The Income Declaration Scheme, 2016
Who Can Make a Declaration?

All ‘persons’, such as individuals, HUFs, companies, firms, association of persons (AOP) etc., are eligible to make declaration under the Scheme
Scope & Coverage of Scheme

Declaration can be made in respect of—

➢ any undisclosed income
➢ investment in any asset representing undisclosed income
relating to any financial year upto 2015-16
Amounts payable by declarant

1. Tax @ 30% of undisclosed income
2. Surcharge @ 7.5% of undisclosed income
3. Penalty @ 7.5% of undisclosed income

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TOTAL: 45% OF UNDISCLOSED INCOME DECLARED
Benefits of Declaration

1. No Wealth Tax on assets declared
2. No scrutiny or enquiry under Income-tax Act and Wealth Tax Act in respect of declaration
3. Immunity from prosecution under Income Tax Act and Wealth Tax Act in respect of declaration
4. Immunity from Benami Transactions (Prohibition) Act, subject to transfer of assets by the benamidar to the real owner before 30.09.2017
Effect of Non-declaration

Undisclosed income and the value of any asset acquired out of such income in any year upto FY 2015-16 which is not declared under the Scheme will be brought to tax in the year in which notice is issued by the Department

And

All consequences including, interest, penalty & prosecution under I-T Act will follow accordingly.
Critical Dates

Scheme is effective from:

1\textsuperscript{st} June, 2016

Declarations may be filed upto:

30\textsuperscript{th} September, 2016

Tax, surcharge and penalty to be paid by:

30\textsuperscript{th} November, 2016
Declaration when void

• Misrepresentation or suppression of facts

• Non-payment of tax, surcharge and penalty by 30.11.2016.
Scheme does not apply if …

- Notice has been issued under section 142(1)/143(2)/148/153A/153C of I-T Act (debarred only for AY for which notice is issued)

- Search/Survey have been conducted (debarred for affected years only)
Scheme does not apply if …

- Income sought to be declared is chargeable under the Black Money Act, 2015
- COFEPOSA detainees, persons notified under Special Courts Act (1992), cases of prosecution under NDPS Act, Prevention of Corruption Act, and certain offences under Indian Penal Code
Forms

- **Form 1** – Declaration form (to be filed by declarant by 30th Sep, 2016)

- **Form 2** – Acknowledgment of declaration (to be issued by PCIT/CIT within 15 days from the end of the month in which declaration is filed)
Forms

- **Form 3** – Intimation of payment of tax, surcharge & penalty (to be furnished by declarant to PCIT/CIT by 30th Nov, 2016).

- **Form 4** – Certificate of declaration (to be granted by PCIT/CIT within 15 days from the date of intimation of payment).
Fair Market Value – How determined?

• **Rule 3** of IDS Rules prescribe the method of determining fair market value of assets, including
  – bullion, jewellery or precious stone
  – archaeological collections
  – drawings, paintings, sculptures or any work of art
  – shares & securities (quoted & unquoted)
  – immovable property
  – interest in a partnership firm
  – any other asset

• *Fair market value of asset as on 01.06.2016 (determined as per Rule 3) to be declared*

• Report of Registered Valuer to be obtained
• Where undisclosed income invested in any asset is declared under the Scheme & tax, surcharge and penalty are duly paid on its fair market value as on 01.06.2016 then, any capital gains arising upon its sale in future will be computed by adopting such fair market value as on 01.06.2016 as the cost of acquisition and the period of holding shall also start from that date.
IDS, 2016 – Some Clarifications

• A person is only ineligible to declare income 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 the sections has been issued.
IDS, 2016 – Some Clarifications

- Where investment in any asset is partly from explained sources (income already assessed to tax) and partly from undisclosed income, proportionate reduction shall be allowed in determining the amount to be declared under the Scheme.

**Example:** In 2013-14, a person invested Rs.5 lakh in a house out of which Rs.2 lakh was from income assessed to tax in the preceding year and Rs.3 lakh was from undisclosed income for 2013-14. Fair market value of the asset as on 01.06.2016 is Rs.15 lakh. Undisclosed income to be declared under the scheme shall be:

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15,00,000 - (15,00,000 \times \frac{2,00,000}{5,00,000}) = Rs.9,00,000
\]
• Where assessment has already been completed and case is pending in appeal before any appellate authority, declaration cannot be filed in respect such income. However, any undisclosed income for that AY which has not been assessed can be declared.
IDS, 2016 – Some Clarifications

- If a declaration of undisclosed income is made in good faith but is found ineligible under the Scheme on account of any of the conditions debarring such declaration (see Slide-9), the harsh consequences of non-declaration under the Scheme shall not apply, but such income may be assessed under the normal provisions of the Income-tax Act.
IDS, 2016 – Some Clarifications

- After the declaration is made the PCIT/CIT 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.
IDS, 2016 – Some Clarifications

- Information contained in the declaration is confidential as in the case of return of income filed by an assessee.
Thank You