

FAQs on Transition Provisions under Section 536 of the Income-tax Act, 2025

(Repeals and Savings)

A. Summons & Notices

Q1: Whether summons is considered as notices for the purpose of section 536(2)(c) of Income-tax Act, 2025?

Ans: Any summon is issued by way of a notice. Therefore, summon is a notice under the provisions of Income-tax Act, 2025 including repeals and savings section.

Q2: Whether summons, in respect of proceedings like STR, TEP etc. or Assessment, relating to period prior to 01.04.2026 is to be issued under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: Where any assessment or any matter flowing from TEP/ STR/CRS/FATCA etc. relates only to a period prior to 01.04.2026, section 536(2)(c) of Income-tax Act, 2025 enables usage of power under section 131 of Income-tax Act, 1961, for such purposes/matter.

Q3: Whether summons, in respect of proceedings like STR, TEP that does not specifically relate to period prior to 01.04.2026 or relates to period on or after 01.04.2026, is to be issued under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: Where a TEP/ STR etc. does not specifically relate to period prior to 01.04.2026 or where it may be difficult to assign any specific period to the said TEP / STR etc., it would be appropriate to use powers under section 246 of Income-tax Act, 2025 for issuance of summons. However, any proceeding, in consequence of issuance of such summons, in respect of tax year 2025-26 and before, has to be initiated under the Income-tax Act, 1961 in view of section 536(2)(c) of Income-tax Act, 2025.

Q4: Whether summons, in respect of assessment proceedings relating to period on or after 01.04.2026 is to be issued under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: Where any assessment pertains to tax year 2026-27 onwards, it would be appropriate to use powers under section 246 of Income-tax Act, 2025 for issuance of summons.

Q5: Whether issuing summons under section 131(1A) of Income-tax Act, 1961 or 246(2) of Income-tax Act, 2025, is a proceeding within the meaning of section 536(2)(c) of Income-tax Act, 2025?

Ans: Section 536(2)(c) reads as “the provisions of the repealed Income-tax Act shall continue to apply to any proceeding pending on the date of commencement of this Act and to any proceedings initiated on or after the 1st April, 2026 (including notices, assessment, reassessment, recomputation, rectification, penalty, reference, revision and appeals) in respect of any tax year beginning before the 1st April, 2026 and such proceedings shall be carried out as per the procedure specified in the repealed Income-tax Act”. Therefore, issuance of any notice results in a proceeding within the meaning of section 536(2)(c) of Income-tax Act, 2025. Thus, where a summons is issued on or after 01.04.2026 for any TEP / STR etc. pertaining only to a period prior to 01.04.2026, it leads to a proceeding duly covered under 536(2)(c) of Income-tax Act, 2025 and summons under section 131(1) or 131(1A) of Income-tax Act, 1961 read with section 536(2)(c) of Income-tax Act, 2025 is to be issued.

B. Search, Requisition and Post-Search Proceedings

Q6: Whether summons, in case of post-search inquiries in respect of searches conducted prior to 01.04.2026, is to be issued under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: Section 536(2)(v) of Income-tax Act, 2025 provides that –

“(v) where a search has been initiated under section 132 or requisition is made under section 132A prior to the commencement of this Act, the provisions of repealed Income-tax Act, shall continue to apply to any proceedings connected in respect of such search or requisition, as the case may be, as if this Act has not been enacted.”

Therefore, for searches initiated or requisition made prior to 01.04.2026, powers under section 131(1) of Income-tax Act, 1961 may be exercised wherever required i.e. for post search inquiries and also for assessment.

Q7: Whether summons, in case of post-search inquiries in respect of searches conducted on or after 01.04.2026, is to be issued under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: For searches initiated or requisition made on or after 01.04.2026, section 536(2)(v) is not applicable. Therefore, powers under section 246 of Income-tax Act, 2025 is to be exercised wherever required i.e. for post search inquiries and also for assessment.

C. Power to Call for Information

Q8: How the power to call for information under section 133(6) of the Income-tax Act, 1961 and under Section 252 of the Income-tax Act, 2025 is to be exercised after repeal of Income-tax Act, 1961?

Ans: Same principles as applicable for summons as provided in question no. 1 to 7, shall apply for power to call for information under section 133(6) of Income-tax Act, 1961 or under section 252 of Income-tax Act, 2025.

D. Jurisdiction, PAN Migration and Search Cases

Q9: Whether PAN Migration or transfer of jurisdiction in case of Search/Survey case or otherwise is to be done under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: Transfer of jurisdiction is not related to any Assessment year or Tax year. Once jurisdiction is transferred, all the matters relating to all years stand transferred to the new Assessing Officer. In this regard, section 536(2)(e) of Income-tax Act, 2025 states:

“(e) where any proceedings pending on the commencement of Income-tax Act, 2025 before any income-tax authority, by way of an application, appeal, reference or revision or by any other means, shall be continued and disposed of as if Income-tax Act, 2025 had not been enacted.”

Therefore, in cases where notices under section 127(2) of the Income-tax Act, 1961 were already issued prior to 1st April 2026, the transfer order under section 127 of Income-tax Act, 1961 can be passed under the said section r.w.s 536(2)(e) and 536(2)(4) of the Income-tax Act, 2025. However, where transfer of jurisdiction or PAN migration has been initiated on or after 1st April, 2026, the case can be transferred through passing the final order under section 243 of the Income-tax Act, 2025.

E. Provisional Attachment, Attachment and Recovery

Q10: Whether, provisional attachment, is to be made under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: Provisional attachment is done during the course of assessment. Therefore, in case of assessment relating to tax year prior to 01.04.2026, provisional attachment may be done under section 281B of Income-tax Act, 1961. Otherwise, provisional attachment may be done under section 500 of Income-tax Act, 2025.

Q11: Whether recovery by Tax Recovery Officer (TRO) is to be made under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: Recovery of any demand pertaining to period prior to 01.04.2026 can be made under Income-tax Act, 1961 in accordance with section 536(2)(c) of Income-tax Act, 2025 as well as under the Income-tax Act, 2025 as per section 536(2)(i) of Income-tax Act, 2025. Accordingly, recovery of any demand pertaining to period prior to 01.04.2026 is enabled under both the Acts

F. Director's Liability, Penalties, Tax Clearance, Prosecution and Retention

Q12: Whether proceedings under section 179 of Income-tax Act, 1961 in respect of liability of Directors of private company are to be initiated under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: Where any irrecoverable demand of a private company pertains to a particular period and a person is director of such company during the said period, then such person is jointly and severally liable for such demand. Thus, the liability under section 179 of Income-tax Act, 1961 or under section 323 of Income-tax Act, 2025 is to be fastened on such person in accordance with the period to which the demand relates.

Q13: Whether, penalty for default of tax demand, is to be levied under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: The penalty where assessee is in default in payment of tax arrears shall be levied under section 221 of Income-tax Act, 1961 where the demand relates to the period prior to 01.04.2026 in view of section 536(2)(d) of Income-tax Act, 2025. However, where the demand relates to the period on or after 01.04.2026, such penalty shall be levied under section 412 of Income-tax Act, 2025.

Q14: Whether, Tax Clearance Certificate (TCC), is to be issued under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: If the application for TCC is received prior to 01.04.2026 then TCC is to be issued under section 230 of Income-tax Act, 1961 or under section 420 of Income-tax Act, 2025 depending on whether the said certificate is applicable to period till 31.03.2026 or post said period respectively. However, where application is received on or after 01.04.2026 then TCC is to be issued under section 420 of Income-tax Act, 2025.

Q15: Whether, prosecution should be launched, under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: In this regard, as a first step the section under which default has taken place is to be ascertained. Accordingly, action for prosecution is to be taken in view of section 536(2)(c) of Income-tax Act, 2025.

For Example, -

- (i) if the default has taken place under section 281B of Income-tax Act, 1961 then prosecution is to be launched under section 276 of Income-tax Act, 1961
- (ii) if the default has taken place under section 132(3) of Income-tax Act, 1961 then prosecution is to be launched under section 275A of Income-tax Act, 1961.
- (iii) If the default has taken place under section 397(3)(a) of Income-tax Act, 2025 then the prosecution is to be launched under section 477 of Income-tax Act, 2025.

Q16: Whether, retention of books of accounts, is to be done under Income-tax Act, 1961 or Income-tax Act, 2025?

Ans: In this regard, first the section under which action has taken place is to be ascertained. Accordingly, retention of books of account needs to be done.

For Example, -

- (i) if the search action is initiated under section 132 of Income-tax Act, 1961 then retention of books of accounts to be done under section 132(8) of Income-tax Act, 1961 and likewise.
- (ii) If the search is initiated under section 247 of Income-tax Act, 2025 then retention of books of accounts to be done under section 251(3) of Income-tax Act, 2025.
- (iii) if the survey action is conducted under section 133A of Income-tax Act, 1961 then the impounding is to be done under 133A(3)(ia) of Income-tax Act, 1961 and if the survey is conducted under section 253 of Income-tax Act, 2025 then the impounding is to be done under section 253(5)(c) of Income-tax Act, 2025.
- (iv) similar principle as referred in (iii), applies to assessment proceeding.

G. Applications seeking benefits under Income-tax Act, 1961

Q17. How will applications seeking benefits under sections 10(46), 10(46A), 80E, 80C(2), 80G(2) and 11(1)(c) etc of the Income-tax Act, 1961 that were filed on or before 31.03.2026 and are still pending as on date are to be dealt with?

Ans: Applications filed on or before 31.03.2026 seeking any benefit under the Income-tax Act, 1961 may be disposed of by applying section 536(2)(c) or, as the case may be, section 536(2)(e) of the Income-tax Act, 2025, read with the corresponding provisions of the Income-tax Act, 1961.

H. Pending Applications under section 12AB/80G of the Income-tax Act, 1961

Q18. How will registration/approval application under Section 12AB or Section 80G of the Income-tax Act, 1961, filed on or before 31.03.2026, pending as on 01.04.2026 and where approval is sought from Tax Year 2025-26 onwards be processed?

Ans: Where a registration/approval application under Section 12AB or Section 80G of the Income-tax Act, 1961, filed on or before 31.03.2026, is pending as on 01.04.2026 and approval is sought from Tax Years including 2025-26, the proceedings may continue under the Income-tax Act, 1961 by virtue of sections 536(2)(c) and 536(2)(e) of the Income-tax Act, 2025.

Q19. Will registration/approval granted for period under Section 12AB or Section 80G of the Income-tax Act, 1961 remain valid?

Ans: Yes. Any registration or approval granted under the Income-tax Act, 1961 remains valid and protected under the section 536(2)(j) of the Income-tax Act, 2025.

Q20. How will pending applications under section 12AB/80G of the Income-tax Act, 1961 seeking approval from Tax Year 2026-27 onwards be treated?

Ans: For matters relating to exemptions/deductions pertaining to tax year 2026-27, the provisions of Income-tax Act, 2025 are applicable. Accordingly, where an application under section 12AB/80G of the Income-tax Act, 1961 filed on or before 31.03.2026 remains pending as on 01.04.2026 and approval is sought from Tax Year 2026-27 onwards, it may be administratively treated as having been filed under the corresponding provisions of the Income-tax Act, 2025 and approvals under corresponding sections of Income-tax Act, 2025 may be considered/processed.

I. Pending Lower Deduction Certificates/ No Deduction Certificate Applications

Q21. What happens to Lower deduction Certificate (LDC)/No deduction Certificate (NDC) applications that were filed and disposed of on or before 31 March 2026?

Ans: For the application filed on or before 31st March 2026 and disposed of also on or before 31st March 2026, the certificates issued in respect of these applications are protected in view of provisions of section 536(2)(b) read with section 536(2)(j) of the Income-tax Act, 2025.

Q22. How will applications for LDC/NDC filed on or before 31 March 2026 but pending as of 01.04.2026 be treated?

Ans: For matters relating to LDC/NDC pertaining to tax year 2026-27, the provisions of Income-tax Act, 2025 are applicable. Accordingly, where an application under section 197 of the Income-tax Act, 1961 filed on or before 31.03.2026 remains pending as on 01.04.2026 and approval is sought from Tax Year 2026-27 onwards, it may be administratively treated as having been filed under the corresponding provisions of the Income-tax Act, 2025 and approvals under corresponding sections of Income-tax Act, 2025 may be considered/processed.

Q23. How will applications for LDC/NDC filed on or after 1 April 2026 be handled?

Ans: Applications filed on or after 1 April 2026 will be dealt with entirely in accordance with the provisions of the Income-tax Act, 2025.
