



TOPIC TAX MANAGEMENT

• **PROVISION OF FILING RETURN**

Income Tax Return (ITR)

Definition: The Income Tax Return Filing is the process of declaring an individual's or firm's total income to the Income Tax Department of India at the end of each financial year. This includes income from various sources such as salary, wage, commission, interest, dividends, rent, royalties, and part-time income. The summary of these incomes must be provided in a prescribed form to the Government of India. Different forms (ITR-1, ITR-2) are prescribed by the government to file an income tax return, which is then signed and affirmed by the individual to ensure the correct income statement is presented in the previous financial year.

Is it mandatory to file Income Tax Return?

India's tax laws mandate filing income tax returns if income exceeds the basic exemption limit. The income tax rate is pre-determined for taxpayers. Delays in filing can result in late filing fees and hinder opportunities for loans or travel visas. Therefore, timely filing is crucial for taxpayers.

Who should file Income Tax Returns?

according to the Income Tax Act, income tax has to be paid only by individuals or businesses who fall within certain income brackets. Mentioned below are entities or businesses that are required to compulsorily file their ITRs in India:

1. All individuals, up to the age of 59, whose total income for a financial year exceeds Rs 2.5 lakh. For senior citizens (aged 60-79), the limit increases to Rs. 3 lakh and for super senior citizens (aged 80 and above) the limit is Rs. 5 lakhs. It is important to note that the income amount should be calculated before factoring in the deductions allowed under Sections 80C to 80U and other exemptions under section 10.
2. All registered companies that generate income, regardless of whether they've made any profit or not through the year.

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3. Those who wish to claim a refund on the excess tax deducted/income tax they've paid.
4. Individuals who have assets or financial interest entities that are located outside India.
5. Foreign companies that enjoy treaty benefits on transactions made in India.
6. NRIs who earn or accrue more than Rs. 2.5 lakh in India in a single financial year.

Documents required to fill ITR

It is important to have all the relevant documents handy before you start your e-filing process.

- Bank and post office savings account passbook, PPF account passbook
 - Salary slips
 - Aadhar Card, PAN card
 - Form-16- TDS certificate issued to you by your employer to provide details of the salary paid to you and TDS deducted on it, if any
 - Interest certificates from banks and post office
1. Form-16A, if TDS is deducted on payments other than salaries such as interest received from fixed deposits, recurring deposits etc. over the specified limits as per the current tax laws
 2. Form-16B from the buyer if you have sold a property, showing the TDS deducted on the amount paid to you
 3. Form-16C from your tenant, for providing the details of TDS deducted on the rent received by you, if any
 4. Form 26AS - your consolidated annual tax statement. It has all the information about the taxes deposited against your PAN
 - a) TDS deducted by your employer
 - b) TDS deducted by banks
 - c) TDS deducted by any other organisations from payments made to you
 - d) Advance taxes deposited by you
 - e) Self-assessment taxes paid by you
 5. Tax saving investment proofs
 6. Proofs to claim deductions under section 80D to 80U (health insurance premium for self and family, interest on education loan)
 7. Home loan statement from bank

ITR - Income Tax Return, ITR Filing & IT Return

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- Income Tax Returns (ITR) is a form used to declare net tax liability, claim tax deductions, and report gross taxable income.
- ITR filing is mandatory for individuals earning a certain income threshold.
- Companies, firms, HUFs, and self-employed/salaried individuals need to file ITR to the Income Tax Department.
- Income tax filing involves submitting the IT return.
- E-filing or ITR filing refers to the online process of filing tax returns.
- Taxpayers can complete the online tax return filing process on the Income Tax Department website.

Why ITR Filing is Important?

It is mandatory for one to file income tax returns in India if the following conditions are applicable -

1. Individuals who fall within the respective tax slabs.
2. If it's a company or firm, irrespective of the profit or loss made in a financial year
3. If a tax refund needs to be claimed
4. If a loss under a head of income needs to be carried forward
5. If being a resident of India, one has an asset or financial interest in any entity located outside India
6. If being a resident of India, one is a signing authority in a foreign account
7. If one receives income derived from property held under a trust for charitable or religious purposes or a political party or a research association, news agency, educational or medical institution, trade union, a not for profit university or educational institution, a hospital, infrastructure debt fund, any authority, body or trust
8. If one is applying for a loan or a visa
9. If an NRI derives any or all of his/her income through sources in India, that income is liable to be taxable in India.

What are the Advantages of filing Income tax return?

1. Quick Acknowledgment and Faster Refunds: Electronic filing of Income Tax Returns (ITR) ensures swift acknowledgment of your submission. Moreover, if you are eligible for a tax refund, the processing time is notably quicker compared to paper-filed returns.
2. Enhanced Accuracy: E-filing software incorporates built-in validation mechanisms and electronic connectivity. These features result in a seamless experience and significantly reduce the likelihood of errors that might occur in manual paper-filings. Additionally, transitioning from paper forms to electronic systems reduces the risk of human errors during data entry.

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3. **Convenience and Flexibility:** E-filing provides the advantage of filing tax returns without being constrained by time or location. The online filing facility is available 24/7, allowing individuals to file their returns at their convenience from anywhere.
4. **Confidentiality and Security:** E-filing offers greater data security compared to paper filings. Your personal and financial information is not easily accessible to unauthorized individuals. Unlike paper filings, where sensitive details might be at risk in offices or during transit, e-filing ensures a higher level of confidentiality.
5. **Access to Historical Data:** Electronic filing applications securely store your past tax data. This stored information can be conveniently accessed when you file subsequent returns, eliminating the need to re-enter all the details each time.
6. **Proof of Filing Receipt:** Upon submitting your return electronically, you receive timely confirmation via email on your registered email address. This confirmation serves as proof that you have successfully filed your taxes.
7. **User-Friendly Interface:** E-filing platforms are designed to be user-friendly. They often include detailed instructions and guides, making the process accessible and straightforward even for individuals who may not be highly familiar with using the internet.
8. **Electronic Banking Benefits:** E-filing offers the advantage of direct deposit for tax refunds and direct debit for tax payments. This streamlines the process, allowing you to choose when to debit your bank account for tax payments. Additionally, it offers other convenient features like the ability to file your return first and then make the payment later.

TYPES OF ITR

The Income Tax Return (ITR) forms are categorized into different types based on the nature of income, sources of revenue, and taxpayer profiles. Each type of ITR is designed to cater to specific situations and requirements. Here is a summarized overview of the various types of ITR forms:

1. **ITR 1:** Suitable for resident individuals in India with a total income of up to Rs 50 lakh. This form is applicable to individuals earning income from sources like employment, house property, and other sources. Not available for Non-Resident Indians (NRIs).
2. **ITR 2:** Designed for individuals and Hindu Undivided Families (HUFs) who have income from sources other than their own business or profession. Also applicable to individuals and NRIs with income from sources like employment, house property, capital gains, and other sources.

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3. ITR 3: Intended for individuals who need to declare income from a business or profession. It's used by salaried individuals who have earnings from intraday stock trading, futures, and options trading, as well as other sources like employment, real estate, capital gains, and more.
4. ITR 4: Applicable to individuals, HUFs, and partnership firms under the presumptive taxation scheme. Used for disclosing income from businesses with a turnover up to Rs 2 crore (under section 44AD) and from professions with a turnover up to Rs 50 lakh (under section 44ADA). Suitable for freelancers and professionals.
5. ITR 5: Meant for Limited Liability Partnerships (LLPs), Association of Persons (AOPs), Body of Individuals (BOIs), and partnership firms. It's used to report income from businesses, professions, and other sources.
6. ITR 6: This form is used by companies to report their income from business or profession and all other sources of income.
7. ITR 7: Specifically designed for companies, firms, partnerships, trusts, and other entities that are exempt from paying income tax. It's used to report income and financial details for such organizations.

7 Types of ITR forms and Explanation

- Rs.5,000 is generated from agriculture.
- The total income that is generated can be a maximum of Rs.50 lakh.



Which ITR to file for FY 2022-23 (AY 2023-24)

ITR-1

- Resident individuals having income \leq ₹50 lakhs from:
 - Salary/Pension
 - One House Property
 - Other Sources

ITR-3

- Income from:
 - Every income from ITR-2
 - Business/Profession
 - Crypto income (if reported as Business Income)
 - As a partner in a firm

ITR-5

- Applicable to:
 - Firms
 - LLPs
 - AOPs
 - BOIs

ITR-2

- Income from:
 - Every income from ITR $>$ ₹50 lakhs
 - Capital gains
 - More than one house property
 - Foreign income/Foreign Asset
 - Crypto income (if reported as capital gains)
- Holding directorship in a company
- Holding unlisted equity shares

ITR-4

- Resident Individuals and HUFs having total income \leq ₹50 lakhs
- Every income from ITR-1
 - Salary/Pension
 - One House Property
 - Other Sources
- Presumptive income

ITR-6

Companies not claiming exemption under section 11

ITR-7

- Person/companies under:
 - Section 139(4A)
 - Section 139(4B)
 - Section 139(4C)
 - Section 139(4D)

ITR-1 or SAHAJ

This form must be used by resident Indians who fall under the below-mentioned categories:

- Income is generated from a pension or salary
- Income is generated from a single house property. However, in case the losses have been brought forward from the previous year, exclusion is allowed.
- In case an income of not more than

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- Income that has been generated from other sources such as winning horse races, lottery, etc.

Who cannot opt for this form?

Individuals who fall under the below-mentioned categories cannot opt for ITR-1:

- In case the total income that has been generated is more than Rs.50,000.
- In case individuals have capital gains that are taxable.
- In case income is generated from more than one house property.
- During the financial year, if any investments were present in unlisted equity shares.
- In case you are a Non-Resident Indian (NRI) and Resident Not Ordinary Resident (RNOR).
- In case income that is generated from agriculture is more than Rs.5,000.
- In case income is generated from profession or business.
- In case the individual is the director of a company.
- In case any income is generated from a property that is located outside India.
- In case an individual has foreign assets or foreign income.

ITR-2

ITR-2 form must be used by individuals and Hindu Undivided Families (HUFs) who fall under the below-mentioned categories:

- Income of the individual must be more than Rs.50 lakh.
- Income can be generated via a pension or from salary.
- Income that is generated from house property.
- Income that is generated from winning a lottery or horse races.
- In case the individual is the Director of a company.
- Agricultural income of the individual is more than Rs.5,000.
- Income has been generated from capital gains.
- In case any investments were present in equity shares that were unlisted during the financial year.
- Income is generated from foreign income and foreign assets.

Who cannot opt for this form?

Individuals who make an income from profession and business can opt for the form.

ITR-3

This form must be chosen by individuals and HUFs who make an income from a profession or from a proprietorship business. The below mentioned individuals can opt for the ITR-3 form:

- Individuals who are generating an income from a profession or business.
- In case any investments were present in equity shares that were unlisted at any time during the financial year.
- In case the individual is a partner in a firm.
- In case the individual is a Director of a company.
- If income is generated from a pension or salary, house property, or any other source of income.
- Turnover of the business exceeds Rs.2 crore.

ITR-4 or Sugam

In case HUFs, Partnership Firms, and individuals who are Indian residents generate an income from

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a profession or business, they must opt for ITR-4. However, **Limited Liability Partnerships (LLPs) cannot opt for this form**. Individuals who have also chosen the presumptive income scheme according to Section 44AD, Section 44ADA, and Section 44AE of the Income Tax Act 1961, should also opt for this form.

Who cannot opt for this form?

The below-mentioned individuals and HUFs are not allowed to opt for ITR-4:

- In case the total income that has been generated is more Rs.50 lakh.
- In case any losses have been brought forward from previous years.
- In case the individual has a signing authority at a place that is not located in India.
- In case any investments are present in equity shares that are unlisted at any time during the financial year.
- In case individuals have foreign assets or have generated a foreign income.
- In case the income has been generated from more than one house property.
- In case the individual is a Director of a company.
- In case the individual is a non-resident or an RNOR.

ITR-5

Investment funds, Business trusts, Estate of insolvent, Estate of deceased, Artificial Juridical Person (AJP), Body of Individuals (BOIs), Associations of Persons (AOPs), LLPs, and firms must opt for ITR-5 form.

ITR-6

ITR-6, For any companies that are not claiming exemptions under Section 11, this form must be chosen. Companies that are filing returns under this section can only do it electronically.

ITR-7

ITR-7, Individuals and companies that have furnished returns under Section 139(4A), Section 139(4B), Section 139(4C), Section 139(4D), Section 139(4E), or Section 139(4F) must opt for this form.

Given below are the details of the **returns that must be filed under each section**:

1. Section 139(4A): The returns must be filed by individuals who receive an income from a property that belongs to a trust or other legal obligations and the income that is generated is solely used for religious or charitable purposes.
2. Section 139(4B): Returns must be filed under this section by a political party if the total income that has been generated is more than the maximum amount.
3. Section 139(4C): Returns must be filed under this section by the below-mentioned entities:
 - ✓ Scientific Research association
 - ✓ Institutions or association that come under Section 10(23A)
 - ✓ Medical institutions, hospitals, universities, funds, and other educational institutions.
 - ✓ News agencies
 - ✓ Institutions that come under Section 10(23B)
4. Section 139(4D): Any college, university, or other institutions that are not required to furnish any

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income or loss must file returns under this section.

5. Section 139(4E): Business trusts that are not required to furnish their income or loss must file their returns under this section.
6. Section 139(4F): Investment funds that are present under Section 115UB and are not required to furnish any income or losses must file returns under this section.

Where can individuals download the various forms?

- Individuals can access different ITR forms on the official Income Tax Department website: <https://www.incometaxindia.gov.in/pages/downloads/income-tax-return.aspx>.
- The forms are available in PDF format, accompanied by instructions for filling them out on the same website.
- Depending on their income type, individuals can choose from ITR-1, ITR-2, ITR-3, ITR-4, and ITR-7.
- Income Tax Returns can be filed on the official Income Tax Department e-filing website: <https://www.incometaxindiaefiling.gov.in/home>.
- The process for filing returns is straightforward and user-friendly

What is the Penalty for Late ITR Filing?

- Changed rules under section 234F of Income Tax Act impose a maximum penalty of Rs. 5,000 for late filing of ITR.
- Starting from the financial year 2021, the income tax department has reduced the maximum penalty for late filing from Rs. 10,000 to Rs. 5,000.
- For FY 2022-23: No penalty if ITR is filed by 31st July 2022 (by 30th September 2022 for audit and 31st October 2022 for transfer pricing cases).
- Penalty of Rs. 5,000 for returns filed after 31st July 2022; however, if total income is up to Rs. 5 lakh, the maximum penalty is Rs. 1,000 as relief for small taxpayers

Late Filing Fee Details

e-Filing Date	Total income below Rs 5 lakh	Total income above Rs 5 lakh
31st July 2022	Rs 0	Rs 0
Between 1st August 2022 to 31st March 2023	Rs 1,000	Rs 5,000

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The revised rules for filing Income Tax Returns (ITR) come with several important implications:

- **Reduced Time for Revision:** Under the updated regulations, the timeframe for correcting errors in your ITR has been shortened. Earlier, you had a 2-year period to revise an incorrect ITR, but now this has been reduced to one year from the end of the financial year. Hence, filing your ITR sooner gives you more time to rectify any mistakes.
- **Interest Payment for Late Filing:** Failing to file your ITR by the due date results in the requirement to pay interest at a rate of 1% per month (or part of a month) on the outstanding tax amount, according to section 234A. Notably, your ITR can't be submitted if your taxes remain unpaid. The interest calculation begins right after the due date, typically on 31 July of the assessment year. The longer you delay, the more interest you'll accrue.
- **Loss Carry Forward Limitation:** If you've incurred losses during the year, such as capital losses or losses in your business, adhering to the due date for ITR submission is crucial. Failing to meet this deadline could prevent you from carrying forward these losses to offset against future income.
- **Delayed Refund Processing:** When you're eligible for a tax refund due to excess tax payments, filing your ITR before the due date is essential for prompt processing of your refund.

When are tax returns due? That is, what is the tax return due date?

Income tax filing due dates for FY 2022-23 (AY 2023-24)

Category of Taxpayer	Due Date for Tax Filing - FY 2022-23 *(unless extended)
Individual / HUF/ AOP/ BOI (books of accounts not required to be audited)	31st July 2023
Businesses (Requiring Audit)	31st October 2023
Businesses requiring transfer pricing reports (in case of international/specified domestic transactions)	30th November 2023
Revised return	31 December 2023
Belated/late return	31 December 2023

Key points related to consequences of late filing and missed deadlines for Income Tax Return (ITR)

submission:

- ✚ Interest for Late Filing: If you file your ITR after the due date, you'll be subject to an interest rate of 1% per month or part month on the unpaid tax amount as per Section 234A.
- ✚ Late Fee under Section 234F: Late filing attracts a late fee under Section 234F. This fee is Rs. 5,000, but it's reduced to Rs. 1,000 if your total income is below Rs. 5 lakh.
- ✚ Impact on Loss Adjustment: Filing your ITR on time is crucial for carrying forward losses. Losses from sources like the stock market, mutual funds, properties, or businesses can be offset against future income. However, if you miss the ITR filing deadline, you won't be able to carry forward these losses.
- ✚ Belated Return Option: If you miss the ITR due date, you can still file a return called a "belated return." However, you'll have to pay late fees and interest charges. Importantly, you won't be allowed to carry forward losses for future adjustments if you file a belated return. The last date for filing a belated return is usually December 31st of the assessment year (unless extended by the government).

PAN (PERMANENT ACCOUNT NUMBER)

A PAN card is a 10 digit unique number assigned to every tax paying individual and entity in India. It helps the government identify taxpayers and ensures they pay taxes according to their tax slabs. Although often required for annual income tax returns, PAN cards serve various purposes related to income tax. A permanent account number (PAN) is a ten-character alphanumeric identifier, issued in the form of a laminated "PAN card", by the Indian Income Tax Department, to any "person" who applies for it or to whom the department allots the number without an application.

- Purpose: PAN is primarily used for tracking financial transactions and preventing tax evasion. It is mandatory for a range of financial activities, including filing income tax returns, opening a bank account, investing in securities, buying or selling immovable properties, and more.
- Structure: A PAN card comprises ten characters, where the first five characters are letters, the next four are numbers, and the last character is again a letter. The first three letters are usually alphabetic series based on the taxpayer's jurisdiction, the fourth letter signifies the type of taxpayer (individual, company, trust, etc.), and the fifth letter is the first letter of the surname or last name.
- Application: Individuals and entities can apply for a PAN card through both online and offline methods. Online applications can be made on the NSDL (National Securities Depository Limited) or UTITSL (UTI Infrastructure Technology and Services Limited) websites. Offline applications can be submitted through PAN centers or authorized agents.
- Documents Required: Applicants need to provide proof of identity, proof of address, and proof of date of birth. Documents like Aadhaar, passport, voter ID, driving license, ration card, etc., are accepted as proof.
- Processing Time: The processing time for PAN card issuance varies. Online applications are

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generally processed faster than offline ones. After successful application, the PAN card is usually dispatched within a few weeks.

- **Validity:** A PAN card has a lifetime validity, and the number remains the same even if there are changes in the holder's address or other details.
- **Linking PAN with Aadhaar:** As of my last update in September 2021, it's mandatory to link your PAN with your Aadhaar. This linkage is essential for filing income tax returns and various financial transactions.
- **Importance:** PAN is crucial for tax compliance, as it helps the government track financial transactions and ensures that taxpayers accurately report their income.
- **Online Verification:** PAN details can be verified online through the official Income Tax Department portal. This helps in verifying the authenticity of a PAN number.

In summary, the PAN card is an essential identification and tax-related document in India, playing a significant role in various financial transactions and ensuring transparency in tax matters.

Is PAN Mandatory?

The Income Tax Department has mandated the use of PAN on the return of income on all tax-related transactions. PAN is an integral aspect when it comes to tracking the transactions and monitoring the inflow and outflow of an individual's money.

Also, the government has mandated the linking of PAN with Aadhaar. The deadline for linking of PAN with Aadhaar is 31 March 2020. In the same line, the Finance Minister, in the Union Budget 2020, proposed to instantly allot PAN to individuals on the basis of their Aadhaar.

Who should have a PAN Card?

- All existing assesses or taxpayers or persons who are required to furnish a return of income, even on behalf of others, must obtain PAN.
- Any person carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed five lakh rupees in any previous year;
- Any person, who intends to enter into financial transaction where
- quoting PAN is mandatory, must also obtain PAN.
- The Assessing Officer may allot PAN to any person either on his own or on a specific request from such person

NOTE: Obtaining or Possessing more than one PAN card is against the law, for which a penalty of Rs.10,000/- may be imposed.

TAN (Tax Deduction and Collection Account Number)

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The Tax Deducted at Source (TAN) is a 10-digit number issued to individuals and entities responsible for tax collection or deduction under the Income Tax Act. It must be quoted when applying for TDS or TCS challans, and on certificates. Failure to quote the TAN can result in a fine of Rs. 10,000. It is also mandatory to quote TAN on all tax deducted at source (TDS) returns, as TDS is a means of indirect tax collection by Indian authorities. Failure to apply for TAN or quote it in TDS returns documents incurs a penalty of Rs10,000.

TAN, or Tax Deduction and Collection Account Number, is a unique alphanumeric code issued by the Income Tax Department of India. It is primarily used for the purpose of deducting or collecting taxes at source. TAN is required for entities that are responsible for deducting taxes from payments they make or collecting taxes on payments they receive.

Key Points about TAN:

- **Purpose:** TAN is used for tracking and monitoring tax deductions and collections made by various entities to ensure proper compliance with tax regulations.
- **Mandatory Requirement:** Any entity that is liable to deduct tax at source (TDS) or collect tax at source (TCS) is required to obtain a TAN.
- **Applicability:** TAN is applicable to entities such as companies, firms, individuals, government offices, and other business entities that are responsible for deducting or collecting taxes.
- **Application Process:** An application for TAN can be made through Form 49B. It can be submitted either online on the NSDL (National Securities Depository Limited) website or offline by submitting the physical form at designated TIN Facilitation Centers.
- **Documents Required:** Along with the TAN application, certain documents like proof of identity and address of the applicant need to be submitted.
- **Validity:** TAN is issued with a lifetime validity. However, if there are changes in the details, such as the responsible person, it should be updated with the Income Tax Department.
- **Usage:** TAN is used while deducting or collecting taxes at source and while filing TDS/TCS returns. It needs to be quoted on various tax-related documents, statements, certificates, and correspondence related to TDS/TCS.
- **Structure:** TAN is a ten-character alphanumeric code. The first four characters are

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letters, the next five are numbers, and the last character is again a letter.

- Importance: TAN ensures proper accountability of tax deductions and collections, which helps the government in maintaining tax compliance and transparency.
- Penalties: Non-compliance with TAN requirements, such as failing to obtain TAN or quoting incorrect TAN, can lead to penalties as per income tax laws.
- In summary, TAN is a vital identification number for entities responsible for deducting or collecting taxes at source. It plays a significant role in ensuring accurate tax collection and compliance with tax regulations

What is the difference between PAN and TAN?

PARAMETER	PAN	TAN
Issuing Agency	Income Tax Department	Income Tax Department
Code type	10 digit alphanumeric code	10 digit alphanumeric code
Code content	The first 5 digits are alphabets representing various information, followed by 4 numbers and an alphabet	A TAN is composed of 4 alphabets, followed by 5 numbers, with an alphabet as the last digit
Purpose	PAN acts as a universal identification code for financial transactions	Streamline deduction and collection of tax at source
Who should own it	Every taxpayer/assessee	Every individual/entity who has to deduct or collect tax at source
Laws which account for it	Section 139 A of the IT Act of 1961	Section 203A of Income Tax Act of 1961
Fines/Penalties	A penalty of Rs 10,000 can be imposed for failure to comply with the rules	A penalty of Rs 10,000 can be imposed for failure to comply with the rules

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Form to be used for application	Form 49A (Indians), Form 49AA (Foreigners)	Form 49B
Documents required to apply	Valid ID proof, address proof, photographs (in case of individuals) and proof of age (date of birth)	None. In case of online application the signed acknowledgement needs to be submitted
How many can one own?	One	One
Cost of applying	Rs.107 if the communication address is located inside India and Rs.989 if the address is outside India	Rs.55 plus service tax

SECTION 139

Section 139(3): Filing Income Tax in Case of a Loss

Under Section 139(3), an Income Tax Return has to be filed in the following circumstances:

- If the loss occurs under 'Capital Gains' or 'Profits and Gains of Business and Profession', then you must file a return if the loss is to be carried forward to the next year and be offset against future income.
- If the loss occurs under 'House Property', then an ITR need not be filed, and the loss can be carried forward even if the return is filed after the due date. So anyone with a housing loan who files their return late can still get the benefit of deduction on interest payment on the loan under Section 24 of the Income Tax Act.
- The loss of income in the current year cannot be carried forward if an ITR reporting the loss has not been filed within the due date. But the loss of earlier years can be carried forward if returns have been filed for those losses on time and has been assessed by the taxman.
- If the loss would be offset against an income within the same year, the setting off will be allowed even if the return is filed after the due date.
- Even if an ITR has been filed reporting loss after receiving a notice under Section 142(1), that loss cannot be carried forward to the next year unless it is under 'House Property'. The unabsorbed depreciation, however, can be carried

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forward.

- Whatever loss is carried forward, can be offset only against similar heads in the next year. For example, a loss in Capital Gains can only be offset against another capital gain in the following years.
- It is important to remember that if you have been filing ITR for a few years consistently, it is better to file your return even if your income is below the taxable limit or if you have incurred a loss. This is because the Income Tax department is likely to consider this as an aberration and send you a notice for non-filing of income tax return.

Significance:

- **Loss Adjustment:** Filing ITR despite incurring a loss is crucial to avail the benefit of loss carry forward. The unadjusted loss can be carried forward for set-off against future income for a specified period, subject to certain conditions.
- **Transparency and Compliance:** Filing ITR even when there's a loss demonstrates transparency and compliance with tax laws. It provides the Income Tax Department with accurate financial information and records of losses incurred.
- **Avoiding Penalties:** Non-filing or delayed filing of ITR can result in penalties and interest charges. By adhering to Section 139(3), taxpayers can avoid such penalties.

Section 139(4): Belated Income Tax Return

What is Belated Return?

The due date to file the income tax return for the financial year 2022-23 ended on 31st July 2023. If you miss filing your ITR within the original deadline, then you can file a late return, known as Belated Return. Belated return is a return filed after the initial deadline (31st July) but before the extended deadline (31st December). Section 139(4) applies to individuals, Hindu Undivided Families (HUFs), companies, and other entities that fail to file their ITR by the original due date.

Filing ITR for Previous Years

According to the Finance Act 2021 amendment, you can file your belated IT return anytime on or before three months before the end of the relevant Assessment Year (AY). For Example, for the AY 2023-24, the timeline to file a belated return is on or before 31 December 2023 (if income tax authorities do not complete the assessment on their own).

The amendment vide Finance Act 2021 reduced the timeline of filing the belated return. With

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effect from AY 2021-22, you can file the belated return three months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Drawbacks of Filing Late Return

The following are the disadvantages of filing a belated return:

- Interest may be applicable under sections 234A, 234B and 234C.
- A late fee will be levied under Section 234F while filing a belated return:

Gross total income	Late fee
up to Rs 2.5 lakh	No Penalty
Rs 2.5 lakh – Rs 5 lakh	Rs 1,000
more than Rs 5 lakh	Rs 5,000

- If you have incurred losses, like business and capital losses, they cannot be carried forward and set off in the subsequent years. However, an exception is available for losses from house property that can be carried forward even if you file your returns late.
- Deductions/ Exemptions Disallowed: Deductions/ exemptions u/s 10A, 10B, 80-IA, 80-IB, 80-IC, 80-ID and 80-IE shall not be available if you delay ITR filing. These tax-saving benefits are allowed only if the ITR is filed before the original deadline.

How To File Belated Returns?

Belated return u/s 139(4) can be in the usual manner on Cleartax. Refer to this page for a detailed guide.

If you wish to file it on Income Tax Portal, take a look at this step-by-step guide on how to file a belated return online and offline.

Implications and Considerations:

- Penalties: Filing a belated return usually incurs a higher penalty compared to filing within the original due date. The penalty amount can vary depending on the taxpayer's income and the provisions of the Income Tax Act.
- Interest Charges: Apart from penalties, taxpayers are also liable to pay interest

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on the outstanding tax amount for the period of delay. The interest rates and calculation methods are defined under relevant sections of the Income Tax Act.

- **Loss Carry Forward:** Filing a belated return may restrict the ability to carry forward certain types of losses, such as capital losses, for set-off against future income. This can impact future tax planning.
- **Compliance and Timely Filing:** Filing ITR within the original due date is advisable to avoid penalties, interest charges, and loss of certain benefits associated with timely filing.

Significance:

- **Grace Period:** Section 139(4) provides taxpayers with a second chance to file their ITR after the original deadline. However, it comes with financial implications in terms of penalties and interest.
- **Government Discretion:** The government has the authority to extend the deadline for filing belated returns in exceptional circumstances, providing taxpayers with a limited opportunity to comply without the full extent of penalties.

Section 139(4A): Charitable and Religious Trusts

Some taxpayers might be receiving their income through a property held under a kind of legal obligation that it might be partially or completely falling under charitable or religious purposes. It can also be an income coming from voluntary contributions. In any of these cases, the ITR has to be filed under section 139(4A) only if the total gross income is more than the permissible amount.

Section 139(4B): Political Parties Section

139(4B) is specifically for political parties who are eligible to file an income Tax Return if the total income - majorly coming from voluntary contributions - is more than the allowable tax exempted limit.

Section 139(4C) and 139(4D): Exemption Under Section 10

As per Section 10, there are specific institutions that are eligible to claim certain advantages. And, for the tax return of these institutions, section 139(4C) and Section

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139(4D) are used.

Section 139(4C) comprises such institutes for which it is obligatory to file a tax return in case the allowable limit is exceeding the maximum exemption cap. These include:

- Associations working in scientific research
- Associations or institutions covered under Section 10(23A)
- News agencies
- Institutions covered under Section 10(23B)
- Hospitals, universities, medical institutes, and educational institutes

Section 139(4D), on the other hand, neither makes it necessary to file tax for universities, colleges, and institutions, nor does it demand to carry forward any loss.

Section 139(9) – Defective Returns

As per Section 139(9), a tax return is defective if certain documents are not attached while filed the return. In case the return is considered defective by the tax officer, then tax payer will be informed by him and will be allowed to rectify the defect within 15 days starting from the day of intimation. Upon request from the tax payer through an application, the allowable period could be extended also. The assessing officer intimates the tax payer about the defect through a simple letter.

The following documents are necessary to avoid your filing to be deemed as defective:

- A duly filled tax return in the recommended form
- A statement displaying the computation of payable taxes
- Proof of all claims of paid taxes – like proof of tax deduction and collection that was done at source, payment of self-assessment tax and advance tax
- A report for the audit done u/s 44AB, where prior to filing the return, the report is furnished
- If tax payer maintains books of account then the mandatory copies are:
 - Profit and Loss A/C, Manufacturing A/C, Trading A/C, Balance Sheet, Income & Expense A/C
 - Personal A/Cs of partners in case of partnership firms
 - For AOP/BOI, personal accounts of the members
 - For proprietors, the personal account
- If the tax payer's account is audited, then the copies of audit report, balance sheet and audited profit and loss A/C

- In case of Cost Audit, the relevant report
- If Books of A/C for the tax payer is not maintained, then a statement indicating the gross receipts, turnover amount, expenses and net profit, bank balance, stocks, cash, debtors and creditors information and so on.

Section 139(5) – Revised Return

- Section 139(5) allows correction of mistakes or omissions in the original income tax return.
- It applies when the original return was filed within the due date.
- Late or belated returns are not covered by this section and cannot be revised.
- A revised return can be filed within one year after the relevant assessment year ends or before assessment completion, whichever is earlier.
- No limitations on the number of revisions within the specified time frame.
- Revision can be done using the same original form or a different one.
- Filing a revised return replaces the original return filed under Section 139(1).
- Section 139(5) covers unintentional mistakes, not concealment or false statements.
- Penalties apply for intentional mistakes, omissions, or fraudulent filing.

Points to keep in mind before filing Revised Return u/s 139(5) under Income Tax

- Revise Return substitutes the original return once it is filed
- Ensure that your original income tax return is e-verified
- Enter the acknowledgment number of ITR-V and the date of filing of the original return
- Even if you filed your return after the due date, which is a belated return, a revised income tax return can be filed on such a belated return.
- You can file a Revise Return even if the return has been processed
- Make sure that you e-verify your revised income tax return after filing

When do you file a Revised Return under Section 139(5)?

- Revising on your own
- To rectify errors or mistakes made in the original Income Tax Return
- To disclose income or information not reported in the original Income Tax Return

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Revising in response to a notice

- If the assessee agrees to a mismatch in the notice for the proposed adjustment under Sec 143(1)(a)
- When the assessee pays outstanding demand as per Sec 143(1) and then files a Revised Return

Revising in response to a notice

- If the assessee agrees to a mismatch in the notice for the proposed adjustment under Sec 143(1)(a)
- When the assessee pays outstanding demand as per Sec 143(1) and then files a Revised Return

Due Date to file Revised Return under Income Tax Act

- As per section 139(5) of Income Tax Act, a Revised Return can be filed before the last date of filing the return (31st December) or before the end of the assessment of the return, whichever is earlier.
- The revised return for FY 2021-22 (AY 2022-23) can be filed on or before 31st December 2022.

How to file Revised Return u/s 139(5)?

You can file a Revised Return by uploading the ITR JSON of your revised return offline using the eFiling portal. You can follow the steps below.

- Login into the e-Filing Portal with PAN/ Aadhar/ User Id and Password. On the dashboard, navigate to Income Tax Returns > File Income Tax Return
- Now, select the Assessment year and Mode of Filing, and click on Continue
- If you select the offline mode of filing, you will get a drop-down of Select Filing Type, audited u/s 44AB, and Select ITR Type, choose the relevant options and click Continue (under filing type a taxpayer needs to choose section – 139(5) – Revised Return)
- On the next page, attach the JSON file of the filled ITR and click on Proceed to verification.

Thereafter, you have to e-Verify your revised income tax return.

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● **ASSESSMENT OF RETURN**

TO BE COVERED AS PER SYLLABUS: Self-assessment u/s 140A, Summary assessment u/s 143(1), Scrutiny assessment u/s 143(3) and Best judgement assessment u/s 144.

MEANING OF INCOME TAX ASSESSMENT - Income tax assessment is the process of **collecting and reviewing the information filed by assessees in their income tax returns**. At the end of each financial year, all persons and entities required to file an income tax return by self-computing the amount of income earned and pay the tax due.

Under the Income-tax Law, there are four major assessments given below:

- Assessment under section 143(1), i.e., Summary assessment without calling the assessee.
- Assessment under section 143(3), i.e., Scrutiny assessment.
- Assessment under section 144, i.e., Best judgment assessment.
- Assessment under section 147, i.e., Income escaping assessment

Particulars	Mandatory Requirements
Self assessment u/s 140A.	–
Scrutiny assessment u/s 143(3).	Section 143(2) Notice
Best judgment assessment u/s 144.	Show cause notice u/s 144
Protective Assessment	–
Income escaping assessment u/s 147.	Section 148 Notice
Assessment in case of search u/s 153A	Section 153A

➤ **SELF-ASSESSMENT U/S 140A**

The assessee himself determines the income tax payable. The tax department has made available various forms for filing income tax return. The assessee consolidates his income from various sources and adjusts the same against losses or deductions or various exemptions if any, available to him during the year. The total income of the assessee is then arrived at. The assessee reduces the TDS and Advance Tax from that amount to determine the tax payable on such income. Tax, if still payable by him, is called self assessment tax and must be paid by him before he files his return of income. This process is known as Self Assessment

Self Assessment – Section 140A

Where any tax is payable on the basis of any return required to be furnished under section 139 / 142 / 148 / 153A, after taking into account,—

(i) the amount of tax, if any, already paid
(ii) any tax deducted or collected at source;
(iii) any relief of tax or deduction of tax claimed u/s 90 or 91
(iv) any relief of tax claimed under section 90A and
(v) any tax credit claimed to be set off in accordance with the provisions of section 115JAA,

liable to pay such tax together with interest for any delays

WHEN SELF ASSESSMENT TAX IS PAID?

Taxpayer needs to pay Self Assessment Tax before filing of his Income Tax Return but after taking credit of all the taxes paid in advance or relief(s) under various sections.

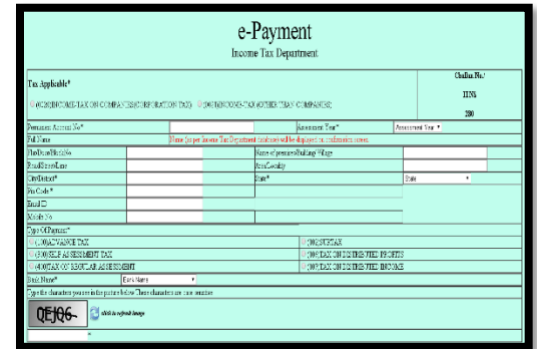
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HOW TO PAY SELF ASSESSMENT TAX?

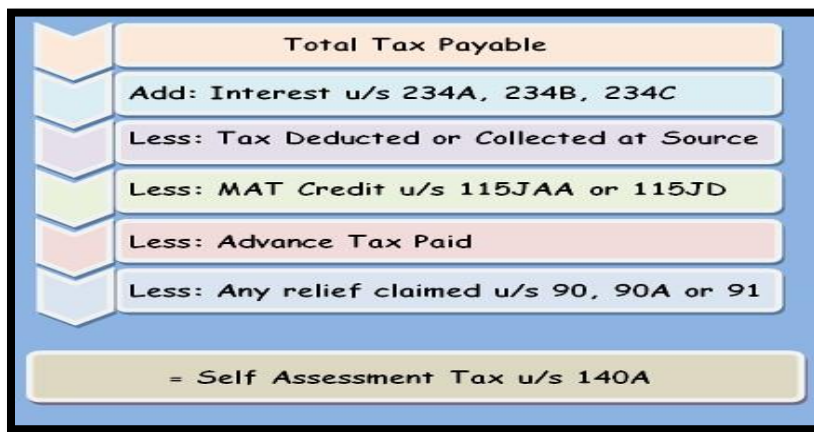
make sure that self assessment tax which you pay accompanies Challan no./ITNS 280. You can pay the self assessment tax at any authorized bank or online, through following link :

<https://onlineservices.tin.egov-nsdl.com/etaxnew/tdsnontds.jsp>

You will have to mention the details of self assessment tax paid such as Challan no., date of payment, etc. in your Income Tax Return.



HOW IS SELF-ASSESSMENT TAX CALCULATED?



HOW THE SELF ASSESSMENT TAX PAID IS TO BE ADJUSTED WITH THE INTEREST UNDER SECTION 234A / 234B / 234C?

Where the self assessment tax paid by an assessee falls short of the actual i.e. the taxpayer does not pay the amount in full then the amount so paid by him shall first get adjusted towards the interest payable and the balance towards the tax.

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Let's understand this with the following **EXAMPLE.**

Following are the tax details of Miss Poonam :

<i>Income Tax including surcharge as per Income Tax Return</i>	<i>Rs. 1,00,000</i>
<i>Add: Interest under section 234A / 234B / 234C</i>	<i>Rs. 40,000</i>
	Rs. 1,40,000
<i>Less: TDS and Advance Tax</i>	<i>Rs. 45,000</i>
Self Assessment Tax to be paid under section 140A	Rs. 95,000
Amount paid as Self Assessment Tax	Rs. 60,000

Now, as Miss Poonam did not pay self assessment tax in full therefore, the amount paid will first be adjusted towards interest under section 234A / 234B / 234C and the balance towards tax as below.

Rs. 40,000 as interest under section 234A / 234B / 234C and Rs. 20,000 towards Income Tax

Please note that Interest under section 234A is levied for late filing of Income Tax Return while the Interest under section 234B / 234C is levied for delay in payment of advance tax.

WHAT IF YOU DON'T PAY SELF ASSESSMENT TAX IN FULL?

Consequences of not paying self assessment tax in full :

Return cannot be filed until and unless the total tax liability of the assessee has been paid by him. Therefore, you will not be able to file your Income Tax Return where you have not paid the taxes in full.

There is a high probability of late return filing where you do not deposit self assessment tax in full. In such cases, you will be liable for Interest u/s 234A for delay in the filing of Income Tax Return.

➤ **SUMMARY ASSESSMENT U/S 143(1)**

It is a type of assessment carried out without any human intervention. In this type of assessment, the information submitted by the assessee in his return of income is cross-checked against the information that the income tax department has access to. In the process, the reasonableness and correctness of the return are verified by the department. The return gets processed online, and adjustment for arithmetical errors, incorrect claims, and disallowances are automatically done. Example, credit for TDS claimed by the taxpayer is found to be higher than what is available against his PAN as per department records. Making an adjustment in this regard can increase the tax liability of the taxpayer.

After making the aforementioned adjustments, if the assessee is required to pay tax, he will be sent an intimation under Section 143(1). The assessee must respond to this intimation accordingly.

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This is a preliminary assessment and is referred to as summary assessment without calling the assessee (i.e., taxpayer).

SCOPE OF ASSESSMENT UNDER SECTION 143(1)

Assessment under section 143(1) is like preliminary checking of the return of income. At this stage no detailed scrutiny of the return of income is carried out. At this stage, the total income or loss is computed after making the following adjustments (if any), namely:-

- (i) any arithmetical error in the return; or
- (ii) an incorrect claim (*), if such incorrect claim is apparent from any information in the return;
- (iii) disallowance of loss claimed, if return of the previous year for which set-off of loss is claimed was furnished beyond the due date specified under section 139(1); or
- (iv) disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return; or
- v) disallowance of deduction claimed u/s 10AA, 80IA to 80-IE, if the return is furnished beyond the due date specified under section 139(1); or
- (vi) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return. However, no such adjustment shall be made in relation to a return furnished for the assessment year 2018-19 and thereafter.

However, no such adjustment shall be made unless an intimation is given to the assessee of such adjustment either in writing or in electronic mode. Further, the response received from the assessee, if any, shall be considered before making any adjustment, and in case where no response is received within 30 days of the issue of such intimation, such adjustments shall be made.

For the above purpose “an incorrect claim apparent from any information in the return” means a claim on the basis of an entry in the return :-

- (i) of an item which is inconsistent with another entry of the same or some other item in such return;
- (ii) in respect of which the information is required to be furnished under the Act to substantiate such entry and has not been so furnished; or
- (iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

PROCEDURE OF ASSESSMENT UNDER SECTION 143(1)

After correcting arithmetical error or incorrect claim (if any) as discussed above, the tax and interest and fee*, if any, shall be computed on the basis of the adjusted income.

Any sum payable by or refund due to the taxpayer shall be intimated to him.

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An intimation shall be prepared or generated and sent to the taxpayer specifying the sum determined to be payable by, or the amount of refund due to the taxpayer. An intimation shall also be sent to the taxpayer in a case where the loss declared in the return of income by the taxpayer is adjusted but no tax or interest is payable by or no refund is due to him.

The acknowledgement of the return of income shall be deemed to be the intimation in a case where no sum is payable by or refundable to the assessee or where no adjustment is made to the returned income.

*As per section 234F (as inserted by Finance Act, 2017 with effect from Assessment Year 2018-19), a fee shall be levied where the return of income is not filed within the due dates prescribed under section 139(1). The amount of fee is as follows:-

(a) Rs. 5,000, if the return is furnished on or before the 31st day of December of the assessment year;

(b) Rs. 10,000 in any other case:

Provided that if the total income of the person does not exceed Rs. 5,00,000, the amount of fee shall not exceed Rs. 1000.

TIME-LIMIT

Assessment under section 143(1) can be made within a period of one year from the end of the financial year in which the return of income is filed.

➤ **SCRUTINY ASSESSMENT 143(3).**

This is a detailed assessment and is referred to as scrutiny assessment. At this stage a detailed scrutiny of the return of income will be carried out is to confirm the correctness and genuineness of various claims, deductions, etc., made by the taxpayer in the return of income.

SCOPE OF ASSESSMENT UNDER SECTION 143(3)

<input type="checkbox"/> This is a detailed assessment.
<input type="checkbox"/> At this stage a detailed scrutiny of the return of income will be carried out confirm the correctness and genuineness of various claims, deductions, etc., made by the taxpayer in the return of income.
Time Limit
As per section 153 of the Act, assessment under section 143(3) shall be made within a period of 21 months from the end of assessment year.

The objective of scrutiny assessment is to confirm that the taxpayer has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner.

To confirm the above, the Assessing Officer carries out a detailed scrutiny of the return of income and will satisfy himself regarding various claims, deductions, etc., made by the taxpayer in the return of income.

PROCEDURE OF ASSESSMENT UNDER SECTION 143(3)

If the Assessing Officer considers it necessary or expedient to ensure that the taxpayer has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner, then he will serve

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on the taxpayer a notice requiring him to attend his office or to produce or cause to be produced any evidence on which the taxpayer may rely, in support of the return.

To carry out assessment under section 143(3), the Assessing Officer shall serve such notice in accordance with provisions of section 143(2).

Notice under section 143(2) should be served within a period of six months from the end of the financial year in which the return is filed.

The taxpayer or his representative (as the case may be) will appear before the Assessing Officer and will place his arguments, supporting evidences, etc., on various matters/issues as required by the Assessing Officer.

After hearing/verifying such evidence and taking into account such particulars as the taxpayer may produce and such other evidence as the Assessing Officer may require on specified points and after taking into account all relevant materials which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the taxpayer and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

➤ **BEST JUDGEMENT ASSESSMENT U/S 144**

This assessment gets invoked in the following scenarios:

a. If the assessee fails to respond to a notice issued by the department instructs him to produce certain information or books of accounts

b. If he/she fails to comply with a Special Audit ordered by the Income tax authorities

c. The assessee fails to file the return within due date or such extended time limit as allowed by the CBDT

d. The assessee fails to comply with the terms as contained in the notice issued under Summary Assessment

After providing an opportunity to hear the assessee's argument, the assessing officer passes an order based on all the relevant materials and evidence available to him. This is known as Best Judgement Assessment.

This is an assessment carried out as per the best judgment of the Assessing Officer on the basis of all relevant material he has gathered. This assessment is carried out in cases where the taxpayer fails to comply with the requirements specified in section 144.

SCOPE OF ASSESSMENT UNDER SECTION 144

As per section 144, the Assessing Officer is under an obligation to make an assessment to the best of his judgment in the following cases:-

Best Judgment Assessment (u/s 144)

As per section 144, the AO is under an obligation to make an assessment to the best of his judgment in the following cases:-

- If the taxpayer fails to file the return required within the due date prescribed u/s 139(1) or a belated return u/s 139(4) or a revised return u/s 139(5).
- If the taxpayer fails to comply with all the terms of a notice issued u/s 142(1).
- If the taxpayer fails to comply with the directions issued u/s 142(2A).
- If after filing the return of income the taxpayer fails to comply with all the terms of a notice issued under section 143(2), i.e., notice of scrutiny assessment
- If the assessing officer is not satisfied about the correctness or the completeness of the accounts of the taxpayer or if no method of accounting has been regularly employed by the taxpayer.

Time limit

As per section 153, assessment under section 144 shall be made within a period of 21 months from the end of the relevant assessment year.

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If the taxpayer fails to file the return required within the due date prescribed under section 139(1) or a belated return under section 139(4) or a revised return under section 139(5).

If the taxpayer fails to comply with all the terms of a notice issued under section 142(1).

Note: The Assessing Officer can issue notice under section 142(1) 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 and 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.

If the taxpayer fails to comply with the directions issued under section 142(2A).

Note : 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 will direct the taxpayer to get his accounts audited from a chartered accountant nominated by the principal chief commissioner or Chief Commissioner or Principal Commissioner or Commissioner and to furnish a report of such audit in the prescribed form.

If after filing the return of income the taxpayer fails to comply with all the terms of a notice issued under section 143(2), i.e., notice of scrutiny assessment.

If the assessing officer is not satisfied about the correctness or the completeness of the accounts of the taxpayer or if no method of accounting has been regularly employed by the taxpayer.

From the above criteria, it can be observed that best judgment assessment is resorted to in cases where the return of income is not filed by the taxpayer or if there is no cooperation by the taxpayer in terms of furnishing information / explanation related to his tax assessment or if books of accounts of taxpayer are not reliable or are incomplete.

PROCEDURE OF ASSESSMENT UNDER SECTION 144

If the conditions given above calling for best judgment are satisfied, then the Assessing Officer will serve a notice on the taxpayer to show cause why the assessment should not be completed to the best of his judgment.

No notice as given above is required in a case where a notice under section 142(1) has been issued prior to the making of an assessment under section 144. If the Assessing Officer is not satisfied by the arguments of the taxpayer and he has reason to believe that the case demands a best judgment, then he will proceed to carry out the assessment to the best of his knowledge.

If the criteria of the best judgment assessment are satisfied, then after taking into account all relevant materials which the Assessing Officer has gathered, and after giving the taxpayer an opportunity of being heard, the Assessing Officer shall make the assessment of the total income or loss to the best of his knowledge/judgment and determine the sum payable by the taxpayer on the basis of such assessment.

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TIME-LIMIT

As per Section 153, the time limit for making assessment under section 144 is:-

- 1) Within 21 months from the end of the assessment year in which the income was first assessable. [For assessment year 2017-18 or before]
- 2) 18 months from the end of the assessment year in which the income was first [for assessment year 2018-19]
- 3) 12 months from the end of the assessment year in which the income was first assessable [Assessment year 2019-20 and onwards]

Note:- If reference is made to TPO, the period available for assessment shall be extended by 12 months.