

SMART NOTES INCOME TAX

[Part -6]
FOR AY 21/22



CA SACHIN GUPTA

Chapter 15 Taxation of Company

(1) In case of Domestic company :

Domestic Company	Rate of Income-tax
(i) Where its total turnover or the gross receipt in p/y 2018-19 does not exceed ₹400 crore;	25%
Company u/s 115BA	25%
Company u/s 115BAA	22%
Company u/s 115BAB	15%
Surcharge	
- Company u/s 115BAA/BAB crores (Irrespective of TI)	10%
- Other Company	
If total income exceeds ₹1 crore but does not exceed ₹10	7%
If total Income exceeds ₹10 crores	12%

(2) In case of Foreign company:

Foreign company	Foreign Company
Rate of income tax	40%
Surcharge	
-If total income exceeds ₹1 crore but does not exceed ₹10 crores	2%
-If total Income exceeds ₹10 crores	5%
Subject to marginal relief	

SEC 115JB : Minimum Alternate Tax

Basic provisions of MAT

Tax liability of a company will be higher of the following:

- Tax liability computed as per normal provisions of Income-tax = Normal Tax .
- Tax computed @ 15% (plus surcharge & cess as applicable) on book profit = MAT.

Note: MAT is levied @9% (plus surcharge & cess as applicable) in case of company, being a unit of an International Financial Services Centre & deriving its income solely in convertible foreign exchange.

Applicability and non-applicability of MAT

MAT is applicable to every company whether public or private and whether Indian or foreign.

MAT shall not apply to

- life insurance business u/s 115B,
- Shipping income liable to tonnage taxation u/s 115V to 115VZC
- Company which has exercised the option referred u/s 115BAA or u/s 115BAB

Meaning of book profit Explanation 1 to section 115JB(2)

"Book profit" means net profit as shown in statement of P&L prepared as per Schedule III to Companies Act, 2013 as increased & decreased by certain items prescribed in this regard.

:

Computation of book profit**Additions to net profit:**

Where followings amount debited to profit & loss account:-

1. Amount carried to reserves (other than reserves relating to shipping business created u/s 33AC)
2. Expenditure in relation to incomes covered u/s 10, 11 & 12
3. Dividends paid or proposed to be paid;
4. Depreciation as per tax provisions.
5. Balance in revaluation reserve relating to revalued asset on retirement or disposal of such asset.
6. Deferred tax or provisions thereof;
7. Income tax paid, payable or provision; *However, Income tax penalty or its interest, Penalties under other laws need not be added back*
8. Provisions for loss of subsidiaries
9. Expenditure relatable to, income, being share of taxpayer in income of AOP/BOI on which no income-tax is payable u/s 86.
10. Notional loss on transfer of share of SPV to business trust in exchange of units allotted by that trust u/s 47(xvii) or amount representing notional loss resulting from any change in carrying amount of said units or amount of loss on transfer of units u/s 47(xvii)
12. Expenditure relatable to income of royalty in respect of patent u/s 115BBF
13. Provision for diminution in value of assets; Example: Provision for bad debts
14. Provisions for meeting unascertained liabilities, However, provisions made on scientific basis are not to added back for Example: Provision for encashment of leave (SC Judgment: BHARAT EARTH MOVERS)
15. Amount standing in revaluation reserve relating to revalued asset on retirement or disposal of such an asset if not credited to statement of profit and loss
16. Gain on transfer of units u/s 47(xvii) computed by taking into account the cost of shares exchanged with units referred to in the said clause or carrying amount of shares at time of exchange where such shares are carried at a value other than the cost through statement of profit and loss ;

Subtractions to Net profit:

1. Amount withdrawn from any reserve or provision
2. Income covered u/s 10, 11& 12
3. Loss **brought** forward or **unabsorbed** depreciation whichever is less as per books of account.
Note: Loss and unabsorbed depreciation to be considered in books as at commencement of the year
4. Depreciation excluding depreciation on account of revaluation of assets.
5. Amount withdrawn from revaluation reserve and credited to P&L A/c, to the extent it does not exceed the amount of depreciation on account of revaluation of assets
6. Deferred tax, if any
7. Profits of sick industrial company subject to certain conditions
8. Income, being share in income of AOP or BOI, on which no income-tax is payable in u/s 86, if any such amount is credited to statement of profit and loss.
9. The amount (if any, credited to statement of profit and loss) representing
 - (a) Notional gain on transfer of share of SPV to business trust in exchange of units allotted by that trust referred u/s 47(xvii); or
 - (b) notional gain resulting from any change in carrying amount of said units; or
 - (c) gain on transfer of units u/s 47(xvii),
10. Notional gain on transfer of units u/s 47(xvii) computed by taking into account the cost of shares exchanged with units referred to in said clause or the carrying amount of the shares at the time of exchange where such shares are carried at value other than the cost through statement of profit and loss.
11. Royalty in respect of patent u/s 115BBF
12. Aggregate amount of unabsorbed depreciation and loss brought forward in case of:
 - a) A company and its subsidiary and subsidiary of such subsidiary, where, the Tribunal, on an application moved by Central Government u/s 241 of **Companies Act, 2013** has suspended BOD of such company and has appointed new directors who are nominated by Central Government u/s 242 of the said Act;
 - b) A company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority u/s 7 or u/s 9 or u/s 10 of **Insolvency and Bankruptcy Code, 2016**

MAT credit (Sec 115JAA)

IF MAT is greater than Normal Tax, Then MAT is payable but , then credit in respect of tax so paid shall be allowed as follows

- 1). Allowable Tax Credit = Excess of MAT paid over Normal income tax
(However, no interest shall be paid on this Tax credit by the revenue.)
- 2). Tax credit shall be carry forward for 15 subsequent assessment year
- 3). Tax credit shall be allowed set off in A/Y when Normal Income Tax is greater than MAT
- 4). Set off shall be allowed to the extent of excess of Normal Tax over MAT.

Report from Chartered accountant

Every company u/s 115JB is required to obtain report from a CA in Form No. 29B certifying that book profit correctly computed. The report should be obtained before the specified date referred to in section 44AB. Audit report in Form No. 29B shall be filed electronically.

ANNEXURE**Sec 115BA : Tax on income of certain manufacturing Domestic Companies**

- (1) Income-tax payable by domestic company, wef A/Y 17/18, shall, at its option , be computed @ 25%, if conditions contained in sub-section (2) are satisfied.
- (2) For the purposes of sub-section (1), the following conditions shall apply, namely:—
 - (a) Company has been set-up & registered on or after 1/3/2016;
 - (b) Company is only engaged in business of manufacture/production of any article/thing and research in relation to, or distribution of, such article or thing manufactured
 - (c) Total income of the company has been computed,—
 - (i) without any deduction
 - u/s 10AA or
 - u/s 32(1)(iia) or
 - u/s 32AC or u/s 32AD or
 - u/s 33AB or u/s 33ABA or
 - u/s 35(1)(ii)(iia)(iii) or u/s 35(2AA)(2AB) or
 - u/s 35AC or
 - u/s 35AD or
 - u/s 35CCC or
 - u/s 35CCD or
 - u/s 80C to 80U (profit based) other than u/s 80JJAA;
 - (ii) without set off of any loss c/f from any earlier A/Y if such loss is attributable to any of the deductions referred to in sub-clause (i); and
 - (iii) depreciation u/s 32, other than clause (iia) of sub-section (1) of the said section, is determined in the manner as may be prescribed.
- (3) The loss referred as above shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) Nothing contained in this section shall apply unless option is exercised in the prescribed manner on or before due date u/s 139(1) for furnishing the first of returns of income which the person is required to furnish under the provisions of this Act:

Provided that once option has been exercised for any p/y, it cannot be subsequently withdrawn for the same or any other p/y.

Provided further that where person exercises option u/s 115BAA, option under this section may be withdrawn.

Sec 115BAA : Tax on income of certain Domestic Companies

(1) The income-tax payable of domestic company, wef A/Y 20/21, shall, at option, be computed @22%, if conditions contained in sub-section (2) are satisfied:

Provided that where person fails to satisfy conditions contained in sub-section (2) in any p/y, option shall become invalid in respect of that p/y and subsequent years and other provisions of the Act shall apply, as if the option had not been exercised for p/y and subsequent years.

(2) For the purposes of sub-section (1), total income of company shall be computed,—

(i) without any deduction

- u/s 10AA or
- u/s 32(1)(iia) or
- u/s 32AC or u/s 32AD or
- u/s 33AB or u/s 33ABA or
- u/s 35(1)(ii)(iia)(iii) or u/s 35(2AA)(2AB) or
- u/s 35AC or
- u/s 35AD or
- u/s 35CCC or
- u/s 35CCD or
- u/s 80C to 80U (profit based) other than u/s 80JJAA or 80M;

(ii) without set off of any loss c/f or depreciation from any earlier year, if such loss or depreciation is attributable to any of above deductions

(iii) without set off of loss or unabsorbed depreciation deemed u/s 72A, if such loss or depreciation is attributable to any of deductions referred to in clause (i); and

(iv) by claiming depreciation u/s 32 in prescribed manner except Sec32(1)(iia)

(3) The loss and depreciation referred to in clause (ii) and clause (iii) of sub-section (2) shall be deemed to have been given full effect to & no further deduction for such loss or depreciation shall be allowed for any subsequent year:

(4) For Unit in International Financial Services Centre, u/s 80LA, which has exercised option under sub-section (5), deduction u/s 80LA shall be available to such Unit subject to fulfilment of conditions contained in said section.

(5) Option to be exercised in prescribed manner upto DDR u/s 139(1) for A/Y & such option once exercised shall apply to subsequent A/Y:

Provided if option u/s 115BAB has been rendered invalid due to violation of conditions u/s 115BAB(2), such person may exercise option under this section:

Provided further that once option has been exercised for any p/y, it cannot be subsequently withdrawn for the same or any other p/y.

Sec 115BAB : Tax on Income of new manufacturing domestic companies

(1) The income-tax payable by Domestic company, at option , be computed @ 15%, if conditions contained in sub-section (2) are satisfied:

Provided .if total income includes any income, which has neither been derived/incidental to manufacturing/production and for which specific tax not provided separately under this Chapter, such income shall be taxed @ 22% and no deduction/expenditure shall be allowed in computing such income:

Provided further that income-tax payable in respect of income of person deemed so as below shall be computed @30%:

Provided ,STCG derived from transfer of capital asset on which no depreciation is allowable under Act shall be computed @ 22%

Provided also that where person fails to satisfy conditions contained in sub-section (2) in any p/y, option shall become invalid in respect of that p/y & subsequent years and other provisions of Act shall apply to the person as if the option had not been exercised for that p/y & subsequent years.

(2) For the purposes of sub-section (1), the following conditions shall apply, namely : —

(a) Company has been set-up & registered wef 1/10/19, & has commenced manufacturing/ production of article/thing upto 31/3/2023 and,—

(i) Business is not formed by splitting up, or reconstruction, of existing business

(ii) does not use any P&M previously used for any purpose.

EXCEPTION**Case 1 :**

(A) such P&M was not, at any time previous to date of installation used in India;

(B) such P&M is imported into India from any country outside India; and

(C) no depreciation of such P&M has been allowable prior to date of installation

Case 2 :

Total value of old P&M or part does not exceed 20% of total value of P&M used

(iii) does not use any building previously used as hotel or convention centre, on which deduction u/s 80-ID has been claimed and allowed.

(b) Company is only engaged in business of manufacture/production of any article /thing and research in relation to, or distribution of, such article/thing

The business referred to in clause (b) shall not include business of,—

(i) development of computer software in any form or in any media;

(ii) mining;

(iii) conversion of marble blocks or similar items into slabs;

(iv) bottling of gas into cylinder;

(v) printing of books or production of cinematograph film; or

(vi) any other business notified by Central Government; and

Business of manufacture /production of any article/thing shall include business of generation of electricity

(c) Total income of the company has been computed,—

(i) without any deduction

- u/s 10AA or
- u/s 32(1)(iia) or
- u/s 32AC or u/s 32AD or
- u/s 33AB or u/s 33ABA or
- u/s 35(1)(ii)(iia)(iii) or u/s 35(2AA)(2AB) or
- u/s 35AC or
- u/s 35AD or
- u/s 35CCC or
- u/s 35CCD or
- u/s 80C to 80U (profit based) other than u/s 80JJAA or 80M ;

(ii) without set-off of loss or allowance for unabsorbed depreciation deemed u/s 72A where it is attributable to any of deductions referred above;

(iii) by claiming depreciation u/s 32 in prescribed manner except Sec32(1)(iia)

(3) The loss referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) Option to be exercised in prescribed manner upto DDR u/s 139(1) for furnishing first of returns of income and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any p/y, it cannot be subsequently withdrawn for the same or any other p/y.

Chapter 16**ASSESSMENT OF OTHER ENTITIES**

- (1) **Any sum received by member** of HUF out of income of the family shall be exempt from tax. However, the said exemption is subject to the provisions of section 64(2).

(2) **Computation of income of firm:**

- (a) Partners share in the total income of the firm, which is assessed as such, shall be exempt from tax.
- (b) Interest and remuneration received by partner is business income and is chargeable under PGBP
However, any payment of remuneration to partners, not allowed as deduction to the firm, shall not be taxed in the hands of partners.
- (c) As per section 40(b), in computing PGBP, the following amounts shall be disallowed -
- Any salary, bonus, commission or remuneration to any non-working partner;
 - Any interest paid to any partner in excess of 12% pa simple interest p.a. ;
 - Remuneration to *working partner* or interest to *any partner*, which is not authorised by the partnership deed, or, which relates to period prior to the date of partnership deed;
 - Remuneration paid to working partners during p/y is disallowed to extent it exceeds, in aggregate, the following limits:

Book profits	Allowable Remuneration
On first ₹ 3,00,000 of book profits, or, in case of a loss.	₹ 1,50,000, or, 90% of book profits, whichever is more.
On balance of the book profits	60% of the book profits.

(3) **Assessment as a firm [Section 184] :**

- (a) A firm shall be assessed as a firm for the purposes of this Act, if -
- Partnership is evidenced by instrument; and
 - Individual shares of partners are specified in that instrument.
- (b) A certified copy of partnership deed to be filed with 1st Return and in case, there is any change in constitution of the firm or the shares of the partners are revised, then revised deed must be furnished after such change.

- (4) **Assessment when Section 184 not complied with [Section 185] :** If firm fails to fulfill aforesaid conditions, then, no deduction shall be allowed to firm of interest, salary, bonus, commission or remuneration paid to any partner; and such interest, salary, bonus, commission or remuneration shall not be chargeable to tax in hands of partner.

- (5) **According to Section 188A,** Every person who was, during p/y partner of firm, and its legal representative, shall be jointly and severally liable along with firm for payment of tax, penalty or other sum payable by firm for such previous year

(6) Distinction Between AOP and BOI :

	AOP	BOI
(1)	It is voluntarily created by 2 or more persons.	It is created by operation of law.
(2)	Its members may consist of companies, firms, HUFs or individuals.	Only individuals can be the members of body of individuals.
(3)	In order to constitute an association, persons must join in for a common purpose and common action and their object must be to produce income.	Body of individuals merely receives the income jointly and is assessable in the like manner and to the same extent as the beneficiaries.

- (7) Computation of income of AOP/BOI :** As per section 40(ba) in computing the income of AOP or BOI under PGBP, any bonus, commission, salary or interest or remuneration to its member shall not be allowed as deduction.

The income of an AOP /BOI is taxable at MMR except in the following cases -

- Share of members in AOP /BOI is indeterminate/unknown and any member is chargeable to tax at rate higher than MMR, income of AOP /BOI is taxable at such higher rate;
- Shares of members in AOP /BOI is determinate and known and any member is chargeable to tax at rate higher than MMR, income of AOP /BOI to the extent of such members' share is taxable at such higher rate, and, balance income is taxable at MMR ;
- If none of members of such AOP /BOI has other income exceeding exemption limit, the total income of such Association of persons or Body of Individuals shall be taxable at the normal rates applicable in case of an individual.

In case (c) above, members' share in total income of AOP /BOI will be included in his total income and rebate will be allowed to the member at average rate of income-tax computed on such share income.

If income of AOP /BOI is not chargeable to tax, members' share in such income will be taxable in the hands of the members and no rebate will be allowed.

ALTERNATE MINIMUM TAX (SEC 115JC)

Tax payable by **Non Corporate Person** shall be

- Regular Income tax or
- Alternate Minimum Tax (AMT) [AMT = Adjusted Total Income X 18.5%]

Whichever is higher

Special point :

- Non Applicability :** Individual or HUF or AOP or BOI or AJP, if Adjusted total income > ₹20 lakh
- Adjusted Total Income** is Total income as increased by
 - Profit bases deductions from 80C to 80U eg 80IA, 80IB, etc
 - Sec 35AD as reduced by depreciation allowable u/s 32
 - Section 10AA.

3. Person shall obtain a prescribed report, from an accountant, certifying that computation is per this Chapter before the specified date referred to in section 44AB.
4. All other provisions of this Act shall apply to Eligible person
5. The provisions of this section shall not apply to person who has exercised option u/s 115BAC or 115BAD.

Sec 115JD : Tax credit for Alternate Minimum Tax

1. **Tax credit** of an assessment year to be allowed = [AMT] – [Regular Income Tax]
2. **No interest** shall be payable on tax credit
3. Tax credit shall be carried forward and set off **upto 15 succeeding A/Y**
4. **Maximum set off** in succeeding A/Y = [Regular Income Tax of succeeding A/Y] – [AMT of such year]
5. The provisions of this section shall not apply to who has exercised option u/s 115BAC or 115BAD.

CHAPTER - 17
Income Tax Authorities, Return of Income & Assessment

Sec 116 : Income Tax Authorities

The following are income-tax authorities who are empowered to administer the law of Income-tax:

- (i) CBDT
- (ii) Directors-General/Chief Commissioners
- (iii) Directors/Commissioners/Commissioner(Appeals);
- (iv) Additional Directors /Additional Commissioners/ Additional Commissioner (Appeals);
- (v) Joint Directors/Joint Commissioner.
- (vi) Deputy Directors/ Deputy Commissioners/ Deputy Commissioners(Appeals);
- (vii) Assistant Directors/Assistant Commissioner ;
- (viii) Income-tax (Assessing) Officers;
- (ix) Tax Recovery Officers;
- (x) Inspectors of Income-tax.

Section 117 : Appointment of Income-tax Authorities

The Central Government may appoint such persons as it thinks fit to be income-tax authorities.

POWERS OF CBDT

- (i) **Power to make Rules:**
- (ii) **To issue instructions:**
- (iii) **Power to relax mandatory provisions:**
- (iv) **Power to admit belated refund application:**
- (v) **Power to decide jurisdiction:**
- (vi) **Power to disclose information:**

POWERS OF Principal Director-General or Director-General or Director of Income-Tax

(a) *To appoint an income-tax authority below rank of an Assistant Commissioner (Sec 117):*

(b) *To delegate powers of AO to Joint Commissioner (Section 120):*

(c) *To transfer cases (Section 127):*

(d) *Enquiry into concealment [Section 131(1A)]:*

(e) *Search and seizure [Section 132(1)]:*

(f) *To requisition books of account/Assets etc. (Section 132A) :*

(g) *To make any enquiry (Section 135):*

Powers of Chief Commissioner or Commissioner of Income-Tax

(i) *To appoint income-tax authority below AC (Section 117)*

(ii) *To delegate the powers of AO to Deputy Commissioner (Section 120)*

(iii) *To transfer case (Section 127)*

(iv) *Power regarding discovery, production of evidence etc. (Section 131):*

(v) *Search and seizure (Section 132)*

(vi) *To requisition books of accounts etc. (Section 132A)*

(vii) *Power of survey (Section 133A)*

(viii) *To make any enquiry (Section 135):*

(ix) *Disclosure of information respecting assessee (Section 138):*

(x) *To sanction reopening of the assessment after the expiry of four years [Section 151(2)]:*

(xi) *To approve withholding of refund in certain cases (Section 241):*

(xii) *Set-off of refund against arrears of tax (Section 245):*

(xiv) *To revise any order passed by AO which is prejudicial to revenue (Sec 263):*

(xv) *Revision of order passed by subordinate authority on application by assessee or suo motu (Sec 264):*

Powers of Commissioner of Income-Tax (Appeals)

The Commissioner of Income-tax (Appeals) is an appellate authority. It is vested with the judicial powers:

(1) *Power regarding discovery, production of evidence (Section 131):*

(2) *Power to call for information (Section 133):*

(3) *Power to inspect register of companies (Section 134):*

(4) *Set-off of refund against arrears of tax (Section 245):*

(5) *Disposal of appeal (Section 251):*

Sec.139(1): Furnishing of Return of Income

- Every Person
 - ✓ Company or Firm
 - ✓ Being a person other than a company or firm , if his GTI before exemption u/s 10(38) or u/s 54 series exceeds exemption limit of 2.5lacs/3lacs/5lacs
- Shall file return of income
- On or before **due date**
- In **prescribed form**
- **Verified** in prescribed manner
- And containing **prescribed particulars**

Mandatory return for assessee**Case 1:**

- ROR ,who is not required to furnish a return u/s 139(1)
- Holds, Any asset (including any financial interest in any entity) located outside India or
- has signing authority in any account located outside India; or
- shall furnish ,Return of income or loss, on or before the due date,

Case 2 :

- Persons who during P/Y
- Has deposited aggregate amounts exceeding 1 crore in one or more current accounts
- maintained with banking company or a co-operative bank; or
- Has incurred aggregate expenditure exceeding 2lakh for himself or other person for
- travel to foreign country; or
- Has incurred aggregate expenditure exceeding 1lakh towards consumption of
- electricity; or
- Fulfils such prescribed conditions

DUE DATE OF FILING RETURN OF INCOME

Assessee required to furnish a report u/s 92E : **30th Nov. OF A/Y**

Assessee is a Company : **31th Oct. OF A/Y**

Other than Company

1) Accounts **audited** under this act. or any other law : **31th Oct. OF A/Y**

2) **Partner** of firm & Firms accounts are audited under **this act or any other law** : **31st Oct. OF A/Y**

3) Other assessee : **31st JULY OF A/Y**

Special Point : Sec 92E: International transaction during P/Y + obtain report from CA

Sec 234F : Fees for Late filing of Return

Person required to file return u/s 139, fails to file within time u/s 139(1), he shall pay, by way of fee, of

(a) ₹5,000, if the return is furnished upto 31st December of A/Y;

(b) ₹10,000 in other case:

Special point : If total income upto 5 lakhs, fee shall not exceed ₹1,000.

Sec. 139(3) : Return of Loss

- Loss under
 - **Business/Profession**
 - **Speculation**
 - **Specified Business u/s 35AD**
 - **Capital Gains** or
 - **Owning & maintaining race horses**

- Can be carried forward only if
- return of Loss is furnished
- Within due date prescribed u/s. 139(1)

Special Points:

1. **Return filed u/s 139(3) shall be deemed to be return filed u/s. 139(1)**
2. If loss return not filed within due date, then loss **cannot** be carried forward
3. **Set off of Losses** : Sec. 139(3) restricts only carry forward of losses. Therefore, losses **can be set off** even if ROI filed after due date
4. **Unabsorbed Depreciation**: Sec. 139(3) deals with C/f of losses only. Therefore, unabsorbed depreciation **can be C/f** if ROI filed after due date
5. **Loss under Head House Property**: HP loss **can be C/f** even if ROI filed after due date

Sec. 139(4) : Belated Return

- ✓ Person **not** furnished ROI
- ✓ within time allowed u/s. 139(1) or 142(1)
- ✓ He **may** still furnish ROI
- ✓ At any time **before**
- ✓ Upto end of relevant A/Y **or** completion of Assessment , *whichever is earlier*

Sec. 139(5) : Revised Return

- ✓ Person having furnished ROI u/s. 139(1) *or* 139(4)
- ✓ Discovers any **Omission or Wrong statement**
- ✓ **May** furnish **Revised ROI**
- ✓ At any time **before**
- ✓ one year from end of relevant A/Y **or** completion of Assessment , *whichever is earlier*

Special Points :

- ❖ Revised return substitutes original return
- ❖ Loss return u/s. 139(3) can be revised
- ❖ Return can be revised any number of times

Sec. 139(4A): ROI of Charitable or Religious Trust

- Total Income of a trust
- before Exemption u/s. 11 & 12 **Exceeds** Exempted amount
- Then it shall file Return

Sec. 139(4B): ROI of Political Party

- Total Income of Political party
- before Exemption u/s. 13A **Exceeds** Exempted amount
- Then it shall file Return

Sec 139(4C): ROI by Assessee Claiming Exemption u/s 10

- Total income of Associations/Entities
- Before Exemption u/s 10 **exceeds**
- Then such Assessee shall return

Sec 139(4D): ROI by various institutions

- Research Associations
- Which is not required to furnish return under any other provisions
- Shall furnish the return

Sec 139(6) : Particulars to be furnished with the return of income

As per section 139(6), the prescribed form of return of income, shall in certain prescribed cases, require the assessee to furnish the particulars of:

- 1) Income exempt from tax;
- 2) Assets of the prescribed nature & value
- 3) Details of bank account and credit card held ;
- 4) Expenditure exceeding prescribed limits incurred under prescribed heads; and
- 5) Such other prescribed expenditure

Sec. 139(9) : Defective Return

ROI as defective unless it is filed in prescribed form with all columns & annexures duly filled in.

Special Points:**1. Notice by AO to rectify defect**

- intimate assessee to rectify the defect
- within 15 days from date of receiving intimation
- AO can also extend time limit of 15 days upon application by assessee

If defect is not rectified within above time period then return treated as *void-ab-initio*. (invalid)

2. Unsigned return is not invalid return but *void-ab-initio*. (invalid)

Sec. 140 : Verification of ROI**1. Individual**

- Present in India : Himself
- Absent from India : Either himself or authorised person
- Mentally Incapacitated : Legal Guardian
- Other reasons : Authorised Person

(Where ROI is verified by an authorised person, attach Power of Attorney with ROI)

2. Partnership Firm

- If there is a Managing Partner : **Managing Partner.**
- Due to unavoidable reasons MD cannot verify **or** If no Managing Partner: **Any partner (not a minor)**

3. Limited Liability partnership

- ✓ By **Designated Partner** or
- ✓ Due to unavoidable reason such designated partner cannot verify **or** If no designated partner : **Any partner** or Prescribed person

4. Company

If there is MD	No MD or cannot sign due to unavoidable reasons	Where company is a Non-resident	Company being wound-up	Company management taken over by C or S Govt	Application for corporate insolvency resolution process has been admitted by Adjudicating Authority under Insolvency & Bankruptcy Code, 2016,
By Managing Director himself	By any Director or Prescribed person	By any person duly authorised	By the liquidator	By Principal Officer	By insolvency professional appointed by such Adjudicating Authority

5. HUF

- By the Karta himself
- If Karta is absent from India or Mentally incapacitated : By Any Adult member

6. Political Party : By Chief Executive Officer of the Party

7. Local Authority : By the Principal Officer of the authority

8. AOP/BOI : By any member or Principal Officer of such AOP/BOI

9. Any other Assessee : By that person or a person who is competent to act on his behalf

Sec. 139A : Permanent Account Number (PAN)**Application for allotment of PAN shall be made in the following cases**

- 1) If Total income exceeds exemption limit of 2.5lacs/3lacs/5lacs
- 2) If Total sales are or likely to exceed 5 lakhs in any p/y
- 3) If return is to be filed u/s 139(4A)
- 4) Non Individual + resident, enters into financial transaction of aggregating to 2,50,000 or more in f/y; or
- 5) MD, director, partner, trustee, author, founder, karta, CEO, principal officer or office bearer of person in pt 4

Time limit for making an application

For point (1) ,(4) ,(5) : Upto 31st May of A/Y relevant to P/Y whose Income exceeds exemption limit

For point (2) & (3) : Before end of F/Y

Every person who is required to furnish or intimate or quote his PAN , and who,—

(a) has not been allotted PAN but possesses Aadhaar number, may furnish his Aadhaar number in lieu of PAN, and such person shall be allotted PAN in prescribed manner;

(b) has been allotted PAN, and who has intimated his Aadhaar number, may furnish his Aadhaar number in lieu of PAN.

Person entering into prescribed transaction, shall quote his PAN or Aadhaar number in documents pertaining to such transactions & also authenticate such PAN or Aadhaar number, prescribed manner

Cases where PAN has to be quoted

- ❖ In all returns, correspondences with any Income Tax authority
- ❖ In all challans for payment of any sum due under this act
- ❖ In documents relating to **PRESCRIBED TRANSACTIONS**

Prescribed Transactions where PAN has to be Quoted : Rule 114B

	Particulars of Transactions	Value of Transaction
1. 2.	Sale & Purchase of Immovable property Payment to a dealer for purchase of bullion or jewellery	> ₹10,00,000 or SDV > 10 lacs
3.	Sale/Purchase of Securities	> ₹1,00,000
4. 5.	Time deposit with any bank Deposit with post Office Saving Banks	> ₹50,000 or >5 lacs in F/Y

6.	Cash Payment for purchase of bank draft, pay order, banker cheque from any bank during one day	> ₹50,000
7.	Cash Deposit in any bank/Post office in one account in a day	
8.	Payment to Mutual Fund for purchase of units	
9.	Payment to company for acquiring shares	
10.	Payment to company for acquiring debentures or bonds	
11.	Payment to RBI for acquiring bonds	
12.	Payment of life insurance premium to an insurer in F/Y	
13.	Cash Payment of Hotel/Restaurant bill at one time	> ₹50,000
14.	Cash payment for travel to foreign country/purchase of foreign currency	
15.	Sale or Purchase of unlisted shares	> ₹1,00,000 per transaction
16.	Sale or purchase of goods & services	> ₹2 lakhs per transaction
17.	Sale/Purchase of Motor vehicle (other than 2 wheelers)	Any value
18.	Application for installation of Telephone/Cellular	
19.	Opening an Account with any bank	
20.	Application for Credit/Debit Card	
21.	Opening a Demat Account	

Special Points : A person does not have PAN Has to give declaration in Form 60

139B : Scheme for submission of returns through Tax return Preparer

- Every person Other than
- A company or person required to get his accounts audited under any law
- May furnish his return
- Through Tax Return Preparers
- Authorised to act under scheme framed by CBDT

Special Points :

1. Every TRP shall assist, the person furnishing the return, in manner as specified in scheme and affix his signature on such return
2. TRP shall not include
 - Officer of schedule bank in which assessee has current a/c or has regular dealings or
 - a Legal practitioner in civil courts or
 - a Chartered accountant or
 - an employee of a company or whose accounts are audited u/s 44AB

139AA : Quoting of Aadhaar number

(1) Every person who is eligible to obtain Aadhaar number shall, w.e.f 1/7/17, quote Aadhaar number—

- (i) in PAN Application;
- (ii) in return of income:

Provided that where the person does not possess Aadhaar Number, Enrolment ID of Aadhaar application form shall be quoted

(2) Every person who has been allotted Pan UPTO 1/7/17, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified by Central Government in the Official Gazette: **[31/3/2021]**

Provided on failure to intimate Aadhaar number, PAN allotted shall be made inoperative wef 1/4/2021

Types of Assessment

- (a) Self assessment (Section 140A)
- (b) Regular assessment (Section 143)
- (c) Best judgement assessment (Section 144)
- (d) Income escaping assessment or re-assessment (Section 147)
- (e) Precautionary assessment.
- (f) Assessment in case of search or requisition (Section 153A)

(A) SELF ASSESSMENT (SECTION 140A)

Every person, before furnishing return shall make self assessment of his income & pay the tax, if due on the basis of such assessment. The total tax payable is calculated on the total income of the assessee after considering the following amount:

- (i) Tax already paid or deducted
- (ii) Relief of tax or deduction of tax claimed

Such determined value of tax along with the interest is paid before furnishing the return and the proof of payment of such tax is attached with the return.

Inquiry before Assessment u/s 142**1. Issue of notice to assessee to submit return (if not submitted earlier)**

In a case where a person has not made a return of income upto DDR or upto end of A/Y, AO may serve a notice requiring such person to furnish his return of income.

The AO may ask to produce, such accounts or documents or information (including a statement of all assets & liabilities, whether included in the accounts or not).

However, previous approval of **Joint Commissioner** shall be obtained before requiring assessee to furnish a statement of all assets and liabilities not included in the accounts.

Further, AO shall not require production of accounts relating to a period more than 3 years prior to p/y.

2. Make Inquiry and give opportunity of being heard u/s 142(2)**3. Give direction to get books of accounts audited u/s 142(2A) to (2D):**

AO is of the opinion that it is necessary to order audit then with the previous approval of Chief Commissioner or Commissioner the AO may direct an assessee to get his accounts audited by an accountant even if the accounts have earlier been audited.

ESTIMATION OF VALUE OF ASSETS BY VALUATION OFFICER (SECTION 142A)

(1) The AO may, for purposes of assessment or reassessment, make a reference to Valuation Officer to estimate the value, including FMV, of any asset, property or investment and submit a copy of report to him.

(2) The Valuation Officer shall, estimate value of asset, property or investment after taking into account such evidence as the assessee may produce and any other evidence in his possession gathered, after giving an opportunity of being heard to assessee.

(3) The AO may, on receipt of report from Valuation Officer, and after giving assessee opportunity of being heard, take into account such report in making the assessment or reassessment.

Processing of Return/Intimation to Assessee u/s 143(1)

If return has been made, such return shall be processed in following manner, namely:—

- (a) Total income or loss shall be computed after making following adjustments, :—
- (i) Arithmetical error
 - (ii) Incorrect claim apparent from any information
 - (iii) Disallowance of loss claimed, if return of P/Y for which set off of loss is claimed was furnished beyond due date u/s 139(1);
 - (iv) Disallowance of expenditure indicated in audit report but claimed as deduction in return

Provided that no such adjustments shall be made unless intimation is given of such adjustments either in writing or in electronic mode:

Provided further that the response received from assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within 30 days of issue of such intimation, such adjustments shall be made

- (b) Tax and Interest shall be computed on basis TI computed under clause (a);
- (c) Sum payable or Refundable shall be determined after adjustment
- (d) Intimation shall be sent specifying sum payable or refundable and
- (e) Amount of refund shall be granted to assessee:

Provided that an intimation shall also be sent to the assessee in a case where the loss declared in return by the assessee is adjusted but no tax or interest is payable by, or no refund is due to, him:

Provided further that no intimation shall be sent after one year from end of F/Y in which return is made.

(B) SCRUTINY (REGULAR) ASSESSMENT [SECTION 143(2) & (3)]

- Where a return has been, AO shall, if he considers necessary or expedient to ensure that
- assessee has not understated income or
- has not computed excessive loss or
- has not underpaid the tax
- serve notice requiring him,
- on date to be specified therein,
- either to attend his office or to produce any evidence

Provided that no notice shall be served on assessee after expiry of 6 months from end of F/Y in which the return is furnished.

AO shall, by an order in writing, make an assessment of the total income or loss, and determine the sum payable or refundable

Provisions of E Scrutiny Assessment

The Central Government may make scheme, by notification in Official Gazette, for the purposes of making assessment of total income or loss of assessee u/s 143(3) or 144 so as to impart greater efficiency, transparency and accountability by—

- (a) eliminating interface between AO & assessee for proceedings to extent technologically feasible;*
- (b) optimising utilisation of resources through economies of scale and functional specialisation;*
- (c) introducing a team-based assessment with dynamic jurisdiction.*

The Central Government may, forgiving effect to scheme made under above, by notification in Official Gazette, direct that any of provisions of this Act relating to assessment of total income or loss shall not apply or shall apply with such exceptions, modifications and adaptations.

Provided that no direction shall be issued after the 31st day of March, 2022.

(C) BEST JUDGEMENT ASSESSMENT U/S 144

- Failure to file return u/s 139(1)
- Failure to comply notice u/s 142(1) or
- Failure to comply u/s 142(2A) for getting the accounts audited, or
- Failure to comply with all the terms of a notice issued u/s 143(2).

AO, after taking into account all relevant material which he has gathered & after giving opportunity of being heard,

assesses the TI or loss to best of his judgment & determine sum payable

Prior to the proceedings the AO should issue a show cause notice to the assessee.

However if the assessee has already issued notice under section 142(1) and the assessee has not complied with the terms then AO can proceed further without issuing a show cause notice.

The AO can also reject accounts book u/s 145 and can make best judgment assessment u/s 144 if:

- The accounts books are incorrect, false or incomplete.
- If the accounting method employed is such that profit cannot be derived from it correctly.
- Where the method of accounting adopted is not followed regularly or
- Income has not been computed in accordance with notified standards or
- income computation and disclosure standards notified by the government are not followed

(D) INCOME ESCAPING ASSESSMENT OR RE-ASSESSMENT (SECTION 147)

If AO has reason to believe that any income chargeable to tax has escaped assessment for any A/Y, he may

- assess or reassess income which has escaped assessment or
- recompute the loss or depreciation allowance or any other allowance,

Assessing Officer shall serve on assessee a notice requiring him to furnish, within such period, as may be specified in the notice,

a return of his income or the income of any other person in respect of which he is assessable under this Act during P/Y corresponding to the relevant A/Y,

<i>Cases</i>	<i>upto 4 years from the end of relevant A/Y</i>	<i>Beyond 4 years but upto 6 years from end of relevant A/Y</i>
Where assessment order passed u/s 143(3) or 147	Notice can be issued for any amount of escaped income Notice by AC or DC or by AO with approval of JC	Notice can be issued only if escaped income is of ₹ 100,000 or more. Notice by AO with approval CCIT or CIT
Where no assessment order passed u/s 143(3) or 147	Notice can be issued by AO whatever be the amount.	Notice can be issued by the AO with approval JC only when the amount is likely to be ₹100,000 or more

However, time limit of 16 years is applicable for reopening of assessment, where the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.

(e) Precautionary Assessment

Where it is not clear as to who has received the income and prima facie, it appears that the income may have been received either by A or by B or by both together, the Assessing Officer can commence proceedings against both A and B to determine the question as to who is responsible to pay the tax [Lalji Haridas v. I.T.O (S.C.)].

Time limit for completion of Assessment/Reassessment (Sec 153)

Section reference	New time limit
Regular assessment u/s 143 Best judgment assessment u/s 144	12 months from the end of AY in which income was first assessable
Reassessment u/s 147	12 months from end of F/Y in which notice for reassessment is served
An order of fresh assessment as a result of an order u/s 254 or 263 or 264 setting aside or cancelling assessment Sec 153(3)	12 months from end of F/Y in which such order is received by Principal CCIT or CCIT or Principal CIT or CIT or, order u/s 263 or u/s 264 is passed by Principal CIT or CIT
Where effect to an order u/s 250 or u/s 254 or u/s 260 or u/s 262 or u/s 263 or u/s 264 is to be given by AO, wholly or partly, otherwise than by making a fresh assessment or reassessment.	3 months from end of month in which order u/s 250 or u/s 254 or u/s 260 or u/s 262 is received by Principal CCIT or CCIT or Principal CIT or CIT, as case may be, or order u/s 263 or u/s 264 is passed by Principal CIT or CIT
Assessment u/s 153A or u/s 153C	21 months from end of financial year in which the last of authorisations for search u/s 132 or for requisition u/s 132A was executed

Sec 154 : Rectification of mistake

With a view to rectifying any mistakes apparent from the record, an income-tax authority u/s 116 may amend

- any order passed by it under provisions of this Act or
- any intimation or deemed intimation

This power of rectification can be exercised by the authorities either on their own motion or at the instance of the assessee.

Time limit

The time limit for rectification of mistakes is a period of 4 years from the end of F/Y in which the order sought to be amended was passed.