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Analysing developments impacting business

PRIME MINISTER LAUNCHES FACELESS TAX ASSESSMENTS, APPEALS AND TAXPAYER'S CHARTER

18 August 2020

Introduction

Hon'ble Prime Minister (PM) Mr Narendra Modi launched a 'Transparent Taxation' platform on 13 August 2020 comprising faceless assessments, faceless appeals and a taxpayer's charter (Charter) enumerating responsibilities of the income-tax department towards taxpayers and also listing down duties of the taxpayers towards the income-tax department. The reforms are part of the Government's attempt to honour 'honest' taxpayers of the country and to make the tax system 'seamless, faceless and painless'. The Hon'ble PM, however, expressed that while there has been a decrease in complexity, tax rates, tax litigation and increase in transparency, compliance and trust; the number of taxpayers in the country is still very low in relation to the nation's population. While faceless assessments and the Charter are effective immediately, faceless appeals will be effective from 25 September 2020. In addition to this, the Central Board of Direct Taxes (CBDT) passed two separate orders on 13 August 2020 to introduce some additional measures.

Announcements

- Charter: Section 119A of the Income-tax Act, 1961 (IT Act) empowers the CBDT to adopt and declare a Charter and issue such orders, instructions or directions or guidelines to other income-tax authorities, as it may deem fit for the administration of the Charter. In furtherance of such powers, the Charter has been released on 13 August 2020. The Charter provides responsibilities of the income-tax department towards taxpayers and also lists duties of the taxpayers towards the income-tax department. Please see below an image of the Charter released by the CBDT:



TAXPAYERS' CHARTER

THE INCOME TAX DEPARTMENT

is committed to

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| <ol style="list-style-type: none"> 1. provide fair, courteous, and reasonable treatment
The Department shall provide prompt, courteous, and professional assistance in all dealings with the taxpayer. 2. treat taxpayer as honest
The Department shall treat every taxpayer as honest unless there is a 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 decisions
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 the law. 7. respect privacy of taxpayer
The Department will follow due process of law and be no more intrusive than necessary in any inquiry, examination, or enforcement action. | <ol style="list-style-type: none"> 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 issues 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. |
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and expects taxpayers to

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| <ol style="list-style-type: none"> 1. be honest and compliant
Taxpayer is expected to honestly disclose full information and fulfil his compliance obligations. 2. be informed
Taxpayer is expected to be aware of his compliance obligations 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. | <ol style="list-style-type: none"> 4. know what the representative does on his behalf
Taxpayer is expected to know what information and submissions are made by his authorised representative. 5. respond in time
Taxpayer is expected to make submissions as per tax law in timely manner. 6. pay in time
Taxpayer is expected to pay amount due as per law in a timely manner. |
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Taxpayers can approach the Taxpayers' Charter Cell under Principal Chief Commissioner of Income tax in each Zone for compliance to this charter. For more information, visit <http://incometaxindia.gov.in>

- **Faceless Assessments:** All income-tax assessments will now be carried as per the Faceless Assessment Scheme, 2019 which was introduced by the Government earlier (please see our [ERGO](#) dated 26 September 2019 in this regard) with the following exceptions:
 - assessment orders in cases assigned to central charges (ie assessment orders pursuant to search cases); and
 - assessment orders in cases assigned to international tax charges.
- **Powers under Survey:** Till now, powers to conduct surveys were, *inter alia*, available to tax officers, tax recovery officers, income tax inspectors. However, from now onwards, only officers posted in Directorates of Investigation (investigation wing of the tax department) and TDS Commissioners shall have the power to conduct surveys under the IT Act. Further, the competent authority for approval of such survey action will be

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the Director General of Income Tax (Investigation) for Investigation wing and Principal Chief Commissioner of Income Tax/Chief Commissioner of Income Tax (TDS) for TDS charges, as the case may be.

Comments

This is a welcome move by the Government especially considering its intent to eliminate human interface between taxpayers and tax officers and to bring greater transparency during tax administration. Simultaneously, certain amendments have also been introduced in the Faceless Assessment Scheme, 2019 in furtherance to the above amendments. Having said so, much would depend on how effectively it is implemented at the ground level, especially because though the Charter says that the income-tax department will treat every taxpayer as honest, there are certain provisions under the IT Act which cast a heavy burden of proof on the taxpayer.

While the Charter does not lay down any material new rights for taxpayers, taxpayers will want to take recourse to their rights mentioned in the Charter in future income-tax proceedings. It would have been much better if the Charter would have also mentioned that the Government will not introduce retrospective legislation in the future.

It is worthwhile to note that under physical tax assessment, a taxpayer has a chance to explain to the satisfaction of the tax officer its business activities and how the business is being conducted. This eventually plays a very important role while framing tax assessment orders. Going forward, it will be interesting to follow how this will be carried out under the faceless assessment regime. Thus, it would be important to note that written submissions that are going to be filed under the faceless assessment regime must contain detailed explanations to tax officers' queries and be filed with utmost care.

Lastly, the Hon'ble Finance Minister in her Budget speech for financial year 2020-21 stated that one of the objectives of introducing the Charter was clear enumeration of a taxpayers' rights. Given the fact that Charter has not been expressly defined in the statute and the Charter itself makes no mention of the word 'rights', it will be interesting to see how much importance/weightage is accorded to the Charter in a judicial forum and whether the commitments given in the Charter have the force of a 'statutory right' vested on taxpayers.

- Sanjay Sanghvi (Partner), Raghav Kumar Bajaj (Principal Associate) and Ujjval Gangwal (Associate)

For any queries please contact: editors@khaitanco.com

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Mumbai

One Indiabulls Centre, 13th Floor
Tower 1 841, Senapati Bapat Marg
Mumbai 400 013, India

T: +91 22 6636 5000
E: mumbai@khaitanco.com

New Delhi

Ashoka Estate, 12th Floor
24 Barakhamba Road
New Delhi 110 001, India

T: +91 11 4151 5454
E: delhi@khaitanco.com

Bengaluru

Simal, 2nd Floor
7/1, Ulsoor Road
Bengaluru 560 042, India

T: +91 80 4339 7000
E: bengaluru@khaitanco.com

Kolkata

Emerald House
1 B Old Post Office Street
Kolkata 700 001, India

T: +91 33 2248 7000
E: kolkata@khaitanco.com