

JANUARY
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NEWSLETTER

TAX

- Income Tax
- Goods and Services Tax



Lovi Mehrotra & Associates

Chartered Accountants

**21-22 IInd Floor Krishna Nagar Safdarjung Enclave
New Delhi 110029**

Website : www.lma.co.in • Email : a.kaushik@lma.co.in

INCOME TAX

1. Faceless Penalty Scheme, 2021

CBDT

Notification No. 2 & 3/2020 dated 12.01.2021

CBDT has recently notified and implemented Faceless Penalty Scheme, 2021 (FPS) for conducting penalty proceedings in a faceless manner under the Income Tax Laws. FPS is in line with existing scheme for conducting faceless assessment and appeal proceedings. FPS involves a stepwise process to conduct penalty proceedings by harnessing the use of technology for communication between taxpayers and the tax authorities and a team-based penalty process in lieu of the existing manual interface.

CBDT has directed that units established under Faceless Assessment Scheme, 2019 shall perform the functions of various units as required under the recently introduced Faceless Penalty Scheme, 2021 until the requisite units are formally formed in FPS. It also defines the scope of FPS to include all ongoing, as well as future, penalty proceedings under the Income Tax Laws, except for three cases (i.e., cases where penalty proceedings are assigned to central charges or international tax charges or arising in TDS).

The Key Features/Highlights of the Faceless Penalty Scheme 2021 are highlighted in [Annexure-1](#)

[Notification No.2](#) & [Notification No.3](#)

2. Amount of remuneration prescribed under section 9A(3)(m) of the Income-tax Act, 1961

CBDT

Circular No.1/2020 dated 15.01.2021

CBDT has clarified that the lower remuneration paid to eligible fund managers of an eligible offshore fund for Financial Year 2020-21 requires no approval. The requirement of obtaining approval in such cases is applicable from Financial Year **2021-22**.

CBDT has further clarified that for FY 2019-20 and FY 2020-21 in cases where the remuneration paid to the eligible fund manager is lower than the amount of remuneration prescribed under sub-rule (12) of Rule 10V of the Income Tax Rules, but is at arm's length, it shall be a sufficient compliance to clause (m) of sub-section (3) of section 9A of the Act & be filed not later than **February 15, 2021**.

[Circular No.1](#)

GOODS AND SERVICES TAX

1. Amendment (2021) to CGST Rules, 2017

CBIC Notification No.
01/2020 of Central Tax – dated 01.01.2021

CBIC has added a new **sub-rule 6** to **Rule 59** of the CGST Rules, 2017, restricting or blocking the furnishing of GSTR-1 as follows:

1. **Monthly GSTR-1:** A registered person cannot file GSTR-1 if **GSTR-3B** is not furnished for **preceding two months**.
2. **Quarterly GSTR-1:** If **GSTR-3B** is not furnished for the preceding tax period, neither the Invoice Furnishing Facility (IFF) will be available, nor the **GSTR-1** can be filed.
3. Where more than **99%** of tax liability is discharged through electronic credit ledger under Rule 86B and GSTR-3B for preceding tax period is not furnished, the taxpayer **cannot use the IFF or file GSTR-1**.

[Notification No.1](#)

FACELESS PENALTY SCHEME, 2021

The Key Features/Highlights of the Faceless Penalty Scheme 2021

1. Faceless Penalty Centers

CBDT shall set up a National Faceless Penalty Centre & Regional Faceless Penalty Centers to facilitate the conduct of faceless penalty proceedings and vest it with the jurisdiction to impose penalty in accordance with the provisions of this Scheme.

2. Setting up of Penalty Units

Penalty units shall be set up by the CBDT to perform the function of drafting penalty orders, which includes identification of points or issues for imposition of penalty under the Income Tax Act, 1961 seeking information or clarification on points or issues so identified, providing opportunity of being heard to the assessee or any other person, analysis of the material furnished by the assessee or any other person, and such other functions as may be required, for the purposes of imposing penalty.

3. Penalty review units

Penalty review units shall be setup to perform the functions of review of draft penalty order, which includes checking whether the relevant material evidence has been brought on record, whether the relevant points of fact and law have been duly incorporated in the draft order, whether the issues on which penalty is to be imposed have been discussed in the draft order, whether the applicable judicial decisions have been considered and dealt with in the draft order, checking arithmetical correctness of computation of penalty, if any, and such other functions as may be required for the purposes of review.

All communication among the penalty units and penalty review unit or with the assessee or any other person, as the case may be, or any income-tax authority or the National Faceless Assessment Centre, with respect to the information or documents or evidence or any other details as may be necessary for the purposes of imposing penalty under this Scheme, shall be through the National Faceless Penalty Centre.

4. Exchange of communication exclusively by electronic mode

All communication between the National Faceless Penalty Centre and the assessee or any other person, as the case may be, or his authorised representative, shall be exchanged exclusively by electronic mode; and all internal communications between the National Faceless Penalty Centre, National Faceless Assessment Centre, Regional Faceless Penalty Centers, any income-tax authority, the penalty unit or the penalty review unit shall be exchanged exclusively by electronic mode.

5. Authentication / Delivery of electronic record

An electronic record shall be authenticated by digital signature if the assessee is required under the Rules to furnish his return of income under digital signature, and in any other case by affixing digital signature or under electronic verification code.

Every notice or order or any other electronic communication under this Scheme shall be delivered to the assessee by way of placing an authenticated copy in the registered account or to the registered email address or his authorised representative; or uploading an authenticated copy on the assessee's or any other person's Mobile App and followed by a real time alert.

6. No Personal Appearance

The assessee shall not be required to appear either personally or through authorised representative in connection with any proceedings under this Scheme before the income-tax authority at the National Faceless Penalty Centre or Regional Faceless Penalty Centre or Penalty Unit or Penalty Review unit set up under this Scheme. However, the assessee, his authorised representative, may request for personal hearing so as to make his oral submissions or present his case before the penalty unit under this Scheme.

Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month.
Instead, it is only a listing of some of the circulars/notifications that we considered important.



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