

INCOME-TAX AUTHORITIES

AMENDMENTS BY THE FINANCE (No.2) ACT, 2014

- (a) Principal Director General of Income-tax, Principal Chief Commissioner of Income-tax, Principal Director of Income-tax and Principal Commissioner of Income-tax included under income-tax authorities specified under section 116

Related amendment in sections: 117, 2(34A), 2(34B), 2(34C), 2(34D), 2(15A), 2(16) & 2(21)

Effective from: 1st June, 2013

- (i) Section 116 specifies the income-tax authorities for the purposes of the Income-tax Act, 1961, which includes CBDT, Directors-General of Income-tax or Chief Commissioners of Income-tax, Directors of Income-tax or Commissioners of Income-tax etc.

- (ii) Under section 117(1), the Central Government may appoint such persons as it thinks fit to be income-tax authorities.

- (iii) Owing to creation of new income-tax authorities, namely, -

- (1) Principal Chief Commissioner of Income-tax;
- (2) Principal Director General of Income-tax;
- (3) Principal Director of Income-tax; and
- (4) Principal Commissioner of Income-tax,

section 116 has been amended to include these authorities within its ambit.

- (iv) Section 117(2) has been amended to authorize the above mentioned income-tax authorities also to appoint income-tax authorities below the rank of an Assistant Commissioner or Deputy Commissioner.

- (v) New clauses (34A), (34B), (34C) and (34D) have been inserted in section 2 to define the terms "Principal Chief Commissioner of Income-tax", "Principal Commissioner of Income-tax", "Principal Director General of Income-tax" and "Principal Director of Income-tax" to mean a person so appointed as an income-tax authority under section 117(1).

- (vi) Section 2(15A) defining "Chief Commissioner" has been substituted to mean a person appointed to be a Chief Commissioner of Income-tax or a Principal Chief Commissioner of Income-tax under section 117(1).

- (vii) Likewise, section 2(16) defining "Commissioner" has been substituted to mean a person appointed to be a Commissioner of Income-tax or a Director of Income-tax or a Principal Commissioner of Income-tax or a Principal Director of Income-tax under section 117(1).

- (viii) Also, section 2(21) defining "Director General or Director" has been substituted to mean a person appointed to be a Director General of Income-tax or a Principal Director General of Income-tax or, as the case may be, a Director of Income-tax or a Principal Director of Income-tax, under section 117(1), and includes a person appointed under section 117(1) to be an Additional Director of Income-tax or a Joint Director of Income-tax or an Assistant Director or Deputy Director of Income-tax.

- (ix) Consequent amendments have been made in the Income-tax Act, 1961 substituting the reference to the income-tax authority mentioned in column (1) of the table below by the reference to the income-tax authorities mentioned in column (2) of the table below w.e.f. 1.6.2013-

Column (1)	Column (2)
Commissioner	Principal Commissioner or Commissioner
Director	Principal Director or Director
Chief Commissioner	Principal Chief Commissioner or Chief Commissioner
Director General	Principal Director General or Director General

- (b) CBDT empowered to issue orders for relaxation of fee leviable under section 234E for failure to deliver TDS/TCS statements within the prescribed time [Section 119(2)(a)]

Effective from: 1st October, 2014

- (i) Section 119(2)(a) empowers the CBDT to issue general or special orders, whether by way of relaxation of any of the provisions of sections 139, 143, 144, 147 etc. or otherwise, in respect of any class of incomes or class of cases.

- (ii) The CBDT may issue such order(s) from time to time if it considers expedient to do so, for the purpose of proper and efficient management of the work of assessment and collection of revenue.

- (iii) The Finance (No.2) Act, 2014 has included section 234E in the list of sections in respect of which the CBDT is empowered to issue order for relaxation of the provisions of the Act.

- (iv) Consequently, the CBDT is now empowered to issue order for relaxing the fee imposable under section 234E for failure to deliver the statement of deduction of tax at source under section 200(3) and for failure to deliver the statement of collection of tax at source under section 206C(3) within the prescribed time.

(c) Increase in time period specified under section 133A for retaining books of accounts and documents impounded without the approval of the higher authorities to align the same with the time period under section 131(3) [Section 133A(3)]

Effective from: 1st October, 2014

- (i) Section 133A empowers an income-tax authority to enter any premises in which business or profession is carried out for the purposes of survey. An income-tax authority acting under this section may impound and retain in his custody any books of account or documents inspected by him during the course of survey, after recording his reasons for doing so.
- (ii) However, he shall not retain in his custody any such books of account or document for a period exceeding ten days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General therefor, as the case may be.
- (iii) An income-tax authority acting under section 133A has the powers as conferred upon it under section 131(1), i.e., it has the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely, -

- (1) discovery and inspection;
- (2) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
- (3) compelling the production of books of account and other documents; and
- (4) issuing commissions.

- (iv) Under section 131(3), an extended time limit of 15 days (exclusive of holidays) has been provided upto which an income-tax authority may retain in his custody, books of account or other documents impounded, without obtaining the approval of the higher authorities specified thereunder i.e., Principal Chief Commissioner or Chief Commissioner, Principal Director General or Director General etc.

- (v) In order to align the time period under section 133A with the time period under section 131(3) as well as the authorities empowered to grant approval beyond the specified time period, section 133A(3) has been amended to provide that an income-tax authority shall not retain in his custody any such books of account or other documents for a period exceeding **fifteen days** (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner or Principal Director or Director therefor, as the case may be.

(d) Scope of section 133A expanded to include exercising the power of survey to verify whether tax has been deducted or collected at source in accordance with the relevant provisions of the Act [Section 133A(2A)]

Effective from: 1st October, 2014

- (i) New sub-section (2A) has been inserted in section 133A to provide that an income-tax authority may, for the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions of Chapter XVII-B or Chapter XVII-BB, as the

case may be, enter-

- (1) any office, or a place where business or profession is carried on, within the limits of the area assigned to him, or
 - (2) any such place in respect of which he is authorised for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated, where books of account or documents are kept.
- (ii) The income-tax authority may for this purpose enter an office, or a place where business or profession is carried on after sunrise and before sunset.
- (iii) Further, such income-tax authority may require the deductor or the collector or any other person who may at the time and place of survey be attending to such work,—
- (1) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place, and
 - (2) to furnish such information as he may require in relation to such matter.

- (iv) An income-tax authority may -

- (1) place marks of identification on the books of account or other documents inspected by him and take extracts and copies thereof;
- (2) record the statement of any person which may be useful for, or relevant to, any proceeding under the Act.

- (v) However, while acting under sub-section (2A), the income-tax authority shall **not** impound and retain in his custody, any books of account or documents inspected by him or make an inventory of any cash, stock or other valuable articles or thing checked or verified by him.

(e) Prescribed income-tax authorities empowered to call for information [Section 133C]

Effective from: 1st October, 2014

- (i) New section 133C has been inserted to enable the prescribed income-tax authority to verify the information in its possession relating to any person.

- (ii) Under this section, for the purposes of verification of information in its possession relating to any person, prescribed income-tax authority, may, -

- **issue a notice** to such person requiring him,
- **on or before a date** to be therein specified,
- **to furnish information or documents,**
- **verified** in the manner specified therein
- **which may be useful for, or relevant to, any inquiry or proceeding** under the Act.

- (iii) The term “proceeding” means any proceeding under the Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date. The term “proceeding” also includes all proceedings under the Income-tax Act, 1961 which may be commenced after such date in respect of any year.