

QR – 66

31st October, 2020
&
30th November, 2020

Regarding
**obtaining & furnishing of audit report
u/s 92E of the Income Tax Act, 1961
relating to international transactions & specified domestic transactions
(Transfer Pricing)
and
furnishing of return of income thereof
for the assessment year 2020-21**

1. Chapter X of the Income Tax Act, 1961 relates to special provisions relating to avoidance of tax.
2. Section 92 of this chapter provides that any income arising from an **international transaction** (as defined in section 92B) shall be computed having regard to the arm's length price.
3. Similarly, section 9BA of this chapter provides that for the purpose of section 92BA and sections 92, 92C, 92D, and 92E, **specified domestic transaction** in case of an assessee means any of the transactions specified in clause (i) to (vi) of section 92BA, not being an international transaction, the aggregate of which in the previous year exceeds a sum of Rs. 20 crore.
4. The relevant rules in this regards are Rule 10A to 10E and the relevant Form is Form No. 3CEB.
5. **Section 92E** of the Act provides that every person who has entered into an international transaction or specified domestic transaction during a previous year **shall** obtain a report from an accountant **and** furnish such report **on or before** the specified date.
6. Up to assessment year 2019-20, **clause (iv) of section 92F** defined the "**specified date**" for the purposes of section 92E as follows:.

“ specified date shall have the same meaning as assigned to “due date” in Explanation 2 below sub-section (1) of section 139”

7. The Finance Act, 2020 substituted clause (iv) w.e.f. 1.4.2020, i.e. assessment year 2020-21 as follows:

“ specified date means the date one month prior to the due date for furnishing the return of income under sub-section (1) of section 139 for the relevant assessment year.”

8. As per clause (aa) of *Explanation 2* to section 139(1) "**due date**" means,—
- “in the case of an assessee who is required to furnish a report referred to in section 92E, the 30th day of November of the assessment year.**
9. Since the *specified date* mentioned in above section is the *due date* mentioned in *Explanation 2* to section 139(1), therefore, the expression “*date one month prior to the due date*” would mean **31st October** of the assessment year.
10. It means that report of audit in terms of section 92E is required to be furnished **by 31st October** of the assessment year.
11. It may be noted that for the purposes of section 92E (Form 3CEB) , there is **no** separate date for obtaining the audit report, 31st October of the assessment year is the due date for obtaining the report as well as for furnishing the report.
12. Thus, for the assessment year 2020-21, as per the Act these due dates are as follows:
- (i) to obtain the audit report – 31st October 2020
(ii) to furnish the audit report – 31st October, 2020
13. In this regards it may further be noted that the neither the “Ordinance” nor any notification and nor the Amendment Act made any change or extension for the purpose of section 92E and Form 3CEB.
14. Accordingly, for the assessment year 2020-21 the *specified date* for the purposes of **obtaining** the report u/s 92E in Form No. 3CEB is **31.10.2020**.
15. Accordingly, for the assessment year 2020-21 the *specified date* for the purposes of furnishing the report u/s 92E in Form No. 3CEB is **31.10.2020**.
16. However,, for the assessment year 2020-21 the *specified date* for the purposes of furnishing of return of income, where a report u/s 92E in Form No. 3CEB is required to furnished, is **30.11.2020**.

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