

Government notifies the Direct Tax Dispute Resolution Scheme Rules, 2016

June 1, 2016

In brief

The Finance Act, 2016 introduced the Direct Tax Dispute Resolution Scheme (the Scheme) which provides an opportunity to taxpayers to settle their past cases by making payment of the prescribed tax, interest or penalty in respect of any tax arrear¹ or specified tax². The key objective of the Scheme is to reduce the pending direct tax litigation. The Scheme is incorporated as Chapter X of the Finance Act, 2016 comprising of sections 200 to 211. The Scheme is applicable from 1 June 2016.

The Central Government has, *vide* Notification dated 26 May 2016, notified the Direct Tax Dispute Resolution Scheme Rules, 2016 (the Rules) for carrying out the provisions of the Scheme. The Central Government, *vide* a separate Notification dated 26 May 2016, has notified 31 December 2016 as the date on or before which a person may make a declaration to the designated authority under the Scheme.

In detail

The Rules prescribe the specific Forms to be used for carrying out the provisions of the Scheme. The table below summarises the various Forms:

Form No.	Particulars	Time line	Contents of the Form
Form-1	Form of declaration to be made by the declarant in respect of 'tax arrear' ¹ and 'specified tax' ²	Declaration can be made on or after 1 June 2016, and upto 31 December 2016	<p>General information</p> <ul style="list-style-type: none"> Details of the declarant i.e. name, address, PAN, legal status, tax residential status, etc. <p>In respect of tax arrear</p> <ul style="list-style-type: none"> Details of appeals pending before Commissioner of Income-tax (Appeals) [CIT(A)]/ Commissioner of Wealth-tax (Appeals) [CWT(A)] as on 29 February 2016

¹ As per section 201(1)(h) of Finance Act, 2016 - "**Tax arrear**" means, the amount of tax, interest or penalty determined under the Income-tax Act, 1961 or the Wealth-tax Act, 1957 in respect of which appeal is pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on 29 February 2016

² As per section 201(1)(g) of Finance Act, 2016 - "**Specified tax**" means a tax (i) which is determined in consequence of or validated by any amendment made to the Income-tax Act, 1961 or the Wealth-tax Act, 1957 with retrospective effect and relates to a period prior to the date on which the Finance Act amending the Act or Wealth-tax Act, 1957 as the case may be, received the assent of the President of India; and (ii) a dispute in respect of such tax is pending as on 29 February 2016

Form No.	Particulars	Time line	Contents of the Form
			<ul style="list-style-type: none"> Details of assessment order and/ or penalty order, as the case may be (<i>viz.</i> assessed total income, tax, interest, penalty, etc.). <p><i>In respect of specified tax</i></p> <ul style="list-style-type: none"> Details of appeal/ writ filed or proceedings for arbitration/ conciliation/ mediation initiated or notice given, which are pending as on 29 February 2016. Details of assessment order (<i>viz.</i> assessed total income, tax, interest, etc.). <p><i>Other points</i></p> <ul style="list-style-type: none"> To be signed by the declarant or any person competent to verify the return of income on his behalf in accordance with section 140 of the Income-tax Act, 1961 (the Act).
Form-2	Undertaking to be filed by the declarant in respect of 'specified tax'	To be furnished along with Form-1	<ul style="list-style-type: none"> Undertaking to voluntarily waive all rights in respect of specified tax, whether direct or indirect, to seek or pursue any remedy or any claim in relation to specified tax.
Form-3	Certificate of intimation to be issued by the designated authority	To be issued within 60 days from date of receipt of the declaration in Form-1	<ul style="list-style-type: none"> Amount payable by the declarant (assessment year-wise) towards full and final settlement of the tax arrear/ specified tax. Direction to the declarant to make payment of the amount within 30 days from the date of receipt of this certificate, failing which the declaration shall be treated as void.
Form-4	Intimation of payment to be filed by declaration	To be filed within 30 days of the date of receipt of certificate in Form-3	<ul style="list-style-type: none"> Details of challan evidencing amount paid by the declarant.
Form-5 and Form-6	Order to be passed by the designated authority for full and final settlement of 'tax arrears' (Form-5) and 'specified tax' (Form-6)	No time limit specified	<ul style="list-style-type: none"> Order certifying the tax settlement and granting immunity from instituting any proceeding for prosecution for any offence or from the imposition of penalty under the Act/ WT Act, in respect of the disputed tax/ disputed income.

The takeaways

The Scheme introduced in the Finance Act, 2016 is a positive step by the Indian Government to curtail direct tax litigation by providing an opportunity to taxpayers to settle their past cases on payment of prescribed tax, interest or penalty.

The timely notification of the

Rules by the Central Government aid the implementation of the Scheme and provide a window of seven months (i.e. from 1 June 2016 to 31 December 2016) to taxpayers to avail the Scheme.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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