# Provisions for Filing Return of Income

## Key Points

<table>
<thead>
<tr>
<th>Section</th>
<th>Particulars</th>
</tr>
</thead>
<tbody>
<tr>
<td>139(1)</td>
<td><strong>Assessee required to file return of income compulsorily</strong></td>
</tr>
<tr>
<td></td>
<td>(i) Companies and firms (whether having profit or loss or nil income);</td>
</tr>
<tr>
<td></td>
<td>(ii) a person, being a resident other than not ordinarily resident, having any asset (including any financial interest in any entity) located outside India or signing authority in any account located outside India, whether or not having income chargeable to tax;</td>
</tr>
<tr>
<td></td>
<td>(iii) Individuals, HUFs, AOPs or BOIs and artificial judicial persons whose total income before giving effect to the provisions of section 10(38) or Chapter VI-A exceeds the basic exemption limit.</td>
</tr>
</tbody>
</table>

**Due date of filing return of income**

30th September of the assessment year, in case the assessee is:

(i) a company;  
(ii) a person (other than company) whose accounts are required to be audited; or  
(iii) a working partner of a firm whose accounts are required to be audited.  

31st July of the assessment year, in case of any other assessee (other than assessee who are required to furnish report under section 92E, for whom the due date is 30th November of the assessment year).  

| 139(3) | **Return of loss**  |
|        | An assessee can carry forward or set off his/its losses provided he/it has filed his/its return under section 139(3), within the due date specified under section 139(1).  |

**Exceptions**

Loss from house property and unabsorbed depreciation can be carried forward for set-off even though return has not been filed before the due date.
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
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</table>
| 139(4) | **Belated Return**  
A return of income for any previous year, which has not been furnished within the time allowed u/s 139(1), may be furnished at any time before the:  
(i) end of the relevant assessment year; or  
(ii) completion of the assessment, whichever is earlier.  
A belated return can also be revised. |
| 139(5) | **Revised Return**  
If any omission or any wrong statement is discovered in a return furnished u/s 139(1) or belated return u/s 139(4), a revised return may be furnished by the assessee at any time:  
(i) before the expiry of one year from the end of the relevant assessment year; or  
(ii) before the completion of assessment, whichever is earlier. |
| 139(4A) | **Return of Income of Charitable Trusts and Institutions**  
Every person in receipt of income derived -  
(i) from property held under trust wholly or partly for charitable or religious purpose; or  
(ii) by way of voluntary contributions on behalf of such trust or institution, must furnish a return of income if the total income, in respect of which he is assessable as a representative assessee (computed before allowing any exemption u/s 11 &12) exceeds the basic exemption limit. |
| 139(4B) | **Return of Income of Political Parties**  
A political party is required to file a return of income if its total income (before claiming any exemption u/s 13A) exceeds the basic exemption limit.  
Grant of exemption under section 13A is subject to the condition of the political party filing a return of income within the time limit prescribed u/s 139(1). |
| 139(4C) | **Mandatory filing of returns by Scientific Research Associations, News agency, Trade unions etc.**  
It is mandatory for a research association, news agency or trade union or mutual fund referred to in section 10(23D) or securitization trust or venture capital company/venture capital fund to file a return of income on or before the due date under section 139(1), if its total income (before giving effect to the exemption under section 10) exceeds the basic exemption limit. |
### Persons authorized to verify the Return of Income [Section 140]

This section specifies the persons who are authorized to verify the return of income under section 139.

<table>
<thead>
<tr>
<th>Assessee</th>
<th>Circumstance</th>
<th>Authorised Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Individual</td>
<td>(i) In circumstances not covered under (ii), (iii) &amp; (iv) below</td>
<td>- the individual himself</td>
</tr>
<tr>
<td></td>
<td>(ii) where he is absent from India</td>
<td>- the individual himself; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)</td>
</tr>
<tr>
<td></td>
<td>(iii) where he is mentally incapacitated from attending to his affairs</td>
<td>- his guardian; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- any other person competent to act on his behalf</td>
</tr>
<tr>
<td></td>
<td>(iv) where, for any other reason, it is not possible for the individual to verify the return</td>
<td>- any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)</td>
</tr>
<tr>
<td>2. Hindu Undivided Family</td>
<td>(i) in circumstances not covered under (ii) and (iii) below</td>
<td>- the karta</td>
</tr>
<tr>
<td></td>
<td>(ii) where the karta is absent from India</td>
<td>- any other adult member of the HUF</td>
</tr>
<tr>
<td></td>
<td>(iii) where the karta is mentally incapacitated from attending to his affairs</td>
<td>- any other adult member of the HUF</td>
</tr>
<tr>
<td>3. Company</td>
<td>(i) in circumstances not covered under (ii) to (v) below</td>
<td>- the managing director of the company</td>
</tr>
<tr>
<td></td>
<td>(ii) (a) where for any unavoidable reason such managing director is not able to verify the return; or (b) where there is no managing director</td>
<td>- any director of the company</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- any director of the company</td>
</tr>
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</tr>
<tr>
<td>(iii) where the company is not resident in India</td>
<td>- a person who holds a valid power of attorney from such company to do so (such power of attorney should be attached to the return).</td>
<td></td>
</tr>
<tr>
<td>(iv) (a) Where the company is being wound up (whether under the orders of a court or otherwise); or (b) where any person has been appointed as the receiver of any assets of the company</td>
<td>- Liquidator</td>
<td></td>
</tr>
<tr>
<td>(v) Where the management of the company has been taken over by the Central Government or any State Government under any law</td>
<td>- the principal officer of the company</td>
<td></td>
</tr>
<tr>
<td>4. Firm</td>
<td>(i) in circumstances not covered under (ii) below</td>
<td>- the managing partner of the firm</td>
</tr>
<tr>
<td>(i) in circumstances not covered under (ii) below</td>
<td>- any partner of the firm, not being a minor</td>
<td></td>
</tr>
<tr>
<td>(ii) (a) where for any unavoidable reason such managing partner is not able to verify the return; or (b) where there is no managing partner.</td>
<td>- any partner of the firm, not being a minor</td>
<td></td>
</tr>
<tr>
<td>5 Local authority</td>
<td>-</td>
<td>- the principal officer</td>
</tr>
<tr>
<td>6 Political party [referred to in section 139(4B)]</td>
<td>-</td>
<td>- the chief executive officer of such party (whether he is known as secretary or by any other designation)</td>
</tr>
<tr>
<td>7 Any other association</td>
<td>-</td>
<td>- any member of the association or the principal officer of such association</td>
</tr>
<tr>
<td>8 Any other person</td>
<td>-</td>
<td>- that person or some other person competent to act on his behalf.</td>
</tr>
</tbody>
</table>
10.5 Income-tax

Question 1

Paras is resident of India. During the F.Y. 2016-17, interest of ₹2,88,000 was credited to his Non-resident (External) Account with SBI. ₹30,000, being interest on fixed deposit with SBI, was credited to his saving bank account during this period. He also earned ₹3,000 as interest on this saving account. Is Paras required to file return of income?

What will be your answer, if he owns one shop in Kerala having area of 150 sq. ft.?

Answer

An individual is required to furnish a return of income under section 139(1) if his total income, before giving effect to the deductions under Chapter VI-A, exceeds the maximum amount not chargeable to tax i.e. ₹2,50,000 (for A.Y. 2017-18).

<table>
<thead>
<tr>
<th>Particulars</th>
<th>₹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income from other sources</td>
<td></td>
</tr>
<tr>
<td>Interest earned from Non-resident (External) Account ₹2,88,000 [Exempt under section 10(4)(ii), assuming that Mr. Paras has been permitted by RBI to maintain the aforesaid account]</td>
<td>NIL</td>
</tr>
<tr>
<td>Interest on fixed deposit with SBI</td>
<td>30,000</td>
</tr>
<tr>
<td>Interest on savings bank account</td>
<td>3,000</td>
</tr>
<tr>
<td><strong>Gross Total Income</strong></td>
<td>33,000</td>
</tr>
<tr>
<td>Less: Deduction under section 80TTA (Interest on saving bank account)</td>
<td>3,000</td>
</tr>
<tr>
<td><strong>Total Income</strong></td>
<td>30,000</td>
</tr>
</tbody>
</table>

Since the total income of Mr. Paras for A.Y.2017-18, before giving effect to the deductions under Chapter VI-A, is less than the basic exemption limit of ₹2,50,000, he is not required to file return of income for A.Y.2017-18.

Owning a shop having area of 150 sq.ft. in Kerala would not make any difference to the answer.

Note: In the above solution, interest of ₹2,88,000 earned from Non-resident (External) account has been taken as exempt on the assumption that Mr. Paras, a resident, has been permitted by RBI to maintain the aforesaid account. However, in case he has not been so permitted, the said interest would be taxable. In such a case, his total income, before giving effect to the deductions under Chapter VI-A, would be ₹3,21,000 (₹30,000 + ₹2,88,000 + ₹3,000), which is higher than the basic exemption limit of ₹2,50,000. Consequently, he would be required to file return of income for A.Y.2017-18. Here again, ownership of shop in Kerala is immaterial.
Question 2

State with reasons whether you agree or disagree with the following statements:

(a) Return of income of Limited Liability Partnership (LLP) could be verified by any partner.

Answer

(a) Disagree

The return of income of LLP should be verified by a designated partner. Any other partner can verify the Return of Income of LLP only in the following cases:

(i) where for any unavoidable reason such designated partner is not able to verify the return, or,

(ii) where there is no designated partner.

(b) Time limit for filing return under section 139(1) in the case of Mr. A having total turnover of ₹ 160 lakhs for the year ended 31.03.2017, whether or not opting to offer presumptive income under section 44AD, is 30th September 2017.

Answer

(b) Disagree

In case Mr. A opts to offer his income as per the presumptive taxation provisions of section 44AD, then, the due date under section 139(1) for filing of return of income for the year ended 31.03.2017, shall be 31st July, 2017.

In case Mr. A does not opt for presumptive taxation provisions under section 44AD and, he has to get his accounts audited under section 44AB, in which case the due date for filing return would be 30th September, 2017.

Question 3

Specify the persons who are authorized to verify under section 140, the return of income filed under section 139 of the Income-tax Act, 1961 in the case of:

(i) Political party;
(ii) Local authority;
(iii) Association of persons, and
(iv) Limited Liability Partnership (LLP).

Answer

The following persons (mentioned in Column III below) are authorised as per section 140, to verify the return of income filed under section 139:

<table>
<thead>
<tr>
<th>I</th>
<th>II</th>
<th>III</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td>Political party</td>
<td>Chief Executive Officer of such party (whether known as secretary or by any other designation).</td>
</tr>
</tbody>
</table>
10.7 Income-tax

<table>
<thead>
<tr>
<th></th>
<th>Local authority</th>
<th>Principal Officer thereof.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ii)</td>
<td>Association of Persons</td>
<td>Any member of the association or the principal officer thereof.</td>
</tr>
<tr>
<td>(iii)</td>
<td>LLP</td>
<td>Designated partner, or Any partner,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- where the designated partner is not able to verify the return for any unavoidable reason;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- where there is no designated partner.</td>
</tr>
</tbody>
</table>

**Question 4**

Mr. Vineet submits his return of income on 12-09-2017 for A.Y 2017-18 consisting of income under the head salaries, “Income from house property” and bank interest. On 21-01-2018, he realized that he had not claimed deduction under section 80TTA in respect of his interest income on the Savings Bank Account. He wants to revise his return of income, since one year has not elapsed from the end of the relevant assessment year. Discuss.

**Answer**

Since Mr. Vineet has income only under the heads “Salaries”, “Income from house property” and “Income from other sources”, he does not fall under the category of a person whose accounts are required to be audited under the Income-tax Act, 1961 or any other law in force. Therefore, the due date of filing return for A.Y.2017-18 under section 139(1), in his case, is 31st July, 2017. Since Mr. Vineet had submitted his return only on 12.9.2017, the said return is a belated return under section 139(4).

As per section 139(5), a return furnished under section 139(1) or a belated return u/s 139(4) can be revised. Thus, a belated return under section 139(4) can also be revised. Therefore, Mr. Vineet can revise the return of income filed by him under section 139(4), to claim deduction under section 80TTA, since the time limit of one year from the end of the relevant assessment year has not elapsed.

**Question 5**

State whether filing of income-tax return is mandatory for the assessment year 2017-18 in respect of the following cases:

(i) Research association eligible for exemption under section 10(21) having total income of ₹ 3,10,000

(ii) Registered trade union eligible for exemption under section 10(24) having following incomes:

- Income from house property (computed) ₹ 60,000
- Income from other sources (computed) ₹ 40,000
A charitable trust registered under section 12AA, having total income of ₹2,60,000.

(iv) A Limited Liability Partnership (LLP) with business loss of ₹1,30,000.

Answer

(i) As per section 139(4C), a research association referred to in section 10(21) must file its return of income within the due date under section 139(1) if its total income, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax.

Since the total income of the research association exceeds the basic exemption limit of ₹2,50,000, it has to file its return of income for the A.Y. 2017-18.

(ii) As per section 139(4C), a registered trade union referred to in section 10(24) must file its return of income if the total income exceeds the basic exemption limit without giving effect to the provisions of section 10.

Since the total income of the trade union is less than the basic exemption limit of ₹2,50,000, it need not file its return of income for the A.Y. 2017-18.

(iii) As per section 139(4A), a charitable trust registered under section 12AA must file its return of income, if its total income computed as per the provisions of the Income-tax Act, 1961, without giving effect to the provisions of sections 11 and 12, exceeds the maximum amount which is not chargeable to income-tax. Since the total income of the charitable trust exceeds ₹2,50,000, it has to file its return of income for the A.Y. 2017-18.

(iv) As per third proviso to section 139(1), every company or firm shall furnish on or before the due date the return in respect of its income or loss in every previous year. Since LLP is included in the definition of “firm” under the Income-tax Act, 1961, it has to file its return mandatorily, even though it has incurred a loss.

Question 6

State with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

(i) The Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.

(ii) Where the Karta of a HUF is absent from India, the return of income can be verified by any male member of the family.

Answer

(i) True: Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.
(ii) **False**: Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member.

**Question 7**

The total income of a university without giving effect to exemption under section 10(23C) is ₹ 46 lacs. Its total income, however, is nil. Should the University file its return of income?

**Answer**

Section 139(4C) enjoins that, a university referred to in section 10(23C), should file the return of income if its total income without giving effect to the exemption under section 10, exceeds the basic exemption limit. The provisions of the Act will apply as if it were a return required to be furnished under section 139(1). In the given case, since the total income of the University before giving effect to the exemption exceeds the basic exemption limit, it has to file its return of income.

**Question 8**

Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for the Financial year ended on 31st March, 2017 audited under section 44AB. Her total income for the assessment year 2017-18 is ₹ 3,35,000. She wants to furnish her return of income for assessment year 2017-18 through a tax return preparer. Can she do so?

**Answer**

Section 139B provides a scheme for submission of return of income for any assessment year through a tax return preparer. However, it is not applicable to persons whose books of account are required to be audited under section 44AB. Therefore, Mrs. Hetal cannot furnish her return of income for A.Y. 2017-18 through a tax return preparer.

**Question 9**

Can an individual, who is not in India, verify the return of income from outside India? Is there any other option?

**Answer**

As per section 140, return of income can be verified by an individual even if he is absent from India. Hence, an individual can himself verify the return of income from a place outside India. Alternatively, any person holding a valid power of attorney and duly authorised by the individual can also verify the return of income. However, such power of attorney should be attached along with the return of income.

**Question 10**

Explain with brief reasons whether the return of income can be revised under section 139(5) of the Income-tax Act, 1961 in the following cases:

(i) Belated return filed under section 139(4).
(ii) Return already revised once under section 139(5).
(iii) Return of loss filed under section 139(3).
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Answer

Any person who has furnished a return under section 139(1) or 139(4) can file a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier, if he discovers any omission or any wrong statement in the return filed earlier. Accordingly,

(i) A belated return filed under section 139(4) can be revised.

(ii) A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. within one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

(iii) A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).

Question 11

Enumerate the circumstances in which an individual assessee is empowered to verify his return of income under section 139 by himself or otherwise by any authorized person.

Answer

The following table enumerates the specific circumstances and the authorized persons empowered to verify the return of income of an individual assessee filed under section 139(1) in each such circumstance:

<table>
<thead>
<tr>
<th>Circumstance</th>
<th>Return of income, to be verified by</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Where he is absent from India</td>
<td>- the individual himself; or&lt;br&gt;- any person duly authorised by him in this behalf holding a valid power of attorney from the individual. (Such power of attorney should be attached to the return of income)</td>
</tr>
<tr>
<td>(ii) Where he is mentally incapacitated from attending to his affairs</td>
<td>- his guardian; or&lt;br&gt;- any other person competent to act on his behalf.</td>
</tr>
<tr>
<td>(iii) Where, for any other reason, it is not possible for the individual to verify the return</td>
<td>- any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)</td>
</tr>
<tr>
<td>(iv) In circumstances not covered under (i), (ii) &amp; (iii) above</td>
<td>- the individual himself</td>
</tr>
</tbody>
</table>
Question 12

*Explain the term “return of loss” under the Income-tax Act, 1961. Can any loss be carried forward even if return of loss has not been filed as required?*

**Answer**

A return of loss is a return which shows certain losses. Section 80 provides that the losses specified therein cannot be carried forward, unless such losses are determined in pursuance of return filed under the provisions of section 139(3).

Section 139(3) states that to carry forward the losses specified therein, the return should be filed within the time specified in section 139(1).

Following losses are covered by section 139(3):

- Business loss to be carried forward under section 72(1),
- Speculation business loss to be carried forward under section 73(2),
- Loss from specified business to be carried forward under section 73A(2),
- Loss under the head “Capital Gains” to be carried forward under section 74(1); and
- Loss incurred in the activity of owning and maintaining race horses to be carried forward under section 74A(3).

However, loss from house property to be carried forward under section 71B and unabsorbed depreciation can be carried forward even if return of loss has not been filed as required under section 139(3).

Question 13

*Is a political party required to file return of Income? State the provisions applicable under the Income-tax Act, 1961.*

**Answer**

Yes, a political party is required to file return of income if, without giving effect to the exemption provisions under section 13A, the total income of the political party exceeds the basic exemption limit.

In such cases, as per section 139(4B), the chief executive officer of the political party is required to furnish a return of income of the party of the previous year within the due date prescribed under section 139(1).

For the purpose of claiming exemption under section 13A, the accounts of the political party have to be audited by a Chartered Accountant. Consequently, the due date of filing return for such political parties would be 30th September of the assessment year.

In other cases, the due date of filing of return would be 31st July of the assessment year.
The return must be filed in the prescribed form and verified in the prescribed manner setting forth such other particulars as may be prescribed by the CBDT.

The provisions of the Income-tax Act, 1961 would apply as if it were a return required to be furnished under section 139(1).

**Question 14**

Who are the persons authorized to verify return of income in the case of individual under section 139 of the Income-tax Act, 1961?

**Answer**

As per section 140(a), the persons authorised to verify the return of income of an individual assessee filed under section 139(1) under different circumstances are as follows:

<table>
<thead>
<tr>
<th>Circumstance</th>
<th>Return of income, to be verified by</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Where he is absent from India</td>
<td>- the individual himself; or - any person duly authorised by him in this behalf holding a valid power of attorney from the individual to do so.</td>
</tr>
<tr>
<td>(ii) Where he is mentally incapacitated from attending to his affairs</td>
<td>- his guardian; or - any other person competent to act on his behalf.</td>
</tr>
<tr>
<td>(iii) Where, for any other reason, it is not possible for the individual to verify the return</td>
<td>- any person duly authorised by him in this behalf holding a valid power of attorney from the individual to do so.</td>
</tr>
<tr>
<td>(iv) In circumstances not covered under (i), (ii) &amp; (iii) above</td>
<td>- the individual himself</td>
</tr>
</tbody>
</table>

**Exercise**

1. Akash, who is 32 years old, has long-term capital gains of `25,000 which is exempt under section 10(38) and deduction of Rs.80,000 under section 80C. He has to file a return of income for A.Y.2017-18, if his total income is -
   
   (a) ₹1,00,000  
   (b) ₹1,25,000  
   (c) ₹1,50,000

2. The due date for filing of a return of income for a company for Assessment year 2017-18 is -
   
   (a) 31st July, 2017  
   (b) 30th September, 2017
3. For filing returns of income in respect of various entities, the Income-tax Act, 1961 has prescribed -
   (a) Two due dates
   (b) Three due dates
   (c) Four due dates

4. Political parties -
   (a) need not file their return of income
   (b) should always file their return of income
   (c) should file their return of income if the total income computed without giving effect to the provisions of section 13A exceeds the basic exemption limit.

5. The return of a company has to be verified by -
   (a) the Managing Director or Director
   (b) the General Manager
   (c) The Secretary

6. An assessee can file a revised return of income at any time before the completion of assessment or before expiry of the following period, whichever is earlier -
   (a). one year from the end of the relevant assessment year
   (b). two years from the end of the relevant assessment year
   (c). six months from the end of the relevant assessment year

7. As per section 139(1), filing of returns is compulsory for -
   (a) companies only
   (b) firms only
   (c) both companies and firms

8. Write short notes on the following -
   (a) Belated return
   (b) Revised return

9. Filing of return of income on or before due date is necessary for carry forward of losses - Discuss the correctness of this statement.

10. Who are the persons authorised to verify the return of income in the case of -
    (a) Hindu Undivided Family
(b) Company
(c) Partnership firm

11. List ten transactions for which quoting of permanent account number is mandatory.

12. Briefly discuss about the interest chargeable under section 234A for delay or default in furnishing return of income.

Answers
1. c; 2. b; 3. b; 4. c; 5. a; 6. a; 7. c.