



## Sec 139(1) :- Filing OF Return OF Income (ROI)

### I) Who should file ROI ?

- For companies and Partnership firm (including LLP) return filing is **compulsory**.
- For other assessee if **GTI** (before claiming exemption u/s 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA) > **BEL** then return filing is **compulsory**.
- Resident individual having asset located outside India or beneficial owner of any asset located outside India.
- As per FA 2019 following assessee also should compulsory file ROI
  - Aee has deposited an Aggregate amount > **1 crore** in one or more current accounts with bank or CO-OP bank or deposited **50,00,000** or more in one or more saving accounts.
  - Aee has incurred **foreign travel exps.** of an aggregate amount > **200,000** for himself or any other person.
  - Aee has incurred expenditure of an aggregate amount > **100,000** towards consumption of **Electricity**.
- As per CBDT notification no. 37/2022 following person also compulsory file ROI :-
  - Aee **Total sales/TIO** in the business > **60,00,000** during the P.Y. or **Total GR** in profession > **10,00,000** during P.Y.
  - Aee Aggregate of **TDS and TCS** during P.Y. is **25,000** or more (in case of senior citizen **₹ 50,000**)

### II) When to file ROI ?

- person require to furnish Transfer pricing audit report u/s 92E (International Taxation provision is applicable) → **30<sup>th</sup> Nov of A.Y.**
- **CAP**
  - C - Every other company other than above
  - A - Tax Audit Assessee
  - P - Partner of partnership firm to whom Tax Audit applicable.
- For every other person other than above → **31<sup>st</sup> July of A.Y.**

### SECTION 139(3) :- Return of Loss

- As per **SEC 80**, assessee required to file the return up to due date **U/S 139(1)** for carry forward of following losses:-
  - Business loss
  - speculation business loss
  - loss from specified business **SEC 35 AD**
  - loss under the head "capital gains"
  - loss from activity of owning & maintenance of horse race (OMR)
- losses can be **SET OFF** even if return is filed after due date.
- **HP losses and unabsorbed depreciation can be C/F** even if return of such loss late filed.

### SEC 139(4) :- Belated Return

- If assessee failed to file return within due date then he can file **belated return** within following time limit :-
  - i) **3 months prior** to end of relevant A.Y. or
  - ii) **Before completion of assessment****which ever is earlier**
- **CONSEQUENCES OF Belated Return** :-
  - **Interest U/S 234 A** i.e. **1% p.m. or part of the month**
  - **Penalty U/S 234 F**
    - Generally **₹ 5000**
    - Total income **₹ 1000**  
**≤ 500,000**
  - **No carry forward of losses** as per sec 80 except HP & UAD

### SEC 139(5) :- Revised Return

- Any person filed return U/S **139(1) / 139(3) or 139(4)**, if discover any omission or mistake in such ROI filed earlier then such person can file **Revised return** within following time limit :-
  - i) **3 months prior** to end of relevant A.Y. or
  - ii) **Before completion of assessment****which ever is earlier**
- Belated Return also can be **Revised**
- Revised Return can be **further revised** any number of

times within time limit.

- The Revised return substitutes original return.

### **sec 139(9) :- Defective Return**

- Return shall be considered as defective, if -
  - Statement / Annexures / column are not properly filled in
  - Return is not filed in prescribed form
  - **PROOF OF TAX** not attached with return.
  - Report u/s **44AB** not submitted
- If Return is treated as defective then A.O. shall intimate such defect to assessee and give him an opportunity to rectify such defect **within 15 days or extended time**. If assessee does not rectify the defect then return shall be treated as **invalid Return**.



FA 2022

## RETURNS

### 1) Updated Return sec 139(8A)

#### who can file ?

Any person may furnish updated return of his income.

Updated return can be submitted whether or not he has furnished return u/s 139(1) / 139(4) / 139(5) for an A.Y.

#### Time Limit :-

Updated return u/s 139(8A) can be submitted at any time **within 24 months** from the end of relevant A.Y.

#### when updated return can not be submitted ?

- 1) IF updated return is **Return of a loss**
- 2) IF updated return has effect of **decreasing tax liability**
- 3) Person against whom **search has been initiated / survey has been conducted.**
- 4) updated return has been **already furnished by him u/s 139(8A)**
- 5) Any proceedings for Assessment / reassessment / revision of income **is pending or has been completed**
- 6) A.O. has information in respect of
  - Prevention of Money Laundering Act 2002
  - Black Money
  - Benami Property Transaction Act 1988**same has been communicated to him**

#### Computation of Additional Tax :-

- IF updated return filed after expiry of time limit sec 139(4) / sec 139(5) but before completion of 12 months from end of relevant A.Y.
- IF updated return is furnished after the expiry of 12 months but before completion of 24 months from end of relevant A.Y.

**25% of Aggregate tax + SC + HEC and interest as computed.**

**50% of Aggregate of tax + SC + HEC and interest as computed.**

**Section 140 :- Signing / Verification of ROC**

- 1) Individual → Himself  
Not present in India or mentally Handicapped → competent to verify on behalf of individual
- 2) HUF → Karta  
Karta Not present in India or Karta mentally Handicapped → Any Adult member of HUF
- 3) A partnership firm → Managing partner  
If there is no managing partner → Any Adult partner
- 4) LLP → Designated Partner  
If there is no Designated Partner → Any partner
- 5) Company → Managing director  
NO MD → Any other director  
company under Liquidation → Liquidator  
Application for corporate insolvency resolution process has been admitted by the adjudicating Authority under IBC 2016 → Insolvency Professional appointed by such Adjudicating Authority
- 6) Political party → CEO
- 7) Local Authority → Principal Officer
- 8) Any other person → Person competent to verify.

**SEC 139A :- Permanent Account Number (PAN)**

Who should APPLY for PAN	Time Limit
1) Every person if his <b>total income &gt; BEL</b>	up to 31 <sup>st</sup> may of A.Y.
2) Every person who's business or profession <b>Turnover or Gross receipts &gt; 5,00,000</b> in P.Y.	up to end of P.Y.
3) <b>Resident</b> other than an individual, which enters in to a financial transaction of an amount <b>2,50,000 or more</b> in a P.Y.	up to 31 <sup>st</sup> may of A.Y.
4) MD, Director, Partner, Trustee, Karta, Principal officer	up to 31 <sup>st</sup> may of A.Y.
5) Person intends to enter in to following transactions :- a) <b>Cash deposit aggregate 20,00,000 or more</b> in a P.Y. in one or more account with bank or co-op. bank b) <b>Cash withdrawal aggregate 20,00,000 or more</b> in a P.Y. in one or more account with bank or co-op. bank c) <b>Opening of a current account</b> with a bank or co-op. bank	At least 7 days before the date on which he intends to enter in to the said transaction.

**Cases where PAN to be quoted in Transaction's**

Nature of Transaction	Value of transact.
1) Sale or purchase of a motor vehicle other than two wheeler	All such Transaction's
2) Opening an account with bank or co-op bank	
3) Making an application to bank or co-op bank for issue of <b>credit card / debit card</b> .	
4) Opening of <b>D-mat Account</b>	

5)	payment to a <b>hotel or restaurant</b> bill at any one time	Amount > 50,000
6)	payment in connection with <b>foreign travel</b> <b>Exps.</b> or purchase of <b>foreign currency</b> at any one time	
7)	payment to a <b>mutual fund</b> for purchase unit	
8)	Payment to <b>RBI</b> for <b>acquiring bonds</b>	
9)	<b>Deposit</b> with bank or co-op bank or post office	
10)	<b>FD</b> with bank or co-op bank or post office or NBFC	
11)	purchase of <b>bank draft / pay order</b> from a bank or co-op bank	Amt > 100,000 per transaction
12)	payment as <b>life insurance premium</b>	
13)	sale or purchase of <b>unlisted shares of a company</b>	
14)	sale or purchase of any <b>immovable property</b>	AP or SPD > 10,00,000
15)	sale or purchase of any <b>goods or services</b>	Amount > 200,000 per transaction

**NOTE**

- 1) where a person enters in to a transaction is **minor** and such minor does not have PAN then he can mention PAN of **father or mother or guardian** as the case may be.
- 2) Any person who enter in to a financial transaction who **does not have PAN** shall make **declaration in form 60**
- 3) Any person who failed to apply for PAN or failed to mention PAN then he **shall be liable for penalty of ₹ 10,000**

**Sec.139AA : Aadhar Number**

- A. Every person who is **eligible to obtain Aadhar number** shall on or after the 1st April 2017 quote Aadhar number -
- (i) in the application form for allotment of PAN
  - (ii) in the return of income
- If Aadhar number not available then that person should quote application id of Aadhar.
- B. Every person already holding PAN on 1st July 2017, shall link Aadhar with PAN till 31st March 2022 (**extended till 1st July 2023**) otherwise PAN shall be made inoperative.
- C. As per central government notification, Section 139AA **NOT APPLY** to an individual who does not possess the Aadhar number or enrolment ID is :
- I) Resident in the state of J&K, Meghalaya and Assam
  - II) NR As per provisions of Income tax Act 1961
  - III) Age of 80 years or more at any time during the previous year
  - IV) Not a citizen of India

**SEC 139B:- Tax Return Preparer (TRP)**

- 1) CBDT frame a scheme whereby a **specified class** of person can file their return of income through TRPs.
- 2) A TRP means an **individual** who is authorised to act as TRP by CBDT, **other than** following persons :-
- A Chartered Accountant
  - A Legal practitioner
  - An officer of scheduled bank with which assessee maintain an account
  - Employee of specified class of person
- 3) Specified class of person means any person **who is required to file ROI**, other than :-
- a) A company
  - b) person whose books of accounts are required to be audited u/s 44 AB or under any other law.
- 4) As per CBDT, scheme **only individual / HUF** can file their

return through TRP.

- 5) Individual holding bachelor degree from recognised Indian university or passed inter exam of ICAI/ICSI/CMA can become TRP.



- 1) usually P.Y. Tax to be paid in A.Y. However if P.Y. tax paid in P.Y. only then such tax is called as Advance tax
- 2) It is also called as "pay as you earn"
- 3) Assessee is required to pay advance tax if his liability for advance tax is **₹ 10,000 or more**.

**Exceptions:-**

Resident senior citizen not having income **under PGDP** shall **not** be required to pay advanced tax.

- 4) Advance tax shall be calculated by estimating the current year income then applying tax rates.  
TDS, TCS, MAT / AMT credit, Relief U/S 89 **credit shall be deducted** to arrive at advance tax liability.

**5) Due dates for payment of Advance Tax**

DUE DATE	AMOUNT OF ADVANCE TAX
UP TO 15 <sup>th</sup> JUNE OF P.Y.	UP TO 15% OF ADV. TAX LIAB
UP TO 15 <sup>th</sup> SEPT OF P.Y.	UP TO 45% OF ADV. TAX LIAB
UP TO 15 <sup>th</sup> DEC OF P.Y.	UP TO 75% OF ADV. TAX LIAB
UP TO 15 <sup>th</sup> MARCH OF P.Y.	UP TO 100% OF ADV. TAX LIAB

**NOTE:-**

- i) If Assessee **opts for sec 44AD / 44ADA** (Presumptive PGDP) then **due date is 15<sup>th</sup> March** of P.Y. (100% of advance tax in **1<sup>st</sup> instalment**)
- ii) Any tax paid **AFTER 15<sup>th</sup> March** but before 31<sup>st</sup> March then such tax is also considered as advance tax.

**6) SEC 234C :- Interest for deferment of Advance tax**

Deferred Amount  $\times$  1% P.M. or Part  $\times$  **3 months** for all instalment **EXCEPT** last instalment

**NOTE**

- i) For last instalment, Int is applicable **always for 1 month (16/mar — 31/mar)**
- ii) Interest u/s 234c shall **not be levied** for 1<sup>st</sup> and 2<sup>nd</sup> instalment deferment, if assessee **has paid advance tax up to 12% in 1<sup>st</sup> instalment, up to 36% in 2<sup>nd</sup> instalment.**
- iii) Interest u/s 234c **shall not be leviable** if any **shortfall** in tax due to :-
  - Capital gain income
  - Winnings
  - Dividend (including deemed dividend)
  - PGBP for **first time.**

In case of above income interest u/s 234c applicable **only from the quarter in which income is received.**

- 7) **SEC 234B :- Interest for non/short payment of advance tax**  
This interest is **not applicable** if assessee **paid 90% or more** of advance tax payable

Short payment  $\times$  1% p.m. or part  $\times$  Period from **1<sup>st</sup> April** **of A.Y.** till the actual date of payment



- 1) AMT is applicable to **All Assessee** except company.
- 2) Assessee to whom AMT is applicable then income tax payable by such person is **(sec 115JC)**

↑ i) Normal Tax	xxx
ii) Alternate minimum tax (AMT)	xxx
<b>w.e. Higher</b>	

- 3) **AMT : 18.5% OF Adjusted Total Income**

- 4) **Adjusted Total Income :-**

NTI as per income tax	xxx
<b>Add:-</b>	
i) Deduction u/s <b>10AA (SE2)</b>	xx
ii) Deduction u/s <b>35AD</b>	xx
iii) Deduction under chapter VI-A <b>(sec. 80H to 80RRB) Except 80P</b>	xx
<b>Less:-</b>	
Depreciation allowed as per <b>sec. 32</b> on the asset on which deduction <b>u/s 35AD</b> is claimed.	(xx)
<b>Adjusted Total Income</b>	<u>xxx</u>

- 4) In case of Individual/HUF/AOP/BOI/ATP **who's Adjusted Total Income  $\leq$  20,00,000** then provision of **AMT not applicable**
- 5) The provision of AMT apply only if assessee is claiming deduction **u/s 10AA, sec. 35AD, sec 80JJAA, sec 80QQB, and 80RRB (Except 80P)**
- 6) **Sec 115JD :- AMT Credit**
- i) IF **AMT > Normal Tax** then excess shall be treated as AMT credit
  - ii) credit can be set off in the year in which **Normal Tax > AMT**
  - iii) The credit is allowed to be set off will be restricted to the difference between the Normal Tax & AMT
  - iv) AMT credit can be **clf and set off for 15 A.Y.**

7) **NOTE :-**

- i) Assessee having unit located in IFSC (International Finance service center) then **rate of AMT 9% instead of 18.5%.**
- ii) In case of **CO-operative society** AMT applicable is **15% instead of 18.5%.**
- iii) Any Assessee opt to pay tax under **SEC 115BAC** (New tax Regime) then **provisions of AMT is not applicable.**
- iv) Assessee should obtain report from **CA for computation of AMT and Adjusted Total Income**

**Section 115BAC : New tax Regime**

**Eligible Assessee:-** Individual, HUF, AOP/BOI (other than CO-OP society), AJP

**Tax Rate :-**

Total Income	Tax Rate
≤ 300,000	NIL
> 300,000 but ≤ 600,000	5%
> 600,000 but ≤ 900,000	10%
> 900,000 but ≤ 1200,000	15%
> 1200,000 but ≤ 1500,000	20%
> 1500,000	30%

**Note:-**

Special income (U/s 111A, 112, 112A etc) shall be **taxable at special rate.**

**Surcharge & cess :-**

Total Income	% OF SC
≤ 50,00,000	NIL
> 50L but ≤ 1cr	10%
> 1cr but ≤ 2cr	15%
> 2cr	25%

- HEC @ 4% always.

**Rebate u/s 87A :-**

For **Resident Individual** having Total Income ≤ 700,000 shall be eligible for Rebate u/s 87A as follows:-

i) 100% OF Tax payable

**OR**

↓ ii) 25,000

w. E. Lower

### Alternate minimum tax (AMT) :-

- Assessee paid tax under sec 115BAC is not required to pay AMT.
- BIF AMT credit can not be set off against income u/s 115BAC.

### Condition's :-

Assessee does not claim following deductions / Exemptions :-

#### House property :-

- Interest u/s 24(b) for self occupied property.
- HP losses set off against another head (max 2L)

#### Income from salary :-

- Entertainment Allowance sec 16(ii)
- Profession tax sec 16(iii)
- House Rent Allowance (HRA) u/s 10(13A)
- Allowance u/s 10(14) **Except**

DT<sub>2</sub>C

D :- Daily Allowance

T<sub>1</sub> :- Traveling Allowance

T<sub>2</sub> :- Transport Allowance to Physically Handicapped employee

C :- Conveyance Allowance.

- Leave Travel concession u/s 10(5)
- Lunch Facility exemption ₹ 50 per meal

#### PGBP :-

- Sec 10AA (SEZ)
- Additional Depreciation sec 32(i)(ia)
- Contribution for scientific Research sec 35
- Deduction to specified business sec 35AD

#### Income from other sources :-

- Minor children income Exempt u/s 10(32)
- Allowance to MP/MLA exempt u/s 10(1A)

#### Deduction under chapter VI-A :-

- All deduction under chapter VI-A **Except**
  - sec 80CCD(2) Employer's contribution towards NPS

- Sec 80CCH(2) Central Govt contribution to Aashirwad scheme
- Sec 80JJAA Additional Employee cost

### Losses set off :-

- Assessee can not set off any Blf losses or unabsorbed Depn
- House property can not be set off against other head.

### Option to opt sec 115BAC :-

- sec 115BAC is **default tax regime**.
- However, assessee can avail the benefit of Regular tax regime by exercising the option

#### → Assessee does not have PQBP Income :-

Option of Regular tax regime must be exercised along with the return **u/s 139(1) for every P.Y.**

#### → Assessee having PQBP Income :-

- Option of Regular tax regime must be exercised along with the return u/s 139(1)
- Such option once exercised **shall apply for subsequent A.Y. also.**
- However the option once exercised for regular tax regime can be withdrawn **only once for P.Y.** and thereafter the person shall **never eligible** for the benefit of Regular tax regime **til the time** having any income under PQBP.

**Important Amendments made by FA 2023****sec 56(2)(xiii):- Income from life Insurance policy**

Any sum is received including bonus, at any time during a P.Y., under a life insurance policy, other than key man insurance policy and ULIP **which is not exempt u/s 10(10D)**, the sum received as exceeds the aggregate of the premium paid, policy taken **on or after 1/Apr/2023** if the amount of premium payable for any of the P.Y. during the term of policy is **> 500.000** then difference between maturity amount and premium paid **shall be taxable under "IfoS"**

E.g. :-

Prem, Ratan, and chaman take life insurance policy on 15/ July /2023. They do not have other policy and do not intend to take any other insurance policy in future. Discuss tax treatment.

Particulars	Prem	Ratan	chaman
Sum Assured	40,00,000	70,00,000	70,00,000
Annual insurance prem.	350,000	620,000	730,000
Term of policy	10 years	10 years	10 years
Deduction claimed u/s 80C Every Year	70,000	150,000	130,000
Maturity amount	4900,000	8700,000	90,00,000

Solution :-

→ Mr. Prem

As Annual premium paid within limit of 10% of sum assured & Annual premium not more than ₹ 500,000 so maturity amount received shall be **fully exempt u/s 10(10D)**

→ Mr. Ratan

Annual premium paid within limit of 10% of sum assured but policy taken on or after 1/Apr/23 and annual premium is more than 500,000 so **exemption u/s 10(10D) not available** & Taxable amount shall be

Maturity Amount	8700.000
* Total premium paid	(4700.000)
Net of Deduction u/s 80C	
<b>Taxable Income s6(2)(xiii)</b>	<u>40.00.000</u>

* Annual premium paid	620.000
(-) Deduction u/s 80C	<u>(150.000)</u>
	470.000
	<u>x 10 years</u>
	<u>4700.000</u>

→ Mr. Chaman

Annual premium paid exceeds the limit of 10% of sum assured and premium on policy taken on or after 11 APR 123 is more than ₹ 500,000 so exemption u/s 10(10D) is not available

Maturity Amount	90.00.000
* Total premium paid	(60.00.000)
Net of Deduction u/s 80C	
<b>Taxable Income s6(2)(xiii)</b>	<u>30.00.000</u>

* Annual premium paid	730.000
(-) Deduction u/s 80C	<u>(130.000)</u>
	600.000
	<u>x 10 years</u>
	<u>60.00.000</u>