



## Direct Tax Dispute Resolution Scheme

**The Direct Tax Vivad se Vishwas Bill, 2020 ('Bill') has been tabled by the Finance Minister before the Lok Sabha on February 5, 2020.**

### Background

On account of appeals pending at various forums, a large amount of tax arrears are locked in litigation. The disputed direct tax arrears are estimated at INR 9.32 lakh crores as on November 30, 2019.

As was widely anticipated, the Government has come out with a dispute resolution scheme to reduce direct tax litigation. The Finance Minister in her speech during the Union Budget 2020-21 proposals announced that a direct tax dispute resolution scheme – “Vivad se Vishwas” would be introduced. The Bill provides for resolution of the disputed tax and matters connected and incidental to the same. A similar scheme titled “Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019” was introduced in preceding year in respect of indirect tax litigation.

### Salient features

- The Bill covers appeals which are pending before the Commissioner (Appeals), Income Tax Appellate Tribunal, High Court or Supreme Court, as on January 31, 2020 and includes writs and arbitration/ mediation proceedings.
- Such appeal may have been filed by the taxpayer or Revenue.
- The pending appeals may be against disputed tax, interest, penalty or fees.



- The Bill also covers tax determined in respect of tax deducted at source (i.e. withholding tax) or tax collected at source.
- The amount payable by a taxpayer opting for resolution under this Bill shall be as follows:

Particulars	Amount payable	
	On or before March 31, 2020	After March 31, 2020 but before the last date
Appeals related to disputed tax	100% of disputed tax	100% of disputed tax plus additional 10% of disputed tax In case additional 10% of disputed tax exceeds aggregate of interest and penalty, then such excess shall be ignored
Appeals related to disputed interest, penalty or fee	25% of disputed interest, penalty, fee	30% of disputed interest, penalty, fee

- A formula has been prescribed for computation of disputed tax, which includes both tax under normal provisions and under minimum alternate tax and even covers situations where there is reduction in tax losses.
- The scheme is not available in cases where tax arrears are arising consequent to search, prosecution, undisclosed income from a source located outside India or undisclosed asset located outside India, assessments made on basis of information received under double taxation avoidance agreement/ agreements referred to in section 90A of the Income-tax Act, 1961 and relating to appeals in respect of which notice for enhancement has been issued by the Commissioner (Appeals) on or before January 31, 2020.
- Additionally, the scheme is not available to certain taxpayers in respect of whom certain proceedings under other laws are being undertaken such as Indian Penal Code, Prevention of Money Laundering Act, 2002 and the Prohibition of Benami Property Transactions Act, 1988.

### Procedure

- A taxpayer (resident or non-resident) desiring to opt for resolution under this Bill shall file a declaration on or before the last date (to be notified).
- Such declaration should be filed before the designated authority (not below the rank of Commissioner and such authority would be notified).
- The taxpayer shall furnish an undertaking waiving his right to seek any remedy or claim in relation to tax arrears.



- The designated authority shall within fifteen days from date of receipt of declaration determine amount payable by the taxpayer and grant a certificate containing particulars of tax arrears and amount payable.
- The pending appeals shall be withdrawn or deemed to have been withdrawn from the date of such certificate.
- The taxpayer is required to pay the amount determined within fifteen days from date of receipt of such certificate and intimate the same to the designated authority.
- Amount paid in pursuance of a declaration shall not be refundable.
- The designated authority shall pass an order stating the tax paid.

### **Dhruva comments**

Introduction of the direct tax dispute resolution scheme is a welcome move by the Government. It may be noted that the taxpayer does not have an option to resolve only selected issues/ grounds of appeals, but would have to resolve the said appeal under this scheme. Under the Bill, there is no waiver of income-tax amount as compared to the indirect tax scheme, wherein up to 70% of indirect-tax amount could be waived (subject to conditions).

It would be interesting to observe the extent to which this scheme would achieve the desired objectives including reduction in litigation and further promoting ease of doing business in India. Businesses should evaluate the finer aspects of the Bill before taking a decision, particularly considering the benefit of waiver of interest, penalty, prosecution.



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