Dipen D Shah & Associates

CHARTERED ACCOUNTANTS

Foreign Assets Disclosure Scheme Rules, 2026: Legal Overview, Eligibility, Valuation and Compliance Timelines

Legal Overview

Eligibility Criteria

Valuation Guidelines

Compliance Timelines

WWW.DDSACA.COM

604, Block B,Addore Aspire 2,Opp.Old Passport office, University Road,
Nr.Jhanvi Restaurant, Gulbai Tekra, Ahmedabad 380009

1. Background and commencement

1.1 On 14 August 2026, the Central Board of Direct Taxes ("CBDT") notified the Foreign Assets of Small Taxpayers – Disclosure Scheme Rules, 2026, in exercise of the powers conferred under Section 143 of the Finance Act, 2026. The said Rules come into force with effect from 16 August 2026 and provide the procedural framework for the scheme introduced under Chapter IV of the Finance Act, 2026, including valuation methodology, prescribed forms, manner of filing, payment mechanism and consequential immunity.

1.2 In substance, the scheme provides an opportunity to eligible individual taxpayers having limited undisclosed foreign income or foreign assets, including overseas bank accounts, foreign immovable property or securities acquired while abroad, to make a voluntary disclosure and obtain statutory closure, in preference to exposure under the more stringent provisions of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

1.3 The scheme is time-bound. The declaration is required to be filed on or before 31 December 2026.

1.4 At a glance: The scheme commences on 16 August 2026, requires filing by 31 December 2026, covers two limited classes of foreign holdings, contemplates payment of either 60% of value or a ₹1 lakh fee, and grants finality upon completion of declaration, payment and certification.

2. Eligibility and classification of foreign holdings

2.1 For the purposes of eligibility, the scheme classifies foreign holdings into two separate categories, each subject to an independent monetary ceiling and payment consequence.

2.2 Category I — Undisclosed foreign assets and undisclosed foreign income

2.3 The aggregate value must not exceed ₹1 crore. This category applies to foreign assets or foreign income that were not disclosed to the income-tax authorities.

2.4 Category II — Foreign assets omitted from disclosure schedules

2.5 The aggregate value must not exceed ₹5 crore. This category is intended for cases where the income used for acquiring the foreign asset has already suffered tax in India or otherwise stood explained, but the foreign asset was not reported in the Foreign Assets schedule of the income-tax return.

2.6 The threshold limits operate as strict eligibility conditions. A taxpayer cannot split or selectively disclose assets so as to remain within the prescribed ceiling. Where the aggregate value exceeds the applicable threshold, the taxpayer is ineligible for that category as a whole.

2.7 Illustration: Where a taxpayer holds a foreign mutual fund valued at ₹2.5 crore and foreign shares valued at ₹4 crore, the aggregate value is ₹6.5 crore. Since this exceeds the ₹5 crore ceiling under Category II, the taxpayer would be ineligible to avail the scheme in respect of either asset under that category.

3. Amount payable under the scheme

3.1 Category I — undisclosed assets/income up to ₹1 crore

3.2 The amount payable is 60% of the aggregate fair market value, comprising tax at 30% and penalty equal to 100% of such tax, computed with reference to the undisclosed foreign asset and undisclosed foreign income.

3.3 Illustration: Where an undisclosed foreign bank account is valued at ₹60 lakh and undisclosed foreign income amounts to ₹20 lakh, the aggregate value is ₹80 lakh.

- Tax: 30% of ₹60 lakh + 30% of ₹20 lakh = ₹24 lakh
- Penalty: 100% of tax = ₹24 lakh
- Total payable: ₹48 lakh

3.4 Category II — disclosure-gap assets up to ₹5 crore

3.5 In this category, no tax or penalty is payable on the asset. A fixed fee of ₹1 lakh is payable where the asset value exceeds the prescribed threshold; where it does not, the fee is nil, subject always to the overall ₹5 crore cap.

3.6 Illustration: Where a foreign immovable property valued at ₹3 crore was acquired from income already subjected to tax but was not disclosed in the Foreign Assets schedule, the amount payable would be the fixed fee of ₹1 lakh.

4. Valuation of foreign assets

4.1 The Rules prescribe a detailed fair market value mechanism for different classes of assets. Broadly, valuation proceeds on the principle of adopting the higher of acquisition cost and current market value, with reference to the valuation date of 31 March 2026.

- Bullion, jewellery, precious stones, and art — higher of acquisition cost or open-market sale value via a foreign government-recognised valuer; if not separately valued, indexed cost of acquisition applies by default.
- Listed shares/securities — the average of the highest and lowest quoted price on the valuation date, or the last trading day before it.
- Unlisted equity shares — a net-asset-based formula factoring in the company's assets, liabilities, and paid-up capital.
- Immovable property — higher of cost or a recognised local valuer's market estimate.
- Bank accounts — the sum of all deposits made from account opening to the valuation date, not the closing balance, excluding money that was withdrawn and later redeposited. If deposits were already disclosed and taxed under the 2015 Black Money Act, only deposits made after that disclosure count.
- Partnership/LLP interests — a proportional share of net assets based on capital contribution and the partnership agreement.
- Any other asset — higher of investment cost or arm's-length market value.

4.2 The following additional valuation principles are material where assets have been transferred, reinvested or denominated in foreign currency.

- If an old foreign asset was sold or transferred and the proceeds reinvested in a new one, the new asset's value is reduced by the amount reinvested from the old one to avoid double-counting.
- Currency conversion uses the RBI's reference rate on the valuation date for RBI-permitted currencies; other currencies route through the US Dollar first, using the relevant foreign central bank's rate.

4.3 A limited tolerance provision is also contemplated. Where the value declared by the taxpayer is within 20% of the value subsequently determined by the tax officer during assessment, the declaration will not be invalidated solely on account of such valuation difference.

5. Procedure from declaration to immunity

1. File Form 1 electronically. This is the declaration itself and covers the declarant's details, the type and origin of each asset or income item, valuation, and the computed amount payable. Supporting documents, including proof of acquisition and valuation reports where applicable, should be attached.
2. Receive Form 2 from the tax department. After reviewing Form 1, the department issues an order confirming the amount payable.
3. Pay within the interest-free window. Taxpayers get two months from the end of the month in which Form 2 is issued to pay in full without interest.
4. Use the grace period only if needed. A further grace period of up to two months is available, but simple interest of 1% per month, or part of a month, applies to the outstanding amount.
5. Know the outer limit. If the taxpayer misses the extended payment window entirely, the declaration is treated as if it were never made, and the benefit of the scheme is lost.

5.1 Illustration: If Form 2 is issued on 22 September 2026 and ₹48 lakh is payable, payment on or before 30 November 2026 would not attract interest. Payment in December would result in ₹48.48 lakh being payable; payment in January would result in ₹48.96 lakh being payable; and payment after 31 January 2027 would result in forfeiture of the benefit of the scheme.
1. File Form 3 after payment. The taxpayer must intimate the department that payment has been made and provide proof, such as challan details.
2. Receive Form 4 as final closure. Once payment is verified, the department issues the final certificate, which completes the disclosure process and secures the scheme's immunity.

6. Concluding remarks

6.1 The scheme constitutes a limited, time-bound statutory dispensation for eligible taxpayers holding small and mid-sized foreign assets. It is not a general amnesty. Its principal advantage lies in enabling voluntary compliance at a fixed and ascertainable cost, while mitigating exposure to the more severe tax, penalty and prosecution consequences under the Black Money Act, 2015.

6.2 However, the eligibility thresholds are absolute, the valuation rules are technical and formula-driven, and the procedural requirements require strict electronic compliance within the period ending 31 December 2026. Taxpayers with legacy, omitted or partially disclosed foreign assets should therefore obtain professional valuation and tax advice at the earliest.

6.3 Subject to satisfaction of the prescribed conditions, timely declaration, accurate valuation and full payment within the stipulated timelines should enable the taxpayer to regularise qualifying foreign assets and obtain statutory finality under the scheme.

dipen@ddsaca.com
info@ddsaca.com

079-40039647

Competence Credibility Commitment