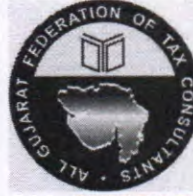




**INCOME TAX BAR ASSOCIATION, AHMEDABAD**

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**ALL GUJARAT FEDERATION OF TAX CONSULTANTS**

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**Hon'ble Union Minister of Finance**  
Ministry of Finance,  
Government of India, North Block,  
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Email: [fmo@nic.in](mailto:fmo@nic.in)

**For Kind Attention of Hon. Finance Minister**

Respected Sir,

**Re: Humble Request to extend due date of 30<sup>th</sup> Sept. 2018 for submission of Tax Audit Reports and related I. Tax Returns for Ass. Yr. 2018-19**

**Ref: Notification No. 33/2018 dt. 20-07-2018 followed by Circular No. 6/2018**

**1. About Associations**

**All Gujarat Federation of Tax Consultants (AGFTC) & Income Tax Bar Association (ITBA)**  
**AGFTC** founded in year 1992, is the first & only Apex Regional Body of Advocates, Chartered Accountants & Tax Practitioners of Gujarat, having membership strength of more than 1400 professionals and Institutional membership of 34 from all the Districts of Gujarat.

**ITBA** is first professional association founded in 1947 comprising of Tax Professionals, Advocates & Chartered Accountants, with membership strength of more than 950 from all over Gujarat.

The prime objective of both these Associations is not only to work for the cause of its professionals but also educate the public at large and, to act



as a catalyst between Citizens & Government Authorities. AGFTC regularly organizes seminars, lectures on tax advocacy and legal awareness in mofussil regions across the Gujarat.

2. Central Board of Direct Taxes [CBDT] recently issued Notification No.33/2018, dated 20<sup>th</sup> July, 2018 making extensive amendments in the Form 3CD [Statement of particulars required to be furnished u/s 44AB]. These changes are made operative from 20<sup>th</sup>, August, 2018 i.e. in relation to the tax audit of accounts of for F.Y. ended on 31.03.2018.
3. Partially, responding to the various representations, CBDT has deferred the implementation of reporting requirement in relation to the two clauses 30C (pertaining to General Anti-Avoidance Rules (GAAR) and 44 (pertaining to Goods and Service Tax (GST) compliance) vide circular no. 6/2018 dated 17<sup>th</sup> August, 2018.
4. However, the amendments in various other clauses made, are allowed to be operative with effect from 20<sup>th</sup> August, 2018. The amended Form No. 3CD requires assessee to comply/furnish voluminous data. Tax auditor is also tasked to furnish the opinion on certain interpretational issues involving detailed investigation, compilation of voluminous data & in particular, relating to reporting in clauses 29A & 29B u/s 56[2] involving controversial issues about treatment of the amount received.
5. None of the clauses amended or inserted are result of any provisions that have been introduced after Finance Act, 2018. Also, there would have been no loss to the Revenue if these were postponed by one year, as in any case many of the details are already captured through other filings.



6. The amended form 3CD is required to be explained to the tax payers to facilitate the effective & complete reporting. The Institute of Chartered Accountants of India has released an Implementation Guide for the revised form 3CD on 23<sup>rd</sup> August, 2018, which is required to be studied and understood by the tax auditors.
7. For uploading of amended form 3CD electronically, schema for uploading the tax audit report has undergone the updating/amendment frequently since issue of notification on dt. 20<sup>th</sup> July, 2018. Lastly it was amended 6<sup>th</sup> time on 7<sup>th</sup> September, 2018. Consequently third party softwares used by most professionals for E-filing of this form, are required to updated/tested by the software suppliers.
8. The aforesaid of step of CBDT to hastily implement vast amendments in tax audit report form 3CD in mid of the year without consulting the stake holders is in conflict with basic philosophy of NDA Govt. to provide *Ease of Doing Business*.
9. By amending the form 3CD and E-filing Schema at the fag end of limitation period for filing tax audit reports has, also belied the hope expressed by the **Hon. Gujarat High Court in the case of All Gujarat Federation of Tax Consultants V. CBDT [SCA No.12656 of 2014]** and allied matter. **Hon. Gujarat High Court, while extending the due date in relation to A.Y. 2014-15, observed that any introduction or new utility/software with additional requirement in the middle of the year, ordinarily is not desirable.** Any change unless inevitable, can be planned well in advance. Keeping in focus such comprehensive process re-engineering may ~~not~~ result in undue hardship to the stake holders.



10. In the case of **All Gujarat Federation of Tax Consultants V. CBDT [SPL No. 15075 of 2015]** petitioner prayed to the court to issue a writ, order or direction to the respondents that henceforth, make any alternations in forms and utilities or changes in tax compliance requirements, applicable from the A.Y. subsequent to the A.Y. in which such alterations are introduced. **The Hon. Gujarat High Court**, while extending the due date of filing tax audit report in relation to A.Y. 2015-16 for one month, also directed to the Board to forthwith issue requisite notification under section 119 of the Act extending the due date for e-filing of the income tax returns in relation to the assesseees, who are required to file ITR by 30<sup>th</sup> September, 2015 to 31<sup>st</sup> October, 2015. The respondents shall henceforth, endeavor to ensure that the forms and utilities for e-filing of income tax returns are ordinarily made available on the 1<sup>st</sup> day of April of the assessment year. Rule is made absolute to the aforesaid extent.
11. **Hon. Gujarat High Court** further observed that, it is expected of the Board to exercise the discretionary powers vested in it under section 119 of the Act to ameliorate the difficulties faced by the assesseees on account of no default on their part. In the opinion of this court, the Board should not create a situation whereby the assesseees are required to knock the doors of the court year after year, more so, when on account of the delay on the part of the respondents, it is the assesseees who would have to face the consequences of not filing the returns in time.
12. **The historical minimum additional time gap of 2 months provided in the law by the legislature between both the due dates has compressed to only 30 days, i.e. from 1<sup>st</sup> September to 30<sup>th</sup> September, 2018.**



From the historical due dates charts provided in I.T. Act, it can be observed the since **A.Y 1989-90 to A.Y 1996-97** the legislature has given **an additional time of 2 months** to assesses (other than companies) who are required to get their books of accounts audited, than the assessee deriving income from Business & Profession & who are not required to get their books of account audited.

13. **From A.Y 2001-02 to 2007-08** the additional time limit given to company and assessee other than companies or a working partner whose accounts are required to be audited is **kept at 3 months**.
14. **From A.Y 2008-09 onwards till A.Y 2015-16** even though the due dates for filling return of income are advanced from 31<sup>st</sup> October to 30<sup>th</sup> September, but, **minimum additional time limit of 2 months is provided in case of assesses who are required to get their books of account audited, than those who are not required to get their accounts audited.**
15. **This year the wisdom of CBDT has over reached the spirit of legislature/judiciary which has delayed the notification of I. T. forms and amended the form 3CD and schema on e-filing portal in mid of the year.** Though, due to delay in notification of forms, CBDT has extended the due date for filling return of income from 31<sup>st</sup> July to 31<sup>st</sup> August, in case of assessee who are not required to get their books of accounts audited.
16. It is intriguing that despite of **Hon. Gujarat High Court** categorical direction in the case of **All Gujarat Federation of Tax Consultants V. CBDT [SPL No. 15075 of 2015]**; The CBDT ought to have paid heed to the repeated directives of Various High Courts and could have notified the amended form 3CD, made

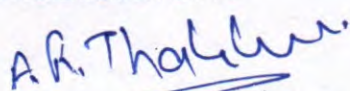


applicable with effect A.Y. 2018-19, well in advance before commencement of the relevant assessment year i.e. 1<sup>st</sup> April, 2018, instead of mid of the assessment year.

17. It is important that the Finance Act, 2017 has provided mandatory late filing fees under section 234F varying from Rs 1000 to Rs. 10000, if returns are filed after the due date, without providing counter accountability on the part of Administrative Authorities concerned with notification of Forms/Schema.
18. Sir, we seek your kind and considerate intervention for extension of due date on emergent basis at least for two months.


Thanks & Regards,  
Yours Truly,

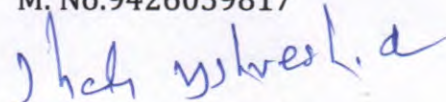
  
**Adv. Kartikey B. Shah**  
**President - ITBA**  
M. No.8980678777

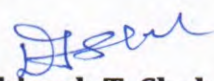
  
**Adv. Ashutosh R. Thakkar**  
**Hon. Secretary - ITBA**  
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**CA Bakul I. Shah**  
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**President - AGFTC**  
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**CA Vishves A. Shah**  
**Hon. Secretary - AGFTC**  
M. No.9825471182

  
**Adv. Dhiresh T. Shah**  
**Chairman, Rep. Committee - AGFTC**  
M. No. 9825188888

Ahmedabad .  
Dated: 17/09/2018

Copies to: (Sir, for kind perusal and favourable action)

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<b>2. The Chairman</b> Central Board of Direct Taxes, Ministry of Finance, North Block, Parliament Street. New Delhi – 110001 Email: <a href="mailto:chairmancbdt@nic.in">chairmancbdt@nic.in</a>	