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Notification on Income Tax Returns (ITR)

The Central Board of Direct Taxes (CBDT) exercising powers conferred to it under Section 295 of the Income Tax Act, 1961 (IT Act) has issued Notification No. 34/2013 (F.No.142/5/2013-TPL). The notification has made significant amendments to Rule 12 of the Income Tax Rules, 1962 (IT Rules) pertaining to filing of income tax returns under Section 139, 148 and 153 of the IT Act. The notification is applicable from Assessment Year (AY) 2013 -2014 i.e. financial year 2012 -13.

Some of the significant amendments to the Income Tax Returns (ITR) are summarised as follows:

A. Form SAHAJ (ITR 1)¹ and Form SUGAM (ITR 4S)²

- Tax payers are mandatorily required to furnish their bank details irrespective of any refund arising to them or not.
- Earlier details of MICR code were required to be furnished. Now, instead of MICR code, Indian Financial System Code (IFSC) is required to be quoted by the tax payer. IFSC code is an eleven digit code assigned by Reserve Bank of India to identify every banks branch uniquely, that are participating in National Electronic Fund Transfer system in India.
- The said forms shall not be applicable to tax payers in the following circumstances:
 - If tax payers have losses under the head income from other sources then such tax payers cannot utilize Form SAHAJ to file their income tax returns.
 - If a tax payer being is a 'resident' but 'not ordinarily resident' and has assets located outside India or possesses authority to sign in any account located outside India.
 - Tax payers claiming benefits under Section 90 and 90A³ of the IT Act.
 - If tax payers have income not chargeable to tax exceeding 0.005 million.

¹ ITR 1 is required to be filed in case of person being an individual where the total income includes (i) income from salaries or family pension or (ii) income from house property where the taxpayer does not own more than one house property and does not have any brought forward loss under the head or (iii) income from other sources except winning from lotteries or income from race horses and does not have loss under the head.

² ITR 4S is required to be filed by individuals or HUF where the total income (i) includes presumptive business income under Section 44AD or 44AE of the Income Tax Act or (ii) income from salary / pension or (iii) income from one house property (excluding cases where loss is brought forward from previous years) or (iv) income from other sources (excluding winning from lottery and income from race horses).

³ Section 90 and 90A allow tax payers to claim relief of relief in respect of income-tax paid or deducted in foreign country or specified territories based on the Double Taxation Avoidance Agreements or any other agreements which have been executed by the Central Government with such other countries or specified associations.

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B. Amendments to Form ITR 2⁴

- In case of short term capital gains arising to a non-resident tax payer, gains earned are to be bifurcated into shares / units on which Securities Transaction Tax (STT) has been paid and on those on which STT has not been paid.
- If a tax payer has claimed benefit under Section 54GB⁵, the Permanent Account Number (PAN) of the Company is to be provided.
- A separate schedule FSI has been inserted requiring tax payers to declare 'Details of Income accruing or arising outside India'. The tax payer has to provide details like country code, tax identification number, income earned under the five heads of income and division of such income where a tax treaty is applicable and where not.
- Schedule TR pertaining to details of taxes paid outside India has been amended to provide for details of the relevant article of the tax treaty.
- Schedule FA pertaining to 'Details of Foreign Assets' has been amended requiring a tax payer to declare its account number if it has maintained a foreign bank account or possesses signing authority for any account located outside India.
- If a tax payer is a trustee of a trust formed outside India, the tax payer has to provide details like country name, country code and the name and addresses of trustees, settlers and the beneficiaries.

C. Amendments to Form ITR 3⁶ and ITR 4⁷

- Schedule AL has been inserted requiring a tax payer to report details of their personal assets and liabilities in India if the tax payer's income exceeds 2.5 million.
- The assets covered under the said schedule are land, building, bank (including all deposits), shares and securities, insurance policies, loans and advances given cash in hand, jewellery, bullion, archaeological collections, drawings, painting, sculpture or any work of art, vehicles, yachts, boats and aircrafts is provided. Further, the value has to be reported at cost. The taxpayers can report any liability against these assets in the schedule.

D. Electronic filing of Tax Audit Reports (TAR), Transfer Pricing (TPR) and Minimum Alternate Tax Report (MATR) alongwith income tax returns

- Until last year tax payers filing their income tax returns electronically were not required to enclose any papers / documents / reports with their income tax returns. Now clause 2 of Rule 12 of the IT Rules has been amended to provide that tax payers are required to file the aforesaid reports electronically alongwith their income tax returns.

⁴ ITR 2 is applicable to an individual or HUF where the total income does not include income under the head 'Profit or gains of business or profession'.

⁵ Section 54GB – exemption from capital gains arising from transfer of long term capital asset being a residential property (a house or plot of land), wherein the transfer takes place during 1 April 2012 and 31 March 2017.

⁶ ITR 3 is applicable to a partner in a firm and the total income includes income under the head 'Profit or gains of business or profession' and does not include any income except by way of any interest, salary, bonus, commission or remuneration.

⁷ ITR 4 is applicable to income under the head 'Profit or gains of business or profession'.



E. Mandatory electronic filing of income tax returns

- Last year individuals and Hindu Undivided Families having total income in excess of Rs. 1 million were required to furnish their income tax returns electronically. Pursuant to amendment in Clause 3 of Rule 12 of the IT Rules, not only individuals or HUFs but all persons other than a company, charitable trusts, political parties, scientific research associations, news paper agencies, colleges or universities etc⁸ earning income of more than 0.5 million shall be required to mandatorily file income tax returns in electronic form.
- Clause (aab) has been inserted providing tax payers claiming benefits under Section 90 and 90A of the IT Act to mandatorily file income tax returns electronically.

Conclusion

The said notification shows the intention of the Indian government and tax authorities to require tax payers to declare maximum details of their income and wealth. The notification by amending Rule 12 of the IT Rules serves a dual purpose for the Indian tax authorities. Firstly it has widened the scope of electronic filing of income tax returns for various taxpayers i.e. corporate and individuals and secondly aims to achieve simplification of the procedural and administrative requirements.

All tax payers filing their income tax returns for the AY 2013 -2014 i.e. income earned during the financial year 1 April 2012 to 31 March 2013, shall be required to adhere to the aforesaid amendments.

⁸ Persons required to file return in ITR 7 - Charitable trusts, political parties, scientific research association, newspaper agencies, college, university, etc

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