



To,
M s. Nirmala Sitharaman
Union Finance Minister of India
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Respected Madam,

Sub: Direct Tax Laws- Request for extension of due date of filing of Tax Audit Report & Income Tax Return for A.Y.2020-21- delay in notification of ITR forms/ release of schema and Covid-19 pandemic

Ref: Notification No. 82/2020/F. No. 370142/30/2020-TPL/ dated 1.10.2020 issued by Central Board of Direct Taxes [CBDT] amending Tax Audit Report [form 3CD & ITR Forms]

About Associations

1. **Income Tax Bar Association, Ahmedabad (ITBA)** is first professional association founded in 1947 comprising of Tax Professionals, Advocates & Chartered Accountants, with membership strength of 950 from all over Gujarat. **Chartered Accountants Association, Ahmedabad (CAA)** is carrying on the activities of imparting technical guidance to the Chartered Accountants and engaged in research activities in the field of accounting, tax & allied laws, since 1949. It has dedicated membership of more than 1600 Chartered Accountants from all over Gujarat and India. **All Gujarat Federation of Tax Consultants (AGFTC)** founded in the year 1992, is the apex Regional Body of Advocates, Chartered Accountants & Tax Practitioners of Gujarat, having membership strength of more than 1400 professionals and institutional membership across 34 districts of Gujarat.

Above associations are non-profit organizations of Tax Practitioners having membership of many Senior Tax Professionals, who regularly appear before ITAT, High Court and Supreme Court. The prime objective of 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.

Goal of Ease of Living

2. Hon. Prime Minister has laid before the government, Ease of Living as a goal to be achieved on behalf of all citizens. An important aspect of both Ease of Living and Ease of Doing Business, is fairness and efficiency of tax administration. Finance Ministry has always endeavored to reassure taxpayers that they remain committed to taking measures so that citizens are free from harassment of any kind.

Covid-19-Pandemic

3. This year entire planet has witnessed nightmare year of 2020 since the WHO declared corona virus (Covid-19) as a pandemic on 11.03.2020. India declared complete lockdown of more than 70 days, even today we are battling our way out of pandemic, as number of cases are not flattening/coming down. Due to risk of Covid-19 many business houses are either completely shut or working with lower capacity with limited manpower & staff, due to further restriction imposed by the States or Local Authorities. Unexpected fall out of pandemic & continuous lockdowns have not only resulted into squeeze in businesses but, on individual level, there has been pain of loneliness, illness, fatigue, mental & emotional stress for many victims of virus and their families. The commutation through Public Transportation is not fully operational. Due to fear of getting infected people avoid travel for longer distances or use of public transport. Several Tax Professionals & Chartered Accountants, themselves have been infected. Due to this staff, articles assistants, who are backbone of doing the tax audit work and preparation of tax audit reports/I.T. returns are not able to regularly attend office of Tax professionals/Chartered Accountants. Even clients are facing the similar limitations/restrictions. Till date we are not optimistic about, when these days will be over and we will be allowed to function normally.

Gujarat vs. Other states

4. As on date more than 70 lakhs corona cases have been detected across the country. Out of these cases, Gujarat's tally has crossed the mark of 1.51 lakhs. The major share of cases & deaths are contributed by 8 Municipal Corporations of Gujarat, including Ahmedabad, Vadodara, Surat, Rajkot, Bhavnagar, Jamnagar, Junagadh and Gandhinagar. Even State administration admits that things are not anyway near normal, keeping in view Unlock 5.00 Guidelines.

Proactive Extension of various statutory due dates by Govt.

5. Though, Government has remained pro-active by extending various statutory due dates for different compliances under various laws. The statutory dates for filing of return of income for various categories of assesseees are extended from 31.07.2020/30.09.2020 to 30.11.2020 and due date for filing of declaration under VVS scheme is also extended from 31.03.2020 to 31.12.2020. However the due date of filing Tax Audit Report for assesseees, whose accounts are required to be audited is extended just for one month from i.e. 30.09.2020 to 31.10.2020.

Recent CBDT Notification dated 1.10.2020 making amendments in Tax Audit Report/Forms

6. Recently Central Board of Direct Taxes [CBDT] has issued Notification No. 82/2020 [F.No. 370142/30/2020-TPL] dated 1.10.2020 making extensive amendments in the rules by introducing Form No. 10-IE [for exercise/withdrawal of option u/s 115BAC(5)(i)] & Form No. 10-IF [for exercise of option u/s 115BAD(5)] and amendments relating to section 115BA, 115BAA, 115BAB. The consequential amendments are made in Form No. 3CD [Statement of particulars to be furnished u/s 44AB] by insertion of various clauses. These changes are made operative in relation to the tax audit of accounts of F.Y. ended on 31.03.2020, due date of furnishing the Tax Audit Report for these cases fall on 31.10.2020.
7. The above amendment in Form No. 3CD/ITR forms are required to be explained to the tax payers to facilitate the compilation of required data & complete reporting. Tax auditor is also tasked to furnish the opinion on

certain interpretational issues involving detailed verification, compilation of voluminous data & in particular, relating to reporting in adjustment of WDV of assets & carry forward of losses chart. The Institute of Chartered Accountants of India, apex body of Chartered Accountants is required to upgrade the guidance note on revised form no. 3CD in order to ensure uniformity in reporting.

Delay in release of utilities required for preparation of ITR Forms

8. Normally ITR forms/TAR Form/Schema & Validation rules are expected to be provided in the month of April. But due to Covid-19 Pandemic, utilities required for furnishing the data in ITR Forms No. 3, 5, 6 & 7 used by assesseees, required to furnish the Tax Audit Report are provided on 30.09.2020 and 1.10.2020 and Java utility for preparing Form no. 6 is provided on 10.10.2020. The Schema/Validation Rules for uploading form no.3CD electronically were last updated on 25.08.2020. Any user who file e-return will have to create an XML file based on the schema. The schema is needed by those, software companies and organizations who wish to use this code to help create their own software utility for filling up these forms. Due to frequent changes in schema or utility, third party services providers will have to upgrade their software which may take about 5 to 6 days to upgrade, depending upon nature of change.

With the issue of above stated notification on 1.10.2020, amending the ITR Forms and Form 3CD-Tax Audit Report, further amendments in Microsoft Excel, Java utilities & ITR Schema/Validation rules will have to be provided by the Income Tax Department.

9. **Hon. Gujarat High Court in the case of All Gujarat Federation of Tax Consultants V. CBDT [SCA No.12656 of 2014] while extending the due date for filing Tax Audit Report 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 result in undue hardship to the stake holders.**

Again in the case of **All Gujarat Federation of Tax Consultants V. CBDT [SPL No. 15075 of 2015]**, while extending the due date of filing Tax Audit Report in relation to A.Y. 2015-16 for one month, also directed the Board, that forthwith 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 1st day of April of the assessment year. Rule is made absolute to the aforesaid extent. Hon. Court, further observed that the Board is expected 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. 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.

Request for extension of due date for filing TAR/ Relevant ITR Forms

10. Though, due to Covid-19, CBDT has extended the due date for filling Tax Audit Report from 30th September to 31st October 2020, in case of assesseees, who are required to get their books of account audited. It is requested that CBDT shall exercise the discretionary power vested in it under section 119 of the Act by extending the due date of 31st October, 2020 at least for three months, up to 31st January, 2021 both for filing ITR and Tax Audit Reports in case of assesseees whose accounts are required to be audited, to ameliorate the difficulties faced by whole business community and professional fraternity due Covid-19 Pandemic situation and on account of delay in notifying the amended rules/forms/return preparation utilities by CBDT, otherwise it would be assessee who would have to face the consequences of non filing the Tax Audit Report/ITR in time.
11. The Ministry of Corporate Affairs, responding to various representations from the Companies, Industry Bodies and Professional Institutes, due difficulties faced in view of Covid-19 Pandemic, has given extension to companies for holding Annual General Meeting for the period of 3 months.

12. At the association level, tax professionals will highly appreciate if extended due dates are notified immediately, well in advance, that will allow them to focus on filing of ITRs in cases where accounts are not required to be audited. We assure all our support & co-operation in guiding the taxpayers in fulfilling their compliance obligations, making honest & full disclosure as per applicable tax law in timely manner.

Thanks & Regards,
Yours Truly,

Bharat L. Sheth
President-AGFTC

Adv. Ashutosh R. Thakkar
President-ITBA

Ketan Mistry
President-CAA

Adv. Dhiresht T. Shah
Chairman Rep Comm.-AGFTC

CA. Bakul Shah
Chairman Rep Comm.-ITBA

CA. Ajit C. Shah
Convenor-L/R Com of CAA

CA. S. K. Sadhwani
Chairman-Legal & Rep. Committee [Direct Taxes] of CAA
Co-Chairman-Rep. Committee [AGFTC & ITBA]

Ahmedabad

Dated: 12.10.2020

Copies To: (Respected Sirs, with a request to do needful in the matter)

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