

Come clean, pay 50%; caught hiding, lose 85%

Our Bureau

Proposed tax laws impose harsh penalties; 'Robin Hood' disclosure scheme to benefit poor

THE TAXMAN COMETH		
The amendments to the tax laws being contemplated have stringent provisions targeting undisclosed incomes and investments. Plus there's a new Robin Hood scheme		
	Existing	Proposed
General provision for penalty	Penalty (Sec 271A) Liable-reporting 50% tax. Micro-reporting 20% tax.	No change
Unexplained credit, investment, cash and other assets	Tax (Sec 115BBE) Flat 30% tax + surcharge + cess (No expense, deductions, set-offs allowed)	Tax (Sec 115BBE) Flat: 60% tax + surcharge @ 25% of tax (that is, 15% of income). Total tax about 75% Penalty (Sec 271AAC) 10% penalty at discretion of Assessing Officer
Search / seizure	Penalty (Sec 271AAB) (i) 10% of income if admitted, returned, taxes paid (ii) 20% of income if not admitted but returned and taxes paid (iii) 60% of income in other cases	Penalty (Sec 271AAB) (i) 30% of income if admitted, returned, and taxes paid (ii) 60% of income in other cases
Pradhan Mantri Garib Kalyan Yojana 2015	New tax and investment regime	Undisclosed income (cash and bank deposits) can be declared Tax, Surcharge, Penalty Tax: 30% of income declared, Surcharge 33% of tax, Penalty 10% of income declared Total (about) 59% of income Deposit 25% of declared income to be deposited in interest-free deposit scheme for four years

New Delhi, November 28:

Three weeks into the dramatic demonetisation move, the Narendra Modi government is pulling out yet more big guns in the battle against black money.

On Monday, Finance Minister Arun Jaitley introduced a Taxation Laws (Second Amendment) Bill in Lok Sabha, which proposes a new voluntary disclosure and investment scheme, named Pradhan Mantri Garib Kalyan Yojana (PMGKY) 2016. It offers black money hoarders yet another opportunity to come clean, albeit at a higher tax cost than the recently concluded Income Disclosure Scheme (IDS).

The PMGKY is also expected to benefit the poor: additional tax revenues under this scheme will be used for social welfare projects.

The Bill faces a relatively easy passage since it has been introduced in the Lok Sabha as a money Bill: the Rajya Sabha, where the NDA has no majority, can review it but cannot reject it.

Last chance to come clean

Revenue Secretary Hasmukh Adhia said the new proposals will impose a prohibitive cost on undisclosed incomes. Urging people with unaccounted incomes to pay the tax and penalty or use the PMGKY route, he said, "Use this scheme now as the government may take more steps against black money later."

PMGKY will be notified after the Bill is passed by Parliament and receives Presidential Assent. The last date for the scheme is likely to be December 30.

It is a godsend for those pumping vast sums of unaccounted demonetised ₹ 500 and ₹ 1,000 notes into the banking system. By one estimate, nearly ₹ 5.2 lakh crore deposits in demonetised notes have flown back into the banking system this past fortnight, a significant proportion of which may be unaccounted income, reckon tax officials.

However, for all this unaccounted cash to turn 'white', there is a stiff price to be paid: a 50 per cent tax and a requirement that 25 per cent be parked in an interest-free deposit for four years. The remaining 25 per cent can legitimately come into the formal economy.

Those with unaccounted incomes who do not opt for PMGKY could have it rough: any unexplained credit (including in bank accounts) will attract 60 per cent tax plus 25 per cent surcharge and 10 per cent penalty, making it an effective rate of 85 per cent.

Adhia said the Income Tax Department will not ask for the source of funds deposited in banks from November 10 if the entire income is offered to tax and 50 per cent tax is paid on it. The disclosures will enjoy immunity from wealth tax, civil and other taxation laws, but there will be no immunity from Prevention of Money Laundering Act, FEMA, benami laws and black money Act.

A win-win proposal

Girish Vanvari, Partner and Head of Tax, KPMG in India, said the proposed amendment appears to be "strategic" and a "win-win" proposition. If it is successful, tax collections will go up substantially, further money will be raised in specified bonds for investment needs, and the assessee will retain 25 per cent of the undisclosed income.

G Ramaswamy, former CA Institute President, said: "This will be an opportunity to pay tax on unexplained cash on hand. The special window should be fully utilised."

Amit Singhania, Partner, Shardul Amarchand Mangaldas & Co, a law firm, said the amendments do impose a tax on all cash deposits made post-demonetisation. "If a taxpayer can establish that the deposits are accounted for, he should not be worried about these proposals. However, these proposals are going to increase the level of compliance burden for such taxpayers."

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