



# Direct tax dispute resolution scheme

## The Direct Tax Vivad se Vishwas Bill, 2020

### 1. Background

On account of appeals pending at various forums, large amounts of tax arrears are locked-up in litigation. The disputed direct tax arrears are estimated at INR 9.32 lakh crores, as on November 30, 2019 (483,000 cases), which is nearly one year's direct tax collection.

On February 5, 2020, the Finance Minister introduced a direct tax dispute resolution scheme – "The Direct Tax Vivad se Vishwas Bill, 2020" (Scheme) post announcement during the Union Budget 2020-21 speech. The Scheme provides for resolution of the disputed tax and matters connected and incidental to the same. Thereafter on February 14, 2020, a notice for moving certain amendments to the Scheme was given to the Parliament. A similar scheme titled "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019" was introduced in the preceding year in respect of indirect tax.

### 2. Salient features of the Scheme:

- The Scheme covers appeals which are pending before the Commissioner (Appeals), Dispute Resolution Panel, Income Tax Appellate Tribunal, High Court or Supreme Court, as on January 31, 2020 and includes revision application before the Commissioner, writ and arbitration/mediation proceedings. Such appeal may have been filed by the taxpayer or the Revenue.
- The pending appeals may be against disputed tax, interest, penalty or fees. The Scheme 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 the Scheme is 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 tax in search and seizure cases	100% of disputed tax plus additional 25% of disputed tax In case additional 25% of disputed tax exceeds aggregate of interest and penalty, then such excess shall be ignored	100% of disputed tax plus additional 35% of disputed tax In case additional 35% 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

- For above purpose, disputed tax includes applicable surcharge and cess.



### Relief in specified cases

- In a welcome move, the amount payable under the Scheme is reduced to half of the above (mentioned in table) in the following cases:
  - An appeal is filed by the Revenue on any issue, the amount payable under the Scheme shall be reduced to half in respect of such issue.
  - An appeal filed by the taxpayer before the Commissioner (Appeals), Dispute Resolution Panel on an issue in respect of which the taxpayer has obtained a favourable order from a higher forum and such decision is not reversed.
  - An appeal filed by the taxpayer before the Income Tax Appellate Tribunal on an issue in respect of which the taxpayer has obtained a favourable order from a higher forum and such decision is not reversed.
- If the amount paid by taxpayer before filing declaration exceeds the amount payable under the Scheme, the taxpayer would be eligible for refund of such excess amount.

### Option to taxpayer in case of losses, minimum alternate tax credit

- In case the dispute has resulted in reduction of credit under minimum alternate tax/ alternate minimum tax,

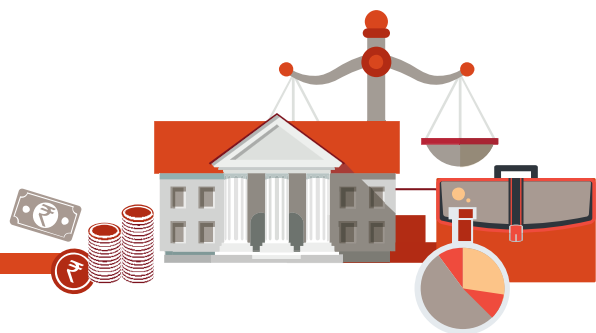
any loss or depreciation, the taxpayer has the option to include tax related to such tax credit, loss, depreciation in disputed tax or carry forward reduced tax credit, loss, depreciation, in manner to be prescribed.

### Ineligibility under the Scheme

- In certain cases the taxpayer is not eligible under the Scheme (such as undisclosed income from a source located outside India or undisclosed asset located outside India) and certain taxpayers are not eligible under the Scheme (such as taxpayers on whom proceedings under Prevention of Money Laundering Act, 2002, the Prohibition of Benami Property Transactions Act, 1988 are undertaken).

## 3. Way forward

This is one-time opportunity to the taxpayer to resolve pending tax disputes and would not constitute a precedent going forward. The taxpayers should evaluate their existing direct tax litigation including undertaking a pros/ cons analysis for opting for the Scheme vis-à-vis continuing to litigate under the normal course. Cost of litigation could be high depending on the issues and stakes involved and could involve significant time/ efforts of the taxpayer. Pending tax disputes also impact the financial reportings of companies. For the purpose of the above analysis, the taxpayers should consider the benefit of waiver of interest, penalty and immunity from prosecution.



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- Strategic approach to complex problems
- Specialized, in-depth, and robust advice
- Strong track record of designing and implementing pioneering solutions
- Trailblazers in tax controversy management
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- Technical depth and quality

We believe in thinking out of the box, handholding our clients in implementing complex solutions and working towards achieving results. We have offices in Mumbai, Ahmedabad, Bengaluru, Delhi, Pune, Kolkata, Singapore, Dubai and USA. We advise clients across multiple sectors including financial services, IT and IT-enabled services (ITES), real estate and infrastructure, telecommunications, oil and gas, pharmaceuticals, chemicals, consumer goods, power, as well as media and entertainment.

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- Dhruva Advisors has been named "India Tax Firm of the Year" at International Tax Review's Asia Tax Awards three years in a row (2017 – 2019)
- Dhruva Advisors has been named India Disputes and Litigation Firm of the Year 2018 at ITR's Asia Tax Awards, 2018
- Dhruva Advisors has been consistently recognized as a Tier 1 Firm in the International Tax Review's World Tax Guide to the world's leading tax firms
- Dhruva Advisors was named the Best Newcomer of the Year 2016 - ASIA by International Tax Review

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