

Black Money Law in India

In this elective, the instructor intends to discuss the legal and regulatory framework for the prevention of undisclosed income and assets, popularly known as “black money”. Legally speaking, if money breaks laws in its origin, movement or use, and is not reported for tax purposes, then it would fall within the meaning of black money.

The curriculum will critically analyse the efforts to streamline the prevention and regulation of black money that began in 2009 and culminated into the landmark legislation, Black Money (Undisclosed Foreign Income & Assets) Imposition of Tax Act, 2015 (BMA). This was followed by the 2016 Amendment to Prohibition of Benami Property Transaction Act, 1988 (BTA). Corresponding changes were also made in the other laws governing the black money framework including Foreign Exchange Management Act, Income Tax Act 1961, Companies Act 2013, the introduction of The Voluntary Tax Compliance through Finance Act 2022, 2019 Amendments to PMLA and the SEBI Regulations.

These laws receive a fair share of criticism, particularly from the opposition parties for harshly being targeted under this law. While the course will not be taught from a political standpoint, this fact does highlight the blatant abuse of the power, therefore, the students will be encouraged to critically assess the efficacy of these laws in backdrop of it.

Proposed course framework:

1. Foundational understanding of black money
 - Defining black money – origin, movement and use
 - Sources – crime, corruption and business
2. Historical and regulatory context
 - Voluntary Income Disclosure Schemes
 - National Drugs and Psychotropic Substances Act – Chapter V A
 - Role of Regulatory Bodies – Reserve Bank of India, Securities and Exchange Board of India, Financial Intelligence Unit
3. Income Tax Act, 1961 and 2025
 - Returns and discovery
 - Search, seizure and Penalty
4. The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act 2015 (BMA)
 - Charging, assessment
 - Assets covered
 - Penalties
 - Relation with the Income Tax Act, 1961
 - Retrospectivity under BMA
5. Benami Property Transaction Act, 1988 (BTA)
 - Tax evasion through benami properties

- Changes brought by 2016 Amendment
- Enforcement
- Offences and Punishment
- Retrospectivity and Challenges

6. Prevention of Money Laundering Act, 2002

- Scheduled offences and “proceeds of crime”
- Comparative analysis- Parallels between BMA, BTA and PMLA

Selected Readings:

- Joseph W. Burns, Income Tax Evasion - A Continuing Crime, 14 SCRAPS 21 (1938).
- Kar Dev, An Empirical Study of Transfer of Black Money from India, Economic and Political Weekly, Vol. 46, No. 15 (APRIL 9-15, 2011), pp. 45, 47-54
- M. J. K. Thavaraj Wooing Black Money: The Wanchoo Committee Way, Social Scientist, Vol. 1, No. 5 (Dec., 1972), pp. 30-39
- Nath, A., Money Laundering: Criminal Cash and the International Banking System. Harvard International Review, 12(4), 50–51 (1990). Available at <http://www.jstor.org/stable/42761081>
- Ruggiero, Vincenzo, 'Introduction', Dirty Money: On Financial Delinquency (Oxford, 2017; online edn, Oxford Academic, 16 Feb. 2017), <https://doi.org/10.1093/acprof:oso/9780198783220.003.0001>
- White Paper on Black Money by CBDT, Ministry of Finance, 2012