

# Chapter 3 : Return of Income

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### 3. RETURN OF INCOME

Space for Important Points / Notes

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#### Section List

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Sec 139(4A), (4B), (4C), (4D), (4E), (4F)	Return of Specified Persons
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Sec 139A	PAN
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Sec 140	Signing & Verification of return
Sec 272A, 271F, 234A, 234F, 234G [FA'20]	Consequences of Non filing of return
Sec 141 / 141A	Omitted

#### Modes of Filing ROI

Voluntary  
u/s 139

Through employer  
u/s 139(1A)

Through TRP  
u/s 139B

After  
Notice  
u/s 142

#### Sec.139(1) Obligation to File Return of Income

Every person, -

(a) being a company or a firm; or

(b) being a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to tax,

shall, on or before the due date, furnish a return of his income or the income of such other person during the PY in the prescribed form & verified in the prescribed manner and setting forth such other particulars as may be prescribed.

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#### Fourth proviso to Sec 139(1)

Provided also that a person, being a resident other than not ordinarily resident in India within the meaning of section 6, who is not required to furnish a return under this sub-section and who at any time during PY, (a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or (b) is a beneficiary of any asset (including any financial interest in any entity) located outside India, 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.

#### Fifth proviso to Sec 139(1)

Provided also that nothing contained in the fourth proviso shall apply to an individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India where, income, if any, arising from such asset is includible in the income of the person referred to in clause (a) of that proviso in accordance with the provisions of this Act

Note :

- 1) For the purposes of this section "beneficial owner" in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or



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indirect, of himself or any other person.

- 2) For the purposes of this section "beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.

#### Sixth proviso to Sec 139(1)

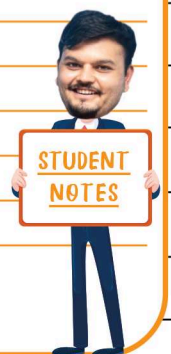
Provided also that every person

- ▶ being an individual or a HUF or
- ▶ an AOPs / a BOIs, whether incorporated / not, or an AJP,
- ▶ if his total income or total income of any other person in respect of which he is assessable under this Act during PY,
- ▶ without giving effect to the provisions of Sec 10(38)/ 10A / 10B / 10BA / 54 / 54B / 54D / 54EC / 54F / 54G / 54GA / 54GB [FA'20] / Chapter VI-A
- ▶ exceeded max amount which is not chargeable to IT,
- ▶ shall, on or before the due date,
- ▶ furnish a return of his / the income of such other person during the PY, in the prescribed form & verified in the prescribed manner & setting forth such other particulars as may be prescribed.

#### Seventh proviso to Sec 139(1)

Provided also that a person referred to in clause (b), who is not required to furnish a return under this sub-section, and who during the previous year

- ▶ has deposited an amount or aggregate of the amounts exceeding 1 cr rupees in one or more current accounts maintained with a banking company or a co-operative bank;



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- ▶ has incurred expenditure of an amount or aggregate of amounts exceeding 2 lakh rupees for himself / any other person for travel to a foreign country;
  - ▶ has incurred expenditure of an amount or aggregate of the amounts exceeding one lakh rupees towards consumption of electricity;
  - ▶ fulfils such other conditions as may be prescribed
- shall furnish a return of his income on or before the due date in such form and verified in such manner and setting forth such other particulars, as may be prescribed.

#### Due Date of Filing Return of Income u/s 139(1)

Company	Liabie to TP Report u/s 92E Others [FA'20]	30th Nov of AY 31st Oct of AY
Others	Liabie to tax audit u/s 44AB Working Partner [FA'20] Others	31st Oct of AY 31st July of AY

#### EXPLANATION :

Due date means -

- a) Where the assessee is [other than assessee referred to in clause (b)] -
  - i) a company; or
  - ii) a person (other than a company) whose accounts are required to be audited under the Income-tax Act or under any other law;
    - 31st Oct of AY
  - iii) a **working partner** of a firm whose accounts are required to be audited under the Income-tax Act or under any other law
    - 31st Oct of AY
- b) in case of an assessee required to furnish report of transfer pricing u/s 92E
  - 30th Nov of AY
- c) in the case of any other assessee - 31st July of AY

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#### Consequences for not filing return within due date u/s 139(1):

- a) Interest u/s 234A
- b) Fees u/s 234F
- c) Benefit of carry forward of losses u/s 72/73/74/74A is lost
- d) Right to revise the return of income u/s 139(5) is lost
- e) Department action u/s 142(1) or 144 or 148
- f) Prosecution u/s 276CC

#### Fee for Default in Furnishing Return of Income u/s 234F

- 1) Where a person required to furnish a return of income u/s 139, fails to do so within the time prescribed in sub-sec (1) of the said sec, he shall pay, by way of fee, a sum of,
  - a) five thousand rupees, if the return is furnished on or before the 31st day of December of the assessment year;
  - b) ten thousand rupees in any other caseProvided that if the total income of the person does not exceed five lakh rupees, the fee payable under this sec shall not exceed one thousand rupees.
- 2) The provisions of this section shall apply in respect of return of income required to be furnished for AY 2018-19 and future AYs

Where a person required to furnish a ROI u/s 139, fails to do so within the time prescribed he shall pay, by way of fee, a sum of,

Where the ROI is filled up to 31 December of AY	₹5000
Where the ROI is filled Beyond 31 December of AY	₹10000
If Total Income does not exceed ₹5L	₹1000

**Presumption of Non-Disclosure of Income when Return not filed within due date :**  
Payment of Advance Tax, which is based on Estimated Income, cannot amount to disclosure of the Total Income, which must be declared in the Return. Where Assessee not filed its ROI by Due Date, AO was correct in assuming that Assessee would not have disclosed its Total Income [A.R. Enterprises (2016) (SC) ]