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Section 142
INQUIRY BEFORE ASSESSMENT

To make an assessment, the Assessing Officer **may serve a notice** on any person

- who **has made** a return under section 139 or
- in whose case the **time allowed** under section 139(1) for furnishing the return has **expired**,

The Assessing Officer *may require him*

- To furnish a return of his income or the income of such other person in respect of which he is assessable. This is in a case where such person **has not made a return** within the time allowed under section 139(1) or before the end of the relevant assessment year.

  - Further, where any notice has been served under the aforesaid provision after the end of the relevant assessment year to any person who has not made a return of his income within the time allowed under section 139(1) or before the end of the relevant assessment year, **such notice shall be deemed to be a notice** served in accordance with the provisions of section 142(1).

  - The department can issue notice
    - Either under section 142(1)
    - Or under section 148.
  - **Notice under section 142(1) saves** the department **from the requirement of having to record reasons for the belief that income chargeable to tax has escaped assessment.**

    - It may be noted that the time-limit for completion of assessment under section 153(1) is 21 months from the end of the assessment year in which the income was first assessable.
    - Therefore, since assessment has to be completed within the said period of 21 months, it appears that notice under section 142(1) should also be issued within that period.

- To produce, or cause to be produced, such accounts or documents as the Assessing Officer may require.
  - However, the previous approval of the Joint Commissioner has to be obtained before requiring the assessee to furnish the statement of **all assets and liabilities** ***not included in the accounts.***

  - Further, the Assessing Officer **shall not require** the production of any accounts relating to a period ***more than 3 years*** prior to the previous year.

- Where the business is carried on in several places the **assessment of the total profits** must be made
  - by the Assessing Officer
  - having jurisdiction at the principal place of business.

- He can **call for the accounts pertaining to any Branch office** *even if* independent inquiries have already been made and the accounts have been examined by the Assessment Officer exercising jurisdiction at the Branch.

- Similarly the Assessing Officer has power to call for the **account books of a foreign business carried on abroad** provided that such books are in the possession or control of the assessee.

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Section 144
Best judgment assessment

- If any person
    - fails to make the return required under section 139(1) **or** has not made a return **or** a revised return under sub-section (4) **or** sub-section (5) of section 139 **or**
    - fails to comply with all the terms of a notice issued under section 142(1) or fails to comply with the direction issued under section 142(2A) **or**
    - has made a return, fails to comply with all the terms of a notice issued under section 143(2)
    then the Assessing Officer shall make a best judgment assessment.

- In all the ***three cases*** stated above it is **mandatory for the Assessing Officer** to make best judgment assessment and he has no discretion to make or not to make such assessment.

- **These three cases are alternative and not cumulative for the purpose of making on ex parte assessment**.

- Before making such assessment the Assessing Officer can take into account all relevant material which he has gathered.

- The assessee must be given an opportunity of being heard.

- Such opportunity shall be given by an Assessing Officer by serving a notice **calling upon the assessee to show cause on a date and time to be specified in the notice**, why the assessment should not be completed to the best of his judgment.

- Thereafter, the Assessing Officer shall make the assessment of total income or loss to the best of his judgement and determine the sum payable on the basis of such assessment.

- **It may be noted that NO REFUND can be granted under section 144.**

- However, where a notice under section 142(1) has been issued prior to the making of an assessment under this section, it is not necessary to give such opportunity.