

# **THE INCOME TAX BAR, JALANDHAR**

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17<sup>th</sup> September, 2023

Smt.Nirmala Sitharaman Ji,  
Hon'ble Minister of Finance, North Block,  
Government of India,  
New Delhi – 110 001.

Most Respectfully showeth,

Sir,

*Sub:-Representation in connection with deferment or extension of filing/uploading of Form(s) No. 10B/10BB notified vide Notification No.G.S.R.118E dated 21<sup>st</sup> February, 2023.*

The Income Bar Association, Jalandhar is a premier and distinguished bar association comprising of distinguished Chartered Accountants, Advocates, Company Secretaries, Income Tax Practitioners etc. as its members for the past many years. Our association has significantly contributed in the direct and indirect tax stream(s) through the medium of epoch contribution of our worthy members for over a considerable period of time. Our association has produced legal luminaries including judicial officers, prominent writer(s), esteemed speakers, famed intellectuals and renowned professionals on the tax side.

Respectfully we submit for your kind consideration that in the recent past significant amendments have been incorporated in the area of taxation of charitable trust/educational/religious associations and institutions which has created a number of issues besides practical difficulties both on the legal and compliance side for the professionals, trust(s), institutions concerned specially keeping in view the time constraints attached to its filing i.e. 10B/10BB by due date under the Income Tax law. This also consequentially follows filing of Form No. ITR-7 by such trust(s), institutions or associations which are availing the concessions of tax exemptions under the law.

No doubt that such Non-profitable organisations have played a crucial role in the upliftment of society as a whole but the compliance burden attached to the same has somewhere down the line undermined the role of such institutions when introspected and evaluated in terms of the gigantic and enormous responsibility, accountability and transparency attached to the same under the law. One of the conditions stipulated for availing exemptions under section 11 and 12 is a requirement of auditing accounts of the such non-profitable institutions under section 12A(1)(b). On a similar note, the tenth proviso to section 10(23C) requires the institutions approved under the said clause to get the accounts audited.

**a)Introduction of audit reports in form No.10B/10BB vide Notification No.7/2023 dated 21<sup>st</sup> February, 2023.**

Two types of audit reports i.e. Form No.10B which is applicable for section 12AB registered trusts and Form No.10BB which is applicable for section 10(23C) approved entities have been notified vide Notification No.7/2023 dated 21<sup>st</sup> February, 2023 the schema in respect of which has been recently enabled by the department for e-filing on the department's dedicated portal. Form No.10B as notified incorporates in total 49 clauses with separate schedules i.e. about 29 appended thereto in principle. Form No.10BB as notified contains 32 clauses with about 6 schedules appended and made available for filing by the department.

Practically it is cumbersome and laborious to incorporate details in each and every clause besides schedule appended thereto which has since caused a lot of resentment and dissatisfaction amongst lot of professionals on a pan India basis. The trust(s), institutions or associations are also required to File form No.9/10A by the stipulated time for which due date was extended from 31<sup>st</sup> August, 2023 to 31<sup>st</sup> October, 2023 vide Circular No.6 of 2023 dated 24<sup>th</sup> May, 2023.

**b)Introduction of utility/schema for efilng of audit reports notified in Form No.10B/10BB by the department.**

The audit report Form No.10B/Form No.10BB has been enabled very recently by the department on the efilng website of the department. Even the procedure of assigning a Chartered Accountant has been enabled on the very 06<sup>th</sup> September, 2023 with the said audit report forms notified in the first week of September, 2023 itself. The said exercise has unduly extended and enlarged time required for uploading of such forms besides consuming resources on a wide scale. That professionals such as Chartered Accountants, Advocates, Income Tax Professionals etc. have to comply with aforesaid procedures besides complying with audit requirements postulated by section 44AB of the Income Tax Act, 1961 failing which assessee's will be subjected to harsh penalties including prosecution(s) on various counts that follow arising as a result of defaults committed for no lapse on the part of either taxpayers fraternity or the professionals as a whole. In furtherance thereof, income based criteria has been notified with respect to such trust(s), associations or institutions in whose case the total income without giving effect to the provisions of section 11 and 12 or section 10(23C) (iv), (v), (vi), (via) is upto Rs.5 crores or exceeding Rs.5 crores or whether such trust(s), institutions or associations has received any foreign contribution or not or whether such institutions or associations has applied any part of income in India or outside India.

**c)Calibration of utility/schema for efilng of audit reports notified in Form No.10B/10BB by the third party software vendors.**

That the professionals on a pan India basis utilize the services of third party software vendors to make due compliances with the audit related requirements. Such third party software vendors are facing compelling circumstances in calibrating the department's utility/schema enabled for filing of Form(s) with the functionalities notified in case of audit report bearing No.10B/10BB which is resulting into unnecessary inconvenience and causing massive burden both for the taxpayers fraternity at large besides professionals on a wide scale.

**d)Resultant consequences of delay in uploading/filing of audit report forms in 10B/10BB.**

The Income Tax law provides severe penal consequences in case the audit report Form(s) No.10B/10BB are not filed by due date notified in this regard. The said act may also result in disallowing exemptions granted to the institutions/associations which are entitled to claim such tax exemptions as per registrations granted to them. It will result in unwanted litigation(s) and will cause enormous dent in the entire filing process which needs to be taken care of at the very outset by the department.

**e)Humble prayer in light of the circumstances enunciated above.**

The above said circumstances without any thought require your immediate attention and we in due consequence thereof humbly pray that the filing/uploading of audit report form No.10B/10BB be deferred and be made effective from the current financial year to conclude on 31<sup>st</sup> March, 2024 relevant to assessment year 2024-25. However in case your goodself fails to find favour with the above noted circumstances enunciated for your kind consideration, then it is prayed that the due dates of filing such audit forms i.e. **Form No.10B/10BB be extended from the present date i.e. 30<sup>th</sup> September, 2023 to 31<sup>st</sup> January, 2024, filing of ITR-7 be also extended from the present date i.e. 31<sup>st</sup> October, 2023 to 29<sup>th</sup> February, 2024 and filing of Form No.9A/10 be**

**also extended from the present date 31<sup>st</sup> October, 2023 to 31<sup>st</sup> March, 2024.**

It is also prayed that in consequence of the tax-exemptions provided to such trust(s), associations or institutions, the above said deferred filing will in any case not impact the tax collections/base of the nation and will certainly ease the compliance burden for various stakeholders interested on a wide scale. Furthermore in cases of delayed filing of Form No.9A/10/10B/10BB, due immunity be extended to the professionals, tax-payers and/or various stakeholders and no harsh consequences be pressed into service at least for the assessment year 2023-24. Lenient, moderate and merciful view be taken in the interest of justice, equity and fair-play.

Thanking you,

Yours sincerely,  
For the Income Tax Bar, Jalandhar

Sd/-  
**CA.Jatinder Bhatia**  
President

Sd/-  
**Adv.Gulshan Kataria**  
Secretary

Sd/-  
**Adv.Sameer Bhatia**  
Member (Academic Committee)

**CC:-**

- 1)The Hon'ble Prime Minister of India, South Block, New Delhi – 110 001**
- 2)The Hon'ble Minister of State for Finance, South Block, New Delhi – 110 001**
- 2)The Chairman, CBDT, North Block, New Delhi – 110 001**
- 3)Electronic/Press media.**