



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/>



President
Hinesh R. Doshi

Vice President
Vipul K. Choksi

Hon. Jt. Secretaries
Anish M. Thacker | Parag S. Ved

Treasurer
Ketan L. Vajani

Imm. Past President
Ajay R. Singh

9th September, 2018

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

Respected Sir,

Re: Request for Extension of due date for filing tax audit report and return of income u/s 139 of the Income-tax Act, 1961 ("the Act").

1. 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 Chamber also has created a niche with the government and other regulatory agencies, where representations by the Chamber are received with all seriousness.
2. Section 139(1) requires the assessee whose accounts are required to be audited u/s 44AB of the Act to submit their tax audit report and the return of income electronically by 30th September 2018. Section 234F introduced vide Finance Act, 2017, mandates Fees of Rs. 1000 / Rs. 5000, in case Return of Income is not filed upto the due date specified in Explanation 2 to Section 139(1). Further, there is no remedy or relief provided in the Act, against this fee.
3. The **Hon'ble Delhi High Court in *Avinash Gupta v. Union of India* [W.P.(C) No.9032 of 2015 decided on 21.9.2015]** directed the respondents therein, to at least ensure that the forms etc. which are to be prescribed for the audit report and for filing the Income Tax Returns (ITR) are available as on 1st April of the assessment year unless there is a valid reason therefor and which should be recorded in writing by the respondents themselves, without waiting for any representations to be made.

Further, **Punjab and Haryana High Court in Vishal Garg v. Union of India [2015] 378 ITR 145 (Punjab & Haryana)** also directed the respondents to ensure that the forms etc. which are to be prescribed for the audit report and for e-filing the returns should ordinarily be made available on the first day of April of the assessment year.

4. The reporting requirement u/s 44AB - Form 3CD was recently amended by the CBDT vide NOTIFICATION NO.GSR 666(E) [NO.33/2018 F.NO.370142/9/2018-TPL)], DATED 20-7-2018. By virtue of this amendment, several clauses and sub-clauses were added/ substituted in the Form 3CD. These changes were effective from 20th August 2018. Thereafter, based on several representations made, CBDT has decided, vide Circular No. 6/2018 dated 17th August, 2018, that the reporting under the proposed clause 30C and proposed clause 44 of the Tax Audit Report shall be kept in abeyance till 31st March, 2019. However, the other additional clauses have not been kept in abeyance and are required to be complied with in respect of all the tax audit reports uploaded on or after 20th August 2018.
5. Further, subsequent thereto the schema for uploading form 3CD has undergone a change. In fact this is sixth revision in tax audit report schema this year. It is known that a large part of practitioners use third party software for filing of these forms due to ease in interface of usage. Most of these suppliers had not till 5th September 2018 released the updated version of form 3CD.
6. The Institute of Chartered Accountants of India (ICAI) has released an implementation guide for the revised form 3CD only on 23rd August 2018. This guide is essential for tax auditors to understand the amendments and report the same in form 3CD.
7. Further the due date for filing of return of income for non tax audit cases was extended from 31st July 2018 to 31st August 2018 as the relevant forms and schema were not available on 1st day of assessment year, as directed by Hon'ble Delhi and Punjab & Haryana High Courts (supra).
8. Your goodself will therefore appreciate that the effective time accorded to assesses who are subject to a tax audit u/s 44AB to get their books of account audited and also for the tax auditors to submit the tax audit report in the revised form 3CD is

only from 23rd August to 30th September. The effective period is 38 days as against the statutory period of 183 days under the Act (1st April to 30th September).

9. The Goods and Service Tax has been introduced in the country as a historical economic reform on 1st July 2017. The problems faced by a vast majority of tax payers in the first year of its implementation are not unknown to anyone. As per section 16(3) of the Central Goods and Services Tax Act, 2017, the last return in which input tax credit can be claimed by a registered person for the financial year 2017-18 is September 2018 failing which the tax credit shall lapse. This is requiring all the registered persons to prepare the annual reconciliation of input tax credit available and input tax credit availed for financial year 2017-18. This is a new requirement which the tax practitioners have to comply in this month.
10. It is imperative that adequate time be given for compiling a tax audit report as it is used by Assessing Officers to verify a tax computation and in for the large number of cases which are not selected for scrutiny, this report is the base for processing returns u/s 143(1). Hence it is essential to ensure the integrity and quality of the data that is compiled and verified. Cases where tax audit details were already compiled before the amended form was released would also need to be recompiled.
11. To facilitate the conduct of qualitative filing of Income Tax Returns and Tax Audit Reports smoothly the due date for furnishing the tax audit report and hence the tax return requires to be extended.
12. Hence, in order to avoid inconvenience and genuine hardship that would be caused based on the facts and in the circumstances referred to above as also to facilitate the filing of returns of income smoothly and to allow reasonable time to businesses for data compilation and to auditors for data verification, in all fairness the Due Date u/s 139(1) should be extended by 110 days (i.e. 1.4.2018 to 19.7.2018), but at the least it may kindly be extended from September 30th to October 31st in all cases falling under clause (a) of Explanation 2 to section 139(1) so that the other due dates schedule is not disturbed. This would not only ensure that adequate time is given for filing the tax audit report and return of income, keeping in mind the various issues listed above which have delayed the process, but would also ensure that the harshness of a late fee u/s 234F is diluted.

We request your goodself to kindly consider the above issue on priority basis and issue the necessary directions as may be needed u/s 119 of the income tax Act, 1961 well in time. The above changes, would go in line with the legislative intent of providing sufficient time for conduct of tax audit and preparation and furnishing of correct Income Tax Returns.

We look forward to your kind and thoughtful intervention and taking up our request for kind consideration.

Thanking you,

Sincerely,

For **The Chamber of Tax Consultants**

Sd/-

Hinesh R. Doshi
President

Sd/-

Mahendra B. Sanghvi
Chairman
Law & Representation Committee

Sd/-

Apurva R. Shah
Co-Chairman