

3. RETURN OF INCOME

Interest u/s 234A Interest for default in filling ROI [only relevant part covered, discussed later in detail]

- 1- Where the return of income u/s 139[1]/139[4]/142[1] is furnished after the due date, or is not furnished
- 2- The assessee shall be liable to pay simple interest @ 1%pm or part on Tax Payable thereof commencing on the date to

Where Return is filled	Till the date of filling ROI
Where Return is not filled	Till the date of Assessment u/s 144

- 3- Calculation of Tax Payable

Particulars	Rs
Tax Determined as per 143[1] or regular Assessment	xxx
Less:	
Relief u/s 89[FA'20], 90, 90A/91.	
Advance Tax paid	
TDS/TCS	
MAT/AMT Credit	(xxx)
Tax Payable	XXX

- 4- The interest payable shall be reduced by the interest, if any, paid under sec.140A [Self Assessment] towards the interest chargeable under this sec.

Sec 234G Fee for default relating to statement or certificate [FA'20]

- 1) Without prejudice to the provisions of this Act, where
 - a) the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-sec (1) of sec 35 fails to deliver or cause to be delivered a statement within the time prescribed under clause (i), or furnish a certificate prescribed under clause (ii) of sub-sec (1A) of that section;
 - b) the institution or fund fails to deliver or cause to be delivered a statement within the time prescribed under clause (viii) of sub-sec (5) of sec 80G, or furnish a certificate prescribed under clause (ix) of the said sub-section,

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it shall be liable to pay, by way of fee, a sum of 200 rupees for every day during which the failure continues.

- 2) The amount of fee referred to in sub-section (1) shall,-
- a) not exceed the amount in respect of which the failure referred to therein has occurred;
 - b) be paid before delivering or causing to be delivered the statement or before furnishing the certificate referred to in sub-section (1).

Bulk Return Sec.139(1A)/Option to Furnish ROI to Employer

The Scheme is optional & provides an additional mode of furnishing return of income by persons deriving salary - income. This is called as Suvidha Scheme & notified in 16 cities only.

Under the scheme, eligible employee may furnish his return of income in the prescribed form together with relevant documents to his eligible employer Employer who has minimum of 50 employees with income exceeding exemption limit & who has a TAN.

Sec 139(1C) Exemption from Filing ROI

The CG has power to exempt, by notification, any class or classes of persons from filing a ROI having regard to conditions as may be specified in that notification. Every notification u/s 139(1C) should be laid before parliament.

Notification 55/2019: Hereby exempt following from Filing ROI

1. NR [not a company]
2. Foreign Company

Who has any income chargeable under the act in PY from any Investment in investment Fund setup in IFSC in India. Conditions for above exemption:

- 1) TDs has been Deducted at applicable rate u/s 194LBB
- 2) There is no other Income Liable to tax
- 3) No Notice u/s142,148,153A has been issued by the Department

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Sec 139B Scheme for submission of return through Tax Return Preparers [TRP]

A TRP is an individual who has been authorized to enable any specified class(s) of person to prepare & furnish their returns of income.

1- Who can be TRP ?

Any Individual or HUF

2- Person not eligible to become TRP :-

Chartered Accountant.

Any legal practitioner who is entitled to practice in any civil court in India.

An employee of the specified class or classes of person.

3- Education & qualification of TRP :-

Graduate from recognize university/Institution.

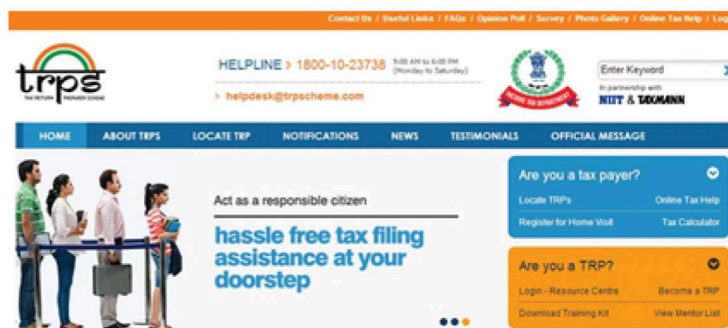
Who have cleared intermediate exam of CA/CS/CMA Institute.

4- Return which cannot be filled by TRP

Person covered under Tax Audit

Revised return if original return is not made by TRP

Person not resident In India



Sec 139(3) Loss Return

If a person has sustained a loss under the head "Profits & gains of business or profession" or under the head "Capital Gains" and claims that such loss should be carried forward u/s 72 or sec 73 or sec 73A or sec 74 or sec 74A, then he may furnish a return of loss within the time prescribed u/s 139(1) & all provisions of the Income-tax Act shall apply as if it were a return furnished u/s 139(1).

Sec 80 : Notwithstanding anything contained in Chapter VI, the loss which has not been determined in pursuance of a return filed in accordance with the provisions of sec 139(3), shall not be allowed to be carried forward and set-off u/s 72 or sec 73 or sec 73A or sec 74 or sec 74A

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East Asiatic Company India Private Limited (Mad.)

The set-off and carry forward of depreciation is governed by sec 32(2) and is not governed by Chapter VI. Section 80 over-rides Chapter VI but it does not over-ride section 32(2). Section 32(2) nowhere provides that ROI should be filed on or before the due date for carry forward of unabsorbed depreciation. Therefore, unabsorbed depreciation can be carried forward even if the ROI is furnished after the due date specified in section 139(1).

CIT v. Haryana Hotels Ltd. (Punj. & Har.)

There is no provision under Act which makes it mandatory for assessee to file return for carry forward and set - off of unabsorbed depreciation, as in case of unabsorbed business loss.

Therefore, unabsorbed depreciation can be carried forward even if no return has been filed by the assessee.

SIMPLIFIED ANALYSIS

- 1- Any return which has a loss under any head The return for the first year of Loss which is required to be carried forward is covered under this section. To get the benefit of carry forward return should be filed within time limit of sec 139(1).
- 2- Loss from House Property & unabsorbed depreciation can however be C/F even if Loss return is not Filled on time.[CIT vs Govind Nagar Sugar Ltd 2011]

MY NOTES :-

- # CBDT has power to condone the delay in filling Loss Return.
- # Unabsorbed depreciation can be c/f even if no return has been filed.

Sec 139(4) Belated Return

Any person who has not furnished a return within the time allowed to him u/s 139(1), may furnish the return for any PY at any time before the end of relevant AY / before completion of assessment, whichever is earlier.

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Time Limit : Assessee may file such return :- Earlier of

A. by the end of relevant assessment year; or

B. before the completion of assessment (u/s. 144).

My Note :

- 1) A Loss return cannot be belated return.
- 2) he would be liable to penal interest u/s. 234A.
- 3) A belated return can be revised
- 4) In belated return, deduction u/s 10A/10B, 80-IA, to 80-IE is not available.

Sec 139(5) Revised Return

If any person, having furnished a return u/s 139(1) / 139 (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the end of the relevant AY or before the completion of the assessment, whichever is earlier.

Reason for Revision	If an assessee discovers any omission or wrong statement he can revise his return u/s. 139(5).								
Time Limit	# by the end of relevant A.Y; OR # before completion of regular assessment, Whichever is earlier.								
My Notes	# Replacement of original return : Once a revised return is filed, it replaces original return. This signifies that the revised return should be complete in itself & not merely an accessory to original return. [Dhampur Sugar Mills Ltd. v. CIT (1973) 90 ITR 236 (All.)] <table style="margin-left: 20px;"> <tr> <td>Original Return</td> <td>Can be revised</td> </tr> <tr> <td>Belated Return</td> <td>Can be revised</td> </tr> <tr> <td>Loss Return</td> <td>Can be revised</td> </tr> <tr> <td>Revised Return</td> <td>Can be revised</td> </tr> </table>	Original Return	Can be revised	Belated Return	Can be revised	Loss Return	Can be revised	Revised Return	Can be revised
Original Return	Can be revised								
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Loss Return	Can be revised								
Revised Return	Can be revised								

Sec 139(9) Defective Return

- 1- The Assessing officer may intimate the defect to assessee & give him an opportunity to rectify the defect.
- 2- Time Limit for rectification shall be 15 Days from the date of such intimation.
- 3- Assessing officer has power to extend above period, on receipt of application from the assessee.

3. RETURN OF INCOME

Rectified

Not Rectified

Valid Return

Invalid Return

4- A return of income shall be regarded as defective, in the following cases:

- The Annexures, statements and
- columns of return have not been duly filled in.

Note

1- It is not possible to attach any TDS certificate, challans related to payment of Advance Tax & self-assessment tax, computation of Income, Audit reports etc. with return of income.

2- The Assessee to retain all these documents with themselves. These may be furnished whenever AO wants to examine them in assessment proceedings or otherwise. Sec.139C

Sec 139A PAN

Who will Apply

- Every Person if $TI > BEL$.
- If Sales/ Gross Receipt exceed 5L
- Every Resident other than Individual which enter into Financial Transaction aggregating to ₹250000 or more in FY
- Every person who is MD/Director/Partner/Trustee/author /founder /CEO/principal officer or office bearer of a person mentioned in “c” above or any person competent to act in this behalf.
- other person notified by CG

Quoting PAN is Mandatory for

- All Return
- All challans
- All transaction prescribe by CBDT
- Sale/Purchase of Motor Vehicle
- Opening Bank Account
- For Applying Credit and Debit Card
- opening Demat Account
- Payment to hotel > payment in cash ₹50000
- Travel to foreign country > payment in cash ₹50000
- Mutual Fund > ₹50000
- Debenture/Bond > ₹50000
- Deposit in Bank/DD/FD > ₹50000
- Life Insurance premium > ₹50000
- Purchase of Securities/unlisted shares > ₹100000 per transaction
- Immoveable property > SDV exceed ₹10L
- Services > ₹2L per transaction