

## **CBDT CLARIFICATION ON PENALTIES FOR DELAYED FILING OF RETURN IN ITR - 7**



Authors\* :

**Dr. Manoj Fogla**

**Suresh Kejriwal**

**Dr. Sanjay Patra**, ED, FMSF

**Sandeep Sharma**, Director Prog, FMSF

*A joint initiative of*



## **CBDT CLARIFICATION ON PENALTIES FOR DELAYED FILING OF RETURN IN ITR - 7**

### CONTENTS

1.	RECENT CBDT CIRCULAR AND ITS CONTEXT	01
2.	OVERVIEW OF FILING OF RETURN	01
3.	EXEMPTIONS WILL BE LOST FOR NOT FILING RETURN	02
4.	ONLINE FILING OF AUDIT REPORT IN FORM 10B	03
5.	REVISION OR CORRECTION OF MISTAKES (IN THE RETURN ALREADY SUBMITTED)	03
6.	FILING OF RETURN BY UNREGISTERED ORGANISATIONS	03
<b>ANNEXURE-1</b>	<b>CBDT CIRCULAR ON DELAYED FILING OF INCOME TAX RETURN</b>	<b>05</b>

## RECENT CBDT CIRCULAR AND ITS CONTEXT

- 1.1.1** The Centra Board of Direct Taxes has issued a Circular dated 23rd April 2019 regarding the penal provisions for delayed filing of Income Tax Return in ITR-7. It may be noted that the normal time limit for filing Income Tax Return in ITR-7 is 30th September of each year. Further a belated or revised return can be filed upto 31st March of the succeeding year i.e. if the normal return filing time is 30th September 2019 then a belated or revised return can be filed upto 31st March 2020.
- 1.1.2** The Finance Act 2017 w.e.f 01.04.2018 had amended clause (ba) of section 12A(1) and specified that the benefit of section 11 shall be denied if the Income Tax returns are not filed in time provided under section 139(4A). The Assessing Officers started denying the tax exemptions under section 11 if the return was filed after 30th September. The CBDT has provided relief by clarifying that Income Tax returns can be filed upto 31st March without attracting forfeiture of Income Tax Exemptions. The copy of the Circular has been enclosed in **Annexure 1**.

## OVERVIEW OF FILING OF RETURN

- 1.2.1** All charitable organisations having income exceeding the maximum amount which is not chargeable to income tax during the previous year are required to file their returns of income. Currently the maximum amount which is not chargeable to income tax is Rs. 2.5 lakhs per year.
- 1.2.2** 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.

- 1.2.3** The Taxation Laws (Amendment) Act, 2006 has amended section 139(4C)(e) and also inserted a new sub-section (4D) in section 139. As a consequence, medical institutions under section 10(23C)(iii)ae) having gross receipts of Rs. 1 crore or less are also required to file return if the income exceeds the maximum amount which is not chargeable to income-tax during the previous year.
- 1.2.4** Further, the organisations notified under section 35(1)(ii) & (iii) are also required to file annual return if the income exceeds the maximum amount which is not chargeable to income-tax during the previous year.
- 1.2.5** 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 & not for purposes of profit & which is wholly or substantially financed by the Government were exempt from furnishing of return. However Finance Act, 2015 has proposed that these organisations shall also have to file their Income Tax Return u/s. 139 w.e.f. 2016-17.
- 1.2.6** 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. The last date of filing of return is 30<sup>th</sup> September of the Assessment Year.
- 1.2.7** Signature can be put through digital signature or submitting the verification of the return in Return Form ITR-7 & sending 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 NOT FILING RETURN**

- 1.3.1** This law is applicable from 1st April, 2018 and will, accordingly, apply in relation to assessment year 2018-2019 and subsequent years. In other words, if the return is not filed by 31st of March 2020 for the AY 2018-19 then the entire exemptions

shall be forfeited for that particular year. Though it is a positive step to compel all organisations to file return in time, however the penalty is very harsh as the entire exemption will be withdrawn for that particular year.

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

- 1.4.1** With effect from Assessment year 2013-14, it has also become mandatory to upload online Audit Report in Form 10B along with the return. However, if the audit report is not uploaded along with the return then the failure to upload online Audit Report in Form 10B is a curable defect and the AO should accept the audit report filed after filing of return but before 31st March or completion of assessment under 143(1) whichever is earlier.

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

- 1.5.1** 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**

- 1.6.1** 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. The tax rate applicable to such organisations will be that of an individual, in other words, income upto 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.

---

**Standards & Norms** aims to provide relevant informations and guidance on NGO governance, Financial Management and Legal Regulations. The informations provided are correct and relevant to the best of the knowledge of the author and contributor. It is suggested that the reader should cross check all the facts, law and contents before using them. The author or the publisher will not be responsible for any loss or damage to any one, in any manner.



**fmsf**

Published by **Dr. Sanjay Patra** on behalf of  
**FINANCIAL MANAGEMENT SERVICE FOUNDATION**  
 'ACCOUNTABILITY HOUSE', A-5, Sector 26, Noida-201 301  
 Tel. : 91-120-4773200, website : [www.fmsfindia.org](http://www.fmsfindia.org)  
 e-mail : [fmsf@fmsfindia.org](mailto:fmsf@fmsfindia.org)



**VANI**

**Voluntary Action Network India (VANI)**  
 BB-5, Greater Kailash Enclave Part - II,  
 New Delhi - 110048  
[www.vaniindia.org](http://www.vaniindia.org)

**CBDT CIRCULAR ON DELAYED FILING OF INCOME TAX RETURN**

F.No. 173/193/2019-ITA-I  
 Government of India-  
 Ministry of Finance  
 Department of Revenue  
 Central Board of Direct Taxes  
 New Delhi,

Dated: 23 April, 2019

To,  
 The Pr. DGIT (Systems),  
 New Delhi.

**Subject : Clarification with regard to the time allowed for filing of return of income subsequent to the insertion of Clause (ba) in sub-section 1 of section 12A of the income -tax Act , 1961.**

Sir,

Undersigned is directed to refer to the representation (s) received on above mentioned subject stating that while processing of ITR-7 for the A.Y. 2018- 19, in respect of the belated returns filed u/ s 139(4) of the Income Tax Act, 1961 (Act), the following is being communicated u/s 143(1)(a) of the Act:-

*“As per section 12A(1)(ba) of the Income -tax Act , 1961 the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under that section. Otherwise the exemption u/s-11 i.e. sr. no 4(i) and 4 viii in schedule Part BTI is not allowed.”*

Based on this, exemption u/s 11 of the Act has been denied to otherwise eligible trust, thereby creating huge demand.

2. In the matter, the memorandum explaining the relevant provisions of the Finance Bill, 2017 reads as under:

*“as per the existing provisions of said section, the entities registered under section 12AA are required to file return of income under sub-section (4A) of section 139, if the total income without giving effect to*

*the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax. However, there is no clarity as to whether the said return of income is to be filed within time allowed u/ s 139 of the Act or otherwise. In order to provide clarity in this regard , it is proposed to further amend section 12A so as to provide for further condition that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Act.*

*These amendments are clarificatory in nature.*

*These amendments will take effect from 1st April, 2018 and will, accordingly, apply in relation to assessment year 2018-19 and subsequent years.”*

3. Additionally, an excerpt of circular 02/2018 dated 15.02.2018 “Explanatory Notes to the Provisions of the Finance Act, 2017” on insertion of clause (ba) in Sub section (1) of section 12A is quoted as under:

*“the entities registered under section 12AA are required to file return of income under sub-section (4A) of section 139 of the Income -tax Act, if the total income without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax. Amendment to section 12A of the Income-tax has been made so as to provide for additional condition that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Income -tax Act.”*

3. Thus, for a trust registered U/s 12AA of the Act to avail the benefit of exemption u/s 11 shall inter-alia file its return of income within the time allowed u/s 139 of the Act. Accordingly, orders u/s 143(1)(a) in those cases in which demand has been raised on this issue may please be rectified.

This issues with the approval of Chairman(CBDT).

(Vinay Sheel Gautam)  
JCIT (OSD) (ITA-I)  
Telefax: 011-23093070  
E-mail: vinaysheel.gautam@gov.in

Copy to:-

The Pr. CCIT(Exemptions), New Delhi.



