



# PUNJAB TAX BAR ASSOCIATION

(A SYMBOL OF BARS UNITY)

**President :** Bal Krishan Gupta  
Mobile No. +91 98157-77595  
E-Mail : Guptaraj\_adv@hotmail.com

**Secretary General :** B.R. Kaushal  
Mob.: +91-93169-17632  
E-Mail. Kaushalalok@hotmail.com

**Chief Patron**  
K.L. Goyal  
Cell. 98142-08142

**Patron**  
Harish Rai Dhanda  
Cell. 98141-86702

**Co-Patron**  
Inder Sain Sharma  
Cell. 98141-08080

**Chairman :**  
Ashok Juneja  
Cell. 98140-89891

**Co-Chairman**  
Anil Sarin  
Cell. 98149-23501

**Chairman GST Board**  
Dr. Naveen Rattan  
Cell 94173-11987

**Vice Chairman**  
Amrik Singh Malhotra  
Cell. 98141-02513

**Sr. Vice President**  
Raj Pal Gupta  
Cell. 93167-12458

Sushil Jindal  
Cell. 94170-38851

**Vice President**  
K.K. Singla  
Cell. 98140-93274

Tarlok Bhalla  
Cell. 98140-21789

Sandeep Kehar  
Cell. 98141-77759

**General Secretary**  
Rupender Kansal  
Cell. 98140-31834

Satish Dhingra  
Cell.98142-21445

Man Manohar Gupta  
Cell. 94170-70065

**Secretary**  
Lalit Takyar  
Cell. 93160-62806

Varinder Sharma  
Cell. 98140-08080

Arun Kanwal  
Cell. 98149-03791

**Join Secretary**  
H.S. Ghai  
Cell. 94175-92310

Paramjit Singh  
Cell. 94170-10767

Ram Bansal  
Cell. 98157-49924

**Finance Secretary**  
Ashok Gupta  
Cell. 98148-04273

28 December, 2019

To,

1. Smt. Nirmla Sita Raman  
Honable Finance Minister, Govt. of India, South  
Block, New Delhi-110001.
2. Sh. Anurag Singh Thakur,  
Honable of Minister of State of Finance, Govt. of  
India, North Block, New Delhi-110001.

Hon`ble Mam/Sir,

**Sub: Pre Budget Representation/Suggestions**

The Punjab Tax Bar Association (in short PTBA) is an association of associations consisting of Advocates, Tax Practitioners and Chartered Accountants. PTBA has been primarily constituted for the welfare of the members as well as to safe guard the interest of taxpayers through representations before various authorities from the time to time as needed be.

PTBA proactively on receipt of feedback from legal fraternity through local Tax Bar Associations, hold seminars and legal workshops creating awareness and disseminating knowledge of indirect and direct taxes to all concerned.

Members of PTBA also send articles for publication in esteemed journals of the country for benefit of readers.

It is understood that the Union Budget, 2020 is likely to be tabled in the Parliament on 1<sup>st</sup> Feb, 2020 by your

goodself and the prestigious Income Tax Bar, Ludhiana would like to give few recommendations/suggestions by way of Memorandum as called for by your office for considering them while framing and tabling the tabling the budget in the Lok Sabha. The said recommendation/suggestions are given below for your kind consideration and perusal of the matter:-

### **1. Taxes and Surcharge:**

We welcome the reduction of rate of tax for Companies but the benefit is not given to the firms, LLPs and individuals. The Ministry will agree that the majority manufacturing portion or contribution to the GDP as well as the employment is being generated by these sectors. Therefore, this sector also needs reduction rate of tax because the slow down effect is also faced by these taxpayers. Therefore, to avoid biased tax rate between these two taxpayers requires to be abolished and every taxpayer should have a fair tax pay factor to avoid the discrimination.

Earlier, the rate of surcharge and cess was applicable only after certain limits but now the same is applicable straight away after reduction of rate by Taxation Ordinance, 2019. This would lead to withdrawal of exemption given earlier.

We suggest that the individual limit for taxation on income would be as under :-

Upto 5 Lakh	Nil
5 Lakh to 10 Lakh	5 % flat rate
10 Lakh to 25 Lakh	10 % flate rate
25 Lakh to 50 Lakh	15 % flat rate
50 Lakh to 1 Crore	20 % flate rate
Above 1 Core	25 % flate rate

The above changes will put some leverage of availability of cash/funds with these entrepreneurs and we are sure that this would boost the economy further and we are sure that we will back upto the economy for more than 10 Trillion economy in the times to come.

**2. Limit u/s 44AD and minimum Net Profit Rate, should be 6 % instead of 8 % :**

Simultaneously, the condition of disclosing minimum net profit @ 8% & 6% u/s 44AD of turnover or gross receipts should be fixed around 6% or 4% due to corresponding increase in turnover limit of Rs. 2 Crore. **Also for professionals the presumptive minimum net profit rate may please be lowered to 40%**

**That in this context it is further requested to kindly reconsider the amendment made in the Finance Act 2016 wherein firstly in case of partnership firm interest and salary to partners will be excluded for calculating profit @ 8% which will create hardship for small traders running in partnership business. Secondly If in any year the presumptive income falls short of the set limit due to unavoidable circumstances, he may be allowed to take the benefit of scheme subsequently.**

**3. Tax on Agricultural income :**

It is suggested that assessee showing agricultural income above Rs. 500,000 must be taxed. If the assessee deriving income as specified in Section 14 of the Income Tax Act is liable to pay tax when if his/her income exceeds Rs. 250,000 then why not the person earning agricultural income Rs. 500,000 or above.

**4. Abolition of Long Term Capital Gain (LTCG) on Shares and Securities** The Government of India at the time of levying security transaction tax assured to the people of India that they intend to exempt Long Term Capital Gain arising out of the shares and securities. The said STT has not been abolished but the LTCG has been reintroduced. This is breach of promise given

to the taxpayers and the faith of the taxpayers should be restored by introducing relevant checks and balances to avoid the misuse of the provision. At the same time in past there are various cases pending before the CIT(A) or the ITAT without being the taxpayer part of any stand but are suffering on account of some black sheep the other taxpayers sheep are facing the litigations, which is utmost the need of hour to bring back some sort of discreet resolution scheme to the innocent and faithful taxpayers of this country. Necessary scheme is suggested to buy the peace of these taxpayers.

## **5. Due date for filing the returns as well as due date of assessment.**

In the Calendar year 2020, the due date for completing the time barring assessments as well as filing of tax audit reports and returns is due in the same month i.e., September, 2020. Sir, there are various reasons for which dates are extended since the last so many years. The reasons for extension sought are summarized as under :-

Heavy rain fall, natural calamity in the month of July, August, which cannot be avoided but the due date can be extended.

Due to various festival holidays coming in these months.

The forms for filing the returns as well as tax audit frequently changed as per the need of an hour.

The utmost and important reasons objection of tax credit in the form No. 26AS being not/very late reflected and the taxpayers have no choice but to wait till the tax credit is reflected and the opponent deductor has paid the tax and filed the compliance return in this regard.

Looking to the above reasons and past trend it is utmost prayer of the taxpayers to avoid the quality and legitimate tax collection of the exchequer. The requirement of amending these two due dates itself will lead to more self compliance and to reduce the exchequer efforts in the matter and the quality of tax collection and taxpayer will increase.

In many developed countries more than 9 months have been given legally in the Act for filing the tax compliance whereas in India same is less than the six months effectively because from April to September the working days are very less account of vacation of schools, heavy rainfalls, festival holidays and natural calamities. This obviously disturb the working and increase panic and, therefore, at the cost of repetition it is requested that the above justification both the due dates of assessment as well as filing the returns is required to be revised accordingly at December, 2020 if not March, 2021.

#### **6. Penalty u/s. 269SS/T**

There are various reasons or in emergency atleast in case of crisis or in medical emergency the assistance in the form of cash is unavoidable. There is no mechanism / checks to avoid the penalty between the genuine taxpayer and genuine emergency or medical emergency. Not only that these transactions punish both payer as well as the receiver and, therefore, the provisions of these sections read with penalty provisions thereof is required to be relooked because after GST and demonetization the circulation of black money has been reduced and, therefore, the genuine transaction should get exemption with retrospective effect.

#### **7. Section 80TTA providing for deduction in respect of interest on deposits in savings account:**

Section 80TTA specifically provides for deduction to an Individual/HUF to the extent of Rs.10000/- in respect of interest on deposits (not being time deposits) in a saving account with a) Banking Company subject to conditions prescribed b) Cooperative Society to conditions prescribed or c) Post Office subject to conditions prescribed.

However, there is likelihood that the individuals/ HUFs entitled for deduction would not park their funds in the saving account keeping in view the exceptionally moderate rate of interest and the possibility that they are likely to convey/transfer significant part of their earnings to scheme catering to the repayments on expiry of fixed periods is on the larger side. This apart, the threshold limit of deduction upto Rs.10000/- is on the lower side keeping in view the inflationary tendencies and various other parameters.

It is suggested that the scope of deduction available in respect of the interest attributable to savings account parked with a) Banking Company b) Cooperative Societies c) Post Offices Subject to conditions be considerably enhanced to cover deposits repayable on expiry of fixed periods i.e FDRs. In addition, the threshold also be enhanced keeping in view the inflationary tendencies etc. as amount of Rs. 10000/- is considerably on the lower side.

#### **8. Section 119(2)(b) of the Income Tax Act,1961:**

Section 119(1) of the Income deals with the instructions to Subordinate Authorities. In furtherance, Sub-Section (2) categorically provides that. Without prejudice to the generality of the foregoing power,(b) the Board may, if it considers desirable or expedient so to do for avoiding genuine hardship in any case or cases by general or special order authorized [any income tax authority not being a Commissioner(Appeals)]to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the time/period stipulated for by or under this Act for making such application or claim and deal with the same on merits in accordance with law. In furtherance of any adverse order passed by the competent authority, it is not clear as to whether the aggrieved assessee can approach the Income Tax Appellate Tribunal by way of appeal under section 253 of the Income Tax Act, 1961.

It is suggested that in the event of any rejection/ non-acceptance, refusal/dismissal of assessee's claim/prayer before the competent authority, the action of the authority be made specifically challengeable before the Income Tax Appellate Tribunal under the relevant provisions of the Act. Since, in the event appeal is maintainable owing to the deficient provisions and the assessee will have to approach the writ courts by way of Writ Petition for redressal of its grievance, therefore an additional appellate forum may please be designated and specified wherein the claims arbitrarily rejected can be raised for the just decision of the case.

#### **9. Section 139(4) of the Income Tax Act,1961:**

Section 139(4) of the Income Tax Act,1961 deals with the provisions pertaining to filling of belated returns with the department through different modes available.

In addition, section 139(4) was substituted by Finance Act , 2016 w.e.f. 01st April, 2017 to provide that any person who has not furnished a return within the time allowed to him under sub-section(1) of section 139, he may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of assessment whichever is earlier.

In the event, the assessee who is bonafide in making compliance with his statutory obligation to file return of income fail to file by the same before the end of the relevant assessment year or before his assessment is completed by the department (whichever period is earlier), he will not be in a position to file the same beyond the period allowed unless exceptions expressly warrant.

It is suggested that the embargo introduced by way of consequential amendment to section 139(4) be repealed and/or vacated and the erstwhile provision embedded in section 139(4) prior to its substitution be restored so as to give inherent push to those who for reasons beyond their control and/or for other reasons fail to go in for voluntary compliance and file ROI within the time prescribed. The substituted provision incorporated by way of amendment through Financial Act,2016 be decamped and a revamped/erstwhile version of the provision be re-introduced to facilitate more returns, more revenue, more contribution and effective partnership in the non-adversarial tax regime.

#### **10. Revised Return - Sec 139 (5)**

An assessee who is required to file a return of income is entitled to revise the return of income under **Section 139(5) of Income Tax Act, 1961** originally filed by him to make such amendments, additions or changes as may be found necessary by him.

Sec 139 (5) provides that any person having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, may furnish a revised return at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

It is hereby suggested that the time limit may be increased by changing the language of the section from 'whichever is earlier' to 'whichever is later'.

Similarly, it is requested to kindly re consider to increase the time allowed for filing the income tax return for a particular year so that the assessee is not barred from filing of the return .

**11. Posting in Form No. 26AS** Many a times the taxpayers' tax credit alongwith receipt is intentionally/ wrongly posted in Form No. 26AS and, therefore, the innocent taxpayers have to face the inquiry and burden to prove that such type of entries are either wrongly posted or intentional to harass the innocent taxpayer and, therefore, the taxpayer should be given an option to accept or reject the TDS entries appearing in the respective form No. 26AS.

**12. Time Limit for Notice U/s 148:**

Time limit for issue of notice u/s 148 of the IT Act shall not be more than 4 Years. It is suggested that period of 6 /16 years be shortened to 4 years in all the cases as specified under clause a ,b and c of section 149(1) of the IT Act.

**13. Obligation under section 194IA and 195 should be of the registering Authority.**

There should be some provision under the Act where the registering Authority i.e Tehsildar or sub Tehasildar who is registering the document i.e. Sale or purchase of immovable property should only register the document after the due tax under the Income Tax Act has been paid. This will save the innocent person from harassment who is not conversant with the provision of Income Tax Act, and also secure revenue loss.

**14. Need to Amend Section 206AA**

It is provided u/s 206AA of the Income Tax Act, 1961, that where the deductee either having no PAN or fails to provide PAN to the deductor at the time of deduction of tax, tax is deducted @20%. The banks deduct TDS @ 20% where the deductee has not provided PAN and the deductee comes to know about this only after the deduction of Tax. In those cases there should be some regulatory procedure so that the deductee should be able to take the credit of the tax which has been deducted @20% after obtaining the PAN and

intimating the PAN to the deductors. But now in the present scenario the deductee is not able to take the credit of tax which has been deducted @20% because this tax does not reflect in the Form 26AS. The banks/ deductors who do not revise their TDS returns because of this error should be liable under the provisions of the Income Tax Act, 1961 and deductee should be given the credit of the amount which has been actually deducted.

### **15. To Fix Some Limit u/s 206C**

There is no limit prescribed in section 206C for deduction of TCS on scrap. Specified limits for TCS deduction will help to reduce the hardships met by the small dealers and to reduce paper work without any loss to the revenue.

Let's say a person dealing in manufacturing and trading of hosiery goods and in a year scrap amounting to Rs.10,000/- (an estimate) arises. As per Section 206C the person needs to deduct TCS at that amount which is Rs.100/- (1% of 10,000/-) and file TCS Return. This is very time consuming process for the person as well as the department. Thus, some limit under section 206C should be prescribed at least Rs.100,000/- yearly.

### **16. Exemption Provisions :**

Provisions with regard to exemption given to schools, colleges, hospitals and other charitable institutions are being misused and the same may be reviewed.

### **17. Authorities should be accountable :**

The Income Tax department has a Reward Policy for its officers to motivate and encourage them by reviewing the work done /revenue collections made by them. We welcome the step taken by the government, at the same time the official conducting assessments must be fully educated regarding the legal procedures. It must be in the right direction and department must ensure that the genuine assessee should not be harassed just for getting reward. For this there must be accountability of the official conducting the assessments. If the

order of the official is not confirmed by the appellate tribunal then the cost and strict action must be taken against such official.

### **18. Social security in the shape of Pension:**

In India, people are generally tax shy which means everyone try his/her best to pay minimum possible tax. A habit of National character & National Pride must be inhibited in the people. For that it is suggested that people should be encouraged by different ways to pay maximum tax, voluntarily.

Hence, it is suggested that people who have paid taxes/filed their returns for at least 20 years should be made eligible for some sort of Pension scheme. Most of the assesseees are businessmen/self-employed professionals or in Private sector. As some people earn handsome income when are young but due to health or any other reason/s their income drastically falls as they grow older, hence pension for people after attaining the age of 60 years should be made available. It will not only boost the morale of general public to pay taxes honestly but tax base for which The Govt. Of India & Ministry of Finance is making all out efforts with spending of hundreds of Crores every year will be saved.

### **19. Office of the Income Tax Appellate Tribunal bench must be at Ludhiana**

Chief Commissioner of Income Tax , Ludhiana having jurisdiction of Ludhiana, Moga, Sangroor, Patiala, Jagraon, Malerkotla, Nabha, Rajpura, Fatehgarh Sahib (Mandi Gobind Garh), Khanna, Phagwara, Ludhiana, Kapurthala, Hoshiarpur, Nakodar, Nawa Shashar, Dasuya and Barnala. Five Commissioner of Income Tax (Appeal) are posted for hearing of appeals alone at Ludhiana and no office of Income Tax Appellate Tribunal Bench at Ludhiana. It is requested to constitute Income Tax Appellate Tribunal Bench at Ludhiana.

### **20. Sec 254 : Orders of the Appellate Tribunal**

The Amendment provision in sec 254 (2) of the IT Act w.e.f 01.06.2016 empowers the Tribunal to suo moto rectify its mistake or enable the parties to the order to seek rectification within the period of limitation i.e., “Six months in which the order was passed”;

In section 254(2) of the Act, the Legislature referred to order “passed” and therefore, the assessee is denied the benefit of the period of limitation .

In recent legal precedents , it has been stated that the date of uploading of order in the public domain can also be considered as the date of order passed for reckoning the limitation period.

This view taken is highly unfair in a country like India with creaking infrastructure and where majority of assessee access to technology still remains a challenge .

It is hereby proposed that the period of limitation should be reckoned from the 'date of receipt of the order' and not from the date of the passing of order.

## 21. Direct Tax issues

Sr No	Issue	Justification
<b>B.</b>	<b>Rate of Taxes and relief in other provision assuring growth of the MSME sector :</b>	
e)	The concessional limit of super citizen assessee be made 70 instead of 80 years and above	This would put the more money into the hands of the senior citizen to live their retired life.
h)	At present the remuneration is payable to partners by considering the limit of 90 % of book profit up to profit earned Rs. 3,00,000/- and thereafter 60% of the book profit. This limit of Rs. 3,00,000/- should be increased to Rs 10,00,000/-	Now a day's even partnership firms are having more than two or three partners and even they are now not a family owned business but by professionally managed large firms are operating and considering the change in the economy this slab are too small and old, it has to be reviewed considering the growth in the economy. This would in fact make much difference to the exchequer but brining more revenue in the hands of the partners who are working for the firm is required.

i)	<b>Rate of interest on refund of taxes</b>  It is suggested that the rate of interest on the refund of taxes should be increased to 12% from current 6%	It is suggested that the rate of interest on the refund of taxes should be increased to 12% from current 6%. Being the lower rate of interest on refund the office is also not showing willingness to grant the refund and if the interest rate is higher than the officer will be prompt to issue the refund or pass the relief order early to avoid the interest to be paid to the assessee and at the same time the government may make responsible to the officer for undue delay in refund claims.
k)	<b>Standard deduction to salaried person be increased from Rs. 40,000 to Percentage base linked to salary</b>	Considering the cost of travel & transport and no other deduction to salaried person for undertaking their official duty is available the increase in deduction will increase spending power and it will boost economy. Moreover, the current standard deduction is applicable to all employees who earn Rs 1 Lac or Rs 10 Lacs and the income earning in the middle class range have to suffer by paying higher taxes. It is therefore necessity to link the standard deduction to salary payout so that justice is given to all the employees.

l)	<b>Deduction of interest under the head income from house property</b>	The accumulation of interest during the construction period should be done away and the interest on the loan availed to construct the house should be deducted in the year in which it is incurred and should be considered the loss under the said head which will be a boost the housing sector and the taxpayer will have some liquidity on hand and the time limit for the construction be increased from 2 years to 3 years. It is also a need of an hour that the limit for interest deduction upto Rs. 2,00,000/- should be increased upto 5 lac looking to the cost of new houses and this will boost the housing sector.
t)	<b>Section 246A provides that any assessee aggrieved by any of the orders mentioned therein may appeal to the Commissioner (Appeals). The Finance Act 2018 has amended clause (a) of section 253(1) so as to make an order passed by a Commissioner (Appeals) under section 271J also appealable to the Appellate Tribunal. This amendment is applicable from 1st April, 2018.</b>	The said amendment in section 253(1) allows an appeal to be filed before ITAT, if the order imposing penalty is passed by CIT(A). However, if the order is passed by Assessing Officer, the same would not be appealable either before CIT(A) u/s 246A or before ITAT u/s 253(1), thereby leading to denying principles of natural justice. This may be an unintended omission. It is suggested that necessary amendment may be made in section 246A so as to make an order passed by an Assessing Officer under section 271J appealable to the Commissioner (appeals) u/s 246A.

u)	<p><b>Revised Return - section 139(5)</b> It is suggested that section 139(5) may be amended to provide that the revised return can be filed even in the case of belated return.</p>	<p>Section 139(5) provides for filing of revised return in cases where return has been furnished under section 139(1) or in pursuance of notice under section 142. There is no provision of filing revised return in case where return is filed belatedly under section 139(4). This will help the tax payer to rectify the genuine error and will boost the confidence of the tax payer in the system. This should be allowed for six years in line of power of re-opening of assessments.</p>
c)	<p><b>Audit of accounts of person carrying on business - Section 44AB</b> Presently, Assessee carrying business shall, if his total sales / turnover / gross receipts, as the case may be, in business exceeds one crore rupees get his books of accounts audited by an accountant and report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed. This limit of total sales / turnover / gross receipts, as the case may be, of one crore should be increased five crore rupees and the same for the professional be increased to 100 lacs if not the 200 lacs.</p>	<p>The limits prescribed in the section 44AB is not revised considering the growth in the economy and in fact the small professional and business men looking to the compliance and faith in the countrymen the increase in limit will boost the faith of the tax payer at large and now a day looking to the voluntary compliance this limit is required to be relooked and revised accordingly.</p>

## **22. Restoration of appeal**

Subsequent to ex parte hearing, if the appellant appears before the ITAT and satisfies the ITAT that there was sufficient cause in his case for non-appearance before the ITAT, then the ITAT may set aside the ex parte order and restore the appeal.

The appellant can make out a petition to recall the ex parte order passed by the Tribunal. The Tribunal has power under Rule 24 of the Income Tax (Appellate Tribunal ) Rules to restore the appeal decided ex parte.

**23. Our Suggestion-** Similar powers for the restoration of cases decided ex parte be given to the CIT (A) , which will help in curtail unnecessary litigation.

## **24. Section 234C**


Income Tax Department strives to make it as easy and convenient for citizens to comply with advance tax payments. So, one has the option of paying it in 4 instalments over the financial year. However, if you still default, there are some consequences in the form of interest penalty. Basically, Section 234C deals with interest to be levied on defaulters of Advance Tax Instalment Payments. Under this section, if advance tax for first three installments is not paid on schedule , an interest of 1% will be charged for a period of 3 months.(even in case where there is a delay of single day)

**25. Our Suggestion-** The interest should be charged for a month and not 3 months in case of delay of any of the first three installments of advance tax. This will be in the interest of revenue as well as in the interest of public at large.

It is requested to kindly consider the above proposal sympathy.

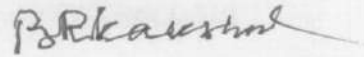
Thanking You.

Yours Truly,



**B.K. Gupta**

**(President)**



**B.R. Kaushal**

**(Secretary General)**

- CC: Hon'ble Chairman, Central Board of Direct Taxes.
- Pr Chief Commissioner of Income Tax, Chandigarh.
- Chief Commissioner of Income Tax, Ludhiana.