

Who cannot file updated return?

The Budget 2022 amended the income tax laws to allow a taxpayer to file updated return using ITR-U form.

However, the income tax laws has clearly defined the instances where a taxpayer can and cannot file updated return. The aim of allowing taxpayers to file updated return is to increase the voluntary compliances and avoid litigation.

For those who have missed filing their income tax return (ITR) for the last few years, the income tax laws allow you to file an updated return. The concept of [updated return](#) was introduced in Budget 2022. The [Income Tax Act, 1961](#), introduced Section 139(8) to allow taxpayers to file an updated return within specified timelines. The updated return pushes a taxpayer for voluntary compliance.

A taxpayer can file an updated return even if he has [filed ITR](#) (original, belated or revised) or has not filed ITR for a particular year.

However, there are certain situations when an individual is

not allowed to file an updated return.

Cases when an updated return cannot be filed

In the following situations, a taxpayer cannot file an updated return:

(i) An updated return being a return of loss

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(ii) An updated return which leads to decrease in the total tax liability vis-à-vis original ITR

(iii) An updated return which results in a refund or increase in the amount of refund vis-a-vis original ITR

(iv) If updated return is filed to claim tax refund when original ITR has not been filed

Thus, it may be noted that where a taxpayer has not filed the original return then the option of filing an updated return will not be available if such return is sought to be filed to claim a refund.

However, if a person has sustained a loss for any previous year and he has already submitted a return of loss for that year within the due date as per section 139(1), he can furnish an updated return for that year where the updated

return is a return of income as a result of which tax is being paid.

Further, if as a result of furnishing an updated return of income of a previous year (earlier a return of loss), if any loss carried forward under Chapter VI of Income Tax Act or unabsorbed depreciation carried forward or AMT / MAT credit carried forward is to be reduced for any subsequent year then, an updated return for each such subsequent year would have to be furnished.

Apart from the above situations, a taxpayer is disqualified from filing an updated return in the following scenarios:

(i) Where an updated return has already been filed for an assessment year

(ii) Where a search has been initiated or books of account or other documents or assets are requisitioned.

(iii) Where a survey has been conducted other than a survey meant for verifying TDS/TCS.

(iv) Where any money, bullion or jewellery or other valuable article or thing, seized or requisitioned in a case of a person, belongs to a second person and a notice has been issued in this regard to that second person then, that second person is disqualified from filing an updated return.

(v) Where books of account or documents, seized or requisitioned in the case of a person, pertain or pertains to a second person, or any other information contained therein, relate to, such second person and a notice has

been issued to this effect to the second person, then, the second person is disqualified from filing an updated return.

(vi) Where any proceedings for assessment or reassessment or re-computation or revision is pending or has been completed for the relevant assessment year.

(vii) Where the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 or the Prohibition of Benami Property Transactions Act, 1988 or the Prevention of Money-Laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 and the same has been communicated to him, prior to the date of furnishing the updated return.

(viii) Where the information for the relevant assessment year has been received under the double taxation avoidance agreements in respect of such person and the same has been communicated to him, prior to the date of furnishing of updated return. Here the information refers to the evidence received from the foreign government or other specified entities.

(ix) Any prosecution proceedings have been initiated for the relevant assessment year prior to the date of furnishing the updated return.

(x) Where the taxpayer falls in the category of a class of persons as notified by the CBDT. It may be noted that at present no class of persons has been notified.

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