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Updated Return – additional window for income tax return compliance

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In recent times, the reduction in time limits for filing belated or revised income tax returns provides taxpayers a short timeframe to rectify the inadvertent errors or meet such timelines in adverse situations. Until now, the last day to file the revised or belated return was 31 December of the assessment year. With a view to provide an additional opportunity for correcting any omissions or errors made while filing the original/belated/revised income tax return or in a case where no such return is filed due to unforeseen circumstances, a new provision of ‘Updated Return’ has been introduced vide Section 139 (8A) of the Income Tax Act, 1961 (the Act) by Finance Act, 2022.

According to the new provision, an additional time limit of 12 months/24 Months from the end of the relevant assessment year is provided to all the taxpayers with an additional cost of 25%/ 50% of tax liability, respectively, with which the updated return can be filed.

Some of the prominent characteristics of the provisions for updated return are as under:

- It can be filed once for an assessment year.
- Tax liability will be computed after allowing the due credit for the TDS, advance tax, withholding tax, etc.
- Interest for default on furnishing return of income for default in payment of advance tax and for deferment of payment of advance tax will be levied as applicable.
- Updated return can be filed from the assessment year 2020-21 and onwards.
- The return is to be accompanied by the proof of payment of tax.

It is important to note that no updated return can be filed in the following cases:

- Return results in decreasing tax liability or increasing refund or claiming losses.
- If any assessment/re-assessment proceedings are pending against the taxpayer for such assessment year.
- If any search/survey has been completed against the taxpayer, then, for such assessment year and assessment year prior to such assessment year.
- If any prosecution proceedings are pending for such assessment year.
- If information from a foreign jurisdiction is received as per tax treaty and the same is communicated to the taxpayer for the relevant assessment year.
- The tax officer has the information under various Acts like smugglers, benami, black money, money laundering, etc. and the same is communicated to the taxpayer.
- CBDT has notified such taxpayers or classes of taxpayers as not eligible to file the updated return.

Recently, CBDT has notified the rule for furnishing the updated return along with the Form ITR-U, a simple form that requires income disclosure under the various heads of income (without detailing the breakup of the same) along with the reasons for updated return. Also, details of tax payments need to be furnished in the same.

Furthermore, Form ITR-U needs to be filed with a digital signature in audit cases and an electronic verification code in non-audit cases. There is no option of a manual signature and sending the same to Bangalore for the updated return.

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Our Comments

The provision of a window for updated returns is a positive step by the government for maximum compliance toward return filing. The same may be used by the taxpayers who cannot file the return or are not able to revise the mistake or omission before the 31 December of the assessment year. However, the additional tax liability of 25%/ 50% would act as the determinant for such an opportunity, as the same is on a higher side for return filing compliance. Certain aspects/open issues in relation to the updated return are discussed hereunder:

- Applicability of penalty provisions like misreporting or underreporting in the income tax return on the additional income disclosed in the updated return.
- The selection of cases in scrutiny assessment makes the window small for updated returns as the updated return can not be filed for cases selected for scrutiny assessment.
- Returns resulting in a reduction of losses or refunds seem out of scope based on the literal interpretation of the Act. The same may be clarified for the inclusion or exclusion of the same.

One could consider filing an application for condonation of delay in genuine hardship cases instead of opting for an updated return, as delay condoned does not result in any additional tax liability, i.e., 25% or 50%.

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