

# DISCLAIMER

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# The story till now

- Filing of return u/s 139
- Intimation u/s 143(1)
- Notice u/s 143(2) calling for details
- Physical Appearance and Assessment
- Appeal





## **ROAD TO FACELESS ASSESSMENT**

- **2015 CBDT introduces email based paperless communication for scrutiny proceedings**
- **2017 E proceedings through ITBA set to commence**
- **2018 CBDT directs, conduct of assessments other than search cases through E Proceedings, instructions issued for Asst Year 2018-19**
- **2019 E assessment scheme 2019 notified by CBDT on 7<sup>th</sup> October 2019.**

Section 143 (3A), 143 (3B)  
and 143 (3C) inserted by  
the Finance Act 2018  
w.e.f 01-04-2018



# Section 143 (3 A)

Central Government may make a scheme, by notification for the purpose of making assessment of Total Income or Loss of the assessee u/s 143 (3) or u/s 144 to impart greater efficiency, transparency and accountability by

01

Eliminating interface between AO and assessee in the course of proceedings to the extent technologically feasible

02

Optimizing utilization of resources through economies of scale and functional specialization

03

Introducing team-based assessment with dynamic jurisdiction

# Section 143 (3 B)

- The Central Government for the purpose of giving effect to the scheme made u/s 143 (3A) by notification direct that any of the provisions of this Act relating to assessment of Total Income or Loss shall not apply or shall apply with such exception, modifications and adaptations as may be specified in the notification
- Provided that no direction shall be issued after the 31<sup>st</sup> of March 2021





# **Section 144B ASSESSMENT**

**Section 144B introduced  
w.e.f 01-04-2021 with a  
non-obstante clause that  
assessment u/s 143(3) or  
u/s 144 shall be in a  
faceless manner**

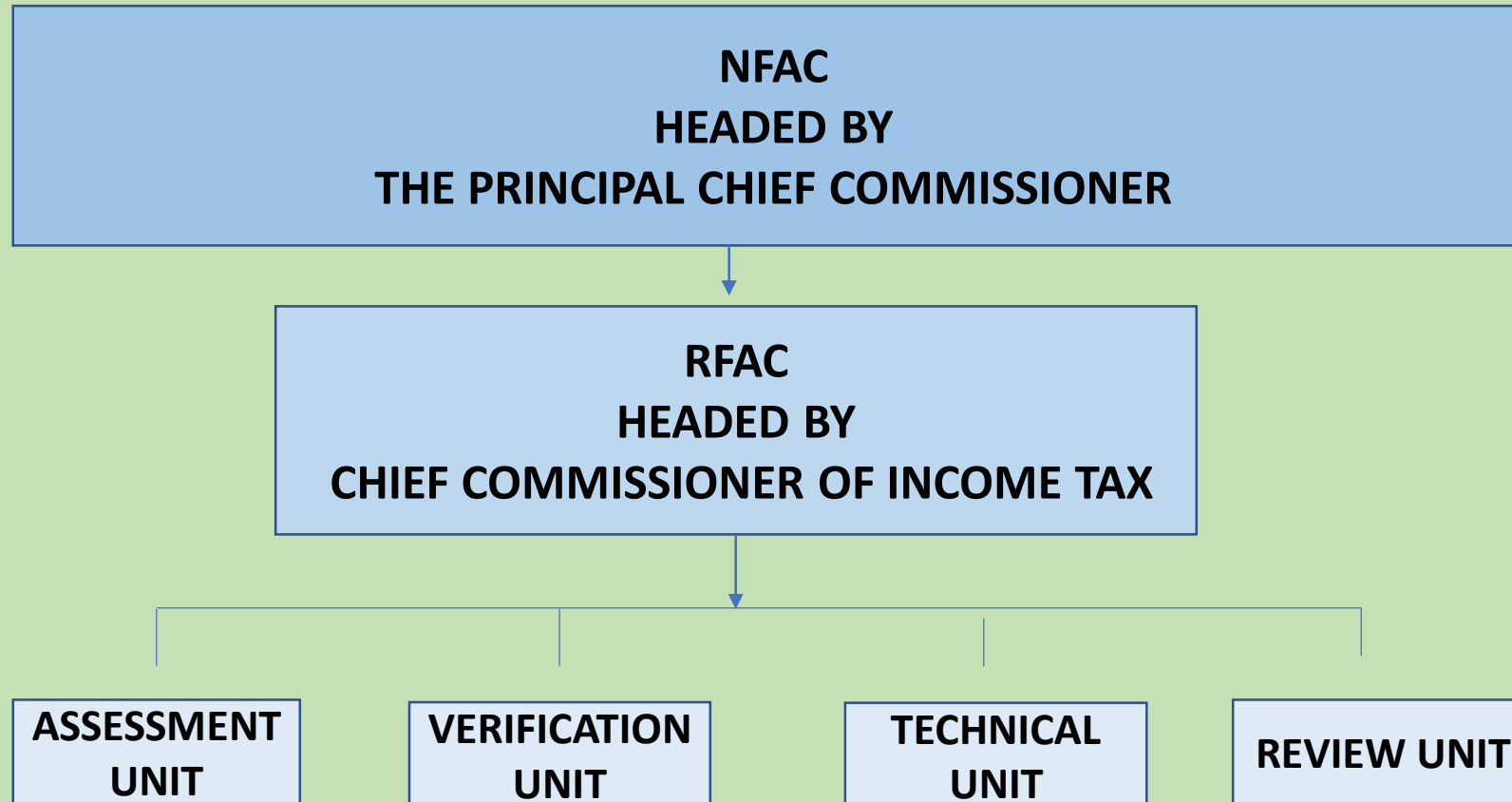
# Applicability

The Board shall specify that persons to whom Faceless Assessment shall apply, and this specification can be based on

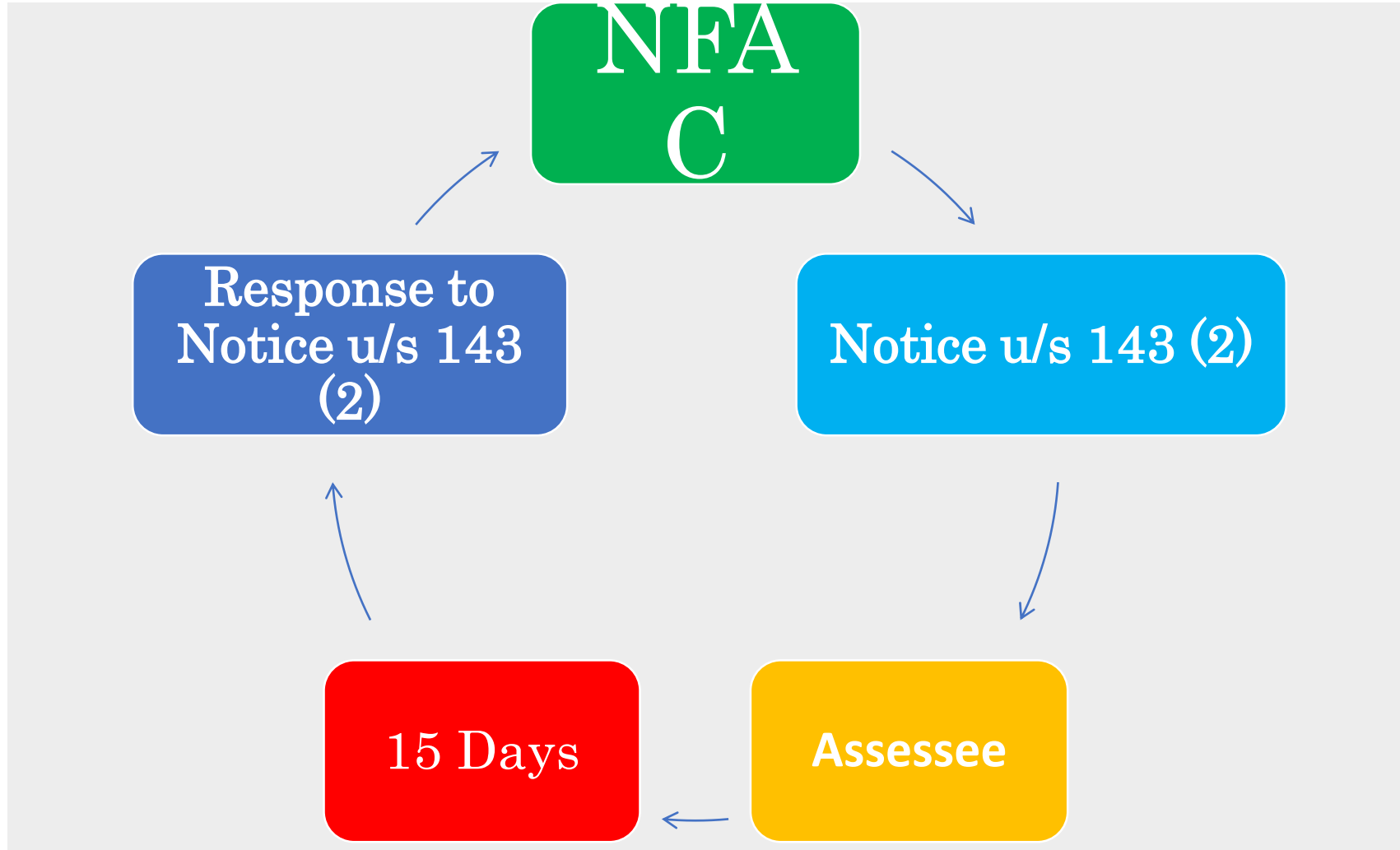
- Territorial Area,
- or persons or class of persons,
- or incomes or class of incomes,
- or cases or class of cases,



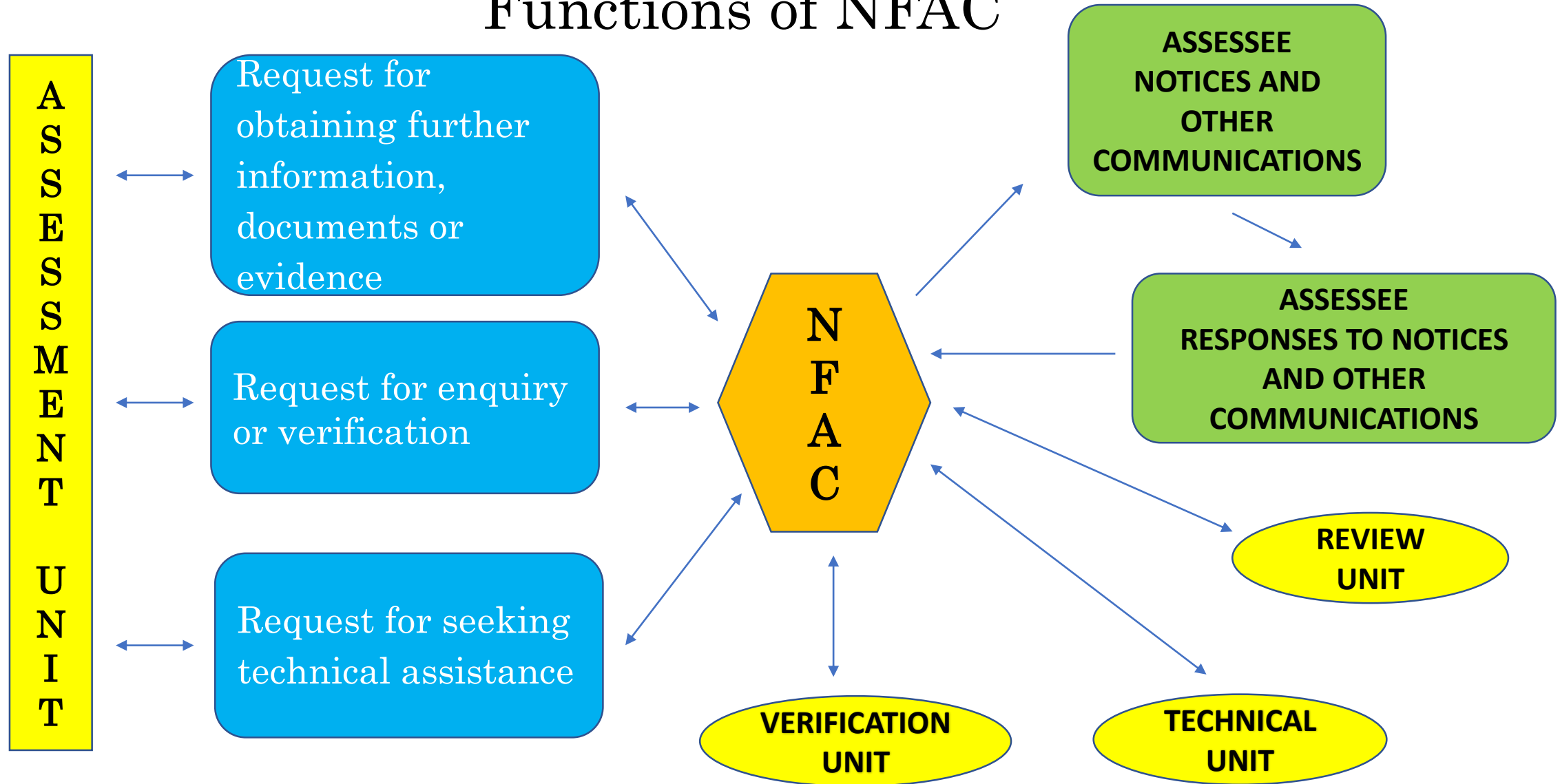
# The Board shall set up the following centres



# FACELESS ASSESSMENT PROCEDURE



# Functions of NFAC





# Functions of the Assessment Unit

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Identification of points or issues or material for the determination of any liability (including refund) under the Act,

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Seeking information or clarification on points or issues so identified,

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Analysis of the material furnished by the assessee or any other person, and

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Such other functions as may be required for the purposes of making faceless assessment;

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# Functions of the Verification Unit

- Enquiry,
- Cross Verification,
- Examination of books of account,
- Examination of witnesses and recording of statements, and
- Such other functions as may be required for the purposes of verification;

# Functions of the Technical Unit

To provide technical assistance or advice on

- Legal,
- Accounting,
- Forensic,
- Information Technology,
- Valuation
- Transfer Pricing,
- Data Analytics,
- Management,
- Or any other technical matter which may be required in a particular case or a class of cases, under this section;



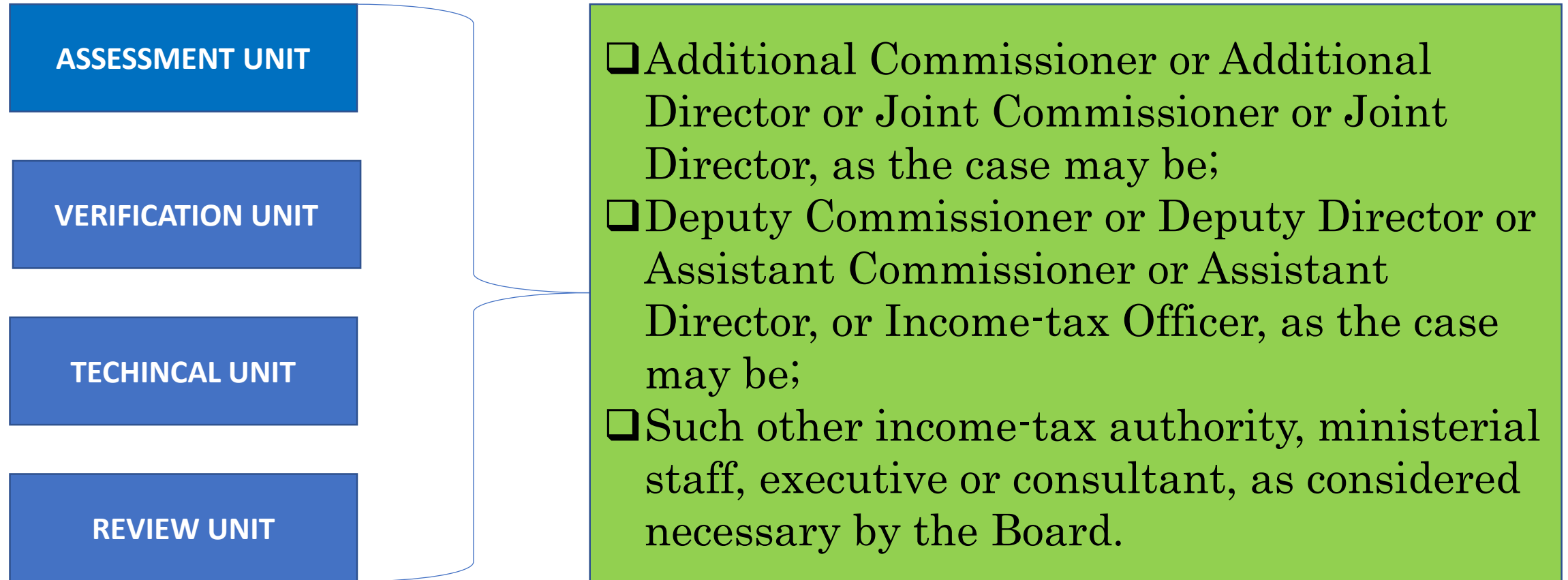


# Functions of the Review Unit

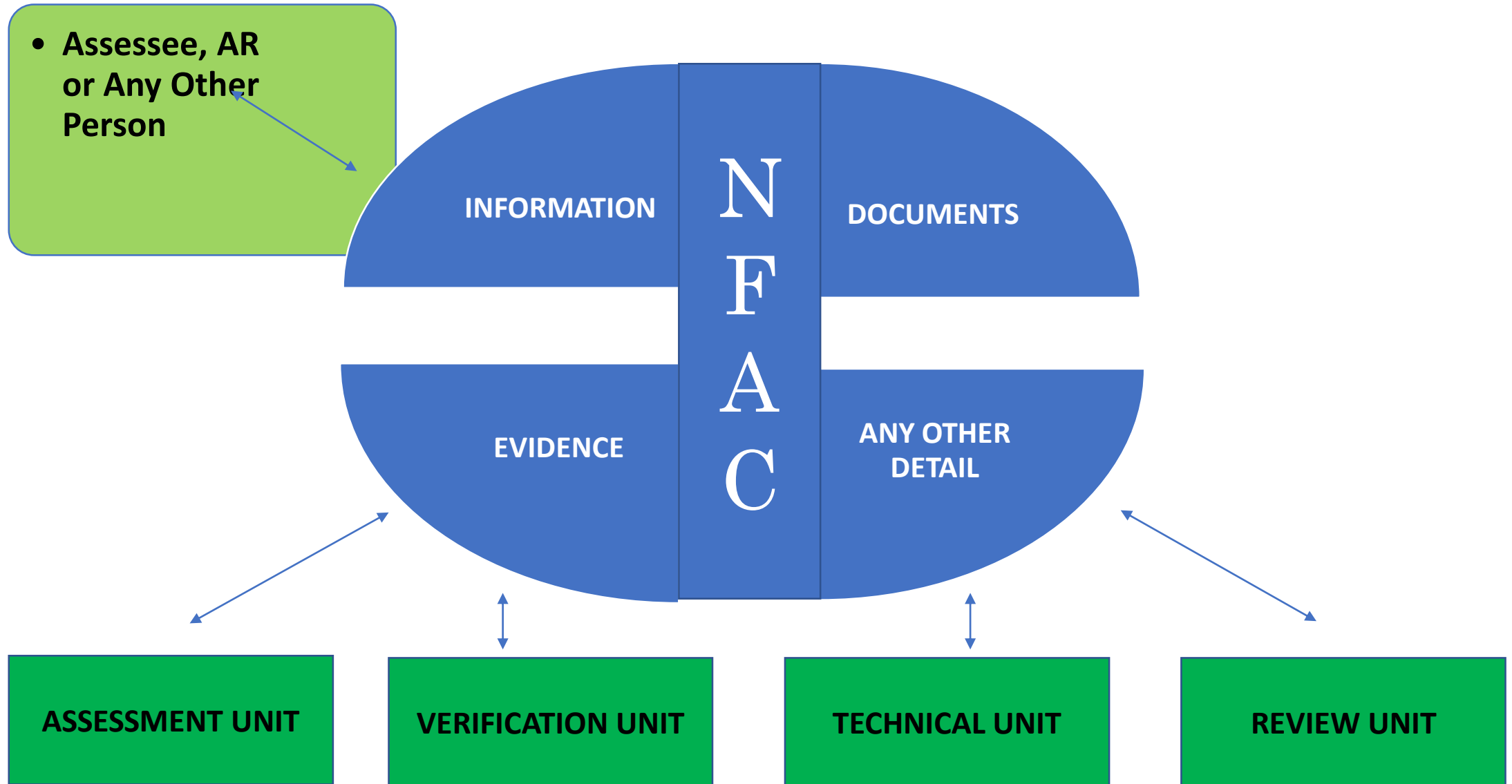
Review of the draft assessment order, which includes

- Checking whether the relevant and material evidence has been brought on record,
- Whether the relevant points of fact and law have been duly incorporated in the draft order,
- Whether the issues on which addition or disallowance should be made have been discussed in the draft order,
- Whether the applicable judicial decisions have been considered and dealt with in the draft order,
- Checking for arithmetical correctness of variations proposed, if any, and
- Such other functions as may be required for the purposes of review

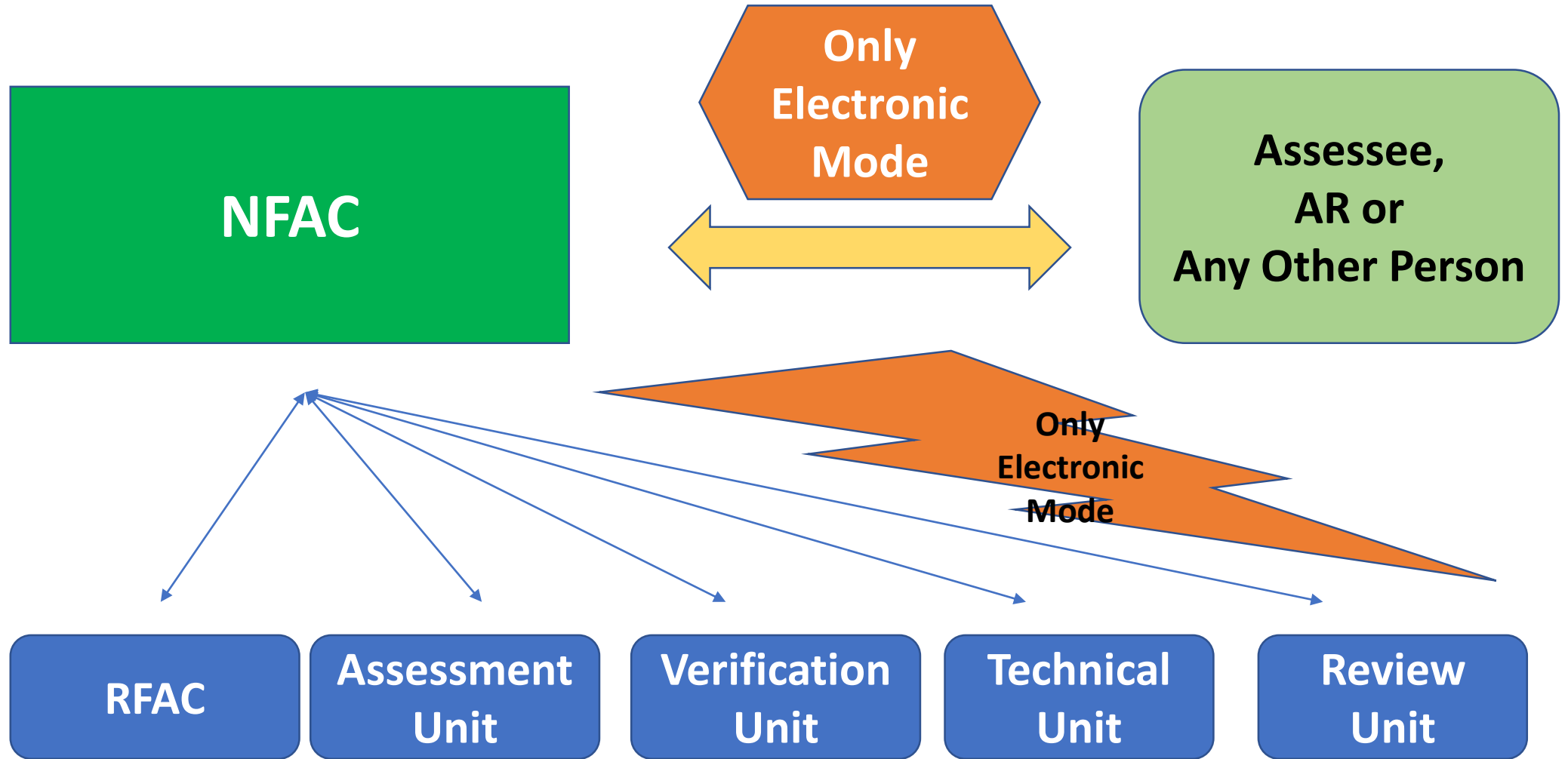
# Composition of Assessment, Verification, Technical & Review Units



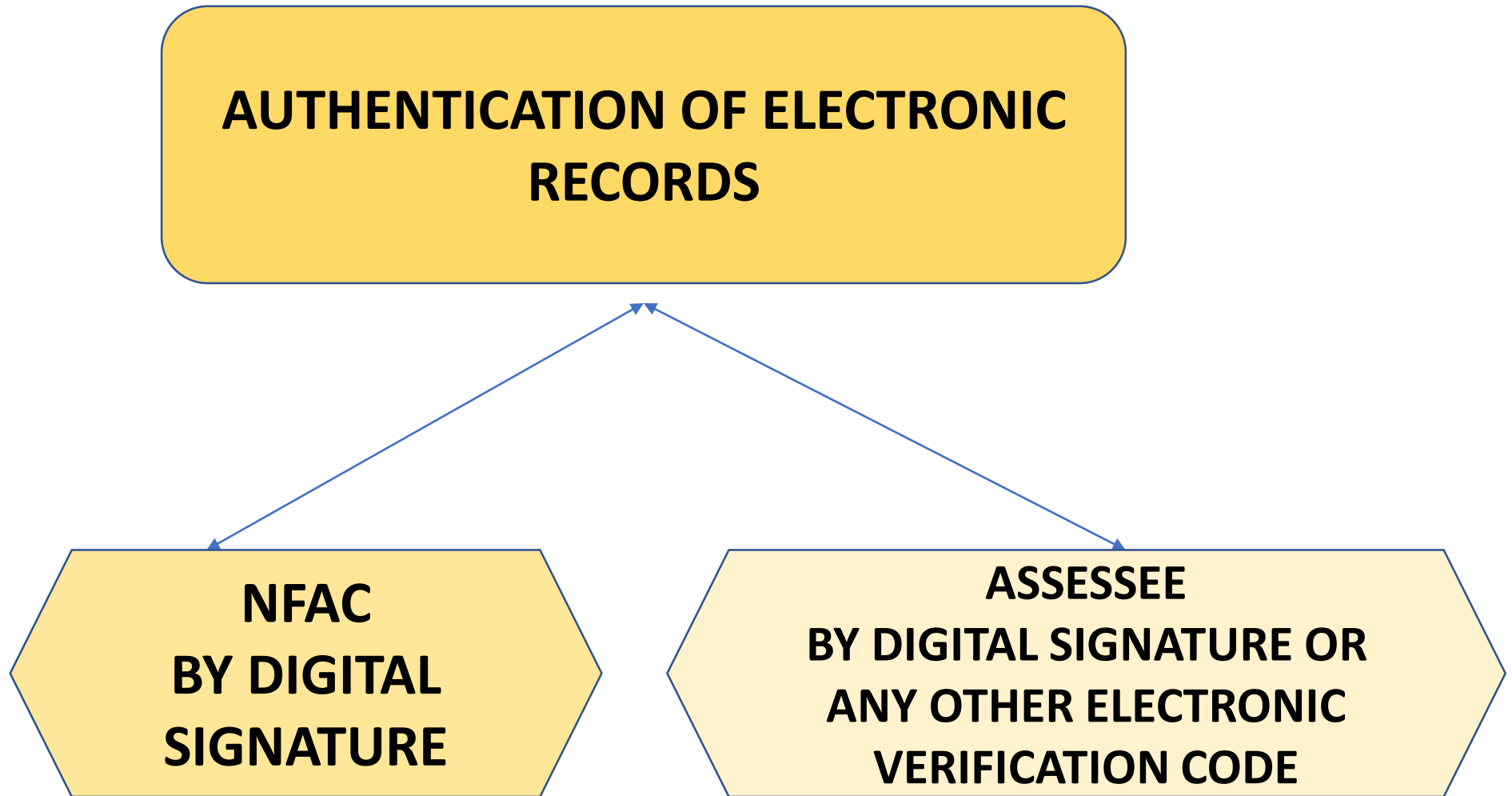
# Communication Channels



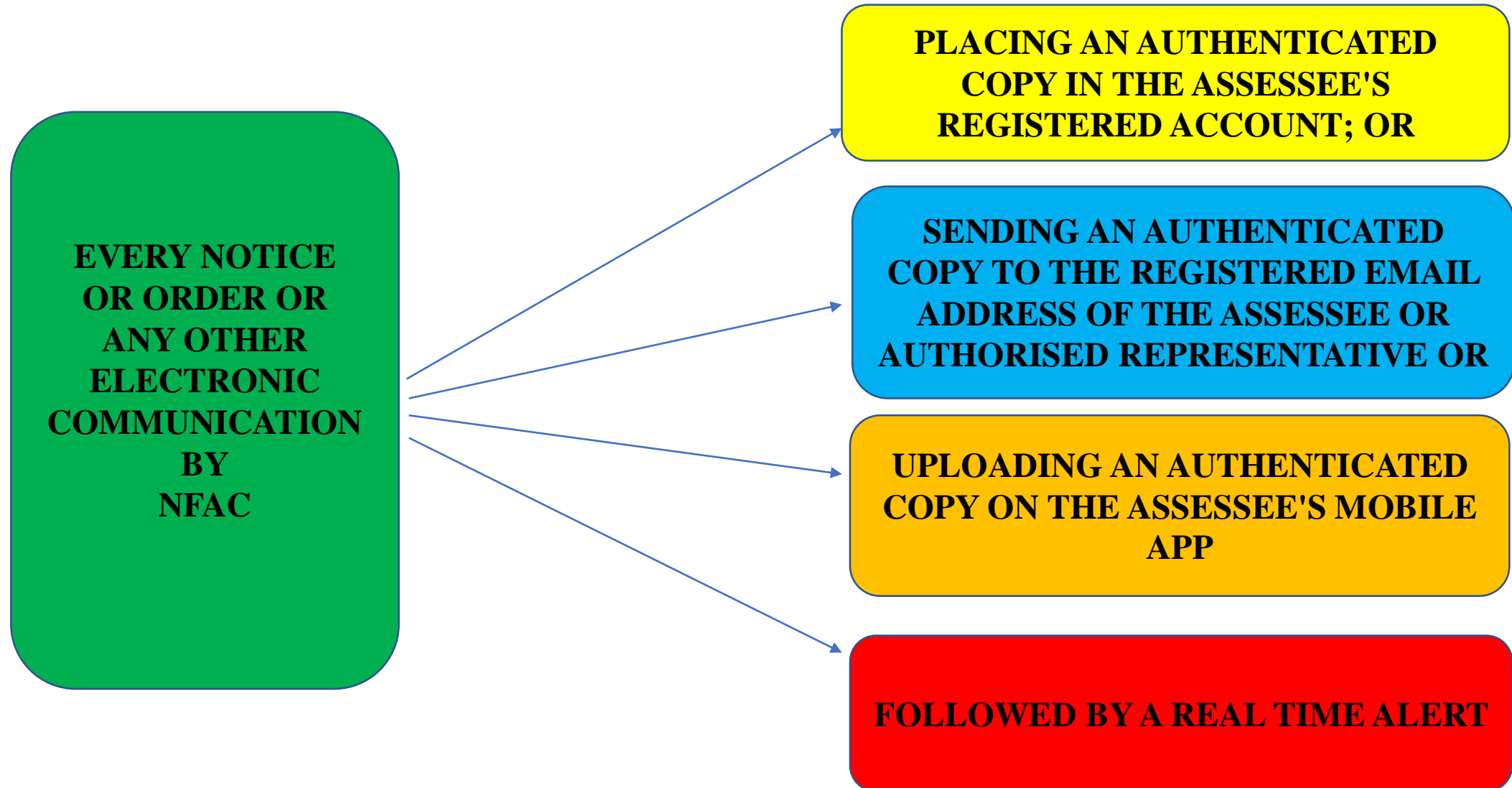
# Communication Modes



# Authentication, Service & Response Modes

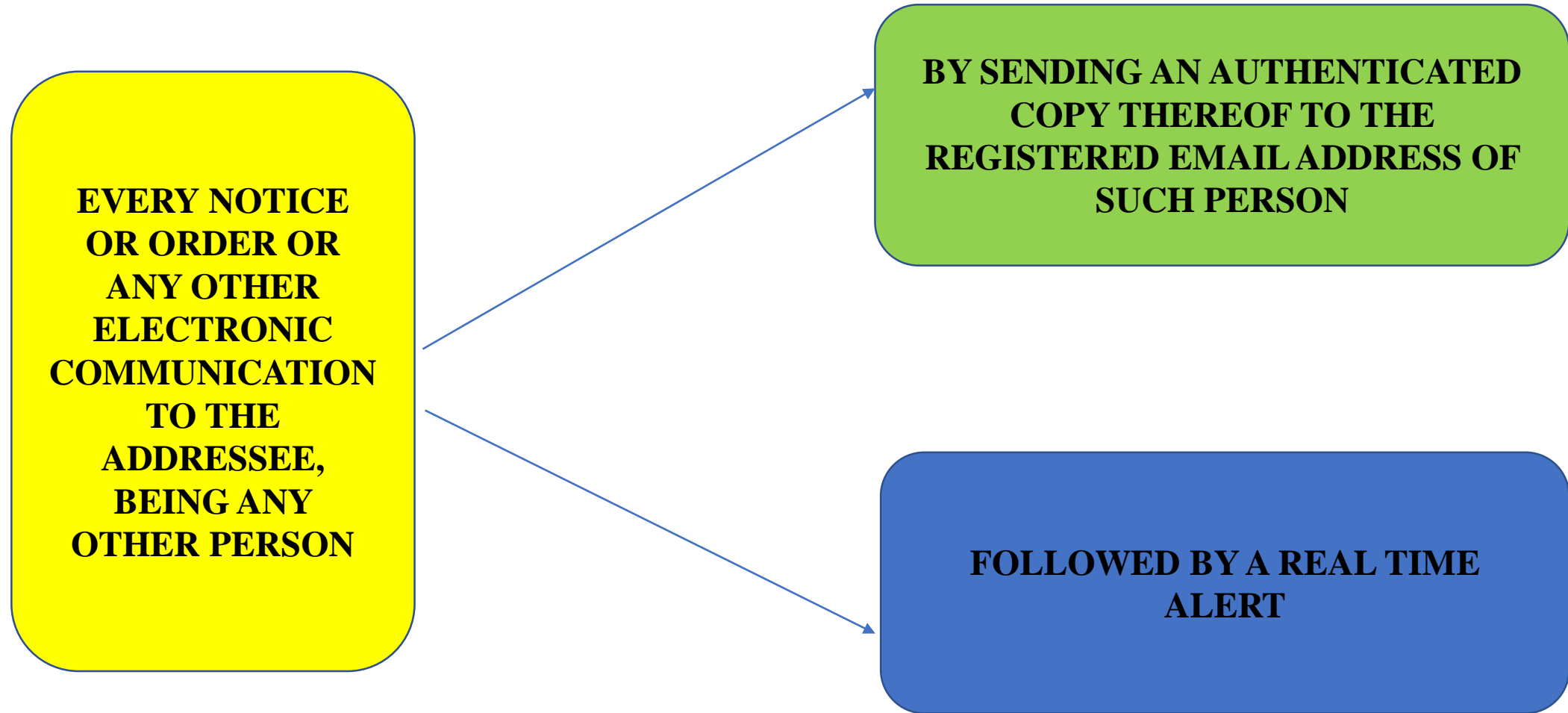


## Service to Assessee





# Service to Any other person by NFAC



Response by  
Assessee to any  
notice or order or  
any other  
electronic  
communication

- Through his registered account only
  - Once an acknowledgement is sent by the NFAC containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated;
- The time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of section 13 of the Information Technology Act, 2000 (21 of 2000);

# CIRCUMSTANCES FOR PERSONAL APPEARANCE

To be approved by The Chief Commissioner or the Director  
General of RFAC

Where a variation is proposed in the draft assessment order or final draft assessment order or revised draft assessment order, and an opportunity is provided to the assessee by serving a notice calling upon him to show-cause as to why the assessment should not be completed as per the such draft or final draft or revised draft assessment order,

The assessee or his AR, may request for personal hearing to make his oral submissions or present his case before the income-tax authority in any unit;

such hearing shall be conducted exclusively through

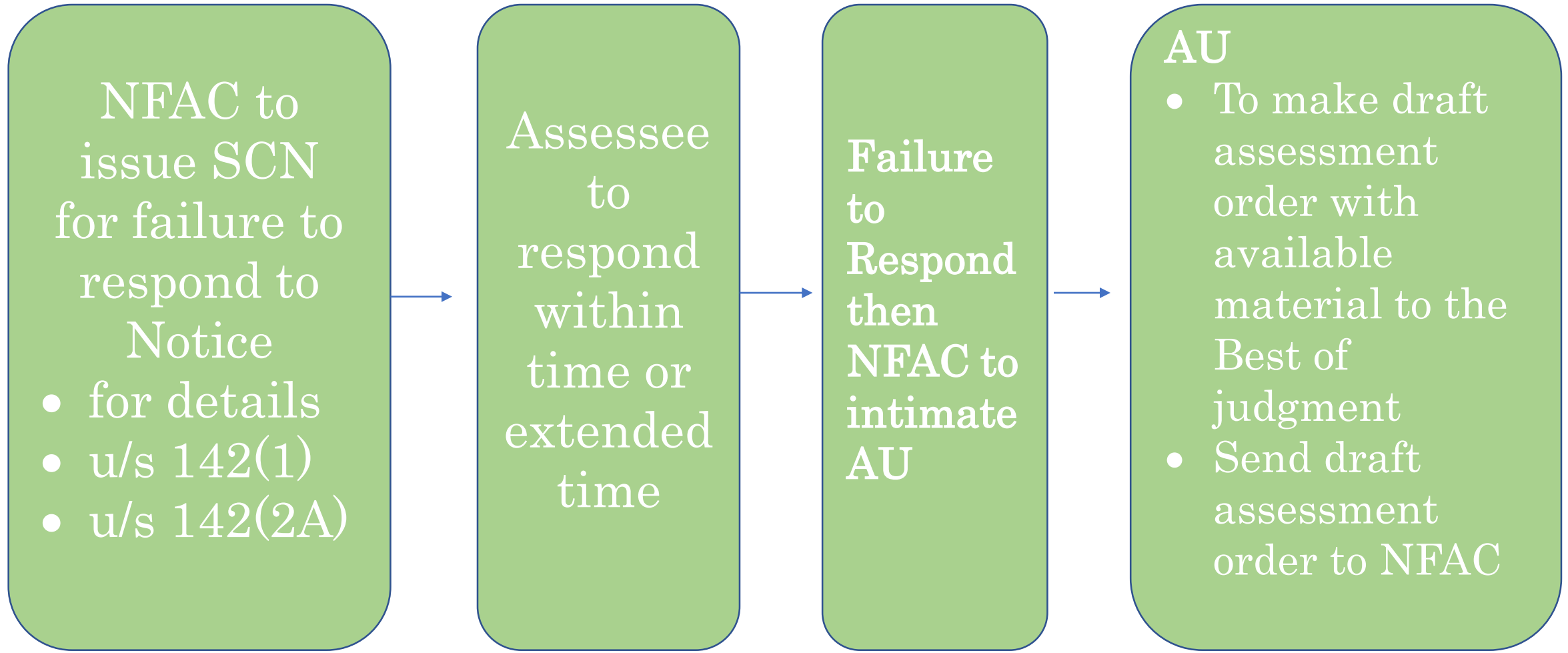
- video conferencing or
- video telephony,
- Or any other telecommunication application software

# Personal Appearance - Contd

Examination or Recording of Statement of the assessee or any other person (other than statement recorded in the course of survey under section 133A of the Act) shall be conducted by an income-tax authority in any unit, exclusively through video conferencing or video telephony.

Facility for Video conferencing/ Telephony by shall be arranged at such locations as may be necessary, to ensure that the assessee, or his authorised representative, or any other person is not denied the benefit of faceless assessment merely on the consideration he does not have access to video conferencing or video telephony at his end;

# Best Judgement Assessment



# Procedure at NFAC

**On Receipt of Draft Assessment Order from Assessment Unit, NFAC to**

- Examine draft Asst. Order with RMS(Risk Management Strategy and automated examination tool) OR
- If no variation prejudicial to interest of assessee, finalise and serve a copy of draft order and penalty notice to assessee OR
- If variation prejudicial to interest of assessee is proposed, then Show Cause Notice to assessee. OR
- Assign draft order to Review Unit in any RFAC for review.



# Procedure at NFAC

On Receipt of Draft Assessment Order from NFAC , Review Unit

to conduct review and

- If it concurs, then intimate NFAC and NFAC to finalise order or
- If variation suggested, then communicate suggestion to NFAC and NFAC to issue SCN to assessee for response or,
- If variation suggested then NFAC to assign case to another AU through Automated Allocation System
- AU to consider variations of RU and send final draft order to NFAC

# Procedure at NFAC

## NFAC on receiving Final Draft Assessment Order

- If no variation prejudicial to interest of assessee, finalise and serve a copy of draft order and penalty notice to assessee OR
- If variation proposed is prejudicial then Show Cause Notice to assessee
- Assessee to respond within specified or extended time
  - (a) If no response to SCN,
    - in case of 'eligible assessee' forward draft or final draft assessment order to such assessee.
    - In any other case, finalise draft or final draft assessment order and , serve copy of order with demand and penalty notice on assessee
  - (b) In any other case send the response to AU

# Procedure at NFAC

AU, based on response from assessee , make a revised draft assessment and send it to NFAC and NFAC on receiving revised draft assessment order

- If variations in revised draft assessment order is not prejudicial to assessee in comparison to the draft or final draft assessment order
- In case of eligible assessee, **any** variation is prejudicial, as proposed in draft or final draft assessment order, forward revised draft order to such assessee.
- Any other case, finalise draft or final draft, serve copy of order with demand and penalty notice on assessee

# Procedure at NFAC

If variations proposed in the revised draft assessment order are prejudicial to the assessee in comparison to the draft assessment order or the final draft assessment order,

➤ issue notice to show cause why the proposed variation should not be made.

procedure followed for response to notice to be followed.

# Definition of Terms

- "addressee" shall have the same meaning as assigned to it in clause (b) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- "authorised representative" shall have the same meaning as assigned to it in sub-section (2) of section 288;
- "automated allocation system" means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources;
- "automated examination tool" means an algorithm for standardised examination of draft orders, by using suitable technological tools, including artificial intelligence and machine learning, with a view to reduce the scope of discretion

# Definition of Terms - Contd

- "computer resource" shall have the same meaning as assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- "computer system" shall have the same meaning as assigned to it in clause (l) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- "computer resource of assessee" shall include assessee's registered account in designated portal of the Income-tax Department, the Mobile App linked to the registered mobile number of the assessee, or the registered email address of the assessee with his email service provider;
- "digital signature" shall have the same meaning as assigned to it in clause (p) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- "designated portal" means the web portal designated as such by the Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Assessment Centre;



# Definition of Terms - Contd

- "Dispute Resolution Panel" shall have the same meaning as assigned to it in clause (a) of sub-section (15) of section 144C;
- "faceless assessment" means the assessment proceedings conducted electronically in 'e-Proceeding' facility through assessee's registered account in designated portal;
- "electronic record" shall have the same meaning as assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- "eligible assessee" shall have the same meaning as assigned to in clause (b) of sub-section (15) of section 144C;
- "email" or "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message;

# Definition of Terms - Contd

- "hash function" and "hash result" shall have the same meaning as assigned to them in the *Explanation* to sub-section (2) of section 3 of the Information Technology Act, 2000 (21 of 2000);
- "Mobile app" shall mean the application software of the Income-tax Department developed for mobile devices which is downloaded and installed on the
- "originator" shall have the same meaning as assigned to it in clause (za) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000); registered mobile number of the assessee
- "real time alert" means any communication sent to the assessee, by way of Short Messaging Service on his registered mobile number, or by way of update on his Mobile App, or by way of an email at his registered email address, so as to alert him regarding delivery of an electronic communication
- "registered account" of the assessee means the electronic filing account registered by the assessee in designated portal

# Definition of Terms - Contd

- "registered e-mail address" means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including—
  - the e-mail address available in the electronic filing account of the addressee registered in designated portal; or
  - the e-mail address available in the last income-tax return furnished by the addressee; or
  - the e-mail address available in the Permanent Account Number database relating to the addressee; or
  - in the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India; or
  - in the case of addressee being a company, the e-mail address of the company as available on the official website of Ministry of Corporate Affairs; or
  - any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority.

# Definition of Terms - Contd

- "registered mobile number" of the assessee means the mobile number of the assessee, or his authorised representative, appearing in the user profile of the electronic filing account registered by the assessee in designated portal;
- "video conferencing or video telephony" means the technological solutions for the reception and transmission of audio-video signals by users at different locations, for communication between people in real time.';

# NATIONAL FACELESS APPEAL SCHEME

- Launched on 25<sup>th</sup> September 2020 as per notification 76 & 77 of 2020 pursuant to 'Honoring the Honest Scheme' launched by the PM on 13<sup>th</sup> August 2020 (Section 250 (6B), (6C) and 6(D) amended w.e.f 01-04-2020)



# NATIONAL FACELESS APPEAL SCHEME- CONTD

## Applicable to such

- territorial area
- Persons or class of persons
- Incomes or class of incomes
- Cases or class of cases
- as specified by the Board

## Exceptions

- in respect of all Income Tax Appeals except those relating to
  - Serious frauds
  - Major tax evasion
  - Sensitive and search matters
  - International Tax & Black Money Act

# Faceless Appeal Centers - Notification No.80 of 2020

## ➤ **National Faceless Appeal Centre (NFAC)**

- **to facilitate conduct and disposal of Faceless proceedings in centralized manner.**

## ➤ **Regional Faceless Appeal Centers as per notification No. 81 of 2020**

- **to facilitate conduct and disposal of Faceless proceedings with jurisdiction to dispose appeals in accordance with the Scheme**

## ➤ **Appeal units having one or more Appeal Commissioners and such other staff to assist**

- **admission of additional grounds**
- **conducting inquiry**
- **seeking information or clarification on grounds and additional grounds**
- **providing opportunity of hearing**
- **draft order and review thereof**
- **such other functions**

# APPEAL PROCEDURE

- **ASSIGNMENT**

- **NFAC assigns to any appeal unit in an RFAC through automated allocation system**
- **Communication - between assessee and appeal unit only through NFAC**

- **ADMISSION**

- **Appeal to be filed electronically in Form No.35 with requisite fee**
- **Within 30 days of service of notice of demand**
- **Condonation of delay if cause explained satisfactorily**
- **Tax due as per return is to be paid and**
- **If no return is filed then the amount of advance tax payable to be paid**



# PROCEDURE- CONTD

## ➤ After admission

- **Appeal unit can request NFAC**
  - **For further information, document or evidence**
  - **For remand report from assessment unit or NF Assessment Centre**
  - **For making further inquiry and report thereon**

# PROCEDURE- CONTD

## ➤ Issuance and response to notice

- **NFAC can issue notice to**
  - **appellant or any other person**
  - **NF Assessment Centre or Assessing Officer for any information, document or evidence or report specified by Appeal Unit within the date and time.**
  - **Appellant or any other person or NF Assessment Centre or AO to furnish response within specified or extended time to NFAC**
  - **NFAC to send the response/report to Appeal Unit**
  - **If no response/report NFAC to inform Appeal Unit**

# PROCEDURE- CONTD

## Additional ground

- **Additional ground may be filed in such form specified by NFAC**
- **Reason for omission to be specified**
- **NFAC to send it to AO/NF Assessment Centre for comments and then to AU**
- **If comments received NFAC to send it to AU. If no comments, inform AU**
- **AU may admit if it is satisfied that the omission is not willful or unreasonable. If not admitted, inform NFAC**
- **NFAC to intimate admission or rejection to appellant**

# PROCEDURE- CONTD

## ➤ Additional evidence

- **Additional evidence subject to Rule 46A in such form**
- **Of such evidence not produced before NF Assessment Centre or AO**
- **NFAC to send it to AO/NF Assessment Centre for comments and then to AU**
- **If comments received NFAC to send it to AU. If no comments, inform AU**
- **AU may consider additional evidence and may admit or reject it and inform NFAC**
- **NFAC to intimate admission or rejection to appellant**
- **AU through NFAC seek comments/clarification from NF Assessment Centre or AO and obtain report.**
- **NFAC to furnish the report to AU and if no report received, intimate AU**

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## Powers of Appeal Unit

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Can enhance assessment or reduce refund. Reasons thereof to be send to NFAC

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NFAC to communicate reasons to appellant and appellant to respond

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NFAC to send response of appellant to Appeal Unit. If no response, intimate Appeal Unit.

# Draft order



- **Appeal Unit to prepare draft order considering relevant material and response of appellant, NF Assessment Centre or AO**
- **Draft order to be send to NFAC**
- **Draft order to be send to another Appeal Unit for review where aggregate amount in dispute exceeds specified amount**
- **In any other case NFAC may finalise the order after examining it under Risk Management System. (RMS is an automated examination tool applied in cases where review is required on a draft order). Review done by another Appeal Unit who may concur or suggest variation.**
- **If variation suggested then Appeal Unit to prepare revised order and send it to NFAC**
- **NFAC to pass final order and communicate the order as per section 250(7)**
- **Penalty proceedings can be initiated**

# Rectification of proceedings

- Application for rectification of mistake apparent from record to be filed with NFAC by
  - Appellant, any other person
  - AU
  - NF Assessment Centre or

# Personal hearing

- Appellant or AR may request for personal hearing before Appeal Unit
- Chief Commissioner or Director General of RFAC may approve the request under specified circumstances
- Personal hearing exclusively through video conferencing or video telephony
- Examination or recording statement of appellant or any other person to be conducted by Appeal Unit through video conferencing or video telephony





# Miscellaneous

- Any set aside or remanded order by ITAT, High Court or Supreme Court shall be passed in accordance with this scheme
- All communications between NFAC and appellant or his AR and all internal communication to be exclusively in electronic mode (relevant provisions of Information Technology Act 2000).
- Authentication or electronic record
  - NFAC by affixing digital signature
  - Appellant or any other person – Digital Signature or Electronic Verification Code

# PENALTY

Section 274 2(A), 274 (2B) and  
274 (2C) inserted by the  
Finance Act 2020  
w.e.f 1-04-2020

## Section 274 (2A)

Central Government may make a scheme by notification for the purpose of imposing penalty to impact greater efficiency, transparency and accountability by

01

Eliminating interface between AO and assessee in the course of proceedings to the extent technologically feasible

02

Optimizing utilization of resources through economies of scale and functional specialization

03

Introducing of mechanism for imposing penalty with dynamic jurisdiction in which penalty shall be imposed by one or more Income Tax Authorities

## Section 274 (2B)

- The Central Government for the purpose of giving effect to the scheme made under subsection (2A) by notification direct that any of the provisions of this Act relating to jurisdiction and procedure for imposing penalty shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification
- Provided that no direction shall be issued after the 31<sup>st</sup> of March 2022



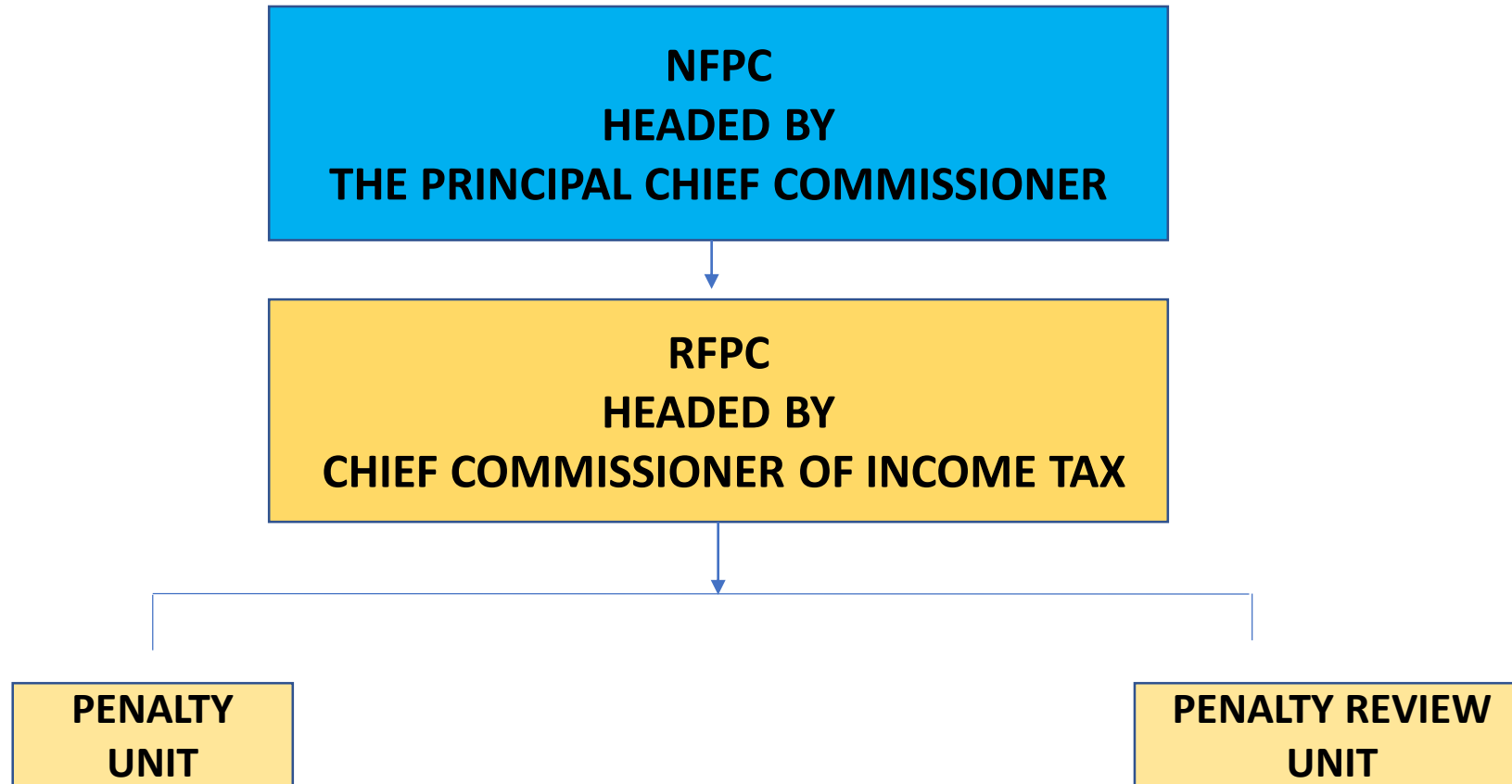
# Applicability

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The Board shall specify that persons to whom Faceless penalty shall apply, and this specification can be based on

- Territorial Area,
- or persons or class of persons,
- or incomes or class of incomes,
- or cases or class of cases,
- Penalties or class of penalties

# Faceless Penalty Centres



Board may direct NFAC , RFAC, AU and RU to act as NFPC, RFPC ,PU and PRU till it is set up

# Composition of Penalty Unit & Penalty Review Unit

## PENALTY UNIT

## PENALTY REVIEW UNIT

- ❑ Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;
- ❑ Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;
- ❑ such other income-tax authority, ministerial staff, executive or consultant, as considered necessary by the Board.



# Functions of the Penalty Unit

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**Drafting penalty orders by identification of points or issues for imposition of penalty**

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**Seeking information or clarification on points or issues for imposition of penalty**

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**Providing opportunity of hearing to assessee or any other person**

**Analysis of the material furnished by the assessee or any other person, and**

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**Such other functions as may be required for the purposes of imposing penalty**

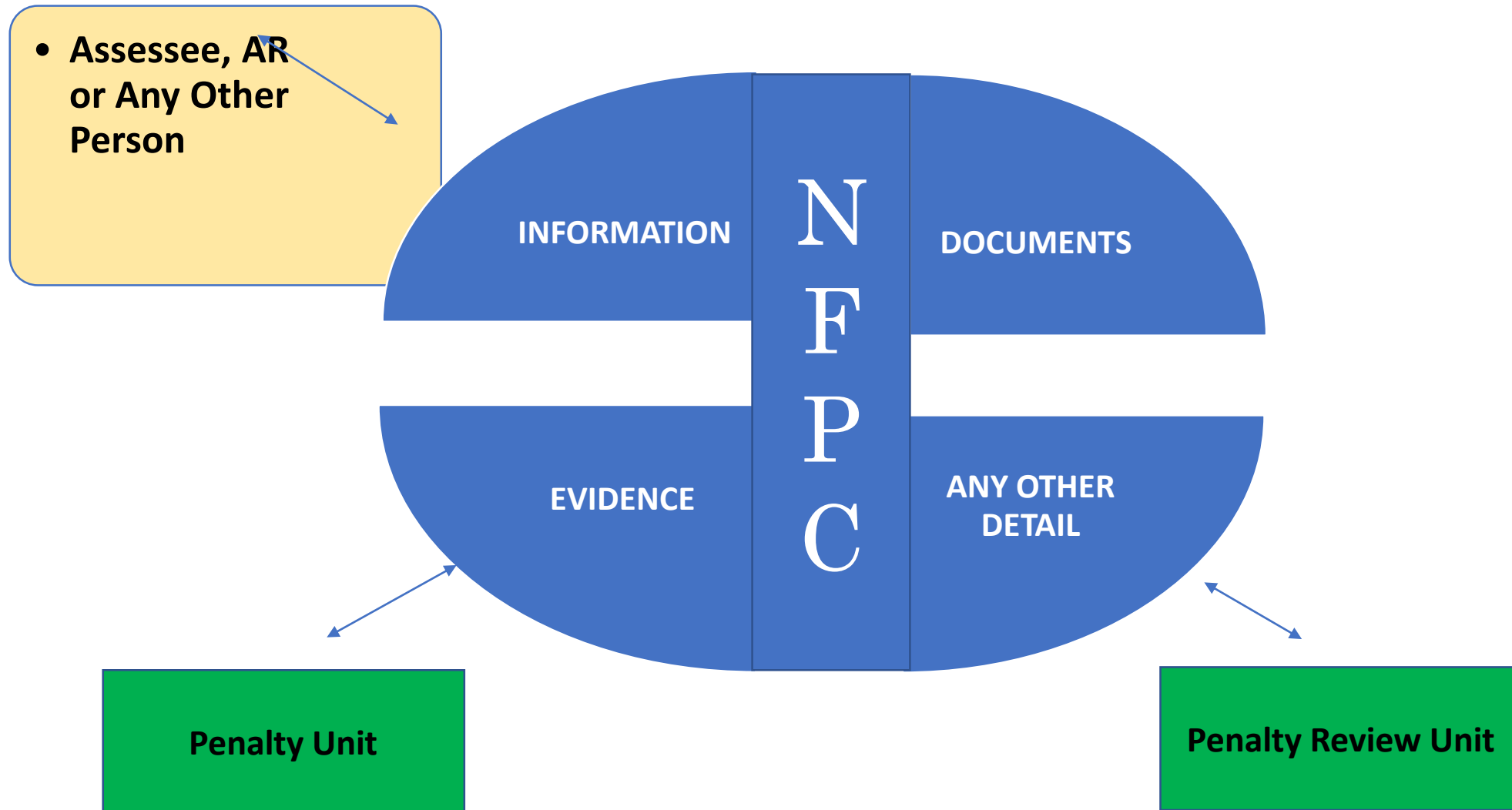
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# Functions of the Review Unit

- **Review of the draft penalty order, which includes**
  - **Checking whether the relevant and material evidence has been brought on record,**
  - **Whether the relevant points of fact and law have been duly incorporated in the draft order,**
  - **Whether the issues on which penalty is to be imposed have been discussed in the draft order,**
  - **Whether the applicable judicial decisions have been considered and dealt with in the draft order,**
  - **Checking for arithmetical correctness of computation of penalty, if any, and**
  - **Such other functions as may be required for the purposes of review**

# Communication Channels for Imposing Penalty



# Procedure in Penalty

Where Income Tax Authority or NFAC

- (a) Initiated penalty proceedings and issued SCN for penalty or
- (b) Recommended initiation of penalty proceedings

Shall refer

National Faceless Penalty Centre

NFPC, on reference, shall assign to specific Penalty Unit in any RFPC through automated allocation system

## Procedure on initiation of Penalty

**Where penalty proceedings are initiated, the assigned Penalty Unit shall prepare draft notice to assessee/any other person to Show Cause why penalty should not be levied and send the notice to NFPC.**

**NFPC shall serve the SCN to assessee/any other person seeking response within specified date and time**

# Procedure on recommendation of Penalty

**Assigned Penalty Unit, to whom penalty proceedings is recommended, after verification of material available on record may decide to**

- (a) Agree with recommendation and prepare draft notice to Show Cause why penalty should not be levied.**
- (b) Disagree with recommendation for reasons recorded in writing and send draft notice / reasons to NFPC**

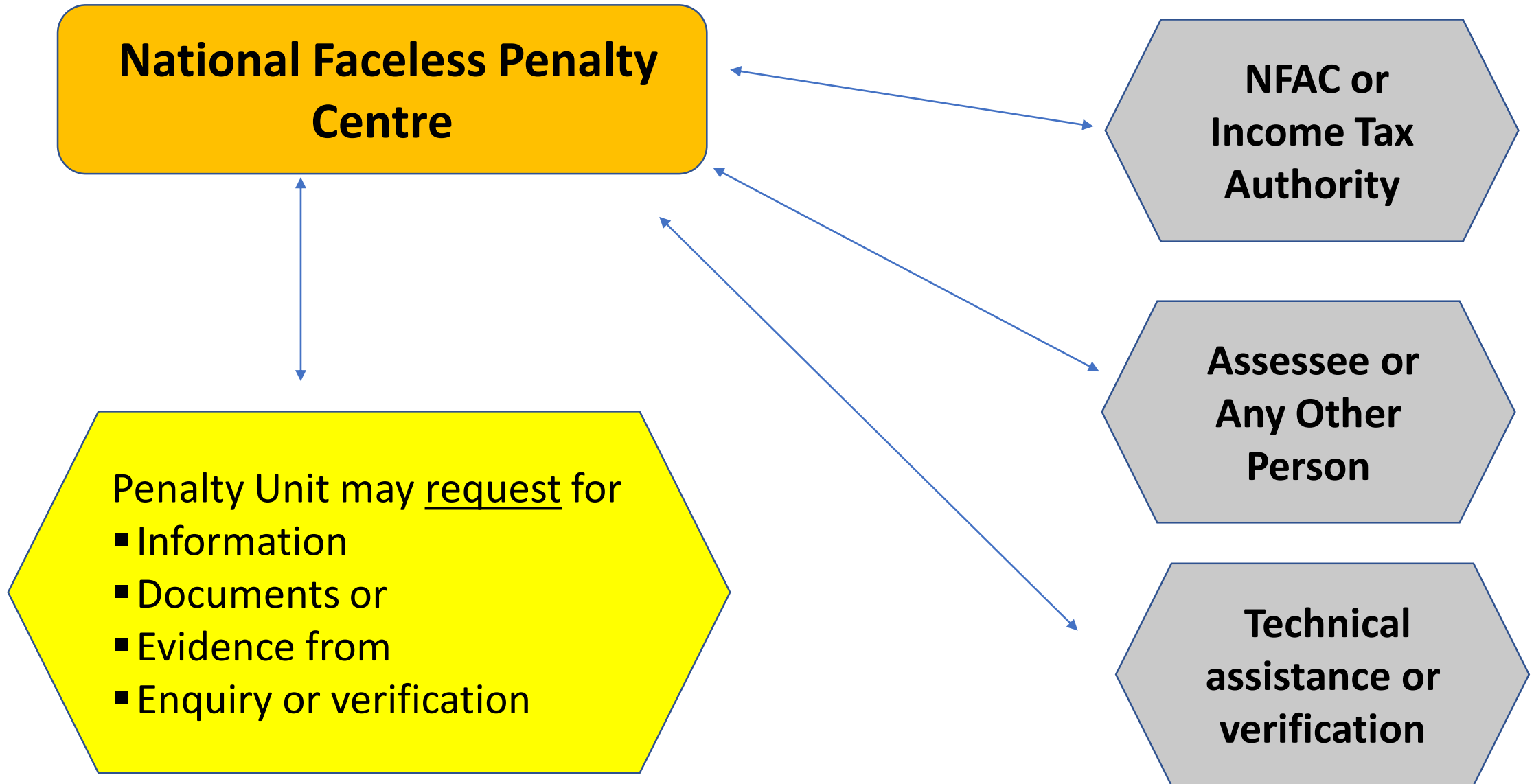
**NFPC on receipt of draft notice from Penalty Unit**

- (a) Serve SCN as per draft to assessee / any other person for response within specified date and time**
- (b) Not initiate penalty**

## **Response by Assessee**

**Assessee to respond to SCN as per recommendation or initiation within the date and time or extended date to NFPC**

- **NFPC to send such response to Penalty Unit**
- **If no response , inform Penalty Unit**



## **Procedure on receipt of the response from NFPC**

### **Penalty Unit shall consider**

- **material on record and**
- **response furnished**
- **report received and**

### **Propose**

- **Imposition of penalty and prepare draft penalty order and send to NFPC**
- **Non imposition of penalty, record reasons and send to NFPC**



## Procedure on receipt of the proposal at NFPC

NFPC to examine the proposal in accordance with Risk Management Strategy

- in case of imposition of proposed penalty, pass and serve order on assessee/ any other person or
- in case of non imposition of proposed penalty , intimate assessee /any other person or
- assign the case to Penalty Review Unit in any RFAC

## Procedure at Penalty Review Unit

PRU shall review proposal of PU and it may

- concur with or
- suggest modification to the proposal
- Record reasons and intimate NFPC

- ☐ If PRU concurs then NFPC shall pass and serve order imposing penalty or
- ☐ Not impose penalty, intimate assessee /any other person

## **Procedure at Penalty Review Unit (Contd...)**

**Where Penalty Review Unit suggests modification to the proposal**

- NFPC to assign case to another specific Penalty Unit**
- Such Penalty Unit to consider material, suggestions and reasons of Penalty Review Unit**
- If modification suggested by Penalty Review Unit is prejudicial as compared to proposal of Penalty Unit, prepare revised draft order for imposition of penalty following all procedures or**
- If modification not prejudicial, prepare revised draft order for imposition of penalty or**
- Propose non imposition of penalty and record reasons  
Send such order or reasons to NFPC**

**NFPC on receipt of draft  
order from New Penalty Unit**

- **NFPC to pass penalty order on receipt of revised draft order from Penalty Unit (New) and served on the assessee/any other person or**
- **not to impose penalty and intimate assessee /any other person**

**Where NFPC has passed a penalty order or not initiated or imposed penalty , it shall send**

- **Copy of the order imposing penalty or**
- **Reasons for not initiating or imposing penalty**

**To Jurisdictional Income Tax authority or National Faceless Assessment Centre**

# Rectification of Proceedings

- **Application may be filed by**
  - assessee or any other person, as the case may be; or
  - Penalty unit, which prepared the order; or
  - Penalty review unit, which reviewed the order; or
  - Income-tax authority; or
  - National Faceless Assessment Centre.
- NFPC to assign to specific Penalty Unit in any RFPC
- Penalty Unit to examine application prepare notice for opportunity to any applicant as above and send to NFPC
- NFPC to serve notice to Show Cause why rectification should not be carried out with date and time for response

# Rectification of Proceedings- Contd

- **Response within time or extended time**
- **NFPC to send response to Penalty Unit , if no response inform Penalty Unit**
- **Penalty Unit to prepare draft order for rectification or rejection of application and send to NFPC**
- **NFPC to pass order and communicate to assessee and NFAC and Jurisdictional ITO**

# Miscellaneous

The following provisions for Penalty are similar as in the case of Faceless Assessment

- Appeal Proceedings
- Exchange of communication by Electronic mode
- Authentication of Electronic record
- Delivery of Electronic record
- No personal appearance in centers or units
- Power to specify format mode procedural and processes



• THANK YOU

CHERIYAN & CHERIYAN