This scheme brings one more opportunity for tax evaders to convert their Black money into white by paying 30% Tax, 25% of tax as Surcharge & 25% of Tax as Penalty i.e 45% of Undisclosed Income. This Scheme will commence on 1st June 2016 and will be effective till 30th September 2016.

INCOME DISCLOSURE SCHEME 2016

LexisNexis®

Compiled by: *Saurabh Chhabra (Executive - Content Creation & Acquisition (Tax))*

Income Disclosure Scheme, 2016

Finance Minister Sh. Arun Jaitley in his budget Speech on 29th Feb, 2016 has proposed Income Disclosure Scheme, 2016 as follows:

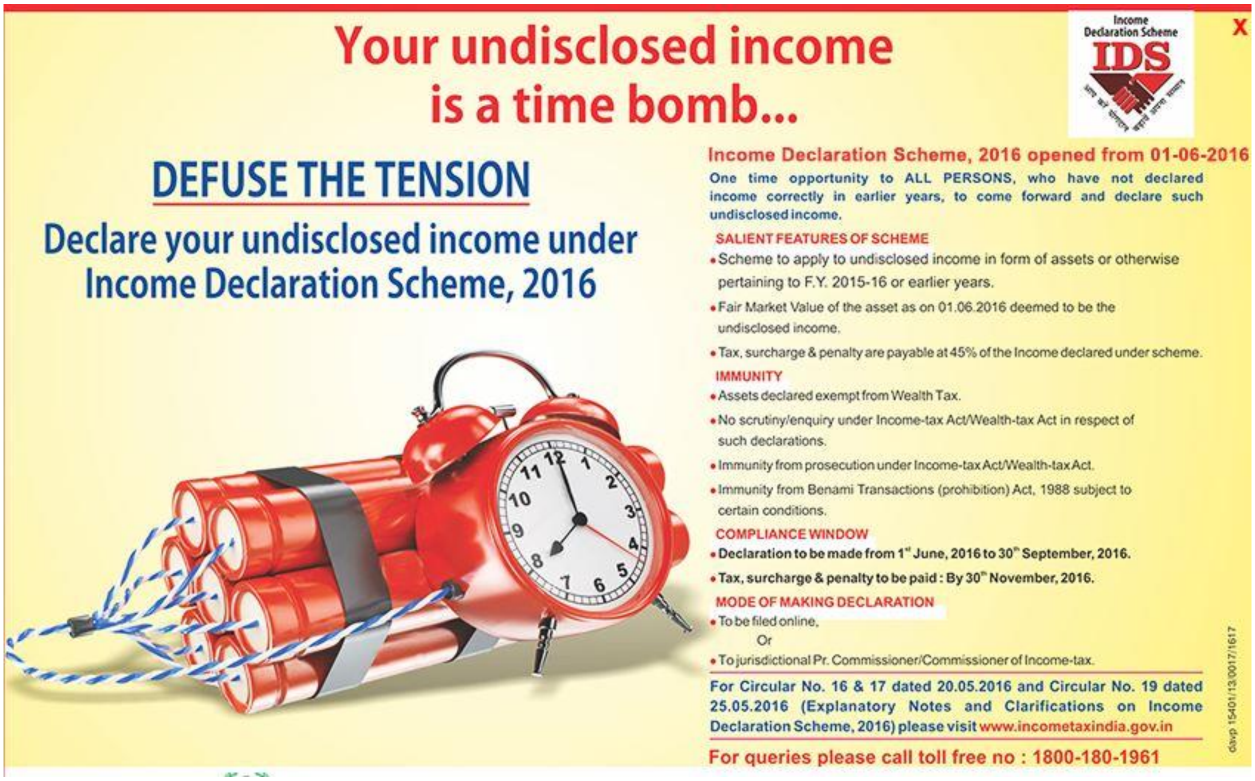
159. We are moving towards a lower tax regime with non-litigious approach. Thus, while compliant taxpayers can expect a supportive interface with the department, tax evasion will be countered strongly. Capability of the tax department to detect tax evasion has improved because of enhanced access to information and availability of technology driven analytical tools to process such information**. I want to give an opportunity to the earlier non- compliant to move to the category of compliant.**

160. I propose a **limited period Compliance Window** *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 at 30%, and surcharge at 7.5% and penalty at 7.5%, which is a total of **45% of the undisclosed income.** There will be **no scrutiny or enquiry regarding income declared** in these declarations under the Income Tax Act or the Wealth Tax Act and the declarants will have immunity from prosecution. Immunity from Benami Transaction (Prohibition) Act, 1988 is also proposed subject to certain conditions. The surcharge levied at 7.5% of undisclosed income will be called Krishi Kalyan surcharge to be used for agriculture and rural economy. ***We plan to open the window under this Income Disclosure Scheme from 1st June to 30th September, 2016 with an option to pay amount due within two months of declaration.***

161. *Our Government is fully committed to remove black money from the economy*. ***Having given one opportunity for evaded income to be declared once, we would then like to focus all our resources for bringing people with black money to books.***

Scheme at Glance

Commencement of Scheme	From 1st day of June, 2016
Last date for making a declaration	30th day of September, 2016
Last date for making payment of Tax, Surcharge & Penalty	30th day of November, 2016
Tax Rate	30% of Undisclosed Income + 25% of Tax as Krishi Kalyan Surcharge + 25% of tax as Penalty = 45% of Undisclosed Income
Declaration Form	Form 1
Acknowledgement by commissioner	Form 2
Proof of Payment	Form 3
Grant of Certificate	Form 4



Finance Act, 2016

CHAPTER IX

THE INCOME DECLARATION SCHEME, 2016

Section 181: Short title and commencement

(*1*) This Scheme may be called the Income Declaration Scheme, 2016.
(*2*) It shall come into force on the 1st day of June, 2016.

Section 182: Definitions

In this Scheme, unless the context otherwise requires,—
(a) "**Declarant**" means a person making the declaration under sub-section (1) of section 183;
(b) "**Income-tax Act**" means the Income-tax Act, 1961;
(c) 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.

Section 183: Declaration of undisclosed income

(1) Subject to the provisions of this Scheme, **any person** may make, on or after the date of commencement of this Scheme but **before a date to be notified by the Central Government** in the Official Gazette, a **declaration in respect of any income chargeable to tax** under the Income-tax Act for any assessment year prior to the assessment year beginning on the 1st day of April, 2017—

(a) For which he has **failed to furnish a return under section 139** of the Income-tax Act;
(b) 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;
(c) 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 or otherwise.

(2) Where 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 the undisclosed income** for the purposes of sub-section (1).

(3) The fair market value of any asset shall be **determined in such manner, as may be prescribed.** **(Refer Rule 3)**

(4) **No deduction in respect of any expenditure or allowance** shall be allowed against the income in respect of which declaration under this section is made.

Section 184: Charge of tax and surcharge

(1) Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the undisclosed income declared under section 183 within the time specified therein shall be chargeable to tax **at the rate of thirty per cent of such undisclosed income**.

(2) The amount of tax chargeable under sub-section (1) shall be **increased by a surcharge, for the purposes of the Union, to be called the Krishi Kalyan Cess on tax calculated at the rate of twenty-five per cent of such tax** so as to fulfil the commitment of the Government for the welfare of the farmers.

Section 185: Penalty

Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the person making a declaration of undisclosed income shall, in addition to tax and surcharge under section 184, **be liable to penalty at the rate of twenty-five per cent of such tax.**

Section 186: Manner of declaration

(1) A declaration under section 183 shall be *made to the Principal Commissioner or the Commissioner* and shall be *in such form and be verified in such manner, as may be prescribed.*

(2) The declaration shall be **signed**,—
(a) where the declarant is an individual, by **the individual himself**; where such individual is absent from India, by the individual concerned or by **some person duly authorised by him** in this behalf; and where the individual is **mentally incapacitated** from attending to his affairs, **by his guardian** or by any other person competent to act on his behalf;
(b) Where the declarant is a Hindu undivided family, **by the Karta**, and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) Where the declarant is a company, **by the managing director thereof**, or where for any unavoidable reason such managing director is not able to sign the declaration or where there **is no managing director**, by **any director** thereof;
(d) where the declarant is a firm, **by the managing partner thereof**, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is **no managing partner** as such, by **any partner** thereof, **not being a minor**;
(e) Where the declarant is any **other association**, by **any member** of the association **or** the **principal officer** thereof; and
(f) Where the declarant is any other person, by that person or by some **other person competent to act** on his behalf.

(3) Any person, who has made a declaration under sub-section (1) of section 183 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**, under that sub-section in respect of his income or the income of such other person, and any such other declaration, **if made, shall be void**.

Section 187: Time for payment of tax

(1) The tax and surcharge payable under section 184 and penalty payable under section 185 in respect of the undisclosed income, **shall be paid on or before a date to be notified by the Central Government** in the Official Gazette.

(2) The declarant shall **file the proof of payment of tax, surcharge and penalty** on or before the date notified under sub-section (1), with the Principal Commissioner or the Commissioner, as the case may be, before whom the declaration under section 183 was made.

(3) If the declarant **fails to pay the tax, surcharge and penalty** in respect of the declaration made under section 183 on or before the date specified under sub-section (1), the **declaration filed by him shall be deemed never to have been made under this Scheme.**

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

The amount of undisclosed income declared in accordance with section 183 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 referred to in section 184 and the penalty referred to in section 185**, by the date specified under sub-section (*1*) of section 187.

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

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.

Section 190: 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 **(CG has notified 30th day of September, 2017 as last date)**

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

Any **amount of tax and surcharge** paid under section 184 or **penalty** paid under section 185 in pursuance of a declaration made under section 183 **shall not be refundable.**

Section 192: Declaration not admissible in evidence against declarant

Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under section 183 shall be admissible in evidence against the declarant **for the purpose of any proceeding relating to imposition of penalty, other than the penalty leviable under section 185, or for the purposes of prosecution** under the Income-tax Act or the Wealth-tax Act, 1957.

Section 193: Declaration by misrepresentation of facts to be void

Notwithstanding anything contained in this Scheme, where a declaration has been made by misrepresentation or suppression of facts, such declaration shall be void and shall be deemed never to have been made under this Scheme.

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

(1) Where the undisclosed income is represented by cash (including bank deposits), bullion, investment in shares or any other assets specified in the declaration made under section 183—

(a) in respect of which the declarant has **failed to furnish a return under section 14 of the Wealth-tax Act**, 1957, for the assessment year commencing on or before the 1st day of April, 2015; 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, notwithstanding anything contained in the Wealth-tax Act, 1957, or any rules made thereunder,—

> (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.

Explanation.—Where a declaration under section 183 is **made by a firm**, the assets referred to in sub-clause (i) or, as the case may be, the amount referred to in sub-clause (ii) 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.

(2) The provisions of sub-section (1) shall not apply *unless the conditions specified in sub-sections (1) and (2) of section 187 are fulfilled by the declarant.*

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

The **provisions of Chapter XV of the Income-tax Act relating to liability in special cases and of section 119, section 138 and section189 of that Act or the provisions of Chapter V of the Wealth-tax** Act, 1957 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 the Income-tax Act or, as the case may be, the Wealth-tax Act, 1957.

Section 196: Scheme not to apply to certain persons

The provisions of this Scheme shall not apply—

(a**) 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 Act, 1974:**

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(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 under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9 of the said 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 under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(iv) Such order of detention has not been set aside by a court of competent jurisdiction;

(b) **in relation to prosecution** for any offence punishable under **Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967 and the Prevention of Corruption Act, 1988;**

(c) To any person notified under section 3 of the **Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;**

(d) 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;

(e) In relation to any **undisclosed income chargeable to tax under the Income-tax Act** for any previous year relevant to an assessment year **prior to** the assessment year beginning on the 1st day of April, 2017—

(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 issued** in respect of such assessment year and the proceeding is pending before the Assessing Officer; or

(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 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 issued **and *the time for issuance of such notice has not expired***; or

(iii) Where any **information has been received by the competent authority** under an agreement entered into by the Central Government **under section 90 or section 90A of the Income-tax Act** in respect of such undisclosed asset.

Section 197: Removal of doubts

For the removal of doubts, it is hereby declared that—

(a) **save as otherwise expressly provided in sub-section (1) of section 183**, 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) Where any declaration has been made under section 183 but no tax, surcharge and penalty referred to in section 184 and section 185 has been paid within the time specified under section 187, the undisclosed income shall be chargeable to tax under the Income-tax Act in the previous year in which such declaration is made;

(c) 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 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.

Section 198: Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

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

(2) Every order made under this section shall be laid before each House of Parliament.

Section 199: Power to make rules

(1) 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.

(2) 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.

(3) 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 thirty days, which may be comprised in one session or in two 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.

****

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (ii)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi, the 19th May, 2016

The Income Declaration Scheme Rules, 2016

NOTIFICATION

S.O. 1831(E)- In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 199 of the Finance Act, 2016 (28 of 2016), the Central Board of Direct Taxes, subject to the control of the Central Government hereby makes the following rules for carrying out the provisions of Chapter IX of the said Act relating to the Income Declaration Scheme, 2016 namely :—

1. Short title and commencement.

(1) These rules may be called the Income Declaration Scheme Rules, 2016.

(2) They shall come into force on the 1st day of June, 2016.

2. Definitions.

(1) In these rules, unless the context otherwise requires,—

(a) "Act" means the Finance Act, 2016 (28 of 2016);

(b) "Form" means a form appended to these rules;

(c) "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 (42 of 1956);

(d) "registered valuer" means a person registered as a valuer under section 34AB of the Wealth-tax Act, 1957 (27 of 1957);

(e) "section" means a section of the Act.

(2) Words and expressions used and not defined in these rules but defined in the Act, or the Income-tax Act, 1961 (43 of 1961) or the rules made thereunder, shall have the meanings respectively assigned to them in those Acts and rules.

3. Determination of Fair market value

(1) The fair market value of the asset shall be determined in the following manner, namely:—

(*a*) the value of bullion, jewellery or precious stone shall be the higher of—

(I) its cost of acquisition; and

(II) the price such bullion, jewellery or precious stone shall ordinarily fetch if sold in the open market as on the 1st day of June, 2016, on the basis of the valuation report obtained by the declarant from a registered valuer;

(*b*) the valuation of archaeological collections, drawings, paintings, sculptures or any work of art (hereinafter referred to as artistic work) shall be the higher of—

(I) its cost of acquisition; and

(II) the price such artistic work shall ordinarily fetch if sold in the open market as on the 1st day of June, 2016 on the basis of the valuation report obtained by the declarant from a registered valuer;

(*c*) the value of shares and securities of—

(I) quoted share and securities shall be the higher of—

(*i*) its cost of acquisition; and

(*ii*) the price determined by taking—

(A) the average of the lowest and highest price of such shares and securities quoted on a recognised stock exchange as on the 1st day of June, 2016; or

(B) the average of the lowest and highest price of such shares and securities on a recognised stock exchange on a date immediately preceding the 1st day of June, 2016 when such shares and securities were traded on a recognised stock exchange, where on the 1st day of June, 2016 there is no trading in such shares and securities on a recognised stock exchange;

(II) unquoted equity shares shall be the higher of—

(*i*) its cost of acquisition; and

(*ii*) the value, on the 1st day of June, 2016, of such equity shares as determined in the following manner, namely:—

$$\text{the fair market value of unquoted equity shares} = \frac{(A+B - L) \times (PV),}{(PE)}$$

where,

A = book value of all the 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= fair market value of bullion, jewellery, precious stone, artistic work, shares, securities and immovable property as determined in the manner provided in this rule;

L= book value of liabilities shown in the balance sheet, but not including the following amounts, namely:—

(*i*) the paid-up capital in respect of equity shares;

(*ii*) the amount set apart for payment of dividends on preference shares and equity shares;

(*iii*) reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart towards depreciation;

(*iv*) any amount representing provision for taxation, other than amount of income-tax paid, if any, less the amount of income-tax claimed as refund, if any, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

(*v*) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;

(*vi*) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares;

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

PV= the paid up value of such equity share;

(III) unquoted share and security other than equity share in a company shall be the higher of,—

(*i*) its cost of acquisition; and

(*ii*) the price that the share or security shall ordinarily fetch if sold in the open market on the 1st day of June, 2016, , on the basis of the valuation report obtained by the declarant from a registered valuer;

(*d*) the fair market value of an immovable property shall be higher of—

(I) its cost of acquisition; and

(II) the price that the property shall ordinarily fetch if sold in the open market on the 1st day of June, 2016 on the basis of the valuation report obtained by the declarant from a registered valuer;

(e) value of an interest of a person in a partnership firm or in an association of persons or a limited liability partnership of which he is a member shall be determined in the manner as specified in clause (*f*);

(f) The net asset of the firm, association of persons or limited liability partnership on the 1st day of June, 2016 shall first be determined and the portion of the net asset of the firm, association of persons or limited liability partnership 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 association or limited liability partnership for distribution of assets in the event of dissolution of the firm, association or limited liability partnership, 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, association of persons or limited liability partnership shall be (A + B - L), which shall be determined in the manner provided in sub-clause (*II*) of clause (*c*);

(g) valuation of any other asset shall be higher of—

(I) its cost of acquisition or the amount invested; and

(II) the price that the asset would fetch if sold in the open market on the 1st day of June, 2016.

Explanation— For the purposes of this rule,—

(a) "quoted share or security" in relation to 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;

(b) "unquoted share and security" in relation to share or security means share or security which is not a quoted share or security;

(c) "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 31st day of March, 2016, which has been audited by the auditor of the company appointed under the Companies Act, 2013 (18 of 2013) and where the balance sheet as on 31st day of March, 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 the annual general meeting of the shareholders of the company.

(2) Where investment in any asset is partly from an income which has been assessed to tax prior to assessment year 2017-18, the fair market value 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 the 1st day of June, 2016, the same proportion as the assessed income bears to the total cost of the asset.

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

(1) A declaration of income or income in the form of investment in any asset under section 183 shall be made in Form-1.

(2) 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.

(3) The Principal Commissioner or the Commissioner shall issue an acknowledgement in Form-2 to the declarant within fifteen days from the end of the month in which the declaration under section 183 has been furnished.

(4) The proof of payment of tax, surcharge and penalty made pursuant to the acknowledgement issued by the Principal Commissioner or the Commissioner shall be furnished by the declarant to the such Principal Commissioner or Commissioner in Form 3.

(5) The Principal Commissioner or the Commissioner shall grant a certificate in Form-4 to the declarant within fifteen days of the submission of proof of payment of tax, surcharge along with penalty by the declarant under section 187 of the Act in respect of the income so declared.

(6) 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).

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 Director General of Income-tax (Systems) or Director General of Income-tax (Systems).

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 of the declarant …………………………………………………………………………………………
2. Address: Office…………………………………………………………………………………………
   ……..…
   E-mail………………………………………………..Telephone No…………………………..
   Residence……………………………………………………………………….........................
   ………
   E-mail………………………………………………..Telephone No………..………………...
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)**

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 (Attach proof of payment and provide details below) Rs.……………………….

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.

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.

Annexure to Form 1

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) Total acquisition cost ________________
(vi) Value as estimated by the registered valuer on 1st June, 2016 ________________
(vii) Fair Market value as per Rule 3 ________________

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 __________________

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 ___________________

(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 ___________________

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) ____________________

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)

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.

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)	(4)	(5)			(6)
				Tax	**Surcharge**	**Penalty**	
Total							

The declarant is hereby directed to make the payment of sum payable as per column (5) above on or before the 30th day of November, 2016.

In case of non-payment of amount payable upto the 30th day of November, 2016, 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

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

THE INCOME DECLARATION SCHEME RULES, 2016

Form 3
[See rule 4(4)]

To,

The Principal Commissioner/Commissioner

……………………………………

Sir/Madam,

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

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

Attach proof of payment as detailed above

Place: ……………..

Date: ……………..

……………………..
Signature

……………………
Designation

………..…………….
Address

……………………………
PAN

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

[Notification No. 33/2016, F.No.142/8/2016-TPL

(Ekta Jain)
Deputy Secretary to the Government of India

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (ii)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi, the 19th May, 2016

NOTIFICATION

S.O. 1830(E)- In exercise of the powers conferred by section 183, section 187 and section 190 of the Finance Act, 2016 (28 of 2016), the Central Government hereby appoints -

(i) the 30th day of September, 2016 as the date on or before which a person may make a declaration under sub-section (1) of section 183;

(ii) the 30th day of November, 2016 as the date on or before which the tax and surcharge is payable under section 184, and the penalty is payable under section 185 in respect of the undisclosed income;

(iii) the 30th day of September, 2017 as the date on or before which the benamidar shall transfer to the declarant, being the person who provides the consideration for such asset, or his legal representative.

[Notification No. 32/2016, F.No.142/8/2016-TPL

(Ekta Jain)
Deputy Secretary to the Government of India

Circular No. 16 of 2016

F.No.370142/8/2016-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)
***

Dated: 20th May, 2016

EXPLANATORY NOTES ON PROVISIONS OF THE INCOME DECLARATION SCHEME, 2016 AS PROVIDED IN CHAPTER IX OF THE FINANCE ACT, 2016

Introduction

The Income Declaration Scheme, 2016 (referred to here as 'the Scheme') is contained in the Finance Act, 2016, which received the assent of the President on the 14th of May 2016.

2. The Scheme provides an opportunity to persons who have paid not full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totalling in all to forty-five per cent of such undisclosed income declared.

Scope of the Scheme

3. A declaration under the aforesaid Scheme 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 the assessment year 2017-18 for which the declarant had, *either* failed to furnish a return under section 139 of the Income-tax Act, *or* failed to disclose such income in a return furnished before the date of commencement of the Scheme, *or* such income had escaped assessment by reason of the omission or failure on the part of such person to make a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

Where the income chargeable to tax is declared in the form of investment in any asset, the fair market value of such asset as on 1st June, 2016 computed in accordance with Rule 3 of the Income Declaration Scheme Rules, 2016 shall be deemed to be the undisclosed income.

Rate of tax, surcharge and penalty

4. The person making a declaration under the Scheme would be liable to pay tax at the rate of 30 percent of the value of such undisclosed income as increased by surcharge at the rate of 25 percent of such tax. In addition, he would also be liable to pay penalty at the rate of 25 percent of such tax. Therefore, the declarant would be liable to pay a total of 45 percent of the value of the undisclosed income declared by him. This special rate of tax, surcharge and penalty specified in the Scheme will override any rate or rates specified under the provisions of the Income-tax Act or the annual Finance Acts.

Time limits for declaration and making payment

5. A declaration under the Scheme can be made anytime on or after 1st June, 2016 but before a date to be notified by the Central Government. The Central Government has further notified 30th September, 2016 as the last date for making a declaration under the Scheme and 30th November, 2016 as the last date by which the tax, surcharge and penalty mentioned in para 4 above shall be paid. Accordingly, a declaration under the Scheme in Form 1 as prescribed in the Rules may be made at any time before 30.09.2016. After such declaration has been furnished, the jurisdictional Principal CIT/ CIT will issue an acknowledgment in Form-2 to the declarant within 15 days from the end of the month in which the declaration under Form-1 is made. The declarant shall not be liable for any adverse consequences under the Scheme in respect of, any income which has been duly declared but has been found ineligible for declaration. However, such information may be used under the provisions of the Income-tax Act. The declarant shall furnish proof of payment made in respect of tax, surcharge and penalty to the jurisdictional Principal CIT/CIT in Form-3 after which the said authority shall issue a certificate in Form-4 of the accepted declaration within 15 days of submission of proof of payment by the declarant.

Form for declaration

6. As per the Scheme, declaration is to be made in such form and shall be verified in such manner as may be prescribed. The form prescribed for this purpose is Form 1 which has been duly notified. The table below mentions the persons who are authorized to sign the said form:

Sl.	Status of the declarant	Declaration to be signed by
1.	Individual	Individual; 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.
2.	HUF	*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
3.	Company	Managing Director; where for any unavoidable reason the managing director is not able to sign or there is no managing director, by any director.
4.	Firm	Managing partner; where for any unavoidable reason the managing partner is not able to sign the declaration, or where there is no managing partner, by any partner, not being a minor.
5.	Any other association	Any member of the association or the principal officer.
6.	Any other person	That person or by some other person competent to act on his behalf.

The declaration may be filed online on the e-filing website of the Income-tax Department using the digital signature of the declarant or through electronic verification code or in paper form before the jurisdictional Principal CIT/CIT.

Declaration not eligible in certain cases

7. As per the provisions of the Scheme, no declaration can be made in respect of any undisclosed income chargeable to tax under the Income-tax Act for assessment year 2016-17 or any earlier assessment year in the following cases—

(*i*) where a notice under section 142 or section 143(*2*) or section 148 or section 153A or section 153C of the Income-tax Act has been issued in respect of such assessment year and the proceeding is pending before the Assessing Officer. For the purposes of declaration under the Scheme, it is clarified that the person will not be eligible under the Scheme if any notice referred above has been served upon the person on or before 31st May, 2016 i.e. before the date of commencement of this Scheme.

In the form of declaration (Form 1) the declarant will verify that no such notice has been received by him on or before 31st May, 2016.

(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 the time for issuance of a notice under section 143 (*2*) or section 153A or section 153C for the relevant assessment year has not expired. In the form of declaration (Form 1) the declarant will also verify that these facts do not prevail in his case.

(iii) cases covered under the Black Money (Undisclosed Foreign Income & Assets) and Imposition of Tax Act, 2015.

A person in respect of whom proceedings for prosecution of any offence punishable under Chapter IX (offences relating to public servants) or Chapter XVII (offences against property) of the Indian Penal Code or under the Unlawful Activities (Prevention) Act or the Narcotic Drugs and Psychotropic Substances Act or the Prevention of Corruption Act are pending shall not be eligible to make declaration under the Scheme.

A person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act or a person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, subject to the conditions specified in the Scheme, shall also not be eligible for making a declaration under the Scheme.

Circumstances where declaration shall be invalid

8. In the following situations, a declaration shall be void and shall be deemed never to have been made:-

(a) If the declarant fails to pay the entire amount of tax, surcharge and penalty within the specified date, i.e., 30.11.2016;

(b) Where the declaration has been made by misrepresentation or suppression of facts or information.

Where the declaration is held to be void for any of the above reasons, it shall be deemed never to have been made and all the provisions of the Income-tax Act, including penalties and prosecutions, shall apply accordingly.

Any tax, surcharge or penalty paid in pursuance of the declaration shall, however, not be refundable under any circumstances.

Effect of valid declaration

9. Where a valid declaration as detailed above has been made, the following consequences will follow:

(a) The amount of undisclosed income declared shall not be included in the total income of the declarant under the Income-tax Act for any assessment year;

(b) The contents of the declaration shall not be admissible in evidence against the declarant in any penalty or prosecution proceedings under the Income-tax Act and the Wealth Tax Act;

(c) Immunity from the Benami Transactions (Prohibition) Act, 1988 shall be available in respect of the assets disclosed in the declarations subject to the condition that the benamidar shall transfer to the declarant or his legal representative the asset in respect of which the declaration of undisclosed income is made on or before 30th September, 2017;

(d) The value of asset declared in the declaration shall not be chargeable to Wealth-tax for any assessment year or years.

(e) Declaration of undisclosed income will not affect the finality of completed assessments. The declarant will not be entitled to claim re-assessment of any earlier year or revision of any order or any benefit or set off or relief in any appeal or proceedings under the Income-tax Act in respect of declared undisclosed income or any tax, surcharge or penalty paid thereon.

(Ekta Jain)
Deputy Secretary to the Government of India

Copy to:-

1. PS to FM/ OSD to FM/ OSD to MoS(R).
2. PS to Secretary (Revenue).

3. The Chairperson, Members and all other officers in CBDT of the rank of Under Secretary and above.
4. All Pr. Chief Commissioners/ Pr. Director General of Income-tax – with a request to circulate amongst all officers in their regions/ charges.
5. Pr. DGIT (Systems)/ Pr. DGIT (Vigilance)/ Pr. DGIT (Admn.)/ Pr. DG (NADT)/ Pr. DGIT (L&R).
6. CIT (M&TP), CBDT.
7. Web manager for posting on the departmental website.

Circular No.17 of 2016

F.No.142/8/2016-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)
***

Dated 20th of May, 2016

Clarifications on the Income Declaration Scheme, 2016

The Income Declaration Scheme, 2016 (hereinafter referred to as 'the Scheme') incorporated as Chapter IX of the Finance Act, 2016 provides an opportunity to persons who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totaling in all the 45% of such undisclosed income declared. The Income Declaration Scheme Rules, 2016 (hereinafter referred to as 'the Rules') have been notified. In regard to the scheme queries have been received from the public about the scope of the scheme and the procedure to be followed. The Board has considered the same and decided to clarify the points raised by issue of a circular in the form of questions and answers as follows.-

Question No.1: ***Where an undisclosed income in the form of investment in asset is declared under the Scheme and tax, surcharge and penalty is paid on the fair market value 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?***

Answer: 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 fair market value the cost of acquisition for the purpose of Capital Gains shall be the fair market value as on 01.06.2016 and the period of holding shall start from the said date (i.e. the date of determination of fair market value for the purposes of the Scheme).

Question No.2: ***Where a notice under section 142(1)/ 143(2)/ 148/ 153A/ 153C of the Income-tax Act has been issued to a person for an assessment year will he be ineligible from making a declaration under the Scheme?***

Answer: The person will only be ineligible from declaration for those assessment years for which a notice under section 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.

Question No.3: ***As per the Scheme, declaration cannot be made where an undisclosed asset has been acquired during any previous year relevant to an assessment year for which a notice under section 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?***

Answer: The declarant will not be eligible for declaration under the Scheme where the undisclosed income relates to the assessment year where a notice under section 142, 143(2), 148, 153A or 153C of the Income-tax Act has been issued and served on the declarant on or before 31^{st} day of May, 2016. The declarant is required to file a declaration regarding receipt of any such notice in Form-1.

Question No.4: ***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?***

Answer: As per sub-rule (2) of rule 3 of the Income Declaration Scheme Rules, 2016, 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 the fair market value of the asset determined in accordance with sub-rule (1) of rule 3 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:

Investment in acquisition of asset in previous year 2013-14 is of Rs.500 out of which Rs.200 relates to income assessed to tax in A.Y. 2012-13 and Rs.300 is from undisclosed income pertaining to previous year 2013-14. The fair market value of the asset as on 01.06.2016 is Rs.1500.

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

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

Question No.5: ***Can a declaration be made of undisclosed income which has been assessed to tax and the case is pending before an Appellate Authority?***

Answer: As per section 189 of the Finance Act, 2016, 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.

Question No.6: ***Can a person against whom a search/ survey operation has been initiated file declaration under the Scheme?***

Answer: (a) 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 under section 153A has not expired, even if such notice for the relevant assessment year 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 assessment year which is prior to assessment years relevant for the purpose of notice under section 153A.

(b) 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.

Question No. 7: ***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?***

Answer: Yes, such undisclosed income can be declared under the Scheme.

Question No.8: ***What are the consequences if no declaration under the Scheme is made in respect of undisclosed income prior to the commencement of the Scheme?***

Answer: As per section 197(c) of the Finance Act, 2016, 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 under section 142/143(2)/148/153A/153C is issued by the Assessing Officer and the provisions of the Income-tax Act shall apply accordingly.

Question No.9: ***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 under section 197(c) of the Finance Act, 2016?***

Answer: 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) of the Finance Act, 2016. However, such undisclosed income may be assessed under the normal provisions of the Income-tax Act, 1961.

Question No.10: ***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?***

Answer: 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.

Question No.11: ***Can a person declare under the Scheme his undisclosed income which has been acquired from money earned through corruption?***

Answer: No. As per section 196(b) of the Finance Act, 2016, 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 under section 193 of the Finance Act, 2016. 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.

Question No.12: ***Whether at the time of declaration under the Scheme, will the Principal Commissioner/Commissioner do any enquiry in respect of the declaration made?***

Answer: After the declaration is made the Principal Commissioner/ Commissioner will enquire whether any proceeding under section 142(1)/143(2)/148/153A/153C is pending for the assessment year for which declaration has been made. Apart from this no other enquiry will be conducted by him at the time of declaration.

Question No.13: ***Will the declarations made under the Scheme be kept confidential?***

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

Question No.14: ***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?***

Answer: 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.

(Ekta Jain)
Deputy Secretary to the Government of India

Copy to:-

1. PS to FM/ OSD to FM/ OSD to MoS(R).
2. PS to Secretary (Revenue).
3. The Chairperson, Members and all other officers in CBDT of the rank of Under Secretary and above.
4. All Pr. Chief Commissioners/ Pr. Director General of Income-tax – with a request to circulate amongst all officers in their regions/ charges.

5. Pr. DGIT (Systems)/ Pr. DGIT (Vigilance)/ Pr. DGIT (Admn.)/ Pr. DG (NADT)/ Pr. DGIT (L&R).
6. CIT (M&TP), CBDT.
7. Web manager for posting on the departmental website.

Circular No.19/2016

F.No 187/10/2016.ITA.I
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(Income-Tax)

New Delhi, the 25th May, 2016

Income Declaration Scheme, 2016, introduced vide Finance Act, 2016 (28 of 2016), provides an opportunity to persons who have not paid full taxes in the past to come forward and declare their undisclosed income. Rule 4 of the Income Declaration Scheme Rules, 2016 provides that a declaration of income or income in the form of investment in any asset u/s 183 shall be made in the prescribed manner to the Principal Commissioner or the Commissioner who exercises jurisdiction over the declarant.

2. It is, therefore, clarified that 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, shall be the Principal Commissioner or the Commissioner as referred to in section 186 of the Income Declaration Scheme 2016 to whom declaration under 183 of that Scheme is to be made.

Note: *Notifications of the Government of India, Central Board of Direct Taxes, pertaining to the jurisdiction u/s 120 of the Income-tax Act, 1961 - Published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii)- S.O. 2752 (E) dated 22.10.2014, S.O. 2754 (E) dated 22.10.2014, S.O. 2814 (E) dated 03.11.2014, S.O. 2885 (E) dated 12.11.2014, S.O. 3244 (E) dated 19.12.2014, S.O. 2911 (E) dated 13.11.2014, S.O. 2922 (E) dated 15.11.2014, S.O. 2915 (E) dated 13.11.2014, S.O. 3911 (E) dated 16.12.2014, S.O. 355 (E) dated 05.02.2015, S.O. 2812 (E) dated 13.10.2015.*

sd/-

DEEPSHIKHA SHARMA
Director to the Government of India

1. The Chairperson and Members, CBDT.
2. All Joint Secretaries/CsIT, CBDT.
3. OSD to Revenue Secretary
4. All Principal Commissioners of Income-Tax & all Directors General of Income-Tax with the request to bring to notice of all officers.
5. The Pr. DGIT (Training), NADT, Nagpur
6. The Pr. DGIT (Systems), ARA Centre, Jhandewalan Extension, New Delhi.
7. The Pr. DGIT (Vigilance), New Delhi.
8. The ADG (PR, PP & OL), Mayur Bhawan, New Delhi for printing in the quarterly tax bulletin and for circulation as per mailing list.
9. Comptroller and Auditor General of India.
10. ADG-4 (Systems) for uploading on ITD website.
11. Data Base Cell for uploading on www. irsofficersonline.gov.in
12. The Guard File.

Deepshikha

DEEPSHIKHA SHARMA
Director to the Government of India

Circular No. 24 of 2016

F.No.142/8/2016-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)
***

Dated 27th of June, 2016

Clarifications on the Income Declaration Scheme, 2016

The Income Declaration Scheme, 2016 (hereinafter referred to as 'the Scheme') incorporated as Chapter IX of the Finance Act, 2016 provides an opportunity to persons who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totaling in all 45% of such undisclosed income declared. The Income Declaration Scheme Rules, 2016 (hereinafter referred to as 'the Rules') have been notified. In this regard, Circular No. 17 of 2016 dated 20th May, 2016 issued by the Board provided clarifications to 14 queries. Subsequently, further queries have been received from the public about various provisions of the Scheme. The Board has considered the same and the following clarifications are issued.-

Question No.1: ***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?***

Answer: 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.

Question No.2: ***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?***

Answer: 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.

Question No.3: ***Whether the Scheme is open only to residents or to non-residents also?***

Answer: The Scheme is available to every person, whether resident or non-resident.

Question No.4: ***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?***

Answer: 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.

Question No.5: ***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?***

Answer: No, in such a case time for issuance of notice under section 153A has not expired. Hence the person is not eligible to avail the Scheme in respect of assessment years for which notice under section 153A can be issued.

Question No.6: **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?**

Answer: 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 Pr. Commissioner/ Commissioner 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 Pr. Commissioner/Commissioner.

Question No.7: ***Is it mandatory to furnish PAN in the Form of declaration?***

Answer: 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.*

Question No.8: ***If any proceeding is pending before the Settlement Commission, can a person be considered eligible for the Scheme?***

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

Question No.9: ***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, a 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?***

Answer: 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.

Question No.10: ***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?***

Answer: 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.**

Question No.11: ***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?***

Answer: As clarified vide Explanatory Circular No. 17 dated 20.5.2016 , 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. 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 assessment year. 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. On furnishing by the declarant the certificate issued by the Pr. Commissioner/Commissioner in Form-4 to the Assessing Officer, the proceedings initiated vide notice under section 142, 143(2) or 148 shall be deemed to have been closed.

(Dr. T.S. Mapwal)
Under Secretary to the Government of India

Copy to:-

1. PS to FM/ OSD to FM/ OSD to MoS(R).
2. PS to Secretary (Revenue).
3. The Chairperson, Members and all other officers in CBDT of the rank of Under Secretary and above.
4. All Pr. Chief Commissioners/ Pr. Director General of Income-tax – with a request to circulate amongst all officers in their regions/ charges.
5. Pr. DGIT (Systems)/ Pr. DGIT (Vigilance)/ Pr. DGIT (Admn.)/ Pr. DG (NADT)/ Pr. DGIT (L&R).
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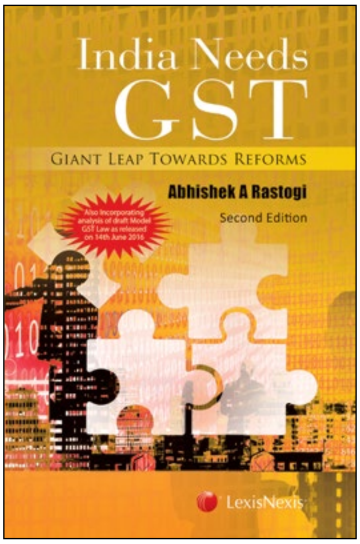

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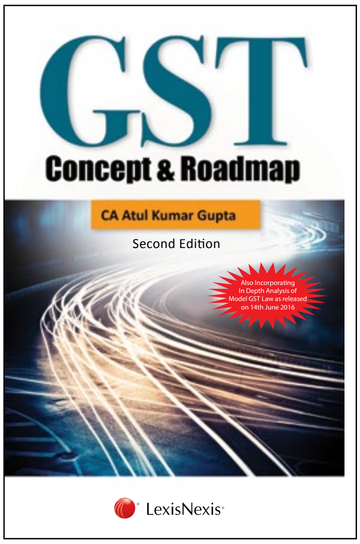

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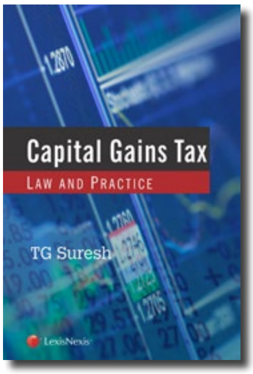

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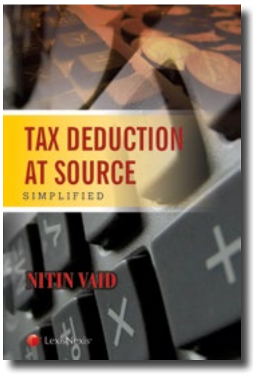

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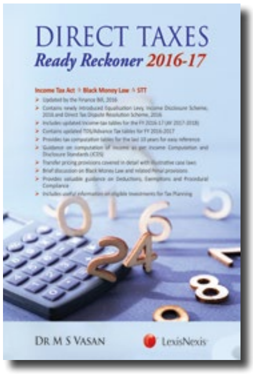

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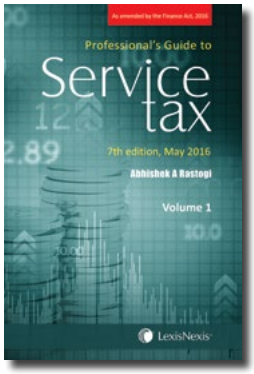

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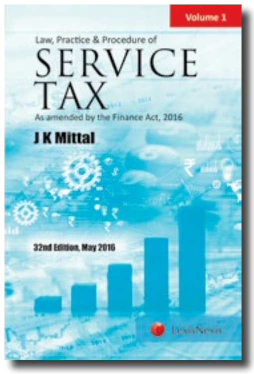

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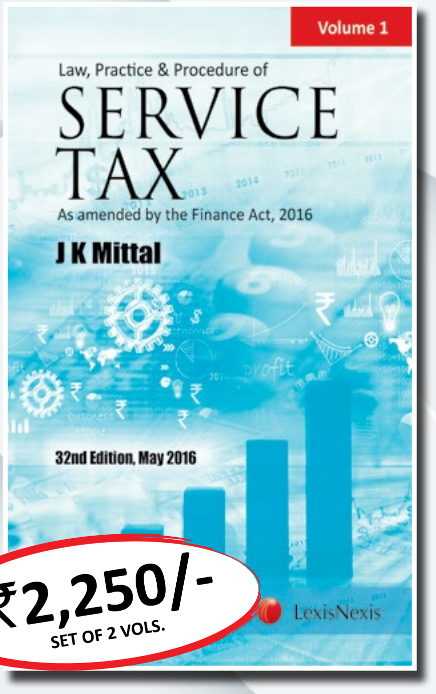

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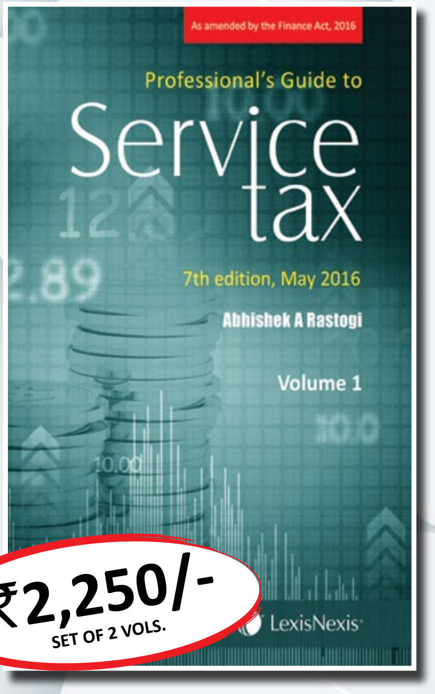

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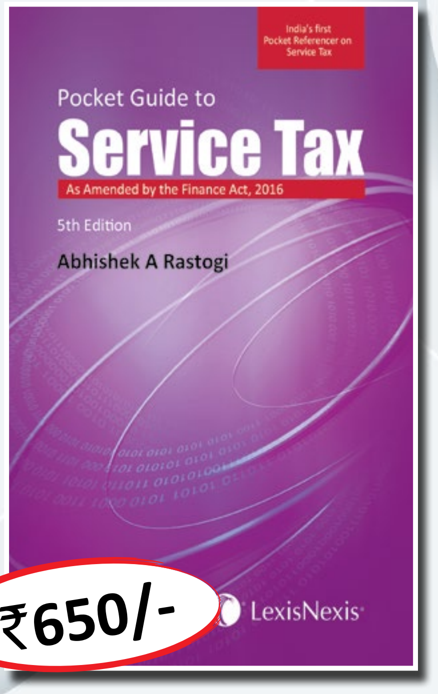

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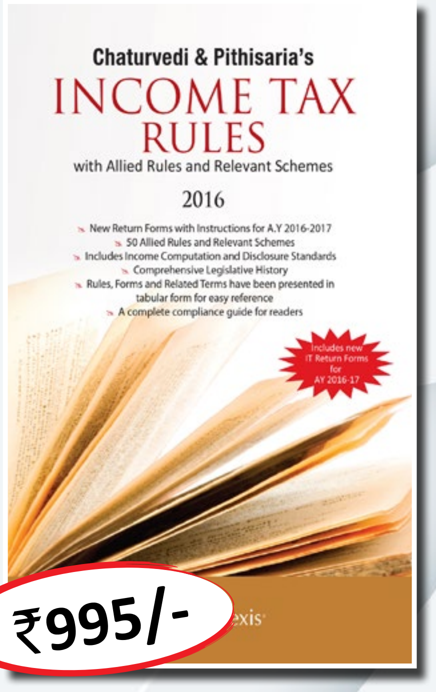

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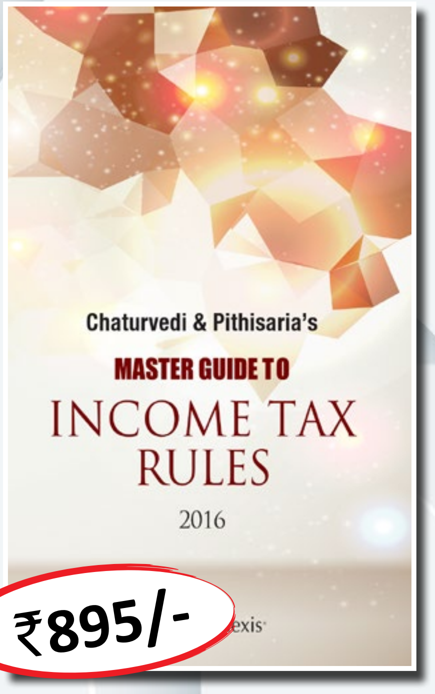

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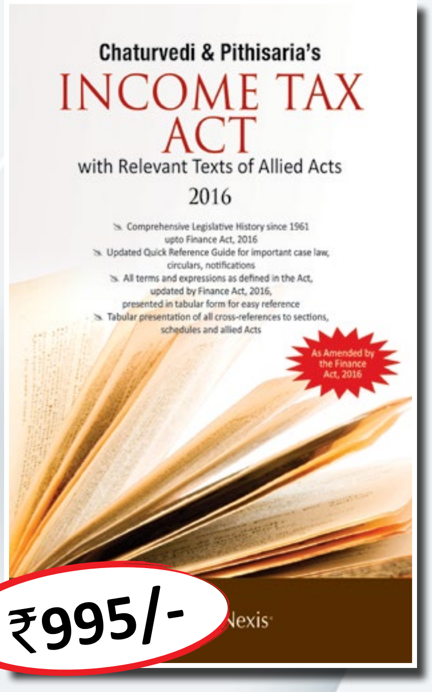

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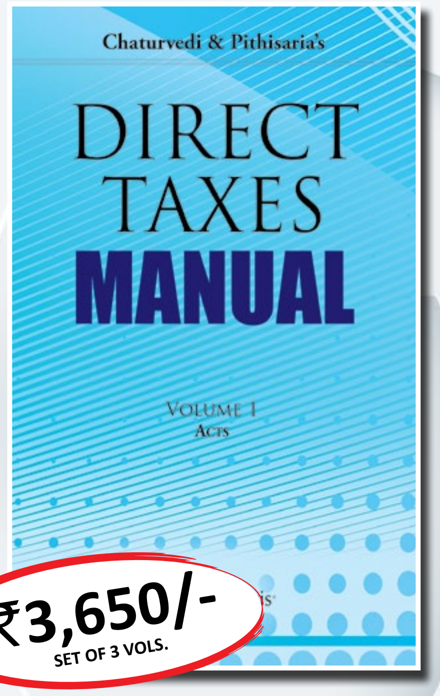

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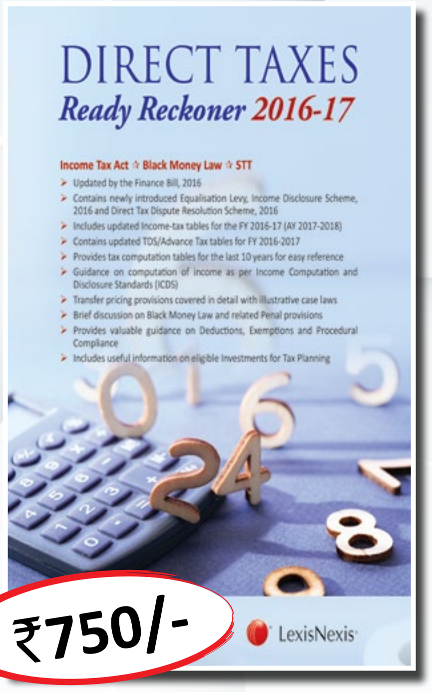

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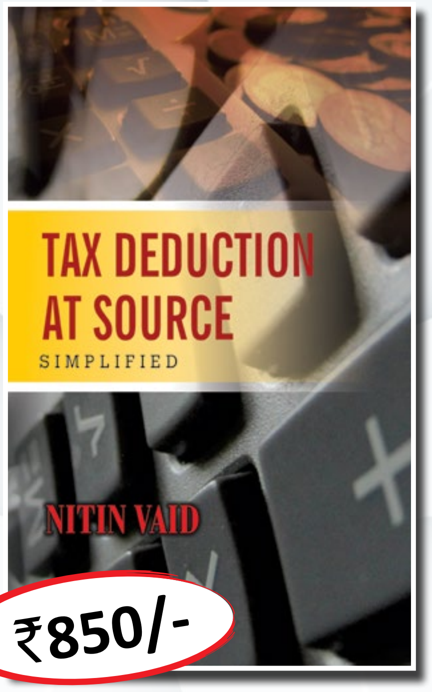

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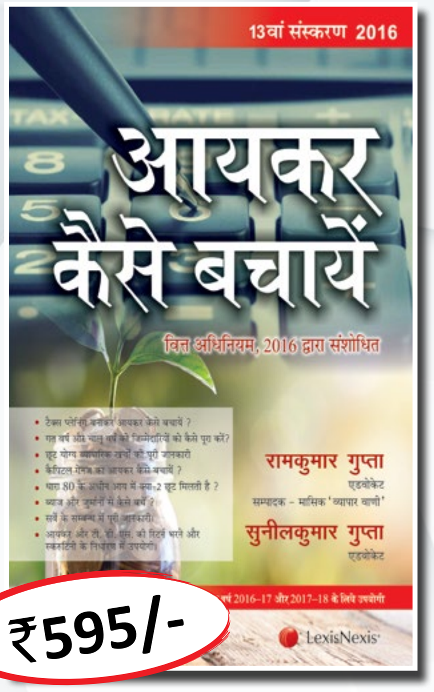

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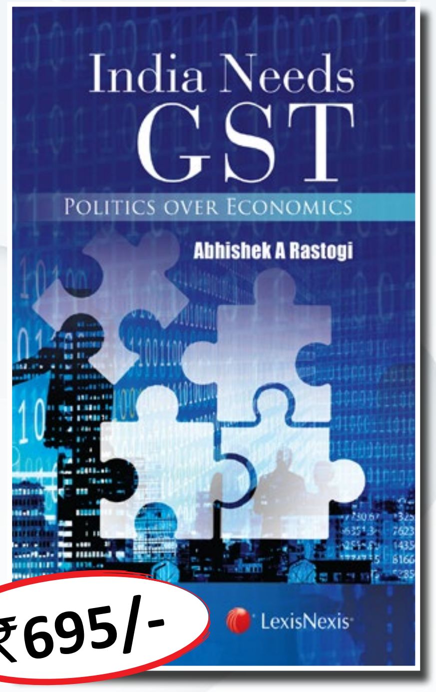

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