

## Form 161 – Application for Immunity from Penalty and Prosecution

### Purpose

Form 161 is the prescribed form for making an application for **immunity from imposition of penalty and initiation of prosecution** under **section 440(2) of the Income-tax Act, 2025**.

The purpose of Form 161 is to enable a taxpayer who **accepts the assessment or reassessment order, pays the entire tax and interest demand** within the prescribed time, and **does not file an appeal**, to seek immunity from penalty under **section 439** and prosecution proceedings under **section 478 or section 479** of the Income-tax Act, 2025.

This form promotes **voluntary compliance, early realisation of revenue, and reduction of litigation**, by incentivising taxpayers to accept bona fide additions made during assessment.

### Who Should File

Form 161 may be filed by any assessee (individual, company, LLP, trust, firm, etc.) who:

- Has received an **assessment or reassessment order** under the Income-tax Act, 2025;
- Has **paid the full amount of tax and interest** payable as per the notice of demand;
- Has **not filed any appeal** against the order and undertakes not to file an appeal before expiry of the period specified under **section 440(5)**; and
- Wishes to apply for immunity from **penalty under section 439** and **prosecution under section 478 or section 479**.

The application must be made **within 30 days from the end of the month** in which the order referred to in **section 440(1)(a)** is received.

### Frequency & Due Dates

Form 161 is **event-based** and not periodic.

It is required to be filed **each time an eligible assessment or reassessment order** is passed and the taxpayer opts to seek immunity.

Event	Time Limit for Filing Form 161
Receipt of assessment / reassessment order	Within one month from the end of the month of receipt

## Structure of Form 161

The finalised Form 161 is structured into **two distinct parts**, ensuring system compatibility and accuracy of taxpayer data.

### Part A – Personal Information

Captures essential taxpayer identification and communication details:

- Full Name (First, Middle, Last / Entity Name)
- Permanent Account Number (PAN)
- Father's/Husband's name (for individuals)
- Complete Address (Flat/Door/Block, premises name, street, locality, city/district, state, PIN/ZIP code)
- Contact Details:
  - Mobile number(s) with country code (repeatable)
  - Email address(es) (repeatable)

Certain fields may be **pre-filled** from departmental databases to the extent possible.

### Part B – Details of Orders and Payments

Captures complete information relating to the assessment order and discharge of demand:

1. **Tax Year**
2. Section under which the assessment/reassessment order is passed
3. Date of assessment/reassessment order
4. Date of service of the order
5. Amount of income assessed as per the order
6. Tax and interest payable as per notice of demand
7. Due date for payment as per notice of demand
8. Details of amounts paid:
  - BSR Code
  - Date of deposit
  - Challan serial number
  - Amount paid
  - Provision to report **multiple challans**, where applicable

All amounts are to be reported in ₹ (**Indian Rupees**).

## Verification Section

The Verification section contains a statutory self-declaration by the applicant confirming that:

- The information furnished is true and correct to the best of their knowledge and belief;
- No appeal has been filed against the order referred to in Part B;
- No appeal shall be filed before expiry of the period specified in **section 440(5)**; and
- The application is being made in the correct legal capacity and the applicant is competent to verify it.

The verification requires:

- Place and date
- Signature
- Name and designation (where applicable)

## Documents Required to File Form 161

While Form 161 is filed electronically, the following details/documents are required for completion and validation:

1. **Assessment/Reassessment Order** issued by the Assessing Officer.
2. **Notice of Demand** specifying tax and interest payable.
3. **Proof of payment** of tax and interest (BSR Code, challan serial number, date, and amount).
4. **PAN** of the applicant.

## Filing Count

Form 161 is not a recurring form.

Its filing count depends entirely on the **number of assessment/reassessment orders** in respect of which the taxpayer opts for immunity. The number of filings in a year may therefore vary based on eligible cases.

## Process Flow of Filing Form 161

1. **Receipt of Assessment/Reassessment Order**  
The taxpayer receives the assessment or reassessment order under the relevant section.
2. **Payment of Demand**  
The taxpayer pays the **entire tax and interest** within the time specified in the notice of demand.
3. **Preparation and Filing of Form 161**  
The taxpayer fills Part A and Part B accurately and submits Form 161 electronically through the Income-tax e-Filing portal.

**4. System Validation and Acknowledgement**

The system validates PAN and challan details (OLTAS) and generates an acknowledgement number.

**5. Examination by Assessing Officer**

The Assessing Officer examines eligibility and records satisfaction for grant of immunity under section 440.

**Outcome of Processed Form 161**

**For the Taxpayer:**

- Immunity from penalty and prosecution on full and timely compliance.
- Faster closure of assessment proceedings.
- Reduced litigation exposure and compliance certainty.

**For the Department:**

- Quicker realisation of tax dues.
- Reduced appellate and prosecution workload.
- Promotion of voluntary and trust-based compliance.

**Brief Note on Broad or Qualitative Changes Incorporated**

The finalised Form 161 reflects key modernisation and standardisation measures:

**1. Legal Alignment:**

- Section reference updated from **270AA(2)** to **440(2)**.
- Verification aligned with **section 440(5)**.

**2. Terminology Update:**

- “Assessment Year” replaced with “**Tax Year**”.

**3. Enhanced Identity Capture:**

- Structured name, PAN, address, and contact details.
- Provision for multiple mobile numbers and email IDs.

**4. Digital-First Design:**

- Mandatory online filing with system validations.
- Repeatable payment fields for multiple challans.

## Challenges and Solutions

Challenges in Old Form 161 (1961)	Solutions in Finalised Form 161 (2025)
Limited taxpayer identification fields	Structured personal and contact information
Ambiguity in appeal waiver declaration	Standardised verification aligned with section 440(5)
Manual, unstructured payment reporting	Repeatable, system-validated challan reporting

## Common Changes Made Across Form

### 1. Statutory Alignment

- **Old Form:** Section 270AA(2) of Income-tax Act, 1961.
- **New Form:** Section 440(2) of Income-tax Act, 2025.
- Verification declaration updated to align with **section 440(5)**.
- Penalty and prosecution references updated from older sections to **section 439 (penalty)** and **sections 478/479 (prosecution)**.

### 2. Terminology Update

- “Assessment Year” replaced with **Tax Year** throughout.
- Currency notation standardized to ₹.

### 3. Structure & Format

- Form divided into **Part A (Personal Information)** and **Part B (Details of Orders and Payments)**.
- Father’s/Husband’s name field added in **Part A**.
- Mobile number and email fields are **repeatable**, allowing multiple contacts.
- BSR/Challan payment details are **repeatable**, accommodating multiple payments.

### 4. Enhanced Identity Capture

- Structured fields for **Full Name, PAN, Father's/Husband's Name, Address, Mobile, Email**.
- Mandatory **PAN** for submission.
- Aadhaar fields not mandatory but may be integrated if available.

## 5. Payment Reporting

- Previously, payments were reported as simple tables; now **detailed BSR Code, Challan serial number, date, and amount** with repeatable rows.
- Supports **multiple instalments**.

## 6. Verification Section

- Old form: Ambiguous self-declaration.
- New form: Clear statutory **verification declaration**, specifying no appeal has been filed and none will be filed under **section 440(5)**.
- Requires **signature, name, designation (if applicable), place, and date**.

## 7. Filing and Process

- Old form: Manual or offline submission.
- New form: **Mandatory e-filing** through the Income-tax portal.