

NEW RETURN FORMS FOR ASSESSMENT YEAR 2009-10 – MATTERS CONNECTED THERETO

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The Central Board of Direct Taxes have, vide notification S.O. No.866 (E) dated 27th, March, notified the following new forms for **Assessment Year 2009-10** :-

- (i) ITR-1 return of income for individuals having income from salary/ pension/ family pension and not having any other income except income by way of interest chargeable to income-tax under the head Income from other sources;
- (ii) ITR-2 return of income for Individuals and Hindu Undivided Families (HUFs) not having any income under the head Profits or gains of business or profession;
- (iii) ITR-3 return of income for Individuals and HUFs being partners in firms and not carrying out business or profession under any proprietorship;
- (iv) ITR-4 return of income for individual and HUFs having proprietary business or profession;
- (v) ITR-5 combined form for return of income and fringe benefits for Firms/ Association of Persons / Body of Individuals;
- (vi) ITR-6 combined form for return of income and fringe benefits for companies (other than companies claiming exemption under section 11);
- (vii) ITR-7 combined form for return of income and fringe benefits for persons including companies required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D);
- (viii) ITR-8 stand alone form for return of fringe benefits for persons who are not required to furnish return of income but are required to furnish return of fringe benefits.

The above return forms are available at <http://www.incometaxindia.gov.in>.

2. **Rule 12** of the Income Tax Rules, 1962 (hereinafter referred to as '**the said rule**') provides for the form and the manner in which the income tax return is required to be furnished.

3. **Sub-rule (3) of the said rule** provides that return of income/ fringe benefits can be furnished in any of the following manners:-

- (i) furnishing the return in a paper form;
- (ii) furnishing the return electronically under digital signature;
- (iii) transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V;
- (iv) furnishing a bar-coded return in a paper form.

4. **Sub-rule (5) of the said rule** provides that the return of income/ fringe benefits for assessment year 2008-09 or any earlier assessment years shall be furnished in the appropriate form as applicable in that assessment year.

5. In exercise of the powers conferred by section 139D of the Income Tax Act, 1961 (hereinafter referred to as '**the Act**'), (read with clause (eebb) of sub-section (2) of section 295 of the Act, **sub-rule (3)** of the said rule provides that-

- (a) it shall be mandatory for the firms to whom provisions of section 44AB are applicable and for the companies (other than the companies claiming exemption under section 11) to furnish the return of income/ fringe benefits electronically in the manner mentioned at (ii) or (iii) of paragraph 3;

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- (b) the return of income/ fringe benefits in Form ITR-7 by charitable/ religious trusts, political parties and other non-profit is to be furnished in the paper form only; and
- (c) all other taxpayers have the option to furnish the return of income/ fringe benefits in any of the manner mentioned in paragraph 3.

6. In exercise of the powers conferred by section 139C of the Income Tax Act, 1961 (hereinafter referred to as '**the Act**'), read with clause (eeba) of sub-section (2) of section 295 of the Act, **sub-rule (2)** of the said rule provides that the returns required to be furnished in above mentioned Forms (except in ITR-7) shall not be accompanied by any attachments/ annexures. Thus, taxpayers should not enclose with these return forms any statement showing the computation of income or tax, copies of balance-sheet, profit and loss account, TDS/ TCS certificates, proof of payment of advance tax or self-assessment tax. However, these documents shall have to be produced before the Assessing Officer on demand by him. The Chief Commissioners of Income-tax/ Commissioners of Income-tax must ensure that documents if any, annexed with these returns or Form ITR-V are detached at the time of receiving these returns/ ITR-V and are returned to the taxpayers immediately.

7. Following clarifications are also issued in respect of certain issues arising from furnishing the returns in the above mentioned forms:

(i) An assessee should obtain the report of audit from an accountant under section 44AB of the Act on or before the due date of the furnishing of the return and should fill out the relevant columns of the return forms on the basis of such report. However, the report of audit should not be attached with the return or furnished separately any time before or after the due date. The assessee should retain the report with himself. If called for by any income-tax authority during any proceeding under the Act, it shall be incumbent upon the assessee to furnish/produce the same in original. No penalty under section 271B shall be initiated or levied for not furnishing the tax audit report on or before the due date. However, if the audit report has not been obtained before the due date, provisions of section 271B shall continue to be attracted.

(ii) These returns are not to be accompanied with any other document including any statutory form or report of audit (other than the report under section 92E), which is otherwise required to be furnished before the due date or along with the return for making any claim. The provisions of the law shall be deemed to have been complied with in respect of the requirement of the filing of the attachments or documents or reports along with the return. No penalty shall be initiated/ levied for not furnishing such documents if such documents were otherwise obtained before the specified date, if any, provided in the statute. All these documents should be retained by the taxpayers. If called for by any income-tax authority during any proceeding under the Act, it shall be incumbent upon the assessee to furnish/produce the same, in original.

(iii) The report as required under section 92E of the Income-tax Act should not be furnished along with the return. However, it should be separately furnished before the date specified in rule 10E.

8. As stated in paragraph 5 above, it is mandatory for a company and a firm liable to audit under section 44AB of the Act to furnish the return electronically. However, electronic filing is optional for other categories of tax-payers. **The e-Return has to be furnished at <http://incometaxindiaefiling.gov.in>. Further, it is advisable, though not mandatory, to use a digital signature for electronically furnishing the return.** If the return is electronically furnished under a digital signature, the tax-payer is not required to furnish the Form ITR-V with the Income-tax Department as a follow up to the electronic transmitting of data in the return. Similarly, any return which is digitally signed by the assessee and filed with an E-Return Intermediary (ERI), who, in turn, submits the return to the Income Tax Department under his digital signature, will also be deemed to have been filed under a digital signature of the assessee and no Form ITR-V is required to be submitted. In such cases, the date of electronic transmission of the data in the return shall be the date of furnishing the return.

9. However, if the assessee does not use a digital signature for electronically transmitting the data, he is required to follow-up the electronic transmission of the data by submitting the Form ITR-V with the Income-tax Department as verification of the electronic filing of the return. In such a case, the date of transmitting

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the data electronically will be the date of furnishing the return if the Form ITR-V is furnished within thirty days after the date of transmitting the data electronically. In case, Form ITR-V, is furnished after the above mentioned period, it will be deemed that the return in respect of which the Form ITR-V has been filed was never furnished and it shall be incumbent on the assessee to electronically re-transmit the data and follow it up by submitting the new Form ITR-V within thirty days.

10. Since the Form ITR-V is bar-coded, assessee is advised not to fold the same and post it in A4 size envelope. The assessee shall furnish the Form ITR-V to the Income-tax Department by mailing it to **"Income Tax Department – CPC, Post Box No - 1, Electronic City Post Office, Bangalore - 560100, Karnataka"** within thirty days after the date of transmitting the data electronically. The Post Box shall deliver all the Form ITR-V to the Centralized Processing Centre (CPC) of the Income-tax Department in Bangalore. Upon receipt of the Form ITR-V, the CPC shall send an e-mail acknowledging the receipt of Form ITR-V. The e-mail shall be sent in due course to the e-mail address furnished by the tax-payers in his return. **No Form ITR-V shall be received in any other office of the Income-tax Department or in any other manner.**

11. All returns filed electronically shall be processed, on priority basis, only at the Centralized Processing Centre of the Income-tax Department in Bangalore.

12. Since no documents are required to be furnished along with the return of income, the credit for Tax Deducted at Source (TDS), Tax Collected at Source (TCS), advance tax and self assessment tax (hereinafter collectively referred to as **'pre-paid taxes'**) shall be allowed on the basis of information relating to pre-paid taxes furnished in the relevant schedules of the return forms subject to matching with the information provided by the deductor, collector and the banks. Therefore, tax payers are advised to ensure that the information relating to pre-paid taxes is complete in all respect and correct. With a view to enabling the matching of information relating to pre-paid taxes furnished by the tax payers, the Income-tax Department has created a system of Unique Transaction Number (UTN) and Challan Identification Number (CIN). Assessee must ensure that the deductor and the collector have provided them with separate UTNs in respect of each TDS and TCS transaction. Similarly, they must also ensure that the UTN for every TDS and TCS claim in the return is correctly filled in. Similarly, they must ensure that they correctly fill in the CIN in respect of payments of advance tax and self-assessment tax. Further, no disallowance of claim for pre-paid taxes shall be made by the Assessing Officer only on the ground that the TDS/TCS certificates and challans have not been furnished along with the return of income or Form ITR-V.

13. The return of income in Form No. ITR-1 to Form No. ITR-8 for Assessment Year 2009-10 have been notified which require, amongst other, the quoting of the relevant UTN for every TDS or TCS claim made by the assessee. Therefore, the credit for any TDS or TCS claim will be allowed, amongst others, if the assessee quotes the relevant UTN for every TDS and TCS claim and the said UTN matches with the UTN in the database of the Income Tax Department. With a view to enabling the processing of returns relating to financial year 2007-08 (Assessment Year 2008-09) and enabling the assessee to receive the UTN for TDS and TCS transactions in the Financial Year 2008-09 (relevant for Assessment Year 2009-10), the following procedure will be followed: -

- (a) National Securities Depository Limited (NSDL) shall assign an UTN for every TDS and TCS transaction record in Financial Year 2007-08 and 2008-09 reported in the quarterly returns received by it.
- (b) NSDL will create a facility to e-mail the UTN file to the deductor if the e-mail address of the deductor is available with them. In addition, they will also create a facility for the deductor to download the UTN file.
- (c) Upon receipt of the UTN, the deductor will inform the UTN to the deductee. In cases where the UTNs are available to the deductor before the issue of the TDS/TCS certificate to the deductee, the deductor will indicate the UTNs on the certificate. However, if the UTNs are not available to the deductor before the issue of TDS/TCS certificate, the deductor shall, subsequently, send a consolidated statement of all TDS/TCS transactions indicating the UTNs.

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(d) NSDL will also create a facility to allow independent viewing of the UTNs by the deductee. As a result, even if the UTNs are not received by the deductee from the deductor, they can be directly obtained from the NSDL database and quoted while making claims of TDS and TCS in the return of income.

14. In the past, instances have come to the notice of the Board that in spite of specific directions contained in the Instructions for filling the return forms, the practice of accepting returns, along with annexures is still continuing. Tax-payers have in the past also complained that staff and officials in certain stations are refusing to accept returns which are not accompanied with annexures. These practices are against the expressed policy of the Government and are not in consonance with the legal provisions. Therefore, it is emphasized that Chief Commissioners of Income Tax must ensure strict compliance with the provisions of law. It may be reiterated that all annexures accompanying the income tax return forms should be detached and returned to the tax payers by the receiving official.

15. The contents of this circular are for strict compliance by all officers and staff of the Income Tax Department. Any violation by the officers and staff of Income Tax Department will be seriously viewed.