

PROCEDURE FOR ASSESSMENT



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RETURN OF INCOME & SELF ASSESSMENT

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- Procedure of assessment is covered by Chapter XIV of

RETURN OF INCOME & SELF ASSESSMENT

Shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed.

- The return of income required to be furnished under sub-section (1) or sub-section (3) or sub-section (4A) or sub-section (4B) or sub-section (4C) or sub-section (4D) or *sub-section (4E)* or *sub-section (4F)* of section 139 or clause (i) of sub-section (1) of section 142 or sub-section (1) of section 148 or section 153A .
- Forms in which the return of income is to be furnished are prescribed in Rule 12 of Income Tax Rules.

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- **Section 139(4) - BELATED RETURN:**

In case of non-furnishing of return of income within the time allowed under sub section (1) or within the time allowed under a notice issued under sub-section (1) of section 142 return may be furnished at any time before the expiry of one year from the end of the relevant assessment year or before completion of assessment whichever is earlier.

W.e.f. 01/04/2017 : A person who has not furnished a
M. B. SANGHVI 22/10/2016

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- Section
139(5) –
REVISED

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- *Points to be noted:*

- (1) Return filed u/s 139(4) i.e. belated return which could not be revised earlier can now be revised.
- (2) Return filed in response to notice issued under sub-section (1) of section 142 cannot be revised.

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- **SECTION 140A – SELF ASSESSMENT:**

This simply means that the assessee is calculating tax liability on his own and filing his Return of Income in ITR after payment of Self-assessment tax.

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- **RETURN FILED WHAT NEXT ??**

Once the return of income is filed up by the taxpayer, the next step is the processing of the return of income by the Income Tax Department. The Income Tax Department examines the return of income for its correctness. The process of examining the return of income by the Income Tax department is called as “Assessment”. Assessment also includes re-assessment and best judgment assessment under section 144.

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● TYPES OF ASSESSMENT:

1. Summary assessment u/s. 143(1) of the Income Tax Act, 1961
2. Scrutiny Assessment u/s. 143(3) of the Income Tax Act, 1961
3. Best Judgement Assessment u/s. 144 of the
Income Tax Act 1961

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- **143(1) - SUMMARY ASSESSMENT :**

This is a preliminary assessment and is referred to as summary assessment. Under Section 143(1) of the Income Tax Act, 1961, as prescribed under the scheme made by the board, CPC, Bangalore can complete the assessment without passing the regular assessment order. The assessment is completed on the basis of return submitted by the assessee u/s. 139 or in response to a notice u/s. 142(1) of the Income Tax Act, 1961 without calling the assessee.

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Processing the
return u/s 143(1)
means the total
income or loss

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- disallowance of deduction claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if the return is furnished beyond the due date specified u/s 139(1); **(W.e.f 01/04/2017)**
- addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return ; **(W.e.f 01/04/2017)**

No such adjustments shall be made unless intimation is given to the assessee of such adjustments either in writing or in electronic mode. Further response received from

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- Acknowledgement of the return of income shall be deemed to be the intimation in case where no sum is payable by or refundable to the assessee and where no adjustment has been made.
- **Time limit** : No intimation shall be sent after the expiry of one year from the end of the financial year in which the return is made.

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- **SECTION 143(1D):**

As per sub-section (1D) to section 143 processing of the return shall not be necessary where a notice has been issued to the assessee u/s 143(2) of the Income Tax Act, 1961.

W.e.f 01/04/2017 : Processing of the return shall not be necessary before the expiry of the time limit to issue intimation where notice has been issued to the assessee u/s 143(2) of the Income Tax Act, 1961. However, such

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- **SCRUTINY ASSESSMENT**

Procedure of selecting returns of income:

- The grounds on which returns filed can be selected for scrutiny are decided by the Central Board of Direct Taxes which in turn are communicated to the Departmental Authorities having the power to select a return for scrutiny and are selected through computer assisted scrutiny system (**CASS**), on information received under AIR, on information being received from CIB (Central Information Branch), on information being received from Director General of Income Tax (Investigation) E.g: Penny Stock transactions, bogus transactions, accommodation entries, etc. In certain cases selection of scrutiny is permitted

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- As far as the returns selected for scrutiny through CASS-2015 are concerned, two type of cases have been selected for scrutiny in the current Financial Year- one is 'Limited Scrutiny' and other is 'Complete Scrutiny'.
- The assesseees concerned have duly been intimated about their cases falling either in 'Limited Scrutiny' or 'Complete Scrutiny' through notices issued under section 143(2) of the Income-tax Act, 1961.

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The procedure for handling 'Limited Scrutiny' cases shall be as under:

- In 'Limited Scrutiny' cases, the reasons/issues shall be forthwith communicated to the assessee concerned.
- The Questionnaire under section 142(1) of the Act in 'Limited Scrutiny' cases shall remain confined only to the specific reasons/issues for which case has been picked up for scrutiny. Further, the scope of enquiry shall be restricted to the 'Limited Scrutiny' issues.
- These cases shall be completed expeditiously in a limited number of hearings.

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- During the course of assessment proceedings in 'limited Scrutiny' cases, if it comes to the notice of the Assessing Officer that there is potential escapement of income exceeding Rs. five lakhs (for

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● INQUIRY BEFORE ASSESSMENT

Notice u/s 142(1) of the Income Tax Act, 1961

Notice u/s. 142(1) can be issued by the Assessing Officer in the following situations:

- If the assessee has not submitted return of income within the time limit allowed u/s. 139(1)
- Where the Assessing Officer is desirous of asking the assessee to produce (or cause to be produced), such documents / accounts as he may require.
- Where the Assessing Officer requires the assessee to furnish in writing information in such form and on such

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LIMITATIONS:

- If a notice is issued by the Assessing Officer asking the assessee to produce (or cause to be produced), such documents /accounts as he may require, the documents or the records can be called for only upto 3 years prior to the previous year.

Restriction on calling for books relating to old periods applies only to pre-assessment stage:

The restriction placed in the proviso to section 142(1) on calling for account books beyond three years applies only to

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- If the Assessing Officer issues notice u/s. 142(1) requiring the assessee to furnish a statement of all assets and liabilities not included in the accounts, then such an authority can be exercised only after obtaining prior approval of the Joint Commissioner.

It may be noted that for issue of notice u/s 142(1) and calling upon an assessee to produce any document / details, the Assessing Officer must be satisfied that such document / details may be needed or has bearing to make proper assessment. Assessee aggrieved by such calling may challenge it in writ before the High Court.

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- **SECTION.142(2):**

For the purpose of obtaining full information in respect of the income or loss of any person, the Assessing Officer may make such inquiry as he considers necessary.

- **SECTION. 142(3):**

The assessee shall, except where the assessment is made under section 144, be given an opportunity of being heard in respect of any material gathered on the basis of any inquiry under sub-section (2) or any audit under sub-section (2A) and proposed to be utilised for the purposes of the assessment.

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- **NOTICE u/s 143(2):**

Notice u/s. 143(2)(ii) shall be **served** on the assessee requiring the assessee to produce any evidence on which the assessee may rely upon in support of the return. No notice shall be served on the assessee after the expiry of 6 months from the end of the financial year in which the return of income is furnished.

Whether the expression 'served' used in proviso to section 143(2) (ii); needs to be given a literal meaning of actual physical receipt of notice by the assessee or the meaning of "issue" of notice by the Assessing Officer?

- The Punjab & Haryana H.C. in the case of *VR.A. Cotton*

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- **ORDER U/S 143(3):**

After hearing such evidence as the assessee may produce in response to the notice u/s. 143(2)(ii) and such other evidence as the Assessing Officer may require and after taking into account all relevant materials ~~which~~ the Assessing Officer has

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- **SECTION 144- BEST JUDGEMENT ASSESSMENT**

One of the powers given to the Assessing Officer is in respect of making ex parte assessments; i.e., when any person makes any one of the defaults in terms of provisions of section 144 of the Income Tax Act, the Assessing Officer can make assessment to the best of his judgement. This power is conferred so that on failure of any person in responding to the notices or for the failure to file the return of income, etc. the proceedings against that person is not delayed and assessment can be framed.

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Defaults attracting best judgement assessment u/s 144(1):

- failure to make a return required under section 139(1), when no return or a revised return has been filed under section 139(4) or section 139(5);
- failure to comply with all the terms of a notice under section 142(1) calling for production of specific books or documents or for giving specific

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- **BEST JUDGEMENT U/S.145**

If “accounts of the assessee are not correct or incomplete” or “the method of accounting is not followed regularly” or “accounting standards are not followed” then the A.O. may reject the accounts of the assessee & he may complete the assessment according to his best judgement.

Show-cause notice to be served

- It is necessary to issue notice again u/s 143(2) showing why assessment u/s 144A should not be made. *Refer 151 Taxman 181 (All) in case of Malik Packaging.*

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- **Onus on the department to prove that proper and valid notice is served:**

It is for the department to prove the service of the notice once the assessee contends that no notice is served upon him. Thus, where a best judgement assessment has been made under section 144 because of default in complying with any of the notices referred to in that section, and the assessee contends that no such notice was received by him; the department has to prove that such notice was properly and validly served on the assessee. A mere statement that the service was effected by affixation is not enough [*A.A. Kochandi vs. ITO, (1977) 110 ITR 406 (Ker); Lakshmi Narayan Prasad Bhagat vs. State of W.B. (1979) 118 ITR 454(Cal)*]

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TIME LIMIT FOR COMPLETING ASSESSMENT U/S. 143(3) & U/S. 144:

- Assessment u/s. 143(3) & u/s. 144 should be completed **within 21 months** (w.e.f. 1st July, 2012) from the end of the assessment year in which the income was first assessable.
- Further, these time-limits get extended to **33 months** from the end of the assessment year if a reference is made u/s. 92CA to the Transfer Pricing Officer during the course of assessment proceedings.

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SECTION. 144A – POWER OF JOINT COMMISSIONER TO ISSUE DIRECTIONS:

- A Joint Commissioner may, on his own motion or on a reference being made to him by the Assessing Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason, it is necessary or expedient so to do, he may issue such directions as he thinks fit for the guidance of the Assessing Officer to enable him to complete the assessment and such directions shall be binding on the Assessing Officer .

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- Provided that no directions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard.
- Explanation – or the purposes of this section no direction as to the lines on which an investigation connected with the assessment should be made, shall be deemed to be a direction prejudicial to the assessee.

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ASSESSMENT U/S. 147 (RE-ASSESSMENTS)

RELEVANT SECTIONS

- i. Sec. 147 – Income escaping assessment.
- ii. Sec. 148 – Issue of notice where income has escaped assessment.
- iii. Sec. 149 – Time limit of notice.
- iv. Sec. 150 – Provision for cases where assessment is in pursuance of an order on appeal, etc.
- v. Sec. 151 – Sanction for issue of notice.

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OTHER REMEDIES AVAILABLE UNDER THE ACT.

- Sec. 154 – Rectification of mistake.
- Sec. 263 – Revision of orders prejudicial to revenue.

When one or more modes of assessment or remedies are available to the taxing authority which is matter of the least prejudice to the assessee. *J. C. Thakkar vs. CIT; 27 ITR 658(Bom)*

When remedy u/s. 154 is open for rectification, reopening u/s. 147 is not warranted. *Hindustan Uniliver Ltd. vs. Dy. CIT; 325 ITR 102.*

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SECTION. 153: TIME LIMIT FOR COMPLETION OF REASSESSMENT:

Subsection (2) of section 153 provides time limit for completing the reassessment proceedings u/s. 147.

- The normal time limit is **9 months** from end of the financial year in which notice u/s. 148 was served.
- Where reference u/s.92CA (1) is made the time limit is **twenty one months**.

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- It is part of e-governance initiative, a tax payer friendly scheme for assessment through email. It can be done 24X7 and will save precious time of tax payer.
- However, in case some practical issues crop up during the online assessment of the cases, the tax payers could avail the offline mode of assessment. The practical difficulties, for example could occur in submission of scanned copies via e-mail when the documents' file is heavy in size. In such as case, the tax payer can reach out to the assessing officer and submit his/her documents in physical form, although one will have to record the reasons for the same before submission of the hard copy of the documents.

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SECTION. 292BB: NOTICE DEEMED TO BE VALID IN CERTAIN CIRCUMSTANCES:

Where an assessee has appeared in any proceeding or co-operated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

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Provided that nothing contained in this section shall apply where the assessee has raised such objection before the completion of such assessment or reassessment.

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THANK YOU