

TiE Chennai    TiE Essentials

Session-12

Income Tax Basics

## Income Tax Basic Compliances:

- ✓ PAN
- ✓ TAN
- ✓ TAX AUDITS
- ✓ TDS
- ✓ IT RETURNS
- ✓ ADVANCE TAX
- ✓ TAX RATES

## **1. PAN**

PAN stands for Permanent Account Number.

PAN is a **ten-digit unique alphanumeric number** issued by the Income Tax Department.

PAN enables the department to link all transactions of the assessee with the department.

### **Application for PAN**

PAN application can be filled up in the following forms –

1. Form 49A (for Indian Citizens)
2. Form 49AA (for Foreign Citizens)

PAN application can be made either online through NSDL website [www.tin-nsdl.com](http://www.tin-nsdl.com) or UTIITSL website or through any of the NSDL TIN-Facilitation Centres/ PAN Centres.

## **2. TAN**

Tax Collection Account Number (TAN) is a **10-digit alpha-numeric number** issued by the Income-tax Department.

TAN is to be obtained by all persons who are responsible for deducting tax at source (TDS) or who are required to collect tax at source (TCS).

Required for:

- TDS return
- TCS return
- Statement of financial transactions or reportable accounts
- Challans for payment of TDS/TCS
- TDS/TCS certificates
- Other documents as may be prescribed

An application for allotment of TAN is to be filed in **Form 49B** in duplicate and submitted to any TIN-FC. Addresses of TIN-FCs are available at NSDL-TIN website (<https://www.tin-nsdl.com>).

### **3. Section 44AA: Maintenance of Books of Accounts**

#### **4. Section 44AB: Audit of Accounts**

- Person carrying on business and total sales, turnover or gross receipts has **exceeds Rs.1 crore** in any previous year.
- Person carrying on profession and gross receipts has **exceeds Rs. 50 Lakhs** in any previous year.

## 5. Tax Rates:

Income tax is levied on the income earned by all the individuals, HUF, Partnership Firms, LLPs and Corporates as per the Income tax Act ,1961. In the case of individuals, tax is levied as per the slab system if their income is above the minimum threshold limit (known as basic exemption limit).

(i) Income tax has classified three categories of “**individual**” taxpayers such as:

- Individuals (aged less than of 60 years) including residents and non-residents
- Resident Senior citizens (60 to 80 years of age)
- Resident Super senior citizens (aged more than 80 years)

In this new regime for the Financial Year 2020 -2021, taxpayer has an **OPTION** to choose either:

- To pay income tax at lower rates as per New Tax regime on the condition that they forgo certain permissible exemptions and deductions available under income tax, Or
- To continue to pay taxes under the existing tax rates. The assessee can avail rebates and exemptions by staying in the old regime and paying tax at the existing higher rate.

- The comparative tax rate of old and new tax rates is as follows



Income Tax Slab	Existing Regime Slab Rates for FY 19-20 and FY 20-21			New Regime Slab Rates for FY 20-21
	Resident Individuals & HUF < 60 years of age & NRIs	Resident Individuals & HUF > 60 to < 80 years	Resident Individuals & HUF > 80 years	Applicable for All Individuals & HUF
UptoRs 2.5 Lakhs	NIL	NIL	NIL	NIL
Rs 2.5 – Rs 3.00 Lakhs	5% (tax rebate u/s 87a is available)	NIL	NIL	5% (tax rebate u/s 87a is available)
Rs. 3.00- Rs 5.00 Lakhs		5% (tax rebate u/s 87a is available)	NIL	
Rs. 5.00 – Rs 7.5 Lakhs	20%	20%	20%	10%
Rs 7.5 – Rs 10.00 Lakhs	20%	20%	20%	15%
Rs 10.00 – Rs. 12.50 Lakhs	30%	30%	30%	20%
Rs. 12.5 – Rs. 15.00 Lakhs	30%	30%	30%	25%
>Rs. 15 Lakhs	30%	30%	30%	30%

- The tax rates in the New tax regime is the same for all categories of Individuals, i.e Individuals & HUF upto 60 years of age, Senior citizens above 60 years upto 80 years , and Super senior citizens above 80 years. Hence **no increased basic exemption limit benefit** will be available to senior and super senior citizens in the New Tax regime.
- Individuals with Net taxable income less than or equal to Rs 5 lakh will be **eligible for taxrebate u/s 87A**i.e tax liability will be nil of such individual in **both – New and old/existing tax regimes.**
- Basic exemption limit for NRIs is of Rs 2.5 Lakh irrespective of age.
- Additional Health and Education cess at the rate of **4 %** will be added to the income tax liability in all cases.
- Surcharge applicable as per tax rates below in all categories mentioned above:
  - 10% of Income tax if total income > Rs.50 lakh
  - 15% of Income tax if total income > Rs.1 crore
  - 25% of Income tax if total income > Rs.2 crore
  - 37% of Income tax if total income > Rs.5 crore

The taxpayer opting for concessional rates in the New Tax regime will have to forgo certain exemptions and deductions available in the existing old tax regime. In all there are 70 deductions & exemptions

that are not allowed, out of which the most commonly used are listed below:

List of common Exemptions and deductions “**not allowed**” under New Tax rate regime

- Leave Travel Allowance (LTA)
- House Rent Allowance (HRA)
- Conveyance allowance
- Daily expenses in the course of employment
- Relocation allowance
- Helper allowance
- Children education allowance
- Other special allowances [Section 10(14)]
- Standard deduction on salary
- Professional tax
- Interest on housing loan (Section 24)
- Deduction under Chapter VI-A deduction (80C,80D, 80E and so on) (Except Section 80CCD(2))

List of deductions “**allowed**” under new Tax rate regime

- Transport allowance for specially abled people
- Conveyance allowance for expenditure incurred for travelling to work
- Investment in Notified Pension Scheme under section 80CCD(2)
- Deduction for employment of new employees under section 80JJAA

- Depreciation u/s 32 of the Income-tax act except additional depreciation.
- Any allowance for travelling for employment or on transfer

(ii) New Tax regime Slab rates for **domestic companies** – FY 2020-21

<b>Particulars</b>	<b>Existing / Old regime Tax rates</b>	<b>New Regime Tax rates</b>
Company opts for section 115BAB (not covered in section 115BA and 115BAA) & is registered on or after October 1, 2019 and has commenced manufacturing on or before 31st March, 2023.	–	15%
Company opts for Section 115BAA , wherein the total income of a company has been calculated without claiming specified deductions, incentives, exemptions and additional depreciation	–	22%
Company opts for section 115BA registered on or after March 1, 2016 and engaged in manufacture of any article or thing and does	–	25%

<b>Particulars</b>	<b>Existing / Old regime Tax rates</b>	<b>New Regime Tax rates</b>
not claim deduction as specified in the section clause.		
Turnover or gross receipt of the company is less than Rs. 400 crore in the previous year 2018-19	25%	25%
Any other domestic company	30%	30%

- Additional Health and Education cess at the rate of 4 % will be added to the income tax liability in all cases.
- Surcharge applicable for companies is as below:  
7% of Income tax where total income >Rs 1 crore  
12% of Income tax where total income > Rs.10 crore  
10% of income tax where domestic company opted for section 115BAA and 115BAB

(iii) Income tax rate for **Partnership firm or LLP** as per old/ new regime.

- A partnership firm/ LLP is taxable at 30%.
- 12% Surcharge is levied on incomes above Rs 1 crore.
- Health and Education cess at the rate of 4 %

## **6. TDS**

**Due date:** The TDS must be deposited to the government by **7<sup>th</sup> of the subsequent month.**

TDS has to be deposited using **Challan ITNS-281** on the government portal.

TDS to be deducted at the time of credit to the account of the payee or at the time of payment **whichever is earlier.**

### 3.1 TDS Chart

S.No.	Nature of Payment	Threshold Limit	Rate	
			PAN Available	PAN Not Available
1	Payment of Salary - Section 192	Income exceeds the Basic Exemption Limit	Average Income tax rate = Income tax payable calculated through slab rates / employee's estimated income for the financial year	20%
2	Payment to Contractor/Sub Contractor - Section 194C	Rs.30,000/- One Time and Rs. 1,00,000/- in whole year.	Individual/HUF 1% <b>(Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 0.75%)</b>	20%
			Others 2% <b>(Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 1.50%)</b>	
3	Payment of Commission/Brokerage - Section 194H	Rs. 15,000/-	5% <b>(Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 3.75%)</b>	20%
4	Payment of Rent - Section 194I	Rs.2,40,000 Per year	10% for Land/Building/Furniture	20%
			<b>(Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 7.50%)</b>	



S.No.	Nature of Payment	Threshold Limit	Rate	
			PAN Available	PAN Not Available
			2% Plant Machinery/Equipments (Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 1.50%)	
5	Payment to professional/technical services (194J)	Rs.30,000/-	<p>a) Cases, wherein, the payee is engaged in the business of the operation of Call Centre only (effective from 1<sup>st</sup> June 2017) – 2% (Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 1.50%)</p> <p>b) In case of fees for technical services (not being a professional royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic film) (effective from 1<sup>st</sup> April 2020) – 2% (Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 1.50%)</p>	20%

S.No.	Nature of Payment	Threshold Limit	Rate	
			PAN Available	PAN Not Available
			c)Professional royalty where such <b>royalty</b> is in the nature of consideration for sale, distribution or exhibition of <b>cinematographic film – 10% (Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 7.50%)</b>	
			d) In case of fees for any other professional services – 10% <b>(Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 7.50%)</b>	
5	Payment of Interest (194A)	Interest other than interest on securities – Others – Rs. 5,000	10% <b>(Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 7.50%)</b>	20%
		Banks / Co-operative society engaged in	10% <b>(Due to COVID -19, From 14 May 2020 to 31 March 2021 – Rate will be 7.50%)</b>	

S.No.	Nature of Payment	Threshold Limit	Rate	
			PAN Available	PAN Not Available
		business of banking / Post Office – Rs 40,000		

Let's have a look into few TDS sections.

### **Section 192 – TDS on Salary**

The TDS deducted u/s 192 is reflected in **Form 16**, which is issued by the taxpayer at the end of the financial year.

TDS is deducted **at the time of actual payment of salary** and not during the accrual of salary. Tax will also be deducted if the **employer pays salary in advance or employee receives arrears from employer.**

In case employee's estimated salary is **not more than the basic exemption limit, TDS will not be deducted.** This rule is applicable even to those who do not have a PAN.

The table below shows the basic exemption limit as per the age that does not require TDS to be deducted:

<b>Age</b>	<b>Minimum income</b>
Resident in India below 60 years	Rs 2.5 lakh
Senior Citizens between 60 years and below 80 years	Rs 3 lakh
Super Senior Citizens above 80 years	Rs 5 lakh

The employer's status such as HUF, firms or company is irrelevant for the deduction of tax at source under this section. Moreover, the number of employees employed by the employer does not matter while calculating and deducting TDS.

### **Section 194C – TDS on Contract**

Section 194C states that any person responsible for paying any sum to the **resident contractor** for **carrying out any work** (including the supply of labor), in pursuance of a contract between the contractor and the following:

- The Central Government or any State Government
- Any local authority
- Any corporation established by or under a Central, State or Provisional Act
- Any company
- Any co-operative society
- Any authority constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the needs for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages or for both

- Any society registered under the Society Registration Act, 1980 or under any such corresponding law to the Act in any Part of India
- Any trust
- Any university or deemed university
- Any firm
- An individual or a HUF or an AOP or BOI if such person is liable to audit of accounts u/s 44AB in the preceding Financial year

### Rate of TDS

Sl. No	Nature of Payment	TDS Rate if PAN available	TDS Rates from 14.05.2020 to 31.03.2021	TDS Rate if PAN not available
1	Payment / Credit to resident individual or HUF	1%	0.75%	20%
2	Payment/Credit to any resident person other than individual / HUF	2%	1.5%	20%
3	Payment/ credit to Transporters	NIL	NIL	20%

No tax is required to be deducted in the following cases:

- Where the sum paid or credited in pursuance of any contract does not exceed Rs. 30,000, or
- where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year does not exceed Rs. 1,00,000 the person responsible for paying such sums will not deduct TDS under this section or
- Individual or HUF not to deduct tax if the payment or amount credited to the contractor is for **personal use**

As per Section 194C(6) no deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his PAN, to the person paying or crediting such amount.

However the contractor has to fulfill the following conditions:

- Owns 10 or less goods carriage at any time during the previous year
- Engaged in the business of plying, hiring or leasing goods carriages
- Has furnished a declaration to this effect along with his PAN

## **Section 194I – TDS on Rent**

The person (not being an Individual or HUF) who is responsible for paying of rent is liable to deduct tax at source. However individuals and/or HUFs who are subject to tax audit are also under an obligation to deduct the tax at source.

TDS threshold for deduction of tax on rent is Rs 2,40,000 for the FY 2020-21. The threshold limit was Rs. 1,80,000 until FY 2018-19.

**‘Rent’** means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any:

- land or
- Building (including factory building) or
- Land appurtenant to a building (including factory building) or
- Machinery or
- Plant or
- Equipment or
- Furniture or
- Fittings

whether or not any or all of the above are owned by the payee (Explanation (i) to Sec. 194-I).

*\*Sub-letting is also covered.*



If the landlord collects security or advance payment at the time of letting out a building to a tenant on the condition that the **deposit will be refunded at the time of vacating the building**, then such a receipt is **not in the nature of income** and, therefore, **no tax is to be deducted at source u/s 194I**.

However, **advance rent** (not in the nature of refundable security deposit) paid is, **subject to a tax deduction**.

### **Examples of payment covered u/s 194 I**

- Income from letting out of factory building
- Rent includes service charges
- Charges regarding cold storage facility
- Hall rent paid by an association for use of it
- Payments to hotels for holding seminars including lunch

### **Section 194J – TDS on professional/technical services**

The type of payments to residents covered under this section are as follows:

- Professional fees
- Fees for technical services

- Remuneration paid to directors excluding salary (For e.g., sitting fees to attend board meetings)
- Royalty
- Payments in the nature of non-compete fees (i.e., fees paid to not carry on any business or profession for a specified time and within certain geographical boundaries) or fees paid to not share any technical knowledge or know-how.

All entities (other than individuals/HUF that are not required to do tax audit in the preceding year) need to deduct tax.

No individual or a HUF shall be liable to deduct tax on the sum by way of fees for professional services in case such sum is credited or paid for personal use.

### **Section 194M – TDS on payment to resident contractors and professionals**

- An individual and/or Hindu undivided family (HUF) has to deduct tax at source under Section 194M. Such individuals and HUF must not be required to get their books of accounts audited. Books of Accounts are required to be audited if total turnover or receipts of a business exceed Rs 1 crore or where receipts of a profession exceed Rs 50 lakh. Read more in detail here.

- It applies when the total amount paid to a resident individual, for carrying out any contractual work or providing any professional service, in a financial year exceeds Rs 50,00,000.
- If they are required to get Books of Accounts audited, TDS deduction is applicable as per Section 194C and 194J. The individual and/or HUF who have to deduct TDS under Section 194C (TDS on payment to a contractor) and 194J (TDS on payment on professional fees) do not have to deduct tax at source under Section 194M.
- The individual or HUFs who has to deduct tax can pay the tax to the government by quoting his or her PAN only. Not required to get a tax deduction account number (TAN) for TDS deduction.
- Payments to non-residents are not covered under this section

(i)The expression, “**work**” in this section would include:

- Advertising
- Broadcasting and telecasting including production of programs for such broadcasting or telecasting.
- Carriage of goods and passengers by any mode of transportation, other than railways.
- Catering.
- Manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer. But does not include

manufacturing or supplying a product according to the requirements or specifications of a customer by using material purchased from a person, other than such a customer.

(ii) **Professional services** in this section would include:

- Professional fees
- Fees for technical services
- Remuneration paid to directors excluding salary (For example, sitting fees to attend board meetings)
- Royalty
- Payments in the nature of non-compete fees (i.e., fees paid to not carry on any business or profession for a specified time and within certain geographical boundaries) or fees paid to not share any technical knowledge or know-how.

(iii) The expression **contract** includes sub contract

### **Rate of TDS**

TDS at **5%** will be deducted under 194M if the total amount paid to a resident **exceeds Rs 50,00,000** in a particular financial year. The TDS rate is **3.75%** for transactions from 14 May 2020 until 31 March

2021. In case the PAN of the deductee is not available, then TDS will be deducted at 20%.

### 3.2 TDS Challan/Return

Filing Tax Deducted at Source returns is mandatory for all the persons who have deducted TDS. TDS return is to be submitted **quarterly** and various details need to be furnished like TAN, amount of TDS deducted, type of payment, PAN of deductee, etc. Also, different forms are prescribed for filing returns depending upon the purpose of the deduction of TDS. Various types of return forms are as follows:

Form No	Transactions reported in the return	Due date
Form 24Q	TDS on Salary	Q1 – 31st July
		Q2 – 31st October
		Q3 – 31st January
		Q4 – 31st May
Form 26Q	TDS on all payments made to residents except salaries	Q1 – 31st July
		Q2 – 31st October
		Q3 – 31st January
		Q4 – 31st May
Form 27Q	TDS on all payments made to non-residents except salaries	Q1 – 31st July
		Q2 – 31st October
		Q3 – 31st January
		Q4 – 31st May
Form 26QB	TDS on sale of property	30 days from the end of the month in which TDS is

		deducted
Form 26QC	TDS on rent	30 days from the end of the month in which TDS is deducted

Due to **COVID -19** the due dates of TDS return filing for **FY 2020-21** has been extended, which are as follows:

<b>Period</b>	<b>Due Date</b>
Q1 – 1st April to 30th June	31st March 2021
Q2 – 1st July to 30th September	31st March 2021
Q3 – 1st October to 31st December	31st Jan 2021
Q4 – 1st January to 31st March	31st May 2021

## **Penalty for failure to furnish TDS Return:**

Penalty of Rs. 10,000 – Rs. 100,000 will be levied under section **271H** of the Income Tax Act, 1961 in the following cases:

- (a) Person fails to submit the return on or before the due date
- (b) Person furnishes incorrect information in the return

As per Section **234E** of the Income Tax Act, 1961, if the return is filed after due date then late Fee amounts to Rs. 200/- per day or the TDS amount deducted whichever is lower.

### **3.3 TDS Certificate**

Form 16, Form 16A, Form 16 B and Form 16 C are all TDS certificates. TDS certificates have to be issued by a person deducting TDS to the assessee from whose income TDS was deducted while making payment.

**Example :** Banks issue Form 16A to the depositor when TDS is deducted on interest from fixed deposits. Form 16 is issued by the employer to the employee.

<b>Form</b>	<b>Nature of Transaction</b>	<b>Frequency</b>	<b>Due date</b>
Form 16	TDS on salary payment	Yearly	31st May
Form 16 A	TDS on non-salary payments	Quarterly	15 days from due date of filing return
Form 16 B	TDS on sale of property	Every transaction	15 days from due date of filing return
Form 16 C	TDS on rent	Every transaction	15 days from due date of filing return

### **3.4 TDS Violation Consequences**

(i) Where there is a non - deduction or short deduction or non - remittance or non – discharge of obligation then the deductor or the



employer may be declared as Assessee in default (AID) through an order passed under section 201(1) of the Income Tax Act,1961.

However **the deductor will not be regarded as AID** even if he has made non - deduction or short – deduction if

- The payee is a resident
- Payee has filed Return of Income under section 139 for the relevant Assessment Year
- Payee has included the sum received without TDS while computing the returned income
- Tax due on the returned income has been paid either by way of advance tax or self assessment tax
- The deductor has obtained a certificate in **Form 26A** from a Chartered Accountant to the effect that the payee has complied with the above mentioned conditions.

Even if the payee is a non – resident to whom payment was made without TDS, the deductor cannot be regarded as AID, if the tax had been paid directly by the payee.

(ii) Penalty :

- For short deduction and non – deduction penalty is levied under **section 271C** to the extent of short deduction and non – deduction.

- For non - remittance penalty is levied under **section 221** by the Assessing officer. The amount of penalty cannot exceed the amount of tax in arrears.

(iii) Interest :

Where there is a non - deduction or short deduction or non - remittance of obligation then the deductor shall pay TDS along with interest

- @1% p.m or part thereof on the TDS amount from the date on which such tax was deductible to the date on which such tax is deducted and
- @1.5%p.m or part thereof on the TDS amount from the date on which such tax is deducted to the date on which tax is actually paid

The above interest has to be filed before furnishing the return.

(iv) Charge upon all assets :

Where there is non – remittance of TDS the amount of tax together with the amount of interest thereon shall be a charge upon all the assets of the person or the company.

(v)Prosecution:

If a person fails remit the tax to Government he shall be punishable with rigorous imprisonment from 3 months to 7 years and with a fine as per **section 276B** of the Income Tax Act, 1961.

(vi) Disallowance :

The expenses will be disallowed u/s Section 40(a)(i), Section 40(a)(ia) & Section 40(a)(iii). *Refer* Error! Reference source not found.

## 7. Advance Tax

Advance tax means income tax should be paid in advance instead of lump sum payment at year end. It is also known as pay as you earn tax. These payments have to be made in installments as per due dates provided by the income tax department. Advance tax is applicable only if the tax liability is more than Rs.10,000. Senior citizens, who are 60 years or older, and not having business income are exempt from paying advance tax.

Any tax paid till 31st March will be treated as advance tax. As per **Rule 125** of the Income-tax Rules, 1962 a corporate taxpayer shall pay taxes through the electronic payment mode using the internet banking facility of the authorized banks.

### Due Dates for payment of Advance Tax

Due Date	Advance Tax Payable
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<b>Due Date</b>	<b>Advance Tax Payable</b>
On or before 15th June	15% of advance tax
On or before 15th September	45% of advance tax less advance tax already paid
On or before 15th December	75% of advance tax less advance tax already paid
On or before 15th March	100% of advance tax less advance tax already paid

The assessee opting presumptive taxation u/s 44AD, 44ADA & 44AE has to pay advance tax by 15<sup>th</sup> March of the Financial Year.

### **Consequences of failure of payment of Advance Tax**

Interest under section **234B** is applicable when:

- The assessed tax for the financial year is more than Rs 10,000 and the assessee did not pay any advance tax. or
- The assessee paid advance tax, but advance tax paid is less than 90% of assessed tax.

In any one of the above cases, interest under section 234B shall be applicable. Interest is calculated @ **1% on Assessed Tax less Advance Tax**. Part of a month is rounded off to a full month.

*\*Assessed Tax = Assessee's tax liability after reducing TDS, TCS, Relief under section 89, 90, 90A, 91 and MAT credit or AMT credit*

Interest under section **234C** is charged when the advance tax is paid after due date for payment.

	<b>Rate of Interest</b>	<b>Period of Interest</b>	<b>Amount on which Interest is calculated</b>
If Advance Tax paid on or before June 15 is less than 12% of the Amount	Simple interest @1% per month	3 months	15% of Amount (-) tax already deposited before June 15
If Advance Tax paid on or before September 15 is less than 36% of the Amount	Simple interest @1% per month	3 months	45% of Amount (-) tax already deposited before September 15
If Advance Tax paid on or before December 15 is less than 75% of the Amount	Simple interest @1% per month	3 months	75% of Amount (-) tax already deposited before December 15
If Advance Tax paid on or before March 15 is less than 100% of the Amount	Simple interest @1% per month	1 months	100% of Amount (-) tax already deposited before March 15

*\*Amount on which percentage of advance tax needs to be calculated = Assessee's tax liability after reducing TDS, TCS, Relief under section 89, 90, 90A, 91 and MAT credit or AMT credit*

**Note :** No interest is payable if there is any shortfall in payment of advance tax due, if it is on account of underestimation or failure to estimate amount of capital gains or speculative income (lottery income, gambling income etc).

## **8. Income Tax Returns (ITR)**

Filing an ITR is an authentic proof of income received.

The benefits of filing ITR are:

- It will save the assessee from assessment of income by the IT officials.
- Business losses can be carried forward to set-off against future profits.
- Easy Loan Approval. Majority of banks and NBFC's ask for a copy of ITR's for at least 3 consecutive years to sanction a loan.
- Insurance companies ask for ITR receipts if you opt to buy a term policy with sum insured of Rs. 50 lakh or more.
- Processing of Credit card application.
- The assessee can claim tax refunds only when you have filed the ITR.
- Income Tax Return can be used as a proof of your Income and Address.

- Most embassies & consulates require you to furnish copies of your tax returns for the past couple of years at the time of the visa application.
- Relief from double taxation is available under Sections 90, 90A and 91 of the Income Tax Act. One can only claim such relief when they have filed their returns.

### **Due date for filing ITR**

As per section 139(1) of the Income tax act,1961, the due date for furnishing return is as follows:

<b>Assessee</b>	<b>Due date</b>	<b>Extended due date for AY 2020 - 2021</b>
Person who have entered into international transactions or specified domestic transaction (Required to furnish report under section 92E)	30 <sup>th</sup> November of the Assessment Year	31 <sup>st</sup> January 2021
Other Assessee being (a) Company (b) working partner of the firm which is required to get audited	30 <sup>th</sup> September of the Assessment Year	31 <sup>st</sup> January 2021

(c) person required to get audited		
Other Assessee	31 <sup>st</sup> July of the Assessment Year	31 <sup>st</sup> December 2020

### Consequences of non - filing of ITR within Due date

(i) If the assessee fails to file the ITR on time, then he will be liable to pay **1% interest per month** from the due date to the actual date of filing as per section **234A** of the Income Tax Act, 1961.

(ii) As per section **234F** of the Income Tax Act, 1961, of the Income Tax Act, 1961, where a person required to furnish a return of income fails to do so within the time he shall pay late fee of

(a) Rs.5,000 if the return is furnished on or before the 31st day of December of the assessment year;

(b) Rs.10,000 in any other case

However if the **total income of the person does not exceed Rs.5,00,000**, the fee payable under this section shall not exceed **Rs.1,000**.

(iii) As per Section **80AC** of the Income tax act, 1961, no deduction is available under **Chapter VI A Part C (Section 80IA to 80RRB)** if return is not filed within the due date as per section 139(1) of the act.



(iv) Section 139(3) requires filing of return of loss mandatorily within the time allowed under section 139(1) for claiming carry forward of the following losses

- Business loss
- Speculation business loss
- Loss from specified business
- Loss under the head Capital Gain
- Loss from activity of owning and maintaining race horses

(v) The assessee will be prosecuted as per section **276C** of the Income tax act, 1961, if

- (a) Assessee having obligation to file return as per section 139(1) of the act has not filed return within the due date
- (b) Assessee upon receipt of notice under section 142(1)(i) requiring filing of return defaults

If the tax evaded exceeds Rs. 25 lakh then the imprisonment will be from 6 months to 7 years and in other cases the imprisonment will be from 3 months to 2 years.

### **Interest on Refund of Tax – Section 244A**

Where refund of any amount becomes due to the assessee under this Act, he shall be entitled to receive, in addition to the said amount, simple interest @0.5% p.m part thereof is calculated in the following manner

- Refund is out of TDS or TCS or Advance Tax and return filed within due date interest shall be calculated from the 1<sup>st</sup> day of the Assessment year to the date of grant of refund.
- Refund is out of TDS or TCS or Advance Tax and return not filed within due date interest shall be calculated from the date of furnishing of return to the date of grant of refund.
- Refund is out of self assessment tax interest shall be calculated from the date of furnishing of return or payment of tax, whichever is later to the date of grant of refund.
- In any other case interest shall be calculated from the date of payment of the tax or penalty to the date of grant of refund.

#### **Belated Return – Section 139(4)**

Any person who has not furnished a return within the time allowed to the assessee as per section 139(1) may furnish the return for any previous year at any time **before the end of the relevant Assessment year or before the completion of assessment whichever is earlier.**

#### **Revised Return – Section 139(5)**

If a person having furnished a return under section 139(1) or 139(4) discovers any omission or wrong statement, then the assessee may furnish a revised return at any time **before the end of the relevant Assessment year or before the completion of assessment whichever is earlier.**