

TAX FLASH NEWS

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CBDT notifies income tax return forms for the Assessment Year 2020-21

Recently, the Central Board of Direct Taxes (CBDT) has issued a notification¹ amending Income Tax Return (ITR) forms for Assessment Year (AY) 2020-21. The Notification also amended Rule 12 of the Income-tax Rules, 1962 (the Rules). Key amendments in ITRs are specified as under (ITR specification are given in the annexure):

ITR	Amendment
ITR 6 ²	<ul style="list-style-type: none"> • The new form requires the company to select whether it is opting for any of the concessional tax regimes (22 or 15 per cent) introduced by the Taxation Laws (Amendment) Act 2019 for specified domestic companies subject to certain conditions. • In the case of companies covered by presumptive taxation regime and do not maintain books of account, reporting is required certain specified items of assets and liabilities. Considering that Ind-AS companies are generally required to maintain books of account, requirement of reporting only specified items of balance sheet and profit and loss account³ has been deleted. • For dividend received by an Indian company from specified foreign company i.e. a company in which the Indian company holds 26 per cent or more of equity, chargeable to tax at 15 per cent plus surcharge and cess as applicable, a new line of item is added in the form, as a part of disclosure of income chargeable to tax at special rates. • A company is now required to report its share in land or building in case of co-ownership in addition to reporting of any capital gain or loss arising from the sale of land or building, or both. • In pursuance of amendment in the Income-tax Act, 1961 (the Act) to enable 'any other person, as may be prescribed by the Board', to verify the return of income of a company, the new ITR requires details of such person verifying the tax return in the schedule of 'Key Persons', such as name, designation, address, PAN/Aadhaar Number and director identification number, if he/she is a director.

¹ Notification No. 31/2020, dated 29 May 2020

² For Companies other than companies claiming exemption under Section 11

³ Under Schedule Part A-BS– Ind AS and Schedule Part A-P&L Ind-AS

ITR 1 ⁴ , 2 ⁵ , 3 ⁶ , 4 ⁷ , 5 ⁸ , 6	In pursuance to amendment made by the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance 2020, a separate schedule is introduced to furnish details of investments/deposits/payments made on or after 1 April 2020 to 30 June 2020 with respect to the deductions to be claimed under Chapter VI-A and with respect to amount utilised from the Capital Gains Account Scheme which are to be claimed as deduction for financial year 2019-20.
ITR 3, 5 and 6	<p>In pursuance of enhanced threshold for tax audit i.e. INR50 million subject to certain conditions, the new ITR forms require following three new disclosure:</p> <ul style="list-style-type: none"> • Whether total sales/turnover/gross receipts of business exceed INR10 million but does not exceed INR50 million • Whether aggregate of all amounts received, including from sales/turnover/gross receipts or on capital account such as capital contribution, loans, etc., in cash, does not exceed 5 per cent of the said amount • Whether aggregate of all payments made, including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans, etc., in cash, does not exceed 5 per cent of said amount. <p>The new forms require clarification with regard to provisions of secondary adjustment and option to make one-time payment. It requires details of whether taxpayer is exercising option under Section 92CE(2A). If yes, details of amount of primary adjustment, computation of tax including surcharge and cess and details of payment of such taxes are required to be reported.</p> <p>While computing the amount debited to profit and loss account of the previous year (disallowable under Section 43), the forms require details for any sum payable by the taxpayer as interest on any loan or borrowing from a deposit taking Non-Banking Financial Company (NBFC) or systemically important non-deposit taking NBFC, in accordance with the terms and conditions of the agreement governing such loan or borrowing.</p> <p>The form seeks information regarding depreciation on asset block entitled for depreciation at 45 per cent. Similarly, the Form seeks information regarding deemed capital gains on sale of depreciable asset entitled for depreciation at 45 per cent.</p>
ITR 3, 6	While computing amounts debited to the profit and loss account, to the extent disallowable under Section 40, the new Forms require details of amount of interest, salary, bonus, commission or remuneration paid to any partner or member inadmissible under Section 40(ba) along with Section 40(b).
ITR 5, 6	<p>A separate line item is included for purpose of computation of income from life insurance business requiring details of net profit/loss from life insurance business and additions/deductions made. Similar changes have also been made in other schedules, such as separate disclosure of losses to be carried forward from life insurance business.</p> <p>There was no separate reporting of the income from units of mutual fund purchased in foreign currency by an offshore fund, which is taxable at special rate of 10 per cent. Now, the ITR forms require a separate reporting of such income in Schedule relating to income from other sources.</p>
ITR 1 Sahaj and ITR 4 Sugam	The additional disclosure requirements with respect to house property, employer and passport notified ⁹ for reporting under Form ITR 1 Sahaj and ITR 4 Sugam are omitted.
ITR 4 Sugam	Certain disclosure requirements with respect to partners, partnership firm, details of financial information, etc. notified ¹⁰ for reporting under ITR 4 Sugam are omitted.

⁴ ITR 1 – Sahaj - For individuals being a resident (other than not ordinarily resident) having total income upto INR5 million, having Income from Salaries, one house property, other sources (Interest etc.), and agricultural income upto INR5 thousand (Not for an individual who is either Director in a company or has invested in unlisted equity shares)

⁵ For Individuals and HUFs not having income from profits and gains of business or profession

⁶ For individuals and HUFs having income from profits and gains of business or profession

⁷ ITR 4 – Sugam - for Individuals, HUFs and Firms (other than LLP) being a resident having total income upto INR5 million and having income from business and profession which is computed under Sections 44AD, 44ADA or 44AE (Not for an individual who is either Director in a company or has invested in unlisted equity shares)

⁸ For persons other than- (i) individual, (ii) HUF, (iii) company and (iv) person filing Form ITR-7

⁹ Notification No. 1/2020, dated 3 January 2020

¹⁰ Notification No. 1/2020, dated 3 January 2020

ITR 1, 2, 3	The new forms require details of high spending individuals. The Forms require details of the aggregate amount of bank deposit or expenditure incurred on foreign travel or electricity depending on such condition, as the case may be. The details to be filled only if a person is not required to furnish a return of income but filing return of income due to fulfilling one or more conditions.
ITR 2, 3, 5 and 6	The new ITR forms require asset-wise detailed disclosure of long term capital gains from sale of equity share in a company or unit of an equity-oriented fund/business trust on which STT is paid. Further, the existing requirement of details such as full value of consideration, cost of acquisition, fair market value of the asset, expenditure wholly and exclusively incurred in connect with transfer, etc. are now also to be reported asset-wise. A separate schedule is introduced for taxpayers being non-resident for reporting the aforesaid details.
ITR 2 and ITR 3	If a taxpayer is a director in a company at any time during the previous year, the new Forms now require details of the 'Type of Company' wherein a dropdown list is provided to identify types of company.
ITR 2, 3, 5 and 7 ¹¹	If the taxpayer has held unlisted equity shares at any time during the previous year, the new forms now seek details of the 'Type of Company'.
ITR 2, 3, 5, 6 and 7	Reference to pass through of 'losses' alongside pass through of income have been added In addition to details of pass through income from business trust/investment fund, additional details such as share of current year loss distributed by investment fund, etc. are required. A separate bifurcation with respect to house property loss, short term capital loss and long-term capital loss, into normal losses and losses made available due to pass through from investment fund is required.
ITR 2, 3, 5 and 6	With respect to long term capital gains earned by taxpayers by virtue of pass through taxation, bifurcation is required to be provided between the gains taxable under Section 112A at 10 per cent, other than Section 112A at 10 per cent and taxable at 20 per cent for other.
ITR 7	While providing details of registration, the taxpayer is required to specify whether application for registration is made as per new provisions, provision under which registration is applied, date on which the application for registration as per new provisions is made, etc.
ITR 1 to 7	CBDT Circular ¹² provides that no communication shall be issued by tax department relating to assessment, appeals, orders, etc. on or after 1 October 2019, unless electronically generated DIN is allotted and duly quoted on such communication. ITR forms require disclosure of such DIN if tax return is furnished pursuant to any notice issued by the Tax Authority. In pursuance of amendment in the Act, new ITR forms now provide an option to the taxpayer to furnish Aadhaar number wherever there is requirement to quote PAN.

Our comments

The new ITR forms have been modified in line with the recent amendments made in the Act. In view of Covid-19 outbreak, various due dates under the Act have been extended and therefore a separate schedule is provided to declare investments/deposits/payments made between 1 April 2020 till 1 June 2020, to avail the tax benefits.

The corporate taxpayers are required to choose option of concessional tax regime of 22 per cent or 15 per cent under the new form. Thus, the taxpayers should analyse beneficial option between concessional tax regime and existing taxability under the Act before filing the return of income.

The present CBDT Notification is effective from 29 May 2020. However, ITR 1- Sahaj and ITR 4 - Sugam were notified earlier in January 2020, with effect from 1 April 2020. It would be apt if CBDT issues clarification with respect ITR 1 and 4 where the taxpayers have already filed their tax returns.

¹¹ Applicable to specified taxpayers such as charitable trust, political parties, etc.

¹² CBDT Circular No. 19 of 2019, dated 14 August 2019

Annexure

ITR 1 - Sahaj	For individuals being a resident (other than not ordinarily resident) having total income upto INR5 million, having Income from Salaries, one house property, other sources (Interest etc.), and agricultural income upto INR5 thousand (Not for an individual who is either Director in a company or has invested in unlisted equity shares)
ITR 2	For Individuals and HUFs not having income from profits and gains of business or profession
ITR 3	For individuals and HUFs having income from profits and gains of business or profession
ITR 4 - Sugam	For Individuals, HUFs and Firms (other than LLP) being a resident having total income upto INR5 million and having income from business and profession which is computed under Sections 44AD, 44ADA or 44AE (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 under Section 11
ITR 7	For persons including companies required to furnish return under Sections 139(4A) or 139(4B) or 139(4C) or 139(4D) only [Applicable to specified taxpayers such as charitable trust, political parties, etc.]

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