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New Income-tax Return Forms Notified

July 2020

INCOME TAX RETURN FORMS FOR FY 2019-20 (i.e. AY 2020-21) NOTIFIED

Readers will recall our Tax Alert No. 9 issued on July 1, 2020 wherein we had reported that the Union Government had extended the due dates for various compliances under the Income-tax Act, 1961 ('the Act') suitably in view of the raging COVID-19 pandemic. Amongst them, couple of very pertinent, important announcements stood out –

a) That the taxpayers could make investments, payments or donations for claiming exemptions and deductions, especially under Section 80C, 80G and others, for FY 2019-20, even upto July 31, 2020
b) That the due dates for filing Income-tax Returns ('ITR') for Financial Year ('FY') 2019-20 i.e. Assessment Year ('AY') 2020-21, for all categories of taxpayers (Individuals, HUF, Firms, Companies) have been extended upto November 30, 2020.

In this TaxAlert, we would like to inform our Readers that the new ITR Forms have been notified and have been published on the Income-tax Department's efiling portal. We would also like to present the key highlights/changes made to the various ITR Forms since last AY.

WHICH ITR WOULD BECOME APPLICABLE?

At the outset, it may be useful and relevant to re-acquaint with the situations under which each type of ITR may be selected for compliance. Basically, there are 7 types of ITRs. The applicability criteria is as under:

- **Eligibility criteria for ITR-1**

  ITR-1 i.e. the simplest form of ITR can be filed by a resident and ordinarily resident Individual, whose total income does not exceed INR 50 lakhs and is neither a Director in a Company nor has invested in unlisted Equity shares. Further, the sources of income should be from salary, single house property, other sources and agricultural income up to INR 5,000. An individual with brought forward / carry forward loss under the head 'Income from house property' cannot use ITR-1 to file his/her ITR. In such cases, ITR-2 is to be used.

- **Eligibility criteria for ITR-2**

  Individuals and HUFs not falling into above category i.e. described for ITR-1 and not having income from business or profession need to fill ITR-2.

- **Eligibility criteria for ITR-3**

Individuals and HUFs having income from business or profession, including income from presumptive taxation, need to fill ITR-3. This is residuary type of ITR. In case, eligibility for ITRs-1, 2 and 4 are not satisfied, then ITR-3 needs to be filed.

- **Eligibility criteria for ITR-4**

ITR-4 is applicable in case of presumptive taxation. Accordingly, Individuals and HUFs and partnership firms being a resident, whose total income does not exceed INR 50 lakhs and income from business or profession is computed under presumptive sections of 44AD, 44ADA or 44AE of the Act. This ITR can be filed by an Individual, who is neither a Director in a Company nor has invested in unlisted equity shares. If so, then ITR-3 needs to be filed.

Further, a taxpayer who has a brought forward/carry forward loss from 'Income from house property' cannot use ITR-4 to file his income tax return. If so, then ITR-3 / ITR-5 needs to be filed.

- **Eligibility criteria for ITR-5**

ITR-5 is applicable for persons other than Individual, HUF, Company and category of persons filing ITR-7 (i.e. Trusts). Basically, this ITR is applicable to partnership firms, LLPs, AOPs, BOIs , a local authority and an artificial juridical person.

- **Eligibility criteria for ITR-6**

ITR-6 is applicable for Companies other than Companies claiming exemption under section 11 of the Act.

- **Eligibility criteria for ITR-7**

ITR-7 is applicable to Trusts and Companies claiming exemption under section 11 of the Act.

KEY CHANGES IN THE ITRs NOTIFIED FOR FY 2019-20

1. In case the ITR is being filed by a representative, Aadhaar number of the representative is required to be provided in the ITR from FY 2019-20 onwards.
2. House ownership: It was earlier notified that Individual taxpayers, who are joint owners of house property cannot file ITR 1 or ITR 4. However, after representations, this has been withdrawn. Now even joint owners can continue to fill ITR 1 or ITR 4, as applicable to them.
3. Aadhaar details of owner / tenant
   a. If a property is jointly owned, then the individual needs to furnish PAN of the co-owner. Now, an option has been made available to quote Aadhaar, if PAN is unavailable.
   b. If an individual or HUF, to whom Tax Audit is not applicable under the Act, pays rent in excess of INR 50,000, then TDS is required to be deducted without applying for TAN. In such cases, PAN was required to be mentioned in Income-tax Return of the owner. From AY 2020-21 relevant to FY 2019-20, the owner has an option to furnish Aadhaar for the same.
   c. On similar lines, an option to furnish Aadhaar is also available with the seller, in a case where TDS under section 194IA of the Act is deducted by the purchaser when consideration is more than INR 50 lakhs.
4. As the readers are aware, due to the pandemic of COVID-19, Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020, was assented by the Hon'ble President on March 31, 2020, which extended the time limit for making various investments for FY 2019-20 to June 30 2020. Accordingly, details of investment / expenditure qualifying for deduction, for FY 2019-20, under chapter VIA of the Act with bifurcation of details of investments / expenditures made during the period from April 1, 2020 to June 30, 2020 have to be specifically mentioned in all the forms of ITRs.
   Further, vide notification dated June 24, 2020, the above deadline has been extended further to July 31, 2020.
5. Readers may note that for every year, the last date for filing ITRs for taxpayers to whom Tax Audit does not apply is 31 July and for taxpayers to whom Tax Audit is applicable is September 30. However, this year, ITR filing date has been extended for all the taxpayers till November 30, 2020 due to pandemic COVID-19.

6. Advance tax needs to be paid in the third month of each of the quarters. If a particular income is received in a later quarter/s, advance tax is still applicable in the prior quarter/s since the taxpayers need to estimate the expected income during the year and pay Advance Tax on the basis of extrapolation. Hence interest u/s 234C of the Act would be chargeable on the deferment of Advance Tax. However, there are certain exceptions for the same such as dividend taxable over and above INR 10 lakhs under section 115BBDA of the Act as well as lottery won and income from capital gains. Advance Tax on these sources of income can be paid in the quarter when they accrue/ are received. Even though there was a provision in the Act for the advance tax for dividend and lottery income to be paid in the relevant quarter, there was no separate quarter-wise column for the same in ITR. Now, it has been included to ease the technical hitches of the taxpayers.

7. Effective from FY 2017-18, if a taxpayer did not file ITR within the due date, if liable, there has been a levy of fee of INR 10,000 under Section 234F. Readers may please note that the applicability to file the ITR is linked with total income before claiming various exemptions and deductions. Accordingly, it may be quite possible that there is no tax payable since total income after deductions/exemptions is below the basic exemption limit, but fee under section 234F becomes applicable in view of the total income before deductions/exemptions being above the basic exemption limit.

8. The ITRs notified currently give the taxpayers the option of mentioning more than one Bank A/c and the CPC will decide which bank account to credit refund with, in case multiple options have been selected. Addition of more than one bank account will lead to ease of deposit of refund in the taxpayer's account since the taxpayer will not have to repeat all the steps if there is failure in depositing refund in one bank account due to account closure.

9. It is mandatory for a Company and a firm to file their ITR compulsorily. Scope has been expanded for other taxpayers by including taxpayers to file their ITRs even if their income is below basic exemption limit if they meet any of the below conditions:
   - Deposit of an aggregate amount which exceeds INR 1 crore in one or more current accounts with a bank (including a co-operative bank);
   - Incurred expenses of an aggregate amount which exceeds INR 2 lakhs on themselves or any other person for foreign travel;
   - Payment of an aggregate amount which exceeds INR 1 lakh towards electricity charges.

<u>Note:</u> The above condition is applicable only to Individuals, Hindu Undivided Family (HUF) and Partnership firms and is accordingly captured in the relevant forms of ITRs.

If the above conditions are satisfied, then it is mandatory to file ITR even if the total income is below the basic exemption limit. This needs to be carefully remembered by the taxpayers since if ITR is not filed within the due date, fees under section 234F shall be levied and depending upon circumstances, even prosecution can be launched for non-filing of ITR.

10. Budget 2020 introduced certain changes with regard to renewal of registration certificate of Trust and companies claiming exemption. The details regarding the same have been captured accordingly in ITR-7.

11. There is a column in the existing ITRs for Individuals wherein passport details need to be mentioned. It is a possibility that passport details may be linked to check if one has travelled to a foreign country or the income declared matches with the ability to incur the expenses of foreign travel on own self or any other person.

For a deeper discussion on this topic, please feel free to contact

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