Awareness Series 9: Don't Fear the Taxman: Be Tax Smart!

Breaking Down Tax for the Common Man

(A CSR initiative)

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Navigating personal income tax in India can feel daunting, but I'll break it down for you in a clear, practical way, focusing on what matters to the average person. This covers tax obligations, exemptions, deductions, penalties for non-compliance, filing returns, and appealing disputes, based on the latest rules for Assessment Year (AY) 2025-26 (PY 2024-25). **(full form of abbreviations is given in the end)**

I. Personal Tax Obligations in India.

1. Who Must File an ITR?

i. You must file an ITR if your total income (before deductions) exceeds the basic exemption limit:

   a. New Tax Regime: ₹7 lakh for residents (regardless of age)

   b. Old Tax Regime: ₹2.5 lakh (below 60 years), ₹3 lakh (60-80 years), or ₹5 lakh (above 80 years)

   c. Other triggers: If you have foreign assets, income from foreign sources, or spent ₹2 lakh or more on foreign travel, spent 1 lac or more on electricity or has deposits of ₹1 crore in a current account or 50 lacs in savings account or hold TDS/TCS credit of 25000 plus etc., even if your income is below the exemption limit.

ii. Deadline: For AY 2025-26, the ITR filing deadline is typically July 31, 2025, for non-audit cases, but now September 15, 2025, as a possible extended deadline. Always check the Income Tax Department's official portal for confirmation.

2. Tax Regimes:

i. **New Tax Regime** (default since AY 2024-25): Lower tax rates but fewer deductions/exemptions. You must opt out to choose the old regime.

ii. **Old Tax Regime**: Higher tax rates but allows more deductions/exemptions. You can switch annually for non-business income by selecting the option in your ITR

3. **Advance Tax:** If your tax liability exceeds ₹10,000 in a year, you must pay advance tax in instalments (June 15, September 15, December 15, March 15) to avoid interest penalties
4. **Tax Deducted at Source (TDS)**:** Employers, banks, or others deduct TDS on salary, interest, etc., which you can claim as credit while filing your ITR

II. Exemptions and Deductions: Exemptions reduce your taxable income, while deductions lower your tax liability. The availability depends on the tax regime.

1. New Tax Regime (Limited Exemptions/Deduction):

Lower tax rates but fewer deductions/exemptions. You must opt out to choose the old regime

1. Under the new tax regime, individuals with taxable income up to ₹7 lakhs are eligible for a rebate of ₹25,000.
2. Deduction for employer's contribution to NPS account
3. Standard deduction of Rs 75,000 under New Tax Regime for salary. Transport allowance for specially-abled persons, conveyance allowance, travel compensation, and daily allowance for employment-related expenses
4. Interest on Home Loan on let-out property (Section 24)
5. Gifts up to Rs 50,000 under income from other sources
6. **deduction under Section 57(iia) of family pension income. Limit of maximum Deduction under Family Pension has been increased from Rs. 15,000 to Rs. 25,000**
7. **No HRA or Chapter VIA Deductions**

2. Old Tax Regime

Higher tax rates but allows more deductions/exemptions. You can switch annually for non-business income by selecting the option in your ITR.

1. HRA: Exempt under Section 10(13A) for salaried individuals paying rent, based on salary, rent paid, and city of residence.

2. Section 80C: Up to ₹1.5 lakh for investments like PPF, ELSS, life insurance premiums, or tuition fees.
3. Section 80D: Up to ₹25,000 (or ₹50,000 for senior citizens) for health insurance premiums.
4. Section 24(b): Up to ₹2 lakh on interest paid on a home loan for self-occupied property
5. Other Deductions: Sections 80G (donations), 80E (education loan interest), 80TTA (savings interest up to ₹10,000), etc.
6. Standard Deduction: ₹50,000 (or ₹75,000, if updated) applies here too.

Choosing a Regime: Use the Income Tax Department's tax calculator to compare tax liability under both regimes. For salaried individuals, inform your employer of your preferred regime to adjust TDS.

III. Penalties for Non-Compliance

Non-compliance with tax laws can lead to penalties, interest, or even prosecution. Common issues include:

1. **Late Filing of ITR**
   Fee of ₹1,000 if total income is up to ₹5 lakh.
   Fee of ₹5,000 if income exceeds ₹5 lakh.
   Rs. 5000 penalty in all cases.
   No penalty if income is below the basic exemption limit.
2. **Under-Reporting or Misreporting Income** –
   Under-Reporting: 50% of tax payable on under-reported income.
   Mis Reporting (e.g., irregularities in claiming exemption for HRA or fake invoices/receipts or suppression of facts): 200% of tax payable.
   Example: If you under-report ₹2 lakh and the tax due is ₹30,000, the penalty is ₹15,000 (50%). For misreporting, it's ₹60,000 (200%).
3. **PAN-Related Issues**
   ₹10,000 for not obtaining a PAN, providing incorrect PAN, or failing to quote it in required transactions.
4. **TDS/TCS Non-Compliance**
   Late filing of TDS returns: ₹200 per day until the fee equals the TDS amount, plus a penalty of ₹10,000 to ₹1 lakh under Section 271H.
   Non-deduction of TDS: Interest at 1% per month for non-deduction, 1.5% per month for non-payment of deducted TDS.

5. **Tax Evasion**
   Willful evasion exceeding ₹25 lakh: Imprisonment for 6 months to 7 years plus fines.
   Less than ₹25 lakh: 3 months to 2 years imprisonment plus fines.
6. **Failure to Respond to Notices** (e.g., Section 142(1) or 143(2)): Best judgment assessment by the tax officer, potentially leading to higher tax liability

IV. Filing Income Tax Returns:

Here's a step-by-step guide for the common man

1. **Choose the Right ITR Form**

   1. ITR-1 (Sahaj): For resident individuals with income from salary, one house property, and other sources (e.g., interest) <u>but no capital gains or business income</u>, with total income upto ₹50 lakh.
   2. ITR-2: For individuals/HUFs <u>with no business income</u> but with capital gains or foreign assets.
   3. ITR-3: For individuals/HUFs with business/profession income.
   4. ITR-4 (Sugam): For presumptive business income <u>but no capital gains</u>

2. **Collect Documents:**

   1. Form 16 (from employer for TDS on salary).
   2. Bank statements, rent receipts, investment proofs (for deductions), and TDS certificates (Form 16A).
   3. Annual Information Statement (AIS), 26 AS and TIS from the tax portal for income and TDS details

3. **E-Filing Process** -

   1. Register on the Income Tax Department's e-filing portal (www.incometax.gov.in).
   2. Log in, select the appropriate ITR form, and fill in details (income, deductions, TDS, etc.).
   3. Opt for the old regime in the ITR if you want deductions/exemptions - Verify your ITR using Aadhaar OTP, net banking, or by sending a signed ITR-V to the Centralized Processing Centre (CPC) in Bengaluru.
   4. Use platforms

4. **Deadlines and Verification:**

   1. File by July 31, 2025 (or extended deadline, if applicable).
   2. Verify within 30 days of filing to complete the process.

5. Revised Returns:

If you make errors, file a revised return by December 31, 2025, but you can't claim new deductions in a rectification request

V. Assessments and Appealing Tax Disputes

A. Overview of the Assessment Process

The assessment process begins after a taxpayer files their ITR, disclosing income, deductions, and tax payments. The Income Tax Department examines the return for accuracy and compliance, which may lead to disputes if discrepancies are found. These disputes can escalate to litigation if not resolved at the assessment stage. The process involves multiple types of assessments, each with specific procedures, timelines, and potential for litigation. Both of these process is faceless and do not involve personal appearances.

B. Types of Assessments in Income Tax

The Income Tax Act outlines several types of assessments, each serving a distinct purpose and potentially leading to litigation if disputes arise. These are:

1. Self-Assessment (Section 140A):

Litigation Trigger: Errors in computing /depositing self-assessment tax before furnishing return of income, such as underreporting income or claiming excessive deductions in ITR, may lead to further scrutiny by the tax department, potentially resulting in notices and disputes.

2. Summary Assessment (Section 143(1))

Process: This is an automated, preliminary check of the ITR without human intervention. The system cross-verifies the taxpayer's data against records like Form 26AS, Annual Information Statement (AIS), and Tax Information Statement (TIS). Adjustments are made for:

- Arithmetical errors
- Incorrect claims (e.g., TDS mismatches or excessive deductions)
- Disallowance of losses if the ITR was filed late

Outcome: An intimation under Section 143(1) is sent within 9 months from the end of the financial year in which the ITR is filed. This intimation may indicate:

- No demand or refund (if no discrepancies)
- A refund due to excess tax paid

- A demand for additional tax if discrepancies are found

Litigation Trigger: If the taxpayer disagrees with the adjustments (e.g., disallowance of a deduction), they may file a revised return under Section 139(5) or challenge the intimation, potentially leading to litigation. If no response is received within 30 days, the adjustments are finalized, which may prompt further disputes

3. Scrutiny Assessment (Section 143(3))

Process: This is a detailed examination of the ITR by an Assessing Officer (AO) to verify the correctness of income, deductions, and tax paid. A notice under Section 143(2) is issued within 3 months from the end of the financial year in which the ITR is filed, requesting documents like books of accounts, bank statements, or other evidence.

The AO evaluates the submitted documents, may conduct hearings, and issues an assessment order determining the total income and tax liability.

Since 2020, scrutiny assessments are often conducted under the Faceless Assessment Scheme (Section 144B), using electronic platforms and video conferencing to ensure transparency and reduce physical interactions

Litigation Trigger: Discrepancies found during scrutiny (e.g., understated income or disallowed deductions) may lead to a tax demand. If the taxpayer disagrees with the assessment order, they can appeal, initiating litigation

4. Best Judgment Assessment (Section 144):

Process: This occurs when the taxpayer fails to file an ITR, does not comply with notices (e.g., under Section 142(1) or 143(2)), or fails to maintain required books of accounts. The AO estimates the income and tax liability based on available data and their "best judgment."

Since 2020, best judgment assessments are also covered under the Faceless Assessment Scheme

Litigation Trigger: As the assessment is based on the AO's discretion, taxpayers often challenge it, leading to appeals and litigation, especially if they believe the AO's estimation is arbitrary or excessive

5. **Income Escaping Assessment (Section 147):**

Process: If the AO believes that income has escaped assessment (e.g., due to unreported income or incorrect claims), they can reopen the case by issuing a notice under Section 148 and 148A. This can be done:

i. Within 3 years from the end of the relevant assessment year (AY) if the escaped income is less than ₹50 lakh.
ii. After 3 years but not more than 5 years from the end of the relevant assessment year if the escaped income is fifty lacs or more.   d income is ₹1 lakh or more.
iii. Sanction for issue of notice from senior authorities is required for reopening all cases.

Litigation Trigger: Reassessments often lead to disputes, as taxpayers may challenge the AO's grounds for reopening the case or the revised tax liability, escalating to litigation

6. Rectification Assessment (Section 154):

Process: This corrects clerical or arithmetical errors in an assessment order. Either the taxpayer or the AO can initiate rectification. The taxpayer can apply for rectification if they identify errors in the order.

Litigation Trigger: If the rectification request is denied or the taxpayer disagrees with the revised order, they may file an appeal, leading to litigation

C. Tax Litigation Process Following Assessment

If a taxpayer disagrees with the outcome of an assessment (e.g., a tax demand or disallowance of deductions), the dispute may enter the litigation phase. The litigation process in India follows a structured appellate mechanism:

1. Filing an Appeal:

Commissioner of Income Tax (Appeals) (CIT(A)): If the taxpayer disagrees with the assessment order, they can file an appeal with the CIT(A) within 30 days. Use Form 35 (available on the e-filing portal) and pay a nominal fee. The appeal is filed online through the e-filing portal under the Faceless Appeal Scheme, which eliminates physical hearings. The CIT(A) reviews the case and may confirm, modify, or annul the assessment order.

For obvious errors in the assessment (e.g., wrong TDS credit), file a rectification request online within 4 years from the end of the financial year of the order.

Note: You cannot claim new exemptions/deductions in rectification

Vivad se Vishwas Scheme - Settle pending tax disputes by paying a portion of the tax arrears. This scheme is ideal for resolving old disputes with minimal penalties as per announcements during annual budget.

Income Tax Appellate Tribunal (ITAT): If dissatisfied with the CIT (A)'s decision, the taxpayer or the tax department can appeal to the ITAT within 60 days. The

ITAT is a quasi-judicial body, and its hearings are conducted in open court. Appeals should be disposed of within 4 years, though delays are common.

High Court: Appeals on substantial questions of law can be filed with the jurisdictional High Court within 120 days of the ITAT's order. A division bench of two judges hears the case. No specific timeline is prescribed, leading to potential delays

Supreme Court: As the final appellate authority, the Supreme Court hears appeals on significant legal issues. Appeals must be filed within 90 days of the High Court's order. Like High Court appeals, there is no fixed timeline for resolution

Writ Petition: Taxpayers can file a writ petition with the High Court if they believe the assessment process violated natural justice, was arbitrary, or involved abuse of power. Writs provide a faster remedy for procedural irregularities

Seek professional help for complex cases.

2. **Alternative Dispute Resolution:**

Authority for Advance Rulings (AAR): Taxpayers can seek advance rulings on complex tax issues to avoid litigation. The AAR provides binding decisions, reducing disputes

Interim Board for settlement: For cases involving searches or surveys, taxpayers can approach the Interim Board to resolve disputes without prolonged litigation

Revision Applications: Under Sections 264, taxpayers can request the Commissioner of Income Tax to revise an assessment order if it contains errors or prejudices the taxpayer

3. **Burden of Proof:**

The taxpayer bears the burden of proving the validity of claims (e.g., deductions or exemptions) made in the ITR. However, the tax department must justify any disallowances or additions to income. In cases of reassessment (Section 147), the AO must provide evidence that income has escaped assessment

4. **Time Limits for Litigation:**

Assessment Completion: Scrutiny assessments must be completed within 12 months from the end of the relevant assessment year (post-2022-23). Summary assessments are completed within 9 months from the end of the financial year in which the ITR is filed

Reassessment: Notices under Section 148 must be issued within 3 or 5 years, depending on the case

Appeals: CIT(A) appeals are recommended to be resolved within 1 year, ITAT appeals within 4 years, but High Court and Supreme Court appeals have no fixed timeline, often leading to prolonged litigation

VI. Practical Tips for the Common Man

I. Stay Organized: Keep records of income, TDS, and investment proofs to avoid errors
II. Use Technology: Leverage the e-filing portal or platforms like
III. Plan Ahead: Evaluate tax-saving investments (e.g., PPF, NPS) early in the year under the old regime
IV. Check AIS, TIS and 26AS: Verify your income and TDS details in the Annual Information Statement and the like to avoid discrepancies
V. Avoid Scams: The Income Tax Department never asks for sensitive details like PINs or passwords via email

VII. Final Note

i. For AY 2025-26, the **new tax regime is default**, so consciously opt for the old regime if you want deductions.
ii. File your ITR on time to avoid penalties,
iii. double-check your AIS TIS and 26AS for accuracy.
iv. If disputes arise, use rectification or the Vivad se Vishwas scheme for quick resolution.
v. For complex cases or high tax liabilities, consult a Chartered Accountant.
vi. For more details, visit the Income Tax Department's portal (www.incometax.gov.in)

VIII. Common Income Tax Litigation Cases and Mistakes to Avoid

1. Not Reporting All Sources of Income

- **Issue**: Many taxpayers fail to report all income, such as interest from savings accounts, fixed deposits, or income from side gigs (e.g., freelancing, rent, or capital gains from selling property/shares). This leads to notices from the Income Tax Department, as banks and financial institutions report transactions via the Annual Information Statement (AIS and TIS).
- **How to Avoid**:
  - Declare all income sources in your Income Tax Return (ITR), even if you believe they are exempt (e.g., agricultural income below ₹5,000 or small interest amounts).
  - Cross-check your AIS on the e-filing portal to ensure all income is reported.

        - Keep records like bank statements or sale agreements to justify income sources.

2. **Claiming Incorrect Deductions or Exemptions**
    - **Issue:** Taxpayers often claim deductions (e.g., under Section 80C for investments or Section 80D for medical insurance) without proper documentation or eligibility. For example, claiming a house rent allowance (HRA) exemption without paying rent or not having a rent agreement can trigger scrutiny.

      Example Case: HRA exemption claim could not be allowed on sham rent payments merely supported only by rent receipts from mother where assessee produced no evidence of hiring premises such as leave and license agreement, letter to society intimating about her tenancy, payment through bank, cash payments without corresponding drawals from bank or backed with known sources, electricity bill payments through cheque, water bill payments through cheque etc. Moreover, mother of assessee had also not filed return and said rental income was not brought to tax in her hands. Mrs. Meena Vaswani v. ACIT [2017] 57 ITR(T) 497.

    - **How to Avoid**:
        - Maintain receipts, rent agreements, or investment proofs (e.g., LIC premium receipts, ELSS mutual fund statements).
        - Ensure eligibility before claiming exemptions (e.g., HRA requires actual rent payment and landlord PAN for rent.
        - File a revised ITR if you realize a mistake before assessment.

3. **Not Filing ITR or Filing Late**
    - **Issue**: Some taxpayers skip filing ITRs if their income is below the taxable limit (₹3 lakh under the old regime, ₹7 lakh under the new regime) or file after the due date (usually July 31). This can lead to penalties, interest under Sections 234A/B/C, or scrutiny for unreported income.
    - **Example:** As noted in a post on X, missing ₹50,000 in reported income could lead to ₹15,000 extra tax, ₹5,000 fee, and up to ₹30,000 penalty under Section 270A.
    - **How to Avoid**:
      File ITR even if your income is below the taxable limit to avoid future disputes.
      File by the due date to avoid late filing fees (₹5,000 or ₹1,000 for income below ₹5 lakh).
      Use the e-filing portal's pre-filled data to ensure accuracy.

IX. Sources for Further Reference

a. Income Tax Act 1961
b. Income Tax Rules
c. www.incometaxgov.in
d. www.incometaxindiaefiling.gov.in

REMEMBER

"Be Wise, Pay Right: Demystifying Income Tax!"

Abbreviations used above:

AY Assessmemt Year
PY Previous Year
TDS Tax Deducted at Source
TCS Tax Collected at Source
HRA House Rent Allowance
ITR Income Tax Return
PAN Permanent Account Number
AO Assessing Officer
AIS Annual Information Statement
TIS Tax Information Statement
26 AS Annual Tax Statement
CIT (A) Commissioner of Income tax (Appeals)
ITAT Income Tax Appellate Tribunal
AAR Authority for Advance Rulings

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