



# **FILING OF RETURNS UNDER INCOME TAX IN THE AMENDED ITR-7**

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## OVERVIEW OF FILING OF RETURN

- 1.1.1** In this issue the procedure pertaining to filing of return under the Income Tax Act has been discussed. After the Finance Bill, 2016 there has been significant changes in the ITR-7 Form (the form in which all NPOs and Trusts have to file their return), the implications of such changes has also been discussed.
- 1.1.2** All charitable organisations having income exceeding the maximum amount which is not chargeable to income tax during the previous year are required to file their returns of income. Currently the maximum amount which is not chargeable to income tax is Rs. 2.5 lakhs per year.
- 1.1.3** The 'income' for the purposes of filing the return should be computed without giving effect to the provisions of sections 11 and 12 of the Act. This means trust & societies are required to submit their return if the income is more than the basic exemption limit and in case of Section 8 company, the return has to be filed even if there is Re.1/- income, as for Section 8 company there is no basic exemption limit. Such returns are to be filed with the Income-tax Officer or the Assessing Officer under whose local jurisdiction they fall. The return is to be filed as per the provisions of section 139(4A) and (4C) in the manner provided in section 139 of the Act.
- 1.1.4** The Taxation Laws (Amendment) Act, 2006 has amended section 139(4C)(e) and also inserted a new sub-section (4D) in section 139. As a consequence, medical institutions under section 10(23C)(iii)ae) having gross receipts of Rs. 1 crore or less are also required to file return if the income exceeds the maximum amount which is not chargeable to income-tax during the previous year.
- 1.1.5** Further, the organisations notified under section 35(1)(ii) & (iii) are also required to file annual return if the income exceeds the maximum amount which is not chargeable to income-tax during the previous year.
- 1.1.6** Upto the Assessment Year 2015-16, the organisations claiming exemption under sub-section (iiiab) & (iiic) of Clause 23C of Section 10 i.e. university or other educational institution, Medical institution existing solely for educational/medical purposes & not for purposes of profit & which is wholly or substantially financed by the Government were exempt from furnishing of return. However Finance Act, 2015 has proposed that these organisations shall also have to file their Income Tax Return u/s. 139 w.e.f. 2016-17.
- 1.1.7** The last date of filing of return is 30th September of the Assessment Year.

## MAJOR CHANGES IN THE NEW ITR-7 FORM FOR ASSESSMENT YEAR 2016-17

- 1.2.1** CBDT has notified the new ITR Form for Assessment Year 2016-17, the major changes in ITR-7 are as follows:
- 1.2.2** Business Receipts : The Finance Act, 2015 had substituted the proviso to Section 2(15) to provide that the advancement of any other object of general public utility

shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, unless:

- i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and
- ii) the aggregate receipts from such activity or activities during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year. In other words, advancement of any other object of charitable purpose shall not be deemed as charitable if receipts from any commercial activity exceed 20% of total receipts.

*Accordingly, a new row is inserted in ITR 7 to disclose percentage of business receipts vis-a-vis total receipts in order to ensure that such condition (as given hereinabove) is not violated.*

### **1.2.3 Application of income by a Trust:-**

Income of charitable or religious trust is exempt if 85% of its income is applied for charitable or religious purposes in India. If income applied for charitable or religious purposes during the previous year falls short of 85% because such income has not been received during the year or due to any other reason, an option is given to assessee to apply such income in future years in prescribed manner. Assessee has to choose such an option by filing Form 9A to the Assessing Officer before due date of filing return of income under Section 139(1).

*Now a separate row is provided in new ITR 7 requiring trust to confirm if it has filed Form 9A to exercise such an option and the date of filing of such form.*

### **1.2.4 Details to be given by Universities, Hospitals, Educational Institutions:-**

Exemption under sub-clause (iiiab) and (iiic) of Section 10(23C) is available to universities or educational institutions, hospitals or other institutions which are wholly or substantially financed by the Government, subject to certain prescribed conditions.

The Finance Act, 2015 has amended the provisions of Section 139 to provide that such entities covered under clauses (iiiab) and (iiic) of Section 10(23C) shall be mandatorily required to file their returns of income.

*Now such universities, hospitals, educational institutions, etc., have to disclose their name and annual receipts in new ITR 7. Further, they are also required to disclose the amount eligible for exemption in ITR 7.*

## **DELAYED SUBMISSION OF RETURN OF INCOME**

**1.3.1** An organisation which fails to furnish its return of income within the due date can still submit its return of income any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. For instance, a return of income for the financial year 2013-14 can be submitted upto 31st March, 2016.

**1.3.2** Under section 272A(2)(e), any voluntary organisation which fails to furnish the return of income which is required to be furnished under sub-sections (4A) and (4C) of section 139 or fails to furnish it within the time allowed and in the manner required under that sub-section, it shall pay by way of penalty a sum of Rs. 100 per day during which the failure continues. Before imposing such penalty, an opportunity of being heard shall be given to the organization.

**1.3.3** The Finance Act, 2015 has provided that :

- (a) in order to claim the benefit of accumulation of income for five years, Form 10 has to be submitted within the time limit provided for submitting the return u/s. 139(1) and also in such cases Return of Income has to be filed in time by the organisation.
- (b) The option in terms of explanation 2 to Section 11 has to be exercised in writing and has to be submitted before the expiry of time limit as provided u/s. 139(1), though in such case the submission of return can be delayed.

## **SUBMISSION OF RETURN**

- 1.4.1** The Return has to be filed in ITR-7 and w.e.f. F.Y. 2013-14, e-filing of Income Tax Return has become mandatory.
- 1.4.2** Signature can be put through digital signature or submitting the verification of the return in Return Form ITR-7 & then send the same to Income Tax Centralized Processing Centre, Prestige Alpha, No. 48/1 & 48/2, NH-7, Basapura, Bengaluru, Karnataka-560100 after signature.

## **KEY CHANGES IN THE PROCESS OF EXERCISING OPTION UNDER SECTION 11**

- 1.5.1** Section 11 of the Income Tax Act provides two options to the assessee trust when the application of income falls short of 85% of income.
- 1.5.2** *Option – I : Section 11(1)*  
Where the income could not be applied due to non-receipt of the income or any other reason-the income can be spent in the year of receipt/next year.  
Presently no specific format has been provided and the option is exercising in writing to the Assessing Officer before the expiry of the time allowed for furnishing of its return of income u/s 139(1) as specified in Rule 17.
- 1.5.3** *Option - II : Section 11(2)*  
An accumulation for specific project for specific purpose is also allowed for a maximum period of five years. Presently such option is exercised in writing to the Assessing Officer in form no 10 before the expiry of the time allowed for furnishing of its return of income u/s 139(1) as specified in Rule 17.
- 1.5.4** Rule 17 has been amended vide Notification dt. 14/01/2016 w.e.f. 01/04/2016 and now as per the amended Rules Form 9A has been notified for exercise of option under section 11(1) and Form 10 has been modified for option u/s 11(2) for accumulation upto Five years.
- 1.5.5** The option in Form No.9A referred to in sub-rule (1) and the statement in Form No.10 referred to in sub-rule (2) shall be furnished electronically either under digital signature or electronic verification code. Copy of notification together with Form 9A & modified Form 10 is enclosed herewith.

## **ONLINE FILING OF AUDIT REPORT IN FORM 10B**

- 1.6.1** With effect from Assessment year 2013-14, it has also become mandatory to upload online audit report in Form 10B.

## REVISION OR CORRECTION OF MISTAKES (IN THE RETURN ALREADY SUBMITTED)

- 1.7.1** The concerned organisation can file a revised return at any time before the expiry of one year from the end of the assessment year or completion of the assessment, whichever is earlier, only if there is any mistake or omission in the return. For instance, the income tax return submitted for the assessment year 2013-14 can be revised any time on or before 31st March, 2015, provided the Assessing Officer has not completed the assessment in the intervening period. However it is to be noted that the return can be revised only if it is originally is filed within due date.

## FILING OF RETURN BY UNREGISTERED ORGANISATIONS

- 1.8.1** Charitable / Religious Organisations, which are not registered u/s 11 or u/s 10(23C) of the Income Tax Act and do not enjoy any exemption on their income. Hence, they are liable to file the return if the voluntary contribution received by them or their income exceeds the maximum amount which is not chargeable to income-tax in any previous year. Such organisations should file their income-tax return in ITR-7.

