RETURN FILING AND ASSESSMENT PROCEDURE

SEC 139(1)	• Compulsory filing of return on or before due date
Sec 139(3)	• Return of Loss
Sec 139(4)	• Belated Return
Sec 139(5)	• Revised Return
Sec 139(6)	• Particulars to be furnished with Return • Sec 139(6A): Particulars to be furnished in case assessee is engaged in Business or Profession
Sec 139(9)	• Defective Return
Sec 140	• Verification of Return
Sec 142	• Inquiry before Assessment
Sec 143	• Assessment

Sec 139(1): Compulsory filing of return on or before the due date.

I) WHO IS REQUIRED TO FILE RETURN OF INCOME

1. For every co. and partnership firm: mandatory
2. For assessee other than co. and partnership firm: mandatory if GTI> basic exemption limit during the previous year (before claiming deductions under chapter- VI-A).
3. Resident, other than NOR (u/s 6(6)) who is not required to file return under sec 139(1) and who at any point of time during the P.Y.
   A) Holds as beneficial owner or otherwise, any asset (including financial asset) located outside India or has a signing authority in any account located outside India, or
   B) Is a beneficiary of any asset (including financial asset in any entity) located outside India
   Note: However, if income already included in the income of Person 'A' then person 'B' is not required to file the return.
   Beneficial owner: An individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself any or other person.
   Beneficiary: An individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person, other than such beneficiary.

II) **DUE DATES**

S.NO.	PARTICULARS	DUE DATES
1.	Assessee who is required to furnish report of Transfer Pricing u/s 92E	30th Nov of A.Y.
2.	Where assesssee is A. Company B. person other than company, whose accounts are required to be audited under Income Tax Act, 1961 or any other law in force, or C. a working partner of a firm whose accounts are required to be audited under Income Tax Act, 1961 or any other law in force.	30th Sep of A.Y.
3.	In any other case	31st July of A.Y.

III) Interest u/s 234A: Interest for default in furnishing the ROI.

Simple Interest @ 1% per month or part of month is attracted for the period commencing from the date immediately following the due date, ending on following dates in the following circumstances:

Circumstances	Ending on following dates
Where return is furnished after due date	The date of furnishing the return
Where return not furnished	The date of completion of assessment year

The interest is calculated on amount of tax as determined u/s 143(1) or on regular assessment as reduced by advance tax, TDS, TCS or self-assessment tax paid.

SEC 139(3): RETURN OF LOSS:

1. As per sec 80, for carry forward of following losses, it is mandatory to file return of losses u/s 139(3) in the same manner as return of income within the time specified u/s 139(1):
   a) Business loss
   b) Speculation business loss
   c) Loss from specified business (u/s 35AD)
   d) Loss under head capital gain
   e) Loss from owing and maintain race horses
2. Losses can be set off even if return has been filed after due date
3. House property losses and unabsorbed dep. can be c/f even if return is filed after due date.

SEC 139(4): BELATED RETURN:

If an assesse fails to file return within the time specified u/s 139(1), then he may file belated return within the following limits:

a) Before the end of relevant A.Y. OR
b) Before the completion of assessment, whichever is earlier.

Section	When mandatory to file return
Sec 139(4A): Return of Trust	Total Income before exemption u/s 11 & 12 > Basic exemption Limit
Sec 139 (4B): Return of Political Party	Total Income before exemption u/s 13A > Basic exemption Limit
Sec 139 (4C): Return of Hospital, institutions, news agency, research associations etc.	Total Income before exemption u/s 10 > Basic exemption Limit
Sec 139(4D): Return of University & college (approved u/s 35)	Always mandatory
Sec 139 (4E): Return by Business Trust	Always Mandatory
Sec 139(4F): Return by Investment Fund (referred u/s 115UB)	Always Mandatory

SEC 139(5): REVISED RETURN:

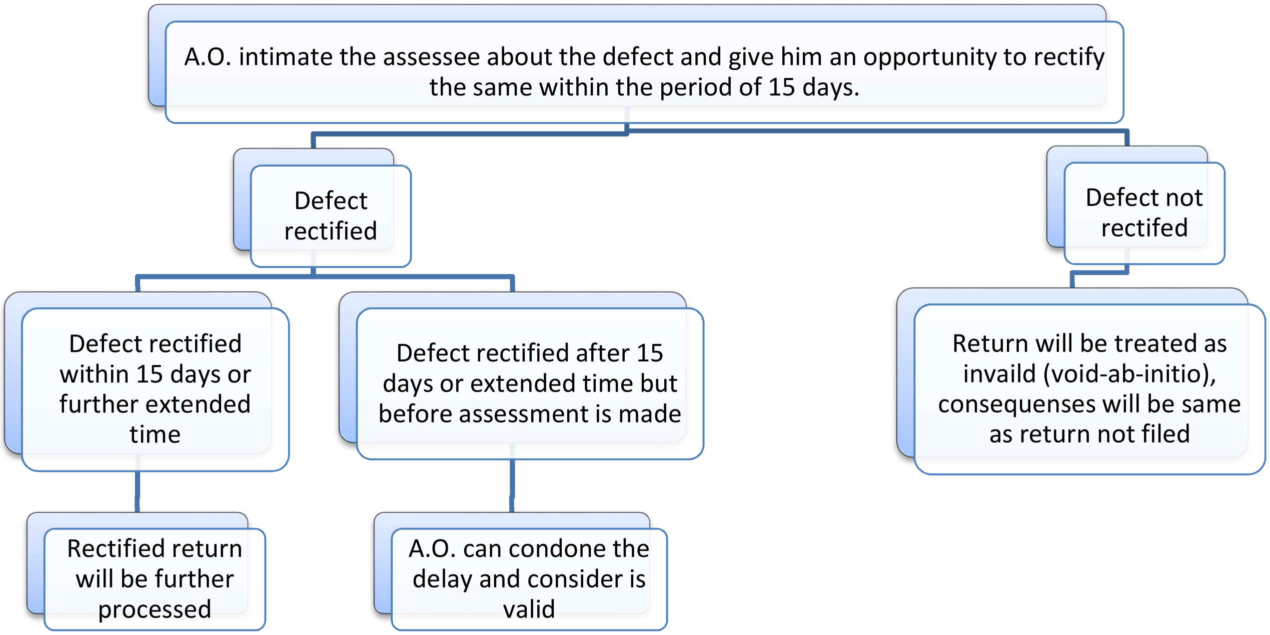
Any person filed return us 139(1), 139(3) or 139(4), if discover any omission or wrong statement can revise his return any no. of times within following limits:

a) Before the end of relevant A.Y. OR
b) Before the completion of assessment, whichever is earlier.
   Note: A return can be revised even after receiving the intimation or refund u/s 143(1) as the same is not completion of assessment.

SEC 139(9): DEFECTIVE RETURN:

Return will be considered as defective unless following conditions are fulfilled:

1. The annexure, statement and column in the return relating to income chargeable under each head, computation of total gross income and total income are duly filled.
2. The return is accompanied by proof of Tax and TAR u/s 44AB.



Sec 140: Verification of Return:

S.No.	In case of	Verified by:
1.	a) Individual b) If he is not present in India, or mentally incapacitated, or for other reason, if it is not possible for individual to verify his Return himself	Individual himself Person duly authorized to act on his behalf by way of holding valid power of attorney
2.	a) HUF b) If karta is not present in India, or mentally incapacitated from attending its affairs	Karta Any other adult member of HUF
3.	a) Partnership firm/LLP b) if no managing partner	Managing Partner/ Designated Partner Any other adult partner
4.	a) Company b) where no MD or for any other reason not able to verify c) where co. is under liquidation d) where mngt. Has been taken over by CG or SG e) where app. For corporate insolvency resolution process has been admitted by the Adjudicating Authority under Insolvency and Bankruptcy Code, 2016	Managing Director Any other director Liquidator Any principal officer Insolvency professional as appointed by Adjudicating Authority
5.	Political party	CEO
6.	Local Authority	Principal Official
7.	Any Other case	Person competent to verify

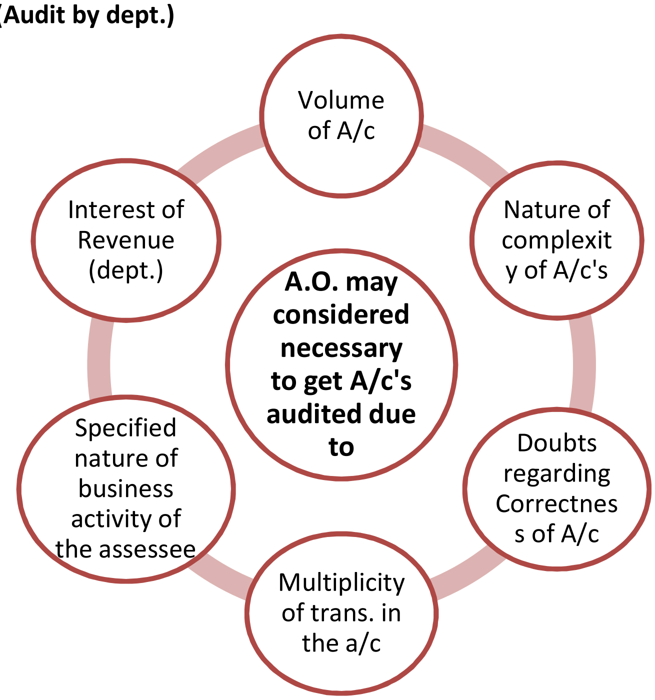
SEC 142: INQUIRY BEFORE ASSESSMENT

Purpose of Notice:

1. Sec 142(1)(i): If assesse has not filed return within time specified u/s 139(1) or before the end of relevant AY, then A.O. can issue a notice requiring him to furnish his return.
2. Sec 142(1)(ii): for the purpose of making assessment A.O can issue notice
   a) To produce Books of A/c & other relevant documents (max 3 years prior to relevant PY)
   b) To furnish info of assets and liabilities (only after prior approval of Joint commissioner, if info required is related to assets and liabilities not included in BOA).

> ***Note: As per Sec 153(1) {Time limit for completion of assessment***}, *No order of assessment shall be made at any time after the expiry of 21 months from the end of the A.Y. in which the income was first assessable.*
>
> ***Provided that*** *in respect of an order of assessment relating to the A.Y. commencing on the 1st day of April, 2018, the time limit for completion of assessment is 18 months. Further, for A.Y. commencing from 1st day of april, 2019, time limit is 12 months.*
>
> *Therefore, since assessment has to be completed within said period, it appears that notice u/s 142(1) should also be issued within said period.*

Sec 142(2A): Special Audit (Audit by dept.)



1. Prior approval of CIT/CCIT is required. (Commissioner/ Chief Commissioner)
2. Audited shall be conducted by CA (auditor) as nominated by CIT/CCIT and his remuneration shall be paid by CG.
3. Directions can be given even if a/c are already audited u/s 44AB or any other law.
4. The assesse must be given opportunity of being heard before giving direction for special audit.
5. The report shall be furnished in *Form No. 6B prescribed under Rule 14A of IT Rules, 1962*. The accountant appointed to carry out the audit becomes liable to carry out requirement of audit as specified by A.O or CIT and not the client for this purpose.
6. Audit Report must be submitted within the time allowed which can be further extended but max time must not exceed 180 days.

7. The assesse must be given opportunity of being heard in respect of material gathered on the basis of inquiry u/s 142(2) or audit report u/s 142(2A), which is proposed to be utilized for the purpose of assessment. However, if assessment is in the nature of Best judgement u/s 144, it is not obligatory to provide such opportunity.
8. Failure to get the a/c audited or failure to furnish the Audit report within the time allowed will lead to beat judgement assessment u/s 144and attract penalty of 10,000 u/s 272A(1).

Sec 142A: Reference to Valuation Officer (V.O.): A.O has been empowered to make reference to V.O. to estimate the value of investments referred to in sec 69 or 69B or any bullion or jewellery or other valuable article (referred u/s 69A) or FMV of any property (referred u/s 56(2)). After considering all the evidences as produced by assesse or as gathered by V.O., he is required to produced report, the copy of same shall be send to both assesse and A.O. ***within the period of 6 months*** from the end of the month in which reference is made by A.O. to V.O.