



Bombay Chartered Accountants' Society

Harnessing Talent and Providing Quality Service

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16th July, 2019,

To

Hon'ble Smt Nirmala Sitharaman,
Union Minister of Finance
Government of India
New Delhi

Respected Madam,

Subject: Hardship caused to the tax payers of the country while filing returns of income for AY 2019-20

The Bombay Chartered Accountants' Society is the largest and oldest voluntary body of CAs in the country. We were founded just 5 days after the ICAI in 1949 and today boast of about 9,000 members from across India. Over the decades, we have served the nation and its citizens by regularly providing our inputs to the government on various matters for the betterment of our laws.

You have stated in your maiden Budget speech on 5th July that:

"I begin by thanking our taxpayers who, as responsible citizens, perform their duty by paying their taxes. It is because of their valuable contribution that our Government is able to work for our collective dream of inclusive and all round development of our nation."

We take this opportunity to bring to your notice the severe hardship caused to tax payers in the country – the same lot of citizens whom you had so kindly thanked during your maiden Budget speech on 5th July, 2019.

You would be aware that for a large section of tax payers, the due date for filing tax returns for Assessment Year 2019-20 is 31st July, 2019. Ideally, the tax return forms should be available to the tax payers on 1st April itself so that if a diligent tax payer wishes to file his/her tax return on 1st April, there should be no impediments. Unfortunately, over the past more than 10 years, we have seen the ITR forms being changed every year. This is most unfortunate and undesirable. The constant tinkering with the forms necessitates changes in the software on the e-filing portal. This in turn leads to delays in making available the government utility to tax payers. With almost all tax payers now having to mandatorily file their returns online, there is no option but to wait till the CBDT makes available the ITR forms and the utility on the e-filing site. Year after year, we have witnessed delays in this matter on the part of the CBDT.

Our intention is not to blame anyone or point fingers. However, the pain that is now being faced by tax payers is beyond tolerance levels and therefore we are constrained to write this letter to you.

This year, as you would be aware, the long term capital gains (LTCG) on transfer of listed shares and units of equity oriented mutual funds have become taxable for the first time since 2004. For calculating the LTCG, there is a complicated grandfathering clause provided in the Income-tax Act. This being the first year of taxation of the LTCG (after a gap of almost 14 years), most tax payers are struggling with the computation. To add to this misery, the government utility that was made available on the e-filing portal was throwing up wrong results. There was an error in the utility and that fact was confirmed to us by an officer at the CPC in Bengaluru. **You will be shocked to note that this bug in the utility was rectified as late as 11th July, 2019. We repeat that the last date for filing the returns is 31st July and we get the revised utility on 11th July.**

To summarise the hardships that tax payers and tax professionals are facing:

1. Delay in making available the utility to enable filing:

The ITR 1, 2 and 4 were made available for the first time on 2nd May, 2019. Thus, the whole of April is wasted and no body could file any returns in April.

ITR 3 was made available for the first time on **10th May, 2019**

ITR 5 was made available for the first time on **28th May, 2019**

ITR 7 was made available for the first time on **4th June, 2019**

ITR 6 was made available for the first time on **8th July, 2019**

2. Multiple changes in utilities:

The utility is getting updated on the government website on a frequent basis. Once the forms are notified and final, such frequent changes, specially when it is made closer to the due date for filing the return of income is unsettling and undesirable. A large section of tax payers avail the services of tax professionals who in turn use private return preparation software for finalising the returns. It takes a lot of time and efforts to keep on updating these software to bring them in line with the income-tax utilities. Very often, taxpayers have prepared their return using a particular version of the utility but have not yet filed the return for some reason or the other (for example, someone could be awaiting the self-assessment tax challan).

Now, when the return is finally ready for uploading, the tax payer finds that the utility has undergone a change. When this happens, all the efforts put in earlier go in vain. The entire exercise has to be repeated using the new utility. This renders the entire process cumbersome.

For ready reference, we are providing an annexure which shows the chronological sequence of events as far as the updating of utilities is concerned. This is reproduced from the e-filing portal.

3. The requirement of reporting ISIN codes/Folio No of shares sold:

As mentioned above, several tax payers had been ready with their computations and return of income but could not file the returns because they had long term capital gains and the government utility was giving errors in the calculations.

Now, on 11th July, when the new version of the pre-filled utility was made available on the e-filing site, tax payers were shocked to learn that there was a new requirement in the utility. The Schedule 112A for furnishing details in respect of long- term capital gain transactions u/s. 112A, has been updated suddenly to provide the ISIN code/Folio No. with respect to shares/unit sold.

This change is, in our view, completely unjustified and bad in law. Once the ITR forms are notified through a notification, how can such changes be made in the utility and new fields be added without going through the due process of law of notifying the amendments?

In any case, it is impossible to obtain such detailed information at such a late hour. Tax payers do not keep this information handy in their books of account or other documents that are relied upon while preparing the computation and the ITR forms. Now, all tax payers whose returns were ready but could not be uploaded primarily because of the failure on the part of the CBDT to make available accurate software will suffer because they will have to find out the ISIN Code/Folio numbers of all the shares / units sold and fill up the utility again.

4. The requirement of reporting Permanent Account number of unlisted companies:

While reporting “general information”, the assessee is required to report the details of unlisted shares which are held by him. One of the fields in this section is for providing the PAN of the company whose shares are held.

This requirement is fine as long as the information sought is for private companies or closely held companies. But it is common knowledge that there are thousands of other companies which were, once upon a time, listed on stock exchanges and which have, over the years, disappeared completely. Shareholders have lost crores of rupees worth of investments because of such companies. They are not even able to trace the companies. How would they be able to find out the PAN of such companies? And if this information is not provided, the return could be treated as defective. The tax payer could even be penalised for concealment of information.

With utmost request, we feel that this requirement is unfair and completely tax payer unfriendly.

5. 26AS not updated and TDS certificates not available with the tax payers:

Earlier, the due date for filing TDS statement for Q4 of FY 2018-19 was 31st May but the same was extended to 30th June, 2019 in case of TDS from salaries (Form 24Q). This was done because the format was changed at a late hour by the CBDT.

Consequently, most employers have not been able to furnish TDS certificates and even the 26AS of employees is not updated. This is delaying the process of filing the return of income.

These are some of the major and important issues which have been highlighted for your kind attention. There are several minor or other issues, which for the sake of brevity, have not been incorporated here. If an opportunity is provided to us to make a representation in person, we can explain the same to you. As can be seen from above, there are several such intricate issues, which has made the return filing process a nightmare for tax payers and tax professionals.

We earnestly request you to kindly look into these matters and to provide a solution to tax payers whereby they can peacefully file their tax returns in time without having to seek extension of due date year after year.

It is our experience that every time a due date is extended, it has a cascading effect and impacts the entire year's calendar because now, we have due dates coming up almost every month. Extension of one due date necessitates extension of more due dates. This is most undesirable and unwarranted.

We sincerely hope that you will understand and consider the complications faced by assesseees at large because of the last minute and unorganised changes made to income tax return forms. The process can be much simpler if all the return forms along with their utilities are issued well in advance and the new changes are conclusively clarified for the uniformity of its application by return filers.

We look forward to your early response in the matter.

Thanking you,

Yours sincerely,



Manish Sampat
President,
Bombay Chartered Accountant Society



Ameet Patel
Chairman, Taxation Committee

Encl. Annexure

Cc:

1. Chairman, Central Board of Direct Taxes
2. Joint Secretary, TPL-1, CBDT

Annexure (sequence of events unfolding for taxpayers as per e-filing portal)

- **11/07/2019**
Download Prefilled XML is available for ITR 1, 2, 3 and 4 for AY 2019-20. For other ITR's it will be available shortly.
- **08/07/2019**
All Income Tax Return Preparation Software for AY 2019-20 are now available for e-Filing.
- **26/06/2019**
Taxpayers are requested to note the followings in connection with pre-filing of ITRs-
 1. Pre-filing of ITR is only for the taxpayer's convenience. Taxpayers should verify the pre-filled data carefully and add any other taxable income which is not pre-filled.
 2. Last date for filing of TDS statement and issue of TDS certificate by Deductor is 30th June, 2019 and 10th July, 2019 respectively. In case the TDS data is not pre-filled, taxpayers are expected to fill these details themselves.
- **26/06/2019**
Consequent to changes made in Income Tax Return Preparation Software and Schema for AY 2019-20, Please note the below
 1. Already saved draft data will not be available in case of Online ITR 1 & 4.
 2. In case of Offline utilities, XML has to be re-generated using the latest Income Tax Return Preparation Software.
- **20/06/2019**
In case of long term capital gains (LTCG) arising on sale of equity shares or unit of equity oriented fund or unit of business trust on which STT is paid, separate computation of capital gains should be made for each scrip or units of mutual fund sold during the year and aggregated amount should be provided in item No. B5(ITR 5) (in case of residents) or item No. B8(ITR5) (in case of non-residents). The Utility has been updated. Please download the latest utility available under Downloads.
- **14/06/2019**
In case of long term capital gains (LTCG) arising on sale of equity shares or unit of equity oriented fund or unit of business trust on which STT is paid, separate computation of capital gains should be made for each scrip or units of mutual fund sold during the year and aggregated amount should be provided in item No. B4 (ITR 2)/B5(ITR 3) (in case of residents) or item No. B7 (ITR 2)/B8(ITR3)(in case of non-residents). The Utility has been updated and relevant validation rules are relaxed .Please download the latest utility available under Downloads. Updated utility of ITR-5 for the same change will be available shortly.
- **07/06/2019**
CBDT extends due date for filing of TDS statement in Form 24Q from 31st May to 30th June,2019 [Refer Press Release][Refer Order]

- **04/06/2019**
ITR 1, 2, 3, 4, 5 & 7 for AY 2019-20 is now available for e-Filing. ITR 6 will be available shortly.
- **28/05/2019**
ITR 1, 2, 3, 4 & 5 for AY 2019-20 is now available for e-Filing. Other ITRs will be available shortly.
- **10/05/2019**
ITR 1, 2, 3 & 4 for AY 2019-20 is now available for e-Filing. Other ITRs will be available shortly.