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INCOME TAX NOTICES ON FOREIGN ASSETS: RELIEF UNDER INCREASED THRESHOLD

CURRENT SCENARIO: RISE IN INCOME TAX NOTICES

In recent times, there has been a significant increase in notices being issued by the Income Tax Department to taxpayers regarding non-disclosure of foreign bank accounts in the Foreign Assets (FA) schedule of their income tax returns. Many taxpayers are receiving such notices and are understandably concerned about potential penalties and prosecution under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (BMA 2015).

If you have received such a notice, here's what you need to know before panicking.

GOOD NEWS: RECENT RELIEF UNDER BMA AMENDMENT

The most important point for taxpayers to understand is that there is now substantial relief available. Under the recent amendment to the BMA 2015 through the Finance (No. 2) Act, 2024, effective from October 1, 2024, you may not face any penalty or prosecution if your foreign assets balance meets certain conditions.

Key Relief Provision

No penalty or prosecution will apply w.r.t any foreign assets (other than immovable properties), including bank accounts, ESOP, etc., where the aggregate value of such assets does not exceed INR 20 lakh at any point during the financial year.

This is a pivotal change. Previously, the threshold was a mere INR 5 lakh, and it applied exclusively to bank account balances. The expanded scope now encompasses all foreign assets (excluding immovable properties) up to INR 20 lakh, providing a broader safety net for unintentional non-disclosures.

WHAT THIS MEANS FOR YOU

If you have received a notice from the Income Tax Department regarding undisclosed foreign bank accounts:

1. Verify Account Balances
Review whether your foreign bank and other asset balances (other than immovable properties) exceeded INR 20 lakh at any point during the relevant financial year.

2. Access Applicability of Relief
If your foreign asset balances remained below INR 20 lakh threshold throughout the relevant financial year, you can take significant comfort in this recent amendment.

3. Document Everything
It is imperative to maintain thorough documentation proving that your foreign asset balances and other foreign assets remained below the specified threshold. This includes bank statements, asset valuations, and any other relevant financial records.

4. Respond Properly
Along with proper documentation, you should respond to the Income Tax Department's notices, citing the relief provided by the amended BMA 2015, thereby avoiding penalties or prosecution for non-disclosure or incorrect disclosure of minor foreign assets.

UNDERSTANDING THE BLACK MONEY ACT FRAMEWORK

The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, was introduced to curb unreported foreign income and assets. While the law remains stringent for larger cases, the recent amendment acknowledges that minor lapses should not attract severe consequences.

Penalty Structure

For those with foreign assets exceeding the threshold:

- Penalty of INR 10 lakh per year.
- Prosecution can lead to imprisonment ranging from six months to seven years, along with fines.

CONCLUSION

The recent amendment to the BMA 2015 provides welcome relief to taxpayers who may have unintentionally missed reporting small foreign asset balances. The increased threshold of INR 20 lakh offers greater peace of mind and focuses the law's stringent provisions on larger, more significant cases of non-disclosure.

This relief is specifically for cases where the foreign asset balances did not exceed INR 20 lakh at any point during the year. Always ensure complete disclosure going forward and maintain proper documentation to support your position and seek expert advisory before responding.

For consultation and queries, contact:
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