

The Income Declaration Scheme, 2016

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Topics Covered...



- ❑ The Income Declaration Scheme, 2016
- ❑ The Income Declaration Scheme Rules, 2016
- ❑ Relevant dates under the Scheme [Notification 32 & 59 of 2016]
- ❑ Explanatory notes on the provisions of the Scheme [Circular No.16 of 2016]
- ❑ Clarifications on the Scheme [Circular No. 17,24,25,27&29 of 2016]
- ❑ Jurisdiction for the Scheme [Circular No.19 of 2016]

Introduction

- ❑ Finance Act, 2016 introduced The Income Declaration Scheme, 2016 ('**The Scheme**') under Chapter – IX of Finance Act, 2016.
- ❑ An opportunity is provided to persons who have not paid full taxes in the past to come forward and declare undisclosed income in respect of income relating to any assessment year upto AY 2016-17 (i.e. upto FY 2015-16).
- ❑ The Scheme requires payment of tax @ 30%, surcharge @ 7.5% and penalty @ 7.5% aggregating to 45% of undisclosed income.
- ❑ Declaration may be made in respect of any income or income in the form of investment in any asset **located in India** and acquired from income chargeable to tax under the Income-tax Act for any assessment year prior to AY 2017-18.

Rationale for introducing scheme:

- ❑ A limited period Compliance Window is introduced for domestic taxpayers to declare undisclosed income or income represented in the form of any asset and clear up their past tax transgressions by paying tax, surcharge & penalty of 45% of the undisclosed income.
- ❑ The scheme aims at removal of black money from the economy and to provide an opportunity to earlier non-compliant person to move to the category of compliant.
- ❑ The Krishi Kalyan surcharge is levied at 7.5% of undisclosed income to be used for agriculture & rural economy.

Advantages of the Scheme

CBDT vide Circular No. 25/2016 dt 30.06.2016 has issued clarification under FAQ No. 9 which reads as follows:

“What are the advantages of the Scheme as against declaring the past undisclosed income as current income in the return of income to be filed for Assessment Year 2017-18? How will the Department identify the year in which the undisclosed income was earned”

Clarification: In this regard, the following points may be noted:

- ❑ Declaration of past undisclosed income in the current year amounts to false verification of return of income which shall attract prosecution under the Income-tax Act.

Advantages of the Scheme.....

- If anyone attempts to disclose past undisclosed income in the current year, he will have to explain the source of income and substantiate the manner of earning the said income. In case of disclosure under the Scheme, there is no need to explain the source of income.
- Declaration of past undisclosed income in the current year cannot explain assets acquired in the past or provide any immunity in respect of the same.

Advantages of the Scheme.....

- The Income-tax Department is in receipt of large volume of information from various sources such as registrars of property, banks, financial institutions, stock exchanges, tax deductors etc. The Department has launched a comprehensive data-mining and compliance management programme in the form of '**Project Insight**' which will generate a large volume of reliable information about financial transactions undertaken by taxpayers and the relevant year in which the transaction was undertaken.

Relevant dates under the Scheme

The Scheme shall commence from	1 st June, 2016		
The declaration under this Scheme may be made on or before	30 th September, 2016	Notification No. 32/2016 dt 19-05-2016	
The tax, surcharge & penalty shall be paid on or before	- 25%	30 th November, 2016	Notification No. 59/2016 dt 20-07-2016
	- 25%	31 st March, 2017	
	- 50%	30 th September, 2017	
The Benamidar shall transfer the asset to the declarant, so that the undisclosed income declared is not treated as benami transaction, on or before	30 th September, 2017	Notification No. 32/2016 dt 19-05-2016	

Chapter IX of Finance Act, 2016

Definitions - Section 182

- "declarant" means a person making the declaration under sub-section (1) of section 183;

"Person" as defined u/s 2(31) of the Income Tax Act

"person" includes—

- | | |
|-------------------------------|---------------------------------------------------------------------------------------------|
| i. an individual, | v. an association of persons or a body of |
| ii. a Hindu undivided family, | individuals, whether incorporated or not, |
| iii. a company, | vi. a local authority, and |
| iv. a firm, | vii. every artificial juridical person, not falling within any of the preceding sub-clauses |

Explanation.—For the purposes of this clause, an AOP or BOI or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains;

Sec. 182- Definitions.....

- "Income-tax Act" means the Income-tax Act, 1961.
- all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

The Scheme is available to every person, whether resident or nonresident.
[FAQ No. 3 dt. 27.06.2016]

Declaration of Undisclosed income- Section 183

- Declaration may be made by any person in respect of any income chargeable to tax under the Income Tax Act prior to A.Y. 2017-18 (i.e. upto AY 2016-17) where:
 - i. Return u/s 139 of the Income Tax Act is not furnished, or
 - ii. Such income is not disclosed in the Return furnished by that person before the commencement of Scheme, or
 - iii. Such income has escaped assessment by reason of omission or failure on the part of such person to furnish a return or to disclose fully and truly all material facts necessary to assessment or otherwise.

Sec. 183- Declaration of Undisclosed income...

- ❑ Where the income is declared in the form of investment in any asset, the FMV of such asset as on the date of commencement of scheme, shall be deemed to be undisclosed income.
- ❑ The FMV of such asset shall be determined in accordance with **Rule 3** of the Income Declaration Scheme Rules, 2016.
- ❑ No deduction in respect of any expenditure or allowance shall be allowed against the income declared under the Scheme.

Charge of Tax, Surcharge & Penalty

- ❑ The income declared u/s 183 shall be chargeable to tax @ 30% of the such undisclosed income **[Section 184]**
- ❑ Surcharge by the name '*Krishi Kalyan Cess*' is levied @ 25% of such tax (i.e. 7.5% of undisclosed income) so as to fulfil the commitment of Government for the welfare of the farmers. **[Section 184]**
- ❑ In addition to tax and surcharge, the declarant is liable to penalty @ 25% of such tax (i.e. 7.5% of undisclosed income). **[Section 185]**

Thus, the declarant is liable to pay a total of 45% of the undisclosed income under the Scheme.

Manner of Declaration – Section 186

- ❑ The Declaration of undisclosed income shall be made to the **Jurisdictional Principal Commissioner or the Commissioner**, as the case may be, who exercises jurisdiction u/s 120 of the Income-tax Act, 1961, as notified by CBDT from time to time over such declarant. **[Circular No. 19/2016 dt 25-05-2016]**
- ❑ The CIT, CPC, Bengaluru shall be deemed to be Principal Commissioner or the Commissioner for the purposes of declaration furnished electronically under digital signature. **[Circular No. 31/2016 dt 30-08-2016]**
- ❑ The Declaration of undisclosed income is to be made in Form 1 as per Rule 4(1). **[Form 1 notified by Notification No. 33/2016, F.No.142/8/2016-TPL]**

Sec. 186- Manner of Declaration...

- ❑ The declaration shall be signed by,—

Status of Declarant	Declaration to be made by
Individual	<ul style="list-style-type: none"> • Individual himself; • where individual is absent from India – person authorized by him; • where the individual is mentally incapacitated, his guardian or other person competent to act on his behalf.
HUF	<ul style="list-style-type: none"> • Karta; • where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of the HUF

Sec. 186- Manner of Declaration...

Status of Declarant	Declaration to be made by
Company	<ul style="list-style-type: none"> • Managing Director; • where for any unavoidable reason the managing director is not able to sign, or there is no managing director, by any director.
Firm	<ul style="list-style-type: none"> • Managing partner; • where for any unavoidable reason the managing partner is not able to sign, or there is no managing partner, by any partner, not being a minor.
Any other association	Any member of the association or the principal officer.
Any other person	That person or by some other person competent to act on his behalf.

Sec. 186- Manner of Declaration...

- Person shall not be entitled to make declaration in respect his income or as a representative assessee in respect of the income of any other person, once he has made declaration in respect of his income or income of such other person and any such declaration, if made, shall be void.

Time for payment of Tax – Section 187

- ❑ Tax , Surcharge and Penalty payable shall be paid in following manner

Amount	On or before
25%	30 th November, 2016
25%	31 st March, 2017
50%	30 th September, 2017

- ❑ Declarant shall file proof of payment of tax, surcharge & penalty with the Jurisdictional Principal Commissioner or Commissioner as the case may be.
- ❑ If declarant fails to pay the tax, surcharge & penalty within time, the declaration filed shall be void.

Form 3 has been prescribed under Rule 4 for the purpose of intimation of payment u/s 187(1) by the declarant to the Principal CIT or CIT.

Clarification by CBDT....

Whether there is any time limit for the declarant under the Scheme to file Form-3? [FAQ No. 7 dt. 14.07.2016]

- ❑ As per section 187(2) of the Finance Act, 2016, the time limit for filing Form-3 is same as the time limit notified for payment of tax, surcharge and penalty under the Scheme.

Undisclosed income declared not to be included in total income – Section 188

Undisclosed income declared shall not to be included in the total income of the declarant for any assessment year once the payment of tax, surcharge and penalty has been made in accordance with the scheme.

Undisclosed income declared not to affect finality of completed assessments – Section 189

Declarant shall not be entitled to reopen any assessment or reassessment made under the Income Tax Act, 1961 or Wealth Tax Act, 1957 or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment,

in respect of undisclosed income declared under the scheme

Issue....

- Whether any person, other than Declarant, can take benefit in any assessment, reassessment or appeal in his own case on account of taxes paid by the Declarant?
- For instance,
 - XYZ Pvt. Ltd. raised share capital on premium of Rs. 1 crore from Mr. A. The Assessing Officer in the case of XYZ Pvt. Ltd. made addition of Rs. 1 crore to the income of XYZ Pvt. Ltd. on account unexplained credit.
 - On the other hand, Mr. B makes a declaration under this Scheme in respect of Rs. 1 crores stating that Mr. A is benamidar and he has invested money in XYZ Pvt. Ltd. as share capital.
 - Whether XYZ Pvt. Ltd., while in Appeal before CIT(A) or ITAT, can claim that such amount has already been taxed as income of Mr. B and claim benefit on this account?

Whether the amount declared under the Scheme for an earlier assessment year can be taken into account to explain the transaction(s) in the assessment proceedings for subsequent assessment year(s)? [FAQ No. 2 dt. 18.08.2016]

- As per section 189 of the Finance Act, 2016, any declaration made under the Scheme shall not affect finality of completed assessments. However, in an assessment proceeding before the Assessing Officer for an assessment year subsequent to the year for which the income is declared under the Scheme, the income declared for an earlier assessment year can be taken into account to explain the transactions, provided there is a nexus between the income declared and the transactions of the subsequent assessment year.

Undisclosed income not to be treated as benami transaction – Section 190

The Scheme provides immunity from the provisions of the **Benami Transactions (Prohibition) Act, 1988** in respect of the declaration of undisclosed income made in the form of investment in any asset,

if the asset existing in the name of a *benamidar* is transferred to the declarant, being the person who provides the consideration for such asset, or his legal representative, within the period notified by the Central Government **(i.e. on or before 30th September, 2017)**.

Benami Transactions (Prohibition) Act.....

- ❑ The Act aims to curb generation of black money through benami transactions of property and to empower the government to recover such property.
- ❑ **“Benami transaction”** means any transaction in which property is transferred to one person for a consideration paid or provided by another person;
- ❑ **“Property”** means property of any kind, whether movable or immovable, tangible or intangible, and includes any right or interest in such property.
- ❑ An Offence under this Act is non-cognizable and bailable and punishable with imprisonment for a term, which may extend to three years or with fine or with both.

Benami Transactions (Prohibition) Act.....

- The provisions are not applicable in following cases-
 - Where property is purchased by any person in the name of his wife or unmarried daughter and it shall be presumed, unless the contrary is proved, that the said property had been purchased for the benefit of the wife or the unmarried daughter
 - Where the person in whose name the property is held is a coparcener in a Hindu undivided family and the property is held for the benefit of the coparceners in the family
 - Where the person in whose name the property is held is a trustee or other person standing in a fiduciary capacity, and the property is held the benefit of a other person for whom he is a trustee or towards whom he stands in such capacity

Tax in respect of voluntarily disclosed income not refundable – Section 191

Any amount of tax and surcharge paid u/s 184 or penalty paid u/s 185 in pursuance of a declaration made u/s 183 shall not be refundable.

Declaration not admissible in evidence against declarant – Section 192



The contents of the declaration shall not be admissible in evidence against the declarant in any penalty or prosecution proceeding under the Income-tax Act, 1961 or the Wealth-tax Act, 1957.

Clarification by CBDT....

Whether immunity from initiation of prosecution would be available to the Directors of the company or the partners of the firm in respect of the undisclosed income declared under the Scheme by the company or partnership firm, as the case may be? [FAQ No. 8 dt. 14.07.2016]

- ❑ Yes, immunity to the directors or the partners, as the case may be, shall be available in respect of the undisclosed income declared under the Scheme by the company or partnership firm.

Declaration to be void – Section 193



Declaration made by misrepresentation or suppression of facts shall be void and deemed to have never been made.

Clarification by CBDT....

Whether at the time of declaration under the Scheme, will the Principal Commissioner/Commissioner do any enquiry in respect of the declaration made? [FAQ No. 12 dt. 20.05.2016]

- ❑ After the declaration is made the Principal Commissioner/Commissioner will enquire whether any proceeding u/s 142(1)/143(2)/148/153A/153C is pending for the AY for which declaration has been made.
- ❑ Apart from this no other enquiry will be conducted by him at the time of declaration.

Clarification by CBDT....

Where a valid declaration is made after making valuation as per the provisions of the Scheme read with IDS Rules and tax, surcharge & penalty as specified in the Scheme have been paid, whether the department will make any enquiry in respect of sources of income, payment of tax, surcharge and penalty? [FAQ No. 5 dt. 30.06.2016]

- ❑ No.

With reference to question No. 5 issued vide Circular No. 25 of 2016, wherein it has been stated that the department will not make any enquiry in respect of sources of income, payment of tax, surcharge and penalty, it may be clarified that whether the payment under the Scheme can be made out of undisclosed income without including the same in the income declared, thereby bringing down the effective rate of tax, surcharge and penalty payable under the Scheme to around 31 per cent? and penalty? [FAQ No. 6 dt. 14.07.2016]

- It is clarified that the intent of the clarification issued vide question No.5 of Circular No. 25 of 2016 was limited to conduct of enquiry by the Department. It in no way intends to modify or alter the rate of tax, surcharge and penalty payable under the Scheme which have been clearly specified in the Scheme itself. Sections 184 & 185 of the Finance Act, 2016 unambiguously provide for payment of tax, surcharge and penalty at the rate of 45 per cent of undisclosed income. This is illustrated by the following example —

Clarification by CBDT....

- In a case a person declares Rs. 100 lakh as undisclosed income, being the fair market value of undisclosed immovable property as on 1st June, 2016 and pays tax, surcharge and penalty of Rs.45 lakh (30 lakh + 7.5 lakh + 7.5 lakh) on the same out of his other undisclosed income. In this case the declarant will not get any immunity under the Scheme in respect of undisclosed income of 45 lakh utilized for payment of tax, surcharge & penalty but not included in the declaration filed under the Scheme. To get immunity under the Scheme in respect the entire undisclosed income of Rs.145 lakh, the declarant has to declare undisclosed income of Rs.145 lakh (Rs.100 lakh being the undisclosed income represented by immovable property and Rs.45 lakh being the payment made from undisclosed income) and pay tax, surcharge and penalty under the Scheme amounting to Rs.65.25 lakh i.e., 45 per cent of Rs.145 lakh.

Issue.....

Whether the Revenue will verify the facts disclosed in the Declaration such as,

- ❑ Year in which undisclosed income is earned,
- ❑ Value at which income/ asset is declared
- ❑ Adequacy

Exemption from wealth-tax in respect of assets specified in declaration – Section 194

- Where the undisclosed income is represented by cash (including bank deposits), bullion, investment in shares or any other assets as specified in the declaration-
 - a) in respect of which the declarant has failed to furnish a return under Wealth-tax Act, for year upto AY 2014-15 or
 - b) which have not been shown in the return of net wealth furnished by him for the said AY; or
 - c) which have been understated in value in the return of net wealth furnished by him for the said AY
- **then**
 - i. wealth-tax shall not be payable by the declarant in respect of such assets as referred (a) or (b) above
 - ii. the amount of understatement as referred in (c) above, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets,
- And the same shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years

Sec. 194- Exemption from wealth-tax.....

- ❑ Where a declaration is made by a **firm**,
 - ❑ the assets referred to in sub-clause (i) [*in respect of which the declarant has failed to furnish a return under Wealth-tax Act, for year upto AY 2014-15 or which have not been shown in the return of net wealth furnished for the said AY*]
or, as the case may be,
 - ❑ the amount referred to in sub-clause (ii) [*which have been understated in value in the return of net wealth furnished by him for the said AY*]

shall not be taken into account in computing the net wealth of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm.

- ❑ Such exemption is not available unless the conditions specified in Section 187 (1)/ (2) are fulfilled by the declarant (i.e. Payment of Taxes).

Applicability of certain provisions of Income-tax Act & Chapter V of Wealth-tax Act – Section 195

The provisions of

- Chapter XV of Income-tax Act relating to liability in special cases, section 119, section 138 & section 189 of the Income-tax Act, or
- the provisions of Chapter V of the Wealth-tax Act relating to liability in respect of assessment in special cases

shall, so far as may be, apply in relation to proceedings under this Scheme as they apply in relation to proceedings under Income-tax Act or the Wealth-tax Act.

Sec. 195- Applicability of provisions of Income-tax Act & Wealth-tax Act....

Income Tax Act, 1961

- ❑ Chapter XV- liability in special cases such as Legal representatives, Representative assessee, Liability of representative assessee, Liability of representative assessee, etc.
- ❑ Section 119- Instructions by CBDT to subordinate authorities
- ❑ Section 138-Disclosure of information respecting assessee
- ❑ Section 189- Dissolution of Firm or discontinuation of business

Wealth Tax Act, 1961

- ❑ Chapter V- Liability to assessment in special cases including executors, HUF after full & partial partition, when assets are held by courts of wards, administrators-general, etc, diversion of property, or of income from property, held under trust for public charitable or religious purposes, when assets are held by certain AOP, persons residing outside India.

Clarification by CBDT....

Will the declarations made under the Scheme be kept confidential? [FAQ No. 13 dt. 20.05.2016]

- ❑ The Scheme incorporates the provisions of section 138 of the Income-tax Act relating to disclosure of information in respect of assesseees.
- ❑ Therefore, the information in respect of declaration made is confidential as in the case of return of income filed by assesseees.

Clarification by CBDT....

Under what provision can a declarant be sure that the information contained in a valid declaration shall not be shared with any other law enforcement agency and also shall not be shared within the income-tax department for investigation? [FAQ No. 5 dt. 14.07.2016]

- ❑ Section 195 of the Act provides that provisions of section 138 of the Income-tax Act shall apply in relation to the proceedings under the Scheme. Vide notification S.O. 2322(E) dated 06.07.2016, an order has been passed by the Central Government directing that no public servant shall produce before any person or authority any such document or record or any information or computerized data or part thereof as comes into his possession during the discharge of official duties in respect of a valid declaration made under the Scheme.

Clarification by CBDT....

Will the information contained in the declaration be shared with other law enforcement agencies? [FAQ No. 1 dt. 30.06.2016]

- ❑ No; the information contained in the declaration shall not be shared with any other law enforcement agency.
- ❑ The information will also not be shared within the Income Tax Department for any investigation in respect of a valid declaration.

The provisions of this Scheme shall not apply – Section 196

The provisions of this Scheme shall not apply-

- to any person in respect of whom an order of detention has been made under the **Conservation of Foreign Exchange and Prevention of Smuggling Activities (COFEPOSA) Act, 1974** where
 - i. such order of detention, being an order to which the provisions of section 9 or section 12A of the Act **do not apply**, has not been revoked on the report of the Advisory Board u/s 8 of the Act or before the receipt of the report of the Advisory Board; or

Sec. 196- Provisions of this Scheme shall not apply.....

- ii. such order of detention, being an order to which the provisions of **section 9 of the said Act apply**, has not been revoked before the expiry of the time for, or on the basis of, the review u/s 9(3), or on the report of the Advisory Board u/s 8, r.w.s. 9(2) of the Act; or
- iii. such order of detention, being an order to which the provisions of **section 12A of the said Act apply**, has not been revoked before the expiry of the time for, or on the basis of, the first review u/s 12A(3), or on the basis of the report of the Advisory Board u/s 8, r.w.s. 12A(6) of the Act; or
- iv. such order of detention has not been set aside by a court of competent jurisdiction.

Sec. 196- Provisions of this Scheme shall not apply....

- ❑ in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the **Indian Penal Code, Narcotic Drugs and Psychotropic Substances Act, 1985, Unlawful Activities (Prevention) Act, 1967 & Prevention of Corruption Act, 1988.**
- ❑ to any person notified u/s 3 of **Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.**

Section 3 requires the Custodian appointed by the Central Government, on being satisfied, notify the name of persons involved in any offence relating to transactions in securities after 01-04-1991 till 06-06-1992 in the Official Gazette.

Sec. 196- Provisions of this Scheme shall not apply.....

- in relation to any undisclosed foreign income and asset which is chargeable to tax under the **Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015**

A person cannot declare his income from foreign sources or any asset located outside India under this Scheme

Sec. 196- Provisions of this Scheme shall not apply.....

- in relation to any undisclosed income chargeable to tax under the Income-tax Act for any AY prior to AY 2017-18 where
 - i. a notice u/s 142 or 143(2) or 148 or 153A or 153C of the Act has been issued in respect of such AY **and** the proceeding is pending before the AO; or
 - ii. a search has been conducted u/s 132 or requisition has been made u/s 132A or a survey has been carried out u/s 133A in a previous year and a notice u/s 143(2) for the relevant AY or a notice u/s 153A or 153C for AYs prior to such previous year has not been issued and the time for issuance of such notice has not expired; or
 - iii. any information has been received by the competent authority under an agreement entered into by the Central Government u/s 90/ 90A i.r.o. such undisclosed asset.

Clarification by CBDT....

Where a notice u/s 142(1)/ 143(2)/ 148/ 153A/ 153C of the Income-tax Act has been issued to a person for an AY will he be ineligible from making a declaration under the Scheme? [FAQ No. 2 dt. 20.05.2016]

- ❑ The person will only be ineligible from declaration for those AYs for which a notice u/s 142(1)/143(2)/148/153A/153C is issued and the proceeding is pending before the Assessing Officer.
- ❑ He is free to declare undisclosed income for other years for which no notice under above referred sections has been issued.

Issue.....

Whether declaration can be made in following situations:

- ❑ The proceedings have been set aside by Commissioner u/s 263 of Income Tax Act and no further notice has been issued to the assessee.
- ❑ The proceedings have been set aside, either fully or partly, by the ITAT Appellate and no further notice has been issued to the assessee.

Clarification by CBDT....

As per the Scheme, declaration cannot be made where an undisclosed asset has been acquired during any previous year relevant to an AY for which a notice u/s 142, 143(2), 148, 153A or 153C of the Income-tax Act has been issued. If the notice has been issued but not served on the declarant then how will he come to know whether the notice has been issued? [FAQ No. 3 dt. 20.05.2016]

- ❑ The declarant will not be eligible for declaration under the Scheme where the undisclosed income relates to the AY where a notice u/s 142, 143(2), 148, 153A or 153C of the Income-tax Act has been issued and served on the declarant on or before 31-05-2016.
- ❑ The declarant is required to file a declaration regarding receipt of any such notice in Form-1

Clarification by CBDT....

- However, CBDT vide FAQ No. 5 dt 27.06.2016 [*Whether a person on whom a search has been conducted in April, 2016 but notice under section 153A is not served upto 31.05.2016, is eligible to declare undisclosed income under the Scheme?*]

has further clarified that where notice u/s 153A is **not served upto 31.05.2016 but time for issuance of such notice has not expired**, the person will not be eligible to avail the Scheme in respect of AY for which notice u/s 153A can be issued.

Issue...

- Where the year of undisclosed income is different from the year of acquiring undeclared asset and notice u/s 142, 143(2), 148, 153A or 153C has been issued for the year in which undeclared asset was acquired, whether the declaration can be filed?
- For instance, income relates to AY 2012-13 and no notice was received for AY 2012-13. Asset is acquired in AY 2014-15 in respect of which notice u/s 143(2) is issued. Whether declaration can be filed.

Can a person against whom a search/ survey operation has been initiated file declaration under the Scheme? [FAQ No. 6 dt. 20.05.2016]

- ❑ The person is not eligible to make a declaration under the Scheme if a search has been initiated and the time for issuance of notice u/s 153A has not expired, even if such notice for the relevant AY has not been issued.

In this case, however, the person is eligible to file a declaration in respect of an undisclosed income in relation to an AY which is prior to AYs relevant for the purpose of notice u/s 153A.

- ❑ In case of survey operation the person is barred from making a declaration under the Scheme in respect of an undisclosed income in which the survey was conducted.

The person is, however, eligible to make a declaration in respect of an undisclosed income of any other previous year.

- ❑ For instance, a Search u/s 132 was conducted on 01-04-2016 (i.e. FY 2016-17 relevant to AY 2017-18). The years relevant for notice u/s 153A will be AY 2011-12 to AY 2016-17 and declaration cannot be filed for these years. However, the person may file declaration for years prior to AY 2011-12 (i.e. upto AY 2010-11)
- ❑ In respect of AY 2010-11, the notice u/s 147 can be issued upto 31-03-2017 (6 years from 31-03-2011).

Whereas in respect of AYs prior to AY 2010-11, the notice u/s 147 cannot be issued as per the provisions of the Income Tax Act, 1961 (provided the assessee does not have income in relation to any asset located outside India, chargeable to tax).

In answer (b) to question No.6 of Circular No.17 of 2016 dated 20.05.2016, it has been stated that “person is barred from making a declaration under the Scheme in respect of an undisclosed income in which the survey was conducted”. Please clarify? [FAQ No. 12 dt. 18.08.2016]

- The clause (b) of answer 6 may be read as “In case of survey operation, the person is barred for making a declaration under the Scheme in respect of the previous year in which the survey was conducted. The person is, however, eligible to make declaration in respect of an undisclosed income of any other previous year”.

Clarification by CBDT....

Where a search/ survey operation was conducted and the assessment has been completed but certain income was neither disclosed nor assessed, then whether such unassessed income can be declared under the Scheme? [FAQ No. 7 dt. 20.05.2016]

- ❑ Yes, such undisclosed income can be declared under the Scheme.

Clarification by CBDT....

Can a person declare under the Scheme his undisclosed income which has been acquired from money earned through corruption? [FAQ No. 11 dt. 20.05.2016]

- ❑ No
- ❑ As per section 196(b), the Scheme shall not apply, inter-alia, in relation to prosecution of any offence punishable under the Prevention of Corruption Act, 1988.
- ❑ Therefore, declaration of such undisclosed income cannot be made under the Scheme.

However, if such a declaration is made and in an event it is found that the income represented money earned through corruption it would amount to misrepresentation of facts and the declaration shall be void u/s 193.

- ❑ If a declaration is held as void, the provisions of the Income-tax Act shall apply in respect of such income as they apply in relation to any other undisclosed income.

Clarification by CBDT....

If notices under section 142, 143(2) or 148 have been issued after 31.05.2016 and assessee makes declaration under the Scheme then what shall be the fate of these notices? [FAQ No. 11 dt. 27.06.2016]

- As clarified vide Explanatory Circular No. 17 dated 20.5.2016,
 - a) a person shall not be eligible for the Scheme in respect of the assessment year for which a notice under section 142, 143(2) or 148 has been received by him on or before 31.5.2016.

Clarification by CBDT....

- b) In a case where notice has been received after the said date, the assessee shall be eligible to make a declaration under the Scheme for the said AY. Such declaration shall be valid if it has not been made by suppression of facts or misrepresentation and the amount payable under the Scheme has been duly paid within the specified time.
- c) On furnishing by the declarant, the certificate issued by PCIT/ CIT in Form-4 to the AO, the proceedings initiated vide notice u/s 142, 143(2) or 148 shall be deemed to have been closed.

Clarification by CBDT....

Whether cases where summons under section 131(1A) have been issued by the Department or letter under the Non-filer Monitoring System (NMS) or under section 133(6) are issued are eligible for the Scheme? [FAQ No. 10 dt. 27.06.2016]

- **Cases where summons under section 131(1A) have been issued by the department or letters for enquiry under NMS or under section 133(6) are issued but no notice under section 142 or 143(2) or 148 or 153A or 153C [as specified in section 196(e)] of the Finance Act, 2016 has been issued are eligible for the Scheme.**

Removal of Doubts – Section 197

- a) Nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme.
- b) In cases where any declaration has been made **but** no tax & penalty has been paid within the specified time, the undisclosed income shall be chargeable to tax under the Income-tax Act in the previous year in which such declaration is made.

Removal of Doubts.....

Contd...

- c) In cases where any income has accrued, arisen or received or any asset has been acquired out of such income prior to commencement of this Scheme and no declaration in respect of such income is made
 - ❑ such income shall be deemed to have accrued, arisen or received, or
 - ❑ the value of the asset acquired out of such income shall be deemed to have been acquired or made,

in the year in which a notice u/s 142, 143(2) or 148 or 153A or 153C of the Income-tax Act is issued by the AO & the provisions of the Income-tax Act shall apply accordingly.

Clarification by CBDT....

If only part payment of the tax, surcharge and penalty payable on undisclosed income declared under the Scheme is made before 30.11.2016, then whether the entire declaration fails as per section 187(3) of the Finance Act, 2016 or pro-rata declaration on which tax, surcharge and penalty has been paid remains valid? [FAQ No. 1 dt. 27.06.2016]

- In case of part payment, the entire declaration made under the Scheme shall be **invalid**. The declaration under the Scheme shall be valid only when the complete payment of tax, surcharge and penalty is made on or before 30.11.2016.

Clarification by CBDT....

**What are the consequences if no declaration under the Scheme is made in respect of undisclosed income prior to the commencement of the Scheme?
[FAQ No. 8 dt. 20.05.2016]**

❑ As per section 197(c), where any income has accrued or arisen or received or any asset has been acquired out of such income prior to the commencement of the Scheme and no declaration is made under the Scheme,

then such income shall be deemed to have been accrued, arisen or received or the value of the asset acquired out of such income shall be deemed to have been acquired in the year in which a notice u/s 142/143(2)/148/153A/153C is issued by the AO and the provisions of the Income-tax Act shall apply accordingly.

Clarification by CBDT....

If undisclosed income relating to an assessment year prior to A.Y. 2016-17, say A.Y. 2001-02 is detected after the closure of the Scheme, then what shall be the treatment of undisclosed income so detected? [FAQ No. 4 dt. 27.06.2016]

- ❑ As per the provisions of section 197(c) of the Finance Act, 2016, such income of A.Y. 2001-02 shall be assessed in the year in which the notice under section 148 or 153A or 153C, as the case may be, of the Income-tax Act **is issued** by the Assessing Officer. Further, if such undisclosed income is detected in the form of investment in any asset then value of such asset shall be as if the asset has been acquired or made in the year in which the notice under section 148/153A/153C is issued and the value shall be determined in accordance with rule 3 of the Rules

Clarification by CBDT....

If an undisclosed income represented in the form of an asset or otherwise pertains to a year falling beyond the time limit allowed under section 149 of the Income-tax Act, 1961 and the said undisclosed income is not declared under the Scheme, then as per the provisions of section 197(c) of the Finance Act, 2016, the said undisclosed income shall be treated as the income of the year in which a notice under section 148 of the Income-tax Act has been issued. The said provision is inconsistent with the existing time lines provided under the Income-tax Act for reopening a case. Please clarify? [FAQ No. 2 dt. 14.07.2016]

- ❑ Question No. 4 of Circular No. 24 of 2016 may be referred where the tax treatment of such income has been clarified. Since the Scheme contained in Chapter IX of the Finance Act, 2016 is a later law in time, the provisions of the Scheme shall prevail over the provisions of earlier laws.

Issue....

- Section 197(c) provides plenary powers in the hands of Assessing Officer to tax any income or value of asset acquired of such income in respect of any previous AY by issuing notice u/s 142/143(2)/148/153A/153C for any AY, **even if the relevant assessment year is beyond the limitation period of Section 147 of the Income Tax Act, 1961.**

Clarification by CBDT....

If a declaration of undisclosed income is made under the Scheme and the same was found ineligible due to the reasons listed in section 196 of the Finance Act, 2016, then will the person be liable for consequences u/s 197(c) of the Finance Act, 2016? [FAQ No. 9 dt. 20.05.2016]

- ❑ In respect of such undisclosed income which has been duly declared in good faith but not found eligible, then such income shall not be hit by section 197(c).

However, such undisclosed income may be assessed under the normal provisions of the Income-tax Act, 1961.

Power to remove difficulties – Section 198

- The Central Government is empowered to remove the difficulties if any difficulty arises in giving effect to the provisions of this Scheme.

Provided that no such order shall be made after the expiry of a period of 2 years from the date on which the provisions of this Scheme shall come into force.

- Every order made under this section shall be laid before each House of Parliament.

Power to make rules – Section 199

- The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.
- Without prejudice to the generality of the foregoing power, such rules may provide for the form in which a declaration may be made under section 183 and the manner in which the same may be verified.
- Every rule made under this Scheme shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session, for a total period of 30 days, which may be comprised in 1 session or in 2 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

The Income Declaration Scheme Rules, 2016

Definitions – Rule 2

- "recognised stock exchange" shall have the same meaning as assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956
- "registered valuer" means a person registered as a valuer under section 34AB of the Wealth-tax Act, 1957 (27 of 1957);
- "section" means a section of the Act.
- Words and expressions used and not defined in these rules but defined in the Act, or the Income-tax Act, 1961 or the rules made thereunder, shall have the meanings respectively assigned to them in those Acts and rules.

Determination of Fair market value – Rule 3

Clause	Category	Value shall be higher of
a	Bullion, jewellery or precious stone	<ul style="list-style-type: none">- its cost of acquisition; and- the price ordinarily fetch if sold in open market as on 01-06-2016, on the basis of the valuation report obtained by the declarant from a registered valuer
b	Archaeological collections, drawings, paintings, sculptures or any work of art (artistic work)	<ul style="list-style-type: none">- its cost of acquisition; and- the price such artistic work shall ordinarily fetch if sold in the open market as on 01-06-2016 on the basis of the valuation report obtained by the declarant from a registered valuer

Note 1: “**registered valuer**” means a person registered as a valuer u/s 34AB of Wealth-tax Act, 1957
2. All India list of registered valuers of different classes of assets is published on the website www.incometaxindia.gov.in

Rule 3- Determination of FMV.....

- **Clause (c)** – value of **Quoted shares and securities** shall be the higher of—
 - its cost of acquisition; and
 - the price determined by taking—
 - A. average of lowest and highest price of such shares & securities quoted on a recognised stock exchange as on 01-06-2016; or
 - B. average of lowest and highest price of such shares & securities on a recognised stock exchange on a date immediately preceding 01-06-2016 when such shares & securities were traded on a recognised stock exchange, where on 01-06-2016 there is no trading in such shares and securities on a recognised stock exchange;

Rule 3- Determination of FMV.....

- ❑ **"quoted share or security"** means a share or security quoted on any recognized stock exchange with regularity from time to time, where the quotations of such shares or securities are based on current transaction made in the ordinary course of business.
- ❑ **"recognised stock exchange"** shall have the same meaning as assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956

Clarification by CBDT...

Rule 3(1)(c)(I) of the Income Declaration Scheme Rules, 2016 provides for manner of determination of FMV of quoted shares and securities. In this context, it may be clarified that if a share is listed on more than one recognised stock exchange and the quoted price of the share as on 01.06.2016 on the recognised stock exchanges is different, then what shall be the quoted share price for determining the FMV of such share under the Scheme? [FAQ No. 10 dt. 14.07.2016]

- In such a case the quoted price of the share shall be computed with reference to the recognised stock exchange which records the highest volume of trading in the share as on 01.06.2016.

Rule 3- Determination of FMV.....

- the value of **Unquoted equity shares** shall be the higher of—
 - its cost of acquisition; and
 - value on 01-06-2016 of such equity shares as determined in the following manner,

$$\text{FMV} = \frac{(A+B - L) \times (PV)}{(PE)}$$

"**unquoted share and security**" in relation to share or security means share or security which is not a quoted share or security

Rule 3- Determination of FMV.....

A

Book value of assets in the balance sheet (other than bullion, jewellery, precious stone, artistic work, shares, securities and immovable property) as reduced by,- (i) any amount of income-tax paid, if any, less the amount of income-tax refund claimed, if any, and (ii) any amount shown as asset including the unamortised amount of deferred expenditure which does not represent the value of any asset

B

FMV of bullion, jewellery, precious stone, artistic work, shares, securities and immovable property as determined in the manner provided in this rule

“Balance sheet” in relation to any company means the balance sheet of such company (including the notes annexed thereto and forming part of the accounts) as on 31-03-2016, which has been audited by the auditor of the company appointed under the Companies Act, 2013 and where the balance sheet as on 31-03-2016 is not audited, the balance sheet (including the notes annexed thereto and forming part of the accounts) which has been approved and adopted in AGM of the company.

Rule 3- Determination of FMV.....

Book value of liabilities excluding

- i. paid-up capital of equity shares;
- ii. Amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting;
- iii. Reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;
- iv. Provision for taxation, other than amount of tax paid as TDS or TCS or advance tax as reduced by refund claimed, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
- v. Provisions for liabilities, other than ascertained liabilities;
- vi. Contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;

L



PE



total amount of paid up equity share capital as shown in the balance-sheet

PV



paid up value of such equity shares

Rule 3- Determination of FMV..... Contd...

- the value of **unquoted share and security other than equity share in a company** shall be the higher of,—
 - its cost of acquisition; and
 - the price that the share or security shall ordinarily fetch if sold in the open market on 01-06-2016, on the basis of the valuation report obtained by the declarant from a registered valuer;

- If the declarant has shares of XYZ Pvt. Ltd. which is inter alia, holding shares of both A Ltd., a listed company as well as B Pvt. Ltd., an unlisted company. The B Pvt. Ltd. is further holding shares of C Ltd. and D Pvt. Ltd.

Is the declarant required to determine the value of shares of all the chain of companies for determining FMV of XYZ Pvt. Ltd. under this Scheme?

Rule 3- Determination of FMV..... **Contd...**

- **Clause (d)** – FMV of **immovable property** shall be higher of—
 - its cost of acquisition; and
 - the price that the property shall ordinarily fetch if sold in the open market on 01-06-2016 on the basis of the valuation report obtained by the declarant from a registered valuer;

Rule 3- Determination of FMV..... Contd...

Provisos to Clause (d) – {Inserted by Income Declaration Scheme (Third Amendment) Rules, 2016 vide Notification No. 74/2016 dt 17-08-2016}

- ❑ **Provided that** where the acquisition of immovable property by the declarant is evidenced by a deed **registered with any authority** of a State Government, the FMV of such property shall, **at the option of the declarant, may be taken on the stamp duty value** as increased by the same proportion as CII for the year 2016-17 bears on to the CII for the year in which the property was registered:
- ❑ **Provided further that** where the immovable property was **acquired before the 1st day of April, 1981**, the provisions of the first proviso shall have effect as if for the words “stamp duty value”, the words “the fair market value of the property as on 1st day of April, 1981 on the basis of the valuation report obtained by the declarant from a registered valuer”, and for the words “CII for the year in which the property was registered”, the words “CII for the year 1981-1982” had been substituted.

Rule 3- Determination of FMV..... Contd...

Explanation to Clause (d) – {Inserted by Income Declaration Scheme (Third Amendment) Rules, 2016 vide Notification No. 74/2016 dt 17-08-2016}

For the purpose of this clause-

- i. “stamp duty value” means the value adopted or assessed by any authority of the State Government for the purposes of payment of stamp duty in respect of an immovable property;
- ii. “Cost Inflation Index” means such index as notified under clause (v) of Explanation to section 48 of the Income-tax Act, 1961.’

What will be the value of immovable property to be declared under the Scheme in a case where the cost of immovable property is only partly evidenced by a registered deed and partly otherwise? [FAQ No. 5 dt. 18.08.2016]

- In such a case, the option of calculating the fair market value of the immovable property based on applying the cost inflation index to stamp duty value shall be available only in respect of that part of the property the cost of which is evidenced by a registered deed. With regard to the remaining part the fair market value of the property shall be determined based on the provisions of rule 3(1)(d) of the Rules without taking into effect the proviso to the said rule. The said situation is illustrated as below:-
- Suppose, Mr. 'X' purchased a piece of land in year 2004-05 for Rs.10 lakh, however the stamp duty value was Rs.15 lakh. Thereafter, in the period 2005-06 to 2007-08, Mr. 'X' constructed a two storeyed house on the said land. The amount to be declared in respect of the said property shall be (A + B) where
- A= Value of land (if the assessee opts for valuation on the basis of indexation) shall be :-
$$\text{Rs.15 lakh} \times \frac{\text{cost inflation index of 2016-17}}{\text{cost inflation index of 2004-05}}$$
- B= Fair market value of the house (excluding value of the land) as on 01.06.2016 as determined by the registered valuer or the cost of construction whichever is higher.

A declarant has already filed a declaration under the Scheme determining the value of immovable property on the basis of Income Declaration Scheme Rules, 2016 prior to their amendment vide the Income Declaration Scheme (Third Amendment) Rule notified vide CBDT Notification No. 74 dated 17.8.2016. In such a case whether the declarant can revise the declaration based on such amended rules? [FAQ No. 6 dt. 18.08.2016]

- Yes, the declarant can revise the fair market value of immovable property declared in the declaration already filed on account of the amended provisions of the Income Declaration Scheme Rules, 2016 even in a case where such revision may result in downward revision of the declared amount in respect of the immovable property.

Rule 3- Determination of FMV..... Contd...

- Clause (e) – Value of an **interest of a person in a partnership firm or AOP or LLP** of which he is a member shall be determined in the manner as specified in clause (f);

Rule 3- Determination of FMV..... Contd...

Clause (f) –

- ❑ The **net asset of the firm, AOP or LLP** on 01-06-2016 shall first be determined.
- ❑ The portion of the net asset of the firm, AOP or LLP as is equal to the amount of its capital shall be allocated among its partners or members in the proportion in which capital has been contributed by them and
- ❑ **The residue of the net asset** shall be allocated among the partners or members in accordance with the agreement of partnership or AOP or LLP for distribution of assets in the event of dissolution of the firm, AOP or LLP, or, in the absence of such agreement, in the proportion in which the partners or members are entitled to share profits and
- ❑ The sum total of the amount so allocated to a partner or member shall be treated as the value of the interest of that partner or member in the partnership or association.

Explanation.— For the purposes of this clause the net asset of the firm, AOP or LLP shall be $(A + B - L)$, which shall be determined in the manner provided in sub-clause (II) of clause (c);

Rule 3- Determination of FMV..... Contd...

- Clause (g) – valuation of **any other asset** shall be higher of—
 - its cost of acquisition or the amount invested; and
 - the price that the asset would fetch if sold in the open market on 01-06-2016.

Rule 3- Determination of FMV..... Contd...

- Where investment in any asset is partly from an income which has been assessed to tax prior to AY 2017-18,
the FMV of the asset determined in accordance with sub-rule (1) shall be reduced by an amount which bears to the value of the asset as on 01-06-2016, the same proportion as the assessed income bears to the total cost of the asset.

Clarification by CBDT....

In a case the declarant earned undisclosed income of Rs. 90 lakh in previous year 2010-11. Out of the same, he acquired an immovable property in the previous year 2011-12 for Rs.50 lakh, made personal expenditure to the extent of Rs.20 lakh and balance Rs.20 lakh is left with him as cash in hand on 01.06.2016. The FMV of the immovable property as on 01.06.2016 is Rs.80 lakh. What is the amount to be declared under the Scheme? [FAQ No. 10 dt. 30.06.2016]

- The declarant in this case has to declare the following:
 - (i) Rs. 80 lakh being FMV of **immovable property** as on 01.06.2016
 - (ii) Rs. 20 lakh being the **cash in hand** as on 01.06.2016
 - (iii) Rs. 20 lakh being the **balance of undisclosed income** [Rs. 90 lakh – (Rs.50 lakh + Rs. 20 lakh)] which is not represented in the form of investment in any asset.

Thus the total undisclosed income to be declared in this case will be Rs. 1.20 crore (80 + 20 + 20 lakh)

Clarification by CBDT....

In a case where the undisclosed income is represented in the form of investment in asset and such asset is partly from income that has been assessed to tax earlier, then what shall be the method of computation of undisclosed income represented by such undisclosed asset for the purposes of the Scheme? [FAQ No. 4 dt. 20.05.2016]

❑ As per Rule 3(2), where investment in any asset is partly from an income which has been assessed to tax, the undisclosed income represented in form of such asset will be FMV of the asset determined in accordance with Rule 3(1) **as reduced by** an amount which bears to the value of the asset as on the 1.6.2016, the same proportion as the assessed income bears to the total cost of the asset. This is illustrated by an example as under:

❑ **For Example-** Investment in acquisition of asset in FY 2013-14 is of Rs. 500 out of which Rs.200 relates to income assessed to tax in AY 2012-13 and Rs.300 is from undisclosed income pertaining to FY 2013-14. The FMV of the asset as on 01.06.2016 is Rs.1500.

The undisclosed income represented by this asset under the scheme shall be:

$$1500 \text{ less } (1500 \times \frac{200}{500}) = \text{Rs.900}$$

$$500$$

Clarification by CBDT....

Land is acquired by the assessee in year 2001 from assessed income and is regularly disclosed in return of income. Subsequently in the year 2014, building is constructed on the said land and the construction cost is not disclosed by the assessee. What shall be the fair market value of such building for the purposes of the Scheme? [FAQ No. 9 dt. 27.06.2016]

- Fair market value of land and building in such a case shall be computed in accordance with Rule 3(2) by allowing proportionate deduction in respect of asset acquired from assessed income.

Issue.....

- This question refers to FMV of both of Land & Building whereas Land is fully disclosed and this results in artificially increasing in the income to be disclosed under this Scheme.
- For instance,
 - Land – Rs. 20 lakh (disclosed)
 - Building – Rs. 100 lakh (undisclosed)
 - FMV as on 01-06-2016 of land – Rs. 50 lakh & building – Rs. 100 lakh, aggregating to Rs. 150 lakh

As per Rule 3(2), value of building to be disclosed=

Rs. 150 lakh less $(150 \times \frac{20}{100}) = 125$ (Which is more than Rs. 100 lakh)

120

Amendment in Section 49 of Income Tax Act

Sub-section (5) inserted by the Finance Act, 2016, w.e.f. 1-4-2017 :

“Where the capital gain arises from the transfer of an asset declared under the Income Declaration Scheme, 2016, and the tax, surcharge and penalty have been paid in accordance with the provisions of the Scheme on the fair market value of the asset as on the date of commencement of the Scheme,

the cost of acquisition of the asset shall be deemed to be the fair market value of the asset which has been taken into account for the purposes of the said Scheme”

Cost of acquisition will be the fair market value of the asset as calculated in accordance with provisions of Rule 3 of the IDS Rules i.e. higher of cost of acquisition or FMV as on 01-06-2016.

Clarification by CBDT....

Where the value of immovable property determined under Rule 3 of the IDS Rules is lower than the value adopted or assessed/assessable by stamp valuation authority referred in section 50C or section 43CA of the Income-tax Act, whether value of such property is to be declared as per Rule 3 of the IDS Rules, or as per section 50C/43CA? [FAQ No. 3 dt. 30.06.2016]

- The value of the property for the purposes of declaration in such cases shall be computed as per Rule 3 of the IDS Rules even if such value is lower than the value adopted or assessed/assessable by stamp valuation authority.

Section 50C/ 43CA of Income Tax Act....

Section 50C- (1) Where the consideration received or accruing as a result of the transfer by an assessee of a **capital asset, being land or building or both**, is less than the value adopted or assessed or assessable by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer.

Section 43CA-(1) Where the consideration received or accruing as a result of the transfer by an assessee of an **asset (other than a capital asset), being land or building or both**, is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration received or accruing as a result of such transfer.

Clarification by CBDT....

In case the value of immovable property is evidenced by registered deed, whether the value as per registered deed or the market value as on 01.06.2016 is to be declared? [FAQ No. 7 dt. 30.06.2016]

- ❑ As per Rule 3 of the IDS Rules, the FMV of an immovable property shall be the higher of its cost of acquisition and the price that the property shall ordinarily fetch if it is sold in the open market as on 1st June, 2016.
- ❑ The value mentioned in the registered deed shall be relevant for determining the cost of acquisition and the same can be taken as the fair market value only where it is higher than the price that the property shall ordinarily fetch if sold in the open market as on 1st June, 2016.

Declaration of income or income in the form of investment in any asset – Rule 4

- ❑ A declaration of income or income in the form of investment in any asset shall be made in **Form-1**.
- ❑ The declaration shall be furnished:—
 - a) electronically under digital signature; or
 - b) through transmission of data in the form electronically under electronic verification code; or
 - c) in print form, to the concerned Principal Commissioner or the Commissioner who has the jurisdiction over the declarant.

Explanation.—For the purposes of this rule "electronic verification code" means a code generated for the purpose of electronic verification of the person furnishing the return of income as per the data structure and standards specified by Principal DGIT (Systems) or DGIT (Systems).

Rule 4- Declaration of income or income in the form of investment in any asset.....

Contd...

The Principal CIT or CIT shall issue an acknowledgement to the declarant	Form 2	within 15 days from the end of the month in which the declaration is furnished
The proof of payment of tax, surcharge & penalty made pursuant to the acknowledgement issued by the Principal CIT or CIT shall be furnished by the declarant to the such Principal CIT or CIT	Form 3	on or before 30 th November, 2016
The Principal CIT or CIT shall grant a certificate to the declarant	Form 4	within 15 days of the submission of proof of payment by the declarant

Rule 4- Declaration of income or income in the form of investment in any asset.....

Contd...

- The Principal Director-General of Income-tax (Systems) or Director-General of Income-tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing the form in the manner specified in sub-rule(2).

Other Clarifications by CBDT

- ❑ Circular No.17 of 2016 dated 20th May, 2016
- ❑ Circular No.24 of 2016 dated 27th June, 2016
- ❑ Circular No.25 of 2016 dated 30th June, 2016
- ❑ Circular No.27 of 2016 dated 14th July, 2016
- ❑ Circular No.29 of 2016 dated 18th August, 2016

Where an undisclosed income in the form of investment in asset is declared under the Scheme and tax, surcharge & penalty is paid on FMV of the asset as on 01.06.2016, then will the declarant be liable for capital gains on sale of such asset in the future? If yes, then how will the capital gains in such case be computed? [FAQ No. 1 dt. 20.05.2016]

- ❑ Yes, the declarant will be liable for capital gains under the Income-tax Act on sale of such asset in future.
- ❑ As per the current provisions of the Income-tax Act, the capital gains is computed by deducting cost of acquisition from the sale price.

However, since the asset will be taxed at its FMV, the cost of acquisition for the purpose of Capital Gains shall be the FMV as on 01.06.2016 & the period of holding shall start from the said date (i.e. the date of determination of FMV for the purposes of the Scheme).

Though the fair market value as on 1st June, 2016 is taxed under IDS, and such amount will be treated as cost of acquisition at the time of future sale of concerned asset, whether such treatment shall affect the character of the asset as long term or short term? [FAQ No. 4 dt. 18.08.2016]

- ❑ The issue was earlier considered and it was clarified vide Circular No.17 dated 20.05.2016 that in such cases period of holding shall be deemed to begin from 01.06.2016 as the asset has been revalued on such date. However, considering the representation received from various stakeholders and the fact that this may lead to complications in calculation of capital gain at the time of sale of asset which was partly funded from undisclosed income now declared under the Scheme, the matter has been reconsidered.
- ❑ Accordingly, in supersession to the earlier clarification as referred above, it is clarified that the period of holding of asset declared under the Scheme shall be based on the **actual date of acquisition** of such asset.
- ❑ However, the **indexation benefit** in respect of the amount declared under the Scheme shall be available **from 01.06.2016** only.

Though the fair market value as on 1st June, 2016 is taxed under IDS, and such amount will be treated as cost of acquisition at the time of future sale of concerned asset, whether such treatment shall affect the character of the asset as long term or short term? [FAQ No. 4 dt. 18.08.2016]

Contd...

- The said situation is illustrated as below:-
 1. Suppose Mr. 'A' purchased a house on 01.10.2011 for Rs.10 lakh and declares fair market value of the same as on 01.06.2016 under the Scheme at Rs.20 lakh.
 2. If the said house is sold on 01.10.2017 for Rs.30 lakh, the holding period for the house for purposes of computation of capital gain shall be six years i.e. from 01.10.2011 to 01.10.2017.
 3. As the **holding period exceeds three years**, the gains arising from such transfer shall be treated as **long term capital gain**.
 4. Further, the indexation benefit in this case shall be available on Rs.20 lakh from 01.06.2016 to 01.10.2017.

Can a declaration be made of undisclosed income which has been assessed to tax and the case is pending before an Appellate Authority? [FAQ No. 5 dt. 20.05.2016]

- ❑ As per Section 189, the declarant is not entitled to re-open any assessment or reassessment made under the Income-tax Act.
- ❑ Therefore, he is not entitled to avail the tax compliance in respect of such income. However, he can declare other undisclosed income for the said assessment year which has not been assessed under the Income-tax Act.

If any proceeding is pending before the Settlement Commission, can a person be considered eligible for the Scheme? [FAQ No. 8 dt. 27.06.2016]



- No, a person shall not be eligible for the Scheme in respect of assessment years for which proceeding is pending with Settlement Commission.

If a person declares only a part of his undisclosed income under the Scheme, then will he get immunity under the Scheme in respect of the part income declared? [FAQ No. 10 dt. 20.05.2016]

It is expected that one should declare all his undisclosed income.

However, in such a case the person will get immunity as per the provisions of the Scheme in respect of the undisclosed income declared under the Scheme and no immunity will be available in respect of the undisclosed income which is not declared.

Is it necessary to file a valuation report of an undisclosed income represented in the form of investment in asset along with the declaration under the Scheme? [FAQ No. 14 dt. 20.05.2016]

- ❑ It is not mandatory to file the valuation report of the undisclosed income represented in the form of investment in asset along with the declaration.
- ❑ However, the declarant should have the valuation report.
- ❑ **While e-filing the declaration on the departmental website a facility for uploading the documents will be available.**

Requirement to file Valuation report.....

- **CBDT vide FAQ No. 6 dt. 27.06.2016 [As per Circular No.17 of 2016, question No.14, it is not mandatory to attach the valuation report. But Form-1 states “attach valuation report”. How to interpret?]**

has clarified that it is necessary for the declarant to obtain the valuation report but it is not mandatory for him to attach the same with the declaration made in Form-1. However, the jurisdictional PCIT/ CIT in order to ascertain the correctness of the value of the asset quoted in Form-1 may require the declarant to file the valuation report before issuing the acknowledgment in Form-2. In such a circumstance, it will be necessary for the declarant to make the report available to the PCIT/ CIT.

In case of amalgamation or in case of conversion of a company into LLP, if the amalgamated entity or LLP, as the case may be, wants to declare for the year prior to amalgamation/ conversion, then whether a declaration is to be filed in the name of amalgamated entity/ LLP or in the name of the amalgamating company or company existing prior to conversion into LLP? [FAQ No. 2 dt. 27.06.2016]

- Since the amalgamating company or the company prior to conversion into LLP is no more into existence and the assets/liabilities of such erstwhile entities have been taken over by the amalgamated company/LLP, the declaration is to be made in the name of the amalgamated company or the LLP, as the case may be, for the year in which the amalgamation/conversion takes place.

Is it mandatory to furnish PAN in the Form of declaration? [FAQ No. 7 dt. 27.06.2016]

- Yes, PAN is the unique identifier for all direct tax purposes. This is also necessary in order to claim the benefits and immunities available under the Scheme.

Whether immunity will be provided under other economic laws including Service Tax, VAT, Companies Act, SEBI Act & regulations etc.? [FAQ No. 2 dt. 30.06.2016]

- ❑ The Scheme provides immunity under the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Benami Transactions (Prohibition) Act, 1988. Immunity from Benami Transactions (Prohibition) Act is subject to the condition that the property will be transferred to the declarant (being the person who provided the consideration for the property) latest by 30th September, 2017.
- ❑ However, as mentioned in response to Question No.1 above, the information contained in the declaration made under the Scheme will not be shared with any other tax or law enforcement agency.

Whether credit for tax deducted, if any, in respect of income declared shall be allowed? [FAQ No. 4 dt. 30.06.2016]

- Yes; credit for tax deducted shall be allowed **only in those cases** where the **related income is declared under the Scheme** and the **credit for the tax has not already been claimed** in the return of income file for any assessment year.

In case a declaration relating to investment in undisclosed asset is made under the Scheme, whether any investigation will be initiated against the seller in respect of such declaration? [FAQ No. 8 dt. 30.06.2016]

□ No.

A person invested his undisclosed income in a house property in the previous year 2010-11 which has not been let out. The person also owned another house property from disclosed sources, which has been claimed as self-occupied property for the purposes of computation of income under the head income from house property. In case the person declares the undisclosed house property at its fair market value on 01.06.2016, whether any action will be taken for bringing the annual value of the undisclosed property to tax as income from house property by deeming it to be let property as provided under section 23(4)(b) of the Income-tax Act for the earlier previous years? [FAQ No. 11 dt. 30.06.2016]

- No. However, where the house property was let-out during the relevant period, the actual rent received or receivable will be required to be declared under the Scheme in addition to the fair market value of the house property as on 01.06.2016.

Can a declaration made under the Scheme be revised before the date of closure of the Scheme i.e. 30.09.2016? [FAQ No. 1 dt. 14.07.2016]

- It is expected that the declarations made under the Scheme are filed correctly. However, a revised declaration can be filed on or before the date of closure of the Scheme provided the undisclosed income in the revised declaration is not less than the undisclosed income declared in the declaration already filed.

The declaration made in respect of cash, investment etc. under the Scheme would result in increase in capital in the Balance Sheet in extra ordinary manner. Whether such cases of the declarants would be selected for scrutiny under the CASS for this reason? [FAQ No. 3 dt. 14.07.2016]

- The cases of the declarant shall not be selected for scrutiny under the CASS only on the ground that there is increase in capital in the balance sheet as a result of the declaration made under the Scheme.

In a case where the declarant gets the benami asset transferred in his name without payment of any monetary consideration to the benamidar, whether capital gains would be chargeable in the hands of benamidar consequent upon such transfer and whether the tax at source @ 1% would be deducted in such case? [FAQ No. 4 dt. 14.07.2016]

- In this case the consideration for acquisition of benami property has already been paid by the beneficial owner and the fair market value of the property has been declared by the beneficial owner under the Scheme. Since, the transfer of property from benamidar to beneficial owner is only to regularize and there will be no involvement of monetary consideration for transfer of immovable property by the benamidar in the name of the declarant, the question of capital gains in the hands of benamidar and deduction of tax at source thereon shall not arise.

Whether a person having undisclosed income in the form of an investment in immovable property in the name of his spouse can declare the fair market value of the property in his own name if the funds for acquisition of the said property were provided by such person? [FAQ No. 9 dt. 14.07.2016]

- Yes.

In certain cases, the undisclosed income might be reflected in creditors or other liability which may be fictitious. Whether in such cases, the assessee can disclose only such fictitious liability as it may not be possible to link it to any specific asset or investment? [FAQ No. 1 dt. 18.08.2016]

- ❑ In a situation where loans, creditors, advances received, share capital, payables etc. are disclosed in the audited balance sheet but are fictitious in nature, and such liabilities cannot be directly linked to acquisition of a particular asset in the balance sheet, then such fictitious liabilities can be disclosed under the Scheme as such without linking the same with the investment in any specific asset.
- ❑ However, in cases where there is a direct link between the fictitious liability and the asset acquired then the amount to be declared shall be the fair market value of the acquired asset as on 01.06.2016.
- ❑ (issue:- how to determine whether there is a direct link or not? Will there be a scrutiny to determine if the disclosed income is proper or not under this scheme?)

Whether the valuation report of assets declared under the Scheme shall be called for by the department for any enquiry at any time? [FAQ No. 3 dt. 18.08.2016]

- ❑ The valuation report from a registered valuer shall not be questioned by the department.
- ❑ However, the valuer is expected to furnish a true and correct valuation report in accordance with the accepted principles of valuation.
- ❑ In case of any misrepresentation, appropriate action as per law shall be taken against the registered valuer.

Whether the payment of amount payable under the Scheme can be made in cash to the Banks? Further, whether the amount disclosed under the Scheme can be deposited in the bank account in cash? [FAQ No. 7 dt. 18.08.2016]

- Reserve Bank of India (RBI) has been requested to issue instructions to banks to allow payment of tax under the Scheme in cash. RBI has also been requested to instruct the banks to allow deposit of cash over the counter in accordance with its existing master circular No. DBOD No. Leg. BC. 21/ 09.07.006/ 2014-15 dated 01.07.2014.

Note: RBI has issued instruction to Scheduled Banks vide Communication No. DBR No. Leg. BC, 13/09.07.005/2016-17, to accept cash, over the counter, from the declarants in respect of amount declared under the scheme or against the amount payable under the Scheme provided the KYC norms are complied with.

Whether the information of cash deposits made in bank as a consequent to declaration made under the Scheme shall be picked up by FIU or reported to the income-tax department? [FAQ No. 8 dt. 18.08.2016]

- It is clarified that no adverse action shall be taken against the declarant by FIU or the income-tax department solely on the basis of the information regarding cash deposit made consequent to the declaration under the Scheme.

In case a trust or institution registered under section 12A of the Income-tax Act files declaration under the Scheme, whether the registration under section 12A shall be cancelled on the basis of such declaration? [FAQ No. 9 dt. 18.08.2016]

- No, the registration under section 12A of the Income-tax Act shall not be cancelled solely on the basis of the information furnished in the declaration filed under the Scheme.

Where a person has claimed weighted deduction, say 175%, on account of making bogus donation then what should be the amount of declaration under the Scheme? [FAQ No. 10 dt. 18.08.2016]

- The declarant has to declare the amount of weighted deduction claimed in respect of bogus donation i.e. 175% of the bogus donation in this case.

In a case where the return of income has not been filed for an assessment year but the time limit for filing the same has not expired u/s 139 of the Income-tax Act, whether the declaration under the Scheme can be filed for such assessment year? [FAQ No. 11 dt. 18.08.2016]

- The declaration for the assessment year for which the return of income has not been filed can be made under the Scheme even though the time limit for filing the return under section 139 of the Income-tax Act has not expired.

No Enquiry or investigation in respect of document/evidence relating to IDS, 2016 found during the course of Search u/s 132 or Survey action u/s 133A

- It is clarified that wherever in the course of search under section 132 or survey operation under section 133A of Income-tax Act, 1961, any document is found as a proof for having already filed a declaration under the Scheme, including acknowledgement issued by the Income-tax Department for having filed a declaration, no enquiry would be made by the Income-tax Department in respect of sources of undisclosed income or investment in movable or immovable property declared in a valid declaration made in accordance with the provisions of the Scheme.

Circular No. 32 of 2016 dated 01-09-2016

A horizontal bar at the top of the slide, divided into a red section on the left and a teal section on the right.

Other Issues

Issues...

- Shares are issued by ABC Pvt. Ltd. in the name of A,B & C Shareholders, Assessment Proceeding of ABC Pvt. Ltd. is going on &/or concluded and it is sure that company will not be able to prove credit worthiness of A,B,C shareholders. Now 'D' who is the financier of ABC Pvt. Ltd. wants to declare these investment made by A,B,C, as benamidar of him. The shares of A,B,C, have already been transferred to 'D' in year prior to AY 2017-18. Can 'D' make the declaration of this income, even though the shares are already transferred in his name?
- Can assessee claim statutory deductions available under section 24, 80IA, Chapter VI in respect of income declared?

Issues...

- ❑ Can assessee offer net income under the head PGBP if the entire business was not disclosed to the department in past?
- ❑ As per FAQ No. 11 dt. 27.06.2016, the proceedings initiated vide notice u/s 142, 143(2) or 148 shall be closed where notice u/s 142, 143(2) or 148 has been received after 31-05-2016 and the assessee files declaration under this Scheme,

Does this apply in the cases where declarant declares Rs. 10 lakh only in respect of such AY whereas the allegation is of Rs. 1 crore?

Form 1

Form of Declaration u/s 183

Pre- Requisites for Uploading Form 1

- ❑ To upload Form 1, user should have a valid PAN and should be registered in e-Filing portal.
- ❑ A valid XML file should be generated using the JAVA Utility available under downloads. The JAVA utility of Form 1 can be downloaded from the path Downloads – Forms (Other than ITR) – Form for Income Disclosure -Form 1.
- ❑ A valid XML can be generated by following the process, **Extract the JAVA Utility** of Form for Income Disclosure -Form 1 – Right click and Open the JAR file of Form for Income Disclosure -Form 1 – Fill all the Mandatory fields – Click on “Generate XML”
- ❑ Valid DSC should be registered in e-Filing portal for uploading Form for Income Disclosure -Form 1.

FORM OF DECLARATION UNDER SECTION 183 OF THE FINANCE ACT, 2016, IN RESPECT OF THE INCOME
DECLARATION SCHEME, 2016

THE INCOME DECLARATION SCHEME RULES, 2016

Form 1

[See rule 4(1)]

To,

The Principal Commissioner/Commissioner

.....

Sir/ Madam,

I hereby make a declaration under section 183 of the Finance Act, 2016. I give below the necessary particulars:-

1. Name and address of the declarant

(a) Name

(b) Address : Office

E-mail.....Telephone No.....

Residence.....

Mobile No.....Telephone No.....

2. Filing status

(a) Whether the declaration is original or revised

(b) If revised --

(i) Enter receipt No. and Date of filing original Form-1

(DD/MM/YYYY)

	//
--	----

(ii) Reasons for revised declaration

(not exceeding 100 words)

.....

3. Permanent Account Number (PAN)

(In case PAN is not held, please apply for PAN and quote here)

.....

4. Status of the declarant

(a) Whether individual, HUF, firm, company etc.

.....

(b) Whether Resident/Non-Resident/Not ordinarily resident

.....

5. Details relating to assessment years for which the declaration is being made:

Assessment year	Whether return of income filed (Yes/No)	If column (2) is Yes, furnish the income returned/ assessed	Assessing Officer (ward/circle) if return filed in paper form
(1)	(2)	(3)	(4)

Acknowledgement number is also required in e-Utility

6. Statement of undisclosed income as per Annexure

7. Total amount of declaration of undisclosed income Rs.....

8. Tax payable thereon (@ 30% of item 7) Rs.....

9. Surcharge payable thereon (@ 25% of item 8) Rs.....

10. Penalty payable thereon (@25% of item 8) Rs.....

11. Tax paid, if any, on or before the date of declaration in respect of items 8, 9 or 10 above Rs.....

(Attach proof of payment and provide details below)

Not required in e-Utility

Sl	BSR Code of Bank	Date of Deposit (DD/MM/YYYY)	Serial Number of Challan	Amount (Rs)
(1)	(2)	(3)	(4)	(5)

12. Balance tax payable

VERIFICATION

I son/ daughter/ wife of Shri.....
(Full name in block letters) (name of father/husband)

hereby solemnly declare that-

- (a) the information given in this declaration is correct and complete to the best of my knowledge and belief;
- (b) in addition to my own income in respect of the assessment year(s) for which the declaration is made, income of other persons in respect of which I am chargeable to tax and income accruing or arising from the assets held by me through any other person for which I had failed to furnish a return under section 139 of the Income-tax Act, 1961/which I had failed to disclose in a return of income furnished by me before the commencement of the Scheme/which has otherwise escaped assessment, has also been disclosed in this declaration;
- (c) the income of any other person in respect of which I am not chargeable to tax has not been included in this declaration;
- (d) the provisions of clause (a) of section 196 of the Finance Act, 2016 in respect of Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 are not applicable to me;
- (e) the provision clause (b) of section 196 of the Finance Act, 2016 in respect of Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988 are not applicable to me;
- (f) the undersigned has not been notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;

- (g) the income declared is not chargeable to tax under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015;
- (h) the income declared is not chargeable to tax under the Income-tax Act for any previous year relevant to assessment year,-
 - (i) where a notice under section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act has been received in respect of such assessment year and the proceeding is pending before the Assessing Officer;
 - (ii) where a search has been conducted under section 132 or requisition has been made under section 132A or a survey has been carried out under section 133A of the Income-tax Act in a previous year and a notice under sub-section (2) of section 143 of the said Act for the assessment year relevant to such previous year or a notice under section 153A or under section 153C of the said Act for an assessment year relevant to any previous year prior to such previous year has not been received and the time for issuance of such notice has not expired.
- (i) the undisclosed income declared in the form of investment in benami property and existing in the name of benamidar shall be transferred in the name of the real owner on or before 30th September, 2017, failing which immunity under Benami Transactions (Prohibition) Act, 1988 shall not be available.

Date to be specified in e-utility

I further declare that I am making this declaration in my capacity as.....

(Designation)

and that I am competent to make this declaration and verify it.

.....

(Signature)

Place.....

Date.....

*Score out whichever is not applicable.

STATEMENT OF UNDISCLOSED INCOME

Description of undisclosed income and income declared in the form of investment in assets (use separate sheet in case of multiple assets in the same category)

I. Total undisclosed income

S.No.	Assessment year to which the undisclosed income pertains	Amount of undisclosed income (in Rs.)	Nature of undisclosed income
Total (to be taken to item 7 of the Form)			

II. Whether any part of income referred in (I) above is in form of investment in asset Yes No

III. If reply to (II) above is Yes, furnish description of undisclosed income declared in the form of investment in assets (Use separate sheet in case of multiple assets in the same category)

1. Immovable property (attach valuation report)

- (i) Nature of property (land/building/flat etc.) _____
- (ii) Address of the property _____
- (iii) Name(s) under which held _____
- (iv) Date of acquisition _____
- (v) Cost of acquisition as per rule 3(1)(d)(I) _____
- (vi) Value as estimated by the registered valuer on 1st June, 2016 as per rule 3(1)(d)(II) _____
- (vii) Value as per proviso to Rule 3(1)(d) _____

Identification number and date of the registered deed	Value adopted for stamp duty, if property is acquired on or after 01.04.1981	Fair market value as on 01.04.1981, if property acquired before 01.04.1981	Indexed value of the property as on 01.06.2016

(viii) Fair market value as per rule 3 _____

Format in e-utility....

1. Immovable property

Sl. No.		
(i) Nature of property (land/building/flat etc.)	Nature	
	Description	
(ii) Address of the property	Address of property	
	Town/city	
	State	
	PIN Code	
(iii) Name(s) under which held		
(iv) Date of acquisition		
(v) Cost of acquisition as per Rule 3(1)(d)(I)		
(vi) Value as estimated by registered valuer on 01/06/2016 as per Rule 3(1)(d)(II)		
(vii) Value as per Proviso to Rule 3(1)(d)	Identification number of the registered deed	
	Date of the registered deed	
	Value adopted for stamp duty, if property is acquired on or after 01-04-1981	
	FMV as on 01-04-1981, if property acquired before 01-04-1981	
	Indexed value of property as on 01-06-2016	
(viii) FMV as per Rule 3		

Format in e-utility....

(ix) Deduction as per rule 3(2) of the Income declaration Scheme Rules, 2016 (where part of asset acquired from income already assessed Under the Income Tax Act)		
(x) Deduction on account of investment made in the asset during previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income Tax Act is issued	Assessment Year	
	Amount of deduction	
(xi) Net value of undisclosed income declared in the form of investment in asset		

2. Jewellery (attach valuation report)

(a) Gold

(I) Purity _____, Weight _____, Value _____

(II) Purity _____, Weight _____, Value _____

(b) Diamond (1 carat or more)

(I) Carat _____, Cut _____, Colour _____, Clarity _____, Value _____

(II) Carat _____, Cut _____, Colour _____, Clarity _____, Value _____

(c) Diamond (less than 1 carat) and other precious stones Value _____

(d) Other precious metals Value _____

3. Artistic work (attach valuation report)

(i) Nature of artistic work _____

(ii) Name(s) under which held _____

(iii) Date of acquisition _____

(iv) Cost of acquisition _____

(v) Value of artistic work as estimated by the
registered valuer _____

(vi) Fair Market value as per Rule 3 _____

Format in e-utility....

2. Jewellery

A) GOLD

Sl. No.	(i) Purity	(ii) Units	(iii) Weight	(iv) Value	(v) Deduction as per rule 3(2) of the Income declaration Scheme Rules, 2016 (where part of asset acquired from income already assessed Under the Income Tax Act)	(vi) Deduction on account of investment made in the asset during previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income Tax Act is issued		(vii) Net value of undisclosed income declared in the form of investment in asset
						Assessment Year	Amount of deduction	

Format in e-utility....

B) Diamond (1 Carat or More)

Sl. No.	(i) Carat	(ii) Cut	(iii) Colour	(iv) Clarity	(v) Value	(vi) Deduction as per rule 3(2) of the Income declaration Scheme Rules,2016(where part of asset acquired from income already assessed Under the Income Tax Act)	(vii) Deduction on account of investment made in the asset during previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income Tax Act is issued		(viii) Net value of undisclosed income declared in the form of investment in asset
							Assessment Year	Amount of deduction	

Format in e-utility....

C) Diamond (Less than 1 Carat) or other precious stones

Sl. No.	(i) Value	(ii) Deduction as per rule 3(2) of the Income declaration Scheme Rules, 2016 (where part of asset acquired from income already assessed Under the Income Tax Act)	(iii) Deduction on account of investment made in the asset during previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income Tax Act is issued		(iv) Net value of undisclosed income declared in the form of investment in asset
			Assessment Year	Amount of deduction	

Format in e-utility....

D) Other precious metals

Sl. No.	(i) Value	(ii) Deduction as per rule 3(2) of the Income declaration Scheme Rules, 2016 (where part of asset acquired from income already assessed Under the Income Tax Act)	(iii) Deduction on account of investment made in the asset during previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income Tax Act is issued		(iv) Net value of undisclosed income declared in the form of investment in asset
			Assessment Year	Amount of deduction	

Format in e-utility....

3.Artistic Work

Sl. No.	(i) Nature of Artistic work	(ii) Name (s) under which held	(iii) Date of acquisition	(iv) Cost of Acquisition	(v) Value of artistic work as estimated by the registered valuer	(vi) FMV as per rule 3	(ii) Deduction as per rule 3(2) of the Income declaration Scheme Rules,2016(where part of asset acquired from income already assessed Under the Income Tax Act)	(iii) Deduction on account of investment made in the asset during previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income Tax Act is issued		(iv) Net value of undisclosed income declared in the form of investment in asset
								Assessment Year	Amount of deduction	

4. Shares and securities

(a) Quoted shares and securities [Rule 3(1)(c)(I)]

(i) Description of security/ share

(A) Name of issuer

(B) Number of securities/ shares

(C) Type of security/ share

(ii) Recognised exchange where quoted

(iii) Name(s) under which held

(iv) Cost of acquisition

(v) Date(s) of acquisition

(vi) Value as determined under Rule 3(1)(c)(I)(ii)

(vii) Fair Market value as per Rule 3

(b) Unquoted equity share [Rule 3(1)(c)(II)] (attach valuation report)

(i) Description of share

(A) Name of issuer

(B) Number of shares

(C) Type of share

(ii) Name(s) under which held

(iii) Cost of acquisition

(iv) Date(s) of acquisition

(v) Value as determined under Rule 3(1)(c)(II)(ii)

(vi) Fair Market value as per Rule 3

Format in e-utility....

A) Quoted share and securities [rule 3(1)(c)(I)]

Sl. No.			
(i) Description of share/ security	(A) Name of issuer		
	(B) Number of Securities/ Shares		
	(C)Type of Securities/share		
(ii) International Securities Identification Number(ISIN)			
(iii) Recognised exchange where quoted			
(iv) Name(s) under which held			
(v)Cost of acquisition			
(vi)Date(s) of acquisition			
(vii) Value as determined under Rule 3(1)(c)(II)(ii)			
(viii) FMV as per Rule 3			
(ix)Deduction as per rule 3(2) of the Income declaration Scheme Rules,2016(where part of asset acquired from income already assessed Under the Income Tax Act)			
(x) Deduction on account of investment made in the asset during previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income Tax Act is issued	Assessment Year		
	Amount of deduction		
(xi) Net value of undisclosed income declared in the form of investment in asset			

Format in e-utility....

B) Unquoted share and securities [rule 3(1)(c)(II)]

Sl. No.		
(i) Description of share/ security	(A) Name of issuer	
	(B) Number of Securities/ Shares	
	(C)Type of Securities/share	
(ii) Name(s) under which held		
(iii)Cost of acquisition		
(iv)Date(s) of acquisition		
(v) Value as determined under Rule 3(1)(c)(II)(ii)		
(vi) FMV as per Rule 3		
(vii)Deduction as per rule 3(2) of the Income declaration Scheme Rules,2016(where part of asset acquired from income already assessed Under the Income Tax Act)		
(viii) Deduction on account of investment made in the asset during previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income Tax Act is issued	Assessment Year	
	Amount of deduction	
(ix) Net value of undisclosed income declared in the form of investment in asset		

(c) Unquoted shares and securities other than equity shares in a company [Rule 3(1)(c)(III)] (attach valuation report)

- (i) Description of share/security
 - (A) Name of issuer _____
 - (B) Number of securities/shares _____
 - (C) Type of security/share _____

- (ii) Name(s) under which held _____
- (iii) Cost of acquisition _____
- (iv) Date(s) of acquisition _____
- (v) Value as determined under Rule 3(1)(c)(III)(ii) _____
- (vi) Fair Market value as per Rule 3 _____

Format in e-utility....

C) Unquoted share and securities other than equity shares in a company [Rule 3(1)(c)(III)]

Sl. No.		
(i) Description of share/ security	(A) Name of issuer	
	(B) Number of Securities/ Shares	
	(C)Type of Securities/share	
(ii) Name(s) under which held		
(iii)Cost of acquisition		
(iv)Date(s) of acquisition		
(v) Value as determined under Rule 3(1)(c)(III)(ii)		
(vi) FMV as per Rule 3		
(vii)Deduction as per rule 3(2) of the Income declaration Scheme Rules,2016(where part of asset acquired from income already assessed Under the Income Tax Act)		
(viii) Deduction on account of investment made in the asset during previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income Tax Act is issued	Assessment Year	
	Amount of deduction	
(ix) Net value of undisclosed income declared in the form of investment in asset		

5. Any other asset

- (i) Description of asset _____
- (ii) Name(s) under which held _____
- (iii) Cost of acquisition/ investment _____
- (iv) Date of acquisition/ investment _____
- (v) Value as determined under Rule 3(1)(g)(II) _____
- (vi) Fair market value as per Rule 3 _____

6. Total value of all the assets declared _____

7. Deduction as per rule 4 of the Income Declaration Scheme Rules, 2016
(where part of asset acquired from income already assessed under the Income-tax Act) (to be provided in respect of each asset separately) _____

8. Deduction on account of investment made in the asset during the previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income-tax Act is issued _____

9. Total undisclosed income declared in the form of investment in asset (6-7-8) _____

Corrected in
e-utility
as Rule 3(2)

Format in e-utility....

5.Any other Asset

Sl. No.		
(i) Description of asset		
(ii) Name(s) under which held		
(iii) Cost of acquisition/investment		
(iv) Date(s) of acquisition/investment		
(v) Value as determined under Rule 3(1)(g)(II)		
(vi) FMV as per Rule 3		
(vii) Deduction as per rule 3(2) of the Income declaration Scheme Rules,2016(where part of asset acquired from income already assessed Under the Income Tax Act)		
(viii) Deduction on account of investment made in the asset during previous year relevant to the assessment year for which a notice u/s 142/143(2)/148/153A/153C of the Income Tax Act is issued	Assessment Year	
	Amount of deduction	
(ix) Net value of undisclosed income declared in the form of investment in asset		

IV. (1) Whether the undisclosed income referred in (I) above had ever been credited in a bank account Yes No

(2) If Yes, details of such bank accounts

Name and address of Bank	IFSC Code	Account holder name(s)	Account Number	Balance in the Account as on 01.06.2016 (if any)

.....
(Signature)

.....
(Name)

V. Whether any part of income referred in (I) is in the form of fictitious liability Yes/No

VI. If reply to (V) is Yes, whether such liability is directly linked to any asset disclosed in the balance sheet Yes/No

VII. If reply to (VI) is No, furnish the following :

1. Nature of liability _____
2. Financial year in which the liability was created _____
3. Amount of liability _____

Place.....

Date.....

NOTES:

1. If the total amount of tax, surcharge and penalty payable is not paid before 30th November 2016, the declaration will be treated as void and shall be deemed never to have been made.
2. If the declaration is made by misrepresentation or suppression of facts it shall be void and shall be deemed never to have been made.
3. If space provided is insufficient, separate enclosure may be used for the purpose.
4. In the last column of Table at Point (I) relating to nature of undisclosed income, specify the type of income viz. house property income, business income, professional income, commission income, interest income etc.

Clarification by CBDT....

What is the purpose of obtaining the information about the nature of undisclosed income in the last column of table at point (I) relating to nature of undisclosed income in Annexure to Form-1? [FAQ No. 6 dt. 30.06.2016]

- The purpose of obtaining information about the nature of undisclosed income is to know whether the undisclosed income is in the form of moveable asset, immovable asset, gold, jewellery or cash. Here, the nature of income need not be confused with the source of income. There is no need to indicate the source of income at all. In the column meant for nature of undisclosed income one has to write the nomenclature such as 'immovable property', 'moveable property', 'gold', 'jewellery' or 'cash' etc. This will enable the taxpayer to establish the link between the income declared under the scheme and the claim, if any, made in respect of such undisclosed income in the return of income filed subsequently or during any assessment proceedings.

Issues...

- Point No. 7 of Annexure to Form 1 refers to Rule 4 in respect of deductions instead of Rule 3(2). However, the same is corrected in e-utility.
- Rule 3(1)(a) takes the FMV of bullion, jewellery or precious stones as its cost of acquisition or value as on 01-06-2016, whichever is higher.

However, in Annexure to Form 1, separate fields are not provided to specify the cost of acquisition & value as on 01-06-2016 of such bullion, jewellery or precious stones.

- The Annexure to Form 1 does not specifically provide for furnishing detail in respect of **Value of an interest of a person in a partnership firm or AOP or LLP of which the declarant is a member** [value determined under Rule 3(1)(e)/ (f)]

Steps for e-filing of Form 1

Download Form 1(IDS) Utility

- ❑ Go to the Income e-Filing portal at www.incometaxindiaefiling.gov.in
- ❑ Under “Downloads” section, click on “Forms (Other than ITR)”
- ❑ Form 1 can be downloaded by clicking on the “Download” button.
- ❑ [Click here to download the Form 1 \(IDS\) Utility](#)





Instructions...

Instructions

- ◆ Attachments cannot exceed 50MB.
- ◆ Attachments must be in pdf or zip format.
- ◆ Attachments should be scanned with minimum 300dpi.
- ◆ Wherever there is a requirement in the Form to submit a signed copy of documents by an Assesse/CA as an attachment, upload the scanned copy of the same documents.

Step 1: Login

Login

User ID *	<input type="text"/>
Password *	<input type="password"/>
Captcha Code	<input type="text"/>
Image	  
Enter the number as in above image *	<input type="text"/>
	<input type="button" value="Login"/> Forgot Password?
	New Users? Register Now Resend Activation Link
	e-Filing Login Through NetBanking

Step 2: Select the option to Upload Form

The screenshot shows a web application interface with a dark blue navigation bar at the top containing the following items: Dashboard, My Account, e-File, Compliance, Downloads, Profile Settings, My Request List, and Worklis. Below the navigation bar, a 'Quick Link' sidebar is visible on the left, listing several options with red circular icons: Quick e-File ITR, Upload Return, View Form 26AS (Tax Credit), Rectification Request, Tax Calculator, Downloads, and E-Pay Tax. The 'e-File' menu is expanded, displaying a list of options: Upload Return, Prepare and Submit Online ITR, e-File in response to Notice u/s 139(9), Change ITR Form Particulars, Prepare and Submit Online Form(Other than ITR), e-Verify Return, Generate EVC, Upload Form BB (Return of Net Wealth), Response to Outstanding Tax Demand, Upload Form 6 (for undisclosed foreign asset), and Upload Form 1 (Income Declaration Scheme,2016). The 'Upload Form 1' option is highlighted with a blue background. To the right of the menu, a portion of another page is visible, featuring a red 'IMPORTANT !!!' warning and text that reads 'Direct Email ID and Mobile Number' and 'ed for all communications.'

Step 3: Upload Form

Upload Form 1 (Income Declaration Scheme)

CIT Designation	<input type="text" value="CIT 13,DELHI"/>
PAN	<input type="text" value="AWNPB8691B"/>
Form Name *	<input type="text" value="FORM 1"/>
Attach the Form 1 XML file *	<input type="button" value="Choose File"/> No file chosen
Attach scanned valuation report in PDF/ZIP format	<input type="button" value="Choose File"/> No file chosen

[Click here to download the DSC Utility](#) 



Steps to Generate Signature File :

- ◆ Download the "ITD e-Filing DSC Management Utility".
- ◆ Generate the signature file. Follow the instructions in the Utility.
- ◆ Attach the generated signature file.

Note: The generated signature file is valid only for one transaction.

Attach the Signature file * No file chosen

Instructions

- ◆ Fields marked with asterisk(*) are mandatory
- ◆ Attach a valid XML
- ◆ CIT Designation is populated based on PAN Jurisdiction.
- ◆ Please upload only PDF/ZIP documents (Maximum 50MB)

Form 2

Acknowledgement of Declaration u/s 183 by the Principal CIT or CIT

ACKNOWLEDGEMENT OF DECLARATION UNDER SECTION 183 OF THE FINANCE ACT, 2016 IN
RESPECT OF THE INCOME DECLARATION SCHEME, 2016

THE INCOME DECLARATION SCHEME RULES, 2016

Form 2
[See rule 4(3)]

Whereas Mr./Mrs./M/s (hereinafter referred to as the declarant) has filed a declaration under section 183 of the Finance Act, 2016;

And whereas the said declaration has been received on ;

Now, therefore after consideration of relevant material, I hereby determine the following amount payable by you with respect to the declaration made under the scheme:

Sl. No.	Assessment year	Undisclosed income as declared in Form 1	Undisclosed income eligible for the scheme	Amount payable			Reasons (in case of difference in amounts in Column (3) and (4))
				(1)	(2)	(3)	
				Tax	Surcharge	Penalty	
Total							

The declarant is hereby directed to make the payment of sum payable as per column (5) of the above table, as specified below: --

(i) an amount not less than twenty-five per cent of the sum payable on or before 30th day of November, 2016;

(ii) an amount not less than fifty per cent of the sum payable as reduced by the amount paid under clause (i) above on or before 31st day of March, 2017;

(iii) the whole of the sum payable as reduced by the amount paid under clauses (i) and (ii) above on or before the 30th day of September, 2017.

In case of non-payment of the amount as specified above, the declaration under Form-1 shall be treated as void and shall be deemed never to have been made.

Place

Date

.....

Name, signature and seal of Designated Authority

Form 3

Intimation of payment u/s 187(1) by the declarant

Form 3
[See rule 4(4)]

INTIMATION OF PAYMENT UNDER SUB-SECTION (1) OF SECTION 187 OF THE FINANCE ACT, 2016 IN
RESPECT OF THE INCOME DECLARATION SCHEME, 2016

To,

The Principal Commissioner/Commissioner

.....

Sir/Madam,

1. Pursuant to the acknowledgement received from you in Form-2 vide certificate F.No. _____ dated _____, the detail of payments made are as under:

A. Payments made on or before 30th day of November, 2016

SI	BSR Code of Bank	Date of Deposit (DD/MM/YYYY)	Serial Number of Challan*	Amount (Rs)
(1)	(2)	(3)	(4)	(5)

****B. Payments made after 30th day of November, 2016 but on or before 31st day of March, 2017**

Sl	BSR Code of Bank	Date of Deposit (DD/MM/YYYY)	Serial Number of Challan*	(Rs)
(1)	(2)	(3)	(4)	(5)

****C. Payments made after 31st day of March, 2017 but on or before 30th day of September, 2017**

Sl	BSR Code of Bank	Date of Deposit (DD/MM/YYYY)	Serial Number of Challan*	Amount (Rs)
(1)	(2)	(3)	(4)	(5)

****D. Details of claim of credit for Tax Deducted at Source/Tax Collected at Source (TDS/TCS)**

Sl	TAN of Deductor/Collector or PAN of purchaser in case of sale of immovable property	Name of Deductor/Collector	Unique TDS/TCS Certificate Number*	Financial Year of deduction/ collection	Amount of TDS/TCS for which credit is claimed
(1)	(2)	(3)	(4)	(5)	(6)

* Attach proof of payment/ TDS/TCS certificate as detailed above

VERIFICATION

Ison/daughter/wife of Shri hereby declare that the income related to TDS/TCS for which credit is claimed has been included in the income declared in Form-1 and credit of such TDS/TCS has not been claimed earlier. I further declare that I am furnishing the information in my capacity as(designation) of(name of the declarant) and I am competent to furnish the said information and verify it.

Place:

.....
Signature

Date:

.....
Address of the declarant

.....
PAN of the declarant

Note: ****Strike off whichever is not applicable**

The form is to be furnished on or before the dates notified for making payments under the Scheme viz. 30.11.2016, 31.03.2017 and 30.09.2017."

Form 4

**Certificate of declaration u/s 183 by the
Principal CIT or CIT**

CERTIFICATE OF DECLARATION UNDER SECTION 183 OF THE FINANCE ACT, 2016 IN RESPECT OF
THE INCOME DECLARATION SCHEME, 2016

THE INCOME DECLARATION SCHEME RULES, 2016

Form 4
[See rule 4(5)]

Office of the Principal Commissioner/Commissioner of Income-tax,
.....
.....

This is to acknowledge that a declaration under section 183 of the Finance Act, 2016 has been accepted in respect of the following:

- 1) Name and address of the declarant:
-
-
- 2) Son/Daughter/Wife of
- 3) PAN
- 4) Receipt No. and date of filing the Declaration:

5) Details of Declaration as per the acknowledgment issued in Form-2

S.No.	Assessment year	Amount of undisclosed income declared and accepted	Description of assets where undisclosed income declared in the form of investment in asset

- | | | | |
|----|-----------------------------------------------------------------|-----|-------|
| 6) | Tax payable on the undisclosed income declared & accepted | Rs. | |
| 7) | Surcharge payable on the undisclosed income declared & accepted | Rs. | |
| 8) | Penalty payable on the undisclosed income declared & accepted | Rs. | |
| 9) | Total Amount payable (6) + (7) + (8) | Rs. | |

10) Details of tax paid

Sl	BSR Code of Bank	Date of Deposit (DD/MM/YYYY)	Serial Number of Challan	Amount (Rs)
(1)	(2)	(3)	(4)	(5)
i				
ii				

- 11) The declarant shall furnish a proof of transfer of benami property in the name of the real owner on or before 30.09.2017 failing which the immunity from Benami Transactions (Prohibition) Act, 1988 shall not be available.

Date:

.....
(Principal Commissioner/Commissioner of Income-tax)

NOTE: No certificate will be issued unless the total amount of tax, surcharge and penalty payable has been paid

FAQs at a Glance

Circular No. 17 dated 20th May, 2016

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4	Where asset is partly from income that has been assessed to tax earlier, then what shall be the method of computation of undisclosed income represented by such undisclosed asset for the purposes of the Scheme	93
5	Declaration in respect of undisclosed income which has been assessed to tax and the case is pending before an Appellate Authority	107
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8	Consequences if no declaration made i.r.o. undisclosed income prior to the commencement of Scheme	65
9	Consequences where declaration found ineligible due to the reasons listed in section 196	69
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Contd...

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THANK YOU..!!

Presented by:- CA Sanjay Kumar Agarwal
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