



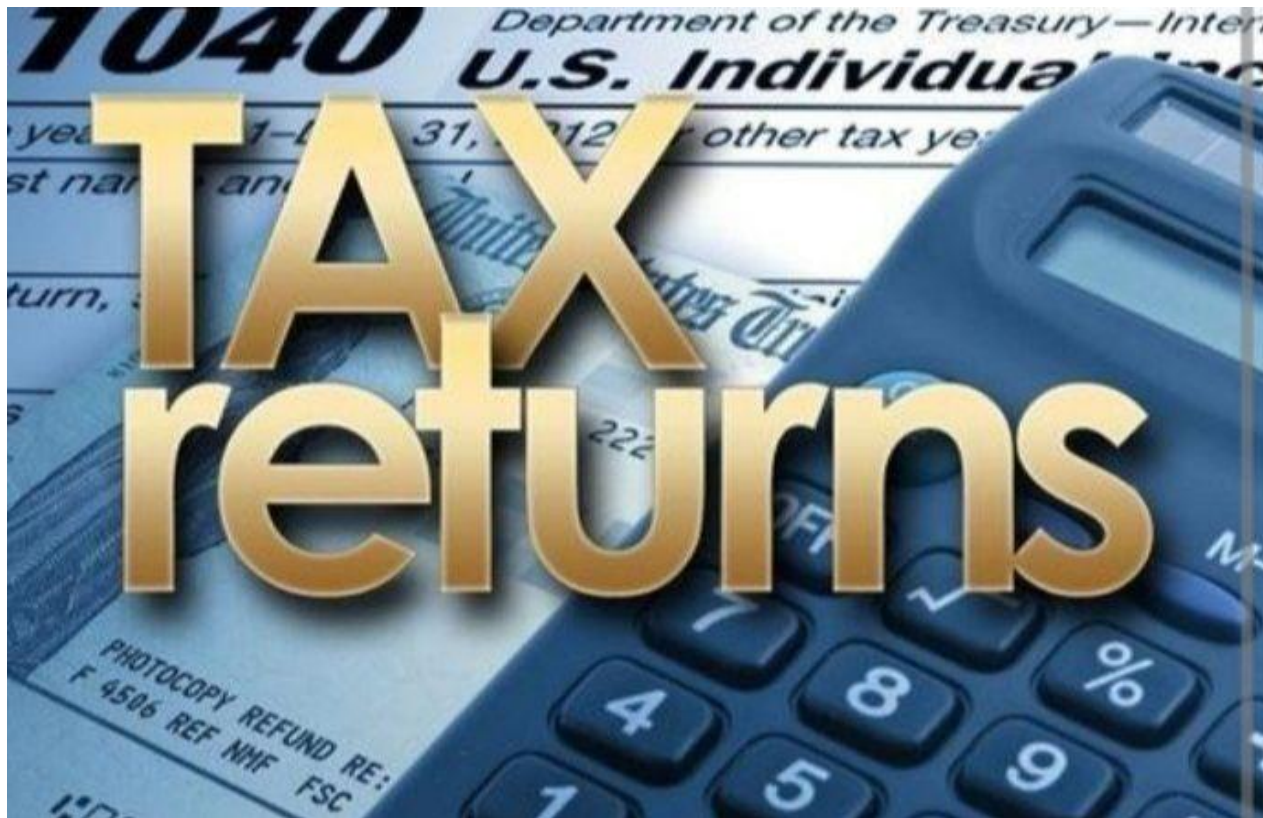
**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament

www.icmai.in



Certificate Course on Filing of Returns



Filing of ROI with reference to Department Notices, condonation of delay in filing return, and Basic Documents requirement in filing ROI required

Types of Notices issued by IT department

1. Notice under **Section 142(1)** – Inquiry before assessment
2. Notice under Section 143(2) – Scrutiny Notice
3. Notice under Section 143(1) – Letter of Intimation
4. Notice under **Section 148** – Income escaping assessment
5. Notice under Section 156- Notice of Demand
6. Notice under **Section 139(9)** – Defective Return
7. Notice under Section 245 – Set off of refunds against tax payable/demands

Notice under Section 142(1) – Inquiry before assessment

- Section 142(1) of the Income Tax Act 1961 grants the authorities the authority to issue a notice when additional information or further details are needed, particularly in cases where a tax return has been filed or in cases **where it has not been filed**, to compel the taxpayer to provide the necessary information in the prescribed format

Purpose of the Notice u/s 142(1)

The basic purpose of section 142(1) tax notice is to inquire the details of the assessee before making an assessment under the Act. It is like a preliminary investigation. The reasons for the issuance of Section 142(1) Tax Notice can be:

- By issuing section 142(1) tax notice, the AO may ask an assessee to furnish his ITR in respect of income for which he is assessable, in case the assessee has not yet filed the return of income within the time allowed.
- The Assessing Officer may ask to produce accounts or documents which he may require for the purpose of making an assessment.
- The AO may also ask the assessee to furnish in writing any information on any matter which may include the statements. For Example-Statement of assets and liabilities on a particular date.

Dealing with the Notice u/s 142(1)

- After the assessee has filed the return, then the required documents under inquiry need to be produced by him.
- The taxpayer is given a reasonable opportunity of being heard for any material that may have been gathered on the basis of such inquiry.
- In the case of **non-filing of the return**, the Income Tax Return needs to be filed within the time given in the notice and a proof of the same be submitted along with the required documents.

Notice under Section 139(9) – Defective Return

What is a defective return?

- The tax authority sends out a defective return notice when they find mistakes or inconsistencies in your ITR. These mistakes might involve missing or conflicting information, errors in calculations, or other issues. The purpose of this notice is to prompt taxpayers to correct these errors and make sure that their tax return provides precise and complete information.
- Defective return notice is issued under **section 139(9)** via an email to your registered email id. You can also access the same on the income tax e-filing portal.

Situations in which defective return notice will be issued

- The Assessing Officer may consider the below-mentioned reasons, errors or omissions while issuing a defective return notice under section 139(9):
- **1. Incomplete Income Tax Return (ITR):** If the ITR lacks necessary details in its annexures, statements, or mandatory columns, such as income from all sources are not mentioned, etc.
- **2. Missing Tax Information:** If taxes have been paid but their details are omitted in the ITR, including information about TDS, TCS, advance tax, or self-assessment tax.
- **3. TDS and Income Mismatch:** TDS is claimed. but corresponding income is not offered for tax in the ITR.
- Example: If you have earned interest income from term deposits and tax has been deducted by the bank, both interest income and tax deducted should be reported in the ITR.
- **4. Book-keeping Issues:** Incomplete or non-submission of mandated books of accounts, such as trading accounts, Profit and Loss accounts, Balance sheets, and others may lead to defective return notice.

- **5. Income Tax Audit Concerns:** If an audit is required to be done under section 44AB, the complete audit report, including profit and loss account, Balance sheet and auditors report, should be submitted. In the absence of these documents or submission of an incomplete audit report, you may invite a defective return notice.
- **6. Cost Audit Non-compliance:** Failure to submit 'Cost Audit' details as required by the Companies Act, 2013, can lead to a defective return notice.
- **7. Presumptive Taxation Inaccuracies:** In cases of presumptive taxation, providing inaccurate computation of presumptive income, non-disclosure of relevant details, or mismatched gross receipts can trigger a defective return notice.
- Example: For instance, gross receipts not mentioned in the Profit and Loss account, or the amount mentioned is more than Rs. 2 crore in ITR 4, will lead to a defective return notice.
- **8. Tax Payment Discrepancies:** If taxes are partially paid or the paid amount doesn't align with the tax liability in the ITR, a defective return notice may be issued.
- **9. Incorrect details in ITR:** Filing an ITR with incorrect details regarding turnover, income limits, or inappropriate reporting for a specific head of income can lead to a defective return notice.
- **10. Mismatch in the name:** When the name mentioned in the ITR does not match the name on the PAN card.

How to Respond to Defective Return Notice u/s 139(9)?

- If the Assessing Officer considers the return to be defective, then a notice will be sent to the taxpayer. The taxpayer will have **15 days** time to respond to the notice.
- Revise your return addressing the defects pointed out by the Income Tax Department within 15 days.
- If you are unable to complete these revisions within the given timeframe, you have the option to seek an extension.
- **If the defect is not rectified within a period of 15 days or the extended days allowed, your return may be treated as an invalid return. This could potentially lead to consequences like interest, penalty, non-carry forward of losses and forfeiture of specific exemptions.**

How to respond in Portal

- **Step 1:** Log in to the income tax [e-filing portal](#).
- **Step 2:** Click on the “pending actions” tab and then select the e-proceedings option and select e-assessment.
- **Step 3:** Select adjustment u/s 143(1)(a)
- **Step 4:** Intimation notice details will be displayed; click on the submit button to start the process of responding intimation notice.
- **Step 5:** You will be able to see the mismatch found, select the drop-down next to the response, and submit a response to that particular mismatch.
- **Step 6:** Justify your response and submit the supporting documentation.
- **Step 7:** Your response will be acknowledged after clicking on submit button.
- If you have received an income tax notice from the tax department, don't worry, simply go through the intimation, gather your supporting evidence, and respond!

Section 148 of Income Tax Act: Notice Under Assessment or Reassessment

- As per Section 147 of the Income Tax Act, 1961, the Income Tax Department has the power to reassess an individual's previously filed income tax returns. The Assessing Officer could pick your income tax return for reassessment subject to some pre-defined criteria by sending a notice under section 148 for Income Escaping Assessment.

Relevant extracts of Section-148

- Section 148 of the Income Tax Act 1961 gives authority to the Assessing Officer to send notice to a taxpayer whose income has not been properly assessed. This implies that if the Assessing Officer suspects that a taxpayer has not disclosed complete income or has provided an inaccurate representation of it, officers can commence proceedings under this section.
- Section 148 Notice is a notice issued by the income tax officer to reassess the taxpayer's income tax return (ITR) if they disagree with the taxpayer's assessment and believe that some income has not been properly assessed.
- Recently introduced **Section 148A**, which requires the assessing officer to conduct an inquiry and give the taxpayer an opportunity to explain their case before issuing a notice under Section 148.
- The assessing officer must issue a notice to the taxpayer under Section 148A(b), providing information and adverse material suggesting that income has escaped assessment. The taxpayer can respond with their own material and evidence.

What is section 148A, and what does it mean for taxpayers?

- In Budget 2021, the government introduced Section 148A in the Income Tax Act. Suppose the income tax officer has information that the taxpayer has escaped income for any assessment year on which tax is payable. In that case, the new provision requires that the income tax officer provide a chance for the taxpayer to explain their case before issuing notice. Under section 148A, the assessee gets a chance to be heard by the officer.
- An assessing officer has to give not less than seven days but not more than 30 days to the assessee for furnishing his explanation.

- After assessing the taxpayer's reply, the income tax officer shall decide whether it is a fit case to issue notice for income escaping assessment. If the income tax officer decides to reopen the case, a copy of the order and a notice (under Section 148) must be issued to the taxpayer.
- As per the time limitation clause, a notice cannot be issued in normal scenarios if **three years have elapsed** since the end of the relevant assessment year. However, notice beyond three years can be taken up only if there is evidence that the taxpayer has evaded an assessment of taxable income of at least Rs 50 lakh. However, notice can be issued beyond three years but **not after 10 years** from the end of the relevant assessment year.
- The income tax officer shall obtain the approval of specified authority before conducting any such enquiries, providing an opportunity to the taxpayer, or passing such an order.
- However, none of the above is applicable in search or requisition cases.

Section 119(2)(b): All About Condonation of Delay

- Missing the tax deadline happens. Sometimes life gets in the way with unexpected events or hardships. Section 119(2)(b) allows you to request an extension if you have a valid reason for the delay.
- The CBDT (Central Board of Direct Taxes) has the power to allow this delay. They look at each case and decide if the taxpayer had genuine reasons. If so, they condone or forgive the late filing.
- Section 119(2)(b) of income tax act also provides relief by waiving interest and penalties. Taxpayers whose delay was condoned can ask to not pay these extra charges.
- To get this relief, taxpayers explain why they filed late. They give proof of their reasons. Tax officials review these and decide.

Basic documents required for ITR filing: Corporate perspective

- Tax Audit Report in Form 3CA-CD u/s 44AB
- Transfer Pricing Audit Report in Form- 3CEB u/s 92E
- Form – 26AS & AIS
- Advance Tax Challans
- Form 67 in case of Foreign Tax Credit





THANK YOU!