

## KEY CHANGES IN INCOME TAX RETURN FORMS FOR A.Y. 2021-22

CBDT has notified the new ITR forms applicable for AY 2021-22 vide Notification No. 21/2021, dated 31.03.2021. No significant changes are made in the ITR Forms this year as compared to last year's Forms considering the Covid pandemic. Most of the changes are to give effect to the amendments made in the Finance Acts and to bring out more transparency in the returns.

### APPLICABILITY

Person	Income	ITR form applicable	Remarks
Resident and ordinarily resident Individual	Salary/ One House Property/ Income from Other Sources and Total income upto Rs. 50 Lakhs	ITR 1	Not applicable to a. Not-ordinary residents (R& OR). b. Non-Residents (NR) c. Individual who is a director in a company d. Individual who has made investment in unlisted equity share e. Individual in whose case Payment or deduction of tax in respect of ESOP's allotted by an eligible start-up has been deferred. f. In case, tax has been deducted u/s 194N.
Individuals and HUFs	Salary/ House Property/ Capital Gains/Income from Other Sources	ITR 2	-
Individuals and HUFs	Salary/ House Property/ Profits and Gains from Business or Profession/ Capital Gains/ Income from Other Sources	ITR 3	-

Resident Individuals/HUF's and firms (other than LLP)	Salary/ One House Property/ Income from other sources/ Presumptive income from Business and Profession and Total income upto Rs. 50 Lakhs	ITR 4	Not applicable to a. Not-ordinary residents (R& OR). b. Non-Residents (NR) c. Individual who is a director in a company d. Person having made investment in unlisted equity share. e. Individual in whose case Payment or deduction of tax in respect of ESOP's allotted by an eligible start-up has been deferred.
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Person	Income	ITR form applicable	Remarks
Firms/ AOP's/ BOI's/ Business Trust/ Investment Fund	House Property/ Profits and gains from Business or Profession/ Capital Gains/ Income from Other Sources	ITR 5	Business Trust and Investment Fund also to file ITR- 5
Companies other than those filing ITR 7	House Property/ Profits and gains from Business or Profession/ Capital Gains/ Income from Other Sources	ITR 6	-
Charitable Trust/ Political Party/ etc.	House Property/ Profits and gains from Business or Profession/ Capital Gains/ Income from Other Sources	ITR 7	-

## KEY CHANGES

### 1. ITR-1 cannot be filed in case tax has been deducted under Section 194N: (ITR 1)

Section 194N provides that every banking company, or co-operative bank or post-office, which is responsible for payment of cash to a person, from one or more accounts maintained by him, shall be required to deduct tax if the amount of cash withdrawn by the person during the year exceeds-

- Exceeds Rs.20 lakhs in case of certain non-filers of return
- Exceeds Rs.1 crore in all other cases

Therefore, if the tax has been deducted u/s 194N, a person cannot furnish return of income in ITR-1.

## **2. No option to carry forward TDS deducted under section 194N: (ITR 2 to 7)**

In case of tax deducted under section 194N, credit for such tax deducted shall be allowed in the assessment year relevant to previous year in which such tax has been deducted. If any excess TDS is deducted during the year under section 194N, then it shall be claimed as refund in the same year only.

Hence, there is no option to carry forward TDS deducted under section 194N to subsequent years, it can be claimed in the A.Y. relevant to previous year in which such TDS has been deducted.

## **3. Taxability of dividend income from A.Y.2021-22: (ITR-1 to 7)**

Dividend income is taxable in hands of recipient shareholders from the A.Y.2021-22 and onwards and thus various provisions of IT Act have been amended. The ITR forms have also been amended to incorporate all these changes. Earlier Schedule OS required disclosure of dividend income only which is not exempt in the hands of taxpayer. In the new ITR form, Schedule OS has been amended to include disclosure of all dividend income earned by the taxpayers. Section 57 allows a taxpayer to claim deduction of interest expenses subject to a threshold limit incurred in relation to dividend income in certain cases. A new row has been inserted in Schedule OS to allow deduction of interest expenses.

## **4. Increase in threshold limit for Tax Audit: (ITR-3 & 6)**

The threshold limit to get the books of account audited has been increased from Rs.1 Crore to Rs.10 Crores by the Finance Act, 2021 (wef A.Y 2021-22) if the following conditions are satisfied:

- All receipts in cash during the previous year does not exceeds 5% of such receipts.
- All payments in cash during the previous year does not exceeds 5% of such payments

The ceiling limit for the A.Y 2020-21 was Rs.5 Crores as against Rs.10 Crores for the A.Y 2021-22 and hence necessary changes have been brought in the ITR forms to enhance the limit.

**5. Assessee cannot file ITR-1 & ITR-4 in case of deferment of tax on ESOPs: (ITR 1 & 4)**

The Finance Act, 2020 has allowed to defer the payment or deduction of tax on ESOPs allotted by an eligible start-up referred under Section 80-IAC.

Consequently, Rule 12 has been amended to provide that an assessee in whose case payment or deduction of tax in respect of such ESOPs has been deferred shall not be eligible to furnish his return of income in ITR-1 and ITR-4. Corresponding changes have been made to ITR-1 and ITR-4. Therefore, reporting of amount deferred in respect of ESOPs needs to be disclosed in ITR 2 or ITR 3 in Part-B of schedule TTI (computation of tax liability on total income).

**6. Assessee is required to show effect of marginal relief separately: (ITR-2, 3, 5)**

Marginal relief is allowed when taxable income is beyond the threshold limit after which surcharge is payable, but the net income in excess of threshold limit is less than the amount of surcharge.

Earlier no separate effect of marginal relief was required to be shown in the ITR. Now, the ITR forms for A.Y.2021-22 have been amended which requires the special disclosure of 'surcharge computed before marginal relief' and 'surcharge computed after marginal relief'.

**7. Exercise of option prescribed under section 115BAC OR 115BAD (ITR-1 to 5)**

From A.Y.2021-22 option is available to individual, HUF and to co-operative societies whether to opt for special tax regime or Not.

Section 115BAC was inserted to provide special tax regime (also known as 'alternate tax regime') for Individuals or HUF wherein they have an option to pay taxes at concessional rates subject to fulfilment of certain conditions. The assessee having income from business and profession is required to exercise this option on or before the due date for furnishing the returns of income by filing Form 10-IE.

Section 115BAD was inserted to provide for special tax regime (also known as 'alternate tax regime') for co-operative societies. The Co-operative society has to exercise this option on or before the due date for furnishing the returns of income by filing Form 10-IF.

In Part-A (General Information) the assessee is required to choose whether he is opting for the alternative tax regime of Sections 115BAC or Section 115BAD not.

Further, in case of assessee having income from business and profession or in case of co-operative societies, it is required to mention the date of filing of Form 10-IE or 10-IF with the Acknowledgement number if the assessee is exercising the option of section 115BAC or 115BAD.

#### **8. Adjustment of unabsorbed depreciation if assessee has opted for Section 115BAC or 115BAD [ITR 3 & 5]**

Section 115BAC provides a special taxation regime for Individuals or HUF. Similarly, Section 115BAD provides a special taxation regime for co-operative societies. These regimes can be opted by an assessee subject to fulfilment of certain conditions. One of such conditions is that the assessee cannot claim additional depreciation. Further, any unabsorbed depreciation relating to such additional depreciation shall be deemed to have been given full effect to and no further deduction for such depreciation shall be allowed for any subsequent year. However, as a one-time relief, the proviso to sub-section (3) of Section 115BAC and Section 115BAD allow the assessee to increase the WDV of the block of asset by the amount of the unabsorbed depreciation provided he opts for the alternative tax regime in the assessment year 2021-22. Such adjustment

shall be made in accordance with Rule 5.

Accordingly, the ITR forms notified for Assessment Year 2021-2022 has amended Schedule DPM (Depreciation on Plant and Machinery) to make such one-time adjustment to the WDV of the respective block of asset. Further, Schedule UD [Unabsorbed Depreciation and allowance under Section 35(4)] has also been amended to make the corresponding adjustment to the unabsorbed depreciation for the amount of depreciation already adjusted with the WDV of the respective block of asset.

**9. Adjustment of carried forward losses if assessee has opted for Section 115BAC or 115BAD [ITR 3 & 5]**

Assessee opting for alternative tax regime of Section 115BAC or Section 115BAD has to forego various exemptions and deductions. Further, carried forward losses attributable to such exemptions and deduction are not allowed to be set off. These losses are deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

ITR Forms notified for Assessment Year 2021-2022 have been amended to require the adjustment of such losses which are not allowed to be carried forward and set off.

**10. Introduction of Section 80M [ITR 6]**

Section 80M was introduced by the Finance Act, 2020 to provide a deduction to a domestic company for the amount received as dividend from another domestic company, a foreign company or a business trust. The deduction is allowed when the company further distributes the dividend to the shareholders.

Deduction can be claimed for an amount received by way of dividend to the extent it is further distributed as dividend on or before one month prior to the due date of furnishing the return of income.

ITR forms for the assessment year 2021-22 have been accordingly modified to include Section 80M in Schedule VI-A so as to enable the company to claim the said deduction.

#### **11. Deletion of Schedule DI [ITR 1 to 6]**

The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, has extended the time-limit to make investments, deposits, payments, etc. for the financial year 2019-20 for claiming deduction under Chapter VI-A, section 10AA and section 54 to 54GB till 30-06-2020. This date was further extended to 31-07-2020 in case of investments or payment eligible for deduction under Chapter VI-A and 30-09-2020 in case of investments eligible for deduction under section 54 to 54GB.

To allow taxpayers to avail the deduction for the investments/deposits made during the extended period, the ITR forms notified for the Assessment Year 2020-2021 inserted a new Schedule DI (Detail of Investments/deposit/payment for the purpose of claiming deduction). Since there is no extension of time limit to make above such investments for the A.Y 2021-22, Schedule DI has been removed.

Needless to mention, that investment made during such extended period, which has already been claimed as deduction or exemption during the A.Y 2020-21 cannot be claimed again in the A.Y 2021-22.

#### **12. Clause-wise disclosure in respect of interest taxable under Section 115A read with Section 194LC [ITR 2, 3, 5, 6 & 7]**

Section 115A specifies the tax rates on the specified incomes in the hands of a non-resident assessee, namely, dividend, interest, royalty and fee for technical services. In respect of interest income referred to in section 194LC, it provides that such income shall be taxable at the rate provided in the respective Section.

The Finance Act, 2020 has amended Section 194LC to provide for deduction of tax shall be done at 5% except in case the interest is payable in respect of monies borrowed from a source outside India by way of issue of any long-term bond or rupee denominated bond, TDS is required to be deducted at the rate of 4%, subject to fulfilment of certain conditions. Prior to such amendment tax was required to be deducted under Section 194LC at the flat rate of 5%. Previously in ITR a single disclosure was required in respect of the income which is taxable under Section 115A read with Section 194LC.

Since, two different rates have been prescribed under Section 194LC (4% and 5%), ITR

forms have been amended to require a separate disclosure in respect of the income taxable at the rate of 4% and 5% .

**13. Increase in safe harbour limit prescribed under Section 50C [ITR 2, 3, 5 & 6]**

Section 50C lays down the special provision for determination of full value of consideration in case of transfer of land or building or both. As per the said provision, where the consideration received/accrued is less than the stamp duty value (SDV) adopted by the state government, then such stamp duty shall be deemed to be the full value of consideration.

Earlier, this provision was not applicable if the value adopted for the payment of stamp duty was upto 105% of the consideration received. The Finance Act, 2020, has increased such tolerable limit from 105% to 110% from Assessment Year 2021-2022. Consequential changes have been made in the ITR forms.

**14. Date of cash donation in case of deduction under Section 80GGA [ITR 2, 5 & 6]**

Section 80GGA provides deduction for the donations made by an assessee who is not earning income under the head 'profits and gains of business or profession'. No deduction is allowed for the cash donation in excess of Rs. 2,000. ITR-2, 5 and 6 contain a Schedule 80GGA which requires separate reporting of the donation made in cash and donation made through other modes.

The ITR forms notified for Assessment year 2021-2022 requires additional disclosures of the date on which such cash donation has been made.

**15. Reference of Form 16D has been inserted in Schedule of Tax payments [ITR 3 to 7]**

Section 194M provides that every Individual or HUF (who is not required to deduct tax under Section 194C, Section 194H and Section 194J) shall deduct tax at source under this provision at the rate of 5% from the payment made to a contractor or commission agent or broker or professional. The CBDT has amended Rule 31 to provide that certificate of tax deducted under Section 194M shall be issued in Form No. 16D.

ITR forms require details of tax deducted at source as per the certificate issued by the Deductor. The ITR Forms for A.Y 2021-2022 have included a reference of Form 16D.



**16. Nature of security to be furnished in Schedule 112A and Schedule 115AD [ITR 2, 3, 5, 6]**

Section 112A is applicable in case of long-term capital gains arising from transfer of securities, being equity shares, units of equity-oriented mutual fund or units of business trust, provided transfer of such capital asset is chargeable to Securities Transaction Tax (STT). Tax shall be charged at the rate of 10% on long-term capital gains in excess of Rs.1 lakh. Schedule 112A and Schedule 115AD requires the assessee to furnish various details of the securities so transferred if the resultant capital gains are taxable under these sections. Such details included number of shares/units so transferred, cost of acquisition, fair market value, sale consideration etc.

The ITR forms notified for the Assessment year 2021-2022 have inserted one new column in both the schedules requiring the assessee to provide the nature of the securities transferred viz., shares or units.

**17. Nature of business code to be mentioned if assessee is claiming deduction under Section 80P [ITR5]**

Schedule 80P of the ITR requires the assessee to furnish various information relating to income and the amount of deduction. ITR form for the assessment year 2021-22 has inserted one more column in the Schedule 80P. This column requires the assessee to provide the nature of business code in front of various types of income of such person.

**18. STCG other than those covered under section 111A can't be shown in Schedule PTI [ITR3]**

Short term capital gains other than those covered under section 111A cannot be disclosed in Schedule PTI.

**19. No need to bifurcate carried forward losses into Pass through losses and Normal losses [ITR 2, 3, 5 & 6]**

Losses carried forward by an assessee has same treatment under the Income-tax Act

even if they are in nature of pass-through losses. Old ITR forms bifurcated the losses under the head House property and Capital gains in Schedule CFL between pass-through losses and Normal losses. However, ITR utilities issued by the department does not require any such bifurcation.

To bring the ITR forms in line with the ITR utilities issued by department, ITR forms notified for the assessment year 2021-2022 has removed such bifurcation and now consolidated figure of such losses is to be disclosed.

**20. Additional question for ensuring the compliance under Section 92E [ITR 3, 5, 6]**

ITR forms for Assessment year 2021-22 has inserted a new question as to if the assessee was liable to obtain a Transfer Pricing report under section 92E, then whether he has actually complied with such requirement or not. And after clicking yes, the assessee is required to furnish the date of filing of report.

Finance Act, 2021 has amended section 43(6) to provide that if goodwill forms a part of an existing block of assets, then the WDV as on 01/04/2020 of that block of asset has to be recomputed in the prescribed manner. Apparently, it seems that the ITR forms notified does not require the assessee to report the prescribed manner of calculation.