

# Changes in ITR and Other Relevant Issues

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## Preamble

Provisions of filing the return of Income are dealt with by Section 139 of The Income tax Act, 1961 read with Rule 12 of Income tax Rules, 1962. Rule 12 contains the various forms, its applicability and its manner of filing. Rule 12 gets amended every year to introduce new forms with new content in line with what tax authorities deem relevant to source data from the assessee.

## Section 139

Section 139 requires furnishing of return of income in case of every person under specified circumstances as under:

<i>Category of person</i>	<i>Obligation to furnish return of income</i>	<i>Section</i>
Any person (other than company and firm)	if total income exceeds the maximum amount which is not chargeable to income tax [without giving effect to sections 10(38), 10, 10A, 10B, 10BA or deduction under Chapter VI-A]	139(1)
Individual, HUF (being resident)	♦ if holds or is beneficiary of any asset(including financial interest in any entity) located outside India; or ♦ having any signing authority in any account located outside India;	139(1)
Company or a firm (including LLP)	Irrespective of its total income (including loss)	139(1)
Any person	♦ For carry forward of specified losses ♦ For claiming deduction/exemption.	139(3) 10A, 10B, 80-IA, 80-IB, 80-IC etc.
Charitable or religious Trust	♦ if total income exceeds (without giving exemption u/ss 11 to 12) maximum amount which is not chargeable to income tax; and ♦ to claim exemption u/s 12A	139(4A) 12A(1)(ba)
Political Party	♦ if total income exceeds (without giving exemption u/s 13A) maximum amount which is not chargeable to income tax; and ♦ to claim exemption u/s 13A	139(4B) Third proviso to section 13A
Research Association, News Agency, Certain Association/Educational/Medical Institution, Trade Union, Mutual Fund, Securitization Trust, venture capital company/fund etc.	If the income (without giving exemption u/s 10) exceeds the amount not chargeable to tax.	139(4C)

Any University/College/Other Institution approved u/s 35	Irrespective of income or loss	139(4D)
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Further in view of newly inserted proviso to section 139(1), it is mandatory to file income-tax return, if following conditions are satisfied:

1. The assessee is resident and ordinarily resident in India
2. He has signing authority in any account or any asset or any financial interest in any entity located abroad.

The assessee is required to provide requisite details of such account, assets or financial interest in the return of income.

The general rule is that electronic filing of return of income is mandatory for all assessees. However, a person can furnish the return of income in paper form in ITR 1 or ITR 4 in any of the following circumstance:

1. Taxpayer is an individual and his age is 80 years or more during the previous year
2. Taxpayer is an Individual, HUF or Partnership Firm and his/its income during the previous year does not exceed Rs. 5 lakhs and no refund is claimed in the return of income.

Due Date of Filing Return of Income are as under;

Particular of assessee	Due Date
Company (Private, Public or Foreign Co.)	September 30, 2018
Any assessee who is required to furnish TP Report in Form No. 3CEB	November 30, 2018
Any assessee whose accounts are required to be audited	September 30, 2018
Co-operative Society	September 30, 2018
Other Cases	July 31, 2018

Time period for revision of ROI reduced to one year (from 2 years) from the end of relevant financial year or before completion of assessment, whichever is earlier. For eg. ROI for A.Y. 18-19 filed on or before 31.03.19 can be revised up to 31.03.19 presuming that the assessment is yet to be completed [Section 139(5)]. Even belated returns can be revised by end of assessment year provided assessment is not complete.

### **ACIT vs. Splendor Landbase Limited (ITAT Delhi)**

Applicability of s. 80 to s. 153A returns: A return filed u/s 153A is deemed to be a return filed u/s 139(1). Accordingly, the restrictive provisions of s. 80 do not apply. The return u/s 153A, once accepted and assessed, replaces the original return filed u/s 139. Therefore, the assessee is eligible for carry forward business loss.

### **Mahesh H. Hinduja vs. ITO (ITAT Mumbai)**

S. 139(5): There is no bar / restriction that an assessee cannot file a revised return of income after issuance of notice u/s 143(2). A revised return of income can be filed even in course of the assessment proceedings provided the time limit prescribed u/s 139(5) is available. The Departmental Authorities are not expected to deny assessee's legitimate claim by raising technical objection.

## **Fees u/s 234F**

A. In order to ensure that return is filed within due date, a new section 234F has been inserted in the Income-tax Act to provide that a fee for delay in furnishing of return shall be levied for assessment year 2018-19 and onwards in a case where the return is not filed within the due dates specified for filing of return under sub-section (1) of section 139 of the Income-tax Act. The fee structure is as follows:—

- (i) a fee of five thousand rupees shall be payable, if the return is furnished after the due date but on or before the 31st day of December of the assessment year;
- (ii) a fee of ten thousand rupees shall be payable in any other case.

However, in a case where the total income does not exceed five lakh rupees, it is provided that the fee amount shall not exceed one thousand rupees.

B. In view of the above, section 140A of the Income-tax Act has been amended to include that in case of delay in furnishing of return of income, along with the tax and interest payable, fee for delay in furnishing of return of income shall also be payable.

C. Section 143 of the Income-tax Act has also been amended to provide that in computation of amount payable or refund due, as the case may be, on account of processing of return under the said sub-section, the fee payable under section 234F of the Income-tax Act shall also be taken into account.

D. Consequentially, it is also provided that the provisions of section 271F of the Income-tax Act in respect of penalty for failure to furnish return of income shall not apply in respect of assessment year 2018-19 and onwards.

E. The provision of this section will apply to a person who is required to furnish a return of income under section 139. The provision will not apply, if any person (other than firm or company) voluntarily furnishes return of income, if total income is below the threshold limit provided under the Act. To illustrate, Mr. A, aged 50 years, having total income of Rs. 2,45,000 for the assessment year 2018-19, is not obliged to furnish his return of income under section 139; however, if he wishes to furnish his return of income voluntarily after the due date specified under section 139(1) [subject to other provision of the section], he is not required to pay any fee under the section.

## **Constitutional Validity**

In the past, fee of similar nature was levied by section 234E for delay in furnishing of TDS statements. The constitutional validity of such provision was examined by various High Courts and held that fee levied under section 234E could not be considered as ultra vires of the Constitution. The reference can be made to the following judgments of the High Court :

- ◆ Rashmikant Kundalia v. UOI [2015] 54 taxmann.com 200 (Bom.)
- ◆ Dr. Amrit Lal Mangal v. UOI [2015] 235 Taxman 410 (Punj. & Har.)
- ◆ Dundlod Shikshan Sansthan v. UOI [2015] 63 taxmann.com 243/235 Taxman 446 (Raj.)
- ◆ Lakshminirman Bangalore (P.) Ltd. v. Dy. CIT [2015] 60 taxmann.com 144/234 Taxman 275 (Kar.)
- ◆ Sree Narayana Guru Smaraka Sangam Upper Primary School v. UOI [2017] 77 taxmann.com 244 (Ker.)

## *Issues Relating to TDS Credit*

**198.** All sums deducted in accordance with <sup>95</sup>[the foregoing provisions of this Chapter] shall, for the purpose of computing the income of an assessee, be deemed to be income received :

<sup>96</sup>[**Provided** that the sum being the tax paid, under sub-section (1A) of [section 192](#) for the purpose of computing the income of an assessee, shall not be deemed to be income received.]

**199.** (1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be.

(2) Any sum referred to in sub-section (1A) of [section 192](#) and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

(3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules<sup>99</sup> as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given.]

**37BA .** (1) Credit for tax deducted at source and paid to the Central Government in accordance with the provisions of Chapter XVII, shall be given to the person to whom payment has been made or credit has been given (hereinafter referred to as deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorised by such authority.

(2)<sup>27</sup>(i) Where under any provisions of the Act, the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee :

**Provided** that the deductee files a declaration with the deductor and the deductor reports the tax deduction in the name of the other person in the information relating to deduction of tax referred to in sub-rule (1).]

(ii) The declaration filed by the deductee under clause (i) shall contain the name, address, permanent account number of the person to whom credit is to be given, payment or credit in relation to which credit is to be given and reasons for giving credit to such person.

(iii) The deductor shall issue the certificate for deduction of tax at source in the name of the person in whose name credit is shown in the information relating to deduction of tax referred to in sub-rule (1) and shall keep the declaration in his safe custody.

(3) (i) Credit for tax deducted at source and paid to the Central Government, shall be given for the assessment year for which such income is assessable.

(ii) Where tax has been deducted at source and paid to the Central Government and the income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax.

(4) Credit for tax deducted at source and paid to the account of the Central Government shall be granted on the basis of—

- (i) the information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorised by such authority; and

(ii) the information in the return of income in respect of the claim for the credit,

subject to verification in accordance with the risk management strategy formulated by the Board from time to time.]

### **TDS Credit Not available in 26AS**

#### **Sumit Devendra Rajani [2014] 49 taxmann.com 31 (Gujarat)**

It is held that the petitioner-assessee -deductee is entitled to credit of the tax deducted at source with respect to amount of TDS for which Form No.16A issued by the employer -deductor - M/s. Amar Remedies Limited has been produced and consequently department is directed to give credit of tax deducted at source to the petitioner-assessee - deductee to the extent form no.16 A issued by the deductor have been issued. Consequently, the impugned demand notice dated 6.1.2012 (Annexure D) is quashed and set aside. However, it is clarified and observed that if the department is of the opinion deductor has not deposited the said amount of tax deducted at source, it will always been open for the department to recover the same from the deductor. Rule is made absolutely to the aforesaid extent. In the facts and circumstances of the case, there shall be no order as to costs.

### **TDS Credit in the hands of the assessee who is assessed to tax w.r. to Income concerned .**

#### **Surendra S. Gupta [2018] 93 taxmann.com 456 (Mumbai - Trib.)**

Credit for tax deducted at source has to be given in assessment year in which income has actually been assessed/offered to tax and not in year of deduction itself

It can thus be seen that under sub-rule 2 of Rule 37BA where whole or part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit could be given to such other person and not to the deductee provided the three conditions contained therein are satisfied. These conditions in brief are that the deductee files a declaration with the deductor in this respect, such declaration would contain the details of the person entitled to the credit and the reasons for giving such credit and lastly the deductor issues certificate for deducting tax at source in the name of such a person. In the present case, the petitioner could have applied to RBI in terms of sub- rule 2 of Rule 37BA and completed the procedure envisaged therein. However, one can gather that there is no dearth of power with the department to grant credit of tax deducted at source in such a genuine case. We are not suggesting that the requirements of sub-rule 2 are not to be followed before such benefit can be granted. Invariably in all cases such procedure would have to be completed before a person can rightfully claim credit of tax deducted at source where the TDS certificate shows the name and PAN of some other person.

In the present case, however, many years have passed since the event arose. The facts are not seriously in dispute. The HUF has already offered the entire income to tax. The department has also accepted such declaration and taxed the HUF. In view of such special facts and circumstances, we direct the department to give credit of the said sum of Rs.5,42,800/- to the petitioner HUF deducted by way of tax at source upon Shri Naresh Bhavanji Shah filing an affidavit before the department that the sum invested by the RBI does not belong to him, the income is also not his and that he has not claimed any credit of the tax deducted at source on such income for the said assessment year.

**Shri Rangji Realities (P.) Ltd. [2017] 82 taxmann.com 456 (Mumbai - Trib.)**

In assessee's case, assessment for relevant year was completed under section 143(3) - Later on, Assessing Officer noticed that assessee company had offered income under head of 'income from house property' after deducting amount of unrealized rent under rule 4 and claimed TDS credited on both, realized as well as unrealised rent - He thus restricted allowance of TDS credited to extent of actual amount of rent received by passing a rectification order under section 154 - Commissioner (Appeals) confirmed said rectification order - It was noted from records that unrealized rent was duly offered to tax by assessee at first instance, and then same was claimed as deduction from rental income under section 23(1) read with rule 4 - Moreover, amount of TDS corresponding to claim of unrealised rent was duly offered to tax under section 198 - Whether on facts, assessee's action was in accordance with provisions of section 199 and, thus assessee was eligible for seeking credit of TDS on entire amount - Held, yes - Whether, consequently, impugned order passed by authorities below was to be set aside - Held, yes

**TDS Credit when income is received on behalf of others as well.**

**Ganesh Narayan Brijlal Ltd [2016] 74 taxmann.com 96 (Calcutta)**

The assessee is undoubtedly an owner of the property but he is not an absolute owner. His ownership is restricted to a certain percentage of the right in the property. The assessee has collected the rent payable with respect to the property in its entirety and thereafter has passed on the rent including the amount deducted on account of the tax to the other co-owners. There is, as such, no reason why the assessee should not be entitled to enjoy the benefit of tax deducted at source when the assessee has paid the share of the co-owners including the share in the amount of tax deducted at source.

**TDS Credit under Cash basis of income**

**Chander Shekhar Aggarwal [2016] 67 taxmann.com 62 (Delhi - Trib.)**

Whether clause (ii) of Rule 37BA(3) provides that where tax deducted at source has been paid to Central Government and income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in same proportion in which income is assessable to tax, i.e., this rule is only applicable where entire compensation is received in advance but same is not assessable to tax in that year but is assessable in a number of year; however, such rule has no applicability, where assessee follows cash system of accounting - Held, yes - Assessee following cash system of accounting, raised invoice on his client for services - Said client deposited TDS to credit of account of assessee and issued a certificate of TDS to assessee - Whether TDS deducted by deductor on behalf of assessee and offered as income was to be allowed as credit in year of deduction of tax deducted at source - Held, yes [Para 10 to 12] .

## **Deduction of TDS is Payee is not Identifiable**

### **Apollo Tyres Ltd. [2017] 78 taxmann.com 195 (Delhi - Trib.)**

As per the scheme of Chapter XVII-B of the Income-tax Act, 1961, there is a provision for deduction of tax at source. Ordinarily, the deduction is to be made at the time of payment or the credit of the amount to the account of payee. However, as per provision of section 194C(2), the tax is to be deducted even if the amount is not credited to the account of the payee but to the suspense account. [Para 11]

The Tribunal, Cochin Bench in the case of *Abad Builders (P.) Ltd. v. Asstt. CIT* [2014] 43 taxmann.com 128/62 SOT 106 after considering the above provision, has held that tax is to be deducted even in respect of provision for expenses. However, the Tribunal, Chennai Bench in the case of *Dishnet Wireless Ltd. v. Dy. CIT* [2015] 154 ITD 827/60 taxmann.com 329 has held that in the case of the year end provision where the party/payee is identifiable, the TDS is to be deducted and where the party is not identifiable, no TDS is deductible. Similar view has been taken by the Tribunal Mumbai bench in the case of *Industrial Development Bank of India v. ITO* [2007] 107 ITD 45. After considering the scheme of Chapter XVII-B with regard to tax deduction at source, one agrees with the views expressed by Tribunal Mumbai Bench and Chennai Bench. As per the scheme of TDS under Chapter XVII-B of section 199, the credit for the TDS is to be given to the deductee. Thus, the identification of the person from whose account income-tax was deducted at source is a pre-requisite condition so as to make the provision for Chapter XVII-B workable. Tax deducted at source is considered to be tax paid on behalf of the person from whose income the deduction was made and, therefore, the credit for the same is to be given to such person. When the payee is not identifiable, to whose account the credit for such TDS is to be given. Section 203(1) lays down that for all tax deductions at source, the tax deductor has to furnish a certificate to the person to whose account such credit is to be given. Therefore, when the tax deductor cannot ascertain the payee who is the beneficiary of a credit of tax deduction at source, the mechanism of Chapter XVII-B cannot be put into service. In view of the above, we, respectfully agreeing with the views of Tribunal Chennai Bench in the case of *Dishnet Wireless Ltd. (supra)*, set aside the orders of the authorities below on this point and restore the matter to file of Assessing Officer for both the years under consideration. Tribunal directed the Assessing Officer to verify whether the payee is identifiable and the amount payable to him is ascertainable. Then the assessee would be required to deduct tax at source in respect of such provision. However, in case payee is not identifiable, the provision of Chapter XVII-B, *i.e.*, tax deduction at source, cannot be pressed into service and, therefore, the assessee is required to deduct tax at source in such a case. The Assessing Officer will readjudicate the issue afresh after examining the above facts. Needless to mention that he will allow adequate opportunity of being heard to the assessee while giving effect to the order of Tribunal. [Para 12]



## Changes in ITR for AY 2018-19

The new Income Tax Return (ITR) forms released for the assessment year 2018-19 seek more details from taxpayers than they did in the previous years. Overall, there are over 25 key changes compared to last year across all the forms meant for individuals, businesses and other assessees.

Most of these changes require taxpayers to give the break-up of information provided or other details that help the income tax department to reconcile the transactions that taxpayers report. Some of these changes clearly suggest that the focus of new ITR forms is to get more information from unlisted companies, trusts and taxpayers who have opted for presumptive taxation scheme. The ITR forms will also require business entities to report GST transactions which would help the department to independently reconcile the transactions reported by them in income-tax return and GST returns. It is apparent that the new ITR forms have shifted the entire onus on the taxpayers to prove their claim for deductions, expenses or exemptions,

### Applicable ITR for AY 2018-19.

<u>Individual and HUF</u>				
<i>Nature of income</i>	<i>ITR 1* (Sahaj)</i>	<i>ITR 2</i>	<i>ITR 3</i>	<i>ITR 4</i>
Income from salary/pension (for ordinarily resident person)	✓	✓	✓	✓
Income from salary/pension (for not ordinarily resident and non-resident person)		✓	✓	✓
Income or loss from one house property (excluding brought forward and carried forward losses)	✓	✓	✓	✓
Income or loss from more than one house property		✓	✓	
Agricultural income exceeding Rs. 5,000		✓	✓	
Total income exceeding Rs. 50 lakhs		✓	✓	✓
Dividend income exceeding Rs. 10 lakhs taxable under Section 115BBDA		✓	✓	
Unexplained credit or unexplained investment taxable at 60% under Sections 68, 69, 69A, etc.		✓	✓	
Income from other sources (other than winnings from lottery and race horses or losses under this head)	✓	✓	✓	✓
Income from other sources (including winnings from lottery and race horses or losses under this head)		✓	✓	✓
Capital gains/loss on sale of investments/property		✓	✓	

Interest, salary, bonus, commission or share of profit received by a partner from a partnership firm.			✓	
Income from business or profession			✓	
Income from presumptive business				✓
Income from foreign sources or Foreign assets or having Signing authority in any account outside India		✓	✓	
Income to be apportioned in accordance with Section 5A		✓	✓	✓
Claiming relief of tax under sections 90, 90A or 91		✓	✓	
* Only an Individual, who is an ordinarily resident in India, can file income-tax return in Form ITR-1.				
<b><u>Other Assesseees</u></b>				
<i>Status of Assessee</i>	<i>ITR 4</i>	<i>ITR 5</i>	<i>ITR 6</i>	<i>ITR 7</i>
Firm (excluding LLPs) opting for presumptive taxation scheme	✓			
Firm (including LLPs)		✓		
Association of Persons (AOP)		✓		
Body of Individuals (BOI)		✓		
Local Authority		✓		
Artificial Juridical Person		✓		
Companies other than companies claiming exemption under Sec. 11			✓	
Persons including companies required to furnish return under:				✓
A. Section 139(4A);				
B. Section 139(4B);				
C. Section 139(4C);				
D. Section 139(4D);				
E. Section 139(4E); and				
F. Section 139(4F)				

## **Key Changes**

1. ITR-1 is the simplest form of income-tax return to be filed by an individual taxpayer who earns income from salary/pension, from one house property and from other sources. Further, annual taxable income of the individual taxpayer should not exceed Rs. 50 lakhs and his total income should not include any income from betting, gambling, etc. Unlike last year, the new ITR-1 requires detailed calculation of income from salary and from house property, which was restricted to single figure till last year.
2. The new ITR-1 form has been withdrawn for a non-resident. Therefore, a non-resident will have to choose either from ITR-2 or ITR-3 to file his return of income for the Assessment Year 2018-19.
3. Under the new Sahaj form, specific details pertaining to salary require disclosure. "It seeks an assessee's salary details in separate fields, and in a breakup format such as allowances that are not exempt, the value of perquisites, profit in lieu of salary and deductions claimed under section 16. Though these details are provided in the Form 16 of a salaried employee, they now have to be mentioned on the tax return for clarity of deductions.
4. Businesses will have to submit the Aadhaar numbers of their members and partners. Trusts will also have to furnish the Aadhaar numbers of related functionaries.
5. In case a taxpayer opts for presumptive taxation scheme under section 44AD, 44ADA or 44AE, he will have to file the return of income in form ITR 4. The old ITR 4 sought only 4 financial particulars of the business, a) total creditors, (b) total debtors, (c) total stock-in-trade and (d) cash balance. The new ITR 4 form seeks details of 14 financial particulars of business such as amount of secured/unsecured loans, advances, fixed assets, capital account, etc.
6. Under ITS-4, those with businesses will also have to submit their GST registration number and the turnover. By tallying direct and indirect tax figures, the IT Department seeks to check tax evasion. This is probably one of the more critical details. The new ITR 4 requires a taxpayer to provide the aggregate turnover reported by him in [GST Returns](#). This additional information has been sought to end the wrong practice of reporting different turnovers in erstwhile sales tax return and income-tax return. If any difference is found in turnover reported in GST return and ITR, presumptive taxpayers can expect a notice from the Dept. to explain the mismatch in turnover.
7. The new ITR Forms introduce specific columns to report each capital gain exemption separately. Details of each capital gains exemption under Sections 54, 54B, 54EC, 54EE, 54F, 54GB and 115F shall be reported in its applicable column now. Further, a taxpayer availing of these capital gains exemptions is required to mention the date of transfer of original capital asset which was missing in earlier ITR Forms.
8. In the case of capital gain arising on transfer of unquoted shares, it would now be mandatory for the investors to obtain the valuation report. To ensure that investors correctly report the capital gains from unlisted shares, the new ITR Forms require the taxpayer to provide figures of actual sales consideration and FMV as determined by a Merchant Banker or CA.
9. Until last year, if a taxpayer failed to file the ITR before end of assessment year, penalty under Section 271F could be imposed by the Assessing Officer only after initiating the penalty proceedings. After omission of this penalty provision by the Finance Act, 2017, late fees is levied under Section 234F if taxpayer does not furnish the ITR in time. The taxpayer shall now be required to pay late filing fees under section 234F along with interest under section 234A, 234B and 234C before filing the ITR.
10. For the Assessment Year 2018-19, an individual or an HUF, who is a partner in a firm, shall be required to file his ITR in Form ITR 3 only. Last year the partners were required to file return in ITR 2.

11. After enactment of [GST Act](#), the new ITR forms have introduced new columns to report CGST, SGST, IGST and UTGST paid by, or refunded to, assessee during the Financial Year.
12. Individual taxpayers who are filing income-tax return in Form ITR 2 or ITR 3 or ITR 4 aren't required to mention the gender, i.e., male or female or transgender, as the column of gender has been removed.

### **ITR 1**

Sr No	Particulars of Change	Details of Change
1	More Detail of Salary and House Property Income	In last assessment years an assessee was only required to mention the taxable figure of salary income and income from house property in these ITR forms. From AY 2018-19 new ITR forms require the individual assessee to provide detailed calculation (salary structure) in case of salary & house property income.  (This change in also applicable for ITR-4).
2	Removal of 'Gender' from personal information	Individual taxpayers who are filing income-tax return in Form ITR 2 or ITR 3 or ITR 4 aren't required to mention the gender, i.e., male or female or transgender, as the column of gender has been removed.  (This change in also applicable for ITR-2, ITR-3 and ITR-4)

### **ITR 2**

Sr No	Particulars of Change	Details of Change
1	Capital Gains in case of transfer of unquoted shares	The Finance Act, 2017 introduced a new Section 50CA with effect from Assessment Year 2018-19. This new provision provides that if unlisted shares are transferred at a price which is less than its FMV, the sales consideration shall be deemed to be the price as calculated by a Merchant Banker or a CA on the valuation date.  It would now be mandatory for the investors to obtain the valuation report in case of sale of unquoted shares. To ensure that investors correctly report the capital gains from unlisted shares, the new ITR Forms require the FIIs and other assessees to provide the following information in respect of unlisted shares: <ol style="list-style-type: none"> <li>1. Actual Sale Consideration</li> <li>2. FMV (calculated as per prescribed manner)</li> <li>3. Deemed full value of consideration ( Higher of 1 and 2)</li> </ol> (This change also applicable for ITR -3, ITR-5, ITR-6, ITR-7)
2	Advantages under DTAA under Capital Gain and IFOS	Under Schedule CG and OS now the assessee is required to report the Rate as per DTAA, Section of Income tax, and Rate as per Income tax . Based on this information the applicable rate being lower of Income Tax and DTAA gets automatically populated by utility.  <b>This change is also applicable for ITR-3, ITR-5, ITR-6)</b>
3	Information relating to capital gains exemption to be	The new ITR Forms introduce specific columns to report each capital gain exemption separately. Details of each capital gains exemption under Sections 54,

	furnished in detail	54B, 54EC, 54EE, 54F, 54GB and 115F shall be reported in its applicable column now. Further, a taxpayer availing these capital gains exemptions is required to mention the date of transfer of original capital asset which was missing in earlier ITR Forms. (This change is also applicable for ITR-3, ITR-5, ITR-6)
4	Reporting of sum taxable as Gift	The Finance Act, 2017 had extended the scope of this provision by introducing a new clause, i.e., Section 56(2)(x) which covers all taxpayers within its ambit. Consequently, new columns have been inserted in all ITR forms except ITR 1 and ITR 4 under 'Schedule OS' to report any income as specified in Section 56(2)(x). (This change also applicable for ITR -3, ITR-5, ITR-6, ITR-7)
5	Disallowance of expenses in case of TDS default	The provisions of Section 40(a)(ia) disallow 30% of certain expenditures if tax is not deducted in respect of those expenditures in accordance with Chapter XVII-B or if tax is deducted but not deposited on or before the due date for filing of return of income. The Finance Act, 2017 introduced the similar disallowance provision in case of income from other sources if tax is not deducted or not deposited in accordance with Chapter XVII-B. A new column has been inserted in the ITR Forms to report such disallowances. (This change is also applicable for ITR-3, ITR-5 and ITR-6)
6	Taxability on remission of trading liability in case of 'Income from other source	As per section 41(1), if a business entity recovers any amount in respect of an allowance or deduction by way of remission or cessation thereof, the amount so received shall be deemed to be the business income and chargeable to tax. There is a similar provision in respect of an expense which had been claimed as deduction against an income chargeable to tax under the head 'Income from other sources'. The new ITR forms require separate reporting of such remission or cessation, which is taxable as per Section 59, in Schedule OS. (This change is also applicable for ITR-3, ITR-5, ITR-6 and ITR-7)
7	Details of foreign bank account of non-residents.	The new ITR forms allow non-residents to furnish details of any one foreign Bank Account for the purpose of payment of income-tax refund. (This change is also applicable for ITR-3, ITR-5, ITR-6 and ITR-7)
8	Details of TDS Deducted in Name of Other Persons	Now the assessee can claim the TDS Credit if TDS deducted in name of other person and if the income has been offered to tax by the assessee. The assessee will have to report the PAN of the person in whose name TDS has been deducted. <b>(This change is also applicable for ITR-3, ITR-5, ITR-6)</b>
9	Details of Deduction u/s 80D	More Details as required as compared to last year. <b>(This change is also applicable for ITR-3, ITR-5, ITR-6)</b>
10	Special Rate Income	Under Schedule SI Income from Transfer of Carbon Credits have been added. <b>(This change is also applicable for ITR-3, ITR-5, ITR-6)</b>
11	Exempt Income	Detailed Break Up of Other Income is expected under Schedule EI. <b>(This change is also applicable for ITR-3, ITR-5, ITR-6)</b>

**50CA.** Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed [40a](#), the value so determined shall, for the purposes of [section 48](#), be deemed to be the full value of consideration received or accruing as a result of such transfer.

Explanation.—For the purposes of this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.]

**Salient features of Section 56(2)(x)**

- (a) The receipts contemplated [any sum of money or immovable property or movable property as stated in **para 8.1-3(b)**, exceeding Rs. 50,000 are taxable.
- (b) The amount liable to tax would be:

<i>Property</i>	<i>Mode of receipt</i>	<i>Amount liable to tax</i>
Sum of money	Without consideration	Whole of the aggregate value of money received
Immovable pro-erty	Without consideration	Stamp duty value of immovable property
Immovable pro-erty	For a consideration less than stamp duty value by Rs. 50,000	Stamp duty value of immovable property in excess of the consideration
Movable property	Without consideration	Whole of the aggregate of fair market value (as per prescribed method) of movable property
Movable property	For a consideration less than fair market value (as per prescribed method) by Rs. 50,000	Aggregate fair market value (as per prescribed method) of movable property in excess of the consideration

- (c) The receipts could be by any person.
- (d) The receipt must be on or after 1-4-2017.
- (e) The sum of money or property received from any relative, etc. (as specified in the proviso to the clause) would not be liable to tax.
- (f) *Explanation* to the clause provides reference of certain terms or expressions as defined in *Explanation* to clause (vii).
- (g) Property is defined to mean immovable property being land or building or both and other movable properties, i.e., shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures, any work of art or bullion.

### ITR 3

Sr No	Particulars of Change	Details of Change
1	Revised Depreciation Schedule	<p>The CBDT vide Income-Tax (Twenty Ninth Amendment) Rules, 2016, dated 07-11-2016 had restricted the highest rate of depreciation for any block of asset to 40%. In other words, all block of assets which were eligible for depreciation at the rate of 50%, 60%, 80% or 100% would be eligible for depreciation at the rate of 40%.</p> <p>The new ITR Forms have replaced the depreciation column of 50/60/80/100 percent with 40% in case of plant &amp; machinery and Building. New columns have also been inserted to enable the entities to claim proportionate depreciation in the event of business reorganisation, i.e., demerger, amalgamation, etc.</p> <p>Further, a field is added to disclose the disallowance to be made in respect of depreciation under section 38(2) if an asset is not exclusively used for business purpose.</p> <p>(This change is also applicable for ITR-5 and ITR-6)</p>
2	Impact on profit or loss due to ICDS deviation	<p>In last preceding years ICDS, there is only impact of ICDS was need to disclosed.</p> <p>The new ITR Forms require separate reporting of both profit and loss (and not on net basis) in Schedule OI, Schedule BP (Computation of income from business or profession) and Schedule ICDS.</p> <p>(This change is also applicable for ITR-5 and ITR-6)</p>
3	Detail of GST	<p>After enactment of GST Act, the new ITR forms have introduced new columns to report CGST, SGST, IGST and UTGST paid by, or refunded to, assessee during the Financial Year.</p> <p>(This change is also applicable for ITR-5 and ITR-6)</p>
4	Bifurcation of Interest Remuneration	<p>Schedule BP Clause 24 allows to enter bifurcation of Salary, Bonus, Commission, Interest from the Firm.</p>

### ITR 4

Sr No	Particulars of Change	Details of Change
1	Additional details to be furnished by taxpayers opting for presumptive scheme	<p>Earlier Taxpayers opting for presumptive taxation scheme under section 44AD, 44ADA or 44AE were not required to maintain books of account and the old ITR 4 sought only 4 financial particulars of the business,</p> <p>a) total creditors, (b) total debtors, (c) total stock-in-trade and (d) cash balance.</p> <p>The new ITR 4 form seeks more financial details of business such as amount of secured/unsecured loans, advances, fixed assets, capital account etc.</p> <p>Further, new ITR 4 seeks GSTR no. of the assessee and turnover as per GST return filed by him.</p>

**ITR 5**

:- No Exclusive Changes.

**ITR 6**

Sr No	Particulars of Change	Details of Change
1	Details of business transactions with registered and unregistered suppliers under GST	A new Schedule has been inserted in ITR 6 which requires every company, who is not required to get its accounts audited under Section 44AB, to provide following details in respect of all transactions entered into during the year with a registered or unregistered supplier under GST: A. Transactions in exempt goods or services B. Transactions with composite suppliers C. Transaction with registered entities and total sum paid to them D. Transaction with unregistered entities
2	Reporting of CSR appropriations	Corporate Social Responsibility (CSR) expenditures are to be incurred mandatorily under the Companies Act, 2013 and these expenditures are not deductible under section 37(1) of the Income-tax Act, 1961. All the companies which are covered under Section 135 of Companies Act 2013 are required to disclose CSR expenditure during the year in its Board's report. A new column has been inserted in ITR Form 6 to provide details of apportionments made by the companies from the net profit for the CSR activities.
3	Break-up of payments / receipts in foreign currency	A new schedule has been inserted in the ITR 6 wherein breakup of payment & receipts in foreign currency are required to be reported by an assessee who is not liable to get its accounts audited under section 44AB. Assessee are required to provide the details of payment made and sum received in foreign currency towards capital and revenue account.
4	Ownership information in case of unlisted company	The new ITR 6 requires every unlisted company to provide details of all beneficial owners who are holding 10% or more voting power (directly or indirectly) at any time during the year 2017-18. These companies are required to provide the name, address, percentage of shares held and PAN of the beneficial owners.

**ITR 7**

Sr No	Particulars of Change	Details of Change
1	Information related to trust	Charitable or religious trusts filing income-tax return for the Assessment Year 2018-19 in Form ITR 7 shall be required to disclose following additional information: A. Aggregate annual receipts of the projects / institutions run by the trust. However, the table asking details about the name and annual receipts of institutes covered under Sections 10(23C)(iiiab), (iiiac), (iiid) and (iiiae) has been removed. B. Date of registration or approval granted to the trust C. Amount utilized during the year for the stated objects out of surplus sum accumulated during an earlier year.



2	Details of fresh registration upon change of objects	<p>Section 12A provides for conditions to be satisfied by a charitable institution for availing of exemption under sections 11 and 12. A new clause (ab) has been inserted in Section 12A(1) with effect from Assessment Year 2018-19 to provide that where a charitable institution has been granted registration and, subsequently, it has adopted or undertaken modification of the objects which do not conform to the conditions of registration, it shall be required to take fresh registration.</p> <p>Consequential changes have been made in the Form ITR 7. A trust will be required to furnish the following details if there is any change in its stated objects:</p> <p>A. Date of change in objects</p> <p>B. Whether application for fresh registration has been made within stipulated time period?</p> <p>C. Whether fresh registration has been granted?</p> <p>D. Date of such fresh registration.</p>
3	Taxability of Dividend in excess of Rs. 10 lakhs	<p>Section 115BBDA provides for levy of additional tax on dividend income received from domestic companies, if it exceeds Rs. 10 lakhs in aggregate. When this section was introduced by the Finance Act, 2016, this additional tax was levied only on resident Individual, HUF and Firms. The scope of this section was extended by the Finance Act, 2017 by levying the additional tax on all resident taxpayers except a domestic company, funds or instructions as referred to in Section 10(23C) and a trust registered under Section 12A or 12AA.</p> <p>The changes made by the Finance Act, 2017 are applicable from the Assessment Year 2018-19. Accordingly, necessary changes have been incorporated in Form ITR 7 which is applicable for Assessment Year 2018-19. All dividends in excess of Rs. 10 lakhs which are taxable under Section 115BBDA shall be disclosed in the Schedule OS (Income from other sources) and Schedule SI (Income chargeable to tax at special rate).</p>
4	No deduction for corpus donations made to other institutions.	<p>Up to Assessment Year 2017-18, a donation made by a registered trust to another registered trust constituted application of income notwithstanding that the donation was made with a specific direction that it shall form part of the corpus of the donee.</p> <p>The Finance Act, 2017 has inserted a new Explanation 2 with effect from Assessment Year 2018-19 to effect that any donation to another charitable institution registered under section 12AA with a specific direction that it shall form part of the corpus of the donee, shall not be treated as application of income for charitable or religious purposes.</p> <p>The consequential changes have been made in form ITR 7. In Schedule TI(Statement of Income) all the corpus donations made by a trust to another registered trust shall be added back to the taxable income of the donor trust.</p>
5	Political Parties to confirm if cash donations are received	<p>Registered political parties are exempt from income-tax by virtue of section 13A of Income-tax Act. Earlier there was no restriction on the political parties to receive the cash donations. However, with effect from assessment year 2018-19, Section 13A puts a restriction on political parties against receiving the cash donations in excess of Rs. 2,000. A political party will lose its tax exemption if donation</p>

		<p>exceeding Rs. 2,000 is received other than by an account payee cheque or draft or ECS or electoral bonds.</p> <p>The new ITR 7 requires the political parties to provide a declaration by selecting the 'Yes' or 'No' check-box to confirm whether it has received any cash donation in excess of Rs. 2,000.</p> <p>A political party is now required to disclose more information about the auditor who is signing the audit report of the political party.</p>
6	Schedule ER and EC	Schedule ER is now amended and now the assesee has to provide the break up details of application of income i.e out of current years and deemed application out of earlier years income.

### Concerns

- a. Self Assessment Taxes paid in one month but return filed belatedly:- In such case the interest u/s 234A should not be levied after the date of payment of Self Assessment Tax. [CIT v. Pranoy Roy 309 ITR 231 (SC)]
- b. In case of inter head set off of losses, when loss from one head is allowed to be set off against the income available under more than one heads, there is no priority defined under the Act for set off. In such situation, as per settled legal principles, priority beneficial to assesee should be followed.
- c. Official Clarification should be issued by CBDT as regards levy of Fine in case of assesses filing returns voluntarily i.e despite the income is less than basic exemption limit.
- d. Clarification of CBDT as regards applicability of GST Schedule in ITR 6 in case of the companies which are neither required to get their books of accounts audited u/s 44AB nor required to get registered under GST.
- e. CBDT need to clarify whether LLP offering income u/s 44ADA is eligible to file ITR 4 which is applicable to Individual, HUF and Partnership Firms having Presumptive Income.