

Chapter 12

Return & PAN

Q1

Nov 17 (Old)

Mr. Sachin filed return on 30th September, 2022 related to Assessment Year 2022-23. In the month of October 2022, his tax consultant found that the interest on fixed deposit was omitted in the tax return.

- (i) What is the time limit for filing a belated return?
- (ii) Can Mr. Sachin file a revised return?

Justify the above with the relevant provisions under section 139.

Assume that the due date for furnishing return of income was 31st July, 2022 and the assessment was not completed till the month of October 2022.

Answer

- (i) As per section 139(4), a belated return for any previous year may be furnished at any time -
 - (a) 3 months before the end of the relevant assessment year; or
 - (b) before the completion of the assessment,whichever is earlier.

For assessment year 2022-23, the belated return has to be furnished before 31st December 2022 or before completion of assessment, whichever is earlier.

- (ii) As per section 139(5), if any person, having furnished a return within the due date or a belated return, discovers any omission or any wrong statement therein, he may furnish a revised return at any time -
 - (a) before the expiry of the relevant assessment year or
 - (b) 3 months before the completion of assessment, whichever is earlier.

Since Mr. Sachin has filed his return after 31.7.2022, being the due date under section 139(1) in his case, but before 31.12.2022/completion of assessment, the said return is a belated return under section 139(4).

Thus, in the present case, Mr. Sachin can file a revised return, since he has found an omission in the belated return filed by him for AY 2022-23 and assessment is yet to be completed and relevant assessment year has not ended.

Q2

May 18 (Old)

Pertaining to the following transactions, what is the minimum amount above which quoting of Permanent Account Number is mandatory?

- (i) Sale or purchase of car.
- (ii) Payment to a hotel or restaurant against a bill or bills at any one time.
- (iii) Payment in connection with travel to any foreign country.
- (iv) Payment to the Reserve Bank of India for acquiring bonds issued by it.
- (v) A Time Deposit with a Post Office.
- (vi) Payment as Life Insurance Premium to an insurer.
- (vii) Sale or purchase of shares of a company not listed in a recognized stock exchange. (viii) Sale or purchase of any immovable property.

Answer

Monetary limit for mandatory quoting of PAN

	Transaction	Minimum amount above which quoting of PAN is mandatory as per Rule 114B of the Income-tax Rules, 1962
(i)	Sale or purchase of car.	All such transactions (There is no minimum amount)
(ii)	Payment to a hotel or restaurant against a bill or bills at any one time.	Payment in cash of an amount exceeding ₹ 50,000
(iii)	Payment in connection with travel to any foreign country.	Payment in cash of an amount exceeding ₹ 50,000
(iv)	Payment to the Reserve Bank of India for acquiring bonds issued by it.	Amount exceeding ₹ 50,000.
(v)	A Time Deposit with a Post Office.	Amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakhs during a financial year
(vi)	Payment as life insurance premium to an insurer.	Amount aggregating to more than ₹ 50,000 in a financial year
(vii)	Sale or purchase, of shares of a company not listed in a recognised stock exchange.	Amount exceeding ₹ 1 lakh per transaction
(viii)	Sale or purchase of any immovable property.	Amount exceeding ₹ 10 lakh or valued by stamp valuation authority referred to in section 50C at an amount exceeding ₹ 10 lakh

Q3

MTP Oct 18

Specify the persons who are authorized to verify under section 140, the return of income filed under section 139 of the Income-tax Act, 1961 in the case of:

- (i) Political party;
- (ii) Local authority;
- (iii) Association of persons, and
- (iv) Limited Liability Partnership (LLP).

Answer

The following persons (mentioned in Column III below) are authorised as per section 140, to verify the return of income filed under section 139:

I	II	III
(i)	Political party	Chief Executive Officer of such party (whether known as secretary or by any other designation).
(ii)	Local authority	Principal Officer thereof.
(iii)	Association of Persons	Any member of the association or the principal officer thereof.
(iv)	LLP	Designated partner, or Any partner, <ul style="list-style-type: none">- where the designated partner is not able to verify the return for any unavoidable reason;- where there is no designated partner

Q4

MTP Oct 18

Explain the term "return of loss" under the Income -tax Act, 1961. Can any loss be carried forward even if return of loss has not been filed as required?

Answer

A return of loss is a return which shows certain losses. Section 80 provides that the losses specified therein cannot be carried forward, unless such losses are determined in pursuance of return filed under the provisions of section 139(3).

Section 139(3) states that to carry forward the losses specified therein, the return should be filed within the time specified in section 139(1).

Following losses are covered by section 139(3):

- business loss to be carried forward under section 72(1) ,
- speculation business loss to be carried forward under section 73(2) ,
- loss from specified business to be carried forward under section 73A(2).

- loss under the head “Capital Gains” to be carried forward under section 74(1); and
- loss incurred in the activity of owning and maintaining race horses to be carried forward under section 74A(3)

However, loss from house property to be carried forward under section 71B and unabsorbed depreciation can be carried forward even if return of loss has not been filed as required under section 139(3).

Q5

MTP Oct 18

Pertaining to the following transactions, what is the minimum amount above which quoting Permanent Account Number is mandatory?

- Opening a demat account with a depository
- Purchase of bank draft from a banking company
- Payment for purchase of any foreign currency at any one time.
- Payment to a company for acquiring debentures issued by it.
- Payment as life insurance premium to an insurer

Answer

Monetary limit for mandatory quoting of PAN

	Transaction	Minimum amount above which quoting of PAN is mandatory
(i)	Opening a demat account with a depository.	All such transactions (There is no minimum amount)
(ii)	Purchase of bank draft from a banking company	Payment in cash of an amount exceeding ₹ 50,000 during any one day
(iii)	Payment for purchase of any foreign currency at any one time	Payment in cash of an amount exceeding ₹ 50,000
(iv)	Payment to a company for acquiring debentures issued by it	Amount exceeding ₹ 50,000.
(v)	Payment as life insurance premium to an insurer	Amount aggregating to more than ₹ 50,000 in a financial year

Q6

MTP Oct 18

Briefly mention the provisions of the Income-tax Act with regard to the Quoting of Aadhar Number under section 139AA.

Answer

Every person who is eligible to obtain Aadhar Number is required to mandatorily quote Aadhar Number, on or after 1st July, 2017:

- (a) in the application form for allotment of Permanent Account Number (PAN)
- (b) in the return of income.

The provisions of section 139AA relating to quoting of Aadhar Number would, however, not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:

- (i) residing in the States of Assam, Jammu & Kashmir and Meghalaya;
- (ii) a non-resident as per Income-tax Act, 1961;
- (iii) of the age of 80 years or more at any time during the previous year;
- (iv) not a citizen of India.

If a person does not have Aadhar Number, he is required to quote Enrolment ID of Aadhar application form issued to him at the time of enrolment in the application form for allotment of PAN or in the return of income furnished by him.

Every person who has been allotted PAN as on 1st July, 2017, and who is eligible to obtain Aadhar Number, shall intimate his Aadhar Number to prescribed authority on or before a date as may be notified by the Central Government.

Q7

RTP Nov 18

Mr. Atharv filed his return of income on 30th September, 2022 related to Assessment year 2022-23. In the month of October 2022, his tax consultant found that the interest on fixed deposit was omitted in the tax return. Can Mr. Atharv file a revised return?

Assume that the due date for furnishing return of income in his case, was 31st July, 2022 and the assessment was not completed till the month of October 2022.

Answer

As per section 139(5), if any person, having furnished a return under section 139(1), within the due date or a belated return under section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time –

- (a) 3 months before the end of the relevant assessment year or
- (b) before the completion of assessment,

whichever is earlier.

For assessment year 2022-23, the belated return has to be furnished before 31st December 2022 or before completion of assessment, whichever is earlier.

Since Mr. Atharv has filed his return after 31.7.2022, being the due date of filing return of income under section 139(1) in his case, but before 31.12.2022/completion of assessment, the said return is a belated return.

Thus, in the present case, Mr. Atharv can file a revised return, since he has found an omission in the belated return filed by him for AY 2022-23 and assessment is yet to be completed and 31.12.2022, being the end of AY 2022-23 has not elapsed.

Q8

Nov 18 (Old)

Mr. Subramaniam, due to inadvertent reasons failed to file his Income Tax return for assessment year 2022-23.

- (i) Can he file the above return in the year 2023-24? If yes, when is the last date to file the above return?
- (ii) What are the consequences of non-filing the return within the due date under section 139(1)?

Answer

(i) If any person fails to furnish a return within the time allowed to him under section 139(1), he may furnish the belated return for any previous year at any time -

- (i) 3 months before the end of the relevant assessment year; or
- (ii) before the completion of the assessment, whichever is earlier.

The last date for filing return of income for AY 2022-23, therefore, is 31st December 2022.

Thereafter, Mr. Subramaniam cannot furnish a belated return after this date.

(ii) Consequences for non-filing return of Income within the due date under section 139(1)

Carry forward and set-off of certain losses

Carry forward and set-off of business loss, speculation business loss, loss from specified business, loss under the head "Capital Gains"; and loss from the activity of owning and maintaining race horses, would not be allowed to be carried forward, where a return of income is not furnished within the time allowed under section 139(1).

Interest under section 234A

Interest under section 234A@1% per month or part of the month for the period commencing from the date immediately following the due date under section 139(1) till the date of furnishing of return of income is payable, where the return of income is furnished after the due date.

Fee under section 234F

With effect from assessment year 2022-23, fee of ₹ 5,000 would be payable under section 234F, if the return of income is not filed before the due date specified in section 139(1).

However, such fee cannot exceed ₹ 1,000, if the total income does not exceed ₹ 5,00,000.

Q9

MTP March 19

Examine with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

- (i) The Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.
- (ii) Where the Karta of a HUF is absent from India, the return of income can be verified by any male member of the family.

Answer

- (i) **True** : Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.
- (ii) **False** : Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member.

Q10

MTP April 19

Who are the persons authorized to verify return of income in the case of following persons:

- (i) Local authority
- (ii) Firm, having no managing partner

Answer

Return of income to be verified by whom

	Person	Return of income to be verified by
(i)	Local authority	The principal officer
(ii)	Firm, having no managing partner	Any partner of the firm, not being a minor

Q11

RTP May 19

Mr. Shivpal, a very senior citizen, has reported a Total Income ₹ 4,90,000 and the deductions eligible under Chapter VI-A amounting to ₹ 1,70,000 for the previous year 2021-22. Is he liable to file his return of income under section 139(1) for the Assessment year 2022-23? If so why?

Answer

As per sixth proviso to section 139(1), every person, being an individual whose total income without giving effect to the provisions of, inter alia, Chapter VI-A exceeds the basic exemption limit, is compulsorily required to furnish return of income on or before the due date.

Therefore, in the present case, Mr. Shivpal, a very senior citizen is required to file return of income, since his total income of ₹ 6,60,000 before giving effect to the deduction of ₹ 1,70,000 under Chapter VI-A, exceeds the basic exemption limit of ₹ 5,00,000 applicable in his case.

Q12

May 19

Discuss the provisions of section 139A(1) which provides the persons who are compulsorily required to apply for allotment of Permanent Account Number (PAN) with the Assessing Officer .

OR,

- (i) What is the fee for default in furnishing return of income u/s 234F?
- (ii) To whom the provisions of section 139AA relating to quoting of Aadhar Number do not apply?

Answer

Persons who are mandatorily required to apply for PAN as per section 139A(1)

- (i) Every person whose total income or the total income of any other person in respect of which he is assessable under the Income-tax Act, 1961 during any previous year exceeds the basic exemption limit
- (ii) Every person carrying on business or profession whose total sales, turnover or gross receipts are or is likely to exceed ₹ 5 lakh in any previous year
- (iii) Every person, being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year
- (iv) Every person who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in (iii) above or any person competent to act on behalf of the person referred to in (iii) above.

Second Alternative

(i) Fee for default in furnishing return of income u/s 234F

Where a person, who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of –

Fee	Circumstances
₹ 5,000	If the return is not furnished on or before the due date
	Note - However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed ₹ 1,000

(ii) Persons to whom provisions of section 139AA relating to quoting of Aadhar Number does not apply

The provisions of section 139AA relating to quoting of Aadhar Number would not apply to an individual who does not possess the Aadhar number or Enrolment ID and is :

- (i) residing in the States of Assam, Jammu & Kashmir and Meghalaya;
- (ii) a non-resident as per Income-tax Act, 1961;
- (iii) of the age of 80 years or more at any time during the previous year;
- (iv) not a citizen of India.

Q13

RTP Nov 19

Examine with reference to the relevant provisions of Income-tax Act, 1961 whether the following losses/deductions can be carried forward/claimed by Mr. Sharma. These losses/deductions are in respect of the financial year 2021-22.

- (i) Loss from the business carried on by him as a proprietor: ₹ 9,80,000 (computed)
- (ii) Unabsorbed Depreciation: ₹ 3,25,000 (computed)
- (iii) Loss from House property: ₹ 50,000 (computed)

The due date for filing the return for Mr. Sharma was 31st July, 2022 under section 139(1). However, he filed the return on 25.9.2022.

Answer

Mr. Sharma has furnished his return of income for AY 2022-23 on 25.9.2022, i.e., after 31st July 2022, being the due date specified under section 139 (1). Hence, the return is a belated return under section 139(4).

As per section 80 read with section 139(3), specified losses, which have not been determined in pursuance of a return of loss filed within the time specified in section 139(1), cannot be carried forward to the subsequent year for set-off against income of that year. The specified losses include, inter alia, business loss but does not include loss from house property and unabsorbed depreciation.

Accordingly, business loss of ₹ 9,80,000 of Mr. Sharma for AY 2022-23, not determined in pursuance of a return of loss, filed within the time specified in section 139(1), cannot be carried forward to AY 2022-23.

However, the loss of ₹ 50,000 from house property and unabsorbed depreciation of ₹ 3,25,000 pertaining to AY 2022-23, can be carried forward to AY 2023-24 for set-off, even though Mr. Sharma has filed the return of loss for AY 2022-23 belatedly.

Q14

Nov 19 (New)

Elaborate the conditions, non-fulfilment of which would render a return of income filed by an assessee not maintaining regular books of accounts, defective.

Answer

Where regular books of account are not maintained by the assessee, the return should be accompanied by -

- (i) a statement indicating -
 - (1) the amount of turnover or gross receipts,
 - (2) gross profit,
 - (3) expenses; and
 - (4) net profit

of the business or profession;

- (ii) the basis on which such amounts mentioned in (i) above have been computed,
- (iii) the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.

Note: The above answer is based on the provisions of section 139(9) of the Income-tax Act, 1961. However, since returns are now required to be e-filed, many of the details need to be incorporated as part of the relevant return form itself.

Q 15

Nov 19 (Old)

Explain with brief reasons, whether the return of income can be revised under section 139(5) of the Income-tax Act, 1961 in the following cases:

- (i) Defective or incomplete return filed under section 139(9).
- (ii) Return already revised once under section 139(5).
- (iii) Return of loss filed under section 139(3).

Answer

(i) Defective or incomplete return filed under section 139(9)

The defective return has to be rectified within the period of 15 days from the date of intimation received from the Assessing Officer or such further extended period. Where a defective return is rectified within 15 days or such further extended period, then, such return would be a valid return.

Thereafter, if the assessee discovers any omission or wrong statement in such a return, he can furnish a revised return under section 139(5), within the prescribed time i.e. within the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

However, if the defect is not rectified within the said time, it would be an invalid return, in which case, it cannot be revised.

(ii) Return already revised once under section 139(5)

A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. within the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

(iii) Return of loss filed under section 139(3)

A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).

Q 16

MTP May 20

Briefly mention the provisions of Income-tax Act, 1961 with regard to quoting Aadhar Number under section 139AA of the Act.

Answer

Provisions of Income-tax Act, 1961 relating to quoting of Aadhar Number under section 139AA

Every person who is eligible to obtain Aadhar Number is required to mandatorily quote Aadhar Number, on or after 1st July, 2017:

- (a) in the application form for allotment of Permanent Account Number (PAN)
- (b) in the return of income

The provisions of section 139AA relating to quoting of Aadhar Number would, however, not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:

- (i) residing in the States of Assam, Jammu & Kashmir and Meghalaya;
- (ii) a non-resident as per Income-tax Act, 1961;
- (iii) of the age of 80 years or more at any time during the previous year;
- (iv) not a citizen of India.

If a person does not have Aadhar Number, he is required to quote Enrolment ID of Aadhar application form issued to him at the time of enrolment in the application form for allotment of PAN or in the return of income furnished by him.

Every person who has been allotted PAN as on 1st July, 2017, and who is eligible to obtain Aadhar Number, shall intimate his Aadhar Number to prescribed authority on or before a date as may be notified by the Central Government.

Q 17

RTP May 20

Mr. Sudarshan, due to inadvertent reasons, failed to file his Income-tax return for the assessment year 2022-23 on or before the due date of filing such return of income.

- (i) Can he file the above return after due date of filing return of income? If yes, which is the last date for filing the above return?
- (ii) What are the consequences of non-filing the return within the due date under section 139(1)?

Answer

If any person fails to furnish a return within the time allowed to him under section 139(1), he may furnish the belated return for any previous year at any time -

- (i) 3 months before the end of the relevant assessment year; or
- (ii) before the completion of the assessment,

whichever is earlier.

The last date for filing return of income for AY 2022-23, therefore, is 31st December 2022.

Thereafter, Mr. Sudarshan cannot furnish a belated return after this date.

Consequences for non-filing return of Income within the due date under section 139(1)

Carry forward and set-off of certain losses: Business loss, speculation business loss, loss from specified business under section 35AD, loss under the head "Capital Gains"; and loss from the activity of owning and maintaining race horses, would not be allowed to be carried forward for set-off against income of subsequent years, where a return of income is not furnished within the time allowed under section 139(1).

Interest under section 234A: Interest under section 234A@1% per month or part of then month for the period commencing from the date immediately following the due date under section 139(1) till the date of furnishing of return of income is payable, where the return of income is furnished after the due date.

Fee under section 234F: Fee of ₹ 5,000 would be payable under section 234F, if the return of income is not filed on or before the due date specified in section 139(1) but filed on or before 31st December of the assessment year and ₹ 10,000 would be the fee payable under section 234F where the return is furnished after 31st December of the assessment year. However, such fee cannot exceed ₹ 1,000, if the total income does not exceed ₹ 5,00,000.

Q18

Nov 20 (Old)

State the conditions when a person is required to furnish Income Tax Return in the prescribed form & manner on or before the due date even if such person (other than a company or a firm) is not otherwise required to furnish a return u/s 139(1).

Answer

Conditions when a person is required to furnish return of income on or before the due date even if he is otherwise not required to furnish return under section 139(1)

Any person, other than a company or a firm, who is not required to furnish a return under section 139(1), is required to file income-tax return in the prescribed form and manner on or before the due date if, during the previous year, such person, inter alia,

- (i) has deposited an amount or aggregate of the amounts exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or
- (ii) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or
- (iii) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 1 lakh towards consumption of electricity.

Q19

Jan 21 (New)

Mr. Hari aged 57 years is a resident of India. He provides you the following details of his incomes pertaining to F.Y. 2021-22.

Interest on Non-Resident (External) Account maintained with State Bank of India as per RBI stipulations	₹ 3,55,000
Interest on savings bank account maintained with State Bank of India	₹ 8,000
Interest on Fixed Deposits with Punjab National Bank	₹ 40,000

He seeks your advice on his liability to file return of income as per Income-tax Act, 1961 for the Assessment Year 2022-23. What will be your answer, if he has incurred ₹ 4 lakhs on travel expenses of his newly married son and daughter in law's honeymoon in Canada ?

Answer

An individual is required to furnish a return of income under section 139(1) if his total income, before giving effect to the deductions under Chapter VI-A or exemption under section 54/54B/54D/54EC or 54F, exceeds the maximum amount not chargeable to tax i.e., ₹ 2,50,000.

Computation of total income of Mr. Hari for A.Y. 2022-23

Particulars	₹
Income from other sources	
Interest earned from Non-resident (External) Account ₹ 3,55,000 [Exempt u/s 10(4)(ii), since he is maintaining the said account as per RBI stipulations]	NIL
Interest on savings bank account	8,000
Interest on fixed deposit with Punjab National Bank	40,000
Gross Total Income	48,000
Less: Deduction u/s 80TTA (Interest on saving bank account)	8,000
Total Income	40,000

Since the total income of Mr. Hari for A.Y.2022-23, before giving effect, inter alia, to the deductions under Chapter VI-A, is less than the basic exemption limit of ₹ 2,50,000, he is not required to file return of income for A.Y.2022-23.

However, if he has incurred expenditure exceeding ₹ 2 lakhs for himself or any other person for travel to a foreign country, he would be required to file a return of income, even if his total income does not exceed the basic exemption limit. Since he has incurred expenditure of ₹ 4 lakhs on foreign travel of his newly married son and daughter in law in the F.Y. 2021-22, he has to mandatorily file his return of income for A.Y. 2022 -23 on or before the due date under section 139(1).

Q20

Jan 21 (Old)

Briefly explain the provisions of section 234F of the Income Tax Act, 1961 with regard to default in furnishing return of Income.

Answer

Fee for default in furnishing return of income [Section 234F]

Where a person who is required to furnish a return of income under section 139, fails to furnish return of income within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of –

- ₹ 5,000, if the return is not furnished on or before the due date.

However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed ₹ 1,000.

Q21

MTP Apr 21

- (i) What is the fee for default in furnishing return of income u/s 234F?
- (ii) To whom the provisions of section 139AA relating to quoting of Aadhar Number do not apply?

Answer

(i) Fee for default in furnishing return of income u/s 234F

Where a person, who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of –

Fee	Circumstances
₹ 5,000	If the return is not furnished on or before the due date
Note - However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed ₹ 1,000	

(ii) Persons to whom provisions of section 139AA relating to quoting of Aadhar Number does not apply

The provisions of section 139AA relating to quoting of Aadhar Number would not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:

- (i) residing in the States of Assam, Jammu & Kashmir and Meghalaya;
- (ii) a non-resident as per Income-tax Act, 1961;
- (iii) of the age of 80 years or more at any time during the previous year;
- (iv) not a citizen of India.

Q22

MTP Mar 21

Mr. Praveen, due to inadvertent reasons, failed to file his income-tax return for the assessment year 2022-23 on or before the due date of filing such return of income.

- (i) Can he file the above return after due date of filing return of income? If yes, which is the last date for filing the above return?
- (ii) What are the consequences of non-filing the return within the due date under section 139(1)?

Answer

If any person fails to furnish a return within the time allowed to him under section 139(1), he may furnish the belated return for any previous year at any time -

- (i) 3 months before the end of the relevant assessment year; or
- (ii) before the completion of the assessment, whichever is earlier.

The last date for filing return of income for A.Y.2022-23, therefore, is 31st December 2022. Thereafter, Mr. Praveen cannot furnish a belated return after this date.

Consequences for non-filing return of Income within the due date under section 139(1)

Carry forward and set-off of certain losses: Business loss, speculation business loss, loss from specified business under section 35AD, loss under the head "Capital Gains"; and loss from the activity of owning and maintaining race horses, would not be allowed to be carried forward for set-off against income of subsequent years, where a return of income is not furnished within the time allowed under section 139(1).

Interest under section 234A: Interest under section 234A@1% per month or part of the month for the period commencing from the date immediately following the due date under section 139(1) till the date of furnishing of return of income is payable, where the return of income is furnished after the due date.

Fee under section 234F: Fee of ₹ 5,000 would be payable under section 234F, if the return of income is not filed on or before the due date specified in section 139(1). However, such fee cannot exceed ₹ 1,000, if the total income does not exceed ₹ 5,00,000.

Q23

May 21 (New)

Enumerate the cases where a return of loss has to be filed on or before the due date specified u/s 139(1) for carry forward of the losses. Also enumerate the cases where losses can be carried forward even though the return of loss has not been filed on or before the due date.

Answer

As per section 139(3), an assessee is required to file a return of loss within the due date specified u/s 139(1) for filing return of income.

As per section 80, certain losses which have not been determined in pursuance of a return filed under section 139(3) on or before the due date specified under section 139(1) cannot be carried forward and

set-off. Thus, the assessee has to file a return of loss under section 139(3) within the time allowed u/s 139(1) in order to carry forward and set off of following losses:

- loss under the head "Capital Gains",
- loss from activity of owning and maintaining race horses.
- business loss,
- speculation business loss and
- loss from specified business.

However, following can be carried forward for set-off even if the return of loss has not been filed before the due date:

- Loss under the head "Income from house property" and
- Unabsorbed depreciation.

Q24

May 21 (New)

In the following cases relating to P.Y.2021-22, the total income of the assessee or the total income of any other person in respect of which he/she is assessable under Income-tax Act does not exceed the basic exemption limit. You are required to state with reasons, whether the assessee is still required to file the return of income or loss for A.Y.2022-23 in each of the following independent situations:

- Manish & Sons (HUF) sold a residential house on which there arose a long term capital gain of ₹ 12 lakhs which was invested in Capital Gain Bonds u/s 54EC so that no long term capital gain was taxable.
- Mrs. Archana was born in Germany and married in India. Her residential status under section 6(6) of the Income-tax Act, 1961 is 'resident and ordinarily resident'. She owns a car in Germany which she uses for her personal purposes during her visit to her parents' place in that country.
- Sudhakar has incurred an expenditure of ₹ 1,20,000 towards consumption of electricity, the entire payment of which was made through banking channels.

Answer

- A HUF whose total income without giving effect to, inter alia, section 54EC, exceeds the basic exemption limit of ₹ 2,50,000, is required to file a return of its income on or before the due date under section 139(1). In this case, since the total income without giving effect to exemption under section 54EC is ₹ 12 lakhs, exceeds the basic exemption limit, the HUF is required to file its return of income for A.Y. 2022-23 on or before the due date under section 139(1).
- Every person, being a resident other than not ordinarily resident in India would be required to file a return of income or loss for the previous year on or before the due date, even if his or her total income does not exceed the basic exemption limit, if such person, at any time during the previous year, inter alia, holds any asset located outside India.

In this case, though Mrs. Archana owns a car in Germany, the same does not fall within the ambit of "capital asset" as it is a personal effect. Hence, Mrs. Archana is not required to file her return of income for A.Y. 2022-23 on account of owning a car for personal purposes in Germany.

Note – “Asset” for the purpose of the fourth proviso to section 139(1) has not been specifically defined in the said section or elsewhere in the Act. Schedule FA of the income-tax return forms, however, requires details of foreign assets for the purpose of filing of return of income under this provision. The foreign assets listed in the said Schedule does not include car. It, however, includes “any other capital assets outside India”. Car used for personal purposes is not a capital asset as it is a “personal effect”. Hence, it is not included in the meaning of “asset” for the purpose of the fourth proviso to section 139(1). The above answer is based on the view taken regarding the ambit of the term “asset”, based on the list of assets detailed in the relevant schedule of the income-tax return forms.

Alternative view - On the plain reading of the fourth proviso to section 139(1) and the general meaning attributable to the word “asset”, it is possible to take a view that Mrs. Archana is required to file her return of income as she owns an asset, i.e., a car in Germany. Accordingly, due credit may also be given to the candidates who have answered on this basis.

- (iii) If an individual has incurred expenditure exceeding ₹ 1 lakh towards consumption of electricity during the previous year, he would be required to file a return of income, even if his total income does not exceed the basic exemption limit. Since Mr. Sudhakar has incurred expenditure of ₹ 1,20,000 in the P.Y.2021-22 towards consumption of electricity, he has to file his return of income for A.Y. 2022-23 on or before the due date under section 139(1).

Q 25

May 21 (Old)

Briefly explain the provisions of section 139A of the Income-tax Act, 1961 with regard to the persons who are required to apply for Permanent Account Number.

Answer

Following persons, who have not been allotted a permanent account number (PAN), are required to apply to the Assessing Officer under section 139A for the allotment of a PAN within the prescribed time -

- (i) Every person, if his total income or the total income of any other person in respect of which he is assessable under the Act during any previous year exceeds the maximum amount which is not chargeable to income-tax
- (ii) Every person carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed ₹ 5 lakhs in any previous year
- (iii) Every person being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year
- (iv) Every person who is a managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of any person referred in (iii) above or any person competent to act on behalf of such person referred in (iii) above

Q 26

RTP Nov 21

Can Mr. Raghuram file his return for the A.Y. 2022-23 belatedly u/s 139(4) in the previous year 2023-24, if he has failed to file said return on or before the due date of filing return of income for the A.Y. 2022-23, due to inadvertent reasons? Also, specify the consequences of non-filing of return within the due date under section 139(1).

Answer

If any person fails to furnish a return within the time allowed to him under section 139(1), he may furnish the belated return for any previous year at any time -

- (i) 3 months before the end of the relevant assessment year; or
- (ii) before the completion of the assessment, whichever is earlier.

The last date for filing return of income for A.Y.2022-23 is 31st December 2022. Thereafter, Mr. Raghuram cannot furnish his belated return. Since previous year 2023-24 begins on 1st April, 2023, Mr. Raghuram cannot file his return of income for the A.Y. 2022-23 u/s 139(4) in the previous year 2023-24.

Consequences for non-filing return of Income within the due date under section 139(1)

Carry forward and set-off of certain losses: Carry forward and set-off of business loss, speculation business loss, loss from specified business, loss under the head "Capital Gains"; and loss from the activity of owning and maintaining race horses, would not be allowed to be carried forward, where a return of income is not furnished within the time allowed under section 139(1).

Interest under section 234A: Interest under section 234A@1% per month or part of the month for the period commencing from the date immediately following the due date under section 139(1) till the date of furnishing of return of income is payable, where the return of income is furnished after the due date. However, no interest u/s 234A shall be charged on self-assessment tax paid by the assessee on or before the due date of filing of return.

Fee under section 234F: Late fee of ₹ 5,000 would be payable under section 234F, if the return of income is not filed before the due date specified in section 139(1).

However, such fee cannot exceed ₹ 1,000, if the total income does not exceed ₹ 5,00,000.

Q 27

139(3) 31/12/22

Nov 21 (New)

Mr. Kailash, a resident and ordinarily resident in India, could not file his return of Income for the assessment year 2022-23 before due date prescribed under section 139(1). Advise Mr. Kailash as a tax consultant:

What are the consequences for non-filing of return of Income within the due date under section 139(1)?

234F

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234F ->

Answer

Consequences for non-filing return of income within the due date under section 139(1)

Interest under section 234A

Interest under section 234A@1% per month or part of the month for the period commencing from the date immediately following the due date under section 139(1) till the date of furnishing of return of income is payable, where the return of income is furnished after the due date.

However, no interest u/s 234A shall be charged on self-assessment tax paid by the assessee on or before the due date of filing of return.

Fee under section 234F

Late fee of

- ₹ 5,000 would be payable under section 234F, if the return of income is not filed before the due date specified in section 139(1) and **3112**
- ₹ 10,000 would be the fee payable under section 234F where the return is furnished after 31st December, 2021.

However, such fee cannot exceed ₹ 1,000, if the total income does not exceed ₹ 5,00,000.

Carry forward and set-off of certain losses not permissible

Following losses would not be allowed to be carried forward, where a return of income is not furnished within the time allowed under section 139(1):

- business loss, speculation business loss, loss from specified business,
- loss under the head "Capital Gains"; and
- loss from the activity of owning and maintaining race horses.

Q 28

Nov 21 (New)

Mr. Sitaram is engaged in the business of trading of cement having turnover of ₹ 10 crores during the financial year 2022-23. As a tax consultant advise him what are the particulars to be furnished under section 139(6 A) along with Return of Income ?

Answer

Since Mr. Sitaram's turnover from business of trading of cement is ₹ 10 crores which exceeds ₹ 1 crore, being the threshold limit for tax audit under section 44AB, he is subjected to tax audit.

Accordingly, Mr. Sitaram, is required to furnish the following particulars along with his return of income -

- the report of audit referred to in section 44AB.
- the particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof.

Q 29

Nov 21 (Old)

Mr. Prabhav, aged 30 yrs., is a resident of India. During the financial year 2021-22, interest of ₹ 3,00,000 was credited to his non-resident external (NRE) account with SBI. The same account has been maintained with the permission of RBI. ₹ 1,50,000 being interest on fixed deposit with SBI, was credited to his saving bank account during this period. He also earned ₹ 5,000 as interest on his savings bank account. He invested ₹ 50,000 in term deposit with SBI on 31-3-2022 for a period of five years.

Is Prabhav required to file return of income u/s 139(1) of the Income- Tax act 1961 ?

What will be your answer if he has deposited ₹ 51,00,000 in current account in SBI and ₹ 50,00,000 in current account in co-operative bank respectively ?

Answer

An individual is required to furnish a return of income under section 139(1) if his total income, before giving effect to, inter alia, the deductions under Chapter VI-A, exceeds the basic exemption limit i.e., ₹ 2,50,000.

Computation of total income of Mr. Prabhav for A.Y. 2021-22

Particulars	₹
Income from Other Sources	
Interest earned from Non-resident (External) Account ₹ 3,00,000 [Exempt u/s 10(4)(ii), since he is maintaining the said account with the permission of RBI]	NIL
Interest on fixed deposit with SBI	1,50,000
Interest on savings bank account	5,000
Gross Total Income	1,55,000
Less: Deductions under Chapter VI-A	
Deduction u/s 80C (Term deposit with SBI for five years)	50,000
Deduction u/s 80TTA (Interest on saving bank account)	5,000
Total Income	1,00,000

Since the total income of Mr. Prabhav for A.Y.2021-22, before giving effect, inter alia, to the deductions under Chapter VI-A, which is ₹ 1,55,000, in his case, is less than the basic exemption limit of ₹ 2,50,000, he is not required to file return of income for A.Y.2021 -22.

However, if he has deposited an amount or aggregate of the amounts exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank, he would be required to file a return of income, even if his total income does not exceed the basic exemption limit. Since Mr. Prabhav has deposited ₹ 51 lakhs in current account in SBI and ₹ 50 lakhs in current account in co-operative bank, aggregate of which exceeds ₹ 1 crore he has to mandatorily file his return of income for A.Y. 2021 -22 on or before the due date under section 139(1).

Q 30

MTP Oct 21

Examine with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

- (i) The Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.
- (ii) Where the Karta of a HUF is absent from India, the return of income can be verified by any male member of the family.

Answer

- (i) **True:** Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.
- (ii) **False:** Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member.

Q 31

MTP Nov 21

Mr. Naksh has undertaken certain transactions during the F.Y.2021-22, which are listed below. You are required to identify the transactions in respect of which quoting of PAN is mandatory in the related documents –

S.No.	Transaction
1.	Payment of life insurance premium of ₹ 40,000 in the F.Y.2021-22 by account payee cheque to LIC for insuring life of self and spouse
2.	Payment of ₹ 1,10,000 to RBI for acquiring its bonds
3.	Applied for issue of credit card to SBI
4.	Payment of ₹ 1,00,000 by account payee cheque to travel agent for travel to Singapore for 3 days to visit

Answer

	Transaction	Is quoting of PAN mandatory in related documents?
1.	Payment of life insurance premium of ₹ 40,000 in the F.Y.2021-22 by account payee cheque to LIC for insuring life of self and spouse	No, since the amount paid does not exceed ₹ 50,000 in the F.Y.2021-22.
2.	Payment of ₹ 1,10,000 to RBI for acquiring its bonds	Yes, since the amount paid exceeds ₹ 50,000

3.	Applied to SBI for issue of credit card.	Yes, quoting of PAN is mandatory on making an application to a banking company for issue of credit card.
4.	Payment of ₹ 1,00,000 by account payee cheque to travel agent for travel to Dubai for 3 days to visit	No, since the amount <u>was paid by account payee cheque, quoting of PAN is not mandatory even though the payment exceeds ₹ 50,000</u>