

*Presentation on
Black Money Act*

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Acelegal*

THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015



INDIA



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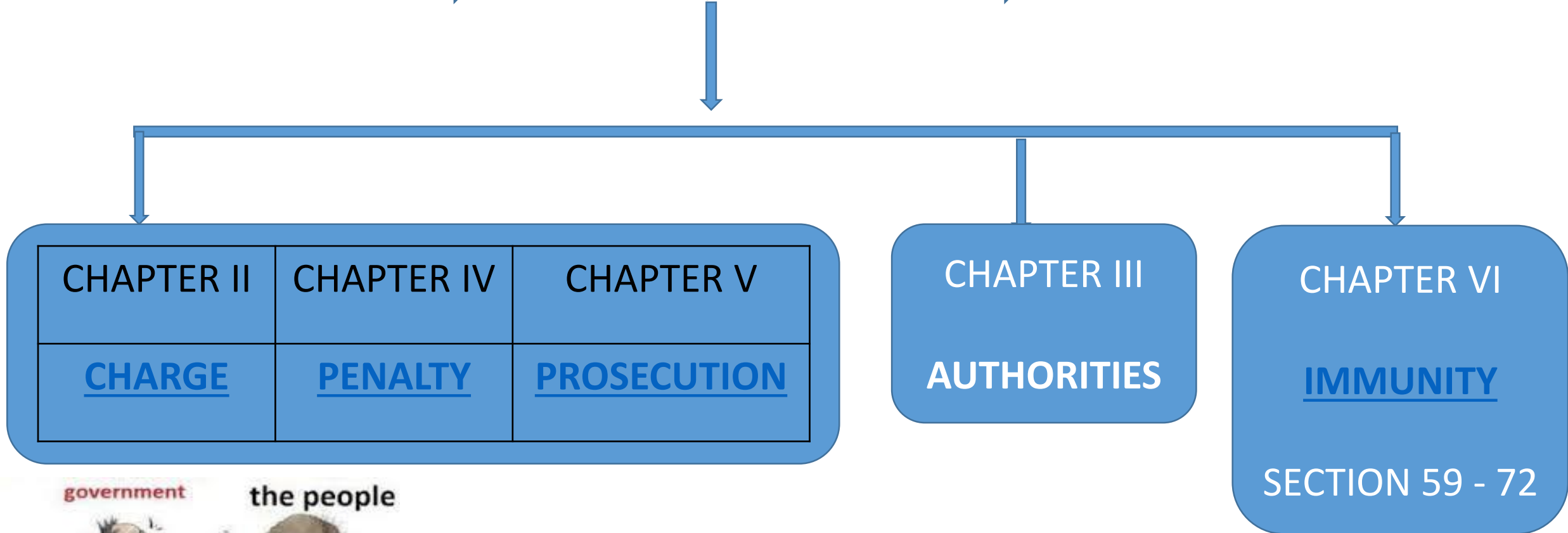


Applicability

FROM	01 / 04 / 2016
TO	Residents in India ; Beneficial Owner
UPON	(a)Undisclosed Foreign Income (b)Undisclosed Foreign Asset



Contains → 7 Chapters → 88 Sections





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Basis of Charge



Undisclosed
Asset

Undisclosed
Income

FMV in the year in which it is
noticed by the AO

Not shown in ROI u/s.
139(1), 139(4), 139(5)

- Tax @ 30%
- Not separately form part of Income under the Income Tax Act, 1961.
- No deduction of expense, allowance, set off of loss allowed.
- Proportionate reduction in value of asset if part income disclosed.

PENALTY

- Tax + 300% Penalty

- **When ?**

- Failure to furnish return of income (Rs.10 lakhs)
- Exception : Bank < Rs.5 lakhs
- Return filed but inaccurate or incomplete (Rs.10 lakhs)
- Default in payment of tax = Penalty equal to tax arrear
- Failed to answer, sign, attend (Rs.50,000 to Rs.200,000)

Notice ↓ within 3 years from the end of Financial year

- Order to be passed within 1 year of notice.

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PENALTY

MANDATORY OR DIRECTORY

- Penal clauses can never be mandatory. Basic Jurisprudence.
- Section 46(3) provides for **opportunity of hearing**.
- “Reasonable Clause” not provided except penalty in section 45.

[Section 45 : A person shall be liable to a penalty, if he has, without reasonable cause, failed to answer or sign or attend.]

- Approval of higher authority mandatory.

I couldn't calculate my income outside India because my calculator had a nervous breakdown





OFFENCES & PROSECUTION

- In addition to prosecution under other laws
- **Wilfully** : Culpable mental state.

Offence	Rigorous imprisonment
Fails to furnish return in time	6 months to 7 years
Furnish return but not information	6 months to 7 years
Evades Tax, Interest or Penalty	3 years to 10 years
Abets or Induces Falsity	6 months to 7 years



PRESUMPTION OF GUILT

- Court to presume guilty mind.
- Accused to prove that default is bonafide beyond “reasonable doubt” and not by “preponderance of probability”.



I presume that the accused is guilty of all charges. I believe he will surrender all his foreign assets / income to the Revenue Dept. So You've nothing to worry about.

WHO IS LIABLE FOR PROSECUTION?

COMPANY

UNINCORPORATED
BODY

HUF



Person in charge – Director,
Manager, Secretary or
Other Officer



Partners / Members

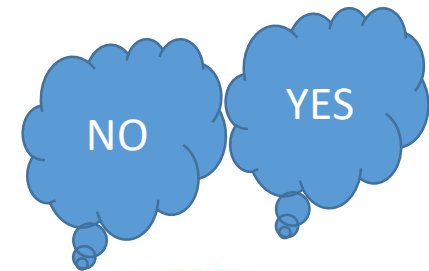


All members of
Family

IMMUNITY



- Declaration u/s. 59.
- Date to be notified by Government.
- Period covered – Till and including 31/03/2015 that means AY 2015-16.
- Applies only to assets as on 31/03/2015.
- Tax @ 30% on FMV of such asset.
- Penalty @ 100% of Tax. Therefore, 30% on value of asset.
- Declaration in Prescribed Form



- Tax + Penalty to be paid on or before notified date.
- Proof of payment to be submitted by notified date.
- Failure to pay tax, the declaration is void.



SPECIFIC IMMUNITIES

- Declared Income not to form part of Income Tax return.
- Will not reopen past assessments.
- Amount paid is non refundable.
- Immunity from other penalties, Prosecution under Income Tax Act.
- No action under FEMA, Companies Act, Customs Act.
- Immunity from Wealth Tax.

Nothing
Applicable
Ha!Ha!Ha!

FEMA CO's Act Wealth Tax Custom Income Tax



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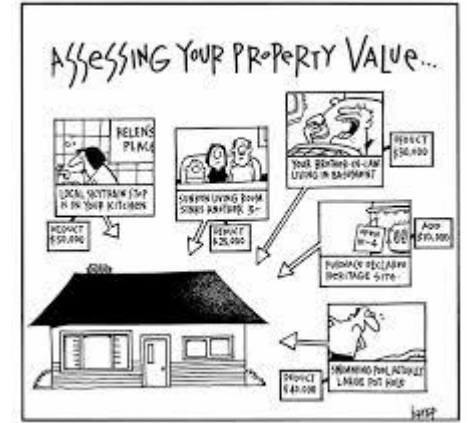
BAR FROM IMMUNITY





PENDING RULES

- Manner of determining value of asset (FMV).
- Form and manner of service of notice of demand.
- Forms for appeal, revision or cross objection.
- TRO's Forms.
- Form of Declaration u/s. 59.
- Educational Qualification for Authorised Representative.

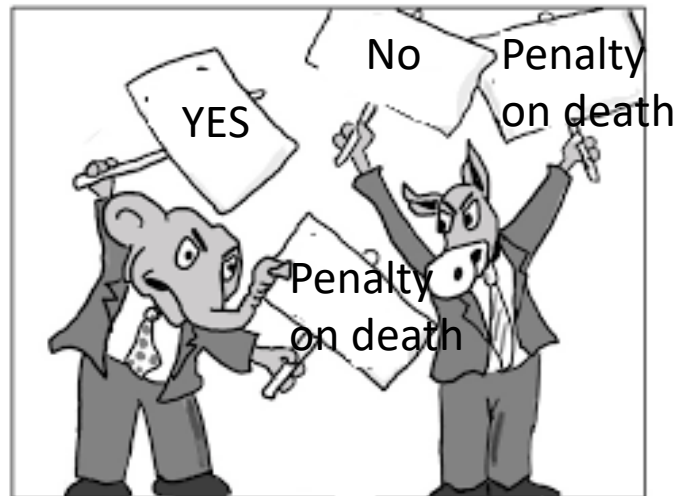


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SPECIAL POINTS



- No time limit prescribed for issuance of notice.
- Debts in books of assessee can be attached for recovery of tax.
- Even representative assessee liable for tax and Penalty on death.
- Interest liability as per Income Tax Act u/s. 234A/B/C.



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