

Finance Act notified, punitive tax on undisclosed income only with effect from Sept 1, 2024

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With the enactment of the Finance Bill 2025, income tax assessee's facing issues related to income discovered during search proceedings can breathe easy.

The new law has replaced 'total income' with 'undisclosed income' for computation of income found during a search procedure. The law clarifies that only 'undisclosed income' will attract a punitive tax rate at 60 per cent. Change in nomenclature will be affected retrospectively, i.e., September 1, 2024. Experts say this could lower the total tax payout.

According to the Income Tax Department, amendment in respect of chapter XIV-B (prescribes special procedure for assessment of search cases) reflects a

"paradigm shift", where the main objective of a search or requisition is to identify income that has not been disclosed. However, the pending proceeding of any year comprised in the block period is abated and is assessed along with the block assessment. Hence, the assessing officer (AO) shall be at liberty to compute undisclosed income on the basis of evidence found as a result of search or requisition as well as any other material or information as is available with him or come to his notice. Regular income will continue to be determined based on entries or transactions recorded in the books of account or documents maintained in the normal course before the initiation of the search or requisition.

AMBIGUITY REMOVED

When the block assessment



regime was re-introduced in the 2024 Finance Act, the term 'Total Income' was used. Though the objective of the search and seizure proceeding has always been to unearth unreported and undisclosed income, the omission of word 'undisclosed' created ambiguity and fear among taxpayers that the income disclosed in the original return of income will also be taxable at 60 per cent tax rate if they are subject to search proceedings. Now, this ambiguity has been removed.

"Though the undisclosed

income will continue to be taxed at a higher rate of 60 per cent, the amendment will provide absolute clarity that the scope of search and seizure proceedings is to cover undisclosed income only and regular disclosed income will be taxed at normal tax rates.

This is a welcome step by the government and echoes the Finance Minister's statement of "Trust first and scrutinise later" as there will be no search scrutiny on income disclosed in original return," said Amit Maheshwari, Tax Partner at AKM Global.

According to Sandeep Jhunjhunwala, M&A Tax Partner at Nangia Andersen LLP, the Finance Act, 2025, retrospectively i.e, with effect from September 1, 2024, clarifies that this rate applies exclusively to "total undisclosed income" thereby safe-

guarding taxpayers who have adhered to disclosure norms from undue penalisation.

"Far from being a concession/lower payout, these changes serve as a clarificatory measure, reaffirming that taxing already disclosed income of the years comprised in the block period at a penal rate contradicts sound legislative practice and equitable tax policy," he said.

Adding to this, Maheshwari said the amendment might lead to lower tax payout as the earlier provision had a potential of misinterpretation by the tax officers as the regular disclosed income could also have been taxed at higher rate along with undisclosed income. With the amended provision, "the AO will not be able to tax the disclosed income at higher rate, eventually bringing down the overall tax payout for taxpayers," he said.