

TAX PLANNING AND MANAGEMENT

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Unit 2

1. Return of Income (ROI)

◆ Statutory Obligation

- As per **Section 139(1)** of the **Income Tax Act, 1961**, every person whose **gross total income** exceeds the **basic exemption limit** is required to **file a return of income**.
- This obligation applies whether or not tax is payable.
- **Basic exemption limits (as of AY 2025-26)** under the **old regime**:
 - Below 60 years: ₹2.5 lakhs
 - 60-80 years: ₹3 lakhs
 - Above 80 years: ₹5 lakhs

Filing of return is **mandatory** even if no tax is payable but income exceeds the exemption limit.

◆ Return Forms (ITR Forms)

Different forms are prescribed for different types of taxpayers and income levels.

| ITR Form | Applicable For |
|--------------------------|-----------------------------------------------------------------------------------------------------------|
| ITR-1 (Sahaj) | Resident individuals (salary, pension, one house property, income from other sources); Income ≤ ₹50 lakhs |
| ITR-2 | Individuals/HUFs not having income from business/profession |
| ITR-3 | Individuals/HUFs having income from business/profession |
| ITR-4 (Sugam) | Presumptive income under sections 44AD, 44ADA, 44AE (for small businesses/professionals) |
| ITR-5 | Partnerships, LLPs, AOPs, BOIs |
| ITR-6 | Companies (excluding those claiming exemption under Section 11) |
| ITR-7 | Trusts, political parties, charitable institutions, etc. |

◆ Time for Filing Return

| Category | Due Date (AY 2025-26) |
|----------|-----------------------|
|----------|-----------------------|

| | |
|------------------------------------|-----------------------|
| Individuals, HUFs, non-audit cases | 31st July 2025 |
|------------------------------------|-----------------------|

| | |
|----------------------------|--------------------------|
| Businesses requiring audit | 31st October 2025 |
|----------------------------|--------------------------|

| | |
|------------------------------------|---------------------------|
| Companies / Transfer Pricing Cases | 30th November 2025 |
|------------------------------------|---------------------------|

- Belated Return (Section 139(4)): Can be filed till **31st December** of the Assessment Year.
- Late filing attracts **interest u/s 234A, penalty u/s 234F** (₹1,000 to ₹5,000 depending on income level).

2. Revised Return (Section 139(5))

- If an assessee **discovers any omission or wrong statement** in the original return, a **revised return** can be filed.
- Can be filed **before 31st December** of the relevant Assessment Year or **completion of assessment**, whichever is earlier.

3. Modified Return (Section 170A)

- Introduced by the **Finance Act, 2022**.
- Applicable when a **business reorganization (merger, demerger, etc.)** has taken place.
- The successor entity must file a **modified return** within **6 months from the date of order** of the competent authority (like NCLT).

4. Assessment

- **Assessment** is the process of determining the correct tax liability.
- Types of Assessments:
 - **Self-Assessment (Section 140A)**: Taxpayer computes and pays tax before filing ROI.
 - **Summary Assessment (Section 143(1))**: Automatic computer-based processing.
 - **Scrutiny Assessment (Section 143(3))**: Detailed review by Assessing Officer.
 - **Best Judgment Assessment (Section 144)**: Done if ROI not filed or information is insufficient.
 - **Reassessment (Section 147)**: Reopening of completed assessment if new income is discovered.

5. Tax Deducted at Source (TDS)

◆ What is TDS?

- TDS is a method where **tax is deducted at source** by the payer before making payments such as **salary, interest, rent, professional fees, etc.**
- It ensures regular inflow of tax to the government and reduces tax evasion.

◆ Key TDS Sections:

| Section | Nature of Payment | TDS Rate |
|---------|-------------------|----------------------------------|
| 192 | Salary | Slab-based |
| 194A | Interest (banks) | 10% |
| 194C | Contracts | 1% (individual/HUF); 2% (others) |
| 194J | Professional Fees | 10% |
| 194H | Commission | 5% |
| 194I | Rent | 2%-10% |

◆ TDS Return Filing:

- TDS deductors must file **quarterly TDS returns** in **Form 24Q/26Q/27Q**, etc.

6. Advance Tax

◆ Who is Liable?

- Any person whose **total tax liability** (after TDS) is **₹10,000 or more** in a financial year must pay advance tax.
- Applies to **individuals, companies, professionals, etc.**

Senior citizens (≥60 years) not having business income are exempt from advance tax.

◆ Due Dates for Advance Tax (FY 2024-25):

| Due Date | % of Tax Payable |
|----------------|------------------|
| 15th June | 15% |
| 15th September | 45% (cumulative) |
| 15th December | 75% (cumulative) |

| Due Date | % of Tax Payable |
|------------|-------------------|
| 15th March | 100% (cumulative) |

- For taxpayers opting for **Presumptive Taxation** (u/s 44AD/44ADA): **100% of advance tax by 15th March**

◆ **Interest on Default:**

- Section 234B:** Interest for default in payment of advance tax
- Section 234C:** Interest for deferment of advance tax installments

7. Tax Planning

◆ **What is Tax Planning?**

- Legal process of **analyzing one's financial situation** to ensure **maximum tax efficiency** using provisions of the law.

◆ **Types of Tax Planning:**

- Short-Term Planning:** Done at the end of the FY to save taxes for that year.
- Long-Term Planning:** Strategic investment and planning over many years.
- Permissive Tax Planning:** Using provisions like deductions, exemptions, rebates legally.
- Purposive Tax Planning:** Based on specific business or investment objectives.

◆ **Tax Saving Instruments:**

| Section | Instrument / Expense | Max Deduction |
|---------|-----------------------------------------|---------------------|
| 80C | LIC, PPF, NSC, ELSS, tuition fees, etc. | ₹1.5 lakhs |
| 80D | Health insurance premium | ₹25,000 – ₹1,00,000 |
| 80G | Donations to charitable trusts | 50%/100% |
| 24(b) | Interest on home loan | ₹2 lakhs |
| 10(14) | HRA, transport, etc. | As per eligibility |

Payment in Pursuance of Order of Assessing Officer (AO)

◆ When is it Applicable?

- After completing an **assessment** under various sections (e.g., 143(3), 144, 147), the **Assessing Officer (AO)** issues a **demand notice** under **Section 156** of the Income Tax Act.
- This demand notice specifies the amount of:
 - Tax payable
 - Interest
 - Penalty (if any)
 - Other dues (e.g., fee under 234F)

◆ Time Limit for Payment

- As per **Section 220(1)** of the Income Tax Act:

The taxpayer must pay the amount demanded within **30 days** from the date of **service of notice** of demand (u/s 156).

The AO **may reduce** the 30-day period in cases of urgency (reasons must be recorded in writing).

Consequences of Non-Payment of Demand

1. Interest for Late Payment (Section 220(2))

- If the taxpayer fails to pay the demand within the specified time (normally 30 days), interest is levied.
- **Rate:** 1% **per month or part of the month** on the unpaid amount.
- **Period:** From the expiry of the 30-day period **till the date of actual payment**.

2. Penalty for Default (Section 221)

- If a taxpayer is **in default or deemed to be in default**, the AO may impose a **penalty**.
- **Amount:** AO may levy a penalty **up to the amount of tax in arrears**.
- However, **no penalty** will be imposed if:
 - The taxpayer proves there was a **reasonable cause** for the default.
 - The AO records satisfaction that default was **not willful**.

3. Assessee Deemed in Default (Section 222)

If tax is not paid within the time allowed:

- The taxpayer is **deemed to be in default**.
- The Tax Recovery Officer (TRO) can initiate **recovery proceedings** under **Schedule II of the Act**.

Modes of Recovery Available to the AO / TRO

1. **Attachment and Sale of Movable/Immovable Property**
2. **Garnishee Proceedings (Section 226(3)):**
 - AO may issue notice to a **third party (e.g., employer, bank, customer)** who owes money to the assessee, directing them to pay the amount to the government.
3. **Arrest and Detention** (in extreme cases)
4. **Appointing a Receiver for Management of Property**
5. **Recovery from Surety or Guarantor**

Stay on Demand

- A taxpayer may **request a stay** on recovery of demand from the AO or file an appeal before:
 - **Commissioner of Income Tax (Appeals) – CIT(A)**
 - **Income Tax Appellate Tribunal (ITAT)**
- While the appeal is pending, the assessee can apply for a **stay of demand**. AO or higher authority may:
 - Grant full/partial stay
 - Require payment of a portion of demand as a pre-condition

Adjustments Against Refund (Section 245)

- If any **refund is due**, the department can **adjust the refund against the outstanding demand** after giving an **intimation** to the assessee.

Example Illustration

Mr. A receives a demand notice under Section 156 for ₹1,00,000 on 1st August 2025. He is required to pay it by 31st August 2025 (30 days).

- If he pays on 10th October 2025 (i.e., 40 days late), interest will be:
 - 2 months (September & October) \times 1% = 2% of ₹1,00,000 = **₹2,000**

If Mr. A doesn't pay at all, the AO may initiate recovery, levy a penalty (up to ₹1 lakh), and take coercive actions

Summary Table

| Aspect | Provision | Consequence |
|---------------------------|------------------|-----------------------------|
| Demand Notice | Sec 156 | Pay within 30 days |
| Interest on late payment | Sec 220(2) | 1% per month till payment |
| Penalty for non-payment | Sec 221 | Up to tax in arrears |
| Deemed default | Sec 222 | Recovery proceedings start |
| Stay of demand | Admin discretion | Based on appeal or hardship |
| Adjustment against refund | Sec 245 | After intimation |

Tax Planning, Tax Avoidance, and Tax Evasion

| Aspect | Tax Planning | Tax Avoidance | Tax Evasion |
|-----------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------|-----------------------------------------------------|
| Meaning | Legal arrangement to minimize tax liability using available provisions | Use of legal loopholes to avoid tax without violating the law directly | Illegal practices to reduce or escape tax liability |
| Legality | Legal and encouraged | Legal but unethical | Illegal and punishable |
| Method | Claiming deductions, exemptions, choosing tax regimes, timing of income/expenses | Exploiting gray areas, form over substance | Concealing income, fake invoices, unreported cash |
| Intent | Efficient tax management | To avoid tax payment without economic substance | To evade taxes dishonestly |
| Examples | Investing in PPF, ELSS (Sec 80C), using HUF structure | Creating shell companies, circular transactions | Not reporting income, false expense claims |

◆ Indian Case Laws:

- **Tax Planning Approved:** *McDowell & Co. Ltd. v. CTO* (1985): The Supreme Court condemned colourable devices but acknowledged that **legitimate tax planning is acceptable**.

- **Tax Avoidance Disapproved:** GAAR (General Anti-Avoidance Rule) introduced to tackle tax avoidance from April 2017.

2. Tax Planning and Specific Management Decisions

Tax planning plays a significant role in **strategic decision-making** in business.

A. Make or Buy Decision

- **Meaning:** Whether to manufacture a component in-house or purchase from external suppliers.
- ◆ **Tax Considerations:**
 - **In-house (Make):** May lead to depreciation benefits, deduction of manufacturing expenses, and capital subsidies.
 - **Outsource (Buy):** Immediate deduction of expenses like purchase cost, transport, etc., without capital investment.
- ◆ **Tax Planning Strategy:**
 - If tax depreciation and other benefits exceed purchase cost → **Make**
 - If outsourcing gives lower tax liability due to deductions → **Buy**

B. Own or Lease Decision

- **Meaning:** Whether to purchase an asset or lease it.
- ◆ **Tax Considerations:**
 - **Own:**
 - Capital investment
 - Depreciation benefit under **Section 32**
 - Interest on loan (if any) allowed under **Section 36**
 - **Lease:**
 - Lease rentals allowed as revenue expenditure
 - No depreciation for lessee
- ◆ **Tax Planning Strategy:**
 - **Lease** if you want full deduction of lease payments without blocking capital.
 - **Own** if you're in a higher income bracket and depreciation shields more tax.

C. Retain or Replace Decision

- **Meaning:** Whether to continue using an existing asset or replace it with a new one.

◆ **Tax Considerations:**

- **Retain:**
 - Lower depreciation as asset is older
 - Lower running costs may already be realized
- **Replace:**
 - Higher depreciation on new asset (especially if using accelerated rates)
 - Section 32 benefits on new acquisition
 - Possible deduction under **Section 35AD** (for specific businesses)

◆ **Tax Planning Strategy:**

- Replace when the new asset brings better tax benefits and operating efficiency.

D. Shut Down or Continue Decision

- **Meaning:** Whether to shut down an unprofitable unit or continue operating it.

◆ **Tax Considerations:**

- **Continue:**
 - Set-off of carried forward losses under **Section 72**
 - Depreciation allowances continue
 - Retains tax incentives/subsidies
- **Shut Down:**
 - One-time cost may be allowed as deduction
 - Tax benefit from loss can be carried forward
 - Avoid further losses and tax liability

◆ **Tax Planning Strategy:**

- Continue if business can be turned around and losses can offset future profits.
- Shut down if unit is permanently non-viable and leads to increased tax burden.

Examples of Strategic Tax Planning in Decisions

| Decision Type | Example | Tax Impact |
|----------------------|----------------------------------------------------------------------------------|-----------------------------------------|
| Make vs Buy | A company chooses to manufacture because it allows higher depreciation deduction | Reduces taxable profit |
| Own vs Lease | A company leases equipment to deduct full lease rentals as expense | Avoids capital investment and saves tax |
| Retain vs Replace | Replacing a machine to claim full depreciation under Income Tax | Higher initial deductions |
| Shut vs Continue | Continuing operations just to use carried forward losses to offset new profits | Saves taxes on future income |
