

16<sup>th</sup> December, 2019

To  
**Smt. Nirmala Sitharaman**  
The Hon'ble Union Minister of Finance,  
Ministry of Finance,  
Government of India,  
North Block,  
New Delhi - 110001

**Durgesh V. Buch**  
President

**Natubhai Patel**  
Sr. Vice President

**Bhargav Thakkar**  
Vice President

**Sanjeev Chhajer**  
Secretary

**Dilip M. Padhya**  
Secretary (R)

**Pathik S. Patwari**  
Treasurer

**Sub: Request for extension of effective date for implementing  
Section 269SU and related issues that require immediate  
consideration**

Respected Madam,

At the outset, we would like to place on record our sincere appreciation to your good office for having adopted several fiscal and non-fiscal measures to move towards a less cash economy, to reduce the generation and circulation of black money and to promote the digital economy. We are confident that the slew of measures planned by the government will address several intricate problems being faced by the economy and will help the government to achieve the target of making India a five-trillion dollar digital economy in the next five years.

**Role of Gujarat Chamber of Commerce and Industry through its Direct Tax Committee inter alia is to be a bridge between tax payers and tax administration.**

The Gujarat Chamber of Commerce & Industry works to create and sustain an environment conducive to the growth of industry and trade in Gujarat, partnering both of them through advisory processes. Founded in 1949, the Chamber has created a niche with the government and other regulatory agencies. It is the one of the leading institutions for making effective representation with respect to Income Tax and Allied laws.

With 4000 direct members which include over 200 Trade and Industry Associations and leading Chambers of Commerce of the State, GCCI is growing to serve and serving to grow. It is affiliated with apex bodies like Federation of Indian Chambers of Commerce & Industry [FICCI], Indian National Committee of International Chamber of Commerce [ICC], All India Organization of Employers [AIOE], and the Associated Chambers of Commerce & Industry [ASSOCHAM].

The primary objective of GCCCI is not only to work for the cause of the trade but also to educate the public at large and to act as a catalyst between citizens and the government authorities. The Direct Tax Committee of GCCCI is one of the most important committees of GCCCI which is engaged in the matters related to direct taxes and makes representations to the Government, Central Board of Direct Taxes and at other appropriate forums from time to time on various legislative amendments and issues concerning direct taxes and endeavours to be a bridge between the tax payers and the tax administration.

**We are writing this letter to your good self to request for extension of effective date for implementing Section 269SU and following related issues that require immediate consideration:**

## **PRESCRIBED MODES OF PAYMENT HAVE YET NOT BEEN NOTIFIED**

Finance Act, 2019 inserted the section 269SU in the Income Tax Act, 1961, to provide that every person carrying on business shall provide the facility for accepting payment through prescribed electronic modes, in addition to the facility for other electronic modes of payment, if any, being provided by such person if his turnover in business exceeds Rs. 50 Crs. during the immediately preceding tax year.

Furthermore, it also inserted a new penalty provision for levy of penalty of Rs. 5,000 per day in case of default in providing such facility. The above referred amendments have come into effect from 1<sup>st</sup> November, 2019.

There are low-cost digital modes of payment such as BHIM UPI, UPI-QR Code, Aadhaar Pay, certain debit cards, NEFT, RTGS, which can be used to promote cashless payments. **However, these modes have not yet been notified / prescribed under section 269SU.**

The Government, vide notice dated 18<sup>th</sup> October, 2019, had invited applications from banks and payment system providers operating authorized payment systems under the Payment and Settlement System Act, 2007 that are willing for their payment systems to be taken into consideration for being prescribed under Section 269SU. The expression of intent had to be sent by e-mail by 28<sup>th</sup> October 2019. Banks and payment system operators intending to respond to the Government' notice will need to carefully evaluate the impact of the notification on their different revenue streams and operating models. Once the required modes are identified and prescribed, the taxpayers should be informed in advance and be given adequate time to prepare and implement the section.

**Since, no prescribed modes have been notified by the government we would request you to extend effective date for implementation of Section 269 SU from 1<sup>st</sup> November, 2019 to 1<sup>st</sup> April, 2020.**

**Durgesh V. Buch**  
President

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Sr. Vice President

**Bhargav Thakkar**  
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## **AMBIGUITY ON THE FOLLOWING ISSUES CONCERNING SECTION 269SU**

- The section should make some exceptions for specific taxpayers where products manufactured or sold are high in value and the specified limit is exceeded with a few transactions. They may not have many customers / transactions so having multiple prescribed modes would only add to their compliance costs without any corresponding benefits.
- The provision does not make any distinction between persons carrying on business in India, who are residents and non-residents. There is no clarity on whether the provision is applicable only to residents or non residents as well.
- The section does not mention whether threshold of Rs. 50 Crs. is reckoned on a year-on-year basis or not. For instance, if a taxpayer's turnover exceeded Rs. 50 Crs. in F.Y. 2018-19, such taxpayer will need to mandatorily offer the prescribed electronic mode of payment on or after 1<sup>st</sup> November 2019 till 31<sup>st</sup> March, 2020. But, if the same taxpayer's turnover in financial year 2019-20 falls below the specified limit whether he is required to mandatorily offer such facility in tax year 2020-21 or not is yet not clarified.
- It also does not make any distinction between payments by intermediate customers (B2B transactions) and payments by final consumers (B2C transactions). Thus, for instance, an industrial conglomerate dealing only B2B industries having proper banking facilities or an FMCG manufacturer dealing only through distributors may also need to provide such facilities to avoid penalty implications. Even banks and payment system operators which receive payments from their customers may need to provide such facility for their own income transactions (like interest or processing fees). Hence, specific exclusions should be carved out from the section.
- The section does not clearly specify whether the facility is required to be extended only to customers or any person from whom one has to receive payment or for other transactions like acceptance of loans, deposits, reimbursement of expenses etc.
- The mandate is applicable to all persons carrying on "business". It is not clear if the provisions are applicable to persons carrying on a "profession". Different provisions under the Income Tax Act, as also the judiciary, make distinction between "business" and "profession". Hence appropriate clarifications should be issued in this respect.

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## IMPARTING PROPER GUIDANCE AND REQUIRED CLARIFICATIONS THROUGH FREQUENTLY ASKED QUESTIONS

India moved a step closer towards becoming a cashless economy with the launch of Unified Payment Interface (UPI). However, the general awareness relating to UPI and applications that provide UPI feature is very less. Businesses that have been running on traditional modes of payments like the cheques and cash, would need to be guided properly as to the benefits and risks of using the new alternative modes of payments.

Apart from mass scale awareness drive, various issues that may crop up while implementing section 269SU and which would require immediate clarification should be compiled and issued beforehand in the form of “Frequently Asked Questions”. This would go a long way in assisting the businesses and getting taxpayers confidence on the new proposed scheme of payments.

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## PROPER DISEMINATION OF PURPOSE OF INTRODUCING THE SECTION AND RELEVANCE OF TRADITIONAL MODES OF PAYMENT

While the provision is well-intended and in the right spirit, it has the potential to increase compliance costs for businesses and/or may adversely impact some entities. It is imperative to give proper information to the taxpayers regarding the intent of the legislature and also sufficient time to understand the implications of the new electronic modes.

**Further, there is a need to make adequate and exhaustive efforts towards marketing and informing the stakeholders that the modes other than that part from the new modes prescribed for the purpose of section 269SU, the traditional modes of payments for instance, cheques, cash, Bank demand draft etc. would still be available for payment.**

## MANDATING CYBER FRAUD INSURANCE

Web world or cyberspace is a massive community of billions of users and websites. In this Age of technology and easy access to the internet the rate of crime especially, of cybercrime has increased many fold. In 2017, 56% of cyber-crime cases registered were for the motive of fraud (12,213 out of 21,796 cases). The rate at which cybercrime is rising is alarming and not only the big players but even the small and medium industries are also adversely affected by it.

In light of the above, tax payers need to protect themselves and their assets even in the virtual realm. In addition to taking care with privacy controls and investing in the best up to date security software, having an insurance cover for cybercrime should be made mandatory for the companies providing these alternative digital modes of payment.

We would be very grateful if your good-self would take an early action in this regard and have a positive consideration of our requests. This will be very useful for the taxation fraternity and also for the trade and industry. In conclusion, we request that a suitable orders / clarification may be issued to this effect at the earliest.

With regards,

Sincerely,



**Jainik Vakil**  
Chairman  
Direct Tax Committee  
GCCCI



**Bakul Parikh**  
Co-Chairman  
Direct-Tax Committee  
GCCCI

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**Copy To:**

- 1. Shri Pramod Chandra Mody, IRS**  
Chairman – CBDT
- 2. Shri Ajai Das Mehrotra, IRS**  
Principal Chief Commissioner, Income Tax  
Gujarat