# Income declaration scheme 2016 – Salient Features

The finance minister has brought in one more opportunity to bring black money into books of

accounts by announcing the **'INCOME DECLARATION SCHEME 2016'** in the Finance Bill on 29/02/2016. The scheme proposes to start from 01.06.2016 and ends on 30.09.2016 (but the date till it remain open will be notified by the Central Government in the official Gazette) with an option to pay the taxes due within 2 months of date of the declaration. Unlike the earlier VDIS of 1997, this income declaration scheme of 2016 proposes to collect the tax, surcharge and penalty total into 45% of such undisclosed income declared.

The Comptroller Auditor General of India condemned the VDIS 1997 Scheme as abusive and fraud on the genuine tax payers of India, hence now the rate might have been kept at 45%.

**Eligible persons:**

All the 7 categories of persons as defined in Section 2(31) of Income-Tax Act are eligible to file

declaration under this scheme to disclose any income up to Assessment Year 2016-17.

**Conditions for making declaration**:

1. For which he has failed to furnish a return under section 139 of the Income-tax Act

2. Which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Scheme,

3. Which has escaped assessment by reason of the omission or failure on the part of such person to furnish a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment

**Persons Not Eligible Under this Scheme:**

1. where notices have been issued under section 142(1) or 143(2) or 148 or 153A or 153C, or

2. where a search or survey has been conducted and the time for issuance of notice under the relevant

provisions of the Act has not expired, or

3. where information is received under an agreement with foreign countries regarding such income,

4. cases covered under the Black Money Act, 2015, or

5. persons notified under Special Court Act, 1992, or

6. cases covered under Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985,the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988.

**Value of Undisclosed Income Kept in the form of any Asset:**

The income chargeable to tax is declared in the form of investment in any asset, the fair market value of such asset as on the date of commencement of this Scheme shall be deemed to be undisclosed income.

The fair market value of any asset shall be determined in such manner, as may be prescribed. No deduction in respect of any expenditure or allowance shall be allowed against the income in respect of which declaration is made.

Computation of Tax Payable Tax @ 30% of Declared Income XXX

Add : Surcharge (Krishi Kalyan Cess) 25% of above XX

TOTAL TAX XXXX

Add: Penalty 25% of Above Tax XX

TOTAL SUM PAYABLE XXXX

**Signatories for Declaration**:

**1. Individual:**

a) by the individual himself or if he is absent from India, then his authorized representative.

b) where Individual is mentally incapacitated, by his guardian or other competent persons on his behalf.

**2. HUF:** By Kartha, where Kartha is absent from India or incapacitated, any adult member such HUF

**3. COMPANY:** By the Managing Director or by any Director, if there is no Managing Director

**4. FIRM**: By the Managing Partner or where there is no managing partner, by any other partner

**5. Any other Association**: Any member or principal officer of the association

**6. Any other Person**: By that person or any other person competent to act on his behalf.

**To Whom To Submit**:

This declaration shall be made to the Principal Commissioner or the Commissioner of respective jurisdiction. Only One Declaration: Any person, who has made a declaration u/s 180 (1) in respect of his income or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration. If any such other declaration was subsequently made, shall be treated as void.

**Time limit for payment of tax, Surcharge & Penalty:**

The tax, surcharge and penalty shall be paid on before a date to be notified by the Central Government in the Official Gazette. The proof of payment of tax shall be filed with the Principal Commissioner or the Commissioner as the case may be. If the declarant fails to pay the tax due, it shall be deemed that he has not made any declaration under this Scheme. The tax, surcharge or penalty is not refundable. If any declaration has been made, but no tax, surcharge and penalty thereon has been made, the income as disclosed will be chargeable to tax under the Income -Tax Act in the previous year in which such declaration made.

**Undisclosed income declared not to be included in Total Income:**

The amount of undisclosed income declared shall not be included in the total income of the declarant for any assessment year under the Income-tax Act, if the declarant makes the payment of tax and surcharge and Penalty.

**No Right to Re-open Completed Assessment or Reassessment:**

A declarant under this Scheme shall not be entitled, in respect of undisclosed income declared or any amount of tax and surcharge paid thereon, to re-open any assessment or reassessment made under the Income-tax Act or the 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.

**Immunity from Wealth Tax:** Where the undisclosed income is represented by cash (including bank deposits), bullion, investment in shares or any other assets-

(a) in respect of which the declarant has failed to furnish Wealth Tax return upto Assessment year 2015- 16 or

(b) which have not been shown in the return of net wealth furnished by him for the said assessment year or years, or

(c) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years, then, the immunity / Exemptions are granted as under

(i) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (a) or clause (b) and such assets shall not be included in his net wealth for the said assessment year or years,

(ii) the amount by which the value of the assets referred to in clause (c) has been understated in the return of net wealth for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years.

**Notes:**

1. For declaration made by a firm, the assets declared by the Firm shall not be taken into account in computing the net wealth of any partner of the firm as the case may be, or in determining the value of the interest of any partner in the firm.

2. The immunity benefit of Wealth tax is available only on proof of Payment of Tax, Surcharge and Penalty is filled with Principal Commissioner or the Commissioner.

**Declaration shall not be used as Evidence:**

The declaration Made under this scheme shall not be used as evidence against the declarant for the purpose of any proceeding relating to imposition of penalty, or for the purposes of any prosecution under the Income-tax Act or the Wealth-tax Act.

**Treatment of Income where No declaration is filed:**

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 under this Scheme,

(i) such income shall be deemed to have accrued, arisen or received, as the case may be, or

(ii) 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 under section 142, sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer, and the provisions of the Income-tax Act shall apply accordingly.

**Undisclosed income declared not to be treated as Benami transaction in certain cases:**

The provisions of the Benami Transactions (Prohibition) Act, 1988 shall not apply 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. We have to wait and see whether the proposal to bring the black money to the books of accounts of the assessee with a payment of 45% tax will work or not !!

Source courtesy:caclubindia.com