

F.No. 285/08/2014-IT(Inv.V)/147
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)

C-Block, Dr. S.P. Mukherjee Civic Centre,
Minto Road, New Delhi-110002.

Dated: 14th June 2019

To,
All Pr.CCsIT/CCsIT/Pr.DGsIT/DGsIT

Madam/Sir,

Subject: Guidelines for Compounding of Offences under Direct Tax Laws, 2019

In the light of references received from the field formation from time to time, the existing Guidelines on Compounding of Offences under the Income-tax Act, 1961 (the Act) have been reviewed. In supersession of earlier Guidelines on this subject, including the Guidelines of the Board issued vide F.No.285/35/2013 IT(Inv.V)/108 dated 23rd December 2014, the following Guidelines are issued for compliance by all concerned.

2. These Guidelines shall come into effect from 17.06.2019 and shall be applicable to all applications for compounding received on or after the aforesaid date. The applications received before 17.06.2019 shall continue to be dealt with in accordance with the Guidelines dated 23.12.2014.

3. Compounding Provision

Section 279(2) of the Act provides that any offence under Chapter XXII of the Act may, either, before or after the institution of proceedings, be compounded by the Pr. CCIT/CCIT/Pr. DGIT/DGIT. As per section 2(15A)

and 2(21) of the Act, Chief Commissioner of Income Tax includes Principal Chief Commissioner of Income Tax, and Director General of Income Tax includes Principal Director General of Income Tax. These Guidelines are issued in exercise of power u/s 119 of the Act read with explanation below sub-section (3) of section 279 of the Act.

4. Compounding is not a matter of right

Compounding of offences is not a matter of right. However, offences may be compounded by the Competent Authority on satisfaction of the eligibility conditions prescribed in these Guidelines keeping in view factors such as conduct of the person, the nature and magnitude of the offence in the context of the facts and circumstances of each case.

5. Applicability of these Guidelines to prosecutions under IPC

Prosecution instituted under Indian Penal Code('IPC'), if any, cannot be compounded. However, section 321 of Criminal Procedure Code, 1973, provides for withdrawal of such prosecution. In case the prosecution complaint filed under the provisions of both Income-tax Act, 1961 and the IPC are based on the same facts and the complaint under the Income-tax Act, 1961 is compounded, then the process of withdrawal of the complaint under the IPC may be initiated by the Competent Authority.

6. Classification of Offences

The offences under Chapter-XXII of the Act are classified into two parts (Category 'A' and Category 'B') for the limited purpose of Compounding of Offences.

6.1 Category 'A'

Offences punishable under the following sections are included in

Category 'A':

S.No.	Section	Description/Heading of section
i.	276	(Prior to 01/04/1976) - Failure to make payment or deliver returns or statements or allow inspection
ii.	276B	(Prior to 01/04/1989) - Failure to deduct or pay tax
iii	276B	(w.e.f. 01/04/1989 and up-to 30/5/1997)- Failure to pay tax deducted at source under Chapter XVII-B
iv	276B	Failure to pay tax deducted at source under chapter XVII-B or tax payable under section 115 -O or 2 nd proviso the section 194B to the credit of the Central Government (w.e.f. 01/06/1997)
v.	276BB	Failure to pay the tax collected at source
vi.	276CC	Failure to furnish Return of Income
vii	276CCC	Failure to furnish returns of income in search cases in block assessment scheme
viii.	276DD	(Prior to 1.04.1989) - Failure to comply with the provisions of section 269SS
ix.	276E	(Prior to 1.04.1989) - Failure to comply with the provisions of section 269 T
x.	277	False statement in verification etc. with reference to Category 'A' offences
xi.	278	Abetment of false return etc. with reference to Category 'A' offences

6.2 Category 'B'

Offences punishable under the following sections are included in **Category 'B'**:

S. No.	Section	Description/ Heading of section
i.	276A	Failure to comply with the provision of sections 178(1) and 178(3)

ii.	276AA	(prior to 01/10/1986)- Failure to comply with the provisions of section 269 AB or section 269 I.
iii.	276AB	Failure to comply with the provisions of sections 269UC, 269UE and 269UL
iv.	276C(1)	Willful attempt to evade tax, etc
v.	276C(2)	Willful attempt to evade payment of taxes, etc
vi.	276D	Failure to produce accounts and documents
vii	277	False statement in verification etc. with reference to Category 'B' offences
viii	277A	Falsification of books of account or documents, etc.
ix.	278	Abetment of false return, etc. with reference to Category 'B' offences

6.3 Offences under sections 275A, 275B and 276 of the Act will not be compounded.

7. Eligibility Conditions for Compounding

All the following conditions should be satisfied for considering compounding of an offence:

- i. An application is made to the Pr. CCIT/CCIT/Pr. DGIT/DGIT having jurisdiction over the case for compounding of the offence(s) in the **prescribed format (Annexure-1)** in the form of an affidavit on a stamp paper of Rs.100/-.
- ii. The compounding application may be filed *suo-moto* at any time after the offence(s) is committed irrespective of whether it comes to the notice of the Department or not. However, no application of compounding can be filed after the end of 12 months from the end of the month in which prosecution complaint, if any, has been filed in the

court of law in respect of the offence for which compounding is sought.

iii. The person has paid the outstanding tax, interest (including interest u/s. 220 of the Act), penalty and any other sum due, relating to the offence for which compounding has been sought before making the application. However, if any related demand is found outstanding on verification by the Department, the same should be intimated to the applicant and if such demand including interest u/s 220 is paid within 30 days of the intimation by the Department, then the compounding application would be deemed to be valid.

iv. The person undertakes to pay the compounding charges determined in accordance with these Guidelines by the Pr. CCIT/CCIT/Pr. DGIT/DGIT concerned.

v. The person undertakes to withdraw appeals filed by him, if any, related to the offence(s) sought to be compounded. In case such appeal has mixed grounds, one or more of which may not be related to the offence(s) under consideration, an undertaking shall be given for withdrawal of such grounds as are related to the offence to be compounded.

vi. Any application for compounding of offence u/s 276B/276BB of the Act by an applicant for any period for a particular TAN should cover all defaults constituting offence u/s 276B/276BB in respect of that TAN for such period.

8. Offences normally not to be compounded

8.1 The following offences are generally not to be compounded:

i. Category 'A' offence on more than three occasions. However, in exceptional circumstances compounding requested in more than three occasions can be considered only on the approval of the Committee

referred to in Para 10 of these Guidelines. The 'occasion' is defined in Para 8.2.

- ii. Category 'B' offence other than the first offence(s) as defined in Para 8.2 for the purpose of these Guidelines.
- iii. Offences committed by a person for which he was convicted by a court of law under Direct Taxes Laws.
- iv. Any offence in respect of which, the compounding application has already been rejected, except in the cases where benefit of rectification is available in these Guidelines.
- v. The cases of a person as main accused where it is proved that he has enabled others in tax evasion such as, through entities used to launder money or generate bogus invoices of sale/purchase without actual business, or by providing accommodation entries in any other manner as prescribed in section 277A of the Act.
- vi. Offences committed by a person who, as a result of investigation conducted by any Central or State Agency and as per information available with the Pr. CCIT/CCIT/Pr. DGIT/DGIT concerned, has been found involved, in any manner, in anti-national/terrorist activity.
- vii. Offences committed by a person who was convicted by a court of law for an offence under any law, other than the Direct Taxes Laws, for which the prescribed punishment was imprisonment for two years or more, with or without fine and which has a bearing on the offence sought to be compounded.
- viii. Offences committed by a person which, as per information available with the Pr. CCIT/CCIT/Pr. DGIT/DGIT concerned, have a bearing on a case under investigation (at any stage including enquiry, filing of FIR/complaint) by Enforcement Directorate, CBI, Lokpal, Lokayukta or any other Central or State Agency.

- ix. Offences committed by a person whose application for 'plea-bargaining' under Chapter XXI-A of 'Code of Criminal Procedure' in respect of any offence is pending in a Court or where a Court has recorded that a 'mutually satisfactory disposition of such an application is not worked out' and such offence has bearing on offence sought to be compounded.
- x. Any offence which has bearing on an offence relating to undisclosed foreign bank account/assets in any manner.
- xi. Any offence which has bearing on any offence under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.
- xii. Any offence which has bearing on any offence under the Benami Transactions (Prohibition) Act, 1988.
- xiii. Any other offence, which the Pr. CCIT/CCIT/Pr. DGIT/DGIT concerned considers not fit for compounding in view of factors such as conduct of the person, nature and magnitude of the offence.

8.2 Meaning of terms “occasion” and “first offence” for the purpose of these Guidelines will be as under-

- 8.2.1 If in one instance the assessee files multiple applications for one or more than one Assessment Year (AYs), all of these applications shall be treated as one “occasion”.
- 8.2.2 First offence means, offence(s) under any of the Direct Tax Laws:

(a) Offences committed prior to any of the following-

- i. the date of issue of any letter/notice in relation to the prosecution, or
- ii. Any intimation relating to filing of prosecution complaint sent by the Department to the person concerned, or

iii. Launching of any prosecution,
whichever is earlier.

Or

(b) Offence(s) not detected by the department but voluntarily disclosed by a person prior to the filing of application for Compounding of Offence(s) in the case under any Direct Tax Acts for one assessment year or more.

For this purpose, the offence is relevant if it is committed by the same person/entity. Further, the first offence is to be determined separately with reference to each section of the Act under which it is committed.

8.3 Notwithstanding anything contained in these Guidelines, the Finance Minister may relax restrictions in Para 8.1 above for compounding of an offence in a deserving case, on consideration of a report from the Board on the petition of an applicant.

9. Relaxation of time

9.1 The restrictions imposed in Para 7(ii) of these Guidelines for compounding of an offence in a deserving case may be relaxed, where application is filed beyond 12 months but before completion of 24 months from the end of month in which complaint was filed, by the Committee defined in Para 10 of these Guidelines, provided that such delay should be attributable to reasons beyond the applicant's control. However, a plea of pendency of appeal at any stage or before any authority cannot be treated as a reason beyond the applicant's control, because

furnishing an undertaking to withdraw the appeal(s) having bearing on the offence is a prerequisite as per clause 7(v) above.

9.2 However, in all such cases where relaxation has been provided in this Para, the compounding charges would be 1.25 times the normal compounding charges as applicable to the offence on the date of filing of the original compounding application.

10. Authority Competent to Compound an Offence

10.1 The Pr. CCIT/CCIT/Pr. DGIT/DGIT having jurisdiction over the person, seeking Compounding of an Offence, is the Competent Authority for compounding of all Category 'A' and Category 'B' offences. However, an order in case of an application for compounding of an offence, involving compounding charges (as explained in Para 12 below) in excess of Rs.10,00,000/- (Rupees Ten Lakhs) shall be passed by the Pr. CCIT/CCIT/Pr. DGIT/DGIT concerned only on the prior approval of a Committee comprising of three officers of the Region concerned, namely Pr. CCIT/CCIT/Pr. DGIT/DGIT having jurisdiction over the case and two other Officers of the rank of Pr. CCIT/CCIT/Pr. DGIT/DGIT constituted by the Pr. CCIT of the Region. In case such officers are not available within the Region, a suitable Officer of the rank of CCIT/DGIT from any nearby Region may be co-opted as Member by the Pr. CCIT.

10.2 If a deductor has committed an offence u/s 276B/276BB of the Act for non-payment of TDS in respect of both resident and non-resident deductees and therefore the jurisdiction over such deductor lies with more than one Pr. CCIT/CCIT/Pr. DGIT/DGIT, then the Pr. CCIT/CCIT/Pr. DGIT/DGIT in whose jurisdiction compounding application has been filed will be the

Competent Authority. However, he shall compound the offence only on the approval of Committee comprising of three Officers of the rank of CCIT from among the CCIT/DGIT/Pr.CCIT/Pr.DGIT having jurisdiction over the applicant, constituted by the Pr.CCIT of the region.

10.3 In case an applicant having more than one TAN lying in the jurisdiction of two or more Pr. CCIT/CCIT/Pr. DGIT/DGIT wants to file compounding application in respect of offences committed u/s 276B/276BB in respect of two or more TANs falling in the jurisdiction of two or more Pr. CCIT/CCIT/Pr. DGIT/DGIT, the application shall be filed before the Pr. CCIT/CCIT having jurisdiction over the TAN of the region in which PAN jurisdiction of the applicant is falling. Such Pr. CCIT/CCIT having jurisdiction over such TAN will be treated as Competent Authority. For such cases the Committee will be constituted by the Pr. CCIT in whose region jurisdiction over PAN lies and will also be comprising of three members including Competent Authority. The report from all jurisdictional authorities concerned from different offender TANs shall be called by the Competent Authority.

10.4 The Competent Authority will act as the Member Secretary and convene the meeting, as well as maintain the records.

11. Compounding Procedure

- i. On receipt of the application for compounding, the report on the same shall be obtained from the Assessing Officer/Assistant or Deputy Director concerned who shall submit it promptly along-with duly filled in check-list (**Annexure-2**), to the authority competent to compound, through proper channel.
- ii. The Competent Authority shall duly consider and dispose of every application for compounding through a speaking order in the suggested

format (**Annexure-3**) either by rejecting or by intimating the compounding charges payable. Such order may be passed within six months from the end of the month of its receipt (excluding the time for payment of the compounding charges) as far as possible.

- iii. Where compounding application is found to be acceptable, the Competent Authority shall intimate the amount of compounding charges to the applicant, requiring him to pay the same **within one month** from the end of the month of receipt of such intimation. On written request of applicant for further extension of time under exceptional circumstances, the Pr. CCIT/CCIT/Pr. DGIT/DGIT may extend this period by **three months**. Extension beyond three months shall not be permissible except with the previous approval in writing of the Committee defined in Para 10 of these Guidelines. However, no extension beyond **twelve months** from the end of month in which intimation of compounding charges was given to the applicant shall be given except with the previous approval of Member (Inv.), CBDT on a proposal of the competent authority concerned.
- iv. Whenever the compounding charges are paid beyond one month from the end of month in which it was intimated to the applicant, if extended by the Competent Authority, he shall have to pay additional compounding charge at the rate of 2% per month or part of the month on the unpaid amount of compounding charges upto three months and 3% if the Competent Authority has extended the payment period beyond three months.
- v. The Competent Authority shall pass the compounding order **within one month** from the end of the month of payment of compounding charges. Where compounding charge is not deposited within the time allowed, the compounding application shall be rejected after giving the

applicant an opportunity of being heard only in relation to compounding charges payable.

- vi. The order of acceptance/rejection of application of compounding shall be brought to the notice of the Court, where the prosecution complaint was filed/or the complaint is pending, immediately through prosecution counsel in all cases where prosecution proceedings have been instituted.
- vii. Normally any offence in respect of which the compounding application has been rejected is not considered for compounding as per Para 8.1(iv). However, if any compounding application has been rejected solely on account of late payment of compounding charges or shortfall in payment of compounding charges and if such shortfall is for some bonafide mistakes or on some other technical grounds, such compounding order can be rectified at the written request of applicant provided the payment of compounding charges was made before rejection or time allowed by the Competent Authority whichever is applicable. A decision to rectify such order can be taken by the Committee as per Para 10 after considering various facts and circumstances of the case. However, the applicant will be required to pay interest as per Clause (iv) of this Para, on the unpaid compounding charges from the due date of payment as per original intimation of compounding along with the shortfall in compounding charges.
- viii. The timelines mentioned for processing the compounding applications prescribed in these Guidelines are administrative and indicative for work management and do not prescribe a limitation period for disposal of the compounding application.
- ix. Wherever the facility to perform any function relating to processing of any compounding application is available on ITBA, such function

should be performed on ITBA.

12. Compounding Charges

The compounding charges shall include compounding fee, prosecution establishment expenses and litigation expenses, including Counsel's fee.

12.1 The compounding fee shall be computed in accordance with Para 13 of these Guidelines for various offences. Prosecution establishment expenses will be charged at the rate 10% of the compounding fees subject to a minimum of Rs.25,000/- in addition to litigation expenses including Counsel's fees paid/payable by the Department in connection with offence(s) compounded by a single order. In a case where the litigation expenses are not readily ascertainable, the competent authority may arrive at litigation expenses, *inter alia*, on the basis of rates prescribed by the Government and on the basis of existing records with the Government and the counsels.

12.2 In all cases where relaxation of time as provided in Para 9 of the Guidelines is allowed, the compounding charges shall be 1.25 time of the normal compounding charges.

12.3 Wherever, extension of time allowed to make compounding charges is allowed beyond one month from the end of intimation of compounding charges in accordance with Compounding Guidelines, the applicant shall have to pay additional compounding charges @ 2% per month or part of month on the unpaid amount of the compounding charges upto three months and 3% for period beyond three months.

12.4 The compounding charges are payable in addition to the tax, interest and penalty, if any payable or imposable as per provisions of the Act. Such tax,

interest and penalty as mentioned in Para 7(iii) are to be paid before filing the compounding application as required in these Guidelines.

13. Fees for compounding

For the purpose of computation of the compounding fee, the word “tax” means- tax including surcharge and any cess by whatever name called, as applicable.

The fees for compounding of offences shall be as follows:

13.1 Section 276B- Failure to pay the tax deducted at source

Section 276BB- Failure to pay the tax collected at source

13.1.1 In respect of application for Compounding of Offences, the compounding fee shall be calculated as under-

(i) 2% per month or part of a month of the amount of tax in default disclosed in the compounding application in those cases, where the assessee has *suo-moto* filed compounding application, before any offence u/s. 276B/276BB of the Act for any period is brought to his knowledge by the Department. Such type of offence would also constitute an “occasion” for the purpose of Para 8.1. Such offences which are detected in the course of any search and seizure or survey operation will not fall in this category.

However, the compounding fee under this clause shall not exceed the TDS amount and interest u/s 201(1A) taken together, if the default in deposit of TDS is less than Rs.1,00,000/- (Rupees One lakh).

(ii) 3% per month or part of a month of the amount of tax in default disclosed in the compounding application for first occasionin

cases not covered in Para 13.1.1(i) above.

(iii) In respect of any application for subsequent occasion, the applicable rate for compounding of such an offence will be 5% per month or part of a month of the amount of tax in default.

13.1.2 The period of default for calculating compounding fee in this category shall be calculated from the date of deduction to the date of deposit of tax deducted at source as is done in respect of calculating interest under section 201(1A) of the Act in respect of compounding application filed.

13.2. Section 276C (1)- Willful attempt to evade tax, etc.

(a) In the cases involving tax sought to be evaded (where evasion of interest and penalty may be consequential)

- i. Where such tax sought to be evaded exceeds Rs. 25 lakhs, 150% of the tax sought to be evaded.
- ii. In any other case, 125% of the tax sought to be evaded.

(b) In cases involving attempt to evade only the penalty, 100% of penalty sought to be evaded. For example, penalties which are not directly related to tax evasion, such as penalty u/s 271DA etc.

13.3. Section 276C(2)-Willful attempt to evade payment of any tax, interest and penalty

3% per month or part of the month of the amount of tax, interest and penalty, the payment of which was sought to be evaded, for the period of default. The period of default for calculating the compounding fees shall be as under:

- i) Where tax, interest or penalty as per notice of demand under section 156 of the Act is not paid, from the date immediately following the due date of payment till the date of actual payment.

- ii) Where the self-assessment tax was not paid as specified in section 140A of the Act, from the due date of filing of return of income u/s 139(1) of the Act to the date of actual payment.

For computing the period of default, any period of stay of demand granted by any Income Tax Authority, the Appellate Tribunal or Court shall be excluded.

13.4 Section 276CC- Failure to furnish returns of income

13.4.1

- (a) In case of default in furnishing the return of income on or before due date u/s139(1) of the Act, the default period will be computed from the due date u/s139(1) to the date of actual filing of return or completion of assessment, whichever is earlier and compounding fees will be ;
 - i. Where tax on returned income as reduced by tax deducted at source and advance tax, if any exceeds Rs. 25 lakhs, Rs.4000/- per day.
 - ii. In any other case; Rs. 2000/- per day.

However, in cases where the difference between the aggregate of taxes paid/payable on the returned income and the aggregate of taxes already paid under any provision of the Act as enumerated in section 140A(1) of the Act, is less than Rs.1,00,000/-, the compounding fees will be restricted to that said difference amount subject to a minimum of Rs. 10,000/-.

- (b) In case of offence of non-compliance of notice u/s 142(1)(i) of the Act, the compounding fees shall be charged at the rate of Rs.4000/- per day where the tax on returned income as reduced by tax deducted at source and advance tax, if any exceeds Rs.25 lakhs and Rs.2,000/- per day in

other cases from the due date u/s 139(1) to the date specified in the notice u/s 142(1), and at the rate of Rs. 5000/- per day where tax on returned income as reduced by tax deducted at source and advance tax, if any exceeds Rs.25 lakhs and Rs.3000/- per day in other cases, for the period between date specified in notice u/s 142(1) to the date of filing of return of income or completion of assessment, whichever is earlier.

- (c) In case of offence of non-compliance of notice u/s 148 of the Act, the compounding fees shall be charged at the rate of Rs.5000/- per day where tax on returned income as reduced by tax deducted at source and advance tax, if any exceeds Rs.25 lakhs and Rs.3000/- per day in other cases, from the date specified in such notice till filing of return or assessment whichever is earlier. In case, there was also default of not filing return of income within due date prescribed u/s 139(1), then for the period between due date u/s 139(1) to the date specified in the notice u/s 148, compounding fees at the rate of Rs.4000/- per day where the tax on returned income as reduced by tax deducted at source and advance tax, if any exceeds Rs.25 lakhs and Rs.2,000/- per day in other cases from the due date u/s 139(1) to the date specified in the notice u/s 148 will also be charged.
- (d) In case of offence of non-compliance of notice u/s 153A/153C of the Act, the compounding fees shall be charged at the rate of Rs. 5,000/- per day where tax on returned income as reduced by tax deducted at source and advance tax, if any exceeds Rs.25 lakhs and Rs.3,000/- per day in other cases, from the date specified in such notice till filing of return or assessment whichever is earlier. In case, there was also default of not filing return of income within due date prescribed u/s 139(1), then for the period between due date u/s 139(1) to the date specified in the notice u/s 153A/153C, compounding fees at the rate of Rs.4000/- per day where the

tax on returned income as reduced by tax deducted at source and advance tax, if any exceeds Rs.25 lakhs and Rs.2,000/- per day in other cases from the due date u/s 139(1) to the date specified in the notice u/s 153A/153C will also be charged.

(e) In case where return of income filed is not only late but Self Assessment Tax is not paid:

- i. These constitute two separate offences which are to be handled separately under sections 276CC and 276C(2), and
- ii. Action u/s 276C(2) is to be undertaken only after the issue of demand notice u/s 143(1)/143(3) etc.

13.4.2 In cases where no return of income was filed, the compounding fee is computed upto the date of completion of assessments. In such cases, for computing the slab prescribed in Para 13.4.1 tax on assessed income (as reduced by tax deducted at source and advance tax) will be adopted.

13.4.3 In case the income determined u/s 143(1) is more than the returned income, tax on the same will be applied for computing tax slab prescribed in Para 13.4.1.

13.4.4 Tax on returned income in the context of Para 13.4 means tax leviable (including surcharge and cess) on the returned income as reduced by tax deducted at source and advance tax.

13.5 Section 276CCC- Failure to furnish return of income as required under section 158BC

The fee for this offence shall be calculated in the same manner as for offences u/s 276CC was prescribed in the Compounding Guidelines dated

16.05.2008.

13.6 Section 276DD- Failure to comply with the provisions of Section 269SS (prior to 01.04.89)

A sum equal to 20% of the amount of any loan or deposit accepted in contravention of the provisions of Section 269SS.

13.7 Section 276E- Failure to comply with the provisions of Section 269T (prior to 01.04.89)

A sum equal to 20% of the amount of deposit repaid in contravention of the provisions of Section 269T.

13.8 Section 277- False statement in verification etc.

Section 278 - Abetment of false return etc.

13.8.1 Where same set of facts and circumstances attract prosecution u/s 277 as well as section 278, the compounding fee shall be charged for offences under these sections by treating them as one offence.

13.8.2 Where same set of facts and circumstances attract prosecution u/s 277 in addition to another offence in connection with which prosecution u/s 277 was attracted in case of the same person, no separate compounding fee shall be charged for offence u/s 277. For example, where a person is charged with an offence u/s 276C(1) as also u/s 277, in respect of the same facts and circumstances, the compounding fees shall be charged only for the offence u/s 276C(1) at the rates prescribed for the said

section.

13.8.3 Where same set of facts and circumstances attract prosecution under any offence as well as u/s 277 and/or 278, normally, a compounding fee at the rate of 10% of the ‘compounding fee for the main offence’ shall be charged from each of the person charged under sections 278B or 278C. However, the authority competent to compound, after considering the extent of involvement of any or all co-accused or abettor, may enhance or reduce or waive the amount of compounding fee to be charged from any or all the co-accused or abettor. The compounding fees chargeable from the co-accused or abettor shall be in addition to the compounding fees which may be chargeable from the main accused.

It is further clarified that:

- (a) In the case of prosecution proceedings under sections 278B or 278C of the Act unless the main accused i.e. Company/HUF comes for compounding, the offence of the co-accused cannot be compounded separately.
- (b) If one or more co-accused has not filed the compounding application or is not agreeable to the payment of compounding charges as the case may be, then unless the main accused, on an undertaking obtained and furnished from such co-accused, unequivocally undertakes to pay the compounding charges on his own behalf and on behalf of all such co-accused as well, the Compounding of the Offence of the main accused cannot be accepted.

13.8.4 In case where no offence under any other sections of the Act is

involved except u/s 277 or 278 of the Act, the compounding fee shall be decided by the Committee as per Para 10 having regard to the amount of tax which would have been evaded as a result of such offence u/s 277 or 278 subject to a minimum compounding fee of Rs.1,00,000/- (Rupees One Lakh) which may be increased based on the assessment of loss caused to the revenue directly or indirectly for each of such offence on completion of assessment/reassessment.

- 13.9 Offences, other than those described in Para 13.1 to 13.8, for which no compounding fee has been prescribed, the authority competent to compound may determine the amount of compounding fee having regard to the nature and magnitude of the offence, loss of revenue directly or indirectly attributable to such offence, subject to levy of a **minimum compounding fee of Rs 1,00,000/- (Rupees One lakh)** for each such offence.
- 13.10 The prescribed compounding charges shall be applicable while compounding any offence. However, in extreme and exceptional cases of genuine financial hardship, the compounding charges may be suitably reduced with the approval of the Finance Minister.
14. In case any penalty proceedings which have bearing with the offence sought to be compounded are pending at the time of filing of the compounding application, efforts should be made to conclude such penalty proceedings expeditiously and recover demand before concluding the compounding proceedings.

15. Applicability of these Guidelines to offences under other Direct Tax Laws

These Guidelines shall apply *mutatis mutandis* to offences under other Direct Tax Laws and the compounding fee for offences under the other Direct Tax Laws will be same as prescribed supra for the corresponding provisions of offences under the Income-tax Act, 1961.

16. The Pr. CCsIT/CCsIT/Pr. DGsIT/DGsIT are requested to circulate the above revised Guidelines along with its Annexure Nos. 1, 2 and 3 among all the officers of their Region for compliance.

Encl: As above

Yours faithfully,



Mamta Bansal
Director (Inv.V),
CBDT, New Delhi

Copy to-

1. The PS to the Revenue Secretary
2. The Chairman, CBDT
3. All Members, CBDT
4. All officers of the rank of Joint Secretary/CIT and above in CBDT
5. The CIT (Media & Technical Policy), CBDT
6. The ADG (Systems)-4 for uploading on www.incometaxindia.gov.in
7. Additional DIT, Database cell, for uploading on www.irsofficersonline.gov.in

Annexure 1

Format of application in the form of Affidavit for Compounding of Offences under Income-tax Act, 1961 to be submitted separately by each applicant

S. No.	Particulars	Remarks
1.	Name of the applicant	
2.	Status	
3.	Offences committed u/s *	
4.	AYs / Date/ period involved in offence	
5.	Status of case (i.e. whether contemplated/pending in Court/convicted/acquitted)	
6.	Date of filing of complaint, if any	
7.	Whether the offence(s) committed by the applicant is one for which complaint(s) was filed with the competent court 12 months prior to the filing of the application for compounding	
8.	Particulars of offences along-with justification for compounding (separate sheet)	
9.	Whether the applicant has paid the amount of tax, interest, penalty and any other sum due relating to the offence	
10.	Whether the applicant undertakes to pay further tax, interest, penalty and any other amount as is found to be payable on verification of the record.	
11.	Whether the applicant undertakes to pay the compounding charges as shall be intimated by the department.	
12.	Whether similar offences in the case of the applicant have been compounded earlier. If yes, how many times. Give details in annexure.	
13.	Whether the offence is first offence as defined in Para 8.2 of the Guidelines	

14.	Whether the offence has been committed by the applicant who, as a result of investigation conducted by any Central or State agency has been found involved, in any manner, in anti-national/terrorist activity	
15.	Whether any enquiry/investigation being conducted by Enforcement Directorate, CBI, Lokpal, Lokayukta or any other Central or State agency is pending against the applicant? If so, particulars may be given	
16.	Whether the applicant was convicted by a court of law for an offence under any law, other than the Direct Taxes Laws, for which the prescribed punishment was imprisonment for two years or more, with or without fine. If so, particulars may be given along with a copy of the court's order.	
17.	Whether, the application for 'plea-bargaining' under Chapter XXI-A of 'Code of Criminal Procedure' is pending in a Court and the Court has recorded that a 'mutually satisfactory disposition' of such an application is not worked out?	
18.	Whether the applicant was convicted by a court of law for the offence sought to be compounded	
19.	Whether it is an offence in respect of which, the compounding application has already been rejected.	
20.	Whether it is an offence which has bearing on an offence relating to undisclosed foreign bank account/assets in any manner	
21.	Whether it is an offence which has bearing on any offence under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.	
22.	Whether it is an offence which has bearing on any offence under The Benami Transactions (Prohibition) Act, 1988.	
23.	Whether it is an offence u/s 275A, 275B and/or 276	

VERIFICATION

I son/daughter of in the capacity of
.....certify and solemnly affirm that the information in the above columns
is true and correct to the best of my knowledge and belief.

Place:
Date:

Signature
Designation----
Current address --

* All offences for which compounding is sought

Annexure 2

**Suggested Check List for Compounding as per the Guidelines issued by the
CBDT vide F.No.285/08/2014-IT(Inv.V) dated 14.06.2019 on Compounding
of Offences**

(To be submitted by AO/ADIT/DDIT to the authority competent to compound through proper channel)

(A case can be compounded only if the answers to S. No. 1 to 22 match with the answers given below in remarks column.)

Name of the applicant :
Status :
Offences u/s :
AYs/ Date/ period involved in offence :
Date of filing of complaint, if any :
Status of case (i.e. whether Contemplated/
Pending in Court/ Convicted/ Acquitted) :
:-

S.No.	Particulars (<i>vis-a-vis Compounding Guidelines</i>)	Remarks	Reference of the File submitted
1.	The applicant has filed a written request for compounding the offence in the prescribed Proforma.	Yes	On Page no.....
2.	Whether the applicant has paid the amount of tax, interest and penalty & any other sum due relating to the default as prescribed in the Guidelines.	Yes	On Page no.....
3.	Whether on verification of record any further amount of tax, interest and penalty & any other sum was found payable by the applicant.	Yes/No If yes, date of intimation and date of payment.	If yes, give details in brief. Add annexure if required. On Page no....
4.	Whether the applicant has undertaken to pay the compounding charges computed as per Paras 12 & 13 of the Guidelines.	Yes	On Page no
5.	Whether the offence(s) committed by the applicant is one for which complaint(s) was filed with the competent court 12 months prior to the receipt of application for compounding.	No	On Page no

6.	Whether the offence is under the same section under which offences have been committed by the applicant earlier and which have been compounded three times prior to the present application. NOTE: THIS IS APPLICABLE ONLY IN CASE OF A CATEGORY 'A' OFFENCE.	No	If yes, give details in brief. Add annexure if required. On Page no....
7.	Whether the offence is the first offence as defined in para 8.2 of the Guidelines NOTE: THIS IS APPLICABLE ONLY IN CASE OF A CATEGORY 'B' OFFENCE.	Yes	If no, give details in brief. Add annexure if required. On Page no....
8.	Whether the offence has been committed by an applicant who, as a result of investigation conducted by any Central or State agency has been found involved, in any manner, in anti-national/terrorist activity	No	If yes, give details in brief. Add annexure if required. On Page no....
9.	Whether the offence committed by the applicant has a bearing on a case under investigation (at any stage including enquiry, filing of FIR/complaint) by Enforcement Directorate, CBI, Lokpal, Lokayukta or any other Central or State agency*	No	If yes, give details in brief. Add annexure if required. On Page no....
10.	Whether the offence has been committed by the applicant who was convicted by a court of law for an offence under any law, other than the Direct Taxes Laws, for which the prescribed punishment was imprisonment for two years or more, with or without fine*	No	If yes, give details in brief. Add annexure if required. On Page no....
11.	Whether the application for 'plea-bargaining' under Chapter XXI-A of 'Code of Criminal Procedure' is pending in a Court or a Court has recorded that a 'mutually satisfactory disposition' of such an application is not worked out*	No	If yes give details in brief. Add annexure if required. On Page no....
12.	Whether the offence is one committed by an applicant for which he was convicted by a court of law	No	If yes, give details in brief. Add annexure if required. On Page no....

13.	(i) Whether it is an offence in respect of which, the compounding application has already been rejected, (ii) If yes, whether it is a case where relaxation is available in the Guidelines.	(i) Yes/No (ii) Yes [If (i) is yes]	If yes, give details in brief. Add annexure if required. On Page no....
14.	Whether it is a case of a person who is main accused and where it is proved that he has enabled others in tax evasion such as, through shell companies or by providing accommodation entries in any other manner as mandated in sec. 277A of the Act	No	If yes, give details in brief. Add annexure if required. On Page no....
15.	Whether it is an offence which has bearing on an offence relating to undisclosed foreign bank account/assets in any manner	No	If yes, give details in brief. Add annexure if required. On Page no....
16.	Whether it is an offence which has bearing on any offence under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.	No	If yes, give details in brief. Add annexure if required. On Page no....
17.	Whether it is an offence which has bearing on any offence under The Benami Transactions (Prohibition) Act, 1988.	No	If yes, give details in brief. Add annexure if required. On Page no....
18.	Amount of compounding charges computed by AO/ADIT/DDIT as per Paras 12 & 13 of the Guidelines.	Rs.	On Page no
19.	The compounding charges are in accordance with Paras 12 and 13 of the Guidelines	Yes	If no, give reasons. On Page no....

20.	The factors, such as conduct of the person, nature and magnitude of the offence and facts and circumstance of the case have been considered while dealing with the compounding application and in calculating compounding charges	Yes	If no, give details in brief. Add annexure if required. On Page no....
21.	Whether the cases of Co-accused are being considered as per Para 13.8	Yes/Not Applicable	If yes, give details in brief. Add annexure if required. On Page no....
22.	Any other fact relating to the person/case relevant for consideration of the Competent Authority	No	If yes, give details in brief. Add annexure if required. On Page no....

Signature:

Name:

Designation:

Date:

Recommended by: 1. Addl. CIT/Jt. CIT/Addl. DIT/Jt. DITSignature/Name/Designation/Date

2. PCIT/PDIT/CIT/DITSignature/Name/Designation/Date

***Note: This may be given on the basis of information furnished by the applicant in his application for compounding or information already available with the Competent Authority for compounding**

Annexure 3
(Suggested Format)

Part-I

Format for Order u/s 279(2) of the Income-tax Act, 1961 for Compounding of an Offence as mentioned in Para 11 (ii) of the Guidelines issued by the CBDT vide F.No. 285/08/2014-IT(lnv.V) dated 14.06.2019 on Compounding of Offences

Order u/s 279(2) of Income-tax Act, 1961

Name of the person	:-
Status	:-
Offences u/s	:-
AYs / Date/ period involved in offence	:-
Date of filing of complaint, if any	:-
Status of case (i.e. whether contemplated/	:-
Pending in Court/ Convicted/ Acquitted)/	:-
Date of hearing, if any	:-
Date of order	:-

Order u/s 279(2) of the Income-tax Act, 1961

I, the Principal Chief Commissioner/Chief Commissioner of Income-tax /Principal Director General/Director General of Income-tax, in exercise of powers vested in me by virtue of the provisions of sub-section 2 of section 279 of the Income-tax Act, 1961 hereby compound the offence(s) u/s.....of the Income -tax Act,1961 for the A.Y.(s) / Date/ period....., committed by M/s./Shri/Ms.....

The Statement of the facts of the case are enclosed as Annexure - 'A'

Place:

Date:

Seal:

Signature

Principal Chief Commissioner/Chief
Commissioner of Income-tax /
Principal Director General/Director
General of Income-tax

Copy to:

The Commissioner of Income Tax/ Director of Income Tax —

The Assessing Officer/ ADIT/DDIT—

The ADIT/DDIT (Prosecution)-----

The Prosecution Counsel (if the case is pending in the Court) -----

The applicant (By name)-

Guard file.

Signature

ACIT/ ITO (Hq.)
O/o the Pr. CCIT/CCIT/ Pr. DGIT/DGIT

Annexure 3
(Suggested Format)

Part-II

Format for Order u/s 279(2) of the Income-tax Act, 1961 for rejecting the Compounding of an Offence as mentioned in Para 11 (ii) of the Guidelines issued by the CBDT vide F. No. 285/08/2014-IT(Inv.V) dated 14.06.2019 on Compounding of Offences

Order u/s 279(2) of Income-tax Act, 1961

Name of the person	:-
Status	:-
Offences u/s	:-
AYs / Date/ period involved in offence	:-
Date of filing of complaint, if any	:-
Status of case (i.e. whether Contemplated/ Pending in Court/ Convicted/ Acquitted)	:-
Date of hearing, if any	:-
Date of order	:-

Order u/s 279(2) of the Income-tax Act, 1961

I, the Principal Chief Commissioner/Chief Commissioner of Income-tax/Principal Director General/Director General of Income-tax,in exercise of powers vested in me by virtue of the provisions of sub-section 2 of section 279 of the Income-tax Act, 1961 hereby decline the prayer to compound the offence(s), u/s.....of the Income-tax Act, 1961 for the A.Y.(s) / Date/ period....., committed by M/s./Shri /Ms.

The case was not found to be a fit case for compounding as "..... (mention reasons)"

The Statement of the facts of the case are enclosed as Annexure - 'A'

Place:

Date:

Seal

Signature

Principal Chief Commissioner/Chief
Commissioner of Income-tax / Principal
Director General/Director General of
Income-tax

Copy to:

The Commissioner of Income Tax/ Director of Income Tax-----

The Assessing Officer/ ADIT/DDIT -----

The ADIT/DDIT(Prosecution)-----

The Prosecution Counsel (if the case is pending in the Court)-----

The applicant (By name) -----

Guard file

Sd/-

ACIT/ ITO (Hq.)
O/o the Pr. CCIT/CCIT/ Pr. DGIT/DGIT

Annexure -A

Statement of facts

The statement of facts should, inter alia, contain the following:

1. Detail of application filed

An application for Compounding of Offences committed u/s..... of the Income-tax Act, 1961 was filed in prescribed format by M/s. /Mr. /Ms on.....

2. Brief facts

3. Whether complaint has been filed

A complaint was filed in the Court of on and the case is still pending in the court/the Court has convicted the person who has filed an appeal against the conviction order that is pending in the Court/ the Court has acquitted the person & the department has filed an appeal against the acquittal order that is pending in the Court or an appeal against the acquittal order is contemplated.

OR

The complaint is yet to be filed in the Court.

4. In case of order accepting compounding, details of payment of compounding charges by the person.

5. Direction to the AO/ Standing Counsel to take necessary action to implement the orders at the earliest.