

PRECAUTIONS WHILE FILING INCOME TAX RETURN AND CHANGES IN NEW ITR



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Filing of income tax return is mandatory if the Total Income of an Individual exceeds the maximum amount which is not chargeable to income-tax

It is also mandatory to file Income Tax Returns in the following cases:-

- If a person is a resident and ordinary resident in India:-
 - a) Who holds any asset (including any financial interest in any entity) located outside India; or
 - b) is a beneficiary of any asset (including any financial interest in any entity) located outside India; or
 - c) Who has signing authority in any account outside India; or
- If an Individual has deposited greater than Rs.1 crore in aggregate in his Bank Current Accounts; or
- If an Individual has deposited greater than Rs.50 lakhs in one or more saving bank accounts; or
- If an Individual has incurred expenditure greater than Rs.2 lakhs for Foreign travel; or
- If an Individual has incurred expenditure greater than Rs.1 lakhs towards electricity consumption; or
- If Total Sales, Turnover or Gross Receipts exceeds Rs.60 Lakhs; or
- If Total Gross Receipts in the Profession exceeds Rs.10 Lakhs; or
- If Total Tax Deducted and Collected at Source (TDS / TCS) is Rs.25,000 or more (Rs.50,000 in case of resident senior citizen)

Also, as per section 206AB and section 206CCA non-filers of income tax will be liable to higher rate of tax deduction and tax collection.

A. New Regime and Old regime:

- Choose Regime carefully :
 - Individuals with income (other than income from business & profession) can change their option of being taxed under the old or new tax regime every year. This option must be exercised when filing the income tax return and can be changed every year, provided **the income tax return is filed within the due date.**
 - However, for individuals with income from business and profession, the tax regime opted for in the previous tax returns also applies to the subsequent years. The tax regime can be changed **only once** in their lifetime by submitting an application in prescribed Form 10IE, on or before the due date of filing the income tax return under Section 139 (1) of the Act.

- Filing of Form 10 IE :
 - Form 10IE is a declaration made by the return filers for choosing the 'New Tax Regime'. Individuals having income from business & profession must submit form 10IE before switching from old regime to new and vice versa.
 - For individuals and Hindu Undivided Families (HUFs), who do not have to get their accounts audited, the due date for filing Form 10 IE is 31st July 2023 and for individuals and HUFs who are required to get their accounts audited, the due date for filing Form 10 IE is 30th September 2023.
 - Form 10IE should be filed before filing Income Tax Return.
- Belated and Revised Return :
 - One cannot file a belated tax return under the new tax regime. If one is filing a tax return after the due date of the return, it has to be filed under the old regime. Likewise, if one files a revised belated return, then also one cannot opt for a new tax regime.
 - Besides, where one has a business income, then form 10-IE has to be filed before the due date of filing ITR for switching to the new tax regime. Also, if such a taxpayer has filed an original return under the new tax regime, he/she will have to file a revised return under the new tax regime. That's because Form 10IE cannot be withdrawn during the year.
- Disclosure of information if the assessee opted out from the alternative tax regime under Section 115BAC:
 - An Individual or HUF can opt for an alternative tax regime under Section 115BAC. In the case of the assessee having income from business or profession, the option, once exercised, is allowed to be withdrawn only once for a previous year other than the year in which it was exercised. Once such option has been withdrawn, the assessee shall never be eligible to exercise the option under this section, except where such person ceases to have any income from business or profession. To opt out from the regime, Form No. 10-IE shall be furnished electronically either under a digital signature or electronic verification code.
 - The new ITR forms seek details if the assessee has ever opted out of Section 115BAC in earlier years. If the taxpayer has opted out, he is required to give details of the following:
 - (a) Assessment Year in which said option is opted out;
 - (b) Date of filing; and
 - (c) Acknowledgement number of Form 10-IE.

B. Reconcile from AIS, TIS, and Form 26AS:

- Compare TDS and Income information:

AIS and TIS have become great sources of information that earlier even the assessee were not ready to provide. However, one cannot prepare income tax returns solely from AIS and TIS. Comparing the income details with AIS and TIS is a must. Even a minor difference in the sale value of equity sold has invited the notice from the income tax department last year.

- Confirm tax payments: Check if the tax payments mentioned in the AIS and TIS match the tax credits reflected in Form 26AS. Earlier, importing form 26AS to our return filing software was sufficient to get the details of taxes paid in the computation of income however, in **AY 2023-24, advance tax paid is not getting reflected in form 26AS**. However, it is getting reflected in form AIS. Thereby confirming the tax payments from form AIS.

C. Schedule AL:

- This schedule is to be filled mandatorily by individuals and Hindu Undivided Families (HUF) if their total income after all the deductions exceeds INR 50 lacs, and they have not engaged in any business or profession during the financial year. Here must provide details of immovable assets, financial assets, and movable assets held by the assessee and all the corresponding liabilities.
- However, for those engaged in business/ profession who are required to furnish their Balance Sheet, the assets that have already been included in the balance sheet are not required to be disclosed again. Only the assets that have not been disclosed in the Balance Sheet are required to be reported in this Schedule. The above requirements are applicable for those filing ITR 2 and ITR 3.
- Note that non-residents and not ordinarily resident individuals must provide details of their assets situated in India.
- Must disclose the details of all immovable property acquired through gifts or as inheritance as well. The cost for the same shall be The cost for which the previous owner had acquired it and any subsequent cost of improvement incurred either by the previous owner or the taxpayer can also be added. (b) Where the cost of such asset is not ascertainable, and a wealth tax return was also not filed for that asset, then the value may be estimated at the circle rate or bullion rate as on the date of acquisition by the assessee, and any subsequent cost of improvement can also be added.
- If the assessee is a partner of a firm or a member of an AOP, then his/her interest held in the assets of a firm or AOP needs to be disclosed with the PAN of the entity

D. Return cannot be filed in ITR-1 if it is being filed due to the reason of depositing more than Rs. 1 crore in the current account [ITR 1]:

- The seventh proviso to Section 139 provides that any person, who is otherwise not required to file the return, shall file the return of income during the previous year:
 - (a) He has deposited more than Rs. 1 crore in one or more current accounts maintained with a bank or a cooperative bank;
 - (b) He has incurred more than Rs. 2 lakhs for himself or any other person for travel to a foreign country;
 - (c) He has incurred more than Rs. 1 lakh towards payment of electricity bill; or
 - (d) He fulfills such other conditions as may be prescribed.
- If a person falls under any of the points mentioned above, filing of return shall be mandatory for him, irrespective of the fact that he is not liable to file the return of income. Return can be filed in ITR forms 1 to 4 depending upon the nature of income he is earning. **However, the option to file a return in ITR-1 by an individual, who has deposited more than Rs. 1 crore in one or more current accounts, has been removed for the Assessment Year 2023-24.**

E. New Schedule for income from transfer of virtual digital assets:

Virtual Digital Asset (VDA) covers crypto assets, Non-fungible tokens (NFTs), and any other digital asset, and it does not cover Indian currency, CBDCs, Foreign currency, and notified digital assets. The Finance Act, 2022 introduced a new flat rate scheme for the taxation of income arising from the transfer of Virtual Digital Assets ('VDA') with effect from the assessment year 2023-24. Every transfer of virtual digital assets on or after 01-04-2022 shall be covered under this scheme. Further, Section 194S requires the deduction of tax from the payment of consideration on the transfer of VDA.

To bring the necessary changes to the new ITR Form, Schedule VDA has been added. The Schedule asks for details like the date of acquisition, date of transfer, head under which income is to be taxed, cost of acquisition in case of gift, and consideration received. Taxable income will be recorded in Schedule CG (Capital Gains) or Schedule BP (Business Income) based upon the classification of income under the head of capital gains or business income.

F. ARN (Donation Reference Number):

ARN is to be mentioned if the donation is eligible for Section 80G deduction. As per Section 80G of the Income Tax Act 1961, any assessee who has paid any sum by way of donation is eligible to claim a deduction under this section to the extent of 50% to 100% of the donation made. For certain donations, the deduction is allowed subject to the qualifying limit. In the new ITR forms, a new column has been inserted to disclose ARN (Donation Reference Number) in case the donation is made to entities wherein a 50% deduction is allowed subject to the qualifying limit.

G. Disclosure of 'Advances' in the balance sheet and Investments made in specified modes:

The Balance Sheet Schedule of ITR-3 has been amended to incorporate disclosures related to 'Advances'. It seeks the following two details:

- (a) Advances from persons specified in Section 40A(2)(b); and
- (b) Advances from others.

Earlier, the details of investments made under Section 11(5) were to be provided in Schedule J'. Now, the form seeks only the details of corpus investment/ deposits made under Section 11(5).

H. Schedule Foreign Assets:

- A "resident & ordinarily resident taxpayer" holding foreign assets or foreign interest at any time during the relevant accounting period needs to necessarily disclose the same in the ITR form. Therefore, a foreign asset or interest held even for a single day during the year triggers the reporting requirement.
- There is a stiff cost to such non-disclosures, as many are discovering: a penalty of ₹10 lakhs a year under the Black Money Act (BMA) - so if a bank account was opened five years ago and has remained a 'secret' since then, the basic fine will be ₹50 lakhs if the assessee is unable to convince tax authorities
- So the persons who would need to make disclosures under this schedule would be persons who have invested abroad or acquired assets using the Liberalized Remittance Facility, employees who have been granted and have exercised stock options and been allotted shares of foreign companies, NRIs who have returned to India and have retained assets abroad, as well as expatriates who have been in India for more than two years and have therefore become resident and ordinarily resident in India.

- The shares of a foreign company, or units of a foreign mutual fund are regarded as foreign assets, irrespective of from whom they are purchased.
- **Crypto currencies stored in a foreign crypto-wallet would also be regarded as foreign assets.**
- One point to note is that taxpayers are also required to state the country in which the asset is held. That may not necessarily be the same country in which the asset was acquired. For instance, if we hold shares of a US company acquired on the Singapore Stock Exchange, the country in which the asset is held would have to be disclosed as USA, and not Singapore. This is because it is the US company that would report the fact of having an Indian shareholder under FATCA.
- The reporting of foreign currency or assets in the ITR of FY 2022-23 will depend upon the accounting periods of the foreign country as below:
 - 1st January 2022 – 31st December 2022: If the foreign assets, foreign accounts, etc. are acquired between 1st January 2022 – 31st December 2022, and the assets/accounts belong to the foreign country/jurisdiction where calendar year is considered for the closing of accounts and return filings.
 - 1st April 2022 – 31st March 2023: If the foreign assets, foreign accounts, etc. are acquired between 1st April 2022 – 31st March 2023, and the assets/accounts belong to the foreign country/jurisdiction where the financial year is considered for the closing of accounts and return filings.
 - That period of 12 months, ending on any day succeeding 1st April 2022, in respect of foreign assets, accounts held in the foreign country/jurisdictions where the other 12 months accounting or tax filing period is adopted.
 - For instance, assuming the resident individual acquires a foreign asset in July 2022 from the foreign country. And the said foreign country follows the calendar year for tax filing and closing of accounts. Then, the resident individual will be required to report the same in the income tax return of the FY 2022-23. However, for the foreign assets acquired in February 2023, the taxpayer shall report it in the income tax return of FY 2023-24.

I. Submission of Feedback on E-Campaign:

- Under this E-Campaign, the Income Tax Department sends email/ SMS to identified taxpayers to verify their financial transactions related information received by the IT Department from various sources such as Statements of Financial Transactions (SFT), Tax Deduction at Source (TDS), Tax Collection at Source (TCS), etc. The department has collected information related to GST, Exports/ Imports, and transactions in securities, derivatives, commodities, and mutual funds under an information triangulation setup.
- The income tax department has launched an e-campaign for the voluntary compliance of income tax for the convenience of taxpayers. The campaign focuses on the Assessee/Taxpayer who is either:-
 - i. Non-filers of income tax returns.
 - ii. Have discrepancies/deficiencies in their returns

From the options, the Individual is required to select the most appropriate response from below:

- Information is correct
 - Information is not fully correct
 - Income is not taxable
 - Information relates to other PAN/year
 - Information is duplicate/included in other displayed information
 - Information is denied
- So, in case we are in disagreement with the transactions reported to the income tax department taxpayer should submit a response to the same so that there will not be an evident mismatch between ITR filed and online available information.

Conclusion:

Compliance with tax laws is a key focus, and thereby there is need to disclose all transactions, assets, and foreign income/assets as required by tax regulations. Maintaining proper documentation and records is advised to support the information provided in the tax return.

Verification of the income tax return within the prescribed due date is the last but most important step to complete the process of ITR filing. Let us all have a happy and stress free filing season.

