
UNIT 18 FILING OF RETURN AND TAX AUTHORITIES

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18.0 OBJECTIVES

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;

- enumerate the consequences of delay in filing the return and incorrect information;
- list the steps of processing of returns;
- list the tax-authorities and their functions.

18.1 INTRODUCTION

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.

18.2 RETURN OF INCOME

For quantification of tax liability every person whose total income exceeds the exemption limit (which for the assessment year 2021-22 is (Rs. 2,50,000/-, Rs. 3,00,000/-, Rs. 5,00,000/-p.a.) required to file a statement of his total income technically called 'Return of Income' within the prescribed time to the prescribed income tax authority. (For the new tax regime, the tax exemption is same for all categories of assesses, i.e. Rs. 2,50,000 p.a.)

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.

18.2.1 Submission of Return of Income [Section 139(1)]

Under Section 139(1), every person having total income in excess of minimum taxable limit is under the obligation to furnish his return of income. If the person is liable to pay the income tax on the income of other person, he has to furnish the return of income.

18.2.2 Due Dates for Filing the Return

The last dates for filing the return of income with the tax authority having jurisdiction over an assessee 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 the provision of the Income Tax Act or any other law. The due dates are –

Type of assessee	Date in the Assessment Year
a) i) Company	} 31 st October of AY
ii) A person (other than a company) whose accounts are required to be audited under this Act.	
iii) A working partner of a firm whose accounts are required to be audited under this act	
iv) A person required to file the return on the basis of economic indicators.	
b) Where the assessee is required to furnish a report u/s 92 E pertaining to international/ specified domestic transactions	} 30 th November of AY
c) In case of any other assessee.	} 31 st July of AY
i) Income tax return should be submitted in the office of income tax, on (a) prescribed form, (b) before or on due date, (c) certified and signed in prescribed manner.	
ii) If last date of filing the return is a holiday, next working day shall be considered as last date for filing the return. If certain conditions are met, delay in filing the return may be condoned.	

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.

18.2.3 Central Government Empowered to Exempt any Person from the Requirement of Furnishing Return of Income [Section 139(1c)]

Under Section 139(1c), Central Government, exempt any class or classes of persons from furnishing of return of income based on the conditions prescribed in the notification in the official gazette.

18.2.4 Permanent Account Number [Section 139 (a)]

An assessee is identified in the Income Tax Department by the Permanent Account Number (PAN) allotted to him. Under Section 139 (a), if the total income of an assessee exceeds the exemption limit 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.

The Income Tax Department issues a permanent account number to every tax-payer. PAN is compulsorily mentioned in return of income. PAN is meant to identify the returns, tax payment and the correspondence received from the assessee and link these to their assessment records to facilitate quick disposal of their claim of refund. PAN includes new types of series having 10 words or alphanumeric numbers.

PAN is compulsory to mention in all documents pertaining to the transactions specified in Rule 114 B. Some of such mentions are as under.

- i) Deposit of Rs. 50,000 or more in Savings A/c of Bank/Post Office;
- ii) Payment of Hotel/Restaurant bills of more than Rs. 50,000/- at any one time;
- iii) Sale and purchase of immovable property worth Rs. 10,00,000/- or more;
- iv) Opening of a DEMAT Account;
- v) For opening an account in any bank;
- vi) Term deposit of Rs. 50,000/- or more in any bank.
- vii) Sale or purchase of motor vehicle.
- viii) Transaction of more than Rs. 2, 00,000/- by way of sale as purchase of goods or service by any person and of any nature other than those specified.

18.2.5 Quoting of Aadhar Number [Section 139(aa)]

Under Section 139 (aa), every person who is eligible to obtain Aadhar Number shall (On or after 1/07/2018) quote Aadhar Number:

- i) In the application for the allotment of PAN
- ii) In the Income Tax Return.

However, where the person does not possess Aadhar Number, the Enrolment ID of Aadhar application form issued to him at the time of enrolment, shall be quoted in the application for PAN or in the return of income.

Every person who has been allotted PAN and who is eligible to obtain Aadhar Number, shall intimate his Aadhar number to such authority in such form and manner, notified by the Central Government.

However, in case of failure to intimate the Aadhar Number, the PAN allotted to the person shall be deemed to be invalid and the other provisions of the Act shall apply, as if the person had not applied for allotment of PAN.

The provision of Section 139 (aa) shall not apply to such person or class or classes of persons or any state or part of any state, as may be notified by the central government.

18.2.6 New Scheme for Submission of Return through Tax Return Preparers [Section 139(b)]

Under Section 139(b), Board may notify a scheme for enabling any specified class or classes of persons to file their returns with the help of authorized Tax Return Prepared according to rules prescribed by it (Board). Every Tax Return preparer shall assist the persons in furnishing the Returns of income in the manner specified in the scheme and affix his signature on such return. Such scheme may describe qualification, code of conduct, duties and obligations of Tax Return preparer. Every such scheme shall be passed by both the houses of parliament. This scheme is not applicable for a company or a person who is required to undergo a tax audit under any other law.

18.2.7 Selection of Correct Form of Return [Rule 12]

There are 7 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.

Table 18.1: Types of IRT Forms

ITR Forms	Subject
ITR-1 (i.e., SAHAJ)	For individual having income from salary/one house property (not being brought forward loss from previous years)/income from other sources (not being loss and not being winning from lottery/income from racehorses).
ITR-2	For individuals and HUFs not having business/professional income. But, their income can be from the head 'Income from Other Sources'.
ITR-4 (i.e., Sugam)	For individuals/HUFs/firms (other than LLP) deriving business income and such income is computed in accordance with special provisions referred to in Sections 44AD and 44AE.
ITR-5	For firms, AOPs and BOIs or any other person (not being individual or HUF or company or to whom ITR-7 is

	applicable)
ITR-7	For persons including companies required to furnish return under Section 139 (4 A)/ (4 B)/ (4C)/(4D)/(4E)/(4F).
ITR-V	Where the data of the return of income in Forms ITR-1, ITR-2, ITR-3, ITR-4 and ITR-5 transmitted electronically without digital signature.

All the above mentioned forms are available free of cost from income tax department or can be downloaded from their website.

18.2.8 Belated Return [Section 139(4)]

If the assessee does not submit the return within the time allowed to him, he may furnish the return for any previous year at any time before December 31 of relevant assessment year or the completion of assessment (whichever is earlier). The assessee shall be liable to pay interest (Section 234 A) on late submission and also for late filing u/s 234 F.

18.2.9 Revised Return of Income [Section 139(5)]

If any person after furnishing a return discovers any omission, he may furnish a revised return at any time before the assessment is completed or before December 31 of relevant assessment year, whichever is earlier, once a revised return is filed, the original return filed is considered as withdrawn and substituted by revised return.

18.2.10 Defective Return [Section 139(9)]

If officer feels that the return of income furnished by assessee is defective, he may intimate the defect to the assessee and provide him an opportunity to rectify the defect within a period of 15 days from the date of such intimation. If the assessee submits the return after the date, the submitted return will be treated invalid and it will be presumed that the assessee has failed to furnish the return. However, if the assessee submits return after 15 days so allowed but before the assessment is made, the assessing officer may condone the delay and treat the return as valid return.

18.2.11 Power of Board to Dispense with Furnishing Documents etc with the Return [Section 139 (c)]

Under Section 139 (c), the Board may make rules providing for a class or classes of persons who may not be required to furnish documents, statements, receipts, certificates, report of audit, or any other document which are otherwise required to be furnished along with the returns. However, on demand these will be produced before the assessing officer.

18.2.12 Return of Losses [Section 139(3)]

Under Section 139(3) of Income Tax Act, it is not mandatory to file return in case of loss. But, if the return of loss is not filed upto due date, the loss

(business loss, capital loss, loss from the activity of owning and maintaining race horses) cannot be carried forward.

Illustration 1

From the following information, compute the interest payable by Ms. Richa, under Section 234A for the Assessment Year 2021-22.

Date of filing the return	Jan. 20, 2021
Return due on	July 31, 2020
	Rs.
T.D.S	4,000
Advance tax paid	9,000
Tax paid on self-assessment	3,000
Tax payable on the basis of assessed income	25,200

Solution:

Computation of interest payable by Ms. Richa for Assessment Year 2021-22

	Rs.	Rs.
Tax payable		25,200
Less: Advance tax paid	9,000	
T.D.S	<u>4,000</u>	13,000
Tax Due		12,200

Interest @ 1% per month or part of a month on Rs. 12,200 shall be charged for the delay in filing the return.

Delay in filing the return 5 months 20 days, rounded off to 6 months

Hence, interest payable $\frac{12,200 \times 1 \times 6}{100} = \text{Rs. } 732$

Note: Amount paid on self-assessment shall not be deducted for computation of interest u/s 234A.

18.3 TYPES OF ASSESSMENT

18.3.1 Self-Assessment

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 deducted at Source (T.D.S.) [Section 190]** - TDS means the system which 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 lottery winning amount of Rs. 1,00,000 (Gross) is payable to Mr. A, resident in India. Then, tax deducted at source on lottery winning would be 30% i.e. Rs 30,000.

The income tax on the income of the assessee shall be imposed at the rates of TDS and such tax shall be increased by the following:

- a) Surcharge shall be levied in case of individual, HUF, AOP/BOI, partnership firm etc. as per the provisions of the act.
b) Surcharge @ 15% of tax on income shall be imposed if total income exceeds 1 crore

Tax shall be deducted at source on all the incomes except 'Income from Salaries' at flat rate of income tax. Health and education Cess is not applicable while deducting tax, it is only applicable @ 4%, if payment is made to a non-resident.

- ii) **Advance Tax:** If an assessee derives income from source 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 as per Table 18.2.

18.3.2 Installments of Advance Tax and Due Dates [Section 211]

Under Section 44AD and 44ADA, all the assesseees other than the assessee referred to in Section 211 (b), who are liable to pay the advance tax shall pay the same, in four installments during each financial year and the due date of each installment and the amount of such installment shall be as specified in the Table below:

Table 18.2: Due dates for advance tax

Due date of installment	Amount payable
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On or before the 15 th June	Not less than 15% of such advance tax.
On or before the 15 th September	Not less than 45% of such advance tax, as reduced by the amount, if any, paid in the earlier installment.
On or before the 15 th December	Not less than 75%, of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier installment or installments.
On or before the 15 th March	The whole amount of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier installment or installments;

Advance tax payable by the assessee covered under Section 44AD or 44ADA [Section 211 (b)]: An eligible assessee in respect of an eligible business referred to in Section 44AD or 44ADA, as the case may be, shall pay the advance tax, to the extent of the whole amount of such advance tax during each financial year on or before the 15th March.

Although last date of payment of whole amount of advance tax is 15th March of the relevant financial year, but any amount paid by way of advance tax on or before the 31st March shall also be treated as Advance Tax paid for that financial year. The assessee will, however, be liable to pay interest on the late payment [Proviso to Section 211(1)].

18.3.3 Regular Assessment

On the basis of return of income submitted by the assessee, the income tax officer can assess the tax. In this regard, following points should be taken care of:

- i) On the basis of return of income, if there is any balance amount of income tax and interest thereon, a notice will be issued.
- ii) If more amount of tax than due has been deposited, then a refund will be sent.

Adjustments

Before calculating additional tax to be deposited by the assessee or refund to be paid to the assessee, some adjustments have to be made:

- i) correction in mathematical errors and unabsorbed loss,
- ii) carry forward losses, deduction or rebate, if not claimed in the return of income,

After making adjustments, if the income of the assessee increased as compared to the income mentioned in the return of income, the AO (Assessing Officer) will take into account, the following:

- i) After making adjustments tax on increased income shall be calculated.
- ii) After making adjustments, if the loss is reduced or converted into profit, the Assessing officer will determine the total income or loss and amount of tax. The Assessing officer will issue a written order for the same.
- iii) If no adjustments required, the acknowledgement of the return shall be deemed to be the intimation that no sum is payable by or refundable to the assessee.

18.3.4 Best Judgement Assessment [Section 144]

The Assessing officer after taking into account all relevant information is under an obligation to make an assessment of the total income or loss to the best of his judgment and compute the amount to be paid by the assessee in the following cases:

- i) Where any person fails to make the return.
- ii) Where any person fails to comply with all the terms of notice.
- iii) When any person after having filed a return, fails to comply with terms of notice under Section 143 (2) requiring his presence to present evidence and documents.
- iv) Where the Assessing Officer is not satisfied with the fairness and completeness of accounts.
- v) Wherever Assessing Officer is convinced that no method of accounting has been regularly employed by the assessee.

Consequence of Best Judgement Assessment

- i) Refund of tax may be cancelled.
- ii) Penalty may be imposed on the assessee.
- iii) The registration of the firm may be cancelled with prior permission of Deputy Commissioner of Income Tax.
- iv) The assessee is prevented to present fresh evidences in case an appeal is being made against a best judgement assessment before Deputy Commissioner (Appeals).

Remedies

- i) The assessee can file an appeal against the order before the Deputy Commissioner (Appeal).
- ii) If the judgement is given by Deputy Commissioner (Appeal), the assessee can file an appeal before Commissioner (Appeal).
- iii) If judgement is given by Commissioner (Appeal), the assessee can file an appeal in Appellate Tribunal.

iv) The matter can be referred to High Court.

Note: The best judgement assessment can only be made after giving the assessee an opportunity of being heard on income escaping assessment.

18.3.5 Re-Assessment [Section 147]

If the Assessing officer has reason to believe that any income chargeable to tax has escaped, he may assess or re-assess such income. Before making re-assessment, the Assessing officer shall serve a notice requiring the assessee to furnish a return of his income. However, before issuing such notice, the Assessing officer is required to record his reasons for doing so.

Example:

Assessing officer has issued a notice to Ms. Usha under Section 148 to assess the income of assessment year 2021-22 which according to him has escaped assessment. During the course of such assessment proceedings, he discovers that

- i) There is some other income relating to the same assessment year which escaped assessment.
- ii) There is some income relating to assessment year 2021-22 which has also escaped assessment.

What action should be taken by Assessing officer in this regard?

Solution:

There is no need to give another notice under Section 148 and

- i) He can assess such income along with the income for which proceedings are going on.
- ii) The Assessing officer will have to issue a separate notice under Section 148.

18.3.6 Protective Assessment

Where it is not clear as to who has received the income and *prima facie*, it appears that the income may have been received either by 'A' or 'B' or by both together, the Assessing officer can commence proceedings against both 'A' and 'B' to determine the question as to who is responsible to pay the tax. However, tax cannot be recovered from the assessee under such an assessment.

Check Your Progress A

- 1) State whether the following statements are True or False:
 - i) Due date for furnishing the return of income for salaried persons is May 31.

- ii) A credit card holder is not liable to file the Return of Income.
- iii) If return is filed after due date, interest shall be charged @ 1 % p.m.
- iv) SAHAJ Form No. is 2E.

18.4 E-FILING OF RETURN

Filing of Return in Electronic Form [Section 139(d)]

Under Section 139 (d), The Board may make rules providing for:

- i) The class or classes of persons who shall be required to furnish the return in electronic form.
- ii) The form and the manner in which the return in electronic form may be furnished.
- iii) The documents, statements, receipts, certificates, or audited reports which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand.
- iv) The computer resources or the electronic record to which the return in electronic form may be transmitted.

At present, board has framed rules on the above mentioned lines and accordingly specified assesses whose accounts are anchored u/s 44 AB and all companies shall E-file their returns.

18.5 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 Director-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 which is administered by many tax officers Act, the following chart will show the organization set up:

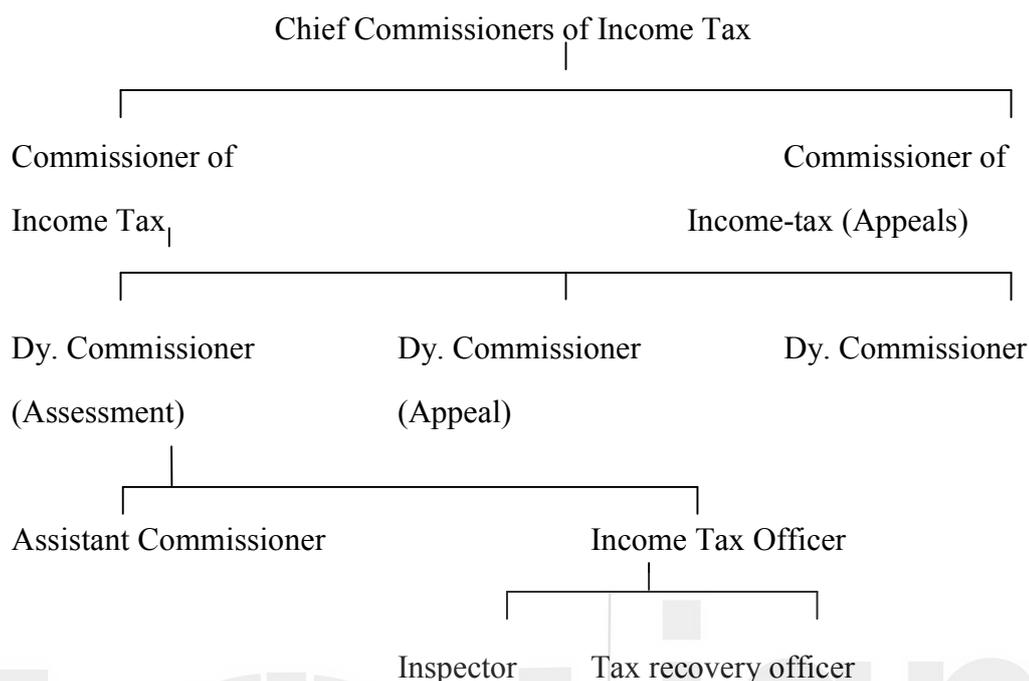


Chart 18.1: Organization structure of tax authorities

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.
- 3) **Deputy Commissioners:** They supervise and guide the work of Assistant Commissioners/Income Tax Officers.
 - Dy. Commissioner (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) **Commissioners 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, interfere in the discharge of judicial functions by the Dy. Commissioners (Appeal).
- 5) **Commissioners of Income Tax (Appeals):** Appeal jurisdiction in relatively important cases from revenue angle is 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.

18.5.1 Verification of Return

Return by whom to be verified [Section 140]

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.

Section 140 prescribes that the return shall be verified by the persons given below:

- 1) *In case of an individual* – a) individual himself, b) by authorized person on behalf of and individual, if he or she is not in India, c) by guardian or authorized competent person on his or her behalf, if an individual is mentally incapacitated;
- 2) *In case of Hindu undivided family*- by karta or by any other adult member of the family, if karta is not present in India or mentally incompetent;
- 3) *In case of a company*-by managing director or by any director, if managing director is not able to verify the return due to some valid reasons;
- 4) *In case of a firm*- by managing partner or by any other partner(not being a minor), if managing partner is not able to verify for any unavoidable reasons;
- 5) *In case of a limited liability partnership*- by designated partner or by any other partner if the designated partner is not able to verify for any reason;
- 6) *In case of a local authority*- by principal officer;
- 7) *In case of a political party*-by chief executive officer of the party;
- 8) *In case of any other association*- by principal officer or by any member of the association

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 or produce on demand the following documents to substantiate the information under different heads when asked by the Concerned department:

Salaries

- a) The employer's certificate giving details of Remuneration.
- b) The employer's certificate showing Tax Deducted at Source.

House Property

- a) A statement showing how the income shown in the return has been arrived at.
- b) Details of Interest Payment.
- c) T.D.S. details (If applicable)

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 taxes 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 proceeds 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. Some of them are as under:
 - U/S 80 D - Medical Insurance Receipt.
 - U/S 80 DD - Certificate from Competent Doctor regarding Permanent Physical Disability.
 - U/S 80G/GGA - Receipts for Donations/Contributions made.
 - U/S 80 GG - Receipts for Rent Payment.
 - U/S 80 RRB - Evidence of receipt of Royalty in respect of Patent.

Check Your Progress B

- 1) What is E-filing?

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- 2) Define ITR-5

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18.5.2 Consequences of Delay in Filing Return

If the return is not submitted by the due dates, the consequences will be as follows:

- 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-judgment Assessment because in such a case the Assessing Officer makes an estimate of total income to the best of his judgment on the basis of whatever information is available with him. Although Best-Judgment 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 1% 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.

- 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. Effective from the financial year 2017-18, a late filing fee will be applicable for filing your returns after the due date i.e. 31 August, 2019 under Section 234F. The maximum penalty is Rs. 10,000. If you file your ITR after the due date (31th August) but before 31st December, a penalty of Rs 5,000 will be levied.

Check Your Progress C

- 1) Explain in brief the consequences of delay in Filing the Return.

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- 2) What do you understand by Re-Assessment?

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- 3) “Defective Return is No Return”. Discuss.

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18.5.3 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 totaling 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 of Correct Information:** 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 authorizes the Assessing Officer to correct them 'SuoMoto' 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.
- b) If the particulars of income are found to have been concealed or inaccurate, 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.

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

- i) 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;
- ii) With rigorous imprisonment for a term between 3 months and 3 years with fine, in other cases.

18.6 LET US SUM UP

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 obvious mistakes made. In most-of the cases, the processing of return 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 authorized representative to substantiate the information supplied by him. After hearing and enquiry, he determines the total income and tax payable and intimates 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 prescribed period has passed.

18.7 KEY WORDS

Additional Tax: This term refers to the extra charge 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 (1stApril to 31stMarch) in which income is earned.

Intimation: The letter from the Assessing Officer intimating the tax and/or interest due to the assessee.

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 investigation of the return filed initiated by the Assessing Officer.

18.8 ANSWERS TO CHECK YOUR PROGRESS

Check Your Progress A

- i) False ii) False iii) True iv) False

18.9 TERMINAL QUESTIONS /EXERCISES

- 1) What are the consequences of delay in Filing Return?
- 2) What do you understand by PAN? What are the consequences for failure to apply for the allotment of PAN?
- 3) What are the different Tax Authorities and what are their functions?
- 4) What are the provisions of Income Tax Act in respect of Income Escaping Assessment?

<p>Note: These questions and illustrations are helpful to understand this unit. Do efforts for writing the answer of these questions but do not send your answer to university. It is only for yours practice.</p>
