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Make all mandatory disclosures while filing tax return

If you fail to do so, your return could be treated as defective, notice could be sent

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The due date for filing income-tax return (ITR) for financial year 2020-21 (assessment year 2021-22) is now September 30, 2021. A key aspect taxpayers need to remember while filing their returns is to provide all mandatory disclosures. Failure to do so can result in the tax return being declared defective. The Income-Tax (I-T) Department could even send a notice to such taxpayers.

Bank accounts

The taxpayer needs to report all the bank accounts he holds within the country. Suresh Surana, founder, RSM India says, "One needs to include even those accounts that are held in joint name." Mention details like bank name, account number, and IFSC code.

Those who have multiple bank accounts need to select one account for the purpose of refund. Dormant bank accounts, which have been non-operational for the past three years, need not be mentioned. Surana adds, "Though the I-T Act does not specifically provide for penal provisions for non-disclosure of these details, the I-T Department could treat the return as defective under Section 139(9) and send a notice to the assessee, believing he has tried to escape tax liability."

Unlisted equity shares

The taxpayer must also report details of investments in unlisted equity shares. Gopal Bohra, partner, NA Shah Associates says, "Investments in shares of unlisted foreign companies also need to be reported in this schedule, even if it has been reported separately under the foreign assets schedule."

Provide details like name and type of company, its permanent account number (PAN), opening balance, shares acquired during the year, shares transferred during the year, and closing balance. Surana adds, "If it is not disclosed, the IT Department may treat it as a defect in the ITR, and ask the assessee to revise his return."

Schedule FA deals with foreign assets. Details of unlisted equity shares held by the assessee anytime during the previous year can be provided in ITR2, ITR3, ITR5, and ITR6.

DISCLOSE FOREIGN ASSETS AND INCOME

- Foreign accounts, which include foreign depository accounts, foreign custodial accounts, foreign equity and debt interest, foreign cash value insurance contract or annuity value contract need to be disclosed
- Financial interest in any entity
- Immoveable property
- Any other capital asset
- Account(s) in which the taxpayer may have the signing authority
- Many of the accounts mentioned above need to be disclosed even if the taxpayer has a beneficial interest
- Details of trusts, created under the laws of a foreign country, in which the taxpayer is a trustee, beneficiary or settlor
- Details of any other income derived from any source outside India, and income under the head business or profession

Source: HostBooks

Directorships held in companies

The ITR forms ask whether a person is a director in a company. The taxpayer needs to provide the name, type and PAN of the company, director identification number (DIN), and indicate whether shares of the company are listed on a recognised stock exchange. Naveen Wadhwa, deputy general manager Taxmann says, "If a person is a director in a company, he can't file a return in ITR-1 or ITR-4 form. He has to mandatorily file return in ITR-2 or ITR-3 form. If the assessee files his return in the wrong ITR form, it might be treated as a defective return. Furthermore, if the assessee fails to rectify the defect, the return may become invalid. The I-T Department could treat this as if the assessee has failed to file his return."

Assets and liabilities

Details of specified movable and immovable assets have to be provided in Schedule AL (Assets and Liabilities). Corresponding liabilities also need to be disclosed.

However, not all taxpayers have to disclose their assets and liabilities. Ritesh Kumar, partner, IndusLaw says, "The requirement to furnish such information applies only to those taxpayers who have net taxable income after deductions exceeding ₹50 lakh in a financial year."

Details of such assets can be provided in Schedule AL in case of taxpayers (individuals/HUF) who file their tax returns in ITR-2 and ITR-3. Those who file their returns in ITR-1 or ITR-4 forms are outside the scope of this requirement.

Kapil Rana, founder and chairman HostBooks, says, "If a taxpayer is a partner of a firm or a member of an association of persons (AOP) or body of individuals (BOI), then the particulars of interest in such firm, AOP or BOI needs to be disclosed along with PAN of the entity."

While movable assets include jewellery, bullion, archaeological collections, paintings, sculptures, works of art, vehicles, boats, aircrafts, and financial assets, immovable assets include land, buildings, etc. Financial assets include bank balance (all deposits), shares and securities, insurance policies, loans and advances given, and cash in hand.

Kumar says, "The reporting compliances are especially cumbersome for senior citizens, high net worth individuals (HNIs) or non-resident Indians (NRIs) who earn passive incomes."

Foreign assets

Ordinarily resident individuals have to furnish details of their assets held outside India (both as owner and as beneficiary) in line with the specified disclosure guidelines. Reporting is required even if the asset was held for a single day during the relevant accounting period.

Undisclosed foreign income or asset is taxed at the rate of 30 per cent plus penalty. The latter is equal to three times the tax payable on undisclosed income or the value of the undisclosed asset.

In addition to tax and penalty on the concealed income, an additional penalty of ₹10 lakh could be levied for failure to file ITR or disclose such foreign assets or income in ITR. Gopal says, "Wilful attempt to evade taxes by not furnishing a tax return or not disclosing foreign income and assets in ITR can lead to prosecution."