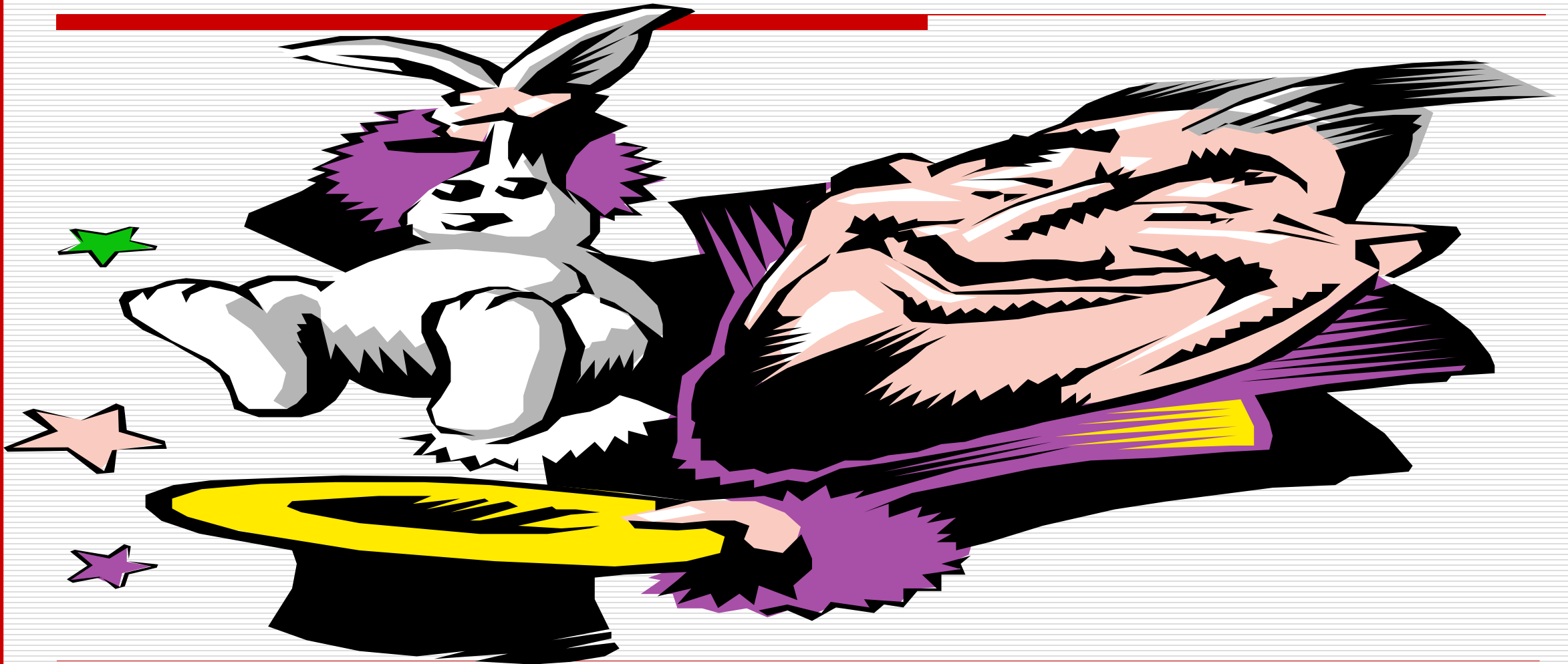


## Over view of Filing of Return of Income under IT Act, 1961



## What is Assessment Procedure ?

- Every Person, who is earning, which is chargeable to tax, has to furnish his return of income to the Income Tax Department. ... The process of examination of the return by the Income Tax Department .
- Is called "Assessment"

- Assessment simply means determination of Tax
- It is Procedure for determining of Tax Liability and **Recovery of Tax**
- This is determined as per Taxation law existing in that particular Assessment Year



**How Much did you earn ?**

**File your ROI**

CMA Niranjan Swain, Advocate & Tax  
Consultant. Reached at -  
nswain2008@gmail.com

**Checking your ITR by Dept**

9/25/2022

## Various Sections under which ITR is filled

- ➡ 139 (1) - Normal Return
- ➡ 139 (3) – Return of Loss
- ➡ 139 (4) – Belated Return
- ➡ 139 (5) – Revised Return ➡ 139 (8A) – Filing of Updated Return
- ➡ 142(1) – Directions by AO to file the ROI
- ➡ 148 – Re-assessment of Income U/s 147
- ➡ 153 A/C – Assessment under Search and requisition -Now covered under sec.147





**Assessee / Tax Payer**



**IT - DEPARTMENT**

## Various Sections of Assessment under Income Tax Act



140 (A) - Self Assessment



143 (1)- Summary Assessment



143 (3) - Regular Assessment

→ Limited Scrutiny  
→ Complete Scrutiny



144 – Best Judgement



147 - Re- Assessment



153 (A)/ 153(C) Block Assessment

## Who can file return of income

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- Section 139(1) requires that every person,—
- ❖ being a company or a firm; or
- ❖ being a person other than a company or a firm, if (i) his total income or (ii) the total income of any other person in respect of which he is assessable under the Income-tax Act, during the previous year, exceeded the maximum amount which is not chargeable to income-tax.

shall, furnish a return of his income or the income of such other person.

## Who can file return of Income

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<b><i>Section</i></b>	<b><i>Different Situations</i></b>
<b>139(1)(a)</b>	<b>A company/firm is required to submit its return of income (regardless of the quantum of income or loss).</b>
<b>139(1)(b)</b>	<b>A person (other than an individual/ HUF/company/firm) is required to submit his/its return of income, if income exceeds exemption limit.</b>
<b>139(1)(b), read with fifth proviso</b>	<b>Individual/HUF is required to submit his/its return of income, if income [without claiming deduction under sections 10A, 10B, 10BA, 80C to 80U and under section 10(38)] exceeds the amount of exemption limit.</b>

## Who can file return of Income

Section	Different Situations
139(4A)	A person in receipt of income derived from property held under a trust for charitable or religious purposes is required to submit return of income if its income (without giving exemption under section 11 or 12) exceeds exemption Limit.
139(4B)	Chief executive officer of every political party is required to submit income-tax return if income of the political party (without giving exemption under section 13A) exceeds exemption limit.
139(4C)	If total income (without claiming any exemption given below) of the assessee (who is qualified to claim exemption under section 10 / 23) exceeds the exemption limit -
139(4D)	Any university/college/other institution referred to in section 35(1)(ii)/ (iii) is required to submit return of income (return has to be submitted whether there is income or loss. Such return has to be submitted even if it is not required by any other provision)
139(4E)/(4F)	These sub-sections cover submission of return by business trust/investment fund.



# Sources of Income in case Company

□ Meaning of “beneficial owner” and “beneficiary” in respect of an asset for the purpose of section 139:

**Beneficial Owner**



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.

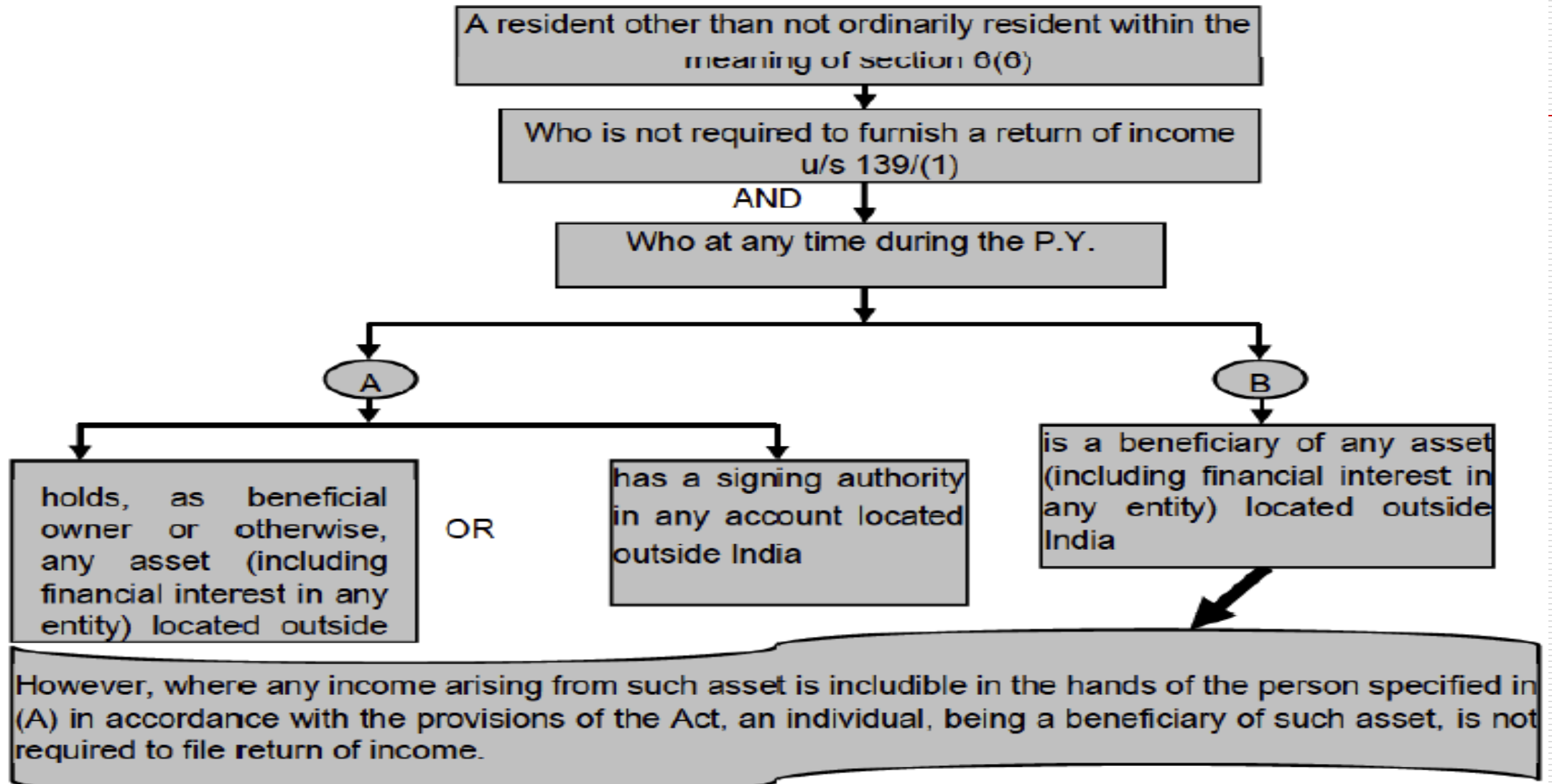
**Beneficiary**



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.



**Requirement of filing of return of income as per the fourth and fifth proviso to section 139(1)**



## Mandatory Filing of return – 139(4C)

	<b>Institution/Association etc.</b>	<b>Applicable section</b>
(a)	Research association	10(21)
(b)	News agency	10(22B)
(c)	Association or institution	10(23A)
(d)	Fund for the welfare of employees or their dependents	10(23AAA)
(e)	Institution	10(23B)
(f)	Fund or institution	10(23C)(iv)
(g)	Trust or institution	10(23C)(v)
(h)	University or other educational institution	10(23C)(vi)/(iiiad)
(i)	Hospital or other medical institution	10(23C)(via)/(iiiae)
(j)	Mutual Fund	10(23D)
(k)	Securitisation Trust	10(23DA)
(l)	Investor Protection Fund	10(23EC)/(ED)
(m)	Core Settlement Guarantee Fund	10(23EE)
(n)	Venture Capital Company/Venture Capital Fund	10(23FB)
(o)	Trade Union	10(24)(b)
(p)	Board or Authority as referred	10(29A)
(q)	Body or Authority or Board or Trust	10(46)
(r)	Infrastructure Debt Fund	10(47)

## Mandatory filing of return in certain cases

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### With effect from Assessment Year 2020-21,

- ☐ Every person, who is not required to furnish return of income under any other provision of section 139(1), to file return of income if during the previous year he:
- ☐ 1. Has deposited an amount (or aggregate of amount) in excess of Rs. 1 crore in one or more current account maintained with a bank or a co-operative bank.
- ☐ 2. Has incurred aggregate expenditure in excess of Rs. 2 lakh for himself or any other person for travel to a foreign country.
- ☐ 3. Has incurred aggregate expenditure in excess of Rs. 1 lakh towards payment of electricity bill.
- ☐ 4. Fulfils such other conditions as may be prescribed.

## Forms prescribed for AY 2021-22

<i>Return Form</i>	<i>Brief Description</i>
ITR – 1	<p>Also known as SAHAJ is applicable to a ordinarily Resident individual having salary or pension income or income from one house property (not a case of brought forward loss or loss to be carried forward) or income from other sources (not being lottery winnings and income from race horses and in come chargeable to tax at special rates). However, an individual who is a director in a company or has held equity shares of an unlisted company shall not be eligible to use ITR -1.</p> <p>Further, the ITR-1 shall not be available to a taxpayer in whose case the tax has been deducted on cash withdrawal under Section 194N or tax has been deferred in respect of ESOPs allotted by an eligible start-up.</p>
ITR – 2	It is applicable to an individual or an Hindu Undivided Family not having income chargeable to income-tax under the head “Profits or gains of business or profession”.
ITR – 3	It is applicable to an individual or a Hindu Undivided Family who has any income chargeable to tax under the head business or

## Forms prescribed for AY 2021-22

ITR – 4	Also known as SUGAM is applicable to individuals or Hindu Undivided Family or partnership firm who have opted for the presumptive taxation scheme of section 44AD/44ADA/44AE.
ITR – 5	This Form can be used by a person being a firm, LLP, AOP, BOI, artificial juridical person referred to in section 2(31)(vii), co-operative society, local authority Private Discretionary Trust, Society registered under Society Registration Act, 1860, trust other than trusts eligible to file ITR 7, estate of deceased person, estate of an insolvent, business trust and investment fund. However, a person who is required to file the return of income under section 139(4A) or 139(4B) or 139(4C) or 139(4D) shall not use this form ( <i>i.e.</i> , trusts, political parties, institutions, colleges.)



## Forms prescribed for AY 2021-22

ITR – 6	It is applicable to a company, other than a company claiming exemption under section 11 (exemption under section 11 can be claimed by charitable/religious trust).
ITR – 7	It is applicable to a persons including companies who are required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D) ( <i>i.e.</i> , trusts, political parties, institutions, colleges.).
ITR – V	It is the acknowledgement of filing the return of income.

## **Which Form to be used to file tax return – New provision u/s 139(1)(b) read with seventh proviso**

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- ☐ Who have spent more than Rs 2 lakh on foreign travel on himself/herself or any other person in FY 2019-20;
- ☐ who have deposited more than Rs 1 crore in one or more current account in FY 2019-20;
- ☐ who have paid more than Rs 1 lakh as electricity bill in FY 2019-20;
  
- ☐ FORMS:
- ☐ ITR -1 – FOR INDIVIDUALS
- ☐ ITR – 2 FOR HUF



## Modes of filing the return of income

Return Forms can be filed with the Income-tax Department in any of the following ways,

-

- (i) by furnishing the return in a paper form;
- (ii) by furnishing the return electronically under digital signature;
- (iii) by transmitting the data in the return electronically under electronic verification code;
- (iv) by transmitting the data in the return electronically and thereafter submitting the verification of the return in Return Form ITR-V;

### Note

Where the return of income is filed in the manner given at (iv) without digital signature, then the taxpayer should take two printed copies of Form ITR-V. One copy of ITR-V, duly signed by the taxpayer, is to be sent (within the period specified in this regard, i.e., 120 days) by ordinary post or speed post to “Income-tax Department – CPC, Post Bag No. 1, Electronic City Post Office, Bengaluru–560100 (Karnataka). The other copy may be retained by the taxpayer for his record

Sl.	Person	Condition	Manner of furnishing return of income
(i)	(ii)	(iii)	(iv)
1	Individual or Hindu undivided family	(a) Accounts are required to be audited under section 44AB of the Act	Electronically under digital signature;
		(b) A super senior citizen (whose age is 80 years or above at any time during the previous year) who furnishes return either in ITR-3 or ITR-4	<p>(A) Electronically under digital signature; or</p> <p>(B) Transmitting the data electronically in the return under electronic verification code; or</p> <p>(C) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V; or</p> <p>(D) Paper form;</p>

Sl.	Person	Condition	Manner of furnishing return of income
(i)	(ii)	(iii)	(iv)
		(c) <i>In any other case</i>	<p>(A) <i>Electronically under digital signature; or</i></p> <p>(B) <i>Transmitting the data electronically in the return under electronic verification code; or</i></p> <p>(C) <i>Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V; ]</i></p>

Sl.	Person	Condition	Manner of furnishing return of income
(i)	(ii)	(iii)	(iv)
2	Company	<i>In all cases.</i>	<i>Electronically under digital signature.</i>
3	<i>A person required to furnish the return in Form ITR-7</i>	<p>(a) <i>In case of a political party;</i></p> <p>(b) <i>In any other case</i></p>	<p><i>Electronically under digital signature;</i></p> <p>(A) <i>Electronically under digital signature; or</i></p> <p>(B) <i>Transmitting the data in the return electronically under electronic verification code; or</i></p> <p>(C) <i>Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V.</i></p>

Sl.	Person	Condition	Manner of furnishing return of income
(i)	(ii)	(iii)	(iv)
4	<i>Firm or limited liability partnership or any person (other than a person mentioned in Sl. 1 to 3 above) who is required to file return in Form ITR-5</i>	<p>(a) <i>Accounts are required to be audited under section 44AB of the Act</i></p> <p>(b) <i>In any other case.</i></p>	<p><i>Electronically under digital signature;</i></p> <p>(A) <i>Electronically under digital signature; or</i></p> <p>(B) <i>Transmitting the data in the return electronically under electronic verification code; or</i></p> <p>(C) <i>Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V</i></p>



## No documents to be attached along with the return of income

ITR return forms are attachment less forms and, hence, the taxpayer is not required to attach any document (like proof of investment, TDS certificates, etc.) along with the return of income (whether filed manually or filed electronically). However, these documents should be retained by the taxpayer and should be produced before the tax authorities when demanded in situations like assessment, inquiry, etc.

As discussed above, no documents are to be attached along with the return of income, however, in case of a taxpayer who is required to furnish a report of audit under section 10(23C)(iv), 10(23C)(v), 10(23C)(vi), 10(23C)(via), 10A, 10AA, 12A(1)(b), 44AB, 44DA, 50B, 80-IA, 80-IB, 80-IC, 80-ID, 80JJAA, 80LA, 92E, 115JB or 115VW or to give a notice under section 11(2)(a) shall furnish it electronically on or before the date of filing the return of income.

## Applicability of ITR – 1 (SAHAJ)

Return Form ITR – 1 (SAHAJ) can be used by a ordinarily resident individual whose total income includes:

- (1) Income from salary/pension; or
- (2) Income from one house property (excluding cases where loss is brought forward from previous years or loss to be carried forward; or)
- (3) Income from other sources (excluding winnings from lottery, income from race horses and income chargeable to tax at special rates).

Further, in a case where the income of another person like spouse, minor child, etc., is to be clubbed with the income of the taxpayer, this return form can be used only when such income falls in any of the above categories.



## Non-applicability of ITR – 1 (SAHAJ)

Return Form ITR – 1 (SAHAJ) cannot be used by an individual:

1. Who is a Non-resident or Not Ordinarily Resident
2. Who is a Director of a company
3. Whose total income exceeds Rs. 50 lakhs
4. Who has income from more than 1 house property
5. Who has held unlisted equity shares at any time during the previous year
6. Who claims deduction under Section 80QQB or Section 80RRB in respect of royalty from patents or books
7. Who claims deduction under Section 10AA or Part-C of Chapter VI-A
8. Who has brought forward loss or losses to be carried forward under any head

## Non Applicability of ITR-1

9. Person claiming deduction under Section 57 from income taxable under the head 'Other Sources'(other than deduction allowed from family pension)
10. Who wants to claim relief under Section 90 or 91
11. Who wants to claim credit of tax deducted at source in the hands of any other person.
12. Who has any assets (including Financial Interest in an entity) located outside India.
13. Who has signing authority in any account outside India
14. Who has any income to be apportioned in accordance with provisions of Section 5A
15. Who has any of the following income:
  - a) Income from Business or Profession
  - b) Capital Gains
  - c) Income taxable under the head 'Other sources' which is taxable at special rate
  - d) Dividend income exceeding Rs. 10 lakhs taxable under Section 115BBDA
  - e) Unexplained income (i.e., cash credit, unexplained investment, etc.) taxable at 60% under Section 115BBE
  - f) Agricultural Income exceeding Rs. 5,000
  - g) Income from any source outside India
16. In whose case:
  - The tax has been deducted on cash withdrawal under Section 194N.
  - The tax has been deferred in respect of ESOPs allotted by an eligible start-up.

## Applicability of ITR – 2

This Return Form is to be used by an individual or an Hindu Undivided Family who is not having income chargeable to income-tax under the head “Profits or gains of business or profession”.

Further, in a case where the income of another person like spouse, minor child, etc., is to be clubbed with the income of the taxpayer, this Return Form can be used if income to be clubbed falls in any of the above categories.

## Non-applicability of ITR – 2

Return Form ITR – 2 cannot be used by an individual or an Hindu Undivided Family whose total income for the year includes income from Business or Profession or he wants to claim deduction under section 10AA or part-c of chapter VI-A

## Applicability of ITR – 3

Form ITR – 3 can be used by an individual or a Hindu Undivided Family who is having income under the head business or profession.

## Non-applicability of ITR – 3

Form ITR – 3 cannot be used by any person other than an individual or a HUF. Further, an individual or a HUF not having income from business or profession cannot use ITR – 3.

## Applicability of ITR – 4 (SUGAM)

Form ITR – 4 (SUGAM) can be used by an individual/HUF/Firm whose total income for the year includes :

- a) Business income computed as per the provisions of section 44AD or 44AE; or
- b) Income from profession computed as per the provisions of section 44ADA; or
- c) Income from salary/pension; or
- d) Income from one house property (excluding cases where loss is brought forward from previous years or losses to be carried forward); or
- e) Income from other sources (excluding winnings from lottery and income from race horses).

Further, in a case where the income of another person like spouse, minor child, etc., is to be clubbed with the income of the taxpayer, this return form can be used where income to be clubbed falls in any of the above categories.



## Non-applicability of ITR – 4 (SUGAM)

Form ITR – 4 (SUGAM) cannot be used by a person:

1. Who is a Non-resident or Not Ordinarily Resident
2. Who is a Director of a company
3. Whose total income exceeds Rs. 50 lakhs
4. Who has income from more than one House Property
5. Who has held unlisted equity shares at any time during the previous year
6. Who claims deduction under section 80QQB or 80RRB in respect of royalty from patent or books
7. Who claims deduction under section 10AA or Part-C of Chapter VI-A
8. Who has brought forward loss or losses to be carried forward under any head
9. Person claiming deduction under Section 57 from income taxable under the head 'Other Sources' (other than deduction allowed from family pension)
10. Who wants to claim relief under Sections 90 or 91
11. Who wants to claim credit of tax deducted at source in the hands of any other person.
12. Who has any assets (including Financial Interest in an entity) located outside India.
13. Who has signing authority in any account outside India
14. Who has any income to be apportioned in accordance with provisions of Section 5A

## Non applicable of ITR -4

15. Who has any of the following income:

- a) Income from Business or Profession
- b) Capital Gains or Loss
- c) Income taxable under the head 'Other sources' which is taxable at special rate
- d) Dividend income exceeding Rs. 10 lakhs taxable under Section 115BBDA
- e) Unexplained income (i.e., cash credit, unexplained investment, etc.) taxable at 60% under Section 115BBE
- f) Agricultural Income exceeding Rs. 5,000
- g) Income from any source outside India
- h) Income from speculative business and other special incomes.
- i) Income from agency business or commission or brokerage

16. Who has income of the nature specified in section 17(2)(vi) on which tax is payable/deductible under section 192(2) or 192(1C).

In case the assessee keeps and maintains all books of accounts and other documents referred to in section 44AA, and also gets his accounts audited and obtains an audit report as per section 44AB, filling up the Form ITR-4 (Sugam) is not mandatory. In such a case, other regular return forms viz. ITR-3 or ITR-5, as applicable, should be used.



## Applicability of ITR – 5

Form ITR-5 can be used by a person being a firm, LLP, AOP, BOI, Artificial Juridical Person (AJP) referred to in section 2(31)(vii), local authority referred to in section 2(31)(vi), representative assessee referred to in section 160(1)(iii) or (iv), cooperative society, society registered under Societies Registration Act, 1860 or under any other law of any State, trust other than trusts eligible to file Form ITR-7, estate of deceased person, estate of an insolvent, business trust referred to in section 139(4E) and investments fund referred to in section 139(4F).

## Non-applicability of ITR – 5

Form ITR – 5 cannot be used by a person who is required to file the return of income under section 139(4A) or 139(4B) or 139(4C) or 139(4D) (i.e., trusts, political parties, institutions, colleges, etc.).

### **Applicability of ITR – 6**

Form ITR – 6 can be used by a company, other than a company claiming exemption under section 11 (exemption under section 11 can be claimed by a charitable/religious trust).

### **Non-applicability of ITR – 6**

Form ITR – 6 cannot be used by a company claiming exemption under section 11 (exemption under section 11 can be claimed by a charitable/religious trust).

### **Applicability of ITR – 7**

Form ITR – 7 can be used by persons including companies who are required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D) (i.e., trusts, political parties, institutions, colleges, etc.).

### **Non-applicability of ITR – 7**

Form ITR – 7 cannot be used by a person who is not required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D) (i.e., trusts, political parties, institutions, colleges, etc.).

## **Source for obtaining the return forms**

The return forms (ITR forms) can be downloaded from [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in)

## **Procedure for e-filing the return of income**

Income-tax Department has established an independent portal for e-filing the return of income. The taxpayers can log on to [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in) for e-filing the return of income.

## **E-filing utility provided by the Income-tax Department**

The Income-tax Department has provided free e-filing utility (i.e., software) to generate e-return and furnishing the return electronically. The e-filing utility provided by the Department is simple, easy to use and also contains instructions on how to use it. By using the e-filing utility, the taxpayers can easily file their return of income. Utility can be downloaded from [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in)

## **Benefits of e-filing the return of income**

E-filing can be done from any place at any time and it saves time and efforts. It is simple, easy and faster. The e-filed returns are generally processed faster as compared to returns filed manually.

## **E-filing help desk of Income-tax Department**

In case of queries on e-filing the return, the taxpayer can contact 1800 1030025.

## **Difference between e-filing and e-payment**

E-payment is the process of electronic payment of tax (i.e., by net banking) and e-filing is the process of electronically furnishing the return of income. Using the e-payment and e-filing facility, the taxpayer can discharge his obligations of payment of tax and furnishing the return of income easily and quickly.

A return should be filed on or before the following due date (of respective assessment year):

Assessee	Due date
• Where the assessee is required to furnish a report in Form 3CEB u/s 92E pertaining to international transaction(s)	30 <sup>th</sup> November
• Where the assessee is a company not having international transaction(s)	<b>31<sup>st</sup> Oct</b>
• <i>Any other assessee</i>	
– Where accounts of the assessee are required to be audited under any law	<b>31<sup>st</sup> Oct</b>
– Where the assessee is a <span style="background-color: #cccccc;">      </span> partner in a firm and the accounts of the firm are required to be audited under any law	<b>31<sup>st</sup> Oct</b>
– In any other case	31 <sup>st</sup> July



## When a return of loss should be filed [Sec. 139(3)]

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- ❑ losses cannot be carried forward if the return of loss is not submitted within the time allowed u/s 139(1) -
  - ❖ a. Business loss (speculative or otherwise);
  - ❖ b. Capital loss;
  - ❖ c. Loss from the activity of owning and maintaining race horses
  - ❖ d. Loss from business specified u/s 35AD
- ❑ **Notes:**
  - ❖ a. Loss declared in belated return cannot be carried forward.
  - ❖ b. Delay in filing the return of loss may be condoned in certain cases
  - ❖ c. Unabsorbed depreciation u/s 32 and loss under the head “Income from house property” can be carried forward

## Belated Return – 139(4)

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- ❑ If an assessee fails to file return within the time limit allowed u/s 139(1) or within the time allowed under a notice issued u/s 142(1), he can file a belated return.
- ❑ Time limit: Assessee may file such return -
  - ❖ • before the end of the relevant assessment year; or
  - ❖ • before the completion of assessment (u/s 144),- whichever is earlier.
- ❑ However, if an assessee files a belated return, he would be liable to fee u/s 234F and interest u/s 234A.



## Revised Return of Income – 139(5)

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- ❑ If an assessee discovers any omission or wrong statement (bonafide in nature) in the return filed, he can revise his return u/s 139(5).
- ❑ **Time limit:** Assessee may file the revised return -
  - ❑ • before the end of the relevant assessment year; or
  - ❑ • before completion of regular assessment, - whichever is earlier.
- ❑ **Notes :**
  - ❖ **(a) Replacement of original return:** Once a revised return is filed, it replaces the earlier return.
  - ❖ **b) Revision of revised return:** A revised return can again be revised
  - ❖ **(c) Revision of belated return:** A belated return u/s 139(4) can be revised.
  - ❖ **(d) Revision of loss return:** A loss return can be revised
  - ❖ **(e) Return filed pursuant to notice u/s 142(1) cannot be revised.**

## Defective Return – 139(9)

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### ☐ When a return is termed defective

- ❖ • The return is furnished without paying self-assessment tax along with interest, if any.
- ❖ • The annexure, statements and columns in the return of income have been duly filled in.
- ❖ • The return is *accompanied by* the different documents

## Person authorised to verify the return – Section 140

Assessee	Case	Verified by
Individual	In general	Individual himself
	Where the individual concerned is absent from India	Individual himself or by the duly authorized person of such individual
	Where the individual is mentally incapacitated	Guardian of such individual or any other person competent to act on his behalf
	Where by any other reason it is not possible for the individual to verify the return.	Any person duly authorised by him
	<b>Note:</b> When return is verified by any authorised person in that case the return should be accompanied with power of attorney.	
HUF	In general	Karta
	Where the 'karta' is absent from India or is mentally incapacitated	Any adult member of the family.
Firm	In general	Managing partner
	If due to any reason it is not possible for managing partner to verify or where there is no managing partner	Any adult partner

9/25/2022

CMA Niranjan Swain, Advocate & Tax

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Consultant. Reached at -  
nswain2008@ymail.com

## Person authorised to verify the return – Section 140

Limited liability partnership	In general	Designated partner
	If due to any unavoidable reason such designated partner is not able to verify the return, or where there is no designated partner as such	Any partner
Local authority	Principal Officer	
Political party	Chief Executive Officer	
Company	In general	Managing Director (MD)
	If due to any reason it is not possible for MD to verify or where there is no MD	Any director

## Person authorised to verify the return – Section 140

	Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Insolvency and Bankruptcy Code, 2016	Insolvency professional appointed by such Adjudicating Authority
	Non-resident company	A person holding a valid power of attorney. Copy of such power of attorney must be attached with the return.
	Company in process of winding up	Liquidator of the company
	Where the management of the company has been taken over by the Central or State Government.	Principal officer
Any other association	Any member or principal officer	
Any other person	Such person or any other person competent to act on its behalf.	



## Filing of Updated Return – Section 139(8A)

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### **Persons eligible for filing Updated Return u/s 139(8A)**

**□ All persons (Individual, HUF, Firms/LLP, Companies, AOP, BOI etc) are eligible to file Updated returns u/s 139(8A). But the taxpayers need to meet the following criteria to file the updated returns**

- a. The Updated return can be filed only if the taxpayer has not filed the return of income earlier or there are errors/omissions in original filed return.**
- b. The Updated return can be filed only if the taxpayer has to disclose any additional income which was missed earlier and should pay additional taxes.**

## Filing of Updated Return – Section 139(8A)

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### **Persons not eligible for filing Updated Return u/s 139(8A)**

- ☐ If it is Return of Loss.
- ☐ If it has the effect of decreasing the tax liability or increasing the refund.
- ☐ A search has been initiated u/s 132 or books of accounts or other documents or any assets are requisitioned u/s 132(A).
- ☐ A Survey has been conducted u/s 133A other than Section 133A(2A).
- ☐ If any Assessment is pending or completed.
- ☐ If Assessing Officer has information about the assessee under specified acts .
- ☐ If any information has been received u/s 90 or 90A and same has been communicated to him before the date of furnishing updated return.
- ☐ If any Prosecution proceedings have been initiated before the date of furnishing updated return.
- ☐ If the taxpayer belongs to such class of persons as notified by board.

## Filing of Updated Return – Section 139(8A)

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### **Important Notes:**

- ☐ As a result of furnishing of an 'updated' return for any financial year, if the following is reduced for any subsequent year, then the person shall be required to file an 'updated' return for each subsequent year that was filed.
  - a.** Loss or any part thereof carried forward under Chapter VI; or
  - b.** Unabsorbed depreciation carried forward under Section 32(2); or
  - c.** Tax credit carried forward under Section 115JAA; or
  - d.** Tax credit carried forward under Section 115JD

## **Filing of Updated Return – Section 139(8A)**

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### **Time Limit to file Updated Returns**

**The time limit for filing updated returns is 2 years from the end of such relevant assessment year**

- a. For AY 2020-21 (FY 2019-20): The due date for filing updated return is 31st Mar 2023.**
- b. For AY 2021-22 (FY 2020-21): The due date for filing updated return is 31st Mar 2024.**
- c. For AY 2022-23 (FY 2021-22): The due date for filing updated return is 31st Mar 2025.**

## Filing of Updated Return – Section 139(8A)

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### Penalty / Additional Tax Payable

- ☐ Updated return can be filed only with the penalty.
- ☐ The penalty for filing Updated return is as follows
  - a. Filed within 12 months from the end of relevant assessment year: Penalty is 25% of aggregate of tax and interest payable on filing of updated return
  - b. Filed after 12 months from the end of relevant assessment year: Penalty is 50% of aggregate of tax and interest payable on filing on updated return
- ☐ Note: Section 140B provides for payment and computation of tax, interest, fee and additional income tax on updated return



## **Filing of Updated Return – Section 139(8A)**

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### **ITR Form for filing Updated return and details required**

- ☐ “ITR-U” has been notified by the Income Tax Department for filing updated return u/s 139(8A). The following are the details required to be furnished in ITR-U. The following are the information required to be given in ITR-U apart from the general information
- ☐ Are you eligible for filing an updated return as per the conditions laid out in first, second and third provisos to section 139(8A)
- ☐ Selecting the ITR Form (ITR 1,2,3,4) for filing an updated return

## Filing of Updated Return – Section 139(8A)

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### ITR Form for filing Updated return and details required

- Reasons for updating your income
  - a. Return previously not filed
  - b. Income not reported correctly
  - c. Wrong heads of income chosen
  - d. Reduction of carried forward loss
  - e. Reduction of unabsorbed depreciation
  - f. Reduction of tax credit u/s 115JB/115JC
  - g. Wrong rate of tax
  - h. Others

## **Filing of Updated Return – Section 139(8A)**

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### **ITR Form for filing Updated return and details required**

- ☐ Are you filing the updated return during the period
  - a. Up to 12 months from the end of the relevant assessment year
  - b. Between 12 to 24 months from the end of the relevant assessment year
  
- ☐ (a) Are you filing the updated return to reduce carried forward loss or unabsorbed depreciation or tax credit?>>> Yes No

## Tax Return Preparers – Section -139 B

Particulars	Contents
<b>Applicability of the scheme</b>	The scheme is applicable to all eligible persons.
<b>Eligible person</b>	Any person being an individual or a Hindu undivided family.
<b>Tax Return Preparer</b>	<p>Any individual who has been issued a "Tax Return Preparer Certificate" and a "unique identification number" under this Scheme by the Partner Organisation to carry on the profession of preparing the returns of income in accordance with the Scheme.</p> <p>However, the following person are not entitled to act as Tax Return Preparer:</p> <ul style="list-style-type: none"><li>(i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings.</li><li>(ii) any legal practitioner who is entitled to practice in any civil court in India.</li><li>(iii) an accountant.</li></ul>
<b>Educational qualification for Tax</b>	An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate

## Tax Return Preparers – Section -139 B

<b>Return Preparers</b>	level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Cost Accountants of India, shall be eligible to act as Tax Return Preparer.
<b>Preparation of and furnishing the Return of Income by the Tax Return Preparer</b>	<p>An eligible person may, at his option, furnish his return of income under section 139 for any assessment year after getting it prepared through a Tax Return Preparer:</p> <p>However, the following eligible person (an individual or a HUF) cannot furnish a return of income for an assessment year through a Tax Return Preparer:</p> <ul style="list-style-type: none"><li>(i) who is carrying out business or profession during the previous year and accounts of the business or profession for that previous year are required to be audited under section 44AB or under any other law for the time being in force; or</li><li>(ii) who is not a resident in India during the previous year.</li></ul> <p>An eligible person cannot furnish a revised return of income for any assessment year through a Tax Return Preparer unless he has furnished the original return of income for that assessment year through such or any other Tax Return Preparer.</p>



## Annual Information Statement FORM 26AS

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- ❑ CBDT vide Notification dated May 28, 2020 has amended Form 26AS vide Sec 285BB of IT Act, 1961 r.w.r.114-I of IT Rules, 1962 w.e.f. 01.06.2020.
  - ❑ New Form 26AS is an Annual Information Statement or AIS which will provide a complete profile of the taxpayer for a particular year.
  - ❑ Form 26AS will provide the following information about the Tax payer:
    - ❖ 1. Mobile no., e-mail id, date of birth/ incorporation and Aadhar no.
    - ❖ 2. Information relating to tax deducted or collected at source.
    - ❖ 3. Information relating to specified financial transaction (Information of property and share transactions etc.)
    - ❖ 4. Information relating to payment of taxes
    - ❖ 5. Information relating to demand and refund.

## Annual Information Statement FORM 26AS

- ☐ 6. Information relating to pending proceedings.
- ☐ 7. Information relating to completed proceedings.
- ☐ 8. Information received by IT Department from any other country under the treaty/exchange of information about income or assets of the taxpayer located outside India.
- ☐ 9. Further an enabling provision has been notified empowering the CBDT to authorize DG Systems or any other officer to upload in this form, information received from any other officer, authority under any law. Thus any adverse action initiated or taken or found or order passed under any other law such as custom, GST, Benami Law etc. including information about Turnover, import, export etc. may be made a part of Form 26AS.
- ☐ **Note** : Form 26 AS also shows current status of PAN (active/inactive/deleted).

## Transactions under Statement Transactions (SFT) Code which will get captured in New Form 26AS include—

Sr. No	Nature of Transaction	Monetary Threshold of Transaction
1.	Cash Payment or issuance of DD or Pay orders or any other Bank instruments	In excess of Rs.10 Lacs in a F.Y.
2.	Purchase of pre-paid instruments in cash	Payment in cash aggregating to 10 lacs or more
3.	Cash deposit/ withdrawal in current account	aggregating to 50 lacs or more
4.	Cash deposit in one or more accounts other than current account and time deposit	aggregating to 10 lacs or more
5.	Payment for credit card	aggregating to 10 lacs or more
6.	Payment for credit card	Made by any person of an amount aggregating to 1 lac or more in cash or 10 lacs or more by any other mode
7.	Purchase of debentures	aggregating to 10 lacs or more

## Transactions under Statement Transactions (SFT) Code which will get captured in New Form 26AS include—

Sr. No	Nature of Transaction	Monetary Threshold of Transaction
8.	Purchase of shares (including share application money)	aggregating to 10 lacs Or more
9.	Buy back of shares	aggregating to 10 lacs Or more
10.	Purchase of mutual fund units	aggregating to 10 lacs or more
11.	Purchase of foreign currency	aggregating to 10 lacs Or more
12.	Purchase or sale of immovable property	30 Lacs (individual transaction)
13.	Cash payment for goods and services	2 Lacs (individual transaction)
14.	Cash deposits during specified period (9th Nov to 31st Dec, 2016)	(a) Rs. 12.5 Lacs or more in one or more current account of a person, or (b) Rs. 2.5 lacs or more in one or more account other than current account of a person

## Usefulness of Tax Credit Statements (Form 26AS)

- ❖ View of all financial transaction involving TDS/TCS/SFT during the relevant FY at one place.
- ❖ Give details of No/Lower deductions claimed by the taxpayer.
- ❖ Helps in claim of other taxes paid by the taxpayer and computation of income at the time of filing of return of income.
- ❖ Helps in seamless processing of Income Tax Return and speedy issue of refunds.
- ❖ Verification of refunds encashed during the financial year.
- ❖ Verification of C IN in non-TDS payments.
- ❖ Helps taxpayer to view the tax demand created by the IT Department for necessary follow up.
- ❖ Facility to verify the TDS certificate (Form 16A) after entering the unique seven character TDS certificate number.
- ❖ Status of PAN.
- ❖ Comprehensive view of TDS defaults relating to all the TANs associated with a PAN.
- ❖ Helps in compliance of Section 40(a)(ia) of IT Act and preparation of Audit Reports in Form 3CD.



## Other details as specified in 1st page of this Brochure will help the taxpayer in filing of his ITR

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- ☐ The reasons for not finding your tax-credits in 26AS can be
- ☐ (1) Tax collected by deductor not deposited in govt account.
- ☐ (2) TDS Return not filed by deductor.
- ☐ (3) Statement of tax deduction not filed with TDS Return.
- ☐ (4) Statement of tax deduction filed with wrong PAN which is not yours.

# How to view your form 26AS?

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☐ Tax Credit Statement (Form 26AS) can be viewed/accessed in three ways :

❖ **I. View Tax Credit From <https://www.incometaxindia.gov.in>**

Registered Taxpayers by login the portal viz <https://incometaxindiaefiling.gov.in> can view 26AS by login using username and password.

❖ **II. View Tax Credit (Form 26AS) from bank site through net banking facility**

The facility is available to a PAN holder having net banking account with any of authorized banks\*. View of Tax Credit Statement (Form 26AS) is available only if the PAN is mapped to that particular account. The facility is available free of cost.

☐ Note: This option does not require any separate registration as the KYC of the taxpayer has already been done by the concerned bank.

# How to view your form 26AS?

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## ❑ **III. View Tax Credit from <https://www.tdscpc.gov.in> For Resident Taxpayers:**

❖ A resident taxpayer first need to register on TRACES (<https://tdscpc.gov.in>). Then Form 26AS can be viewed by clicking on 'View Tax Credit Statement (Form 26AS)' after login as "Taxpayer" and filling in required details like password and relevant assessment year.

## ❑ **For Non-Resident Taxpayers:**

❖ An NRI taxpayer can view tax credit from [https://www.nri\\_services.tdscpc.gov.in](https://www.nri_services.tdscpc.gov.in). NRI taxpayers first need to register at TRACES Portal. A request can be raised to view/download Form 26AS by clicking on 'View Tax Credit Statement (Form 26AS)' after login as "Taxpayer and filling in required details like password and relevant assessment year.

❑ Form 26AS statement can be downloaded either as PDF/text/excel file or can be viewed as HTML.

## View Tax Credit Statement (Form 26AS)

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- ❑ Perform the following steps to view or download the Form-26AS from e-Filing portal:
  1. Logon to 'e-Filing' Portal [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in)
  2. Go to the 'My Account' menu, click 'View Form 26AS (Tax Credit)' link.
  3. Read the disclaimer, click 'Confirm' and the user will be redirected to TDS-CPC Portal.
  4. In the TDS-CPC Portal, Agree the acceptance of usage. Click 'Proceed'.
  5. Click 'View Tax Credit (Form 26AS)'
  6. Select the 'Assessment Year' and 'View type' (HTML, Text or PDF)
  7. Click 'View / Download'

Note: For voluminous records, a request for downloading Form 26AS as text file, needs to be submitted at TRACES by the user.

## Follow up with deductor to –

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- ❖ Ensure that correct PAN has been intimated to the deductor.
- ❖ Ensure that the deductor has deposited tax deducted. Regular view of 26AS by the tax payer helps in timely follow up with the deductors.
- ❖ Taxpayer can use “View TDS/TCS credit” facility using the link <https://www.tdscpc.gov.in/app/tapn/tdscscredit.xhtml> to know whether the deductor/ collector has filed quarterly TDS/TCS statement provided the PAN and the count on records present.

# Annual Information Statement

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## Q-1 What is Annual Information Statement (AIS)?

**Ans.**

Annual Information Statement (AIS) is comprehensive view of information for a taxpayer displayed in Form 26AS. Taxpayer can provide feedback on information displayed in AIS. AIS shows both reported value and modified value (i.e. value after considering taxpayer feedback) under each section (i.e. TDS, SFT, Other information).

The objectives of AIS are:

- Display complete information to the taxpayer with a facility to capture online feedback
- Promote voluntary compliance and enable seamless prefilling of return
- Deter non-compliance

("For more info. navigate to AIS under Services Menu after login")



## Annual Information Statement

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### Q-2 What is the Difference between AIS and Form 26AS?

**Ans.** AIS is the extension of Form 26AS. Form 26AS displays details of property purchases, high-value investments, and TDS/TCS transactions carried out during the financial year. AIS additionally includes savings account interest, dividend, rent received, purchase and sale transactions of securities/immovable properties, foreign remittances, interest on deposits, GST turnover etc.

AIS also provides the taxpayer the option to give feedback on the transactions reported. Further, the aggregation of transactions on information source level is also reported in TIS.

("For more info. navigate to AIS under Services Menu after login")

## Annual Information Statement

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### Q-3 How can I view the Annual Information Statement?

**Ans.** You can access the Annual Information Statement functionality by following below mentioned steps:

**Step 1:** Login to URL <https://www.incometax.gov.in/>

**Step 2:** Click on “Annual Information Statement (AIS)” under “Services” tab from the e-filing portal after successful login on e-filing portal.

**Step 3:** Click on AIS tab, on the homepage.

**Step 4:** Select the relevant FY and click on AIS tile to view the Annual Information Statement.

(“For more info. navigate to AIS under Services Menu after login”. More details on AIS can be found in Annual Information Statement User Guide available in “Resources” section at AIS Homepage.)

# Annual Information Statement

**Q-4 What are the components of Annual Information Statement (AIS)?**

**Ans-** The information shown on AIS is divided in two parts:

## **PART A- General Information**

Part-A displays general information pertaining to you, including PAN, Masked Aadhar Number, Name of the Taxpayer, Date of Birth/ Incorporation/ Formation, mobile number, e-mail address and address of Taxpayer.

## **PART- B**

- **TDS/TCS Information:** - Information related to tax deducted/collected at source is displayed here. The Information code of the TDS/TCS, Information description and Information value is shown.
- **SFT Information:** - Under this head, information received from reporting entities under Statement of Financial transaction (SFT) is displayed. The SFT code, Information description and Information value is made available.
- **Payment of Taxes:** - Information relating to payment of taxes under different heads, such as Advance Tax and Self-Assessment Tax, is shown.
- **Demand and Refund:** -You will be able to view the details of the demand raised and refund initiated (AY and amount) during a financial year. (Details related to Demand will be released soon)
- **Other Information:** - Details of the information received from the other sources, such as data pertaining to Annexure II salary, Interest on refund, Outward Foreign Remittance/Purchase of Foreign Currency etc., is displayed here.

("For more info. navigate to AIS under Services Menu after login")

# Annual Information Statement

**Q-5 What does “General information” part contains under AIS?**

Ans-

General information displays the general information pertaining to you, including PAN, Masked Aadhar Number, Name of the Taxpayer, Date of Birth/ Incorporation/ Formation, mobile number, e-mail address and address of Taxpayer.

(“For more info. navigate to AIS under Services Menu after login”)

**Q-6 Can I track the Activity history in AIS?**

**Ans-** Yes, you can track the activity history in AIS by clicking on the **Activity history** button on AIS homepage. You will be provided a summary view of activity performed on the AIS functionality. System generated Id (Activity ID) will be created for each performed activity, Activity date, Activity description and detail will be displayed under this tab.

(“For more info. navigate to AIS under Services Menu after login”)

# Annual Information Statement

## **Q-7 What does Taxpayer Information Summary (TIS) contain under AIS?**

Ans. Taxpayer Information Summary (TIS) is an information category wise aggregated information summary for a taxpayer. It shows processed value (i.e. value generated after deduplication of information based on pre-defined rules) and derived value (i.e. value derived after considering the taxpayer feedback and processed value) under each information category (e.g. Salary, Interest, Dividend etc.). The derived information in TIS will be used for prefilling of return, if applicable.

You will be shown various details within the Taxpayer Information Summary such as,

- Information Category
- Processed Value
- Derived Value

Further, within an Information Category following information is shown:

- Part through which information received
- Information Description
- Information Source
- Amount Description
- Amount (Reported, Processed, Derived)

("For more info. navigate to AIS under Services Menu after login")



# Annual Information Statement

**Q-8 In what all formats can I download my AIS?**

**Ans.** You can download Annual Information Statement (AIS) in PDF, JSON, CSV file formats.

**Q-9 How do I submit feedback on the information?**

**Ans.** You can submit feedback on active information displayed under **TDS/TCS Information, SFT Information or Other information** by following below mentioned steps:

**Step 1:** Click on “Optional” button mentioned in the Feedback column for relevant information. You will be directed to ‘Add Feedback’ screen.

**Step 2:** Choose the relevant feedback option and enter the feedback details (dependent on feedback option).

**Step 3:** Click “Submit” to submit the feedback

(“For more info. navigate to AIS under Services Menu after login”)



# Annual Information Statement

## **Q-10 What will happen once I submit the feedback?**

Ans. Upon successful submission of feedback on AIS information, the feedback will be displayed with the information and the modified value of the information will also be visible with the reported value. The activity history tab will also be updated, and you will be able to download Acknowledgement Receipt. Email and SMS confirmations for submission of feedback will also be sent. ("For more info. navigate to AIS under Services Menu after login")

## **Q- 11 Is there any confirmation will be received on submission of AIS feedback?**

Ans- Yes, after successful submission of your feedback on AIS information, the activity history tab will be updated, and you will be able to download Acknowledgement Receipt of the same. Email and SMS confirmations for submission of feedback will also be sent.

# Annual Information Statement

## Q-12 What is AIS Consolidated Feedback file?

Ans. AIS Consolidated Feedback file (ACF) gives the taxpayers a facility to view all their AIS feedback (other than feedback, 'Information is correct') related information in one pdf for easy understanding. After submitting the feedback of the AIS, you can download the AIS consolidated feedback file (PDF). ("For more info. navigate to AIS under Services Menu after login")

## Q-13 Is there any limit on the number of times I can modify a given feedback?

Ans. Currently, there is no limit on the number of times you can modify previously given feedbacks.

## Q-14 Can I verify the GST turnover in AIS?

Ans- Yes AIS does display the information related to GST turnover under information code (EXC-GSTR3B). The same would be visible in the **Other Information** tab in AIS.

## Q-15 Is there any video tutorial available for AIS?

Ans- Yes, there is an informational video available on YouTube for AIS. This video can be accessed here

## Precautions to be taken while filing the return of income

Following is the list of few important steps/points/precautions to be kept in mind while filing the return of income:

- The first and foremost precaution is to file the return of income on or before the due date. Taxpayers should avoid the practice of filing belated return. Following are the consequences of delay in filing the return of income :
  - Loss (other than house property loss) cannot be carried forward.
  - Levy of interest under section 234A.
  - Levy of fee under section 234F\*
  - Exemptions under sections 10A, 10B, are not available.

### **Interest under section 234A**

For the above purpose, interest payable under section 234A shall be computed on the amount of tax on the total income as declared in the return, as reduced by the amount of-

- (i) advance tax paid, if any;
- (ii) any tax deducted or collected at source;
- (iii) *any relief of tax claimed under section 89;***
- (iv) relief of tax claimed under section 90 or 90A;
- (v) deduction of tax claimed under section 91;
- (vi) any tax credit claimed to be set-off in accordance with the provisions of section 115JAA or section 115JD.

### **Interest under section 234B**

Interest payable under section 234B shall be computed on the assessed tax or on the amount by which the advance tax paid falls short of the assessed tax.

For this purpose, “assessed tax” means the tax on total income declared in the return as reduced by –

- (i) the amount of tax deducted or collected at source;
- (ii) ***any relief of tax claimed under section 89;***
- (iii) relief of tax claimed under section 90 or 90A
- (iv) deduction of tax claimed under section 91
- (v) any tax credit claimed to be set-off in accordance with the provisions of section 115JAA or section 115JD [Sub-section (1B)].



## Late Fee for filing Return of Income

<b>E- Filing Date</b>	<b>Total income Below Rs 5,00,000</b>	<b>Total income Above Rs 5,00,000</b>
31st December 2021	Rs 0	Rs 0
Between 31st December 2021 to 31st March 2022	Rs 1,000	Rs 5,000

\*W.e.f. assessment year 2018-19, if assessee failed to furnish return of income within due date as prescribed under section 139(1) then as per section 234F, he will be required to pay fee of:-

- Rs. 5000 if return is furnished on or before 31 December of assessment year.
- Rs. 10,000 in any other case.

However, if total income of the person does not exceeds Rs. 5 lakh then fee payable shall be Rs. 1000.

*Note:*

The Finance Act, 2021 has revised the fee for default in furnishing return of income. W.e.f., Assessment Year 2021-22, fee for default in furnishing return of income shall be Rs. 5,000 if return has been furnished after the due date prescribed under section 139(1). However, it shall be Rs. 1,000 if the total income of an assessee does not exceed Rs. 5 lakh.



The Finance Act, 2021 has revised the fee for default in furnishing return of income. W.e.f., Assessment Year 2021-22, fee for default in furnishing return of income shall be Rs. 5,000 if return has been furnished after the due date prescribed under section 139(1). However, it shall be Rs. 1,000 if the total income of an assessee does not exceed Rs. 5 lakh.

- Taxpayer should download Form 26AS and should confirm actual TDS/TCS/Tax paid. If any discrepancy is observed then suitable action should be taken to reconcile it.
- Compile and carefully study the documents to be used while filing the return of income like bank statement/passbook, interest certificate, investment proofs for which deductions is to be claimed, books of account and balance sheet and P/L A/c (if applicable), etc. No documents are to be attached along with the return of income.
- The taxpayer should identify the correct return form applicable in his case.
- Carefully provide all the information in the return form.
- Confirm the calculation of total income, deductions (if any), interest (if any), tax liability/refund, etc.
- If any tax is payable as per the return of income, then the same should be paid before filing the return of income.
- Ensure that other details like PAN, address, e-mail address, bank account details, etc., are correct.
- After filling all the details in the return of income and after confirmation of all the details, one can proceed with filing the return of income.
- In case return is filed electronically without digital signature do not forget to post the acknowledgement of filing the return of income at CPC Bengaluru (as discussed earlier).

# Self-Assessment - Section 140A

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- Where any tax is payable after deducting
  - ❖ relief, rebate, advance payment of tax or tax deducted or collected at source or MAT or AMT credit, relief u/s 89,
  - ❖ Interest
    - u/s 234A delay in filing return
    - u/s 234B - delay in in payment of advance tax
    - u/s 234 C - deferment of advance tax
    - Late fee u/s 234F

## Self-Assessment Tax Payable- Section 140A

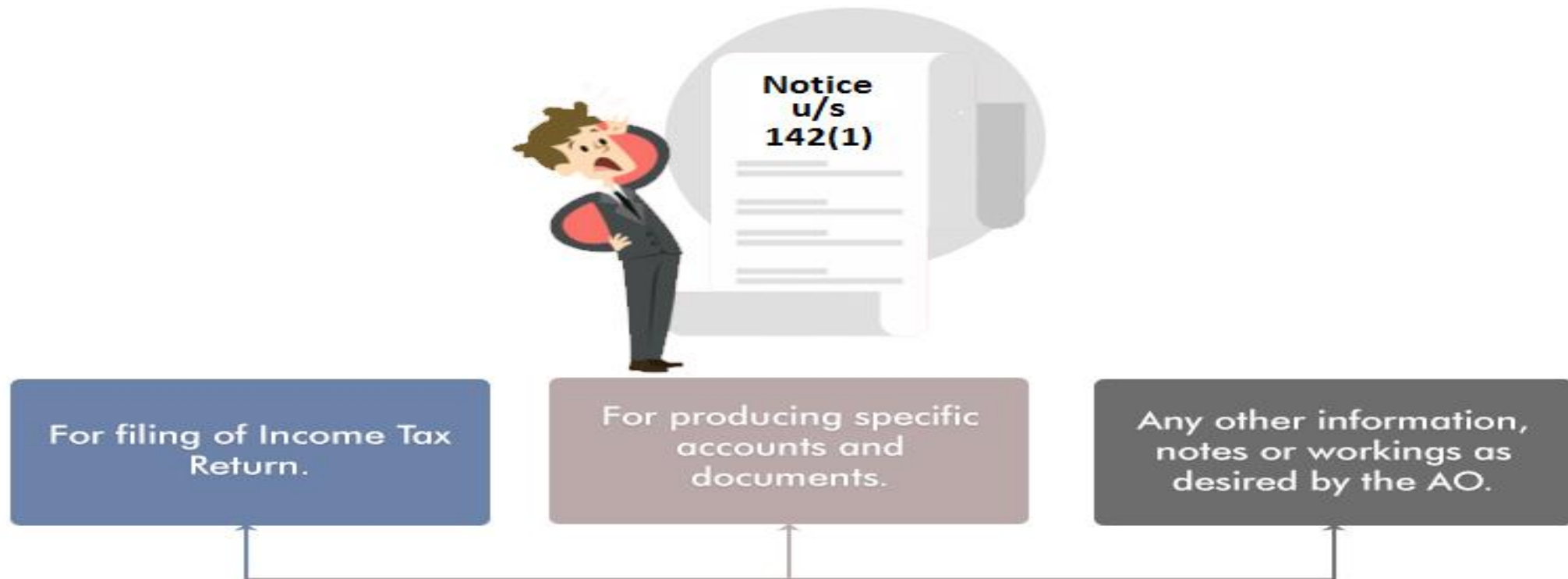
Find out income-tax, surcharge and health and education cess as per return of income		XXXX
<i>Add:</i> Interest and fee—		
Interest under section 234A for late submissions of return of income*	XXXX	
Interest under section 234B for non-payment or short payment of advance tax*	XXXX	
Interest under section 234C for non-payment or short payment of different instalments of advance tax*	XXXX	
Fee under section 234F for late submission of return of income	XXXX	XXXX
Total tax, interest and fee		XXXX
<i>Less:</i> Advance tax, tax deducted at source, tax collected at source, MAT credit under section 115JAA, alternate minimum tax credit under section 115JD and relief under section 90/90A/91A		XXXX
Self-assessment tax payable under section 140A		XXXX

## Self-Assessment - Section 140A

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- ❑ **In case of payment of shortfall of tax**
  - ❖ first be adjusted towards fee and
  - ❖ thereafter towards interest payable and
  - ❖ the balance, if any, shall be adjusted towards tax payable.
  
- ❑ After assessment, any amount paid under this section shall be deemed to have been **paid towards such assessment.**
- ❑ If an assessee fails to pay whole or any part of such tax or interest or both in accordance with the provisions of sec. 140A, he shall be deemed to **be an assessee in default.**
- ❑ A return furnished without paying self-assessment tax & interest, if any, shall be treated as **defective return.**

# INQUIRY BEFORE ASSESSMENT



## INQUIRY BEFORE ASSESSMENT

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- ❑ Issue of notice to the assessee [Sec. 142(1)]
- ❑ For making assessment, the Assessing Officer may serve a notice on any person -
  - ❖ • who has not submitted a return within time limit allowed u/s 139; or
  - ❖ • before the end of relevant assessment year
- ❑ Such notice may require the Assessee to submit the Return of Income [Sec. 142(1)(i)]:

**Tax Point:** In case assessee has not furnished the return of income, it is not mandatory for the AO to issue notice u/s 142(1)(i) if he wishes to make best judgment assessment.



## PROCEDURE TO BE FOLLOWED BEFORE ISSUING NOTICE FOR RE-ASSESSMENT [SECTION 148A]

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### ☐ Conducting Inquiry: B

Before issue of Notice, AO shall conduct enquiries, if required.

- ❖ Prior approval of specified authority, with respect to the information which suggests that income chargeable to tax has escaped assessment
- ❖ AO cannot conduct an enquiry on any information which has not been obtained through RMS of the CBDT or the objection raised by the CAG.

## PROCEDURE TO BE FOLLOWED BEFORE ISSUING NOTICE FOR RE-ASSESSMENT [SECTION 148A]

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### ☐ Granting an opportunity of being heard

❖ AO shall provide an opportunity of being heard to the Assessee ( prior approval of specified authority),

❖ Notice to Show Cause to be issued to Assessee within time not being less than 7 days but not exceeding 30 days from the date on which such notice is issued (may be extended).

## PROCEDURE TO BE FOLLOWED BEFORE ISSUING NOTICE FOR RE-ASSESSMENT [SECTION 148A]

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### ☐ Pass an order:

- ❖ Material available on record & reply of the assessee, the AO shall decide, whether or not it is a fit case to issue a notice under new Section 148.
- ❖ AO shall pass Order within 1 month from end of the month in which the reply of the assessee is received / where no such reply is furnished, within 1 month from the end of the month in which time or extended time allowed to furnish a reply expires.
- ❖ Serve a copy of such order along with such notice on the assessee.
- ❖ Copy of the order passed by the AO under Section 148A shall be supplied along with the copy of the notice issued u/s 148.

## Advance Payment of tax and consequences in Filing return of income under IT Act

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☐ **Q.1 Is there any compliance if an assessee revises its estimate of income for advance tax?**

☐ **Ans.** An assessee can revise the estimation of income and pay the taxes accordingly without any requirement of filing the estimation of income with the department.

☐ **Q.2 Can estimate of income be revised for the purpose of advance tax?**

☐ **Ans.** In case the assessee wants to revise the estimate of income after making payment of first/ second instalment of advance tax, the assessee can revise the remaining instalment of advance tax in accordance with his revised estimate of current income and pay the advance tax accordingly.

## Advance Payment of tax and consequences in Filing return of income under IT Act

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❑ **Q.3 What will be the due date for the payment of advance tax if the same is payable by virtue of an order from the Assessing Officer/ Income Tax Officer?**

❑ **Ans.** Where advance tax is payable due to the notice of demand issued by Assessing Officer then whole or part of the advance tax is payable in the remaining instalments, i.e., instalments due during the financial year after the date of notice.

❑ **Q.4 Who is not required to pay Advance tax?**

❑ **Ans.** A *resident senior citizen*(i.e., an individual of the age of 60 years or above during the financial year) not having any income from business or profession is not liable to pay advance tax.

❑ Taxpayer who opted for presumptive taxation scheme of section 44AD or section 44ADA is liable to pay 100% of advance tax by 15th March.

## Advance Payment of tax and consequences in Filing return of income under IT Act

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☐ **Q.5 Can I claim the deduction of Advance tax payments against my profits?**

☐ **Ans.** Advance Tax is not an expense.

- It is considered as an asset and adjusted against one's tax liabilities at the time of finalization of the Balance Sheet.
- It is a charge on income and not considered as an expenditure.
- It is shown under Loans and Advances in the Balance Sheet.



## Advance Payment of tax and consequences in Filing return of income under IT Act

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**□ Q.6 What to do if I forgot to bifurcate the amount of tax, surcharge and Cess while making the online payment?**

**Ans.** Showing the total tax liability as Income tax, Education cess, Surcharge, etc., is advisable.

- However, in the event the bifurcation of tax payment like, income-tax, surcharge, Cess, etc., is not done due to any reason, there is no need to panic.
- While filing the income-tax return just mention the total amount. in income-tax column and that would be sufficient. However, at the time of filing income-tax return, you should fill up the correct bifurcation details and then CPC will check it properly at the time of processing.

## Advance Payment of tax and consequences in Filing return of income under IT Act

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❑ **Q.7 How do advance tax paid get reflected in Form 26AS ?**

❑ **Ans.** Once the Advance Tax is paid, it will be reflected on assessee's Form 26AS within 3-4 working days of making the payment.

- The banks upload challan details to TIN in 3 working days after the realization of the tax payment online.
- After the bank uploads the details of self -assessment/advance tax to TIN, it is automatically posted into assessee's Form 26AS.

## Advance Payment of tax and consequences in Filing return of income under IT Act

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### ❑ Q.8 What should be kept in mind while making payment of tax ?

**Ans.** While making payment of tax, apart from other things, one should clearly mention following details :

- Head of payment, e., Corporation Tax/Income-tax (other than companies)
- Amount and mode of payment of tax
- Type of payment [e., Advance tax/Self-assessment tax/Tax on regular assessment/Tax on Dividend/Tax on distributed Income to Unit holders/Surtax]
- Assessment year – this is a general error that assessee's commit as AY is different from Financial year
- The unique identification number called as PAN [Permanent Account Number] allotted by the IT Department.
- The details are displayed on screen and should be confirmed before proceeding with payments.

# Advance Payment of tax and consequences in Filing return of income under IT Act

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## ☐ **Q.9 How to compute advance tax on capital gains income?**

☐ **Ans.** Advance tax is payable on total income which includes capital gains and casual income (i.e., income from lotteries, crossword puzzles, etc.).

☐ However, it is practically not possible to estimate the income from capital gain and casual income in advance. Therefore, in such cases it is provided that if any such income arises after the due date of any instalment, then the tax calculated on capital gain and casual income shall be paid in remaining instalments of advance tax which are due.

☐ If the entire amount of tax is so paid then no interest for late payment is levied.

## ☐ **Q.10 In case of advance tax, when is assessee considered as assessee-in-default?**

☐ **Ans.** For the purpose of advance tax, an assessee will be considered as assessee-in-default if he:-

☐ 1. does not pay the advance tax on receiving the order from Income-tax officer as per the due dates, or

☐ 2. does not file an intimation in Form 28A before the instalment due date.

## Advance Payment of tax and consequences in Filing return of income under IT Act

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**Q.11 What should we do if the bank is closed on the last day for payment of advance tax?**

☐ **Ans.**

- Any taxes paid ***till 31<sup>st</sup> March will*** be treated as advance tax.
- If the last day for the payment of advance tax is the day on which the banks are closed, then one should pay the advance tax on the immediately following working day and no interest shall be charged on such payments of advance tax.

**Q.12 Does credit of TDS allowed while calculating advance tax?**

☐ **Ans.** As per section 208 of the income-tax Act, 1961, every person whose estimated tax liability for the year is INR 10,000 or more, after TDS (taxes deducted at source), shall pay advance tax.

☐ Therefore, credit of TDS is to be taken while calculating the advance tax liability.

☐ However, if the amount is given or credited by payer without deduction of tax then the benefit of TDS cannot be given while calculating the advance tax liability.

## Advance Payment of tax and consequences in Filing return of income under IT Act

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### ❑ Q.13 Who is responsible to file Form 28A?

❑ **Ans.** In case the Assessing Officer's estimation of current income is more than the assessee's estimate then the assessee is required to file an intimation in Form no. 28A giving estimate of income and advance tax.

- The estimation is required to be **filled and signed** by a person who is authorized to sign a return of income.
- In case of a **registered firm**, the firm has to submit the estimate of advance tax payable, if any.
- The **individual partners** have **also** to submit an estimate of the **advance tax payable by each** partner including therein the share of income from the registered partnership firm.
- In case of an **HUF**, which has no member and whose total income of the previous year is likely to exceed the maximum amount not chargeable to income-tax then a declaration is required to be filed from **all members**.



## Advance Payment of tax and consequences in Filing return of income under IT Act

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### ☐ Q.14 What is Form 28A?

**Ans.** In case the AO's estimation of current income is more than the assessee's estimate he is required to send an intimation in Form no. 28A giving estimate of such reduced income and advance tax. The form is prescribed under Rule 39 of the Income-tax Rules (Form No. 28A).

### ☐ Q.15 What should I do on receiving the notice from income-tax department for the payment of advance tax, if my actual income is more than what is determined by the tax officer?

**Ans.** Assessing Officer can serve an order requiring the assessee to pay advance tax, if he is of the opinion that such person is liable to pay advance tax.

- ☐ – However, if you feel that year advance tax liability is lower than the liability calculated by the income-tax officer; you may file an estimation of the income and amount of tax payable thereon
- ☐ – Such information should be submitted in Form No. 28A to the Assessing Officer
- ☐ – Alternatively, In case the tax demand calculated by the Income-tax officer is lower than the tax liability computed by you, you should pay the advance tax as per your own computation.
- ☐ – No intimation to Income-tax officer is required to be made in such cases.

# Advance Payment of tax and consequences in Filing return of income under IT Act

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## ❑ Q.17 When Assessing Officer is liable to determine the Advance tax liability?

- If a taxpayer who has a legal obligation to pay advance tax fails to make payment for advance tax or advance tax is lower AO may pass an order asking the taxpayer to pay tax on assessee's current year income than the correct amount
- Such order shall clearly specify the amount payable and in number of instalments the same needs to be paid & be passed anytime during the previous year but before 1<sup>st</sup> March, i.e., by 28<sup>th</sup> February

### Computation by the Assessing Officer

- Assessing Officer can serve an order requiring the assessee to pay advance tax if he is of the opinion that such person is liable to pay advance tax or the tax paid is lower
- In such cases, the Officer will take the **higher of following incomes** and calculate the tax as per prevailing rate of income-tax:-

❑ (a) The total **income** of the **latest previous year** in respect of which **Officer has assessed income**, i.e., the year for which an assessment has been completed by the Income-tax Officer, or

❑ (b) The total **income declared by the assessee** in **any return after the year of assessment by officer**, i.e., Any income furnished by the assessee in Income-tax return for any previous year after

## Advance Payment of tax and consequences in Filing return of income under IT Act

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❑ **Q.18 What is the procedure for computing advance tax?**

❑ **Ans.** Advance tax is liable to be paid in every case where the advance tax payable is Rs. 10,000 or more. A Resident Senior citizen not having any income from business/profession, is not liable to pay advance tax with effect from A.Y 2013-14 onwards.

❑ An assessee who opts for the presumptive taxation scheme under section 44AD and section 44ADA is required to pay advance tax related to such business. However, advance tax can be paid during the financial year (immediately preceding to the assessment year) on or before March 15.

❑ The computation of advance tax can be done in the following manner:

(The Advance tax calculator is available on <https://incometaxindiaefiling.gov.in/>)

## Advance Payment of tax and consequences in Filing return of income under IT Act

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☐ Q.19 What is the due date for payment of Advance tax and Self Assessment tax?

☐ (B) LAST DATE FOR PAYMENT OF SELF ASSESSMENT TAX

☐ As per section 140(1) , Payment of income-tax on self-assessment should be done by the assessee before the date of filing of return of income. The payment made after the due date of filing return of income attracts interest under section 234A.

## Advance Payment of tax and consequences in Filing return of income under IT Act

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The due dates for payment of different instalments of advance tax are as follows :-

- ❑ (i) For assesseees (other than those covered under section 44ADA of the Income-tax Act, 1961)
  - ❖ On or before 15th June      15% of advance tax
  - ❖ On or before 15th Sept      45% of advance tax
  - ❖ On or before 15th Dec      75% of advance tax
  - ❖ On or before 15th March      100% of the advance tax
  
- ❑ (ii) For assesseees covered under section 44AD and section 44ADA (under presumptive taxation scheme) of the income-tax Act, 1961, are required to pay advance tax on or before 15<sup>th</sup> Mar

## Advance Payment of tax and consequences in Filing return of income under IT Act

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❑ **Q.20 Who is liable to pay Advance tax?**

❑ **Ans.** As per Section 208 of the Income Tax Act,

- Every person (individual, firm, company, etc.)
- whose estimated tax liability for the year (i.e., for the year in progress such as FY 2016-17, FY 2017-18, etc.)
- after TDS (i.e., TDS which is deducted for the person by its payers/clients/banks, etc.)
- Is Rs. 10,000 or more
- shall pay its tax for the year in advance during the same financial year
- Such tax shall be paid in instalments
- Individuals, having only salary income are not required to pay advance tax as the liability to deduct and deposit tax is on the employer making such payment in the form of TDS



## Advance Payment of tax and consequences in Filing return of income under IT Act

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☐ **Q.21 Can payment of advance tax be made through any bank account?**

☐ **Ans.**

- It is not necessary to make the payment of taxes from assessee's own account in an authorized bank.
- An assessee can make the payment from account of any person.
- However, the challan for making such payment must clearly indicate the Permanent Account Number of assessee on whose behalf the payment is made.

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☐ **Illustration** :Mr. Kumar is running a provision store. The turnover of the store for the financial year 2021-22 amounted to Rs. 1,84,00,000. He wants to declare income under section 44AD at 8% of the turnover. He does not have any other source of income. Will he be liable to pay advance tax?

☐ Mr. Kumar satisfies the criteria of section 44AD in respect of provision store business and, hence, he can adopt the provisions of section 44AD and declare income at 8% of the turnover.

☐ A taxpayer opting for the presumptive taxation scheme of section 44AD is also liable to pay advance tax in respect of business covered under section 44AD. Thus, if Mr. Kumar adopts the provisions of section 44AD, he is also liable to pay advance tax in respect of income generated from provision store business.

**Illustration :**Mr. Vipul (age 39 years) is running a medical store. The turnover of the store for the financial year 2021-22 amounted to Rs. 40,00,000. His accounts revealed a net profit of Rs. 2,60,000. Will he be liable to pay advance tax?

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☐ In this case, Mr. Vipul will be liable to pay advance tax in respect of income generated from medical store business if his estimated tax liability for the financial year comes out Rs. 10,000 or more. The taxable income of Mr. Vipul is Rs. 2,60,000. Tax on Rs. 2,60,000 will be Rs. NIL, hence, Mr. Vipul is not liable to pay advance tax.

☐ (\*) The normal tax rates for the financial year 2021-22 applicable to an individual below the age of 60 years are as follows:

- Nil upto income of Rs. 2,50,000
- 5% for income above Rs. 2,50,000 but upto Rs. 5,00,000
- 20% for income above Rs. 5,00,000 but upto Rs. 10,00,000
- 30% for income above Rs. 10,00,000.

☐ However in case of taxpayer, being an Individual resident in India, rebate under section 87A of Rs. 12,500 or 100% of tax, whichever is lower, would be provided if his total income does not exceed Rs. 5,00,000.

☐ Apart from above, health and education cess @ 4% will be levied on the amount of tax.

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☐ **Illustration:** Mr. Kumar is a doctor. Although MR. Kumar is in profession specified under Section 44AA(1) but he doesn't opt for the presumptive taxation scheme of Section 44ADA. His estimated tax liability for the financial year 2021-22 amounted to Rs. 1,00,000. By which dates he should pay advance tax and how much?

☐ \*\*

☐ If the estimated tax liability of the taxpayer is Rs. 10,000 or more, then he has to discharge his tax liability in the form of advance tax. Advance tax is to be paid in different instalments. The due dates for payment of different instalments of advance tax are as follows:

□ Mr. Kumar being a doctor is in profession specified under section 44AA(1) but he doesn't opt for the presumptive taxation scheme of section 44ADA. Hence, he has to pay advance tax in four installments as given hereunder:

- ❖ His first installment of advance tax will fall due on 15th June, 2021. He should pay 15% of his tax liability in advance, hence, he should pay Rs. 15,000 on account of advance tax by 15th June, 2021.
- ❖ His second installment of advance tax will fall due on 15th September, 2021. By 15th September, he should pay 45% of his liability in advance, i.e., Rs. 45,000. Assuming that he has already paid Rs. 15,000 as advance tax by 15th June, he should pay balance of Rs. 30,000 on account of advance tax by 15th September, 2021. Thus, total payment of advance tax till 15th September will amount to Rs. 45,000.
- ❖ His third installment of advance tax will fall due on 15th December, 2021. By 15th December, he should pay 75% of his liability in advance, i.e., Rs. 75,000. Assuming that he has already paid Rs. 45,000 as advance tax till 15th September, he should pay balance of Rs. 30,000 on account of advance tax by 15th December, 2021. Thus, total payment of advance tax till 15th December, 2021 will amount to Rs. 75,000.
- ❖ His fourth and final installment of advance tax will fall due on 15th March, 2022. By 15th March, he should pay 100% of his liability in advance, i.e., Rs. 1,00,000. Assuming that he has already paid Rs. 75,000 as advance tax till 15th December, he should pay balance of Rs. 25,000 on account of advance tax by 15th March, 2022. Thus, total payment of advance tax till 15th March, 2022 will amount to Rs. 1,00,000.

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## □ Illustration

□ Compute the amount of advance tax to be paid by Mr. Kapoor (age 35 years) from the following details provided by him (for the year 2021-22):

- Taxable business income Rs. 10,84,000.
- Interest on debenture Rs. 9,000 (after deduction of tax at source of Rs. 1,000).
- Investment in NSC during the year Rs. 80,000.
- He has paid tuition fees of his son of Rs. 1333.



# Computation of Income and Tax Liability

<i>Particulars</i>	<i>Rs.</i>
<u>Profits and gains of business or profession</u> Taxable business income	10,84,000
<u>Income from other source</u> Debenture interest (Rs. 9,000 net interest + TDS of Rs. 1,000)	<u>10,000</u>
<i>Gross total income</i>	10,94,000
<i>Less: Deduction under section 80C (NSC and tuition fees)</i>	81,333
<i>Total Income (i.e. Taxable Income)</i>	10,12,667
<i>Tax on Rs. 10,12,667 (*)</i>	1,16,300
<i>Less: Rebate under section 87A (lower of 100% of tax or Rs. 12,500)</i>	Nil
<i>Tax liability after rebate under section 87A</i>	1,16,300
<i>Add: Health and Education cess @ 4%</i>	4,652
<i>Tax liability before TDS</i>	1,20,952
<i>Less: Tax deducted at source</i>	1,000
<i>Tax liability after TDS</i>	1,19,952

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- ❑ (\*) The normal tax rates for the financial year 2021-22 applicable to an individual below the age of 60 years are as follows:
  - ❑ Nil up to income of Rs. 2,50,000
  - ❑ • 5% for income above Rs. 2,50,000 but up to Rs. 5,00,000
  - ❑ • 20% for income above Rs. 5,00,000 but up to Rs. 10,00,000
  - ❑ • 30% for income above Rs. 10,00,000.
- ❑ Apart from above, health and education cess at 4% will be levied on the amount of tax.
- ❑ As per section 208, every person whose estimated tax liability for the year is Rs. 10,000 or more, shall pay his tax in advance, in the form of “advance tax”. In this case, the tax liability amounts to Rs. 1,19,952 and, hence, Mr. Kapoor is liable to pay advance tax.

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- The due dates for payment of different installments of advance tax in case of all assesseees (other than the eligible assesseees as referred to in Section 44AD) are as follows:

By 15th June	By 15th Sept.	By 15 Dec.	By 15th March
15%	45%	75%	100%
- Considering the above due dates, the advance tax to be paid by Mr. Kapoor on different dates will be as follows:
- His first installment of advance tax will fall due on 15th June, 2021. His estimated tax liability for the year is Rs. 1,19,952 (for easy computation, liability is rounded off to Rs. 1,19,950). By 15th June, he should pay 15% of his liability in advance, hence, he should pay Rs. 17,993 on account of advance tax by 15th June, 2021.

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- His second installment of advance tax will fall due on 15th September, 2021. His estimated tax liability for the year is Rs. 1,19,952 which is rounded off to Rs. 1,19,950. By 15th September he should pay 45% of his tax liability in advance, i.e., Rs. 53,978. Assuming that he has already paid Rs. 17,993 as advance tax by 15th June, he should pay balance of Rs. 35,985 on account of advance tax by 15th September, 2021. Thus, total payment of advance tax till 15th September will amount to Rs. 53,978.
- His third installment of advance tax will fall due on 15th December, 2021. His estimated tax liability for the year is Rs. 1,19,952 which is rounded off to Rs. 1,19,950. By 15th December, he should pay 75% of his liability in advance, i.e., Rs. 89,963. Assuming that he has already paid Rs. 53,978 as advance tax by 15th September, he should pay balance of Rs. 35,985 on account of advance tax by 15th December, 2021. Thus, total payment of advance tax till 15th December will amount to Rs. 89,963.

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- His fourth and final installment of advance tax will fall due on 15th March, 2022. His estimated tax liability for the year is Rs. 1,19,952 which is rounded off to Rs. 1,19,950. By 15th March, he should pay 100% of his liability in advance, i.e., Rs. 1,19,950. Assuming that he has already paid Rs. 89,963 as advance tax by 15th December, he should pay balance of Rs. 29,988 on account of advance tax by 15th March, 2022. Thus, total payment of advance tax till 15th March will amount to Rs. 1,19,950.

## Foreign Tax Credit

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### ☐ Understanding the Basis of Taxation:

☐ There are two principles of charging Tax:

☐ (i) Source Rule: – Country in which source of earning Income exist, such country has a right to tax the Income.

☐ (ii) Residence Rule: Country of which such person is a Tax Resident, such country has a right to tax his global income



## Foreign Tax Credit

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### ☐ Understanding the Tax Treaty

☐ Now there may be situation that an Indian resident has earned some Income in the foreign country and he has paid the taxes thereon in that country, and when that person will file his Income tax return on India, he has to include his foreign incomes too in his Income tax return which results in double taxation of foreign income as he already paid tax on such income in the foreign country.

☐ Now, to overcome from this double taxation, countries agree to enter into an agreement wherein they negotiate that which country has a right to tax which income, so that burden of double taxation can be avoided. Such Agreements called Double Taxation Avoidance Agreements (DTAA) or Tax Treaties.

## Foreign Tax Credit

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Relief mechanism under the DTAA

- There are two ways of providing relief
- (i) Exemption Method: Country of source exempts the charging of taxes and country of residence will charge tax on such foreign income.
- (ii) Credit Method: Though the Tax will be charged by the source country but credit will be allowed in the Residence Country

## Foreign Tax Credit

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### ❑ Important Documents/Check Points

- Person has to obtain tax deduction certificate from the Payer or any other document from which he can substantiate his claim of taxes paid outside India
- He has to file Form 67 wherein he has to provide the details of Incomes and Taxes paid outside India, under which article of DTAA tax has been paid etc.
- For the Convert of Foreign Tax in to Indian rupee he has to apply TT Buying rate set by SBI as on the Last Date of month immediately preceding the month in which tax is deducted

# Foreign Tax Credit

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## ☐ Important Documents/Check Points

- ☐ Credit will only be allowed for Tax/Surcharge/Cess paid outside India and no credit will be allowed for any Interest or Penalty paid
- ☐ Full Credit will be allowed for the taxes paid in the country in a country with which India has a DTAA to extent of Indian Income Tax Liability. For Ex Total tax Liability in India Comes out to Rs. 5 Lac and taxes paid outside India is Rs. 6 lac then maximum credit will be allowed up to Rs. 5 lac Only and balance credit of Rs. 1 lac will be Lapse.
- ☐ If India does not have DTAA with the Country in which Income earned and taxes paid then relief will be granted u/s 91 as follows:
  - ☐ Lower of:
    - ❖ Avg Indian Income Tax Rate
    - ❖ Rate of Tax Deduction in Foreign

## Filing of ITR - V

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### ☐ What is ITR Form V?

- ☐ ITR Form V is a one-page document which is sent by the income tax department when returns are filed without a digital signature. You are required to sign this document and send it to the Central Processing Centre of the income tax department which is located in Bangalore.

## How to get ITR Form V

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- ❑ Through E mail - You are then required to print the form, sign it and send it to the Central Processing Centre located in Bangalore.
- ❑ If, you do not receive any email from the department, you can also download the form online. To download, the following steps should be taken –
  - ❖ Visit the official website of the income tax department which is <https://portal.incometaxindiaefiling.gov.in/e-Filing/UserLogin/LoginHome.html?lang=eng>
  - ❖ Log into your account
  - ❖ On your dashboard, choose '**View Returns/Forms**'. There you can see the record of your returns which have been filed with the income tax department
  - ❖ There you can find the acknowledgement number of your latest return. Click on that number and the ITR-V would be downloaded.
  - ❖ Once the form is downloaded, you would need to provide the password to open the document. The password would be your PAN Card number and your birthdate in DD/MM/YYYY format.

## Submission of the ITR –V to CPC Bangalore

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- You can sign the ITR –V, put it in an envelope and send a post to the income tax department's Central Processing Centre in Bangalore. The address is Income Tax Department – CPC, Post Box No.1, Electronic City Post Office, Bangalore-560500, Karnataka.





## Verification through EVC Mode

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□ The ITR –V form can also be verified using the EVC mode. Through the EVC mode, a code is generated and verification is done through any of the following means –

- Your email id and mobile number
- Aadhar card
- ATM
- Net banking facilities
- Bank account details
- Demat account

## Important things to know about ITR-V when submitting to CPC Bangalore

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- ❑ Important facts which you should know about filing, signing and submitting ITR-V –
  - When sending ITR-V in an envelope, each envelope should contain only one ITR-V form of one tax payer
  - ITR-V form should be signed and submitted within 120 days of filing your income tax returns
  - If the ITR-V form is **not filed within 30 days (for AY 2022-23 onwards) of filing** the returns and if it is not submitting either by submission to the CPC or by EVC mode, you would get an income tax notice from the department
  - The form should be printed in black and it should be easily legible
  - You should put your signature on the form in blue ink
  - The form contains a bar code and a number beneath it. The bar code and the numbers should be clearly seen. You should not sign on them
  - Use of stapler should be avoided and the form should not be folded
  - **The form should be sent in a A4 sized white envelope**
  - The form should be sent through speed post or ordinary post and should not be couriered.

## Common mistakes made while filing ITR

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### ☐ Filing ITR using Incorrect Tax Form

- ❖ Choosing the wrong ITR form may lead the return to be treated as defective or make the ITR Invalid altogether.

### ☐ Mentioning incorrect personal or correspondence details

- ❖ Taxpayer should be vigilant in quoting PAN, Aadhaar and address details.
- ❖ Attention should be given at the time of mentioning the mail id & contact number.
- ❖ You need to ensure that the details tally with those given in your PAN.
- ❖ ITR – V sent on email, Income Tax Notices on the address given in the last ITR, if you do not provide the correct address then the same will be served on the incorrect address by way of Chaspa and will pass the ex-party orders.
- ❖ Reminder Text for E-Verification and Intimation text will be sent on the mobile number which is given in the ITR.

## Common mistakes made while filing ITR

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- ❑ **Correct Bank Account Number and IFSC code so as to receive the speedy refund by the Income Tax Department.**
- ❖ **Filing incorrect and incomplete bank details**
- ❖ **The Income Tax Department transfers all income tax refunds directly to the bank account.**
- ❖ **Refunds are not processed for incorrect personal details like name, bank account number, IFSC code and address.**
- ❖ **Report about the details of all the bank accounts held by him during the year.**

## Common mistakes made while filing ITR

- ❑ **Not reporting interest income from Saving bank accounts, Fixed deposits etc.**
- ❖ Interest of SB & FDR to be reported under the head- 'Income from other sources' in the tax returns.
- ❖ Exemption up to Rs.10,000/- u/s 80TTA by all assessee except senior citizens or a super senior citizen AND senior citizens or a super senior citizen up to Rs. 50,000 under section 80 TTB from the total interest income earned in a financial year should claim a deduction
- ❖ Interest to be reported accrual basis and after reconciliation in 26AS.
- ❖ Interest credited into the taxpayer's account can be checked by him using the FDR statement.
- ❖ In case of fixed deposits, when TDS is deducted for interest credited by the bank, the same can be claimed in ITR, when it comes in the taxpayer's form-  
**26AS statement.**

## Common mistakes made while filing ITR

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### ❑ Not reporting income of last job

- ❖ If an individual has switched jobs in a FY then the same must be reported while filing ITR along with income from current job.
- ❖ A discrepancy will be shown in the TDS certificate and form 26AS, if any of the income is left unreported.
- ❖ In the new format of Form 16, a separate row is given where the income from another employer needs to be mentioned, if any.

## Common mistakes made while filing ITR

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### ☐ Not reconciling Form 26AS statement

- ❖ Form 26AS provides an insight into the TDS deducted and deposited to the IT department Details about the TCS collected and taxes which are being paid during the financial year against the PAN number.
- ❖ Incomes included in Form 26AS must be reported, as these details are already there with the tax department.
- ❖ A mismatch in Form 26AS and Form 16 may also lead to issue of notice and / or lesser refunds received by the taxpayer.



## Common mistakes made while filing ITR

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### ❑ Not checking the bank statements

- ❖ All incomes received during a particular year are required to be mentioned in income tax return, hence one should always check his/ her bank statement to consider the amount of any gift received, any interest received or any other income received.
- ❖ ITR forms require mentioning the number of all operative bank accounts, it becomes imperative to mention the exact incomes received accurately.

## Common mistakes made while filing ITR

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### ❑ Not mentioning exempted income

- ❖ Taxpayer needs to report all his income, whether exempt from tax or not. (dividend, insurance maturity amount, investment of long term capital gain etc)
- ❖ Even if it is mandatory for a taxpayer to file Income tax returns if his gross income exceeds threshold limit not mentioning about the same would invite notices from the income tax department.

### ❑ Not reporting interest received on income tax refunds

- ❖ Interest received on Income Tax refunds can be traced from Form 26AS and should be reported as income from other sources while filing your Income Tax Return.

## Common mistakes made while filing ITR

### ☐ Failure to E-Verify ITR V

- ❖ It is compulsory to verify ITR – V offline within 120 days of filing and send to CPC Bangalore using post or e-verify using Aadhaar OTP, EVC etc.
- ❖ Without verification of ITR V, your tax return will not be considered as filed & notice stating your return as “Invalid” will be sent by the department.
- ❖ All penalties and non filing fees will be applicable on non-filing of ITR.

### ☐ Not clubbing incomes

- ❖ Where the taxpayer is required to club the income of his minor child or spouse with his own income and pay taxes accordingly (Ref section 60 to 64) subject to deduction of amount exempted.
- ❖ Example: In case an FD is made in the name of a child, the interest income received should be reported to the income tax department by the Parent

## Common mistakes made while filing ITR

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### ❑ Late Filing of income tax return

- ❖ Delay in ITR filing, certain rights are deprived.
- ❖ Losses cannot be carried forward to the next year.
- ❖ Late filing fees will be applicable.
- ❖ Extra Interest will also be payable in case of tax liability.
- ❖ Refund procedure also gets delayed.

## Common mistakes made while filing ITR

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- ❑ **Not keeping evidence of deductions claimed in income tax return**
- ❖ **For all expenses/ investments claimed as deduction under Chapter VIA (Children Tuition fees, LIC, PPF, Medical Insurance Policy etc.), maintenance of records/ evidences/ proofs of expenses/ investments is required.**
- ❖ **Claiming deduction without adequate evidence in hand can lead to disallowance of such deductions and increase in tax liability at the time of scrutiny assessment.**
- ❖ **So, either have evidence for a particular expense/ investment, or else don't claim deduction of it.**
- ❖ **Keep the record for up to 6 years after the end of the year in which the return is filed.**

## Common mistakes made while filing ITR

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- ❑ **Failure to account for more than two property**
- ❖ If an individual owns multiple house properties, then any two of his house property will be considered as self occupied, as per their choice and the remaining will be considered as 'deemed to be let out'.
- ❖ This means that when a person owns three properties, any one of the property, even if remains vacant for the entire year and does not provide any financial gains to the taxpayer, shall still be considered to be taxable.
- ❖ The taxpayers potential to earn gains shall be considered and tax will be levied on the annual value calculated as per the provision of law.
- ❑ **Details of property in the schedule HP of the return to be provided**
- ❖ Net taxable loss or income should not be mentioned

## Common mistakes made while filing ITR

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### ❑ Non-filing of income tax returns

- ❖ A person is mandatorily required to file income tax return even if his income is below the taxable limit in case he owns any assets abroad.
- ❖ Example: If you've pursued education from abroad, then it's a must to open a bank account in that country. Many times it so happens that, the students come back to India & withdraw money from the foreign bank account but don't close it. In case if such a bank account is still not closed, then the individual will not be able to file ITR 1, rather he will be asked to use ITR 2 and furnish the complete details of such bank accounts. So, one should make sure that all such bank accounts are closed timely.
- ❖ These types of special disclosures are mandatory & any non-disclosure may bring notice from the Income Tax Department.



## Common mistakes made while filing ITR

### ❑ Not Paying Advance Tax/ Self-Assessment Tax

- ❖ Except salary ( actual tax deducted) all other cases rate of TDS specified is deducted on payment / credit to the account of the payee, where as the income is taxable at appropriate rate.
- ❖ Example:TDS is deducted on the Salaried Income and Interest income received from the Bank. However, at times, it happens that the taxpayer falls in the 30% tax bracket and TDS on interest income is deducted at the rate of 10% or not deducted at all. So in such a case tax needs to be calculated which is payable additionally and needs to pay as a advance tax. Also, in case of Rental income, assess the tax liability and advance tax needs to be paid as per the provisions of the law. Self-Assessment tax is paid at the time of filing of return. And all the details of self assessment tax paid and advance tax paid need to be entered in the Income Tax Return filed.

## Common mistakes made while filing ITR

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## Common mistakes made while filing ITR

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- ❑ **Not reporting capital gains on switching units of mutual funds**
- ❖ Profit earned on such transfers of capital assets are left unreported as they are not routed through the bank account of the taxpayer. As switching or shifting from a particular scheme to another may result in profit or loss, therefore it is advisable to report the same in the Income Tax Return.
- ❖ In case of immovable property exceeding certain value the stamp duty value of transferred asset registered is reported as AIR to income tax department. So non reporting or mis reporting will attract penalty and notice from dept.

## Common mistakes made while filing ITR

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### ☐ **Submitting Fake Invoices/ giving wrong disclosure**

- ❖ Fake bills mainly related to the deductions in accordance with Section 80C / 80D etc such as LIC receipts or medical bills or rent receipts etc.
- ❖ Fake invoices / rent receipts to claim HRA (House Rent Allowance) should not be submitted.
- ❖ These false bills can easily be tracked down by the Income Tax department by checking the bank details or by cross enquiring from the vendor / landlord etc.

### ☐ **Not linking PAN with Bank Accounts**

- ❖ It is important to link PAN with your Bank Account Number because in case there is a refund, the same gets credited to your bank account. Your bank account details need to be validated on the income tax website so as to get the refund.

## Common mistakes made while filing ITR

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### ❑ Not submitting Requisite Forms

- ❖ To claim certain exemptions benefits, the taxpayer needs to file some forms before the filing of returns.
- ❖ Example: if you have received salary arrears in the financial year and need some relief for the increased tax liability under section 89(1), then form no 10E needs to be filed.
- ❖ When a taxpayer wants to claim foreign tax relief then filing Form 67 is required.
- ❖ Failure to fill these forms will result in the individual not being able to claim the relief. This will also increase the chances of receipt of tax notice.

## Common mistakes made while filing ITR

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### ❑ Not Determining correct Residential Status

- ❖ Incorrect determination of one's residential status is one of the most common tax filing mistakes. The residential status has two parameters 60 days and 182 days. The first thing the taxpayer needs to do is get the residential status right, as this determines the scope of income that will be taxable in India. For instance in case of a resident person, all their income including foreign income is taxed in India. However, incase of non-resident, only their income accruing or arising or deemed to be arising in India is taxed.

## Common mistakes made while filing ITR

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### ❑ Not claiming correct deductions

- ❖ Some donations are 100% allowed but others are only 50% allowed. Same like certain returns on investments are tax free while others are taxable. Hence such deduction should be claimed with caution to avoid scrutiny from the income tax department.

### ❑ Why is it important to avoid mistakes while filing ITR?

- ❖ if a taxpayer file the income tax return in a wrong form, i.e if an individual files ITR using a form which is not applicable to him then the tax officer, while processing the ITR form, may consider the return so filed as a defective return under the provision of section 139(9) of the Income Tax Act and send the notice u/s 139(9) as defective return notice.



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# **PENALTIES RELATED TO RETURNS OF INCOME**

## Penalty for default in making payment of Self Assessment Tax

As per section 140A(1) any tax due (after allowing credit for TDS, advance tax, etc.) along with interest and fee\* should be paid before filing the return of income. Tax paid as per section 140A(1) is called 'self assessment tax'.

As per section 140A(3), if a person fails to pay either wholly or partly self assessment tax or, interest, or fee\* then he will be treated as assessee in default in respect of unpaid amount. As per section 221(1), if a taxpayer is treated as an assessee in default, then he shall be held liable to pay penalty of such amount as the Assessing Officer may impose and in the case of a continuing default, such further amount or amounts as the assessing officer may, from time to time, direct. However, the total amount of penalty cannot exceed the amount of tax in arrears.

Before charging penalty under section 221(1), the tax authority shall give the taxpayer a reasonable opportunity of being heard. No penalty is levied if the taxpayer proves to the satisfaction of the tax authorities that the default was for good and sufficient reason.

**Note:** An assessee shall not cease to be liable to any penalty under section 221(1) merely by reason of the fact that he paid the tax before the levy of such penalty.

## Self-Assessment Tax Payable- Section 140A

Find out income-tax, surcharge and health and education cess as per return of income		XXXX
<i>Add:</i> Interest and fee—		
Interest under section 234A for late submissions of return of income*	XXXX	
Interest under section 234B for non-payment or short payment of advance tax*	XXXX	
Interest under section 234C for non-payment or short payment of different instalments of advance tax*	XXXX	
Fee under section 234F for late submission of return of income	XXXX	XXXX
Total tax, interest and fee		XXXX
<i>Less:</i> Advance tax, tax deducted at source, tax collected at source, MAT credit under section 115JAA, alternate minimum tax credit under section 115JD and relief under section 90/90A/91A		XXXX
Self-assessment tax payable under section 140A		XXXX

## Late Fee for filing Return of Income

\*W.e.f. assessment year 2018-19, if assessee failed to furnish return of income within due date as prescribed under section 139(1) then as per section 234F, he will be required to pay fee of:-

- a) Rs. 5000 if return is furnished on or before 31 December of assessment year.
- b) Rs. 10,000 in any other case.

However, if total income of the person does not exceeds Rs. 5 lakh then fee payable shall be Rs. 1000.

### *Note:*

The Finance Act, 2021 has revised the fee for default in furnishing return of income. W.e.f., Assessment Year 2021-22, fee for default in furnishing return of income shall be Rs. 5,000 if return has been furnished after the due date prescribed under section 139(1). However, it shall be Rs. 1,000 if the total income of an assessee does not exceed Rs. 5 lakh.



## **Penalty for default in making payment of Tax**

As per section 220(1), when a demand notice under section 156 has been issued to the taxpayer for payment of tax (other than notice for payment of advance tax), then such amount shall be paid within a period of 30 days of the service of the notice at the place and to the person mentioned in the notice. In certain cases, the above period of 30 days can be reduced by the tax authorities with the previous approval of designated authorities. If the taxpayer makes default in payment of any tax due from him, then apart from other penal provisions, he is treated as an assessee in default.

As per section 221(1), if a taxpayer is treated as an assessee in default, then he shall be liable to pay penalty of such an amount as the Assessing Officer may impose. However, penalty cannot exceed the amount of tax in arrears. Thus, penalty under section 221(1) is a general penalty and can be levied in all the cases in which the taxpayer is treated as an assessee in default.

Before charging penalty as discussed above, the tax authorities shall give the taxpayer a reasonable opportunity of being heard. No penalty is levied if the taxpayer proves to the satisfaction of the tax authorities that the default was for good and sufficient reason.

Note: An assessee shall not cease to be liable to any penalty under section 221(1) merely by reason of the fact that he paid the tax before the levy of such penalty.

## Penalty for failure to comply with notice issued under section 142(1) or 143(2) or direction for audit under section 142(2A)

Penalty under section 272A is levied if a taxpayer fails to comply with notice issued to him under section 142(1) or section 143(2) or fails to comply with a direction issued under section 142(2A). Before understanding the penalty provisions of section 272A we shall take a brief overview of provisions of section 142(1), 142(2A) and section 143(2).

Under section 142(1), the Assessing Officer can issue notice asking the taxpayer

- to file the return of income if he has not filed the return of income or to produce or cause to be produced such accounts or documents as he may require or
- to furnish in writing and verified in the prescribed manner, information in such form and on such points or matters (including a statement of all assets and liabilities of the taxpayer, whether included in the accounts or not) as he may require.

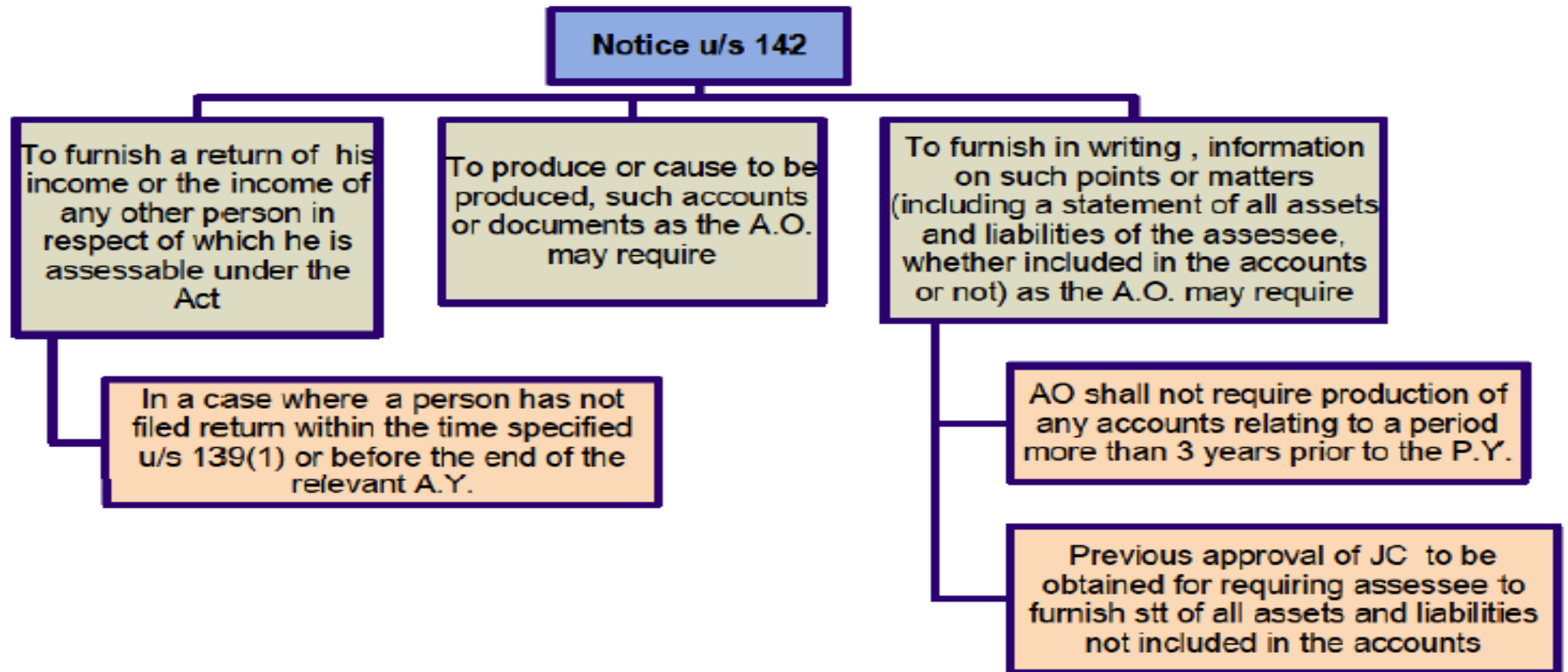
**Penalty for failure to comply with notice issued  
under section 142(1) or 143(2) or direction for audit under section 142(2A)**

Section 142(2A) deals with special audit. As per section 142(2A), if the conditions justifying special audit as given in section 142(2A) are satisfied, then the Assessing Officer can direct the taxpayer to get his accounts audited or re-audited from a chartered accountant nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

Section 143(2) deals with the provisions relating to the issuance of notice before conducting a scrutiny assessment under section 143(3).

If the taxpayer fails to comply with notice issued to him under section 142(1) or section 143(2) or fails to comply with a direction issued under section 142(2A), then as per section 272A he shall be liable for a penalty of Rs. 10,000 for each failure.





**Note** - It may be noted that the time-limit for completion of assessment under section 153(1) is 21 months/18 months/12 months, as the case may be, from the end of the assessment year in which the income was first assessable. Therefore, since assessment has to be completed within the said period, it appears that notice under section 142(1) should also be issued within that period.

## Penalty for underreporting and misreporting of income

Many times a taxpayer may try to reduce his tax liability by underreporting or misreporting of income. In such a case, by virtue of Section 270A, the taxpayer will be held liable for penalty. The rate of penalty shall be fifty per cent of the tax payable on under-reported income. However, in a case where under-reporting of income results from misreporting of income, the taxpayer shall be liable for penalty at the rate of two hundred per cent of the tax payable on such misreported income.

## Underreporting of income

A person shall be considered to have under-reported his income in the following cases:

Cases	Income assessed under normal Provisions	Income assessed under MAT/AMT Provisions
Return of Income is filed	Income assessed is greater than the income determined in the return processed u/s. 143(1)(a)	The deemed total income assessed or reassessed as per the provisions of sec. 115JB/115JC, is greater than the deemed total income determined in the return processed under sec 143(1)(a)
No Return of Income is filed or return is filed for the first time under section 148.	The income assessed is greater than the <u>maximum exemption limit</u>	The deemed total income assessed as per the provisions of sec. 115JB/115JC, is greater than the <u>maximum exemption limit</u> .
Case of Reassessment	The income reassessed is greater than the income assessed or reassessed immediately before such reassessment	The deemed total income reassessed as per the provisions of sec. 115JB/115JC, is greater than the deemed total income assessed or reassessed immediately before such reassessment.
Loss Assessed	The income assessed or reassessed has the effect of reducing the loss or converting such loss into income.	The income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

## Misreporting of Income

The following cases will be considered as misreporting of income:

1. Misrepresentation or suppression of facts;
2. Failure to record investments in the books of account;
3. Claim of expenditure not substantiated by any evidence;
4. Recording of any false entry in the books of account;
5. Failure to record any receipt in books of account having a bearing on total income;  
and
6. Failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.



## Example: Misreporting of Income

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- ❑ If a closely held company issues its shares at a price higher than its fair market value (FMV) then it shall be liable to pay tax on difference between the FMV and issue price of the shares as per section 56(2)(viib) of the Income-tax Act. Such tax is called as 'Angel Tax' in common parlance. However, the Department for Promotion of Industry and Internal Trade (DPIIT) has issued a Notification No. 127(E), dated 19-02-2019 whereby an eligible start-up shall be exempted from levy of Angel tax if it satisfies the conditions mentioned in such notification.
- ❑ With a view to ensure compliance to the conditions specified in the notification, the Finance (No. 2) Act, 2019 reiterates that in case of failure to comply with the conditions specified in the notification, the consideration received from issue of shares as exceeding the fair market value of such shares, shall be deemed to be income of the company chargeable to tax for the previous year in which such failure takes place. Further, it shall be deemed that the company has misreported the said income and, **consequently, a penalty of an amount equal to 200% of tax payable on the underreported income (i.e., difference between issue price and fair market value of shares) shall be levied as per section 270A.**

## Penalty for failure to keep, maintain, or retain books of account, documents, etc., as required under section 44AA

For the purpose of Income-tax Act, a taxpayer is required to maintain the books of account as provided in section 44AA. If the taxpayer fails to maintain books of account as per the provisions of section 44AA, then he shall be liable to pay penalty under section 271A. Penalty under section 271A is Rs. 25,000.

## **Penalty for failure to keep and maintain information and document etc. in respect of international transaction or specified domestic transaction**

Section 92D provides that every person entering into an international transaction or specified domestic transaction shall keep and maintain such information and documents as may be prescribed in this regard under rule 10D. Further a person, being a constituent entity of an international group, shall also keep and maintain such information and documents in respect of an international group as may be prescribed. The Income-tax Authority may require the taxpayer to produce these documents. On such demand by the Income-tax Authority, the taxpayer has to provide these documents within a period of 30 days or such extended period as may be allowed by the tax authorities. These documents should be maintained for a period of 8 years from the end of the relevant assessment year.



## **Penalty for failure to keep and maintain information and document etc. in respect of international transaction or specified domestic transaction**

The provisions relating to penalty for failure to keep and maintain information and documents in respect of international transaction or specified domestic transaction are given in section 271AA. Penalty under section 271AA is attracted in the case of any of the following failures:

- 1) If a person fails to keep and maintain information and documents in respect of international transaction or specified domestic transaction as provided in section 92D read with rule 10D.
- 2) If a person fails to report the international transaction or specified domestic transaction which he is required to do so.
- 3) If a person maintains or furnishes an incorrect information or document in respect of international transaction or specified domestic transaction.

Penalty will be a sum equal to 2% of the value of each international transaction or specified domestic transaction entered into by the taxpayer.

If any person, being a constituent entity of international group fails to furnish information and documents in respect of international group [as referred to in Section 92D], it may be liable to pay penalty of Rs 5,00,000.

## Penalty in case of search

To unearth the undisclosed income, tax authorities generally conduct search at the premises of the taxpayer. Section 132 provides the circumstances in which the tax authorities can initiate a search. If a search has been initiated and any undisclosed income is unearthed in the search, then penalty can be levied under section 271AAB.

The quantum of penalty under section 271AAB shall be as follows:

Where search has been initiated on or after the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the president (i.e., 16-12-2016)-

- a) 30% of undisclosed income of the specified previous year if assessee admits the undisclosed income; substantiates the manner in which it was derived; and on or before the specified date pays the tax, together with interest thereon and furnishes the return of income for the specified previous year declaring such undisclosed income
- b) 60% of undisclosed income of the specified previous year if it is not covered by above provisions

## Penalty for 'false entry' in the books of account

The Finance Act 2020 has introduced a new section 271AAD under the Act to provide for a levy of penalty on a person, if during any proceedings under the Act, it is found that in the books of accounts maintained by him there is:

- a) A false entry; or
- b) Any entry relevant for computation of total income of such person has been omitted to evade tax liability.

The penalty payable by such person shall be equal to the aggregate amount of false entries or omitted entry.

It is also provided that any other person, who causes in any manner a person to make or cause to make a false entry or omits or causes to omit any entry, shall also pay by way of penalty a sum which is equal to the aggregate amount of such false entries or omitted entry.

## Penalty for 'false entry' in the books of account

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For the purpose of section 271AAD, the false entries to include use or intention to use:

- a) Forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence;
- b) Invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or
- c) Invoice in respect of supply or receipt of goods or services or both to or from a person who do not exist.



## Consequences of default in submission of statement/certificate prescribed under section 35/Section 80G

The Finance Act, 2020 has amended section 35 of the Income-tax Act to provide that deduction available under this section shall be available to the research association, university, college or other institution or the company only if the assessee delivers a statement of donations, as prescribed by the board, and also furnishes certificate of the amount of donation to the donors.

Similar amendment has also been made in Section 80G to provide that entities receiving donation shall be required to file a statement of the donation received and shall issue a certificate to donor.

In order to ensure compliance with the provision, the Finance Act, 2020 has inserted a new section 234G which provides for levy of fee of Rs. 200 per day if taxpayer fails to submit such statement or certificate within prescribed time. However, the fee shall not exceed the amount in respect of which the failure has occurred. Such fees shall be paid before submitting such statement or before furnishing of certificate, as the case may be.

Consequently, a new section 271K has been inserted in the Act which empowers the Assessing Officer to levy a penalty of Rs. 10,000 to Rs. 1 lakh, if assessee fails to furnish the statement or fails to furnish a certificate.

## **Penalty in case of income from undisclosed sources**

The Assessing Officer may make addition to the income of an assessee under section 68, section 69, section 69A, section 69B, section 69C or section 69D if assessee fails to explain the nature and source of his income.

Section 271AAC of the Income-tax Act (inserted with effect from Assessment Year 2017-18 vide Taxation Laws (Second Amendment) Act, 2016) empowers AO to levy penalty at the rate of 10% of the tax payable under section 115BBE if any addition is made under section 68, section 69, section 69A, section 69B, section 69C, section 69D. However, no penalty shall be levied if such income is disclosed in the return of income and tax on such income is paid under Section 115BBE on or before the end of the relevant previous year.

## **Failure to get accounts audited or furnish a report of audit as required under section 44AB**

Section 44AB prescribes when the accounts of the taxpayer are to be audited. If a taxpayer, in spite of the requirement of section 44AB, fails to get his accounts audited, then he can be held liable for penalty under section 271B. Penalty under section 271B will be levied for failure to get the accounts audited or failure to furnish a report of audit as required under section 44AB. Penalty shall be one-half per cent of total sales, turnover or gross receipts, etc., or Rs. 1,50,000, whichever is less.

## **Penalty for failure to furnish a report from an accountant as required by section 92E**

Section 92E provides that every person entering into an international transaction or specified domestic transaction shall obtain a report from a chartered accountant in the prescribed form and shall furnish the same on or before the date prescribed in this regard. If a taxpayer fails to do so, then he shall be liable to pay penalty under section 271BA. Penalty under section 271BA for failure to furnish a report from a chartered accountant as required by section 92E is Rs. 1,00,000.



## Taking or accepting certain loans or deposits or specified sum in contravention of provisions of section 269SS

Section 269SS provides that no person shall take or accept loan or deposit or specified sum exceeding Rs. 20,000 by any mode other than account payee cheque or account payee demand draft or use of electricity clearing system through a bank account or through such other electronic modes as may be prescribed.

Specified sum” means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.

Contravention of the provisions of section 269SS will attract penalty under section 271D. Penalty under section 271D shall be levied of an amount equal to loan or deposit taken or accepted.

### **Penalty on receipt of an amount of Rs. 2 lakh or more in cash**

Section 269ST (as inserted by the Finance Act, 2017 with effect from 1/4/2017) provides that no person shall receive an amount of Rs. 2,00,000 or more,—

- (a) in aggregate from a person in a day;
- (b) in respect of a single transaction; or
- (c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, or through such other electronic mode as may be prescribed.

However, the said restriction shall not apply to Government, any banking company, post office savings bank, co-operative bank or a person notified by the Central Government.

Section 271DA provides for levy of penalty on a person who receives a sum in contravention of the provisions of section 269ST. The penalty shall be equal to the amount of such receipt. However, the penalty shall not be levied if the person proves that there were good and sufficient reasons for such contravention.

## **Penalty for not providing facility for accepting payment through prescribed electronic modes of payment**

The Finance (No. 2) Act, 2019 has inserted a new Section 269SU in Income-tax Act with effect from November 1, 2019. The section provides that every person engaged in business should mandatorily provide the facility for accepting payment through prescribed electronic mode, if the gross receipts from such business exceeds Rs. 50 crore during the immediately preceding previous year.

Consequential penal provisions have been inserted in Section 271DB, which provides for penalty of Rs. 5,000 rupees for every day of default in case the person does not accept payment through notified digital modes. The section also provides for immunity from penalty in case person proves that there is a good and sufficient reasons for such default.

## Repaying loans or deposits or specified advance in contravention of provisions of section 269T

Section 269T provides that no person shall repay any loan or deposit **or specified advance** exceeding Rs. 20,000 by any mode other than account payee cheque or account payee demand draft in the name of the person who has made the loan or deposit or paid the specified advance or by use of electricity clearing system through a bank account or through such other electronic mode as may be.

“Specified advance” means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not transfer takes place.

Contravention of the provisions of section 269T will attract penalty under section 271E. Penalty under section 271E shall be a sum equal to loan or deposit or specified advance so repaid.



## **Failure to furnish statement of financial transaction or reportable account (previously called as 'Annual Information Return (AIR)') as required under section 285BA(1)**

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Non-furnishing of statement of financial transaction or reportable account will attract penalty under section 271FA. Penalty shall be levied of Rs. 500 per day of default.

However, section 285BA(5) empower the tax authorities to issue a notice to the person directing him to file the statement within a period not exceeding 30 days from the date of service of such notice and in such a case person shall furnish the statement within the time specified in the notice. If person fails to file the statement within the specified time, then a penalty of Rs. 1,000 per day shall be levied from the day immediately following the day on which the time specified in such notice for furnishing the statement expires.

## Penalty for furnishing inaccurate statement of financial transaction or reportable account

As per section 271FAA, if a person who is required to furnish statement of financial transaction or reportable account under section 285BA, provides inaccurate information in the statement, and where:

- a) the inaccuracy is due to a failure to comply with the due diligence requirement prescribed\* under section 285BA(7) or is deliberate on the part of that person;
- b) the person knows of the inaccuracy at the time of furnishing the statement but does not inform the prescribed income-tax authority or such other authority or agency;
- c) the person discovers the inaccuracy after the statement is furnished and fails to inform and furnish correct information within a period of 10 days as specified under section 285BA(6), then, the prescribed income-tax authority may direct that such person shall pay, by way of penalty, a sum of fifty thousand rupees.



## Failure to co-operate with the tax authorities

Many times the tax authorities requires any information from a person, in such a case, the tax authorities may request such person to answer questions raised by them or may require the person to sign the statements or may issue him a summon for his attendance.

Failure to comply with these directions or notices can attract penalty under section 272A(1) Tax authorities also issues notice under Section 142(1)/Section 143(2) or issues direction for special audit under Section 142(2A). In other words, penalty under section 272A(1) shall be levied if a person refused or fails to:

- Answer questions
- Sign statement
- Attend office to give evidence or produce books of account, etc., in compliance with summons under section 131(1)
- Comply with notice under Section 142(1)/Section 143(2) or fails to comply with direction issued under Section 142(2A)

Penalty leviable under section 272A(1) is Rs. 10,000 for each failure/default.

## Immunity From Penalty And Other Proceedings

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- ❑ Section 273A(4) confers powers on the Principal Commissioner or Commissioner to either waive or reduce any penalty payable by the assessee under this Act or to stay or compound any proceedings for recovery of amount.
- ❑ The immunity under this section can be granted only if the authority is satisfied that
  - ❖ 1. Genuine hardship is caused to the assessee
  - ❖ 2. The taxpayer has co-operated in any inquiry relating to the assessment or any proceeding with regards to the recovery of any amount due from him.
- ❑ If the penalty amount exceeds Rs. 1,00,000 then prior approval of Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General is required



Thank  
you