



21st July 2018

To,
The Chairman
Central Board of Direct Taxes,
Ministry of Finance,
Government of India,
North Block,
New Delhi-110001.

Respected Sir,

Subject: Representation and request for relaxation in levy of fee under section 234F of the Income-tax Act

Vide the Finance Act, 2017, a new section 234F has been made applicable whereby a fee is mandatorily levied for failure to furnish the income tax return u/s 139(1) in respect of income tax returns required to be filed for A.Y. 2018-19 and onwards.

The above provision for levying of fees is a genuine hardship and cause of worry and great concern for the non corporate assessees. In this respect we have to represent as under:

1. Section 234F has been introduced with a view to ensure that returns are filed within the due dates specified in section 139(1). However, fees proposed under section 234F will be leviable on all assessees who have furnished return beyond the due date specified under section 139(1) irrespective of the reason for such delay and whether all the taxes have been paid through TDS or advance tax. The earlier provisions of section 271F provided for discretionary levy of penalty of Rs. 5,000/- by the Assessing Officer but the fee u/s 234F is a compulsory fees to be paid without considering any reasonable cause of the assessees.

Also the assessee can not justify his cause of delay under any appeal.

2. The time period for filing of ITR has also been reduced from 2 years to 1 year and the interest u/s 234-A, 234-B and 234-C continue to be levied. When the interest for late filing of ITR u/s 234-A is already being levied, the fee u/s 234F is a double whammy and is an injustice to the assessee.

3. Unfortunately, this new section 234F does not give you any opportunity to justify the reason for late filing of returns. Whatever may be the practical difficulties, calamities, medical emergencies, if one is late in filing the income tax returns, one has to bear the brunt of it.

4. As per the present TDS provisions under the Act , the TDS payable as on 31/03/2018 is to be paid by 30/04/2018, the relevant quarterly e-TDS statement for Q4 is required to be filed by 31/05/2018 and the TDS certificates are to be issued by 15/06/2018. Once the assessee receives the TDS certificates by 15/06/2018 he is practically left with only one and a half months to file his income tax return that becomes due by 31/07/2018. Besides it is often seen that a TDS deductor either does not file his quarterly e-TDS statements, or files it late or files a wrong statement, consequently making the innocent deductee suffer for his TDS credit. This in turn causes forcible delay in filing his personal returns.

5. For A.Y. 2018-19, The Schema for the online return filing for ITR 2 and ITR 3 have been updated and changed as late as on 7th July, 2018 and for ITR 5 the same have been updated and changed as late as on 13th July, 2018 making it difficult for the assessees and tax professionals to file the ITRs within the due date.

6. Further, the due date of filing of ITR u/s 139(1), in the present case by 31/07/2018, gives the time for filing of ITR for 4 months i.e. from 1st April, 2018 to 31st July, 2018. However, the new online tax filing utility was not available as on 1st April, 2018 and also considering the various other contradictory provisions such as the TDS certificate receipt due date of 15th June, 2018 and the amendment and updation of Schema till as late as 13th July, 2018, for all practical purposes, the ITR filing available time is limited to less than a month.

7. The small and SME businessmen are also presently coping up with the GST filing difficulties and hence may not be able to cope up with the ITR filings by 31st July, 2018.

8. Off late there has been heavy rainfall since the first week of July in most parts of the country and hence it is also becoming administratively difficult for the assessees to comply with the various statutory deadlines including the ITR filing deadline by 31st July, 2018.

Though we respect and acknowledge the Income Tax Laws and the levying of the fees u/s 234F, considering all the above difficulties faced by small assessees , we humbly request to not levy the fees u.s. 234F for returns filed for AY 2018/19 and give necessary instructions/issue circular in this regards. If our humble request is accepted, then necessary amendments should also be made in the CPC's return processing software so that at the time of processing of the returns u/s. 143(1) wherever there is a delay in filing the return, the fee u/s. 234F is not automatically levied.

We humbly request you to kindly take into consideration all the facts and circumstances mentioned above and accede to our request in the larger interest of thousands of tax payers of the country.

Thanking you,

We remain,

Yours sincerely

Sd/-

Sunil Gabhawalla
President,
Bombay Chartered Accountants' Society

Sd/-

Chintan Doshi
President,
Ahmedabad Chartered Accountants' Association

Sd/-

Raghavendra T.N.
President
Karnataka State Chartered Accountants' Association

Sd/-

Gyanesh Verma
President
Lucknow Chartered Accountants' Society