



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**

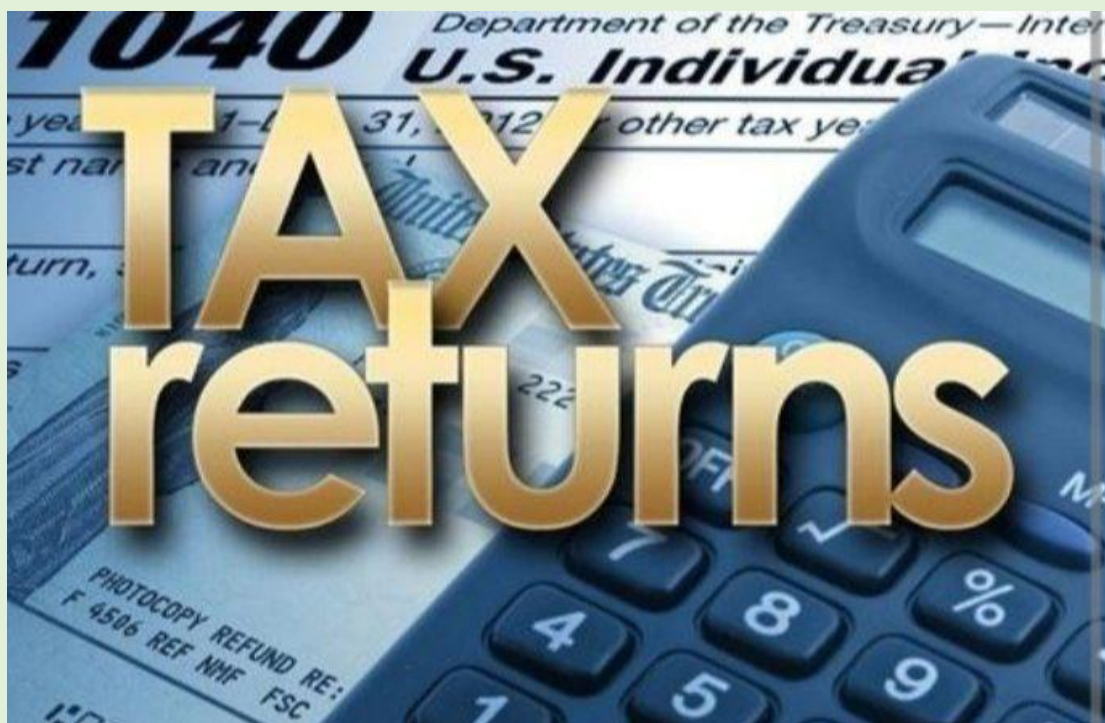
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CERTIFICATE COURSE ON FILING OF RETURNS

Today's Content – Filing of ROI with reference to Department Notices, condonation of delay in filing return, and basic documents requirement in filing ROI required



Types of Notices issued by IT department

1. Section 139(9) – Defective Return Notice

- **Issued when:** A return is filed with missing or incorrect information.
- **Action required:** Correct and resubmit the return within 15 days (or extended period) to avoid it being treated as invalid.

2. Section 142(1) – Inquiry before Assessment

- **Issued when:** The IT Department wants more information before making an assessment.
- **Action required:** Submit documents or attend in person as per the notice.

3. Section 143(1) – Intimation

- **Issued when:** The return is processed with either no discrepancy or with minor adjustments.
- **Types:**
 - Refund
 - Demand
 - No demand/refund

4. Section 143(2) – Scrutiny Notice

- **Issued when:** The return is picked for detailed scrutiny.
- **Action required:** Submit details and documents as requested; may lead to a thorough audit.

5. Section 148 – Income Escaping Assessment

- **Issued when:** The Assessing Officer believes income has escaped assessment.
- **Action required:** File return for the relevant year and respond to the notice.

6. Section 156 – Notice of Demand

- **Issued when:** Tax, interest, penalty, or fine is payable.
- **Action required:** Pay the specified amount within 30 days.

7. Section 245 – Set-off of Refund against Tax Demand

- **Issued when:** Refunds are being adjusted against outstanding tax dues.
- **Action required:** Respond if you disagree; otherwise, the adjustment will proceed.

8. Section 133 – Power to call for information

- **Issued when:** It empowers certain income tax authorities to require information from any person, even if that person is not an assessee.
- **Action required:** Respond with the information sought

Notice Section 142(1) – Inquiry before Assessment

Section 142(1) is used by the Assessing Officer (AO) to call for:

1. A return of income (if not filed),
2. Specific documents and accounts,
3. Additional information or clarification relating to the return filed.

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

When is a 142(1) Notice Issued?

1. **Non-filing of return:** When a taxpayer fails to file a return voluntarily under Section 139(1).
2. **Incomplete or suspicious return:** If the AO feels more information is needed to complete the assessment.
3. **For scrutiny:** Prior to initiating detailed scrutiny under Section 143(2), or even independently.

◆ Contents of the Notice

The AO may require the taxpayer to:

- Furnish a return of income for a specific previous year.
- Produce books of accounts, documents, or evidence in support of the return.
- Provide details such as:
 - Bank statements,
 - Purchase/sale bills,
 - Loan confirmations,
 - Party-wise transaction details,
 - Investments,
 - Source of funds, etc.

◆ Time Limit to Respond

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

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

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

⚡ 1. When No Return Is Filed (First Proviso to Section 142(1))

AO may issue a notice **asking the assessee to file a return** even **after the time under Section 139(1)** has expired.

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

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

◆ 2. When Return Is Already Filed

The AO may issue a notice seeking further information **at any time before completion of the assessment**.

✓ So, the only limitation is:

- It must be issued **before completion of the assessment** (u/s 143(3) or 144).
- Usually within the **assessment completion timeline under Section 153**.

◆ Consequences of Non-compliance

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

◆ Judicial Interpretations

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

✓ Best Practices for Assesseees

- Always respond within time.
- Seek **professional help** if unsure about the information sought.
- Maintain proper books and documentation.
- Don't ignore even if no return was originally filed.

1. Overview

Section 148 of the Income-tax Act, 1961 empowers the Assessing Officer (AO) to initiate reassessment proceedings in cases where income has escaped assessment for a particular assessment year. This provision is a critical tool in the department's arsenal to revisit past returns based on credible information or evidence.

The framework has undergone substantial reform under the **Finance Act, 2021**, with the introduction of **Sections 148A, 149, and 151**, laying down strict procedural safeguards and timelines.

2. Statutory Framework

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

3. Purpose and Scope of Section 148

A notice under Section 148 is issued where the AO has **“information suggesting that income chargeable to tax has escaped assessment”**. Such escapement may occur due to:

- Omission or misreporting of income
- Claiming excessive deductions or exemptions
- Unexplained cash credits, investments, or expenditures
- Fresh material arising from third-party information, search, survey, or audit reports

4. Procedure Post-Finance Act, 2021 (Effective from 01.04.2021)

The **new reassessment regime** follows a structured pre-notice procedure to ensure accountability and transparency.

► Step-by-Step Process:

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

5. Time Limits under Section 149

Condition	Maximum Time Limit from End of Relevant AY
Income escaping assessment is \leq ₹50 lakh	3 years
Income escaping assessment is $>$ ₹50 lakh and represented in the form of assets, expenditure, or entries	10 years

*Beyond 3 years, reopening is permitted **only where AO possesses evidence of escapement exceeding ₹50 lakh.***

6. Approvals under Section 151

Time Limit Involved	Sanctioning Authority Required
Within 3 years	Principal Commissioner or Principal Director
Beyond 3 years (up to 10 years)	Principal Chief Commissioner or Chief Commissioner

7. Exceptions to Section 148A Compliance

The procedure under Section 148A **is not mandatory** in the following cases (as per the proviso to Section 148A):

1. **Search or requisition cases** under Sections 132/132A.
2. Where assets or evidence found during search **belong to a third party**.
3. Information flagged under the **risk management strategy** or audit objection.

8. Compliance by Assessee upon Receipt of Notice

Upon receiving a notice under Section 148:

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

9. Consequences of Non-Compliance

Nature of Default	Consequences
Failure to file return	Best judgment assessment under Section 144
Willful default	Penalty and prosecution under Section 276CC
No response during 148A(b) stage	AO may proceed to issue notice under Section 148 and reopen assessment

11. Best Practices for Taxpayers

- Maintain robust documentation and audit trails for high-value transactions.
- Ensure regular reconciliation with Form 26AS, AIS, and books of account.
- Respond within the prescribed timeline to all notices, especially under Section 148A(b).
- Take professional advice before responding to complex or disputed issues.
- Maintain records for **at least 10 years**, especially where potential reassessment risk exists.

Section 119(2)(b)- Condonation of delay

◆ 1. Statutory Provision

Section 119(2)(b) empowers the **Central Board of Direct Taxes (CBDT)** to:

“Authorize any income-tax authority to admit an application or claim for exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act...”

✔ **Objective:** To provide relief to taxpayers who could not file returns or make claims within prescribed time due to genuine hardship.

◆ 2. Who Can Apply?

Any taxpayer who:

- Failed to file a **return of income** within time under Section 139,
- Missed the deadline for filing **Form 10** (for trusts), **Form 9A**, **Form 67**, or other statutory forms,
- Wants to claim a **refund** or **carry forward a loss** but missed the due date.

🔔 *Only those applications where genuine hardship can be proved will be considered.*

◆ 3. Types of Reliefs Covered

Type of Relief	Example
Refund of excess tax paid	TDS/TCS, advance tax, or self-assessment tax
Deduction claims	Missed deductions under Chapter VI-A
Loss carry forward	Missed filing return for setting off business/capital losses
Filing Form 10/67/9A etc.	Procedural default in filing mandatory forms on time

◆ 4. Time Limit for Filing Application

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

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

◆ 5. Authority to Decide Applications

CBDT has delegated powers as follows:

Amount of claim/refund	Authority
≤ ₹10 lakh	Principal Commissioner / Commissioner
> ₹10 lakh and ≤ ₹50 lakh	Principal Chief Commissioner / Chief Commissioner
> ₹50 lakh	CBDT (Board approval required)

◆ 6. Conditions for Acceptance

The condonation application may be accepted **only if**:

1. **Genuine hardship** is proved;
2. The **claim is correct, valid, and verifiable**;
3. The income is not assessable in the hands of any other person;
4. The delay is not due to **intentional neglect** or **lack of diligence**.

CBDT Circular No. **9/2015 dated 09.06.2015** lays down the procedural guidelines.

◆ 7. Documents Required

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

✦ 8. Procedure for Filing

1. **Prepare condonation request** with justification and documents.
2. Submit to the **jurisdictional authority** (offline or through e-filing portal, as per availability).
3. Track and respond to any further queries or notices.
4. Wait for the **order of condonation approval or rejection**.

Corporate Income Tax Return Filing – Document Checklist

✓ 1. Corporate Identification and Registration Documents

- Certificate of Incorporation
- PAN of the Company
- TAN of the Company
- Address Proof (Registered Office)
- Directors' details (DIN, PAN, Aadhaar)
- Board resolution authorizing signatory for return filing
- Digital Signature Certificate (DSC) of authorized signatory (Class III)

✓ 2. Financial Statements and Accounting Records

- Audited Financial Statements:
 - Balance Sheet
 - Profit & Loss Account
 - Cash Flow Statement (if applicable)
 - Notes to Accounts
- Trial Balance (final)
- General Ledger summary
- Fixed Asset Register and depreciation schedule (as per Companies Act and Income-tax Act)
- Inventory valuation summary (if applicable)

✓ 3. Tax Computation and Audit Reports

- Computation of Total Income and Tax Liability

- Tax Audit Report (Form 3CA/3CB and 3CD)
- Transfer Pricing Report (Form 3CEB and TP Study Report), if applicable
- MAT computation (if applicable under Section 115JB)
- Deferred tax computation

✓ 4. Tax Payments and Credits

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

✓ 5. Compliance and Reporting Forms

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

✓ 6. Other Relevant Information/Documents

- Details of carry-forward losses
- Dividend declarations and payment proofs
- Bank account details for refund
- Tax holiday/deduction documentation (e.g., SEZ, R&D)
- Details of foreign assets or income (Schedule FA)
- Shareholding pattern (cap table)
- Loans and advances disclosure (Section 269SS/269T compliance)

✓ 7. For Companies Opting for Special Provisions

Provision	Documents Needed
Section 115BAA / 115BAB	Form 10-IC / 10-ID, respectively
IFSC Unit (Section 80LA)	Registration under IFSC, relevant approvals
Startups (Section 80-IAC)	DPIIT certificate, Form 1, and CBDT approval

✓ 8. Others (As Applicable)

- Any notices or orders issued by Income Tax Department (earlier years)
- Proof of foreign remittances and FIRC (if applicable)
- Foreign Exchange fluctuation gain/loss computation
- Expense disallowances under Section 40(a)(ia), 43B, etc.

Discussion on any questions



