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**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**  
(Set up by an Act of Parliament)

ICAI/DTC/2018-19/Rep-23

23<sup>rd</sup> July, 2018

Shri Sushil Chandra Ji,  
Chairman,  
Central Board of Direct Taxes,  
Ministry of Finance,  
Government of India,  
North Block,  
New Delhi-110 001.



Dear Sir,

**Re: Request to extend due date of filing Income-tax returns for the AY 2018-19**

As you are kindly aware that ICAI, being a partner in nation building, plays a pivotal role in strengthening the relationship between the taxpayers and the Department, by bringing to the notice of the Department, genuine hardships being faced by its members and the assesseees under the Income-tax law and to ensure timely redressal of the same. Continuing in this direction, we bring before your kind notice the issues and difficulties faced by tax payers in filing their return of income for Assessment Year 2018-19 within the time prescribed u/s 139 of the Income-tax Act, 1961.

As you are kindly aware that the due date for assesseees mentioned under clause (c) of Explanation 2 to section 139(1) is 31<sup>st</sup> July, 2018 for AY 2018-19 which is fast approaching. We wish to inform that ICAI is increasingly getting information from our members about various legal, technical and practical difficulties being faced by tax payers w.r.t. coping up with the new forms of returns of income for AY 2018-19, which is ultimately leading to delays in filing the returns of income by the prescribed time limits.

The assesseees are facing difficulty in filing the ITR Forms by 31<sup>st</sup> July, 2018 due to the reasons enumerated below:

**1. Delay in release of ITR form utilities and continuous and regular updation in the Schemas**

As per Rule 12 of the Income-tax Rules, 1962, ITR Forms are to be filed electronically barring a few exceptions, which is possible only if the ITR Form utilities are made available on a timely basis.

Although the ITR forms for AY 2018-19 were notified on 3<sup>rd</sup> April, 2018 vide Notification No. 16/2018, the ITR Form utilities in Java and Excel were released much later in the month of May, 2018 (except ITR 1 utility which was released on 14.4.18). Almost one and the half months after the start of the financial year, the ITR utilities were made available for e-filing by the Income-tax department.

As is clear from above, out of the 4 months (for 31<sup>st</sup> July cases) available to taxpayers for filing ROI, almost half the time (approx. 2 months of April and May) is lost due to non-availability of ITR Form utilities. The delay in issuing the relevant ITR Forms and other utilities necessary for filing the returns results in delay in filing ITR forms as the taxpayers are deprived of the time contemplated by the statute for preparing the return.

Further, we wish to inform that continuous and regular updations are being made to the ITR form utilities (three updations have been made in the ITR Form utility 1, 4, 5 and 7 and two updations in ITR form utility 2 and 3) as depicted below:

The screenshot shows the 'Income Tax Return Preparation Utilities' section on the e-filing portal. It includes instructions for selecting the assessment year, downloading utilities, and system requirements for Excel and Java. Below this is a table of utilities for Assessment Year 2018-19.

ITR	Description	Excel Utility	Version Release Date	Java Utility	Version Release Date
ITR 1	For individuals being a resident other than not ordinarily resident having income from Salaries, one house property, other sources (interest etc.) and having total income upto Rs.58 lakh.	<a href="#">Download</a> (227 KB)	PR2 20/05/2018	<a href="#">Download</a> (238 KB)	PR3 20/05/2018
ITR 2	For individuals and HUFs not having income from profits and gains of business or profession.	<a href="#">Download</a> (227 KB)	PR2 07/07/2018	<a href="#">Download</a> (238 KB)	PR2 07/07/2018
ITR 3	For individuals and HUFs having income from profits and gains of business or profession.	<a href="#">Download</a> (227 KB)	PR2 07/07/2018	<a href="#">Download</a> (238 KB)	PR2 07/07/2018
ITR 4	For presumptive income from Business & Profession.	<a href="#">Download</a> (227 KB)	PR1 20/05/2018	<a href="#">Download</a> (238 KB)	PR3 20/05/2018
ITR 5	For persons other than - (i) Individual, (ii) HUF, (iii) Company and (iv) Person filing Form ITR-7	<a href="#">Download</a> (227 KB)	PR2 19/07/2018	<a href="#">Download</a> (238 KB)	PR3 19/07/2018
ITR 6	For Companies other than companies claiming exemption under section 11	<a href="#">Download</a> (271 KB)	PR2 12/07/2018	<a href="#">Download</a> (282 KB)	PR3 12/07/2018
ITR 7	For persons including companies required to furnish return under sections 139(4A) or 139(4B) or 139(4C) or 139(4D) or 139(4E) or 139(4F)	<a href="#">Download</a> (227 KB)	PR2 07/07/2018	<a href="#">Download</a> (238 KB)	PR3 07/07/2018

Referring to the screenshot above, it could be seen that the schema for ITR Forms 2, 3 and 7 were last updated on 7<sup>th</sup> July, 2018, and Schema for ITR 5 was last updated on 13<sup>th</sup> July, 2018.

Such updations in schema implies that the changes need to be made in the bulk filing ITR softwares by the vendors supplying such software. These ITR filing softwares are being used by the taxpayers for filing the ITR forms. It, in effect, delays the filing process further as software vendors requires atleast a week's time to update its software as per changed schema of ITR forms.

## **2. Delay in updation of TDS credit in Form No. 26AS of the taxpayer and approaching due date of TDS statement filing for first quarter**

As you may be kindly aware that the due date to file TDS statements for last quarter of the financial year is 31<sup>st</sup> May of the financial year immediately following the financial year in which the deduction is made (Rule 31A of the Income-tax Rules, 1962). **Also, the due date to file TDS statements for first quarter ending on 30<sup>th</sup> June, 2018 of the current financial year is 31<sup>st</sup> July, 2018.**

Further, as per Rule 31 of the Income-tax Rules, 1962, the certificate of TDS in Form 16 (annually) and 16A (quarterly) are to be issued by the deductor to the deductee by 15<sup>th</sup> June of the financial year immediately following the financial year in which the income was paid and tax deducted and within fifteen days from the due date for furnishing the statement of tax deducted at source under Rule 31A respectively.

Despite the fact that there are penal provisions for late submission of TDS returns, some deductors fail to submit the same within the prescribed time sometimes due to genuine reasons as well. This leads to non-reflection of TDS credit in the Form 26AS of the taxpayer.

Generally, most tax payers get their TDS certificates on or after 15<sup>th</sup> June and the TDS credit in Form No. 26AS get reflected by 15<sup>th</sup> June or thereafter. It may further be informed that most deductees do not get their Form 16 and 16A on time due to late issue of the same by the deductor (may be due to technical glitches or delayed filings of e-TDS returns) which may lead to delay in ITR form filing.

We would like to further inform you that even Reserve Bank of India issues Form No. 16 to their retired employees for Pension in third week of June every year.

Even TDS CPC portal is reportedly running slow resulting in extra time to download the Form No 26AS and with hardly a week's time left to file ITRs , downloading the same is becoming an issue.

Normally, correct amount of TDS is not reflected, even till the end of June month and hence, the assesseees are effectively left with 1 month to file their ITR forms.

It is pertinent to note that many assesseees have multiple businesses and streams of revenue and in genuine situations, may have to await the proper reflection of tax credits. Also, GST compilation and reporting requires time and effort and has to conform with Form 26AS and follow up with the respective deductors for any inadvertent errors and such correspondences happen only after TDS is reflected and is complete in all respects.

The concern here is :

1. Unless the credits of TDS appear in Form No. 26AS, the returns are generally not filed/cannot be filed due to less credits which will result in tax demand/lower refund;
2. The assessee cannot claim the credits of the amounts not appearing in Form No. 26AS as he does not have TAN of the deductor which is mandatory field for generating valid XML.

### **3. Issues raised by ICAI vide representation ICAI/DTC/2018-19/Rep-20 dated 4th July, 2018 still needs to be resolved**

We refer to our earlier representation ICAI/DTC/2018-19/Rep-20 dated 4<sup>th</sup>July, 2018 (copy enclosed herewith) submitted to your good office wherein certain issues were reported by ICAI which were being faced by tax payers while filing ITR Forms for AY 2018-19. Some of those concerns like clarification regarding GST data to be filed in the ITR forms and acceptance/uploading of ITR forms containing bank account details of certain co-operative banks still needs a solution. Assesseees affected by those concerns are finding it difficult to file their ITR forms.

### **4. Applicability of penal provisions of section 234F of the Income-tax Act, 1961 for the first time from AY 2018-19**

Section 234F was inserted vide the Finance Act, 2017 to levy mandatory fees amounting to Rs 1,000/5,000/10,000 depending on the time of filing and quantum of income reported for ITRs filed after the due date prescribed u/s 139. This is first year of applicability of the provisions of section 234F. Your goodself may appreciate that even for a delay of one day in filing ITR, the assessee has to incur an additional cost

of Rs 1,000/Rs 5,000. This would be very harsh for assesseees whose filing of ROI is delayed due to genuine reasons or for assesseees having refund or having nil tax liability at the time of filing ITR. An assessee may not even be aware of this mandatory fees u/s section 234F and further, it may deter the assesseees from filing ITR after the prescribed date due to incurrance of additional cost of filing ITR form which will be in addition to interest payable u/s 234A for delayed filing of ITR.

#### **5. Natural calamities disrupting normal life**

As you may be kindly aware, monsoon in India is in full fury currently. Heavy floods are reported in the States of Maharashtra, Uttrakhand, Gujarat and Jammu and Kashmir. Normal life in such States is crippled. Heavy rains throughout the country has damaged the infrastructure and telecommunication lines and also led to internet connectivity issue which is a prerequisite to upload/electronically file the ITRs. In view of the same, assesseees have voiced their apprehensions and hardships in meeting the statutory obligations in a timely manner.

#### **6. Issues arising due to first time implementation of GST Law**

Credits of Input Tax Credit balance of earlier laws i.e. erstwhile Excise, VAT & Service Tax laws may not being availed in GST law due to system failure at the time of claiming the credits will have a significant impact on the financial statements based on the judgements passed by various High Courts of the Country to increase the deadlines of filing the claims in Form TRANS-1. If the credit is not granted/granted, will surely effect the income/expenses of the assessee.

GST reconciliation with books of accounts and Form 26AS would take significant time & efforts since this being 1st year of implementation of GST law.

We wish to inform you that the due date of filing Quarterly GSTR-1 is 31<sup>st</sup> July. The assesseees and professionals get busy normally during 5<sup>th</sup> to 10<sup>th</sup> of very month with GST returns ( monthly GSTR-1 ) and during 15<sup>th</sup> to 20<sup>th</sup> of every month for filling GSTR3-B which results in delaying the working of Direct Taxes.

GST Department is in process of coming up with modifications of returns which have been filed for rectifications. The dates have not been declared yet, which will also have an impact on the profit and loss account filed and thereby affecting the incomes/profits being reported in the ITR Forms.

### **Suggestion**

*In view of the above and in the interest of the nation as a whole, we suggest and request that the due date of filing return of income for assesseees mentioned under clause (c) of Explanation 2 to section 139(1) be extended by at least a month from the prescribed date of 31<sup>st</sup> July, 2018 for AY 2018-19.*

We are hopeful for a positive consideration of our suggestion.

**With Best Regards**



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