

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF DIRECT TAXES
NEW DELHI

Instruction No. 3/2017

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Subject: - Standard Operating Procedure (SOP) to be followed by the Assessing Officers in verification of Cash transactions relating to demonetisation - regd.

Post demonetisation of Rs. 500 and Rs. 1000 notes on November 8, 2016, several malpractices has been noticed. The Income Tax Department is enquiring/seeking information and analysing instances of deposits to identify cases involving risk of tax evasion. Based upon vast amount of information of cash deposits collected and analysed by CBDT, a number of persons have been identified in whose case the cash transactions did not appear to be in line with their profile available with the Income-tax Department ('ITD'). In such cases, it has been decided to undertake online verification of select transactions through jurisdictional Assessing Officers ('AOs').

2. OVERVIEW OF ONLINE VERIFICATION

The online verification has been enabled on e-filing portal (for persons under verification) which will be synchronized with the internal verification portal (AIMS module of ITBA) of ITD. The salient features of online verification mechanism are as under:

2.1 ITD has enabled online verification of these transactions to reduce compliance cost for persons under verification while optimizing its resources. The information in respect of these cases has been made available in the e-filing window of the PAN holder (after log in) at the portal <https://incometaxindiaefiling.gov.in>. The PAN holder can view the information using the link 'Cash Transactions 2016' under 'Compliance' section of the portal. The person under verification will be able to submit online explanation without any need to visit Income Tax office.

2.2 Email and SMS were sent to the persons under verification for submitting online response on the e-filing portal. Such persons who are not yet registered on the e-filing portal (at <https://incometaxindiaefiling.gov.in>) should register immediately by clicking on the 'Register Yourself' link. Registered taxpayers should verify and update their email address and mobile number on the e-filing portal to receive electronic communication.

2.3 The user guide, quick reference guide and frequently asked questions ('FAQs') are available on the portal for assisting the person under verification for submitting online response.

2.4 Cases meeting the low risk criteria will be closed centrally. Cases which are not closed automatically will be pushed in batches to the AO for verification.

2.5 The AO will be able to view each information record, information as submitted by the person under verification for each record and also capture the verification result. In case additional information is required, the AO will be able to send a request for additional information electronically. The person concerned will also be automatically informed about the request for additional information by email and SMS. The information request will be visible to

the person under verification with a hyperlink for uploading information. All the additional documents (including supporting evidence) are required to be submitted online.

2.6 The response filed by person under verification will be appraised against available information. The uploaded information can be downloaded by the Assessing Officer. In case explanation of source of cash is found justified, the verification will be closed by the AO electronically without any physical interface with the person concerned.

3. REFERENCE DOCUMENTS

A Cash Transactions 2016 User Guide and Frequently asked Questions ('FAQs') has been prepared to help the persons under verification so that the process of furnishing online information is clearly understood (available in the help section of the e-filing portal home page). Further, a 'User Guide for Verification of Cash Transactions on ITBA - AIMS Module' (Verification Guide) has also been prepared for assisting the AOs involved in the verification process. It is advised that all stakeholders may go through the documents before filing response/initiating action.

4. ENSURING ONLINE RESPONSE

It is seen that many persons in the target segment have still not registered with e-filing portal. Further many registered persons who are under verification have not yet submitted online response. Pr. CCIT/CCIT/Pr. CIT/Range Heads are expected to give publicity and organize meetings with the taxpayer community and CAs/Bar Associations to educate them about the online verification facility and its benefits. So far, communication with the person under verification has been made under section 133C of the Income-tax Act, 1961 ('Act'). In cases where online response has not been submitted, AO shall generate a letter from the Verification portal on ITBA to the person under verification for submission of online response (except when immediate survey is contemplated) on the e-filing portal and ensure its service. This process should be completed within 7 days of availability of information on the portal.

5. CONDUCTING VERIFICATION

At the outset, it should be clearly understood that this exercise relates to preliminary verification of information only and the same should not be construed as conducting scrutiny or in-depth authentication. The entire process envisages end-to-end e-verification in which the concerned person would be required to electronically file his response on e-filing portal which shall be examined and monitored electronically by the tax department through Online Verification platform (ITBA). The two systems are harmonized in a manner so that the person under verification is not required to attend the Income-tax office personally under any circumstance and at any stage during the verification exercise. It has been endeavour of CBDT to identify and target the potential cases through e-verification so that possible instances of grievances arising from the process of verification are minimized.

5.1 The online verification should be focussed and limited to the issue under verification the outcome of which is either 'Acceptable' or 'Non-Acceptable'. The queries raised should be relevant and limited in number since this is a preliminary verification process only.

5.2 The Assessing Officer is required to verify each information record individually and take a decision about each record being 'Acceptable' (where the nature and source of cash deposit for that particular record is explained by the person under verification to the prima-facie satisfaction of the Assessing Officer) or 'Non-Acceptable' (where the Assessing Officer is not satisfied with the explanations offered by the person under verification based on the information available). For each 'Non-Acceptable' information record, the undisclosed income will have to be ascertained and recorded along with verification remarks on the portal [the format has been reproduced in the Verification Guide].

5.3 The information relating to cash transactions and response submitted by the person under verification will be visible to the Assessing Officer and his supervisory officers.

5.4 The Assessing Officer will also be able to send a request for additional information, if required. The information request would be communicated to the PAN holder with a Hyperlink for uploading the information. The uploaded information can also be downloaded by the Assessing Officer.

5.5 It is reiterated that no independent enquiry or third party verifications are required to be made by the Assessing Officer outside the online portal. Whatever information is necessary during verification, the same has to be collected through the person under verification using online platform only. Even telephonic queries are to be avoided.

5.6 While conducting verification, seeking additional information and drawing inference regarding source of deposits in bank or other accounts, for general and broad guidance of the AOs, the source specific verification guidelines has been given in the Annexure with a view to maintain consistent approach during verification. If the sources informed by the person under verification are other than those indicated in the Annexure, suitable parameters should be decided by the AO in consultation with the range head and Pr. CIT concerned.

5.7 It should be ensured that the communications made online with the persons under verification should be in very polite language without containing any element of threat or warning. No show cause of any kind should be given.

5.8 The verification of a particular case shall be complete only when:

(a) each information record reflected in that case gets verified and has been marked either as 'Acceptable' or 'Non-Acceptable' (with mentioning of undisclosed income in the latter category);

and

(b) Approval has been given by the supervisory authority as prescribed at Para 7 of this instruction.

5.9 If no satisfactory explanation is provided, the undisclosed income may be quantified considering the facts of the case. Brief summary of verification may be mentioned under verification remarks.

5.10 The cases under the 'Non Acceptable' category would get escalated back to the Directorate of Systems and may lead to advance processing of such cases for further handling as cases involving possible tax - evasion.

5.11 In case the person under verification does not respond within the time frame prescribed, it might lead to a possible inference that the cash deposit under verification is prima-facie undisclosed and consequently the AO may treat these cases under the 'Non Acceptable' category with relevant remarks.

5.12 A holistic view should be adopted looking into the various aspects of the circumstances leading to deposit of cash (e.g. family-size, financial status and background of person) and uniformity in approach must be adopted while forming a view about quantum of undisclosed income.

6. ADHERENCE TO THE TIME-LIMIT DURING VERIFICATION

6.1 It shall be necessary to complete the process of online verification as quickly as possible so that the option to avail the benefits under the Prime-Minister Garib Kalyan Vojana, 2016 ('PMGKY') can be exercised by the persons under verification by the prescribed date for the said scheme. It will be desirable if the additional information required from the person under verification is communicated to the taxpayer within 5 working days (wherever considered necessary), from the receipt of online information from such person.

6.2 The Pr. CIT concerned should frame the intervening timelines depending upon the number of cases and content of information handled by the Assessing Officer in the charge.

6.3 The Additional/Joint CIT will monitor the adherence to the above time schedule and guide AOs wherever required.

7. APPROVAL FROM HIGHER AUTHORITIES

7.1 After all information records of a particular person have been verified by the AO, he would be required to take approval for closure of verification from the prescribed approving authority.

7.2 If the total value of transactions is below Rs. 10 lakh (Rs.25 Lakh in Delhi, Mumbai, Kolkata, Chennai, Bangalore, Pune, Hyderabad and Ahmedabad), the prescribed approving authority will be Additional/Joint CIT heading the Range. For cases where the total value of transactions in a particular case exceeds the above limits, the prescribed approving authority will be the Pr. CIT concerned.

7.3 The above approvals would be through online portal only for which the procedure has been specified in the Verification Guide.

7.4 The time-frame prescribed above in Para 6 will be inclusive of the time involved in granting approval by the prescribed approving authority.

8. DEALING WITH NON-COMPLIANCE

In cases where online response has not been submitted even after service of letter, the ITS profile of such PAN holders may be viewed to access information reported in earlier returns and under TDS/AIR/CIB. In case the cash deposit is not in line with the earlier return or information profile of the person under verification, necessary facts may be collected inter-alia by exercising the powers under section 133(6) with the approval of prescribed authority. In appropriate cases depending upon the online response or otherwise, survey action u/s 133A can be considered. During survey, where there is suspicion of back dating or fictitious cash transactions, CCTV recording of the cash counter at relevant banks may also be checked, if necessary. Reference can also be sent to the Investigation wing in appropriate cases.

In cases of intrusive actions [133(6)/133A/ref. to Inv. Wing], the outcome needs to be reported by the AO in the online portal also.

9. INITIATION OF PENALTY PROCEEDINGS UNDER SECTIONS 269SS/269T OF THE ACT

In case, the transaction being loan received/repaid in cash above the permissible threshold comes to notice, the AO may consider initiation of penal proceedings under the relevant provisions separately.

10. FACILITATION

10.1 DIT(I&CI) has been designated as the local resource person for supporting the field formation in the e-verification process.

10.2 In case of technical difficulty, ITBA helpdesk and contact persons given in ITBA instruction may be contacted.

10.3 Further, clarifications would be issued by CBDT as and when required.

11. The above may be brought to the notice of all concerned.

Annexure

Source Specific General Verification Guidelines

1. Cash out of earlier income or savings

1.1 In case of an individual (other than minors) not having any business income, no further verification is required to be made if total cash deposit is up to Rs. 2.5 lakh. In case of taxpayers above 70 years of age, the limit is Rs. 5.0 lakh per person. The source of such amount can be either household savings/savings from past income or amounts claimed to have been received from any of the sources mentioned in Paras 2 to 6 below. Amounts above this cut-off may require verification to ascertain whether the same is explained or not. The basis for verification can be income earned during past years and its source, filing of ROI and income shown therein, cash withdrawals made from accounts etc.

1.2 In case the individual claims that cash deposit includes savings of other person(s), the necessary information is required to be submitted under Para 4 or Para 5 below, as the case may be.

1.3 In case of an individual having no business income, if the cash out of earlier income or savings exceeds the above mentioned threshold, the AO needs to consider the remarks provided by the person under verification and seek further relevant information. During verification, the AO needs to consider the information provided by the person concerned, income earned during past years, source of such income, filing of ROI and income shown therein, cash withdrawals made from accounts etc. before quantifying the undisclosed amount, if any. In case the person under verification has filed return of Income, a reasonable quantum can be considered as explained while quantifying the undisclosed amount, if any.

1.4 In case of persons engaged in business or requirement to maintain books of accounts, no additional information is required to be submitted by the person under verification if total cash out of earlier income or savings (sum of responses for all cash transactions) is not more than the closing cash balance as on 31st March 2016 in the return for AY 2016-17. However, if the AO has reason to believe that the closing cash balance as on 31st March 2016 has been increased by revising the return or backdating transactions in the books of account, further verification may be carried out.

1.5 In case of persons engaged in business or required to maintain books of accounts, if total cash out of earlier income or savings (sum of responses for all cash transactions) is more than the closing cash balance as on 31st March 2016 in the return for AY 2016-17, the AO needs to consider the remarks provided by the taxpayer and seek relevant information, i.e. closing balance as on 31st March 2016 as reflected in the books of account. During verification, the AO may consider the information provided by the person under verification, income earned during past years, source of such income, filing of ROI and income shown therein, cash withdrawals made from accounts etc. before quantifying the undisclosed amount, if any.

1.6 If the person under verification has claimed that the cash deposit has been disclosed in IDS 2016 and if the same is found to be correct, no further verification should be made.

1.7 In case, there is information or apprehension/suspicion that a particular bank account(s) has been misused for money laundering/tax evasion/entry operations in shell companies, the monetary cut-off or cash-balance based cut off prescribed in clauses above requiring no-verification, shall not be applicable.

2. Cash out of receipts exempt from tax

2.1 If the cash is explained to be out of receipts exempt from tax, and the same is not in line with the earlier returns filed by the person under verification, the AO needs to consider the remarks provided by the person and seek relevant information (e.g. records of land-holding and other relevant evidences etc. in case of agricultural income), to form appropriate view and quantify unexplained income.

3. Cash withdrawn out of bank account

3.1 The AO needs to consider the remarks provided by the person under verification and seek relevant information i.e. copy of bank statement/passbook to form appropriate view and quantify unexplained income.

3.2 Bank statement/passbook may be verified to confirm the name of the account holder. The date and amount of cash withdrawals and cash deposits in the bank account may be matched to verify whether claim that the cash deposited is out of cash withdrawn out of bank account is acceptable. Further removed in time the withdrawal is from the date of demonetization i.e. 8th November, 2016, the more suspicious it looks. The AO should take a balanced view in analyzing the time gap from the point of view of normal human behaviour and specific circumstances of the case.

4. Cash received from identifiable persons (with PAN)

4.1 No additional information is required to be submitted by the person under verification as the information will be pushed to the AO of the identifiable persons (with PAN).

4.2 In case the identifiable person (with PAN) does not confirm the transaction, the response will be referred back for further verification.

4.3 In case of a gift, it may be seen whether the same is taxable in the hands of the recipient under section 56(2) of the Act.

5. Cash received from identifiable persons (without PAN)

5.1 The AO needs to verify if the cash receipts are not in line with the normal practices of concerned business as mentioned in the earlier returns of Income after considering the remarks provided by the taxpayer, nature of business and earlier history before seeking additional information.

5.2 In case of other cash receipts, strategies for verification may be made in consultation with the Pr. CIT so that consistency is maintained in the entire charge based on nature of transaction.

6. Cash received from un-identifiable persons

6.1 The AO needs to verify if the cash transactions or its quantum are not in line with the normal practices of concerned business as mentioned in the earlier returns of Income.

6.2 During verification, the AO may seek relevant information e.g. monthly sales summary (with breakup of cash sales and credit sales), relevant stock register entries, bank statement etc. to identify cases with preliminary

suspicion of back-dating of cash sales or fictitious sales. Some indicators for suspicion of back dating of cash sales or fictitious sales could be ;

- i. Abnormal jump in the cash sales during the period Nov to Dec 2016 as compared to earlier history.
- ii. Abnormal jump in percentage of cash sales to unidentifiable persons as compared to earlier history.
- iii. More than one deposit of specified bank notes in the bank account late in the demonetization period.
- iv. Non-availability of stock or attempts to inflate stock by introducing fictitious purchases.
- v. Transfer of deposited cash to another account/entity which is not in line with earlier history.

6.3 In case of receipt of cash on account of donation, indicators similar to above may be kept in mind.

6.4 In case of other cash receipts, strategies for verification may be made in consultation with the Pr. CIT.

7. Cash Disclosed/To be disclosed under PMGKY

7.1 In case the taxpayer mentions that the Cash Disclosed/to be disclosed under PMGKY, the same may be verified.

7.2 If the process of disclosure is informed to be pending, verification can be kept pending till the evidence is furnished.

7.3 The verification should be closed on the basis of evidence of disclosure made under PMGKY.