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CERTIFICATE COURSE ON FILING OF RETURNS

Today's Content – Filing of ITR in response to the Notice

The Income Tax Department issues various types of notices under different sections of the Income Tax Act to ensure compliance, gather information, or initiate inquiries. Here's an overview of the key types of notices:

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

I. Notice under Section 142(1) of the Income Tax Act

A notice under **Section 142(1)** is issued by the Income Tax Department as part of the assessment process. It is typically served to gather more information or documents before completing the assessment of an income tax return.

Purpose of Notice

1. **Before Filing of Return:**
 - To direct the taxpayer to file an income tax return if it hasn't been filed within the due date.
2. **After Filing of Return:**
 - To seek clarification, additional documents, or explanations regarding discrepancies or details in the filed return.

When is it issued?

- If no return has been filed by the taxpayer, the assessing officer may request the taxpayer to file one.
- If a return has been filed, but the officer requires:
 - Additional information, books of accounts, or documents.
 - Clarification regarding income, deductions, or any specific entries in the return.

Contents of the Notice

The notice generally specifies:

1. The **assessment year** for which the information is required.
 2. The **details or documents** to be furnished.
 3. The **timeline** within which the response must be submitted.
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Actions Required by the Taxpayer

Scenario 1: If Return is Not Filed

1. File the income tax return for the specified assessment year.
2. Submit the acknowledgment along with any supporting documents mentioned in the notice.

Scenario 2: If Return is Already Filed

1. Respond to the notice by providing:
 - Documents such as bank statements, invoices, or proof of deductions.
 - Clarifications about specific transactions or discrepancies.
 2. Submit the information online through the e-filing portal or offline as instructed.
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Steps to Respond to Notice u/s 142(1)

1. Access the Notice

- Log in to the [Income Tax e-Filing Portal](#).
- Navigate to "e-Proceedings" > "Respond to Notices".

2. Download and Understand the Notice

- Review the content of the notice carefully to understand the information required.

3. Compile the Necessary Documents

- Gather all supporting documents like:
 - Income proofs.
 - Bank account statements.
 - Investment proofs.
 - Books of accounts.

4. Upload the Response

- Navigate to "e-Proceedings" > "Submit Response".
- Upload the requested documents in the specified format.

5. Acknowledgment

- After submission, download the acknowledgment for your records.

Consequences of Non-Compliance

Failure to comply with a notice under Section 142(1) can result in:

1. **Best Judgment Assessment:** The Assessing Officer may proceed to assess the income based on available information.
 2. **Penalties:** Monetary penalties may be imposed for non-compliance.
 3. **Prosecution:** In extreme cases, prosecution for willful non-compliance may be initiated under Section 276D, with imprisonment up to 1 year and/or fines.
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Important Points to Note

- **Timely Response:** Always respond within the deadline mentioned in the notice.
- **Clarity:** Provide clear, accurate, and complete information to avoid further scrutiny.
- **Professional Assistance:** Seek advice from a Chartered Accountant or tax expert for complex cases.

II. Detailed Provisions of Notice under Section 143(2) of the Income Tax Act

A notice under **Section 143(2)** is issued to initiate a detailed **scrutiny assessment** of an Income Tax Return (ITR) filed by the taxpayer. The purpose of this notice is to ensure the accuracy of the return and verify the correctness of income declared, deductions claimed, and taxes paid.

Objective of Section 143(2)

The primary objectives are:

1. To check for discrepancies or inaccuracies in the ITR.
 2. To investigate suspicious or large transactions.
 3. To ensure that the taxpayer has not underreported income, claimed excessive deductions, or misrepresented facts.
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Applicability

A Section 143(2) notice is issued in cases where:

1. The return has been filed under Section 139 (voluntary filing) or in response to a notice under Section 142(1).
 2. The return appears to require detailed scrutiny based on the following:
 - Random selection under **Computer-Assisted Scrutiny Selection (CASS)**.
 - Identification of high-risk taxpayers or transactions flagged for review.
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Time Limit for Issuance

1. The notice must be issued within **3 months** from the end of the financial year in which the return was filed.
 - For example, if the return was filed on **October 15, 2023**, the notice must be issued by **June 30, 2024**.
 2. For returns filed in response to reassessment proceedings, the notice must be issued within a similar time frame.
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III. Filing of Income Tax Return in Response to Notice under Section 148

A notice under **Section 148** of the Income Tax Act is issued when the Assessing Officer (AO) has reason to believe that income chargeable to tax has escaped assessment. This could happen due to non-filing, underreporting, or misreporting of income.

Key Provisions of Section 148

1. **Purpose:**
 - To reassess or recompute the income of a taxpayer for a specific assessment year.
 2. **Time Limit for Issuance:**
 - Up to 3 years from the end of the relevant assessment year if the escaped income is less than ₹50 lakh.
 - Up to 10 years if the escaped income exceeds ₹50 lakh.
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Prerequisites to Issue a Notice under Section 148 of the Income Tax Act

Before issuing a notice under **Section 148**, the Assessing Officer (AO) must comply with several legal prerequisites to ensure the validity of the notice. These requirements are essential to safeguard the taxpayer's rights and ensure that the reassessment proceedings are not initiated arbitrarily.

1. Reasons to Believe Income Escaped Assessment

- The AO must have "**reasons to believe**" that income chargeable to tax has escaped assessment for the relevant assessment year.
 - This belief must be based on **tangible material** and not mere suspicion or guesswork.
 - Common triggers include:
 - Non-filing of a return despite having taxable income.
 - Misreporting or underreporting of income.
 - High-value transactions not disclosed in the return.
 - Inconsistencies in TDS or Form 26AS records.
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2. Recording of Reasons

- The AO must record the reasons for reopening the assessment in writing before issuing the notice.
 - These reasons form the basis for initiating reassessment proceedings and must demonstrate a prima facie case of income escaping assessment.
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3. Sanction from Higher Authorities

The AO must obtain prior approval from higher authorities before issuing the notice:

- **If the AO is below the rank of Joint Commissioner:** Approval must be obtained from the Joint Commissioner.
 - **For cases beyond 3 years but within 10 years:** Approval must be obtained from the Principal Chief Commissioner, Chief Commissioner, Principal Commissioner, or Commissioner.
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4. Compliance with Time Limits

The issuance of the notice is subject to the following time limits as per Section 149:

1. **Within 3 Years:** If the escaped income is less than ₹50 lakh.
 2. **Up to 10 Years:** If the escaped income exceeds ₹50 lakh and represents undisclosed assets or income.
 3. **Beyond 10 Years:** A notice cannot be issued.
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5. Service of Notice

- The notice must be properly **served** to the taxpayer either physically, by post, or electronically.
 - It should specify the assessment year, the reasons for issuing the notice, and the timeline for filing the return.
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6. Validity of the Notice

The notice must be:

1. **Issued in the correct name and address** of the taxpayer.

2. Mention the relevant **assessment year** clearly.
 3. Follow procedural requirements laid down by the law.
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7. Provision of Reasons to Taxpayer

- If requested by the taxpayer, the AO is obligated to furnish the recorded reasons for reopening the assessment.
 - This ensures transparency and allows the taxpayer to challenge the notice if the reasons are invalid or inadequate.
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8. Applicability of New Provisions (Post-2021 Amendments)

After the Finance Act, 2021, reassessment procedures have been streamlined:

1. **Section 148A:** The AO must conduct an **inquiry** and provide an opportunity to the taxpayer to respond before issuing a notice under Section 148.
 2. **Approval of Reasons:** The inquiry and reasons must be approved by the specified authority before the notice is issued.
 3. **Show Cause Opportunity:** The taxpayer must be given a chance to explain why the assessment should not be reopened.
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Legal Safeguards for the Taxpayer

1. **Challenge Invalid Notices:** If the notice is issued without meeting the prerequisites, it can be challenged in court.
 2. **Transparency:** Taxpayers have the right to know the reasons for reopening their case.
 3. **Appeal and Review:** Any reassessment order can be contested before appellate authorities.
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Key Points to Note

- The AO must strictly follow the procedure to ensure the legality of the notice.
- Taxpayers should verify if the notice complies with these prerequisites before responding.
- Professional assistance may be required to assess the validity of the notice and draft a response.

Steps to File ITR in Response to Notice u/s 148

1. Understand the Notice

- **Review the Notice:** It will mention the assessment year and the reason for reopening the case.
- **Time Limit:** Typically, the notice provides a time frame (e.g., 30 days) to respond.

2. Check Reason for Reassessment

- The AO must provide the **reasons to believe** that income has escaped assessment.
- If not included in the notice, you can request these reasons in writing.

3. Prepare the Return

- **Collect Relevant Documents:**
 - Income proofs (salary, business income, etc.).
 - Investment details (e.g., FD interest, mutual fund gains).
 - Bank statements.
 - Other proofs supporting deductions or exemptions claimed.
- **Recompute the Income:**
 - Calculate the total income for the assessment year under scrutiny.
 - Include any omitted income that may have triggered the notice.

4. File the ITR in Response

- Log in to the [Income Tax e-Filing Portal](#).
- Navigate to **e-File > File Income Tax Return**.
- Select the **assessment year** and the appropriate ITR form.
- Mention the filing type as **"In response to notice under Section 148"**.
- Enter the **Notice Number** and **Date of Notice** as required.

5. Submit the Return and Documents

- After filing the return, submit supporting documents via the portal under **e-Proceedings**.
- If required, attend hearings or provide additional clarifications.

What to Do After Filing

1. Verify the Return:

- Complete the verification process either online or by sending a signed ITR-V to CPC, Bengaluru.
 - 2. **Track the Status:**
 - Monitor the progress of your case under the **e-Proceedings** tab.
 - 3. **Respond to Queries:**
 - The AO may seek further explanations or documents based on the reassessment process.
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Consequences of Non-Compliance

1. **Best Judgment Assessment:**
 - If no return is filed, the AO may proceed to assess the income based on available information.
2. **Penalties and Interest:**
 - Penalty under Section 271(1)(c) for concealment or underreporting of income.
 - Interest under Section 234A/B/C for late payment.
3. **Prosecution:**
 - Willful default may lead to legal action under Section 276CC.

IV. Filing of Income Tax Return in Response to Notice under Section 139(9)

A notice under **Section 139(9)** of the Income Tax Act is issued when the Income Tax Department identifies a defect or discrepancy in the Income Tax Return (ITR) filed by the taxpayer. This notice requires the taxpayer to rectify the defect within the specified time frame.

Common Reasons for Receiving a Notice under Section 139(9)

1. **Incomplete Information:** Missing details like bank account information, or required schedules.
 2. **Mismatch in Data:** Discrepancies between the income details reported and those in Form 26AS, AIS, or TDS certificates.
 3. **Incorrect Return Form:** Filing the wrong ITR form based on the nature of income.
 4. **Unpaid Taxes:** Failure to pay the full self-assessment tax before filing.
 5. **Non-Declaration of Mandatory Income:** For example, failure to report agricultural income exceeding ₹5,000 in ITR-1.
 6. **Other Defects:** Omission of mandatory schedules like profit and loss statements, balance sheets, Tax Audit Report etc.
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Steps to File the Revised ITR in Response to Section 139(9)

1. Access the Notice

1. **Log in:** Visit the [Income Tax e-Filing Portal](#).
2. **View Notice:** Navigate to **"e-Proceedings" > "Respond to Notices"** to access the 139(9) notice.
3. **Download the Notice:** Review the details and reasons for the defect.

2. Understand the Defect

- The notice will include:
 - Nature of the defect.
 - Instructions for rectification.
 - Deadline (usually 15 days from the date of issuance).

3. Rectify the Defect

1. **Identify the Correct ITR Form:** If the wrong form was used, select the appropriate form based on income type.
2. **Correct Errors or Omissions:**
 - Add missing details (e.g., PAN, TDS data).

- Rectify income mismatches or include omitted schedules.
- 3. **Pay Self-Assessment Tax (if required):**
 - Use the online payment system to pay any tax dues.

4. File the Revised Return

1. **Filing Type:**
 - Choose the option **"In response to notice under Section 139(9)"** in the ITR form.
2. **Provide the Acknowledgment Number:**
 - Enter the **communication reference number** mentioned in the notice.
3. **Submit the Return:**
 - Upload the revised ITR on the e-filing portal.

5. Verify the Return

- Complete the verification process:
 - **Online:** Through Aadhaar OTP, net banking, or DSC.
 - **Offline:** By sending a signed ITR-V to CPC, Bengaluru.

Consequences of Non-Compliance

1. **Return Treated as Invalid:**
 - If the defect is not rectified within the time frame, the original return will be treated as invalid, as if it was never filed.
2. **Penalties:**
 - Penalties may be imposed for non-filing or late filing.
3. **Further Notices:**
 - Non-compliance may lead to further scrutiny or action under other sections.

Key Considerations

1. **Timely Response:** File the revised return within the stipulated deadline.
2. **Professional Assistance:** Consult a tax expert if the defect is complex.
3. **Double-Check the ITR:** Ensure all errors are rectified to avoid subsequent notices.

V. ITR FILING POST APPROVAL OF CONDONATION OF DELAY

Filing an Income Tax Return (ITR) beyond the due date requires **Central Board of Direct Taxes (CBDT)** approval only in specific circumstances, typically for filing **condonation of delay applications**.

When Can CBDT Approval Be Sought?

1. **For Condonation of Delay:**
 - If the time to file a belated return (under Section 139(4)) or revised return (under Section 139(5)) has lapsed.
 - Applicable in genuine cases such as illness, natural calamities, incorrect legal advice, or other reasonable causes.
2. **To Claim Refunds:**
 - If the delayed filing involves a significant tax refund that cannot be claimed without a return.
3. **To Carry Forward Losses:**
 - Losses (except house property loss) cannot be carried forward unless the return is filed within the due date or the extended timeline approved by the CBDT.

Steps to File ITR Beyond the Due Date with CBDT Approval

1. Assess Eligibility for Condonation

Before applying for CBDT approval, check:

- Whether the delay is attributable to a genuine and reasonable cause.
- The timeframe within which the CBDT or specified authorities can condone the delay:
 - **Principal Commissioner/Commissioner:** Can condone delay for claims up to ₹50 lakh.
 - **CBDT:** For claims exceeding ₹50 lakh.

2. Draft a Condonation Application

Prepare an application addressed to the jurisdictional Assessing Officer (AO) or Principal Commissioner of Income Tax (PCIT), including:

1. **Details of the Case:**
 - PAN, assessment year, return filing details.
 - Reason for delay and justification for condonation.
2. **Nature of Relief:**

- State the relief sought, such as the ability to file the return, claim refunds, or carry forward losses.
- 3. **Supporting Documents:**
 - Medical certificates, proof of natural calamities, or any other evidence justifying the delay.

3. Submit the Application

- File the application manually or electronically with the jurisdictional AO or PCIT.
- Attach all relevant documents, including:
 - The original unsigned/draft ITR.
 - Computation of income and tax payable/refundable.

4. Wait for Approval

The authority will examine:

- The reasons for delay.
- The genuineness of the claim.
- The impact of the condonation on tax compliance.

Upon approval, you will be allowed to proceed with filing the ITR.

Points to Note

1. **Timeline:** CBDT or authorized authorities are more likely to condone delays if the application is made promptly after the lapse of the filing period.
2. **Interest and Penalty:** Filing beyond the due date may attract penalties under Section 234F and interest under Sections 234A, 234B, and 234C.
3. **Rejection Possibility:** Applications may be rejected if the reasons for delay are not convincing.

VI. Key Provisions of Section 119(2)(b)

The **Central Board of Direct Taxes (CBDT)** is empowered to condone delays and grant approval for filing delayed returns under **Section 119(2)(b)** of the Income Tax Act, 1961.

1. **Purpose:**

This section allows the CBDT to authorize any income tax authority to admit a delayed claim for exemption, deduction, refund, or relief if the taxpayer was unable to file the return within the prescribed time limit due to a genuine and reasonable cause.

2. **Scope:**

- To enable filing of delayed returns in cases involving **refund claims** or **loss carry-forward**.
- To provide relief in cases where strict adherence to deadlines would result in genuine hardship to the taxpayer.

3. **Conditions for Condonation:**

- The delay must be attributable to reasonable and genuine causes such as illness, natural calamity, or incorrect legal advice.
- The application must be made within a reasonable time.

Authority to Grant Approval

1. **Jurisdictional Commissioner/Principal Commissioner:**

- Can approve condonation of delay for claims up to ₹50 lakh.

2. **CBDT:**

- Approves cases involving claims exceeding ₹50 lakh.

Procedure for Condonation Under Section 119(2)(b)

1. **Application by Taxpayer:**

- The taxpayer must file a condonation application explaining the reasons for the delay and attach supporting documents.

2. **Approval Process:**

- The application is reviewed by the designated authority (Commissioner/Principal Commissioner or CBDT).
- If approved, the taxpayer is permitted to file the return or claim the benefit.

3. **Outcome:**

- Once condoned, the return is treated as valid, and the claim (refund, loss, etc.) is processed.

VII. Prerequisites for Filing Income Tax Return (ITR) by Large Corporates

Filing an Income Tax Return (ITR) for large corporations involves compliance with several statutory and procedural requirements. Here's a comprehensive guide to the prerequisites:

1. Financial Statements Preparation

- **Audited Financials:**
 - Prepare audited financial statements (Profit & Loss Account, Balance Sheet, and Cash Flow Statement).
 - Audit under Section 44AB is mandatory for companies exceeding prescribed turnover or gross receipts.
 - **Schedules and Notes:** Attach required schedules, such as depreciation schedules and notes to accounts.
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2. Mandatory Audit Reports

- **Tax Audit Report:**
 - Get Form 3CA and 3CD prepared and uploaded by the tax auditor.
 - **Transfer Pricing Report** (if applicable):
 - In cases involving international or specified domestic transactions, submit Form 3CEB certified by a Chartered Accountant.
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3. Computation of Income and Tax

- **Reconciliation of Income:**
 - Match income as per books with TDS, Form 26AS, and AIS (Annual Information Statement).
- **Applicable Deductions:**
 - Ensure eligibility and computation of deductions under Sections 10AA, 80-IA, 80-IB, etc.
- **Tax Liability Calculation:**
 - Compute tax as per the applicable corporate tax rate (including MAT if applicable).

4. Payment of Taxes

- **Advance Tax:** Ensure advance tax payments comply with prescribed installment schedules.
- **Self-Assessment Tax:** Pay any remaining tax liability before filing the return.

5. Documentation and Data Requirements

- **Basic Details:**
 - Corporate TAN, CIN, GSTIN, and other statutory registration numbers.
 - **Details of Income:**
 - Revenue from business, capital gains, income from other sources, and any exempt income.
 - **Expenditure Details:**
 - Breakup of operating expenses, depreciation, interest payments, etc.
 - **Investments and Assets:**
 - Provide details of fixed assets, investments, and loans.
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6. Adherence to Deadlines

- **Filing Deadline:**
 - For corporates requiring audit: **October 31** of the relevant assessment year.
 - For corporates with international transactions (TP audit): **November 30**.
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7. Other Mandatory Compliance, if applicable

- ✓ **Filing of Form – 67**
 - ✓ **Reconciliation of transactions with AIS**
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Discussion on any questions

