

FinMin to issue clarifications on Black Money Act

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The finance ministry on Thursday said it would soon issue notes on the recently enacted Undisclosed Foreign Assets and Income Act, also known as the black money Act, to address concerns raised by many on various provisions of the law, particularly on the proposed window for declaration of unaccounted wealth overseas.

“A lot of misinformation is circulating regarding new black money law. FAQs (frequently asked questions) with answers will be issued. We are aware of genuine issues,” Revenue Secretary Shaktikanta Das said.

Certain sections and provisions in the Act have created confusion, said sources.

The biggest concern in the minds of companies and individuals is whether or not a declaration made within the compliance window could be tried under the Prevention of Money Laundering Act (PMLA).

Nothing in the declaration made will be admissible in evidence for the purpose of any proceeding relating to imposition of penalty, other than the 60 per cent penalty, or for the purposes of prosecution under the Income-tax Act, Foreign Exchange Management Act (Fema), Companies Act or Customs Act.

However, the Bill is silent on treatment under PMLA when the Black Money Act has made offences of tax evasion a scheduled offence under PMLA.

Another concern raised is on the declaration of dormant accounts with no balance.

“Should we report the account based on the historic peak balance or the nil-amount that is present in the account currently,” said a source.

The Bill prohibits declaration of an asset or an account that has been or is being searched by tax authorities. But, these reassessments are opened for prior six years. The companies are raising queries on whether the account can be declared for the period preceding the six years.

Tax experts claim this as a welcome step from the ministry.

Sanjay Sanghvi, tax partner, Khaitan & Co, stated there are concerns on declaration of assets when one is under a probe and the other is not known to authorities.

“I would like to believe that a person who has two foreign assets of which one is known to the Indian Tax Authorities, should be able to make a onetime declaration in respect of the other foreign asset which was not known to the Indian Tax Authorities,” said Sanghvi. The Act states that any misrepresentation of facts can make a declaration null and void but does not prescribe a timeline by when the tax authorities can deem a declaration as inaccurate.

“It is not only desirable but also necessary that some time limit be provided for the principal commissioner to intimate a declarant that his disclosure under one-time declaration window is void on the ground of misrepresentation, suppression of facts. In any fiscal law it is imperative that some outer timeline is provided to put an end to the matter. Such crucial aspects cannot be left open ended,” added Sanghvi.

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