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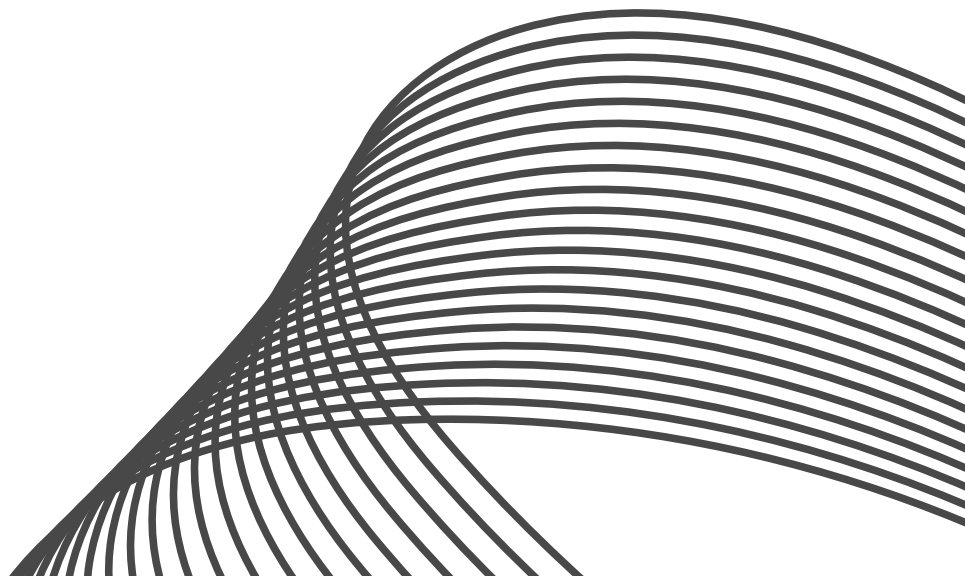
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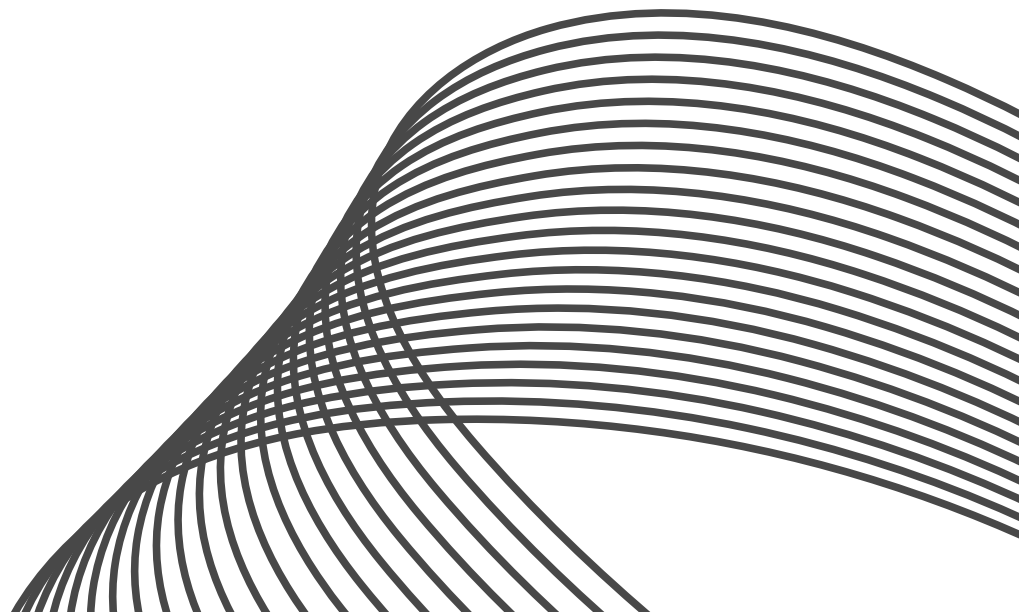


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INDIA'S REASSESSMENT REGIME: A COMPARATIVE ANALYSIS OF AMENDMENTS UNDER FINANCE BILL (2), 2024

~ Sagar Dutta & Simran Singh ¹

Abstract

The Finance Bill (2), 2024 has introduced significant amendments to the reassessment regime under Indian tax laws, primarily governed by Sections 147 to 151 of the Income-tax Act, 1961. The reassessment regime allows the Income Tax Department to reassess income that has escaped assessment in any previous assessment year. The process is crucial for ensuring compliance and transparency in the Indian taxation system. Implementing educational initiatives to educate taxpayers about their rights and obligations under the new laws will help them navigate the reassessment process better. Using streamlined procedures designed exclusively for small taxpayers can decrease compliance obligations while maintaining proper monitoring. Frequent assessments of the reassessment regime's efficacy and making required changes based on stakeholder feedback are critical. Future predictions may be made about how these revisions will impact tax procedures and litigation in the coming years. A clearer structure may create an environment where taxpayers are more willing to comply with tax regulations due to less fear of arbitrary assessments.

Keywords

Reassessment, Tax Compliance, Escaped Assessment, Under Assessment , Evaluation.

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INTRODUCTION: REASSESSMENT AS A TOOL TO CORRECT UNDER-ASSESSMENT AND ENSURE TAX COMPLIANCE

Taxation accuracy is required to ensure taxpayers accurately disclose their income and out-of-pocket costs. Taxpayer compliance is encouraged by the prospect of reassessment since it acts as a disincentive to engage in fraud or tax evasion. Reassessments can increase government revenue by locating underreported income or unclaimed deductions, ensuring that vital public services are paid for. Guaranteeing that each taxpayer makes their appropriate contribution helps preserve the tax system's fairness.²

Regarding Sections 147, 148, and 148A of the Indian Income Tax Act, 1961. Section 147, Income Escaping Assessment: This clause empowers the assessing officer to assess or reassess income if they feel income payable to tax has eluded assessment in any assessment year. If the officer believes income has eluded assessment, he or she may begin a reassessment within four years after the end of the relevant assessment year. If more than four years have passed, the officer may only do so if the taxpayer has failed to report completely and honestly all relevant facts.

Section 148: Notice Issuance-The assessing officer may notify a taxpayer to assess or evaluate income that has escaped assessment under this section. The taxpayer is entitled to reply to the notice, which must be served within the allotted time frame.

Section 148A: Requirements for Issuing Notice- This provision requires the assessing officer to investigate whether there are certain conditions to suspect that income has escaped assessment before issuing a notice under Section 148. Before the notification is sent, the officer must provide the taxpayer a chance to comment on the proposed action. This guarantees the reassessment process is fair and transparent.

² **History of Reassessment Provisions in India**-TaxmannTaxmann Publications has a dedicated in-house Research & Editorial Team. This team consists of a team of Chartered Accountants-
<https://www.taxmann.com/post/blog/history-of-reassessment-provisions-in-india>

The objective of the Finance Bill (2), 2024 was to improve fiscal management in India and tackle a range of economic issues. Economic growth is promoted by tax breaks for companies and investments, especially in the technology and infrastructure industries. Enhancing compliance systems to increase tax revenue, lower tax evasion, and guarantee equitable participation from all industries. Fiscal responsibility which is the process of keeping government expenditure in check with revenue forecasts in order to promote macroeconomic stability.³ Allocating funds for programs that serve marginalized communities with an emphasis on job creation, education, and health. Sustainability is the promotion of ecologically friendly policies and green technology through incentives. Adapting tax laws to include e-commerce and digital transactions in order to address the expanding digital economy.⁴

Claims of the government as reasons for amending the reassessment provisions.⁵

- I. Enhancing Clarity: To ensure that taxpayers are aware of their rights and responsibilities and to provide better recommendations on reassessment procedures in order to reduce misunderstanding.
- II. Improving Fairness: To ensure that reassessments are conducted in a more equal manner, protecting taxpayers from capricious acts and encouraging process openness.
- III. Taking Care of Abuse Concerns: To stop the reassessment provisions from being abused, especially when taxpayers have fully revealed important facts.
- IV. Simplifying Processes: By creating more effective deadlines and protocols, we can speed up the reassessment process and lower litigation.

³ Implication of Finance (No. 2) Bill 2024 on charitable trusts and institutions; <https://capindia.in/implication-of-finance-no-2-bill-2024-on-charitable-trusts-and-institutions/#:~:text=The%20Introduction%20to%20the%20Bill,and%20rationalization%20of%20various%20provisions>.

⁴ President Murmu gives assent to latest Finance Bill 2024- Srivats <https://www.thehindubusinessline.com/economy/president-murmu-gives-assent-to-latest-finance-bill-2024/article68533776.ece#:~:text=With%20this%20move%2C%20the%20Finance,fledged%20budget%20for%202024%2D25>.

⁵ MEMORANDUM EXPLAINING THE PROVISIONS IN THE ...The division also handles coordination, compilation and printing of the Detailed Demands for Grants and the Outcome Budget- <https://www.indiabudget.gov.in/doc/memo.pdf>

- V. Encouraging Tax Compliance: To promote voluntary compliance by offering a more equitable and predictable framework for determining whether income may have evaded taxes.
- VI. Aligning with Judicial Pronouncements: In order to maintain the rule of law and ensure uniformity in its execution, it is necessary to align statutory provisions with current judicial interpretations.

Reference to fiscal policy goals like improving tax enforcement and reducing litigation.

The measure includes elements designed to improve the foundation for compliance, making sure that taxpayers properly follow tax laws. detecting possible tax evasion by utilizing technology and data analytics, enabling focused enforcement operations.⁶ The measure aims to reduce disagreements between tax authorities and taxpayers by establishing more precise guidelines and protocols for reassessments establishing or improving tools for alternative dispute resolution to resolve disputes faster by resolving them outside of the court system. Incentives for taxpayers to voluntarily declare income may be included in the plan, which would lessen the need for harsh enforcement measures. Reassessment provisions have been adjusted to comply with recent court decisions in an effort to maintain a fair and predictable framework for the tax administration.⁷

HISTORICAL BACKGROUND OF THE REASSESSMENT REGIME

The provisions of Indian tax law have vested powers with the Income Tax

Department to reopen and reassess liability in cases where they are of the view that income has escaped assessment.⁸ Thus, the system checks correctness in compliance with taxation while embedding checks and balances against arbitrary powers being assumed by the tax administrations

⁶ Tax Compliance and Enforcement-Founded in 1920, the NBER is a private, non-profit, non-partisan organization dedicated to conducting economic research and to disseminating research findings among academics, public policy makers, and business professionals.- https://www.nber.org/system/files/working_papers/w24799/w24799.pdf

⁷ Fiscal Policy: Taking and Giving Away-MARK HORTON is the Assistant Director & ASMAA EL-GANAINY is an Economist in the IMF's Fiscal Affairs Department.- <https://www.imf.org/en/Publications/fandd/issues/Series/Back-to-Basics/Fiscal-Policy>

⁸ History of Reassessment Provisions in India-TaxmannTaxmann Publications has a dedicated in-house Research & Editorial Team. This team consists of a team of Chartered Accountants- <https://www.taxmann.com/post/blog/history-of-reassessment-provisions-in-india?amp>

Reassessment Provisions Before Finance Act, 2021

Before the Finance Act, 2021, the reassessment provisions under the Income Tax Act, 1961 in India were primarily governed by Section 147 to Section 153 which referred that if the Assessing Officer (AO) had cause to suspect that income had eluded assessment, they could begin a reassessment. Four years after the assessment year ends, this might happen. Prior to beginning the reassessment, the AO was obligated by Section 148 to send out a notice.⁹The notification has to include a justification for reopening the evaluation. In general, assessments could be reopened by the AO in four years. This term was extended to six years if the revenue that escaped assessment exceeded INR one lakh. Prior approval from a higher authority was required for assessments that went beyond the four-year period. The concerns that were found to have escaped assessment were the only ones included in the scope. Reassessment could not address new issues.¹⁰Taxpayers had the chance to address the notice and make their case. By balancing taxpayer rights, these measures attempted to ensure that legitimate cases of tax evasion could be addressed. Significant modifications were made by the Finance Act of 2021, which tightened the reassessment procedure, constrained its duration, and improved its taxpayer friendliness.¹¹

Earlier framework of reassessment (Section 147, Section 148, and time limits).

Section 147 gave powers to the tax department for reopening an assessment in case "reason to believe" existed that income had escaped assessment. Though this section thus provided the genesis for reassessment, it was observed that such reopening should be done when the tax officer has material or tangible evidence before reopening a case. Section 148 supplementing this says

⁹ A comparative analysis of the old reassessment regime vis-à-vis the new reassessment regime " AIFTP

<https://aiftponline.org/uncategorized/a-comparative-analysis-of-the-old-reassessment-regime-vis-a-vis-the-new-reassessment-regime/>

¹⁰ New Reassessment Regime – Is 'Change of Opinion' Still a Valid Defence?

<https://www.azbpartners.com/bank/new-reassessment-regime-is-change-of-opinion-still-a-valid-defence/>

¹¹

Home
https://www.taxmanagementindia.com/visitor/tmi_faq_details.asp?ID=1227#:~:text=The%20Finance%20Act%2C%202021%20amended,section%20148A%20in%20the%20Act.

that before reassessment proceedings can start, notice has to be issued to the taxpayer. The notice must set forth the reasons for reopening and thereby give the taxpayer an opportunity to respond.¹²

Importance of “reason to believe” in reopening an assessment.

The word "reason to believe" is an important safeguard that reassessments would not be arbitrary and based merely on a change of opinion. This is so that such a decision by the tax officer rests on some evidence or fresh information showing that income had, in fact, escaped assessment, rather than revisiting the same facts with a different interpretation.

- In CIT v. Kelvinator of India Ltd. (2010):

The Supreme Court ruled that reassessment cannot be solely based on a change of view by the assessing officer. Income that has not been assessed must be reflected in tangible material. This judgment further laid concrete evidence as the requirement and not a mere change of view for reassessment.¹³

- In GKN Driveshafts (India) Ltd. v. ITO (2002):

This judgment held that once a reassessment notice was issued, a taxpayer had the right to request and be provided with reasons for the reopening, and those reasons must be granted an opportunity for objection. This case ensured that reassessment proceedings would not deviate from procedural fairness.

- In CIT v. Foramer France 2003:

The Supreme Court, in its judgment, held that reopening of an assessment after four years could only be made if the taxpayer had not genuinely disclosed all the particulars. This protected the taxpayers from reassessment if they were found to be transparent in their original filings.¹⁴

¹² Commissioner Of Income-Tax, ... vs Kelvinator Of India Ltd.-Take notes as you read a judgment using our Virtual Legal Assistant and get email alerts whenever a new judgment matches your query (Query Alert Service). - <https://indiankanoon.org/doc/1648750>

¹³ CIT vs. Kelvinator of India (Supreme Court) – [itatonline.org](https://itatonline.org/archives/cit-vs-kelvinator-of-india-supreme-court-ao-deemed-to-have-applied-his-mind-if-facts-are-on-record-and-reopening-us-147-on-change-of-opinion-is-not-permissible-even-within-4-years/)- Though the power to reopen under the amended s. 147 is much wider, one needs to give a schematic interpretation to the words “reason to believe” failing which s. 147 would give arbitrar- <https://itatonline.org/archives/cit-vs-kelvinator-of-india-supreme-court-ao-deemed-to-have-applied-his-mind-if-facts-are-on-record-and-reopening-us-147-on-change-of-opinion-is-not-permissible-even-within-4-years/>

¹⁴ Commissioner Of Income-Tax And Another v. Foramer France (Presently Known As Pride Foramer)

<https://www.casemine.com/judgement/in/5ac5e50f4a93261ae6b491c0/amp>

- In ITO v. Lakhmani Mewal Das (1976):

The Court explained thereby that "reason to believe" was required to be based upon particular and germane information and not upon vague suspicion. By this, it set a precedent for the validity of reassessment notices.

- Introduction of Section 148A: Procedure before issuing a reassessment notice.

It had a compulsory pre-notice inquiry-that is, before the issuance of the reassessment notice, the assessing officer would have to evaluate whether or not reopening would be valid, and the taxpayer would thus get an opportunity to state his case before any action was initiated, thereby improving procedural fairness

- The shift to a three-year time limit for reopening cases (with certain exceptions).

The Finance Act, 2021, therefore, made a big reform by reducing the general time limit to reopen the assessment from six years to three years so as to introduce more certainty and finality for the taxpayer by reducing prolonged uncertainty because of the reassessment possibility. However, this would not apply in a case where the tax officer forms an opinion that the income exceeding ₹50 lakh has escaped assessment. For instance, the period of reopening can be extended to ten years in such cases. The exception has been provided to ensure that the tax authorities address the substantial propositions of tax evasion with reasonable time for the taxpayers' purpose.¹⁵

- Enhanced procedural safeguards for taxpayers.

The Finance Act, 2021, provided for increased procedural safeguards for the protection of the rights of taxpayers in reassessment proceedings. The tax officer must conduct a preliminary inquiry prior to issuing a reassessment notice that involves securing relevant information and providing the taxpayer an opportunity to show cause as to why the assessment shall not be reopened. This would, to a large extent, check arbitrary reassessments. Moreover, reopening of the assessments require stating reasons for reopening the assessment by the tax officers and communicating such reasons to the taxpayer. That would enable the taxpayer to know on what basis he has been reassessed and enable him to respond appropriately. In cases of reopening beyond

¹⁵ Reasons to Believe is foundation stone of reassessment proceedings u/s 147/148- Amitkr

<https://taxguru.in/income-tax/reasons-foundation-stone-reassessment-proceedings-u-s-147-148.html>

three years in cases of substantial income, approval is to be obtained from a higher authority such as the Principal Chief Commissioner or the Principal Director General. This ensures further scrutiny so that reopening, if called for, may be done.¹⁶

OVERVIEW OF THE REASSESSMENT REGIME BEFORE FINANCE BILL (2), 2024

With the advent of the Finance Act, 2021, holistic transformation was affected upon the reassessment regime in Indian tax law. It rewrote the legal boundary within which the Income Tax Department could reopen the case and re-evaluate the income of the taxpayer.¹⁷ Thus, by the time the Finance Bill (2), 2024 was brought in, the reassessment regime had provided for a codified scheme that strove for a balance between the demand of tax compliance and safeguarding taxpayer rights.¹⁸

As already mentioned the sections regulating the reassessment at the relevant time before Finance Bill (2), 2024, were Sections 147, 148, 148A, and 149 of the Income Tax Act.¹⁹

- **Time Limits for Issuing Reassessment Notices**

Therefore, the revised framework of time limits under the Finance Act, 2021, is so important to ensure such reassessment work gets completed within a reasonable timeframe for certainty and closure for taxpayers.²⁰

- The framework of time limits (3 years, 10 years) as amended in the Finance Act, 2021.

¹⁶ Indian Kanoon - Search engine for Indian Law-Take notes as you read a judgment using our Virtual Legal Assistant and get email alerts whenever a new judgment matches your query (Query Alert Service). Try out our Premium Member services -- Free for one month

<https://indiankanoon.org/>

¹⁷ Finance Bill, 2024: Key Direct And Indirect Tax Amendments

<https://www.azbpartners.com/bank/finance-bill-2024-key-direct-and-indirect-tax-amendments/>

¹⁸ Key amendments to Finance (No.2) Bill 2024 at the enactment stage

https://www.ey.com/en_in/alerts-hub/2024/08/key-amendments-to-finance-no-2-bill-2024-at-the-enactment-stage

¹⁹ Critical Analysis of New Reassessment Provisions: Section 148, 148A and 149 taxguru_in & RajeshMehtaIndore-
<https://taxguru.in/income-tax/critical-analysis-reassessment-provisions-section-148-section-148a-section-149.html>

²⁰ interpretation of section 147 of the income tax act, 1961: judicial-Largest Indian database for Online Legal Research, Covers all Indian case laws from Supreme Court, All High Courts, All Tribunals, as well as courts around the world.-
[http://www.manupatra.com/roundup/334/Articles/Interpretation of Section 147 of the Income.pdf](http://www.manupatra.com/roundup/334/Articles/Interpretation%20of%20Section%20147%20of%20the%20Income.pdf)

Standard Time Limit (3 Years): The Finance Act, 2021, has shortened the period of limitation for reopening assessments in general from six years to three years.²¹ This was so that the reassessment process cannot get prolonged beyond a reasonable time, but only in cases that truly merit revisiting.²²

- Extended Limit (10 Years): In cases where the Assessing Officer is of the opinion that the income chargeable to tax that has escaped assessment exceeds ₹50 lakh, the reopening can be done up to ten years.²³
- Exceptional circumstances permitting reopening beyond 3 years (for cases involving significant income escaping assessment).

This exception enables the tax authorities to take care of big cases of evasion of taxes, yet keeping a reasonable period for the taxpayer. Only in rare cases where unreported incomes are huge is such an extension justified; hence, it will prevent the extended period of limitation from being used other than for which it was granted in the first instance.

Procedural Safeguards for Taxpayers, The Finance Act 2021 has given a fair and transparent character to reassessment with substantive safeguards in protecting the taxpayers from unjustified or arbitrary.

Reassessment, Pre-Issue Procedure: Section 148A provides that before the issue of notice under Section 148, AO has to conduct a preliminary inquiry. The said inquiry has to be with regard to garnering all information and giving an opportunity to the taxpayer to state his case. The response

²¹ Reasons to Believe is foundation stone of reassessment proceedings u/s 147/148-Amitkr-

<https://taxguru.in/income-tax/reasons-foundation-stone-reassessment-proceedings-u-s-147-148.html#:~:text=In%20the%20case%20of%20ITO,the%20formation%20of%20the%20belief>.

²² Recent Judicial Trends on Validity of Reassessment ...-(Posted on 12 May,2022) "HINDU UNDIVIDED FAMILY-A FRESH PERSPECTIVE WITH IMPORTANT CASE LAWS - CA HARSH RATHI" Read More... (Posted on 12 May,2022) "TURNOVER INRELATION TO GST ACT - ADV BHARAT SHETH" Read More... (Posted on 12 May,2022) "AUDACITIES OF IMPLIMENTATION OF REASSESSMENT PROCEDURE ...- <https://agftc.in/PDFs/ARTICLE-RECENT-JUDICIAL-TRENDS-ON-VALIDITY-OF-REASSESSMENT-PROCEEDINGS.pdf>

²³ Time limit for completion of assessment, reassessment and recomputation: Income-Tax Act, 1961: Bare Acts: Law Library-Advocatekhaj.com-
<https://www.advocatekhaj.com/library/bareacts/incometaxact1961/141.php?Title=Income-Tax+Act%2C+1961&STitle=Time+limit+for+completion+of+assessment%2C+reassessment+and+recomputation>

of the taxpayer has to be considered before taking further action so that reopening of assessments on whims are arrested.

Recording and Communicating Reasons: Tax officers are expected to clearly record the reasons for reopening an assessment and communicate these reasons to the taxpayer. This would enable the taxpayer to know on what grounds the reassessment was done and give their response accordingly, hence transparency.

Approval of Reopening in Older Cases: In cases where reopening has to be made beyond three years but where a large amount of unreported income is involved, approval from the tax officer needs to come from a higher authority such as the Principal Chief Commissioner or Principal Director General. This Further check ensures that reopening is called for and justifiable.²⁴

Pre-issue procedure (Section 148A): Conducting inquiries, granting the taxpayer an opportunity to respond.

Pre-Issue Procedure: Section 148A provides that before the issue of notice under Section 148, AO has to conduct a preliminary inquiry. The said inquiry has to be with regard to garnering all information and giving an opportunity to the taxpayer to state his case. The response of the taxpayer has to be considered before taking further action so that reopening of assessments on whims are arrested.²⁵

Judicial Interpretations of Reassessment Provisions

No doubt, the judicial interpretations have played an important role in shaping the reassessment regime. The courts have time and again emphasized the requirement of sufficient cause or "reason to believe" for reopening an assessment and insisted upon procedural fairness.²⁶

²⁴ Time limit for completion of assessment, reassessment and recomputation: Income-Tax Act, 1961: Bare Acts: Law Library-Advocatekhaj.com-
<https://www.advocatekhaj.com/library/bareacts/incometaxact1961/141.php?Title=Income-Tax+Act%2C+1961&STitle=Time+limit+for+completion+of+assessment%2C+reassessment+and+recomputation>

²⁵ Legal Solution for Assessment & Reassessment Notice U/S 148-Kumawat

<https://blog.saginofotech.com/legal-solution-assessment-reassessment-notice-section-148/amp>

²⁶ Trusted Online Tax information | Taxsutra-Taxsutra is a trusted online source of tax and policy-related news, analysis, and insights for professionals, featuring updates on GST, Transfer Pricing, Direct Tax, and more.

<https://www.taxsutra.com/sites/taxsutra.com/files/sections/Section 14.pdf>

Key Changes Introduced by Finance Bill (2), 2024

The Finance Bill (2), 2024 revises Section 147, requiring the Assessing Officer (AO) to have solid evidence of income evading assessment rather than just a belief. This improves accountability and reduces arbitrary assessments.²⁷

Revisions to Reopening Assessments: The AO now requires precise material establishing that income above ₹50 lakh has eluded assessment, particularly for instances beyond three years. The updated "reason to believe" standard focuses on factual information, restricting the AO's discretion and preventing subjective reassessments.²⁸

Changes to Section 148 (Notice of Reopening)-

Section 148 has been changed to ensure that notices are given only after a thorough investigation under Section 148A, which requires the AO to examine taxpayer answers before continuing²⁹.

Changes to Reassessment Notice Requirements-

The new reassessment notice standards contain precise forms and extensive content, assuring clarity about the reasons for reassessment and the taxpayer's duties. Alterations to Section 148A (Pre-Notice Procedures) Section 148A now compels the AO to undertake an inquiry and give the taxpayer the opportunity to be heard before issuing a notice under Section 147, increasing fairness.³⁰

Modifications to the Inquiry Process and Taxpayer Rights-

Taxpayers have express rights to be heard during the investigation process before any reassessment notification is issued, which ensures procedural fairness and openness. Revisions to Time Limits

²⁷ Section 147 of the Income Tax Act: Income Escaping Assessment-Sharma-<https://www.taxbuddy.com/blog/section-147-of-the-income-tax-act>

²⁸ An Introduction to Section 147 of the Income Tax Act, 1961- <https://www.adityabirlacapital.com/abc-of-money/section-147-of-the-income-tax-act>

²⁹ Section 147 to 153 Income Escaping Assessment (Reopening of Cases)-Barse-<https://taxguru.in/income-tax/section-147-153-income-escaping-assessment-reopening-cases.html>

³⁰ Section 147 of the Income-tax Act, 1961 (ITA) Demystified- <https://cleartax.in/s/section-147-of-the-income-tax-act>

for Reopening Cases (Section 149) Section 149 revisions create stiffer time constraints for revisiting cases, generally restricting reassessments to three years unless exceptional circumstances exist. New Time Limits or Exceptions are Introduced The Finance Bill establishes new time restrictions for reopening assessments, with a special emphasis on cases involving large sums of fugitive income, so expediting tax administration.³¹

Additional Conditions or Relaxations Additional restrictions demand the AO to provide substantial proof to back up assertions of income escaping assessment, while relaxations aim to make processes easier for smaller taxpayers.³² New Terms or Relaxations Aims toward Simplifying Process New rules focus on minimizing bureaucratic impediments and simplifying procedural requirements, notably aiding smaller taxpayers by increasing compliance without unnecessary complexity.³³

COMPARATIVE ANALYSIS: BEFORE AND AFTER INDIAN FINANCE BILL (2), 2024

-Changes to the procedure

The tax assessment structure will now undergo considerable procedural changes under the Finance Bill (2) of 2024. The new requirements require tax authorities to reconsider assessments in a more systematic manner, particularly through Section 148A. This clause requires taxpayers to receive a clear notification describing the grounds for the reopening, ensuring they are informed and given the opportunity to comment.³⁴ This is in contrast to previous practices, in which notices were frequently ambiguous, potentially leading to tax authorities abusing their power.

³¹ Income Escaping Assessment Under Section 147 of the Income Tax Act-Soni- <https://tax2win.in/guide/income-escaping-assessment>

³² Section 147 of the Income Tax Act: Income Escaping Assessment- Sharma- <https://www.taxbuddy.com/blog/section-147-of-the-income-tax-act>

³³ Explainer: What's next after Kenya withdraws finance bill amid protests? | Reuters

A finance bill is usually presented to parliament before the start of a financial year that runs from July to June, laying out the government's fiscal plans. In the 2024/25 bill, the Kenyan government wanted to raise \$2.7 billion in additional taxes to reduce the budget deficit and borrowing.- <https://www.reuters.com/world/africa/kenyas-finance-bill-why-has-it-triggered-protests-2024-06-25/>

³⁴ Lawrbit | Global RegTech Solutions for Enterprises & Professionals-Lawrbit provides Industry agnostic Governance, Risk & Compliance (GRC) softwares, integrated with global Regulatory Intelligence across 70+ countries-<https://www.lawrbit.com/>

-Comparison of Procedure Requirements Before and After Amendments-

Prior to the revisions, the procedure of reopening assessments was essentially discretionary, allowing tax officials to act with little explanation. The new Section 148A now mandates a structured inquiry process in which authorities must substantiate their assertions with reliable evidence before revisiting any investigations. This move intends to increase transparency and preserve taxpayer rights by giving them a fair chance to oppose any reopening measures.³⁵

-Significant Changes in Grounds for Re-Opening

The Finance Bill (2) of 2024 drastically narrows the grounds for reopening evaluations. Previously, tax authorities may reopen assessments based on mere suspicions or broad inquiry. The new laws call for particular conditions to be met, such as credible evidence of tax fraud or disparities in reported income. This adjustment is intended to prevent arbitrary acts and ensure that reopening is based on serious grounds.³⁶

-Analysis of the Scope of Reopening Evaluations

The new modifications have significantly reduced the scope for revisiting assessments. The Finance Bill (2), 2024, eliminates arbitrary assessments by emphasizing convincing evidence as a criterion for reopening cases. This reform marks a shift toward a more taxpayer-friendly strategy that nevertheless allows tax authorities to confront serious compliance difficulties.

-Changes in Reopening Assessment Time Limits

Under certain conditions, the deadline for reopening evaluations has been extended from three to five years. This shift gives tax officials more time to investigate apparent anomalies, but it also

³⁵ Trusted Online Tax information | Taxsutra-Taxsutra is a trusted online source of tax and policy-related news, analysis, and insights for professionals, featuring updates on GST, Transfer Pricing, Direct Tax, and more.

<https://www.taxsutra.com/>

³⁶ MEMORANDUM EXPLAINING THE PROVISIONS IN THE ...1. Trends in Receipts 2. Analysis ... Annual Financial Statement and Receipts Budget 4. Statement showing State-wise Distribution of Net Proceeds of Union Taxes and Duties for BE 2024-2025(I) 4A. Statement showing State-wise Distribution of Net Proceeds of Union Taxes and Duties for RE 2023-2024 4B. Statement showing State-wise Distribution of Net Proceeds of Union Taxes and Duties for Actual 2022-2023 ...-<https://www.indiabudget.gov.in/doc/memo.pdf>

raises concerns about taxpayers' continued confusion about past forms. The extension is especially important in circumstances involving large funds or complicated transactions.³⁷

-Detailed comparison of time limits under the old regime and new provisions.

Previously, the three-year limit was regarded as a safeguard for taxpayers, allowing them to obtain clarity on their tax liabilities within a reasonable timeframe. Under certain conditions, the new five-year limit allows for more complete scrutiny by tax officials, but it may heighten anxiety among people and corporations about their prior tax positions.

-The impact on the "reason to believe" doctrine

The threshold for using the "Reason to Believe" doctrine has been dramatically raised. Tax officials must now offer better proof before reopening procedures, which protects taxpayers from unnecessary examination. This amendment underscores the concept that assessments should be based on solid evidence rather than guesswork.

The Finance Bill (2) of 2024 has significantly altered the barrier. Tax authorities must now back up their assertions with verifiable proof before proceeding with any reopening, resulting in a more taxpayer-friendly approach while keeping enforcement powers.³⁸

Legal safeguards: strengthened or weakened?

The new provisions improve legal safeguards. The amendments seek to strike a compromise between taxpayer rights and effective tax administration by ensuring that taxpayers are sufficiently informed and able to oppose reopening proceedings on valid grounds. This adjustment indicates a focus on justice and transparency in tax procedures.

There has been a noticeable trend toward defending taxpayer rights in light of the Finance Bill (2), 2024. The emphasis on transparency and accountability in tax administration processes is consistent with fair taxation ideals, while also allowing tax authorities to address substantial

³⁷ Analysis of the Tax Changes Proposed by the Finance Bill, 2024

<https://aln.africa/insight/analysis-of-the-tax-changes-proposed-by-the-finance-bill-2024/>

³⁸ Finance Bill, 2024: Key Direct And Indirect Tax Amendments

<https://www.azbpartners.com/bank/finance-bill-2024-key-direct-and-indirect-tax-amendments/>

compliance difficulties efficiently.³⁹ This balance seeks to promote confidence between taxpayers and the government while ensuring that tax laws are properly implemented.

IMPLICATIONS OF THE CHANGES IN REASSESSMENT REGIME

Impact on Taxpayers

The reassessment regime adjustments have a substantial impact on taxpayers' experiences. With the implementation of Section 148A, taxpayers now have more rights, including the ability to be heard before reassessment notices are sent out. This attempts to improve openness and prevent taxpayers from being caught off guard by unexpected assessments. However, the new regime imposes higher compliance burdens, requiring detailed documentation and stricter deadlines, which may result in greater administrative costs for both people and corporations.⁴⁰

The new regime's requirement for extensive disclosures and documentation may result in higher operational expenses as enterprises invest in stronger record-keeping systems. Furthermore, the tougher notice issuing process necessitates that taxpayers stay alert in their tax filings to avoid penalties or reassessments, which may result in greater overall compliance obligations.⁴¹

Impact on Tax Authorities

The modifications are intended to improve tax enforcement capabilities by requiring tax authorities to offer precise arguments for reassessments based on particular information rather than broad beliefs. This organized method seeks to prevent arbitrary acts by tax officials and guarantee that assessments are based on solid evidence, potentially leading to more efficient tax collection operations and higher taxpayer compliance rates.⁴²

³⁹ New Reassessment Regime – Is 'Change of Opinion' Still a Valid Defence?

<https://www.azbpartners.com/bank/new-reassessment-regime-is-change-of-opinion-still-a-valid-defence/>

⁴⁰ Guide to Income Tax Section 148A: New Changes Explained

<https://pkchopra.com/blog/index.php/guide-to-income-tax-section-148a-with-new-changes/>

⁴¹ Decoding Tax Dynamics: Unravelling Legal Complexities in Income Tax Reassessment Notices under Section 148, IT Act Post-Finance Act, 2021

Indulia & Ridhi- <https://www.sconline.com/blog/post/2024/05/15/decoding-tax-dynamics-unravelling-legal-complexities-in-income-tax-reassessment-notices-under-section-148-it-act-post-finance-act-2021/>

⁴² The New Regime Of Reassessment Proceedings: A 20-Point Checklist For Representation " AIFTP

The amendments improve tax enforcement powers by establishing a more defined framework for initiating reassessments. Section 148A compels tax authorities to provide reliable information before proceeding with reassessments, reducing arbitrary practices. This procedural clarity is likely to boost taxpayer confidence in the system while allowing authorities to concentrate their efforts on serious cases of tax evasion.⁴³

Potential for more litigation, the amendments could result in a mixed outcome in terms of lawsuit. On the one hand, clearer guidelines may reduce disagreements by establishing an organized mechanism to defend taxpayer rights. On the other hand, ambiguities in the new provisions may result in increased litigation as taxpayers fight reassessments they believe are unreasonable or unlawfully launched under the new rules. The growing law underlying these changes will be essential in predicting future litigation patterns.⁴⁴

The objective is to decrease litigation through improved clarity, but there is a risk of additional disputes due to conflicting views of what constitutes adequate "information" for reassessment initiation. As courts begin to interpret these new laws, competing rulings may emerge, leading to additional legal challenges until a consistent legal framework is formed.

Conformity with International Best Practices

The revamped reassessment procedure is more closely aligned with international best practices seen in nations such as the United States and the United Kingdom, where procedural fairness is prioritized. India's new framework, which establishes clearer principles and limits arbitrary actions by tax officials, indicates a commitment to improving taxpayer rights while ensuring compliance, which is consistent with worldwide tax administration standards.

<https://aiftponline.org/uncategorized/the-new-regime-of-reassessment-proceedings-a-20-point-checklist-for-representation/>

⁴³ "Change of Opinion" – A Valid Safeguard in New-Reassessment Regime!!

<https://www.azbpartners.com/bank/change-of-opinion-a-valid-safeguard-in-new-reassessment-regime/>

⁴⁴ Budget 2024: The time limit for which income tax reassessment can be done is reduced

Sekhar et al.

<https://economictimes.indiatimes.com/wealth/tax/the-time-limit-for-which-income-tax-reassessment-can-be-done-is-reduced/articleshow/111951732.cms>

A brief comparison with reassessment regimes in other countries (e.g., US, UK), and whether the changes align with global standards.

In comparison to international norms, India's new reassessment regime includes aspects found in US and UK systems, such as audit time restrictions and transparency requirements. These improvements represent a shift towards a more structured system that encourages taxpayer engagement and protects against arbitrary assessments, bringing India closer to global tax governance standards.⁴⁵

Significant Judicial Precedents Regarding the Amended Provisions

Judicial precedents have a considerable impact on the interpretation of tax legislation revisions. For example, the Supreme Court has already decided on the constitutionality of tax rules, highlighting the importance of aligning them with fundamental rights. Cases such as *Mohandas Issardas & Ors. v. A. N. Sattanathan* shows how courts evaluate legislative intent and taxpayer rights, which may inform interpretations of the Finance Bill (2), 2024 revisions. The notion of *stare decisis* guarantees that lower courts follow precedents, establishing a framework for reviewing new provisions.

Anticipating Court Interpretations

Courts are expected to interpret the modifications using known principles from past rulings. The emphasis on taxpayer rights and fairness in judgments such as *H.P. v. Nurpur (P) Bus Operation Union* indicates that any perceived excess by the Finance Bill may be contested. Courts may analyze whether the revisions violate constitutional rights or impose unreasonable costs on taxpayers, using parallels with previous rulings that addressed similar concerns.⁴⁶

Legal and Tax Professionals' Commentary

⁴⁵ Deadline for reassessment of these old ITRs approaching; Know who can get tax notice u/s 148 by August 31, 2024 - The Economic Times-You can get a income tax notice under section 148 by August 31, 2024 if there is any income above Rs 50 lakh which escaped assessment in AY 2018-19-
<https://economictimes.indiatimes.com/wealth/tax/deadline-for-reassessment-of-these-old-itrs-approaching-know-who-can-get-tax-notice-u/s-148-by-august-31-2024/articleshow/112492710.cms>

⁴⁶ Salient Features of Finance Bill 2024- We cannot provide a description for this page right now-
[https://assets.kpmg.com/content/dam/kpmg/bd/pdf/Tax/Salient_Features_of_Finance_Bill_2024\(Tax_and_VAT\).pdf](https://assets.kpmg.com/content/dam/kpmg/bd/pdf/Tax/Salient_Features_of_Finance_Bill_2024(Tax_and_VAT).pdf)

Experts have expressed worry regarding the practical ramifications of the Finance Bill (2), 2024 changes. Tax professionals point out difficulties such as higher compliance costs and uncertainty in new regulations, which may lead to disagreements between taxpayers and tax authorities. They argue for clearer guidance from the government to help taxpayers negotiate these changes efficiently, highlighting that without sufficient communication, the adjustments can result in confusion and lawsuits.⁴⁷

Endorsement and critique summary

Tax practitioners' criticisms center on the possible complications caused by the revisions, which could impede compliance and increase litigation risks. Some legal scholars believe that particular modifications are necessary to modernize tax law and improve revenue collection efficiency, stating that with proper implementation, these revisions could benefit both taxpayers and the government in the long run. Advisory groups have recommended continued stakeholder discussion to address concerns and improve provisions.⁴⁸

Possible constitutional or legal challenges.

The Finance Bill (2), 2024 modifications may attract constitutional challenges if stakeholders claim they violate basic rights or established legal principles. Courts will most likely consider these challenges using precedents emphasizing fairness and justice in taxation.⁴⁹ If judged unlawful or

⁴⁷ Doctrine of precedent-

<https://blog.ipleaders.in/scope-and-application-of-the-doctrine-of-precedents-under-article-141-of-the-constitution/>

⁴⁸ Explainer: What's next after Kenya withdraws finance bill amid protests? | Reuters-A finance bill is usually presented to parliament before the start of a financial year that runs from July to June, laying out the government's fiscal plans. In the 2024/25 bill, the Kenyan government wanted to raise \$2.7 billion in additional taxes to reduce the budget deficit and borrowing.- <https://www.reuters.com/world/africa/kenyas-finance-bill-why-has-it-triggered-protests-2024-06-25/>

⁴⁹ Precedent - Wikipedia-Common-law precedent is a third kind of law, on equal footing with statutory law (that is, statutes and codes enacted by legislative bodies) and subordinate legislation (that is, regulations promulgated by executive branch agencies, in the form of delegated legislation (in UK parlance) or ...

<https://en.wikipedia.org/wiki/Precedent>

unreasonably burdensome, specific sections may be struck down or modified through judicial review, demonstrating a commitment to protecting taxpayer rights.⁵⁰

Examining Legal Challenges in Court

Legal challenges to the modifications may come from a variety of interests, including individual taxpayers and advocacy groups. Courts will consider these claims in light of current legal frameworks and decisions that promote taxpayer rights and fair treatment under the law. The outcome will rely on how well the Finance Bill conforms with constitutional principles and public expectations for fairness in taxation procedures.⁵¹

CONCLUSION

The Finance Bill (2), 2024, makes radical changes to the reassessment framework under the Income Tax Act, 1961, signifying a substantial shift in how tax compliance and enforcement are conducted in India. The threshold for reassessment has been raised from ₹50 lakh to ₹100 crore. This means that instances with revenue under ₹100 crore would require more scrutiny before reassessment proceedings can be commenced. The revisions stress that reassessment will now be based on particular types of trustworthy evidence, such as material from third-party audits or data already available with tax authorities, to avoid evaluating officials from taking arbitrary steps.

Furthermore, the time limits for commencing reassessments have been decreased, offering greater certainty for taxpayers; formerly, reassessments may be filed within 10 years for significant income escaping assessment, but this limit has been restricted for specific categories of situations. Prior consent from higher authorities is required for instances involving income avoiding assessment exceeding ₹100 crore. This ensures that only significant cases are reviewed, reducing unnecessary proceedings. The statutory show-cause notice requirement continues, but with stricter standards for how assessing officials must provide evidence, improving taxpayer protection

⁵⁰ Lawrbit | Global RegTech Solutions for Enterprises & Professionals-Lawrbit provides Industry agnostic Governance, Risk & Compliance (GRC) softwares, integrated with global Regulatory Intelligence across 70+ countries-<https://www.lawrbit.com/>

⁵¹ Governance, Risk and Compliance (GRC), CyberSecurity Solutions-MetricStream offers Governance, Risk Management and Compliance (GRC) software solutions that allow companies across industries to streamline and automate their enterprise-wide GRC programs.

<https://www.metricstream.com/>

against arbitrary reassessment. Furthermore, the concept of undisclosed income (UDI) has been enlarged to encompass any material or information that comes into the tax authority's awareness during search processes, as well as improper requests for exemptions.

Furthermore, the definition of undisclosed income (UDI) has been expanded to include any material or information discovered by the tax authority during search proceedings, and incorrect exemption claims will now be considered UDI and subject to a 60% tax rate plus applicable surcharges and cess in block assessment cases.

The implications of these changes are significant: taxpayers now have more rights and safeguards, including the chance to respond before reassessment letters are published, which promotes fairness and openness in the process. The reforms aim to lessen the administrative burden on both tax authorities and taxpayers by excluding minor instances and focusing on serious revenue leakages.

With clearer thresholds and shorter time restrictions, taxpayers can be more certain that their previous assessments will not be revisited without substantial justification. However, while the new regime tries to speed operations, it may increase compliance difficulties due to the requirement for thorough documentation and stiffer timeframes. Furthermore, while the modifications aim to simplify procedures and eliminate arbitrary actions, uncertainties may still result in disagreements between taxpayers and tax officials, thereby increasing litigation. Several policy solutions are presented to strengthen the reassessment system while balancing taxpayer rights and effective tax administration. First, developing clear rules describing the criteria for beginning reassessments and the types of information necessary would aid in reducing uncertainty and ensuring consistency in application across different circumstances.

Second, implementing educational initiatives to enlighten taxpayers about their rights and obligations under the new laws will help them better navigate the reassessment process. Third, using streamlined procedures designed exclusively for small taxpayers can decrease compliance obligations while maintaining proper monitoring. Finally, conducting frequent assessments of the reassessment regime's efficacy and making required changes based on stakeholder feedback would be critical. Looking ahead, various predictions may be made about how these revisions would impact tax procedures and litigation in the coming years. The clearer structure may create an environment in which taxpayers are more willing to comply willingly with tax regulations because they are less afraid of arbitrary assessments.

However, while tax authorities adjust to these changes, there may be initial implementation issues that result in variations in how laws are enforced across jurisdictions. While the modifications indicate major progress, there may still be gaps—for example, defining what constitutes "credible information"—that could lead to confusion or disagreements in practice. As courts begin to interpret these new laws, legal standards may evolve to further explain taxpayer rights and administrative responsibilities, impacting future litigation trends. To summarize, while the Finance Bill (2), 2024 represents a positive step toward improving taxpayer rights and tax administration efficiency in India, ongoing dialogue among stakeholders will be required to address implementation challenges and ensure that the system works effectively for all parties involved.

