

For Departmental Use Only

F. No. Pr. CCIT/NeAC/SOP/2020-21

Government of India
Ministry of Finance
Central Board of Direct Taxes
National e-Assessment Centre
New Delhi

Dated:19/11/2020

Subject: SOP for functioning of Technical Unit (TU) under the Faceless Assessment Scheme, 2019.

The Principal Chief Commissioner of Income Tax, National e-Assessment Centre, with the prior approval of the Central Board of Direct Taxes, New Delhi, lays down the following SOP on the above subject:

As per Faceless Assessment Scheme, 2019, the AU can seek advice/assistance of TU on any legal, accounting, forensic, information technology, valuation, audit, transfer pricing, data analytics, management or any other technical matter. The AU shall make reference for advice in the prescribed templates for each of the specific heads. In case the VU requires any advice or assistance on any such heads, the request shall be routed through the AU.

A: Handling of case received for Technical Assistance on legal matters.

- 1 On receipt of request for technical advice on legal matters, the TU shall examine the proposal which shall have brief background of the issue in dispute, specific question(s) on which advice is sought, and brief contentions of the assessee. The TU can view the all the case records through status monitor and tender its advice considering all the facts and legal issues involved. Template of reference by AU to TU is attached as Annexure-A.
- 2 In case the TU needs any clarification on the reference received, it should seek clarification from the AU within 5 days of receipt of reference. The format for seeking the clarification from AU is attached as Annexure-B.
- 3 The TU shall employ and take assistance of all the resources available like NJRS, Knowledge Management Portal, private software and other available resources. The AOs of the TU are expected to regularly monitor the legal developments and keep themselves updated on major prevalent legal disputes.
- 4 Opinion of legal experts outside the department can also be sought in appropriate cases with the approval of Pr.CIT (TU).

- 5 The High Court or ITAT having jurisdiction over the location of the assessee shall be taken as Jurisdictional High Court, ITAT in respect of legal precedents.
- 6 The AO of the TU is expected to advise on legal points taking into account facts of the case referred. There are several instances where the facts of cases referred by the assessee differ substantially from the facts of the present case. In some cases, even the decision referred by assessee is found to be supportive of revenue if facts of the case are minutely analysed.
- 7 The report of the TU should be concise, speaking and self-contained. The questions posed by the AU should be replied to specifically and supporting legal decisions/material may also be made available to the AU.
- 8 It must be ensured that consistency is maintained in respect of a particular issue while rendering legal advice.
- 9 Technical Advice should generally be disposed of on First-In First-Out basis.
- 10 The advice may be sent to the AU ideally within 15 days of its receipt and the time may be curtailed close to the time barring date of assessment.

11. Comprehensive Legal Knowledge Repository

- a. A comprehensive Legal Knowledge Repository (developed on Insight Knowledge Hub) will be used for knowledge management and capacity building of the technical units. The Legal Knowledge Repository will consist of following components:
 - i. Legal Issue Dictionary (i-wiki and i-forum)
 - ii. Legal Issue Checklist (i-wiki and i-forum)
 - iii. Published Legal Opinion Reports (i-Library)
 - iv. Published articles on legal issues (i-Library)
 - v. Legal Discussion Forums (i-Forum)
 - vi. Legal Queries (i-Query)
- b. The technical units are expected to provide inputs to the legal knowledge repository on a regular basis. All legal opinion reports should be appropriately tagged in the legal knowledge repository. Tagging of report on similar legal issues will help in adopting uniformity of approach on similar legal issues.
- c. Since the Legal Issue dictionary and Legal Issue checklist will be referenced by the units while framing the reference, regular updation of these documents is very important. While preparing the legal opinion report, if the technical unit finds a new legal issue or requirement, suggestions on updation of legal issue dictionary and Legal Issue checklist should be submitted on the forum hosted for this purpose.

B : Handling of references received in Technical Unit for assistance in TP Matters.

Section 92CA mandates that in case of assessee having international transaction with associate enterprise or specified domestic transaction, the AO may in appropriate cases make reference to the TPO to determine arm's length price of such transactions. Total income of the assessee shall be computed having regard to and in conformity of arm's length price so determined by the TPO.

As per FAS, the TU has to advice/assist the AU in transfer pricing related matters. As such the AU shall have to approach the TU for obtaining the order of the TPO.

The role of TU in such matter would not only be to assist in obtaining the order of the TPO u/s 92CA(3), but to coordinate with TPOs to evolve the best practices for smooth flow of work and maintain a qualitative data base of decisions of the TPO so that the data can be used for quality enhancement.

1. On receipt of request for reference to TPO, the TU shall examine whether the request is accompanied by the 3CEB filed by the assessee and the approval of PCIT (AU) as per the prescribed template attached as Annexure-A
2. If the reference is on account of international transaction(s) with Associated Enterprise or specified domestic transaction not disclosed by assessee in the 3CEB and noticed during the proceedings then the request should include the report from AU and the documentary evidence of such transactions identified by the AO.
3. In case the TU needs any clarification on the reference received, it should seek clarification from the AU within 5 days of receipt of reference.
4. The TU shall forward the reference to the designated TPO within 7 days of receipt of request from AU.
5. TU and TPO may also obtain TP reports and CbCR data from Insight for the purpose of determination of Arm's Length Price.
6. The order u/s 92CA(3) of the Act received from the designated TPO by the TU shall be forwarded to the concerned AU within 3 days of receipt of the same.
7. The TU may maintain a database of the orders received from TPO in the format to be designed by the Pr.CIT(TU) with the approval of Pr.CCIT (NeAC). The format may include Industry Segment, details of nature of referred transaction, variation proposed or not , method for determination of arm 'length price used by the assessee, method of deter-

mination of arm's length price used by TPO, whether consistency in similar transaction maintained by the same TPO or TPOs of different stations.

C: Handling of references received in Technical Unit for assistance in audit u/s142(2A) of the Act.

As per section 142(2A), the AO may with the previous approval of the CIT/PCIT/CCIT/PCCIT direct the assessee to get its account audited by an Accountant nominated by CIT/PCIT/CCIT/PCCIT if in his opinion, it is necessary having regard to nature and complexity of the accounts, volume of the accounts, doubts about correctness of the accounts, multiplicity of transaction in the accounts or specialised nature of business activity of the assessee and the interest of revenue.

Under the FAS, the TU is mandated to provide assistance/advice to the AU in getting the accounts audited u/s142(2A) of the Act. The SOP for providing such advice is given below:-

- 1 On receipt of request to get the accounts audited by an Accountant, the TU shall examine whether the request is accompanied by the copy of approval of PCIT(AU), terms of reference for Audit u/s 142(2A) and proposal of the AO seeking the approval of Pr.CIT(AU). Prescribed template is enclosed as Annexure- A
- 2 Nomination of the Auditor shall be done centrally by Pr.CCIT(NeAC). Proposal for nomination of an auditor for a case shall be submitted by Pr.CIT(TU) in consultation with Pr.CIT(AU).
- 3 In case the TU needs any clarification on the reference received, it should seek clarification from the AU within 5 days of receipt of reference.
- 4 The TU shall forward the reference to the nominated Auditor within 7 days of receipt of request from AU.
- 5 Any legal matter like writ petition arising from such reference for Audit shall be handled by the allocated TU under the guidance of Pr.CIT(TU). It will defend the legal matter in the concerned courts by coordinating with concerned counsel and inputs of the AU which shall be pre-approved by Pr.CIT(AU).
- 6 Matters relating to section 142(2D) of the Act shall be handled by the PCIT(TU) in consultation with PCIT(AU).
- 7 The report of the Auditor u/s 142(2A) received by the TU shall be forwarded to the concerned AU within 3 days of receipt of the same.

- 8 The PCIT(TU) shall maintain a list of approved special auditors country wise and collect and record feedback on performance of such auditor for the purpose of allocation of audit.

D: Handling of references received in Technical Unit for assistance in Valuation of asset, property or investment etc.

Income tax Act provides for reference for valuation under various provisions of the Act, some of those that are relevant to assessment proceeding are:-

Section 50C: AO may refer valuation of capital asset to a DVO, if assessee claims that FMV is less than Stamp Duty Valuation and such valuation is not disputed before the stamp authorities.

Section 55A: To ascertain FMV of capital asset, AO may refer valuation to DVO if AO is of opinion that it is necessary having regard to nature of asset and other relevant circumstances.

Section 56(2)(x): AO may refer valuation of immovable property received by taxpayer to DVO, if Stamp duty valuation > actual consideration by INR 50,000 or 5% of the consideration and such SDV is not disputed before the stamp authorities.

Section 142(2A): For purpose of assessment/ re-assessment, AO may make reference to DVO to estimate value (including FMV), of any asset, property or investment whether or not he is satisfied about correctness or completeness of accounts of assessee.

- 1 On receipt of request to get the valuation of any asset, property and investment, the TU shall examine whether the request is accompanied by the prescribed format duly filled along with complete description of the property, location thereof and details of section under which valuation is requested. Template is enclosed as Annexure- A
- 2 In case the TU needs any clarification on the reference received, it should seek clarification from the AU within 5 days of receipt of reference.
- 3 The TU shall forward the reference to the designated Valuation Officer/ Valuer within 7 days of receipt of request from AU.
- 4 Any clarification sought by the DVO shall be immediately forwarded for clarification of AU, if required.
- 5 During the course of the proceedings, any technical objection is raised by the assessee on the report of the DVO, the TU shall forward such request to DVO for rebut-

tal/clarification within 3 days on receipt of such request from AU. The TU shall follow up with DVO periodically so that the report is received in reasonable time and thereby allowing the AU to confront the assessee with adverse report.

- 6 Matters relating to payment to Valuers shall be handled by PCIT(TU).
- 7 The report of the Valuation Officer/Valuer received by the TUs shall be forwarded to the concerned AU within 3 days of receipt of the same.
- 8 Database of DVO shall be maintained in the office of PCIT(TU) and the same shall be updated from time to time.

E: Handling of case received for assistance in respect of information to be called from Foreign Jurisdictions.

Section 90(1) (c) of the Act and applicable DTAA/TIEA with foreign jurisdictions provide for exchange of information for investigation or detecting evasion or avoidance of tax. The AU and VU may seek information from foreign jurisdiction during the course of assessment proceedings in suitable cases, through the competent Authority, i.e Joint Secretary, F&TR, CBDT in the format prescribed by the Board.

As per FAS, the TU shall assist the AU in requisition and collection of information from FT&TR. Request of VU shall be routed through the AU and the AU shall seek the assistance from TU.

- 1 On receipt of the request to seek information from any foreign Jurisdiction, the TU shall examine whether the request is accompanied by the prescribed format duly filled and signed by PCIT (AU). Whether the request for information is from a foreign jurisdiction, with whom India has a DTAA or TIEA. The format of making reference to TU is enclosed as Annexure- A
- 2 The TU shall forward the reference to the concerned JS, FT&TR within 7 days of receipt of request from AU in the prescribed format.
- 3 In case the TU needs any clarification on the reference received, it should seek clarification from the AU within 5 days of receipt of reference.
- 4 Any request for clarification from foreign jurisdiction shall be forwarded to the TU by NeAC. TU shall submit the clarification within 7 days. In case, TU requires information from AU/VU, in order to submit the clarification, then information in such cases shall be submitted within 3 days of receipt thereof from AU/VU.
- 5 The information from FT&TR through NeAC shall be forwarded to the TU, which shall in turn be forwarded to the concerned AU within 3 days of receipt of the same.

F: Handling of case received for assistance in analysis of accounts.

The SOP shall be shared when procedure for analysis of accounts is in place.

G: Handling of case received for assistance in accounts, forensics, Information & technology, data analytics, management or any other technical matter.

The SOP shall be shared when procedure for processes is in place.

H: Technical Knowledge Repository

1. A comprehensive Technical Knowledge Repository (developed on Insight Knowledge Hub) will be used for knowledge management and capacity building of the technical units. The Technical Knowledge Repository will consist of following components:
 - i. Technical Issue Dictionary (i-wiki and i-forum)
 - ii. Technical Issue Checklist (i-wiki and i-forum)
 - iii. Published Technical Reports (i-Library)
 - iv. Published articles on Technical issues (i-Library)
 - v. Technical Discussion Forums (i-Forum)
 - vi. Technical Queries (i-Query)
2. The technical units are expected to provide inputs to the Technical Knowledge Repository on a regular basis. Important technical reports should be appropriately tagged in the knowledge repository.
3. The technical units are expected to provide suggestions on updation of Technical Issue dictionary and Technical Issue checklist on the forum hosted for this purpose

Each reference from the TU shall be uniquely identifiable and it shall be recorded in ITBA for extension of time limit for completion of assessment, wherever applicable.



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
National e-Assessment Centre
Delhi

NeAC LOGO

To,
The Technical Unit

PAN: XXXXXXXXXX	Name of the as- sesseee : XXXXX XXXXX XXXX	Assessment Year: XXXX-XX	Date: XX/XX/XXXX
--------------------	---	--------------------------------	---------------------

Sub : Reference for assistance/advice on legal issue

Madam/Sir,

Kindly refer to the above subject. Your assistance/advice is be-
ing 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	<Free text>
3	Contention of assessee (<i>Reply of assessee on the issue may be attached</i>)	<Free text & attachment options>
4	Points on which legal advice is sought (Questions may be framed)	<Free text>
5	Remarks (Any other information)	<Free text>

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

Yours faithfully,

Additional/Joint/Deputy/Assistant Commissioner of Income-tax
National e-Assessment Centre, Delhi



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
National e-Assessment Centre
Delhi

NeAC LOGO

To,
The Technical Unit

PAN: XXXXXXXXXX	Name of the as- sesseee : XXXXX XXXXX XXXX	Assessment Year: XXXX-XX	Date: XX/XX/XXXX
--------------------	---	--------------------------------	---------------------

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)	(To be attached)
2	Whether any transaction with Associate Enterprise found not disclosed, if yes description thereof alongwith supporting documents	(Description alongwith attachment of supporting documents)
3	Date of approval of PCIT AU	<To be automatically filled by ITBA workflow>
4	Remarks (Any other information)	<Free Text>

<The limitation date in the case may automatically be extended when the reference is forwarded from TU to TPO>

Yours faithfully,

Additional/Joint/Deputy/Assistant Commissioner of Income-tax
National e-Assessment Centre, Delhi



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
National e-Assessment Centre
Delhi

NeAC LOGO

To,
The Technical Unit

PAN: XXXXXXXXXX	Name of the as- sessees : XXXXX XXXXX XXXX	Assessment Year: XXXX-XX	Date: XX/XX/XXXX
--------------------	---	--------------------------------	---------------------

Sub : Reference for assistance for Audit u/s 142(2A) of the Act

Madam/Sir,

Kindly refer to the above subject. Your assistance is being sought for audit u/s 142(2A) of the Act in the above case.

2. Description:

1	Copy of proposal of AU submitted to PCIT AU for obtaining previous approval	(To be attached)
2	Date of approval of PCIT AU along with copy of approval	<Date> , (Documents to be attached)
3	Terms of reference for Audit u/s 142(2A)	<Free Text>
4	Remarks (Any other information)	<Free Text>

<The limitation date in the case may automatically be extended from the date when TU directs the assessee to get accounts audited under section 142(2A) >

Yours faithfully,

Additional/Joint/Deputy/Assistant Commissioner of Income-tax
National e-Assessment Centre, Delhi



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
National e-Assessment Centre
Delhi

NeAC LOGO

To,
The Technical Unit

PAN: XXXXXXXXXX	Name of the as- sesse : XXXXX XXXXX XXXX	Assessment Year: XXXX-XX	Date: XX/XX/XXXX
--------------------	---	--------------------------------	---------------------

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>

therein :-

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>

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

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

Yours faithfully,

Additional/Joint/Deputy/Assistant Commissioner of Income-tax
National e-Assessment Centre, Delhi

Format for seeking clarification from AU

1. Clarification in respect of question number – XXX

2. Description of clarification sought -

3. Brief reasons for seeking clarification -

4. Whether clarification is on facts or on application of any particular case law –

5. Any other remarks -
