

## Analysis of new ITR Forms notified for the Assessment Year 2020-21

Usually, the Income-tax Department notifies the ITR forms in the first week of April of the relevant assessment year. However, this year, due to the exceptional circumstances, the Dept. has notified all ITR forms in last week of May.

For the assessment year 2020-21, the Dept. has notified the ITR forms twice. In the month of January 2020, the Dept. notified two ITR forms (ITR-1 and ITR-4). Now, in the month of May 2020, all ITR Forms (ITR-1 to ITR-7) have been notified which eventually replace the two previously notified forms.

When the ITR Forms (ITR 1 and ITR 4) were notified in January 2020, Rule 12 was amended to provide that ITR-1 cannot be used by a person falling under two categories, namely, *First*, who owns a house property in joint-ownership and *second*, who has entered into specified transactions mentioned in the *seventh proviso* to section 139(1), that is, payment of electricity bill in excess of Rs. 1 lakh, a deposit of more than Rs. 1 crore in one or more current accounts, etc. However, a person falling under the second category is allowed to furnish a return in ITR-4.

Immediately after notifying the changes to Rule 12, the Govt. announced to withdraw the prohibition on filing of return in ITR-1 and ITR-4 by a person falling in the above referred to categories. The recent notification maintains status-quo by removing these prohibitions. Thus, a person owning a property in joint-ownership or covered under the *seventh proviso* can file return in ITR-1 or ITR-4 if they fulfil other conditions. Further, in the new ITR forms, a new Schedule DI has been inserted to seek details of the investment, deposit and payments made during the extended period till June 2020 for claiming deduction under Chapter VI-A or for rollover of investment in the Financial Year 2019-20.

The new ITR forms have introduced new additional columns and schedules. These changes have been introduced to capture new, yet essential information. Some changes are consequential to the amendments made to the Income-tax Act by the recent Finance Acts. We have done a thorough analysis of the new ITR Forms applicable for the assessment year 2020-21 and have explained all changes in the below paragraphs.

### 1. Form to be used by a taxpayer to file the Income-tax return for the assessment year 2020-21

<i>Nature of income</i>	<i>ITR 1*</i>	<i>ITR 2</i>	<i>ITR 3</i>	<i>ITR 4 *</i>
<i>Salary Income</i>				

Income from salary/pension (for ordinarily resident person)	✓	✓	✓	✓
Income from salary/pension (for not ordinarily resident and non-resident person)		✓	✓	
Any individual who is a Director in any company		✓	✓	
<i>Income from House Property</i>				
Income or loss from one house property (excluding brought forward losses and losses to be carried forward)	✓	✓	✓	✓
Individual has brought forward loss or losses to be carried forward under the head House Property		✓	✓	
<i>Income from Business or Profession</i>				
Income from business or profession			✓	
Income from presumptive business or profession covered under section 44AD, 44ADA and 44AE (for person resident in India)				✓
Income from presumptive business or profession covered under section 44AD, 44ADA and 44AE (for not ordinarily resident and non-resident person)			✓	
Interest, salary, bonus, commission or share of profit received by a partner from a partnership firm			✓	
<i>Capital Gains</i>				
Taxpayer has held unlisted equity shares at any time during the previous year		✓	✓	
Capital gains/loss on sale of investments/property		✓	✓	
<i>Income from Other Sources</i>				
Family Pension (for ordinarily resident person)	✓	✓	✓	✓
Family Pension (for not ordinarily resident and non-resident person)		✓	✓	
Income from other sources (other than income chargeable to tax at special rates including winnings from lottery and race horses or losses under this head)	✓	✓	✓	✓
Income from other sources (including income chargeable to tax at special rates including winnings from lottery and race horses or losses under this head)		✓	✓	
Dividend income exceeding Rs. 10 lakhs taxable under Section 115BBDA		✓	✓	

Unexplained income (i.e., cash credit, unexplained investment, etc.) taxable at 60% under Section 115BBE		✓	✓	
Person claiming deduction under Section 57 from income taxable under the head 'Other Sources' (other than deduction allowed from family pension)		✓	✓	
<i>Deductions</i>				
Person claiming deduction under Section 80QQB or 80RRB in respect of royalty from patent or books		✓	✓	
Person claiming deduction under section 10AA or Part-C of Chapter VI-A			✓	
<i>Total Income</i>				
Agricultural income exceeding Rs. 5,000		✓	✓	
Total income exceeding Rs. 50 lakhs		✓	✓	
Assessee has any brought forward losses or losses to be carried forward under any head of income		✓	✓	
<i>Computation of Tax liability</i>				
If an individual is taxable in respect of an income but TDS in respect of such income has been deducted in hands of any other person (i.e., clubbing of income, Portuguese Civil Code, etc.)		✓	✓	
Claiming relief of tax under sections 90, 90A or 91		✓	✓	
<i>Others</i>				
Assessee has: <ul style="list-style-type: none"> <li>▪ Income from foreign sources</li> <li>▪ Foreign Assets including financial interest in any foreign entity</li> <li>▪ Signing authority in any account outside India</li> </ul>		✓	✓	
Income has to be apportioned in accordance with Section 5A		✓	✓	
* ITR-1 can be filed by an Individual only who is ordinarily resident in India. ITR-4 can be filed only by an Individual or HUF who is ordinarily resident in India and by a firm (other than LLP) resident in India.				
<b>Other Assesseees</b>				
<i>Status of Assessee</i>	<i>ITR 4</i>	<i>ITR 5</i>	<i>ITR 6</i>	<i>ITR 7</i>
Firm (excluding LLPs) opting for presumptive taxation scheme of section 44AD, 44ADA or 44AE	✓			
Firm (including LLPs)		✓		
Association of Persons (AOPs)		✓		

Body of Individuals (BOI)		✓		
Local Authority		✓		
Artificial Juridical Person		✓		
Companies other than companies claiming exemption under Section 11			✓	
Persons including companies required to furnish return under: ▪ Section 139(4A); ▪ Section 139(4B); ▪ Section 139(4C); ▪ Section 139(4D);				✓
Business Trust		✓		
Investment Fund as referred to in Section 115UB		✓		

*Note:* In January 2020 the CBDT has notified the amendment to Rule 12 and new ITR Forms (ITR 1 and ITR 4) for the assessment year 2020-21. The amended Rule 12 provided that ITR-1 cannot be used by a person falling under the two categories, namely, *First*, who owns a house property in joint-ownership and *second*, who has entered into specified transactions mentioned in the *seventh proviso* to section 139(1), that is, payment of electricity bill in excess of Rs. 1 lakh, a deposit of more than Rs. 1 crore in one or more current accounts, etc. However, a person falling under the second category is allowed to furnish a return in ITR-4. The recent amendment notification maintains the status-quo and allows an Individual/HUF, owning a property in joint-ownership or covered under the *seventh proviso*, to file return in ITR-1 or ITR-4 if they fulfil other conditions.

## **2. New 'Schedule DI' to furnish details of investments made during the extended period [ITR 1 to 6]**

The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020, promulgated by the President of India on 31-03-2020, has extended the time-limit till 30-06-2020 to make investments, deposits, payments, etc. for the financial year 2019-20 for claiming deduction under Chapter VI-A, section 10AA and section 54 to 54GB.

As exceptional circumstances due to COVID-19 pandemic has arisen for the first time, the existing ITR forms had no option to allow the deduction if investments are made by the taxpayers after the end of the financial year. Thus, a new Schedule DI has been inserted in the ITR forms to allow taxpayers to avail the deduction for the investments/deposits made during the extended period.

'Schedule DI' is bifurcated into the following three parts:

- (a) Part A seeks details of the investment, deposit, or payments made to claim deduction under Chapter VI-A;
- (b) Part B seeks detail of eligible amount of deduction available under section 10AA; and
- (c) Part C seeks details of payment, acquisition, purchase or construction made to claim deduction under Sections 54 to 54GB.

It must be noted that though the time limit for making investments has been extended by 3 months, but there is no increase in the threshold limit available under respective sections. *Example*, if a taxpayer is claiming deduction under section 80C, the aggregate amount of deduction for investment/payment made during the period of 01-04-2019 to 31-03-2020 and 01-04-2020 to 30-06-2020 shall not exceed Rs. 150,000.

### ***3. Additional details to be furnished by a person who is filing return under the Seventh proviso to section 139(1)***

*[ITR 1, 2, 3 & 4]*

To ensure that individuals, entering into certain high-value transactions, furnish the Income-tax return, the *seventh proviso* to section 139 was inserted by the Finance (No. 2) Act, 2019. The provision requires every person, who is otherwise not required to file the return due to the reason that his income does not the maximum exemption limit, to file the return of income if during the previous year he has:

- (a) deposited more than Rs. 1 crore in one or more current account maintained with a bank or a co-operative bank;
- (b) incurred more than Rs. 2 lakh for himself or any other person for travel to a foreign country; or
- (c) incurred more than Rs. 1 lakh towards payment of electricity bill.

If an assessee is required to file the return of income in the circumstances covered under the *seventh proviso* to Section 139(1), he is required to furnish the relevant details in ITR form, *that is*, amount deposited in the current account, the amount incurred on the foreign travel or amount paid toward electricity bill.

### ***4. Option to quote PAN or Aadhaar in various schedules***

*[ITR 1 to 7]*

The Finance (No. 2) Act, 2019 inserted sub-section (5E) to Section 139A to allow the interchangeability of Aadhaar with PAN. Thus, where a person has not been allotted PAN, but he possesses the Aadhaar, he may furnish his Aadhaar number in lieu of PAN, and such person shall be allotted a PAN in the prescribed manner.

Further, every person who has been allotted a PAN, and who has linked his Aadhaar number with PAN as per section 139AA, may furnish his Aadhaar number in lieu of a PAN for all the transactions where quoting of PAN is mandatory as per Income-tax Act.

Various schedules of the ITR require the assessee to furnish the PAN of the second party, *inter-alia*, tenant, director, auditor, etc. To allow quoting of Aadhaar in place of PAN, these schedules now substitute the term 'PAN' with 'PAN/Aadhaar'. Accordingly, the assessee can furnish Aadhaar or PAN in respect to the following person:

- (a) A person filing the Income-tax return as a representative assessee;
- (b) Auditor (proprietorship/ firm);
- (c) Debtors, in respect of whom bad-debt of Rs. 1 lakh or more is claimed;
- (d) Co-owner of the house property;
- (e) Tenant(s) of the house property;
- (f) Buyer of the immovable property transferred during the year;
- (g) A person whose tax credit is being claimed by the assessee;
- (h) Tenants/buyer who has deducted tax at source;
- (i) Key person and person verifying the return of a company;
- (j) Person holding 10% or more of the voting power in case of unlisted company;
- (k) Shareholders of unlisted companies including start-ups;
- (l) Person whose income is clubbed with the income of assessee; and
- (m) Spouse governed by Portuguese Civil Code.

### **5. Reporting of income or loss from pass-through entities**

[ITR 2, 3, 5, 6 & 7]

The Income-tax Act provides the pass-through status to certain entities, *inter-alia*, Real Estate Investment Trusts (REITs), Infrastructure Investment Trusts (InVITs), Category I and Category II Alternative Investment Funds (AIFs). If an entity is provided pass-through status under the Income-tax Act then such entity is allowed to pass its income to its investors without paying taxes and, consequently, investors are liable to pay tax on such income as if they have directly made the investments. Thus, in simple words, tax is charged at the level of the investor and not in the hands of the entity.

REITs/InVITs are allowed to pass-through dividend and interest received from the special purpose vehicle (SPV), and rental income earned from the real estate property, to its investors. Whereas, Category-I and Category-II AIFs are allowed to pass-through any income except income from business or profession.

As AIFs can pass any income (other than income from business or profession) to its investors, the Finance Act, 2020 amended Section 115UB of the Act to allow pass-through of losses as well. The amendments which were made in this respect are as under:

- (a) The business loss of the investment fund, if any, shall be allowed to be carried forward to set-off in accordance with the provisions of Chapter VI and it shall not be passed onto the unit-holder;
- (b) The loss (other than business loss) accumulated at the level of investment fund as on 31-03-2019 shall be deemed to be the loss of the unit-holders who held the unit as on 31-03-2019 in respect of the investments made by him in the investment fund. Such losses can be carried forward by the unit-holders for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and it shall be set-off by him;
- (c) The loss so deemed in the hands of unit-holders shall not be available to the investment fund on or after 01-04-2019; and

(d) The loss (other than business loss) shall be ignored for the purposes of pass-through to its unit-holders if such loss has arisen in respect of a unit which has not been held by the unit-holder for a period of at least 12 months.

The new ITR forms have been modified to incorporate the above changes, namely:

***(a) Reporting of pass-through loss under various heads of income***

AIFs are allowed to pass through the losses to their unit-holders. Therefore, in the new ITR forms, unit-holders can report pass-through losses under the head house property, capital gain and other sources.

***(b) Reporting of the past year deemed losses by the unit-holders***

The loss (other than business loss) accumulated at the level of investment fund as on 31-03-2019, shall be deemed to be the loss of a unit-holder who held the unit as on 31-03-2019 and unit-holders shall be allowed to carry forward such loss for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year. Consequential changes have been made to Schedule CFL to show, claim and carry forward such losses head-wise.

***(c) Reporting of losses distributed by AIFs among the unit-holders***

As the loss (other than business loss) accumulated at the level of investment fund as on 31-03-2019 shall not be available to the Investment Fund on or after 01-04-2019, relevant row has been inserted to Schedule CFL to reduce the losses (head-wise) distributed among the unit holders from total brought forward losses of the earlier year. Thus, an Investment Fund shall be allowed to set-off and carry forward only the balance loss. Further, a new row has also been inserted to show the current year loss distributed amongst unit-holders.

***(d) Reporting of pass-through losses from AIFs under schedule PTI***

Schedule PTI requires the details of pass-through income from a Business Trust or an Investment Fund. The Schedule has been changed to specifically seek the details whether the income has been received from a business trust (i.e., REITs/InvITs) or AIFs. Where income has been received from AIFs, a new column is inserted to fill the details of current year losses distributed by the AIF.

***(e) Pass-through income in the nature of long-term capital gain covered under section 112A***

As AIFs are allowed to pass through any income (except business income) including long-term capital gain covered under section 112A, the relevant changes have been made to Schedule CG, SI and PTI to show and reflect such income.

***6. Reporting of cash receipt or payment where turnover of assessee is between Rs. 1 crore to Rs. 5 crore***

[ITR 3, 5 & 6]

Up to the assessment year 2019-2020, every person, carrying on business, was required to get its books of account audited from a Chartered Accountant if its total sales, turnover or gross receipt from the business exceeds Rs. 1 crore during the previous year.

To reduce the compliance burden on the small and medium enterprises, the Finance Act, 2020 has increased the threshold limit under section 44AB for the mandatory audit. With effect from the assessment year 2020-21, the threshold limit for the mandatory audit, for a person carrying on business, is increased from Rs. 1 crore to Rs. 5 crores. However, the increased threshold limit of Rs. 5 crores shall be applicable only if cash receipts and cash payments during the year does not exceed 5% of total receipt or payment, as the case may be. In other words, more than 95% of the business transactions should be done through banking channels.

To incorporate the above amendments, the ITR forms have been amended requiring the assessee to tick the check-box if cash receipts or cash payments exceed 5%. If assessee ticks the radio button of 'Yes', he will be liable to tax audit under Section 44AB.

#### ***7. Reporting of dividend received from the specified foreign company***

[ITR 6]

As per section 115BBD of the Income-tax Act, dividend received by a domestic company from a foreign company, in which such domestic company has 26% or more equity shareholding, is taxable at a special rate of 15% *plus* Surcharge and Health and Education Cess. Such tax is computed on a gross basis without allowing a deduction for any expenditure. In the new ITR forms, a domestic company is required to separately report such income in Schedule OS (Income from other sources). Consequential change has also been made to Schedule SI (Special Income) to reflect such dividend income.

#### ***8. Schedule SH-1 not applicable in the case of Section 8 companies and companies limited by guarantee***

[ITR 6]

If a closely held company (a company in which public is not substantially interested) issues shares at a price which is higher than its face value and fair market value (FMV), the difference between the FMV and issue price is charged to tax in the hands of the company under the head income from other sources. In common parlance, such tax is called 'Angel tax'. Start-ups are exempted from levy of angel tax if it satisfies the conditions mentioned in DPIIT's Notification No. GSR 127 (E) [F.NO.5 (4)/2018-SI], Dated 19-02-2019.

To keep a check on the issuance of shares by such companies, the ITR-6 requires every unlisted company to provide information about their shareholders and the price at which shares are issued to them. The details are required to be provided in Schedule SH-1 by



the unlisted companies not being a start-up. Start-ups are required to provide details in Schedule SH-2.

In new ITR form, it has been clarified that Schedule SH-1 is not applicable in case of a company that is registered under section 8 of the Companies Act, 2013 (or section 25 of the Companies Act, 1956) or a company limited by guarantee under section 3(2) of Companies Act, 2013.

**9. A depreciation rate of 45% added in the block of plant and machinery**

[ITR 3, 5 and 6]

Up to the assessment year 2019-2020, three blocks were available to calculate depreciation on the plant and machinery, *that is*, 15%, 30% and 40%.

To boost the demand for motor vehicles, the Finance Minister announced an additional depreciation of 15% on motor vehicles purchased between 23-08-2019 and 31-03-2020. This announcement was made on 23-08-2019 as part of a stimulus package. The new depreciation rates were notified by the CBDT *vide* Notification No. 69/2019, dated 20-09-2019 with retrospective effect from 23-08-2019. As per new Appendix I, the rates of depreciation on the motor vehicles shall be as under:

<i>Nature of motor vehicle</i>	<i>Rate of depreciation</i>
Motor cars (other than those used in a business of running them on hire)	15%
Motor cars (other than those used in a business of running them on hire) acquired between 23-08-2019 and 31-03-2020 and is put to use on or before 31-03-2020	30%
Motor buses, motor lorries and motor taxis used in a business of running them on hire	30%
Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired between 23-08-2019 and 31-03-2020 and is put to use on or before 31-03-2020	45%

As there is no 45% existing rate of depreciation, the relevant columns and depreciation schedule have been modified to allow computation of depreciation at the rate of 45%.

**10. Separate reporting of surcharge on income chargeable to tax under sections 112A, 111A, 115AD**

[ITR 2, 3 & 5]

The rate of surcharge was enhanced by the Finance (No. 2) Act, 2019. Two new additional rates of surcharge have been introduced, *that is*, 25% and 37% where the income exceeds Rs. 2 crores and Rs. 5 crore, respectively. However, due to the concerns raised by the domestic and foreign investors, the enhanced rates of surcharge of 25% or 37% were

withdrawn on the individual, HUF, AOP, BOI and Artificial Juridical Person in respect of tax payable on income arising from the transfer of long-term or short-term capital assets taxable under sections 111A, 112A and income taxable under proviso to section 115AD(1)(ii)(iii).

Considering the non-applicability of the enhanced surcharge on these specified incomes, ITR form has been revised to appropriately show the computation of surcharge on various incomes in the hands of the assessee. Columns have been inserted for separate reporting of surcharge on income chargeable under sections 111A, 112A and proviso to section 115AD(1)(ii)/(iii).

### ***11. Reporting of residuary income which is chargeable to tax as per DTAA***

*[ITR 3, 5 & 6]*

There are certain incomes like interest which are chargeable to tax in the hands of the assessee as per applicable rates specified in the Income-tax Act, 1961. However, the same income may be chargeable to tax at a concessional rate as per Double Taxation Avoidance Agreements (DTAA).

Section 90 of the Income-tax Act allows an assessee to opt for the provision of Income-tax Act or of DTAA, whichever is more beneficial to him. Therefore, an assessee would certainly avail the benefit of DTAA if tax rate provided therein is lower than the tax rate provided under the Act. Thus, to allow such option, Schedule OS provides an option to the assessee to separately report such income which is chargeable to tax at special rates as per DTAA.

### ***12. Furnishing details of tax paid on Secondary Adjustments***

*[ITR 3, 5 & 6]*

The Finance Act, 2017 had introduced the concept of secondary adjustment to the transfer pricing regulations. A new Section 92CE has been inserted to require the taxpayer to make secondary adjustment where the primary adjustment has been made in certain cases. Further, if there is an increase in the total income or reduction in the loss of the taxpayer, due to the primary adjustment, the excess money (or part thereof) available with the associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the taxpayer to such associated enterprise and the interest on such advance, shall be computed as the income of the taxpayer.

The Finance (No. 2) Act, 2019 has brought substantial changes to the provisions of secondary adjustments. It has been provided that in a case where the excess money or part thereof has not been repatriated on time, the assessee will have the option to pay additional income-tax at the rate of 18% on such excess money or part thereof. Such additional income-tax is further increased by a surcharge of 12% and health & education cess of 4%. If such additional income-tax is paid, the assessee shall not be required to make a secondary adjustment or compute interest from the date of payment of such tax.

Consequential changes have been made to the ITR forms for reporting of the additional income-tax paid as per the provisions of secondary adjustment. A new Schedule TPSA has been incorporated in the ITR-3, ITR-5 and ITR-6. The new schedule seeks details of the amount of primary adjustment, additional tax payable and details of tax payments.

### ***13. List of nature of employment is expanded***

*[ITR 1 & 4]*

The ITR forms require the individual assessee to furnish the nature of employment. Until last year, only the following categories were available for selection

- Government
- Public sector undertaking
- Pensioners
- Others

The new ITR Forms expands the category of employers. The Govt. employer is bifurcated into Central and State Govt. employees. Now, in the new ITR forms, following six categories are available for selection in the nature of employment:

- Central Government
- State Government
- Public sector undertaking
- Pensioners
- Others
- Not Applicable

### ***14. Unique Document Identification is required if return is filed in response to a notice***

*[ITR 1 to 7]*

The CBDT has made it mandatory for the authorities to quote Document Identification Number (DIN) in all the correspondence issued by them. DIN mechanism was developed to maintain a proper audit trail of all the communications of the department with the taxpayer. After the introduction of the DIN system, every notice issued by the department contains a unique identification number. The new ITR forms require the assessee to provide the DIN of the notice in response to which he is filing the return of income.

### ***15. Consequential changes in the Schedule of Deductions under Chapter VI-A***

*[ITR 1 to 6]*

#### ***(a) Deductions under Sections 80EEA and 80EEB***

Section 80EEA and Section 80EEB were introduced by the Finance (No. 2) Act, 2019 to provide deduction in respect of interest on housing loan and interest on loan taken for electric vehicles respectively. The necessary changes have been made to the ITR forms to claim these deductions in the Income-tax returns.

#### ***(b) Deductions under Sections 80LA***

Amendment has been made to Section 80LA by the Finance (No. 2) Act, 2019 to allow 100% deduction for 10 years out of 15 years to the unit of an IFSC. Before such amendment, the deduction was available to the extent of 100% of income for the first 5 consecutive assessment years and 50% of income for next five consecutive assessment years to the IFSC units as well as the banks. In the substituted provisions of Section 80LA, the IFSCs are covered under section 80LA(1A) and section 80LA(1) applies to the banks. Hence, the necessary changes have been made to the ITR Forms. Separate columns are provided for claiming deduction under section 80LA(1) and Section 80LA(1A).

***(c) Deductions under Sections 80PA***

Section 80PA was introduced by the Finance Act, 2018 to provide a deduction to a producer company for entire profit and gains arising from its business. However, this deduction can be claimed for a period of 5 years starting from 2018-19 to 2023-24. So, to facilitate the assessee company to claim deduction under section 80PA new column has been inserted. Although changes were not to the last year's notified forms, but changes were already introduced in the return-filing utility. The recent changes bring the notified forms at par with the return-filing utility.

***16. Assessee can choose multiple bank accounts for payment of refund***

*[ITR 1 to 7]*

At the time of filing of Income-tax return, assessee is required to furnish the details of all bank accounts held in India during the previous year (excluding dormant accounts). Out of the mentioned account assessee is required to indicate minimum one account in which he prefers to get the Income-tax refund. In the new ITR forms, the assessee has been given an option to choose multiple bank accounts for the payment of refund. However, the refund will be credited to one of the account decided by CPC after processing of the Income-tax return.

***17. Foreign companies to report income from royalty or FTS chargeable to tax at the rate of 50%***

*[ITR 6]*

As per the First Schedule of the Finance Act, a foreign company is liable to pay tax at the rate of 50% in respect of the following incomes:

- (a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31-03-1961 but before the 01-04-1976; or*
- (b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29-02-1964 but before 01-04-1976, and where such agreement has, in either case, been approved by the Central Government.*

In the new ITR form, if a foreign company has earned such incomes, then it has to separately report them in the Schedule OS (Income from other sources). Consequential change has also been made to Schedule SI (Special Income) to reflect such income.

### ***18. Companies opting for section 115BAA and 115BAB***

*[ITR 6]*

Section 115BAA and Section 115BAB were introduced by the Taxation Laws (Amendment) Act, 2019 to provide special tax regimes for various specified domestic companies (also known as 'alternate tax regimes'). There are some disallowances under the alternate tax regimes. Thus, in Part-A of General Schedule, the company is required to choose whether it is opting for any of the alternative tax regimes of sections 115BA, 115BAA or 115BAB.

### ***19. Trust to furnish details of re-registration made under the new provisions***

*[ITR 7]*

The Finance Act 2020 has introduced major changes in the provisions applicable to the NGOs by introducing new section 12AB replacing section 12AA and bringing in similar amendments in section 10(23C) and Section 80G. These changes were originally effective from 01-06-2020. However, due to the unprecedented economic crisis, the government issued a press release on 09-05-2020 to defer the implementation of the new procedure for approval/ registration/notification to 01-10-2020.

It is to be noted that the trusts or institutions which have been granted perpetuity of registration under section 12A/12AA or approval under section 10(23C) or section 80G are required to make an application again under the new section 12AB or amended provisions of section 10(23C) or section 80G within 3 months from 01-10-2020, *that is*, by 31-12-2020.

The new Form ITR-7 requires the assessee to furnish the following details in respect of the application for registration made under new provisions:

- (a) Whether application for registration is made as per new provisions
- (b) Section under which registration is applied
- (c) Date on which application for registration/approval as per new provisions is made
- (d) Relevant section for claiming exemption under the new provisions

As per the amended provisions, the registration under section 12AA shall become inoperative if approval is obtained under section 10(23C) or the Institution is notified under section 10(46). Hence, an entity has an option to claim exemption either under section 10(23C) or section 11. Therefore, the new ITR form also seeks the section of exemption opted for under the new provisions.

The Finance Minister, Smt. Nirmala Sitharaman, in a press conference held on 13-05-2020 announced the extension of the due date of all Income-tax return for the Financial Year 2019-20 from July 31, 2020 and October 31, 2020 to November 30, 2020. Interestingly the requirement to file an application by NGOs has already been deferred to 01-10-2020, hence, the application can be filed by 31-12-2020. Therefore, these details asked in new

form ITR-7 shall be filled only if the application for registration under new provisions has been filed before the filing of Income-tax return.

## ***20. Corpus donation not to be considered as an application of Income***

[ITR 7]

The details of revenue expenditure incurred during the year and amount applied to stated objects of the trust/institution during the previous year are to be filled in Schedule ER. This schedule is to be filled up if assessee is claiming deduction under section 11 or sub-clauses (iv), (v), (vi) or (via) of section 10(23C).

Any contribution by a charitable or religious trust registered under section 12AA to any other trust registered under Section 12AA, with a specific direction that it shall form part of corpus of recipient trust shall not be treated as application of income for the donor trust. The Finance Act, 2020 has provided that the corpus donation to institutions referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of section 10(23C) shall also not to be considered as an application of income. Accordingly, the new ITR Form 7 seeks 'Donation-other than corpus' as against the classification of donation required until last year into 'corpus' and 'other than corpus'.

## ***21. Disclosures required of donation forming part of the corpus funds***

[ITR 7]

In Part C of Schedule ER, the assessee is required to report any item of expenditure which is disallowable. In last year forms, the disallowances were required to be reported into the following 3 sub-categories:

- (a) Bad Debts
- (b) Provisions
- (c) Any other disallowable expenditure

As per extant provisions, entities registered under section 12A/12AA are provided with the benefit of exemption in respect of corpus donations. Any contribution by a charitable or religious trust to any other trust registered under Section 12AA, with a specific direction that it shall form part of the corpus of recipient trust is not considered as an application of income for the donor trust.

The Finance Act, 2020 inserted a similar provision in the *Twelfth Proviso* to Section 10(23C) that any contribution by fund or trust or institution or any university or other educational institution or any hospital or other medical institution [as referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of Section 10(23C)], with a specific direction that it shall form part of the corpus of recipient trust, it shall not be treated as application of income of the donor.

The new Form ITR-7 for the assessment year 2020-21 introduced a column to specifically report the 'Donation forming part of corpus fund' in the Part-C of Schedule ER.

## ***22. Schedule Capital Gains modified in ITR 7***

[ITR 7]

In the previous ITR Forms, the details of 'Exemption other than under section 11(1A) (if any)' and 'Exemption under 112A' could be furnished in the Schedule CG (Capital Gains). In the new ITR Form 7 applicable for the assessment year 2020-21, these columns have been deleted.

There are special provisions for computation of capital gains under section 11(1A) of the Income-tax Act for the charitable and religious organisations. Sections 11, 12 and 13 are special provisions governing institutions which are being given the benefit of tax exemption. It is, therefore, imperative that once a person voluntarily opts for the special provision it should be governed by that specific provisions and should not be allowed the flexibility of being governed by other general provisions.

Hence, trust or institutions cannot claim any exemption under any other general provision. This could be the reason that column to claim an exemption under other sections has been removed because allowing such flexibility has undesirable effects on the provisions regulating the charitable and religious trust and results in litigations.

***23. Separate reporting to be made of interest payable on loan taken from a Deposit Taking NBFC or Systematically Important NBFC***

*[ITR 3, 5 & 6]*

With effect from the assessment year 2020-21, Section 43B has been amended by the Finance (No. 2) Act, 2019 to provide that any interest payable on any loan or borrowings from a Deposit Taking NBFC or Systemically Important Non-deposit Taking NBFC would be allowed as a deduction only on actual payment. Consequential amendment has been made to ITR 5 and ITR 6 to require a separate reporting of the same.

***24. Separate reporting is required for income from life insurance business***

*[ITR 5 & 6]*

Up to the assessment year 2019-20, no separate computation of income from the life insurance business (as referred to under section 115B) was required under the Schedule BP, *that is*, computation of Income from Business or Profession.

The new ITR Forms 5 and 6 introduced for the assessment year 2020-2021 require a separate reporting of income from the life insurance business in Schedule BP. It requires the following information in this respect:

- a) Net profit or loss from insurance business referred to in section 115B;
- b) Additions in accordance with section 30 to section 43B;
- c) Deductions in accordance with section 30 to section 43B; and
- d) Income from life insurance business under section 115B.

Similar changes have been made in other schedules, *inter-alia*, separate information is required for income from the life insurance business in the Schedule CFL (Details of losses to be carried forward to future years).

***25. Separate reporting is required for income from units of mutual fund purchased in foreign currency by Offshore fund***

[ITR 5 & 6]

Hitherto, the Income-tax return did not require separate reporting of the income from units of mutual fund purchased in foreign currency by an offshore fund. As it is taxable, under section 115AB, at a special rate of 10%, the ITR Forms require a separate reporting of such income in schedule OS (Income from other sources).

***26. Details of the authorized person verifying the ITR of company to be furnished***

[ITR 6]

Up to the assessment year 2019-2020, the return of a company could be signed and verified by its Managing Director. However, if for any unavoidable reason the Managing Director is not able to verify the return or where there is no Managing Director, the return may be verified by any director of the company.

The Finance Act, 2020, has amended Section 140 with effect from the assessment year 2020-21 to enable any other person, as may be prescribed by the Board, to verify the return of income of a company. Accordingly, the new ITR 6 incorporates the reference of eligible person who is verifying the return in the schedule of 'Key Persons'. Following details are required in respect of such person:

- (a) Name
- (b) Designation
- (c) Residential address
- (d) PAN/Aadhaar No.
- (e) Director Identification Number (DIN) issued by the MCA (in case of a director).

Such reference has been inserted to ensure that the return has been verified by the eligible person only.

***27. Option to choose 'Self-occupied property' introduced in ITR-5 and ITR-6***

[ITR 5 & 6]

While furnishing the information in Schedule HP (Details of Income from House Property), an assessee needs to furnish the nature of house property. Up to the assessment year 2019-20, three options were available for selection in forms ITR 1 to ITR 4, *that is*, self-occupied, let out and deemed let out. Whereas ITR 5 and 6 contained only 2 options, *that is*, let out and deemed let out.



As per section 23(5) of the Income-tax Act, where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let-out during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to 2 years from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil.

Considering the provisions of section 23(5) where annual value of property is taken as 'nil', the ITR Form 5 and 6 for the assessment year 2020-21 allow selection of 'self-occupied' house property in Schedule HP. Thus, an assessee filing return in ITR 5 or ITR 6 can also enter the details of the self-occupied property as well.

### ***28. Option to claim an exemption under Section 54EE removed as no fund has been notified yet***

*[ITR 5 & 6]*

Schedule CG (Capital Gains) contained rows to claim an exemption under Section 54EE for the investment made in the long-term specified assets, being units issued before 01-04-2019 of the fund notified by the Central government in this behalf. As no such fund has been notified by the Central government in this behalf, the ITR forms for the assessment year 2020-21 remove the option to claim the exemption under Section 54EE.

### ***29. Reporting of share in co-owned land and building***

*[ITR 6]*

Any capital gain or loss arising from the sale of land or building or both is required to be reported by an assessee in Schedule CG of the ITR forms. In the new ITR-6, a company is now required to report its share in land or building in case of co-ownership.

### ***30. No Account Schedule deleted for IndAS compliant companies***

*[ITR 6]*

An IndAS compliant company is always required to maintain its books of account. Therefore, the relevant columns of the ITR forms (to be filed if books of account are not maintained) requiring an IndAS compliant to furnish the minimum financial particulars had no significance. Therefore, relevant rows below the Balance sheet (Part A-BS - Ind AS) and Profit & Loss Account (Part A-P&L Ind-AS) requiring such company to furnish certain financial particulars have been deleted.

### ***31. Schedules for reporting transactions taxable under section 112A and 115AD***

*[ITR 2, 3, 5 & 6]*

Schedules 112A and 115AD seek the details of securities sold by the taxpayers during the year which are taxable under section 112A or section 115AD respectively. Though these schedules were not notified in the Gazetted ITR Forms for the Assessment Year 2019-20, but same were duly incorporated in the return filing utilities. To bring the notified forms

and return filing utilities at par, these schedules have been incorporated in the ITR forms applicable for the Assessment Year 2020-21.

### ***32. Reporting of disallowance under section 40(ba)***

*[ITR 3 & 6]*

Section 40(ba) does not allow the deduction to the Association of Person (AOP) or Body of Individuals (BOI) in respect of any interest, salary, bonus, commission or remuneration paid to a member. The new ITR Forms require reporting of such disallowance in the Schedule P&L.

Similar disallowance is provided by section 40(b) wherein salary, bonus, commission or remuneration paid to the partner is not allowed in hands of partnership firms if it is covered under certain circumstances mentioned therein. The disallowance of section 40(b) is reported in the Schedule P&L, however, there is no separate column to disclose amount disallowed under section 40(ba). Thus, the new ITR forms have incorporated the necessary changes to report such disallowance under Schedule P&L.

### ***33. Type of company to be reported if the assessee is a director in a company or holding unlisted equity shares***

*[ITR 2, 3 & 7]*

ITR Forms applicable for the assessment year 2019-20 required the directors of the companies to furnish the following details:

- Name of the company
- PAN
- Whether the shares are listed or not
- DIN

The initiative was taken to check the shell companies and the ghost directors. The new ITR forms for the assessment year 2020-21 require the directors to provide information regarding the 'type of the company'. The utility will provide a drop-down list of the type of companies and the assessee director is required to choose any one from them.

### ***34. Zip code required at some additional places under schedule FA***

*[ITR 2, 3, 5, 6 & 7]*

Zip-Codes are commonly known as PIN code in India. These codes are the postal codes assigned to various areas. In the new notified forms, the assessee is required to furnish the Zip codes in Schedule FA in respect of various fixed assets owned by the assessee. The requirement is introduced to get more information regarding the assets of the assessee.

While furnishing the details in any of the following cases the requirement to furnish ZIP code has been introduced in the latest notified forms:

- (a) Details of Financial Interest in any Entity held (including any beneficial interest) at any time during the relevant accounting period;

- (b) Details of Immovable Property held (including any beneficial interest) at any time during the relevant accounting period;
- (c) Details of any other Capital Asset held (including any beneficial interest) at any time during the relevant accounting period;
- (d) Details of account(s) in which assessee has signing authority (including any beneficial interest) at any time during the relevant accounting period and which has not been included in any of the other lists in the schedule;
- (e) Details of trusts, created under the laws of a country outside India, in which assessee is a trustee, beneficiary or settler; and
- (f) Details of any other income derived from any source outside India which is not included in (i) any of the other items of the schedule FA; and, (ii) income under the head business or profession.