



## GES Alert

### Harmonizing global & local perspectives

Government proposes new income-tax return forms for financial year 2014-2015

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# Background

The Government has recently notified new forms [forms SAHAJ (ITR-1), ITR-2, SUGAM (ITR-4S) and ITR-V] in which taxpayers are required to file income-tax returns for financial year 2014-2015 (FY 2014-15) and has also made changes in the tax return filing mechanism. However, based on the newspaper reports, the Government is considering to hold back these tax return forms and simplify some of the reporting requirements.

This alert captures the key features of these forms as also the new reporting and filing requirements which are relevant for individuals.

## Key changes

### Changes in tax return filing mechanism

- Tax returns would be mandatorily required to be filed electronically in the following cases:
  - A refund is being claimed in the tax return<sup>1</sup>; or
  - Total income for FY 2014-15 is more than INR 500,000<sup>1</sup>; or
  - A Resident (other than a Not Ordinarily Resident) taxpayer, who has assets outside India, is a signing authority in bank accounts outside India or has earned income from any source outside India; or
  - Any relief is being claimed in respect of tax paid outside India;
  - The taxpayer is required to file his tax return using ITR-3 or ITR-4, if he has income from business / profession; or
  - The prescribed audit/ other reports/ certificates are required to be furnished electronically.
- It would be now possible to file tax returns electronically using Electronic Verification Code (EVC) system. Taxpayers would not be required to submit signed acknowledgement (in Form ITR-V) separately under this mechanism. Further details of EVC system are yet to be prescribed.

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<sup>1</sup> Mandatory e-filing requirement in such cases does not apply, if the individual is more than 80 years or age, and is required to use ITR-1 or ITR-2

- It will be mandatory for a taxpayer (not having income from business / profession) to use Form ITR-2 to prepare tax return in following cases:
  - A Resident (other than a Not Ordinarily Resident) taxpayer, who has assets outside India, is a signing authority in bank accounts outside India or he has earned income from any source outside India; or
  - Any relief is being claimed in respect of tax outside India; or
  - Amount of income not chargeable to tax exceeds INR 5,000.
- Tax returns can now be filed for claiming exemption, deduction, refund or any other relief otherwise allowable after the expiry of the period specified for filing the tax return as per the law. However, a separate application will be required to be made to the tax authorities for such tax return to be treated as valid. In such cases, the Central Board of Direct Taxes (CBDT) will need to pass a general or special order authorizing the tax authorities to admit such a claim considering it to be desirable or expedient to do so or to avoid genuine hardship.

### **Some additional information now required in all forms**

- Aadhaar number is required to be reported (if applied for) in the tax return form itself.
- All taxpayers now mandatorily have to report details of bank accounts held in India (IFSC code, bank name, joint holder name, account number and balance as on 31 March) at any time during FY 2014-15. Such details are required to be reported even if the bank account is closed during the year.

### **Key changes in Form ITR-2**

- The mandatory disclosure requirements for foreign assets and income from sources outside India have been made more elaborate, as stipulated below:
  - Scope of foreign assets and income has been widened to include beneficial owner<sup>2</sup> or beneficiary<sup>3</sup>.
  - All heads of foreign assets (including account where taxpayer has signing authority) need to disclose, details of taxable income in taxpayers' hands, amount offered to tax and schedule and item number of tax return form where such information has been reported.

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<sup>2</sup> Beneficial owner in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset and where such asset is held for the immediate or future benefit, direct or indirect, of the individual providing the consideration or any other person.

<sup>3</sup> Beneficiary in respect of an asset means an individual who derives an immediate or future benefit, directly or indirectly, in respect of the asset and where the consideration for such asset has been provided by any person other than such beneficiary.

- Date of opening foreign bank account.
  - Date of acquiring immovable property, any capital asset or financial interest in any entity outside India.
  - In case the taxpayer is a Trustee, Beneficiary or Settlor of any Trust created under foreign laws, date since when the person is holding the respective position needs to be specified. Further, if any income is taxable in taxpayer's hands, details of income derived from the Trust also need to be specified.
  - A residuary category for 'other foreign sourced income' has been introduced, which requires details of such income earned specifying the source country, nature, value and taxability thereof (i.e. whether offered to tax; if yes, the taxable amount and the manner in which the same is reported in the tax return).
- In case where the taxpayer (being a Non Resident) claims any Capital gains (whether short-term or long-term) as not taxable under any Double Taxation Avoidance Agreement (DTAA), additional information needs to be reported covering country name/ code, relevant DTAA Article, amount of capital gains and whether Tax Residency Certificate (TRC) has been obtained or not.
  - Similarly, in case where the taxpayer (being a Non Resident) claims that any income from other sources is subject to tax at a lower tax rate under the DTAA, additional information needs to be reported about the country name/ code, relevant DTAA Article, rate of tax under DTAA, amount of income, and whether TRC has been obtained or not. Provision is also made to report such income under the 'Special Rate Schedule' in the tax return form.
  - The reporting of Capital gains (both short term and long term) is now aligned in accordance with various tax rates applicable to such capital gains.
  - In case the taxpayer has any amount of unutilized capital gains on asset transferred during FY 2014-15, which is deposited in the prescribed Capital Gains Account Scheme, additional details about the deduction claimed, year of deduction, amount utilized to purchase new asset and amount not utilized needs to be provided in the tax return.
  - Details of foreign travel undertaken during the tax year are to be reported, specifying taxpayer's passport number, countries visited, number of times visited and in case of residents, expenses incurred from own sources, if any, in relation to such travel.

# Comments

The disclosure requirements under the new tax return forms have been significantly increased since last year. The employers need to sensitize their assignee population (inbound into India and outbound from India) about this requirement of reporting all the necessary information. The employees would also need to start collating all the information in advance, so that their India tax returns can be filed in an accurate and timely manner, disclosing complete information as per the law, by the statutory due date of 31 July. It would also be worth considering the option of using the EVC system to obviate the need to separately submit a hard copy of the signed acknowledgement.

Though the tax return forms have been put on hold owing to the representations made by the industry and various chambers, it is evident that the steps are being taken by the tax authorities to make the disclosure of assets and income more onerous for the taxpayers.

The amended tax return forms, once notified will need to be reviewed to ascertain if any of the above mentioned disclosures have been removed or simplified.

Source: [http://www.incometaxindia.gov.in/communications/notification/notification41\\_2015.pdf](http://www.incometaxindia.gov.in/communications/notification/notification41_2015.pdf)

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