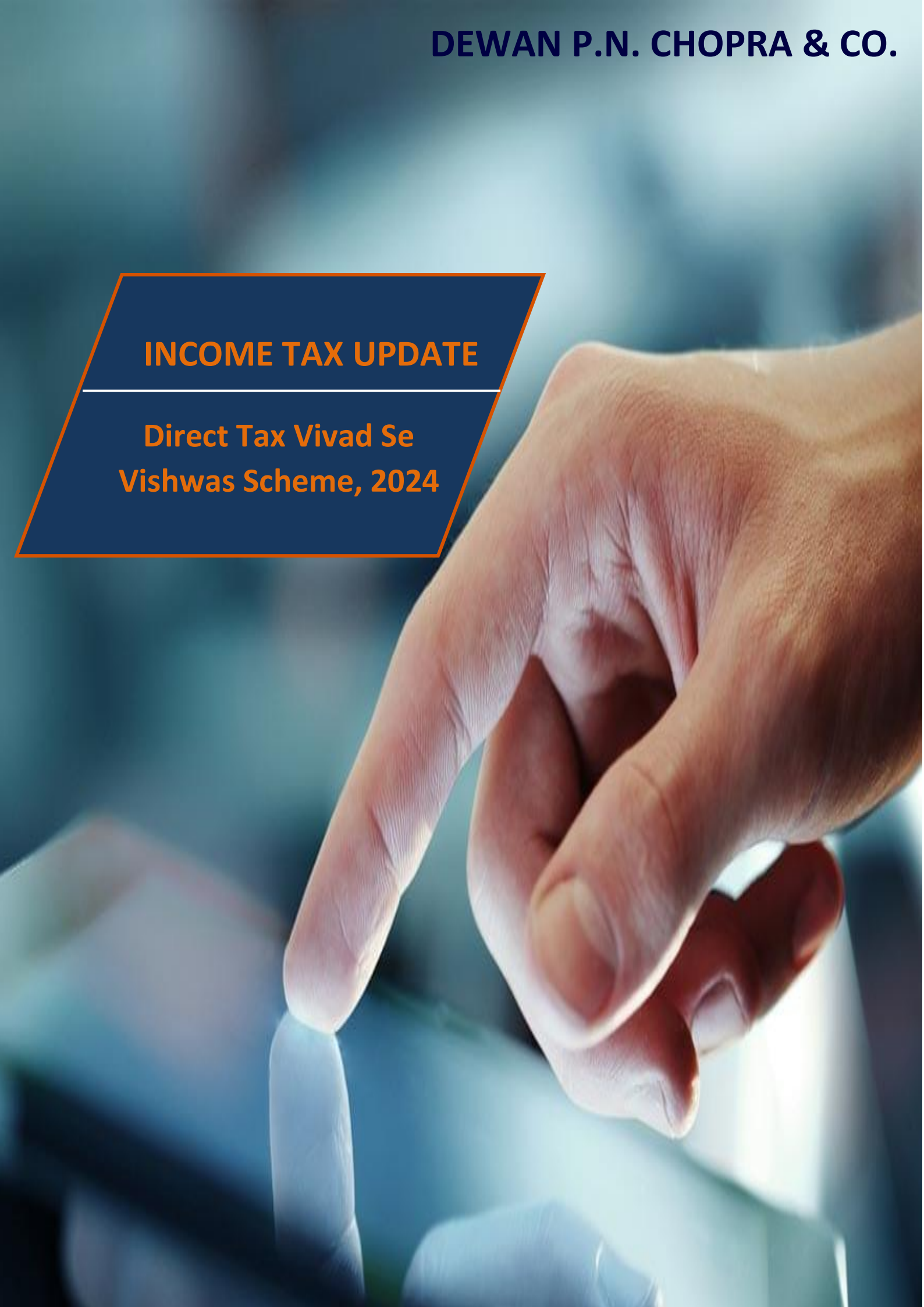


INCOME TAX UPDATE

**Direct Tax Vivad Se
Vishwas Scheme, 2024**



Direct Tax Vivad se Vishwas Scheme, 2024

Following the success of Direct Tax Vivad se Vishwas Scheme, 2020, the CBDT through Finance (No. 2) Act, 2024 ('the Act') introduced Direct Tax Vivad se Vishwas Scheme ('VSV Scheme'), 2024 to facilitate the expeditious settlement of pending disputes and to reduce the mounting litigations/appeals/writ/special leave petitions ('SLP')/revision application. The CBDT through Notification No. 104/2024 dated September 20, 2024, specified the Rules to govern the scheme and prescribed the relevant Forms in relation thereto.

Key Highlights:

➤ Commencement Date

Application for opting the benefit of the scheme can be filed on or after October 1, 2024.

➤ **Disputes Covered**

- Appeal, writ, or special leave petition (filed either by the taxpayer or the tax authorities before Appellate forum)
- Objections filed before DRP u/s 144C of the Income Tax Act, 1961 ('the IT Act) where DRP has not issued any direction or direction issued but assessment not completed
- Application filed u/s 264 of the IT Act before CIT
- These disputes should be pending before the appellate forum as on the specified date i.e., July 22, 2024.

➤ **Non-applicability**

As per section 96 of the Act, the scheme is not applicable in respect of the following:

- Disputes arising pursuant to search procedure.
- Disputes in respect of which prosecution proceedings has been instituted on or before date of filing of declaration.

- Disputes relating to undisclosed income from a source located outside India or undisclosed asset located outside India.
- Disputes where assessment or reassessment made based on information received under agreement referred in section 90 or 90A of the IT Act.
- Disputes where an order of detention has been made against a person under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 on or before date of filing of declaration subject to certain conditions
- Disputes where prosecution for any offence has been instituted against a person, on or before filing of declaration, or such person has been convicted of any offence punishable under Unlawful Activities (Prevention) Act, 1967, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Prohibition of Benami Property Transactions Act, 1988, the Prevention of Corruption Act, 1988, the Prevention of Money-Laundering Act, 2002

- Disputes where prosecution has been initiated by income tax authority against a person under Bharatiya Nyaya Sanhita, 2023 or for enforcement of any civil liability under any law, on or before the filing of declaration or such person has been convicted of any offence consequent to the prosecution initiated by an income tax authority
- Disputes in respect of a person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 on or before the date of filing of declaration

➤ **Disputed Tax**

The disputed tax shall mean income-tax including surcharge and cess payable by the appellant under the provisions of the IT Act if:

- such appeal/ writ/ SLP is decided against the appellant;

- DRP confirmed the variation proposed in the draft order;
- Assessment completed in consonance with the directions of the DRP;
- Application filed u/s 264 before CIT is not accepted

Note:

Where dispute relates to reduction of tax credit under section 115JAA or 115JD of the IT Act, or any loss or depreciation computed thereunder, the appellant shall have an option either to include the tax amount related to such tax credit or loss or depreciation in the amount of disputed tax, or to carry forward the reduced tax credit or loss or depreciation, in such manner as may be prescribed.

➤ **Amount Payable on tax arrears**

- As per section 90 of the Act, the following amount shall be payable by taxpayer in case option is

selected to settle their pending disputes under the scheme:

S. No.	Nature of Tax Arrear	Amount payable under this scheme on or before December 31, 2024	Amount payable under this scheme on or after January 1, 2025 but on or before the last date*
1)	Aggregate amount of disputed tax, interest chargeable or charged in respect of such disputed tax and penalty leviable or levied in respect of such disputed tax:		
a)	Case where dispute filed after 31/1/2020 but on or before 22/07/2024	- 100% of disputed tax	-110% of disputed tax
b)	Case where dispute is pending before same authority on or before 31/1/2020	- 110% of disputed tax	-120% of disputed tax
2)	Aggregate amount of disputed interest or disputed penalty or disputed fee:		
a)	Case where dispute filed after 31/1/2020 but on or before 22/07/2024	- 25% of disputed interest/ penalty/ fee	- 30% of disputed interest/ penalty/ fee
b)	Case where dispute is pending before same authority on or before 31/1/2020	- 30% of disputed interest/ penalty/ fee	- 35% of disputed interest/ penalty/ fee

* Last date for opting VSV, 2024 is yet to be announced by the CBDT

- In the following cases the amount payable shall be 50% of the amount specified in the table above:
 - a) Where an appeal/writ/SLP is filed by the income tax authority; or
 - b) Where appeal is filed by the appellant before the CIT(Appeals)/ JCIT (Appeals) or objections are filed before the DRP on any issue on which the he has already got a decision in his favour from the ITAT (where such decision is not reversed by HC or SC) or the HC (where such decision is not reversed by SC); or
 - c) Where an appeal is filed by the appellant on any issue before the ITAT on which he has already got a decision in his favour from HC (where such decision is not reversed by SC).

➤ Relevant Forms

Form	Purpose
Form 1	For filing declarations opting for VSV Scheme, 2024 in respect of any dispute and undertaking
Form 2	Order determining the amount payable and certificate containing the tax arrears and amount payable by Appellant post such determination
Form 3	Intimation regarding payment of taxes along with confirmation of withdrawal of dispute in respect of VSV Scheme has been opted
Form 4	Order issued by designated authority confirming the payment of determined tax amount by the appellant

Note:

- Form 1 and Form 3 to be filed by the appellant are available on the e-filing portal
- Form 2 and Form 4 can be downloaded from e-filing portal post issuance by designated authority

➤ **Procedural Steps:**

The relevant procedural steps are as under:

1. Declaration in Form 1 shall be filed by the appellant specifying the amount of disputed tax.
2. The designated authority shall within 15 days, from date of receipt of declaration, by order, determine the amount payable by the appellant under the VSV Scheme, 2024 and grant a certificate in Form 2 to the appellant.
3. Appellant shall pay the amount determined in within 15 days of receipt of certificate (i.e, Form 2) and intimate the payment of such amount to designated authority in Form 3.
4. Designated authority shall pass an order in Form 4 stating that the appellant has paid the payable amount.

➤ Other Points:

- Subsequent to issuance of order in Form 2, no appellate forum shall proceed to decide any issue relating to tax arrears mentioned in the declaration or in respect of payment determined in such order;
- Making a declaration under this scheme shall not amount to conceding the tax position and it shall not be lawful for the tax authority or the appellant being a party in appeal, writ petition or special leave petition to contend that the declarant or the tax authority has acquiesced in the decision on the disputed issue by settling the dispute.
- Any amount paid pursuant to declaration made shall not be refundable under any circumstance
- In case, the appellant has, prior to filing declaration in Form 1, paid any amount under the IT Act in respect of tax arrears which exceeds the amount payable under this Scheme, he shall be entitled to a refund of excess amount without any interest thereon

➤ **FAQs relating to VSV Scheme, 2024**

CBDT has issued guidance note in the form of answers to Frequently Asked Questions (FAQs) under Section 97 of the Act. The note provides clarification on eligibility criteria, rates, forms, timelines along with other related aspects and will help taxpayers gain better understanding of the provisions of the Scheme.

For details, please refer the following:

Finance (No. 2) Act, 2024 dated 16.08.2024

<https://egazette.gov.in/WriteReadData/2024/256436.pdf>

CBDT Notification No. 103/2024 dated 19.09.2024

<https://incometaxindia.gov.in/communications/notification/notification-103-2024.pdf>

CBDT Notification No. 104/2024 dated 20.09.2024

<https://incometaxindia.gov.in/communications/notification/notification-104-2024.pdf>

CBDT DIT (Systems), Bengaluru Notification No. 4/2024 dated 30.09.2024

<https://incometaxindia.gov.in/communications/notification/notification-no-4-2024-25.pdf>

CBDT Circular No. 12/2024 dated 15.10.2024
(FAQs)

<https://www.incometax.gov.in/iec/foportal/sites/default/files/2024-10/circular-12-2024.pdf>

DISCLAIMER: -

The summary information herein is based on Provisions of the Income Tax Act, 1961, Finance (No. 2) Act, 2024, CBDT Notification No. 103/2024 dated 19.09.2024, CBDT Notification No. 104/2024 dated 20.09.2024, CBDT DIT (Systems), Bengaluru Notification No. 4/2024 dated 30.09.2024 and CBDT Circular No. 12/2024 dated 15.10.2024. While the information is believed to be accurate, we make no representations or warranties, express or implied, as to the accuracy or completeness of it. Readers should conduct and rely upon their own examination and analysis and are advised to seek their own professional advice. This note is not an offer, advice or solicitation. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies upon it.