



NEWSLETTER

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MVDCO Advisory Services Pvt. Ltd.

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INCOME TAX

Changes in ITR for AY-2019-20 as compared to AY-2018-19

From the Assessment Year 2019-20 and onwards the forms for filing Income Tax Returns have been changed. There is substantial amount of additional information is required from specific category of persons including the persons having 'Capital Gains' during the financial year. Following is the chart that depicts what information is required to be disclosed by which category persons.

	Who can file	Not Applicable to	Additional Disclosures
ITR-1	Individual being resident and ordinarily resident (ROR) having total income of up to ₹50 lakh with income from salaries, one house property, income from other sources and agricultural income up to ₹5,000.	<ol style="list-style-type: none"> 1. Non-Resident or Not Ordinary Resident 2. A person who is a director in any company 3. A person held any unlisted equity shares at any time during the year; 4. A person who has claimed a deduction towards expenses incurred for earning income from 'other sources' 5. A person who is assessable for any income on which tax has been deducted at source in the hands of any other person. 6. An individual having unabsorbed house property loss willing to carry forward 7. Person having Income in the nature Capital Gain 	<ol style="list-style-type: none"> 1. salaried employees have to report the value of perquisites, profit in lieu of salary, exempt allowances and also deductions claimed u/s 16 separately.

INCOME TAX (cont.)

	Who can file	Not Applicable to	Additional Disclosures
ITR-2	Individuals and HUF not having income from profits and gains of business or profession		<ol style="list-style-type: none"> 1. taxpayers are required to select number of days stay in India to determine residential status for income tax purpose. 2. Non-resident individuals are now required to furnish their country of residence, along with their taxpayer identification number in such jurisdiction 3. Non-residents who are Indian citizens or person of Indian origin are also required to mention the total period of stay in India for the year and in the preceding four years. 4. Individuals who are directors in any company are required to provide the name of the company, its permanent account number (PAN), director identification number (DIN) and also whether the company's shares are listed or unlisted. 5. Individuals holding unlisted equity shares at any time during the year are required to disclose the name of the company in which shares are held, company's PAN, number of shares held, shares acquired/sold during the year along with their cost of acquisition/sale consideration 6. The scope of reporting foreign assets has been expanded to include details of foreign depository and custodial accounts, foreign equity and debt interest held at any time during the relevant period. 7. In case of capital gain from transfer of immovable property, additional details regarding the buyer and the property are required to be disclosed like % of share in case jointly purchased by buyers. 8. In case of agriculture income exceeds Rs.5 Lacs, the location of agricultural land, its measurement, its Ownership and type of use of such land

INCOME TAX (cont.)

	Who can file	Not Applicable to	Additional Disclosures
ITR-3	Individual and HUF having income from profit and gains of business or profession		<ol style="list-style-type: none"> 1. All disclosures as applicable to ITR-2 2. Name and PAN of Firm if taxpayer is partner in any firm 3. Change in the format of Profit & Loss A/c In elaborative form in "Manufacturing A/c", "Trading A/c" and "Profit & Loss A/c" Cost of goods produced will be determined in Manufacturing A/c which will be transferred to Trading A/c. Gross Profit from all activities will be calculated in Trading A/c and will be transferred to general Profit and Loss A/c. 4. we have to separately disclose payment made to resident and Payment made to Non-resident In case of below given expenses, <ul style="list-style-type: none"> * Commission Expense, * Royalty Expenses, * Professional/Consultancy/Fee for technical services * Interest Expenses 5. Bad Debts disclosure: <ul style="list-style-type: none"> * Party wise bad debts with PAN > 1 lac * Party wise bad debts without PAN > 1 lac with name and address * Remaining bad debts < 1 lac 6. Details of personal assets also include Interest held the assets of Firm or AOP as a partner or member thereof and required details of firm/AOP such as: <ul style="list-style-type: none"> * Name of Firm/AOP * PAN of Firm/AOP * Assessee's Investment in the Firm/AOP

INCOME TAX (cont.)

	Who can file	Not Applicable to	Additional Disclosures
ITR-4	For Individual, HUF and Firm (Other than LLP) being resident having Total Income upto Rs. 50 Lakhs and having income from business and Profession which is computed under section 44AD, 44ADA, or 44AE)	<ol style="list-style-type: none"> 1. Non-Resident or Not Ordinary Resident 2. A person who is a director in any company 3. A person who has held any unlisted equity shares at any time during the year 4. A person who has claimed a deduction towards expenses incurred for earning income from 'other sources' 5. Person having Income in the nature Capital Gain 6. If an individual having unabsorbed house property loss in C.Y. Year and want to carry forward it to subsequent years 	<p>Have to disclose following financial particulars</p> <p>Liability side</p> <ol style="list-style-type: none"> 1. Partners/Members Own Capital 2. Secured Loan 3. Unsecured Loan 4. Advances 5. Sundry Creditors * 6. Other Liabilities <p>Assets Side</p> <ol style="list-style-type: none"> 7. Fixed Assets 8. Inventories * 9. Sundry Debtors * 10. Balance with Banks 11. Cash in Hand * 12. Loans and Advances 13. Other Assets <ul style="list-style-type: none"> • Fields are mandatory



AUDIT

SA 720- Auditor's reporting responsibilities on Other Information included in entity's Annual Report

A. Brief Introduction:

The auditor's opinion on the financial statements does not cover the other information, nor does. SA 720 (Revised) require the auditor to obtain audit evidence beyond that required to form an opinion on the financial statements.

As per this SA, other information defined as financial or non-financial information (other than financial statements and the auditor's report thereon) included in an entity's annual report. The SA 720 (Revised) requires an auditor to read and consider the other information to ascertain the cases where:

- There is a material inconsistency between the other information

- and the financial statements
- There is a material inconsistency between the other information and the auditor's knowledge obtained in the audit.

B. Meaning of Other information:

SA 720 (Revised) defines other information as financial or non-financial information (other than financial statements and the auditor's report thereon) included in an entity's annual report.

Annual reports include a lot of qualitative and quantitative

AUDIT (cont.)

information. The information provided by annual reports is used by users of the financial statements to analyse the risk associated with business and in decision making.

Depending on the applicable law, regulation or custom, one or more of the following documents may form part of the annual report:

- Management report, management commentary, or operating and financial review or similar reports by those charged with governance (for example, a directors' report)
- Chairman's statement
- Corporate governance statement/reports.

Following are not other information within the scope of this SA:

- Separate industry or regulatory reports (for example, capital adequacy reports), may be prepared in the banking, insurance, and pension industries
- Corporate social responsibility reports
- Sustainability reports
- Diversity and equal opportunity reports
- Product responsibility reports

- Labour practices and working conditions reports
- Human rights report
- Other regulatory filings with the government agencies such as the Registrar of Com

C. Applicability:

The revised standard on auditing is effective for audits of financial statements for periods beginning on or after 1 April 2018. This standard is applicable to listed and non-listed entities both.

D. Auditor Responsibility:

The auditor's responsibilities relating to other information (other than applicable reporting responsibilities) apply regardless of whether the other information is obtained by the auditor prior to, or after, the date of the auditor's report.

Using the heading 'other information' or other appropriate heading, the auditor's report will include:

- A statement that management is responsible for the other information.
- Identification of the other information obtained prior to the date of the auditor's report. In the case of audit of a listed entity, the auditor is also required to identify any other information expected to be obtained after the date of the auditor's report.
- A statement that the auditor's opinion does not cover the other information and, accordingly, that

AUDIT *(cont.)*

the auditor does not express (or will not express) an audit opinion or any form of assurance conclusion thereon.

- A description of the auditor's responsibilities relating to reading, considering and reporting on other information as required by SA 720 (Revised).
- When other information has been obtained prior to the date of the auditor's report, either:

- ✚ A statement that the auditor has nothing to report; or

- ✚ If the auditor has concluded that there is an uncorrected material misstatement of the other information, a statement that describes the uncorrected material misstatement of the other information.



OTHER ALLIED LAW

FUGITIVE ECONOMIC OFFENDERS ACT, 2018 - AN OVERVIEW.

During the last few years country has faced with problem of big economic offenders who have duped the banks of millions of rupees fleeing the country to escape from the rigors of law. Considering the need of the hour and to tackle such menace, the government has enacted a new law to deal with such offenders.

The Fugitive Economic Offenders Ordinance, 2018 was promulgated on 21st April, 2018 which came into force immediately. The Fugitive Economic Offenders Bill, 2018 was later passed by Parliament on 25th July, 2018 and received

the assent of the President on 31st July, 2018 thereby making it the Fugitive Economic Offenders Act, 2018 (FEO Act).

The FEO Act consists of 3 chapters, 26 sections and one schedule. Further various rules have already been framed under the FEO Act.

Statement of objects and reasons

1. *There have been several instances of economic offenders fleeing the jurisdiction of Indian courts anticipating the commencement of criminal proceedings or sometimes during the pendency of such*

OTHER ALLIED LAW (cont.)

proceeding. The absence of such offenders from Indian courts has several deleterious consequences, such as, it obstructs investigation in criminal cases, it wastes

precious time of courts and it undermines the rule of law in India. Further, most of such cases of economic offences involve non-repayment of bank loans thereby worsening the financial health of the banking sector in India. The existing civil and criminal provisions in law are inadequate to deal with the severity of the problem.

2. *In order to address the said problem and lay down measures to deter economic offenders from evading the process of Indian law by remaining outside the jurisdiction, namely, the Fugitive Economic Offenders Bill, 2018 to ensure that fugitive economic offenders return to India to face the action in accordance with law.*
3. The said Bill, inter alia, provides for:
 - i. the definition of the fugitive economic offender as an individual who has committed a scheduled offence or offences involving an amount of **one hundred crore**

- rupees or more** and has absconded from India or refused to come back to India to avoid or face criminal prosecution in India,
- ii. **attachment of the property** of fugitive economic offender and proceeds of crime,
- iii. the powers of Director relating to survey, search and seizure and search of persons,
- iv. **confiscation of the property** of fugitive economic offender and proceeds of crime,
- v. disentitlement of the fugitive economic offender from putting forward or defending any civil claim,
- vi. appointment of an Administrator for the purpose of the proposed legislation,
- vii. appeal to the High Court against the orders issued by the Special Court, and
- viii. placing the burden of proof for establishing that an individual is a fugitive economic offender on the Director or the person authorised by the Director.

Further, the Preamble to the FEO Act provides as follow:

“An Act to provide for measures to deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian courts, to preserve the sanctity of the rule of law in India and for matters connected therewith or incidental thereto.”

OTHER ALLIED LAW (cont.)

Important aspects of the FEO ACT

- The FEO Act is comes into force on and from **21st April 2018** i.e. the date of issuance of the FEO Ordinance, 2018. The FEO Act extends to whole of India **including Jammu and Kashmir** unlike some of the other Acts which are not applicable to the state of Jammu and Kashmir.

- Fugitive Economic Offender - Section 2(f)

“fugitive economic offender” means any **individual** against whom a warrant for arrest in relation to a **Scheduled Offence** has been issued by any Court in India, who—

- (i) **has left India** so as to avoid criminal prosecution; or
- (ii) **being abroad, refuses to return to India** to face criminal prosecution;

Important Aspects:

- FEO can only be an individual and no other type of person/entity can be an FEO
- He/she must have committed a schedule offence
- He must have either left India or being abroad, refuses to return to India so as to avoid criminal proceedings against him.
- Fugitive is not defined in the Act and therefore some other dictionary meaning will

have to be adopted for the purpose of the Act.

- Oxford Dictionary defines it as **“A person who escaped from captivity or is in hiding”**
- Cambridge Dictionary defines it as **“a person who is running away or hiding from the police or a dangerous situation”**
- Thus it can be seen that fugitive is a person who is either absconding or hiding from the law or a dangerous situation. In case of the FEO Act, the FEO has either fled India or refuses to return to India to save itself from the rigors of law after committing a schedule crime.

- **Proceeds of Crime – 2(k)**

“proceeds of crime” means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a Scheduled Offence, or the value of any such property, or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad

- **Schedule Offence – 2(m)**

“Scheduled Offence” means an offence specified in the Schedule, if the total value involved in such

OTHER ALLIED LAW (*cont.*)

offence or offences is one hundred crore rupees or more

The schedule gives a list of offences which are committed under various Acts mentioning sections in those acts and short description thereto.

- The FEO Act purports to be and provides measures to act as a deterrent fugitive economic offender from evading the process of law in India either by fleeing the country or by refusing to return to India thereby staying outside the jurisdiction of Indian courts, to preserve the sanctity of the rule of law in India.
- Application of the Act - Section 3 of the FEO Act states that the provisions of this Act shall apply to any individual who is, or becomes, a fugitive economic offender on or after the date of coming into force of this Act i.e 21st April, 2018. Thus, it is applicable even to those individuals who have committed the offence before the commencement of this Act.
- This Act shall be governed by authorities appointed for the

purpose of the Prevention of Money-laundering Act, 2002.

- **It also provides for the following:**
 - attachment of benami property or property of proceedings of crime of the FEO.
 - Power of Survey, search and seizure, discovery and inspection, enforcing attendance, production of records, receiving evidence on affidavits, commission of examination of witness or documents, etc.
 - After following the due process of law, declaring an individual a FEO
- **Consequences of declaration of an Individual as FEO**
 - Individual disallowed from putting forward or defending any civic claim
 - disallow any company or limited liability partnership from putting forward or defending any civil claim, if an individual filing the claim on behalf of the company or the limited liability partnership, or any promoter or key managerial personnel or majority shareholder of the company or an individual having a controlling interest in the limited liability

partnership has been declared as a FEO.

- Appointment of Administrator for management of property seized under the Act.
- The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.
- The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.
- No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Special Court is empowered by or under the Act to

determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the Act.

- Where any individual to whom notice has been issued under subsection (1) of section 10 appears in person at the place and time specified in the notice, the Special Court may terminate the proceedings under this Act.
- Government has entered into **treaties with various countries** through which it can serve the notices to such FEO if their place is known. The FEO Act has also provided for serving of **notices through electronic means.**

● Tough days ahead for economic offenders

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