

BOMBAY CHARTERED ACCOUNTANTS' SOCIETY

LECTURE MEETING ON FILING OF INCOME TAX RETURNS – A.Y. 2008-09

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NOTE : This note is intended to cover the important points to be kept in mind at the time of filing of Income Tax Returns.

1. GENERAL –

- 1.1. Requirement to file the return – Concept was changed from Net taxable income to Gross total income.
- 1.2. Add losses c/f & 10A, 80IB, refund cases.
Following persons to workout Income exceeding maximum amount not chargeable to tax in the following manner:

Person	Before considering provisions of
Individual / HUF / AOP / BOI	S. 10A / 10B / 10BA & Chapter VI-A
Charitable or other trust or institution claiming exemption u/s. 11 and 12	S. 11 and 12
Political parties	S. 13A
Scientific research association - S. 10(21) News agency - S.10(22B) Association or institutions - S.10(23A)/(23B) Fund, trust, institution, hospital, university - S.10(23C)(iiiad) to (via) Trade Union - S.10(24)	S. 10

- 1.3. Just like companies, now Firms also will be required to file the income tax return irrespective of the total income.
- 1.4. Maximum amount not chargeable to tax (Basic limit)
Senior citizen - Rs.1,95,000/-
Women - Rs.1,45,000/-
Others - Rs.1,10,000/-
- 1.5. Tax rates –

(a) **Resident** Senior Citizen –

Net Income range	Income Tax Rates
Upto Rs.1,95,000/-	NIL
Rs.1,95,001/- to Rs.2,50,000/-	20% of excess of Rs.1,95,000/-
Rs.2,50,001/ and above	Rs.11,000/- + 30% of balance

(b) **Resident** Woman –

Net Income range	Income Tax Rates
Upto Rs.1,45,000/-	NIL
Rs.1,45,001/- to Rs.1,50,000/-	10%
Rs.1,50,001/- to Rs.2,50,000/-	Rs.500/- + 20% of excess of Rs.1,50,000/-
Rs.2,50,001/- and above	Rs.20,500/- + 30% of balance

Thus, for a non-resident senior citizen and woman, the basic limit remains at Rs.1,10,000/- only.

(c) Individuals other than the above, HUF/AOP/BOI –

Net Income range	Income Tax Rates
Upto Rs.1,10,000/-	NIL
Rs.1,10,001/- to Rs.1,50,000/-	10%
Rs.1,50,001/- to Rs.2,50,000/-	Rs.4,000/- + 20% of excess over s.1,50,000/-
Rs.2,50,001/- and above	Rs.24,000/- + 30% of balance.

(d) Domestic Cos.	-	30%
(e) Firm	-	30%

1.6. Surcharge

1.7. For Individuals -

If taxable income exceeds Rs.10 Lacs	-	10%
Less than Rs. 10 Lacs	-	Nil
For Firms & Cos.		
If total income exceeds Rs. 1 crore	-	10%
For co-operative societies	-	Nil

1.8. Concept of marginal relief still exists (cut off figures are as follows) –

Resident Senior citizen	Rs. 10,35,220/-
Resident Woman	Rs. 10,36,640/-
Any other individual, HUF/AOP/BOI	Rs. 10,37,160/-

1.9. Education cess is 2% of (Tax Plus surcharge) and Secondary & Higher Education Cess is 1% of (Tax Plus surcharge).

1.10. Special Rates for Long Term Capital Gain on Equity Shares and Units arising from transfer of Equity Shares in a recognized Stock Exchanges in India or units of an equity oriented Mutual Fund and on which Securities Transaction tax is chargeable for Residents - Tax Rate Nil (Exempt u/s 10(38).

Tax on Long Term Gains for residents other than mentioned above is 20% (if indexation done) or 10% as the case may be.

- 1.11. Special Rates for Short Term Capital Gain on Equity Shares and Units arising from transfer of Equity Shares in a recognized Stock Exchange in India or units of an equity oriented Mutual Fund and on which Securities Transaction tax is chargeable for Residents - 10%.
- 1.12. Surcharge at the rates applicable have to be applied.
- 1.13. No Deductions admissible under Chapter VI-A from capital gains.

2. Income from salaries –

- 2.1 Salary is chargeable to tax on "due" or "receipt" basis whichever is earlier and includes wages, annuity or pension, gratuity, fees, commission, perquisites or profits in lieu of salary, advance salary, leave encashment, etc Henceforth, in clause vi of Sec.17(2), perquisite will include only three items, viz –
 - Interest free or concessional loan.
 - Use of certain movable assets.
 - Transfer of movable asset.
- 2.2 Issues: Salary from more than one employer.
- 2.3 Reconcile salary (Form 16) with bank entries.
- 2.4 Foreign Salary of NRI & NOR – Proper notes and supportings.
- 2.5 Section 89 (Arrears of Salary)
- 2.6 Claim of certain deductions not considered by employer – 80G
- 2.7 Commission as a Percentage of profits – when liable to tax. Year of allowability in hands of employer and taxability in hands of employee different.

3. Income From House Property –

- 3.1. Co-ownership –
 - a) Deduction u/s 24 can be claimed by both/one person.
 - b) Whether interest claimed in both cases together can exceed Rs.1,50,000/-
 - c) Importance of actual payment/repayment from respective accounts.
- 3.2. Annual ratable value/Annual letting value
- 3.3. In case of Let out property the following deductions shall be allowed:
 - a) Municipal Deductions u/s 23(1) if paid by the owner.
 - b) Standard Deduction u/s 24 – 30% of annual value.
 - c) Interest on borrowed capital u/s 24. Borrowing can be from any one.
- 3.4 Interest on housing loan accumulated prior to year of possession would be deductible in five equal installments.
- 3.5. In the case of one self occupied house property deduction u/s 24(b) for interest on borrowed capital upto Rs 1,50,000/- is allowed.
- 3.6. Income from House Property v Business Income.
- 3.7. Types of properties – whether Income from House Property – Letting out a shop or warehouse. Depends on the substance of the transaction.
- 3.8. Rent on let out property – income from other sources.

4. **Profits & gains of business & profession** –

- 4.1. Consider the method of accounting and requirements of maintaining books.
- 4.2. Presumptive taxation.
- 4.3. Reconciliation with TDS, service tax, etc.
- 4.4. Provisions of Sec. 43B.
- 4.5. Exemptions/Deductions like Sec. 10A, 10B, 80IB etc. to be claimed with utmost care.
- 4.6. Specially consider disallowance u/s 40(a)(ia). Impact of amendment as per Finance Act 2008 with retrospective effect

Particulars of Tax Deduction	Particulars of payment of TDS	Year of allowabilty of expenditure in computing business income
Between 1st April 2007 to 29th February 2008	On or before 31-3-2008	AY 2008-09
Same as above	After 31st March 2008	In the AY relevant to the PY in which the tax was paid
March 2008	On or before due date of filing return of income	AY 2008-09
Same as above	After the due date of filing return of income	In the AY relevant to the PY in which the tax was paid

- 4.7. Deduction of banking cash transaction tax available.
- 4.8. Deduction of STT not available.
- 4.9. Deduction of Fringe Benefit Tax not available.
- 4.10. Disallowance u/s 40A(3) increased to 100% of payment. If payment made in subsequent year, the impact of disallowance in subsequent year.

5. **Income From Capital Gains** –

- 5.1. Buy back option in respect of shares is taxable as Capital gains since the transaction is not routed through stock exchange and no Securities Transaction Tax (STT) is paid.
- 5.2. Redemption of units of equity oriented mutual fund – exemption available since STT is applicable.
- 5.3. Deduction of STT is not available while computing capital gains.
- 5.4. Exemption in respect of Eligible investments for Sec. 54EC will not be again available if claimed u/s 80C (and vice versa).
- 5.5. Derivative transaction is not taxable as speculative if certain conditions are fulfilled.
- 5.6. Multiple & recurring transactions in shares whether capital gain or business income.
- 5.7. Shares received in the process of merger & demerger.
- 5.8. Verification of relevant documents (purchase, sale, repurchase, investment in 54EC Bonds, deposit in Capital Gains A/c with nationalized banks). Consider Sec. 50C.
- 5.9. Profit/ Loss on switch of units of MF from one scheme to another.
- 5.10. Provisions of section 94(7) to be kept in mind.

6. **Income From Other Sources** –

- 6.1. Standard deduction is still available in case of Family Pension (Sec 57(ii)).
- 6.2. Taxability of gifts.
- 6.3. NRI becoming resident, interest on NRE, FCNR Deposits becomes taxable.

7. **Deductions under chapter VI A** –

Relevant amendments:

- 7.1. 80-C – Eligible investment includes subscription to notified bonds issued by NABARD, Senior Citizens saving Scheme and 5 years Time Deposit with Post Office.
- 7.2. 80-D Any amount paid by the assessee by any mode of payment other than cash towards medical premium upto Rs 15000/- and for senior citizen Rs 20,000/-.
- 7.3. 80-E payment of interest on loan taken for pursuing higher education for an individual and also for spouse and children.

8. **Other Issues/ Provisions to be kept in mind**

- 8.1 Provisions of Clubbing of Income
- 8.2 Carry forward and set off of losses
- 8.3 Foreign Tax credits
- 8.4 Any other disclosures by way of separate correspondence with AO

9. **Special entity returns** –

- 9.1. Companies: Consider MAT liability and c/f of MAT carefully.
- 9.2. Firms: Verify the deed and enquire about changes in constitution. .
- 9.3. Charitable Trusts.
- 9.4. Co-operative Societies.

10. Due Dates –

In case of	Due Date
1. Company	30th September
2. Person whose accounts are required to be audited under the Income-tax Act or any other law	30th September
3. Working partner of a firm whose accounts are required to be audited	30 th September
4. Any other assessee	31st July

11. Applicable Forms – Refer Annexure attached.

12. Filing Options –

- (a) Paper return.
 - (b) Electronically under digital signature.
 - (c) Transmitting electronically and then ITR – V.
 - (d) Bar coded return in paper form.
- For ITR 7 – Only paper return.

13. Other Information – AIRs – Refer Annexure attached.

14. Signature–

Individual

By the individual himself
If he is mentally incapacitated - by his guardian or other person competent to act on his behalf
If he is absent from India – or for any other reason – by any person duly authorised by him

HUF

By the Karta Or in any of the above circumstances by any other adult member

Company

By the Managing Director
Or where there is no Managing Director or for any unavoidable reason - by any other director

Company not resident in India

By a person who holds a valid power of attorney from such Company

Firm

By the Managing Partner or for any unavoidable reason - by any other partner not being a minor

Political Party

By the Chief Executive Officer

Local Authority

By the Principal Officer

Other Association

By any member of the association or the Principal Officer thereof

Other person

By that person or some person competent to act on his behalf

15. **Conclusion** –

- 15.1. Have proper approach and perspective. Be proactive.
- 15.2. Understand the purpose of filing the return.
- 15.3. Computation does not mean mere arithmetic but a proper disclosure.

- 15.4. Prepare checklist.
- 15.5. Have a dialogue with the client; ask questions.
- 15.6. Enquire about clubbing, self-occupied property, etc.
- 15.7. Determine proper head of income.
- 15.8. Educate the client and make him take conscious decisions.
- 15.9. Be clear about method of accounting. (Business and other sources).
- 15.10. Study past records for unabsorbed losses, depreciation, etc. Also, importance of Sec. 80.

Anticipate what will be asked if the return is subjected to a 'scrutiny assessment'.
Prepare notes for future reference.

Acknowledgements – CA Chandrashekhar Vaze.

Income Tax Return Forms for Assessment Year 2008-09

Sl. No.	Form Name	Form Description
1	ITR-1	For Individuals having Income from Salary & Interest.
2	ITR-2	For Individuals & HUFs not having Income Business or Profession.
3	ITR-3	For Individuals/HUFs being partners in firms and not carrying out business or profession under any proprietorship.
4	ITR-4	For Individuals & HUFs having income from a proprietary business or profession.
5	ITR-5	For firms, AOPs and BOIs. <i>Combined Form For return of income and fringe benefits for Firms/AOP/BOI.</i>
6	ITR-6	For Companies other than companies claiming exemption under section 11. <i>Combined Form for return of income and fringe benefits for Companies.</i>
7	ITR-7	For persons including companies required to furnish return under section 139(4A) or section 139(4B) or section 13(4C) or section 139(4D). (Not available for e-Filing) <i>Combined Form for return of income and fringe benefits for Charitable / religious trusts, political parties and other non- profit organizations.</i>
8	ITR-8	Return for Fringe Benefits Tax for persons who are not liable to file return of income.
	NOTIFICATION SO 752 (E) Income-tax (Sixth Amendment) Rules, 2008 Dated 28 March 2008, Applicable from 1.4.2008	AY 2008-09 Income Tax Return Forms under Rule 12.

Code	AIR - Nature and Value of Transaction & Class of Person required to report	ITR
01	<p>Cash deposits aggregating to ten lakh rupees or more in a year in any savings account of a person maintained in that bank. <i>A Banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act).</i></p>	<p>Cash deposits aggregating to ten lakh rupees or more in a year in any savings account by you maintained in a banking company to which Banking Regulations Act, 1949 applied (including any bank or banking institution referred to in section 51 of that Act).</p>
02	<p>Payments made by any person against bills raised in respect of a credit card issued to that person, aggregating to two lakh rupees or more in the year. <i>A banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or any other company or institution issuing credit card.</i></p>	<p>Payment made by you against bills raised in respect of a credit card aggregating to two lakh rupees or more in a year</p>
03	<p>Receipt from any person of an amount of two lakh rupees or more for acquiring units of that Fund. <i>A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.</i></p>	<p>Payment made by you of an amount of two lakh rupees or more for purchase of units of Mutual Fund.</p>
04	<p>Receipt from any person of an amount of five lakh rupees or more for acquiring bonds or debentures issued by the company or institution. <i>A company or institution issuing bonds or debentures.</i></p>	<p>Payments made by you of an amount of five lakh rupees or more for acquiring bonds or debentures issued by a company or institution.</p>
05	<p>Receipt from any person of an amount of one lakh rupees or more for acquiring shares issued by the company. <i>A company issuing shares through a public or rights issue.</i></p>	<p>Payment made by you of an amount of One lakh rupees or more for acquiring shares issued by a company.</p>
06	<p>Purchase or sale by any person of immovable property valued at thirty lakh rupees or more. <i>Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908.</i></p>	<p>Purchase by you of an immovable property valued at thirty lakh rupees or more.</p>
07		<p>Sale by you of any immovable property valued at thirty lakh rupees or more.</p>
08	<p>Receipt from any person of an amount or amounts aggregating to five lakh rupees or more in a year for bonds issued by the Reserve Bank of India. <i>A person being an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934, who is duly authorized by the Reserve Bank of India in this behalf.</i></p>	<p>Payment made by you of an amount of five lakh rupees or more in a year for investment in bonds issued by Reserve Bank of India.</p>