Government plans to crack down on domestic money laundering, issues answers to FAQs

India said it was cracking down on attempts to launder black money locally and told people with unaccounted assets abroad that it will become increasingly difficult to conceal these, urging them to make use of a window that shuts on September 30.

The government will start receiving financial information from the US later this year and another countries, including some that have bene PAGE 8 ficial tax regimes, by 2018, the finance ministry said in answers to frequently asked questions issued on Monday. The FAQs follow elaborations to India's stringent black money law that were issued on Friday.

The warning about action against local money laundering was tweeted by Revenue Secretary Shaktikanta Das. “Entry operators converting domestic black money to white... coordinated action taken to track down these transactions. Good progress,“ Revenue Secretary Shaktikanta Das tweeted on Monday .

According to the finance ministry FAQ sheet, it won't help if a person has left the country and is no longer resident if the violation took place at that time. This suggests that even non-resident Indians will be covered by the law if they have any assets acquired with unaccounted Indian income.

The finance ministry's 32 FAQs explained the provisions of the one-time compliance window, which allows those holding unaccounted assets overseas to pay tax and penalty to escape the harsh provisions of the law. Those declaring assets by September 30 will have to pay 30% tax and 30% penalty by December 31.

The law provides for stiff penalties and imprisonment of up to 10 years for those who break the law enacted by the Narendra Modi government in line with its poll promise to root out black money.

NO RELIEF FOR GRAFT PROCEEDS

Those declaring unaccounted wealth under the scheme will not be charged under the Prevention of Money Laundering Act (PMLA). But there will be no protection from the black money law if it's later discovered that the assets declared are the proceeds of corruption. Even closed bank accounts have to be declared and the value of assets will be taken as the sum total of all deposits into the account.

Assets acquired when a person was non-resident from income not taxable in India need not be disclosed under the Black Money (Undisclosed Foreign Income & Assets) and Imposition of Tax Act, 2015, that came into force on July 1.

“The possibility of discovery of an undisclosed asset may arise at any time in the future,“ the ministry said, listing the details of the Automatic Exchange of Information (AEOI) that will kick in soon, making it clear that the government will also know the identities of asset beneficiaries.

“Those settled abroad or planning to settle abroad need to be careful as they remain accountable for any undisclosed foreign assets which they acquired from their income chargeable to tax in India in the year in which they were ordinarily resident of India,“ said Kuldip Kumar, partner, Price water house Coopers.

US-INDIA TO SHARE INFO SOON

The US and India will shortly start sharing information under the Foreign Account Tax Compliance Act.

“India is expected to start receiving information through AEOI route under FATCA from USA later in the year 2015,“ the finance ministry said, adding that another 58 jurisdictions will start sharing information under AEOI by 2017 and 36 more by 2018. The information under AEOI will include information of beneficial owners of the asset, the FAQ said.

It detailed the tax liability on a hypothetical example of a $100,000 asset acquired in 1975 that comes to the notice of tax authorities in 2020. If the asset is valued at $5 million in 2020, $6 million will be levied in tax and prosecution started under the Act.

The law applies to assets held by the person in his name or in respect of which he is a beneficial owner, implying that the person need not directly hold the asset. If he derives benefit from an undisclosed asset overseas then he can disclose the same through this window.

The disclosure is required even if the asset has been sold.

“The declaration may be made if the foreign asset was acquired out of undisclosed income even if the same has been disposed of and is not held by the declarant on the date of declaration,“ the FAQ said.

DECLARE ALL ASSETS

An asset acquired by a resident from income earned overseas and tax paid in that country but not declared in India will also be covered under the law. “It is an undisclosed asset and acquired from income chargeable to tax in India“ and therefore should be declared, the ministry said. Such a person will be covered even if he may no longer be a resident.

The FAQs also advise declaration of all assets even if their fair value is nil. For instance, if a house acquired in a foreign country from undisclosed income is sold and the proceeds deposited in a bank account then both should be declared.

The law will apply even on inherited assets acquired from unexplained sources of investment. If an asset has been disclosed under the Schedule FA (foreign assets) of the income-tax return, then the black money law will apply on it since it is from undisclosed income.

“Schedule FA of the return does not mean that the source of investment in the asset has been explained, “it said.

(Economic Times)