TAX ARTICLE - INDIA

Changes in IT Returns - Our Analysis

Introduction

With an objective to curb tax evasion practices i.e. plug the revenue leakage and to bring out the transparency, the Central Board of Direct Tax ("CBDT") updates/amends Income Tax Return ("ITR") every year. In line with the same, recently, the CBDT has issued the ITR Forms, for the Assessment Year ("AY") 2019-20 [relevant to Financial Year ("FY") 2018-19].

It can be inferred that the CBDT has followed the same trend (i.e. curbing of the tax evasion practices and bringing out the transparency) for the AY 2019-20 as well.

Further, in addition to the to expanding the scope of disclosure, the CBDT has also broaden its the scope to uncover the under-reporting/mis-reporting of the income under the new ITR Forms. It can be also inferred that indirectly, the CBDT has envisaged to turn the ITR forms into a "Scrutiny/Audit Forms".

Given the above, our current article aims to provide a high-level insight on certain critical information which has been sought by the CBDT, in the ITR Forms, applicable for the AY 2019-20.

ITR Forms

For the AY 2019-20, following forms have been notified for ITR Filing.
(Note: There has been no modification/addition/deletion in structure of ITR Forms since the AY 2017-18)

ITR Form	Taxpayer's Category
ITR 1	Individuals being a Resident (other than Not Ordinarily Resident) having Total Income up to INR 5 million, having Income from Salaries, One House Property, Other Sources (Interest etc.), and Agricultural Income up to INR 5,000 *(Not for an Individual who is either Director in a company or has invested in Unlisted Equity Shares)*
ITR 2	Individuals and Hindu Undivided Family ("HUF") not having income from profits and gains of business or profession
ITR 3	Individuals and HUFs having income from profits and gains of business or profession
ITR 4	Individuals, HUFs and Firms (other than LLP) being a Resident having Total Income up to INR 5 million and having income from Business and Profession which is computed u/s 44AD, 44ADA or 44AE, of the Income-tax Act, 1961 ("the Act") *(Not for an Individual who is either Director in a company or has invested in Unlisted Equity Shares)*
ITR 5	For persons other than (i) Individual, (ii) HUF, (iii) company and (iv) person filing Form ITR 7
ITR 6	For Companies other than companies claiming exemption u/s 11 of the Act
ITR 7	For persons including companies required to furnish return u/s 139(4A) or 139(4B) or 139(4C) or 139(4D), of the Act

Our Analysis

A. Income from Salary

Change(s) in ITR Form(s)

Up to AY 2018-19, an Individual taxpayer, was required to report net salary income i.e. salary amount excluding all the exempt and non-exempt allowance(s), perquisite(s) and profit(s) in lieu of salary, if any. These items were reported separately in same schedule and had no impact on calculation of net salary income.

From the AY 2019-20, the Individual taxpayer is required to mention his gross salary and then is required to provide the break-up with respect to the amount of exempt allowance(s), perquisite(s) and profit(s) in lieu of salary. The same shall be deducted/added, to arrive at the taxable figure of salary income.

Further, the new ITR forms seek separate reporting of all deductions allowable under Section 16, namely:

(a) Standard deduction (b) Entertainment allowance (c) Professional tax

A. Income from Salary (Cont'd)

Our Comments

⇒ The revised reporting mechanism has been also introduced, in the revised Form 16, which is required to be issued by the employer to the employee, for the AY 2019-20.

⇒ The simultaneous amendments in ITR 1 as well as Form 16 have now left no scope for an Individual taxpayer to manipulate/ mis-report the allowance(s)/perquisite(s) figures, in order to reduce its tax liability.

⇒ In addition to the above, we also wish to highlight that there has been also a critical change in the **Schedule S of the relevant ITR Forms**. The details of TAN (Tax Deduction & Collection Account Number) of the Employer is also required to be submitted.

⇒ This shall enable the tax authorities to cross verify the figures of the Salary reported by the employer in the TDS Returns i.e. Form 24Q and the salary income reported by the employee in its ITR. Moreover the tax authorities will also be able to check whether the employer has deducted TDS from the salary of the employer wherever applicable.

B. Income from House Property

I. Reporting of rental income from 'deemed let out' property in ITR 1 & ITR 4

Change(s) in ITR Form(s)

Till AY 2018-19, an Individual taxpayer, who owned more than 1 house property, could declare other properties, as "Deemed Let Out" Property only in ITR -2 Form.

However, there was no such option to provide details of deemed let out property in the ITR Forms 1 & 4. As a result the taxpayer, was not able to declare the deemed rent on such deemed let out house property if he he had to FIle ITR 1 or ITR 4.

From the AY 2019-20, such anomaly has been removed and presently, ITR 1 & ITR 4 have following 3 options available for selecting the type of property viz:

a) Self-Occupied

b) Let out

c) Deemed let out

Our Comments

⇒ This change will plug revenue leakage as now Individual taxpayer will have to mandatorily declare the deemed rent under all the ITR's, if applicable, the option of which was available in ITR 2 only, previously.

II. Reporting of arrears/unrealized rent received during the year in ITR 1 & ITR 4

Change(s) in ITR Form(s)

The Individual taxpayer was unable to file return in ITR 1/ ITR 4 if he had received any amount in form of arrears/unrealized rent till AY 2018-19.

From AY 2019-20, the said anomaly is rectified and now an Individual taxpayer shall be able to report income from arrears/ unrealized rent in ITR 1 & ITR 4 as well.

Our Comments

⇒ This change will plug revenue leakage as now an Individual taxpayer shall have to declare the deemed rent under all the ITR's as applicable which earlier was available in ITR 2 only.

C. Income from Business & Profession

I. Name and Address of the Debtors in case of Bad Debts

Change(s) in ITR Form(s)

Till AY 2018-19, any person claiming bad debts of the amount of more than INR 1 lakh, in respect of debtor, was required to report PAN of such debtor (if available) in the relevant ITR form(s). However, no information about these debtors was required to be furnished in said ITR form(s), if PAN of the debtor, was not available.

From AY 2019-20, the name and address of the debtor shall be required to be reported even in cases where PAN of such debtors is not available.

Our Comments

⇒ This change will enable the tax authorities to cross verify the genuineness of the debtors and and ultimately prevent revenue leakage preventing taxpayer to claim false/fake bad debts.

II. Reporting of turnover and profit from speculative activities under profit & loss account

Change(s) in ITR Form(s)

Till AY 2018-19, separate disclosure on income from "Speculation Business" was not asked in Schedule P&L, particularly in case when books of Accounts were not maintained. It was a common practice to merge such income with the Normal Business Income.

In the new ITR forms, a separate schedule has been inserted in Schedule P&L for persons earning income from speculative activities.

Following information is required to be reported in that schedule:

a) Turnover from speculative activities

b) Gross profit

c) Expenditure

d) Net income from speculative activities

Our Comments

⇒ The separate disclosures have been sought for speculative income and losses, because losses from speculative businesses can be set-off, against speculative incomes only. Further the unabsorbed losses can be carried forward only for 4 years vis-à-vis 8 years in case of losses from non-speculative business.

⇒ Now the taxpayer will not be able to set off losses from speculative business(es) with the normal business loss(es) from the AY 2019-20. This shall avoid the practice of merging the speculative business loss with normal business loss and carrying it forward till 8 years.

III. Reporting of GSTIN & GST turnover

Change(s) in ITR Form(s)

In the ITR Forms applicable for the AY 2018-19, taxpayer(s) who had opted presumptive taxation scheme, had to report details related to GST i.e. GSTIN and turnover as per GST returns filed by them.

However, from AY 2019-20, this reporting has been extended for all the taxpayers who are claiming “Business & Profession Income”.

Our Comments

⇒ The above amendment shall now help the tax authorities to cross verify the discrepancies in the turnover reported to the Income-tax Authorities as well as GST authorities. This will curb any mis-reporting of turnover amount..

D. Residuary Income

Change(s) in ITR Form(s)

Up to AY 2018-19, the taxpayers were required to disclose the aggregate amount of income taxable under the head "Income from Other Sources".

However, from AY 2019-20, in addition to the income earned from other sources, it is mandatory for the taxpayer to also specify the nature of such income(s) earned. Further the deductions claimed in respect of family pension in accordance with Section 57 (iia), of the Act is also required to be reported.

Our Comments

⇒ The above additional disclosures have been introduced by the CBDT with an intent to verify the genuineness of the taxpayer and any fake income is not reported through filing ITR 1 / ITR 4.

⇒ Also, with this change, the taxpayers shall have to mandatory file ITR 3 and report all the necessary incomes, property details etc. This shall curb efforts of tax evasions, as now the taxpayers shall not be able to claim ineligible expenses u/s 57 of the Act, by filing ITR-1/ITR 4.

E. Other Relevant Changes

I. Details of agricultural land to be reported if the agricultural income exceeds INR 5 lakhs

Change(s) in ITR Form(s)

Till AY 2018-19, agriculture income was to be reported under "Schedule EI (Exempt Income)" without any details of the said agricultural land.

From AY 2019-20 additional details regarding agriculture income has to be reported if net agricultural income earned during the year exceeds INR 5 lakhs:

a) Name of district (with PIN code) where agricultural land is located

b) Measurement of agricultural land in Acre

c) Whether land is owned or held on lease

d) Whether land is irrigated or rain-fed

Our Comments

⇒ It can be inferred that the above disclosure will ensure genuineness with respect to the "Agriculture Income" earned by the taxpayer.

⇒ Further, it will also provide inputs to the government for proper allocation of budget to various welfare schemes for the agriculture sector.

II. New Schedule for claiming deduction u/s 80GGA, of the Act

Section 80GGA provides deduction of donations made towards scientific research /rural development. The deduction is allowed to all taxpayers other than those who are earning business income.

Change(s) in ITR Form(s)

Till AY 2018-19, the taxpayer was required to mention only donation amount under the relevant columns of "Schedule VI-A" of respective ITR form.

From AY 2019-20, a separate Schedule has been inserted in the ITR forms, to claim deduction under section 80GGA. The new schedule seeks detailed information of donations made for scientific or rural development.

The taxpayer claiming deduction is required to furnish following information:

a) Relevant clause under which deduction is claimed

b) Name and address of donee

c) PAN of done

d) Amount of donation made in Cash and in other mode

Our Comments

⇒ The additional disclosure shall prevent rampant tax evasion by curbing bogus/ineligible deductions claimed by the taxpayers under the said head.

E. Other Relevant Changes (Cont'd)

III. Reporting of donation made in cash to curtail deduction u/s 80G, of the Act

Section 80G allows deduction for donations made to certain notified funds, charitable institutions or other institutions/ funds set up by the Government of India. The Finance Act, 2017 had reduced the limit of cash donation from INR 10,000 to INR 2,000. Thus, with effect from AY 2018-19, no deduction is allowed for cash donation made in excess of INR 2,000.

Change(s) in ITR Form(s)

From AY 2019-20, ITR forms have incorporated new columns to specify the amount of donation made in cash and in other mode. Cash donation made in excess of INR 2,000 shall not be allowed as deduction from gross total income.

Our Comments

⇒ This change has been done to curb revenue leakage by preventing bogus/ineligible deductions claimed by the taxpayers by making donations in cash.

IV. Identification of ghost directors and shell companies

Section 80G allows deduction for donations made to certain notified funds, charitable institutions or other institutions/ funds set up by the Government of India. The Finance Act, 2017 had reduced the limit of cash donation from INR 10,000 to INR 2,000. Thus, with effect from AY 2018-19, no deduction is allowed for cash donation made in excess of INR 2,000.

Change(s) in ITR Form(s)

From AY 2019-20, if an individual was director in a company at any time during the previous year, he has to provide the following information:

a) Name of Company

b) PAN

c) Whether shares of the company are listed or unlisted?

d) DIN

Our Comments

⇒ The CBDT has made changes in ITR forms to identify the shell companies and ghost director in order to curb cash money circulation in the black market.

V. Investments in unlisted companies

Investment in unlisted shares has been a major source of tax evasion since many years. Where a company issues shares at a price which is less than its Fair Market Value ("FMV") and the difference between the FMV and issue price exceeds INR 50,000 than the difference is charged to tax in the hands of the shareholder under the head income from other sources.

Change(s) in ITR Form(s)

In order to keep check on issue of shares by a closely held companies and investment made therein by shareholders, from AY 2019-20, a new table has been inserted in new ITR forms to seek the following details in respect of unlisted equity shares held at any time during the previous year by the taxpayer:

a) Name of the company

b) PAN of the company

c) No. and cost of acquisition of shares held at the beginning of the year

d) No. of shares, face value, issue price (or purchase price) and date of purchase of shares acquired during the year

e) No. and sale consideration of shares transferred during the year

f) No. and cost of acquisition of shares held at the end of the previous year

Our Comments

⇒ With above additional disclosures, it shall be easy for the department to keep eye on transaction of investment in unlisted companies and eventually prevent any tax evasion practices.

E. Other Relevant Changes (Cont'd)

VI. Scope of foreign assets expanded

Change(s) in ITR Form(s)

The Government has expanded the scope in new ITR forms with respect to reporting of foreign asset(s) held by the taxpayer. Till the AY 2018-19, only information regarding foreign bank accounts were required to be furnished under the respective ITR forms.

From the AY 2019-20, following additional disclosures shall have to be made under "Schedule FA":

a) Details of each foreign depository account(s);

b) Details pertaining to foreign custodial accounts such name and code of the country in which such account is held, account opening date and peak balance during the year etc.;

c) Details of investments made in the foreign entity via equity and debt instruments of the said entity; and

d) Details pertaining to foreign cash value insurance contract or annuity contract held by the taxpayer such as name of the financial institution, cash value of the contract and gross amount paid with respect to the contract during the period, etc.

Our Comments

⇒ Now the resident taxpayers, will have to disclose their global assets as well in the ITR. Accordingly, it can be inferred that the expansion in scope of Schedule FA shall help government to keep track of global assets of the resident taxpayer, which shall eventually curb practice of non-disclosing of the foreign assets.

VII. Reporting of registration number and other information by start-ups

Section 80-IAC was inserted, with effect from AY 2017-18, to provide a deduction of up to 100% of profits and gains derived by an eligible start-up. Deduction under the said section, is allowed to the eligible start-up, if it has been approved by the Department for Promotion of Industry and Internal Trade (DPIIT).

Change(s) in ITR Form(s)

Till the AY 2018-19, no information about the registration with the DPIIT was required to be mentioned in the previous year's ITR forms.

From AY the 2019-20, start ups shall be now required to report following information in the new ITR forms:

a) Registration no. allotted by the DPIIT b) Certificate Number of the certificate received from Inter Ministerial Board

c) Date of filing of form 2 with the DPIIT

Our Comments

⇒ In order to track eligibility of a start-up and to prevent ineligible startups to take undue advantage of deductions unde80-IAC, the above details have been sought by the CBDT

VIII. Residential Status

Change(s) in ITR Form(s)

From AY 2019-20, besides specifying the residential status as resident, resident but not ordinarily resident or non-resident, the taxpayer shall be required to provide additional information with respect to his residential status, such as:

(a) No. of days of stay in India (b) Jurisdiction of his residence (c) Tax identification number in case he is a non-resident

Our Comments

⇒ Such additional details of non-residents shall prevent allow government to verify genuineness of the declaration of residency of the person which generally have substantial impact on taxability of income of the taxpayer.

Compiled by:

CA Abhishek Y. Bhavsar | CA Parth D. Shah

For any queries or additional information with respect to this article, please reach out to us on "AbhishekBhavsarCA@gmail.com"