

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

SHOULD YOU WAIT TO PAY 120% PENALTY ON YOUR HARD EARNED FOREIGN INCOME/ASSETS OR OPT TO COME CLEAN NOW ?

A stringent law imposing 120 per cent tax, jail term of up to 10 years and penalty on undisclosed foreign assets and income to deal with the black money menace has been passed recently.

As an assessee how does it concern your financial position and tax liability is discussed below with government providing a ONE-TIME WINDOW FOR THE LIMITED PERIOD TO DISCLOSE SUCH FOREIGN INCOME/ASSETS AND PAY TAX AND PENALTY AT REDUCED RATES.

Following information will guide you through the salient features of the new enacted law:

Title of the Act: Black Money(Undisclosed Foreign Income and Assets) and Imposition of Tax Act,2015

Objective : To make provisions for undisclosed foreign income and assets, the procedure for dealing with such income and assets and to provide for imposition of tax on any undisclosed foreign income and asset held outside India and for matters connected to the said provisions.

Applicability: As per section 2 of the Act

*"assessee" means a person, being a **resident** other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, by whom tax in respect of undisclosed foreign income and assets, or any other sum of money, is payable under this Act and includes every person who is deemed to be an assessee in default under this Act;*

That is, an assessee who is a **resident of India(in the year in which the said foreign income /asset was earned or acquired)** will fall under the purview of this law and in respect of his/her foreign income and assets. Non-residents are not brought under the arena of this Act.

Period: The consequences of non-declaration may arise under the Act at any time in the future when the information of such account comes to the notice of the Assessing Officer.

Compliance: Circular No. 12/2015 : The stringent nature of the provisions in relation to the penalty and the punishment to be levied on the concerned assessee, the government has provided with the one-time compliance opportunity for a limited period.

A declaration as mentioned in section 59 of the Act in respect of any assets located outside India and acquired from income chargeable to tax under

Income Tax Act for any assessment year prior to assessment year 2016-17 for which he had either:

- ⌘ Failed to furnish return of income or
- ⌘ Failed to disclose such information in a return furnished before the commencement of the Act or
- ⌘ such income had escaped assessment by reason of the omission or failure on the part of such person to make a return under the Income tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

That is, as per the explanatory circular released by the tax authority the person making a declaration under the provisions of the chapter would be liable to pay **tax at the rate of 30 % of the value of such undisclosed asset**. In addition, he would also be liable to pay **penalty at the rate of 100% of such tax i.e. a further 30% of the value of the asset**.

Note: The value of the asset on which tax will be levied is to be calculated as per the rules prescribed.

IMPORTANT DATES: **1st July 2015** is the date of enforcement of the Act.

30th September, 2015 is the last date for making the declaration in **Form 6** before the

designated Principal Commissioner or Commissioner of Income Tax (PCIT/CIT) under the one time compliance scheme.

31st December, 2015 is the last date by which the tax and penalty above shall be paid under the said scheme.

If you are liable under the provisions of new law and avail the benefit of one time compliance scheme , all legal assistance can be provided by our firm on prior appointment.

-ESHA JAIN