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NOTICES UNDER INCOME TAX ACT

Once the assessee files his return of income the income tax department scrutinizes his return and issues assessment intimations, scrutiny notices etc. This applies even if the assessee does not file his return of income. The various notices which the assessee may receive for any financial year are as follows:

Notice under Section 142(1) – Inquiry before assessment

Notice under Section 142(1) is usually served to call upon documents and details from the tax payers, and to take a particular case under assessment.

The basic purpose is to inquire the details of the assessee before making assessment under the Act. It can be related to 'Preliminary Investigation' before starting the assessment.

By serving a notice u/s 142(1) the assessing officer, may call upon the assessee:-

1. To furnish a return of income in respect of which he is assessable, where he has not filed his return of income within the normal time allowed.
 - It may include return in respect of his own income or income of other person for which he is liable to be assessable. Example-In case of legal guardian/deceased person.

2. To produce accounts or documents which the AO may require for the purpose of making an assessment.

3. To furnish in writing any information on matters including statement of the assessee. For Example- statement of assets and liabilities of the assessee on a particular date.

The AO may or may not start assessment after compliance with this notice dependent upon the facts of assessee. If AO is satisfied with the produced documents or return, he may not start with the assessment process.

Compliance with this notice u/s 142(1) is mandatory even if the tax payer is of the opinion that the accounts/ documents requested are irrelevant.

If assessee do not comply with the provisions of this section:

- It may result in Best Judgement Assessment u/s 144, or

- Penalised under Sec 271(1)(b) i.e. Rs. 10,000 for each failure, or

- Prosecution under Sec 276D which may extend upto 1 year with or without fine.

Notice under Section 143(2) – Scrutiny Notice

This notice is basically sent after notice u/s 142(1) has already been sent. It means AO was not satisfied with the produced documents or may be AO has not received any documents.

If you get Notice under Section 143(2) it means your return has been selected for detailed scrutiny by your Assessing Officer.

This notice can be served upto 6 months after completion of relevant assessment year.

Where the assessee has not furnished his return of income, then notice under Section 143(2) cannot be issued to him and also scrutiny assessment cannot be done. In such case, direct Best Judgement Assessment under Section 144 is done by the AO. The AO can reduce the income below the returned income and can assess the loss higher than the returned loss under Scrutiny Assessment as per Sec 143(3).

The notice might ask you to produce documents in support of deductions, exemptions, allowances, reliefs other claim of loss you have made and provide proof of all sources of income.

Section 143(2) enables the Assessing Officer to make a regular assessment after a detailed inquiry.

If assessee do not comply with the provisions of this section:

- It may result in Best Judgement Assessment u/s 144, or
- Penalised under Sec 271(1) (b) i.e. Rs10,000 for each failure, or
- Prosecution under Sec 276D which may extend upto 1 year with or without fine.

Notice under Section 143(1) – Letter of Intimation

Three types of notices can be sent under section 143(1):

1. Intimation where the notice is to be simply considered as final assessment of your returns since the AO has found the return filed by you to be matching with his computation under section 143(1).
2. A refund notice, where the officer's computation shows amount excessively paid by the assessee.
3. Demand Notice where the officer's computation shows shortfall in your tax payment. The notice will ask you to pay up the tax due within 30days.

Time limit for the notice to be served is up to 1 year after completion of relevant assessment year. How to reply to notice received under section 143(1):

1. If details provided by the taxpayer and as verified by the Income Tax department match. Then the notice will serve as final assessment of the return with nothing to be done on part of the taxpayer and the department. Just a printout of the same shall be taken and kept along with the income tax file. Take a printout of the same and file it with your income tax papers.
2. If you are getting Refund, wait for the cheque or transfer into your account.
3. If there is a tax demand then this intimation becomes Notice of Demand under section 156. The notice says "In case of Demand, this intimation may be treated as Notice of demand u/s 156 of the Income Tax Act, 1956. Accordingly, you are requested to pay the entire Demand within 30 days of receipt of this intimation".

For example, if Income as disclosed by taxpayer is Rs 6,00,000 and tax duly deposited on same but the department computes his income as Rs 6,50,000, then tax on Rs 50,000 needs to be paid. The taxpayer will have to pay such tax or if he thinks that the demand is wrong then he must prove his case and file rectification.

Notice under Section 148 – Income escaping assessment

If AO has reasons to believe that any income chargeable to tax has escaped assessments, he may assess or reassess such income, which is chargeable to tax and has escaped assessment.

To initiate proceedings under Sec 147, the AO is required to have a reason necessarily.

The onus of stating the reasons is on AO.

Also,

Notice under Sec 147 cannot be sent in regard to the income involving matters which are the subject matter of any appeal, reference or revision.

This tangible reason should give him a belief that there is income which has escaped assessment. The Supreme Court has clarified that the act nowhere states that the beliefs or reasons of AO should ultimately proved to be escaped income in order to be valid reason.

Even though if the contention of the AO shall stand invalid in any case but the beliefs were reasonable on his part, the Notice and such assessment shall stand valid.

Notice under Section 156- Notice of Demand

Where any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed, the AO shall serve upon the assessee a notice of demand, specifying the sum due payable.

The notice of demand is received in the cases where assessment has been made in respect to assessee. Generally, notice of demand is not received to every assessee for regular payment of taxes. Assessee on his own pays the taxes with self assessment.

The tax so demanded is payable, generally within 30 days of the service of notice of demand, which may be reduced by the AO with prior approval of JCIT.

In case of delay in payment of tax, the assessee shall be deemed to be in default and liable to pay simple interest u/s 220(2) @ 1% for every month or part thereof from the end of the period allowed u/s 156, further penalty u/s 221(1) may be imposed.