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# UNIT 13 FILING OF RETURN AND TAX AUTHORITIES

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## Structure

- 13.0 Objectives
- 13.1 Introduction
- 13.2 Return of Income
  - 13.2.1 Selection of Correct Form of Return
  - 13.2.2 Due Dates for Filing the Return
  - 13.2.3 Correct and Complete Information
- 13.3 Self-assessment
- 13.4 Consequences of Delay in Filing Return
- 13.5 Consequences of Incorrect Information
- 13.6 Processing of Returns
- 13.7 Re-assessment of Income
- 13.8 Tax Authorities
- 13.9 Let Us Sum Up
- 13.10 Key Words
- 13.11 Answers to Check Your Progress
- 13.12 Terminal Questions

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## 13.0 OBJECTIVES

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After studying this Unit you **should** be able to:

- select the forms of return and due dates for filing return;
- list the information to be provided in the return;
- make self-assessment of your income and define, deduct tax at source and advance tax;
- **enumerate** the consequences of delay in filing the return and incorrect information;
- list the steps of processing of returns;
- enumerate the reasons for reassessment of income; and
- list the tax-authorities and their functions.

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## 13.1 INTRODUCTION

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In the **previous unit** you have **studied** about the **computation** of total income as per the provision of Income Tax Act 1961. After the income has been computed, the next **step** is to **inform** the tax authorities about the taxable income and pay tax. In this unit you will study how the return is filed with the tax authorities and how the return is processed. You will also study about the tax authorities and **their** function.

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## 13.2 RETURN OF INCOME

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For quantification of tax liability every person whose total income exceeds the exemption limit (which for and from the assessment year 1991-92 is Rs. 22,000) is **required** to file a statement of his total income technically called 'return of income' within the prescribed time to the prescribed income tax authority. This return forms the basis for determining the total **income** and arriving at the tax payable or refundable to the assessee. After receipt of the return, the tax authorities may **decide** to accept the information furnished therein **as true** and calculate the tax liability based on such information only. In other cases they may call upon the tax-payer to substantiate the information and evidence to satisfy the authorities about the correctness and completeness of the **information supplied** in the return. They may themselves make independent enquiries, ask questions from the tax-payer and seek such further information **as may** be considered necessary for determination of correct assessable income. The **total** income is then determined after **making such** modification in the income stated in the return as may be warranted by the evidence furnished by the tax-payer and enquiries made by the tax authorities.

Filing of the Return of Income every year is the first step in the proceedings for completion of assessment and determination of tax liability. It is an important document which needs to be filled in very carefully and accurately.

Furnishing of inaccurate information or omission to disclose any material information may entail penal consequences and may even subject the tax-payer to the risk of criminal prosecution. It is, therefore, necessary to know about it in some details.

### 13.2.1 Selection of Correct Form of Return

There are four types of income-tax returns.

One of these returns is relevant for an assessee and the relevance is determined by the status (company or other) of the assessee and by the sources from which income is derived by him. These are :

- 1) Form No. 1 — For companies (except those claiming exemption under Section 11 in respect of income from property held for charitable and religious purposes).
- 2) Form No. 2 — For assesseees (other than companies and those claiming exemption under Section 11) deriving income from business or profession,
- 3) Form No. 3 — For assesseees (Other than companies and those claiming exemption under Section 11) not deriving income from business or professions.
- 4) Form No. 3A — For assesseees including companies claiming exemption under Section 11 in respect of income from property held for charitable and religious purposes.

These returns are available in the income-tax offices free of charge.

### 13.2.2 Due Dates for Filing the Return

The last dates for filing the return of income with the tax authority having jurisdiction over an assessee's case are laid down in Section 139(1) of the Income Tax Act and determined by the status (company or others) of the assessee, sources of income (whether from business or profession or from sources other than 'business or profession') and whether the accounts are required to be audited under any provision of the Income Tax Act or any other law. The due dates are—

Type of assessee	Date in the assessment year
i) Assesseees (Other than companies) not deriving income from business or profession and in respect of whose accounts where is no legal requirement for getting the accounts audited.	30th June
ii) Assesseees (Other than companies) deriving income from business or profession, in respect of which there is no legal requirement of getting the accounts audited.	31st August
iii) Assesseees (Other than companies) accounts of which are required to be audited under the I.T. Act or any other law. Under the I.T. Act accounts of a business are required to be compulsorily audited if the total sales, turnover or gross receipt exceeds 40 lakhs rupees. Accounts of persons carrying on profession are required to be audited if the gross receipts exceed 10 lakh rupees. A charitable trust having income of more than Rs. 25,000 is also required to get its accounts audited.	31st October
iv) Companies	31st December

If the assessee is a partner in any firm, the due date of filing the return will be the same which is the due date for the firm in which he is the partner..

Under the Income Tax Act if the income of an assessee exceeds the exemption limit he should file a return of income before the due date applicable to him.

If, however, for any reason he is not able to do so, he can still file the return after the due date but before the expiry of one year from the end of the relevant assessment

year or before the completion of assessment whichever is earlier. If, for example, the assessee is a person not deriving income from business and accounts are not required to be audited under any law, he is supposed to file the return by 30th June of the assessment year. For income earned in the previous year 1989-90 (i.e., from April 1 1989 to March 31, 1990) the relevant assessment year will be 1990-91 and the return will be due on June 30, 1990. If for any reason he has not been able to file the return by June 30, 1990 he can file the return thereafter but in any case the return should be filed before the expiry of one year from the end of 1990-91 i.e. before one year from March 31, 1991. This means that the return should be filed by March 31, 1991 but if, in the meantime, an *ex parte* assessment has already been completed for failure to file the return say on September 15, 1991, the right to file the return will lapse on September 15, 1991. Please remember that although the assessee can file the return even after the due date, this will be subject to an interest at the rate of 2% per month for the period calculated from the due date to the date of actual filing.

If the return is not filed, the assessing officer can, acting under Section 142(1), serve the assessee with a notice after the expiry of the due date asking him to file the return within the time specified in the notice.

If after filing the return the assessee discover any omission or any wrong statement therein, he can furnish a revised return anytime before the expiry of one year from the end of the relevant assessment year. If, however, an assessment has been completed in the meantime, the right to file the revised return will lapse.

### Check Your Progress A

Which is the return form for you and when is it due for submission?

- i) If you derive income from salary and interest on investments.
- ii) If you derive income from salary and also share income from a firm which does not get its accounts audited.
- iii) If you run a business total turnover of which is Rs. 50 lakhs.
- iv) If you are a Chartered Accountant and your annual receipts are 5 lakhs.
- v) If you are a private limited company with turnover of one lakh only.
- vi) If you are a trust deriving income from property held in trust for the education of poor having income of Rs. 30,000.

### 13.2.3 Correct and Complete Information

The information furnished in the return is required to be verified at the end in order to be sure that it is true and correct. The verification is an affirmation and if it is found to be false, one is subject to severe consequences including prosecution. Apart from being correct, it is necessary that the return is complete in all respects. Nothing which has a bearing on the computation of correct assessable income should be suppressed i.e. every information which affects the assessable income directly or indirectly should be disclosed. Wherever possible, necessary evidence should be enclosed with the return. To illustrate the assessee should attach the following documents to substantiate the information under different heads:

#### Salaries

- a) The employer's certificate giving details of remuneration.
- b) The employer's certificate showing tax deducted at source.

#### House Properties

- a) A statement showing how the income shown in the return has been arrived at.
- b) Details of interest payment.

#### Business and Profession

- A) In cases where regular accounts are maintained:
  - a) Copy of Trading/Manufacturing Account.
  - b) Copy of Profit and Loss Account
  - c) Copy of Balance Sheet
  - d) Details of depreciation claimed
  - e) Auditor's report, if accounts are audited
  - f) Details of payment for txcs etc. which are allowed on cash basis only.
- B) In cases where regular accounts are not maintained:
  - a) Statement showing how the income has been arrived at
  - b) Details of depreciation claimed.

**Other Sources**

- a) In case of **income from dividend**—the dividend warrants.
- b) In case of **income from interest**—interest warrants or details of **interest earned along** with certificate of tax deducted at source, if any.
- c) In case of income from any other source like royalty, winning from lotteries, income from sub-letting etc.—**necessary details thereof along** with the certificate of tax deduction, if any.

**Capital Gains**

- a) Details of capital gains derived giving the computation of such gains.
- b) Evidence of re-investment of capital **gain/sale** proceed as a result of **which** capital gain is not to be fully or partially charged to tax.
- c) Evidence of deposit in specified bank account under **the** notified scheme.

**In All Cases**

- a) Evidence in respect of deductions claimed under Chapter VIA, e.g.;

U/S 80C/88	...	Life Insurance receipts, receipts for deposit in Public Provident Fund, details of NSCs purchased etc.
U/S 80CC/88A	...	Details of <b>investment</b> in eligible issues of capital or in relevant schemes of <b>mutual</b> funds.
U/S 80CCS/80CCB	...	Details of deposit under National Saving Scheme or notified annual plans or investment under notified <b>equity</b> linked saving scheme.
U/S 80D	...	Medical <b>insurance</b> receipt.
U/S 80DD	...	Certificate from competent doctor regarding permanent <b>physical</b> disability.
U/S 80G/GGA	...	Receipts for <b>donations/contributions</b> made.
U/S 80GG	...	Receipts for rent <b>payment</b> .
U/S 80R & 80RR & 80RRA	...	Evidence of remuneration etc. in foreign currency and evidence of money brought in the country. In case of deduction under Section 80RRA, copy of approval of <b>the</b> agreement should <b>be</b> enclosed.

An assessee is identified in the Income Tax Department by the Permanent Account Number (PAN) allotted to him. Under Section 139A if the total income of an assessee exceeds the exemption limit (which is Rs. 22,000 for and from the assessment year 1991-92) and he has not already been allotted a PAN, he should apply to his assessing officer for allotment of PAN.

This number should be clearly mentioned in the **Return** form and all correspondence with the department. Earlier the tax-payers were identified by the General Index Register number (GIR No.) and in the transitional period both the numbers are in use till GIR is completely replaced by PAN.

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### 13.3 SELF ASSESSMENT

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Although the income of the financial year (technically called 'Previous Year') is finally assessable for the next financial year (technically called 'assessment year'), the Income tax Act contains provisions for collection of tax in the previous year itself. Such collection is provisional in nature in the sense that the same is considered to have been paid towards the final liability to be determined on the basis of return or on completion of assessment for the relevant assessment year. Accordingly whatever taxes are paid by the assessee under these provisions are **adjusted against** the tax finally determined and the balance amount is payable by or refundable to the tax-payer.

Tax is collected in the previous year itself by either or both of the following methods :

- i) **Tax deduction at Source (T.D.S.)** — This system requires the person making payment for salaries, interest on securities, interest other than interest on securities, insurance **commission**, dividend, winnings from lotteries or horse races

etc. or those making payments to contractors for work executed by them or to non-residents, to deduct tax at prescribed rates and to pay the net amount only. The tax so deducted is to be deposited with the Government which is considered as the tax paid by the recipient for which credit is to be allowed to him in the final determination. For example, if an assessee earns an interest of Rs. 10,000 from A, the payer, i.e. A will, at the time of payment or credit to the assessee's account, deduct tax at the prescribed rate of 10% and pay only Rs. 9,000 to him. He will deposit this Rs. 1,000 with the Government and issue a certificate to the assessee. The assessee will include an income of Rs. 10,000 from interest in his total income. Suppose his total income including this interest is Rs. 50,000 on which tax works out to Rs. 7,600, the tax payable by him will be Rs. 7,600 minus Rs. 1,000 tax already paid by way of deduction and the balance of Rs. 6,600 only will be required to be paid. In the said example if the total income is Rs. 25,000, the tax will work out to Rs. 600 only and since Rs. 1,000 has already been paid as TDS, the assessee will be entitled to a refund of Rs. 400.

- ii) **Advance Tax** : If an assessee derives income from sources in respect of which there is no system of deduction of tax at source, he is required to make an estimate of total income which he will earn in the previous year. Such income is technically called income of the 'current year'. On such estimated income he is required to work out the tax at the rates prescribed in the Finance Act. reduce such tax by the amount of tax deducted at source, if any, and pay at least 20% of the balance tax by 15th September, 50% (after adjusting the first instalment) by 15th December and 100% (after adjusting the earlier two instalments) by 15th March of the previous year. Such payment is known as 'advance tax' for which also credit is allowed in determining the tax finally payable by or refundable to the assessee.

**Self-assessment**

Section 140A of the Income Tax Act requires that before an assessee submits his return to the department, he should find out the tax payable on the total income and interest payable for short payment of advance tax or for delay in submission of return. From such tax and interest he should deduct the TDS and the advance tax paid if any. If there is any amount still payable, the same should be paid and the chalan for such payment should be enclosed with the return. This is known as 'self-assessment'. The self-assessment tax along with 'TDS' and 'Advance Tax' is deemed to be tax paid by the assessee towards finally determined liability and accordingly credit is allowed in determining the sum finally payable/refundable. If, therefore, the income disclosed by the assessee in the return is accepted by the Assessing Officer without making any modification therein, and if self-assessment is correctly made there should be no tax payable by or refundable to the assessee.

If he fails to make a self-assessment, the interest for short payment of advance tax at the rate of 2% per month or part thereof in respect of short payment calculated on the basis of return of income which starts running from 1st April of the assessment year continues to run up to the date of determination of tax. In addition, the assessee makes himself liable for recovery action by the department which can initiate proceedings for recovery of tax and interest due on self-assessment by any method permissible under the Act including coercive action like attachment and sale of property.

**Example**

During the financial year 1990-91, 'X' had following income:

1) income from salaries	Rs. 50,000 (TDS Rs. 9000)
2) share from a business	Rs. 1,00,000
3) income from interest	Rs. 10,000 (TDS 2000)

He estimated his current income at Rs. 1,20,000 and calculated advance tax as under:

Tax on 1,20,000	37,600
Add. Surcharge at the rate of 12%	4,512
	<hr/>
	42,112
Less T.D.S.	11,000
	<hr/>
	31,112

He paid 20%, i.e., 6,222 by 15th September, 1990, further 30% i.e. 9,333 by 15th December 1990 (making it 50%) and the remaining Rs. 15,557 by 15th March, 1991.

Now if the files return on 31st August showing total income at 1,60,000. He is liable to pay the following amount by way of tax and interest on self-assessment.

**Tax**

Tax on 1,60,000		57,600
Surcharge at the rate of 12%		6,912
		<hr/>
		64,512
Less Paid		
TDS	11,000	
Adv. tax	<u>31,112</u>	42,112
		<hr/>

Tax payable ... Rs. 22,400

**Interest**

Interest on 22,400 at the rate of 2% per month for 5 months (April to August)

Rs. 2,240

Amount payable on self-assessment

Rs. 24,640

**Check Your Progress B**

- i) What is self-assessment?
- ii) How is a self-assessment different from other modes of collection like advance tax or TDS?
- iii) You are going to file a return on due date, i.e., 30.6.1991 showing an income of Rs. 70,000 on which tax payable works out to Rs. 15,600. A sum of Rs. 12,000 has been deducted at source from salary and Rs. 1,000 from interest income. How much tax and interest is payable on self-assessment.

**13.4 CONSEQUENCES OF DELAY IN FILING RETURN**

If the return is not submitted by the due dates mentioned in 13.3, the following consequences follow:

- i) The Assessing Officer can, after giving an opportunity to the assessee, complete the assessment *ex parte*. *Ex parte* assessment is also known as best-judgement assessment because in such case the Assessing Officer makes an estimate of total income to the best of his judgement on the basis of whatever information is available with him. Although best-judgement assessment is the result of an estimate only, the courts have held that such an estimate should be reasonable and not arbitrary or capricious.
- ii) An assessee is liable for interest at the rate of 2% per month or part thereof from the date following the due date up to the date of actual filing of return or, if an *ex parte* assessment has been completed, up to the date of assessment. This interest is charged on the amount found payable on the determination of liability either by completion of assessment or issue of intimation and is in addition to the interest chargeable on short payment of advance tax (Refer.13.5).

**Example :** In the example given at the end of 13.5 if 'X' had filed the return on 15th December instead of 31st August (which was the due date) and made self-assessment on the same day, he would have been liable to pay the following interest.

i) Interest for short payment of advance tax (2%' per month for 9 months) .....	Rs. 4,032
ii) Interest for delay in filing return 2% per month on 22,400 for 4 months (September-December) .....	Rs. 1,792
	<hr/>
	Rs. 5,824
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In the same example if an *ex parte* assessment has been completed on 15th November, the interest would have been calculated for 8 months and 3 months respectively i.e., from April to November and September to November.

Please note that the charge of interest is mandatory and there is no waiver or appeal provided against it.

- iii) The assessee may even be liable for prosecution on a complaint filed by the Department in the court of competent Magistrate. On the successful completion of the prosecution proceedings, punishment may be awarded in the form of rigorous imprisonment for a term which
  - a) in a case where the tax which would have been evaded exceeds one lakh can be between six months to seven years, and
  - b) in other cases, can be between three months to three years.

In addition to rigorous imprisonment, Magistrate can also impose fine.

Prosecution cannot, however, be launched where the return, though late, was filed within the assessment year or where the tax payable after deduction of TDS and advance tax does not exceed three thousand rupees.

**Check Your Progress C**

You are supposed to submit your return by 31st August, 1990 but the same is delayed and actually submitted on 20th December, 1990. The pre-paid tax by way of advance tax falls short of the actual tax payable by Rs. 5,000. How much tax and interest you are required to deposit on self-assessment.

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**13.5 CONSEQUENCES OF INCORRECT INFORMATION**

Incorrectness in the return form can be of two types. These are discussed as follows:

- i) **Prima facie errors** : Such errors exist where information furnished by the assessee is not incorrect but in computing the total income, certain allowances, deductions or relief have been claimed which are not allowable under the provisions of Income Tax Act, or there is some arithmetical inaccuracy like totalling error etc. For instance, the assessee may without any attempt to show personal expenses as business expenses, claim such expenses in computing business income. In such cases he has not made any misrepresentation or wrong statement but has not acted in accordance with the provisions of law in computing his total income for the purpose of return. Another instance may be claim of deduction for expenses of capital nature. If the nature of such expense has been correctly stated but in computing the income such expense has been deducted, it is not misrepresentation but wrong computation of income. He may buy a car and show the payment as such but if he claims deduction for it, such incorrectness will fall in this category. These are more in the nature of 'mistake' rather than 'concealment' for which law takes a comparatively lenient view.
- ii) **Concealment**: Concealment arises where the particulars of income are concealed or inaccurate particulars of income are furnished. This type of incorrectness is more serious in nature as there is an attempt either to suppress the information which would have resulted in determination of correct income or submit such information which is not correct. For instance, the assessee may earn some commission but may not disclose it at all. Or he earns a commission of Rs. 20,000 but discloses only Rs. 10,000.

In the first case he concealed the particulars of income and in the second case he furnished inaccurate particulars of income. Other instances of the incorrectness of this type are where sales are suppressed, expenses claimed are either not incurred at all or shown at inflated figure, any income received is either not shown or suppressed or income earned by one is shown to have been earned by another with a view to get tax advantage. These are cases of 'concealment of income' and not mere computation of income in incorrect manner and, therefore, the law takes

a more serious view of such lapses. The consequences of the two types of inaccuracies are given below:

- a) If the return contains 'prima facie' errors of the nature referred above, the law authorises the Assessing Officer to correct them 'suo moto' without giving any opportunity to the assessee. Even in cases which are to be investigated, the Assessing Officer can make adjustments for such errors in the total income and work out tax payable thereon. For example if A has filed a return showing total income at Rs. 50,000 after claiming standard deduction of Rs. 15,000 out of salary income instead of Rs. 12,000 permissible under the Act, the Assessing Officer can correct this mistake on his own, compute total income at Rs. 53,000 after such 'prima facie adjustment' and issue intimation asking him to pay tax on that basis.

In order to ensure that the assessee does not make such errors deliberately to take a chance of not being detected, the law provides for charge of additional tax equal to 20% of the tax relatable to such adjustments. In the above example if tax on Rs. 53,000 is Rs. 8,810 and tax on Rs. 50,000 is Rs. 7,600 the extra tax on account of adjustment is Rs. 1,200 on which 20%, i.e., Rs. 240 will be charged from the assessee as additional tax.

- h) If the particulars of income are found to have been concealed or inaccurate particulars of income are found to have been furnished, the Assessing Officer can initiate penalty proceedings for such concealment and after giving the assessee an opportunity of being heard, impose monetary penalty of an amount ranging from 100% of the tax on concealed income to 300% of such tax. For instance, if the returned income of Rs. 50,000 is finally assessed at Rs. 1,00,000 by making addition for concealed income, the tax relatable to such additions will be Rs. 27,600 - 7,600, i.e. Rs. 20,000 and penalty imposable can be any amount between Rs. 20,000 (100% of 20,000) and Rs. 60,000 (300% of 20,000) depending upon the gravity of the action and other relevant circumstances.

In addition to the penalty that can be imposed, the assessee may be liable for prosecution in respect of the offence of wilful attempt to evade tax on a complaint filed by the Department. If the Magistrate is satisfied that he wilfully attempted to evade any tax, penalty or interest under the Income Tax Act, he may punish the assessee:

- a) with rigorous imprisonment of a term between 6 months and 7 years and with fine where the amount sought to be evaded exceeds one lakh;
- b) with rigorous imprisonment for a term between three months and 3 years with fine, in other cases.

#### Check Your Progress D

- i) The return filed by you shows the total income at Rs. 90,000. It is seen from the copy of the Profit and Loss account attached with the return that an amount of Rs. 10,000 spent on your medical treatment has been debited and profit has been worked out after claiming allowance of this payment. Tax on 90,000 is Rs. 23,600 and on Rs. 1,00,000 is Rs. 27,600. Can the Assessing Officer modify the income returned?
- ii) What will be the consequence of such modification made by the Assessing Officer?

## 13.6 PROCESSING OF RETURNS

- i) Each return form has two forms of acknowledgements attached to it. These are not mere acknowledgements but also contain the broad details of income shown in the return and other relevant information about pre-paid taxes in the form of TDS, advance tax and self-assessment tax. The person who fills in the return should also complete the entries in the acknowledgement form. When the return is submitted at the receipt counter of the income tax office, the receipt clerk signs the acknowledgement forms put the office seal thereon and hands over one copy of such form to the assessee as acknowledgement of the receipt of return containing information shown in the acknowledgement form.



- 2) These return forms are then processed in the income tax office with a view to find out whether any tax or interest is payable by or refundable to the assessee on the basis of information supplied in the return. Such processing results in one of the following situations:
  - a) The pre-paid taxes are correctly computed as a result of which there is neither any tax payable nor any refund is due to the assessee. In this situation, there is no action to be taken by the department. The assessee may keep the acknowledgement form for record and there shall be no proceedings.
  - b) The pre-paid taxes are found to be more than the tax and interest due. In this situation, a refund of an amount equal to the excess tax paid along with interest payable by the Government thereon will be made to the assessee.
  - c) The pre-paid taxes are found to be less than the amount of tax and interest found due. In this case, a letter will be issued by the Assessing Officer to the assessee intimating the amount of tax and/or interest due and asking him to pay the same within 80 days of the receipt of the letter. This letter is technically known as 'Intimation' and is considered to be a notice of demand issued by the department'. It is different from an assessment order which is passed only in selected cases after giving him an opportunity to be heard.
- 3) While working out the tax and/or interest chargeable, the Assessing Officer can make adjustments in respect of the following:
  - i) any arithmetical error in the return accounts or documents accompanying it;
  - ii) any loss carried forward, deduction, allowance or relief which on the basis of information available in such return, account or document is *prima facie* admissible but which is not claimed
  - iii) any loss carried forward, deduction, allowance or relief which has been in the return but which is *prima facie* inadmissible.

These adjustments have come to be known as 'prima facie adjustment' which can be made by the Assessing Officer 'suo moto' without giving assessee any opportunity to be heard. There is no appeal against such adjustments but if any adjustment is made not falling within any of the above three categories, the Assessing Officer can be requested to rectify the error. If the Assessing Officer refuses to rectify, you can file an appeal against such refusal. As mentioned in 13.7 there is a charge of additional tax equal to 20% of the tax attributable to such adjustments. It is, therefore, necessary that only admissible deductions, allowances and reliefs are claimed to avoid any enhancement of total income as a result of such adjustments and no chance is taken by making claims for apparently inadmissible items.

- 4) After processing the returns for the purpose of refund/intimation as mentioned above, the Assessing Officer, if he considers that the case is fit to be scrutinized for the purpose of ensuring that assessee has not understated the income or computed excessive loss or under paid tax in any manner, will serve a notice on him asking him, on a date to be specified therein, to attend his office or produce evidence to substantiate the information in the return. The Assessing Officer will after hearing the assessee, considering the evidence adduced by him and making enquiries as he may find necessary, pass an order, called 'assessment order' determining the total income and the further tax, if any, payable by him beyond the amount found payable on preliminary processing for issue of refund or intimation. A notice of demand is issued for such further amount payable within 30 days of the services of the same. The order is appealable. If the Assessing Officer comes to the conclusion that particulars of income filed were wilfully inaccurate, he may initiate penalty proceedings for concealment of income.

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### 13.7 RE-ASSESSMENT OF INCOME

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If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment either by reason of assessee's failure to file the return within the permitted time (Ref. 13.3) or for any other reason including understatement made by him in the return, he can issue a notice to the assessee asking him to furnish a return of income within the period specified in the notice and then proceed to

compute or recompute the income in the same manner as specified in 13.7 for processing of original returns. Before any such notice is issued, the Assessing Officer is bound to record reasons as to why he holds the belief about escapement of income in that case.

If the assessee's case was originally scrutinised (Refer Para 4 of 13.8), the case can be re-opened up to four years only. If four years have expired from the end of relevant assessment year, it can be re-opened only if it can be established that the escapement occurred on account of his failure to make a return or on account of his failure to disclose fully and truly all material facts necessary for the assessment of that year. Further, such assessment can be reopened after four years only if the escaped income is likely to exceed Rs. one lakh. For re-opening of assessment beyond four years, the approval of Commissioner is also necessary. No assessment can be reopened after 10 years.

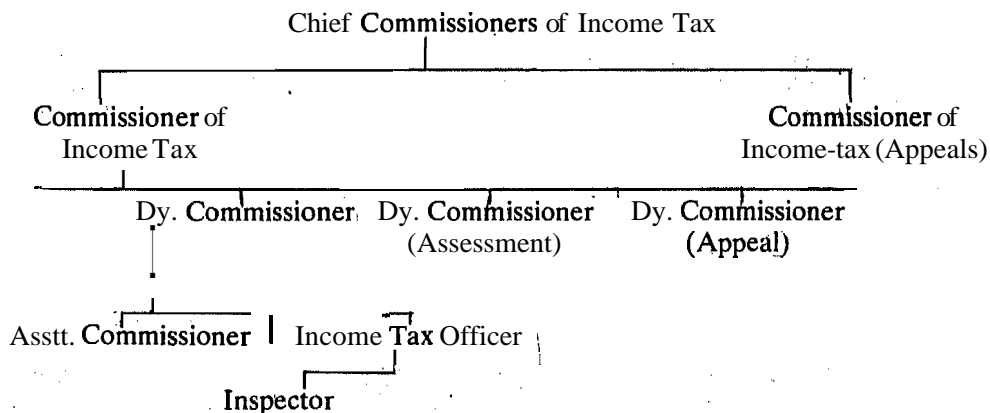
If the assessee's case was not scrutinised earlier, case can be re-opened after four and seven years only if the escaped income is likely to exceed Rs. 25,000 and Rs. 50,000 respectively. Here also no case can be reopened after 10 years.

## 13.8 TAX AUTHORITIES

The Central Board of Direct Taxes (CBDT) is the apex body for the administration of direct tax laws. It functions as a part of the Department of Revenue under the Ministry of Finance, Government of India. It has one Chairman and six Members. It assigns jurisdiction to Chief Commissioners of Income Tax and the Commissioners of Income Tax. The CBDT is assisted by its attached offices, viz., Directorates which function under the overall supervision of Directors-General. These Directorates are:

- i) Directorate of Income Tax
- ii) Directorate of Audit
- iii) Directorate of Research, Statistics & Public Relations
- iv) Directorate of Management Services
- v) Directorate of Systems
- vi) Directorate of Investigation
- vii) Directorate of Recovery

The CBDT is primarily a policy-making body. For actual implementation of Income Tax Act, the following chart will show the organisation set up:



Their functions in brief are as follows:

- 1) Inspectors: They are mainly responsible for outdoor duties in the matter of surveys and enquiries for assistance of the assessing officers.
- 2) Income Tax Officers: Assessing officers are responsible for the work of processing the returns, assessment, collection, recovery and other related matters within the jurisdiction assigned to them,

**Deputy Commissioners:** They supervise and guide the work of Assistant Commissioners/Income Tax officers.

- Dy. Commissioners (Assessment) is the Assessing Officer to whom important, cases are assigned for assessment and other related matters.
- Dy. Commissioner (Appeal) hears and decides appeal against such orders of Assistant Commissioners and income Tax Officers as the CBDT may decide.
- 4) Commissioner of Income Tax : They supervise the work of Dy. Commissioners within their charge and report to the CBDT through their Chief Commissioners. They assign jurisdiction to Dy. Commissioners within their charge. They cannot, however, interfere in the discharge of judicial functions by the Dy. Commissioners (Appeal).
  - 5) Commissioner of Income Tax (Appeals) : Appeal jurisdiction in relatively important cases from revenue angle are assigned to them. Appeal in relatively less important cases are heard and decided by the Dy. Commissioner (Appeal)
  - 6) Chief Commissioners of Income Tax : They are line between Commissioners and the CBDT and are responsible for administration and management of the offices within their zones.

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## 13.9 LET US SUM UP

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The assessee must select the proper form, must know the due dates for filing his return. The process of quantifying the tax liability starts with the filing of the tax return either voluntarily or in response to the notice issued by the Assessing Officer requiring an assessee to file the return. It is the assessee's duty to file the return voluntarily without giving the Assessing Officer an opportunity to issue a notice on him. Failure to file the return in time entails liability for payment of interest. The return should be filed with utmost care and caution as even an erroneous computation of income without any attempt to misrepresent facts may put an extra liability in the form of additional tax. If there is mis-statement of facts or suppression of fact leading to concealment of taxable income, the consequences are harsh in the form of heavy monetary penalties and/or imprisonment with fine.

The return filed may be accepted without modification or with adjustment only for very patent and obvious mistakes made. In most of the cases, the processing of returns is complete with the issue of refund or intimation. The Assessing Officer initiates the process of investigation (generally called scrutiny) by issue of notice fixing a date of hearing and asking the assessee to attend either in person or through an authorised representative to substantiate the information supplied by him. After hearing and enquiry, he determines the total income and tax payable and intimate the same by a notice of demand.

if the assessee does not file the return within the permitted time and no assessment is made *ex parte*, the Assessing Officer can still proceed to assess him but in that case he will have to record reason for his belief that income has escaped assessment. If the assessee is assessed, the Assessing Officer can re-open the completed assessment after recording similar reasons. Proceedings for such assessment or re-assessment cannot, however, be initiated if ten years have passed.

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## 13.10 KEY WORDS

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**Additional Tax** : This term refers to the extra charge equal to 20% of the tax attributable to enhanced income as a result of *prima facie* adjustments.

**Assessment** : This term refers to the determination of total income by the Assessing Officer either after hearing the tax-payer or *ex parte* in certain circumstances.

**Assessment Year** : This is the year following the previous year. The previous year is the financial year (1st April to 31st March) in which income is earned.

**Intimation** : The letter from the Assessing Officer intimating the tax and/or interest due on the basis of income returned as adjusted for patent and obvious mistakes.

**Notice of Demand** : A statutory notice which must be served before the demand can be enforced by coercive methods.

**Prima Facie Adjustments** : Adjustment to the returned income for obvious admissible or inadmissible and for correcting arithmetical inaccuracies.

**Return** : The prescribed form in which a tax-payer is required to submit the details of his income.

**Scrutiny** : The process of investigations of the return filed initiated by the Assessing Officer.

### 13.11 ANSWERS TO CHECK YOUR PROGRESS

- A) i) Form No. 3  
Due date 30th June
- ii) Form No. 2  
Due date 31st August
- iii) Form No. 2  
Due date 31st October
- iv) Form No. 2  
Due date ... 31st August
- v) Form No. 1  
Due date 31st December
- vi) Form No. 3A  
Due date 31st October
- B) i) Self-assessment means computation of liability for tax and interest by the tax-payer himself and deposit of the same before submission of return, without any demand being raised by the assessing officer.
- ii) Whereas TDS and Advance tax are collected in the previous year itself, self-assessment is made in the assessment year before the return is furnished.
- iii) Tax due 15600  
Less paid by TDS 13000 ..  
2600
- Interest at the rate of 2% per month for 3 months (Apr.-June) 156  
2756
- C) Short Tax 5000  
Interest for short payment of advance tax at the rate of 2% per month for 9 months 900  
Interest for delayed return at the rate of 2% per month for 4 months 400  
6300
- D) i) Assessing Officer will make 'Prima facie adjustment' of Rs. 10,000 and modify the income to Rs. 1,00,000.
- ii) An additional tax equal to 20% of Rs. 4,000 i.e., Rs. 800 will be charged.

### 13.12 TERMINAL QUESTIONS

Questions

- 1) What are the consequences of delay in filing return?
- 2) What steps are involved in processing a return?
- 3) What are the different tax authorities and what are their functions?

**Note:** These questions will help you to understand the unit better. Try to write answers for them. But do not submit your answers to the University. These are for your practice only.

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## SOME USEFUL BOOKS

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- Bhagwati Prasad, *Law and Practice of Income Tax*, Navaman Prakashan, Aligarh (Chapters- 12, 13 & 20)
- Mahesh Chandra & S.P. Goyal, *Income Tax Law and Practice*, 1990, Himalaya Publishing House, Delhi (Chapters 13, 14 & 21)
- H.C. Mehrotra, *Income Tax Law and Accounts, 1990*, Sahitya Bhawan, Agra (Chapters 5, 12, 13 & 20)
- Vinod K. Singhanian, *Students Guide to Income Tax*, Taxman Publications Private Ltd. (Chapters 12, 14 & 26)