

-57.10 (-3.23%)

H D F C 2653.80 ↑ 5.25 (0.20%)

HCL Technologies 1126.75 ↓ -2.30 (-0.20%)

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# Craft convincing response to tax notice, backed by relevant documents

Non-appearance and failure to respond on time can have serious consequences

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Income-tax returns (ITR) should be filed with meticulous attention to details to avoid complications at a later date. In the wake of the Central Board of Direct Taxes (CBDT) coming out with new guidelines for scrutiny of ITRs, applicable to financial year 2023–24, this task should be undertaken with even greater seriousness.

Ashish Mehta, partner, Khaitan & Co., says, “Guidelines are issued every year to prescribe the types of cases to be taken up for assessment based on a variety of factors.”

Let us understand the parameters laid down by the CBDT for initiating a scrutiny:

**Tax evasion and old cases:** The tax department is now obliged to scrutinise cases where legal agencies have provided information regarding tax evasion. Cases involving additions in earlier assessment years on recurring issues of law or fact will also be scrutinised.

**Notice under Section 148:** The department will also pick up cases for scrutiny where notices have been issued under Section 148 — for income deemed to have escaped assessment.

Ankit Rajgarhia, principal associate, Karanjawala & Company, Advocates, says, “Upon receiving a notice under Section 148, the taxpayer must file a return for the relevant assessment year.” Taxpayers are entitled to ask for the reasons for issuance of the notice and file objections to it.

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Rajgarhia suggests that the taxpayer should ask the assessing officer (AO) to pass a speaking order disposing of the objections, citing the GKN Driveshafts (India) Ltd. vs. ITO (2003) 259 ITR 19 judgement of the Supreme Court. “Taxpayers can also challenge the legality of the notice before the assessment is completed by filing a writ petition before the respective High Court,” he adds.

**Notice under Section 142(1):** A notice is issued under this section when there are discrepancies in an ITR. Sandeep Bajaj, managing partner, PSL Advocates & Solicitors, says, “If a taxpayer does not file a return in response to a Section 142(1) notice, then such a case will also be picked up for complete scrutiny.” The taxpayer may have to provide additional information on receiving the notice.

This section has provisions to protect taxpayers from undue scrutiny.

Rajgarhia says, “The taxpayer gets a reasonable opportunity to explain the additional information submitted. If there is a delay in filing the return, then valid reasons must be submitted for it.”

**Search and seizure cases:** Cases where the tax authorities have conducted search and seizure will be picked for complete scrutiny.

Pallav Pradyumn Narang, partner, CNK says, “If the I-T department has conducted search and seizure, and in cases where money, bullion, jewellery or other valuables have been seized under Section 132, seek professional advice.”

**Survey under Section 133A:** This section allows the I-T department to conduct a survey by entering any place of business, profession or charitable activity to verify the books of account and other documents. Such cases will also be scrutinised. Narang says, “The return filed in the financial year in which the survey was conducted will be selected.”

**Cases pertaining to registration/approvals:** Sometimes, taxpayers claim exemption or deduction despite the tax authorities having not granted or having cancelled registration/approval under sections 12A, 12AB, 35(1)(ii)/(iia)/(iii), 1023(C) etc. Those cases will also be scrutinised. Bajaj says, “Cases where the order of withdrawal/approval has been reversed or set aside in appellate proceedings will be excluded.”

### What should you do?

The CBDT has specified that cases taken up for scrutiny under the above-mentioned provisions need not be transferred to the faceless assessment unit. Rajgarhia says, “These procedures provide a framework for taxpayers to present their case and challenge the notice.”

Review the notice and seek professional guidance. “Be mindful of the deadlines. Non-filing of details or non-appearance could lead to penal consequences,” warns Mehta. Providing prompt and accurate responses, with well-articulated submissions backed by relevant documentation, is vital.

These notices are served on the email ID and contact information provided in the ITR or uploaded on the taxpayer’s account on the tax portal. Suresh Surana, founder, RSM India, says, “Check your email and contact information regularly for notices. If a new email ID is provided, continue using the old one for some time.”

## Price of inaction: Hefty penalties, unilateral decision

- Taxpayers receive electronic notices through their I-T portal, occasionally followed by emails and physical delivery to the registered address
- On receiving a notice, respond promptly with the requested information, clarification, or documents
- Failure to respond within the specified timeframe may result in penalties
- If you don't respond, the Assessing Officer can unilaterally determine the amount payable or refundable based on the material already submitted, under Section 144
- Failure to provide the required information can lead to a penalty of Rs 10,000
- If the details provided by the taxpayer and verified by the department align, the notice will serve as final assessment of the return, requiring no further action


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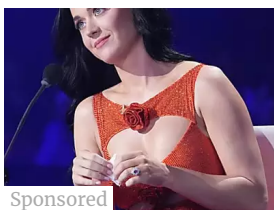
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