



STUDY CIRCLE MEETING

Organized by
The Institute of Chartered Accountants of India
Nagpur Branch of WIRC of ICAI

03rd February, 2023

Updated Return (ITR – U) Eligibility & Procedure

Presented by
CA PRATEEK KISHOR PALAN
FCA, M.COM, DISA



SECTION 139 – RETURN OF INCOME

- Section 139(1) – Regular Return
(Regular Return furnished within the due date)
- Section 139(4) – Belated Return
(Regular Return furnished after the due date)
- Section 139(5) – Revised Return
- **Section 139(8A) – Updated Return**
- Section 139(9) – Return in response to intimation of Defect in any of the above returns



UPDATED RETURN – AN INTRODUCTION

The Finance Act 2022, has inserted subsection (8A) in section 139 to enable the filing of an updated return. The section provides that an updated return can be filed by any person irrespective of the fact whether such person has already filed the original, belated or revised return for the relevant assessment year or not.

Section 139(8A) under the Income Tax Act allows you a chance to **update your ITR** within two years. Two years will be calculated from the end of the year in which the original return was filed.

Updated Return was introduced to optimize tax compliance by taxpayers without provoking legal action.



Who can file Updated Return (ITR-U)

Any person who has made an **error or omitted certain income details** in any of the following returns can file an updated return:

- Original return of income, or
- Belated return, or
- Revised return

An Updated Return **can be filed** in the following cases:

- Did not file the return. Missed return filing deadline and the belated return deadline
- Income is not declared correctly
- Chose wrong head of income
- Paid tax at the wrong rate
- To reduce the carried forward loss
- To reduce the unabsorbed depreciation
- To reduce the tax credit u/s 115JB/115JC

A taxpayer could file only one updated return for each assessment year (AY)

Who is not eligible to file ITR-U

ITR-U cannot be filed in the following cases:

- Updated return is already filed
- For filing nil return/ loss return
- For claiming/enhancing the refund amount.
- When updated return results in lower tax liability determined on the basis of original, revised or belated return
- Search proceeding u/s 132 has been initiated against the assessee
- A survey is conducted u/s 133A other than section 133A(2A)
- Books, documents or assets are seized or called for by the Income Tax authorities u/s 132A.
- If assessment/reassessment/revision/re-computation is pending or completed.
- If there is no additional tax outgo (when the tax liability is adjusted with TDS credit/ losses and you do not have any additional tax liability, you cannot file an Updated ITR)

Who is not eligible to file ITR-U Contd..

- The Assessing Officer has information in respect of such person under:
 - The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976;
 - The Prohibition of Benami Property Transactions Act, 1988;
 - The Prevention of Money-laundering Act, 2002; or
 - The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

And the same has been communicated to him, prior to the date of furnishing of updated return

- Information has been received under an agreement referred to in section 90 or section 90A in respect of such person and the same has been communicated to him, prior to the date of furnishing of return of updated return;
- Any prosecution proceedings have been initiated in respect of such person, prior to the date of furnishing of updated return.



Updated Return vis-à-vis Loss Return

- Where a person has furnished a return of loss under section 139(3), he can furnish an updated return. However, such an updated return should be a return of income. In other words, the updated return should not be a return of loss.
- If as a result of furnishing of an updated return for a previous year, the following is reduced for any subsequent year, then the person shall be required to file the updated return for each such subsequent year:
 - loss or any part thereof carried forward under Chapter VI;
 - unabsorbed depreciation carried forward U/s 32(2); or
 - tax credit carried forward under Section 115JAA; or
 - tax credit carried forward under Section 115JD.

Time limit to file ITR-U?

The time limit for filing ITR-U is **24 months** from the end of the relevant assessment year.

ITR-U is applicable from 1st April 2022.

So during the current financial year 2022-23, you can file ITR-U for AY 2020-21 and AY 2021-22.

E.g., The Return of FY19-20 can be updated till 31st March 2023.

Additional Tax payable with ITR - U

ITR-U filed	Additional Tax Payable
Upto 12 months from the end of relevant AY	25% of (additional tax + interest)
After 12 months but upto 24 months from the end of relevant AY	50% of (additional tax + interest)

If a taxpayer files an updated return but does not pay the additional taxes, the return will be considered invalid

Tax on Updated Return

Section 140B provides for payment and computation of tax, interest, fee, and additional income-tax on updated return.

(a) Computation of tax on the updated return where no original or belated return was filed earlier.

- Where a person has not filed the original or belated return for the relevant assessment year, the tax payable on the updated return (self-assessment tax) shall be paid **along with interest and fee for delay in furnishing the return of income** and interest for any default or delay in payment of advance tax.
- Further, an additional income tax shall be paid before filing of an updated return. Self-assessment tax on income reported in updated return shall be computed after taking into account the credit of all prepaid taxes viz. TDS, TCS, Advance Tax incl. MAT/AMT Credit and Tax Reliefs, if any.
- Section 234A shall be computed on the self-assessment tax so payable for the period commencing from the date immediately following the due date for filing the original return of income and ending with the date on which the updated return is furnished. However, this interest shall not be charged on the amount of additional income-tax payable on updated return.
- Section 234C interest is computed with reference to 'tax due on the returned income'.

Tax on Updated Return contd..

(b) Computation of tax on the updated return where original, revised or belated return was filed earlier

- Where a person has already filed the original, belated or revised return for the relevant assessment year, then the tax payable on the updated return (self-assessment tax) shall be paid along with interest for any default or delay in payment of advance tax as reduced by the amount of interest paid in an earlier return.
- Further, an additional income tax shall also be required to be paid before filing of updated return. The tax, interest and additional income tax that is required to be paid before filing of updated return shall be computed in the following manner:
- The self-assessment tax shall be computed after taking into account the following:
 - Tax or relief, the credit of which has already been taken in earlier return;
 - Tax or relief, the credit of which has not been claimed in earlier return.
- Further, the amount of tax so computed shall be increased by the amount of refund, if any, issued in respect of such an earlier return.

Tax on Updated Return contd..

Interest under section 234B for delay in payment of advance tax

- Where a person has already filed return of income, interest payable under section 234B at the time of furnishing of updated return shall be computed on the amount of assessed tax or on the amount by which the advance tax paid falls short of the assessed tax, as the case may be. The amount of interest computed shall be reduced by the amount of interest paid in an earlier return.

Interest under section 234C for default in payment of advance tax instalments

- Interest under section 234C shall be computed after taking into account the income furnished in the updated return as the returned income. The amount of interest computed shall be reduced by the amount of interest paid in an earlier return.

Fee under section 234F for default in furnishing return

- A person shall not be required to pay the fee at the time of furnishing of updated return if he has already filed the original, revised, or belated return for the relevant assessment year



Additional Tax on Updated Return

- Tax on the updated return shall be paid along with interest, fee, and additional income tax.
- The additional tax shall be equal to 25% of the aggregate of tax and interest payable by a person on the filing of the updated return where such return is furnished after the expiry of the due date of filing of belated or revised return but before completion of a period of 12 months from the end of the relevant assessment year.
- Where the updated 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, the additional tax payable shall be 50% of the aggregate of tax and interest payable.
- The updated return shall be accompanied by the proof of tax payment, i.e., normal tax (if any), additional tax, interest and fee as required under section 140B; otherwise, it shall be treated as a Defective Return.

Tax on Updated Return - illustration

Particulars		As per ITR (A)	As per Updated ITR (B)	Difference (B)-(A)
Total income	(a)	40,00,000	41,00,000	1,00,000
Tax thereon (including cess)	(b)	10,53,000	10,84,200	31,200
Advance tax & TDS	(c)	20,00,000	20,00,000	0
Refund due	(d)	9,47,000	9,15,800	31,200
Add: Interest under section 244A received with intimation under section 143(1)	(e)	56,820	0	56,820
Actual refund received	(f)	10,03,820	10,03,820	
Net tax payable	(g)=(f)-(e)	0	88,020	88,020
Add: Additional income tax @50% on (g)	(h)	0	44,010	44,010
Total tax liability	(i)	0	1,32,030	1,32,030



Benefits of filing Updated Return

Filing the updated return may provide the taxpayer the following benefits

- It provides an additional opportunity to correct income which were missed to be disclosed in earlier return
- Even those assesses who have missed to file the return altogether can avail of this last opportunity to come out clean by completing the pending compliances
- Avoid penal consequences for the under reporting of income identified during the assessment or reassessment proceedings
- Relief from further prosecution proceedings and thereby providing the opportunity to reduce the litigation.

Moreover it will facilitate ease of compliance to the taxpayer in a litigation free environment



Decoding the Form ITR – U

- A new Form ITR – U notified on 29th April, 2022 dealt under section 139(8A) and Rule 12AC of Income Tax Rules.
- Updated Return needs to be furnished via Form ITR – U which is required to be filed along with the respective ITR Forms (ITR-1 to ITR-7) as applicable
- ITR-U requires the some additional details from the taxpayers and is divided in following 2 parts –
 - ❑ Part A – General Information (ITR-U)
 - ❑ Part B – ATI Computation Of Total Updated Income and Tax Payable




Form ITR – U Part A – General Information

This part of ITR-U requires general information from taxpayers related to the filing of an updated return. It includes the following:

- Are you eligible for filing an updated return as per the conditions laid out in first, second and third provisos to section 139(8A)?
- Selecting the ITR form for filing an updated return
- Reasons for updating your income, this includes reasons such as
 - returns previously not filed,
 - income not reported correctly,
 - wrong heads of income chosen
 - Reduction in c/f Loss / Unabsorbed Depreciation
 - Reduction of tax credit U/s 115JB / 115JC
 - Wrong Rate of Tax
 - Others
- Are you filing the updated return during the period upto 12 months from the end of the relevant assessment year or between 12 to 24 months from the end of the relevant assessment year?
- Are you filing an updated return to reduce carried forward loss, unabsorbed dep., or tax credit?

(A4) Assessment Year <i>[Please see instruction]</i>	(A5) whether return previously filed for this assessment year? <input type="checkbox"/> Yes <input type="checkbox"/> No	(A6) If yes, Whether filed u/s <input type="checkbox"/> 139(1) <input type="checkbox"/> Others																
(A7) If applicable, enter form filed, Acknowledgement no. or Receipt No. and Date of filing original return (DD/MM/YYYY)	(Please select ITR type from dropdown)	Ack no and date of filing																/ /
(A8) Are you eligible for filing an updated return as per the conditions laid out in first, second and third provisos to section 139(8A)? <input type="checkbox"/> Yes <input type="checkbox"/> No																		
(A9) Please choose the ITR form for updating your income (ITRs 1-7 to be selected from drop-down and filled as per the details made available by e-filing utility – see instruction)																		
(A10) Reasons for updating your income: <ul style="list-style-type: none"> <input type="checkbox"/> Return previously not filed <input type="checkbox"/> Income not reported correctly <input type="checkbox"/> Wrong heads of income chosen <input type="checkbox"/> Reduction of carried forward loss <input type="checkbox"/> Reduction of unabsorbed depreciation <input type="checkbox"/> Reduction of tax credit u/s 115JB/115JC <input type="checkbox"/> Wrong rate of tax <input type="checkbox"/> Others 																		



Part B – ATI Computation Of Total Updated Income and Tax Payable

- This part of ITR-U includes heads of income under which additional income is reported.
- The taxpayer is required to mention only the amount of additional income.
- In cases where Income Tax Return has been previously filed, details as per the said return filed viz. Total Income as per last valid return, Amount payable, refund claimed, refund issued as applicable also needs to be mentioned
- Total income as reported in Part B of the ITR form shall also be reported here to compute the additional tax payable by the assessee on the updated return.
- Based on the details reported in other parts of the ITR Form aggregate tax liability on additional income and additional tax liability on updated return (calculated at 25% or 50% as applicable) will be calculated and reported under “Net Amount Payable”
- Lastly the details of payment of tax on updated return U/s 140B i.e. paid challan details are required to be entered.

PART B – ATI COMPUTATION OF TOTAL UPDATED INCOME AND TAX PAYABLE

1.	A	Head of income under which additional income is being returned as per Updated Return	Amount in Rs
		Head of income (If yes, Please specify additional income)	
	a	Income from Salary	
	b	Income from House Property	
	c	Income from Business or Profession	
	d	Income from Capital gains	
	e	Income from other Sources	
	f	Total additional income (a+b+c+d+e)	
	B.	Total income as per last valid return (only in cases where the Income Tax Return has previously been filed)	
2.		Total income as per Part B-TI (Please see instruction)	
3.		Amount payable, if any (To be taken from the "Amount payable" of Part B-TTI	

		of the updated ITR) (Please see instruction)	
4.		Amount refundable, if any (To be taken from "Refund" of Part B-TTI of the updated ITR) (Please see instruction)	
5.		Amount payable on the basis of last valid return (only in applicable cases)	
6.		(i) Refund claimed as per last valid return, if any (Please see instruction)	
		(ii) Total Refund issued as per last valid return, if any (including interest u/s 244A received) (Please see instruction)	
7.		Fee for default in furnishing return of income u/s 234F	
8.		Regular Assessment Tax, if any (in applicable cases)	
9.		Aggregate liability on additional income,	
		(i) in case refund has been issued [3 + 6ii- (5 + 8)]	
		(ii) in case refund has not been issued [3 + 6i - (5+8)]	
10.		Additional income-tax liability on updated income [25% or 50% of (9-7)]	
11.		Net amount payable (9+10)	
12.		Tax paid u/s 140B	
13.		Tax due (11-12)	



Missed the ITR Filing deadline – Other options apart from ITR - U

- In response to Application U/s 119(2)(b)
(After condonation of Delay)
- In response to Notice U/s 142(1)
(AO will issue notice as a part of inquiry before assessment if the assessee fails to furnish return U/s 139(1))
- In response to Notice U/s 148
(AO will issue notice if he has reasons to believe along with evidence that the income of the assessee has escaped assessment)

Section 139(8A)	Section 119(2)(b)	Section 142(1) / 148
Return can be filled voluntarily at the option of the assessee	Return can be filled only if request for condonation is accepted and approved	Assessee is compelled to file the return as directed by the notice
Return cannot be a Loss / Nil return and neither refund claim admissible	Unclaimed tax credits and refunds can be claimed under this option	All type returns can be furnished viz. Nil, Loss, Refund, Additional Tax etc.
Requires mandatory payment of Additional Tax at 25% or 50% of assessed tax	No Additional Tax payable	Additional Income and tax thereon may be declared at the option of the assessee
Return can be furnished even if regular / belated return filled earlier	Return can be furnished only if regular / belated return missed out or timeline for revision lapsed	Return has to be furnished even if regular / belated return filled earlier
Probability of litigation largely reduced under this option	No litigation as primary purpose is to allow legitimate benefits missed out by the assessee	This is the first step for new litigation likely to be initiated



Section 119(2)(b)

- Timelines for the filing of returns have been prescribed under the income tax laws in India. Taxpayers do make various claims in their returns of income like a refund, carry forward of losses etc, which, if returns are not filed, cannot be claimed at all by taxpayers by any other mode. So does this mean if one fails to file his return within the due date for certain unavoidable reasons, he loses his otherwise rightful claim to a refund or a carryforward of loss?
- No. Not completely. The income tax laws empower to Central Board of Direct Taxes (CBDT) to authorize Income tax officers to accept such returns claiming an exemption, deduction, refund, carryforward of losses as the case may be, even after the expiry of the due dates prescribed. Section 119 of the Income-tax act deals with this. Let's understand this section a little more in detail.



Section 119(2)(b) contd..

Section 119 empowers the Central Board of Taxes (CBDT) to issue instructions to lower level of authorities. In addition, section 119(2)(b) empowers CBDT to direct income tax authorities to allow any claim for exemption, deduction, refund and any other relief under the income tax act even after the expiry of the time limit to make such claim. However, such claims will only be allowed by the income tax authority provided, making such a claim within the prescribed due date was genuinely out of the control of the taxpayer.

Applications for claim of refund or carry forward of losses can be accepted beyond the due date according to Section 119. However, certain guidelines for accepting or rejecting these applications have been set out by the CBDT vide its [Circular dated 9.5.2015](#). In fact, this circular specifies the monetary limits based on which different levels of income tax authorities have been authorized to deal with these applications. The table below prescribes the monetary limit of the claim made and the income tax authority empowered to deal with it.

Section 119(2)(b) contd..

Monetary Limit	Authority
Where the amount of claim is not more than Rs. 10 lacs	The Principal Commissioners of Income Tax/ Commissioners of Income Tax (Pr.CITs/CITs)
Where the amount of claim is more than Rs. 10 lacs but less than Rs. 50 lacs	The Principal Chief Commissioners of Income Tax/ Chief Commissioners of Income Tax (Pr.CCITs/CCITs)
Where the amount of claim is more than Rs. 50 lacs	Central Board of Taxes

The taxpayers have to file an application for making a claim of refund or carry forward of loss within next 6 years from the end of the assessment year. This time limit is applicable to all the authorities mentioned above

Section 119(2)(b) contd..

The authorities should accept and close or reject such cases within 6 months from the end of the month in which the application is received .

Note: If any refund is given to any person on the basis of any such relief by the court, then the period for which court case was pending will not be considered for calculating 6 years of time. This period is ignored only where an application has been filed within 6 months from the end of the month of the court's order or end of the relevant financial year – whichever is later.

Any relief or claim will be allowed only when these conditions will also be fulfilled along with those mentioned above :

- The income of one person is not taxable in the hands of any other person under income tax act
- You will not be paid any interest on refund claims
- The refund claim must be due to excess of TDS or self-assessment tax or advance tax and no other reason. The authorities after receiving the application, satisfy themselves with a proper investigation that the claim is genuine and reasonable or not. Only pursuant to this they decide to go



**Taxes are a major part of
Government's Revenue
&
CAs are main felicitators
of all Tax Compliances**

THANK YOU