

**Filing of ROI with reference to various notices
duly issued by the Income Tax Department,**

Condonation of delay in filing of return, and

Basic Documents required while filing of ROI

UNDER THE INCOME TAX RULES 1962

- By virtue of the Constitutional right under Article 265 of the Constitution of India 'No tax shall be levied or collected except by authority of law'.
- An assessee of any civilized country is bound to pay the tax to the government for which he is liable under the law. The Government on the other hand is obliged to collect only that amount of tax which is lawfully payable by an assessee.
- The entire object of administration of tax is to secure the revenue for the development of the Country and not charge assessee more tax than that which is due and payable by the assessee.

To curb the black money,

The Income-tax Act, 1961 has provided rigorous powers to the revenue department to recover the tax demand including the power to arrest and detain as provided under the Act.

Hence it's highly important to understand the provisions

- 1) for payment of tax
- 2) **Filing of Return**
- 3) Collection and recovery of tax demand and
- 4) The provisions of filing stay application against such demand as provided under the Act.

- Income Tax Returns shall be filled through the appropriate Return Forms and the same is being filled within the specified due date as envisaged under Law.
- The Relevant Provisions under the Income-tax Act, 1961 that deals with filing of Return are as under.

- **Section** **Description**
- 139(1) Voluntary filing of Return
- 139(4) Belated Return
- 139(5) Revised Return
- 139(9) Defective return

- **Types of Notices are being issued by the Income Tax Authority**

- **Section Description**

- 139(9) Defective Return
- 142(1) Enquiry before Assessment and filing of ROI
- 143(1) Intimation of a Summery assessment
- 143(2) Notice prior to the scrutiny assessment
- 148 Notice for the income escaped assessment or Reassessment and filing of ROI thereof
- 153A Notice for filing of ROI after search took place in the premises of the Assessee
- 153C Notice for filing of ROI after search took place in premises other than assessee's premises
- 281B Provisional attachment to protect revenue in certain cases

- **139(9) Defective Return**

- When is being issued: A return is filed with missing or incorrect information such as
 - a) Non payment of Self assessment tax
 - b) Mismatch of data entry
 - C) Mismatch due to insertion of wrong data as appearing in Profit & Loss Account and Balance sheet or any other sheet
 - d) Mismatch of any other data entry
- **Remedial measure required:** Correct and resubmit the return within 15 days (or extended period) to avoid it being treated as invalid

- **142(1) Enquiry before Assessment and filing of ROI**

When is being issued: When the IT Department wants

1. more information before making an assessment

2. require any Return if not filled U/s 139(1)

3. Specific documents and accounts,

4. Additional information or clarification relating to the return filed.

5. It's an **enabling provision** for the AO to gather information **before making an assessment** under Section 143(3) or 144.

6. Incomplete or suspicious return: If the AO feels more information is needed to complete the assessment.

7. **For scrutiny:** Prior to initiating detailed scrutiny under Section 143(2), or even independently.

- **Remedial measures required:** Submit documents or any other mode of compliance or to attend in person as per the notice.

Contents of the Notice

- The AO may require the taxpayer to:
- Furnish a return of income for a specific previous year.
- Produce books of accounts, documents, or evidence in support of the return.
- Provide details such as:
- Bank statements,
- Purchase/sale bills,
- Loan confirmations,
- Party-wise transaction details,
- Investments,
- Source of funds, etc.
- Unsatisfactory Income claimed exempt
- Unsatisfactory claim of Gift or loan or any major other Transfer

- **Time Limit to Respond**

- Generally, **15 days** from the date of receipt of notice (or as specified).
- The time may be extended by the AO upon request

- **Time Limit for Issuing Notice under Section 142(1) – *Income-tax Act, 1961***

- There is **no specific statutory time limit prescribed under Section 142(1)** itself for issuance of a notice. However, practical and legal boundaries are imposed through related provisions and judicial interpretation

- **When No Return Is Filed**

- AO may issue a notice asking the assessee to file a return basically after the due date of filing ROI U/s 139(1).

- **No time limit specified**, but this has to be read in conjunction with **Section 153** – the time limit for completing assessment.

Hence the notice must be issued **early enough** so that the assessment can be completed within time limits under Section 153 (generally 12 **months** from end of relevant AY for normal assessments).

- **When Return is already been filed**
- The AO may issue a notice seeking further information at any time before completion of the assessment.
- Hence the only limitation is:
- It must be issued before completion of the assessment (u/s 143(3) or 144).
- Usually within the search assessment completion timeline under Section 153.

- **Consequences of Non-compliance**

- 1. Best Judgment Assessment under Section 144.
- 2. Penal Consequences:
- 3. Penalty under Section 271(1)(b) for each failure.
- 4. Loss of opportunity to explain discrepancies or reduce liability

- **Judicial Interpretations**

- Fair Opportunity: Courts have emphasized that before a best judgment assessment is made, a fair opportunity must be given to the taxpayer.
- No assessment without inquiry: Section 142(1) empowers the AO to inquire properly; failure to do so may invalidate the assessment

- **Section 148 – Income Escaping Assessment**
- **When is being Issued:** The Assessing Officer believes income has escaped assessment after through departmental procedures.
- **Remedial measures required:** : File return for the relevant year and respond to the notice.

- **Section 148** of the Income-tax Act, 1961 empowers the Assessing Officer (AO) to initiate reassessment proceedings in cases where income has escaped assessment for a particular assessment year. This provision is a critical tool in the department's arsenal to revisit past returns based on credible information or evidence.
- The framework has undergone substantial reform under the **Finance Act, 2021**, with the introduction of **Sections 148A, 149, and 151**, laying down strict procedural safeguards and timelines.

Statutory Parameter under law

- | Provision | Purpose |
|-----------------------|--|
| • Section 147 | Lays down conditions for reopening assessment |
| • Section 148 | Authorizes AO to issue notice requiring filing of return |
| • Section 148A | Mandates preliminary inquiry, prior approval, and opportunity of being heard before issuing notice under Section 148 (w.e.f. 01.04.2021) |
| • Section 149 | Prescribes the time limits for issuing notice |
| • Section 151 | Governs approval requirements before issuance |

- **Purpose and Scope of Section 148**
- A notice under Section 148 is issued where the AO has **“information suggesting that income chargeable to tax has escaped assessment”**. Such escapement may occur due to:
 - Omission or misreporting of income
 - Claiming excessive deductions or exemptions
 - Unexplained cash credits, investments, or expenditures
 - Fresh material arising from third-party information, search, survey, or audit reports
- **Procedure Post-Finance Act, 2021 (Effective from 01.04.2021)**
- The **new reassessment regime** follows a structured pre-notice procedure to ensure accountability and transparency

- **Procedures:**

- **Stage** **Description**

- **148A(a)** AO conducts inquiry based on information suggesting income escapement (with prior approval of specified authority)
- **148A(b)** Issue of show cause notice to the assessee, providing a minimum of **7 days** and a maximum of **30 days** to respond
- **148A(c)** Consideration of assessee's reply
- **148A(d)** AO passes a speaking order recording reasons for initiating reassessment
- **Section 148** Only after the above, a notice under Section 148 is issued requiring the assessee to file a return for the specified assessment year

Time limit U/s 149

Parameter of Income	Maximum Time Limit from End of Relevant AY
• Income escaping assessment is \leq ₹50 lakh	3 years
• Income escaping assessment is $>$ ₹50 lakh which includes the escaped assets expenses and entries, transactions etc.	6 years (w.e.f. 01.04.2025)
• Approvals under Section 151	
• Time Limit Involved	Sanctioning Authority Required
• Within 3 years	Principal Commissioner or Principal Director
• Beyond 3 years (up to 6 years)	Principal Chief Commissioner or Chief Commissioner

- **Exceptions to Section 148A Compliance**

- The procedure under Section 148A is **not mandatory** in the following cases (as per the proviso to Section 148A):
 - 1. **Search or requisition cases** under Sections 132/132A.
 - 2. Where assets or evidence found during search **belong to a third party**.
 - 3. Information flagged under the **risk management strategy** or audit objection.

- **Compliance by Assessee upon Receipt of Notice**

- **Upon receiving a notice under Section 148**

- The assessee is required to **file a fresh return** for the specified assessment year, even if a return was filed earlier.
- Full and true disclosure of all relevant facts must be made.
- It is advisable to **submit a covering letter** along with the return highlighting factual and legal positions.
- If the notice appears invalid or procedurally defective, legal remedies including **filing a writ petition** may be considered.

- **Consequences of Non-Compliance**

- **Nature of Default Consequences**

- Failure to file return Best judgment assessment under Section 144
- Willful default Penalty and prosecution under Section 276CC
- No response during period U/s 148A(b) AO may proceed to issue notice under Section 148 and reopen assessment

Taxpayer's Remedies

- Maintain robust documentation and audit trails for high-value transactions.
- Ensure regular reconciliation with Form 26AS, AIS, and books of account.
- Respond within the prescribed timeline to all notices, especially under Section 148A(b).
- Take professional advice before responding to complex or disputed issues.
- Maintain records for **at least 6 years**, especially where potential reassessment risk exists.

Section 119(2)(b) Condonation of delay

- Section 119(2)(b) empowers the **Central Board of Direct Taxes (CBDT)** to:
- *“Authorize any income-tax authority to admit an application or claim for exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act...”*

Objectives

- To provide relief to taxpayers who could not file returns or make claims within prescribed time due to genuine hardship
- **Who can file application:**
- An assessee who
- failed to file a **return of income** within time under Section 139,
- missed the deadline for filing **Form 10** (for trusts), **Form 9A**, **Form 67**, or other statutory forms,
- wants to claim a **refund** or **carry forward a loss** but missed the due date.
- *Only those applications where genuine hardship can be proved will be considered*

- Types of Reliefs Covered:

- **Type of Relief**

- Refund of excess tax paid
- Deduction claims
- Loss carry forward
- Filing Form 10/67/9A etc.

Example

TDS/TCS, advance tax, or self-assessment tax
Missed deductions under Chapter VI-A
Missed filing of return for setting off
business/capital losses
Procedural default in timely filing of mandatory
Forms

- **Time Limit for Filing Application**

- Application under Section 119(2)(b) **must be made within 6 years** from the **end of the relevant assessment year**.

In case of refund, the delay is measured from the date on which the original return was due.

- Authority to Decide Applications
- CBDT has delegated powers as follows

- **Amount of claim/refund**

Authority

- | | |
|------------------------------------|---|
| • \leq ₹10 lakh | Principal Commissioner / Commissioner |
| • $>$ ₹10 lakh and \leq ₹50 lakh | Principal Chief Commissioner / Chief Commissioner |
| • $>$ ₹50 lakh | CBDT (Board approval required) |

Conditions for acceptances by CBDT

1. Genuine hardship is to be proved by the assessee;
 - 2. The claim is correct, valid, and verifiable;
 - 3. The income is not assessable in the hands of any other person;
 - 4. The delay is not due to intentional neglect or lack of diligence
-
- CBDT Circular No. **9/2015 dated 09.06.2015** lays down the procedural guidelines.

- **Documents required**

- Covering letter with reasons for delay
- Form 30/Refund claim or ITR form
- Computation of income
- Proof of TDS/TCS/payment of taxes
- Bank statements, financial statements
- PAN, Aadhaar, and ID proof
- Any medical/emergency-related evidence (if applicable)

- **Financial Statements and Accounting Records**

- Audited Financial Statements:

- Balance Sheet

- Profit & Loss Account

- Cash Flow Statement (if applicable)

- Notes to Accounts

- Trial Balance (final)

- General Ledger summary

- Fixed Asset Register and depreciation schedule (as per Companies Act and Income-tax Act)

- Inventory valuation summary (if applicable)

- Tax Payments and Credits
- Challans of:
- Advance Tax
- Self-assessment Tax
- TDS/TCS (on own and on behalf of others)
- Form 26AS (Annual Tax Credit Statement)
- AIS/TIS download from the income tax portal
- TDS certificates (Form 16A, 27D, etc.)
- Statement of foreign tax credit claimed (if applicable)
- GST reconciliation with Income

- **Compliance and Reporting Forms**

- Statement of Financial Transactions (SFT), if applicable
- Forms filed with ROC under Companies Act (e.g., AOC-4, MGT-7)
- Details of related party transactions
- CSR expenditure details (if applicable)
- Form 10-IC/10-ID for concessional tax regimes (if opted under Sections 115BAA/115BAB)

Other Relevant Information/Documents

Details of carry-forward losses

Dividend declarations and payment proofs

Bank account details for refund

Tax holiday/deduction documentation (e.g., SEZ, R&D)

Details of foreign assets or income (Schedule FA)

Shareholding pattern (cap table)

Loans and advances disclosure (Section 269SS/269T compliance)

For Companies Opting for Special Provisions Provision

Documents Needed

Section 115BAA / 115BAB
IFSC Unit (Section 80LA)

Form 10-IC / 10-ID, respectively
Registration under IFSC, relevant
approvals

Startups (Section 80-IAC)

DPIIT certificate, Form 1, and CBDT approval

Others

Any notices or orders issued by Income Tax Department (earlier years)

Proof of foreign remittances and FIRC (if applicable)

Foreign Exchange fluctuation gain/loss computation

Expense disallowances under Section 40(a)(ia), 43B, etc.

- **For Business Income Tax Return filing:**
- Corporate Identification and Registration Documents
- Partnership Deed or Trust Deed etc. or Certificate of Incorporation
- PAN of the Company
- TAN of the Company
- Address Proof (Registered Office)
- Directors' details (DIN, PAN, Aadhaar)
- Board resolution authorizing signatory for return filing
- Digital Signature Certificate (DSC) of authorized signatory (Class III)

Thanks for listening the whole slides