

Direct Taxes - Vivad Se Vishwas Rules effective from 1 October 2024

Introduction

In its initiative towards litigation management, the Government of India through the Ministry of Finance notified the 'Vivad Se Vishwas Scheme 2.0' ('the Scheme'). This scheme provides relief to the assesseees whose tax assessments are pending due to disputes at various fora, i.e. appeals to the Income Tax Appellate Tribunal, objections filed before the Dispute Resolution Panel and special leave petitions. Once a declaration under this scheme is filed, the disputes get withdrawn and the assessee needs to pay a specified amount as mentioned in the Finance Act 2024. The 'Vivad Se Vishwas' Rules 2024 were notified to be effective from 1 October 2024.

How does the Scheme and Rules work?

The Scheme is introduced (now for the second time) to reduce tax litigation and provide tax certainty to the assessee. The scheme offers taxpayers with pending appeals or petitions as of 22 July 2024, an opportunity to file a declaration to settle their disputes. Upon filing, these disputes are deemed to be withdrawn, streamlining the resolution process. The table below indicates the amounts and the timelines for settlement.

Sr. No	Nature of tax arrear	To be paid on or before 31 December 2024	To be paid on or after 1 January 2025 but on or before the last date
1.	Disputed tax, interest and penalty (Where the declarant is an appellant after after 31 January 2020 but on or before 22 July 2024)	100% of the disputed tax	110% of the disputed tax
2.	Disputed tax, interest and penalty (Where the declarant is an appellant on or before 31 January 2020 at the same appellate forum in respect of such tax arrear.)	110% of the disputed tax	120% of the disputed tax
3.	Disputed interest, penalty or fee (Where the declarant is an appellant after 31 January 2020 but on or before 22 July 2024)	25% of disputed interest/penalty/fee	30% of disputed interest/penalty/fee
4.	Disputed interest, penalty or fee (Where the declarant is an appellant before 31 January 2020 at the same appellate forum in respect of such tax arrear.)	30% of disputed interest/penalty/fee	35% of disputed interest/penalty/fee

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Points to be noted

1. The Scheme provides for lesser settlement amounts for a 'new appellant' in comparison to an 'old appellant.'
2. It provides for a manner of computing the 'disputed tax' in cases where the dispute results in reducing the 'unabsorbed depreciation' and 'MAT credit'.
3. **Forms for declaration:**
 - Form-1: Form for filing declaration and undertaking by the declarant
 - Form-2: Form for a certificate to be issued by the designated authority
 - Form-3: Form for Intimation of payment by the declarant
 - Form-4: Order for full and final settlement of tax arrears by the designated authority
4. Forms 1 and 3 shall be furnished electronically by the declarant. The declarant shall furnish the intimation of payment along with proof of withdrawal of the appeal, objection, application, writ petition, special leave petition, or claim filed by the declarant to the designated authority in Form-3.
5. The last day to issue an order (by the designated authority) under the Scheme is 2 years, i.e. by 30 September 2026.
6. **The Scheme does not apply to:**
 - Tax arrears for an assessment based on search initiated under section 132 or section 132A of the Income-tax Act
 - Cases involving undisclosed foreign income/assets
 - Persons against whom prosecution is initiated vide the Unlawful Activities (Prevention) Act, the Narcotic Drugs and Psychotropic Substances Act, the Prohibition of Benami Property Transactions Act, 1988, the Prevention of Money Laundering Act, 2002, etc.; where prosecution has been initiated against the taxpayer by tax authorities, etc.
7. Once tax arrears are settled under the scheme, taxpayers are granted immunity from any further penalties, Interest, or prosecution related to the resolved dispute. This ensures a definitive resolution, free from concerns about future legal actions.

Weblink

<https://static.pib.gov.in/WriteReadData/specificdocs/documents/2024/sep/doc2024921398801.pdf>

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=2057271>

Therefore

The Scheme provides relief from the ongoing disputes between the assesses and the revenue and adopts a median approach to settle the cases. 'Tax certainty' and 'taxpayer ease' are placed in focus. Opting for the Scheme and settling the dispute results in cleaner Balance Sheets with no tax disputes and non-compliance in the books.