



The Chamber of Tax Consultants

Mumbai | Delhi

Registered Office

3, Rewa Chambers, Gr. Floor, 31, New Marine Lines, Mumbai – 400 020.

Tel.: +91-22-2200 1787, 2209 0423, 2200 2455 | E-mail: office@ctconline.org | Website: www.ctconline.org

WhatsApp: 9004945579 | FB Page: <https://www.facebook.com/ctcconnect/>



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3rd September, 2018

To,
Shri Sushil Chandra
The Chairman,
Central Board of Direct Taxes
North Block,
Delhi 110001.

Hon'ble Sir,

Sub.: Levy of fee u/s. 234F of the Income-tax Act, 1961 (“the Act”) on LLP

The Chamber of Tax Consultants (CTC), Mumbai was established in 1926. CTC is one of the oldest (about 92 years) voluntary non-profit making organizations in Mumbai formed with the object of educating and updating its members on Tax and other Laws. It has a robust membership strength of about 4000 professionals, comprising Advocates, Chartered Accountants and Tax Practitioners.

The Finance Act 2017 has inserted section 234F with effect from April 01, 2018 i.e. Assessment Year 2018-19 relevant to previous year 2017-18. It provides that where a person is required to furnish a return of income u/s. 139 of the Act and fails to do so within the time prescribed under sub-section (1) of the said section, then, such person shall be liable to pay fee of a sum specified thereunder.

Sub-clause (ii) of clause (a) of the Explanation 2 to section 139(1) of the Act provides that where the assessee whose accounts are required to be audited under the Act or any other law for the time being in force, then, the due date for filing the return of income for such assessee is September 30 of the relevant assessment year.

A Limited Liability Partnership (“LLP”) is required to get its accounts audited u/s. 34 of the Limited Liability Partnership Act, 2008 (“the 2008 Act”) r.w. rule 24(8) of the Limited Liability Partnership Rules, 2009 (“the 2009 Rules”). As a consequence, the LLP which is required to get its accounts audited under the 2008 Act is obliged to file return of income on or before September 30 of the relevant assessment year. However, ITR 5 which is the form to be filed by LLP is considering the due date for LLP whose accounts are required to be audited under the 2008 Act as August 31, 2018 (which was extended from July 31, 2018). In the process, the CPC System imposes fee of Rs.5,000/- as fee u/s. 234F of the Act.

Due to the above error in the system the LLPs which are required to get their accounts audited under other law end up paying fee u/s. 234F of the Act for the alleged delay in filing their return of income, which is contrary to sub-clause (ii) of clause (a) of the Explanation 2 to section 139(1) of the Act.

We request the Hon’ble Sir to kindly instruct for necessary modification to the existing system software at CPC.

Thanking you in anticipation.

Sincerely,

Sd/-

CA Hinesh Doshi

President

Chamber of Tax Consultants

Sd/-

CA Mahendra Sanghvi

Chairman

Law and Representation Committee

Sd/-

CA Apurva Shah

Co-Chairman