

## NEW REGIME OF RE-ASSESSMENT

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The new scheme of re-assessments are contained in the following provisions:

(a) Section 147: Assessment of income escaping assessment;

The new Section 147 provides that the Assessing Officer can make the re-assessment of an income escaping assessment if the following conditions are satisfied:

(a) Any income chargeable to tax has escaped assessment for any assessment year; and

(b) The assessing officer follows the provisions of sections 148 to 153.

If the above conditions are satisfied, the assessing officer can assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year. It is imperative to note that the Assessing Officer can assess or reassess all those incomes which have escaped assessment and which come to his notice subsequently in the course of such proceeding notwithstanding that the procedure prescribed in section 148A was not followed before issuing such notice for such income.

(b) Section 148: Issue of notice for re-assessment;

Before making an assessment or reassessment or re-computation in Section 147, a notice is required to be issued to the assessee under Section 148 requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act. Such return shall be furnished in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

The First Proviso to Section 148 provides that the said notice can be issued only if the Assessing Officer has the information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year. Further, prior approval of the specified authority is also required to be obtained before issuing such notice by the Assessing Officer.

(c) Section 148A: Procedure to be followed before issuing a notice for re-assessment;

Before issuing a notice under Section 148, the Assessing Officer shall conduct enquiries, if required, and provide an opportunity of being heard to the assessee. After considering his reply, the Assessing Officer shall decide, after passing an order, whether it is a fit case for the issue of notice under Section 148 and serve a copy of such order along with such notice on the assessee.

The aforesaid procedure does not apply in search or requisition cases. However, in the case of a

survey, the assessing officer has to follow the procedure laid down in Section 148A before issuing a notice under Section 148.

The Assessing Officer shall follow the following procedure before issuing a notice under new Section 148.

- Conducting Inquiry

- Granting an opportunity of being heard

- Pass an order

Further The copy of the order passed by the Assessing Officer under Section 148A shall be supplied along with the copy of the notice issued under section 148.

If the assessee does not agree with the order passed by the Assessing Officer under Section 148A, he cannot file an appeal against such order with the CIT(A) or the ITAT. However, the assessee can challenge this by filing a Writ in the High Court.

(d) Section 149: Time limit for issuing a notice for re-assessment;

New Section 149 proposes to specify the following time limit for issuance of notice under Section 148 for re-assessment under Section 147:

No notice shall be issued if 3 years have elapsed from the end of the relevant assessment year. Where the Assessing Officer has evidence in his possession which reveals that the income escaping assessment, represented in the form of asset, amounts to or is likely to amount to Rs. 50 lakhs or more. Notice can be issued beyond a period of 3 years but not beyond the period of 10 years from the end of the relevant assessment year.

To compute the period of limitation for issuance of notice under new section 148, the time or extended time allowed to the assessee in providing an opportunity of being heard or period during which such proceedings before issuance of notice under section 148 are stayed by an order or injunction of any court, shall be excluded. If after excluding such period, time available to the Assessing Officer for passing an order, about the fitness of a case for the issue of notice under Section 148, is less than 7 days, the remaining time shall be extended to 7 days.

(e) Section 150: Assessment in pursuance of an order on appeal, etc

No amendment has been proposed;

(f) Section 151: Specified Authorities for authorising the issue of notice for re-assessment;

The notice under Section 148 shall be issued by the Assessing officer after obtaining the prior approval of the authority specified under Section 151. The specified Authority shall mean the authority specified below for sanction of issuance of notice.

Time Limit Specified Authority

- If 3 years or less than 3 years have elapsed from the end of the relevant assessment year

Principal Commissioner of Income-tax (PCIT) or Principal Director of Income-tax (PDIT) or Commissioner of Income-tax (CIT) or Director of Income-tax (DIT)

-If more than 3 years have elapsed from the end of the relevant assessment year PCIT or PDIT, or where there is no PCIT or PDIT, CCIT or DGIT

(g) Section 151A: Faceless assessment of income escaping assessment;

All of the following procedures shall be conducted in a faceless manner:

(a) Assessment, reassessment or re-computation under Section 147;

(b) Issuance of notice under Section 148;

(c) Conducting of enquiries or issuance of show-cause notice or passing of an order under section 148A;

(d) Sanction for issue of such notice under Section 151.

The Central Govt. will bring a scheme in this regard to carry out the re-assessment proceedings in a faceless manner.

(h) Section 153: Time limit for completion of assessment or re-assessment.

The reassessment under Section 147 must be completed within 12 months from the end of the financial year in which notice was served. This time limit shall be extended by 12 months if reference is made to the Transfer Pricing Officer.