



# **INCOME TAX RETURNS IN THE AMENDED ITR-7**

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## 6. INCOME TAX RETURNS IN THE AMENDED ITR-7

### OVERVIEW OF FILING OF RETURN

- 6.1.1 In this issue the procedure pertaining to filing of return under the Income Tax Act has been discussed. After the Finance Act, 2017 there has been significant changes in the ITR-7 Form (the form in which all the NPOs and Trusts have to file their return), the implications of such changes have also been discussed.
- 6.1.2 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.
- 6.1.3 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. 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.
- 6.1.4 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.
- 6.1.5 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.
- 6.1.6 Upto the Assessment Year 2015-16, the organisations claiming exemption under sub-section (iii)ab) & (iii)ac) of Clause 23C of Section 10 i.e. university or other educational institution, Medical institution existing solely for educational/medical purposes and not for purposes of profit & which is wholly or substantially financed by the Government were exempted 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.
- 6.1.7 The last date of filing of return is 30th September of the Assessment Year.

### MAJOR CHANGES IN THE NEW ITR-7 FORM BY FINANCE ACT 2017 FOR ASSESSMENT YEAR 2017-18

- 6.2.1 Now onwards, in addition to detail of Audit Report in Form 10B, the details of the Audit conducted under any other Act other than Income Tax Act is also required to be furnished. For example, if audit is done under Service Tax / VAT, the details of audit i.e. act, section, date of audit report, etc. needs to be furnished.
- 6.2.2 There is a major shift in the disclosure of income in the form, the primary income of NGOs is no longer required to be computed under five heads of income, such as *Income from House Property, Income from Business and Profession* etc. The statement of income as per Part-B TI has undergone a major change and now Point

No. 1 to 7 of Part-B TI has been specifically designed for NGOs registered u/s. 12A/ 12AA and the income to be computed under various heads of income has been done away with.

6.2.3 Now any income other than voluntary contribution towards corpus/ voluntary contribution has to be segregated as required in **Schedule AI** which requires disclosure of total income under following heads:

1. Receipts from main objects
2. Receipts from incidental objects
3. Rent
4. Commission
5. Dividend income
6. Interest income
7. Agriculture income
8. Any other income (specify nature & amount)

**Issues requiring clarity:** There is no separate column for Restricted Grant and Capital Gain. Therefore, Capital Gain will be disclosed under “Any Other Income” and Restricted Grant may or may not be shown as Income depending upon the past policy of the organisation towards the treatment of restricted grant. Moreover, Agricultural income though exempted has been included in the bifurcation list of income subject of 85% of application but we understand this should not have been included in this list as agricultural income is exempted.

6.2.4 Similarly, Revenue expenses are now required to be segregated in Schedule ER which requires the following disclosures:

1. Rents
2. Repairs
3. Compensation to employees
4. Insurance
5. Workmen and staff welfare expenses
6. Entertainment and Hospitality
7. Advertisement
8. Commission
9. Royalty
10. Professional / Consultancy fees / Fee for technical services
11. Conveyance and Travelling expenses other than on foreign travel
12. Foreign travel expenses
13. Scholarship
14. Gift
15. Donation
  - i. Corpus
  - ii. Other than corpus
16. Rates and taxes, paid or payable to Government or any local body (excluding taxes on income)
17. Audit fee
18. Other expenses (specify nature and amount)

19. Total
20. Bad debts
21. Provisions
22. Interest
23. Depreciation and amortization
24. Total revenue expenses

Issues requiring clarity:

- There is no separate column for Program Expenses and therefore, it can be mentioned under Point 18.
- Again, by including depreciation and amortization may create confusion as in most cases they are not considered as an application of income.
- Moreover, various heads of classifications of expenses is not related to those heads of expenses normally maintained by an NGO.
- Sl. No. 19 which asks for Total is not clear.

- 6.2.5 Similarly, amounts applied for charitable purpose towards capital expenditure need segregation as per Schedule EC. It also requires disclosure of the net consideration received from transfer of assets minus exemption under Section. 11(1A).
- 6.2.6 Schedule VC requires bifurcation of Voluntary Contributions (other than corpus fund) into –
  - a. Grants received from Government
  - b. Grants received from Companies under Corporate Social Responsibility
  - c. Other donations
- 6.2.7 A separate Schedule 115TD has been included to furnish accreted income under Section 115TD.
- 6.2.8 Now, while submitting the details of bank account, details should also be furnished for the cash deposited during 09/11/2016 and 30/12/2016, if the aggregate cash deposit is equal or more than Rs.2 Lac.
- 6.2.9 Now, Aadhaar number is required to be provided in Schedule “K” for the founders/authors and trustees. {if available}

## MAJOR CHANGES IN ITR - 7 FORM BY FINANCE ACT 2016 FOR ASSESSMENT YEAR 2016-17

- 6.3.1 CBDT has notified the new ITR Form for Assessment Year 2016-17, the major changes in ITR-7 are as follows:
- 6.3.2 **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 the percentage of business receipts vis-a-vis total receipts in order to ensure that such condition (as given hereinabove) is not violated.



### 6.3.3 Application of income by a Trust:

Income of charitable or religious trust is exempted, 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 the assessee to apply such income in future years in the prescribed manner. Assessee has to choose such an option by filing up Form 9A to the Assessing Officer before the due date of filing return of income under Section 139(1).

Now a separate row is provided in the 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.

### 6.3.4 Details to be given by Universities, Hospitals, Educational Institutions:

Exemption under sub-clause (iiiab) and (iiiac) of Section 10(23C) is available to the 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 the clauses (iiiab) and (iiiac) 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 AND FORM 10

6.4.1 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 the assessment year.

6.4.2 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 organisation.

### 6.4.3 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 on 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

- 6.5.1 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.
- 6.5.2 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.

## EXEMPTIONS WILL BE LOST FOR DELAYED FILING OF RETURN

- 6.6.1 The Finance Act 2017 has made very harsh amendment with regard to delayed filing of Income Tax Returns. Now onwards, if the return is not filed on time, the entire exemptions shall be forfeited for that particular year. The Income Tax exemptions that are available to the charitable organisation will not be available, if the Income Tax Return is not filed within the due date i.e. 30th September of each year. The impact of the above proposed amendment that if any entity registered u/s. 12A does not file Income Tax return within the due date, then the entity will lose its exemption u/s.11 for that particular year for which the return has not been filed.
- 6.6.2 Though it is a positive step to compel all organisations to file return on time, however the penalty is very harsh as the entire exemption will be withdrawn for that particular year. Normally, for all other income tax assessee, there are some interest penalties for delayed filing of return. In case of Trust, such a severe penalty has been provided without remedial measure.
- 6.6.3 The proposed amendments will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018- 2019 and subsequent years. In other words, they will not apply for the return to be filed in the current year.

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

- 6.7.1 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.
- 6.7.2 **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 exercised 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.
- 6.7.3 **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 10 before the expiry of the time allowed for furnishing of its return of income u/s 139(1) as specified in Rule 17.
- 6.7.4 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.

- 6.7.5 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**

- 6.8.1 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)**

- 6.9.1 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 return can be revised only if the original return is filed within due date.

### **FILING OF RETURN BY UNREGISTERED ORGANISATIONS**

- 6.10.1 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. The tax rate applicable to such organisations will be that of an individual, in other words, income up to Rs. 2.5 lakh shall be exempted. However, for Section 8 Company, there is no basic exemption limit, ITR needs to be submitted irrespective of amount of income.



## NOTIFICATION REGARDING ACCUMULATION OF INCOME

[TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY, PART II,  
SECTION 3, SUB-SECTION (ii)]

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
[CENTRAL BOARD OF DIRECT TAXES]**

**(INCOME – TAX)**

### **Notification**

New Delhi, the 14<sup>th</sup> January, 2016

S.O. 127 (E).- In exercise of the powers conferred by section 11 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. (1) These rules may be called the Income-tax (1<sup>st</sup> Amendment) Rules, 2016.
- (2) They shall come into force from the 1<sup>st</sup> day of April, 2016.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the said rules), for rule 17, the following rule shall be substituted, namely:-

**"17. Exercise of option etc under section 11.** (1) The option to be exercised in accordance with the provisions of the *Explanation* to sub-section (1) of section 11 in respect of income of any previous year relevant to the assessment year beginning on or after the 1<sup>st</sup> day of April, 2016 shall be in Form No. 9A and shall be furnished before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income of the relevant assessment year.

(2) The statement to be furnished to the Assessing Officer or the prescribed authority under sub-section (2) of section 11 or under the said provision as applicable under clause (2f) of section 10 shall be in Form No. 10 and shall be furnished before the expiry of the time allowed under sub-section (1) of section 139, for furnishing the return of income.

(3) 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.

(4) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall-

- (i) specify the procedure for filing of Forms referred to in sub-rule (3);
- (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule(3), for purpose of verification of the person furnishing the said Forms; and
- (ii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to Forms so furnished."

3. In the said rules, in Appendix II,-

- (a) after Form No.9, the following Form shall be inserted, namely:-



**"FORM NO.9A**  
**[See rule 17(1)]**

**Application for exercise of option under clause (2) of the Explanation to sub-section (1) of section 11 of the Income - tax Act, 1961.**

To  
The Assessing Officer,

I, ..... on behalf of [name of the trust/institution/association].....  
Permanent Account Number (PAN)..... do hereby wish to exercise  
the option referred to in clause (2) of the Explanation to sub-section (1) of section 11 of the  
Income-tax Act, 1961 for an amount of Rs.....( detailed in A below) to be  
deemed to be the income applied for charitable or religious purposes during the previous  
year 20..- 20.. for the reasons mentioned in B below.

A. The details of income in this regard are:

- (i) Amount of income derived from property held under trust / held under trust in part,  
during the above mentioned previous year: Rs.....;
- (ii) Amount of income [out of (i)] actually applied to charitable or religious purposes in  
India: Rs .....
- (iii) Amount of income referred to in (ii) that falls short of 85% of the income referred  
to in (i) : Rs.....;
- (iv) The amount of income in respect of which the option is being exercised:  
Rs.....

B. The reasons for the shortfall in application of income are as under:-

(a)Whether the income was not received during the previous year? Yes/No.

If Yes, the amount of income that was not received:.....;

(b) any other reason ? Yes/No

If yes, then specify the reason and the corresponding amount of income:

Sr.No	Reason for shortfall	Amount of Income

Date:

Signature.....  
Designation.....  
Address.....

**Note:**

1. This option Form should be signed by a trustee/principal officer.
2. Delete the inappropriate words.";

(b) for Form No.10, the following Form shall be substituted, namely:-



**fmsf**

**"FORM NO.10**

[See rule 17(2)]

**Statement to be furnished to the Assessing Officer/Prescribed Authority under sub-section (2) of section 11 of the Income-tax Act, 1961**

To  
The Assessing Officer/ Prescribed Authority,

I, ..... on behalf of ..... [name of the trust/institution/association] Permanent Account Number ..... hereby bring to your notice that it has been decided by a resolution passed by the trustees/governing body, by whatever name called, on ..... that, out of the income of the trust/institution/association for the previous year, relevant to the assessment year 20....-20...., an amount of Rs..... which is ..... per cent of the income of the trust/institution/association for the said previous year, shall be accumulated or set apart for carrying out the purposes of the trust/association/institution. The details of the amount, the purpose and period of the proposed accumulation or setting apart is as under:-

Sr.No.	Purpose for which amount is being accumulated or set apart	Amount	Period of accumulation/setting apart ending on
1			
2			
3			

**2.** The amount so accumulated or set apart has been invested or deposited in any one or more of the forms or modes specified in sub-section(5) of section 11 of the Income-tax Act, 1961.

**3.** It is further brought to your notice that the said ..... [name of the trust/institution/association] had in respect of an assessment year preceding the relevant assessment year given the statement regarding accumulation or setting apart of an amount as required under sub-section (2) of section 11 of the Income-tax Act, 1961 as detailed below:

Year of accumulation	Date of filing Form 10	Amount accumulated	Period for which accumulated/ set apart	Amount applied up to the end of the previous year	Amount remaining for application	Amount deemed to be income within meaning of sub-section (3) of section 11

4. It is also brought to your notice that , out of incomes detailed in 3 above, due to the order/ injunction of the court the income as detailed below could not be applied for the purpose for which it was accumulated or set apart:-

<i>S.No.</i>	<i>Amount of income</i>	<i>Previous year in which accumulated or set apart</i>	<i>Period during which it could not be applied due to court order</i>	<i>Details of court order</i>

Date: .....

Signature.....

Designation.....

Address.....

**Notes:**

1. This statement should be signed by a trustee/principal officer.
2. Delete the inappropriate words."

Notification No.3/2016 /2015 [F. No. 142/16/2015-TPL]

**(R LAKSHMI NARAYANAN)**

**Under Secretary (Tax Policy and Legislation)**

Note: - The principal rules were published in the Gazette of India Extraordinary, Part II, Section 3, Sub-section (i), *vide* notification number S.O. 969(E), dated the, 26<sup>th</sup> March, 1962 and last amended *vide* notification number S.O- 3545 (E), dated the 30<sup>th</sup> December, 2015.



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**INTERface**

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