NEW INCOME TAX RETURN FORMS
Illustrative Analysis of Applicability

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New Income tax return forms have been notified by the Central Board of Direct taxes vide notification S.O.NO.762 (E) dtd.14th May, 2007.

Rule 12 has been substituted by New Rule 12 through Income Tax (4th Amendment) Rules, 2007 [which shall come in to force w.e.f.14/05/2007]. New Rule 12 provides for the applicability of various forms to different categories of assessees. This article attempts to explain the applicability of New Return Forms and summarizes other significant changes made in the procedure for filing the return of income.

Significant changes were made in the forms of return of income. The more popular return forms viz. Form No.1 and Form 2D (SARAL) and other existing forms viz. Form No.s 2, 2F , 3, 3A, 3B have been substituted by new return forms with a series of Form No.s ***ITR-1*** TO ***ITR-8.*** The structure and design of forms were also changed to suit e-filing of returns.

Salient Features of New return forms:

1. Rule 12 was amended by substitution of New Rule 12 through Income Tax (4th amendment) Rules, 2007. A series of Form No.s ***ITR-1*** to ***ITR-8*** were notified.

2. It should be noted that all new forms are applicable for the A.Y.2007-08 only. That means, return of income pertaining to earlier assessment year has to be filed only in the old forms applicable for that respective assessment year. *For Ex.* If an individual has not filed his return of income within the time stipulated under sec.139 (1), he can file such return of income belatedly under sec.139 (4). In such case he can file such return in Form No: 2D as Rule 12(5) states that where a return of income or return of fringe benefits relates assessment year commencing on the 1st day of April 2006 or any earlier assessment year, it shall be furnished in the appropriate form as applicable in that assessment year.

However, it should be noted that a person, who is required to furnish his return of income under sec139 (1) or proviso to Sec.139 (1), shall be required to file his return of income before the end of the relevant assessment year in order to avoid penalty under sec.271F.

3. All the return forms have been designed and structured to suit e-filing of income tax returns with the department.

4. All the return forms have been attached with instructions for filling out the forms.

Earlier the assessees like Individuals file their return of income in Form No.2D in duplicate. One copy with all the documents attached with the return is retained by the department while the other is issued as an acknowledgement to the assessee. In the absence of the refund or liability, acknowledgement itself shall be deemed to be as assessment order under sec.143 (1).

But under the new forms, separate acknowledgement has been designed. Further it was given in the instructions that the form is not required to be filed in duplicate.

5. As it is already known that it was mandatory for companies to submit the Income tax returns electronically for A.Y.2006-07. Now such requirement has been made applicable to the firms which are subject to the provisions of sec.44AB.

So, for the A.Y. 2007-08, both the following persons are required to file their returns electronically

(i) Companies [other than those to which *Rule 12(1)(g)* applies]

(ii) Partnership firms which are subject to tax audit under sec.44AB [Proviso to Rule 12(3)]

6. The return of income or return of fringe benefits referred to in Rule 12 (1) may be furnished in any of the following manner:

(a) furnishing the return in paper form

(b) furnishing the return electronically

Electronic filing of return can be either under digital signature or by transmitting the data in the return electronically and thereafter submitting the verification of the return in Form No.*ITR-V.* - {RULE 12(3)}

(c) furnishing a bar coded return in paper form.

7. However, as mentioned earlier in point (5) above, companies and firms [only firms which are subject to tax audit] are compulsorily required to file their return of income electronically in either of the ways as mentioned in point (6) above.

On the other hand, a person required to furnish the return in Form No.*ITR-7* shall be required to file his return in paper form only.

8. Another important point to be noted here is that all return forms have been designed as Annexure Less Forms. Instructions attached with forms clarify that no documents including TSD / TCS Certificates, report of the auditor should be attached with the form.

Further Rule 12 (2) provides that the return of income and return of fringe benefits required to be furnished in ITR-1 to ITR-8 except IRT-7 shall not be accompanied by any proof of tax deducted or collected or advance or self-assessment tax paid or tax computation statement or any other document or any account or form or report of auditor which are required to be furnished along with the return under any provisions of the income Tax Act.

9. The return of income specified for the firms i.e. *ITR-5* and for the companies i.e. *ITR-6* includes return of fringe benefits. However, a separate return of fringe benefits viz.*ITR-8* has been specified for those persons who are not required to file their return of income but are required to furnish the return of fringe benefits.

10. Where the return of income is filed either in paper form or bar coded form, then the acknowledgement form should be duly filled in and filed along with the return and it shall be deemed to be the intimation of processing under sec.143(1).

11. Every form includes a separate provision for furnishing of details in respect of notified transactions reported through Annual Information Return which was not there in earlier forms.

Applicability of various forms

FORM	***APPLICABILITY***
ITR-1:	Individuals having income from salary/ pension / family pension/ interest *Note:* Suppose if an individual has interest income from money lending business which is chargeable to tax under the head Profits & gains of business or profession, then he is not entitled to use this form. In such case, he has to use Form No. *ITR-4. Similarly if he has any exempt income other than agriculture or interest income, he is not entitled to use this form.*
ITR-2:	Individuals and HUFs not having income from business or profession. *Note:* Suppose if an individual has income or loss from House Property, he has to file his return in Form No.*ITR-2. However if such individual has also income from business or profession, then the applicable from shall be ITR-4 and not ITR-2.*
ITR-3:	Individuals and HUFs being partners in firms and not carrying out business or profession under any proprietorship. *Note:* suppose if an individual is also engaged in any business under any proprietorship, then he has to use Form No.ITR-4 and not ITR-3. *However if he is not engaged in any business or profession under proprietorship, then he has to use this Form No.ITR-3 only irrespective of the fact that he receives only share of profit from the firm which is exempt u/s.10(2A) and does not have any income by way of interest, salary, bonus, commission or remuneration from such firm in which he he is a partner.*

ITR-4:	Individuals and HUFs having income from proprietary business or profession. *<u>Note:</u>* Suppose if a HUF is carrying on business under its proprietorship through karta and is also a partner in another firm, then such HUF has to file its return of income in Form No. *ITR-4* and is not entitled to use Form No.ITR-3.
ITR-5:	Firms, AOPs and BOIs Note: This form is also applicable for artificial juridical person [sec.2(31)(vii)], cooperative society and local authority. *Firms subject to tax audit are required to file the return electronically*. Otherwise, return can be filed in any of the manner specified in Rule 12(3).
ITR-6:	Company not being a company to which Rule 12(1)(g) applies. *<u>Note:</u>* Companies are also required to file their returns electronically.
ITR-7:	Persons required to file a return under sub sec. (4A), (4B),(4C),(4D) of Sec.139. *<u>Note:</u>* This form is applicable irrespective of the fact whether a company is registered u/s.25 of the Companies Act or not. *The person to whom this form applies shall file his return of income in a paper form only*. When a person is required to file a return under the aforesaid sub-sections of sec.139, then Form No.*ITR-7* shall only apply.
ITR-8:	Persons who are not required to furnish their return of income but are required to file the return of fringe benefits. *<u>Note:</u>* Form No.*ITR-5 & ITR-6* specified for Firms & companies includes the return of fringe benefits.