

What's New

Tax Insights



21 January 2022

Central Government notifies e-Advance Rulings Scheme, 2022

In brief

The Central Government, *vide* a notification¹, announced the e-Advance Ruling Scheme, 2022 (Scheme). The Scheme eliminates the requirement of physical presence of the applicant or its authorised representative before the Board for Advance Ruling (BAR). Although a hearing through video conference is permitted on request by the applicant.

In detail

Background

The Finance Act, 2021 had substantially overhauled the advance ruling provisions by substituting the Authority for Advance Ruling (AAR) with the BAR. Thereafter, the Central Government, on 1 September 2021, had notified the constitution of benches for BAR² and the date for application of various provisions (relating to the functioning and powers of the authority and applicability of advance rulings) for the BAR³.

The Finance Act, 2021 had also empowered the Central Government to notify a scheme for the purpose of giving advance rulings by the BAR to impart greater efficiency, transparency and accountability by doing the following:

- eliminating the interface between the BAR and the applicant to the extent technologically feasible
- optimising utilisation of resources through economies of scale and functional specialisation
- introducing a system with dynamic jurisdiction

In accordance with the same, the Central Government has recently notified the Scheme, outlining the scope and procedure for obtaining advance rulings before the BAR.

Some of the key highlights of the Scheme are discussed below.

¹ Notification No. S.O. 248(E) dated 18 January 2022

² Notification No. S.O. 3561(E) dated 1 September 2021. You may refer to our [Tax Insights dated 3 September 2021](#).

³ Notification No. S.O. 3562(E) dated 1 September 2021

Key highlights of the Scheme

- **Scope of the Scheme:** The Scheme applies to applications of advance rulings, filed before the BAR as well as applications transferred from the erstwhile AAR to the BAR.
- **Allocation of applications for advance rulings:** The applications will be assigned to the BAR through an automated allocation system using an algorithm for randomised allocation of cases. Such system is to be formulated by the Principal Director General of Income-tax (Systems) [PDGIT (Systems)] or the Director General of Income-tax (Systems) [DGIT (Systems)], with the approval of the Central Board of Direct Taxes.
- **Communications with the BAR:**
 - The application for advance ruling will have to be made electronically by mail. All future communications between the BAR and the applicant or Principal Commissioner of Income-tax/ Commissioner of Income-tax will be done only electronically through mail.
 - All such communications with the BAR will be done through an income-tax authority to be designated by the BAR.
 - The applicant is not required to appear either personally or through its authorised representative in connection with any proceedings before the BAR.
- **Video conference:**
 - The applicant may request for a hearing through video conferencing or video telephony to make its submission before the BAR. The BAR will allow the request, and the designated income-tax authority will provide the link and password for the hearing.
 - The PDGIT (Systems) or the DGIT (Systems) will establish suitable facilities for video conferencing or video telephony at such locations as may be necessary.
- **Procedure:** Under the Scheme, there is no substantial change in the procedure for seeking advance rulings with regard to – forms, admission and final hearing of application; submission of additional facts and additional questions; rectification of order; powers of the BAR and powers and functions of the Secretary.

The takeaways

- The present Scheme is another step towards the Government's initiative of going 'faceless' for tax proceedings. However, its effective implementation is crucial to achieve the intended objectives.
- It will be relevant to note that the writs before the Delhi High Court challenging the constitutional validity of abolition of the AAR and its substitution by the BAR are pending, with the next hearing scheduled in February 2022. The Delhi High Court, in its interim order, had held that any action taken with respect to the BAR will be subject to the final outcome under the writ petitions. It would be interesting to see how the court would react to this Scheme brought by the government, considering that there is an interim stay with regard to any action to be taken in respect of the BAR.

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