



PHD CHAMBER
OF COMMERCE AND INDUSTRY
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Webinar on **Black Money**

(Undisclosed Foreign Income and Assets)
Law and Imposition of Tax Act, 2015

Speaker

29

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2023**

11:00 AM to 1:30 PM
PHD House, New Delhi



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Background:

The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, was enacted by the Indian government to address the issue of undisclosed income and assets held abroad. The Act aimed to bring back illegal money stashed in foreign bank accounts and assets and imposed stringent penalties on non-disclosure.

Under this Act, Indian residents were required to disclose their foreign assets and income to the tax authorities. Failure to disclose such assets or income could result in heavy penalties and prosecution.

The primary objective of this Act was to curb the generation and holding of black money outside India and to bring transparency in financial dealings, especially in relation to foreign assets and income.



Key Provisions:

Definition of Undisclosed Foreign Income and Assets: The Act defines what constitutes undisclosed foreign income and assets, including various financial instruments, bank accounts, immovable properties, and other assets held abroad.

Declaration and Taxation: It mandates Indian residents to declare their undisclosed foreign assets and income to the tax authorities within specified timelines. Taxes and penalties are imposed on such undisclosed income/assets.

Compliance Window: The Act provided a one-time compliance window for individuals to declare their undisclosed foreign assets and income and pay taxes and penalties on them without facing severe legal consequences.

Penalties and Prosecution: Stringent penalties, including heavy fines and imprisonment, were outlined for non-compliance and failure to disclose foreign income/assets.

Objective

Curbing Black Money: The primary goal of the Act is to curb the generation and holding of black money outside India by implementing stringent measures against undisclosed foreign income and assets.

Promoting Transparency: The law aims to promote transparency in financial transactions and prevent individuals from concealing their wealth in foreign accounts or assets.

Tax Compliance: By imposing taxes and penalties on undisclosed foreign income and assets, the Act encourages individuals to comply with tax regulations and disclose their financial holdings accurately.



Discussion Topics

Effectiveness of the Act: Assessing the effectiveness of the Act in curbing black money and undisclosed foreign income. How successful has it been in achieving its intended objectives?

Impact on Tax Compliance: Discussing the impact of the law on tax compliance among Indian residents. Has it encouraged greater compliance and transparency in financial disclosures?

Challenges in Implementation: Exploring the challenges faced in implementing the Act. This could include difficulties in obtaining accurate information about foreign assets or challenges in prosecuting non-compliant individuals.

Global Cooperation and Information Exchange: Discussing the importance of international cooperation in tackling the issue of undisclosed foreign income. How effective has India been in collaborating with other countries for information exchange?

Fairness and Transparency: Examining the fairness and transparency of the law in its application. Are there any concerns regarding potential misuse or unjust prosecution under this Act?

Voluntary Disclosure Schemes: Evaluating the effectiveness of the one-time compliance window offered under the Act. Did it encourage individuals to voluntarily disclose their undisclosed foreign assets?

Public Perception and Awareness: Exploring the public perception and awareness of the law. Has it increased awareness about the consequences of holding undisclosed foreign income or assets?

Lessons Learned and Future Improvements: Identifying lessons learned from the implementation of the Act and discussing potential improvements or amendments for more effective regulation of undisclosed foreign income and assets. Further we will learn various topics:

1. Is there any time limit for initiating action for assessment. For example, any foreign asset acquired 30 years back and not declared in Immunity window between 1.7.15 to 30.9.15, can be assessed even today by issuing notice u/s 10 when it comes to the notice of AO!!
2. Safeguards on the lines of section 147-151A of Income Tax Act are missing absolutely!!
3. How is it justified to levy penalty of Rs 10 lacs u/s 42, 43 of BMA merely for the non-disclosure even though source of such foreign asset is explained : explainable?!!
4. How far it is justified to levy this penalty for each year if very same non disclosure goes on for say 5 years?!!
5. How far it is justified to tax/ penalize a person who is merely a beneficiary and who has not made any such investment but has been named as beneficiary and at times, without his knowledge?!!
6. Information is received by the income tax department but action u/s 10 of BMA is taken highly belatedly. Why should a person be taxed in respect of the market value of undisclosed foreign asset on the market value of such asset of the year when section 10 notice is issued!!!!
7. How intangible asset or digital asset located outside India be determined?
8. Why should there be not the defence of Reasonable Cause in case of penalties u/s 41-43?!!
9. Knowing that Power of Commissioner (Appeal) or Income Tax Appellate Tribunal, Commissioner to condone delay in filing appeal(s) or revision has been restricted to one year only?
10. Do you know that only person assessed can file appeal and not the aggrieved person who has not been assessed?
11. Do you know that Commissioner (Appeal) cannot impose penalty on enhancement made by him?
12. Do you know that there are no explicit provisions conferring power to Commissioner (Appeal) to admit additional evidence?



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