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## Hiding overseas income is tough these days

It was earlier quite common for non-resident Indians to not disclose their Indian assets or incomes to tax authorities in their country of residence. Such failure to disclose overseas assets and incomes can now have disastrous consequences

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Over the past few years, the entire scenario of exchange of information between governments or tax authorities of different countries has drastically changed. Earlier, if

one had financial assets or bank accounts abroad, the tax authorities in India would not have access to information about such assets. Swiss banks would commonly refuse to provide any information relating to their customers.

Therefore, it was common for taxpayers to have assets or bank accounts overseas, which were not declared to the tax authorities in India. In most of these cases, the assets were acquired out of undisclosed or illegal incomes. Similarly, it was earlier quite common for non-resident Indians to not disclose their Indian assets or incomes to tax authorities in their country of residence. Such failure to disclose overseas assets and incomes can now have disastrous consequences.

This exchange of information is not just in relation to Swiss bank accounts. In 2010, the US passed the Foreign Account Tax Compliance Act (FATCA), which requires financial institutions, such as banks, mutual funds, life insurance companies, etc, in all countries to share information with the US government regarding assets or accounts held by US nationals or residents with them. Similarly, in 2014, the OECD developed the Common Reporting Standard (CRS) for automatic exchange of information at the request of the G20, in which over 100 countries have participated. Therefore, information from many jurisdictions is being shared with the investor's countries of residence, with the investor's tax identification number (such as PAN) since 2016.

The first lot of information has been received by tax authorities in India, who are issuing notices to the taxpayers concerned, in order to verify whether such assets and incomes have been disclosed. If they have not been disclosed, action is being taken under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, which attracts tax, penalty and prosecution.

How does this exchange of information practically work? Every financial institution is required, under their respective tax law, to identify investors who are tax residents of other countries, and obtain their tax identification number in their country of residence. This is done by asking every investor to give a declaration. That is why, a couple of years ago, you may have received a notice from your bank or mutual fund, asking you to give a declaration of your country of tax residence, along with your taxpayer identification number.

The financial institution is then required to file an annual return with the tax authorities of its home country, giving particulars of such investors' country of residence and tax identification number, along with the investor's closing balance as at the end of the year and income for the year. The tax authorities submit this information to the respective governments of residence of non-resident investors through the system set up by the

OECD. This information is then processed by the tax authorities of that country, to verify whether taxes have been paid in respect of such foreign income or foreign assets.

Increasingly, the scrutiny of tax authorities is being focused on collection of information, and verification of such information with the tax returns. Even in respect of domestic transactions, this is becoming a focus area. This is far more productive and is likely to yield far better revenue than the existing system of scrutiny of tax returns through scrutiny assessment, where often unnecessary harassment is caused to taxpayers by frivolous additions, resulting in unwarranted litigation.

Taxpayers, therefore, need to be far more careful while filing their tax returns, and ensure that their complete income and assets (wherever required) are disclosed. This is so particularly in case of foreign assets and incomes, given the harsh penalties and prosecution that may be attracted in case of any mistake or default.

Taxpayers need to keep in mind that those days when they could hold bank accounts and assets without the tax authorities being aware of such assets or income thereon, are a thing of the past. Today, the tax authorities have almost all the information that they could hope for, readily available at the click of a mouse. It is only a matter of time before the tax authorities are able to process all the information that they obtain from various sources, and detect tax evasion. In the process, they would not only be able to detect income evasion by existing taxpayers, but also find new taxpayers—persons who have substantial income, but may never have filed their tax returns.

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