



## **ITR FILING IS MANDATORY IN BELOW MENTIONED SITUATIONS**

*Dear Friends,*

*As you are aware that Section 139 lists certain situations wherein ITR filing by an individual is mandatory even if no tax has been deducted from his income or even if he does not earn any income. For example some of these conditions are such as payment of electricity bill more than Rs. 1.00 Lakhs during year or expenditure on foreign travel for more than Rs. 2.00 Lakhs during previous year and more.*

*We know that there are very few persons are paying tax in India as compared to other countries. As compared to the population of India of 130.00 crores the taxpaying persons are approximately 5.50. crores. The tax rates in India are also higher than other countries of the world. Since people are getting education and now ready to pay applicable taxes voluntarily to the government is a good signature for Indian Taxation System. We know that our taxes are main source of our government. By paying taxes we are engaging ourselves in nation building.*

*Recently, the Income Tax Department has enhanced the scope of this provision and notified a few more situations wherein return filing is mandatory*

### **PLEASE NOTE THAT :**

*Section 139 of the Income Tax Act governs the filing of a return of income. A common understanding is that the obligation to file an income tax return (ITR) arises if an individual earns income on which tax has been deducted.*

### **LET'S CONSIDER PROVISIONS OF SECTION 139**

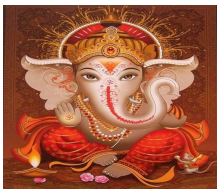
#### **What is Section 139 of Income Tax Act, 1961?**

*Section 139 of Income Tax Act contains the guidelines for filing delayed returns if any tax assessee has failed to do the Income Tax Return filing within the given deadline. There are various subsections under Section 139 of Income Tax Act, 1961 that are designed to handle the non-submission of ITR within the prescribed time by different types of tax assesses.*

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## **Understanding the Sub-sections u/s 139 of Income Tax**

### **1. Section 139 (1)**

*This subsection is about the mandatory and voluntary filing of Income Tax Returns. Mentioned below are the cases where ITR filing is mandatory.*

- *Any person who has a total income above the income tax exemption limit is liable to file ITR within the set due date.*
- *Any public, private, domestic or foreign country located and/or doing business in India.*
- *Any firm including the Unlimited Liability Partnership or Limited Liability Partnership (LLP).*
- *If an Indian resident has an asset located outside India or a resident retains signing authority for an account that is based outside India. For such cases, Income Tax Returns filing is mandatory in the prescribed form irrespective of the tax liability amount of such incomes.*
- *Every HUF, AOP and BOI are mandatorily required to file Income Tax Returns with required documentation if their total income exceeds the prescribed limit.*

*In several situations, individuals or entities are not under the compulsory requirement to file ITR. In such scenarios, their tax filings are considered as voluntary returns that are seen as valid tax returns.*

### **2. Section 139(3)**

*This section is about income tax filing in case of loss. If there was a loss in the previous financial year for an individual taxpayer, filing a tax return is not mandatory.*

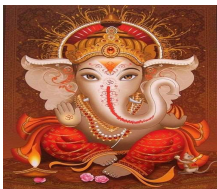
*A tax return for loss is mandatory for a company or a firm. The provisions for the same are:*

- *If the loss comes under the head, 'Profits and Gains of Business and Profession' or under 'Capital Gains', ITR filing is mandatory. This is in case a firm wants to carry forward this loss and offset it with the future income.*
- *This option is available only if the Income Tax Return filing is done within the prescribed due date.*
- *The loss can be carried forward even though the ITR is filed after the due date, if the loss has occurred under the head 'House or Residential Property'.*
- *If the loss is filed for returns under Section 142(1), with an exception for the loss under 'House Property', other losses cannot be carried forward. However, in such cases, non-offset depreciation may be carried forward.*

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- *If you offset the loss against another category of income in the same year, the offset is allowed even if the return is submitted after the due date.*
- *Loss incurred in earlier years can also be carried forward if the returns of such losses for those years were filed with due dates and those losses were assessed.*
- *You should always file the return of loss as it allows you to carry the loss forward, thus reducing the tax liability in future.*

### **3. Section 139(4)**

*A taxpayer, be it an individual or an entity, is required to file the Income Tax Return before the specified due date under Section 139(1) or within the allowed time by a notice issued under Section 142(1).*

*If any taxpayer fails to do so, they may still file the belated ITR any time until the expiry of a year that started from the ending of the applicable year of assessment or before the conclusion of the assessment, whichever is the earliest. However, a taxpayer might be charged a penalty under Section 271F of ₹5,000 if the return is submitted after the pertinent assessment year.*

### **4. Section 139(5)**

*This provision of Section 139 of Income Tax Act is about the revised returns. In case the ITR was filed within the prescribed due date but the taxpayer realises later that there was some mistake or omission in ITR filing, there is a provision for revised return of income tax to correct these mistakes under Section 139(5). However, a late return is beyond the scope of this section and cannot be revised.*

*A revised return can be done anytime within a year after the pertinent assessment year gets over or prior to the completion of the assessment, whichever is sooner.*

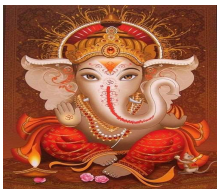
*There is no restriction on the frequency of tax return revision within the specified time frame. This revision can be done either in the same and original ITR form or in a different return form. Once the new ITR filing is done as per Section 139(5), the revised return should be validated and the original return under Section 139(1) should be considered withdrawn.*

*A revised return is allowed only for unintentional mistakes. Section 139(5) is applicable specifically to the cases of 'Omissions and Wrong Statements' and they are not meant for 'Concealment or False Statements'. A taxpayer may get a penalty for any intentional mistake or omission and fraudulent filing.*

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### **5. Section 139(4a)**

*This provision of Section 139 of Income Tax Act is about the ITR of charitable or religious trusts. Under Section 139(4a), Income Tax Return filing is required by all individuals who receive derived income from the property which is held under any trust or other legal obligation. This can either be wholly for religious or charitable purposes or partly for such purposes only, or of the income being voluntary contribution. This voluntary contribution should be as referred to in Subsection 2(24)(iia), in case the total income without giving effect to the provisions of Sections 11 and 12 is above the maximum permissible amount that is not taxable under income tax.*

### **6. Section 139(4b)**

*Section 139(4b) deals with the furnishing of ITR on income by political parties. The said section requires political parties to file ITR in case the total income is above the maximum amount of income tax exemption limit. The total income that is computed for this specific purpose is excluding the effects of provisions under Section 13(A).*

*The CEO or the Secretary of all political parties are needed to furnish this ITR as applicable.*

### **7. Section 139(4c) and Section 139(4d)**

*These subsections of Section 139 deal with the ITR of certain entities claiming income tax benefits under Section 10 of the IT Act, 1961. ITR under Section 139(4c) consists of institutions that are mandatorily required to file a tax return if the amount accumulated by the said institution is above the maximum limit of tax exemption.*

*This is excluding other exemption benefits that are enjoyed by the institution. An ITR under Section 139(4c) is required to be filed by:*

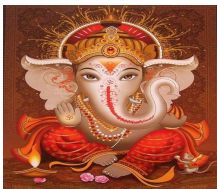
- Every association engaged in scientific research*
- Institutions or associations prescribed under Section 10(23A)*
- News Agency*
- Institutions mentioned under Section 10(23B)*
- University, institutions, other educational and medical institutions, hospitals*

*Institutions coming under Section 139(4c) intend to claim tax exemptions as per the clauses under Section 10. The clauses are 21, 22B, 23A, 23C, 23D, 23DA, 23FB, 24, 46 and 47.*

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- On the other hand, return under Section 139(4d) applies to all colleges, universities and institutions that are not required to file ITR and loss under any other provision in this section. Section 139(4d) is applicable for Section 35(1)(ii) and Section 35(1)(iii).

### **8. Section 139(4f)**

*Each investment fund designated in Section 115UB, which is not obligated to file ITR or loss under the other provisions of this section, should file ITR in respect of its income or loss of every previous year. All provisions of this act should, so far as may be, apply as if it were a return that is required to be filed under Subsection (1).*

### **9. Section 139(9)**

*This section is about the defective returns of income. According to Section 139(9), a tax return is defective if it is missing certain documents while filing the return. The taxpayer will be informed and allowed to rectify the said defects if the return is considered defective by the tax officer. This should be done within 15 days starting from the day of intimation. Upon request from the taxpayer through an application, the period given can be extended as well. The taxpayer is intimated about the defect by the assessing officer through a simple letter. Here is a list of documents to avoid your ITR being deemed defective:*

- A duly filled tax return in the suggested form
- A computation statement of payable taxes
- Proof of all claims made about paid taxes. For example, proof of income tax deduction and collection done at source, payment of self-assessment tax and advance tax
- A report for the audit done under Section 44AB, where prior to filing the ITR, the report is furnished

*If a taxpayer maintains books of account, the following are the mandatory copies required:*

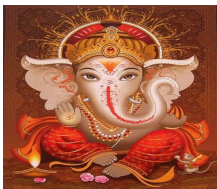
- Balance Sheet, Income & Expense A/C, Profit and Loss A/C, Manufacturing A/C, Trading A/C
- In the case of partnership firms, personal A/Cs of partners
- Personal accounts of the members for AOP/BOI
- Personal account for proprietors
- If a taxpayer has the account audited, the copies of the audit report, balance sheet and audited profit and loss A/C
- The relevant report in case of cost audit

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*If a taxpayer has not maintained books, then a statement indicating net profit, bank balance, stocks, cash, debtors, gross receipts, creditors information, turnover amount, expenses, etc. is needed.*

*In this article we have listed all those situations which require an individual to furnish his return of income for the Financial Year 2021-22 (Assessment Year 2022-23).*

### **1) IF YOUR TOTAL INCOME EXCEEDS THE BASIC EXEMPTION LIMIT;**

*An individual shall file the return if his income exceeds the maximum exemption limit. The maximum exemption limit for individuals is:*

- i) Rs. 2.5 lakh for an individual;*
- ii) Rs. 3 lakhs for resident senior citizen (age 60 years or more but less than 80 years); and*
- iii) Rs. 5 lakhs for resident super senior Citizen (age 80 years or more).*

*The following deductions and exemptions available to an individual shall not be taken into consideration to calculate such maximum exemption limit:*

- Exemption from capital gains under section 54, 54B, 54D, 54EC, 54F, 54G, 54GA or 54GB.*
- Deduction under Section 80C to 80U.*

**For example,** *Mr. A (aged 50) has sold a residential house and earned a long-term capital gain of Rs 10 lakh. He invested such capital gains and claimed exemption under Section 54. In this case, the total income of Mr. A before claiming exemption is Rs 10 lakh which exceeds the maximum exemption limit. Thus, filing of return is mandatory.*

*This provision shall apply to both resident and non-resident individuals.*

### **2) IF YOU HAVE ASSETS OUTSIDE INDIA**

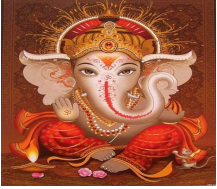
*It is mandatory for an individual to furnish a return of income if he:*

- i) holds any asset (including any financial interest in any entity) located outside India (as a beneficiary or otherwise);*
- ii) has signing authority in any account located outside India; or*
- iii) is a beneficiary of any asset (including any financial interest in any entity) located outside India?*

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*This provision shall apply to resident and ordinary resident individuals in India.*

**3) IF YOU DEPOSIT MORE THAN RS 1 CRORE IN A BANK ACCOUNT;**

*An individual shall file his return if he has deposited Rs 1 crore or more in one or more current accounts maintained with a bank during the previous year.*

*No reference has been made for the deposit made in the current account maintained with a Post Office. Thus, if an individual is depositing more than Rs 1 crore in a current account with a post office and his income is less than the maximum exemption limit, he may not be required to furnish his return.*

**4) IF YOU INCUR RS 2 LAKH ON FOREIGN TRAVEL**

*An individual will file his return if he has incurred more than Rs 2 lakh on travel to a foreign country, either for himself or for any other person during the previous year.*

**5) IF YOUR ELECTRICITY CONSUMPTION IS RS 1 LAKH**

*An individual shall file his return if he has incurred more than Rs 1 lakh on electricity consumption during the previous year.*

**6) IF TURNOVER OF YOUR BUSINESS IS MORE THAN RS 60 LAKH**

*An individual must file his return if total sales, turnover, or gross receipt of the business exceeds Rs 60 lakh during the previous year.*

**7) IF GROSS RECEIPT FROM PROFESSION IS MORE THAN RS 10 LAKH**

*An individual shall file his return if the total gross receipt of the profession exceeds Rs 10 lakh during the previous year.*

**8) IF TDS AND TCS IS RS 25,000 OR MORE**

*An Individual (age less than 60 years) is required to file his return if the aggregate amount of tax deducted at source (TDS) and tax collected at source (TCS) in his case during the previous year is Rs 25,000 or more.*

**9) IF TDS AND TCS IS RS 50,000 OR MORE**

*The threshold limit of Rs 25,000 shall be considered as Rs. 50,000 in the case of resident senior citizen, i.e., whose age is 60 years or more at any time during the relevant previous year.*

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### **10) IF DEPOSIT IN A SAVING BANK ACCOUNT IS RS 50 LAKH OR MORE**

*An individual shall file his return if the aggregate deposit in one or more savings bank accounts is Rs 50 lakh or more during the previous year.*

### **11) IF YOU HAVE LOSS FROM INCOME FROM HOUSE PROPERTY, CAPITAL GAINS, INCOME FROM BUSINESS AND PROFESSIONA**

*A tax return for loss is mandatory for a company or a firm. The provisions for the same are:*

- If the loss comes under the head, 'Profits and Gains of Business and Profession' or under 'Capital Gains', ITR filing is mandatory. This is in case a firm wants to carry forward this loss and offset it with the future income.*
- This option is available only if the Income Tax Return filing is done within the prescribed due date.*
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- If the loss is filed for returns under Section 142(1), with an exception for the loss under 'House Property', other losses cannot be carried forward. However, in such cases, non-offset depreciation may be carried forward.*
- If you offset the loss against another category of income in the same year, the offset is allowed even if the return is submitted after the due date.*
- Loss incurred in earlier years can also be carried forward if the returns of such losses for those years were filed with due dates and those losses were assessed.*

*You should always file the return of loss as it allows you to carry the loss forward, thus reducing the tax liability in future*

**CONCLUSION:** *the above list is not exhaustive , it discretion of government to exclude or include more than criteria for submission of return by persons. It our duty to file our return and pay our taxes on time and engage ourselves for development of country. Please note that we have to pay taxes and not to evade or avoid payment, because taxes plays an important role in development of our country.*

**DISCLAIMER:** *the article presented here is only for sharing knowledge and information with readers. The views expressed are personal and same should not be taken as professional advice. In case of necessity do consult with tax professionals.*

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