TransPrice Times Special Edition – ‘Decoding the Black Money Act’

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Black Money Act gives a chance to come clean

The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Act, 2015 known as Black Money Act aims to curb Black Money in the form of undisclosed foreign assets and income and imposes taxes and penalties.

The Act has come in force from 1 July, 2015. The Act also provides for one-time compliance opportunity for those who have undisclosed foreign assets. Government has recently notified such voluntary disclosure due date to be 30 September, 2015.

In essence, The Black Money Act provides for **separate taxation** of undisclosed income in relation to foreign income and assets. It is proposed that such income henceforth shall not be taxed under Income-tax Act, 1961 but under provisions of this new legislation.

Applicability

- Applicability of the Act to the person being an **Ordinary Resident** in India who has undisclosed foreign income and assets (including financial interest in any entity)
- Applicable to legal owners as well as ultimate beneficiaries
- Manager (at any time during the financial year) is responsible for payment of amount due, if the same cannot be recovered from company
- Failure to report balance of bank accounts above INR 0.5 million (in aggregate) would lead to penalty and prosecution
- Extensively covers Companies, Individuals, Association of Persons, HUF's, Trust, Firms

Compliance Window and Penalty Provisions

- The form prescribed for declaring undisclosed foreign assets and income is Form 6, which has been duly notified
- The above declaration provides immunity from prosecution under 5 Acts namely Income-tax Act, FEMA, Wealth tax, Companies Act and Customs
- Undisclosed foreign income or assets shall be taxed at a flat rate of **30 per cent**
- Equal amount as penalty to be charged effectively leading to **60 per cent** on the total undeclared amount during the compliance window and increased in totality (**30 per cent tax + 90 per cent penalty = 120 per cent**) post closure of window
- No deduction, allowance or set-off is permissible
- Rigorous imprisonment for 3 to 10 years (with fine) in case of willful default.

Timelines and Procedural aspects

- Disclosure window for above mentioned compliance available upto 30 September,2015
- Post disclosure, Principal Commissioner to issue intimation by 31 October, 2015 to inform declarant if the information is already available with the authorities
- In case, the information about the assets is already available with the authorities, declarant to revise the declaration within 15 days from the receipt of information and exclude such assets
- Taxes and penalty on the value computed to be paid before 31 December, 2015
- Acknowledgement in Form 7 to be issued within 15 days of such intimation of payment

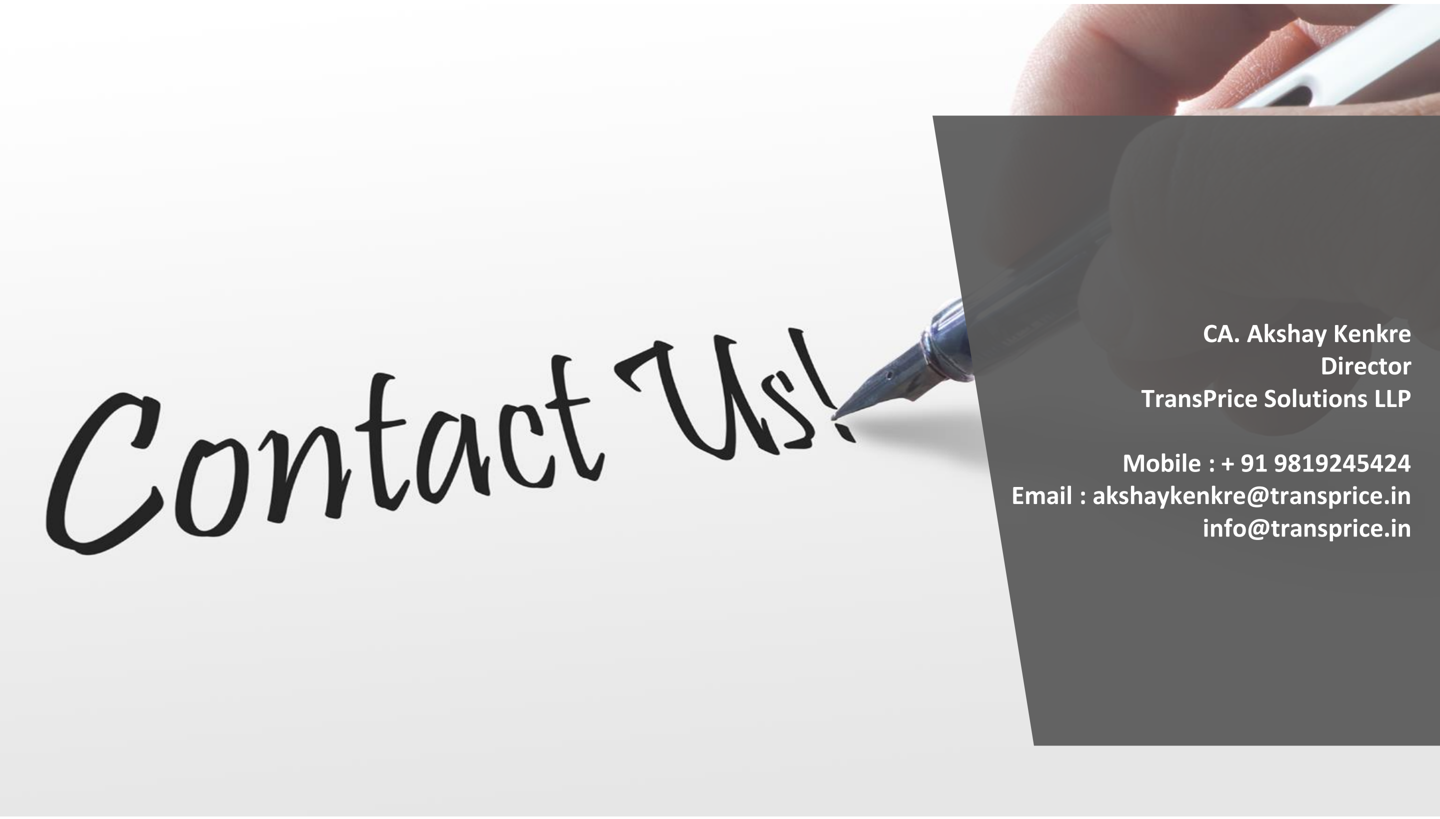
Important points for clarifications

- Value declared and computed as per valuation rules to be considered as cost of acquisition on sale of such undisclosed assets in future
- Ineligibility of person from declaration of undisclosed foreign assets acquired during the year for which notice is issued and served on or before 30 June, 2015
- Ineligibility of person from declaration of undisclosed foreign assets where the Central Government has received an information in respect of such assets under DTAA
- In case of acquisition of asset prior to commencement of Act for which no declaration is made, Assets shall be deemed to have been acquired in the year in which it comes to the notice of the AO and the provisions of Act shall apply
- Penalty of INR 10 Lakhs leviable if foreign assets are not disclosed in schedule of Fixed Assets in the return of income, even if the source of investment is disclosed
- Declaration shall be held as void in case if Assets represents money earned through corruption, which shall amount to misrepresentation of facts

Conclusion:

The stringent provisions of The Black Money Act would have far reaching effects on various assets of resident Indians located in foreign countries. This would also include various pension schemes and social security benefits that the residents enjoy as a part of their income in foreign land.

The residents should take advantage of such one time compliance scheme and disclose all hard and liquid assets situated in foreign jurisdiction.



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