



Central Board of Direct Taxes  
(CBDT)

## Assessment of Startups – Clarification by CBDT



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Taxcharcha LLP is an initiative for imparting professional and taxation related updates to the professional colleagues and subscribers. In its endeavor to give the readers the best knowledge at one place, we have been constantly working towards the refining of the concepts at our end.

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## Introduction

In order to provide hassle free tax environment to startups, CBDT has issued various circulars from time to time. To consolidate all the circulars issued by the CBDT, Circular No. 22/2019 dated 30<sup>th</sup> August was issued. The particulars of the said circular are as follows:

### A) Assessment of Startups

- Startups recognized by Department for Promotion of Industry and Internal Trade

- Filed Form 2

- i) Cases are pending on the single issue of “Applicability of Section 56 (2)(viib) of the Income Tax Act, 1961”

*In the above case, the contention of the assessee will be summarily accepted.*

- ii) Cases are pending on various issues including the issue of “Applicability of Section 56 (2)(viib) of the Income Tax Act, 1961”

*In the above case, the above issue will not be pursued and inquiry on all the other issues will be carried out by the Assessing Officer.*

- iii) Where no assessment is pending, then in that case also inquiry can be conducted by the Assessing Officer after taking approval of the supervisory authority.

### B) Time Limit for completion of assessments of the Startups.

- i) In case i) – By 30<sup>th</sup> September, 2019.

- ii) In case ii) and iii) – By 31<sup>st</sup> October, 2019.

### C) Procedure for addition made u/s 56(2)(viib) in the past assessment

As the clarification issued by the CBDT, it has been provided that section 56(2)(viib) will not be applicable on the Startups if Form 2 is submitted by the company.

Where the assessment is made on or before 19<sup>th</sup> February, 2019 , the following procedure shall be followed:

- i) In case the appeal is pending before CIT(A) , the order shall be passed before 31<sup>st</sup> December, 2019 taking the fact that Form 2 is filed and Department shall not file further appeal on the issue of addition made u/s 56(2)(viib) of the Act.
- ii) In case the appeal is pending before ITAT, the department shall not press the ground relating to addition made u/s 56 (2)(viib) of the Act.

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Lets understand what is Section 56(2)(viib) and Form 2 for Startups are all about.

### Section 56(2)(viib) of the Income Tax Act, 1961

The above section deals with the *closely held companies* which receives *any consideration for issue of shares* that exceeds the *face value* of such shares i.e. the shares are issued on premium, then *such excess* would be treated as income under this section.

The above provisions are made exempt for the Startups who have filed Form 2 and are recognized by the Department.

### Form 2

Form 2 is for making a declaration by a Startup for claiming exemption u/s 56(2)(viib) of the Income Tax Act, 1961 stating that *the said company has not invested and shall not invest for a period of 7 years from the end of the latest financial year in which shares are issued at premium by the said company in any of the assets specified by the Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry.*