

# PROVISIONS FOR FILING RETURN OF INCOME AND SELF ASSESSMENT



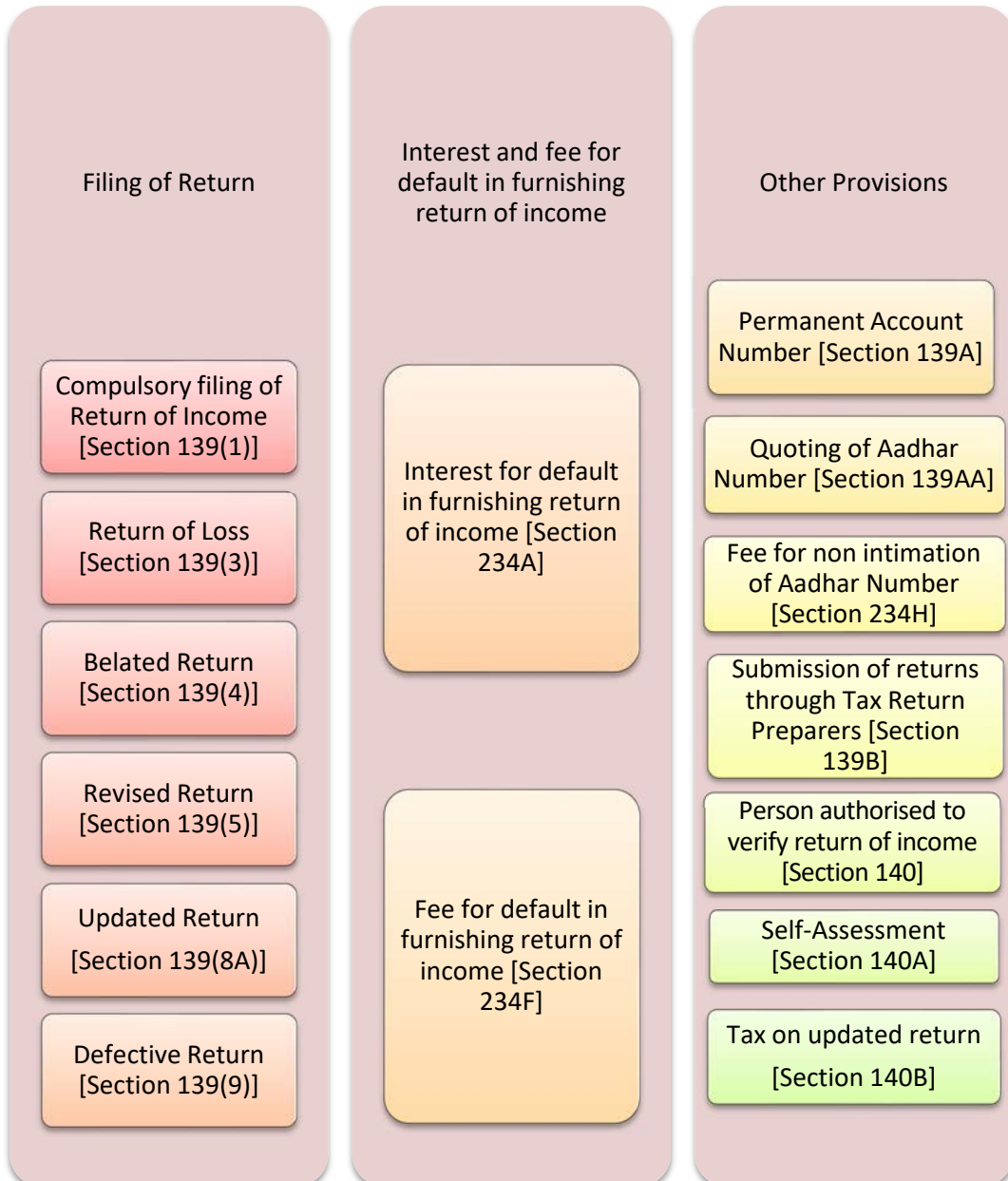
## LEARNING OUTCOMES

After studying this chapter, you would be able to–

- comprehend** as to what is a “return of income”;
- identify** the persons who have to compulsorily file a return of income;
- identify** and recall the due date for filing return of income for different assesseees;
- know** the consequences of late filing of return;
- compute** the interest payable for delayed filing of return of income;
- compute** the fee payable for delayed filing of return of income;
- appreciate** when a return of income can be revised and the time limit within which a return has to be revised;
- appreciate** when an updated return of income can be filed;
- know** who are the persons required to apply for permanent account number;
- identify** the transactions in respect of which quoting of PAN is mandatory;

- ❑ **appreciate** who are the specified classes of persons who can file return through Tax Return Preparer;
- ❑ **know** who are the persons authorised to verify the return of income in the case of different assesseees in various circumstances;
- ❑ **appreciate** the requirement to pay self-assessment tax before filing return of income;
- ❑ **appreciate** the order of adjustment of amount paid by the assessee against self-assessment tax, fee and interest.

**CHAPTER OVERVIEW**



## 1. RETURN OF INCOME

The Income-tax Act, 1961 contains provisions for filing of return of income. Return of income is the format in which the assessee furnishes information as to his total income and tax payable. The format for filing of returns by different assessees is notified by the CBDT. The particulars of income earned under different heads, gross total income, deductions from gross total income, total income and tax payable by the assessee are generally required to be furnished in a return of income. In short, a return of income is the declaration of income and the resultant tax by the assessee in the prescribed format.

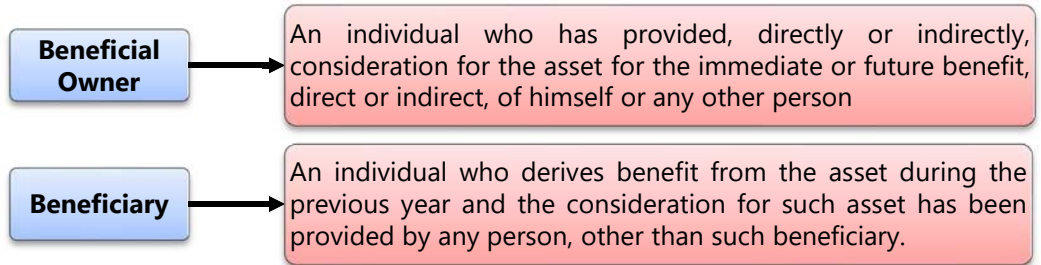
## 2. COMPULSORY FILING OF RETURN OF INCOME [SECTION 139(1)]

- (1) As per section 139(1), it is compulsory for companies and firms to file a return of income or loss for every previous year on or before the due date in the prescribed form.
- (2) In case of a person other than a company or a firm, filing of return of income on or before the due date is mandatory, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeds the basic exemption limit.
- (3) Every person, being a resident other than not ordinarily resident in India within the meaning of section 6(6), who is not required to furnish a return under section 139(1), would be required to file a return of income or loss for the previous year in the prescribed form and verified in the prescribed manner on or before the due date, if such person, at any time during the previous year, -
  - (a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has a signing authority in any account located outside India; or
  - (b) is a beneficiary of any asset (including any financial interest in any entity) located outside India.

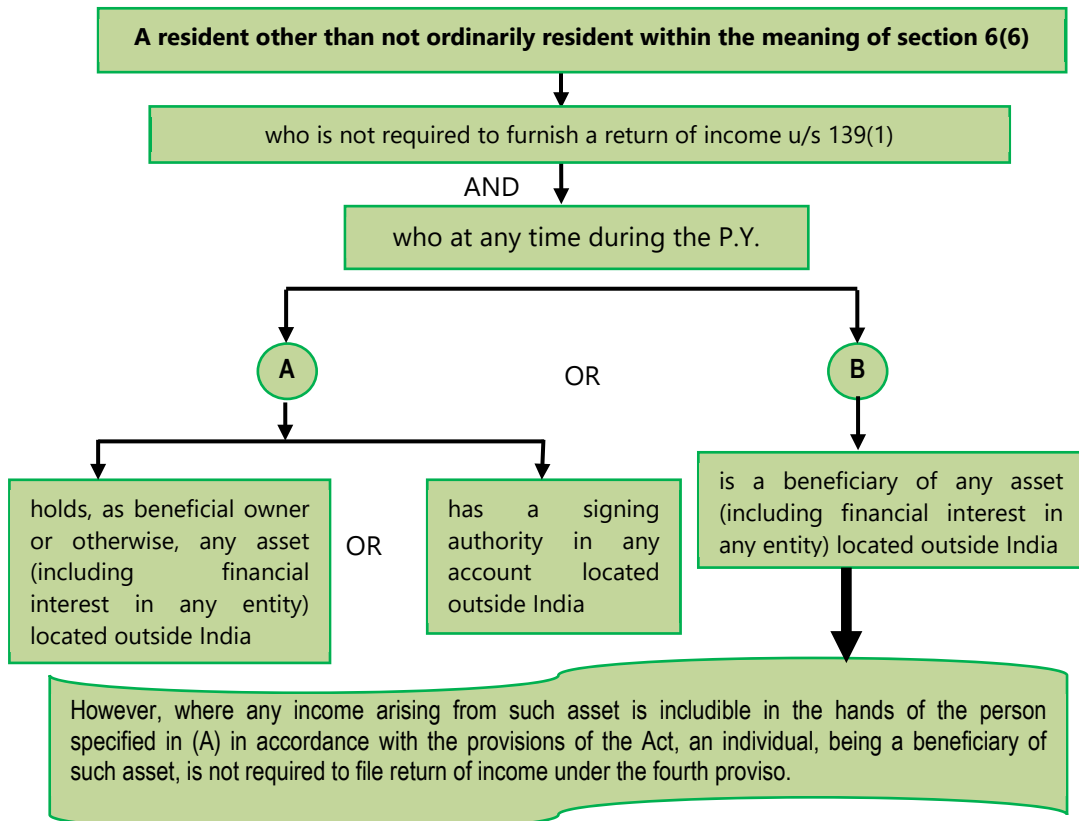
However, an individual being a beneficiary of any asset (including any financial interest in any entity) located outside India would not be required to file return of income under this clause, where, income, if any, arising from such asset is includible in the income of the person

referred to in (a) above in accordance with the provisions of the Income-tax Act, 1961.

**Meaning of “beneficial owner” and “beneficiary” in respect of an asset for the purpose of section 139:**



**Requirement of filing of return of income as per the fourth and fifth proviso to section 139(1)**



- (4) Further, every person, being an individual or a HUF or an AOP/BOI, whether incorporated or not, or an artificial juridical person -
- whose total income or the total income of any other person in respect of which he is assessable under this Act during the previous year
  - without giving effect to the provisions of Chapter VI-A or section 54/54B/54D/54EC/54F<sup>1</sup>
  - exceeded the basic exemption limit

is required to file a return of his income or income of such other person on or before the due date in the prescribed form and manner and setting forth the prescribed particulars.

The basic exemption limit is ₹ 2,50,000 for individuals/HUF/AOPs/BOIs and artificial juridical persons, ₹ 3,00,000 for resident individuals of the age of 60 years but less than 80 years and ₹ 5,00,000 for resident individuals of the age of 80 years or more at any time during the previous year. These amounts denote the level of total income, which is arrived at after claiming the admissible deductions under Chapter VI-A and exemption under section 54/54B/54D/54EC or 54F in respect of capital gain. However, the level of total income to be considered for the purpose of filing return of income is the income before claiming the admissible deductions under Chapter VI-A and exemption under section 54/54B/54D/54EC or 54F.

- (5) Any person other than a company or a firm, who is not required to furnish a return under section 139(1), is required to file income-tax return in the prescribed form and manner on or before the due date if, during the previous year, such person -
- (a) has deposited an amount or aggregate of the amounts exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or
  - (b) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or
  - (c) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 1 lakh towards consumption of electricity; or
  - (d) fulfils such other prescribed conditions.

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<sup>1</sup>or 54G or 54GA or 54GB. (These sections will be dealt with in detail at the Final level)

**Accordingly, the CBDT has, vide notification no. 37/2022 dated 21.4.2022, inserted Rule 12AA to provide that a person, other than a company or a firm, who is not required to furnish a return under section 139(1), and who fulfils any of the following conditions during the previous year has to file their return of income on or before the due date in the prescribed form and manner -**

- (i) if his total sales, turnover or gross receipts, as the case may be, in the business > ₹ 60 lakhs during the previous year; or**
- (ii) if his total gross receipts in profession > ₹ 10 lakhs during the previous year; or**
- (iii) if the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹ 25,000 or more; or**

**However, a resident individual who is of the age of 60 years or more, at any time during the relevant previous year would be required to file return of income only, if the aggregate of TDS and TCS during the previous year, in his case, is ₹ 50,000 or more**

- (iv) the deposit in one or more savings bank account of the person, in aggregate, is ₹ 50 lakhs or more during the previous year.**
- (6) All such persons mentioned in (1) to (5) above should, on or before the due date, furnish a return of his income or the income of such other person during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

#### **Meaning of due date:**

'Due date' means -

- (i) **31<sup>st</sup> October** of the assessment year, where the assessee, other than an assessee referred to in (ii) below, is -
  - (a) a company,
  - (b) a person (other than a company) whose accounts are required to be audited under the Income-tax Act, 1961 or any other law for the time being in force; or

- (c) a partner of a firm whose accounts are required to be audited under the Income-tax Act, 1961 or any other law for the time being in force<sup>2</sup>.
- (ii) **30<sup>th</sup> November** of the assessment year, in the case of an assessee including the partners of the firm<sup>2</sup> being *such assessee* who is required to furnish a report referred to in section 92E.
- (iii) **31<sup>st</sup> July** of the assessment year, in the case of any other assessee.

**Note** – Section 92E is not covered within the scope of syllabus of Intermediate Paper 4A: Income-tax Law. Section 139(1) provides a different due date, i.e., 30<sup>th</sup> November of the assessment year, for assessee who have to file a transfer pricing report under section 92E (i.e. assessee who have undertaken international transactions). Therefore, reference has been made to this section, i.e. section 92E, for explaining this provision in section 139(1).

### ILLUSTRATION 1

Paras aged 55 years is a resident of India. During the F.Y. 2022-23, interest of ₹ 2,88,000 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 has incurred ₹ 3 lakhs as travel expenditure of self and spouse to US to stay with his married daughter for some time?

### SOLUTION

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 or exemption under section or section 54/54B/54D/54EC or 54F, exceeds the maximum amount not chargeable to tax i.e. ₹ 2,50,000 (for A.Y. 2023-24).

#### Computation of total income of Mr. Paras for A.Y. 2023-24

Particulars	₹
<b>Income from other sources</b>	
Interest earned from Non-resident (External) Account ₹ 2,88,000 [Exempt under section 10(4)(ii), assuming that Mr. Paras has been permitted by RBI to maintain the aforesaid account]	NIL

<sup>2</sup> or the spouse of such partner if the provisions of section 5A applies to such spouse



Interest on fixed deposit with SBI	30,000
Interest on savings bank account	3,000
<b>Gross Total Income</b>	<b>33,000</b>
Less: Deduction u/s 80TTA (Interest on saving bank account)	3,000
<b>Total Income</b>	<b>30,000</b>

Since the total income of Mr. Paras for A.Y.2023-24, before giving effect, *inter alia*, to the deductions under Chapter VI-A, is less than the basic exemption limit of ₹ 2,50,000, he is not required to file return of income for A.Y.2023-24.

**Note:** In the above solution, interest of ₹ 2,88,000 earned from Non-resident (External) account has been taken as exempt on the assumption that Mr. Paras, a resident, has been permitted by 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, *inter alia*, to the deductions under Chapter VI-A, would be ₹ 3,21,000 (₹ 30,000 + ₹ 2,88,000 + ₹ 3,000), which is higher than the basic exemption limit of ₹ 2,50,000. Consequently, he would be required to file return of income for A.Y.2023-24.

If he has incurred expenditure of ₹ 3 lakhs on foreign travel of self and spouse, he has to mandatorily file his return of income on or before the due date under section 139(1), even if his income is less than the basic exemption limit.

### 3. INTEREST FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234A]

- (1) Interest under section 234A is attracted for failure to file a return of income on or before the due date under section 139(1) i.e., interest is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.
- (2) Simple interest @1% per month or part of the month is payable for the period commencing from the date immediately following the due date and ending on the following dates -

Circumstances	Ending on the following dates
Where the return is furnished after due date	the date of furnishing of the return
Where no return is furnished	the date of completion of assessment

- (3) The interest has to be calculated on the amount of tax on total income as determined under section 143(1) and where a regular assessment is made, on the amount of the tax on the total income determined under regular assessment, as reduced by the advance tax paid and any tax deducted or collected at source, any relief of tax allowed under section 89 and any tax credit allowed to be set-off in accordance with section 115JD.
- (4) No interest under section 234A shall be charged on self-assessment tax paid by the assessee on or before the due date of filing of return.
- (5) The interest payable under section 234A shall be reduced by the interest, if any, paid on self-assessment under section 140A towards interest chargeable under section 234A.
- (6) Tax on total income as determined under section 143(1) would not include the additional income-tax, if any, payable under section 140B or section 143.**
- (7) Tax on total income determined under regular assessment would not include the additional income-tax payable under section 140B.**

**Note** – Section 143(1) provides that if any sum is found due on the basis of a return of income after adjustment of advance tax, relief of tax allowed under section 89, tax deducted at source, tax collection at source and self-assessment tax, an intimation would be sent to the assessee and such intimation is deemed to be a notice of demand issued under section 156. If any refund is due on the basis of the return, it shall be granted to the assessee and an intimation to this effect would be sent to the assessee. Where no tax or refund is due, the acknowledgement of the return is deemed to be an intimation under section 156.



#### 4. FEE FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234F]

Where a person, who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of ₹ 5,000.

However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed ₹ 1,000.



## 5. SPECIFIED CLASS OR CLASSES OF PERSONS TO BE EXEMPTED FROM FILING RETURN OF INCOME [SECTION 139(1C)]

- (1) Every person who falls within the ambit of the conditions mentioned under section 139 has to furnish a return of his income on or before the due date specified under section 139(1).
- (2) For reducing the compliance burden of small taxpayers, the Central Government has been empowered to notify the class or classes of persons who will be exempted from the requirement of filing of return of income, subject to satisfying the prescribed conditions.



## 6. RETURN OF LOSS [SECTION 139(3)]

- (1) This section requires the assessee to file a return of loss in the same manner as in the case of return of income within the time allowed u/s 139(1).
- (2) Section 80 requires mandatory filing of return of loss u/s 139(3) on or before the due date specified u/s 139(1) for carry forward of the following losses -
  - (a) Business loss u/s 72(1)
  - (b) Speculation business loss u/s 73(2)
  - (c) Loss from specified business u/s 73A(2)
  - (d) Loss under the head "Capital Gains" u/s 74(1)
  - (e) Loss from the activity of owning and maintaining race horses u/s 74A(3)
- (3) Consequently, section 139(3) requires filing of return of loss mandatorily within the time allowed u/s 139(1) for claiming carry forward of losses mentioned in (2) above.
- (4) However, loss under the head "Income from house property" u/s 71B and unabsorbed depreciation u/s 32 can be carried forward for set-off even though return of loss has not been filed before the due date.
- (5) A return of loss has to be filed by the assessee in his own interest and the non-receipt of a notice from the Assessing Officer requiring him to file the return cannot be a valid excuse under any circumstances for the non-filing of such return.



## 7. BELATED RETURN [SECTION 139(4)]

Any person who has not furnished a return within the time allowed to him under section 139(1) may furnish the return for any previous year at any time -

- (i) before three months prior to the end of the relevant assessment year (i.e., 31.12.2023 for P.Y. 2022-23); or
  - (ii) before the completion of the assessment,
- whichever is earlier.



## 8. REVISED RETURN [SECTION 139(5)]

If any person having furnished a return under section 139(1) or a belated return under section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time -

- (i) before three months prior to the end of the relevant assessment year (i.e., 31.12.2023 for P.Y. 2022-23); or
  - (ii) before completion of assessment,
- whichever is earlier.

Mandatory filing of return of income [Section 139(1)]				
Company and Firm	Person being Resident other than RNOR, having any asset located outside India or signing authority in any account located outside India or is beneficiary of any asset located outside India	Individual, HUF, AOPs or BOIs and artificial juridical persons having total income exceeding basic exemption limit before giving effect to the provisions of Chapter VI-A or exemption u/s 54/54B/54D/54EC or 54F	Person who during the P.Y. - - has deposited > ₹ 1 crore in one or more current accounts with bank or a co-operative bank; or - has incurred exp. of > ₹ 2 lakh for himself or any other person for travel to a foreign country; or - has incurred exp of > ₹ 1 lakh towards electricity consumption;	Persons who during the P.Y. - - has total sales, turnover or gross receipts in the business > ₹ 60 lakhs - has total gross receipts in profession > ₹ 10 lakhs - has aggregate TDS and TCS credit ≥ ₹ 25,000 (₹ 50,000 in case of senior citizen) - has deposit in one or more savings bank account ≥ ₹ 50,000

**Due date of filing of return**

<p><b>31st October of A.Y</b></p> <ul style="list-style-type: none"> <li>• Company</li> <li>• Person other than company, whose accounts are required to be audited</li> <li>• A working partner of a firm, whose accounts are required to be audited</li> </ul>	<p><b>31st July of A.Y.</b></p> <ul style="list-style-type: none"> <li>• Any other assessee</li> </ul>
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**Loss Return under section 139(3)**

To be filed on or before the due date under section 139(1) for carry forward Of

Business loss u/s 72(1)	Loss from speculation business u/s 73(2)	Loss from specified business u/s 73A(2)	Loss under the head "Capital Gains" u/s 74(1)	Loss from the activity of owning and maintaining race horses u/s 74A(3)
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**Belated Return under section 139(4)**

If return not filed within the time specified u/s 139(1), the assessee can file belated return u/s 139(4), at any time before

Three months prior to the end of the Relevant Assessment Year	<b>OR</b>	Completion of the Assessment
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**Whichever is earlier**

**Revised Return under Section 139(5)**

Return filed u/s 139(1) or u/s 139(4) can be revised u/s 139(5), if any omission or any wrong statement is discovered by the assessee, at any time before

Three months prior to the end of the Relevant Assessment Year	<b>OR</b>	Completion of the Assessment
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**Whichever is earlier**

**ILLUSTRATION 2**

*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).*

**SOLUTION**

Any person who has furnished a return under section 139(1) or 139(4) can file a revised return at any time before three months prior to the end of the relevant assessment year or before the completion of assessment, whichever is earlier, if he discovers any omission or any wrong statement in the return filed earlier. Accordingly,

- (i) A belated return filed under section 139(4) 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. at any time before three months prior to the end of the relevant assessment year or before the completion of assessment, whichever is earlier. It implies that a return of income can be revised more than once within the prescribed time.
- (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).



## **9. PARTICULARS TO BE FURNISHED WITH THE RETURN [SECTION 139(6)]**

The prescribed form of the return shall, in certain specified cases, require the assessee to furnish the particulars of -

- (i) income exempt from tax;
- (ii) assets of the prescribed nature and value, held by him as a beneficial owner or otherwise or in which he is a beneficiary;
- (iii) his bank account and credit card held by him;
- (iv) expenditure exceeding the prescribed limits incurred by him under prescribed heads; and
- (v) such other outgoings as may be prescribed.

## 10. PARTICULARS TO BE FURNISHED WITH RETURN OF INCOME IN THE CASE OF AN ASSESSEE ENGAGED IN BUSINESS OR PROFESSION [SECTION 139(6A)]

The prescribed form of the return shall, in the case of an assessee engaged in any business or profession, also require him to furnish -

- (i) the report of any audit referred to in section 44AB.
- (ii) the particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof.
- (iii) the names and addresses of his partners, if any, in such business or profession.
- (iv) if he is a member of an association or body of individuals,
  - (a) the names of the other members of the association or the body of individuals; and
  - (b) the extent of the share of the assessee and the shares of all such partners or members, as the case may be, in the profits of the business or profession and any branches thereof.

## 11. OPTION TO FILE UPDATED RETURN OF INCOME [SECTION 139(8A)]

- (1) Option to file updated return of income** - Any person may furnish an updated return of his income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year at any time within 24 months from the end of the relevant assessment year.

*This is irrespective of whether or not he has furnished a return under section 139(1) or belated return under section 139(4) or revised return under section 139(5) for that assessment year.*

*For example, an updated return for A.Y. 2023-24 can be filed till 31.3.2026.*

- (2) Non applicability of the provisions of updated return** – The provisions of updated return would not apply, if the updated return of such person for that assessment year –

- (i) is a loss return; or
- (ii) has the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1) or section 139(4) or section 139(5); or
- (iii) results in refund or increases the refund due on the basis of return furnished under section 139(1) or section 139(4) or section 139(5)

**(3) Circumstances in which updated return cannot be furnished** – No updated return can be furnished by any person for the relevant assessment year, where –

- (a) an updated return has been furnished by him under this sub-section for the relevant assessment year; or
- (b) any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year in his case; or
- (c) he is such person or belongs to such class of persons, as may be notified by the CBDT.

**Note** - There are other circumstances also in which updated return cannot be furnished for the relevant assessment year. For example, where prosecution proceedings are initiated under the relevant provisions of the Income-tax Act, 1961. Those circumstances will be dealt with at Final level.

**(4) Updated return can be filed if original return is a loss return and updated return is a return of income** - If any person has a loss in any previous year and has furnished a return of loss on or before the due date of filing return of income under section 139(1), he shall be allowed to furnish an updated return if such updated return is a return of income.

For example if Mr. X has furnished his return of loss for A.Y. 2022-23 on 31.5.2022 consisting of ₹ 5,00,000 as business loss, he can furnish an updated return for A.Y. 2022-23 upto 31.3.2025 if such updated return is a return of income.

**(5) Updated return to be furnished for subsequent previous year in case (4) above** - If the loss or any part thereof carried forward under Chapter VI or unabsorbed depreciation carried forward under section 32(2) or tax credit carried forward under section 115JD is to be reduced for any subsequent previous year as a result of furnishing of updated return of income for a previous year, an updated return is required to be furnished for each such subsequent previous year.





## 12. DEFECTIVE RETURN [SECTION 139(9)]

- (1) Under this section, the Assessing Officer has the power to call upon the assessee to rectify a defective return.
- (2) Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation. The Assessing Officer has the discretion to extend the time period beyond 15 days, on an application made by the assessee.
- (3) If the defect is not rectified within the period of 15 days or such further extended period, then the return would be treated as an invalid return. The consequential effect would be the same as if the assessee had failed to furnish the return.
- (4) Where, however, the assessee rectifies the defect after the expiry of the period of 15 days or the further extended period, but before assessment is made, the Assessing Officer can condone the delay and treat the return as a valid return.
- (5) A return of income shall be regarded as defective unless all the following conditions are fulfilled, namely:
  - (a) The annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computations of gross total income and total income have been duly filled in.
  - (b) The return of income is accompanied by the following, namely:
    - (i) a statement showing the computation of the tax payable on the basis of the return.
    - (ii) the report of the audit obtained under section 44AB (If such report has been furnished prior to furnishing the return of income, a copy of such report and the proof of furnishing the report should be attached).
    - (iii) the proof regarding the tax, if any, claimed to have been deducted or collected at source and the advance tax and tax on self-assessment, if any, claimed to have been paid. (However, the return will not be regarded as defective if (a) a certificate for tax

deducted or collected was not furnished under section 203 or section 206C to the person furnishing his return of income, (b) such certificate is produced within a period of 2 years).

(iv) the proof of the amount of compulsory deposit, if any, claimed to have been paid under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974;

**(v) the proof of payment the tax as required under section 140B, if the return of income is a updated return furnished under section 139(8A).**

(c) Where regular books of account are maintained by an assessee, the return of income is accompanied by the following -

(i) copies of manufacturing account, trading account, profit and loss account or income and expenditure account, or any other similar account and balance sheet;

(ii) the personal accounts as detailed below -

(1)	Proprietary business or profession	The personal account of the proprietor
(2)	Firm, association of persons or body of individuals	personal accounts of partners or members
(3)	Partner or member of a firm, association of persons or body of individuals	partner's personal account in firm member's personal account in the association of persons or body of individuals

(d) Where the accounts of the assessee have been audited, the return should be accompanied by copies of the audited profit and loss account and balance sheet and the auditor's report.

(e) Where the cost accounts of an assessee have been audited under section 148 of Companies Act, 2013, the return should be accompanied by such report.

(f) Where regular books of account are not maintained by the assessee, the return should be accompanied by -

(i) a statement indicating -

(1) the amount of turnover or gross receipts,

- (2) gross profit,
  - (3) expenses; and
  - (4) net profit
- of the business or profession;
- (ii) the basis on which such amounts mentioned in (i) above have been computed,
  - (iii) the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.

However, the CBDT may, by notification, specify that any of the conditions specified in (a) to (f) above would not apply to such class of assessee or apply with such modifications as may be specified.

**Note –** Many of these particulars are now required to be incorporated as part of the relevant return form, for example, details of tax deducted at source, advance tax paid, self-assessment tax paid, amount of turnover/gross receipts etc.

### 13. PERMANENT ACCOUNT NUMBER (PAN) [SECTION 139A]

- (1) Sub-section (1) requires the following persons mentioned in column (2), who have not been allotted a permanent account number (PAN), to apply to the Assessing Officer within the time specified in column (3) for the allotment of a PAN –

(1)	(2)	(3)
	<b>Persons required to apply for PAN</b>	<b>Time limit for making such application (Rule 114)</b>
(i)	Every person, if his total income or the total income of any other person in respect of which he is assessable under the Act during any previous year exceeds the maximum amount which is not chargeable to income-tax	On or before 31st May of the assessment year for which such income is assessable

(ii)	Every person carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed ₹ 5 lakhs in any previous year	Before the end of that financial year.
(iii)	Every person being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year	On or before 31 <sup>st</sup> May of the immediately following financial year
(iv)	Every person who is a managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of any person referred in (iii) above or any person competent to act on behalf of such person referred in (iii) above	On or before 31 <sup>st</sup> May of the immediately following financial year in which the person referred in (iii) enters into financial transaction specified therein.

Further, every person who has not been allotted a PAN and intends to enter into such transaction as prescribed by the CBDT is also required to apply for PAN to the Assessing Officer.

- (2) The Central Government is empowered to specify, by notification in the Official Gazette, any class or classes of persons by whom tax is payable under the Act or any tax or duty is payable under any other law for the time being in force. Such persons are required to apply within such time as may be mentioned in that notification to the Assessing Officer for the allotment of a PAN [Sub-section (1A)].
- (3) For the purpose of collecting any information which may be useful for or relevant to the purposes of the Act, the Central Government may notify any class or classes of persons, and such persons shall within the prescribed time, apply to the Assessing Officer for allotment of a PAN [Sub-section (1B)].
- (4) The Assessing Officer, having regard to the nature of transactions as may be prescribed, may 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 [Sub-section (2)].

- (5) Any person, other than the persons mentioned in (1) or (4) above, may apply to the Assessing Officer for the allotment of a PAN and the Assessing Officer shall allot a PAN to such person immediately.
- (6) Such PAN comprises of 10 alphanumeric characters.
- (7) Quoting of PAN is mandatory in all documents pertaining to the following prescribed transactions:
- in all returns to, or correspondence with, any income-tax authority;
  - in all challans for the payment of any sum due under the Act;
  - in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue. In this connection, CBDT has notified the following transactions *vide* Rule 114B, namely:

S. No.	Nature of transaction	Value of transaction
1.	Sale or purchase of a motor vehicle or vehicle, as defined in the Motor Vehicles Act, 1988 which requires registration by a registering authority under that Act, other than two wheeled vehicles.	All such transactions
2.	Opening an account [other than a time-deposit referred to at Sl. No.12 and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act).	All such transactions
3.	Making an application to any banking company or a co-operative bank to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution, for issue of a credit or debit card.	All such transactions

4.	Opening of a demat account with a depository, participant, custodian of securities or any other person registered under section 12(1A) of the SEBI Act, 1992.	All such transactions
5.	Payment to a hotel or restaurant against a bill or bills at any one time.	Payment in cash of an amount exceeding ₹ 50,000.
6.	Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time.	Payment in cash of an amount exceeding ₹ 50,000.
7.	Payment to a Mutual Fund for purchase of its units	Amount exceeding ₹ 50,000.
8.	Payment to a company or an institution for acquiring debentures or bonds issued by it.	Amount exceeding ₹ 50,000.
9.	Payment to the Reserve Bank of India for acquiring bonds issued by it.	Amount exceeding ₹ 50,000.
10.	Deposit with a banking company or a co-operative bank to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act); or post office	Cash deposits exceeding ₹ 50,000 during any one day.
11.	Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act).	Payment in cash of an amount exceeding ₹ 50,000 during any one day.
12.	A time deposit with, - (i) a banking company or a co-operative bank to which the Banking Regulation Act, 1949	Amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakh during a financial year.

	<p>applies (including any bank or banking institution referred to in section 51 of that Act);</p> <p>(ii) a Post Office;</p> <p>(iii) a Nidhi referred to in section 406 of the Companies Act, 2013; or</p> <p>(iv) a non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934, to hold or accept deposit from public.</p>	
13.	<p>Payment for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by Reserve Bank of India under the Payment and Settlement Systems Act, 2007, to a banking company or a co-operative bank to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution.</p>	<p>Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than ₹ 50,000 in a financial year.</p>
14.	<p>Payment as life insurance premium to an insurer as defined in the Insurance Act, 1938.</p>	<p>Amount aggregating to more than ₹ 50,000 in a financial year.</p>
15.	<p>A contract for sale or purchase of securities (other than shares) as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956.</p>	<p>Amount exceeding ₹ 1 lakh per transaction</p>
16.	<p>Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange.</p>	<p>Amount exceeding ₹ 1 lakh per transaction.</p>
17.	<p>Sale or purchase of any immovable property.</p>	<p>Amount exceeding ₹ 10 lakh or valued by stamp valuation authority referred to in</p>

		section 50C at an amount exceeding ₹ 10 lakh
18.	Sale or purchase, by any person, of goods or services of any nature other than those specified at Sl. No. 1 to 17 of this Table, if any.	Amount exceeding ₹ 2 lakh per transaction:

### ***Minor to quote PAN of parent or guardian***

Where a person, entering into any transaction referred to in this rule, is a minor and who does not have any income chargeable to income-tax, he shall quote the PAN of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction.

### ***Declaration by a person not having PAN***

Further, any person who does not have a PAN and who enters into any transaction specified in this rule, shall make a declaration in Form No.60 giving therein the particulars of such transaction either in paper form or electronically under the electronic verification code in accordance with the procedures, data structures, and standards specified by the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems).

### ***Non-applicability of Rule 114B***

The provisions of this rule shall not apply to the following class or classes of persons, namely:-

- (i) the Central Government, the State Governments and the Consular Offices;
- (ii) the non-residents referred to in section 2(30) in respect of the transactions other than a transaction referred to at Sl. No. 1 or 2 or 4 or 7 or 8 or 10 or 12 or 14 or 15 or 16 or 17 of the Table.

### **Meaning of certain phrases:**

	Phrase	Inclusion
(1)	Payment in connection with travel	Payment towards fare, or to a travel agent or a tour operator, or to an authorized person as defined in section 2(c) of the Foreign Exchange Management Act, 1999



(2)	Travel agent or tour operator	A person who makes arrangements for air, surface or maritime travel or provides services relating to accommodation, tours, entertainment, passport, visa, foreign exchange, travel related insurance or other travel related services either severally or in package
(3)	Time deposit	Any deposit which is repayable on the expiry of a fixed period.

- (8) If there is a change in the address or in the name and nature of the business of a person, on the basis of which PAN was allotted to him, he should intimate such change to the Assessing Officer.
- (9) Every person who receives any document relating to any transaction cited above shall ensure that the PAN or the Aadhar number is duly quoted in the document.

**(10) Intimation of PAN to person deducting or collecting tax at source**

Every person who receives any amount from which tax has been deducted at source shall intimate his PAN to the person responsible for deducting such tax [Sub-section (5A)].

Similarly, every buyer or licensee or lessee referred to in section 206C shall intimate his PAN to the person responsible for collecting such tax [Sub-section (5C)]

**(11) Quoting of PAN in certain documents**

Where any amount has been paid after deducting tax at source, the person deducting tax shall quote the PAN of the person to whom the amount was paid in the following documents:

- (i) in the statement furnished under section 192(2C) giving particulars of perquisites or profits in lieu of salary provided to any employee;
- (ii) in all certificates for tax deducted issued to the person to whom payment is made;
- (iii) in all returns prepared and delivered or caused to be delivered to any income-tax authority in accordance with the provisions of section 206;
- (iv) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of section 200(3) [Sub-section (5B)].

Also, every person collecting tax in accordance with the provisions of section 206C shall quote PAN of every buyer or licensee or lessee in the following documents:

- (i) in all certificates issued for tax collected in accordance with the provisions of section 206C(5);
- (ii) in all returns prepared and delivered or caused to be delivered to any income-tax authority in accordance with the provisions of section 206C(5A)/(5B);
- (iv) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of section 206C(3) [Sub-section (5D)].

**(12) Requirement to intimate PAN and quote PAN not to apply to certain persons**

The above sub-sections (5A) and (5B) shall not apply to a person who –

- (i) does not have taxable income or
- (ii) who is not required to obtain PAN

if such person furnishes a declaration under section 197A in the prescribed form and manner that the tax on his estimated total income for that previous year will be nil.

**(13) Inter-changeability of PAN with the Aadhaar number**

Every person who is required to furnish or intimate or quote his PAN may furnish or intimate or quote his Aadhaar Number in lieu of the PAN, if he

- has not been allotted a PAN but possesses the Aadhaar number
- has been allotted a PAN and has intimated his Aadhaar number to prescribed authority in accordance with the requirement contained in section 139AA(2).

PAN would be allotted in prescribed manner to a person who has not been allotted a PAN but possesses Aadhaar number.

Accordingly, the CBDT has, vide *Notification No. 59/2019, dated 30.8.2019*, provide that any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN, shall be deemed to have applied for allotment of PAN and he shall not be required to apply or submit any documents.

Further, any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN under section 139A(1)/(1A)/(3) by intimating his Aadhaar number and he shall not be required to apply or submit any documents.

**(14) Quoting and authentication of PAN or Aadhar number**

- (a) Every person entering into such prescribed transactions is required to quote his PAN or Aadhar number, as the case may be, in the documents pertaining to such transactions and also authenticate such PAN or Aadhar number in the prescribed manner.
- (b) Every person receiving such document relating to transactions referred to in (a) has to ensure that PAN or Aadhar number has been duly quoted in such document and also ensure that such PAN or Aadhar number is so authenticated.

**(15) Power to make rules**

The CBDT is empowered to make rules with regard to the following:

- (a) the form and manner in which an application for PAN may be made and the particulars to be given therein;
- (b) the categories of transactions in relation to which PAN or the Aadhar number, as the case may be, is required to be quoted on the related documents;
- (c) the categories of documents pertaining to business or profession in which PAN or the Aadhar number, as the case may be, shall be quoted by every person;
- (d) the class or classes of persons to whom the provisions of this section shall not apply;
- (e) the form and manner in which a person who has not been allotted a PAN shall make a declaration;
- (f) the manner in which PAN or the Aadhar number, as the case may be, shall be quoted for transactions cited in (b) above;
- (g) the time and manner in which such transactions cited in (b) above shall be intimated to the prescribed authority.

**(16) Meaning of certain terms**

	<b>Term</b>	<b>Meaning</b>
<b>(i)</b>	<b>Aadhar number</b>	An identification number issued to an individual by the Authority on receipt of the demographic information and biometric information after verifying the information by the authority. It includes any alternative virtual identity generated by the Authority in the prescribed manner.
<b>(ii)</b>	<b>Authentication</b>	The process by which the PAN or Aadhar number along with demographic information or biometric information of an individual is submitted to the income-tax authority or such other prescribed authority or agency for its verification and such authority or agency verifies the correctness, or the lack thereof, on the basis of information available with it.



## 14. QUOTING OF AADHAR NUMBER [SECTION 139AA]

**(1) Mandatory quoting of Aadhar Number**

Every person who is eligible to obtain Aadhar Number is required to mandatorily quote Aadhar Number:

- (a) in the application form for allotment of Permanent Account Number (PAN)
- (b) in the return of income

### **Quoting of Aadhaar Number mandatory in returns filed on or after 1.4.2019 [Circular No. 6/2019 dated 31.03.2019]**

As per section 139AA(1)(ii), with effect from 01.07.2017, every person who is eligible to obtain Aadhaar number has to quote Aadhaar number in the return of income.

The Apex Court in a series of judgments has upheld the validity of section 139AA. Consequently, with effect from 01.04.2019, the CBDT has clarified

that it is mandatory to quote Aadhaar number while filing the return of income unless specifically exempted as per any notification issued under section 139AA(3) [detailed in point no. (5) in the next page]. Thus, returns being filed either electronically or manually on or after 1.4.2019 cannot be filed without quoting the Aadhaar number.

**(2) Mandatory quoting of Enrolment Id, where person does not have Aadhar Number**

If a person does not have Aadhar Number, he is required to quote Enrolment ID of Aadhar application form issued to him at the time of enrolment in the application form for allotment of Permanent Account Number (PAN) or in the return of income furnished by him.

Enrolment ID means a 28 digit Enrolment Identification Number issued to a resident at the time of enrolment

**(3) Intimation of Aadhar Number to prescribed Authority**

Every person who has been allotted Permanent Account Number (PAN) as on 1<sup>st</sup> July, 2017, and who is eligible to obtain Aadhar Number, shall intimate his Aadhar Number to prescribed authority on or before **31<sup>st</sup> March, 2022**.

Notwithstanding the last date of intimating/linking of Aadhaar Number with PAN being **31.03.2022**, it is clarified that w.e.f. 01.04.2019, it is mandatory to quote and link Aadhaar number while filing the return of income, either manually or electronically, unless specifically exempted in cases detailed in point (5) below.

**(4) Consequences of failure to intimate Aadhar Number**

If a person fails to intimate the Aadhar Number, the permanent account Number (PAN) allotted to such person shall be made inoperative after the date so notified in the prescribed manner.

Accordingly, Rule 114AAA specifies the manner of making permanent account number inoperative.

Sub-Rule	Provision
(1)	If a person, who has been allotted PAN as on 1st July, 2017 and is required to intimate his Aadhaar number under section 139AA(2), has failed to intimate the same on or <b>before 31<sup>st</sup></b>

	<b>March, 2022</b> , the PAN of such person would become inoperative immediately after the said date (i.e., after 31 <sup>st</sup> March, 2022) for the purposes of furnishing, intimating or quoting under the Income-tax Act, 1961.
(2)	Accordingly, where a person, whose PAN has become inoperative, is required to furnish, intimate or quote his PAN under the Act, it shall be deemed that he has not furnished, intimated or quoted the PAN, as the case may be, in accordance with the provisions of the Act. Consequently, he would be liable for all the consequences under the Act for not furnishing, intimating or quoting the PAN. <b>However, the consequences shall have effect from the date specified by the CBDT i.e., 1<sup>st</sup> April, 2023.</b>
(3)	Where such person who has not intimated his Aadhaar number on or before <b>31<sup>st</sup> March, 2022</b> , intimates his Aadhaar number under section 139AA(2) after <b>31<sup>st</sup> March, 2022 after payment of fee specified in section 234H read with Rule 114(5A)</b> , his PAN would become operative from the date of intimation of Aadhaar number for the purposes of furnishing, intimating or quoting under the Act. Accordingly, the consequences in sub-rule (2) would not be applicable from such date of intimation.
(4)	The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) has to specify the formats and standards along with the procedure for verifying the operational status of PAN under sub-rules (1) and (2).

**(5) Clarification with respect to relaxation of provisions of rule 114AAA prescribing the manner of making Permanent Account Number (PAN) inoperative**

*Section 139AA(2) makes it mandatory for every person who has been allotted a PAN as on 1<sup>st</sup> July, 2017 to intimate his Aadhaar Number so that the Aadhaar and PAN can be linked. This is required to be done on or before a notified date, failing which the PAN would become inoperative.*

*Accordingly, in case of failure to intimate the Aadhaar Number by 31.03.2022, the PAN allotted to the person would be made inoperative. Further, section 234H provides that where a person who is required to intimate his Aadhaar under section 139AA(2) fails to do so on or before a*

*notified date, he would be liable to pay a fee not exceeding ₹ 1,000, as may be prescribed, at the time of making intimation under section 139AA(2) after the said date.*

*Further, Rule 114AAA provides that if PAN of a person has become inoperative, he will not be able to furnish, intimate or quote his PAN and would be liable to all the consequences under the Act for such failure. This will have a number of implications such as:-*

- (i) The person would not be able to file return using the inoperative PAN*
- (ii) Pending returns will not be processed*
- (iii) Pending refunds cannot be issued to inoperative PANs*
- (iv) Pending proceedings as in the case of defective returns cannot be completed once the PAN is inoperative*
- (v) Tax will be required to be deducted at a higher rate as PAN becomes inoperative*

*In addition to the above, the tax payer might face difficulty at various other fora like banks and other financial portals, as PAN is one of the important KYC criterion for all kinds of financial transactions.*

*As per Rule 114AAA(2), where a person, whose PAN has become inoperative under Rule 114AAA(1), is required to furnish, intimate or quote his PAN, it would be deemed that he has not furnished, intimated or quoted the PAN, as the case may be, in accordance with the provisions of the Act. Consequently, he would be liable for all the consequences under the Act for not furnishing, intimating or quoting the PAN.*

*In order to have smooth application of section 234H and existing rule 114AAA, it is clarified that the impact of Rule 114AAA(2) would come into effect from 1<sup>st</sup> April, 2023; and the period beginning from 1<sup>st</sup> April, 2022 and ending with 31<sup>st</sup> March, 2023, would be the period during which Rule 114AAA(2) would not have its negative consequences.*

*However, the tax payer would be liable to pay a fee in accordance with section 234H read with Rule 114(5A).*

#### **(6) Provision not to apply to certain persons or class of persons**

The provisions of section 139AA relating to quoting of Aadhar Number would, however, not apply to such person or class or classes of persons or

any State or part of any State as may be notified by the Central Government.

Accordingly, the Central Government has, vide Notification No. 37/2017 dated 11.05.2017 effective from 01.07.2017, notified that the provisions of section 139AA relating to quoting of Aadhar Number would not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:

- (i) residing in Assam, Jammu & Kashmir and Meghalaya;
- (ii) a non-resident as per Income-tax Act, 1961;
- (iii) of the age of 80 years or more at any time during the previous year;
- (iv) not a citizen of India



## 15. FEE FOR DEFAULT RELATING TO INTIMATION OF AADHAR NUMBER [SECTION 234H]

Where a person, who is required to intimate his Aadhar Number under section 139AA(2), fails to do so on or before the notified date i.e., **31<sup>st</sup> March, 2022**, he would be liable to pay such fee, as may be prescribed, at the time of making intimation under section 139AA(2) after 31<sup>st</sup> March, 2022.

However, such fee shall not exceed ₹ 1,000.

*As per section 139AA(2), every person who has been allotted PAN as on 1<sup>st</sup> July, 2017 and eligible to obtain Aadhar Number, is required to intimate his Aadhaar number to the prescribed authority in the prescribed form and manner.*

*Accordingly, the CBDT has, vide notification no. 17/2022 dated 29.3.2022, inserted Rule 114(5A) to provide that if such person fails to do so by the date notified in section 139AA(2) i.e., 31<sup>st</sup> March, 2022, then at the time of subsequent intimation of his Aadhaar number to the prescribed authority, such person would be liable to pay, by way of fee, an amount equal to, —*

- (a) ₹ 500, in a case where such intimation is made within three months from the date referred in section 139AA(2) i.e., by 30.06.2022; and
- (b) ₹ 1,000, in all other cases.





## 16. SCHEME FOR SUBMISSION OF RETURNS THROUGH TAX RETURN PREPARERS [SECTION 139B]

- (1) This section provides that, for the purpose of enabling any specified class or classes of persons to prepare and furnish their returns of income, the CBDT may notify a scheme to provide that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the Scheme.
- (2) The Tax Return Preparer shall assist the persons furnishing the return in a manner that will be specified in the Scheme and shall also affix his signature on such return.
- (3) **A Tax Return Preparer** means any individual, other than
  - (i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings.
  - (ii) any legal practitioner who is entitled to practice in any civil court in India.
  - (iii) an accountant
  - (iv) an employee of the 'specified class or classes of persons'.who has been authorized to act as a Tax Return Preparer under the Scheme.
- (4) The "**specified class or classes of persons**" for this purpose means any person other than a company or a person whose accounts are required to be audited under section 44AB (tax audit) or under any other existing law, who is required to furnish a return of income under the Act.
- (5) The Scheme notified under the said section may provide for the following -
  - (i) the manner in which and the period for which the Tax Return Preparers shall be authorised,
  - (ii) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Tax Return Preparer,
  - (ii) the code of conduct for the Tax Return Preparers,
  - (iii) the duties and obligations of the Tax Return Preparers,

- (iv) the circumstances under which the authorisation given to a Tax Return Preparer may be withdrawn, and
- (v) any other relevant matter as may be specified by the Scheme.
- (6) Accordingly, the CBDT has, in exercise of the powers conferred by this section, framed the Tax Return Preparer Scheme, 2006, which came into force from 1.12.2006.

Particulars	Contents
<b>Applicability of the scheme</b>	The scheme is applicable to all eligible persons.
<b>Eligible person</b>	Any person being an individual or a Hindu undivided family.
<b>Tax Return Preparer</b>	Any individual who has been issued a "Tax Return Preparer Certificate" and a "unique identification number" under this Scheme by the Partner Organisation to carry on the profession of preparing the returns of income in accordance with the Scheme. However, the following person are not entitled to act as Tax Return Preparer: <ul style="list-style-type: none"> <li>(i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings.</li> <li>(ii) any legal practitioner who is entitled to practice in any civil court in India.</li> <li>(iii) an accountant.</li> </ul>
<b>Educational qualification for Tax Return Preparers</b>	An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Cost Accountants of India, shall be eligible to act as Tax Return Preparer.
<b>Preparation of and furnishing the Return of Income by the</b>	An eligible person may, at his option, furnish his return of income under section 139 for any assessment year after getting it prepared through a Tax Return Preparer:

<b>Tax Return Preparer</b>	<p>However, the following eligible person (an individual or a HUF) cannot furnish a return of income for an assessment year through a Tax Return Preparer:</p> <ul style="list-style-type: none"> <li>(i) who is carrying out business or profession during the previous year and accounts of the business or profession for that previous year are required to be audited under section 44AB or under any other law for the time being in force; or</li> <li>(ii) who is not a resident in India during the previous year.</li> </ul> <p>An eligible person cannot furnish a revised return of income for any assessment year through a Tax Return Preparer unless he has furnished the original return of income for that assessment year through such or any other Tax Return Preparer.</p>
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**Note** - It may be noted that as per section 139B(3), an employee of the "specified class or classes of persons" is not authorized to act as a Tax Return Preparer. Therefore, it follows that employees of companies and persons whose accounts are required to be audited under section 44AB or any other law for the time being in force (since they are not falling in the category of specified class or classes of persons), are eligible to act as Tax Return Preparers.

### ILLUSTRATION 3

*Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for the financial year ended on 31<sup>st</sup> March, 2023 audited under section 44AB. Her total income for the assessment year 2023-24 is ₹ 6,35,000. She wants to furnish her return of income for assessment year 2023-24 through a tax return preparer. Can she do so?*

### SOLUTION

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.2023-24 through a Tax Return Preparer.



## 17. POWER OF CBDT TO DISPENSE WITH FURNISHING DOCUMENTS ETC. WITH THE RETURN AND FILING OF RETURN IN ELECTRONIC FORM [SECTIONS 139C & 139D]

- (i) Section 139C provides that the CBDT may make rules providing for a class or classes of persons who may not be required to furnish documents, statements, receipts, certificate, reports of audit or any other documents, which are otherwise required to be furnished along with the return under any other provisions of this Act.
- (ii) However, on demand, the said documents, statements, receipts, certificate, reports of audit or any other documents have to be produced before the Assessing Officer.
- (iii) Section 139D empowers the CBDT to make rules providing for –
  - (a) the class or classes of persons who shall be required to furnish the return of income in electronic form;
  - (b) the form and the manner in which the return of income in electronic form may be furnished;
  - (c) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return of income in electronic form but have to be produced before the Assessing Officer on demand;
  - (d) the computer resource or the electronic record to which the return of income in electronic form may be transmitted.



## 18. PERSONS AUTHORISED TO VERIFY RETURN OF INCOME [SECTION 140]

This section specifies the persons who are authorized to verify the return of income under section 139.

	Assessee	Circumstance	Authorised Persons
1.	Individual	(i) In circumstances not covered under (ii), (iii) & (iv) below	- the individual himself

		(ii) where he is absent from India	<ul style="list-style-type: none"> <li>- the individual himself; or</li> <li>- any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)</li> </ul>
		(iii) where he is mentally incapacitated from attending to his affairs	<ul style="list-style-type: none"> <li>- his guardian; or</li> <li>- any other person competent to act on his behalf</li> </ul>
		(iv) where, for any other reason, it is not possible for the individual to verify the return	<ul style="list-style-type: none"> <li>- any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)</li> </ul>
2.	Hindu Undivided Family	(i) in circumstances not covered under (ii) and (iii) below	<ul style="list-style-type: none"> <li>- the karta</li> </ul>
		(ii) where the karta is absent from India	<ul style="list-style-type: none"> <li>- any other adult member of the HUF</li> </ul>
		(iii) where the karta is mentally incapacitated from attending to his affairs	<ul style="list-style-type: none"> <li>- any other adult member of the HUF</li> </ul>
3.	Company	(i) in circumstances not covered under (ii) to (vi) below	<ul style="list-style-type: none"> <li>- the managing director of the company</li> </ul>

		<p>(ii)</p> <p>(a) where for any unavoidable reason such managing director is not able to verify the return; or</p> <p>(b) where there is no managing director</p>	<p>} any director of the company or any other person as may be prescribed for this purpose</p>
		<p>(iii) where the company is not resident in India</p>	<p>a person who holds a valid power of attorney from such company to do so (such power of attorney should be attached to the return).</p>
		<p>(iv)</p> <p>(a) Where the company is being wound up (whether under the orders of a court or otherwise); or</p> <p>(b) where any person has been appointed as the receiver of any assets of the company</p>	<p>- Liquidator</p> <p>- Liquidator</p>
		<p>(v) Where the management of the company has been taken over by the Central Government or any State Government under any law</p>	<p>- the principal officer of the company</p>
		<p>(vi) Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.</p>	<p>- insolvency professional appointed by such Adjudicating Authority</p>

4.	Firm	(i) in circumstances not covered under (ii) below	- the managing partner of the firm
		(ii) (a) where for any unavoidable reason such managing partner is not able to verify the return; or (b) where there is no managing partner.	- any partner of the firm, not being a minor - any partner of the firm, not being a minor
5.	LLP	(i) in circumstances not covered under (ii) below	- Designated partner
		(ii) (a) where for any unavoidable reason such designated partner is not able to verify the return; or (b) where there is no designated partner.	- any partner of the LLP or any other person as may be prescribed for this purpose
6.	Local authority	-	- the principal officer
7.	Political party <sup>3</sup>	-	- the chief executive officer of such party (whether he is known as secretary or by any other designation)
8.	Any other association	-	- any member of the association or the principal officer of such association
9.	Any other person	-	- that person or some other person competent to act on his behalf.

<sup>3</sup> Referred to in section 139(4B), which will be dealt with at the Final level.

**Any other person in case of company and LLP** - The CBDT has, vide Notification No. 93/2021 dated 18.8.2021, specified that "any other person" referred to in section 140(c) and 140(cd) for company and LLP, respectively, shall be the person, appointed by the Adjudicating Authority (i.e., National Company Law Tribunal constituted under section 408 of the Companies Act, 2013) for discharging the duties and functions of an interim resolution professional, a resolution professional, or a liquidator, as the case may be, under the Insolvency and Bankruptcy Code, 2016 and the rules and regulations made thereunder.



## 19. SELF-ASSESSMENT [SECTION 140A]

### (1) **Payment of tax, interest and fee before furnishing return of income [Section 140A(1)]**

Where any tax is payable on the basis of any return required to be furnished under, *inter alia*, section 139, after taking into account -

- (i) the amount of tax, already paid, under any provision of the Income-tax Act, 1961
- (ii) the tax deducted or collected at source
- (iii) any relief of tax claimed under section 89
- (iv) any tax credit claimed to set-off in accordance with the provisions of section 115JD; and
- (v) any tax or interest payable as per the provisions of section 191(2).

the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return. The return shall be accompanied by the proof of payment of such tax, interest and fee.

### (2) **Order of adjustment of amount paid by the assessee**

Where the amount paid by the assessee under section 140A(1) falls short of the aggregate of the tax, interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter towards interest and the balance, if any, shall be adjusted towards the tax payable.



**(3) Interest under section 234A [Section 140A(1A)]**

For the above purpose, interest payable under section 234A shall be computed on the amount of tax on the total income as declared in the return, as reduced by the amount of-

- (i) advance tax paid, if any;
- (ii) any tax deducted or collected at source;
- (iii) any relief of tax claimed under section 89
- (iv) any tax credit claimed to be set-off in accordance with the provisions of section 115JD.

**(4) Interest under section 234B [Section 140A(1B)]**

Interest payable under section 234B shall be computed on the assessed tax or on the amount by which the advance tax paid falls short of the assessed tax.

For this purpose "assessed tax" means the tax on total income declared in the return as reduced by the amount of

- tax deducted or collected at source on any income which forms part of the total income;
- any relief of tax claimed under section 89
- any tax credit claimed to be set-off in accordance with the provisions of section 115JD.

**(5) Consequence of failure to pay tax, interest or fee [Section 140A(3)]**

If any assessee fails to pay the whole or any part of such of tax or interest or fee, he shall be deemed to be an assessee in default in respect of such tax or interest or fee remaining unpaid and all the provisions of this Act shall apply accordingly.

**QUICK RECAP**

<b>Mandatory Quoting of PAN under section 139A</b>		
In all returns to, and correspondence with, any, income tax authority	In all challans for the payment of sum due under the Act	In all documents pertaining to such transactions entered into by him as prescribed by CBDT in the interests of revenue

Quoting of Aadhar Number under section 139AA		
To be quoted on or after 1/7/2017 in the application for allotment of PAN and in Return of Income	If he does not have Aadhar Number, the enrolment ID of Aadhar application form issued to him at the time of enrolment shall be quoted	Aadhar Number to be intimated to prescribed authority by 31.3.2022

Self-assessment under section 140A		
<b>Tax Payable =</b> Tax on Total Income – Advances tax paid – TDS/TCS – relief u/s 89 – tax credit claimed to be set-off in accordance with section 115JD – tax and interest payable under section 191(2)	<b>Return to be accompanied by proof of payment of</b> Taxpayable + Interest u/s 234A, 234B and 234C + Fee payable u/s 234F	<b>Order of adjustment of amount paid</b> Fee, Interest and tax



## 20. TAX ON UPDATED RETURN [SECTION 140B]

### (1) *Payment of tax, additional tax, interest and fee before furnishing updated return of income*

#### (a) *If no return is furnished earlier [Section 140B(1)]*

*Where no return of income under section 139(1) or 139(4) has been furnished by an assessee and tax is payable, on the basis of updated return to be*

*furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional tax computed under section 140B(3), before furnishing the return.*

*The tax payable is to be computed after taking into account the following -*

- (i) the amount of tax, if any, already paid, as advance tax*
- (ii) the tax deducted or collected at source*
- (iii) any relief of tax claimed under section 89; and*
- (iv) any tax credit claimed to set-off in accordance with the provisions of section 115JD*

*The return has to be accompanied by the proof of payment of such tax, additional tax, interest and fee.*

**(b) If return is furnished earlier [Section 140B(2)]**

*Where, return of income under section 139(1) or 139(4) or 139(5) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax, along with the payment of additional tax computed under section 140B(3) (as reduced by the amount of interest paid under the provisions of this Act in the earlier return) before furnishing the return.*

*The tax payable has to be computed after taking into account the following -*

- (i) the amount of relief or tax referred to in section 140A(1), the credit for which has been taken in the earlier return*
- (ii) the tax deducted or collected at source on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return*
- (iii) any tax credit claimed to set-off in accordance with the provisions of section 115JD, which has not been claimed in the earlier return.*

*The aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.*

*The return has to be accompanied by the proof of payment of such tax, additional tax, interest and fee.*

**(2) Additional income-tax payable at the time of updated return [Section 140B(3)]**

*The additional income-tax payable at the time of furnishing the updated return under section 139(8A) would be –*

- (i) 25% of aggregate of tax and interest payable, as determined above, if such return is furnished after expiry of the time available under section 139(4) or 139(5) and before completion of the period of 12 months from the end of the relevant assessment year; or*
- (ii) 50% of aggregate of tax and interest payable, as determined above, if such return is furnished after the expiry of 12 months from the end of the relevant assessment year but before completion of the period of 24 months from the end of the relevant assessment year.*

**(3) Interest under section 234B where earlier return has been furnished [Section 140B(4)]**

*In a case where an earlier return has been furnished, interest payable under section 234B has to be computed on the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.*

*“Assessed tax” means the tax on the total income as declared in the updated return to be furnished under section 139(8A), after taking into account the following:*

- (i) the amount of relief or tax referred to in section 140A(1), the credit for which has been taken in the earlier return*
- (ii) the tax deducted or collected at source on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return*
- (iii) any tax credit claimed to set-off in accordance with the provisions of section 115JD, which has not been claimed in the earlier return*

*The aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.*

**(4) Power to CBDT to issue guidelines**

*In case of any difficulty arises in giving effect to the provisions of this section, the CBDT may issue guidelines for the purpose of removing the difficulty, with the approval of the Central Government. Every guideline issued shall be laid before each House of Parliament.*

**(5) Computation of Additional income-tax**

*For the purpose of computation of Additional income-tax”,*

- *tax would include surcharge and cess, by whatever name called, on such tax.*
- *the interest payable would be interest chargeable under any provision of the Act, on the income as per updated return furnished under section 139(8A), as reduced by interest paid in the earlier return, if any.*

*However, the interest paid in the earlier return would be considered to be nil, if no earlier return has been furnished.*

**(6) Interest under section 234A if no earlier return has been furnished**

*In a case, where no earlier return has been furnished, the interest payable under section 234A has to be computed on the amount of the tax on the total income as declared in the updated return under section 139(8A), in accordance with the provisions of sub-section (1A) of section 140A.*

**(7) Interest under section 234 if earlier return has been furnished**

*Interest payable under section 234C, where an earlier return has been furnished, has to be computed after taking into account the income furnished in the return under section 139(8A) as the returned income.*

## LET US RECAPITULATE

Section	Particulars
<b>139(1)</b>	<p><b><u>Assessees required to file return of income compulsorily</u></b></p> <p>(i) Companies and firms (whether having profit or loss or nil income);</p> <p>(ii) a person, being a resident other than not ordinarily resident, having any asset (including any financial interest in any entity) located outside India held as a beneficial owner or beneficiary or who has a signing authority in any account located outside India, whether or not having income chargeable to tax;</p> <p>(iii) Individuals, HUF, AOPs or BOIs and artificial juridical persons whose total income before giving effect to the provisions of Chapter VI-A and sections 54, 54B, 54D, 54EC or 54F exceeds the basic exemption limit.</p> <p>(iv) Any person who during the previous year –</p> <ul style="list-style-type: none"> <li>- has deposited more than ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or</li> <li>- has incurred expenditure of more than ₹ 2 lakh for himself or any other person for travel to a foreign country; or</li> <li>- has incurred expenditure of more than ₹ 1 lakh towards consumption of electricity; or</li> <li>- fulfils such other conditions as may be prescribed</li> </ul> <p>(v) <i>Any person other than a company or a firm, who is not required to furnish a return under section 139(1) -</i></p> <ul style="list-style-type: none"> <li>(i) <i>if his total sales, turnover or gross receipts, as the case may be, in the business &gt; ₹ 60 lakhs during the previous year; or</i></li> <li>(ii) <i>if his total gross receipts in profession &gt; ₹ 10 lakhs during the previous year; or</i></li> <li>(iii) <i>if the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹ 25,000 or more; or</i></li> </ul>

	<p><i>However, a resident individual who is of the age of 60 years or more, at any time during the relevant previous year, if the aggregate of TDS and TCS during the previous year, in his case, is ₹ 50,000 or more</i></p> <p>(iv) <i>the deposit in one or more savings bank account of the person, in aggregate, is ₹ 50 lakhs or more during the previous year.</i></p> <p><b><u>Due date of filing return of income</u></b></p> <p>31<sup>st</sup> October of the assessment year, in case the assessee is:</p> <p>(i) a company;</p> <p>(ii) a person (other than company) whose accounts are required to be audited; or</p> <p>(iii) a partner of a firm whose accounts are required to be audited.</p> <p>31<sup>st</sup> July of the assessment year, in case of any other assessee (other than assesseees including the partners of the firm being such assesseees who are required to furnish report under section 92E, for whom the due date is 30<sup>th</sup> November of the assessment year).</p>						
<p><b>234A</b></p>	<p><b><u>Interest for default in furnishing return of income</u></b></p> <p>Interest under section 234A is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.</p> <p>Assessee shall be liable to pay simple interest @1% per month or part of the month for the period commencing from the date immediately following the due date and ending on the following dates –</p> <table border="1" data-bbox="353 1329 1273 1561"> <thead> <tr> <th style="text-align: center;">Circumstances</th> <th style="text-align: center;">Ending on the following dates</th> </tr> </thead> <tbody> <tr> <td>Where the return is furnished after due date</td> <td>the date of furnishing of the return</td> </tr> <tr> <td>Where no return is furnished</td> <td>the date of completion of assessment</td> </tr> </tbody> </table> <p>However, where the assessee has paid taxes in full on or before the due date, interest under section 234A is not leviable.</p>	Circumstances	Ending on the following dates	Where the return is furnished after due date	the date of furnishing of the return	Where no return is furnished	the date of completion of assessment
Circumstances	Ending on the following dates						
Where the return is furnished after due date	the date of furnishing of the return						
Where no return is furnished	the date of completion of assessment						
<p><b>234F</b></p>	<p><b><u>Fee for default in furnishing return of income</u></b></p> <p>Where a person who is required to furnish a return of income under</p>						

	<p>section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of ₹ 5,000.</p> <p>However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed ₹ 1,000</p>
<b>139(3)</b>	<p><b><u>Return of loss</u></b></p> <p>An assessee can carry forward or set off his/its losses provided he/it has filed his/its return under section 139(3), within the due date specified under section 139(1).</p> <p><b><u>Exceptions</u></b></p> <p>Loss from house property and unabsorbed depreciation can be carried forward for set-off even though return has not been filed before the due date.</p>
<b>139(4)</b>	<p><b><u>Belated Return</u></b></p> <p>A return of income for any previous year, which has not been furnished within the time allowed u/s 139(1), may be furnished at any time before the:</p> <p>(i) three months prior to the end of the relevant assessment year (i.e., 31.12.2023 for P.Y. 2022-23); or</p> <p>(ii) completion of the assessment, whichever is earlier.</p>
<b>139(5)</b>	<p><b><u>Revised Return</u></b></p> <p>If any omission or any wrong statement is discovered in a return furnished u/s 139(1) or belated return u/s 139(4), a revised return may be furnished by the assessee at any time before the:</p> <p>(i) three months prior to the end of the relevant assessment year (i.e., 31.12.2023 for P.Y. 2022-23); or</p> <p>(ii) completion of assessment, whichever is earlier.</p> <p>Thus, belated return can also be revised.</p>
<b>139(8A)</b>	<p><i>Any person may, whether or not he has furnished a return under section 139(1) or belated return under section 139(4) or revised return under section 139(5) for that assessment year, furnish an updated return of his income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year at any time within 24 months from the end of the relevant assessment year.</i></p>



	<p><i>The provisions of updated return would not apply, if the updated return of such person for that assessment year –</i></p> <p>(i) <i>is a loss return; or</i></p> <p>(ii) <i>has the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1) or section 139(4) or section 139(5); or</i></p> <p>(iii) <i>results in refund or increases the refund due on the basis of return furnished under section 139(1) or section 139(4) or section 139(5).</i></p> <p><i>No updated return can be furnished by any person for the relevant assessment year, where –</i></p> <p>(a) <i>an updated return has been furnished by him under this sub-section for the relevant assessment year; or</i></p> <p>(b) <i>any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year in his case; or</i></p> <p>(c) <i>he is such person or belongs to such class of persons, as may be notified by the CBDT.</i></p>
139A	<p><b><u>Permanent Account Number (PAN)</u></b></p> <p>Quoting of PAN is mandatory in all documents pertaining to the following prescribed transactions :</p> <p>(a) in all returns to, or correspondence with, any income-tax authority;</p> <p>(b) in all challans for the payment of any sum due under the Act;</p> <p>(c) in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue. For example, sale or purchase of a motor vehicle, payment in cash of an amount exceeding ₹ 50,000 to a hotel against a bill or bills at any one time, etc.</p> <p><b><u>Inter-changeability of PAN with the Aadhaar number</u></b></p> <p>Every person who is required to furnish or intimate or quote his PAN may furnish or intimate or quote his Aadhaar Number in lieu of the PAN if he</p> <ul style="list-style-type: none"> <li>- has not been allotted a PAN but possesses the Aadhaar number</li> <li>- has been allotted a PAN and has intimated his Aadhaar number to prescribed authority in accordance with the requirement contained in section 139AA(2).</li> </ul>

139AA	<p><b><u>Quoting of Aadhar Number</u></b></p> <p>To be quoted by every person on or after 1.7.2017 in the application for allotment of PAN and in Return of Income</p> <p>If a person does not have Aadhar Number, the Enrolment ID of Aadhar application form issued to him at the time of enrolment shall be quoted.</p> <p>Every person who has been allotted PAN as on 1.7.2017 and who is eligible to obtain Aadhar Number, has to intimate his Aadhar Number to the prescribed authority on or before <b>31.3.2022</b>.</p> <p>Where a person, whose PAN has become inoperative, is required to furnish, intimate or quote his PAN under the Act, it would be deemed that he has not furnished, intimated or quoted the PAN, as the case may be, in accordance with the provisions of the Act. Consequently, he would be liable for all the consequences under the Act for not furnishing, intimating or quoting the PAN.</p> <p><b><i>However, the consequences would have effect from the date specified by the CBDT i.e., 1<sup>st</sup> April, 2023.</i></b></p>
234H	<p>Where a person, who is required to intimate his Aadhar Number under section 139AA(2), fails to do so on or before the notified date i.e., 30<sup>th</sup> June, 2021, he shall be liable to pay such fee, as may be prescribed, at the time of making intimation under section 139AA(2) after 30<sup>th</sup> June, 2021.</p> <p>However, such fee shall not exceed ₹ 1,000.</p> <p><i>As per section 139AA(2), every person who has been allotted PAN as on 1<sup>st</sup> July, 2017 and eligible to obtain Aadhar Number, is required to intimate his Aadhaar number to the prescribed authority in the prescribed form and manner.</i></p> <p><i>Accordingly, the CBDT has, vide notification no. 17/2022 dated 29.3.2022, inserted Rule 114(5A) to provide that if such person fails to do so by the date notified in section 139AA(2) i.e., 31<sup>st</sup> March, 2022, then at the time of subsequent intimation of his Aadhaar number to the prescribed authority, such person would be liable to pay, by way of fee, an amount equal to, —</i></p> <p>(a) ₹ 500, in a case where such intimation is made within three months from the date referred in section 139AA(2) i.e., by 30.06.2022; and</p> <p>(b) ₹ 1,000, in all other cases.</p>

140A	<p><b><u>Self-Assessment</u></b></p> <p>Where any tax is payable on the basis of any return required to be furnished under section 139, after taking into account –</p> <ul style="list-style-type: none"> <li>(i) the amount of tax, already paid,</li> <li>(ii) the tax deducted or collected at source</li> <li>(iii) any relief of tax claimed under section 89</li> <li>(iv) any tax credit claimed to be set-off in accordance with the provisions of section 115JD; and</li> <li>(v) any tax and interest payable as per the provisions of section 191(2)</li> </ul> <p>the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return.</p> <p>Where the amount paid by the assessee under section 140A(1) falls short of the aggregate of the tax, interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter, towards interest and the balance shall be adjusted towards the tax payable.</p>
140B	<p><b><i>Payment of tax, additional tax, interest and fee before furnishing updated return of income if no return is furnished earlier</i></b> - <i>Where no return of income has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional tax computed under section 140B(3), before furnishing the return.</i></p> <p><i>The tax payable is to be computed after taking into account the following -</i></p> <ul style="list-style-type: none"> <li><i>(i) the amount of tax, if any, already paid, as advance tax</i></li> <li><i>(ii) the tax deducted or collected at source</i></li> <li><i>(iii) any relief of tax claimed under section 89; and</i></li> <li><i>(iv) any tax credit claimed to set-off in accordance with the provisions of section 115JD</i></li> </ul>

**Payment of tax, additional tax, interest and fee before furnishing updated return of income if return is furnished earlier**

Where, return of income under section 139(1) or 139(4) or 139(5) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax, along with the payment of additional tax computed under section 140B(3), as reduced by the amount of interest paid under the provisions of this Act in the earlier return, before furnishing the return.

The tax payable has to be computed after taking into account the following -

- (i) the amount of relief or tax referred to in section 140A(1), the credit for which has been taken in the earlier return
- (ii) the tax deducted or collected at source on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return
- (iii) any tax credit claimed to set-off in accordance with the provisions of section 115JD, which has not been claimed in the earlier return.

The aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.

**Additional income-tax payable at the time of updated return**

The additional tax payable at the time of furnishing the updated return under section 139(8A) would be -

- (i) 25% of aggregate of tax and interest payable, as determined above, if such return is furnished after expiry of the time available under section 139(4) or 139(5) and before completion of the period of 12 months from the end of the relevant assessment year; or
- (ii) 50% of aggregate of tax and interest payable, as determined above, if such return is furnished after the expiry of 12 months from the end of the relevant assessment year but before completion of the period of 24 months from the end of the relevant assessment year.

## TEST YOUR KNOWLEDGE

### Question 1

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

- (a) Return of income of Limited Liability Partnership (LLP) could be verified by any partner.
- (b) Time limit for filing return under section 139(1) in the case of Mr. A having total turnover of ₹ 160 lakhs (₹ 100 lakhs received in cash) for the year ended 31.03.2023 whether or not opting to offer presumptive income under section 44AD, is 31<sup>st</sup> October, 2023.

### Answer

#### (a) Disagree

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

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

- (i) where for any unavoidable reason such designated partner is not able to 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 31.03.2023, shall be 31st July, 2023.

In case, Mr. A does not opt for presumptive taxation provisions under section 44AD, he has to get his accounts audited under section 44AB, since his turnover exceeds ₹ 1 crore, in which case, the due date for filing return would be 31<sup>st</sup> October, 2023.

### Question 2

Mr. Vineet submits his return of income on 12-09-2023 for A.Y 2023-24 consisting of income under the head "Salaries", "Income from house property" and bank interest. On 21-12-2023, he realized that he had not claimed deduction under section 80TTA in respect of his interest income on the Savings Bank Account. He wants to revise his return of income. Can he do so? Examine. Would your answer be different if he discovered this omission on 21-03-2024?

**Answer**

Since Mr. Vineet has income only under the heads "Salaries", "Income from house property" and "Income from other sources", he does not fall under the category of a person whose accounts are required to be audited under the Income-tax Act, 1961 or any other law in force. Therefore, the due date of filing return for A.Y.2023-24 under section 139(1), in his case, is 31<sup>st</sup> July, 2023. Since Mr. Vineet had submitted his return only on 12.9.2023, the said return is a belated return under section 139(4).

As per section 139(5), a return furnished under section 139(1) or a belated return u/s 139(4) can be revised. Thus, a belated return under section 139(4) can also be revised. Therefore, Mr. Vineet can revise the return of income filed by him under section 139(4) in December 2023, to claim deduction under section 80TTA, since the time limit for filing a revised return is three months prior to the end of the relevant assessment year, which is 31.12.2023.

However, he cannot revise return had he discovered this omission only on 21-03-2024, since it is beyond 31.12.2023.

**Question 3**

*Examine 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 verified 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 verified by any other adult member of the family; such member can be a male or female member.

**Question 4**

*Explain the term "return of loss" under the Income-tax Act, 1961. Can any loss be carried forward even if return of loss has not been filed as required?*

**Answer**

A return of loss is a return which shows certain losses. Section 80 provides that the losses specified therein cannot be carried forward, unless such losses are determined in pursuance of return filed under the provisions of section 139(3).

Section 139(3) states that to carry forward the losses specified therein, the return should be filed within the time specified in section 139(1).

Following losses are covered by section 139(3):

- business loss to be carried forward under section 72(1),
- speculation business loss to be carried forward under section 73(2),
- loss from specified business to be carried forward under section 73A(2).
- loss under the head "Capital Gains" to be carried forward under section 74(1); and
- loss incurred in the activity of owning and maintaining race horses to be carried forward under section 74A(3)

However, loss from house property to be carried forward under section 71B and unabsorbed depreciation under section 32 can be carried forward even if return of loss has not been filed as required under section 139(3).

**Question 5**

*Mr. Aakash has undertaken certain transactions during the F.Y.2022-23, which are listed below. You are required to identify the transactions in respect of which quoting of PAN is mandatory in the related documents –*

S.No.	Transaction
1.	<i>Payment of life insurance premium of ₹ 45,000 in the F.Y.2022-23 by account payee cheque to LIC for insuring life of self and spouse</i>
2.	<i>Payment of ₹ 1,00,000 to a five-star hotel for stay for 5 days with family, out of which ₹ 60,000 was paid in cash</i>
3.	<i>Payment of ₹ 80,000 by ECS through bank account for acquiring the debentures of A Ltd., an Indian company</i>
4.	<i>Payment of ₹ 95,000 by account payee cheque to Thomas Cook for travel to Dubai for 3 days to visit relatives</i>
5.	<i>Applied to SBI for issue of credit card.</i>

**Answer**

	<b>Transaction</b>	<b>Is quoting of PAN mandatory in related documents?</b>
1.	Payment of life insurance premium of ₹ 45,000 in the F.Y.2022-23 by account payee cheque to LIC for insuring life of self and spouse	No, since the amount paid does not exceed ₹ 50,000 in the F.Y.2022-23.
2.	Payment of ₹ 1,00,000 to a five-star hotel for stay for 5 days with family, out of which ₹ 60,000 was paid in cash	Yes, since the amount paid in cash exceeds ₹ 50,000
3.	Payment of ₹ 80,000, by ECS through bank account, for acquiring the debentures of A Ltd., an Indian company	Yes, since the amount paid for acquiring debentures exceeds ₹ 50,000. Mode of payment is not relevant in this case.
4.	Payment of ₹ 95,000 by account payee cheque to Thomas Cook for travel to Dubai for 3 days to visit relatives	No, since the amount was paid by account payee cheque, quoting of PAN is not mandatory even though the payment exceeds ₹ 50,000
5.	Applied to SBI for issue of credit card.	Yes, quoting of PAN is mandatory on making an application to a banking company for issue of credit card.