

## **INCOME TAX**

-COPY OF-

**INSTRUCTION No.1/2009**

**Dated 12<sup>th</sup> February, 2009**

**F.No.142-08-2009-TPL  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes  
New Delhi  
\*\* \*\* \***

**All Chief Commissioners of Income-tax  
Director General of Income-tax (Systems)  
All Director of Income-tax (CIB)  
All Commissioners of Income-tax (Computer Operations)  
All Commissioners of Income-tax (in-charge of Computer Centres)**

**Utilization of information in the Annual Information  
Returns (AIRs) relating to F.Y. 2007-08 (A.Y. 2008-  
09) and subsequent years-reg.**

The Board has considered the issues relating to the above and has decided that the information from the AIRs pertaining to F.Y. 2007-08 (A.Y. 2008-09) **and subsequent years** should be utilized in the manner laid down in paragraphs 2 to 8 below.

**2. AIR information where PAN of the transacting party is available and return is filed:**

(a) The AIR data with PAN has been or shall be placed on the NCC by the DIT (Systems) and has been or shall be used under regular cycles of CASS as per CASS instructions issued by the Directorate of Income-tax (Systems).

(b) Depending upon feedback on scrutiny assessment in a case for a particular assessment year, the Assessing Officers may resort to proceedings u/s 148 for earlier assessment years in that case on the basis of AIR information available, if any, if they have reasons to believe that income has escaped assessment.

**(c) After issuance of notice u/s 143(2)/148, as the case may be, the Assessing Officers shall forward a list of such cases, along with value of criterion, to their Range Addl./Joint Commissioner for the purpose of monitoring.**

**3. AIR information with PAN where there is no information of returns filed:**

(a) To identify the non-filers, CIT(CO)/CIT (in-charge) of each RCC/CC will run the application in the AIR module to generate the list of individual cases or persons who are non-filers and shall intimate the list of non-filers to the concerned Assessing Officers in respect of these cases.

(b) **Further Action thereon:** After identification of the non-filers, query letters **(in the format as given in Annexure 5)** shall be issued by jurisdictional Assessing Officers to all Non-Govt. transacting persons.

- (i) *if it is intimated by the tax payer that a return has already been filed before issue of the letter, the jurisdictional A.O. shall immediately process the return on the system, if not processed so far, so that the same can be considered for scrutiny selection under CASS under a fresh cycle, which would be run by the Directorate of Income-tax (Systems).*
- (ii) *If the letter is returned unserved, the case should be referred by the Assessing Officer to the DIT (CIB) of his Region with full details (including PAN, RRR No. and Line No. of the AIR transaction, name/address and TAN of the AIR filer etc.), and further action would be taken by the DIT (CIB) as indicated in paragraph 4(f) below.*
- (iii) *If the assessee furnishes a return in response to the letter, the case should be compulsorily assessed u/s 143(3)/144 after issue of notice u/s 142(1)/143(2), as the case may be.*
- (iv) *If the assessee does not furnish a return in response to the letter or does not respond to the served letter, the case should be assessed u/s 143(3)/144/147 after issue of notice u/s 142M/143(2)/148, as the case may be.*

- (v) The jurisdictional Assessing Officer shall maintain a register of action taken on such AIR information in the format as per **Annexure 4**, which should be inspected every quarter by the Range head and the CIT concerned.

#### 4. AIR information without PAN

(a) In respect of the non-PAN cases, the data has been or shall be sent (by Directorate of Systems) in CDs to the 18 Cadre Controlling CCsIT (based on addresses of the transacting parties as given in the AIR) along with the party-wise details of transactions contained in the AIR and the information source.

(b) The CCsIT shall sort and pass on the AIR information to the designated Assessing Officers (DAOs) [as notified by the Cadre Controlling CCsIT in terms of para 10(d) of the instruction no. 6 of 2006]. **The DAOs shall issue query letters thereon (in the format as gives in Annexure 5) to all Non-Govt. transacting parties.** If, on the basis of reply to the letter, it is found that the person is an existing assessee, the letter along with the reply/return and the AIR information should be transferred by the designated Assessing Officer to the jurisdictional Assessing Officer, who shall deal with these cases as follows:

- (i) issue notice u/s 142(1) to such assessee, if the assessee has not filed a return earlier for the relevant assessment year.
- (ii) if return is filed in response to the query letter or in response to the notice issued u/s 142(1), the jurisdictional Assessing Officer shall assess the case u/s 143(3)/144.
- (iii) if return was filed prior to issue of the query letter, the jurisdictional Assessing Officer shall manually apply such criteria (**as per Annexure 1**) to select such cases for scrutiny.
- (iv) Where no return has been filed either prior to or after issue of query letter/notice u/s 142(1) or where the time for issuance of notice u/s 143(2) has expired, the jurisdictional Assessing Officer may consider issuance of notice u/s 148 as per law, after recording reasons therefor, if he/she has reasons to believe that income has escaped assessment.

(c) Where the person is not an existing assessee (has never filed a return of income earlier) or does not respond to the served letter, the designated Assessing Officer shall assess the case u/s 144/147/ 143(3), after issuance of notice u/s 142(1)/148/143(2), as the case may be, as per due process of law.

(d) The designated Assessing Officer and the jurisdictional Assessing Officer shall maintain a register of action taken on such AIR information in the format as per **Annexure 4**, which should be inspected every quarter by the Range head and the CIT concerned.

(e) After issuance of notice u/s 143(2)/148, as the case may be, the Assessing Officers shall forward a list of such cases, along with value of criterion, to their Range Addl./Joint Commissioner for the purpose of monitoring.

(f) The designated Assessing Officers shall take all possible steps to locate and serve the query letter and subsequent notice, if required. In case the letter is returned unserved or if the assessee is not traceable at the address mentioned in the AIR, he shall send full details (including the RRR No. and Line No. of the AIR transaction, name and address of the AIR filer etc.) to the DIT (CIB) of his Region who shall contact the AIR - filer for getting the correct address of the assessee. The DIT (CIB) shall, after obtaining the correct address, intimate the same to the designated Assessing Officer for taking further action. In this regard, DIT (CIB) may also consider invoking the provisions of Section 285BA(4) and Section 271FA.

#### 5. Updating PAN in non-PAN AIR information

On the basis of replies received from the transacting parties of the non-PAN AIR information, the designated Assessing Officer shall intimate PAN of concerned transacting parties, to DIT (CIB) of his region, who shall then update PAN in non-PAN AIR information through AIR module of ITD application.

#### 6. Where time limit for issue of notice u/s 143(2) is over

In a case of AIR information with or without PAN, where the time for issuance of notice u/s 143(2) has expired, the jurisdictional or the designated Assessing Officers may consider issuance of notice u/s 148 as per law, after recording reasons therefor, if they have reasons to believe that income has escaped assessment. However, the initiation of proceedings u/s 148 should not be done in a routine manner, and should normally be resorted to only in cases where there is a sound basis for the same, and only after recording the reasons in an elaborate manner in each such case, mentioning the facts thereof, which should stand the test of law.

## 7. Monitoring

CCsIT shall closely monitor the progress of work and ensure security and confidentiality of the AIR information by following the need-to-know principle. The CsIT and Addl.CsIT/JCsIT shall closely monitor the action taken on such information.

***The jurisdictional Assessing Officer and the designated Assessing Officer shall maintain a register of action taken on AIR information in the format as per Annexure 4, which should be inspected every quarter by the Range head and the CIT concerned.***

Summary of the actionable points is enclosed as **Annexure 2**. The flow chart is enclosed as **Annexure 3**.

## 8. Dissemination

This instruction should be immediately brought to the notice of all officers working in your Region for taking appropriate action.

Sd/-  
(Vijay K. Jaiswal)  
Under Secretary (TPL-IV)

### Annexure 1

#### 1. Investment in property is more than five times the gross receipts.

##### **Expression:**

- ITR 1:**  $\frac{\text{Purchase of property (006 from AIR)}}{\text{Gross Total Income (Column 3) + Agricultural Income (column 6) + Income Claimed exempt (Column 25) - Total taxes paid (Column 15 d)}} > 5$
- ITR 2:**  $\frac{\text{Purchase of property (006 from AIR)}}{\text{Gross Total Income (Part B-TI 9) + Income Claimed exempt (Schedule EI 6) - Total taxes paid (Part B-TTI 9d)}} > 5$
- ITR 3:**  $\frac{\text{Purchase of property (006 from AIR)}}{\text{Gross Total Income (Part B-TI 10) + Income Claimed exempt (Schedule EI 7) - Total taxes paid (Part B-TTI 9d)}} > 5$
- ITR 4:**  $\frac{\text{Purchase of property (006 from AIR)}}{\text{Gross Total Income (Part B-TI 10) + Income Claimed exempt (Schedule EI 7) - Total taxes paid (Part B-TTI 11e)}} > 5$
- 2D:**  $\frac{\text{Purchase of property (006 from AIR)}}{\text{Gross Total Income Column 21 + Agricultural Income Column 24 + Income Claimed exempt Column 25 - Total taxes paid (column 33+34+36)}} > 5$

#### 2. Cash flow Ratio i.e. ratio of incoming and outgoings is less than 0.67.

##### **Expression:**

$\frac{\text{Gross Total Income + Income Claimed exempt/Agricultural Income}}{\text{Expenditure + Savings + Investment + Tax Paid during the year including TDS + Advance Tax - Self Assessment Tax}} < 0.67$

- ITR 1:**  $\frac{\text{Column 3+6+25}}{\text{AIR (001+002+003+004+005+ (006*0.12 EMI for housing loan) +008) + Tax computation 15d}} < 0.67$
- ITR 2:**  $\frac{\text{Part B TI-9 + Schedule EI 6}}{\text{Part B TTI- 9d + AIR (001+002+003+004+005+ (006*0.12 EMI for housing loan) + 008)}} < 0.67$
- ITR 3:**  $\frac{\text{Part B TI-10 + Schedule EI 7}}{\text{Part B TTI- 9d + AIR (001+002+003+004+005+ (006*0.12 EMI for housing loan) +008)}} < 0.67$
- ITR 4:**  $\frac{\text{Part B TI-10 + Schedule EI 7}}{\text{Part B TTI- 11e + AIR (001+002+003+004+005 + (006*0.12 EMI for housing loan) +008)}} < 0.67$
- 2D:**  $\frac{\text{Column (21+24+25)}}{\text{Column (33+34+36) + AIR (001+002+003+004+005+ (006*0.12 EMI for housing loan) + 008)}} < 0.67$

**Constraint:** a) Denominator to be more than Rs.2,00,000/-  
b) Age as on 1<sup>st</sup> April of the A.Y. < 60 yrs

#### 3. Sale of property as per AIR and No Capital Gains shown.

**Expression:**

ITR 2/3/4: AIR 007 > 0 and Income from Capital Gains (Schedule CG-C) = 0 or Null

2D: AIR 007 > 0 and Income from Capital Gains (Column 18) = 0 or Null

**4. Individuals/HUFs who have made cash deposits of more than Rs.10 lacs in aggregate in savings bank account in a year.****Expression:**

ITR-1/ 2/3/4: Information as per AIR (001) > 10,00,000

2D: Information as per AIR (001) > 10,00,000 and Status = Individual/HUF

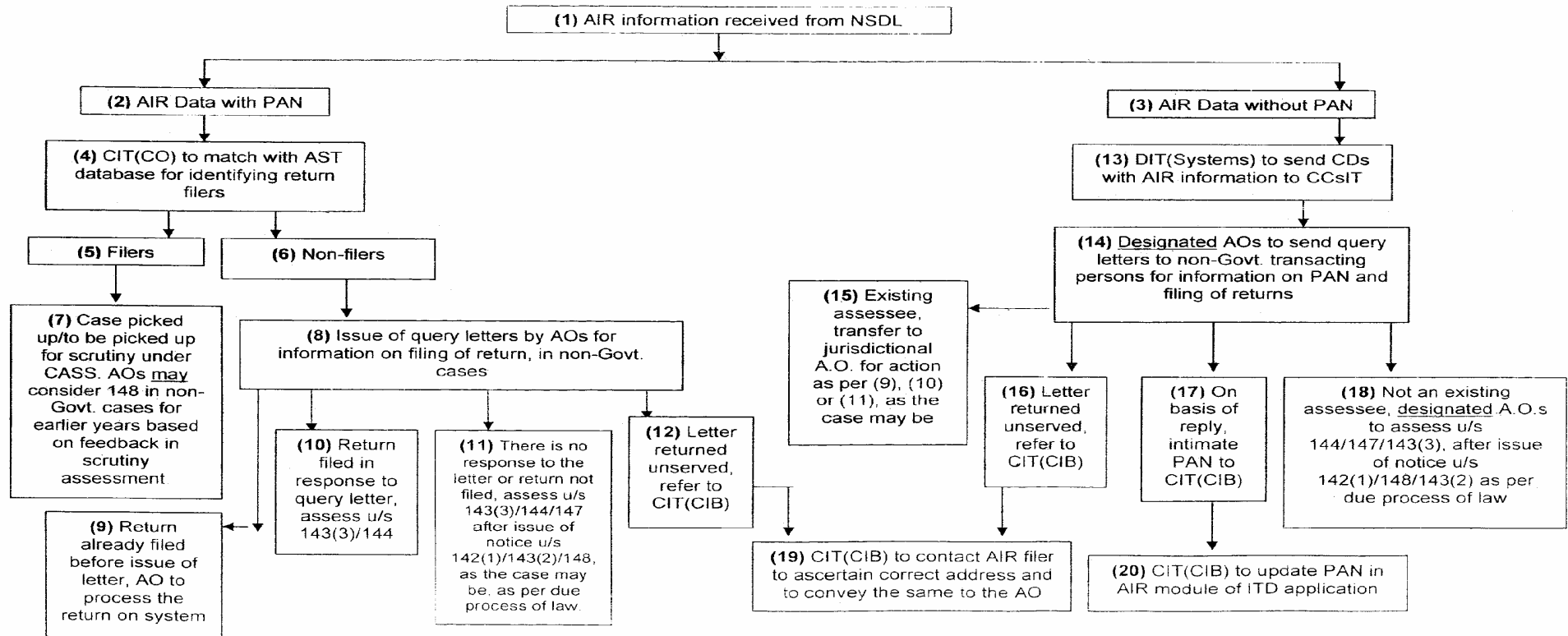
**Annexure 2**

**Summary of instructions for utilization of  
AIR information for F.Y. 2007-08 (A.Y. 2008-09) and subsequent years**

S.No.	Category	Method of Selection	Remarks
1	AIR Transactions with PAN where returns are filed	(i) Running of CASS by the respective RCCs  (ii) Depending upon feedback on scrutiny assessment in a case for a particular assessment year, the Assessing Officers may resort to proceedings u/s 148 for earlier assessment years	Action as per para 2
2	AIR Transaction with PAN where there is no information of return filed	(i) CIT(CO) to generate list of non-filers  (ii) Jurisdictional AOs to issue query letters to all non-Govt. non-filers	a) If the letter is returned unserved, AOs to refer the cases to CIT(CIB)  b) If return has been filed before the date of issue of letter, then deal as at Sl.No.1  c) If return is filed after issue of letter/notice, compulsory scrutiny by the A.O. having jurisdiction <b>(for details refer to para 3)</b>  d) If return is not filed or there is no response to the served query letter, notice to be issued u/s 142(1)/148 and the case to be assessed u/s 143(3)/ 144/147.
4	AIR Transactions without PAN	Designated AOs to issue query letters in non-Govt. cases	a) If return has been filed before the issue of letter then refer to jurisdictional AO for action as at Sl.No.1  b) If return is filed after the issue of letter, the case shall be taken up for compulsory scrutiny by the <u>designated</u> or the <u>jurisdictional</u> A.O. as the case may be.  c) If there is no response to the served query letter, notice to be issued u/s 142(1)/148 and the case to be assessed u/s 144/147/143(3) as per due process of law. <b>(for details refer to para 4)</b>  d) If the letter is returned unserved, <u>designated</u> AO to refer the case to CIT(CIB)  e) The designated AO shall intimate PAN to CIT(CIB) on the basis of replies received

**Utilization of AIR information for F.Y. 2007-08 (A.Y. 2008-09) and subsequent years**

**ANNEXURE 3**



**Annexure 4**

**Proforma of Register to be maintained by the Designated Assessing Officers (DAO) for action taken on AIR information (without PAN)**

Sl.No. (As per Distribu-tion list)	Name and address of the person	Nature of transaction	Amount of transaction (or aggregate thereof, if available (Rupees)	Name and address of AIR filer	Date of issue of query letter to the person	Date of receipt of reply from person/ Date of return of query letter without service	In case person not traceable after efforts, date of reference to the CIT (CIB)	If reply received and assessee already exists, date of transferring the case to JAO	If reply received and person is not an assessee, or if no reply is received, date of issue of notice u/s 142(1)/148	Date of assessment u/s 143(3)/ 144/147	Assessed Income (in Rupees)	Demand raised (in Rupees)	Remarks)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)

**Proforma of Register to be maintained by the Jurisdictional Assessing Officers (JAO) for action taken on AIR information**

Sl.No. (As per Distribu- tion list)	Name and address of the person	PAN	Nature of transa- ction	Amount of transaction (or aggregate thereof, if available) (Rupees)	Name and address of AIR filer	If received from DAO, Date of receipt of information	Date of issue of query letter, if any	Date of issue of notice u/s 142(1), if any	If return filed, the date of filing of return	Retur- ned income (Rs.)	Date of issue of notice u/s 143(2)	If time for issuing notice u/s 143(2) has expired, or if no return filed, whether notice u/s 148 was issued, after recording reasons	Date of issue of notice u/s 148, if any	Date of assess- ment u/s 143(3)/ 144/ 147	Assessed Income (in Rupees)	Demand raised in (Rupees)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

**Annexure 5 (Proforma of query letter)**

To,

Sub: Query on transactions for Financial Year -reg.

On the basis of Annual Information Returns (AIRs) filed for Financial Year , there is information in possession of the Income-tax Department that you have entered into the following transactions(s) during the Financial Year :

Nature of transaction	Date of Transaction	Amount (Rs.)
Cash deposits aggregating to Rs.10 lakhs or more in a year in any savings account maintained in a bank.		
Payments made against bill raised in respect of a credit card, aggregating to Rs.2 lakhs or more in the year.		
Payment of an amount of Rs.2 lakhs or more for acquiring units of a Mutual Fund.		
Payment of Rs.5 lakhs or more for acquiring bonds or debentures issued by a Company or institution.		
Payment of Rs.1 lakh or more for acquiring shares (through public or rights issue) issued by a Company.		
Purchase of immovable property valued at Rs.30 lakhs or more.		
Sale of immovable property valued at Rs.30 lakhs or more.		
Payment of an amount or amounts aggregating to Rs.5 lakhs or more in the year for bonds issued by the RBI.		

This is, therefore, to request you to furnish the following information to the undersigned:-

- (1) Your PAN, if any.
- (2) Whether you have filed any return of income for the Financial Year relevant to Assessment Year ?
- (3) If yes, the acknowledgement no. and date of filing, and the Income-tax authority with whom filed. Kindly also enclose a photocopy of the acknowledgement.

Kindly not that this is a non-statutory query letter. **However, if no reply is furnished, it may be presumed that you have not filed any return of income for the relevant assessment year, and proceedings under Income-tax Act, 1961 will be initiated.**

Thanking you,

Yours faithfully,

\*\* \*\* \*