Reporting of Foreign Assets & Overseas Incomes in Income-tax Returns – Analysis, Issues and Consequences including FAST-DS Scheme

Updated to AY 2026-27

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Online Classroom Session on Schedule FA Reporting In ITR

The Chamber of Tax Consultants

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Virtual

Presentation Layout

Sr. No.	Particulars
1	Foreign Assets and Incomes Disclosure requirements – Why, Who, What, Where and When??
2	Case Studies on certain issues related to Foreign Asset Disclosures
3	Consequences for lapses in disclosure
4	Experience Sharing
5	The Foreign Assets Of Small Taxpayers Disclosure Scheme, 2026
6	Checklists & Concluding points

The Five Ws

Why?	• is it part of law…
What?	• are the provisions…
Who?	• is covered…
Where?	• to enter data…
When?	• to file the Sch. FA…

Foreign Assets Disclosures – WHY??

Genesis – Global perspective

- **The American crisis of 2008 was a wakeup call for USA - that tax evasion is hurting their economy**

- Several follow-up measures were introduced:
- FATCA introduced in 2010 and from 2012 IGAs were signed with countries for exchange of information

- G20 gave much needed push for Exchange of Information - to put in place an AEOI standard
  - 2014 – Common Reporting Standard was developed and adopted
  - CRS Multilateral Competent Authority Agreement (CRS MCAA) - operationalised the AEOI
  - Consensus amongst all countries to tackle Base Erosion and Profit Shifting

- BEPS Action Plans with minimum standards to prevent treaty abuse introduced
  - MLI, PPT and LOB provisions as a follow up to BEPS APs

Genesis – Indian perspective

- India is one of the early adopters of the CRS and had committed to exchange information automatically by 2017.
- India has activated AEOI relationship for receiving information from 96 jurisdictions

- Exchange of Information takes place through:
  - Article 26 of DTAA and TIEAs
  - FATCA & CRS declarations
  - Signing of Intergovernmental agreements by India and US,

- CBDT in 2015 notified the rules
  - For implementation of FATCA / CRS - reporting by FIs in India
    - Section 285BA of the Income-tax Act, 1961 (section 508 of the IT Act, 2025) read with Rules 114F to 114H (Rules 238 to 240 of the Income Rules, 2026)
  - CbC reporting and its AEOI
  - Domestic disclosure requirements under SFT and FA Schedule

Background

- Schedule FA introduced in ITR Forms from AY 2012-13
- Schedule FSI introduced in ITR Forms from AY 2013-14

- Several Indians owning assets abroad
  - Significant investments made through LRS, ODI and LRS-ODI
  - Returning Indians
  - Signatory in bank accounts held by entities abroad

- Mismatch of data leads to queries and assessments
- Stiff penalties applied even in case of genuine errors and no tax impact

- Competent Authority nodal point to receive all exchanged data
  - Joint Secretaries, FT&TR

- FAST-DS Scheme introduced
  - Data received under DTAA now shared in AIS from July 2026
  - CBDT order dated 8th July 2026 (F. No. 225/73/2025-ITA-II)

Consequences for non-disclosure

- Flat penalty of Rs. 10 lakhs u/s. 42/ 43 of Black Money Act
  - **Only exception for assets (other than immovable property) where aggregate value is less than INR 20 lakhs (w.e.f. 1st October 2024)**
- While discretion is there to apply penalty practically officers levy penalty in most cases
- Judicial precedents divided over various issues

TIMES BUSINESS

THE TIMES OF INDIA, NEW DELHI | WEDNESDAY, SEPTEMBER 27, 2023

563

No relief in ₹10L tax fine for not disclosing foreign assets

ECONOMIC TIMES | wealth

Not disclosing foreign shares, investments, assets in your ITR can lead to penalty of Rs 10 lakh

By Neelanjit Das, ET Online • Last Updated: Sep 28, 2023, 10:58 AM IST

SHARE FONT SIZE SAVE PRINT COMMENT

Case Study – Disclosure as important as tax payment

- Mr. A, Indian tax resident, exercised options and obtained shares of foreign company valued at INR 25 Lakhs in AY 2018-19
- Mr. A reported dividend income of INR 50,000 earned on these shares
- Tax paid on the dividend income at slab rates
- However, these shares were missed to be reported in Sch. FA till AY 2023-24

- Assessment made in Black Money Act and flat penalty of INR 10 lakhs levied u/s. 43 of BMA for each year of non-disclosure – a total of INR 60 lakhs!!
- No leeway in amount of penalty u/s. 43 of BMA
  - Once levied law does not allow discretion for quantum of penalty

- Draconian provisions
  - Tax and Penalty can exceed the amount of income or even value of asset

- Does the AO practice discretion in reality?

Foreign Assets Disclosures – WHAT??

Legal provisions

- Section 139(1) of the Act read with fourth and fifth proviso to Section 139(1), makes it mandatory in case of all resident assesses viz. Individuals, HUFs, Firms and Companies having foreign assets to file the return of income in the Form ITR. [S. 263 of the ITA, 2025]
- ***Fourth proviso to S. 139(1)*** *(section 263 (1)(ix) of Income tax Act,2025):*
- ***"Provided also*** *that a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6,* ***who is not required to furnish a return under this sub-section and who at any time during the previous year,—***
- *(a)* ***holds, as a beneficial owner or otherwise,*** *any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or*
- *(b)* ***is a beneficiary of any asset*** *(including any financial interest in any entity) located outside India,*
- ***shall furnish, on or before the due date, a return in respect of his income or loss for the previous year*** *in such form and verified in such manner and setting forth such other particulars as may be prescribed:"*

- Legal requirement is to file tax return if FA held.
- No specific provision in ITA for disclosure of foreign assets.
- FA Schedule requirement is only through tax return form.

Legal provisions

- Schedule FA was introduced, quite innocuously, through the amended ITR Forms for AY 2012-13, relevant for FY 2011-12.
  - Amendments in the forms themselves do not require a separate legislation
  - Details in the tax return form should necessarily have a nexus with requirements under the Act.
  - A better position would have been to first enact a provision linking the non-disclosure of assets to a possible reason for assessment of such tax return (with suitable thresholds).
  - Penalties also prescribed under BMA and not ITA.

Outside sources to understand legal requirements

- Instructions to the ITR Form only source of guidance
  - Largely focus on reiterating the headings of tables in Schedule FA
  - Missing for latest ITR Forms

- Due to lack of guidance, one needs to depend on outside sources for information on what to fill where
- Guidance Note on FATCA/CRS issued by FTTR
- Rules 114F (Rule 238 of IT rules, 2026) to 114H (Rule 240 of IT rules, 2026)
- Explanation to Rule 114F for definitions of key terms
- A lot of material including commentaries, guidance notes, rules, etc. available under OECD mandated CRS requirement

- All the above are outside sources and can only be considered for clarity but still remain helpful

Foreign Assets Disclosures – WHO??

Applicable to?

- Reporting applicable only to R&OR
- Includes Foreign Citizens who are R&OR
  - Except for relief as explained later

- NOR and NR exempted from providing disclosure of foreign assets
  - Even after FA 2020 amendments, NRs spending more than 120 days or citizens of India do not need to disclose foreign assets

Steps to determine applicability

Status	• Only RORs need to disclose foreign assets (FA)
File ITR	• Additional obligation on a person to file a tax return where FA held
ITR Form	• Determine the correct ITR Form applicable
Sch. FA	• Sch. FA contains specific tables with respect to disclosure of specific foreign assets
Instructions	• Limited guidance and manner in which details are to be filled.

Case Study – Applicability of FA disclosures

- S, a student, leaves India for UK for studies abroad on 19th August 2025.
- He is Resident for FY 2025-26(AY 2026-27)

- In UK he opens a bank account.
- He has earned no incomes during FY 2025-26

- Even if his income is Nil in India, he still needs to file income tax return as he has a foreign asset in form of UK Bank Account balance

- Once required to file tax return, foreign assets disclosures are also required to be made

Relief to Foreign Citizen resident in India

- Foreign citizen who is R&OR is required to report all foreign assets
- Note below the Schedule FA provides relief for certain foreign citizens in the manner below:
- *In case of an individual, not being an Indian citizen, who is in India on a business, employment or student visa, an asset acquired during any previous year in which he was non-resident is not mandatory to be reported in this schedule if no income is derived from that asset during the current previous year.*
- The exclusion applies only if all following conditions are met:
  - a. The person is a foreign citizen;
  - b. The person is in India on a business, employment or student visa;
  - c. The foreign asset in question was acquired when such person was a non-resident of India; and
  - d. No income is derived from such foreign assets during the relevant previous year.

Foreign Citizens covered in following cases

- Considering these conditions, following foreign citizens (who qualify as ROR) will need to disclose their foreign assets:

- Is a foreign citizen who attains Indian citizenship and is an Indian citizen; or
- Is a person of Indian origin who has entered India with the help of the OCI Card and not on a business, employment or student visa; or
- Is a foreign citizen who is on a visit to India on a tourist visa and whose stay in India has caused him to be considered as a resident of India as per the Income tax Act; or
- Is a foreign citizen, but has a foreign asset which was acquired when such person is a resident of India; or
- Is a foreign citizen holding a foreign asset acquired when he or she was a non-resident of India, but an income has been derived from such asset during the relevant previous year.

Foreign Assets Disclosures – WHERE??

Breakup of Schedule FA – as at present

Table No.	Details of:	Columns
A1	Foreign Depository Accounts held (including any beneficial interest) at any time during the relevant calendar year	12
A2	Foreign Custodial Accounts held (including any beneficial interest) at any time during the relevant calendar year	12
A3	Foreign Equity and Debt Interest held (including any beneficial interest) in any entity at any time during the relevant calendar year	13
A4	Foreign Cash Value Insurance Contract or Annuity Contract held (including any beneficial interest) at any time during the relevant calendar year	9
B	Financial Interest in any Entity held (including any beneficial interest) at any time during the relevant calendar year	12
C	Immovable Property held (including any beneficial interest) at any time during the relevant calendar year	11
D	Any other Capital Asset held (including any beneficial interest) at any time during the relevant calendar year	11
E	Account(s) in which you have signing authority held (including any beneficial interest) at any time during the relevant calendar year	11
F	Trusts, created under the laws of a country outside India, in which you are a trustee, beneficiary or settlor	12
G	Any other income derived from any source outside India which is not included in,- (i) items A to F above and, (ii) income under the head business or profession	9

General issues under FA Schedule

- Focus is on disclosure – intent is to cover all items that may be reported against tax payer from overseas jurisdictions
- FA Schedule disclosures are not equivalent to foreign asset balance sheet
- FA Schedule income disclosures may be different from total income
- Necessary explanations and documents must be maintained especially to justify any mismatch between income and Sch. FA

- Guidance not available in old instructions on many aspects Definitions for several terms insufficient or unavailable
  - Can guidance be taken from Rules 114F to 114H?
  - Guidance Note on FATCA/CRS issued by FTTR provides clarity on several aspects

Schedule FA – Conversion into INR

- Conversion into INR – unnecessary burden?
- No scope for providing Forex amount

- SBI TT Buying rates to be used for conversion
  - Where not available can adopt following:
  - Actual rate if conversion has taken place during remittance
  - RBI rates from its website
  - Rates from other websites where details are not available on RBI website
  - Keep record of source used and refer to it in the notes

- Date for conversion
  - Peak Balance – date of peak balance
  - Cost – date of acquisition
  - Closing balance – as on 31st December
  - Income derived – as on 31st December
  - Income taxable – As per computation of Total Income (Rule 115)

Table A1 of Schedule FA – Details of Foreign Depository Accounts

Schedule FA	Details of Foreign Assets and Income from any source outside India										
A1	Details of Foreign Depository Accounts held (including any beneficial interest) at any time during the calendar year ending as on 31st December 2025										
Sl No	Country name	Country code	Name of financial institution	Address of financial institution	ZIP code	Account number	Status	Account opening date	Peak balance during the period	Closing balance	Gross interest paid/credited to the account during the period
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
(i)											
(ii)											

IGN ASSETS

- Details of Foreign depository accounts held at any time during the calendar year ending as on 31st December 2025 shall be reported.
- The peak balance, closing balance and gross interest paid/credited shall be reported after converting the same into Indian currency.

Table A1 of Schedule FA – Details of Foreign Depository Accounts

- As per CRS Guidance Note and Rule 114F, Depository Account includes:
- Any commercial, checking, savings, time, or thrift account, or
- an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a financial institution in the ordinary course of a banking or similar business;
- An amount that an insurance company holds under an agreement to pay or credit interest thereon;
- Does not have to be an interest-bearing account.
- **Data received under DTAA now being populated in AIS from calendar year 2022 onwards**

Table A2 of Schedule FA – Details of Foreign Custodial Accounts

A2	Details of Foreign Custodial Accounts held (including any beneficial interest) at any time during the calendar year ending as on 31st December 2025										
Sl No	Country name	Country code	Name of financial institution	Address of financial institution	ZIP code	Account number	Status	Account opening date	Peak balance during the period	Closing balance	Gross amount paid/credited to the account during the period *(drop down to be provided specifying nature of amount viz. interest/dividend/proceeds from sale or redemption of financial assets/ other income)*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
(i)											
(ii)											

- Custodial Account as per Rule 114F means an account for the benefit of another person that holds one or more financial assets
  - Excludes Insurance or Annuity Contract
- Details of Foreign custodial accounts **held at any time during the calendar year ending as on 31st December 2025** shall be reported.
- The peak balance, closing balance and gross amount paid/ credited shall be reported after converting the same into Indian currency.
- The nature of gross amount paid should be specified from the drop-down list, viz., interest, dividend, proceeds from sale or redemption of financial assets or other income

Table A3 of Schedule FA – Debt & Equity Interest

A3	Details of Foreign Equity and Debt Interest held (including any beneficial interest) in any entity at any time during the calendar year ending as on 31st December 2025											
Sl No	Country name	Country code	Name of entity	Address of entity	ZIP code	Nature of entity	Date of acquiring the interest	Initial value of the investment	Peak value of investment during the period	Closing value	Total gross amount paid/credited with respect to the holding during the period	Total gross proceeds from sale or redemption of investment during the period
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
(i)												
(ii)												

- Foreign Equity and Debt interest to be disclosed
- But definitions lacking in instructions or Form
- Does not mean investment in shares or debentures, etc.
  - Those would get covered under Table B and/or Table D
- As per Guidance Note, Equity and debt interests are financial accounts if they are interests in an investment entity
  - Though equity interests in Investment entity, which is only an investment advisor or investment manager, are not financial accounts
  - Rule 114F (Rules 238, IT Rules, 2026) states “equity interest” with reference to Financial Institutions as partnership firm and trust

Table A4 of Schedule FA – Insurance or Annuity Contract

A4	Details of Foreign Cash Value Insurance Contract or Annuity Contract held (including any beneficial interest) at any time during the calendar year ending as on 31st December 2025							
Sl No	Country name	Country code	Name of financial institution in which insurance contract held	Address of financial institution	ZIP code	Date of contract	The cash value or surrender value of the contract	Total gross amount paid/credited with respect to the contract during the period
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
(i)								
(ii)								

- No definitions provided for the terms
- Reference to be made to Rule 114F (Rules 238 of IT Rules, 2026)
- Explanation in Rule 114F (Rule 238 of IT Rules, 2026) states that "insurance contract" means a contract (other than an annuity contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk

Table A4 of Schedule FA – Insurance or Annuity Contract

- Explanation in Rule 114F (Rule 238 of IT Rules, 2026) states that "annuity contract" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals;

- Explanation in Rule 114F states that "cash value insurance contract" means an insurance contract (other than an indemnity reinsurance contract between two insurance companies) that has a cash value and in case of a U.S. reportable account such value is greater than an amount equivalent to fifty thousand U.S. dollars.
  - Explanation.- For the purposes of this clause, a single premium life insurance contract which does not permit an amount to be paid on surrender or termination of the contract and which does not allow amounts to be borrowed under or with regard to the contract, shall not constitute a cash value insurance contract;
  - Explanation in Rule 114F has also defined “cash value”.

Table B of Schedule FA – Financial interest (including beneficial interest)

B	Details of Financial Interest in any Entity held (including any beneficial interest) at any time during the calendar year ending as on 31st December 2025											
Sl No	Country Name and code	Zip Code	Nature of entity	Name and Address of the Entity	Nature of Interest- Direct/ Beneficial owner/ Beneficiary	Date since held	Total Investment *(at cost) (in rupees)*	Income accrued from such Interest	Nature of Income	Income taxable and offered in this return		
										Amount	Schedule where offered	Item number of schedule
(1)	2(a)	2(b)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

- As per Instructions to ITR Form, Financial interest would include where the resident assessee is owner of record or holder of legal title of any financial account, irrespective of whether he is the beneficiary or not:
- Owner of record or holder of legal title includes:
  - an agent, nominee, attorney or a person acting in some other capacity on behalf of the resident assessee with respect to the entity;
  - a corporation in which the resident assessee owns, directly or indirectly, any share or voting power
  - a partnership in which the resident assessee owns, directly or indirectly, an interest in partnership profits or an interest in partnership capital
  - a trust of which the resident assessee has beneficial or ownership interest.
  - any other entity in which the resident assessee owns, directly or indirectly, any voting power or equity interest or assets or interest in profits
- However, FA Schedule asks for disclosure of Financial Interest in any **Entity**

Table C of Schedule FA – Immovable property (including beneficial interest)

C	Details of Immovable Property held (including any beneficial interest) at any time during the calendar year ending as on 31st December 2025										
Sl No	Country Name and code	ZIP Code	Address of the Property	Ownership- Direct/ Beneficial owner/ Beneficiary	Date of acquisition	Total Investment *(at cost) (in rupees)*	Income derived from the property	Nature of Income	Income taxable and offered in this return		
									Amount	Schedule where offered	Item number of schedule
(1)	(2a)	(2b)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
(i)											
(ii)											

- Value of total investment at cost in the immovable property

- **Issue:**
- Property sold after 31st December. Capital Gain on the same to be reported in this Table C or Table G -Other income?

- What if property is held in joint name?

Table D of Schedule FA – Other Capital Asset

D	Details of any other Capital Asset held (including any beneficial interest) at any time during the calendar year ending as on 31st December 2025										
Sl No	Country Name and code	ZIP Code	Nature of Asset	Ownership- Direct/ Beneficial owner/ Beneficiary	Date of acquisition	Total Investment *(at cost) (in rupees)*	Income derived from the asset	Nature of Income	Income taxable and offered in this return		
									Amount	Schedule where offered	Item number of schedule
(1)	(2a)	(2b)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
(i)											
(ii)											

- Income derived from the asset – Calendar Year or FY
- FY as income is linked to Schedule of ITR Form
- "Capital Asset"

- Shares of foreign companies
- Units of foreign Mutual Funds
- Securities held abroad
- Any other financial asset which is not reported in above tables

- **Exclusions:**
- Stock-in-trade & business assets which are included in the Balance Sheet.

Table E of Schedule FA – Accounts in which the person has signing authority

E	Details of account(s) in which you have signing authority held (including any beneficial interest) at any time during the calendar year ending as on 31st December 2025 and which has not been included in A to D above.										
Sl No	Name of the Institution in which the account is held	Address of the Institution	Country Name and Code	ZIP Code	Name of the account holder	Account Number	Peak Balance/ Investment during the year *(in rupees)*	Whether income accrued is taxable in your hands?	If (7) is yes, Income accrued in the account	If (7) is yes, Income offered in this return		
										Amount	Schedule where offered	Item number of schedule
(1)	(2a)	(2b)	(3a)	(3b)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
(i)												
(ii)												

- Details of foreign accounts in which the person has a signing authority

Exclusion:

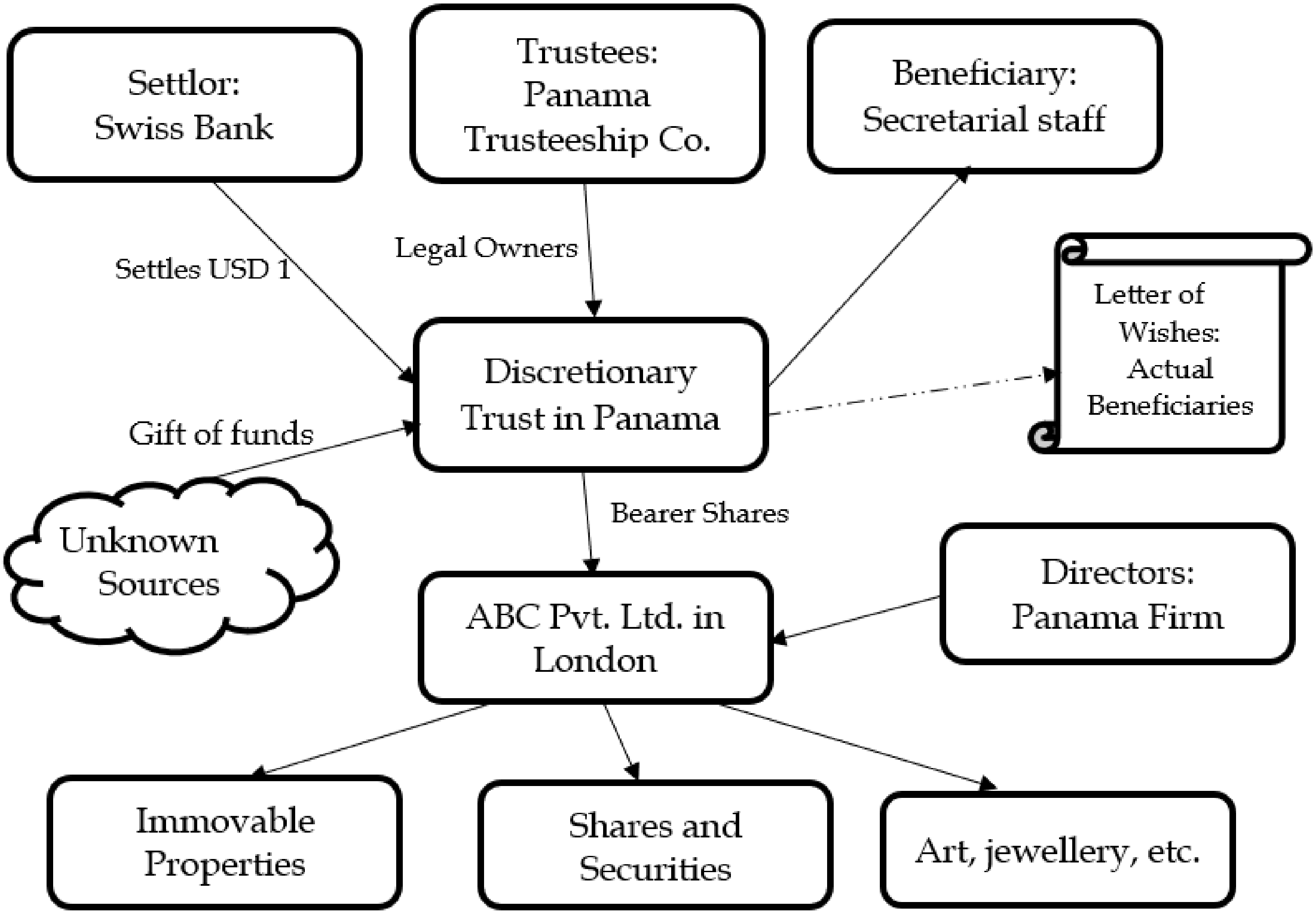
- Accounts which have been reported in the preceding tables

Table F of Schedule FA – Trust created outside India in which person is a trustee, a beneficiary or settlor

F	Details of trusts, created under the laws of a country outside India, in which you are a trustee, beneficiary or settlor											
Sl No	Country Name and code	ZIP Code	Name and address of the trust	Name and address of trustees	Name and address of Settlor	Name and address of Beneficiaries	Date since position held	Whether income derived is taxable in your hands?	If (8) is yes, Income derived from the trust	If (8) is yes, Income offered in this return		
										Amount	Schedule where offered	Item number of schedule
(1)	(2a)	(2b)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
(i)												
(ii)												

- Details of trusts set up under the laws of a country outside India is required to be disclosed.
- Further, income derived from such trust shall also be reported
- Difficult to get information in some cases

Typical Trust Structure



Case Study – Trust reporting

- Mr. A, NRI, settled shares and immovable property in discretionary trust for US inheritance tax purposes in 1990.
- On retirement Mr. A has moved to India to settle for good in 2024.
- Trustees of the trust are his son and daughter, Mr. AB and Ms. AC.
- Beneficiaries of the trust are:
  - Children of Mr. AB and Ms. AC – non-residents of India.
  - Nephews and nieces of Mr. A – all Indian residents (unaware of the fact that they are marked as beneficiaries in the trust).
  - Charitable trust in India
- Mr. A had appointed his brother, Mr. B who is settled in India as the Protector of the trust

Issues in reporting of Trusts

- Is Mr. A required to disclose the trust even if settled when he was a Non-resident?
  - Should he disclose the trust assets too even though he is not legal owner?
- Is a resident beneficiary of a foreign Discretionary Trust required to file tax return?
- Does the protector need to disclose details of the Trust?
- Is the beneficiary required to disclose the underlying assets held by the Trust?

- No clarity in the instructions

Disclosure requirements for parties to a Trust

- **Settlor** being ROR would be subject to disclosure requirements under item F of Schedule FA
- For Trust assets: in subsequent years, settlor should not be regarded as the beneficial owner of the assets held under the trust (post settlement)
- Alternate view: Settlor has provided consideration for the asset which is held by the Trust and the settlor qualifies as beneficial owner as per strict reading of "Beneficial Owner" as per Section 139 and under the instructions.

- **Trustee** is a legal owner and is therefore required to report all the foreign assets of the trust

- **Beneficiary:** Multiple definitions of "beneficiary" provided under the Act, the Rules and under the instructions.

- Para 4.3.9 read with para 4.3.12 of the Guidance Note on FATCA/CRS provides that a beneficial owner of a trust (referred to as controlling persons as well) would mean the settlor, the trustees, the protector (if any) and the beneficiaries.

Definition of “Beneficiary” of a foreign asset

Inconsistency in the definition of “beneficiary”:

Expl. 5 to Section 139(1)	Instructions to ITR Forms	Expl. To Rule 114F(1)(c)
“Beneficiary” in respect of an asset means an individual who **derives benefit from the asset** during the previous year **and the consideration for such asset has been provided by any person other than such beneficiary**.	Beneficiary in respect of an asset means an individual who derives **an immediate or future benefit**, **directly or indirectly,** in respect of the asset during the previous year **and the consideration for such asset has been provided by any person other than such beneficiary.**	A person will be treated as a beneficiary of a trust if he has the **right to receive, directly or indirectly, a mandatory distribution** or **may receive, directly or indirectly, a discretionary distribution from the trust.**

Whether a beneficiary who has not received any income or distribution from during the year, is required to disclose trust assets in Schedule FA?

Disclosure requirements for parties to a Trust

- **Protector:**
- A person appointed as a 'protector' to the trust would be tasked to act as a protective shield in case the trustees of the trust do not act in the benefit of the beneficiaries as prescribed under the trust deed.
- Such protectors are trusted family members or friends who would not be beneficiaries in the trust.
- Such protectors do not earn any income from such trust.
- As reporting of their holding such a position in the trust would be reported under CRS, it would be advisable for such individuals to disclose the trust details in Table F and maintain proper records and also provide them in case the tax department calls for the same.

Table G of Schedule FA - Any other income derived from any foreign source

G	Details of any other income derived from any source outside India (i) which is not included in- items A to F above or, (ii) income under the head business or profession								
Sl No	Country Name and code	ZIP Code	Name and address of the person from whom derived	Income derived	Nature of income	Whether taxable in your hands?	If (6) is yes, Income offered in this return		
							Amount	Schedule where offered	Item number of schedule
(1)	(2a)	(2b)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
(i)									
(ii)									

- Details of any other income, derived from any foreign source should be reported.

Exclusion:

- Income which has been reported in the Tables A1 to F above.

Case Study - Other Incomes

- Mr. Bond, an author resident of India, receives a vintage pen worth Rs. 10 lakhs as a gift from his fans while travelling to USA.
- Gift received from non-relatives is taxable in India. The same is reported under schedule OS.
- Income is also reported in Schedule FSI.
- Does he need to report income in Schedule FA?
  - Yes. Under Table G of Schedule FA - any other income derived from any foreign source

- Mr. Bond also earns royalty income from abroad on books written by him as an author
- Income is accounted for in his business books and reported under the PGBP Head.
- Does he need to report income in Schedule FA?
  - No. But Table G of Schedule FA – has undergone a change – all incomes including business incomes are to be disclosed?

Subtle change in the tax return form for AY 2026-27

- Table G – does it now require us to report all business incomes!!

Upto AY 2025-26	From AY 2026-27
Details of any other income derived from any source outside India ***which is not included in,*** (i) items A to F above and, (ii) income under the head business or profession.	Details of any other income derived from any source outside India ***(i) which is not included in-*** items A to F above and, (ii) income under the head business or profession.

- **Is this a typographical error or a conscious decision to include all business or professional incomes?**

Foreign Assets Disclosures – WHEN??

Sch. FA – Period of reporting

Tax Return for	Period of Reporting
AY 2012-13 to 2014-15	Period was not specified. (Assumed as previous year)
AY 2015-16 to 2018-19	Previous year
AY 2019-20 to 2021-22	Accounting Period of the jurisdiction in which foreign asset is situated
AY 2022-23 onwards	Calendar year ending 31st December

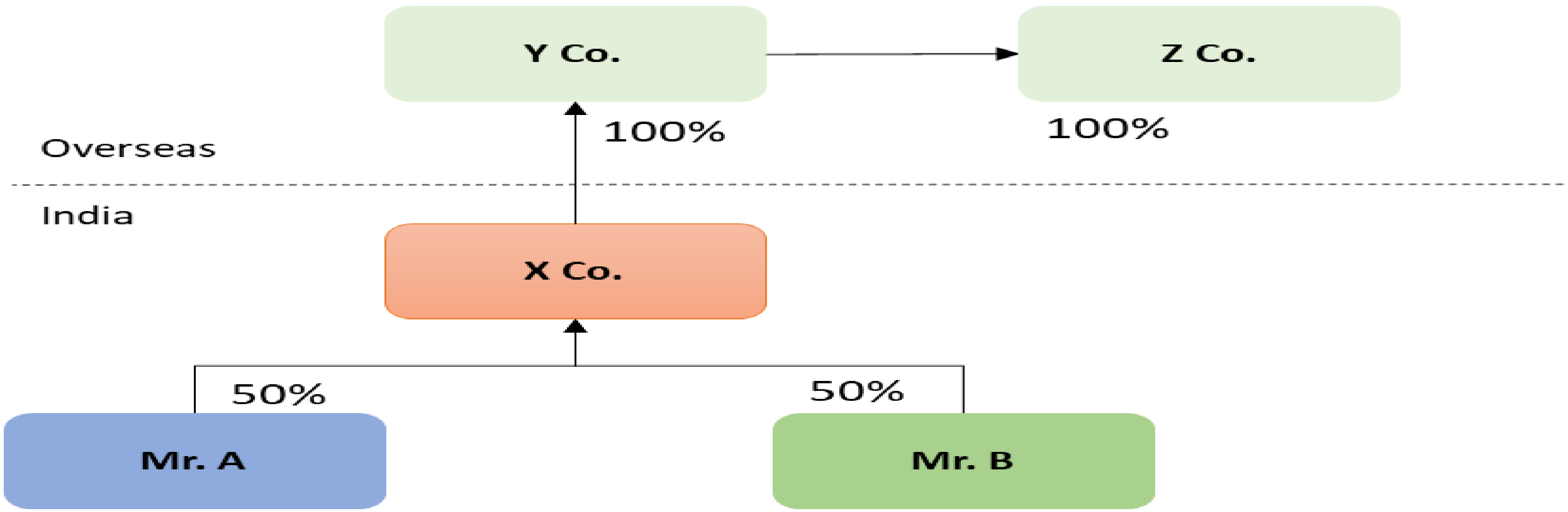
Foreign assets which may not get reported

- ESOPs of foreign companies granted, but not yet vested
- Vehicles, etc., if not capital assets
- Receivables?
- Stock-in-trade & Business assets included in Balance Sheet

- **However, caution to be taken and disclosure to be made on conservative basis where assets are located outside India**

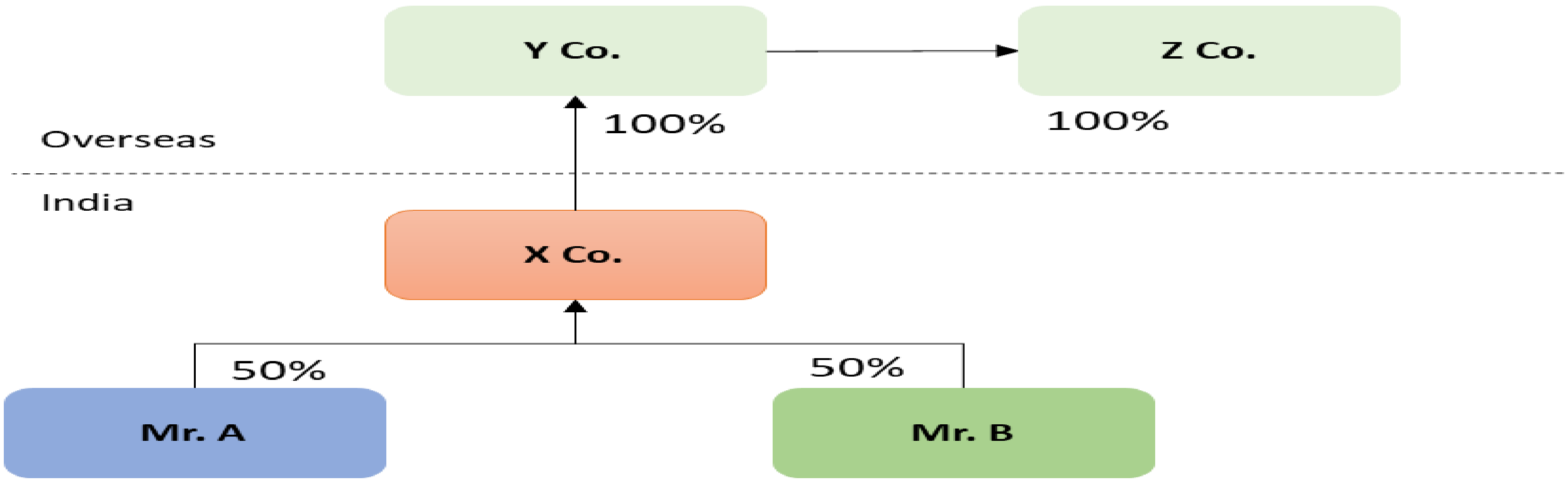
Issues under Foreign Asset Disclosures – Case Studies

Case Study - Holding Company Structure



- Mr. A and Mr. B own an Indian company, X Co.
- X Co. has set up a subsidiary, Y Co. in USA.
- Y Co. has further set up a subsidiary in Singapore, Z Co.
- Investment by X Co. in Y Co. and by Y Co. in Z Co. are made through their respective internal accruals, i.e., surplus funds.

Case Study - Holding Company Structure



- Are Mr. A and Mr. B required to disclose their indirect holding?
- If so, to what level should one disclose – holding in Y Co. only or till Z Co?
- Is X Co., India required to disclose indirect ownership in Z Co.?

Case Study - Holding Company Structure

- The term 'Beneficial Owner' has been defined under explanation to Section 139(1):
- "Beneficial owner" in respect of an asset means an ***individual*** who has provided, directly or indirectly, consideration for the asset and where such asset is held for the immediate or future benefit, direct or indirect, of the individual providing the consideration or any other person.
- Considering the above, UBO need not necessarily and automatically mean BO too.
- Hence, UBO may not need to report under Sch. FA
- **Add CIT v. Jatinder Mehra [(2021) 128 taxmann.com 152 (Delhi - Trib)]**
- **Pradeep Wig v. ACIT [(2025) 174 taxmann.com 196 (Delhi – Trib)]**

Case Study - Holding Company Structure

- **Exposure:**
- Mr. A and Mr. B would be reported as Ultimate Beneficial Owner ('UBO') of Y Co. and Z Co. for the purpose of reporting under FATCA / CRS.
- Likely that details of indirect interest of Mr. A and Mr. B in Y Co. and Z Co. could flow through EOI
- There is an exposure that such information when received, if remains unmatched with disclosure in FA schedule, notice may be issued by department. It has happened in many cases including precedents cited. To avoid exposure, it may be better for Mr. A & Mr. B to disclose their indirect investments in Y Co. and Z Co.
- This is the department's view as per news reports too.

Case Study - Holding Company Structure

Taxman Goes After Indirect Investments in Overseas Cos

Indian residents may face tax scrutiny for non-disclosure of such info under beneficial ownership law

Sugata.Ghosh@timesgroup.com

Mumbai: Many well-heeled Indians who own stocks and properties abroad or are beneficiaries of offshore trusts may come under the glare of the income tax (I-T) department for failing to spell out their 'indirect investments'.

Indirect investments are the next-level investments — or, holdings in other overseas companies — by the entity in which the resident Indian is a stakeholder. Consider an individual holding 15% equity interest in an unlisted offshore firm (A) in Dubai, which in turn is a shareholder in three US companies (B, C and D).

Under Scanner

INDIRECT OWNERSHIP

An Indian resident buys stake in an offshore company A

Firm A buys stake in three other companies B, C and D

Indirect ownership in B, C & D has to be disclosed in I-T return along with investment in A, says tax dept

EXPERT TAKE

Definition of beneficial ownership that also covers indirect ownership is too wide

It could lead to disputes; more clarity needed from CBDT

PF BODY WRITES TO EXEMPTED TRUSTS

CPFC Seeks Info on IL&FS Exposure

The Central Provident Fund Commissioner (CPFC) has stepped in to help middle-class people whose investments in IL&FS group companies via standalone trustees are at risk, reports **Saikat Das**. ▸▸ 12

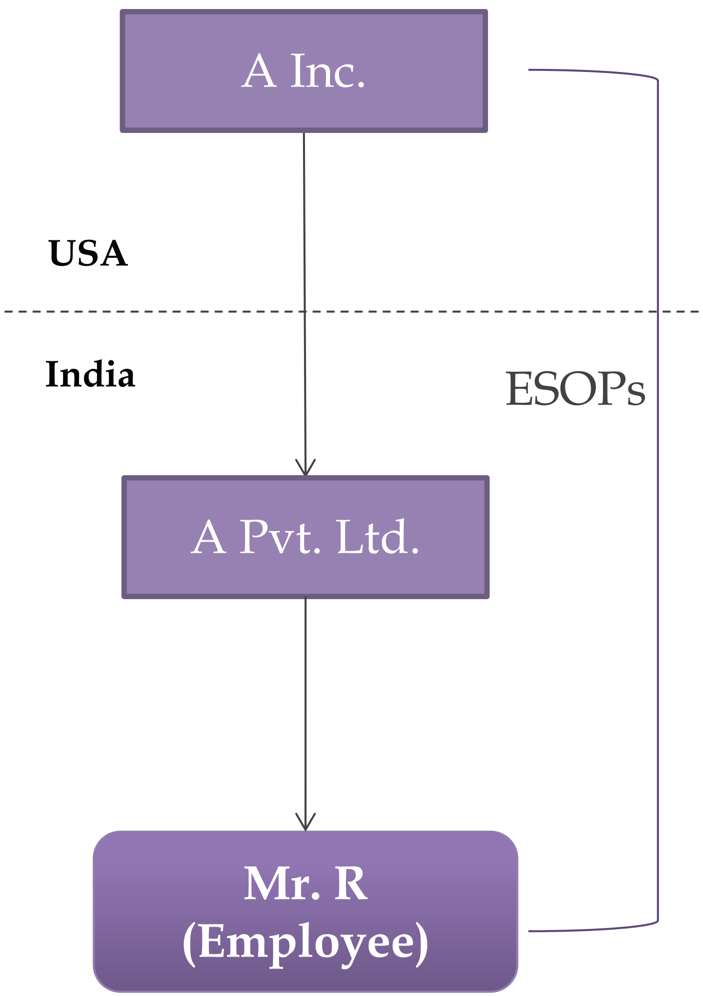
According to the department, indirect ownership in B, C and D has to be disclosed in the income tax return along with the investment in A. The tax office, sources said, has asked a few "high-profile individuals" to explain why they did not disclose their indirect investments because under the law the Indian resident is the ultimate beneficial owner (UBO) of all the companies.

Non-disclosure of information could attract a penalty of at least ₹10 lakh; and, if the taxman is not satisfied with the response, it can invoke the new law against black money.

"To define the term 'beneficial ownership', Section 139 of the Income tax Act was amended. The new definition, which attempted to cover indirect ownership as well, came into effect from April 1, 2016. As a result, investment in a structure outside India which in turn has made downstream investments in other structures world over is being covered under the new clause. So long as the Indian resident has substantial stake or voting power or control over board to decide the downstream investment may be covered under the amended definition. However, I feel, the definition is being interpreted too widely. Should any investment in any structure, in India or outside India which makes downstream investments in the US, Cayman or Ireland, be covered under the amended definition? It may not be legally correct," said senior chartered accountant Dilip Lakhani.

Cases of Downstream Investments ▸▸ 18

Case Study – ESOPs of Foreign Company



- A Inc. owns A Pvt. Ltd.
- A Pvt. Ltd. employs Mr. R.
- A Inc. grants ESOP to Mr. R.
- Tax implication under ITA is only on exercise of ESOPs.

- **Reporting Obligations:**
- What if ESOPs are just granted and not yet vested?
- What if ESOPs are vested but not yet exercised by Mr. R?
- Is disclosure is required on exercise of ESOPs?

Case Study – ESOPs of Foreign Company

- **ESOPs are granted and not yet vested:**
- The Employee should not have an obligation to make the disclosure of ESOP at this stage, since he has not been granted the options at this stage. There is no asset which can be said to be owned legally or economically. It is a mere contingent hope which may or may not fructify in future. It may be noted that, generally, the ESOP schemes do not have a grant period and typically vesting period starts as soon as the grant is made.

- **During the vesting period:**
- The employee acquires the right to exercise the ESOP at the end of the vesting period. Therefore, during the vesting period no reporting is required.

Case Study – ESOPs of Foreign Company

- **ESOPs are vested but not yet exercised:**
- At the end of the vesting period, once the options are vested, the employee should make disclosure of such right in Table D – Any other capital assets outside India.

- The right to ESOP should be reported in Table D at “Zero” value (assuming no subscription amount has been paid at this stage) since the employee has not paid any sum to the company to acquire the right to exercise the ESOP option.

- There could be a possible alternate view where an assessee employee may take an argument that he may not exercise the option in future and therefore, does not amount to an asset which is reportable under schedule FA. This argument is on the basis that a vested option is like an offer by the company but only once it is accepted by the employee, there would be a concluded contract.

Case Study – ESOPs of Foreign Company

- **On exercise:**
- From the year of exercise, disclosure should be made in Table B – Financial interest in any entity outside India because, once the option is exercised, the employee becomes the shareholder of the company.
- The investment should be reported at INR equivalent of cost. This is because the column heading for column 8 of Table B reads "Total Investment (at cost)". This would match with the amount paid / invested and therefore, the assessee will be able to justify the source of the funds invested based on the amount disclosed.
- It should be noted that this amount would however not match the cost of acquisition available to the assessee employee (i.e. FMV on which perquisite tax is paid) for tax purposes when the shares are sold.

Case Study – ESOPs of Foreign Company

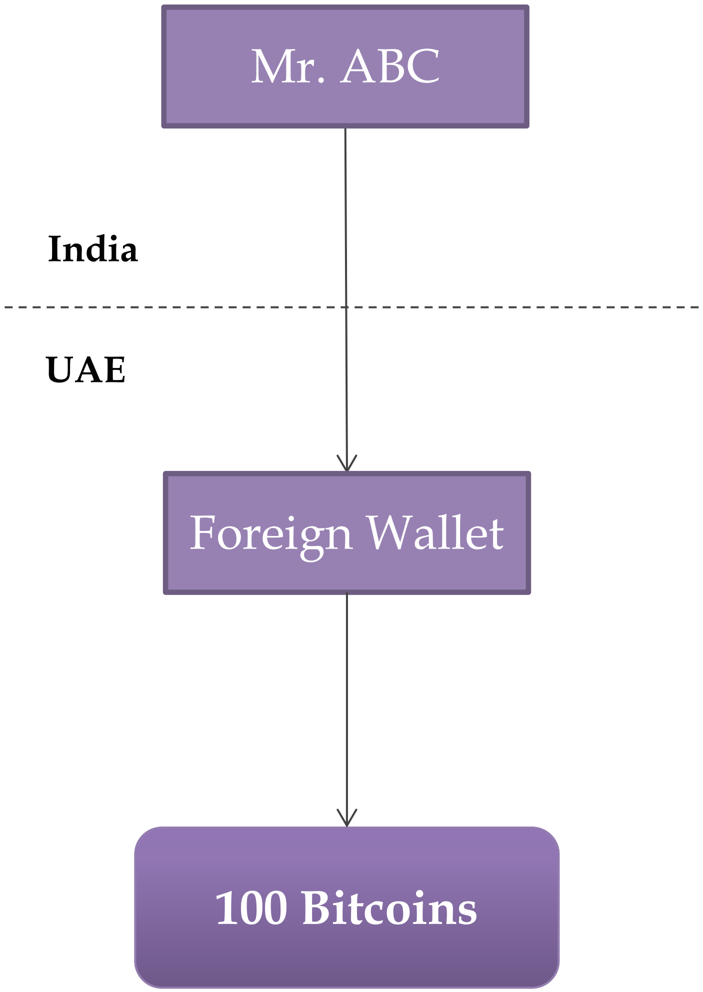
- ESOPs of foreign company subject to exposure of Estate Duty and Inheritance taxes.
- US Estate Duty exemption for non-US residents is only USD 60,000! Estate Duty can go up to 40% of the value of estate
- No easy solution to alleviate Estate Duty except for change in assets
- Residents should take care of FEMA provisions before any solution is executed

THE ECONOMIC TIMES | NRI

English Edition | 03 July, 2026, 06:23 PM IST | **Today's ePaper**

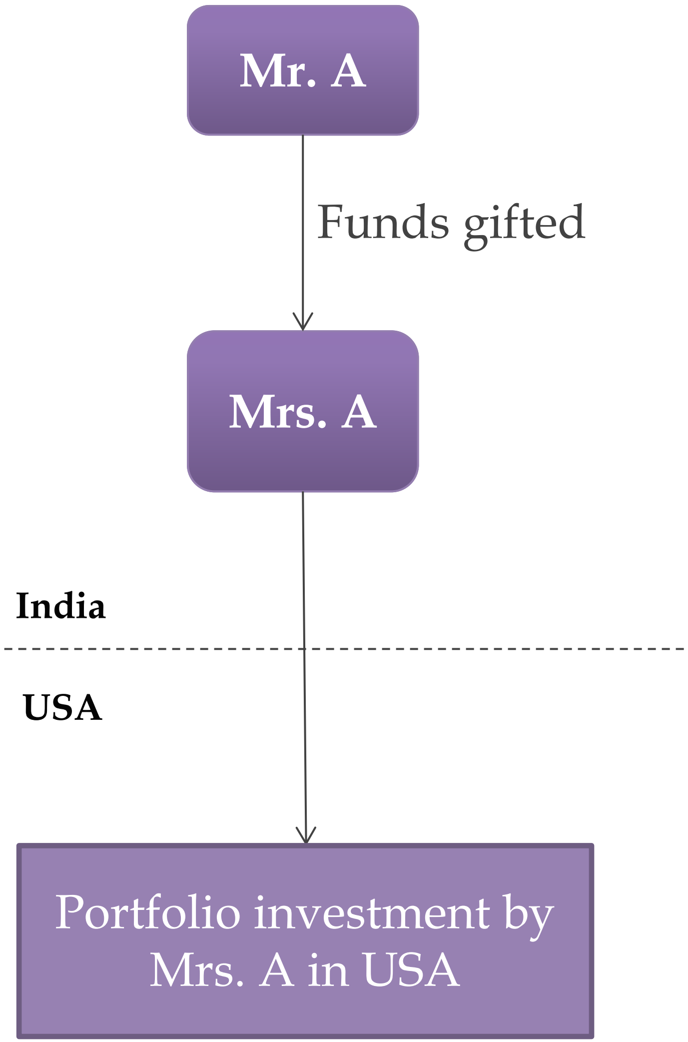
US death tax trap: Uncle Sam's wealth puzzle leaves rich Indians worried for their kids

Case Study – Virtual Digital Assets (VDA)



- Location of VDAs is not clear
- Not necessary that if payment is made through foreign wallet the VDAs are located outside India
- However, deep scrutiny of VDAs
- If remittance is made for purpose of VDAs better to report under FA Schedule
- Schedule VDA in ITR Form covers only transactions and income thereon – not holding
- International Exchange of Information for Crypto assets in the offing

Case Study – Interplay with Clubbing provisions

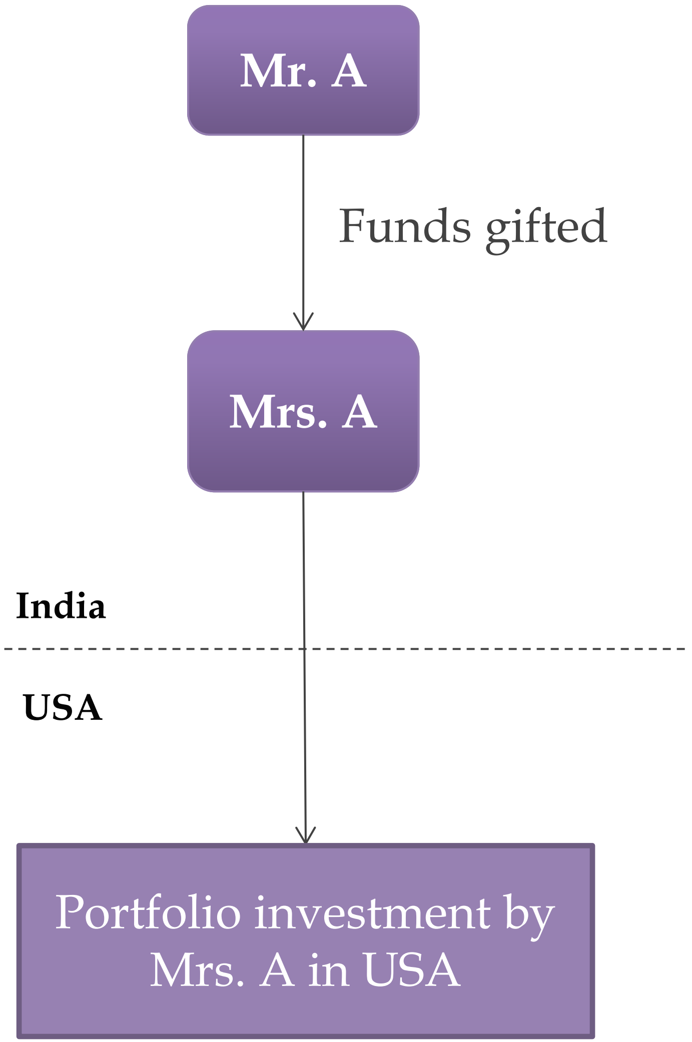


Facts:

- Mr. A gifts funds to his wife.
- Mrs. A remits funds to USA and invests in stock market.
- Mrs. A earns Capital gains and dividend incomes.
- These incomes are clubbed in hands of Mr. A.

	Sch. FA	Sch. FSI
Mr. A	X	✓
Mrs. A	✓	X

Case Study – Interplay with Clubbing provisions



Analysis:

- Mrs. A will report foreign assets but not foreign incomes.
- Mr. A will report foreign incomes but not foreign assets.
- ITD will match data received under AEoI with tax returns.

Applicability to Minors holding foreign assets

- A father and son (minor), both are ROR.
- The minor son has received gifts from his parents and invested Rs. 1 Cr in an asset located abroad under LRS. He has also received income of Rs. 10 lakhs on the same.
- From an income-tax perspective, income of Rs. 10 lakhs will be clubbed with his higher-earning parent's income as per S. 64(1A)

- Whether minor son will still have to file tax return and disclose the details of foreign asset??
- 5th proviso to Section 139(1) provides for an exception to the requirement of filing tax returns for foreign assets (as per 4th proviso to Section 139(1)):
- *"Provided also that **nothing contained in the fourth proviso shall apply to an individual, being a beneficiary** of any asset (including any financial interest in any entity) located outside India **where**, **income**, if any, arising from such asset **is includible in the income of the person referred to in clause (a) of that proviso** in accordance with the provisions of this Act:"*

Applicability to Minors holding foreign assets

- However, exception only covers an individual who, though being a beneficiary of a foreign asset, income is includible in the income of the legal or beneficial owner of the asset in accordance with the Act.

- Idea behind this exception seems to be to not obligate a beneficiary to file a return (only on account of foreign assets) as the legal / beneficial owner of the asset would already be obligated to submit the income in its tax return
  - But this is not a clubbing provision for disclosure of assets!

- In the present case, the minor son *is* the legal and beneficial owner of the foreign asset.
  - **The father is neither legal owner nor a beneficial owner of the foreign asset.**
- **<u>5th Proviso strictly does not apply to cases where minors are legal owners</u>**

Applicability to Minors holding foreign assets

- The issue is compounded as the minor cannot file the tax return online due to system inadequacy whereby only if the minor earns income of his or her own then only they can file a tax return!
  - Discussions with DGIT-Systems
    - Disclose foreign assets in return of parent with the reason that income is clubbed so foreign disclosure should also be clubbed!

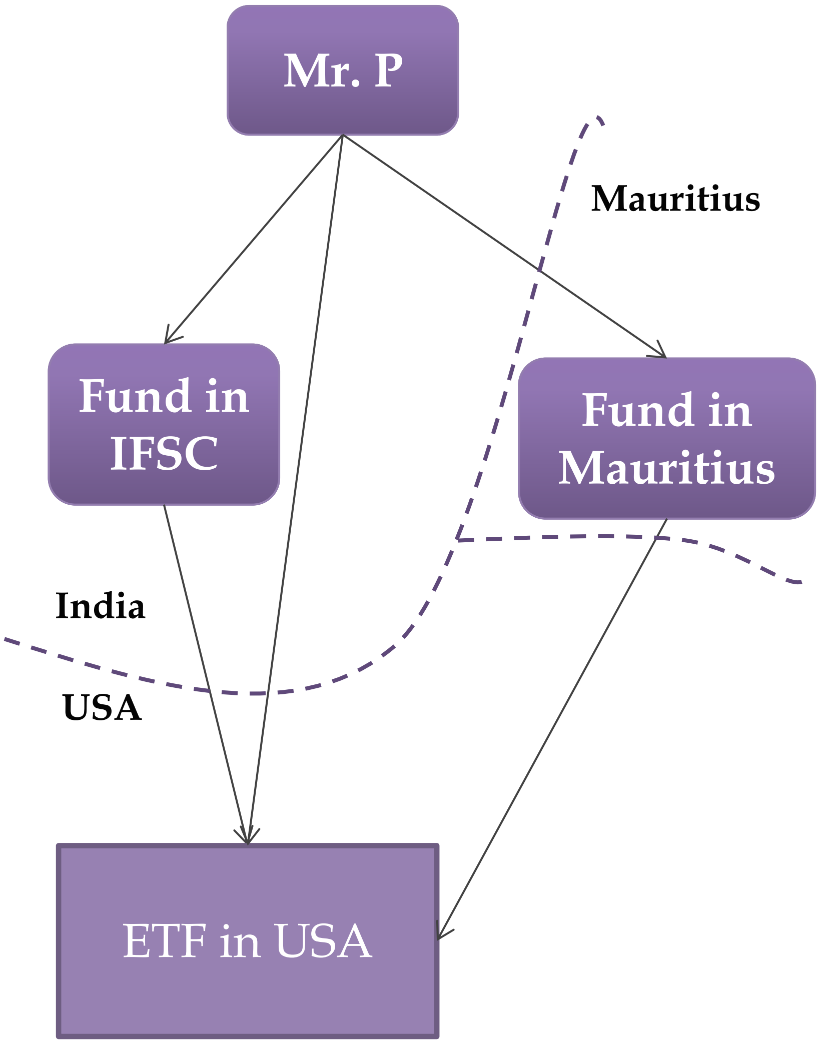
Several minors get I-T notices as parents transfer money abroad

By Sugata Ghosh, ET Bureau • Last Updated: Mar 24, 2023, 12:41 AM IST

RATE STORY SHARE FONT SIZE SAVE

  - **Nirmal Bhanwarlal Jain v. ADIT (Inv.)-3(1)** [BMA No.13/ MUM/ 2023] – penalty levied on father for non-disclosure of children's foreign assets!
    - Penalty levied for all 3 years of non-disclosure!

Case Study – Investment in Foreign ETFs

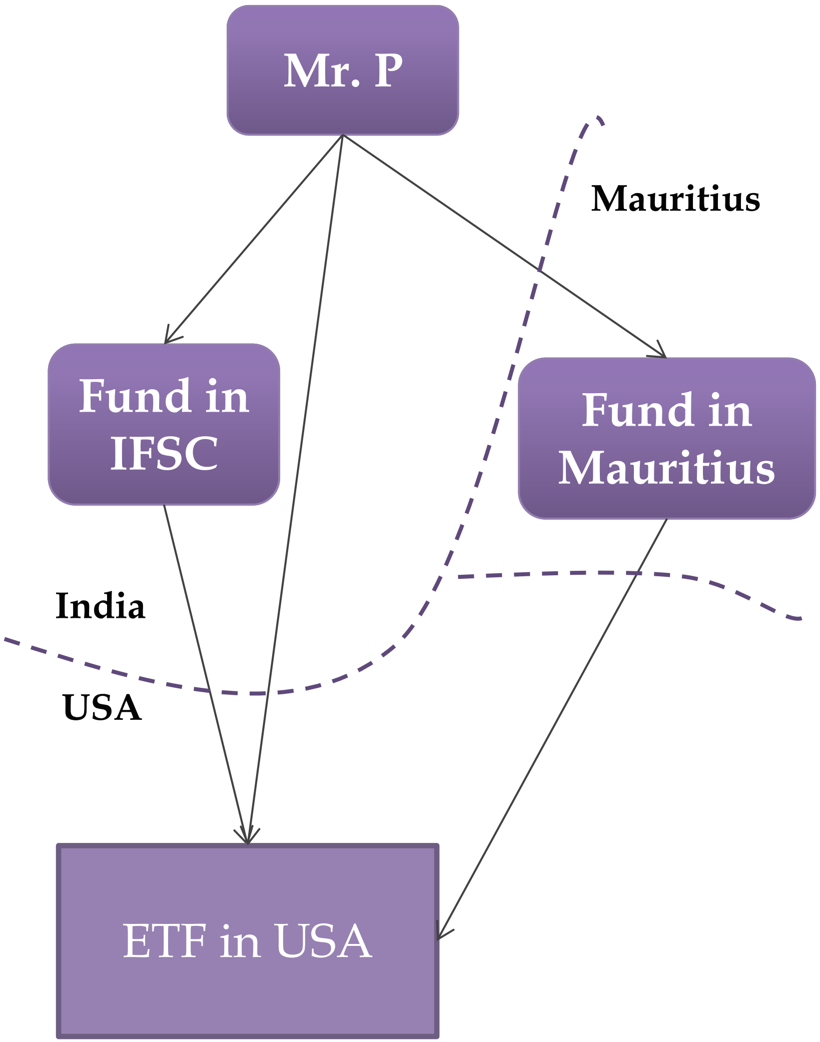


Facts:

- Mr. P intends to invest in Nasdaq 100 ETF in USA. He is considering the following options:
- Invest directly in the ETF by opening a brokerage account in USA.
- Invest in units of a funds based in Mauritius which will in turn invest in US ETFs.
- Invest in a fund based out of GIFT IFSC which will in turn invest in US ETFs

What will be the reporting requirements for Mr. P?

Case Study – Investment in Foreign ETFs

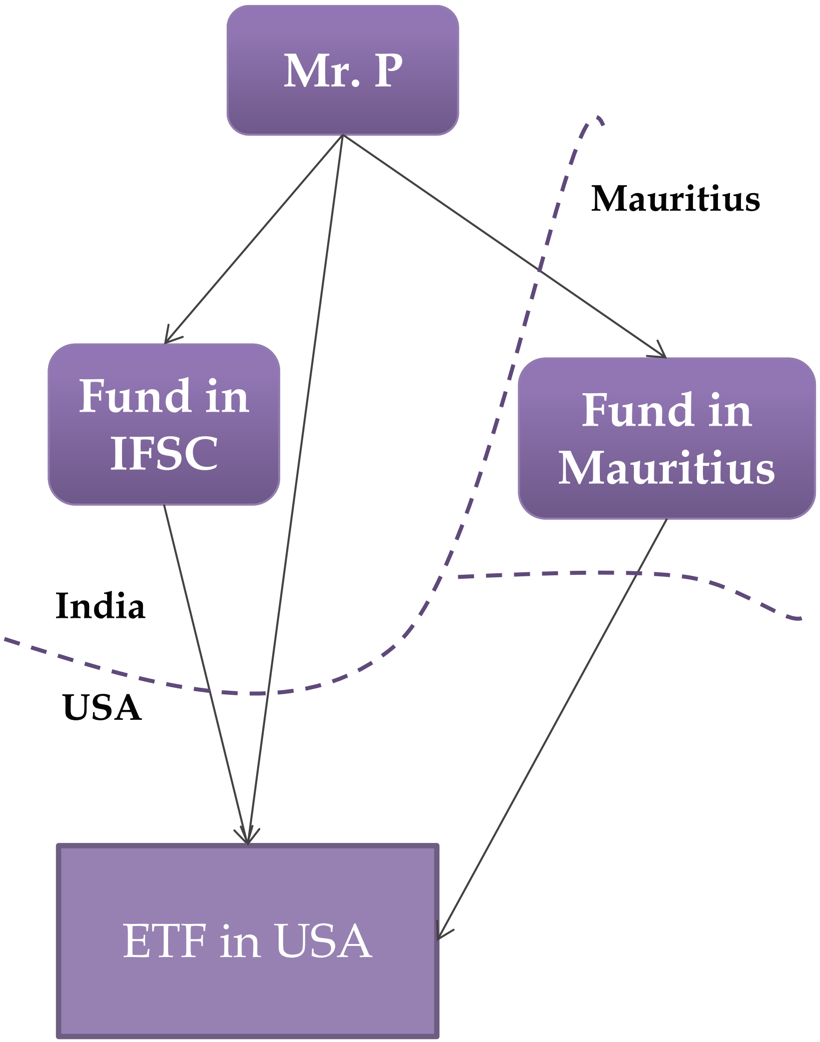


Analysis:

- Direct investment: Units of a Foreign ETF is a foreign asset that needs reporting. If held through a custodian, custodian account details also to be reported.

- Investment through funds:
- Units of a fund based in Mauritius will be foreign assets which require disclosure in Sch. FA.
- Units of a funds in GIFT IFSC is investment within India – only outside India for FEMA purposes. Does not require disclosure under Sch. FA – even if investment in forex and under LRS route with TCS.

Case Study – Investment in Foreign ETFs



Analysis continued:

- Funds will in turn invest in US ETFs. Reporting will depend on:
- Where such investment is on pooled basis with no recourse to investment by individual investors from India, no reporting is required for underlying investment in US ETFs by such funds.
- Where the investment is made through a 'fund' which acts only as a platform, the investments are allocated specifically to the investor, and hence reporting is required.
- Similar is the case where the platform acts only as a custodian and though funds are pooled it uses a segregated custody model and investor is beneficial owner of identified securities.
- Simple test is – what will investor get if the intermediary becomes insolvent tomorrow – units or underlying securities?
- Further, if investor receives withholding statements for income earned on underlying investments, reporting must be made of the securities and of the incomes.

Different incomes from same foreign asset

- Mr. Y is holding an Individual Retirement account (IRA) in USA.
- He earned interest income, dividend income and capital gains from such IRA account.
- How to report in Schedule FA?
  - IRA account will be reported in Table A2 - **Details of Foreign Custodial Accounts**
  - Interest income will also be reported in Table A2
  - Dividend and capital gains will be reported in Table G - **Details of any other income derived from any source outside India**

Disclosures required at other places

Disclosures required at other places

- Schedule Foreign-sourced Income (FSI)
- Schedule Tax Relief (TR)
- Reporting of Unlisted equity shares
- Directorships in Foreign Companies
  - Even for Non-residents!
- Schedule EI
- Schedule AL
- Residential status

Schedule Foreign-sourced Income (FSI)

Schedule FSI			Details of Income from outside India and tax relief (available only in case of resident)						
Sl. No.	Country Code	Taxpayer Identification Number	Sl.	Head of income	Income from outside India (included in PART B-TI)	Tax paid outside India	Tax payable on such income under normal provisions in India	Tax relief available in India (e)= (c) or (d) whichever is lower	Relevant article of DTAA if relief claimed u/s 90 or 90A
				(a)	(b)	(c)	(d)	(e)	(f)
1			i	Salary					
			ii	House Property					
			iii	Capital Gains					
			iv	Other sources					
			Total						
2			i	Salary					
			ii	House Property					
			iii	Capital Gains					
			iv	Other sources					
			Total						
NOTE ▶			*Please refer to the instructions for filling out this schedule.*						

Rule 115 – Conversion of Foreign Incomes into INR

Income	Date of conversion
Salaries, interest on securities	Last day of the month immediately preceding the month in which the **income is due**
Dividends	Last day of the month immediately preceding the month in which the **dividend is declared**, distributed or paid by the company
Capital Gains	Last day of the month immediately preceding the month in which the **capital asset is transferred**
PGBP income of NR engaged in the business of operation of ships	Last day of the month immediately preceding the month in which such income is deemed to accrue
Income from House Property and PGBP, Other Sources	Last Day of the **Previous Year**

TT Buying Rate: Exchange rates adopted by SBI for buying such currency where it is made available to that bank through a telegraphic transfer. [Explanation to Rule 26]

Schedule Tax Relief (TR)

Schedule TR	Summary of tax relief claimed for taxes paid outside India (available only in case of resident)					
1	Summary of Tax relief claimed					
	Country Code	Taxpayer Identification Number	Total taxes paid outside India (total of (c) of Schedule FSI in respect of each country)	Total tax relief available (total of (e) of Schedule FSI in respect of each country)		Tax Relief Claimed under section (specify 90, 90A or 91)
	(a)	(b)	(c)	(d)		(e)
		Total				
2	Total Tax relief available in respect of country where DTAA is applicable (section 90/90A) *(Part of total of 1(d))*				2	
3	Total Tax relief available in respect of country where DTAA is not applicable (section 91) *(Part of total of 1(d))*				3	
4	Whether any tax paid outside India, on which tax relief was allowed in India, has been refunded/credited by the foreign tax authority during the year? If yes, provide the details below				4	Yes/No
	a Amount of tax refunded		b Assessment year in which tax relief allowed in India			

NOTE ▶ *Please refer to the instructions for filling out this schedule.*

Sch. FSI & TR – Notable points

- Sch. FSI – Details of Income from outside India & tax relief
- Instruction - In this Schedule, please report the details of income, which is accruing or arising from any source outside India.
- The Tax Payer Identification Number (TIN) of the assessee in the country where tax has been paid is to be filled up. In case TIN has not been allotted in that country, then, passport number should be mentioned.

Reporting of Unlisted equity shares

- In PART A – General of ITR form reporting of Unlisted Equity shares is required
- Reporting of Unlisted equity shares is required of any company, **whether domestic or foreign**

Exemptions for:

- Shares of foreign company registered on a recognised stock exchange outside India, then this reporting is not required.
  - Circular No. 18 /2019 dated 8th August 2019 [F. No. 370142/1/2019-TPL (Pt-1)]
- Reporting of PAN in case of foreign unlisted company
- Is Reporting of Unlisted **Preference** Shares required?

Reporting of Unlisted equity shares

- Reporting required:
  - Even if the foreign unlisted equity shares are reported in the Schedule FA
  - Even if the unlisted equity shares are held as a stock in trade
  - Circular No. 21/2019 dated 8th August 2019
  - Several details required to be filled in Table

Whether you have held unlisted equity shares at any time during the previous year? *(Tick)* ☑ ☐ Yes ☑ No
If yes, please furnish following information in respect of equity shares

Name of Company	Type of company	PAN	Opening balance		Shares acquired during the year					Shares transferred during the year		Closing balance	
			No. of shares	Cost of acquisition	No. of shares	Date of subscription / purchase	Face value per share	Issue price per share (in case of fresh issue)	Purchase price per share (in case of purchase from existing shareholder)	No. of shares	Sale consideration	No. of shares	Cost of acquisition
1a	1b	2	3	4	5	6	7	8	9	10	11	12	13

Disclosure of Directorships in foreign companies

- Resident required to disclose directorships in Foreign Companies in PART A – General

- **Question.2:** I am a director in a foreign company which does not have PAN. How do I report the same against the column "Whether you were Director in a company at any time during the previous year?"
- ***Answer:*** *You should choose "foreign company" in the drop-down provided for "type of company". In such case, PAN is not mandatory. However, PAN should be mentioned, if such foreign company has been allotted a PAN.*
  - Circular No. 18/2019 dated 8th August 2019

Disclosures that need to be made by Non-Residents

- NR also required also required to disclose directorships – even in foreign companies!
  - If such foreign company has nexus with India
    - Nexus not defined!
    - Circular No. 21/2019 dated 27th August 2019

- For example, Mr. B, a NR, is filing income tax return for his Indian incomes.
- Mr. B is a director in an FPI incorporated outside India
- FPI earns from investments made globally – but also from Indian investments
- Would such FPI be considered to have **nexus** with India?
- If so, then Mr. B needs to report the directorship

Schedule EI - Incomes exempt as per DTAA

- Let us assume that Mr. A earns a foreign income which is exempt under DTAA.
- Such income shall be reported in Schedule EI.

- Is this income required to be in Schedule FA?
- Yes, this income needs to be reported in Table G of Schedule FA too.

- **Field in Sch. EI for "Exempt income under DTAA" removed for residents**
- Where to report income which is not taxable in India for a resident due to DTAA?
  - For example, under tie-breaker test during split residency

Schedule AL

- If you have held foreign assets during the previous year which have been duly reported in the Schedule FA. Even then you are required to report such foreign asset again in the Schedule AL (if applicable).

- In the case of non-resident and resident but not ordinarily resident, the details of assets located only in India are to be mentioned.

- **Question.** An unlisted company is required to furnish details of assets and liabilities in the Schedule AL-1 of ITR-6. Whether these details are required to be furnished in case of an unlisted foreign company?
- ***Answer.*** *Not required.*
  - Circular No. 18/2019 dated 8^{th} August 2019

Residential Status – Selecting the Provisions attracting Residency

A. Resident	☐ You were in India for 182 days or more during the previous year [section 6(1)(a)]
	☐ You were in India for 60 days or more during the previous year, and have been in India for 365 days or more within the 4 preceding years [section (6)(1)(c)] [where Explanation 1 is not applicable]
	☐ You are a citizen of India, who left India, for the purpose of employment, as a member of the crew of an Indian ship and were in India for 182 days or more during the previous year and 365 days or more within the preceding 4 years [Explanation 1(a) of section (6)(1)(c)]
	☐ You are a citizen of India or a person of Indian origin and have come on a visit to India during the previous year and were in India for a) 182 days or more during the previous year and 365 days or more within the preceding 4 years; or b) 120 days or more during the previous year and 365 days or more within the preceding 4 years if the total income, other than income from foreign sources, exceeds Rs. 15 lakh. [Explanation 1(b) of section (6)(1)(c)]
B. Resident but not Ordinarily Resident	☐ You have been a non-resident in India in 9 out of 10 preceding years [section 6(6)(a)]
	☐ You have been in India for 729 days or less during the 7 preceding years [section 6(6)(a)]
	☐ You are a citizen of India or person of Indian origin, who comes on a visit to India, having total income, other than the income from foreign sources, exceeding Rs. 15 lakh and have been in India for 120 days or more but less than 182 days during the previous year [section 6(6)(c)]
	☐ You are a citizen of India having total income, other than the income from foreign sources, exceeding Rs. 15 lakh during the previous year and not liable to tax in any other country or territory by reason of your domicile or residence or any other criteria of similar nature [section 6(6)(d) rws 6(1A)]

Residential Status - Reporting requirements by Non-Residents

C. Non-resident

☐ You were a non-resident during the previous year.

(i)Please specify the jurisdiction(s) of residence during the previous year -

S.No.	Jurisdiction(s) of residence	Taxpayer Identification Number(s)
1		
2		

(ii) In case you are a Citizen of India or a Person of Indian Origin (POI), please specify -

Total period of stay in India during the previous year (in days)	Total period of stay in India during the 4 preceding years (in days)

- Jurisdiction of Residence
- Taxpayer Identification No. (TIN) in Foreign Jurisdiction
- If TIN has not been allotted, Passport No. to be entered
- Stay during relevant PY and 4 preceding PYs
  - Only for Non-residents being Indian Citizens or PIO

Relief u/s. 89A

- Where a non-resident becomes a resident in India, incomes earned by him in his foreign retirement benefits account is chargeable to tax in India on an accrual/receipt basis. However, such incomes are taxed differently in the Source Country – on Withdrawal or Redemption
- Due to mismatch in the year of taxability, difficulties arise for the year of taxability of such incomes and availing FTC in respect of taxes paid outside India thereon
- To remove such difficulties, New provision introduced by FA 2021, w.e.f. 1st April 2022

- **Rule 21AAA** notified on 4th April 2022
- Foreign countries notified are:
  - Canada, United Kingdom of Great Britain and Northern Ireland & USA
- Optional Scheme
- Option can be exercised in Form 10-EE on or before Sec. 139(1) due date
- Option exercised once can not be subsequently withdrawn

Relief u/s. 89A - Issues

- **ITR Form issues:**
  - Sch. FSI includes only such income which forms part of Total Income
  - What about disclosure in Sch. FA - Table G "Other income"?:
    - Will non-reporting of such income lead to non-disclosure of Foreign income?

- **Form 10-EE Issues:**
  - Computation for all incomes of specified accounts included in total income in previous years to be attached
  - Reconciliation of above computation with ROI to be attached
  - Reconciliation statement of how the income given to tax is calculated to be attached
  - What if any income is not given to tax in previous year and included now – Undisclosed incomes, Risks under Black Money Law?
  - From when can relief be claimed – date of notification for specified countries

Other disclosure requirements

- Type of Indian bank account to be disclosed in tax returns from AY 2024-25 onwards
  - NRO & NRE accounts to be disclosed as “Non-resident” account
- There are many people who have become residents but continue NRO-NRE accounts
- Similarly, there are many NRIs continuing their Resident accounts

Other compliances impacting disclosure requirements

- **Under Income-tax Law:**
- Place of Effective Management
- Transfer Pricing compliance
- Sch. TPSA - Secondary adjustment under Transfer Pricing
- Section 94B impact - Clause 30B of Tax Audit Report
  - Section 177 under ITA 2025

- **Under FEMA:**
- Form FC under OI Rules
- LRS Remittance forms
- FLA and APR

Consequences for non-disclosure

Consequences under Black Money Act (BMA)

Section	Violation	Tax / Penalty (INR)
3	Undisclosed foreign income & asset	30%
	Penalties:	
41	Undisclosed foreign income & asset	3 times of the Tax
42	**Failure to furnish return** in relation to foreign income and asset	10 Lakhs*
43	**Failure to furnish** or furnishing inaccurate **particulars of foreign income and assets**	10 Lakhs*
	*Not applicable for assets (other than immovable property) where aggregate value is less than INR 20 lakhs (**w.e.f. 1st October 2024)**	
49	**Wilful failure to furnish return** in relation to foreign income and asset	Fine + **Rigorous imprisonment:** Minimum: 6 months Maximum: 7 years
50	**Wilful failure to furnish information relating to foreign income & asset in return**	
52	**False statement in verification under BMA**	

Courts decisions swinging from one end to the other

- Various judicial precedents on levy of penalty
- Main principles upheld by court decisions:
- No penalty if foreign assets declared in revised return or return filed u/s. 153A
- No penalty in bonafide cases
  - "The unambiguous intent of the legislature thus is to exclude trivial cases of lapses which can be attributed to a reasonable cause."
  - For investments disclosed in the Books of Accounts and in FEMA compliances
  - Since it was a case of bona fide mistake on part of an aged person, who was not aware of technicalities of Act and there was no note or separate column in prescribed ITR Form 1 for mentioning foreign assets
- For investments made via banking channels
  - Penalty for non-disclosure upheld in one case and removed in another!

Penalty cannot be levied if disclosure made under revised return

- Once foreign assets declared in revised return, it cannot be considered, that he has willfully not declared or failed to declare even in the revised return filed under section 139(5).
- As per section 43 of BMA, the penalty of Rs. 10 Lakhs is not leviable if the assessee has made appropriate foreign disclosures in ITR filed u/s 139 (1), (4) & (5) of income tax act.

- **K. Mohammed Haris v. ITD [2022] 448 ITR 707 (Karnataka)**
- **Srinidhi Karti Chidambaram v. Pr. Chief CIT 411 ITR 1 [2018]**
- **Timothy John Brinkman v. DIT (Inv.) [2025] 66 (Mumbai - Trib.)**
- **Palanirajan Rajarajan v. ACIT [2025] 817 (Chennai – Trib.)**

Updated Return Filing – does it save from penalty

- Updated Returns are now allowed to be filed within 48 months from end of assessment year
  - Limit increased from 24 months w.e.f. 1st April 2025

- However, **updated return filed u/s 139(8A) (S. 263(6) of IT Act, 2025) is not covered** under this section. Hence, filing updated return would not exonerate the assessee from the penalty of Section 43 of BMA.

- Even then it may be advisable to file an updated return and disclose the foreign assets.
  - May have persuasive value at appeal stage

No penalty u/s 43 of BMA, 2015 – Joint Holder

- The assessee was a joint holder for 'administrative purposes' only and not beneficial owner. He was under bona fide belief that he was not required to disclose asset.

- Penalty of INR 10 lakhs was imposed under BMA for failure to disclose foreign assets in Schedule FA.

- **Held: Penalty deleted due to:**
- The contention is that the levy of penalty under section 43 is not mandatory but is at the discretion of the Assessing Officer since the word used in the section is that the Assessing Officer "may" levy penalty.
- In construing a penal statue, the object of the law must be clearly borne in mind

- **Sanjay Bhupatrai Shah v. DDIT [2025] 316 (Mumbai - Trib.)**
- **Ms Harshita Nirmal Jain v. CIT (BMA No.28/M/2023 dated 18-01-2024)**
- **Aditi Avinash Athavankar (BMA No.16 - 19/Mum/2023 dated 10.07.2023)**

No penalty u/s 43 of BMA, 2015 – Bona fide case

- The assessee was signatory, but not the owner of the foreign bank account or the funds lying in the bank account. The bank account was inherited by her mother from her father. Given the poor condition of assessee's mother the assessee and her husband were just a signatory in the foreign bank account.

- Penalty was based on the assertion that the assessee, as a signatory to an undisclosed foreign bank account, was liable for penal consequences under section 43 of the Black Money Act.

- **Held:**
- "The unambiguous intent of the legislature thus is to exclude trivial cases of lapses which can be attributed to a reasonable cause."
- Assessing Officer 'may' impose the penalty, and the use of the expression 'may' signifies that the penalty is not to be imposed in all cases of lapses and that there is no cause and effect relationship simpliciter between the lapse and the penalty." The AO has clear discretion in the matter.
- Stringent penalties cannot be imposed for bonafide mistakes.
- **ACIT vs. Leena Gandhi Tiwari [2022] 136 taxmann.com 409 (Mumbai - Trib.)**
- **Vinil Venugopal vs. DDIT (Inv.) [2025] 179 taxmann.com 618 (Mumbai - Trib.)**

No penalty u/s 43 of BMA, 2015 – Bona fide case

- The assessee had inherited funds from his parents. His late father made deposits from business in Sudan. The funds were later managed by his mother.

- Assessing Officer held that assessee failed to disclose these assets in tax returns for assessment years 2012-13 to 2018-19 and assessed amount as undisclosed foreign income and assets under BMA Act.

- **Held:**
- "Since assessee explained that deposits in a foreign bank account were inherited from his parents and were not taxable in India, Assessing Officer was not justified in assessing such deposits as undisclosed foreign assets under BMA Act"

- **Nirmal Jethalal Modi v. DDIT/ADIT [2025] 400 (Mumbai - Trib.)**

No penalty u/s 43 of BMA, 2015 – Bona fide case

- Assessee, aged 80, worked in UK from 1966-1994 and later became Indian resident. He maintained deposits in bank accounts in UK and Germany from income earned during his stay abroad.

- Interest on deposits was regularly disclosed and taxed in Indian returns. He had filed ITR-1 which had no column for foreign asset disclosure.

- **Held**
- Not a fit case for levying any such penalty against assessee under Black Money Act due to:
- Case of bona fide mistake on part of an aged person, who was not aware of technicalities of Act
- No note or separate column in prescribed ITR Form 1 for mentioning such foreign assets

- **Shiva Shankar Mathur v. DDIT/ADIT (Inv.) [2026] 187 taxmann.com 649 (Jaipur - Trib.)[26-05-2026]**

No penalty u/s 43 of BMA, 2015 – Bona fide case

- Assessee failed to disclose old investments in foreign assets of relevant assessment year. The same were disclosed in the preceding assessment years.

- AO did not make any addition u/s 10 of BMA since no fresh investment was made during the relevant assessment year.

- **Held:**
- "The failure to disclose assets was due to bona fide mistake rather than mala fide attempt to evade law. It should have been considered as a curable mistake"

- It was submitted that the assessee will not gain by not disclosing the information more particularly, when the assessee has been disclosing the same information in the previous and subsequent assessment years.

- **Prasad Nimmagadda v. DIT (Inv.) [2025] 444 (Hyderabad – Trib.)**

No penalty u/s 43 of BMA, 2015 – Bona fide case

- Assessee is Vodafone employee holding overseas ESOP assets and Silverdale Fund Plc investment. Other foreign assets duly disclosed; only Silverdale Fund omitted from Schedule FA.
- Investment funded from redemption proceeds of mutual funds already taxed.
- Remittance made through regular ICICI Bank account under the LRS scheme.

- **Held**
- Impugned penalty was to be deleted due to:
- Investments were made through regular banking channel out of redemption proceeds of his mutual funds and gains derived from sale of said mutual funds were taxed in assessment years 2020-21 and 2021-22.
- Further, remittances were made by assessee through his regular ICICI Bank Account in compliance with LRS Scheme.
- Overseas investments were made out of tax paid funds through proper banking channels and in compliance with statutory laws.
- Only inadvertence committed by assessee was omission to fill one particular column in Schedule FA of ITR.
- **Kumar Ramanathan vs. DDIT/ADIT (Inv.) [2026] 186 taxmann.com 784 (Chennai - Trib.)**

Penalty for non-disclosure – Even if investments made via banking channels

- Assessee has jointly invested in "Global Dynamic Opportunity Fund Ltd." The investment made from funds remitted under LRS.
- The investment was made in FY 2014-15.
- However, the asset was disclosed in ITR filed in AY 2019-20.
- The assessing officer levied the penalty of Rs. 10 Lakhs for each FY i.e., FY 2016-17 to FY 2018-19.
- The assessee had submitted all the information regarding the source of funds on which tax was paid.
- Still the tribunal upheld the penalty levied by the AO and did not provide any relaxation.

- **Ms. Shobha Harish Thawani vs Joint CIT** [2023] 154 taxmann.com 564 (Mumbai - Trib.)
- **Nirmal Bhanwarlal Jain v. ADIT (Inv.)-3(1)** [BMA No.13/ MUM/ 2023]

No penalty u/s 43 if disclosure made in return filed u/s 153A

- Assessee acquired foreign assets in USA from funds earned while he was a non-resident.
- Original return u/s 139(1) was filed without any disclosure in Schedule FA.
- Search u/s 132 was conducted in case of ADS Group. During search, assessee voluntarily disclosed foreign assets and disclosed them in returns filed under section 153A

Held

- Penalty could not be levied due to:
- Return filed under section 153A substitutes original return filed under section 139
- Once disclosure of foreign assets was made in returns filed under section 153A, penalty under section 43 of Black Money Act could not be levied merely because such disclosure was absent in original returns filed under section 139(1).

- **Additional CIT v. Ansul Darshan Shah [2026] 187 taxmann.com 343 (Ahmedabad - Trib.)**

Prosecution Exposure

- Prosecution can be initiated where there is:
  - Willful failure to furnish tax return in relation to foreign income and asset
  - Wilful failure to furnish information relating to foreign income & asset in return
  - False statement in verification under BMA
  - Can lead to fine and rigorous imprisonment of 6 months to 7 years
  - Stringent provisions applicable even to innocent violations

  - **Finance Act 2026 provides relief matching to penalty exemption:**
  - If the value of asset(s) (other than immovable property) is not disclosed, where the aggregate value of such asset(s) does not exceed Rs. 20 Lakhs, then **prosecution will not be applicable**. Retrospective amendment from 1.10.2024

Prosecution Exposure

- Prosecution sanction was upheld by High Court considering the facts of the case holding that
  - Sufficient opportunities for disclosure were available for assessee to disclose and hence
  - As such opportunities were available subsequent to BMA coming into effect it cannot be said that a retrospective effect has been sought to be given to BMA
  - Where an act or an omission constitutes an offence under two enactments, the offender maybe prosecuted and punished under either or both enactments but shall not be liable to be punished twice for the same offence. ITA does not impose a punishment of imprisonment while the BMA does.
  - **Shrivardhan Mohta v. UOI [2019] 102 taxmann.com 273 (Calcutta)**

No limitation applies to Prosecution

- Prosecution under sections 276C and 277 was launched against assessee on basis of undisclosed foreign assets
- Assessee sought quashing on ground of limitation and pendency of tax appeal
- No limitation applies for prosecution of economic offences under Economic Offences (Inapplicability of Limitation) Act, 1974,
- Hence, proceedings could not be quashed on ground of limitation and pendency of tax proceedings
- **K. M. Mammen v. DCIT [2026] 185 taxmann.com 120 (SC)**

Consequences under other laws

- **FEMA:**
- Section 4 -
- Section 37A and 13(1A) to (1D) of FEMA
  - Venkateshwara Hatcheries Pvt. Ltd.
    - ED Press Release dated 9th October 2023

- **PMLA** applies to proceeds of crime from offences specified in the Schedule to PMLA
  - Offences referred u/s. 51 of BMA included from 01-07-2015
  - Non-disclosure of foreign income and assets after coming into effect of BMA was sufficient to make out a case u/s. 51 of BMA.
    - DoE v/s. Offset India Solutions Pvt. Ltd. & Ors.[2023] 152 taxmann.com 212 (SAFEMA – New Delhi)

- **Benami Property Transactions Act** amended in 2016 to provide for confiscation of benami properties

Experience Sharing

Experience Sharing

- Notice can come from different officers
  - Jurisdictional AO, FAIU or Investigation Wing
- Full investigation taking a long time to conclude
- Demand for Historical data
  - Department insists on documents proving the following:
    - Non-residential status at time of acquisition of asset
    - Formation or acquisition of asset
    - Source of funds for the above
  - Documents in support of the above are a must
    - Many foreign banks do not retain data beyond 7-8 years
    - Becomes difficult to obtain any document supporting the transactions
- Admittance of mistake and honest representation goes a long way
  - Penalties reduced or not levied in certain cases
- Be careful of how reporting is happening from overseas jurisdiction
  - Joint names only for convenience
    - **Sanjay Bhupatrai Shah v. DDIT [2025] 316 (Mumbai - Trib.)**
  - Minor's assets

Standard details asked in a notice for Foreign Assets

- Deep scrutiny of foreign assets and incomes without providing specific details for which the notice has been issued

- **Details asked for:**
- **For the period** from 1st April 2015!!
- Entities in which you are or were a director/ shareholder/ trustee/ had a financial interest
- Copy of passport
- Residential status
- Dates of departure from and arrival into India along with evidence
- **Foreign asset details as per each table of Schedule FA**
- Bank and demat accounts abroad
  - Account number
  - Disclosure of assets and incomes in ITR Form
  - Statements from the date of opening to till date/ closure of account
  - Details of all transactions made along with source of funds and supporting documents
  - Details of introducer or guarantor for the account

Standard details asked in a notice for Foreign Assets

- **Details of holding any asset** including any bank account/ DMAT account etc. **or financial interest in any entity/trust located outside India**?
- **Signing authority** in any account located outside India since 1st April 2015

- **With reference to above questions:**
- **Incorporation/registration documents of the entity** located outside India
- **Name and addresses of services providers**.
- Details of **bank accounts/ DMAT account etc. of the offshore entity**
  - including all the accounts which have been closed or are non-operational
  - copies of bank statements of the offshore entity since incorporation till date, including the details of source of the credits
- Details of all **immovable/ movable properties held by you or the offshore entity** along with the **source of investment**
- Names & addresses of all **offshore holding/subsidiary entities of above-mentioned offshore entity**/and details of **bank accounts held by them**

The Foreign Assets Of Small Taxpayers Disclosure Scheme, 2026

Consequences not commensurate with lapse

- Several situations where the violations are not serious, or inadvertent
- Resident has paid income-tax on ESOPs granted by his foreign employer. Full tax has been paid. However, the shares acquired under ESOP were not disclosed.
- Resident earned income when non-resident and acquired assets abroad when he was a non-resident. On returning to India he has missed disclosing his foreign assets.
- Indian resident acquires shares in a merger between foreign companies. This transaction is taxable in India. However, the resident could have missed it as there is no cash received.
- After several representations, Government has introduced the **Foreign Assets Small Taxpayers – Disclosure Scheme** with Finance Act 2026 a one-time scheme for small violations.
- **However, date of the scheme not yet notified.**

Key features of FAST-DS Scheme

- Persons covered by the scheme:
- Resident Indian under Section 6 of the Act,
- Non-resident or Not Ordinarily Resident in India, who earlier was **resident in India** in the year when–
  - foreign income was earned or
  - asset outside India was acquired.
- Declaration can be made in respect of any foreign income or asset where the person has:
  - Failed to furnish return under section 139, or
  - Failed to disclose such asset or income in the return before commencement of this scheme, or
  - Such asset has escaped assessment within the meaning of Section 147 of Income-tax Act, 1961.

Declaration can be filed for following assets or incomes

Sr. No.	Type of Assets or incomes	Amount Payable	Conditions
1	a. Undisclosed Asset located outside India; or b. Undisclosed foreign income	Aggregate of: a. 30% tax rate on Value of undisclosed foreign asset* as on 31st March 2026; b. 30% tax rate on undisclosed foreign income; c. 100% of tax in (a.) and (b.) above.	Aggregate Value of Undisclosed asset* outside India and undisclosed foreign income <= Rs. 1 crore
2	a. Foreign Asset acquired from foreign income, when assessee was a non-resident, but not disclosed when assessee became resident b. Foreign asset acquired from Indian incomes which was offered to tax, but foreign asset(s) not declared in the return.	Rs. 1 Lakh	Value of foreign asset* <=Rs. 5 crores.

**Value of the asset means the fair market value of the asset as prescribed under Black money Act*

Fee applicable to those who have undisclosed incomes

- For non-disclosure of incomes:
- The amount payable is 60% of the income or the value of the asset.

- Comparison of the tax and penalty to be paid under Black Money Act 2015 and under this new scheme:

Particulars	Black Money Act	As per this Scheme
Tax payable	30%	30%
Penalty	90%(3 times the amount of tax)	30%
Effective total payment to be made by the assessee	120%	60%

Fee applicable to those who have non-disclosure of foreign assets

- Those who have paid tax on foreign income (or where tax has not been paid as the income was not taxable in India), but the asset acquired from the foreign income has not been disclosed.

- This is considered as a minor violation and the fee prescribed is Rs. 1,00,000.

- Fee applies only once for undisclosed asset – even if non-disclosure is for multiple years
- However, if assets are acquired in multiple years, then fee would be chargeable for corresponding first-years of non-disclosure (FAQ 11 issued along with Finance Bill 2026)
  - Issue for those having undisclosed ESOPs which have vested over a number of years

Benefits

- Once the income or asset is disclosed as per above provisions, these will not be included in the total income in the return for any assessment year under Income Tax Act or Black Money Act.

- **Immunity:**
- The declarant will be granted immunity from levy of any further tax or penalty and also prosecution under the Act **in respect of income or asset so declared.**
  - There is no immunity from other laws!
  - Scheme under BMA provided immunity under 5 laws – FEMA, Customs, Wealth Tax, Income Tax and Companies Act!

Scheme quite restrictive in present wording

- Presently, the second clause for cases where there is no undisclosed income applies only to those non-residents who have acquired the asset **during the period** when such assessee was a non-resident.

- Quite limiting and several tax payers may not be eligible to avail this scheme. A few examples:
  - Where NR earned income when he was NR, but acquired asset out of such income only when he was a resident!
  - Where asset was not disclosed for some years after becoming a resident.
  - Where the assessee was a resident when the asset was not disclosed but is a non-resident again presently. Typical for expatriates.
  - RNOR holding asset out of income accruing or received outside India will also not be covered.

Scheme quite restrictive in present wording

- Sub-clause (b) of Sr. no. 2 of table in Clause 117 refers to asset **acquired** out of income which has been offered to tax under the Income-tax Act, 1961.
- Limits tax payers who were not required to offer these incomes to tax.
- Further, in both clauses (a) and (b) only assets 'acquired' by the assessee are covered.

- Some genuine situations which are not getting covered are:
- An assessee who has acquired the asset out of income which is exempt from tax. For example, where asset is received as inheritance or as a gift from a relative as defined under Section 56 of the ITA, 1961.

- An assessee who is only a legal owner but not a beneficial owner of the asset nor of the income. For example, in the case of joint holders where the other person's name has been added merely for the sake of succession convenience.

- An assessee who is neither the owner nor earned any income from the asset - such as a person who has signing authority in a foreign bank account.

Representations made

- **On value:**
- Sr. No. 1 of table requires payment of tax at 30% of the value of asset located outside India as on the 31st March, 2026
- Not clear if 31st March 2026 refers to 'value of asset' as on that date; or refers to an asset which exists as on that date.
  - As per FAQ 7 to the Scheme, the date refers to the value as on 31st March 2026.
  - There would be cases where the asset is not in existence as on 31st March 2026 - providing a valuation as on that date would be impossible.
  - Even otherwise, obtaining a valuation as on 31st March 2026 would be a cumbersome task.
- Reference to asset should be of value as on date of acquisition
  - Will represent full value of undisclosed income forming part of the asset.

Representations made on Eligibility Conditions

- **For cases where there is no undisclosed income:**
  - The limit of Rs. 5 crores should be removed
    - Eligibility conditions should be minimum so that most tax payers who have inadvertently not disclosed assets located outside India can apply for the scheme.
  - Both sub-clauses (a) and (b) can be combined to provide as under: *Asset located outside India acquired by an assessee from income not taxable in India or on which income has been offered to tax under the Income-tax Act, 1961 but such asset or assets were not declared by him in the return of income when required.*
  - Sr. No. 2 should be amended to allow all assessees irrespective of residential status, to apply
  - Clarification should be provided that the fee of INR 1 lakh should apply for all assets not disclosed in that year in aggregate instead of per asset.

When does this Scheme not apply?

- Any income or asset for which assessment proceedings have been completed under Black Money Act.
  - Several assessments made under the BMA which are under litigation at various appellate levels.
  - In some cases, penalties have been levied for each year of non-disclosure.
  - All such cases will be determined only at the highest level of judiciary.
  - Representation made: To avoid protracted litigation, even assets located outside India in respect of which assessment proceedings are already concluded, but are under litigation, should be covered within the Scheme.

- Any income or asset which represents, directly or indirectly, proceeds of crime in respect of which proceedings have been initiated under the Prevention of Money Laundering Act

Step-wise payment procedure

Sr. No.	What activity needs to be done?	Who will do it - Assessee or Department?	Time limit
1	Submit Declaration	Assessee	Yet to announce
2	Order stating the amount payable by the assessee	Income tax Department	One month from end of the month in which declaration made.
3	Payment of Amount	Assessee	Two months from end of the month in order was received
4	Failure to pay within two months	Assessee	Further two months along with 1% interest p.m or part thereof
5	Intimate details of payment to Department	Assessee	Within extended period of two months mentioned above
6	Order Certifying the payment	Department	One month from end of the month in which intimation received

Foreign assets information included in AIS

- The Income Tax Department has enabled the display of information on foreign assets in the Annual Information Statement (AIS)
- For calendar years 2022, 2023, and 2024

- Overseas financial asset details reported through international information-sharing arrangements now available to taxpayer
- The department is expected to further expand the feature by making additional data for calendar years 2024 and 2025 available soon.

- Clearly states that it is prepared in line with FAST-DS Scheme.
- Opportunity for taxpayers to check and disclose missing assets in Sch. FA.

Foreign assets information included in AIS

- Taxpayers will be able to access "**Foreign Assets Information**" through "**Reports**" tab available on Compliance Portal through e-filing portal
- Taxpayers can:
  - View and securely download their foreign financial information received from international tax jurisdictions
  - Understand the details provided in the report
  - Submit feedback in case of discrepancies
- Accessible through the "Reports" tab in AIS Compliance Portal.
  - Data is made available only using password protected PDF download.
- Information is available only for records with valid PAN reported by foreign jurisdictions.
- Data is based on actual information received from foreign countries without any modification.

Disclaimer: Foreign Assets Information report includes information presently available with Income Tax Department. There may be other transactions relating to the taxpayer which are not presently displayed in Annual Information Statement (AIS).

Foreign assets information included in AIS

- Feedback can be provided from:
  - Information is correct
  - Information does not pertain to me
  - Information is partially correct
  - Information is incorrect
- **Feedback For**
  - Account Balance
  - Dividend
  - Interest
  - Any Other Payments
  - All of the Above
- Remarks limited to a maximum of 400 characters
- Feedback possible only once for one particular category.

Reconcile AIS before filing

- Department already has visibility of many foreign accounts before the return is filed –
- Sch. FA is now expected to match AEOI data received from abroad
- Disclosure and tax payable are separate questions
  - A valid disclosure obligation can exist with little or no additional tax outflow where DTAA relief is available
- AIS listing is NOT a complete record of overseas holdings
  - Absence of an asset from AIS is not a safe harbour – continue conservative disclosure
- Data currently for CY 2022 to 2024; CY 2025 expected Sept/Oct 2026
  - SMS / email alerts being sent to taxpayers for AY 2026-27; guidance also via "Kar Saathi" assistant

Checklists & Concluding points

Checklist for points that can be missed out!

- A minor's foreign asset is still disclosed even though the income is clubbed Penalties have been levied on parents for a child's undisclosed assets.
- Joint holders added for convenience are still holders on the form
- Confirm residential status year by year before concluding nothing is due The duty starts once you are ordinarily resident.
- Returning NRIs often miss the first year they become resident
- Dormant and closed accounts still belong in the year they existed
- Keep the source-of-funds trail and a short note explaining each asset This is what protects you if a notice arrives years later.

Focus on disclosure that helps avoid going through a long assessment procedure or protracted litigation!

Checklist for assets that are to be reported

- Bank, deposit and custodial accounts held anywhere abroad
- Overseas broker accounts, including dormant ones
- Shares, ETFs and units of funds based outside India
  - A fund based in GIFT City is within India and sits outside this.
- Foreign ESOPs and RSUs that have vested
  - Nothing to report until they vest; report as a shareholding once exercised.
- Immovable property, including inherited property
- Insurance policies and annuities with a cash value
- Overseas retirement accounts such as a 401(k)
  - Relief under section 89A may apply to the income, but the asset is still not disclosed.
- Any interest in a trust — as settlor, trustee or beneficiary
- Accounts where you only have signing authority
- Interests held indirectly through overseas companies
- Crypto and other virtual digital assets held on foreign platforms

Checklist before filing tax return with foreign assets

- Open the AIS / Form 26AS and read the foreign-asset entries
  - From the CBDT order of 8 July 2026, data received from abroad now appears here.
- Reconcile every AIS entry against your own records
  - Absence from AIS is not a clean chit — it is not a complete record.
- Convert holdings to the calendar year, not the financial year
  - The schedule runs on the calendar year of the relevant accounting period.
- Use the correct exchange rate for peak balance and closing value
  - And keep a record of why a particular date and rate was chosen
- Report assets even where there is no income and no tax to pay
- Match income earned to asset – and then to schedule
- Complete the foreign income and tax relief schedules as well
- Classify bank accounts correctly as resident, NRE or NRO
- Ensure proper residential status details are entered

Issues to watch out for

- Residential Status:
  - Amendments vide FA 2020 provides for deemed NOR status – results in dilution of NR status in future years under S. 6(6)(a) when NR returns to India permanently
  - Moving in or out of India
- Overseas investments reported under FEMA, but disclosure missed out in tax return
  - TCS on LRS – tax department has information on investments outside India
- Incomplete data provided by clients – dormant bank accounts, unresponsive foreign institutions, costly exercise to dig out old data

In conclusion

- Being conservative and disclosing all data related for Foreign Assets would help
- Proper documentation required to be maintained
- Explanatory notes for disclosures and Forms need to be maintained
- Blunt and direct explanation to clients about risks they face
- Watch out for subtle changes made in the tax return forms for AY 2026-27
  - Schedule EI keeps Exempt Income under DTAA only for NRs
  - Table G for FA Schedule refers to all incomes including business incomes!
- FEMA issues may need to be considered in case of non-compliance for foreign investments

Thanks!

- Questions?

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