



CBDT issues FAQs on the taxation and investment regime for Pradhan Mantri Garib Kalyan Yojana, 2016

The taxation and investment regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (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 to declare such income and pay tax, surcharge and penalty totaling in all to 49.9 per cent of such declared income and make a mandatory deposit of not less than 25 per cent of such income in the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016. The Scheme has commenced on 17 December 2016 and shall remain open for declarations/deposit up to 31 March 2017.

The Central Board of Direct Taxes (CBDT) received queries from various stakeholders seeking further clarity on certain provisions of the Scheme. Recently, CBDT has issued a circular¹ clarifying queries received from stakeholders in the form of 12 Frequently Asked Questions (FAQs). The detailed FAQs and its answers are summarised as follows:

Question No.	Question	Answer
1	Whether the amounts deposited in bank or post office i.e. saving account, current account, recurring deposit account, fixed deposit account, PPF account, etc., are eligible for being declared in the Scheme?	The undisclosed income deposited in the specified accounts can be declared under the Scheme.
2	Whether declaration under the Scheme can be made in respect of income which is represented in the form of investment in any asset like jewellery, stock or immovable property?	Only income represented in the form of cash or deposit in an account maintained with specified entity can be declared. Income which is represented in the form of investment in any asset like jewellery, stock or immovable property cannot be declared under the Scheme.
3	In case a deposit is made by inter-bank transfer i.e. transfers from one account to another account, whether such deposit can be declared under the Scheme?	Yes, a declaration under the Scheme can be filed in case a deposit is made by way of inter-bank transfer.
4	Where a notice ² has been issued to a person for an assessment year, will such person be eligible for making a declaration under the Scheme?	Yes, such a person is eligible to avail the Scheme subject to fulfilment of conditions specified in the Scheme.

¹ CBDT Circular No. 2/2017, dated 18 January 2016

² Under Section 142(1)/143(2)/148/153A/153C of the Income-tax Act, 1961 (the Act)

5	<p>Can a person against whom a search/survey operation has been initiated, file declaration under the Scheme.</p> <p>Whether the cash seized during search operation can be declared under the Scheme?</p>	<p>Yes, a person against whom a search/survey operation has been initiated is eligible to file a declaration under the Scheme in respect of undisclosed income represented in the form of cash or deposit in an account maintained with specified entity.</p>
6	<p>Whether credit of advance tax paid, tax deducted at source (TDS), tax collected at source (TCS), in respect of an income declared under the Scheme would be available?</p>	<p>Credit for advance tax paid, TDS or TCS shall not be available under the Scheme.</p>
7	<p>Whether undisclosed income represented in the form of deposits in a foreign bank account is eligible for the Scheme?</p>	<p>Undisclosed income represented in the form of deposits in a foreign bank account is not eligible for the Scheme.</p>
8	<p>Whether a person can fall within the Scheme with respect to the deposit made in a bank account prior to the Financial Year 2016-17?</p>	<p>A person can avail the Scheme with respect to a deposit made in a bank account prior to the Financial Year (FY) 2016-17.</p>
9	<p>If a person does not declare undisclosed cash deposited in an account between 1 April 2016 to 15 December 2016 under the Scheme, then whether such undisclosed deposit shall attract tax at the rate provided in the Taxation Laws (Second Amendment) Act, 2016?</p>	<p>The amended provisions of Section 115BBE of the Income-tax Act, 1961 shall apply to Assessment Year (AY) 2017-18, relating to FY 2016-17. Hence, undisclosed deposits between 1 April 2016 to 15 December 2016 shall also attract tax at the rate provided in the Taxation Laws (Second Amendment) Act, 2016.</p>
10	<p>Whether undisclosed income deposited/repaid in an overdraft account or cash credit account or any loan account maintained with a bank is eligible for being declared under the Scheme?</p>	<p>Yes, the amount deposited or repaid against an overdraft account/cash credit account/any loan account maintained with a bank or any specified entity is eligible for being declared under the Scheme.</p>
11	<p>Whether the cash seized during a search and seizure action of the tax department and deposited in a public deposit account is allowed to be adjusted against the payments required to be made under the Scheme?</p>	<p>The adjustment of cash seized by the tax department and deposited in the public deposit account may be allowed to be adjusted for making payment of tax, surcharge, and penalty under the Scheme on the request of the person from whom the cash is seized. However, the said amount shall not be allowed to be adjusted for making deposits under the Pradhan Mantri Garib Kalyan Deposit Scheme.</p>
12	<p>Person 'A' made an advance in cash for procurement of goods (other than immovable property) or services to person 'B'. Person 'B' deposits this amount in his bank account. Person 'B' subsequently returns this amount to person 'A' in cash or through digital means as the purpose for which advance was made did not materialise. Can person 'A' declare this amount under the Scheme?</p> <p>Whether penalty under Section 271D or 271E of the Act shall be attracted in the case of person 'B'?</p>	<p>Yes, person 'A' is eligible to declare the said amount under the Scheme.</p> <p>Since the advance was made for procurement of goods (other than immovable property) or services, no penalty under section 271D or 271E of the Act shall be attracted in respect of the said transactions.</p>

Our comments

The CBDT circular clarifying certain concerns of the stakeholders is a welcome move. These FAQs provide much-needed clarity to avail this Scheme.

As per the Circular, a person can avail the Scheme with respect to a deposit made in a bank account prior to the Financial Year 2016-17. Undisclosed income represented in the form of deposits in a foreign bank account will not be eligible for the Scheme. A declaration under the Scheme can also be filed in respect of deposit made by way of inter-bank transfer. However, credit for advance tax paid, TDS or TCS shall not be available under the Scheme. It has also been clarified that income, which is represented in the form of investment in any asset like jewellery, stock or immovable property cannot be declared under the Scheme.

Pursuant to these FAQs, the Government may receive a good response, which may result into higher tax collection, further money will be raised in specified bonds for the country's investments needs. This amount is proposed to be utilised for the schemes of irrigation, housing, toilets, infrastructure, primary education, primary health, livelihood, etc., so that there is justice and equality.

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Ahmedabad

Commerce House V, 9th Floor,
902 & 903, Near Vodafone House,
Corporate Road,
Prahlad Nagar,
Ahmedabad – 380 051
Tel: +91 79 4040 2200
Fax: +91 79 4040 2244

Bengaluru

Maruthi Info-Tech Centre
11-12/1, Inner Ring Road
Koramangala, Bangalore 560 071
Tel: +91 80 3980 6000
Fax: +91 80 3980 6999

Chandigarh

SCO 22-23 (1st Floor)
Sector 8C, Madhya Marg
Chandigarh 160 009
Tel: +91 172 393 5777/781
Fax: +91 172 393 5780

Chennai

No.10, Mahatma Gandhi Road
Nungambakkam
Chennai 600 034
Tel: +91 44 3914 5000
Fax: +91 44 3914 5999

Delhi

Building No.10, 8th Floor
DLF Cyber City, Phase II
Gurgaon, Haryana 122 002
Tel: +91 124 307 4000
Fax: +91 124 254 9101

Hyderabad

8-2-618/2
Reliance Humsafar, 4th Floor
Road No.11, Banjara Hills
Hyderabad 500 034
Tel: +91 40 3046 5000
Fax: +91 40 3046 5299

Kochi

Syama Business Center
3rd Floor, NH By Pass Road,
Vytilla, Kochi – 682019
Tel: +91 484 302 7000
Fax: +91 484 302 7001

Kolkata

Unit No. 603 – 604,
6th Floor, Tower – 1,
Godrej Waterside,
Sector – V, Salt Lake,
Kolkata 700 091
Tel: +91 33 44034000
Fax: +91 33 44034199

Mumbai

Lodha Excelus, Apollo Mills
N. M. Joshi Marg
Mahalaxmi, Mumbai 400 011
Tel: +91 22 3989 6000
Fax: +91 22 3983 6000

Noida

6th Floor, Tower A
Advant Navis Business Park
Plot No. 07, Sector 142
Noida Express Way
Noida 201 305
Tel: +91 0120 386 8000
Fax: +91 0120 386 8999

Pune

703, Godrej Castlemaine
Bund Garden
Pune 411 001
Tel: +91 20 3050 4000
Fax: +91 20 3050 4010

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