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EDITORIAL

INCOME DECLARATION SCHEME

A time to come clean



Convener National Economic Forum, Former Chairman BoS and Member Central Council Institute of Chartered Accountants of India

The IDS scheme announced by the government is open till 30th September, 2016. It is an important opportunity and the government has committed to not to seek any details or source of money earned and assets created once disclosed in terms of the scheme.

No details about the income or tax so paid will be disclosed to any other person and not even to the tax department officials. The

effective tax rate can even be lower as compared to normal maximum marginal rate. No details about the income or tax so paid will be disclosed to any other person and not even to the tax department officials.

The government need to consider removing all apprehensions in the mind of persons coming out clean and may permit:-

- Extending the scheme to all cases under scrutiny (sec. 142 and sec. 143) or under reassessment (sec. 148) and even raid cases (Section 153A and 153C), where evidence of such income has not been clearly established, in case of the declarant during the proceedings.
- Complete immunity from all central laws including service tax, excise, customs, SEBI, company law etc.
- Cases under investigation/survey at any stage including long term capital gain cases, sec. 68 allegations, cases under settlement, under appeal or under litigation in any manner.
- To continue to treat the asset declared in the scheme a long term asset as long term and not to restart the period from 1st June, 2016
- The assessee can have clear option to declare cash or assets and in case cash income is declared, usage of

such cash later for acquisition of any property duly registered thereafter can be justified.

- The assessee not able to decide exact period of earning need not disclose the period.
- The Benami properties can be allowed to be sold or transferred to declarant.
- The valuation reports from approved valuers will not be questioned later can be reaffirmed. The valuation can be at below "circle rate" has already been permitted.
- Creditors and loans in the books can also be declared under the scheme.
- The assessee having a cash flow issue may be permitted to pay in quarterly installments over 30 months, with no interest for payment as per committed time frame.

There is a demand from Non-Residents to rephrase the word "penalty of 7.5%" to "additional tax" or "cess".

The government may also extend Dispute Resolution Scheme to all kind of disputes pending at any stage of litigation or settlement or arbitration and not to limit the same to matter pending as on a particular date or those pending before CIT Appeals. Even penalty/prosecution cases of TDS or under any other section or stage can be given an option to be covered by this scheme. No further penalty or prosecution.

It is important to bring black money into main stream to benefit the businesses, manufacturing, economy and the society. The employment generation, infrastructure and development can be funded from the proceeds.

The Government needs to concentrate on substantial reduction of revenue expenditure so that overall tax burden in future can be lower than even 25% proposed by Finance Minister. Dividend distribution tax and high tax on salary class also need to be addressed for participation of all in nation building. GST will need careful handling for smooth implementation

**LATEST IN FINANCE****1.0 Deposit norms relaxed to help startups raise funds**

In order to make it easier for startups to secure funding, the government has exempted any advance of more than Rs 25 lakh to a startup from being treated as deposit provided that the person giving the money does it in the form of convertible note. This exemption, provided by the Ministry of Corporate Affairs through a notification, has only been made for companies that could be defined as startups under the notification issued by Department of Industrial Policy and Promotion (DIPP). A convertible note means an instrument either converted into equity or repaid within five years from the date of funding.

2.0 New SDR norms

The RBI released new strategic debt restructuring norms. A few key takeaways:

- Only projects that have commenced operations are eligible for this
- Meant for large accounts where the aggregate exposure is more than Rs 500 crore
- Promoter and management will have to be necessarily removed if any intentional wrongdoing on their part is established
- Lenders will have to present resolution plan to an external committee and get it approved
- These new norms will provide a breather to both banks and promoters

3.0 Govt launches new initiative to skill workforce for jobs abroad

Pravasi Kaushal Vikas Yojana (PKVY) will train and certify Indian workforce keen on overseas employment in select sector, in line with international standards. It will be implemented by the National Skill Development Corporation (NSDC) through its training partners.

4.0 NRIs can join NPS online

The government has now allowed Non-Resident Indians (NRIs) to open accounts under the National Pension System online. "NRIs can now open NPS Accounts online if they have Aadhaar Card or PAN card," said the Finance Ministry, adding that the facility will be available for both a repatriable and non-repatriable basis.

5.0 Patent Office issues guidelines for start-ups

As per the guidelines, a start-up willing to file a patent application for an invention will have to select a facilitator, who would help in preparing the request and also assess the patentability of the invention as per acts and rules, the Controller General Patents, Designs and Trademarks said in a public notice. The office has also released a list of about 280 facilitators in such regard.

The government has decided to bear the entire cost of facilitation for filing of patents, trademarks and designs.

6.0 FDI rules eased further

In single-brand retail, the government has amended the rules to exempt investors from the mandatory domestic sourcing of 30 per cent inputs for three years and for a further five years for retailers selling products with 'state-of-art' and 'cutting-edge' technology.

7.0 Airlines fly abroad - liberalised

Now, any domestic airline can fly abroad if it deploys 20 planes or 20 per cent of its total capacity for domestic operations, whichever is higher.

8.0 Pre-2005 banknotes can be exchanged only at select RBI offices

The facility for exchanging pre-2005 banknotes will be available only at select offices of the Reserve Bank of India from July 1, 2016, the Reserve bank said in a statement.

9.0 Govt sets mine transfer charge at 80% of royalty

Government has notified that any company that wants to transfer ownership of its non-auctioned captive mines will have to pay the equivalent to 80 per cent of the royalty to the respective state government.

10.0 India Post Payments Bank to be a reality

India Post Payments Bank (IPPB) will be set up with 100 per cent government equity. The Cabinet approved a proposal in this respect.

11.0 New panel likely to set interest rate in next monetary policy

In a sweeping change, government enforced a law for setting up a broad-based, 6-member



RBI simplifies registration process for new NBFCs

In order to make the registration process of new non-banking finance companies smoother and hassle-free, the Reserve Bank of India has revised the application form for registration of these companies and the checklist of documents to be submitted. The number of documents to be submitted by NBFC applicants has been reduced from the existing set of 45 documents to seven to eight in the revised process, the Reserve bank said in a statement.

- The first type (**Type-I**) will be a **NBFC-ND** not accepting public funds/not intending to accept public funds in the future and not having customer interface/ not intending to have customer interface in the future.
- "**Public funds**" include funds raised either directly or indirectly through public deposits, commercial paper, debentures, inter-corporate deposits and bank finance but excludes funds raised through issue of instruments compulsorily

convertible into equity shares within a period not exceeding 10 years from the date of issue.

- "Customer interface" means interaction between the NBFC and its customers while carrying on its business.
- The second type (**Type-II**) will be **NBFC-ND** accepting public funds/ intending to accept public funds in the future and/or having customer interface/ intending to have customer interface in the future
- The RBI said processing of cases for Type-I of NBFC-ND applicants would be on fast track mode. As these companies will not have access to public funds and will not have customer interface, they will be subjected to less intensive scrutiny/ due diligence.
- In case Type-I companies intend to avail public funds or intend to have customer interface in the future, they are required to take approval from the Reserve Bank of India, Department of Non-Banking Regulation.

committee that is likely to decide on interest rate at the next monetary policy in August. 3 members will be nominated by government and 3 from RBI, RBI Governor as a chairman will have a casting vote in case of a tie.

12.0 Mineral exploration- policy initiative

100 GSI-surveyed mineral blocks to be up for grabs for private explorers, including foreign ones, in 8-9 months

Once the resources are found and estimated, explorers will return the blocks to govt

Govt will auction off the explored blocks to end users, who will pay a fraction of royalty to explorers over 50-year mining lease period

2.0 SEBI to ease norms for REITs

SEBI proposed to relax norms governing Real Estate Investment Trusts (REITs) in a bid to make them more attractive. The proposed changes include allowing a larger number of sponsors and removing the investment restrictions on special purpose vehicles.

SEBI is also expected to suggest rationalising compliance in related-party transaction requirements, aligning minimum public shareholding requirements with the Securities Contract Regulations Rules, and raising the investment cap in under-construction assets to 20 per cent.

3.0 Sebi ban on wilful defaulters may hit PE, VC-backed players

According to the SEBI notification on wilful defaulters, the issuer cannot make a public issue of shares, debt securities or non-convertible redeemable preference shares if the company or its promoters or directors figure on the list of wilful defaulters. Any company or its promoters and directors categorised as wilful defaulters are not allowed to take control over other listed companies. The Independent Directors are also being issued notices to include them as willful

CAPITAL MARKET

1.0 Sebi issues stricter KYC, disclosure regime for Participatory Notes

Under the new norms, all the users of Overseas Derivative Instruments (ODIs) would have to follow Indian KYC and AML (Anti Money Laundering) Regulations, irrespective of their jurisdictions, while the ODI issuers will be required to file suspicious transaction reports, if any, with the Indian Financial Intelligence Unit (FIU).



defaulters. This is completely negative and incorrect approach.

4.0 BSE to launch new debt reporting and settlement platform

Leading stock exchange BSE has decided to launch a new debt platform to provide ease in reporting and settlement of corporate bonds, government securities, commercial paper and certificate of deposit.

The new debt reporting and settlement platform for Indian Corporate Debt Market (ICDM) would facilitate online settlement functionalities such as deal confirmation, addition of client and other related details.

5.0 E-IPO by NSE: Two-factor authentication

To enhance security measures for investors, leading bourse National Stock exchange (NSE) said it will implement a two-factor authentication for users of e-IPOs web-based application from June 20. The exchange launched its new electronic Initial Public Offers or e-IPO bidding system in January.

The system has the facility of web-based log-in through the internet, offline bid entry postmarket hours, download facility of orders and order history, among others.

6.0 SEBI special court to come up in national capital

To fast track proceedings and ensure timely disposal of cases filed by capital market regulator SEBI, a special court is in the process of being set up in the national capital.

7.0 Electronic book mechanism for issuance of debt securities on private placement basis

SEBI has issued a circular dated April 21, 2016, wherein the use of an Electronic Book Mechanism (EBM) has been made mandatory from July 01, 2016 for issuance of debt securities on private placement basis in the primary market with an issue size of Rs. 500 crores and above, inclusive of the green shoe option.

8.0 Sovereign gold bonds to trade under 'G' group

Sovereign gold bonds will begin trading on the stock exchanges for the first time from June 13. The scheme was announced by the government on October 30, 2015. These bonds are issued by the RBI on behalf of the government. The

minimum investment size in the secondary market will be as low as 1 gm. The tenure of the bond is eight years with an exit option from fifth year to be exercised on the interest payment dates. The bonds will carry an interest rate of 2.75 per cent (fixed rate) per annum on the amount of initial investment. Interest is to be paid half-yearly and the last interest will be payable on maturity, along with the principal. The product is accompanied with few beneficial tax features.

INDIRECT TAXATION

1.0 Visit outlets only on tax evasion information: CBEC to officials

Revenue department has directed excise officials to visit readymade garment retail outlets or chains only when they have specific inputs regarding duty evasion and that too after the approval of senior officers. Branded garments are subjected to 2% Excise duty without CENVAT on a turnover more than Rs 1.5 crores.

2.0 CBEC to use SEBs - AIR to detect tax evasion

According to a CBEC notification issued earlier this year, the SEBs are required to file annual information returns (AIRs) under sub-section (1) of section 15A of the Central Excise Act on the electricity consumed by manufacturing units using induction furnace or rolling mill and whose aggregate (annual) value of clearances exceeds Rs 1.5 crore.

The boards need to file the AIRs pertaining to a particular financial year by June 30 in the subsequent year. The idea, of course, is to cross-check information provided by the assessee and ascertain if they under-reported production to evade/under-pay excise duty and/or service tax.

3.0 Excise registration and return for First Stage Dealer and Importer

An assessee who conducts business both as a First Stage Dealer and an Importer, henceforth shall also have the option of filing a single quarterly return under a single registration.

4.0 Service tax cannot be charged from Buyers of under-construction flats

The Delhi High Court has said that home buyers cannot be charged service tax on payments made towards purchase of under construction apartments from builders if the total value of the apartment includes the land value. However,



service tax can still be levied on preferential location charges (PLC) that builders charge from buyers.

If the developer has already collected service tax, buyers would be refunded the amount with 6% rate of interest by the revenue department of the government of India.

5.0 In cases where stay application is pending before commissioner (Appeals) or CESTAT for periods prior to 06.08.2014, no recovery shall be made during the pendency of the stay application

As measure of liberalization and to ensure uniformity of practice, it is hereby directed that recovery proceeding in relation to an order of Hon'ble High Court or Tribunal confirming demand of duty, may be initiated only after a period of sixty days from the date of order of Hon'ble Tribunal or Hon'ble High Court or Hon'ble Supreme Court against the order of Hon'ble Tribunal or Hon'ble High Court, respectively.

6.0 Krishi cess on Service Tax not applicable if invoice generated before May 31

In a bid to end confusion over retrospective applicability of new Krishi Kalyan Cess, the government has stated that the 0.5 per cent tax will not apply on services whose invoice had been issued on or before May 31.

DIRECT TAXATION

1.0 CBDT notifies rules for calculating assets' fair market value

The tax department notified rules for calculating 'fair market value' of assets located in India in case of indirect transfer by multi-national companies for the purpose of levying tax.

2.0 CBDT provides TDS exemption

The seven transactions specified for the TDS exemption are bank guarantee commission; cash management service, depository charges for maintenance of DEMAT accounts; charges for warehousing services for commodities; underwriting service charges; clearing charges (MICR) including interchange fee and credit card or debit card commission for transaction between merchant establishment and acquirer bank.

3.0 CBDT clears the air on tax collection at source

- TCS will apply only to cash components of Rs. 2 lakh or more, not on full sale amount
- No TCS on cash payment of less than Rs 2 lakh
- Rules apply irrespective of size of sale consideration

4.0 1 per cent tax to be levied on car purchase via cash

Central Board of Direct Taxes (CBDT) has clarified that car dealers have to collect TCS on every motor vehicle sale to individuals where payment exceeds Rs 10 lakh or there is a cash payment of over Rs 2 lakh.

5.0 CBDT notifies foreign tax credit rules

To provide respite from double taxation to Indian companies having income abroad, the government notified rules allowing companies to claim credit for taxes paid abroad.

The rules, to come into effect from April 1, 2017, will allow taxpayers to claim credit of foreign tax under dispute once it is finally settled.

6.0 Taxpayers can now file a new 'e-nivaran' form

In order to ensure quick redressal of taxpayer grievances, the Income Tax department will soon launch a new form called 'e-nivaran' on the lines of the ITR form to take care of issues related to refunds etc.

The one-page form will seek the taxpayers name, Permanent Account Number (PAN), mobile number and email at the time of filing so that the resolution is automatically informed to the individual.

It also provides space for explaining the grievance in detail by either mentioning the Assessment Year (in case of individual) or the Financial Year (in case of deductor).

7.0 TDS from non residents

A new rule regarding relaxation from deduction of tax at higher rate under section 206AA has been inserted (1) In the case of a non-resident, not being a company, or a foreign company (hereafter referred to as 'the deductee') and not having permanent account number, the higher rate of 20% shall not apply in respect of payments in



the nature of interest, royalty, fees for technical services and payments on transfer of any capital asset, if the deductee furnishes the details and the documents specified in sub-rule (2) to the deductor including contact details, tax identification number or any other unique identification number in the country of residence.

8.0 No cancellation of trust's registration due to commercial receipts above Rs 25 lakhs

The High Court of Bombay held that in view of CBDT's Circular No.21/2016 dated 27-5-2016, Registration of a trust can't be cancelled merely because receipts from commercial activities exceed Rs.25Lakhs unless there is change in the nature of its activities or its activities are not genuine.

Director of Income-tax (Exemptions) v. Khar Gymkhana.[2016] 70 taxmann.com 181

9.0 Sum received by a beneficiary from trust couldn't be held as gift; not taxable as income from other sources

ITAT Bangalore Bench held that where it was accepted that trust as such did not have a persona different or distinct from that of beneficiary, amount received by assessee as a beneficiary from trusts could not be said to be received without consideration and hence could not have been taxed under section 56(2)(vi).

Mrs. Sharon Nayakv. Deputy Commissioner of Income-tax, Circle-5(1), Bangalore.[2016] 70 taxmann.com 185

10.0 New rules to soften GAAR

The government has amended income-tax rules to end the uncertainty over the General Anti-Avoidance Rules. GAAR will not apply to foreign institutional investors (FIIs) with respect to income from transfer of investment made before April 1, 2017, clearly saying that it will be in force prospectively.

11.0 Indian money in swiss banks declines 32%

The Swiss central bank showed Indian money in Swiss banks down from 1,776 million Swiss Franc (CHF) in 2014 to 1,207 million in 2015, a 32% decline. In Indian rupees, at the current exchange rate of about Rs 69 to a Franc, the decline is from Rs 12,300 crore to Rs 8,340 crore. The deposits had hit a recent peak of CHF 2025 million in 2011.

12.0 Initial AY is the first year in which sec. 80-IA relief is claimed and not a year in which eligible business commences

ITAT Visakhapatnam Bench held that in order to claim deduction under section 80-IA, initial assessment year would mean first year opted by assessee for claiming deduction and not year in which eligible business was commenced.

Devi Seafoods Ltd.v.Joint Commissioner of Income-tax, Range-3, Visakhapatnam.[2016] 70 taxmann.com 57

13.0 FATCA reporting: financial bodies get relief

The timeline for review of pre-existing individual account has been extended to December 31.

CORPORATE LAW

1.0 Labour draft code to include more union leaders

According to the latest proposal in the draft, which has been sent to the law ministry for vetting, for every 10% of a unit's workers as its members, a union will have a representative to negotiate on disputes with the management.

2.0 No fee for Udyog Aadhar

The government clarified that there is no fee for registration of Medium Small & Micro Enterprises (MSMEs) under the Udyog Aadhar Memorandum. The filling of Udyog Aadhar Memorandum can be done only on the portal created by the Ministry.

3.0 Govt notifies setting up of company law tribunal

The government has notified the setting up of the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT). This will come into effect from June 1, 2016. The Corporate Affairs Ministry (MCA) will soon come out with the final rules.

Retired judge M M Kumar would be the president of NCLT and retired judge S J Mukhopadhaya would take over as chairman of National Company Law Appellate Tribunal. Initially, NCLT will have 11 benches - two at New Delhi and one each at Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai.



4.0 Centre allows premature closure of PPF account

In a significant move, the Finance Ministry has allowed subscribers of the Public Provident Fund (PPF) to prematurely close their accounts after a minimum of five years for reasons such as higher education or expenditure towards medical treatment.

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6.0 Defence Agents Out of Shadows but have to walk with riders

Foreign entities have been allowed to engage agents for defence deals under a strict set of conditions, which includes giving defence ministry access to company accounts.

The policy outlines seven specific conditions for employing agents. This includes a clause that they would not be engaged to manipulate contracts or indulge in unethical practices.

Besides access to financial documents, **no fees linked to the progress of the contract would be allowed.** Also an annual report on payments made and full disclosure of past payments will have to be submitted to the defence ministry.

FEMA / INSURANCE

1.0 IRDA mulls introducing 'Title Insurance'

Aiming to provide cover to people in case of defective property titles and related issues, Insurance Regulator IRDAI is considering to introduce a new product in India, 'Title Insurance'.

2.0 Government clarify FDI policy for private security agencies

Foreign investors in companies that provide armoured car services or train private security guards will have to comply with the 49 per cent Foreign Direct Investment (FDI) cap, the

government has clarified, ending ambiguity over whether such firms could be considered as logistics providers.

A stringent framework for private security agencies, in line with the home ministry's definition of such entities, has been put in place in the annual FDI compendium published by the Department of Industrial Policy & Promotion.

3.0 With 100% FDI, foreign airlines can expect to soar

The Centre has decided to allow 100 per cent Foreign Direct Investment (FDI) in domestic airlines, but the catch is that foreign airlines can hold only up to 49 per cent in such ventures (the balance can be held by a foreign body that is not an airline).

While foreign investment up to 49 per cent will be under the automatic route, beyond it would require government approval.

The Centre also decided to allow 100 per cent FDI under the automatic route for brownfield airport projects. Earlier, under the automatic route, 100 per cent FDI was permitted in greenfield projects and 74 per cent in brownfield projects.

FINANCIAL INDICATORS

	Current Rate*	Previous Month	3 Month ago	6 Month ago
3 Month LIBOR (%)	0.66	0.66	0.63	0.61
SENSEX	27,707.42	26440.60	24900.63	24825.04
NIFTY	8,491.65	8122.15	7614.35	7563.85
CRR (%)	4	4	4	4
REPO (%)	6.50	6.50	6.50	6.75
REVERSE REPO (%)	6.00	6.00	6.00	5.75
Gold (per 10 gm)	31,564	30320	29131	26071
Silver (per kg)	48,075	41093	36671	33481
Crude (USD/bbl)	44.81	48.57	39.72	32.9
₹ vs USD	67.14	67.07	66.47	66.92
₹ vs Euro	74.11	75.51	75.9	72.77
₹ vs 100 Yen	65.89	63.32	61.04	56.78
₹ vs RMB	10.04	10.17	10.32	10.16
₹ vs Pound	86.91	95.12	94.04	97.28
MCX Aluminium (per kg)	110.45	105.50	101.10	99.05
MCX Copper (per kg)	322.05	303.70	308.20	297.20

*As on July 11, 2016

(Sources: MoneyControl, NSE, BSE, RBI, MCX)

4.0 Defence: greater clarity on 'control & ownership'

Foreign investment beyond 49 per cent and upto 100% has now been permitted through the government approval route, in cases resulting in access to modern technology in the country or for other reasons to be recorded. The condition of access to 'state-of-art' technology in the country has been done away with. The FDI limit for defence sector has also been made applicable to the manufacturing of small arms and ammunitions, covered under Arms Act, 1959. No technology desclosure to any third party can be ensured in such cases.

5.0 Additional subvention of 3% for those farmers that pay back their loans on time

Under the interest subvention scheme, farmers get the short-term loan of up to Rs 3 lakh for a period of one year at an interest rate of 7%. Those repaying on time get the loan at 4%.

EDITORIAL

PRIVATISATION OF EDUCATION SECTOR - THERE IS A NEED?

The society need to debate as to whether government needs to permit private companies to undertake education at school level and for higher education. The current compulsion of a society or a trust can be done away with and an option can be provided for profit motive education sector. The private sector can be mandated to provide 33% seats for weaker section of the society. No tax concession and land at market rates. Even world Class University can be permitted in private sector. This can be coupled with an Education regulator and national level centralised examination Boards for all major qualifications.

The government also needs to heavily invest in effective and efficient education in a big way to ensure skill building for all sections of the society, in a competitive manner.

Effective Tax Rate can be Lower than your expectations !!



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