

SUMMARY OF Black Money Act

An attempt has been made to showcase in summary manner, the highlights and at times brazen harshness of provisions of Black Money (Undisclosed Foreign Income & Asset) and Imposition of Tax Act, 2015(BMA), as follows:

- (1) If one is resident in India and is having undisclosed foreign Income and undisclosed foreign asset, such person is liable to pay tax @ 30% of such aggregate undisclosed foreign income and asset and 90% as penalty under BMA, besides any other penalty as per law.
- (2) Undisclosed foreign income is that income which is from a source located outside India and which has not been declared in the income tax return filed within time allowed.
- (3) Undisclosed foreign asset is that asset located outside India the source of which is not explained to the satisfaction of the Assessing officer.
- (4) Assessment can be initiated under BMA on receipt of information from income tax authority, from any other statutory authority or from any other source and such assessment would be completed within 2 years from the end of the financial year in which notice of assessment is issued.
- (5) Assessment of undisclosed foreign income and asset can be initiated in a year only on receipt of above mentioned information irrespective of the year to which such income or asset relates. So if information of such income or asset of AY2016-17 is received in year 2030, such assessment can be initiated in year 2030!!!! No time limitation absolutely.
- (6) Assessment of undisclosed foreign asset has to be made qua its fair market value of the year in which such asset comes to the notice of Assessing Officer under BMA.
- (7) Such assessment of undisclosed foreign income and asset can be contested before CIT(A) by filing appeal within 30 days.
- (8) Condonation of delay up to one year only can be allowed on showing good and sufficient reason.
- (9) Second appeal can be filed before ITAT within 60 days and condonation of delay up to only one year can be allowed on showing good and sufficient reason.
- (10) Enhancement of quantum can be done by CIT(A) but penalty enhancement is mired in controversy due to faulty language of section 17 of BMA.
- (11) PCIT in Revisionary proceeding cannot set aside assessment etc with direction to re-do.
- (12) Powers under BMA on the lines of section 131 of Income Tax Act are without any time lines i.e. information of any year(for example, say, 15 years) can be summoned etc.

(13) Penalty for non disclosing foreign income and asset or incorrect disclosure of Rs 10 lac u/s 42 and 43 can be initiated anytime without any time limit.

(14) Penalty cannot be kept in abeyance during the pendency of appeal.

(15) Prosecution for several situations under BMA are in addition to prosecutions under Income Tax Act.

(16) Height of deeming fiction u/s 72(c) of BMA!!! - that any foreign asset made or acquired in any year shall be deemed to have been made or acquired in the year in which it comes to the notice of the Assessing Officer under BMA.