

The Tax Return Preparer Scheme, 2006

UNION OF INDIA

India

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Rule THE-TAX-RETURN-PREPARER-SCHEME-2006 of 2006

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The Tax Return Preparer Scheme, 2006 Published vide Notification No. S.O. 2039(E), dated 28th November, 2006 Ministry of Finance (Department of Revenue) (Central Board of Direct Taxes) S.O. 2039(E). - In exercise of the powers conferred by sub-section (1) of section 139B of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby frames the following scheme, namely : -

1. Short title, commencement and application.

(a) This scheme may be called the Tax Return Preparer Scheme, 2006. (b) It shall come into force on the first day of December, 2006. (c) Save as otherwise provided in the Scheme, it shall be applicable to all eligible persons.

2. Definitions.

- In this Scheme, unless the context otherwise requires - (a) "Act" means the Income-tax Act, 1961 (43 of 1961); (b) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963); (c) "eligible person" means any person being an individual or a Hindu Undivided Family; (d) "Partner Organisation" means an organisation or agency selected by the Board and with whom an agreement has been entered into by the Board or the Resource Centre authorising it to act as Partner Organisation under this Scheme; (e) "Resource Centre" means the Directorate of Income Tax constituted by the Board to act as the Resource Centre under this Scheme; (f) "Tax Return Preparer" means any individual who has been issued a "Tax Return Preparer Certificate" and a "unique identification number" under clause (viii) of paragraph 4 of this Scheme by the Partner Organisation to carry on the profession of preparing the returns of income in accordance with the provisions of this Scheme: Provided that a person being a person - (i) referred to in clause (ii) or clause (iii) or clause (iv) of sub-section (2) of section 288; or (ii) who is in employment and income from which is chargeable to income-tax under the head "salaries" shall not be entitled to act as "Tax Return Preparer" (g) Words and expressions used herein but not defined

and defined in the Act shall have the meanings respectively assigned to them in the Act.

3. [[Substituted by Notification No. G.S.R. 44(E), dated 19.1.2018 (w.e.f. 28.11.2006).]

An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Certified Management Accountants of India, shall be eligible to act as Tax Return Preparer.]

4. Enrollment, training and certification to persons to act as Tax Return Preparers.

- The Partner Organisation shall, for the purpose of enrollment, training and certification to persons to act as Tax Return Preparers follow the following procedure, namely:-(i)[It shall invite application from persons,- [Substituted by Notification No. G.S.R. 44(E), dated 19.1.2018 (w.e.f. 28.11.2006).](a)having requisite educational qualifications specified in paragraph 3 or having appeared in the final year examination of the qualifying examination; and(b)who is not below the age of twenty one years or more than forty-five years as on the 1st day of October of the year immediately preceding the date on which applications are invited.(ia)It shall require that the application under clause (i) shall be accompanied by a fee of two hundred and fifty rupees, and failing which the application shall be invalid.](ii)It shall require the person applying to act as Tax Return Preparer to indicate in the application form the preferences for centres where at training may be imparted to him;(iii)It shall, in accordance with the criteria laid down by the Resource Centre with prior approval of the Board, carry out the screening of the applications so received and select the persons to appear in a test for their enrollment;(iv)It shall carry out a test for enrollment of persons who have been selected on screening;(v)[It shall enrol the persons who qualify the test for enrolment for each training centre separately. [Substituted by Notification No. G.S.R. 44(E), dated 19.1.2018 (w.e.f. 28.11.2006).](va)It shall not enrol any person under clause (v), unless (a)he makes a deposit of an amount of seven hundred and fifty rupees, which shall be nonrefundable; and(b)he produces a proof of having passed the qualifying examination as specified in paragraph 3.](vi)It shall train the persons so enrolled in accordance with the curriculum provided by the Resource Centre;(vii)It shall, after completion of training, conduct an examination of the enrolled persons in accordance with the procedure as laid down by the Resource Centre;(viii)It shall issue a "Tax Return Preparer Certificate" and a "unique identification number" to the persons who are declared as successful in the examination so conducted;[***]

5. Preparation of and furnishing the Return of Income by the Tax Return Preparer.

(1)An eligible person may, at his option, furnish his return of income under section 139 of the Act for any assessment year after getting it prepared through a Tax Return Preparer:Provided that the return of income for an assessment year shall not be prepared and furnished through a Tax Return

Preparer, if-(i)an eligible person is carrying out business or profession during the previous year relevant to such assessment year and accounts of the business or profession for that previous year are required to be audited under section 44AB of the Act or under any other law for the time being in force; or(ii)eligible person is not resident in India during the previous year relevant to such assessment year:Provided further that an eligible person shall not furnish a revised return of income under sub-section (5) of section 139 of the Act for any assessment year through a Tax Return Preparer unless he has furnished the original return of income for that assessment year through such or any other Tax Return Preparer:Provided also that a return of income which is required to be furnished in response to a notice under clause (i) of sub-section (1) of section 142 or section 148 or section 153A of the Act shall not be prepared and furnished through a Tax Return Preparer.(2)The Tax Return Preparer shall prepare and furnish the return of income to the Assessing Officer having the jurisdiction over the concerned assessee or to any other officer or agency as may be directed by the Resource Centre with the approval of the Board and hand over the acknowledgement of having furnished the return to the concerned eligible person.

6. Duties and obligations of eligible person.

- An eligible person opting to furnish his return of income under this Scheme shall-(i)ensure that his return of Income falls under this Scheme;(ii)approach and give his consent to any Tax Return Preparer to prepare his return of income for any assessment year;(iii)before verifying and signing the return, ensure that the facts mentioned in the return are true and correct;(iv)certify the amount which has been paid by him under this Scheme to the Tax Return Preparer for preparing and furnishing of his return of income;(v)take a receipt of the payment made to the Tax Return Preparer and produce the same before the Resource Centre or Partner Organisation or Assessing Officer, if required.

7. Duties and obligations of the Tax Return Preparer.

- The Tax Return Preparer shall-(i)prepare the return with due diligence;(ii)affix his signature on the return prepared by him;(iii)furnish the return with the Assessing Officer having the jurisdiction over the concerned assessee or to any other officer or agency as may be directed by the Resource Centre with the approval of the Board;(iv)hand over a copy of the return to the person whose return is prepared and furnished by him;(v)retain a copy of the acknowledgment of having furnished the return;(vi)in respect of returns prepared and furnished by him during a month, maintain record of the following, namely-(a)the name of assessee whose returns of income have been prepared and furnished by him during that month;(b)the permanent account number of such assessee;(c)assessment year;(d)date of furnishing the return;(e)acknowledgment number;(f)jurisdiction of the Assessing Officer;(g)amount of income declared in the return;(h)amount of tax payable;(i)amount of tax paid;(j)the amount disbursable to him under sub-paragraph (1) of paragraph 9 of this Scheme for any eligible assessment year mentioned therein;(k)the fee charged and received by him under sub-paragraph (2) of paragraph 9 of this Scheme;(vii)furnish a statement of particulars mentioned in item (vi) for every month on or before the seventh day of the immediately following month to the Resource Centre.

8. Selection and responsibilities of the Partner Organisation.

- The Board shall select a Partner Organisation to partner with the Resource Centre in the smooth implementation of the Scheme.(a)The Partner Organisation shall function under the overall guidance and control of the Resource Centre and follow the instructions issued to it by the Resource Centre from time to time about implementation of the scheme.(b)The Partner Organisation shall be responsible to carry out the activities which it is required to carry out under paragraph 4 of this Scheme.(c)The Partner Organisation shall maintain the profile of the Tax Return Preparers during their training and monitor their performance as Tax Return Preparers.(d)The Partner Organisation shall be responsible for disbursement of incentives to the Tax Return Preparers under the Scheme.(e)The Partner Organisation shall perform its functions to the satisfaction of the Resource Centre.(f)The Board may, on the recommendation of the Resource Centre, terminate the agreement with the Partner Organisation and may -(i)enter into an agreement with any other Partner Organisation; or(ii)assign its functions to the Resource Centre,if in its opinion, the Partner Organisation has failed to perform its functions properly.

9. Incentive to Tax Return Preparers.

- [(1) The Board may authorise the Resource Centre or the Partner Organisation to disburse to a Tax Return preparer, the following amount, namely:-(a)five per cent. of the tax paid on the income declared in the return of income for First Eligible Assessment Year which has been prepared and furnished by him;(b)three per cent. of the tax paid on the income declared in the return of income for the Second Eligible Assessment Year which has been prepared and furnished by him;(c)two per cent. of the tax paid on the income declared in the return of income for the Third Eligible Assessment Year which has been prepared and furnished by him.(1A)The amount of disbursement for any eligible person in relation to an eligible year shall not exceed,-(a)five thousand rupees in case of First Eligible Assessment Year;(b)three thousand rupees in case of Second Eligible Assessment Year; and(c)two thousand rupees in case of Third Eligible Assessment Year.](2)The Tax Return Preparer shall charge a fee of two hundred and fifty rupees for any assessment year from the eligible person for preparing and furnishing his return of income for that assessment year:Provided that no fee shall be charged from the eligible person for preparing and furnishing the return for any eligible assessment year if the amount disbursable under sub-paragraph (1) for that eligible assessment year exceeds two hundred and fifty rupees:Provided further that in a case where for preparing and furnishing the return of income for an eligible assessment year, the amount disbursable under sub-paragraph (1) does not exceed two hundred and fifty rupees, the Tax Return Preparer shall charge from the eligible person for that eligible assessment year a fee of the amount by which the amount of two hundred and fifty rupees exceeds the amount disbursable under sub-paragraph (1).(3)The disbursement due to a Tax Return Preparer under sub-paragraph (1) shall be made after processing the return under sub-section (1) of section 143.(4)The Board may alter or omit the provisions relating to disbursement under sub-paragraph (1) at any time without any prior notice.Explanation: - For the purposes of this paragraph-(i)in relation to an eligible person-(a)"First Eligible Assessment Year" means any assessment year if the eligible person has not furnished the return of his income for three assessment years or more than three assessment years immediately preceding such assessment year;(b)"Second Eligible Assessment Year" means the assessment year

immediately following the First Eligible Assessment Year;(c)"Third Eligible Assessment Year" means the assessment year immediately following the Second Eligible Assessment Year.(ii)"tax paid" in relation to an eligible assessment year means the aggregate of tax paid by way of advance tax, tax deducted or collected at source or tax paid on self-assessment (including surcharge and Education Cess) but does not include-(i)interest if any, paid by the eligible person under section 234A or section 234B or section 234C; or(ii)the amount which is refundable to the eligible person under sub- section (1) of section 143. if in its opinion, the Partner Organisation has failed to perform its functions properly.

10. Maintenance of particulars relating to Tax Return Preparers.

(1)The Resource Centre shall, in relation to each Tax Return Preparer, maintain the particulars which may be necessary to assess his performance.(2)The Resource Centre may issue instructions to the Tax Return Preparers from time to time.

11. Withdrawal of certificate given to the Tax Return Preparer.

(1)The Resource Centre shall either on its own or on the recommendation of the prescribed authority referred to in rule 52 of the Income-tax Rules, 1962, may warn a Tax Return Preparer about the deficiencies in his work and his misconduct, and may proceed for cancellation of certificate of a Tax Return Preparer, because of the following deficiencies or the misconduct, which may warrant such action, that is to say-(i)if he fails to give a copy of the return to the assessee;(ii)if he prepares a return but fails to affix his signature thereon;(iii)if he fails to furnish his name and unique identification number in the return prepared by him;(iv)if he fails to enter any information made available to him by the assessee, correctly in the return prepared by him;(v)if he makes repeated mistakes relating to computation of income in the returns prepared by him;(vi)if he makes a wrong or fraudulent claim for disbursement under sub-paragraph (1) of paragraph 9;(vii)if he is engaged in any financial irregularity, forgery or fraud;(viii)if he willfully attempts to understate the income in the return or tax liability thereon;(ix)if he is involved in any other irregularity which, in the opinion the Chief Commissioner or the Commissioner of Income-tax, is grave in nature;(x)if he fails to comply with the directions issued by the Resource Centre from time to time;(xi)if he fails to upgrade his skills as required by the Resource Centre from time to time; or(xii)If he, after issue of Tax Return Preparer Certificate to him under clause (viii) of paragraph 4 of the Scheme, becomes a person referred to in clause (ii) or clause (iii) or clause (iv) of sub-section (2) of section 288 of the Act or takes an employment income from which is chargeable under the head "Salaries".(2)A Tax Return Preparer may continue to act as such, unless-(i)the Tax Return Preparer Certificate issued to him under clause (viii) of paragraph 4 of this Scheme is suspended or withdrawn by the Resource Centre; or(ii)this Scheme is withdrawn by the Board.

12. Responsibilities and functions of the Resource Centre.

(1)The Resource Centre shall be responsible for day to day administration of the Scheme.(2)The functions of the Resource Centre shall include-(i)to specify, with prior approval of the Board,(a)the number of persons to be enrolled during a financial year for training to act as Tax Return

Preparers;(b)the number of centres for training and their location where at training to be imparted during a financial year;(c)the number of persons to be trained at each centre for training during a financial year; (ii) to specify the curriculum and all other matters relating to the training of Tax Return Preparers;(iii)maintain the particulars relating to the Tax Return Preparers as required in paragraph 10 of this Scheme.;(iv)any other function which is assigned to it by the Board for the purposes of implementation of the Scheme.[Substituted by Notification No. G.S.R. 44(E), dated 19.1.2018 (w.e.f. 28.11.2006).]