

Government provides immunity under FEMA in respect of assets declared under one-time compliance scheme of the Black Money Taxation Act

In brief

The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (the Black Money Taxation Act or the Act) has been made effective from 1 July 2015. The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Rules, 2015 (the Black Money Taxation Rules) were issued on 2 July 2015, which provided for the valuation of foreign assets. The government also issued a circular providing details about the one-time compliance scheme, in which individuals, apart from relief from certain penalties, will also obtain immunity from prosecution under other laws. This window is set to close on 30 September 2015.

In connection with the declarations under the one time compliance window, the Reserve Bank of India (RBI) has issued a press release dated 24 September 2015, providing clarifications in respect on applicability of Foreign Exchange Management Act, 1999 (FEMA) provisions on the assets declared and disposed thereof.

In detail

The press release has clarified the following in relation to assets disclosed under the one-time compliance window -

- a) No proceedings shall lie under the FEMA against the declarant with respect to an asset held abroad, for which taxes and penalties under the provisions of Black Money Taxation Act have been paid.
- b) No permission under FEMA will be required to dispose of the asset so declared and bring back the proceeds to India through banking channels within 180 days from the date of declaration.
- c) In case the declarant wishes to hold the assets so declared, she/ he may apply to the RBI within 180 days from the date of declaration **if such permission is necessary as on date of application**. The RBI will deal with such applications as per extant regulations. In case such permission is not granted, the asset will have to be disposed of and proceeds brought back to India. An inference may be drawn that if permission is not required to hold such assets, such assets could be held without approval from the regulator.

Key takeaways

Assets declared under the one-time compliance scheme will have immunity from penal consequences under the FEMA. A detailed notification explaining the operational mechanism of the press release is expected to be issued separately, which is likely to provide more guidance.

Source: [RBI Press Release : 2015-2016/754](#)

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