

# Income Disclosure Scheme, 2016

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## **1. About the Disclosure scheme:**

The Income Disclosure Scheme was launched by the Government of India in 2016. This voluntarily disclosure scheme is not an amnesty scheme. The scheme extends an opportunity to the tax payers to come clean by paying more than the normal tax. It has not been drafted to bring loss of revenue or to give hefty discounts on payable taxes

Between 1951 and 1997, 10 amnesty schemes were announced to declare unaccounted money, most of which were misused. Only two of these schemes were seen as successful: the income declared under amnesty circular 1985/86 was Rs 10,778 crore, and under VDIS, 1997, Rs 33,000 crore. But in reality, these successes were at the cost of revenue. The real value of the assets declared was double the value considered for tax purposes. Taxes were paid at less than 50% of the normal rate, with zero interest and penalties.

## **2. Why a better scheme with better rates will not be announced ever:**

To understand why, let us further delve into the intricacies of earlier schemes. Under VDIS, 1997, if assets were shown as having been acquired before 1987, their value as on April 1, 1987, was considered, and a 30% taxes was imposed. The value of gold and silver had almost doubled in AY 1997 compared to April 1, 1987, and it was simple to take a valuation certificate from 1987 and pay what was in effect a 15% tax on it on March 31, 1997 — without any interest or penalties. The fair value of the declarations under the VDIS scheme would in fact, have been over Rs 60,000 crore, rather than the Rs 33,000 crore that was actually declared. The scheme attracted 4.75 lakh declarations, of which 3.09 lakh pertained to jewellery and other movable assets. VDIS, 1997, was like an off-season sale of branded goods at 50% discount with a lifetime guarantee (immunity).

The C&AG were critical of the VDIS, 1997 stating that it is unfair and wrong to the honest tax-payers and is also oversight of revenue authorities. Earlier governments had signed and filed an affidavit stating that there will be no other scheme like the VDIS scheme, in the Supreme Court, in response to a PIL.

### 3. Pros and Cons of the Income Disclosure Scheme, 2016:

Criteria	Without IDS	With IDS
<b>Compliance Window</b>	All returns/incomes/wealth prior to AY 2015-16 should have been filed and disclosed	All incomes/wealth/undisclosed assets or incomes can be disclosed for any year in the past, until 30 <sup>th</sup> September, 2016
<b>Rates of tax payable</b>	<p><b>Income Tax Act (Undisclosed Income/Assets):</b> Tax leviable on the undisclosed income + Interest u/s 234 + Penalties + Prosecution</p> <p><b>Wealth Tax Act (Undisclosed Assets):</b> 1% of undisclosed asset value + Interest at Rs.200 per day of default + Penalties</p>	An overall single rate of 45% of the undisclosed income or value of the asset
<b>Penalties</b>	<p><b>Income Tax Act:</b> Penalty to be levied at 100% - 300% of the undisclosed income</p> <p><b>Wealth Tax Act:</b> Five times the amount of tax sought to be evaded + Penalties upto Rs.25,000/-</p>	No additional penalty
<b>Prosecution</b>	Upto 7 years rigorous imprisonment	Total immunity from prosecution
<b>Benami Assets</b>	No favourable provisions regarding Benami Assets	Provides opportunity to transfer properties from Benami to real owners name
<b>Time frame for payment</b>	Payment will have to made immediately on Demand	Payment of tax can be made in 3 tranches split over a year: November 30, 2016 - 25% March 31, 2017 - 25% September 30, 2017 - 50%
<b>Applicability of scheme</b>	NA	The scheme will not apply for a particular AY if:

		a) Notice has been issued b) Search/survey is conducted
<b>Information Sharing &amp; Confidentiality</b>	No restriction on sharing information with any other department	Promises confidentiality on all information disclosed to the IT and no information will be shared

#### **4. Additional Consequences of Not Making Declaration under scheme:**

Where the Assessee is in receipt of such income or in possession of such asset out of such income prior to the commencement of this scheme, and no declaration is made in respect of such income, then such income and the value of such asset shall deemed to have been acquired or made in the year in which a notice (sec 142, 148, 153A, 153C) under the Act is issued by the Assessing Officer, and all provisions of the Income Tax Act shall be deemed to be applied on all such incomes and assets.

#### **5. CBDT to take lenient view regarding identical issues in other years if disclosed under IDS:**

A person shall be eligible to make declaration under the Scheme for assessment years other than the assessment year(s) for which a notice under section 142(1)/143(2)/148 of the Income-tax Act, 1961 (the Act) has been served on or before 31.05.2016.

In this context, an issue arises so far as if a declaration under the Scheme is made for years not under assessment on an identical issue which is pending assessment under section 143(3)/147 of the Act, then, whether such declaration shall tantamount to acceptance by the assessee of concealment of income on the said issue for the year under assessment. Further as to whether the declaration under the Scheme on an identical issue in other years will lead to levy of penalty and initiation of prosecution for the year in which assessment is pending.

Addressing the aforementioned issues, the CBDT vide an order u/s 119 of the act dated 21st September'2016 has advised the Principal Commissioners or Commissioners to take a lenient view on receipt of a valid application under section 273A of the Act in respect of an issue for an NON-IDS assessment year which is identical to the issue on which a valid declaration has been made under the Scheme for other assessment year(s) subject to payment of the entire amount payable under the Scheme.