

Unit 10: ADVANCE TAX AND RETURN OF INCOME

Income liable for advance tax

Under the scheme of advance payment of tax, every income (including capital gains, winnings from lotteries, crossword puzzles, etc.) is liable for payment of advance tax.

1. Liability to advance tax- When arises- It is obligatory to pay advance tax in every case where the advance tax payable is ₹ 10,000 or more.
 - a. An assessee who has opted for the scheme of computing business income under section 44AD on presumptive basis at the rate of 8 per cent of turnover, shall be exempted from payment of advance tax related to such business with effect from the assessment year 2011-12 (in other words, in such a case advance tax will not be paid during the financial year 2010-11 onwards).
 - b. A senior citizen (i.e., a resident individual who is at least 60 years of age at Any time during the financial year) not having any income from business/ profession, is not liable to pay advance tax with effect from the financial year 2012-13 (i.e., the assessment year 2013-14 onwards).
2. Due dates of payment of advance tax- Advance tax is payable as follows:

	In the case of a corporate assessee	In the case of a non corporate assessee
On or before June 15 of the previous year	Up to 15 per cent of advance tax payable	Up to 15 per cent of advance tax payable (W.e.f 01/06/2016)
On or before September 15 of the previous year	Up to 45 per cent of advance tax payable	Up to 45 per cent of advance tax payable
On or before December 15 of the previous year	Up to 75 per cent of advance tax payable	Up to 75 per cent of advance tax payable
On or before March 15 of the previous year	Up to 100 per cent of advance tax payable	Up to 100 per cent of advance tax payable

- a. Any payment of advance tax made before March 31 shall also be treated as advance tax paid during the financial year.
- b. If the last day for payment of any instalment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the mandatory interest leviable under sections 234B and 234C would not be charged.
- c. After March 31, 2008, all corporate assessees and other assesseees (who are subject to compulsory audit under section 44AB) will have to make electronic payment of tax through

internet banking facility offered by authorized banks. Alternatively, these taxpayers can make electronic payment of tax through internet by way of credit or debit cards. It is not necessary for the assessee to make payment of taxes from his own account in an authorized bank. An assessee can make electronic payment of taxes also from the account of any other person. However, the challan for making such payment must clearly indicate the Permanent Account Number (PAN) of the assessee on whose behalf the payment is made- Circular No. 5/2008, dated July 17, 2008.

- d. Any instalment of advance fringe benefit tax paid in respect of fringe benefits for assessment year 2010-11 shall be treated as advance income- tax paid by the concerned assessee for assessment year 2010-11 circular No. 2/2010, Dated January 29, 2010.

The following persons are under statutory obligation to file return of income by virtue of section 139 (1), (4A), (4B), (4C), and (4D)-

Taxpayer	Minimum income to attract the provisions of filing return of income
Company or firm [sec. 139(1)]	Any income or loss
Other than a company or firm [sec. 139(1)]	If the income is in excess of the amount not chargeable to tax (i.e., the amount of exempted slab)

Return form – These forms are given below-

New ITR Forms	Subject
ITR-1	For individuals having income from salary/ one house property (not being brought forward loss from previous years)/ income from other sources (not being loss and not being winning from lottery/ income from race horses)*
ITR-2	For individuals and HUFs not having business/ professional income
ITR-3	For individual and HUFs having income from a proprietary business or profession
ITR-4	For individual/ HUFs deriving business income and such income is computed in accordance with special provisions referred to in sections 44AD and 44AE*
ITR-5	For firms, AOPs and BOIs or any other person (not being individual or HUFs company or to whom ITR-7 is applicable)
ITR-6	For companies other than companies claiming exemption under section 11
ITR-7	For persons including companies required to furnish return under section 139(4A), (4B), (4C), (4D), (4E), (4F)

MODE OF SUBMISSION- Mode of submission of income- tax return is as follows-

1. ITR- 7 should be submitted in paper format or electronically (with or without digital signature).
2. A company should submit its return in ITR-6 electronically under signature.
3. A person (not being a company and person required to furnish return in ITR-7) who has total income exceeding ₹ 5,00,000[†], shall furnish return of income in ITR-1/ ITR-2/ ITR-3/ ITR-4/ ITR5 electronically with or without digital signature.
4. A resident and ordinarily resident individual/ HUF having assets (including financial interest in any entity) located outside India or signing authority in any account located outside India, shall submit return of income in ITR-2/ ITR-3/ ITR-4 electronically with or without digital signature. ITR-1 or ITR-4S is not applicable in such a Case.
5. A person claiming relief/deduction under sections 90,90A and 91 shall furnish return of income electronically with or without digital signature. ITR-1 or ITR-4S is not applicable in this case.
6. When books of account are required to be audited under section 44AB and the taxpayer is a firm, individual or Hindu undivided family, return should be submitted in ITR-4/ ITR-5 electronically with digital signature.
7. Other taxpayers can submit their return in paper format or electronically with or without digital signature.
8. If return is submitted electronically without digital signature, then after submission of return electronically, the taxpayer will have to submit verification of return in paper format in ITR-V. ITR-V should be sent within “specified period” by ordinary post (or speed post) to “Income-tax Department- CPC, _____”
9. EVC (Electronic Verification Code) has been included as a mode for verification of e-Filed return with effect from the financial year 2014-2015(i.e. Assessment Year 2015-2016)

*However, this Form is not applicable, in the case of (a) a person who has claimed relief under section 90,90A or 91, or (b) a person who has income not chargeable tax of more than ₹ 5,000 or (c) a resident and ordinarily resident individual or HUF who has assets (including financial interest in any entity) located outside India or signing authority in any account located outside India.

Post Box No. 1, Electronic City Post Office, Bengaluru- 560100,Karnataka”. “Specified period” for this purpose is 120 days from the date of uploading the electronic return. However, this period has been extended from time to time. Some of which are given below-

- a. No document, audit report, statement, accounts, etc., can be attached with these return forms, However, the report of a chartered accountant as required under section 44AB, 92E (pertaining to international transactions) and section 115JB shall be furnished electronically (applicable from the assessment year 2013-14).

- b. If a return is uploaded with digital signature, date of uploading shall be taken as the date of furnishing the return.
- c. If return is uploaded without digital signature and ITR-V has been furnished within the specified period given above, the date of uploading shall be taken as the date of furnishing the return.

If return is uploaded without digital signature and ITR-V has not been furnished within the specified period given above, then it will be deemed that the assessee has not submitted his return of income. In such a case, the assessee will have to re- submit the return.

Time for filing return of income [Sec. 139 (1)] – The due dates for filing the returns of income are as given below:

Different situations	Due date of submission of return
1. Where the assessee is required to furnish a report in Form No. 3CEB under section 92E pertaining to international transaction (s) [applicable from the assessment year 2012-13]	November 30
2. Where the assessee is a company [not having international transaction(s)]	September 30
3. Where the assessee is a person other than a company [not having international transaction (s)]	
3.1 Where accounts of the assessee are required to be audited under any law	September 30
3.2 Where the assessee is a “working partner” in a firm whose accounts are required to be audited under any law	September 30
3.3 In any other case	July 31

Salaried employees may furnish return through their employers [Sec. 19(1A)]- This provision does not have any practical utility after the introduction of new return forms (i.e., ITR-1 to ITR-7).

Revised return [Sec.139(5)]

If certain conditions are satisfied a person may furnish a revised return of income under section 139(5).

Conditions – The following conditions one has to satisfy:

1. Only return filed under section 139(1) or in pursuance of a notice under section 142 can be revised – A return can be revised only if such return is furnished under section 139(1) or in pursuance of a notice under section 142(1). A belated return filed under section 139(4) cannot be revised – Kumar Jagdish Chandra Sinha V. CIT [1996] 86 Taxman 122(SC).
2. Any omission/ wrong statement can be corrected – the benefit of filing a revised return cannot be claimed by a person who has initially filed a return, knowing it to be false – CIT v. Radhey Shyam [1980] 123 ITR 125(ALL.), CIT v. Badridas Ramrai Shop [1939] 7ITR 613 (Nag.). In

other words, section 139(5) is not applicable in cases of concealment or false statements –CIT v. J.K.A. Subramania Chettiar [1977] 110 ITR 602 (Mad.). Omission or wrong statement in the original return must be due to a bona fide inadvertence or mistake on the part of the assessee – Sunanda Ram Deka v. CIT[1994] 210 ITR 988 (Gauhati). Where omission or wrong statement in original return is discovered by the department as a result of enquiry and thereafter a revised return is furnished making amendment, that would not amount to a revised return as contemplated under section 139(5) – CIT v. Grey Cast Foundry Works [2006] 99 ITD 515 (Ahd.).

3. Revised return should be filed within one year from the end of the assessment year or before completion of the assessment – Revised return under section 139(5) can be filed at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

For instance, for the assessment year 2017-18, a revised return can be filed up to March 31, 2019. If, however, the assessment is completed before March 31, 2019 (say on April 15, 2018), then revised return can be filed before April 15, 2018.

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