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Request(s) for extension of various due dates under Income-tax Act, 1961 especially Tax Audit Reports and related returns including Income Tax Return Forms for AY 2020-21

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ICAI/DTC/2020-21/Rep-26

13th December 2020

**To
Chairman,
Central Board of Direct Taxes,
Ministry of Finance,
Government of India,
North Block,
New Delhi-110 001.**

Sir,

Re: Request(s) for extension of various due dates under Income-tax Act, 1961 especially

- (i) Tax Audit Reports and related returns**
- (ii) Income Tax Return Forms for AY 2020-21**
- (iii) Section 11(1A) of the Income-tax Act, 1961 due date**
- (iv) TDS/TCS compliances**
- (v) Section 54/54F of the Income-tax Act, 1961**
- (vi) Advance tax payments**

We wish to bring to your kind notice the issues/concerns being faced by taxpayers/members due to ongoing COVID19 pandemic and the resultant need to further extend the due date of filing ITR Forms and Tax Audit report and other related returns/reports for AY 2020-21.

Introduction/Background

The Finance Act 2020 amended section 139(1) of the Income-tax Act, 1961 to provide that the due date to file ITR Forms for specified assesses is 31.10.2020 for AY 2020-21. Further, the due date to file Tax Audit Report (TAR) u/s 44AB of the Income-tax Act, 1961 was made one month prior i.e. 30.09.2020 for the AY 2020-21. However, due to ongoing COVID19 pandemic, the said due dates for filing ITR forms and TAR for AY 2020-21 have been proactively extended to 31.01.2021 and 31.12.2020 respectively.

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We refer to our earlier representation ICAI/DTC/2020-21/Rep - 21 dated 16th October, 2020 submitted to your good office wherein it was requested to suitably extend all the due dates of various compliances under Income-tax Act, 1961 for the current financial year and specifically the due date of filing return of income u/s 139(1) of the Income-tax Act, 1961 and the 'specified date' for filing tax audit reports for AY 2020-21. The said representation referred to the prevailing situation in various States and continuing & frequent lockdowns making the tasks of filing returns etc. and availing services of professionals practically impossible. In this regard, we will also refer to our earlier representation(s) i.e. ICAI/DTC/2020-21/Rep - 20 dated 25.09.2020), ICAI/DTC/2020-21/Rep - 14 dated 25th July, 2020 and ICAI/DTC/2020-21/Rep - 11 dated 25.06.2020 which were favourably considered regarding extension of various due dates.

Issues & Concerns

In the matter of audits including tax audits, the ICAI has onerous responsibility to maintain and enhance quality of reports. The Government is well aware that the Institute has the responsibility of ensuring and enhancing the quality of services provided by its members to clients and other stakeholders. In fact, the prime objective of tax audit is to assist the assessing officer to determine income from business or profession. It is also necessary to emphasize for your kind appreciation that in the context of audit requirements, the Chartered Accountants are also the stakeholders.

As you are kindly aware that the effects of COVID19 pandemic is not yet over and is affecting all spheres of life even now. Taxpayers are equally affected. More recently, some metros like Delhi are seeing surge in Covid positive cases and there is a talk of third wave. The number of COVID positive cases are still not under the control across the country forcing many of the States for compulsory fixing of working hours and also weekend lock downs, night curfews, restrictions of movements of people and disruption of transport systems, entries and exits in many states. As a result, corporates and professionals are unable to complete the tasks virtually working from home as at present. Further, it is pertinent to mention here that at majority of assessee establishments, their staff like Accountants are not available and accordingly data for preparation of tax audit reports are not received in time making it difficult to meet the statutory timeline. In the City of Mumbai, the financial capital of the country, till date the main lifeline, the local trains are not open for the general public making it very difficult for travel by the staff of taxpayers as well as the professionals. Such metro cities have huge financial relationship with other small cities. If any office in Financial Capital or Capital of India is not working, other vendors and customer related to them are also affected. They will also not get required statements or confirmations which are of utmost importance for completion of any audit. Bankers are also not providing statement citing that it is at head office or regional office which are situated in Metro's like Pune, Mumbai, Chennai., etc. Even smaller cities are facing problems relating to staff as most of the staff have left for native places and are yet to return back to work. In cities like Mumbai, the main mode of communication is Local trains, which have not yet started for general public which includes employees & other staff. So, without the working staff, especially for offices located

in far off areas and unavailability of adequate staff, our members are finding it difficult to complete the onerous task of completing tax audits on or before 31.12.2020.

We wish to inform that the ICAI is still receiving concerns of taxpayers w.r.t. issues being faced arising from ongoing COVID19 pandemic. In this tough current environment, it is still very difficult for assesseees to meet income-tax compliances as they need to first concentrate on getting their operations on track. Certain states are still facing partial lock-down(s) with no public transport for common workers and employees to travel to and fro office. This has paralysed, albeit partially but substantially, functioning of Government offices including income tax.

Most of the business establishments are still finding it difficult to operate at full capacity. As per a recent report, most of the employees are still working from home instead of commuting to office. In fact, the public transport is still not fully operational in big cities like Mumbai, Bengaluru, Hyderabad, Ahmedabad, Rajkot etc. People cannot get to their places of work without the public transport being available. Add to that recent farmers protest especially at the capital making commuting even more difficult. There is also a shortage of manpower which is paralysing the continuity of work. All such issues are making it virtually impossible for most of our members and the taxpayers to adhere to the revised due dates of 31.12.2020. Many of our members in practice are senior citizens for whom it is inadvisable to move out, for they are found more susceptible to the pandemic.

There is a genuine case for extension of due dates of ITR and TAR in the whole of India although problems in metro cities like Mumbai and Delhi are more visible.

During the month of December, there are many other compliances to be made like payment of Advance tax, filing of relevant GST returns, GST Annual Returns over & above audit & tax returns. Further, especially in the current year, Capital Gains transactions have to be reported in great details which is a very time-consuming activity.

It is pertinent to mention here that if someone in the office/client/client staff were to suffer an account of Covid, then the office has to be closed at least for 3 to 5 days, to make it Covid free by cleaning & disinfecting.

Similarly, if the partner/proprietor were to get affected by Covid then atleast for 15 to 21 days, he can't attend the office nor can he sign any reports.

The relaxation in due dates would ease the compliance burden of assesseees in these tough times and would enable him to concentrate on operational aspects of his business. Currently, working for longer hours is not feasible. Assesseees and professionals are under tremendous mental pressure and stress as they are worried about the infection that may catch at any moment due to various reasons.

As you may be kindly aware that CBDT has made changes in Form No. 3CD vide Notification No. 82/2020 dated 01.10.2020 which necessitates revision of utility and accordingly requires re-working of depreciation and other linked losses due to adoption of alternative methods of tax scheme, which requires certification thereby increasing the compliance burden of the assesseees concerned. The online java utility for the same is updated in November, 2020 only.

Further, changes in the ITR Form 6 has also been made in the month of October and now again revised in December, 2020 making it difficult for assesseees to understand changes at the last moment and then report correctly. It is also a fact that the Judiciary in the past advised CBDT to refrain from making changes at the eleventh hour making it difficult for assesseees to comply in time.

As you may be kindly aware that other authorities like MCA have already extended the due dates of compliances under Companies Act, 2013 suitably to ease compliance burden of concerned and is also in the process to extend the due dates further.

It may also be considered that announcement of extension at the eleventh hour does not help the law abiding assesseees and to an extent helps those who do not care for compliance and in fact, emboldens them.

Under the circumstances, the adherence to the extended due dates may not be possible. Majority of the assesseees would be unable to meet the extended time-line(s) w.r.t various compliances under the Income-tax law.

Apart from the major issues arising due to COVID19 pandemic hampering compliances regarding filing of ITR forms and Tax audit reports, certain concerns like delay in release of online e-filing utilities & continuous and regular updation in the Schemas of the ITR/TAR Form filing utility and detailed information to be provided in notified ITR forms requires time, needs to be kept in mind for considering the due dates extension.

It may also be mentioned that section 11(1A) of the Income-tax Act, 1961 was not given any extension of timeline in the Ordinance and Amendment Act passed thereafter. Certain Trust(s) could not make investment/ acquire assets which they should have done before 31.03.2020. Accordingly, extension of time may be provided in this regard as well.

Suggestion(s):

In view of the above and in the interest of the Nation as a whole, it is once again humbly requested that the due date of filing return of income u/s 139(1) for all the assesseees be suitably extended, to say at least till 31.03.2021, from the current extended due date of 31.12.2020 for AY 2020-21. Simultaneously, the 'specified date' for filing tax audit reports be extended from 31.12.2020 to say 31.03.2021 as well for AY 2020-21. As statutorily, it may

not be possible to have same due dates to file ITR and TAR, then suitable amendment may be made in section 139 for the same.

Further, all the other due dates of compliances under Income-tax Act, 1961 (TDS/TCS/Section 11(1A)/54/54F/Advance tax payments etc.) be suitably extended to say 31.03.2021 to enable assesseees to meet such deadlines without incurring any other extra cost.

We hope that our suggestions would be favourably considered. We would be happy to deliberate on the matter albeit virtually, if considered necessary by your good office.

With Warm Regards

**CA. Tarun Jamnadas Ghia
Chairman, Direct Taxes Committee
The Institute of Chartered Accountants of India**