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TOPIC

(i) *Brief on Filing of Return of Income*

(ii) *Summary Assessment without calling Assessee Sec 143(1) [including procedure in e-filing, response to Notice u/s 139(9), withdrawal of response, procedure followed related to intimation u/s 143(1)]*

139. Return of income.

139.

(1) File Before Due Date

(1) Every person,—

- (a) being a company or a firm; or
- (b) being a person **other** than a company or a firm,

if

→ **his total income or**

- the total income of any **other person** in respect of which **he**
 - **is assessable** under this Act
 - during the previous year

→ **exceeded** the maximum amount which is not chargeable to income-tax,

shall, on or **before the due date**,

furnish a return of his income or the income of such other person during the previous year,

- in the **prescribed form** and {Rule 12}
- verified in the **prescribed manner** and
- setting forth such **other particulars** as may be **prescribed** :

3rd Proviso – Co/ firm – Loss < 139(1)

3rd Provided also that every **company or a firm** shall furnish on or before the due date the return in respect of its income or **loss** in every previous year:

4th Proviso – Ordinary Resident – Owner of Asset / Sign Authority A/c / Beneficiary – Outside India

4th Provided also that a person,
being a **resident**

• *other than not ordinarily resident in India within the meaning of clause (6) of section 6, who is **not required** to furnish a return under this sub-section {Below BEL} and **who** at any time during the previous year,—*

(a) **holds**,

- **as a beneficial owner** or otherwise,
- **any asset** (including any financial interest in any entity)

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- *located outside India or*
has
- *signing authority in any **account** located outside India; or*

(b) ***is** a **beneficiary** of any asset (including any financial interest in any entity) located outside India,*
shall furnish, on or before the due date,
*a return in respect of his **income** or **loss** for the previous year in such form and verified in such manner and setting forth such other particulars as may be **prescribed**:*

5th Proviso -- 4th Proviso Not apply to Beneficiary – Outside India if Ordinary Resident – Owner of Asset / Sign Authority A/c – has shown Income.

5th Provided also that nothing contained in the fourth proviso shall apply to

- *an **individual**,*
- *being a **beneficiary** of any asset (including any financial interest in any entity) located outside India*
- *where, **income**, if any, arising from such asset is **includible** in the income of the person referred to in clause (a) of that proviso in accordance with the provisions of this Act:*

6th Proviso – without exemption > BEL – file < 139(1)

6th Provided also that every person, being

- *an **individual** or*
- *a Hindu undivided family or*
- *an association of persons or a body of individuals, whether incorporated or not, or*
- *an artificial juridical person,*

if his **total income or** the total income of any other person in respect of which he is assessable under this Act during the previous year,

without giving effect to the provisions of

- *clause ~~(38)~~ of section ~~10~~ or ~~---~~(38) long-term capital gains from transfer of equity shares or units of an equity oriented fund] – Expired [AY 2019-20]*
 - *section ~~10A~~ or ~~---~~[newly established undertakings in free trade zone, etc.] Expired AY 2012-13*
 - *section ~~10B~~ or ~~---~~[newly established hundred per cent export-oriented undertakings.] Expired AY 2012-13*
 - *section ~~10BA~~ or ~~---~~[export of certain articles or things.] Expired AY 2010-11*
 - ***section 54 or section 54B or section 54D or section 54EC or section 54F or section 54G or section 54GA or section 54GB or ~~---~~[Capital Gain – Roll over benefit] [FA2019- wef 01/04/2020]***
 - *Chapter **VI-A** ~~---~~ [Deductions to be made in computing total income]*
- exceeded** the maximum amount which is not chargeable to income-tax,

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shall, on or before the due date,
furnish a return of his income or the income of such other person during the previous year,
→ in the **prescribed form** and {Rule 12}
→ verified in the **prescribed manner** and
→ setting forth such other particulars as may be **prescribed**.

shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year,
in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

7th Proviso – < BEL – file if Deposit > 1 Cr (CA) / Travel Abroad . Electricity / others

7th “Provided also that a person referred to in **clause (b)**, {*other than firm / company*}

→ who is not required to furnish a return under this sub-section,

and

→ who during the previous year—

(i) has **deposited** an amount or aggregate of the amounts exceeding **one crore** rupees in one or more **current accounts** maintained with **a** banking company or **a** co-operative bank; or

(ii) has incurred **expenditure** of an amount or aggregate of the amounts exceeding **two lakh** rupees for himself or any other person for **travel** to a **foreign country**; or

(iii) has incurred **expenditure** of an amount or aggregate of the amounts exceeding **one lakh** rupees towards consumption of **electricity**; or

(iv) fulfils such **other** conditions as may be **prescribed**,

shall furnish a return of his income on or before the due date in such form and verified in such manner and setting forth such other particulars, as may be **prescribed**.”;

*The aforesaid conditions are in alternative; hence a return of income will have to be filed **even if any one** of the aforesaid **condition is fulfilled**.*

*Other than a company or a firm, the proviso applies to **all persons** including **senior** citizens.*

*The limits stated in the conditions are for a previous year and hence, for **every** assessment **year**, it has **to be examined** whether the condition is fulfilled or not.*

Deposit in current account

Not savings bank A/c	The proviso applies only if the deposit/deposits are made in a current account; it will not apply if such deposits are made in a savings account.
Even non-cash	The deposit may be made in cash or by cheque or by any other electronic mode. It may even be made by transfer from another bank account, including a current account.
Aggregate for PY	It is the aggregate of all such deposits made by the person that is relevant during a previous year for the purpose of the condition.
All current	The deposit has to be made in one or more current accounts 'maintained with a banking company

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A/c ? [section 13(2) General clauses Act]	or a co-operative bank'. 'A' is often interpreted as 'any' and not 'one' [see <i>CIT v. Khoobchand M. Makhija</i> [2014] 43 taxmann.com 143/223 Taxman 189 (Mag.) (Kar.) ¹ ; <i>CIT v. D. Ananda Basappa</i> [2009] 180 Taxman 4 (Kar.) ²]. In the context, it appears that the 'a' banking company may be read as any banking company and the aggregate of deposits in all current accounts should be reckoned to ascertain whether the limit of Rs. 1 crore is fulfilled or not.
Maintained by? the assessee.	On a literal reading, the deposit may be made in the current account maintained by the person or by any other person. To illustrate, if an individual directly deposits Rs. 1 crore in a current account maintained by another person "B", the said deposit will be reckoned for the purpose of calculating the aggregate sum of Rs. 1 crore. However, it is to be noted that while clause (i) is silent as to who maintains the account with the bank, clause (ii) expressly refers to foreign travel expenses for himself or any other person. This suggests that clause (i) ought to be reasonably construed as an account being maintained by the assessee.

Expenditure on foreign travel

Even non-cash	The expenditure may be incurred in cash or in cheque or by forex card or by any other electronic mode.		
'or' read as 'and'	The person should have incurred expenditure of an amount or aggregate of amounts exceeding Rs. 2 lakh for himself or any other person. The word 'or' <u>gives an impression</u> that the condition would be fulfilled only if a person incurred expenditure exceeding Rs. 2 lakh for himself or any other person. In other words, if the individual spends say Rs. 1 lakh on himself or another Rs. 1.25 lakhs on his wife, the condition will not be triggered. This <u>appears to be unintended</u> .		
Any currency	The expenditure may be incurred in Indian rupees (say, for purchase of tickets) or in foreign currency.		
ROI by who incurs	It is the person who incurs the expenditure needs to file his return of income and not the person on whose behalf the expenditure is incurred.		
(v)	The condition applies for travel to any foreign country, including Nepal, Bangladesh, Sri Lanka, Mauritius, etc.		
(vi)	The condition applies to senior citizens, who may have not have income chargeable to tax but who go abroad for say, holiday travel or even to meet their children abroad.		
(vii)	The condition applies to non-residents also; hence, if a non-resident's son meets the foreign travel expenses of his parents which exceed Rs. 2 lakh, on a literal interpretation, he will have to file a return of income.		
travel expense ?	The condition applies only if expenditure for 'travel' to a foreign country exceeds Rs. 2 lakh.		
All	The word 'travel' has been explained as follows: <table border="1"> <tr> <td>(i)</td><td>"go from one place to another, make a journey, esp. of some length or a</td></tr> </table>	(i)	"go from one place to another, make a journey, esp. of some length or a
(i)	"go from one place to another, make a journey, esp. of some length or a		

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expense	[<i>New India Assurance Co. Ltd. v. Annakutty</i> AIR 1993 Ker. 299] (ii) "travelling : the action of travel; making a journey" [Legal Glossary 2015 by Government of India, page No. 437] (iii) "'Travelling', in a large sense, means a going from one place to another" (per Ellenborough C.J., <i>White v. Beazley</i>, 1 B. & Ald. 171) [Stroud's Judicial Dictionary of Words & Phrases - 7th Edn. - Vol. 3 (P - Z) by, Stroud, page No. 3027] (iv) "1. to go from one place to another, as by car, train, plane, or ship; take a trip; journey: to travel for pleasure. 2. to move or go from one place or point to another. [Random House Compact Unabridged Dictionary, page No. 2914] Thus, travel means a journey or going to a particular place. It could therefore be argued that the expense for travel to the foreign country means the ticket expenses and not the subsequent lodging, boarding, and sightseeing expenses. It may be noted that broader meaning had been given to the word in the context of erstwhile section 37(3) [see <i>Beardsell Ltd. v. CIT</i> [2000] 110 Taxman 265 (Mad.)]. The limitation in that section was on travelling expenses (including hotelexpenses). A safer view is that the condition under section 139 covers all expenses.	
Expenditure on electricity		
Any purpose	The consumption of electricity may be for residential purposes or business purposes.	
Even non-cash	The expenditure may be incurred by cash or cheque or by any other electronic mode.	

Explanation 1.—For the purposes of this sub-section, the expression "motor vehicle" shall have the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988). {Not Relevant after 2005}

Explanation 2: Due Date Means

Explanation 2.—In this sub-section, “due **date**” means,—

(a) where the assessee {*Person is liable to assess – when he need to file ROI*}

▪ **other than** an assessee referred to in clause (aa)

is—

(i) a **company**; or

(ii) a person (other than a company) whose accounts are **required** to be **audited** under this Act or under any other law for the time being in force; or

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(iii) a working partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force,
the 30th day of September **31st day of October** of the assessment year; {FA 2020, AY 2021-22}

I. "Specified date" for Audit – u/ Explanation to section 44AB – is "one month prior" = 30th day of September.

(aa) in the case of an assessee who is **required** to furnish a report referred to in section 92E, the 30th day of November of the assessment year; {wef 01/04/2011}

(b) in the case of a person other than a company, referred to in the **first proviso** to this sub-section, the 31st day of October of the assessment year; {Not Relevant after 2005}

(c) in the case of any other assessee, the 31st day of July of the assessment year.

Consequences of non-filing of Return

<i>Due Date – Extension – CBDT Power under section 119</i>
<i>Section 234F – Fees for Default in furnishing ROI</i>
<i>Section 276CC -- prosecution if the amount of tax payable is more than Rs. 3,000(other than company – i.e., no exemption limit). However compounding under section 279(2) is available.</i>

Explanation 3.—For the purposes of this sub-section, the expression "travel to any foreign country" does not include travel to the neighbouring countries or to such places of pilgrimage as the Board may specify in this behalf by notification in the Official Gazette. {Not Relevant after 2005}

Explanation 4: Beneficial owner Means

Explanation 4.—For the purposes of this section "beneficial owner" in respect of an asset means

- an individual
- who has provided, directly or indirectly, consideration
- for the asset
- for the immediate or future benefit,
- direct or indirect,
- of himself or any other person.

Explanation 5: Beneficiary Means

Explanation 5.—For the purposes of this section "beneficiary" in respect of an asset means

- an individual
- who derives benefit from the asset during the previous year and
- the consideration for such asset has been provided
- by any person
 - other than such beneficiary.

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Explanation 6: Bank

‘Explanation 6.—For the purposes of this sub-section,—

- (a) “banking company” shall have the meaning assigned to it in clause (i) of the Explanation to section 269SS;
- (b) “co-operative bank” shall have the meaning assigned to it in clause (ii) of the Explanation to section 269SS.’

Explanation.—*For the purposes of this section,—*

- (a) *"banking company" shall have the same meaning as assigned to it in clause (i) of the Explanation to section 269SS;*
- (b) *"co-operative bank" shall have the same meaning as assigned to it in clause (ii) of the Explanation to section 269SS.*

(1A) Furnish to employer & He shall file

(1A) Without prejudice to the provisions of sub-section (1),

- any person, being an **individual**
- who is in receipt of income chargeable under the head "**Salaries**"
- **may**, at his option, furnish a return of his income for any previous year to his employer,
- in accordance with such **scheme** as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein,

and

- such **employer** shall furnish all returns of income received by him on or before the due date,
- in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and manner as may be specified in that scheme,

and

- in such case, any employee who has filed a return of his income to his employer shall be deemed to have furnished a return of income under sub-section (1), and the provisions of this Act shall apply accordingly.

(1B) Furnish to Tax Return preparer & He shall file

(1B) Without prejudice to the provisions of sub-section (1),

- any person,
 - being a company or
 - being a person *other than a company*,
- required to furnish a return of income under sub-section (1),
- **may**, at his option, on or before the due date, **furnish** a return of his income for any previous year
 - in **accordance** with such **scheme** as may be specified by the Board in this behalf by notification in the Official Gazette
 - and subject to such conditions as may be specified therein,

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- in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and in the manner as may be specified in that scheme,
- and in such case, the return of income **furnished** under such scheme shall be deemed to be a return furnished under sub-section (1), and the provisions of this Act shall apply accordingly.

(1C) CG can exempt

(1C) Notwithstanding anything contained in sub-section (1),

- the Central **Government** may, by notification in the Official Gazette, **exempt any** class or classes of persons from the requirement of furnishing a return of income having regard to such conditions as may be specified in that notification.

(2) Omitted

(3) Loss – (BP/CG) + C/f

(3) If any person who has sustained a loss in any previous year

- under the head "Profits and gains of **business** or profession" or
- under the head "**Capital gains**"

and claims that

the loss or any part thereof should be **carried forward** under

- sub-section (1) of section 72, or *{C/f & s/o of business losses}*
- sub-section (2) of section 73, or *{C/f & s/o of speculation losses}*
- *sub-section (2) of section 73A* or *{C/f & s/o of 3.5AD(5) Business losses}*
- sub-section (1) ~~or sub-section (3)~~ of section 74, or *{C/f & s/o capital gain losses}*
- sub-section (3) of section 74A, *{C/f & s/o race horses owning & Maintenance losses}*

he **may furnish**,

- **within** the time allowed under sub-section **(1)**,
- a return of loss
 - in the prescribed form and
 - verified in the prescribed manner and
 - containing such other particulars as may be prescribed,

and all the provisions of this Act shall apply **as if** it were a return under sub-section (1).

(4) Belated – End of AY

(4) Any person who has not furnished a return within the time allowed to him under sub-section (1),

may furnish the return for any previous year at any time

- before the end of the relevant assessment year or
 - before the completion of the assessment, /
- whichever is earlier.

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FY = PY – 1/4/2017 – 31/3/2018, AY 2018-19 --- Last date = 31/3/2019 or completion of Assessment

Analysis

1. Assessment can be completed (before end of assessment year)
 - a. by issuing
 - i. 144 notice (no return case) or
 - ii. 142(1)(i) (where return filed in response to 142 (1)(i) -- [i.e. if No return filed under 139(1)/(4)]
 - iii. Note: 144 / 142(1)(i) - notice can be issued after time limit of 139(1) {not before}
 - b. and but before 139(5) –
 - c. if completed then 139(4) is not possible
 - d. [Complete ≠ in process, complete u/s 144 (if no return) u/s 143(3) (if return under 142(1)(i)).

FA - 2016 Finance Act, 2016, w.e.f. 1-4-2017 :

(4) Any person who has not furnished a return within the time allowed to him under sub-section (1), or within the time allowed under a notice issued under sub-section (1) of section 142, may furnish the return for any previous year at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier :
~~Proviso to sub-section (4) is a transitional provision and not applicable for AY 1988-89 & onwards.~~

Provided that where the return relates to a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any **earlier assessment year**, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.

PY – 31/03/2017

AY – 1/4/2017 to 31/03/2018 – End = 31/3/2018 ~~+1 Year~~ (31/03/2019) or Completion of Assessment

(4A) Trust – without 11 & 12 > BEL

(4A) Every person in receipt of income

- derived from property held under trust or other legal obligation
- wholly for charitable or religious purposes or in part only for such purposes,

or

of income being

- voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2, shall,

if the total income in respect of which he is assessable as a representative assessee

- ❖ (the total income for this purpose being **computed** under this Act
- ❖ **without giving effect to** the provisions of sections **11 and 12**)

exceeds the maximum amount which is not chargeable to income-tax,

furnish a return of such income of the previous year in the prescribed form and

verified in the prescribed manner and setting forth such other particulars as may be prescribed

and all the provisions of this Act shall, so far as may be, apply **as if** it were a return required to be furnished under sub-section (1).

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Example

Religious / Charitable Trust	Case I	Case II	Case II
Receipts	5,00,000	16,00,000	16,00,000
Exemption u/s 11 & 12	4,75,000	3,00,000	3,00,000
Total Income	25,000	13,00,000	13,00,000
Is Trust required to file ROI	Yes	Yes	Yes
Return filed on	31/3/AY	31/12/AY	Not filed

Penalty U/s 272A	182 days X Rs 100 = 18,200	182 days X Rs 100 = 18,200	(# of days → from Due date is 30 th /Sep/AY-- till BJA) x Rs 100) = xxx
Fees u/s 234F	Rs 1000	Rs 5,000	Rs 10,000

(4B) Political Party – without 13A > BEL

(4B) The chief executive officer (whether such chief executive officer is known as Secretary or by any other designation) of every **political party** shall,

if the total income in respect of which the political party is assessable

- ❖ (the total income for this purpose being computed under this Act
- ❖ **without giving effect** to the provisions of section **13A**)

exceeds the maximum amount which is not chargeable to income-tax,
furnish a return of such income of the previous year in the **prescribed form** and verified in the prescribed **manner** and setting forth such other particulars as may be prescribed
and all the provisions of this Act shall, so far as may be, apply **as if** it were a return required to be furnished under sub-section (1).

(4C) Exempted persons – without 10 > BEL

Section - 55, Finance Acts-2017

(4C) Every—

- (a) research association referred to in clause (21) of section 10;
- (b) news agency referred to in clause (22B) of section 10;

Finance Act, 2017, w.e.f. 1-4-2018

(ca) person referred to in clause (23AAA) of section 10;

- (c) association or institution referred to in clause (23A) of section 10;
- (d) institution referred to in clause (23B) of section 10;

- (e) fund or institution referred to in sub-clause (iv) or
trust or institution referred to in sub-clause (v) or
any university or other educational institution referred to in

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— *sub-clause (iiiab) or*
— *sub-clause (iiid) or*
— *sub-clause (vi) or*
any hospital or other medical institution referred to in
— *sub-clause (iiia) or*
— *sub-clause (iiiae) or*
— *sub-clause (via)*
of clause (23C) of section 10;

(ea) Mutual **Fund** referred to in clause (23D) of section 10;
(eb) securitisation **trust** referred to in clause (23DA) of section 10;

Finance Act, 2017, w.e.f. 1-4-2018

(eba) *Investor Protection **Fund** referred to in clause (23EC) or clause (23ED) of section 10;*
(ebb) *Core Settlement Guarantee **Fund** referred to in clause (23EE) of section 10;*

(ec) venture capital company or venture capital **fund** referred to in clause (23FB) of section 10;]
(f) **trade union** referred to in sub-clause (a) or association referred to in sub-clause (b) of clause (24) of section 10;

Finance Act, 2017, w.e.f. 1-4-2018

(fa) *Board or Authority referred to in clause (29A) of section 10;*

(g) body or authority or Board or Trust or Commission (by whatever name called) referred to in clause (46) of section 10;

(h) infrastructure debt **fund** referred to in clause (47) of section 10,

shall,

if the total income in respect of which such research association, news agency, association or institution, *[person or]* fund or trust or university or other educational institution or any hospital or other medical institution or trade union or body or authority or Board or Trust or Commission or infrastructure debt fund or Mutual Fund or securitisation trust or venture capital company or venture capital fund

is assessable, **without giving effect** to the provisions of **section 10**, **exceeds** the maximum amount which is not chargeable to income-tax,

furnish a return of such income of the previous year in the **prescribed form**¹⁰ and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply **as if** it were a return required to be furnished under sub-section (1).

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(4D) Section 35(1) Institution

(4D) Every university, college or other institution referred to in

- clause (ii) and *{175% -- scientific research association or university or college}*
 - clause (iii) *{125% -- Social science or Statistical research association or university or college}*
- of sub-section (1) of [section 35](#),
- which is not required to furnish return of income or loss under any other provision of this section,
 - **shall furnish** the return in respect of its income or loss in every previous year and
 - all the provisions of this Act shall, so far as may be, apply **as if** it were a return required to be furnished under sub-section (1).

Analysis

1. TATA
2. ROI – is mandatory even if

(4E) Business Trust

(4E) Every **business trust**,

- which is not required to furnish return of income or loss under any other provisions of this section, *{below BEL u/ 139(1)}*
- **shall furnish** the return of its income in respect of its income or loss in every previous year and
- all the provisions of this Act shall, so far as may be, apply**{as}* if it were a return required to be furnished under sub-section (1).

Analysis – same as 139(4D)

(4F) Investment Fund 115UB

(4F)Every [investment fund](#) referred to in section **115UB**,

- which is not required to furnish return of income or loss under any other provisions of this section, *{below BEL u/ 139(1)}*
- **shall furnish** the return of income in respect of its income or loss in every previous year and

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- all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).

Analysis – same as 139(4D)

(5) Revised Return

(5) If any person, having furnished a return under

- *sub-section (1) or*

- *sub-section (4),*

discovers any omission or any wrong statement therein,

*he may furnish a **revised** return at any time*

- *before ~~the expiry of one year from the end~~ of the relevant assessment year or*

- *before the completion of the assessment,*

whichever is earlier.

FA- 2016 Finance Act, 2016, w.e.f. 1-4-2017: & Section - 55, Finance Acts-2017 01/04/2018

(5) If any person, having furnished a return under sub-section (1), or in pursuance of a notice issued under sub-section (1) of section 142, discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier:

~~Proviso to sub-section (5) is a transitional provision and not applicable for AY 1988-89 & onwards.~~

Provided that where the return relates to the previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.

Analysis

1. Belated Return cannot be revised
2. 142(2) Return can be revised

(6) Furnish Particulars

(6) The **prescribed form** of the returns referred to

- in sub-sections (1) and (3) of this section, and

- in clause (i) of sub-section (1) of section 142

Shall, in such cases as may be prescribed,

require the assessee **to furnish the particulars of**

- **income exempt** from tax,

- **assets** of the prescribed **nature** and **value**, held by him as a **beneficial** owner or otherwise or in which he is a beneficiary,

- his **bank** account and **credit card** held by him,

- **expenditure** exceeding the **prescribed limits** incurred by him under prescribed heads and

- such other **outgoings** as may be prescribed.

Analysis

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1. 139(6) – Basic - Extra information is required to be provide by assessee while filing his return of income
 - a. in few specific cases “in such cases as may be prescribed”
 - b. furnish above Basis information.
2. 139(6A) – Only of Business or Profession
 - a. In addition to 139(6)

(6A) Business - Furnish Audit report U/s 44AB + Place + Partners + share

(6A) Without prejudice to the provisions of sub-section (6),

- the prescribed form of the returns referred to
 - in this section,
 - and in clause (i) of sub-section (1) of section 142 shall,
- in the case of an assessee engaged in any business or profession,

also require him to furnish

- the **report of any audit** referred to in section 44AB, or,
 - where the report has been furnished prior to the furnishing of the return, a copy of such report together with proof of furnishing the report,
- the particulars of the location and style of the principal **place** where he carries on the business or profession and **all** the **branches** thereof,
- the names and addresses of his **partners**, if any, in such business or profession and, if he is a member of an association or body of individuals, the names of the other members of the association or the body of individuals **and**
- the extent of the **share** of the assessee and the shares of all such partners or the members, as the case may be, in the profits of the business or profession and any branches thereof.

(7) [***]

(8) ~~{Not Relevant after 2005}—because belongs to FY 1998 or before— see Exp 2 (c)~~

Clause (c) of sub-section (8) is a transitional provision and not applicable for AY 1988-89 & onwards.

(c) The provisions of this sub-section shall apply in respect of the assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references therein to the other provisions of this Act shall be construed as references to the said provisions as they were applicable to the relevant assessment year.

(9) Defective Return

(9) Where the Assessing Officer considers that the return of income furnished by the assessee is **defective**,

he **may** intimate the defect to the assessee and give him an opportunity to rectify the defect

- within a period of **fifteen days** from the date of such intimation **or**
- within such further period which, on an **application** made in this behalf, the Assessing Officer may, in his discretion, allow;

and

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if the defect is **not rectified** within

- the said period of **fifteen** days or,
- as the case may be, the further period so allowed,

then, notwithstanding anything contained in any other provision of this Act,

- the return shall be treated as an **invalid** return and
- the provisions of this Act shall apply **as if** the assessee had failed to furnish the return:

Provided that

- where the assessee **rectifies** the defect
 - after the expiry of the said period of fifteen days or the further period allowed,
 - but before the assessment is made,
- the Assessing Officer **may**
 - **condone** the delay and
 - treat the return as a valid return.

Explanation.—

For the purposes of this sub-section, a return of income shall be regarded as defective **unless** all the following conditions are fulfilled,

namely :—

- (a) the annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computation of gross total income and total income have been duly filled in;
- ~~—(aa) the tax together with interest, if any, payable in accordance with the provisions of section **140A**, has been paid on or before the date of furnishing of the return;~~
- (b) the return is accompanied by a **statement** showing the computation of the tax payable on the basis of the return;
- (bb) the return is accompanied by the report of the **audit** referred to in section 44AB, or, where the report has been furnished prior to the furnishing of the return, by a copy of such report together with proof of furnishing the report; {}
- (c) the return is accompanied by proof of—
 - (i) the tax, if any, claimed to have been deducted or collected at source and the advance tax and tax on self-assessment, if any, claimed to have been paid :

Provided that where the return is not accompanied by proof of the tax, if any, claimed to have been deducted or collected at source, the return of income shall **not** be regarded as **defective** if—

- (a) a certificate for tax deducted or collected was not furnished under section 203 or section 206C to the person furnishing his return of income;
- (b) such certificate is produced within a period of two years specified under sub-section (14) of section 155;

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- (ii) the amount of compulsory **deposit**, if any, claimed to have been made under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 (38 of 1974);
- (d) where **regular books** of account are maintained by the assessee, the return is accompanied by copies of—
- (i) manufacturing account, trading account, profit and loss account or, as the case may be, income and expenditure account or any other similar account and balance sheet;
 - (ii) in the case of a **proprietary** business or profession, the **personal account** of the **proprietor**;
in the case of a **firm**, **association** of persons or body of individuals, **personal accounts** of the **partners or members**; and
in the case of a partner or member of a firm, association of persons or body of individuals, **also** his **personal account in the firm**, association of persons or body of individuals;
- (e) where the accounts of the assessee have been **audited**, the return is accompanied by copies of the **audited profit and loss account** and **balance sheet** and the **auditor's report** and,
where an **audit of cost** accounts of the assessee has been conducted, under section 233B of the Companies Act, 1956 (1 of 1956), **also** the report under that section;
- (f) where regular books of account are **not maintained** by the assessee, the return is accompanied by a **statement indicating** the amounts of
- turnover or, as the case may be, gross receipts,
 - gross profit,
 - expenses and
 - net profit
- of the business or profession**
- and**
the **basis** on which such amounts have been **computed**,
and also **disclosing the amounts of total**
- sundry debtors,
 - sundry creditors,
 - stock-in-trade and
 - cash balance
- as at the **end** of the previous year.

Analysis

1. if Assessee does not rectify within 15 days consequence
 - a. Return is treated as invalid return – i.e., Interest, penalty, prosecution etc will follow as if no return has filed.
 - b. Hence always rectify defective return within time.

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|--|
| 2. If Rectify after 15 days --- before assessment – AO may condone
3. 44AD or 44ADA and 44AE cases – details of Explanation (f) to 139(9) is mandatory. |
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(10) [*Omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.*]

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filing Return of Income and ASSESSMENT - SECTION 139 & 143(1)

1. As per section 139(1), a company shall have to file return of income:
 - A. when its total income exceeds Rs.`2,50,000
 - B. when its total income exceeds the maximum amount which is not chargeable to income-tax
 - C. in all cases irrespective of any income or loss earned by it
 - D. in all cases irrespective of any income earned by it

2. As per section 139(1), a firm shall have to file return of income:
 - A. when its total income exceeds Rs.`2,50,000
 - B. when its total income exceeds the maximum amount which is not chargeable to income
 - C. in all cases, irrespective of any income or loss made by it
 - D. in all cases irrespective of any income earned by it

3. As per section 139(1), an individual other than a individual of age of 60 years or more shall have to file return of income if:
 - A. his total income before allowing deduction u/s 80C to 80U exceeds Rs.`2,50,000
 - B. his total income before allowing deduction u/s 80C to 80U exceeds Rs.3,00,000
 - C. his total income exceeds Rs. `2,00,000
 - D. his total income before claiming exemption u/s 10(35) and before allowing deduction U/S 80C to 80U exceeds Rs.`2,50,000

4. As per section 139(1) an individual, who is of the age of 60 years but less than 60 years and resident in India shall have to file return of income if ----
 - A. his total income exceeds Rs. 3,00,000
 - B. his gross total income exceeds Rs. 3,00,000
 - C. If his total income before allowing deduction U/S 80C to 80U exceeds Rs. 2,50,000.
 - D. If his total income after allowing of deduction uls 80C to 80U exceeds Rs. 3,00,000

5. An individual who is of the age of 60 years or more but non-resident in India shall have to file return of income if:
 - A. his total income exceeds Rs.`3,00,000

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- B. his total income before allowing deduction under section 80C to 80U exceeds Rs. `3,00,000
 - C. his total income before allowing deduction under section 80C to 80U exceeds Rs. `2,50,000
 - D. his total income before allowing deduction under section 80C to 80U exceeds Rs. `5,00,000
6. A woman who is resident in India and less than 60 years of age shall have to file the return of income if her total income exceeds:
- A. Rs. `2,00,000
 - B. Rs. `2,50,000 before allowing deduction under section 80C to 80U
 - C. Rs. `2,00,000 before allowing deduction under section 80C to 80U
 - D. Rs. `3,00,000 before allowing deduction under section 80C to 80U
7. A woman who is non-resident in India and who is 60 years of age shall have to file the return of income if her total exceeds:
- A. Rs. `2,50,000 before allowing deduction under section 80C to 80U
 - B. Rs. `2,50,000 after allowing deduction under section 80C to 80U
 - C. Rs. `3,00,000 before allowing deduction under section 80C to 80U
 - D. Rs. `5,00,000 before allowing deduction under section 80C to 80U
8. As per section 139(1), a person other than a company or a firm shall have to file return of income if:
- A. his total income exceeds Rs. `2,50,000
 - B. his total income exceeds the maximum amount which is not chargeable to tax
 - C. his total income exclusive of deduction under Chapter VIA exceeds the maximum amount which is not chargeable income tax
 - D. in all cases irrespective of any income or loss
9. The total income of a trust before claiming exemption u/s 11 is Rs. `3,40,000 It is eligible for exemption U/S 11 to the extent Rs. `1,00,000. Such trust shall:
- A. have to file a return of income
 - B. not be required to file return of income as its taxable income is Rs. `2,40,000
 - C. have to file a return of income as its taxable income is Rs. `3,40,000
 - D. not be required to file return of income as its income is exempt u/s 11

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10. A dies on 15.11.2018 and his total income till 15.11.2018 was Rs. `2,60,000. Thereafter the business of A was inherited by his son R & his total income from such business was Rs. `1,95,000. The son does not have any other income. In this case the son:
- has to file a consolidated return of income amounting to Rs. `4,55,000
 - has to file two returns of income, one on behalf of his father for Rs. 2,60,000 & other in his own capacity for Rs.1,95,000.
 - has to file one return of income on behalf of his father for Rs. `4,55,000
 - has to file only one return of income on behalf of his father for Rs. `2,60,000
11. The last date of filing the return of income u/s 139(1) for assessment year 2019 -20 in case of a Company assessee is:
- 30th September
 - 30th September of the assessment year
 - 31st March of the assessment year
 - 30th November of the assessment year in case it is required to furnish report referred to in section 92E and 30th September of the assessment year in any other case
12. The last date of filing the return of income u/s 139(1) for assessment year 2019-20 in case of non corporate assessee who does not have any income UIH profits and gains from business or profession is:
- 31st July of the assessment year
 - 30th September of the assessment year
 - 31st March of the assessment year
 - 30th November of the assessment year
13. The last date of filing the return of Income U/S 139(1) for assessment year 2019-20 in case of non-corporate business assessee whose accounts are not liable to be audited shall be:
- 31st July of the assessment year
 - 30th June of the assessment year
 - 30th September of the assessment year
 - 30th November of the assessment year
14. The due date of filing the return of income for assessment year 2019-20 in case of a working partner of a firm whose accounts are liable to be audited shall be:
- 31st July of the assessment year
 - 30th September of the assessment year
 - 30th June of the assessment year.

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- D. 30th November of the assessment year in case it is required to furnish report referred to in section 92E and 30th September of the assessment year in any other case
15. All companies other than those covered u/s 25 are required to file return of Income in:
- Form ITR6
 - Form ITR5
 - Form ITR4
 - Form ITR7
16. An individual or HUF having income (other than presumptive income) U/H profits or gain from Business & Profession is required to file the return in:
- Form ITR4
 - Form ITR3
 - Form ITR5
 - Form ITR7
17. E-filing of return in case of an office of the Government/company and a firm whose accounts are liable to be audited is:
- mandatory
 - optional
 - mandatory when its income exceeds Rs. `5,00,000
 - mandatory when its income exceeds Rs. 10,00,000
18. The filing of return of loss in case of a person other than a company or firm is:
- mandatory
 - not mandatory
 - mandatory if the assessee has to carry forward the loss which are allowed to be carried forward & set off
 - none of the above
19. If the assessee has to carry forward the loss, the return of loss must be submitted:
- on or before the due date mentioned in section 139(1)
 - at any time before the end of the relevant assessment year
 - at any time before the expiry of one year from the end of the relevant assessment year
 - at any time before 30th September of the relevant assessment year
20. If there is a loss U/H house property, it will be allowed to be carried forward (if it could not be set off from other heads of income). In this case, however the assessee:
- has to submit the return of loss before the due date mentioned under section 139(1)

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- B. need not submit the return of income
 - C. must submit the return of income but it can be a belated return submitted as per section 139(4)
 - D. none of the above
21. Belated return u/s 139(4) can be filed at any time:
- A. before the expiry of one year from the end of the relevant assessment year
 - B. before the expiry of the relevant assessment year
 - C. before the expiry of the relevant assessment year or before the assessment is complete, whichever happens to be earlier
 - D. before the expiry of one year from the end of the relevant assessment year or before the assessment is complete, whichever happens to be earlier
22. An assessee was issued a notice u/s 142(1)(i) to file his return of income within 30 days of the receipt of notice. He submitted his return within 30 days. Such return shall be treated as:
- A. belated return as per section 139(4) though filed within time
 - B. return filed within time
 - C. return filed within due date mentioned u/s 139(1)
 - D. return filed within time if he is neither covered under section 139(1) and belated return as per section 139(4) though filed within time if he is covered either under section 139(1).
23. The assessee could not file his return of income for assessment year 2019-20 within the time allowed U/S 139(1). No assessment has so far been made. The assessee in this case can file his return of income till:
- A. 31.3.2018
 - B. 31.3.2019
 - C. 31.3.2020
 - D. 31.12.2020
24. The assessee could not file his return of income for the previous year 2018-19 within the time allowed U/S 139(1). No assessment has so far been made. The assessee in this case can file his return of income till:
- A. 31.3.2018
 - B. 31.3.2020
 - C. 31.3.2019
 - D. 31.12.2020

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25. The assessee could not file his return of income for assessment year 2019-20 within the time allowed as per section 139(1). His assessment u/s 144 was completed on 15.2.2020 & it was communicated to him on 19.2.2020. The assessee in this case could file the belated return till:
- 14.2.2020
 - 15.2.2020
 - 18.2.2020
 - 31.3.2020
26. For the previous year 2017-18 assessee has suffered a business loss of Rs.`2,50,000. His income from other sources is Rs.1,80,000. His due date of return was 31.7.2018 but he submitted the return on 9.9.2018, the assessee in this case:
- shall be allowed to carry forward the loss of Rs.70,000
 - shall not allowed to carry forward any loss
 - shall be allowed to set off current year business loss to the extent of Rs.` 1,80,000 but shall not be allowed to carry forward the balance loss of Rs.70,000
 - shall not allowed to set off the business loss to the extent of Rs.1,80,000 & would be liable to tax on Rs. 1,80,000
27. For the previous year 2017-18, the assessee incurred loss under the head, income from house property amounting to H, Rs.20,000. His other income for the same previous year is Rs.`50,000. The due date of filing the return of income is 31.7.2018 but he submitted the return of income on 9.9.2018. In this case the assessee:
- shall be allowed to carry forward the loss of Rs.70,000
 - shall not be allowed to carry forward the loss of Rs.70,000
 - shall be allowed to carry forward the loss of Rs.1,20,000
 - none of the above
28. For P/Y 2017-18, the business income of the assessee, before providing current year depreciation of Rs.3,00,000 was Rs.`2,40,000. His due date for furnishing the return of income was 30.9.2018 but he submitted the return on 15.12.2018. In this case, the assessee shall:
- be allowed to carry forward unabsorbed depreciation of Rs. 60,000
 - not be allowed to carry forward unabsorbed depreciation of Rs.60,000
 - be allowed to carry forward unabsorbed depreciation of Rs.3,00,000
 - none of the above

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29. For the previous year 2017-18, the business loss of the assessee was Rs.1,00,000 and the current year depreciation was Rs.1,40,000. The assessee furnished the return of income on 15.12.2018 although the due date was 30.9.2018. In this case the assessee shall:
- be allowed to carry forward business loss of Rs.1,00,000 and unabsorbed depreciation of Rs.1,40,000
 - neither be allowed to carry forward business loss nor the unabsorbed depreciation
 - not be allowed to carry forward business loss but shall be allowed to carry forward unabsorbed depreciation
 - none of the above
30. The assessee in response to a notice u/s 142(1) submitted a return of loss of Rs.1,10,000 within the time allowed in the said notice. In this case the assessee:
- shall be allowed to carry forward such loss as the return is filed within the time allowed:
 - shall not be allowed to carry forward such loss
 - shall not be allowed to carry forward such loss as the return is not filed u/s 139
 - none of the above
31. The due date of furnishing the return of income for assessment year 2019-20 in case of charitable trust is:
- 30th June of the assessment year
 - 31 st July of the assessment year
 - 30th September of the assessment year
 - 30th November of the assessment year
32. DS finds some mistake in the return of income submitted by him on 5.6.2019 for assessment year 2019-20. He wishes to revise such return. No assessment has been done in this case. R can revise such return till:
- 31.3.2018
 - 31.3.2020
 - 31.3.2019
 - 31.12.2019
33. DS Ltd., who submitted the return of income for assessment year 2019-20 on 5.12.2019 finds some mistake in the return submitted by it. In this case DS Ltd.,
- can revise the return of income till 31.3.2018
 - can revise the return of income till 31.3.2019

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- C. cannot revise such return of income
D. can revise the return of income till 31.12.2019
34. DS did not file any return of income for assessment year 2019-20 although he was required to do so by 31.7.2019. He was issued notice u/s 142(1) to file return of income which he furnished within the time allowed in the notice. He, later on finds some mistake in the return. In this case R:
- A. can revise such return
B. cannot revise such return
C. can revise such return but the loss, if any, cannot be carried forward
D. none of the above
35. The notice under section 143(2) must be served within:
- A. 12 months from the date of filing of return
B. 12 months from the due date of filing the return U/S 139(1) or from the date of filing of return of income
C. 6 months from the end of the financial year in which the return was furnished
D. 6 months from the end of month in which the return was furnished
36. Intimation U/S 143(1) cannot be sent after the expiry of:
- A. 4 years from the end of the month in which return of time was furnished
B. 2 years from the end of the month in which return of income was furnished
C. 2 years from the end of the assessment year in which the income was so assessable
D. One year from the end of the financial year in which the return is made
37. Return of income of assessment year 2019-20 was furnished on 16.8.2019. Intimation in respect of such assessment year must be sent by:
- A. 31.3.2019
B. 31.3.2018
C. 31.3.2021
D. 31.12.2020

ANSWER KEY

Question	Answer
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Number	
1	in all cases irrespective of any income or loss earned by it
2	in all cases, irrespective of any income or loss made by it
3	his total income before allowing deduction u/s 80C to 80U exceeds Rs. `2,50,000
4	If his total income before allowing deduction U/S 80C to 80U exceeds Rs. 2,50,000.
5	his total income before allowing deduction under section 80C to 80U exceeds Rs. `2,50,000
6	Rs. `2,50,000 before allowing deduction under section 80C to 80U
7	Rs. `2,50,000 before allowing deduction under section 80C to 80U
8	his total income exclusive of deduction under Chapter VIA exceeds the maximum amount which is not chargeable income tax
9	have to file a return of income
10	has to file only one return of income on behalf of his father for Rs. `2,60,000
11	30th November of the assessment year in case it is required to furnish report referred to in section 92E and 30th September of the assessment year in any other case
12	31st July of the assessment year
13	31st July of the assessment year
14	30th November of the assessment year in case it is required to furnish report referred to in section 92E and 30th September of the assessment year in any other case
15	Form ITR6
16	Form ITR3
17	mandatory
18	mandatory if the assessee has to carry forward the loss which are allowed to be carried forward & set off
19	on or before the due date mentioned in section 139(1)
20	must submit the return of income but it can be a belated return submitted as per section 139(4)
21	before the expiry of the relevant assessment year or before the assessment is complete, whichever happens to be earlier
22	return filed within time if he is neither covered under section 139(1) and belated return as per section 139(4) though filed within time if he is covered either under section 139(1).
23	31.3.2020
24	31.3.2020
25	14.2.2020
26	shall be allowed to set off current year business loss to the extent of Rs. ` 1,80,000 but shall not be allowed to carry forward the balance loss of Rs.70,000
27	none of the above
28	be allowed to carry forward unabsorbed depreciation of Rs. 60,000
29	not be allowed to carry forward business loss but shall be allowed to carry forward unabsorbed depreciation
30	shall not be allowed to carry forward such loss

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31	30th September of the assessment year
32	31.3.2020
33	cannot revise such return of income
34	. cannot revise such return
35	6 months from the end of the financial year in which the return was furnished
36	One year from the end of the financial year in which the return is made
37	31.3.2021