

## PROVISIONS FOR FILING RETURN OF INCOME

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### Question 1

State with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

- (i) From 1.6.2006 onwards, the Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable. (2 Marks)(May 2007)
- (ii) Where the Karta of a HUF is absent from India, the return of income can be signed by any male member of the family. (2 Marks)(May 2007)

### Answer

- (i) True: Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.
- (ii) False: Section 140(b) provides that where the karta of a HUF is absent from India, the return of income can be signed by any other adult member of the family; such member can be a male or female member.

### Question 2

Discuss briefly about the scheme to facilitate submission of return of income through Tax Return Preparers. (4 Marks)(May 2007)

### Answer

- (1) Section 139B provides that, for the purpose of enabling any specified class or classes of persons to prepare and furnish their returns of income, the CBDT may notify a Scheme to provide that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the Scheme.
- (2) The Tax Return Preparer shall assist the persons furnishing the return in a manner that will be specified in the Scheme, and shall also affix his signature on such return.
- (3) A Tax Return Preparer can be an individual, other than -

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- (i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings.
  - (ii) any legal practitioner who is entitled to practice in any civil court in India.
  - (iii) a chartered accountant.
  - (iv) an employee of the 'specified class or classes of persons'.
- (4) The "specified class or classes of persons" for this purpose means any person, other than a company or a person, whose accounts are required to be audited under section 44AB or under any other existing law, who is required to furnish a return of income under the Act.

Note: Since the question carries only 4 marks, it is sufficient if the above points are given in the answer. For a detailed discussion on section 139B, the students may refer Chapter 10 of the study material.

### Question 3

The total income of a University without giving effect to exemption under section 10(23C) is Rs. 46 lacs. Its total income, however, is nil. Should the University file its return of income?

(2 Marks) (Nov 2007)

### Answer

Section 139(4C) enjoins that, a university referred to in section 10(23C), should file the return of income if its total income without giving effect to the exemption under section 10, exceeds the basic exemption limit. The provisions of the Act will apply as if it were a return required to be furnished under section 139(1). In the given case, since the total income of the University before giving effect to the exemption exceeds the basic exemption limit, it has to file its return of income.

### Question 4

Comment on the allowability of the following claims made by the assessee:

Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for the Financial year ended on 31<sup>st</sup> March, 2007 audited under section 44AB. Her total income for the assessment year 2007-08 is Rs. 1,35,000. She wants to furnish her return of income for assessment year 2007-08 through a tax return preparer. (4 Marks)(Nov 2007)

The provisions of the Income-tax Act, 1961 relevant for Assessment Year 2010-11 should be taken into consideration while solving the question. Accordingly, the facts given above may be taken as relating to financial year 2009-10. It may be assumed that Mrs. Hetal's total income for the A.Y.2010-11 is Rs.2,35,000.

### Answer

Section 139B provides a scheme for submission of return of income for any assessment year through a tax return preparer. However, it is not applicable to persons whose books of account are required to be audited under section 44AB. Therefore, Mrs. Hetal cannot furnish her return of income for A.Y.2010-11 through a tax return preparer.

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### Question 5

Enumerate eight transactions for which quoting of Permanent Account Number is mandatory.

(4 Marks)(Nov 2007)

### Answer

Quoting of PAN is mandatory in the case of following transactions:

- (1) In all returns to, or correspondence with, any income tax authority,
- (2) Sale or purchase of any immovable property valued at Rs.5 lakhs or more.
- (3) A time deposit exceeding Rs.50,000 with a banking company.
- (4) A contract for sale or purchase of securities exceeding value of Rs.1,00,000.
- (5) Cash payment in excess of Rs.25,000 in connection with travel to any foreign country at any one time.
- (6) Bill payments to hotels and restaurants exceeding Rs. 25,000 at any one time.
- (7) Cash deposit aggregating Rs.50,000 or more with a banking company during any one day.
- (8) Making an application to any bank or banking institution or company or any institution for issue of a credit card.

Note: The above list is illustrative and not exhaustive. Entire list may be seen in Chapter 10 of "Taxation" study material.

### Question 6

Can an individual, who is not in India, sign the return of income from outside India? Is there any other option?

(2 Marks)(May 2008)

### Answer

As per section 140, return of income can be signed by an individual even if he is absent from India. Hence, an individual can himself sign the return of income from a place outside India. Alternatively, any person holding a valid power of attorney and duly authorised by the individual can also sign the return of income. However, such power of attorney should be attached along with the return of income.

### Question 7

Briefly discuss about the interest chargeable under Section 234A for delay or default in furnishing return of income.

(4 Marks)(May 2008)

Interest is chargeable under section 234A for delay or default in furnishing return of income. Discuss briefly.

(4 Marks) (Nov 2009)

### Answer

Interest for delay or default in furnishing return of income [Section 234A]

- (1) Interest under section 234A is attracted for failure to file a return of income on or before the due date mentioned in section 139(1) i.e. interest is payable where an assessee

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furnishes the return of income after the due date or does not furnish the return of income.

- (2) Simple interest @1% per month or part of the month is payable for the period commencing from the date immediately following the due date and ending on the following dates:

Circumstances	Ending on the following dates
Where the return is furnished after due date	The date of furnishing of the return
Where no return is furnished	The date of completion of assessment

- (3) The interest has to be calculated on the amount of tax on total income as determined under section 143(1) or on regular assessment, as reduced by the advance tax paid and any tax deducted or collected at source, any relief of tax allowed under section 90 and 90A, any deduction allowed under section 91 and tax credit allowed to be set off as per section 115JAA.

### Question 8

Explain with brief reason whether the return of income can be revised under section 139(5) of the Income-tax Act, 1961 in the following cases:

- (i) Defective or incomplete return filed under section 139(9).
- (ii) Belated return filed under section 139(4).
- (iii) Return already revised once under section 139(5).
- (iv) Return of loss filed under section 139(3). (4 Marks)(Nov 2008)

### Answer

Any person who has furnished a return under section 139(1) or in pursuance of a notice issued under section 142(1) can file a revised return if he discovers any omission or any wrong statement in the return filed earlier. Accordingly:-

- (i) A defective or incomplete return filed under section 139(9) cannot be revised. However, the defect can be removed.
- (ii) A belated return filed under section 139(4) cannot be revised. Only a return furnished under section 139(1) or in pursuance of a notice issued under section 142(1) can be revised.
- (iii) A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. within one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier.
- (iv) A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).