

Provisions for Filing Return of Income

Question 1

Paras is resident of India. During the F.Y. 2012-13, interest of ₹ 1,88,000 was credited to his Non-resident (External) Account with SBI. ₹ 30,000, being interest on fixed deposit with SBI, was credited to his saving bank account during this period. He also earned ₹ 3,000 as interest on this saving account. Is Paras required to file return of income?

What will be your answer, if he owns one shop in Kerala having area of 150 sq. ft.?

Answer

An individual is required to furnish a return of income under section 139(1) if his total income, before giving effect to the deductions under Chapter VI-A, exceeds the maximum amount not chargeable to tax i.e., ₹ 2,00,000 (for A.Y. 2013-14).

Computation of total income of Mr. Paras for A.Y. 2013-14

Particulars	₹
Income from other sources	
Interest earned from Non-resident (External) Account ₹ 1,88,000 [Exempt under section 10(4)(ii), assuming that Mr. Paras has been permitted by RBI to maintain the aforesaid account]	NIL
Interest on fixed deposit with SBI	30,000
Interest on savings bank account	3,000
Gross Total Income	33,000
Less: Deduction under section 80TTA (Interest on saving bank account)	3,000
Total Income	30,000

Since the total income of Mr. Paras for A.Y.2013-14, before giving effect to the deductions under Chapter VI-A, is less than the basic exemption limit of ₹ 2,00,000, he is not required to file return of income for A.Y.2013-14.

Owning a shop having area of 150 sq.ft in Kerala would not make any difference to the answer.

Note:

In the above solution, interest of ₹ 1,88,000 earned from Non-resident (External) account has been taken as exempt on the assumption that Mr. Paras, a resident, has been permitted by

10.2 Income-tax

RBI to maintain the aforesaid account. However, in case he has not been so permitted, the said interest would be taxable. In such a case, his total income, before giving effect to the deductions under Chapter VIA, would be ₹ 2,18,000 (₹ 30,000 + ₹ 1,88,000), which is higher than the basic exemption limit of ₹ 2,00,000. Consequently, he would be required to file return of income for A.Y.2013-14. Here again, ownership of shop in Kerala is immaterial.

Question 2

State with reasons whether you agree or disagree with the following statements:

- (a) *Return of income of Limited Liability Partnership (LLP) could be signed by any partner.*
- (b) *Time limit for filing return under section 139(1) in the case of Mr. A having total turnover of ₹ 60 lakhs for the year ended 31.03.2013, whether or not opting to offer presumptive income under section 44AD is 30th September 2013.*

Answer

(a) Disagree

The return of income of LLP should be signed by a designated partner.

Any other partner can sign the Return of Income of LLP **only** in the following cases:-

- (i) where for any unavoidable reason such designated partner is not able to sign and verify the return, or,
- (ii) where there is no designated partner.

(b) Disagree

In case Mr. A opts to offer his income as per the presumptive taxation provisions of section 44AD, then, the due date under section 139(1) for filing of return of income for the year ended 31.03.2013 shall be 31st July, 2013.

It is only in case Mr. A does not opt for presumptive taxation provisions under section 44AD and offers income to be lower than 8% of total turnover and his total income exceeds the basic exemption limit, he has to keep books of account as per section 44AA and get his accounts audited under section 44AB, in which case the due date for filing return would be 30th September, 2013.

Question 3

Specify the persons who are authorized to sign and verify under section 140, the return of income filed under section 139 of the Income-tax Act, 1961 in the case of:

- (i) *Political party;*
- (ii) *Local authority;*
- (iii) *Association of persons, and*
- (iv) *Limited Liability Partnership (LLP).*

Answer

The following persons (mentioned in Column III below) are authorised as per section 140, to sign and verify the return of income filed under section 139.

I	II	III
(i)	Political party	Chief Executive Officer of such party (whether known as secretary or by any other designation).
(ii)	Local authority	Principal Officer thereof.
(iii)	Association of Persons	Any member of the association or the principal officer thereof.
(iv)	LLP	Designated partner, or Any partner, - where the designated partner is not able to sign and verify the return for any unavoidable reason; - where there is no designated partner.

Question 4

State whether filing of income-tax return is mandatory for the assessment year 2013-14 in respect of the following cases:

- (i) Research association eligible for exemption under section 10(21) having total income of ₹2,10,000
- (ii) Registered trade union eligible for exemption under section 10(24) having following incomes:
Income from house property (computed) ₹60,000
Income from other sources (computed) ₹40,000
- (iii) A charitable trust registered under section 12AA, having total income of ₹2,10,000.
- (iv) A Limited Liability Partnership (LLP) with business loss of ₹1,30,000.

Answer

- (i) As per section 139(4C), a research association referred to in section 10(21) must file its return of income within the due date under section 139(1) if its total income, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax.

Since the total income of the research association exceeds the basic exemption limit of ₹ 2,00,000, it has to file its return of income for the A.Y.2013-14.

10.4 Income-tax

- (ii) As per section 139(4C), a registered trade union referred to in section 10(24) must file its return of income if the total income exceeds the basic exemption limit without giving effect to the provisions of section 10.

Since the total income of the trade union is less than the basic exemption limit of ₹ 2,00,000, it need not file its return of income for the A.Y. 2013-14.

- (iii) As per section 139(4A), a charitable trust registered under section 12AA must file its return of income, if its total income computed as per the provisions of the Income-tax Act, 1961, without giving effect to the provisions of sections 11 and 12, exceeds the maximum amount which is not chargeable to income-tax. Since the total income of the charitable trust exceeds ₹ 2,00,000, it has to file its return of income for the A.Y. 2013-14.
- (iv) As per third proviso to section 139(1), every company or firm shall furnish on or before the due date the return in respect of its income or loss in every previous year. Since LLP is included in the definition of firm under the Income-tax Act, 1961, it has to file its return mandatorily, even though it has incurred a loss.

Question 5

State with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

- (i) *The Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.*
- (ii) *Where the Karta of a HUF is absent from India, the return of income can be signed by any male member of the family.*

Answer

- (i) **True** : Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.
- (ii) **False** : Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be signed by any other adult member of the family; such member can be a male or female member.

Question 6

The total income of a university without giving effect to exemption under section 10(23C) is ₹ 46 lacs. Its total income, however, is nil. Should the University file its return of income?

Answer

Section 139(4C) enjoins that, a university referred to in section 10(23C), should file the return of income if its total income without giving effect to the exemption under section 10, exceeds

the basic exemption limit. The provisions of the Act will apply as if it were a return required to be furnished under section 139(1). In the given case, since the total income of the University before giving effect to the exemption exceeds the basic exemption limit, it has to file its return of income.

Question 7

Comment on the allowability of the following claims made by the assessee:

Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for the Financial year ended on 31st March, 2013 audited under section 44AB. Her total income for the assessment year 2013-14 is ₹2,35,000. She wants to furnish her return of income for assessment year 2013-14 through a tax return preparer

Answer

Section 139B provides a scheme for submission of return of income for any assessment year through a tax return preparer. However, it is not applicable to persons whose books of account are required to be audited under section 44AB. Therefore, Mrs. Hetal cannot furnish her return of income for A.Y.2013-14 through a tax return preparer.

Question 8

Can an individual, who is not in India, sign the return of income from outside India? Is there any other option?

Answer

As per section 140, return of income can be signed by an individual even if he is absent from India. Hence, an individual can himself sign the return of income from a place outside India. Alternatively, any person holding a valid power of attorney and duly authorised by the individual can also sign the return of income. However, such power of attorney should be attached along with the return of income.

Question 9

Explain with brief reasons whether the return of income can be revised under section 139(5) of the Income-tax Act, 1961 in the following cases:

- (i) Belated return filed under section 139(4).*
- (ii) Return already revised once under section 139(5).*
- (iii) Return of loss filed under section 139(3).*

Answer

Any person who has furnished a return under section 139(1) or in pursuance of a notice issued under section 142(1) can file a revised return if he discovers any omission or any wrong statement in the return filed earlier. Accordingly,

10.6 Income-tax

- (i) A belated return filed under section 139(4) cannot be revised. Only a return furnished under section 139(1) or in pursuance of a notice issued under section 142(1) can be revised.
- (ii) A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. within one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier.
- (iii) A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).

Question 10

Choose the correct answer with reference to the provisions of Income-tax Act, 1961:

The due date for filing of a return of income for a company for Assessment year 2013-14 is :

- (a) 31st July, 2013
- (b) 30th September, 2013
- (c) 31st October, 2013
- (d) 31st August, 2013

Answer

- (b) 30th September, 2013

EXERCISES

1. Akash, who is 32 years old, has to file a return of income if his total income is in excess of -
 - a) ₹ 1,50,000
 - b) ₹ 2,00,000
 - c) ₹ 1,60,000
2. Entities getting exemption in respect of various items of income mentioned in clauses of section 10 need not file return of income. This statement is -
 - a) correct
 - b) incorrect
 - c) partly correct
3. For filing returns of income in respect of various entities, the Income-tax Act, 1961 has prescribed -
 - a) Two due dates
 - b) Three due dates

- c) *Four due dates*
- 4. *Political parties -*
 - a) *need not file their return of income*
 - b) *should always file their return of income*
 - c) *should file their return of income if the total income computed without giving effect to the provisions of section 13A exceeds the basic exemption limit.*
- 5. *The return of a company has to be signed by -*
 - a) *the Managing Director or Director*
 - b) *the General Manager*
 - c) *The Secretary*
- 6. *An assessee can file a revised return of income at any time before the completion of assessment or before expiry of the following period, whichever is earlier -*
 - a) *one year from the end of the relevant assessment year*
 - b) *two years from the end of the relevant assessment year*
 - c) *six months from the end of the relevant assessment year*
- 7. *As per section 139(1), filing of returns is compulsory for -*
 - a) *companies only*
 - b) *firms only*
 - c) *both companies and firms*
- 8. *Write short notes on the following -*
 - a) *Belated return*
 - b) *Revised return*
- 9. *Filing of return of income on or before due date is necessary for carry forward of losses - Discuss the correctness of this statement.*
- 10. *Who are the persons authorised to sign the return of income in the case of -*
 - a) *Hindu Undivided Family*
 - b) *Company*
 - c) *Partnership firm*
- 11. *List ten transactions for which quoting of permanent account number is mandatory.*
- 12. *Mr. Bhuvan, an individual, has got his books of account for the year ending 31.3.2013 audited under section 44AB. His total income for the A.Y. 2013-14 is ₹ 2,50,000. He desires to know if he can furnish his return of income for the A.Y. 2013-14 through a Tax Return Preparer.*

10.8 Income-tax

13. *Discuss briefly about the scheme to facilitate submission of return of income through Tax Return Preparers.*
14. *Enumerate eight transactions for which quoting of Permanent Account Number is mandatory.*
15. *Briefly discuss about the interest chargeable under section 234A for delay or default in furnishing return of income.*

Answers

1. b; 2. c; 3. b; 4. c; 5. a; 6. a; 7. c.