

**THE BLACK MONEY
(UNDISCLOSED
FOREIGN INCOME
AND ASSETS) AND
IMPOSITION OF
TAX ACT, 2015**

By

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OBJECTIVE/ PURPOSE

The whole objective of this law is to:

- detect undisclosed foreign assets and income earned from undisclosed foreign sources by all persons resident in India;
- tax such income and
- penalize and prosecute the offenders

LIABILITY UNDER THE ACT: CHARGE OF TAX

As per Section 3 of the Act:

- any Assessee
- every assessment year commencing on or after the 1st day of April, 2016
- his total undisclosed foreign income and asset of the previous year
- to be taxed @ of thirty per cent of such undisclosed income and asset

ASSESSEE

As per Section 2(2) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015,

“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.”

UNDISCLOSED FOREIGN INCOME AND ASSET

As per Section 2(12) of the Act:

“undisclosed foreign income and asset means the total amount of undisclosed income of an assessee from a source located outside India and the value of an undisclosed asset located outside India, referred to in section 4, and computed in the manner laid down in section 5”

UNDISCLOSED ASSET LOCATED OUTSIDE INDIA

As per Section 2(11) of the Act:

“undisclosed asset located outside India means an asset (including financial interest in any entity) located outside India, held by the assessee in his name or in respect of which he is a beneficial owner, and he has no explanation about the source of investment in such asset or the explanation given by him is in the opinion of the Assessing Officer unsatisfactory”

TAX ON WHAT VALUE OF FOREIGN ASSET

Proviso to Section 3 states that

“Provided that an undisclosed asset located outside India shall be charged to tax on its value in the previous year in which such asset comes to the notice of the Assessing Officer.”

MEANING OF VALUE OF UNDISCLOSED ASSET

As per Section 3(2) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015,

“value of an undisclosed asset means the fair market value of an asset (including financial interest in any entity) determined in such manner as may be prescribed.”

SCOPE OF TOTAL UNDISCLOSED FOREIGN INCOME AND ASSET

As per Section 4(1) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

It would be aggregate of following three amounts:-

- a) Income from a source located outside India, not disclosed in the return of sub-section (1) or (4) or (5) of Section 139 of the Income Tax Act;**
- b) If no return is filed in the case mentioned above at point a) and**
- c) The value of any undisclosed asset located outside India**

COMPUTATION OF TOTAL UNDISCLOSED FOREIGN INCOME AND ASSET

As per Section 4(1) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015:

(i) no deduction in respect of any expenditure or allowance or set off of any loss (even if otherwise allowable as per income Tax Act, 1961)

(ii) income already assessed under Income Tax Act to be deducted (if nexus is established by the Assessee)

ENFORCEMENT AGENCY

As per Section 6(1) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015,

“The income-tax authorities specified in Section 116 of the Income-tax Act shall be the tax authorities for the purposes of this Act.”

PENALTY IN RELATION TO UNDISCLOSED FOREIGN INCOME AND ASSET

As per Section 41

The assessee is liable to pay by way of penalty a sum equal to three times of the tax computed under Section 10 of the BMA.