

All About Reassessment Under Income Tax Act

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Reassessment Overview

Upto 31.03.2021	01.04.2021-30.08.2024	01.09.2024-31.03.2026	01.04.2026 onwards
<p>Old Regime derived by GKN Driveshafts (India) Ltd v. Income Tax Officer And Ors on 25 November, 2002 (2003) 259 ITR 19</p> <ul style="list-style-type: none"> Reason to believe 4 years/6 years time limit Sanctioning authority based on 4/6 years Search/requisition not a part of 148 	<ul style="list-style-type: none"> Section 148A introduced – Clause (a) to clause(d) Reasons to believe substituted by ‘information’. Time limit for issue of notice (Sec 149): 3 years and 10 years. Specified authorities Section 151 – redefined.-PCIT/PCCIT Search assessment included in section 148 for the search that took place within this period. 	<ul style="list-style-type: none"> Section 148A revamped (1) to (3) Time Limit for issue of notice Section 149- 3 years 3 months and 5 years 3 months. Specified authorities section 151- again redefined – Additional CIT/ Joint CIT Search assessment excluded from reassessment regime 	<p>Section 279 to Section 286 of the Income Tax Act,2025.</p>

Reassessment

- ▶ This assessment is carried out if the AO has the reasons to believe that any income chargeable to tax has escaped assessment for any AY.
- ▶ The objective of reassessment is to bring any income to tax, which has escaped assessment earlier.
- ▶ Reassessment proceedings are governed by the section 147 to section 151 of the Act. [Section 279 to 286 of the New Act]

In the following cases it will be considered as income having escaped assessment.

- ▶ Where no return of income has been furnished by the assessee, although his total income for which he is assessable during the previous year exceeded the maximum amount which is not chargeable to tax.
- ▶ Where the return of income has been furnished by the taxpayer but no assessment has been made and it is noticed by the AO that assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return.

- ▶ Where the assessment has been made but:
 - Income chargeable to tax has been under assessed
 - Income has been assessed at low rate
 - Income has been made to subject of excessive relief
 - Excessive loss or depreciation allowance or any other allowance has been computed.

Procedure of Reassessment (Before 01.04.2021)

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- ▶ Earlier the procedure of reassessment was laid down by the Hon'ble SC in the case of **GKN Driveshafts (India) Ltd v. Income Tax Officer And Ors on 25 November, 2002 (2003) 259 ITR 19** which was as followed:
 - On receipt of notice under section 148, File the return
 - If assessee desires, to seek reasons for issuance of notice.
 - AO is bound to furnish the reasons within the reasonable time
 - File objection to issuance of notice, based on reasons
 - AO is bound to dispose of the same by passing a speaking order
 - Writ against rejection or continue normal proceedings.
 - Approval of specified authority section 151

Search And Seizure/ Requisition

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- ▶ Search and seizure/ requisition came under Section 148 of the Act in place of Section 153A/153C of the Act
- ▶ Search assessment u/s 148 only in the case of search and seizure/ requisition conducted b/w 01.04.2021 to 30.08.2024.
- ▶ Now search assessment is made u/s 158BC/158BD.
- ▶ search or requisition conducted on a date prior to commencement of new law, i.e. before 01.04.2026, the provisions of old Act would be applicable. And provisions of new Act will come into play in cases of search or requisition conducted on or after 01.04.2026, irrespective of the Assessment Years involved.
- ▶ Therefore under new Act Assessment for Search and seizure/ requisition will be made u/s 294 and 295 of the New Act

Search assessment in case of other person

- ▶ Upto 31.03.2021: Section 153C of the Act
 - ▶ From 01.04.2021 to 30.08.2024: 148 of the Act
 - ▶ From 01.09.2024 to 31.03.2026: 158BD of the Act
 - ▶ After 01.04.2026: Section 295 of the New Act
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- ▶ **Note: Shri. Harigovind v. ACIT Non-corporate W.P. NOS. 23014 OF 2023 – MADRAS HC:** The court held that in case of search on the other person. If the search took place before 01.04.2021 but the seized material are transferred to the JAO of the Assessee after 01.04.2021, then assessment will be framed u/s 148 and not 153C as the date of search in the case of other person constitute as the date of transfer of seized material to the JAO of the Assessee.

Reassessment – 01.04.2021-30.08.2024

- ▶ Thereafter, the Finance Act 2021 had substituted sections 147 to 151 with effect from April 1, 2021
- ▶ Under the new provisions applicable from April 1, 2021, the 148 notice can be issued:-
 - ▶ Within 3 years from the end of the relevant assessment year.
 - ▶ However, the amount of escaped income exceeds Rs. 50 lakh in the form of an Asset, expenditure and entry , the notice can be issued within 10 years from the end of the relevant assessment year.
- ▶ Section 148 has been completely revamped to provide that re-assessment proceedings can be initiated u/s 148 when there is INFORMATION with the AO “which suggests that income chargeable to tax has escaped assessment for the relevant year”
- ▶ Information is defined u/s 148(3) of the Act, which includes search and requisitions as deemed information.

“Information” for the purpose of section 148 of the Act has been specifically defined in Explanation 1

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- ▶ Any information in accordance with risk management strategy (RMS) of the Board
- ▶ Any audit objection that assessment has not been made in accordance with the provisions of the Act.
- ▶ Any information received under DTAA
- ▶ Any information made available to the Assessing Officer under the scheme notified u/s 135A of the Act [Section 260 of the New Act] – Scheme for faceless collection for information
- ▶ Any information which requires action in consequence of the order of a Tribunal or a Court

Procedure – 01.04.2021 -30.08.2024

- ▶ If the Ld. AO has information that assessee has escaped income then he will follow the procedure laid down under section 148A before issuance of notice u/s 148 of the Act.
 - As per section 148A(b): Show cause notice should be issued to the assessee granting him time to file reply that why notice u/s 148 should not be issued accompanied with the information which suggest that income chargeable to tax has escaped the assessment year.
 - On receipt of such notice, the assessee shall file reply within the time specified in the notice, which should not be less than 7 days.
 - The AO on the basis of material available on record and taking into account the reply of the assessee furnished, if any, may pass an order u/s 148A(d) with the prior approval of the specified authority as per section 151 of the Act and specify that he deems fit to issue notice u/s 148 or not.

- ▶ Subsequently notice u/s 148 should be issued along with the prior approval of Specified authority u/s 151 of the Act.
- ▶ In the notice u/s 148 of the Act is issued then the AO will ask the assessee to furnish the return of income within the specified period of time.
- ▶ As per the proviso of section 143(2), notice under the said section shall be served on the assessee after filing of the return of income in response to notice issued u/s 148 of the Act.
- ▶ Thereafter the AO will issue notices u/s 142(1) of the Act from time to time as per the above stated situation to conduct the enquiry.
- ▶ Then if the AO thinks that Assessee has escaped income then he will serve with a show cause notice giving final opportunity to the Assessee to tell why not such proposed addition (according to the AO) should not be made.
- ▶ Thereafter also the AO thinks that the said assessee has escaped the income and tax liability then he will pass the assessment order within the time frame provided under section 153 of the Act.
- ▶ Assessment Order will be accompanied with the new computation of total income along with the notice of demand.

- ▶ No procedure of section 148A in cases of search and seizure/ requisition
- ▶ Considered as 'deemed information'
- ▶ Direct notice under section 148

Section: 151 of the Act - Approval by the specified authority

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- ▶ For the Notice issued in the period 01.04.2021- 30.08.2024

Specified authority shall be:

(i) PCIT or PDIT or Commissioner or Director, if the three years or less than three years have elapsed from the end of the relevant assessment year.

(ii) PCCIT or PDGIT or Chief Commissioner or Director General, if more three than years have elapsed from the end of the relevant assessment year.

“Provided that the period of three years for the purpose of clause (i) shall be computed after taking into the account the period of limitation as excluded by the third or fourth or fifth proviso or extended by the sixth proviso to sub-section (1) of section 149 of the Act”

NOTE: This proviso is only added w.e.f 01.04.2023.

Reassessment on or after 01.09.2024

- ▶ 148A(a) to 148A(d) substituted with 148A(1) to 148A(3).
- ▶ Time limit to issue the notice u/s 148 of the Act

3/10 years restricted to 3 years and 3 months/ 5 years and 3 months from the end of the relevant assessment year.

- ▶ For the Notice issued on or after 01.09.2024

Specified authority shall be Additional Commissioner or Additional Director or the Joint Commissioner or Joint Director

- ▶ Searches were taken out of the ambit of the section 148 instead search and seizure assessments to be made u/s 158BC/158BD

Overview of New Income Tax Act 2025: Major changes

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- ▶ Abolition of the term **assessment year**, only relevant would be **tax year**
- ▶ Use of the term '*irrespective of*' in place of '*notwithstanding*'
- ▶ No explanation or proviso, only sections and sub sections.
- ▶ Use of tables
- ▶ Applicable from tax year 2026-27 – section 536 of the New Act, relating to repeal and savings.

Reassessment under Income Tax Act, 2025, COMPARATIVE CHART

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Section under Act, 1961	Heading	Corresponding Section under Act, 2025	Heading	
147	Income Escaping Assessment	279	Income Escaping Assessment	Exactly the same provision
147A	Assessing officer for purposes of section 148 and 148A w.e.f 01.04.2021 (controversy regarding JAO v. FAO)	Sub section(3) to section 279		
148	Issue of notice where income has escaped assessment: <ul style="list-style-type: none"> - Notice with order u/s 148A(3), if any - ROI within 3 months - Period for filing ROI to be not less than 30 days - Meaning of information 	280	Issue of notice where income has escaped assessment	Exactly the same provision

Section under Act, 1961	Heading	Corresponding Section under Act, 2025	Heading	
	Information: SS(3)- (i)to(vi)		Information SS(6)- (a)to(h) Two additional Clauses: - Any direction by approving authority (GAAR etc.) - Any finding/direction by any court	
148A	Procedure before issuance of notice under section 148 SS (1) to (3)- Procedure SS(4)- Section not to apply if information is received in a scheme under section 135A	281	Procedure before issuance of notice under section 280 SS(1) to (3)- no change Ss(4) addition the two information (additional) as given under the definition of 'information'	

148B	Prior approval for assessment, reassessment or recomputation in certain cases: In search matters akin to 153D	-	-	No such section as searches are now out of the ambit of these sections
149	Time limit for notices u/s 148 and section 148A <ul style="list-style-type: none"> - 3 years and 3 months - 5 years and 3 months – only if income escaping amounts to Rs. 50,00,000/- or more, in the form of Assets, Expenditure, Transaction, Entry. - Notice u/s 148A only if income escaping amounts to rupees 50 lakhs or more and 3 years but not more than 5 year from the end of relevant year elapsed. 	282	Time limit for notices u/s 280 and section 281 <ul style="list-style-type: none"> -4 years and 3 months - 6 years and 3 months <p>(only since assessment year has been replaced by the Tax Year)</p> <ul style="list-style-type: none"> - Additionally sub section 3 “no notice u/s 280 or 281 shall be issued within 1 year from the end of any Tax Year.” 	

150	Provision for cases where assessment is in pursuance of an order or appeal etc.	283	Provision for cases where assessment is in pursuance of an order or appeal etc.	
151	Sanction for issue of notice - Addl. CIT/ Addl. Director/ Joint CIT/ Joint Director	284	Sanction for issue of notice Addl. CIT/ Addl. Director/ Joint CIT/ Joint Director	Exactly the same provision

Section 153 of the Act [Section 286 of the New Act: Time limit to complete assessment Order.

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Section 153(2) of the Act [Section 286(1)(iv) of the New Act] provides 12 months from the end of financial year in which notice u/s 148 of the Act [Section 280 of the New Act] was served.

What to do when one receive notice u/s 148 or section 280 as the case may be.

- ▶ Step 1: Check who issued the notice:

JAO v. FAO Controversy: There was a controversy earlier wherein the notices u/s 148 and 148A of the Act were issued by JAO whereas the assessment was framed by the FAO. Various HC's gave diverse views wherein P&H HC were in favor of Assessee and DHC was against the Assessee. Therefore Amendment case under section 147A w.e.f 01.04.2021 stating that JAO will issue notice u/s 148 and 148A of the Act and rest of the proceedings will be handled by the FAO.

- ▶ Step 2: Check Jurisdictional AO
- ▶ Step 3: Check date of the issuance of the Notice u/s 148 of the Act or section 280 of the New Act.
- ▶ Step 4: Check the Actual date of service of notice and date digital signature of the same.
- ▶ Step 5: Check amount of escaped income involved in the matter.

- ▶ Step 6: Check the authority granting Sanction u/s 151 of the Act or section 284 of the New Act.
- ▶ Step 7: Check the information provided and the alleged transaction actually, does it actually belongs to you and it took place in the given AY.

What to do when reassessment order is passed

After the reassessment order is passed check the following things:

- ▶ Step 1: Check whether notice u/s 143(2) was issued in response to the ROI filed for 148 of the Act or 280 of the New Act.

Note: If assessee reply to treat the original return as ROI filed in response to 148, then also issuance of notice u/s 143(2) is mandatory.

- ▶ Step 2: Check whether the Show cause notice was issued or not?

Note: AO cannot make any addition which was not a part of show cause notice.

- ▶ Step 3: Check whether the actual alleged escaped income in the notice issued u/s 148 of the Act formed a part of addition or not?

Note: The Ranbaxy Laboratories Limited v. **CIT [2011] 336 ITR 136 (Delhi)** established that if an AO initiates reassessment under Section 148 of the Act but fails to make an addition regarding the original grounds, they cannot blindly make additions on other grounds

- ▶ Step 4: Check Whether Assessment order is passed within time limit or not.
- ▶ Step 5: Check the Date of Digital signature on the assessment order and service of the same Assessment Order.

Legal Instances where Writ can be preferred against Reassessment Notices:

- ▶ Notice quashed for non-consideration of reply – **Divya Capital One Pvt. Ltd. Vs. ACIT, [2022] 445 ITR 436 (Del)**
- ▶ Addition, deletion and substitution of information in 148A(b)/148A(1) [Section 281 of the New Act] is not allowed via order u/s 148A(d)/148A(3)- **ATS Infrastructure Ltd. Vs. ACIT, WP(C) 3804/2023, W.P. (C) 3807/2023, WP (C) 3808/2023**
- ▶ Recovery of tax from taxpayer without served assessment order u/s 156 held unlawful; refund ordered unless order traced and served- **Philco Exports Private Limited Versus Assistant Commissioner of Income Tax, & Ors., W. P. (C) 12318/2021, CM APPL. 38748/2021(stay), Delhi HC**
- ▶ Factually incorrect information in the 148A(b)/148A(1) [Section 281 of the New Act]

Notice barred by limitation

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- ▶ Ashish Agarwal controversy
- ▶ Rajiv Bansal

THANK YOU!

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