

Tax Alert | Delivering clarity

23 April 2020

Re-issuance of circular answering frequently asked questions (FAQs) in relation to Vivad Se Vishwas Scheme

When the Direct Tax Vivad Se Vishwas Bill, 2020 ('VsV Bill') was yet to be passed by Parliament, queries were received from stakeholders seeking clarifications in respect of the provisions in the Bill. The government had considered and answered queries by issuing circular 7 of 2020 in the form of FAQs. The clarifications issued were subject to the passing of the VsV Bill in the Parliament and receiving assent of Hon'ble President of India. After passage of the VsV Bill, the CBDT has reissued the circular as Circular no. 9 of 2020 with certain modifications.

Background:

CBDT had issued circular no. 7 of 2020 dated 4 March 2020, clarifying certain queries raised in respect of certain provisions of the VsV Bill in relation to scope/eligibility of the scheme, calculation aspects, procedural aspects and consequential issues. These clarifications were subject to the Bill being passed by Parliament and receiving assent of the Hon'ble President of India. The Bill has since been passed by Parliament and it received the President's assent on 17 March 2020. It has been enacted as The Direct Tax Vivad Se Vishwas Act, 2020 ('VsV Act').

Section 10 and Section 11 of the VsV Act empower the CBDT and the Central Government to issue directions/ orders to remove difficulties in giving effect to the provisions of the VsV Act. The current circular 9 of 2020 dated 22 April 2020 is issued under the said provisions, replacing the earlier circular with certain changes.

Modifications in the current circular:

The modifications in the current circular are as under:

- 'Vivad se Vishwas' referred to Direct Tax Vivad Se Vishwas Bill, 2020 in the erstwhile circular. The same will now refer to The Direct Tax Vivad Se Vishwas Act, 2020.
- Reference to clauses of the VsV Bill have been replaced with sections in the VsV Act.
- Reference has been given to the relevant form numbers, since the same have now been notified.
- The answer to Q.22 in relation to eligibility to opt for the scheme in cases of prosecution, has been modified as under

Scenario	Circular 7 of 2020	Circular 9 of 2020
Prosecution instituted and pending in court	not eligible	eligible if prosecution is compounded before filing declaration for that assessment year
Prosecution has not been instituted but notice has been issued	eligible if prosecution is compounded before filing the declaration	eligible

- On issuance of circular 9 of 2020, the erstwhile circular 7 of 2020 has been withdrawn.

Observations:

- The erstwhile circular has been re-issued under the provisions of the VsV Act.
- The only change in scope/ eligibility is for prosecution cases. The modification will provide relief to taxpayers wherein prosecution has not been instituted and only notice of initiation has been issued. Such cases will now be eligible to avail the VsV scheme.
- Stakeholders have made additional representations in respect of a few more contentious issues. It is hoped that the CBDT will issue a second set of clarifications to resolve these as well.



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