

**Ist Internal Examniation, 2019**  
**B.Com 2<sup>nd</sup> Year (Hons.)**  
**Direct Tax**  
**Solution Set - A**

**A. Multiple Choice Questions**

[1\*10=10]

1. (b) 15<sup>th</sup> June
2. (a) 234A
3. (a) 15<sup>th</sup> March
4. (d) 75% of estimated tax
5. (c) 30%
6. (c) 0.5%
7. (d) 31<sup>st</sup> July of Assessment Year
8. (b) Trustee
9. (a) 15%
10. (a) a (ii) b (i) c (iv) d (iii)

**B. Long type Questions:**

1. U/s 234B

Tax on assessed income Rs. 7,05,000 (including cess)	55,640
Less: TDS	7,320
Assessed Tax	48,320
90 % of assessed tax	43,488
Advance Tax paid	32,000
Advance tax paid is less than the 90% of assessed tax, so interest will be charged u/s 234 B on short fall of tax. $(48,320 - 32,000) * 1\% * 10$	1632

Total tax on estimated income, i.e. 6,65,000 (including cess)	47,320
Less TDS	7,320
Advance tax to be deposited	40,000
Amount to be paid on 15 june 2019	6000
Amount actually paid	NIL
Shorfall	6000
Interest	180
Amount to paid up to 15 sep 2019	18000
Amount actually paid	2000
Short fall	16000
Interest	480
Amount to paid on 15 up to 2019	30000
Amount actually paid	12000
Short fall	18000
Interest	540
Amount to paid on 15 march 2019	40000

Amount actually paid	30000
Short fall	10000
Interest	300

2.

It is mandatory for every taxpayer to communicate the details of his income to the Income-tax Department. These details are to be furnished in the prescribed form known as return of income. In this part, you can gain knowledge about the various provisions relating to return of income.

### **Person required to file the return of income**

The provisions relating to filing of return of income depend upon the status of the taxpayer. The position in this regard is given below:

#### **In the case of companies:**

Every person, being a company, has to file its return of income compulsorily, irrespective of its income being profit or loss. In other words, it is mandatory for every company to file the return of income irrespective of its income or loss.

#### **In the case of partnership firms:**

Every person, being a partnership firm (including Limited Liability Partnership), has to file its return of income compulsorily, irrespective of its income being profit or loss. In other words, it is mandatory for every partnership firm to file the return of income irrespective of its income or loss.

#### **In the case of an Individual/HUF/AOP/BOI/Artificial Juridical Person:**

Every individual/HUF/AOP/BOI/artificial juridical person has to file the return of income if his total income (including income of any other person in respect of which he is assessable) without giving effect to the provisions of section 10(38), 10A, 10B, 10BA 54, 54B, 54D, 54EC, 54F, 54G, 54GA, or 54GB or Chapter VIA (i.e., deduction under section 80C to 80U), exceeds the maximum amount which is not chargeable to tax i.e. exceeds the exemption limit.

#### **In the case of charitable or religious trusts:**

Every person in receipt of income derived from property held under charitable or religious trusts/legal obligations or in receipt of income being voluntary contributions referred to in section 2(24)(ia), has to file the return of income if its total income without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount not chargeable to income-tax.

**In the case of political parties:**

The Chief Executive Officer of every political party has to file the return of income of the party if the total income of the party without giving effect to the provisions of section 13A exceeds the maximum amount not chargeable to income-tax.

**In the case of certain associations :**

Following entities are liable to file the return of income if their total income without giving effect to the provisions of section 10 exceeds the maximum amount not chargeable to tax:

- Research association referred to in section 10(21)
- News agency referred to in section 10(22B)
- Association or institution referred to in section 10(23A)
- Person referred to in clause (23AAA) of section 10.
- Institution referred to in section 10(23B)
- Fund/institution/trust/university/other educational institution/any hospital/medical institution referred to in sub-clause (iiiic), (iiiib), (iiid), (iiiie), (iv), (v), (vi) or (via) of section 10(23C)
- Mutual Fund referred to in clause (23D) of section 10
- Securitisation trust referred to in clause (23DA) of section 10
- Investor Protection Fund referred to in clause (23EC) or clause (23ED) of section 10.
- Core Settlement Guarantee Fund referred to in clause (23EE) of section 10
- Venture capital company or venture capital fund referred to in clause (23FB) of section 10;
- Trade union/association referred to in sub-clause (a) or (b) of section 10(24)
- Board or Authority referred to in clause (29A) of section 10.
- Body/authority/Board/Trust/Commission referred to in section 10(46)
- Infrastructure debt fund referred to in section 10(47)

**In the case of certain university, college or other institution:**

Every university, college or other institution referred to in clause (ii) and clause (iii) of section 35(1), which is not required to furnish return of income or loss under any other provision of the Act, shall furnish the return of income every year, irrespective of income (or) loss.

**In the case of Business Trust**

Every business trust, which is not required to furnish return of income or loss under any other provision of the Act, shall furnish the return of income every year, irrespective of income (or) loss.

**In case of investment fund referred to in section 115UB**

Every investment fund referred to in section 115UB, which is not required to furnish return of income or loss under any other provisions, shall furnish the return of income in respect of its income or loss every year irrespective of income (or) loss

**In the case of persons holding assets located outside India:**

A person, being a resident in India (other than not ordinarily resident), who is not required to furnish a return under any of the above and who 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 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,

shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed. However, above discussed provision will not apply to an individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India where, income, if any, arising from such asset is includible in the income of the person referred to in (a) above.

(\*) “Beneficial owner” in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.

(\*) “Beneficiary” in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.

**Mandatory filing of return in certain cases**

With effect from Assessment Year 2020-21, it is mandatory for every person, who is not required to furnish return of income under any other provision of section 139(1), to file return of income if during the previous year he:

1. Has deposited an amount (or aggregate of amount) in excess of Rs. 1 crore in one or more current account maintained with a bank or a co-operative bank.
2. Has incurred aggregate expenditure in excess of Rs. 2 lakh for himself or any other person for travel to a foreign country.
3. Has incurred aggregate expenditure in excess of Rs. 1 lakh towards payment of electricity bill.
4. Fulfils such other conditions as may be prescribed.

## **Due date of filing of return of income**

<b>Sr. No.</b>	<b>Status of the taxpayer</b>	<b>Due date</b>
1.	who is required to furnish a report in Form No. 3CEB under section 92E (i.e. other than covered in 2 below)	the assessment year
2	Any person (may be corporate/non-corporate) who is required to furnish a report in Form No. 3CEB under section 92E	November 30 of the assessment year
3	Any person (other than a company) whose accounts are to be audited under the Income-tax Law or under any other law	September 30 of the assessment year
4	A working partner of a firm whose accounts are required to be audited under this Act or under any other law.	September 30 of the assessment year
5	Any other assessee	July 31 of the assessment year

## **Revision of return**

Sometimes the taxpayer may omit to include certain information in the return or may commit any mistake at the time of filing the return of income. In such case any unintentional mistake or error or omission in the return of income filed by the taxpayer can be corrected by filing a revised return.

A return can be revised at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. It should be noted that only a return filed under section 139(1) or belated return filed under section 139(4) can be revised.

A return of income filed pursuant to notice under section 142(1) of Act cannot be revised under section 139(5).

## **Defective return**

Section 139(9) provides the list of situations in which the return of income filed by the taxpayer can be treated as defective return. If the Assessing Officer finds the return of income to be defective under section 139(9), then he may intimate such defect to the taxpayer and may give an opportunity to him to rectify such defect.

The taxpayer shall rectify such defect in the return of income within a period of 15 days of such intimation or within such further period as the Assessing Officer may allow.

If the defect is not rectified within the period of 15 days or the further period so allowed (as the case may be), then, notwithstanding anything contained in any other provision of the Act, the return shall be treated as an invalid return and the provisions of the Act shall apply as if the taxpayer had failed to furnish the return.

A return of income shall be regarded as defective, unless all the following conditions are fulfilled:

- The annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computation of gross total income and total income have been duly filled in.
- The return is accompanied by a statement showing the computation of the tax payable on the basis of the return.
- The return is accompanied by the report of the audit referred to in section 44AB, or, where the report has been furnished prior to the furnishing of the return, by a copy of such report together with proof of furnishing the report.
- The return is accompanied by proof of 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. Where the return is not accompanied by proof of the tax, if any, claimed to have been deducted or collected at source, the return of income shall not be regarded as defective if :

1. A certificate for tax deducted or collected was not furnished under section 203 or section 206C to the person furnishing his return of income.

2. Such certificate is produced within a period of two years specified under sub-section (14) of section 155.

- Where regular books of account are maintained by the taxpayer, the return is accompanied by copies of :

1. Manufacturing account, trading account, profit and loss account or, as the case may be, income and expenditure account or any other similar account and balance sheet.

2. In the case of a proprietary business or profession, the personal account of the

proprietor; in the case of a firm, association of persons or body of individuals, personal accounts of the partners or members and in the case of a partner or member of a firm, association of persons or body of individuals, also his personal account in the firm, association of persons or body of individuals.

- Where the accounts of the taxpayer have been audited, the return is accompanied by copies of the audited profit and loss account and balance sheet and the auditor's report and, where an audit of cost accounts of the taxpayer has been conducted under section 233B of the Companies Act, 1956 [now Section 148 of Companies Act, 2013], also the report under that section.

- Where regular books of account are not maintained by the taxpayer, the return is accompanied by a statement indicating the amounts of turnover or, as the case may be, gross receipts, gross profit, expenses and net profit of the business or profession and the basis on which such amounts have been computed, and also disclosing the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.

**Note :** As per the current norms prescribed by CBDT vide Income-tax Rules, 1962 for filing return of income, no documents shall be attached along with the Return of Income. Hence, documents like computation of income, balance sheet and accounts, audit report, TDS certificate, tax payment challan, proof of investment, etc., are not to be attached along with the return of income. No penalty will be levied for non-submission of these documents along with the return of income and the return will not be treated as defective due to non-attachment of aforesaid documents, statements, etc.

### **Return to be verified by whom**

As per section 140, the return of income is to be verified by:

a) In the case of an individual :

i. by the individual himself;

ii. where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

iii. where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

iv. where, for any other reason, it is not possible for the individual to verify the return, by any person duly authorised by him in this behalf:

It should be noted that in a case referred to in (ii) or (iv) above, the person verifying the return holds a valid power of attorney from the individual to do so, which shall be attached to the return:

b) in the case of a Hindu undivided family, by the karta, and, where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

c) in the case of a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to verify the return, or where there is no managing director, by any director thereof.

It should be noted that where the company is not resident in India, the return may be verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return. Following points should be noted in this regard :

- where the company is being wound up, whether under the orders of a court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be verified by the liquidator referred to in section 178(1);
- where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be verified by the principal officer thereof;
- With effect from Assessment Year 2018-19, where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Section 7 or 9 or 10 of the Insolvency and Bankruptcy Code, 2016, the return shall be verified by the insolvency professional appointed by such adjudicating authority.

(cc) in the case of a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to verify the return, or where there is no managing partner as such, by any partner thereof, not being a minor;

(cd) in the case of a limited liability partnership, by the designated partner thereof, or where for any unavoidable reason such designated partner is not able to verify the return, or where there is no designated partner as such, by any partner thereof;

(d) in the case of a local authority, by the principal officer thereof;

(dd) in the case of a political party referred to in section 139(4B), by the chief executive officer of such party (whether such chief executive officer is known as secretary or by any other designation);

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by some person competent to act on his behalf.

### **Filing the return through Tax Return Preparers**

For the purpose of enabling any specified class or classes of persons (\*) in preparing and furnishing returns of income, the Board has notified the Tax Return Preparers Scheme providing that such persons may furnish their returns of income through a Tax Return Preparer (TRP)\* authorised to act as such under the Scheme

In other words, a specified person\*\*can file his return of income through Government authorised return prepares i.e. TRPs.



\*“Tax Return Preparer” means any individual, [not being a person referred to in section 288(2)(ii)/(iii)/(iv) or an employee of the “specified class or classes of persons”], who has

been authorised to act as a Tax Return Preparer under the Scheme framed in this behalf.

\*\*“Specified class or classes of persons” means any person, other than a company or a person, whose accounts are required to be audited under section 44AB or under any other law for the time being in force, who is required to furnish a return of income under the Act.

### Form of return and mode of filing the return

The provisions relating to form of return and mode of filing the return are discussed in separate topic under heading “Filing the return of Income”.

3.

(A) If the Trust is a wholly Charitable Trust which runs a school.

Particulars	Rs.
Gross Income from property held under trust	25,00,000
Add: Donations received from such donors whose names, addresses and PAN Nos. are given (voluntary contribution)	6,00,000
Part of Anonymous Donations Taxable at normal rates	1,00,000
Add: Corpus donations received from such donors whose names and address are given	NIL
<b>Total</b>	<b>32,00,000</b>
Less:	
1. Statutory accumulation (15% of 32,00,000)	4,80,000
2. Expenses incurred	5,00,000
3. Option exercised u/s 11 (1)	4,50,000
4. Amount set apart for specified purposes u/s 11(2)	6,00,000
Taxable Income under section 11 and 12	<b>20,30,000</b>
Add: Anonymous donations taxable u/s 115BBC (5,00,000 + 1,50,000 – 1,00,000)	5,50,000
<b>Taxable Income</b>	<b>17,20,000</b>

Tax payable 3,54,640

(A) If the Trust is a wholly Religious Trust which owns a temple.

Particulars	Rs.
Gross Income from property held under trust	25,00,000
Add: Donations received	11,00,000
<b>Total</b>	<b>36,00,000</b>
Less:	
1. Statutory accumulation (15% of 36,00,000)	5,40,000
2. Expenses incurred	5,00,000
3. Option exercised u/s 11 (1)	4,50,000

4. Amount set apart for specified purposes u/s 11(2)	6,00,000	<b>20,90,000</b>
Taxable Income		<b>15,10,000</b>

Tax Payable = 2,89,120