

Delayed ITR filing - Late fee up to Rs. 10,000 and other consequences

The Income-tax Act ('the Act') has always permitted delayed filing of income-tax returns (ITRs) with certain deterrents in the form of penalties, penal interests and restriction such as taking away the option of revising ITR and not allowing carry forward of losses. However, the recent amendments suggest that the Government is most keen on ensuring timely compliance, such as limiting the outer limit of delayed filing to just the end of Assessment year (AY), mandatory fee levy under section 234F and reduced time limits for assessments. ITR filing being the starting point of compliance is one of the most important aspects under the self-assessment regime of the Income tax.

One of the major deterrents for filing a return late beyond the normal due date is that section 80 of the Act prevents an Assessee from carry-forwarding a loss for which a return has not been filed within time.

Apart from the penal interest u/s 234A, another additional onerous provision is the insertion of new section 234F with effect from AY 2018-19 which provides for mandatory levy of late fee for belated filing of income tax returns.

For ITRs for FY 2017-18 onwards, there shall be levied a late fee of Rs. 5000/- for ITRs filed after due date prescribed u/s 139(1)

For instance for ITR of FY 2017-18	
If filed after due date and before 31 st Dec 2017	Late fee of Rs. 5,000/-
If filed after 31 st Dec 2017	Late fee of Rs. 10,000/-

However penalty would be restricted to Rs. 1000/- if total income does not exceed Rs. 5 Lakhs. Further an earlier amendment has limited the outer limit of delayed ITR filing to the end of AY from the earlier limit of 1 year from end of AY.

Even before the new Section 234F, there were sufficient disincentives for delayed filing such as penal interest u/s 234A as well as penalty 271F (now replaced by fee u/s 234F). Erstwhile section 271F provided that the Assessing Officer may levy a penalty of Rs. 5000/- if an ITR was filed beyond the end of AY. On the other hand section 234F provides for a mandatory penalty.

Considering the above repercussions and this new additional fee of 234F, delayed filing of income tax returns has earlier been and will be a problem for taxpayers. Keeping in view the same, it is advisable to file returns on time. As the old proverb goes "a stitch in time saves nine"