

TAXATION OF COMMISSION INCOME OF INSURANCE AGENTS

A lot of confusion arises when it comes to the income tax filing of insurance agents. An insurance agent, although having aggregate turnover below the audit limits, cannot file his Income Tax Return u/s 44AD, i.e., ITR-4. How does he file his ITR then!

Well, the above contention holds good due the proviso quoted u/s 44AD. U/s 44AD, the following **persons cannot** avail the benefits extended under the Presumptive Taxation Scheme:

- Earning income in the nature of commission or brokerage.
- Carrying on agency business.
- Carrying on business of plying, hiring, or leasing goods carriages.
- Carrying on profession as referred to in section 44AA(1)

Therefore, an insurance agent is required to file ITR-3 even though the assessee is a small taxpayer.

The CBDT, here comes to the rescue of such taxpayers and extends certain benefits to these insurance agents in the form the ad-hoc deduction.

The benefit of ad-hoc deduction is available to the agents who do not maintain details of accounts for expenses incurred by them and have gross aggregate commission of less than Rs. 60,000.00/- during the previous year.

Ad-hoc Deduction is available or allowable as follows:

A). In case of life insurance agents

➤ where separate figures of first year and renewal commission are **available**

- First year's Commission – 50% of such commission,
- Renewal commission – 15%, respectively.

➤ however, where separate figures for first year and renewal commission are **not available**

- In case of first and renewal commission – 33.33% of the gross commission shall be allowable.

In both the above cases, the ad hoc deduction shall be subject to a ceiling limit of Rs. 20,000.00/-

The complete amount of **bonus commission** is **taxable**.

B). Agent of UTI Commission, Specified securities and notified mutual fund- 50 per cent

Where life insurance commission earned is in excess of Rs. 60,000.00/-, the ad hoc deduction shall not be available and income may be in the nature of “Income from Business / Profession” or “Income from Other Sources”, as the case may be.

Nature of Insurance Commission

The head of income under which the insurance commission earnings fall is based on the nature of such earnings. “Commission income falls under the residuary head of income i.e. Income from Other Sources (IFOS). However, if a person is engaged in the commission business, then the income from commission business shall be offered to tax under the head “Income from business and profession” and not under IFOS”.

ITR Form for Insurance Agents

Insurance commission may be earned on an individual basis or by forming a company that deals with the business of selling life insurance policies. Thus,

- If a person is engaged in the commission business, ITR-3 is to be filed.
- In the case of a company engaged in the commission business, ITR-6 is required to be filed.

If a person is earns commission income, incidental in nature, and is not engaged in the commission agency business, such income shall be offered under the head “Income from other sources”. If the individual has income from any other source such as business or salary or interest income, these too have to be accounted for.

Here, the selection of the right ITR Form becomes important, else the return of income may become defective. In such case, if an individual is earning income only from commission and his total income does not exceed Rs 50 Lakh, he can use ITR-1 to file his return. But, if his total income exceeds Rs.50 Lakhs then he will be required to use ITR-2 provided he does not have any income from business and profession.

Maintenance of Books of Accounts

Agency business that has earnings in the form of commissions is not subject to Presumptive Taxation Scheme and hence the life insurance agent cannot take its advantage. Presumptive Taxation Scheme has been introduced under the Income Tax Act, 1961 wherein assesses can offer income to tax at a prescribed rate of the gross turnover. Additionally, assesses offering income under this scheme are not required to maintain books of account. Therefore, since agency businesses are excluded from this scheme, insurance agents cannot offer their income to tax under the Presumptive Taxation Scheme and accordingly, are required to maintain the books of accounts.