



C N K News Flash- Changes in Tax Audit Form 3CD

CNK & Associates LLP

www.cnkindia.com

Central Board of Direct Taxes (CBDT) amends the Tax Audit Form No. 3CD

Gist of Important Changes:

CBDT has amended the Tax Audit Form (Form 3CD) with **effect from 20th August 2018**

Since the amendment comes into force w.e.f 20th August 2018 **tax audit reports issued and uploaded before 20th August 2018 shall be in old Form 3CD** without incorporating these amendments.

Following are key new reporting requirements in the amended Form No. 3CD.

i. Clause 4: Disclosure of Goods and Service Tax number

With GST coming into force from 1st July 2017, the GSTIN (Goods and service tax number) is now required to be mentioned.

ii. Clause 19: Deduction allowable for investment in new plant and Machinery in certain notified backward areas

This clause requires specifying the deduction claimed u/s 32AD (1) in case of an Assessee who has

- a. set up an undertaking for manufacture or production of any article or thing in notified backward areas of Andhra Pradesh, Bihar, West Bengal and Telangana; **and**
- b. has claimed deduction of 15% of the actual cost of new assets in the year of its installation.

iii. Clause 24: Disclosure of deemed gains

Where deduction u/s 32AD (referred above) has been claimed and the relevant assets are transferred within 5 years from the date of its installation, the amount of deduction claimed earlier becomes taxable subject to certain exceptions. The new clause requires specifying the taxable amount.

iv. Clause 26: Disclosure of sum payable to Indian railways for use of assets

As per the provisions of Section 43B, certain expenses are allowed as a deduction on actual payment before the due date for furnishing the return of income. The disclosure now includes sum payable to railways for use of assets.

v. Clause 29A: Disclosure of advance received against capital asset

Disclosure is required where any sum of money is received as an advance or otherwise in the course of negotiation for transfer of a **capital asset, if**

- i. Such sum is forfeited **and**
- ii. The negotiations do not result in transfer of such capital asset.

The said amount will be chargeable to tax under the head income from other sources

vi. Clause 29B: Disclosure of receipt of money by way of gift or property by way of gift or for inadequate consideration in excess of Rs 50,000/-

Disclosure is required where any person receives

- a. Sum of money as and by way of gift in excess of Rs 50,000/- or
- b. any specified movable or immovable property by way of gift or for inadequate consideration which exceeds its Fair Market Value by Rs.50,000/-

The above disclosure will not be applicable under certain specified situations.

vii. Clause 30A: Disclosure of particulars of Primary and Secondary Adjustment to transfer pricing

In case primary adjustment is made during the previous year, for transactions entered into with Associated Enterprise (**AE**), resulting in excess money lying with AE, which is not repatriated to India within prescribed time, would be treated as an advance made to the AE. On the said advance interest shall be computed in manner as prescribed, resulting in secondary adjustments. Particulars of the said primary adjustments and consequential secondary adjustment on account of interest are to be disclosed.

- viii. Clause 30B: Disclosure of Limitation on interest deduction in case of borrowing from an Associated Enterprise**
Where an **Indian company or a permanent establishment of a foreign company** has borrowed from its associated enterprise, and the interest expenditure on the said borrowing exceeds Rs. 1 crore; details regarding the same will now have to be disclosed.
- ix. Clause 30C: Disclosure of particulars of Impermissible Avoidance Arrangement - General Anti-Avoidance Rule (GAAR)**
In case the assessee has entered into an impermissible avoidance arrangement as referred to in Section 96 of the Act, particulars of the said arrangement will now have to be disclosed

The provisions of GAAR can be invoked only if the value of the said arrangement results in tax benefit of more than Rs. 3 crores. The new clause in Form 3CD lacks clarity
- x. Clause 31: Disclosure for receipts/payments by way of cash, bearer cheques etc. of Rs. 2,00,000/- or more**
There are certain penal consequences if the assessee receives payment of Rs. 2 lakh or more in cash or by bearer cheques etc. Accordingly, such transactions will have to be disclosed by the payer as well as the payee.
- xi. Clause 34(b): Reporting of details with regards to transactions not disclosed in TDS/TCS return**
Disclosure is to be made of transactions which were supposed to be reported but are not reported in the prescribed statement of tax deducted or collected.
- xii. Clause 36A: Disclosure of Deemed Dividend**
Disclosure is to be made of receipt of any amount in the nature of dividend covered under Section 2(22)(e) of the Act
- xiii. Clause 42: Reporting of details pertaining to statement in Form 61, Form 61A or Form 61B furnished by assessee**
Particulars of compliance/noncompliance regarding furnishing of the below mentioned forms is now required to be disclosed.

Form 61 - Certain specified transactions require quoting of PAN. If the concerned person does not have PAN, the said person is required to give declaration in Form 60. The particulars of the said declaration have to be furnished in Form 61.
Form 61A – Reporting in the said Form is applicable to persons who have entered into certain specified financial transactions as mentioned in Rule 114E read with Section 285BA of the Act.
Form 61B - Reporting in the said Form is applicable to a financial institution.

The information furnished in above forms is captured by the tax department as Annual Information Return (AIR)
- xiv. Clause 43: Furnishing of particulars of CbCR report in respect of international group**
If the assessee or its parent entity or alternate reporting entity, is liable to furnish Country by Country Report (**CbCR**) as provided in Section 286(2), then the particulars of the said CbCR along with the date of furnishing of the said report is to be disclosed.
- xv. Clause 44: Break-up of total expenditure of entities registered or not registered under GST**
The assessee is required to give details of expenses incurred classified as under:
- a. Payment to entities registered under GST giving further break up of expenses exempt from GST, expenses falling under Composition Scheme and others.
 - b. Payment to entities not registered under GST

C N K Comments:

“The above reporting requirements are very onerous and will substantially increase compliance burden of taxpayers and Chartered Accountants.”

DISCLAIMER AND STATUTORY NOTICE

This e-publication is published by CNK & Associates LLP, solely for the purposes of providing necessary information to employees, clients and other business associates. Whilst every care has been taken in the preparation of this publication, it may contain inadvertent errors for which we shall not be held responsible.

This document is a proprietary material created and compiled by CNK & Associates, LLP. All rights reserved. This newsletter or any portion thereof may not be reproduced or sold in any manner whatsoever without the consent of the publisher.

This publication is not intended for advertisement and/or for solicitation of work.

Our Offices

Mumbai

Mistry Bhavan, 3rd Floor,
Dinshaw Vachha Road, Churchgate
Mumbai 400 020
Tel No. +91 22 6623 0600

Mumbai (Suburban Office)

501/502, Narain Chambers,
M.G. Road, Vile Parle (East)
Mumbai 400 057
Tel No +91 22 6250 7600

Ahmedabad

'Hrishikesh',
2nd Floor, Vasantbaug Society,
Opp Water Tank, Gulbai Tekra
Ahmedabad 380 006
Tel. No. +91 79 2630 6530

Bengaluru

96, 7th Cross,
Domlur,
Bengaluru 560 071
Tel. No.+91 80 2535 1353

Chennai

Kochu Bhavan
Ground Floor, Old No 62/1, New No 57,
McNichols Road, Chetpet
Chennai 600 031
Tel No. +91 44 4384 9695

New Delhi

Suite 1101,
KLJ Towers,NSP
New Delhi 110 034
Tel No.+91 11 2735 7350

Pune

4, Kumar Panorama, 1st Floor
45/18 Shankersth Road
Pune 411 037
Tel No. + 91 20 2645 7251/52

Vadodara

C-201/202, Shree Siddhi Vinayak Complex,
Faramji Road, Alkapuri,
Vadodara 390 005
Tel. No. +91 265 234 3483

Our Overseas Office

Dubai

Suite#17.06 Dubai World Trade Centre
Shaikh Zayed Road, Dubai, P.O.Box.454442
Tel. No. +971 04 355 9533