

# Tax officials told to crack down harder on black money

Tax authorities will intensify their efforts to crack down on unaccounted-for money stashed overseas by seeking information from their counterparts in other countries. A recent letter issued by the Chairperson, Central Board of Direct Taxes (CBDT) bears testimony to this intention.

To ensure that Indian tax authorities have access to information from other countries and can thus tackle the menace of black money and tax avoidance, several measures have been taken during the past few years. The government of India has renegotiated several tax treaties to enable exchange of information - such as the tax treaty with Switzerland. It has entered into many Tax Information Exchange Agreements (TIEAs) with tax havens (with whom India does not have tax treaties) like Cayman Islands, Bermuda, British Virgin Islands for enabling exchange of information. Domestic tax provisions have been tightened. The Finance Act, 2012 extended the time limit for reopening cases to sixteen years where income relates to an asset located outside India. Details of foreign bank accounts, immovable properties and assets outside India are also required to be filed by tax payers.

The CBDT chief's letter points out that such regulatory effort will come to naught if tax officers do not make use of the opportunities for obtaining cross-border information. In January, the CBDT had issued an internal manual - 'The Manual on Exchange of Information for tax purposes with foreign jurisdictions' which provided guidelines on how to obtain information from authorities of other countries under tax treaties, TIEAs and multinational conventions.

"In many cases in making the references, requests are not being properly framed and only some generalised statements are made. This results in a situation where even if the foreign tax authorities intend to provide assistance to us, they're not able to do so," states the CBDT chief's letter. Commissioners and directors of income tax have been asked to personally monitor cases where information has been sought from overseas.

CBDT's internal manual points out that tax officers are not making many requests primarily because they are not fully aware of the provisions. For instance, only 39 requests were made during FY 2008-09 seeking information from India's treaty partners. It increased slightly and 92 and 386 requests were made during FY 2010-11 and 2011-12 respectively.

As regards requests made to Indian tax authorities by foreign tax authorities, the CBDT chairperson's letter states: "It is important to give high priority to such requests. Only timely provision of information will ensure that we will also receive similar assistance from them."

The internal manual not only provides information of the various avenues available under which information can be sought from counterparts in other countries, but also provides formats which the tax

officers must follow while making any specific requests to foreign tax authorities, be it treaty or non-treaty countries.

An entire chapter in the internal manual also relates to confidentiality of information received. As regards information received under TIEAs, if such information is treated as secret in the tax haven providing such information, the same shall be disclosed only to relevant authorities including courts. Even under India's domestic tax laws, a tax-payer, barring certain exceptions, is guaranteed confidentiality of information filed in his return, or made available in various documents produced or statements made to tax authorities, points out the manual. As tax treaties over-ride domestic tax laws, if information is treated as confidential in the country providing such information, it will also be treated as confidential in India and not made public.

The internal manual has also highlighted some case studies of information received which enabled India to act on the same (see box). The CBDT's chief's letter has also solicited feedback on the effectiveness of the process of exchange of information and on the internal manual itself.

An official attached to the ministry of finance clarifies that while efforts are on to unearth black money and crack down on cases of round tripping, genuine investors into India and also out of India will not be impacted.

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