

Circular No.43 of 2016

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Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

(TPL Division)

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Explanatory Notes on Provisions of the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 as contained in Chapter IX-A of the Finance Act, 2016

Introduction

1. The Taxation Laws (Second Amendment) Act, 2016 has been enacted by Parliament on 15.12.2016. The said Act has inter alia amended the provisions of Finance Act, 2016 and inserted a new Chapter on, 'The Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (hereinafter 'the Scheme') in the Finance Act, 2016.

2. The Scheme provides an opportunity to persons having undisclosed income in the form of cash or deposit in an account maintained with a specified entity (which includes banks, post office etc.) to declare such income and pay tax, surcharge and penalty totaling in all to 49.9 per cent of such declared income. Besides, the Scheme provides that a mandatory deposit of not less than 25% of such income shall be made in the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016 (hereinafter 'the PMGKY Deposit Scheme') which has separately been notified by the Department of Economic Affairs. The Scheme has commenced on 17.12.2016 and shall remain open for declarations/ deposit upto 31.03.2017.

Scope of the Scheme

3. A declaration under the aforesaid Scheme may be made in respect of any income in the form of cash or deposit in an account maintained by the person with a specified entity, chargeable to tax under the Income-tax Act for any assessment year commencing on or before the 1st day of April, 2017. No deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed against the income in respect of which a valid declaration is made under the Scheme.

Tax, surcharge, penalty & deposit under the Scheme

4. The person making a declaration under the Scheme would be liable to pay tax at the rate of thirty per cent of the undisclosed income as increased by surcharge to be called the Pradhan Mantri Garib Kalyan Cess calculated at the rate of thirty-three per cent of such tax. In addition, penalty at the rate of ten per cent of the undisclosed income shall be payable.

The declarant shall also be required to deposit an amount not less than twenty-five per cent. of the undisclosed income in the PMGKY Deposit Scheme. The deposit shall bear no interest and the amount deposited shall have a lock-in period of four years.

Time limits for declaration and making payment

5. A declaration under the Scheme can be made anytime on or after 17th December, 2016 but on or before 31st March, 2017. The tax, surcharge and penalty payable under the Scheme and deposit to be made in the Deposit Scheme, shall be paid/made before filing of declaration under the Scheme. The declaration shall be accompanied with proof of payment made in respect of tax, surcharge and penalty payable under the Scheme and proof of deposit made in the PMGKY Deposit Scheme.

Form for declaration

6. A declaration under the Scheme in Form-1 as prescribed in the Rules may be made at any time on or before 31.03.2017. After such declaration has been furnished, the notified Principal CIT/ CIT will issue an acknowledgment in Form-2 to the declarant within 30 days from the end of the month in which the declaration under Form-1 is made.

Filing of declaration

7. A declaration under the Scheme can be filed:

(i) Electronically under digital signature with CIT(CPC) Bengaluru or jurisdictional Principal CIT/CIT notified under section 120 of the Income-tax Act, 1961.

(ii) Electronically through Electronic Verification Code (EVC) or in print form with jurisdictional Principal CIT /CIT notified under section 120 of the Income-tax Act, 1961.

Declaration not eligible in certain cases

8. The provisions of this Scheme shall not apply-

(a) in relation to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 subject to the conditions specified under the Scheme.

(b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988, the Prohibition of Benami Property Transactions Act, 1988 and the Prevention of Money-Laundering Act, 2002;

(c) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;

(d) in relation to any undisclosed foreign income and asset which is chargeable to tax under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

Circumstances where declaration shall be invalid

9. A declaration shall be void and shall be deemed never to have been made where a declaration has been made by misrepresentation or suppression of facts or without payment of tax and surcharge or penalty or without depositing the requisite amount in the PMGKY Deposit Scheme, and in such cases all the provisions of the Income-tax Act, including penalties and prosecutions, shall apply accordingly.

Tax, etc., not refundable

10. Any tax, surcharge or penalty paid under the Scheme shall not be refundable under any circumstances.

Effect of valid declaration

11. Where a valid declaration as detailed above has been made, the following consequences will follow:

(a) The amount of undisclosed income declared shall not be included in the total income of the declarant under the Income-tax Act for any assessment year;

(b) A declarant under this Scheme shall not be entitled, in respect of undisclosed income or any amount of tax and surcharge paid thereon, to re-open any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act, 1957, or to claim any set-off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment

(c) The contents of the declaration shall not be admissible in evidence against the declarant for the purpose of any proceeding under any Act other than the Acts referred in Para- 8 above.

(Dr Thakur Singh Mapwal)

Under Secretary to the Government of India