



Key Highlights from the Direct Tax Vivad se Vishwas Bill, 2020

Pursuant to the proposal made by the Hon'ble Finance Minister ('FM') in Union Budget 2020, for introduction of Vivad se Vishwas Scheme ('the Scheme'), the Direct Tax Vivad se Vishwas Bill, 2020 ('the Bill') has been tabled at the Lok Sabha on 5 February 2020.

The key highlights from the Bill are as under:

1. Who can opt for the Scheme?:

- The scheme can be opted for appeals pending before the Commissioner of Income Tax (Appeals), Income Tax Appellate Tribunal, High Court and Supreme Court

2. Benefits to the taxpayer opting for the Scheme:

- The Scheme provides for waiver of interest, penalty and prosecution if the declarant furnishes the prescribed declaration under the Scheme before the designated authority

3. Payment schedules under the Scheme:

- a. Where the tax arrears is the aggregate amount of disputed tax, interest chargeable or charged on such disputed tax and penalty leviable or levied on such disputed tax:
 - **Amount payable before 31 March 2020** - Entire disputed tax
 - **After 31 March 2020 but before the last day of the scheme** - Entire disputed tax + 10%* of disputed tax

**If 10% of disputed tax exceeds total disputed interest and penalty, excess to be ignored*

- b. Where the tax arrears relates to disputed penalty, disputed interest or disputed fee:
- **Amount payable before 31 March 2020** - 25% of disputed penalty/interest/ fees
 - **After 31 March 2020 but before the last day of the scheme** - 30% of disputed penalty/interest/ fees

4. **Situations where the benefit of the Scheme cannot be availed:**

- Benefit of the Scheme cannot be availed where tax arrears are relating to:
 - i. AY in respect of which an assessment has been made u/s 153A or 153C of the Income-tax Act, if it relates to any tax arrears
 - ii. AY in respect of which prosecution has been instituted on or before the date of filing of declaration;
 - iii. any undisclosed income from a source located outside India or undisclosed asset located outside India;
 - iv. an assessment or reassessment made on the basis of information received under an agreement referred to in section 90 or section 90A of the Income-tax Act, if it relates to any tax arrears;
 - v. appeal before the CIT (Appeals) in respect of which notice of enhancement under section 251 of the Income-tax Act has been issued on or before the specified date.

OPEN ISSUES:

- Whether credit of 20% of taxes paid to stay the demand/ refund adjusted be credited to determine the disputed amount?
- Would settlement of disputes involving transfer pricing issues lead to exposure under secondary adjustments?
- Would amount waived under the scheme be treated as Government Grant and be bought to tax?