

Tax, lies and scrutiny dates

By Ameet Patel

In a country of more than 1 billion people, only a few pay taxes and file their tax returns. They contribute to the building of the nation's resources. They contribute to the construction of roads, electrification of villages, building of dams and airports etc. The tax evaders don't do this.

Now, common sense would tell us that in any normal place, these few people who pay taxes would be honoured and respected by the Government and those who do not pay taxes would be hounded and put behind bars. Right?

Well, in our country, it's a bit different. The tax evaders continue to evade taxes while the honest tax payers get the worst kind of treatment at the hands of the taxmen. This article takes a look at one such shoddy treatment which is scrutiny of your tax returns.

As per law, if an Income-tax officer is of the opinion that your return needs to be looked at carefully to ensure that you have not concealed any income or you have not filed any inaccurate particulars in your return, he can take up your return for scrutiny.

Time Limit taking up a case for scrutiny:

The time limit for taking up a return for scrutiny is within one year from the end of the month in which you have filed your return. Thus, for example, if you have filed your return of income for the year ended 31st March, 2005 on 27th July, 2005 then the Officer can **serve** the scrutiny notice on you at any time on or before 31st July, 2006. The serving of the notice on you is important. Mere issue of the notice without actually serving it on the tax payer would not be sufficient.

What's a notice like?

The notice is printed in a fixed format and will give your name, address, PAN and the year for which it has been issued. It will also give a date and time when you have to appear before the learned Income-tax Officer in his office. (By the way, you will be happy to note that most officers now sit in air-conditioned offices. So your visit will not be hot and sweaty!)

Who has to appear before the ITO?

The taxpayer can appear personally or he can send his authorised representative. Generally, Chartered Accountants appear on behalf of the taxpayers. However, if you are planning to send your authorised representative then please ensure that he has a valid power of attorney (POA) duly executed by you in his favour. Sometimes, some strict officers do not entertain persons who do not carry the POA with them.

What does the officer do in a scrutiny?

As mentioned earlier, the purpose of taking up a case for scrutiny is to verify whether any income has been concealed or not. There are two ways of doing this – either you don't disclose any portion of your income or you show higher expenses than the actual ones.

So, the focus of the officer would be to find out if you have shown all your income in the return or not. He would also be interested in looking at your expenses and ensuring that they are all genuine and not bogus or fictitious.

So, if faced with a scrutiny, beware of inquiries that question your income as well as expenses.

Common types of inquiries:

How does one generally show his income in his tax return? One simple way would be to simply not show an income which you have received (and which figures in your bank account) in your tax return. Thus, for example, you could have received interest on bank FDs and deposited that amount in your regular bank account and yet you chose not to show that interest in your tax return.

Another way of concealing income is to take income in cash and not bring it into the system at all. This is the most common method prevailing and that's how we have such a thriving parallel black economy.

How would the ITO go about the above mentioned two types of income concealments? Well, the first question that your ITO would ask you would be to tell you to give him a summary of your bank account(s) and copies of the bank pass book/statement. From this, it would be very easy for him to spot the various credits in the account and cross check with your tax return as to whether you have shown the credits in the return or not.

Secondly, he would also ask you for details of your family members who live with you and also details of the withdrawals made by you during the year under scrutiny for personal and household expenses. Those who have enough of black money being generated, generally tend to spend for their day-to-day expenses from that black money. In such a case, the drawings from bank account on a monthly basis for household expenses would either be NIL or very low. Based on the size of the family and an estimate of the cost of living in the city where you live, the ITO would be justified in guessing how much money a normal family like yours would spend monthly for personal needs. And on the basis of such an estimate, he would then proceed to compare how much money you have drawn for these purposes and how much you ought to have drawn. If there is a shortfall, his most logical conclusion would be that to the extent of the shortfall, you have spent out of your black money.

Similarly, the ITO may ask you for details of loans given by you to your friends, relatives and others. He would also ask for loan confirmations from these parties alongwith their respective PANs. Thereafter, if, for any reason, you have not taken any interest from these parties, then his immediate conclusion would be that you are receiving interest in cash! In all such cases, the onus would be on you to prove that the loans are genuine and that the reasons for giving interest free loans are also genuine. Your life would be much more simpler if you have not taken any interest bearing loans from someone else. The most common disallowance/addition that is being made nowadays in the scrutiny assessment orders is the addition of notional interest on interest free loans given to someone. For example, you have borrowed Rs. 5 lakhs @ 12% interest from a bank and have given a loan of Rs. 3 lakhs to your wife without interest. In such a case, if you have claimed the interest on the bank loan as an expense against any of your incomes, then chances are that the ITO would disallow interest to the extent of 12% of 3 lakhs on the ground that you have given interest free loan out of interest bearing funds.

You may be having credit cards which you flash around everytime you visit the nearest Big Bazaar or the Raymond showroom (nowadays, credit cards are thrust upon you by the pesky call center girls who keep on bombarding you with sale calls on your cell phones!). Take care and ensure that the payment for the expenses charged on the credit cards is done through your regular bank account and not your hidden bank account! If I were your ITO, I would ask you for details of all 12 months' credit card statements and ask you how you paid for the same. If the entries for the payments do not figure in your bank summary that I referred to earlier, no prizes for guessing what the ITO would do!

Another common line of inquiry which tax officers generally initiate is about the various perks that salaried people get. Many times, you get cheques from your employers for reimbursement of medical expenses or for LTA etc. From your bank summary, it is very easy for the tax officer to aggregate the amounts that you have received from your employer and cross tally it with your salary certificate. If the two figures don't match then you need to explain the difference to him. If you have claimed that some of the receipts are reimbursements and are therefore exempt, then you need to show him the payments made by you in the first place. After all reimbursement takes place only when you have actually spent some money in the first place.

Of course, with the introduction of the Fringe Benefit Tax, the Government would now not be too bothered about such perks because most of them would now be subjected to FBT.

If you have been attending any of the high profile and high decibel game shows on Star One or Zee or Sahara and have won some cash or a car or a TV or anything else (Sachin–Supriya – watch out – you have just won 50 lakhs on Nach Baliye!), better take care. The taxmen are also humans. They too watch the same channels that you and I watch. And they do take down notes. Surely, its easy for them to jot down the names of the winners and then send them notices asking them how the prize money is shown in the tax returns. And if anyone told you that such prizes are tax-free, God Bless You!

The above article is only intended to give you an idea about what is happening in the IT offices. Actual reality may differ from place to place and from officer to officer. However, the basic thrust of the Income-tax Department is to recover as much tax as possible from the existing tax payers. The process is very painful for the tax payers. This article aims at preparing you for this pain!