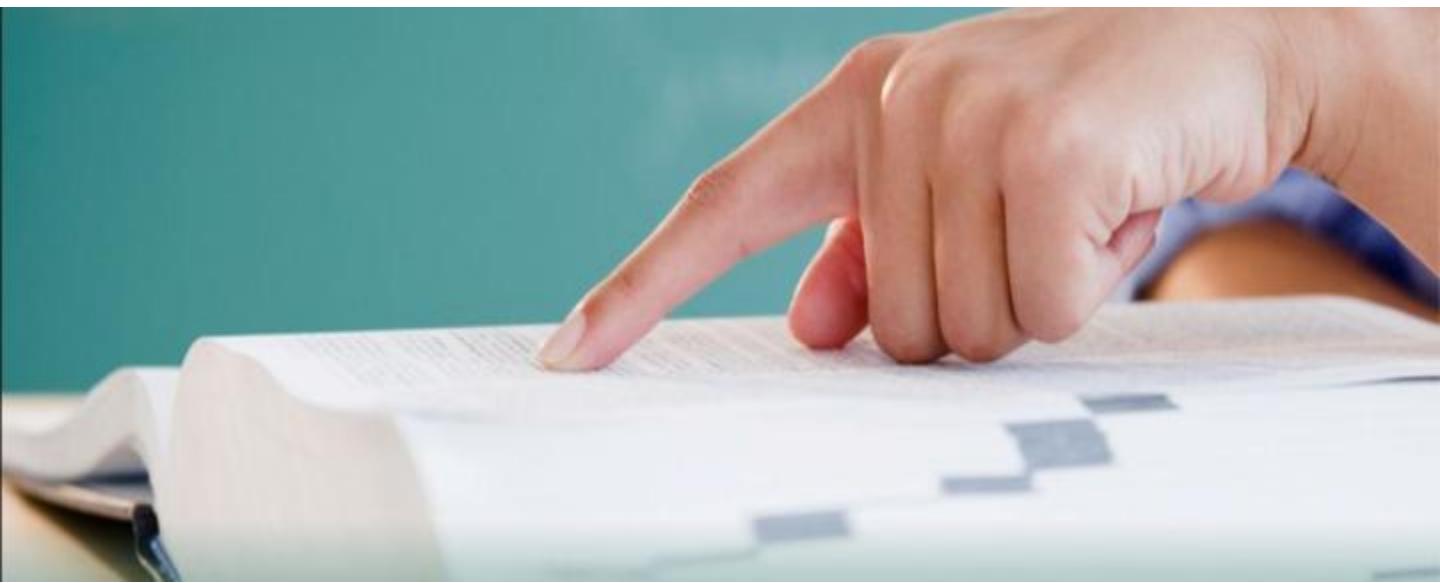


Tax audit report requirements amended

1 August 2014



First Notes on:

Financial Reporting

Corporate law updates

Regulatory and other information

Disclosures

Sector:

All

Banking and Insurance

Information, Communication, Entertainment

Consumer and Industrial Markets

Infrastructure and Government

Relevant to:

All

Audit committee

CFO

Others

Transition:

Immediately

Within the next 3 months

Post 3 months but within 6 months

Post 6 months

The Central Board of Direct Taxes (CBDT)¹ has amended Form No. 3CA, Form No. 3CB and Form No. 3CD² of the Income-tax Rules, 1962 (the Rules). The amended rules would come into force on the date of their publication in the Official Gazette.

The amended Form No. 3CA and 3CB now requires explicit mention of the observations/qualifications, if any, by the auditors while issuing the true and correct audit report. There are a number of amendments to the Form No. 3CD and this issue of First Notes highlights some of the important amendments. We have summarised the amendments to the Form No. 3CD into three sections, namely, new clauses, amendments to the existing clauses, and deleted clauses as follows:

New clauses

Clause No.	Clause description in the Form No. 3CD
4	Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, customs duty, etc. If yes, furnish the registration number or any other identification number allotted for the same.
8	Indicate the relevant clause of section 44AB of Income Tax Act, 1961 (the IT Act) under which the audit has been conducted.
17	<i>Transfer of land, building or both – section 43CA/50C of the IT Act</i> Where any land, building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or section 50C of the IT Act, furnish details as prescribed.

1. Vide the Income-tax (7th Amendment) Rules, 2014 dated 25 July 2014
2. Appendix II of the Income-tax Rules, 1962

Clause No.	Clause description in the Form No. 3CD
21(b)	<p><i>Amounts inadmissible under section 40(a)</i></p> <ul style="list-style-type: none"> ▪ In case of payments made to non-resident referred to in sub-clause (i) for interest, royalty, fees for technical services (FTS) or any other sum chargeable under the IT Act, following details are required to be given: <ul style="list-style-type: none"> ➢ Details of payment on which tax is not deducted ➢ Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under section 200(1) of the IT Act. ▪ In case of payment made to residents for any interest, commission or brokerage, rent, royalty, fees for professional services or FTS, amounts payable to a contractor or sub-contractor, following details are required to be given: <ul style="list-style-type: none"> ➢ Details of payments on which tax is not deducted ➢ Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under section 139(1) of the IT Act. ▪ Any sum paid on account of wealth-tax. ▪ Any amount paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on or which is appropriated directly or indirectly from a State Government undertaking by the State Government. ▪ Any payment which is chargeable under the head “Salaries”, if it is payable outside India or to a non-resident and if tax has not been paid thereon nor deducted therefrom. The details regarding the date of payment, amount of payment and name and address of the payee are to be provided. ▪ Any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head “Salaries”. ▪ Any tax actually paid by an employer referred in section 10(10CC) of the IT Act.
21(d)(B)	Details of amounts deemed to be profits under section 40A(3A) of the IT Act.
28	<p><i>Property received without consideration or for inadequate consideration</i></p> <p>Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viiia) of the IT Act, if yes, details of the same to be furnished.</p>
29	Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib) of the IT Act, if yes, details of the same to be furnished.
32(c)	<p><i>Losses in speculation business</i></p> <p>Whether the assessee has incurred any speculation loss referred to in section 73 of the IT Act during the previous year, if yes, please furnish the details.</p>
32(d)	Whether the assessee has incurred any loss referred to in section 73A of the IT Act in respect of any specified business during the previous year, if yes, furnish relevant details.

Clause No.	Clause description in the Form No. 3CD
32(e)	In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in Explanation to section 73 of the IT Act, if yes, please furnish the details of speculation loss, if any, incurred during the previous year.
34(b)	<i>Tax deducted or tax collected within the prescribed time</i> Whether the assessee has furnished the statement of tax deducted or tax collected within the prescribed time. If not, please furnish the relevant details.
34(c)	<i>Interest under section 201(1A) or section 206C(7) of the IT Act</i> Whether the assessee is liable to pay interest under section 201(1A) or section 206C(7) of the IT Act. If yes, furnish the relevant details.
36	<i>Tax on distributed profits of domestic companies</i> In addition to the total amount of distributed profits, total tax paid thereon and dates of payment, following additional details are required: <ul style="list-style-type: none"> amount of reduction as referred to in section 115-O(1A)(i) of the IT Act amount of reduction as referred to in section 115-O(1A)(ii) of the IT Act.
39	<i>Service tax</i> Whether any audit was conducted under section 72A of the Finance Act, 1994 in relation to valuation of taxable services, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.
41	<i>Demand/refund issued</i> Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than the IT Act and Wealth tax Act, 1957 along with details of relevant proceedings.

Amendments to the existing clauses

Clause No.	Clause description in the Form No. 3CD
11(b)	This clause additionally requires mention of the address/es at which the books of accounts are kept.
33	This clause additionally requires section-wise details of deductions, if any, admissible under Chapter III (section 10A, section 10AA of the IT Act) as well.
37	This clause now requires submission of disagreement on any matter/item/value/quantity as reported/identified by the cost auditor instead of submitting the cost audit report.
38	This clause now requires submission of disagreement on any matter/item/value/quantity as reported/identified in an audit conducted under the Central Excise Act, 1944 instead of submitting the report of such auditor.
–	Annexure (I) relating to abstract of balance sheet and statement of profit and loss and Annexure (II) relating to the value of the fringe benefits are no longer required to be annexed to the Form No. 3CD.

Deleted clauses

Clause No.	Clause description in the pre-revised Form No. 3CD
21(d) (A)	Deleted requirement to furnish certificate from the assessee regarding payments relating to any expenditure covered under section 40A(3) of the IT Act that the payments were made by account payee cheques drawn on a bank or account payee bank draft, as the case may be.

Our comments

Due to the amendments made in the Form No. 3CD, the reporting responsibilities of the assessee and the auditor have increased. On the direct tax front, the revised Form No. 3CD now requires submission of the valuation related details of transfer of land, building or both for a lower consideration, receipt of share of private limited company without consideration or for inadequate consideration and receipt of any consideration for issue of shares which exceeds the fair market value of the shares.

As information on indirect taxes are now required to be reported, this highlights that there is a change in the perspective of computation of income by the CBDT. The assessee may have to put in place systems and processes to collect the information required by the amended Form No. 3CD.

The bottom line

The revision to the tax audit report has added new responsibilities for most companies and auditors. These changes require immediate attention given the potentially short time-frame for implementation.



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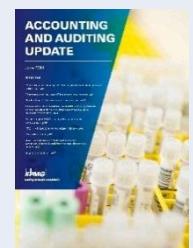
On 10 July 2014, the Finance Minister of India announced a roadmap and definite dates for convergence with the International Financial Reporting Standards (IFRS) for Indian companies as part of his Union Budget speech. The Finance Minister proposed to make Indian Accounting Standards (Ind AS) converged with IFRS mandatory for Indian companies from the financial year 2016-17. He also stated that 'income computation and disclosure standards' (tax accounting standards) would be notified separately. TAS are expected to take effect from 1 April 2015 and in relation to the assessment year 2015-16 and subsequent years.

This is a significant development and will most likely apply to several companies. We discussed the implementation challenges put forth by the convergence with IFRS and use of tax accounting standards for the corporate India.

July 2014



June 2014



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