

Scrutiny and Assessments Under Income Tax Act

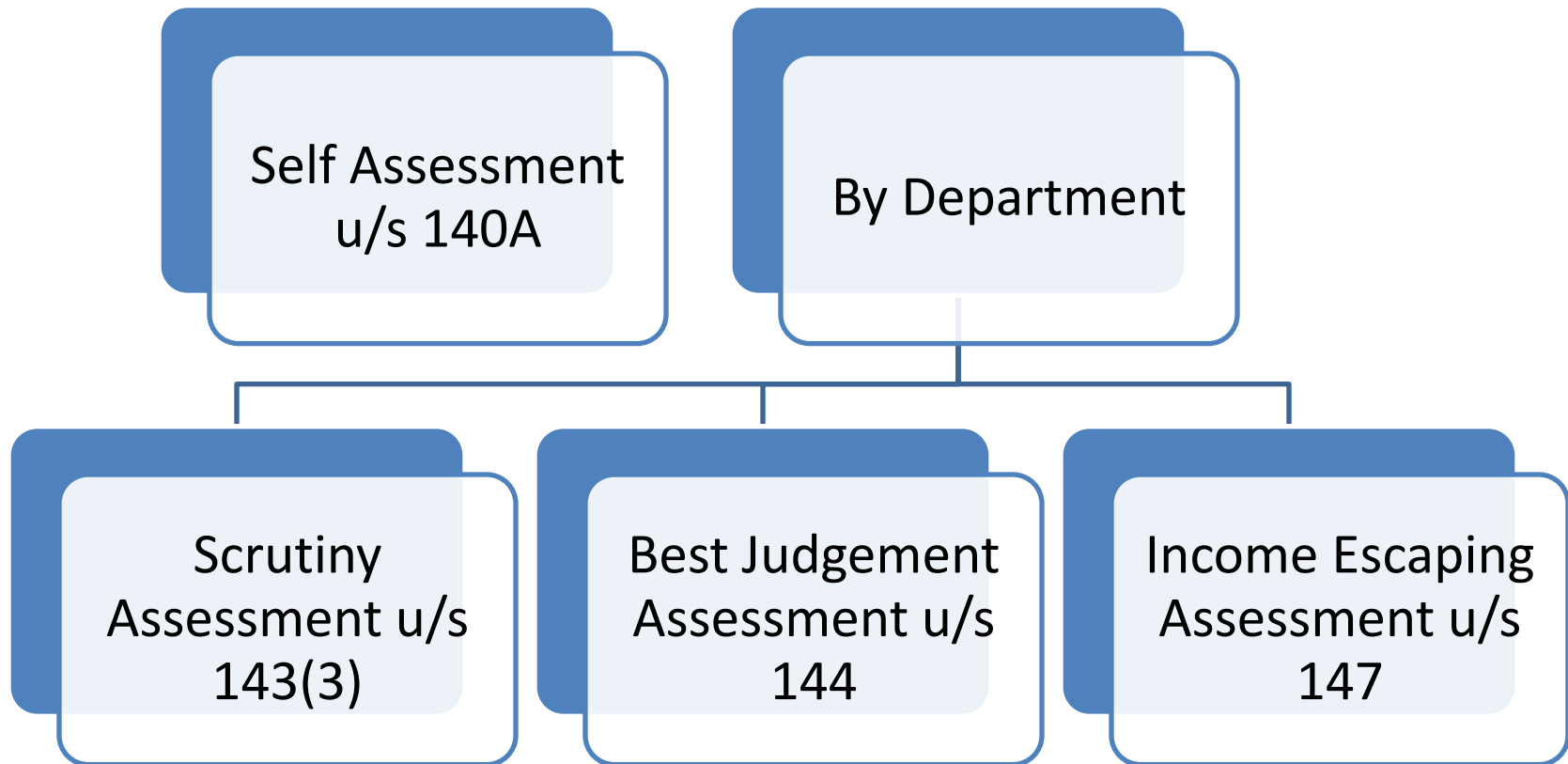


What is Income Tax Assessment?

- Income Tax Act, 1961 requires everyone in a taxable category to file Income Tax Return. Section 139(1) requires an entity to furnish a return of income in the prescribed forms and manner.
- Income tax assessment is the process of collecting and reviewing the information filed by assesseees in their Income Tax Returns. At the end of each financial year, all persons and entities are required to file and income tax return by self-computing the amount of income earned and pay the tax due. Hence, an income tax assessment would happen subsequent to the filing of an income tax return.
- After filing the tax return, the income tax department would process the return and check for any errors. If the errors in an income tax notice are minor, a summary assessment under Section 143(1) can be completed without calling the assessee.



Types of Assessment



Self Assessment u/s 140A

- Every person, before submitting the return of income is obligated to make a self- assessment of his income and after taking in account the amount of tax already paid, pay the self assessment tax, if due.
- The assessee shall be liable to pay the unpaid tax amount along with interest and fee payable for any delay in furnishing the return or any delay in payment of advance tax.
- If the tax payable on the basis of assessment as reduced by the tax already paid under any provisions of income tax act exceeds five hundred rupees, the assessee is required to pay such amount payable within **thirty days** of furnishing the return.



Inquiry before Assessment u/s 142 (1)

- A tax notice u/s 142(1) is issued in case a person has not filed his return within the specified period of time or before the end of relevant assessment year.
- The Assessing Officer (AO) may ask the assessee to produce specific accounts and documents as required by him by way of this notice. An assessee can be asked to furnish its purchase books, sales books, or proofs of any deductions availed by the assessee.
- **The AO may require the assessee to furnish any other information which he may deem appropriate. However, prior approval of Joint Commissioner is required.**



Intimation u/s 143(1)

Once the income tax return is filed, it is electronically processed by the Central Processing Centre(CPC). An intimation is to highlight the outcome of the processing of the return or conclusion of assessment, and one may not be required to act upon it.

The income is computed after making the following adjustments to the total income in the return:

- Any arithmetical error in the return;
- An incorrect claim (provided the incorrect claim is apparent from the information filed);
- Disallowance of incorrectly claimed loss or expenditure;
- Any income which has not been included in the return.

-AO shall provide 30 days time before making adjustment and if no response received he may proceed further

Upon successful processing of the tax return an intimation u/s 143(1) is issued by the CPC under any of the below mentioned instances:

- There is a tax liability to be paid
- A refund has been determined
- There is no refund or demand, but there is an increase/ reduction in the amount of loss.



Time Limit to issue intimation u/s 143(1):

Intimation u/s 143(1) has to be sent within Nine months (From 1st Apr 21) from the end of the **financial year** in which return is being filed.

Example: if the taxpayer has filed return pertaining to FY 2020-21 in July 2021, Intimation can be sent any time till 31st March 2022.

If a taxpayer does not receive any intimation within such period, it means that no adjustment is required in the filed income tax return and the liability/refund computed an acknowledgement issued is the deemed intimation.

Kinds of Intimations

Intimation with no demand/refund

- It generally happens if the department has accepted the return as filed without carrying out any adjustments to it.

Intimation determining demand

- It is issued in case of adjustments made under Section 143 (1) due to a discrepancy found and tax liability is arrived at.

Intimation determining refund

- It is issued where any interest or tax is found to be refundable either where no discrepancy is found in the return already filed or after making adjustments as referred to in Section 143(1) and after giving credit to the taxes and interest paid by the taxpayer.

Scrutiny Notice u/s 143(2)

- The purpose of this notice is to notify the assessee, that the return filed has been picked for scrutiny. Once, the income tax department finds discrepancies, minor and major, in your income tax returns, a notice will be issued under section 143(2).
- The discrepancies can be under-reporting income or over-reporting losses. The notice is issued to make sure that there is no underpayment of tax.
- The assessing officer cannot issue a notice u/s 143(2) if the assessee has not filed his income tax return.

Time Limit to issue notice u/s 143(2):

A notice under section 143(2) can be issued within a period of Three months from the end of the financial year in which the return is furnished.

Example: if the taxpayer has filed return pertaining to FY 2020-21 in Dec 2021, Intimation can be sent any time till 30th June 2022.



Types of notices u/s 143(2)

Limited Scrutiny

- This is a Computer-Assisted Scrutiny Selection (CASS) where cases are selected based on set parameters. These are cases with inaccurate returns information or mismatches. The scrutiny will be limited to the particular area of return mentioned in the notice such as the claim of foreign tax credit or sale of a property.

Complete Scrutiny

- A complete scrutiny will be carried out on the return filed and all supporting documents. The cases will be flagged based on CASS. Though the scope of scrutiny is not limited in this type, the assessing officer cannot verify documents beyond the particular assessment year.

Manual Scrutiny

- Cases are selected for complete scrutiny based on the criteria defined by the Central Board of Direct Taxes; the criteria may vary every year.

Scrutiny Assessment u/s 143(3)

- Under this section a detailed assessment of the return of income is carried out in order to confirm the correctness and genuineness of various claims, deductions, etc. made by taxpayer.
- The objective of a scrutiny assessment is to ensure that the taxpayer has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner.
- While conducting a scrutiny assessment, the concerned tax officer will provide ample opportunity for the assessment to be heard and to produce documents or evidence to support the information filed in a tax return. In case of failure to produce information or non-cooperation by the taxpayer, the tax officer is empowered to complete the best judgement assessment under section 144.



Time limit to issue notice u/s 143(3)

As per section 153, the time limit for making assessment under section 143(3) is:

For assessment year 2017-18 or before	Within 21 months from the end of the assessment year in which the income was first assessable.
For assessment year 2018-19	18 months from the end of the assessment year in which the income was first assessable.
Applicable for assessment year 2019-20 and assessment year 2020-21	12 months from the end of the assessment year in which the income was first assessable.
Applicable for assessment year 2021-22 and onwards	Within 9 months from end of the assessment year in which income was first assessable.

Best Judgment Assessment u/s 144

- Best judgment assessment takes place when the Income Tax officer is forced to perform the assessment with the available knowledge and resources. Under this an income tax assessment is performed by the assessing officer with limited knowledge about the financial circumstances of the assessee.
- Best judgment assessment can be made in the following cases:
 - If the taxpayer fails to file the return required within the due date prescribed under section 139(1) or a belated return under section 139(4) or a revised return under section 139(5).
 - If the taxpayer fails to comply with all the terms of a notice issued under section 142(1).

Time limit to issue notice u/s 144

As per section 153, the time limit for making assessment under section 144 is:

For assessment year 2017-18 or before	Within 21 months from the end of the assessment year in which the income was first assessable.
For assessment year 2018-19	18 months from the end of the assessment year in which the income was first assessable.
Applicable for assessment year 2019-20 and assessment year 2020-21	Within 12 months from the end of the assessment year in which the income was first assessable.
Applicable for assessment year 2021-22 and onwards	Within 9 months from end of the assessment year in which income was first assessable.

Faceless Assessment u/s 144B

- The Central Government introduced the Faceless Assessment Scheme to provide greater transparency, efficiency and accountability in Income Tax assessments. Faceless assessment means the assessment proceedings conducted electronically in “e- proceeding” facility through assessee’s registered account in the designated portal.
- Section 144B provides that the assessment of total income or loss of the assessee under Section 143(3) or Section 144 shall be made in a faceless manner in respect of the specified territorial areas or persons or class of persons or income or class of income or cases or class of cases.



Authorities to conduct Faceless Assessment

National Faceless Assessment Centre
(NFAC)

Regional Faceless Assessment Centres
(RFAC)

Assessment Units (AU)

Verification Units (VU)

Technical Units (TU)

Review Units (RU)

Income Escaping Assessment u/s 147

- If an assessing officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, the assessing officer may assess or reassess such income and also any other income which has escaped assessment and which comes to his notice subsequently in the course of proceedings, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for such assessment year.
- Following shall deem to be the cases where income chargeable to tax has escaped assessment:
 - where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax.
 - where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return
 - where an assessment has been made, but:
 - income chargeable to tax has been under- assessed; or
 - such income has been assessed at too low a rate; or
 - such income has been made the subject of excessive relief under this Act; or
 - excessive loss or depreciation allowance or any other allowance under this Act has been computed.



Assessment or Reassessment Notice Under Section 148

- An Individual could receive a notice under section 148 in case the assessing officer believes that such an individual's income chargeable to tax might have escaped assessment.
- In case the assessee has disclosed all the documents and correct information during the original assessment, the Assessing Officer cannot send a notice to the assessee for reassessing the same documents. Some facts or new documents which show that the income has escaped assessment should come into the light.
- Section 149 -Time limit to issue notice u/s 148
 - Generally, no notice shall be issued if 3 years have elapsed from the end of the relevant assessment year
 - Notice can be issued beyond a period of 3 years but not beyond the period of 10 years from the end of the relevant assessment year in case Income exceeds Rs. 50 Lakhs.

Amendment under section 147 vide Finance Act 2021

- If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year.
- The major changes from the earlier regime in this section are as under:
 - **The words ‘reason to believe’ have been done away with** which used to be the prime factor for litigation in such proceedings. Now, section 148A has been inserted to validate the fitness of the case to be assessed or reassesses under section 147. Thus now a simple reason to believe written on a notice will not serve the cause and the assessing officer would have to follow the set of procedures given in section 148A to open or reopen the case under section 147.

– **Issues coming into notice of the assessing officer subsequently**

As per the explanation to section 147, if there is any income which comes in notice of the assessing officer subsequently which is not related to the reason for which the assessment or reassessment proceedings are initiated, provisions of section 148A shall not apply to such subsequent issues and they can be very well adjudicated under the provisions of section 147.

Thus now a simple reason to believe written on a notice will not serve the cause and the assessing officer would have to follow the set of procedures given in section 148A to open or reopen the case under section 147.

– **No immunity in case of prior assessment proceedings**

Old section 147 of the Act provided that where assessment under section 143(3) or section 147 of the Act have been made for any earlier years, no action shall be taken after the expiry of the 4 years from the end of the relevant assessment year, unless such income has escaped assessment during such earlier held proceedings by reason of failure on the part of assessee to furnish income under section 139 or the assessee failed to respond to a notice issued under section 142(1) of section 148 of the Act or if the assessee failed to disclose fully and truly all material facts necessary for his assessment.

However, as such proviso is omitted, there is no bearing of any earlier held assessment proceedings and the assessee would be at risk to be reassessed under this section.

- **Income arising out of appeal matters**

Old section 147 refrained assessing officer from assessing or reassessing the income which was the subject matter of any appeal, reference or revision. However, with the omission of the proviso, it can be said that the now the assessing officer can venture into the ambit of such income too.

However, validity of their order subsequent to the order of the appellate authority or order arising from reference or revision would be in grey area.

- **Deemed cases where income chargeable to tax has escaped assessment**

Old section 147 vide explanation 2 provided a list of cases which were deemed cases where income chargeable to tax had escaped assessment. However, vide the amendment such deemed cases have been omitted thus giving larger role to procedure mentioned under section 148A of the Act.

Further Explanation 2 of section 148 have given certain cases where deemed cases have been given.

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