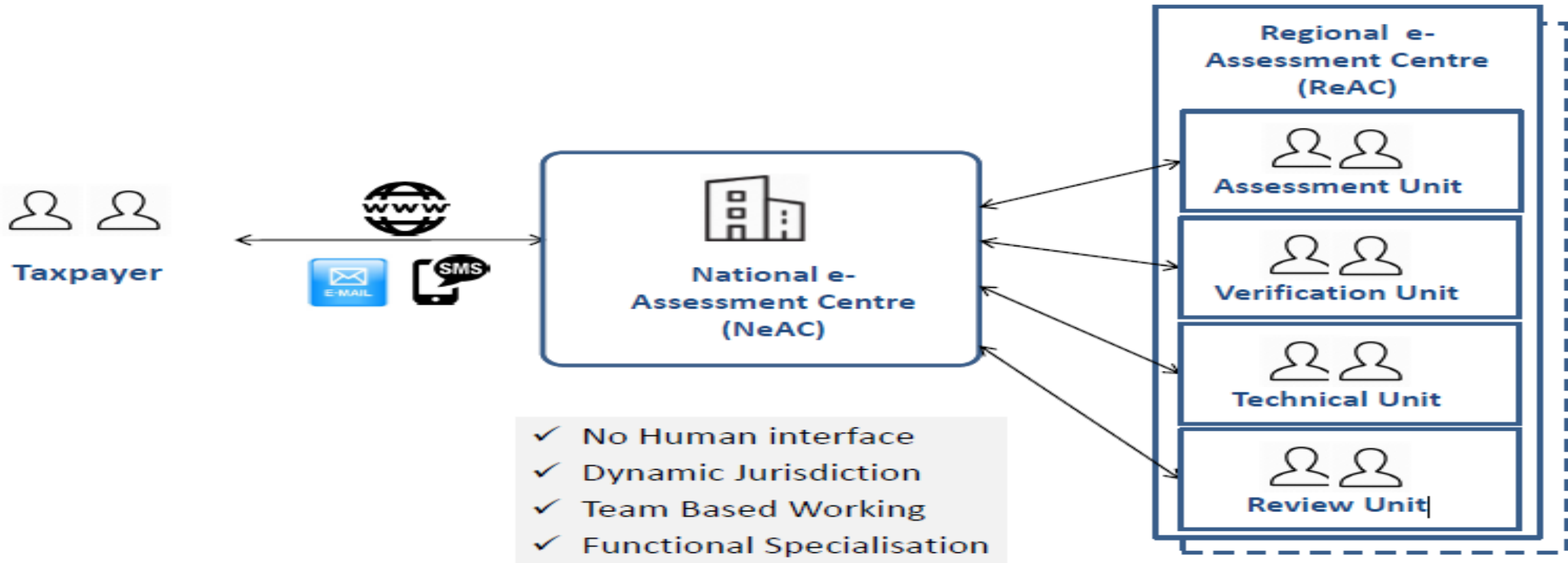
CBDT vide notification no. 60 dated 13th August, 2020, amend the E-assessment Scheme, 2019 and renamed it as Faceless Assessment Scheme, 2019. Further, CBDT also amended “Procedure for Assessment” which is as follows:-

- Now Faceless Assessment Scheme also cover cases
 - Where a notice u/s 143(2) has been issued by AO.
 - Where Assess fails to furnish ROI in response to notice issued u/s 142(1) by AO.
 - Where Assessee fails to furnish ROI in response to notice issued u/s 148(1) and a notice u/s 142(1) has been issued by AO.
- Now, if assessee fails to comply with any notice issued under this scheme or notice issued u/s 142(1) or 142(2A), then NeAC shall serve a notice u/s 144 of the Act giving him an opportunity to show cause , why the assessment in his case should not be completed to the best of its judgement. If assessee fails to file response to the notice issued u/s 144(1), then NeAC shall intimate about such failure to AU and then AU will draft a assessment order to best its judgement.

COMPARISON BETWEEN E ASSESSMENT SCHEME AND FACELESS ASSESSMENT SCHEME

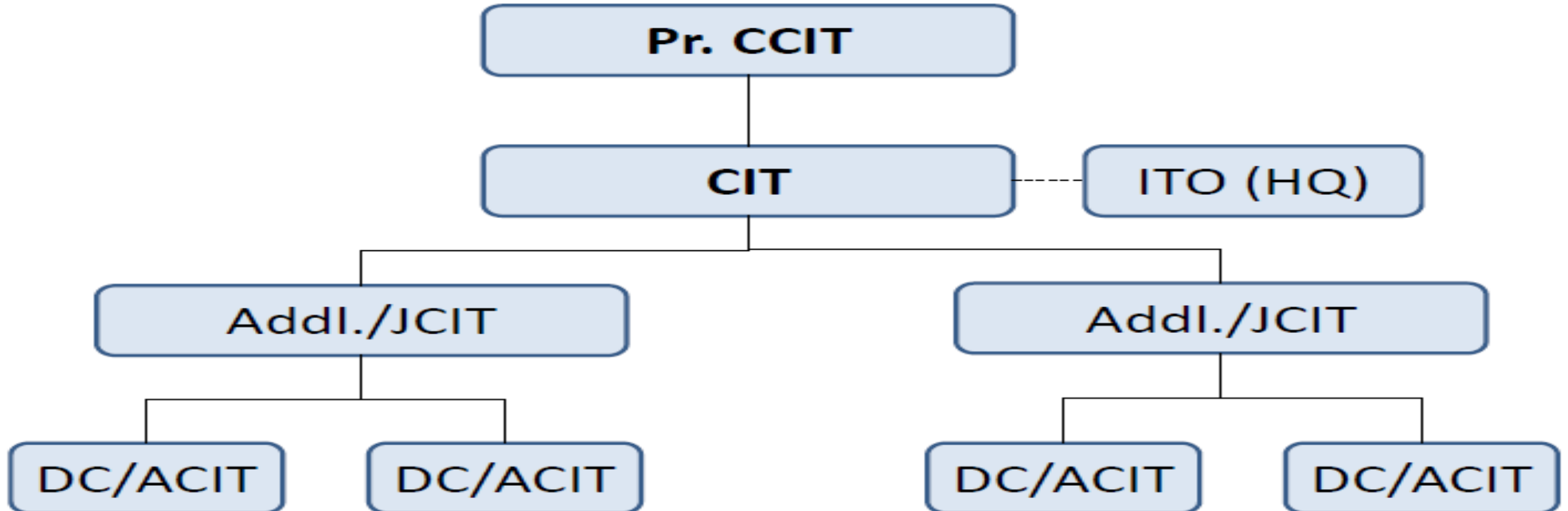
Particular	E Assessment Scheme, 2019 (Applicable upto 12 th August 2020)	Faceless Assessment Scheme, 2019 (Applicable from 13 th August 2020)
Applicability	Applicable only in relation to assessment proceeding u/s 143(3) of the Income Tax Act, 1961.	All assessment proceeding under the Income Tax Act except with central charge and international taxation charge
Non – Applicability	Following categories of assessments were kept outside the purview of E- Assessment: 1. Re-assessment u/s 147. 2. Assessment u/s 153A & 153C. 3. Best Judgement assessment u/s 144. 4. Assessment related to International Taxation.	Following categories of assessments are kept outside the purview of Faceless Assessment: 1. Assessment cases with Central Charges. 2. Assessment related to International Taxation.
Compulsion	Assessment order which was required to be passed under this scheme, if passed otherwise shall not be treated as Non - Est	Any assessment order passed by department which is required to be passed through Faceless Assessment Scheme, 2019, shall be treated as Non – Est, if passed otherwise

FACELESS ASSESSMENT SCHEME 2019



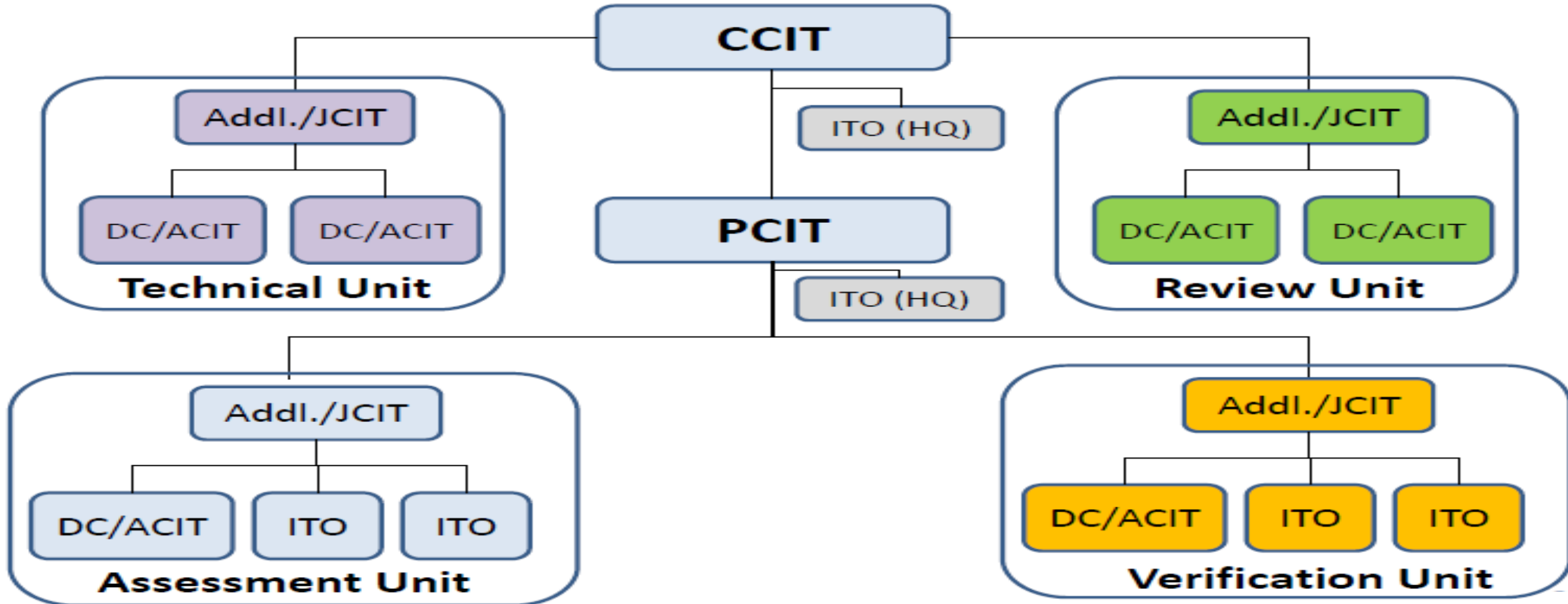
ORGANIZATION STRUCTURE OF NEAC

National e-Assessment Center (NeAC) Delhi



ORGANIZATION STRUCTURE OF REAC

Regional e-Assessment Centers (ReAC)



NEAC/REAC MANPOWER

Post	Number
Pr. Chief Commissioner of Income Tax	1
Chief Commissioner of Income Tax	4
Pr. Commissioner of Income Tax	25
Commissioner of Income Tax	1
Additional/Joint Commissioner of Income Tax	144
Deputy/Assistant Commissioner of Income Tax	163
Income Tax Officer	281
Inspector	635
Executive Assistant	400
Multi-Tasking Staff	558
Stenographer	474
Total	2686

FACELESS ASSESSMENT SCHEME 2019

Role of various Agencies such as NeAC, ReAC, AU, VU, TU, RU

**National E-
Assessment Centre
(NeAC)**

To facilitate the conduct of E-Assessment proceedings in a centralized manner. NaAC will be vested with assessment proceedings

**Regional E-
Assessment Centre
(ReAC)**

To facilitate the conduct of E-Assessment proceedings in the cadre controlling region of Principal Commissioner

Assessment Unit (AU)

To facilitate the conduct of E-Assessment, to perform the foundation of making assessment, seeking information or clarifications, analysis of material furnished by the assessee etc.

FACELESS ASSESSMENT SCHEME 2019

Role of various Agencies such as NeAC, ReAC, AU, VU, TU, RU

Verification Unit(VU)

To perform the function of verification including enquiry, cross verification, examination of books, witness, recording of statement etc.

Technical Units (TU)

To perform the function of providing technical assistance including any assistance or advice on legal, accounting, forensic, information technology, valuation, ^{audit} transfer pricing, data analytics or any other technical matter etc

Review Unit (RU)

To perform the function of review of the draft assessment order, including checking:

- ❖ Whether relevant and material evidence has been brought on record,
- ❖ Whether the relevant points of facts / law have been incorporated in draft order,
- ❖ Whether issues on which addition or disallowance, should be made have been discussed in the draft order,
- ❖ Whether the applicable judicial decisions have been considered and dealt with in the draft order,
- ❖ Checking the arithmetical correctness of modification proposed etc.

FUNCTIONS TO BE PERFORM IN FACELESS MANNER

Following functions of Income Tax Act, 1961 to be perform in faceless manner to the extent possible:-

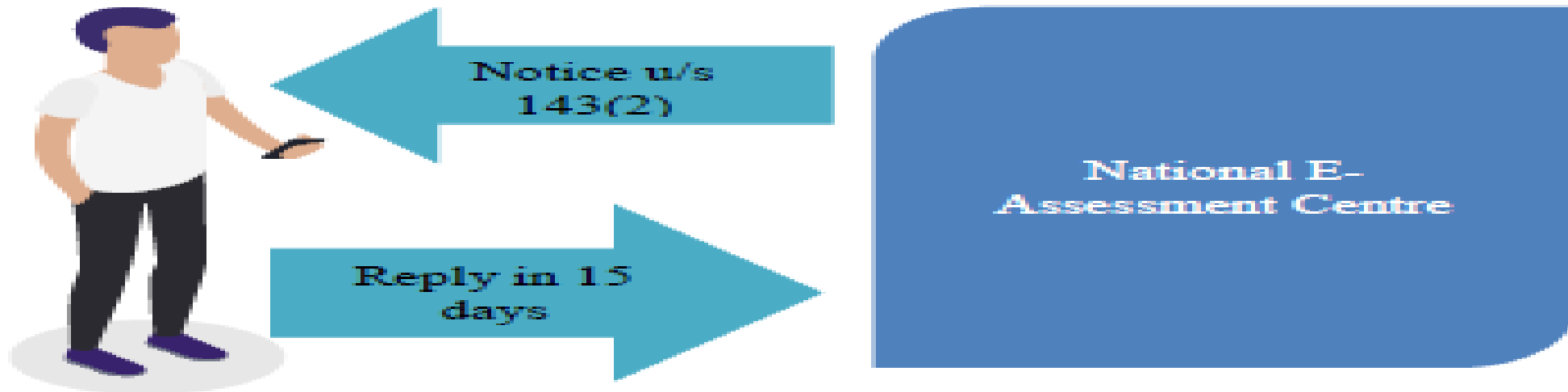
- Taxpayer outreach, Taxpayer Education and Taxpayer Facilitation.
- Rectification proceedings.
- Grievance handling.
- Demand Management.
- Collection and Recovery of taxes.
- Audit functions including handling matters pertaining to Revenue and Internal Audit and taking remedial actions.
- Judicial functions including giving effect to the appellate orders of CIT(A), ITAT, High Court, Supreme Court & Settlement commission; preparing scrutiny reports and filing of appeal wherever considered necessary; defending writ petitions; recommendation of SLPs etc.
- Statutory powers under section 263 / 264 of the Act.
- Prosecution and compounding proceedings and related court matters.
- Custody and management of Case records.
- Management and control of infrastructure.

FACELESS ASSESSMENT PROCEDURE

CBDT vide notification no. 60 dated 13th August, 2020, amend the E-assessment Scheme, 2019 and laid down the procedure for completing the Faceless Assessment.

The Assessment under Faceless Assessment Scheme, 2019 shall be made as per the following procedure:-

1. NeAC shall serve a notice on the assessee u/s 143(2), specifying the issues for selection of his case for assessment.
2. Assessee will be required to give reply on the points mentioned in the notice within a period of 15 days.



Section 143(2)

Where a return has been furnished under section 139, or in response to a notice u/s 142(1), the AO or the **prescribed income-tax authority**, as the case may be, if, considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend the office of the AO or to produce, or cause to be produced before the AO any evidence on which the assessee may rely in support of the return.

Provided that no notice u/s 143(2) shall be served on the assessee after the expiry of six months from the end of the FY in which the return is furnished [Section 143(2)]

Prescribed authority under rule 12E is income-tax authority not below the rank of an ITO.

Now the question arise is that who can issue notice u/s 143(2) under the Faceless Assessment Scheme, 2019?

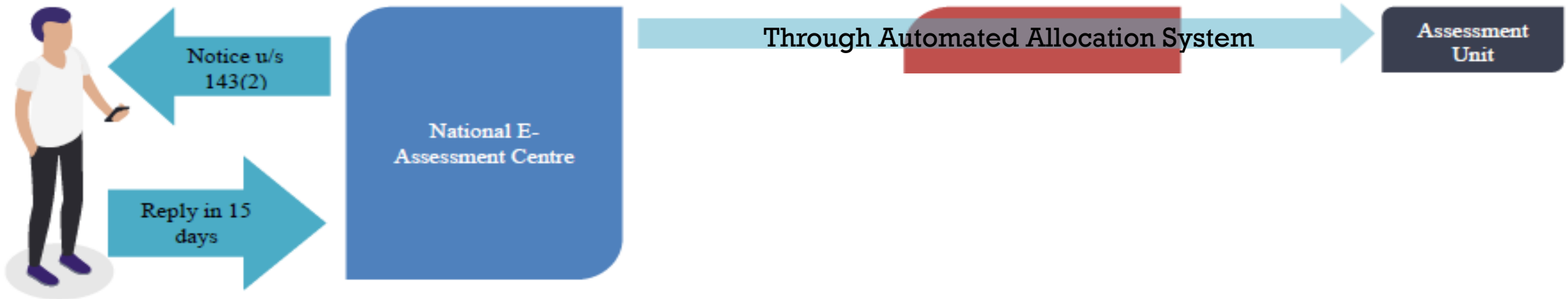
CG vide notification no. 65 of 2019 authorized ACIT (e-Verification), having headquarter at Delhi, to act as prescribed Income-tax Authority for the purpose of section 143(2)the Act, in respect of returns furnished under section 139 or in response to a notice under sub-section (1) of section 142 of the Act during the **FY commencing on 1st day of April, 2018** for the purposes of issuance of notice section 143(2)of the Act.

From 1st April 2019

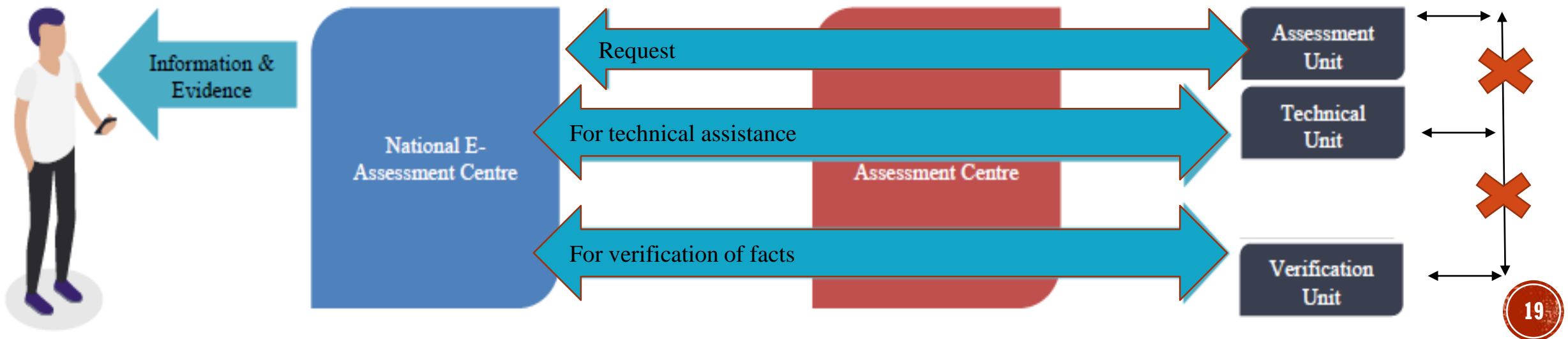
As per Faceless Scheme, 2019 NeAC will send notice u/s 143(2). [Author's opinion based on the Scheme notified by CG]

FACELESS ASSESSMENT PROCEDURE

3. Where the assessee-
 - i. A return has been furnished u/s 139 or in response to notice u/s 142(1) or 148(1) and a notice u/s 143(2) has been issued by the AO;
 - ii. Has not furnished his ROI in response to a notice issued u/s 142(1) by the AO;
 - iii. Has not furnished ROI u/s 148(1) and a notice u/s 142(1) has been issued by the AONeAC shall intimate the Assessee that assessment in his case shall be completed under e-Assessment Scheme, 2019.
4. On receipt of reply case will be assigned to an Assessment Unit (AU) in any Regional E-assessment Centre (ReAC) through automated allocation system.



5. Where a case is assigned to the AU, it may make a request to the NeAC for
 - a. Obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;
 - b. Conducting of certain enquiry or verification by verification unit (VU); and
 - c. Seeking technical assistance from the technical unit (TU).
6. NeAC after receiving the request for obtaining further information, documents or evidence from the assessee or any other person has been made by the AU, the NeAC shall issue appropriate notice or requisition to the assessee or any other person.



7. The Assessee or any other person shall file his response to the notice referred in S. NO. (6) within the time specified therein or may make an application for giving more time.
8. Where a request for conducting of enquiry or verification has been made by AU, such request shall be assigned by NeAC to a VU in any ReAC through automated allocation system. After receiving the report from VU, NeAC shall forward it to concerned AU.
9. Where a request for seeking technical assistance has been made by AU, such request shall be assigned by NeAC to a TU in any ReAC through automated allocation system. After receiving the report from TU, NeAC shall forward it to concerned AU.
10. If assessee fails to comply with the notice issued u/s
 - a. Notice issued by NeAC for obtaining any information, documents or evidence .
 - b. Notice issued u/s 142(1).
 - c. Notice issued u/s 142(2A), then

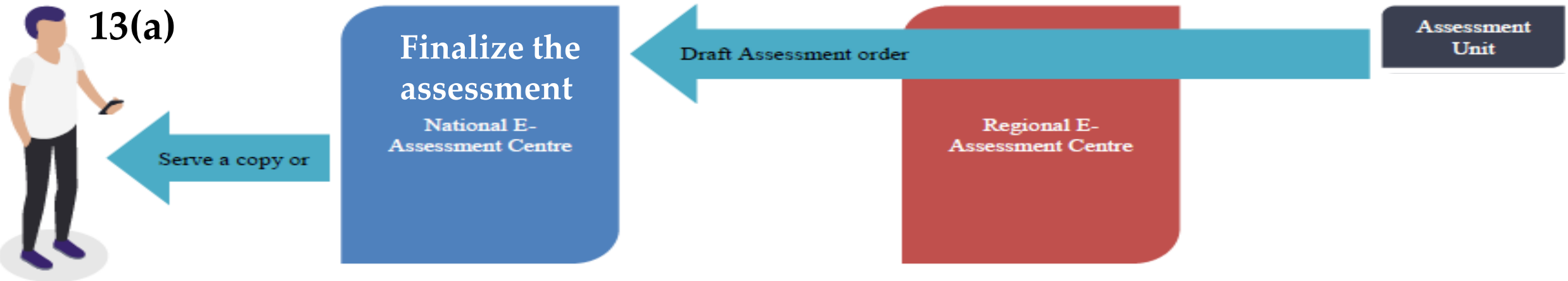
NeAC shall serve a notice u/s 144 giving an opportunity to show-cause, on a date and time to be specified in the notice, why the assessment in his case should not be completed to the best of its judgment.

The assessee shall file response to the notice referred above within the time referred in the notice or within the extended time.

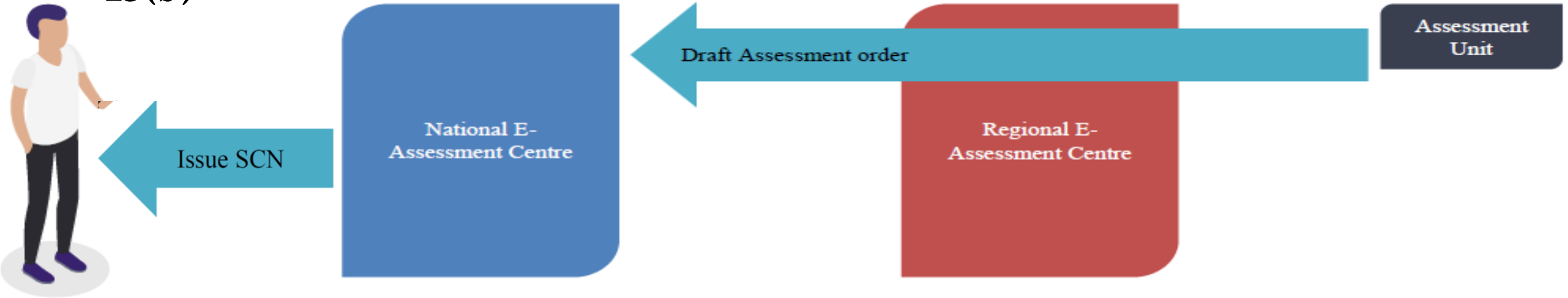
11. Where the assessee fails to file response to the notice issued by NeAC u/s 142(1)/142(2A) or fails to file information in response to any notice issued by NeAC, within the time specified in the notice or within the extended time, if any, the NeAC shall intimate such failure to the assessment unit
12. The AU shall, after taking into account all the relevant material available on the record make in writing, a **draft assessment order** or, in a case where intimation referred to in S. No. (11) mentioned above is received from the NeAC, make in writing, a draft assessment order to the best of its judgment, either **accepting the income, or sum payable by, or sum refundable to, the assessee as per his return or modifying the said income or sum**, and send a copy of such order along with the details of the penalty proceedings to be initiated therein, to NeAC.

13. The NeAC shall examine the **draft assessment order** in accordance with risk management strategy specified by the board, by way of an automated examination tool, whereupon it may decide to:-
- Finalise the assessment as per draft assessment order and serve a copy of such assessment order and notice for initiating penalty proceeding, if any, to assessee along with demand notice; or
 - Provide an opportunity to the assessee case a modification is proposed, by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the draft assessment order; or
 - Assign the draft assessment order to a RU in any one ReAC, through an automated allocation system, for conducting review of such order

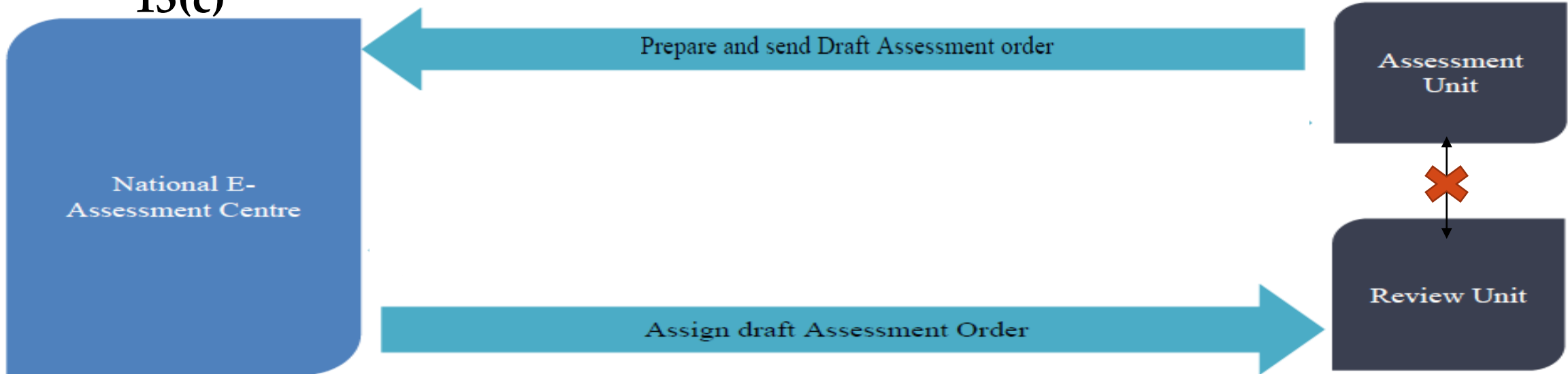
13(a)



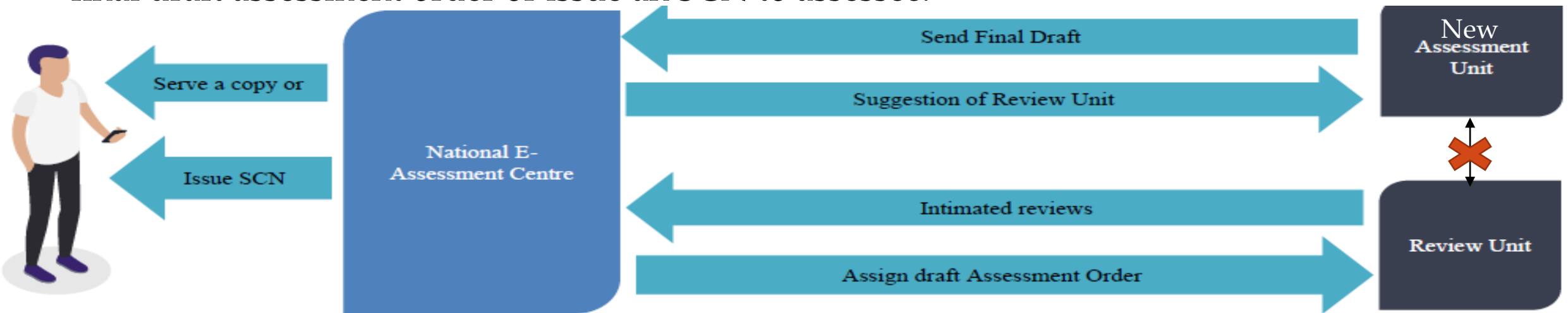
13(b)



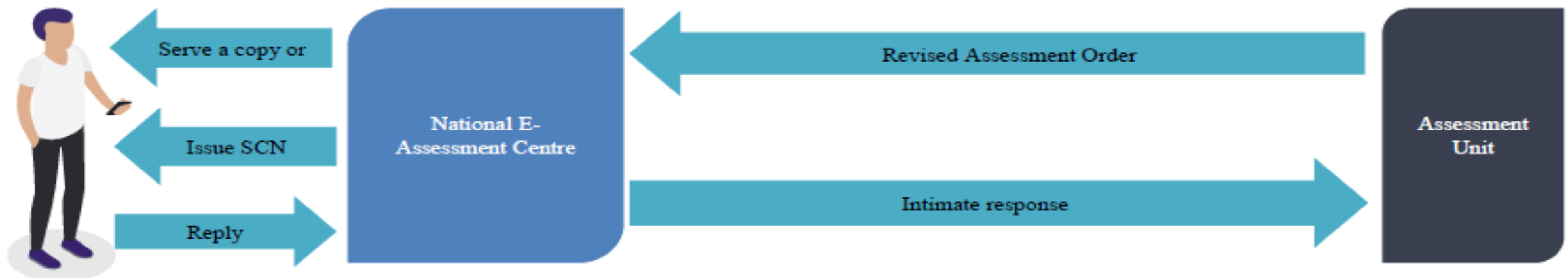
13(c)



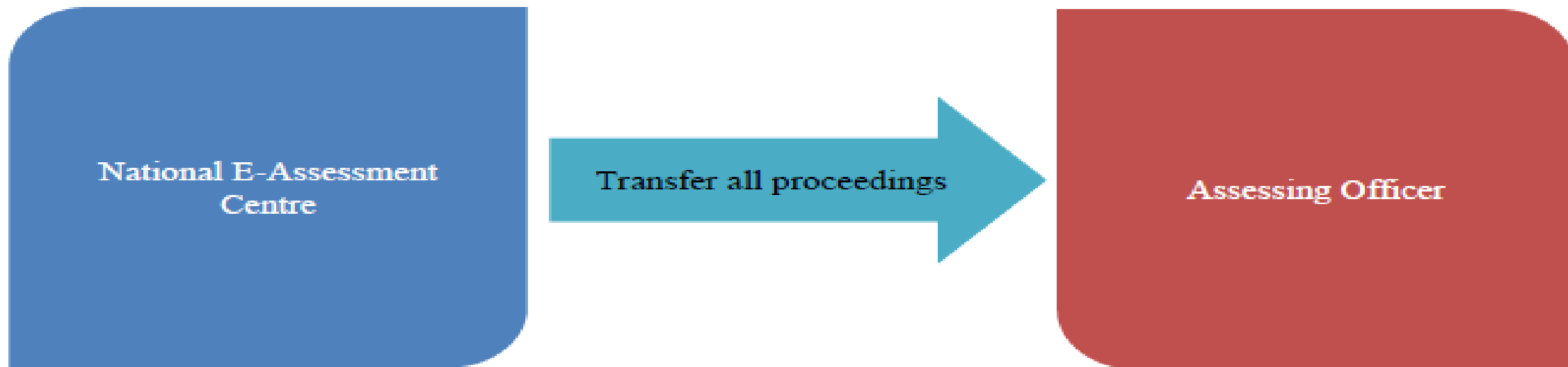
14. The RU shall conduct review of the draft assessment order, referred to it by the NeAC whereupon it may decide to, —
 - a. concur with the draft assessment order and intimate the National e-assessment Centre about such concurrence; or
 - b. suggest such modifications, as it may deem fit, to the draft assessment order and send its suggestions to the National e-assessment Centre;
15. The NeAC shall, upon receiving concurrence of the RU, can finalize the assessment as per draft assessment order or issue an SCN to assessee.
16. The NeAC shall, upon receiving suggestions for modifications from the RU, assign the case to an AU, other than the AU which has made the draft assessment order, through an automated allocation system.
17. The AU shall, after considering the modifications suggested by the RU, send the **final draft assessment order** to the NeAC.
18. The NeAC shall, upon receiving **final draft assessment order**, can finalize the assessment as per final draft assessment order or issue an SCN to assessee.



19. The assessee may, in a case where SCN issued by NeAC has been served upon him, furnish his response to the NeAC on or before the date and time specified in the notice or within the extended time, if any.
20. NeAC shall,-
 - a. In a case where no response to the SCN is received, finalize the assessment as per the draft assessment order.
 - b. In any other case, send the response received from the assessee to the assessment unit;
21. The AU shall, after taking into account the response furnished by the assessee, make a **revised draft assessment order** and send it to the NeAC.
22. NeAC shall, upon receiving the revised draft assessment order, —
 - a. In case no modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, finalize the assessment as per revised draft assessment order or issue an SCN to assessee
 - b. In case a modification prejudicial to the interest of the assessee is proposed with reference to the draft assessment order, provide an opportunity to the assessee;
 - c. The response furnished by the assessee shall be dealt with as per the procedure laid down in S. No. (19), (20) & (21).



23. All communications between the NeAC and the assessee, or his authorised representative, or any other person shall be exchanged exclusively by electronic mode.
24. Assessee will not know which is the Assessment Unit, Verification Unit, Review Unit or Technical Unit working on his case.
25. After the Assessment Order or Penalty order has been passed electronic record will be forwarded by the NeAC to the Jurisdictional AO for further action in the case such as recovery etc.



EXCHANGE OF COMMUNICATION AND AUTHENTICATION OF ELECTRONIC RECORD

1. Exchange of Communication Exclusively by Electronic Mode

- a) All communication made under Faceless Assessment Scheme, 2019 between the NeAC and the assessee shall be exchanged exclusively by **Electronic Mode**.
- b) All internal communication made under Faceless Assessment Scheme, 2019 between the NeAC, ReAC and various unit shall be exchanged exclusively by **Electronic Mode**.

However, for the purpose of enquiry or verification to be conducted by VU shall be specify by Board.

2. Authentication of Electronic Record

Under the Faceless Assessment Scheme, 2019 an electronic record shall be authenticated by:-

- a) The NeAC by affixing its DSC; and
- b) The assessee or any other person, by affixing his DSC if he is required to furnish his return of income under DSC, and in any other case by affixing his DSC or through EVC.

Some Important Definitions

- **Electronic record** - means data, record or data generated, image or sound stored, received or sent in an electronic form or microfilm or computer generated micro fiche. (As per IT Act, 2000)
- **Hash Function** - means an algorithm mapping or translation of one sequence of bits into another, generally smaller, set known as "hash result" such that an electronic record yields the same hash result every time the algorithm is executed with the same electronic record as its input making it computationally infeasible (As per IT Act, 2000).

- **Email or Electronic Mail and Electronic Mail Message** - means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.
- **Mobile App** - mean the application software of the Income-tax Department developed for mobile devices which is downloaded and installed on the registered mobile number of the assessee.
- **Real Time Alert** - means any communication sent to the assessee, by way of Short Messaging Service on his registered mobile number, or by way of update on his Mobile App, or by way of an email at his registered email address, so as to alert him regarding delivery of an electronic communication.
- **Registered Account of the Assessee** - means the electronic filing account registered by the assessee in designated portal.
- **Registered e-Mail Address**
 - i. Email available in electronic filing account; or
 - ii. Email available in last ITR; or
 - iii. Email available with PAN database; or
 - iv. In case of individual having Aadhar Number then, email available with Unique Identification Authority of India; or
 - v. In case of company, email available on the official website of Ministry of Corporate Affairs; or
 - vi. Email address made available by the addressee to the income-tax authority or any person authorized by such authority.
- **Registered Mobile Number of The Assessee** - means the mobile number of the assessee, or his authorized representative, appearing in the user profile of the electronic filing account registered by the assessee in designated portal

DELIVERY OF ELECTRONIC RECORD UNDER FACELESS SCHEME, 2019

1. Delivery of electronic record

- a) Every notice or order or any other electronic communication under Faceless Assessment Scheme, 2019 shall be delivered to the addressee, being the assessee, by way of
- i. Placing an authenticated copy in the assessee's registered account; or
 - ii. Sending an authenticated copy thereof to the registered email address of the assessee or his authorized representative; or
 - iii. Uploading an authenticated copy on the assessee's Mobile App.
- Followed by Real Time Alert
- b) Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being any other person, by sending an authenticated copy thereof to the registered email address of such person, followed by a real time alert.
- c) The Assessee shall file his response to any notice or order or any other electronic communication, under this Scheme, through his registered account, and once an acknowledgement is sent by the NeAC containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated.
- d) The time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of section 13 of the IT Act, 2000.

SECTION 13 OF INFORMATION TECHNOLOGY ACT, 2000

Section 13-Time and place of dispatch and receipt of electronic record.

1. Save as otherwise agreed to between the originator and the addressee, the dispatch of an electronic record occurs **when it enters a computer resource outside the control of the originator.**
2. Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely :
 - a. **If the addressee has designated a computer resource** for the purpose of receiving electronic records, —
 - i. Receipt occurs at the time **when the electronic record enters the designated computer resource;** or
 - ii. If the **electronic record is sent to a computer resource of the addressee that is not the designated computer resource,** **receipt occurs at the time when the electronic record is retrieved by the addressee;**
 - b. **If the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.**
3. Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be dispatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.
4. The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).
5. For the purposes of this section, —
 - a. If the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business;
 - b. If the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;
 - c. Usual place of residence", in relation to a body corporate, means the place where it is registered.

Note: "computer resource" means computer, computer system, computer network, data, computer database or software

NO PERSONAL HEARING UNDER FACELESS ASSESSMENT SCHEME, 2019

1. A person shall not be required to appear either personally or through authorized representative in connection with any proceedings under this Scheme before the income-tax authority at the NeAC or ReAC or any unit set up under this Scheme.

Exception

1. In a case where a modification is proposed in the draft assessment order, and a SCN is issued upon the assessee, then the assessee or his authorized representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the income-tax authority. Then The Chief Commissioner or the Director General, in charge of the ReAC, under which the concerned unit is set up, may approve the request for personal hearing.
2. Any examination or recording of the statement of the assessee or any other person (other than statement recorded in the course of survey under section 133A of the Act) shall be conducted by an income-tax authority in any unit under this Scheme, exclusively through video conferencing.

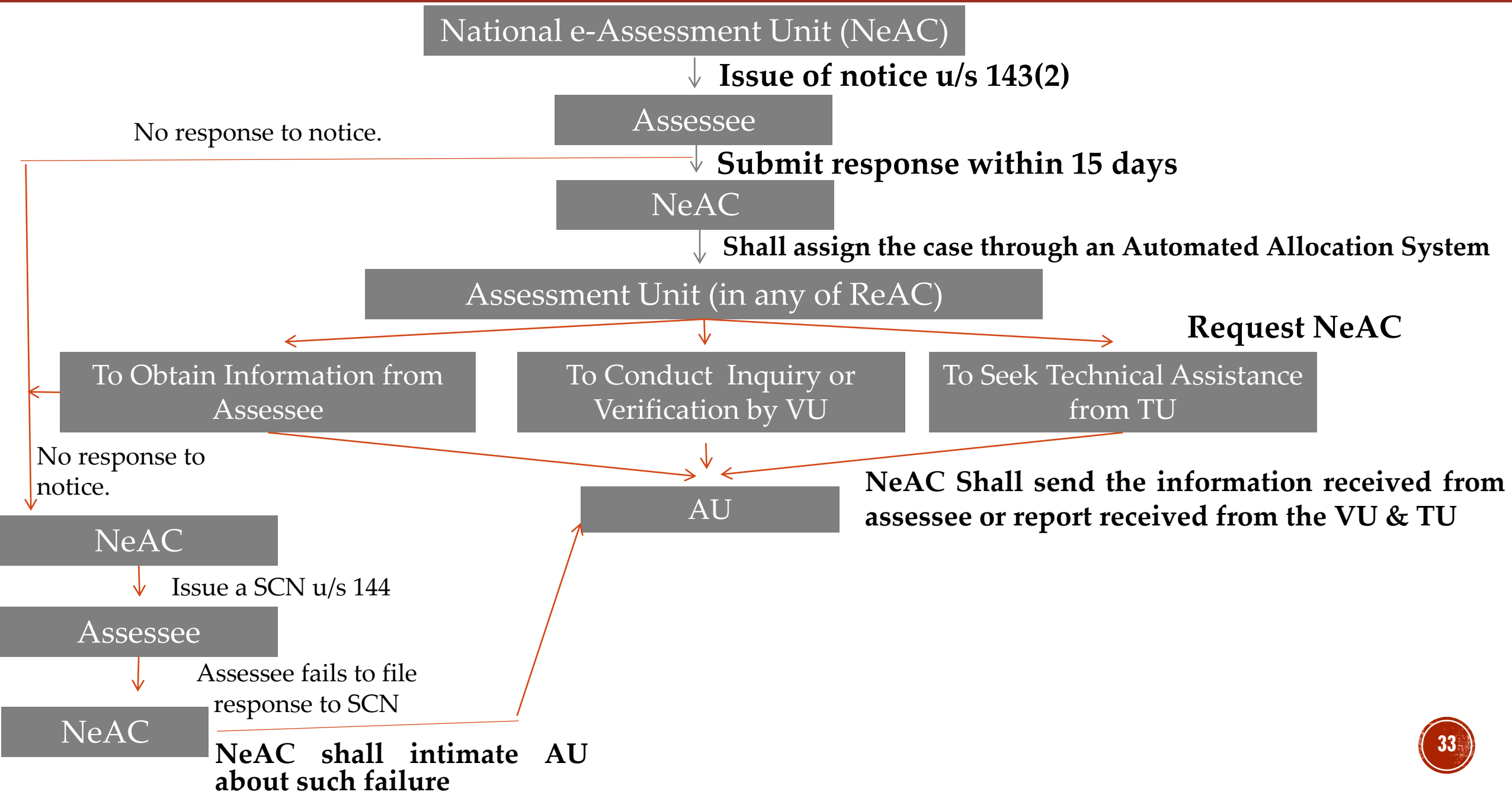
Notes:

- Both the above hearing shall be conducted exclusively through video conferencing, including use of any telecommunication application software which supports video telephony, in accordance with the procedure laid down by the Board.
- The Board shall establish suitable facilities for video conferencing including telecommunication application software which supports video telephony at such locations as may be necessary, so as to ensure that the assessee, or his authorized representative, or any other person is not denied the benefit of this Scheme merely on the consideration that such assessee or his authorized representative, or any other person does not have access to video conferencing at his end.

PENALTY PROCEEDINGS FOR NON COMPLIANCE DURING FACELESS ASSESSMENT PROCEEDING

1. During the assessment proceeding, if assessee or any other person fails to comply with any notice, direction or any order issued under this scheme, then any unit can send recommendation to NeAC for initiation of any penalty proceeding under Chapter XXI of the Act, if it considers necessary or expedient to do so.
2. The NeAC shall, on receipt of such recommendation, serve a SCN upon assessee or any other person as to why penalty should not be imposed on him under this Act.
3. The response to SCN furnished by the assessee or any other person, if any, shall be sent by the NeAC to the concerned unit which has made the recommendation for penalty.
4. The said unit shall, after taking into consideration the response furnished by the assessee or any other person, as the case may be, -
 - a. Make a draft order of penalty and send a copy of such draft to NeAC; or
 - b. Drop the penalty after recording reasons, under intimation to the NeAC.
5. The NeAC shall levy the penalty as per the said draft order of penalty and serve a copy of the same along with demand notice on the assessee or any other person, as the case may be.
6. NeAC thereafter transfer electronic records of the penalty proceedings to the AO having jurisdiction over the said case for such action as may be required under the Act

FLOW OF INFORMATION IN FACELESS ASSESSMENT



AU after considering all the relevant material available on the record will make a draft assessment order or best judgement order

Assessment Unit

Send a Copy of Draft Assessment Order to

NeAC

13(C) Assign to

Review Unit

Yes

Suggest any changes?

No

NeAC can take action as per 13(a) or 13(b)

NeAC will assign the case to a New AU

New AU

Other than the AU, which made assessment order

Final Draft Assessment Order

13(b) If any modification is proposed to the Draft order or Final Draft Order

SCN to Assessee

Response by Assessee?

No

Yes

AU

After considering the response furnished by assessee

Revised Draft Assessment Order

Modification prejudicial to the interest of Assessee

No modification prejudicial to the interest of Assessee

13(a)

Final Order

Send a Copy

Assessee

PRACTICAL ASPECTS AT A GLANCE

1. NeAC shall serve a notice on the assessee u/s 143(2) of the Act, specifying the issues for selection of his case for assessment. For each specific issue there are model questions and the same model questions should be restricted to the issue for selection of assessment.
2. For uploading of information, there will be “xml” or ‘jason” formats. This will facilitate quicker uploading of information.
3. Procedure for examination of books of accounts is under contemplation.
4. The process of translation of data (from vernacular to english) is already in place to facilitate understanding of the document and evidence by the officers of AU, VU, TU and RU.
5. **Appellate Proceedings** – An appeal against an assessment made by the NeAC under this Scheme shall lie before the Commissioner (Appeals) having jurisdiction over the jurisdictional AO and any reference to the Commissioner (Appeals) in any communication from the NeAC shall mean such jurisdictional Commissioner (Appeals).

ISSUES NEEDS TO BE ADDRESSED

1. Department need to issue a policy regarding the time limits within which assessee can file all the details regarding the issue involved in assessment proceeding. Further, department shall not issue any further notice regarding the same matter after the expiry of time limit.
2. Department has to provide clarity on the applicability of judgment passed by high courts, as there will be no such concept of jurisdiction in Faceless Assessment Scheme, 2020.
3. Currently, there is a restriction on maximum size (10 MB per file) and maximum number (10 Files) of file which can be uploaded, department should increases this limit.
4. Can issues responded fully earlier, be re-addressed?

ISSUES NEEDS TO BE ADDRESSED

5. Scope of review u/s 263 of the Act.

- a) As per the constitution of NeAC, it will be headed by Pr. CCIT / CCIT whereas it will constitute Addl. CIT/ JCIT/ DCIT/ ACIT which will actually act as assessing officer. (Screenshot of assessment order passed by NeAC is illustrated herewith.) Thus, technically assessment order can be reviewed u/s 263 of the act by CIT.



- b) However, due to concurrent decision making by NeAC as a whole, there is an legal ambiguity in respect of applicability of 263 of the act being assessment order had already been reviewed by authority senior or at same level in hierarchy.

DEPARTMENTAL STATISTICS

WEEKLY MIS REPORT as on 17th August 2020

CCIT	Region	Cases Allotted	Cases sent back to Field AO	Cases where no reply received till date	Draft Aseesment Orders submitted for Risk Assessment	Outcome of RMS/AET			Cases where SCN issued post review	Order Passed
						Selected for Review	For SCN (Additon proposed)	Passing of order as per DAO*		
CCIT (ReAC), CHENNAI	ReAC, KARNATAKA AND GOA	4666	7	1615	953	244	24	709	16	893
CCIT (ReAC), CHENNAI	ReAC, Chennai	9332	14	3313	1289	499	27	790	12	1211
CCIT (ReAC), DELHI	ReAC, DELHI	11663	28	3954	1742	327	15	1415	17	1686
CCIT (ReAC), DELHI	ReAC, Ahmedabad	4666	13	1621	847	186	8	661	8	815
CCIT (ReAC), KOLKATA	ReAC, Hyderabad	4668	10	1476	823	244	15	579	3	780
CCIT (ReAC), KOLKATA	ReAC, KOLKATA	9327	19	3455	1701	489	52	1210	17	1576
CCIT (ReAC), MUMBAI	ReAC, MUMBAI	9332	23	3183	1653	686	16	962	25	1565
CCIT (ReAC), MUMBAI	ReAC, PUNE	4665	8	1637	1146	274	38	868	11	1085
Total:		58,319	122	20,254	10,154	2,949	195	7,194	109	9,611



DEPARTMENTAL STATISTICS

DISPOSAL as on 16th August 2020 at 5.00 pm

	Cases Submitted for RMS	Cases In Review	Cases where orders are signed & despatched	Cases pending approval at various stages
Cases Completed till March 2020	1729	0	1729	0
Cases of DAO ready till March 2020 (3246 cases)	3246	0	3212	0
Additonal Cases	5162	156	4668	338
Total	10137	156	9609	338



TRANSPARENT TAXATION - HONORING THE HONEST

2. Faceless Appeal

- Facility of faceless appeal will be available for citizens across the country from 25th September i.e. Deen Dayal Upadhyay's birthday.
- Detail Scheme on Faceless Appeal is awaited.

3. Taxpayers' Charter

- The Taxpayer Charter explains what the assessee can expect from Revenue Department and what Revenue Department is expecting from assessee. In short, this charter elaborates the rights and obligations of the assessee.
- The aim of the charter is that of nurturing the relationship between revenue departments and the community that they serve, a relationship of mutual trust and respect.

TAXPAYERS' CHARTER

Tax Payer charter will be applicable to the Inland Revenue Department including the Capital Transfer Duty Division, and the Value Added Tax Department.

Commitment of Income Tax Department:

1. **Provide Fair, Courteous and Reasonable Treatment:** The department shall provide prompt, courteous and professional assistance in all dealing with the taxpayer.
2. **Treat Taxpayer as Honest:** The department shall treat every taxpayer as honest unless there is reason to believe otherwise.
3. **Provide Mechanism for Appeal and Review:** The department shall provide fair and impartial appeal and review mechanism.
4. **Provide Complete and Accurate Information:** The department shall provide accurate information for fulfilling compliance obligations under the law.
5. **Provide Timely Decision:** The department shall take decision in every income-tax proceeding within the time prescribed under law.
6. **Collect the Correct Amount of Tax:** The department shall collect only the amount due as per law.

TAXPAYERS' CHARTER

7. **Respect Privacy of Taxpayer:** The department will follow due process of law and be on more intrusive than necessary in any inquiry, examination or enforcement action.
8. **Maintain Confidentiality:** The department shall not disclose any information provided by taxpayer to the department unless authorized by law.
9. **Hold its Authorities Accountable:** The department shall hold its authorities accountable for their actions.
10. **Enable Representative of Choice:** The department shall allow every taxpayer to choose an authorized representative of his choice.
11. **Provide Mechanism to Lodge Complaint:** The department shall provide mechanism for lodging a complaint and prompt disposal thereof.
12. **Provide a Fair & Just System:** The department shall provide a fair and impartial system and resolve the tax issue in a time-bound manner.
13. **Publish Service Standards and Report Periodically:** The department shall publish standards for service delivery in a periodic manner.
14. **Reduce Cost of Compliance:** The department shall duly take into account the cost of compliance when administering tax legislation

TAXPAYERS' CHARTER

Expectation from Taxpayer's :

1. **Be Honest & Compliant:** Taxpayer is expected to honestly disclose full information and fulfill his compliance obligations.
2. **Be Informed:** Taxpayer is expected to be aware of his compliance obligation under tax law and seek help of department if needed.
3. **Keep Accurate Records:** Taxpayer is expected to keep accurate records required as per law.
4. **Know what the Representative does on his Behalf:** Taxpayer is expected to know what information and submission are made by his authorized representative.
5. **Respond in Time:** Taxpayer is expected to make submission as per tax law in timely manner.
6. **Pay in Time:** Taxpayer is expected to pay amount due as per law in timely manner.

5. CHANGE IN POWER OF SURVEY

- CBDT vide order u/s 119 of the Act, dated 13th August, 2020, directed that survey u/s 133A of the Act can only be carried out only and exclusively by DGIT (Inv) for investigation wing and Pr. CCIT/ CCIT (TDS) for TDS Charge.

Relevant Notifications

1. Notification No. 61 of 2019 ([Click Here for PDF](#))
2. Notification No. 62 of 2019 ([Click Here for PDF](#))
3. Notification No. 60 of 2020 ([Click Here for PDF](#))
4. Notification No. 61 of 2020 ([Click Here for PDF](#))
5. Order u/s 119 dated 13.08.2020 ([Click Here for PDF](#))
6. Order u/s 119 survey powers dated 13.08.2020 ([Click Here for PDF](#))

Thank You

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