

**PENALTY PROVISIONS
UNDER THE INCOME TAX ACT,1961**

- **PENALTY under the General Connotation**
- the suffering or the sum to be forfeited to which a person agrees to be subjected in case of nonfulfillment of stipulations.
- A timely and consistent paying of taxes and filing of returns ensures the government to generate money for public welfare at any point of time. To make sure that taxpayer does not default in paying taxes or disclosing the information.
- A penalty is the punishment which is imposed on the taxpayer for being non-compliant. There are several penalties prescribed under the Act. The most common as well as important penalties covers the following:
 - [Default in making payment of tax](#)
 - [Under-reporting of income](#)
 - [Failure to maintain books of accounts and other documents](#)
 - [Audit and Audit Report](#)
 - [Penalty for false entry such as fake invoices](#)
 - [Undisclosed income](#)
 - [Penalty for using modes other than Account payee cheque/ draft/ ECS](#)
 - [Failure to furnish statements/ information](#)
 - **Related to Search in respect of undisclosed Income**
 - **Failure to comply on Notice/Summon etc.**
 - [TDS/TCS](#)
 - [Others](#)

| Sl No | Section No and Description | Penalty |
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| 1) | Section 221(1)- Default in making payment of taxes | Amount as directed by the assessing officer. However, the amount of penalty cannot exceed the amount of tax in arrears |
| 2) | Section 234E- Failure to prepare the statements in respect of TDS/TCS within the time prescribed as given under section 200(3)/206C(3) | Rs.200 for every day of default |
| 3) | Section 234F- Default in furnishing of return under section 139(1) within the time prescribed | Rs.5,000/- if return is furnished before 31st December of the assessment year, Rs.10,000/- in any other case. if the come does not exceed INR 5 Lakhs then the penalty shall not exceed Rs.1,000/- |
| 4) | Section 270A-Penalty for under-reporting of income Penalty for under-reporting on account of misreporting of income | 50% of the amount of tax payable on under-reported income 200% of the amount of tax payable on under-reported income |
| 5) | Section 271(1)(b)-Failure to furnish returns and comply with notices up to AY 2016-17 | Rs.10,000/- for every failure |
| 6) | Section 271A-Failure to keep, maintain or retain the books of accounts, documents as required under Section 44AA | Rs.25,000/- for every default |

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| 7) | <p>Section 271AA(1)-Penalty in respect of an international transaction/specified domestic transaction with regard to:</p> <p>-failure to keep and maintain any such information and document as required by Section 92D(1) or 92D(2) -failure to report such transaction which is required to be done -Maintaining or furnishing incorrect information or document</p> | 2% of the value of each international transaction or specified domestic transaction entered into |
| 8) | Section 271AA(2)- Failure to furnish information and document to the authority prescribed as required under Section 92D(4) | Rs.5,00,000/- |
| 9) | Section 271AAA(1)- Where search has been initiated under Section 132 on between 1st day of June, 2007 and 1st day of July, 2012 | 10% of the undisclosed income of the specified previous year |
| 10) | <p>Section 271AAA(2)- Nothing contained in sub-section (1) shall apply</p> <p>Note: No penalty under the provisions of clause (c) of sub-section (1) of section 271 shall be levied.</p> | <p>If the assessee-</p> <ol style="list-style-type: none"> 1. admits the undisclosed income and specifies the manner in which such income has been derived 2. substantiates the manner in which the undisclosed income was derived 3. pays the tax, together with interest, if any, in respect of the undisclosed income |

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| 11) | Section 271AAB(1)- Where search has been initiated between 1st day of July 2012 and 15-12-2016 | <p>a)At the rate of 10% of the undisclosed income if:</p> <ul style="list-style-type: none"> -Assessee admits the undisclosed income along with the manner of deriving the same. - Substantiates the manner in which undisclosed income was derived -Pays the tax along with interest and furnishes the return of income for the specified previous year declaring undisclosed income on or before the specified date <p>b)At the rate of 20% of the undisclosed income if: -The assessee does not admit the undisclosed income</p> <ul style="list-style-type: none"> -Declares the income for the specified previous year and pays the tax along with interest on the undisclosed income on or before the specified date <p>c)If not covered under clause (a) or (b) above –60% of the undisclosed income of the specified previous year</p> |
| 12) | Section 271AAB(1A)- Where search has been initiated after 15-12-2016 | <p>a)At the rate of 30% of the undisclosed income if: -Assessee admits the undisclosed income along with the manner of deriving the same.</p> <ul style="list-style-type: none"> -Substantiates the manner in which undisclosed income was derived |
| 13) | Section 271AAC-Income under section 68,69,69A,69B,69C,69D determined by the assessing officer if not included by assessee or tax under Section 115BBE not paid | <ul style="list-style-type: none"> -Pays the tax along with interest and furnishes the return of income for the specified previous year declaring undisclosed income on or before the specified date <p>(a) At the rate of 10% on tax payable under Section 115BBE</p> <p>b) At the rate of 60% of the undisclosed income if it is not covered under the provisions of clause</p> |

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| 14) | <p>Section 68- Cash Credits Section 69- Unexplained Investments Section 69A- Unexplained money Section 69B-Amount of investments not fully disclosed in books of account Section 69C-Unexplained expenditure</p> <p>Section 271AAD- Penalty for false entry, fake invoices etc. in books of account</p> | <p>If any assessing officer finds- a. A false entry, or b. An omission of any entry which is relevant for computation of total income of an assessee. He may direct the assessee to pay a penalty of an amount equal to sum of such false or omitted entries</p> <p>The false entry here means the following:</p> <p>a. Forged or false document such as a fake invoice</p> <p>b. Any invoice of supply or receipts of goods or services issued by any person without actual supply or receipt of goods or services</p> <p>c. An invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist</p> |
| 15) | <p>Section 271B-Failure to get the accounts audited or furnish the report U/s 44AB</p> | <p>In the case of business: ½% of the turnover/gross receipts</p> <p>In the case of profession: ½% of the gross receipts OR Rs.1,50,000/- Whichever is less</p> |

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| 16) | on 271BA-Failure to furnish a report from an accountant to be furnished by persons entering into an international transaction or specified domestic transaction under Section 92E | Rs. 1,00,000 |
| 17) | Section 271BB-Failure to subscribe to the eligible issue of capital U/s 88A(1) | 20% of such amount |
| 18) | Section 271C- Failure to deduct tax at source | Amount of tax not paid or failed to deduct |
| 19) | Section 271CA-Failure to collect tax at source | Amount of tax not collected |
| 20) | Section 271D- Accepting loan or deposit or specified sum in contravention U/s 269SS | Amount of loan/deposit or specified sum taken |
| 21) | Section 271DA-Receiving any sum(INR 2 Lakhs or more) in contravention to the provisions of Section 269ST | Sum equal to the amount of receipt |
| 22) | Section 271E-Failure to comply with the provisions of Section 269T with regard to the repayment of loan/deposit/specific advance | Sum equal to the amount of loan/deposit/specific advance repaid. |
| 23) | Section 271F-Failure to furnish the returns as required under Section 139(1) or by its proviso before the end of the relevant assessment year; Applicable up to AY 2017-18 | Rs.5,000/- |
| 24) | Section 271FA-Failure to furnish a statement of financial transaction or reportable account under Section 285BA(1) Failure to furnish the statement within the period specified in the notice issued under Section 285BA(5) | Rs.500 per default Rs.1,000/- per default |

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| 25) | Section 271FAA Furnishing inaccurate statement of financial transaction or reportable account. | Rs.50,000/- |
| 26) | Section 271FAB -Failure to furnish statement/information/document within the time prescribed as provided under Section 9A(5) | Rs.5,00,000/- |
| 27) | Section 271FB- Failure to furnish a return of fringe benefits as required under Section 115WD(1) within the prescribed time | Rs.100/- per day of default |
| 28) | Section 271G-Failure to furnish information under Section 92D(3) in relation to an international transaction or specified domestic transactions | 2% of the value of the international transaction or specified domestic transaction Delay-: Less than one month- Rs.5,000/- per day of default |
| 29) | Section 271GB- Failure to furnish the report/submitting an inaccurate report by the reporting entity which is required to furnish country-by-country report as required under Section 286 Failure to produce the documents within 30 days of notice as prescribed under Section 286(6) Furnishing inaccurate information in the report which is to be furnished under Section 286(2) | Delay-: More than one month- Rs.15,000/- per day Continuing default even after service of notice under either under (a) or (b) above Rs.50,000/- for every day of default. Rs.50,000/- for every day of default starting after the period for furnishing the document expires |

30) Section 271GA-Failure by the Indian concern to furnish any information or document under Section 285A

Section 285A

-Where any interest/share in an entity registered outside India obtains its value from assets located in India and

-Where such foreign company holds assets in the Indian concern

Such an Indian concern shall, for the purposes of determination of any income accruing or arising in India, furnish the documents within the prescribed time.

**2% of the value of the transaction in respect of which such failure has taken place if such transaction had the effect of directly or indirectly transferring the right of management/control in relation to the Indian concern
Rs.5,00,000/- in any other case.**

**Delay-: Less than one month-
Rs.5,000/- per day
of default**

**Delay-: More than one month-
Rs.15,000/- per day**

Continuing default even after service of notice under either under (a) or (b) above Rs.50,000/- for every day of default. Rs.50,000/- for every day of default starting after the period for furnishing the document expires

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| 31) | Section 271H- Failure to furnish TDS/TCS statements of furnishing incorrect information within the prescribed time to TDS/TCS statements to be delivered after 01-07-2012 | Min Rs.10,000/-, Max : Rs.1,00,000/- |
| 32) | Section 271I-Failure in furnishing the information related to the payment made to a non-resident, which is not a company/foreign company of any sum (even though not chargeable under the provisions of this Act) | Rs.1,00,000/- |
| 33) | Section 271J - Incorrect information in reports/certificates by an accountant/merchant banker/registered valuer | Rs.10,000/- for each such report/certificate |
| 34) | <p>Section 272A(1)- Any person fails/refuses to -Answer questions put by the IT authority or Sign statements which the IT authority requires him to do or Give evidence or produce the books under summons issued under Section 131(1)</p> <p>-Comply with the notice issued under Section 142(1) or 143(2) or 142(2A) Section 272A(2)- Failure to Furnish the statement regarding ownership/ beneficial interest in the securities in order to determine whether tax is borne on the same as required under Section 94(6) or Furnish the notice of discontinuance within 15 days under section 176(3) or Furnish information, TDS return, TCS returns and submission of statements by producers of cinematograph films under section 133/206/206C/285B or To allow inspection/copies of the register under Section 134 or To furnish return of income under Section 139(4A) or 139(4C)</p> | <p>Rs.10,000/- for each default</p> <p>Rs.100/- for every day of default</p> <p>In sections related to TDS/TCS, the amount of penalty shall not exceed the amount of tax-deductible/collectible.</p> |

| Cases of Under-reporting of Income | Income assessed under normal Provisions | Income assessed under MAT/AMT Provisions |
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| 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 U/s 148. | The income assessed is greater than the maximum exemption limit | The deemed total income assessed as per the provisions of sec 115JB/115JC is greater than the maximum exemption limit |
| 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. |

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| 35) | <p>To deliver a copy of the declaration for transactions where no TDS needs to be deducted as given under Section 197A</p> <ul style="list-style-type: none"> -To furnish a certificate for TDS/TCS under section 203/206C -To deduct and pay tax in respect of salary as referred to in Section 226 -To furnish a statement to the person receiving the salary complete particulars of perquisites or profits in lieu of salary under section 192(2C) -To deliver in due time a copy of declaration as required under Section 206C(1A) -To deliver statements pertaining to TDS/TCS under section 200(3) or 206C(3) -To furnish quarterly returns in respect of payment of interest to residents without deduction of tax within the prescribed time and in a prescribed manner under section 206A(1) <p>To furnish a statement in respect of sums credited to the Central Government under Section 200(2A) or Section 206C(3A).</p> | |
| 36) | <p>Section 272AA-Failure to comply with Section 133B wherein an income tax authority has the power to call for information</p> | Maximum: Rs.1,000/- |

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| 37) | <p>Section 272B- Failure to comply with Section 139A with regard to a permanent account number(PAN)</p> <p>-PAN is to be quoted in the documents as prescribed by the Board under Section 139(5)(c)</p> <p>-PAN is to be furnished to the person deducting tax by the person receiving the income</p> <p>PAN is to be furnished to the person responsible for collecting tax by the buyer/licensee/lessee</p> <p>If in any of the circumstance the PAN furnished is false or the person believes it to be false then he shall be liable to a penalty</p> | <p>Rs.10,000/-</p> <p>Rs.10,000/-</p> |
| 38) | <p>Section 272BB- Failure to apply/quote the tax deduction/tax collection number</p> <p>Tax deduction number/ tax collection number falsely quoted or the person believes it to be false</p> | <p>Rs.10,000/-</p> |

- 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.

- Computation of under-reporting of Income
- $(A - B) + (C - D)$
- where,
- A = the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);
- B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under-reported income;
- C = the total income assessed as per the provisions contained in section 115JB or section 115JC;
- D = the total income that would have been chargeable had the total income assessed as
- per the provisions contained in section 115JB or section 115JC been reduced by the
- amount of under-reported income.

- IMMUNITY FROM PENALTY U/s 270AA

- Section 270AA provides for immunity from imposition of penalty u/s 270A apart from section 273B where penalty shall not be levied under section 271A, 271AA, 271B, 271BA, 271BB, 271C, 271CA, 271D, 271E, 271F, 271FA, 271FAB, 271FB, 271G, 271GA, 271GB, 271H, 271I, 271J, 272A(1)(c) or (d), 272A(2), 272AA(1), 272B, 272BB(1), 272BB(1A), 272BBB(1) or 273(2)(b). Now Sec 270 AA The section is reproduced below for immunity from imposition thereon:
- “Immunity from imposition of penalty, etc.
(1) An assessee may make an application to the Assessing Officer to grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, if he fulfils the following conditions, namely:
 - (a) the tax and interest payable as per the order of assessment or reassessment under sub-section (3) of section 143 or section 147, as the case may be, has been paid within the period specified in such notice of demand; and
 - (b) no appeal against the order referred to in clause (a) has been filed.
- (2) An application referred to in sub-section (1) shall be made within one month from the end of the month in which the order referred to in clause (a) of sub-section (1) has been received and shall be made in such form and verified in such manner as may be prescribed.
- (3) The Assessing Officer shall, subject to fulfilment of the conditions specified in sub-section (1) and after the expiry of the period of filing the appeal as specified in clause (b) of sub-section (2) of section 249, grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C or section 276CC, where the proceedings for penalty under section 270A has not been initiated under the circumstances referred to in sub-section (9) of the said section 270A.
- (4) The Assessing Officer shall, within a period of one month from the end of the month in which the application under sub-section (1) is received, pass an order accepting or rejecting such application”