

AMENDMENTS BY THE FINANCE (No.2) ACT, 2014

- (a) Return of income of mutual funds, securitization trusts, venture capital companies/funds to be filed mandatorily [Section 139(4C)]

Related amendment in section: 115R(3A) & 115TA(3)

Effective from: A.Y.2015-16

- (i) Under section 139, every person -
- being a company or a firm or
 - being a person, other than a company or firm, whose total income or the total income of any other person in respect of which he is assessable under the Income-tax Act, 1961 during the previous year exceeds the basic exemption limit, shall furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, on or before the due date.
- (ii) In addition to the above, section 139(4C) requires certain other entities, who are not chargeable to income-tax in accordance with the provisions of section 10, to file their return of income if their total income, without giving effect to the provisions of section 10 under which they are exempt, exceeds the basic exemption limit.
- (iii) Specified income of the following entities are exempt under the clauses of section 10:
- Income of a Mutual Fund [Exempt under section 10(23D)];
 - Income of a securitisation trust from the activity of securitization [Exempt under section 10(23DA)]; and
 - Income of a venture capital company (VCC) or venture capital fund (VCF) from investment in a venture capital undertaking [Exempt under section 10(23FB)].
- (iv) So far, there was no obligation requiring the Mutual Fund or securitization trust or VCC or VCF to furnish their return of income under section 139. These entities were only required to furnish a statement giving details of the nature of the income paid or credited during the previous year and such other relevant details as may be prescribed.

- (v) Section 139(4C) has now been amended to require -
- a Mutual Fund referred to in section 10(23D),
 - a securitization trust referred to in section 10(23DA); and
 - a VCC/VCF referred to in section 10(23FB)

to furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, if the total income in respect of which such mutual fund or securitisation trust or VCC/VCF is assessable, without giving effect to the provisions of section 10, exceeds the basic exemption limit.

- (vi) In such a case, all the provisions of the Income-tax Act, 1961, so far as may be, apply as if it were a return required to be furnished under section 139(1).
- (vii) Further, sub-section (3A) of section 115R and sub-section (3) of section 115TA have been omitted, thereby dispensing off with the requirement of filing of statements before an income-tax authority, in the case of the Mutual Funds and securitisation trusts referred to above, respectively.

(b) Verification of return of income [Section 140]

Effective from: 1st October, 2014

- (i) Section 140 provides that the return under section 139 shall be signed and verified in the manner specified therein for different categories of persons.
- (ii) In order to enable the verification of returns either by a sign in manuscript or by any electronic mode, section 140 has been amended to provide that the return shall be verified by the persons specified therein. Consequently, the words "sign and verify", wherever they have been used in section 140, have been substituted by the word "verify". Further, the words "sign" or "signing", wherever they have been used in section 140, have been replaced by "verify" or "verifying".
- (iii) The manner of verification of return is prescribed under section 139.

(c) Expansion of scope of section 142A and provision of time limit for submission of report by the Valuation Officer to the Assessing Officer

Effective from: 1st October, 2014

Related amendments in sections: 153 & 153B

- (i) Under the erstwhile section 142A, the Assessing Officer was empowered to make a reference to the Valuation Officer to estimate the value of any investment referred to in section 69 or section 69B, any bullion, jewellery or other valuable article referred to in section 69A or section 69B or the fair market value of any property referred to in section 56(2) for the purpose of making an assessment or reassessment. The Assessing Officer may, on receipt of the report of the Valuation

Officer, take into account such report for the purposes of assessment or reassessment after giving the assessee an opportunity of being heard.

(ii) The scope of section 142A was, thus, restricted in the sense that the Assessing Officer could make a reference to the Valuation Officer to estimate the value of investment/article only under the specific sections mentioned thereunder, namely, sections 69, 69A, 69B, and 56(2). Further, section 142A did not also provide for any time limit for furnishing of the report by the Valuation Officer.

(iii) In order to expand the scope of making reference to Valuation Officer and to provide for a time limit for furnishing of the report by the Valuation Officer, section 142A has been substituted. The new section 142A also expressly clarifies that there is no pre-condition that books of account have to be rejected for the purpose of making a reference to the Valuation Officer for estimation of the value of any investment or property.

(iv) As per new section 142A, the Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including fair market value, of any asset, property or investment and submit the report to him. Thus, the scope of section 142A has been widened by removing references to the specific sections for which reference can be made by the Assessing Officer to the Valuation Officer.

(v) **New section 142A further clarifies that the Assessing Officer may make a reference to the Valuation Officer whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.**

(vi) The Valuation Officer, shall, for the purpose of estimating the value of the asset, property or investment, have all the powers of section 38A of the Wealth-tax Act, 1957.

(vii) The Valuation Officer is required to estimate the value of the asset, property or investment after taking into account the evidence produced by the assessee and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.

(viii) If the assessee does not co-operate or comply with the directions of the Valuation Officer he may, estimate the value of the asset, property or investment to the best of his judgment.

(ix) **The Valuation Officer shall send a copy of his estimate to the Assessing Officer and the assessee within a period of six months from the end of the month in which the reference is made. Thus, a specific time limit has now been provided, within which the Valuation Officer has to send his report to the Assessing Officer.**

(x) On receipt of the report from the Valuation Officer, the Assessing Officer may, after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

(xi) Clause (iv) has been inserted in *Explanation 1* to section 153 and clause (iia) has been inserted in *Explanation* to section 153B to provide that the period beginning with the date on which the reference is made to the Valuation Officer and ending with the date on which his report is received by the Assessing Officer shall be excluded from the time limit provided under the aforesaid section for completion of assessment or reassessment.

(d) Income computation and disclosure standards to be notified under section 145(2)

Effective from: A.Y. 2015-16

(i) Under section 145(1), income chargeable under the heads "Profits and gains of business or profession" or "Income from other sources" shall be computed in accordance with either the cash or mercantile system of accounting regularly employed by the assessee.

(ii) Section 145(2) empowers the Central Government to notify accounting standards for any class of assessees or for any class of income. So far, only two accounting standards relating to disclosure of accounting policies and disclosure of prior period and extraordinary items and changes in accounting policies have been notified.

(iii) An Accounting Standard Committee was constituted by the CBDT in the year 2010. In its Final Report submitted in August, 2012, the Committee had recommended that the accounting standards notified under the Income-tax Act, 1961 should be made applicable only for computation of taxable income. There should be no requirement to maintain books of account on the basis of accounting standards notified under the Income-tax Act, 1961. After examining the suggestions received from stakeholders and general public on the Final Report placed in public domain, the Committee recommended that the provisions of section 145 may be appropriately amended to clarify that the accounting standards notified thereunder are to be followed for computation of income and not for maintenance of books of account.

(iv) Accordingly, in order to clarify that the notified standards are to be followed for computation of income and disclosure of information by any class of assessees or for any class of income, section 145(2) has been amended.

(v) Section 145(2) now provides that the Central Government may notify in the Official Gazette from time to time, **income computation and disclosure standards** to be followed by any class of assessees or in respect of any class of income.

(vi) Section 145(3) has been amended to provide that the Assessing Officer may make a best judgment assessment in the manner provided in section 144, if the income has not been computed in accordance with the standards notified under section 145(2) or where the method of accounting provided under section 145(1) has not been regularly followed by the assessee.

(e) Assessing Officer having jurisdiction in respect of other person to proceed under section 153A only if he is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in section 153A(1) [Section 153C]

Effective from: 1st October, 2014

(i) Section 153C relates to assessment of income of any other person. Section 153C(1) provides that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belong to any person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

(ii) Section 153C(1) has been amended to require the Assessing Officer having jurisdiction over such other person to proceed under section 153A against each such other person and issue notice and assess or reassess income of such other person only if he is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in section 153A(1).