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Missed Dec 31 ITR deadline? Apply for condonation of delay at the earliest

Taxpayers may file an updated return after April 1



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December 31 signified more than the end of 2023; it was also the final day for submitting belated or revised income-tax returns (ITRs) for those who had missed the earlier deadline.

“Assessees who missed the July 31 deadline for filing the original ITR for FY 2022–23 (assessment year 2023–24) or sought to amend their initial filing had a remedy available. They could have submitted a belated ITR or revised return for FY 2022–23 by December 31, 2023. This extension provides assesseees with an opportunity to rectify any omissions or

inaccuracies, or make changes to their initial ITR submission,” says Maneet Pal Singh, partner, I.P. Pasricha & Co.

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Consequences of missing the deadline

The Income-Tax (I-T) Department may impose penalties for late filing. Total income and length of delay in filing determine the penalty amount.

Says Prateek Goyall, partner at law firm MV Kini: “If the taxpayer misses filing a belated ITR, he incurs late fees under Section 234F, with penalties of Rs 1,000 (on income of up to Rs 5 lakh) and Rs 5,000 (on income above Rs 5 lakh).” There can be several other consequences. Says Ritika Nayyar, partner, Singhania & Co.: “Certain losses incurred in the financial year may not be allowed to be carried forward to future years. Loss set-off benefits may also get impacted.”

Accessing bank loans gets difficult. Tax refunds, if available, also get delayed.

Says Pallav Pradyumn Narang, partner, CNK: “Salaried employees may not be able to opt for their preferred tax regime if they file a return beyond the due date. This could also result in additional tax and interest payments where there is a mismatch if an employee had opted for a particular tax regime at the start of the year and chooses not to opt for it at the time of return filing.”

The new tax regime is the default regime for salaried employees from FY 2023–24 onwards.



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Taxpayers get disqualified for certain deductions. Says Singh: “Some deductions and exemptions under the I-T Act, such as 10A, 10B, and deductions under Part-C of Chapter VI-A are not allowed if the return is filed after the due date.”

Penalties ranging from 50 to 200 per cent could be levied for underreporting and misreporting of income. Says Narang: “In some cases, it could lead to imprisonment ranging from three months to seven years.”

Recourse available

Here's what taxpayers can do if they have not filed the belated return by December 31. Says Himanshu Sachdeva, senior associate at TAS Law: "If a taxpayer misses the deadline for a belated return due to genuine reasons, they can request for a condonation of delay from the Central Board of Direct Taxes (CBDT) under Section 119 of the Act. They must provide bona fide reasons for the delay. The I-T officer, after considering the request, may impose a penalty and interest (typically around Rs 10,000 and 1 per cent per month, respectively) and accept the late filing."


If the reasons are not found to be genuine, the request may be rejected. Says Narang: "The antidote then is to file an updated return (ITR-U)."

What's ITR-U?

The Finance Act of 2022 introduced the concept of ITR-U to allow assessee a longer duration for filing ITR. Says Soumil Gonsalves, senior associate, Kred Jure: "Taxpayers can declare income that was not reported earlier. Additional tax and interest have to be paid on the undisclosed income."

Adds Ankit Jain, partner, Ved Jain & Associates: "The opportunity to update the return is available only once. So, ensure no additional income is left for declaration after you have filed ITR-U." Heavy interest and penalty may have to be paid for availing of this facility.

ITR-U can be filed only after the end of the relevant assessment year. It can be filed within 24 months from the end of the relevant assessment year (subject to certain conditions).

Says Singh: "If taxpayers have not filed a belated ITR, they will be allowed to file an updated ITR from April 1, 2024." Taxpayers should currently file a request for condonation of delay right away. 

KEY FACTS YOU SHOULD KNOW

- Condonation of delay involves asking the income-tax (I-T) department for permission to file your income-tax return (ITR) after the deadline, by explaining the reasons for the late submission
- Your ITR will only be considered valid and processed once an authorised I-T authority approves your condonation request
- An authorised signatory, a representative assessee, or an e-return intermediary may also submit condonation requests on behalf of the taxpayer
- Approval of such requests is not guaranteed
- Requests for condonation are not accepted if made more than six years after the end of the relevant assessment year
- The reason for the delay must be legitimate and convincing



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