

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

LOK SABHA
UNSTARRED QUESTION NO. 3101
ANSWERED ON 20/03/2023

OFFSHORE PROFIT SHIFTING

3101: DR. VISHNU PRASAD M.K.:
SHRI T.R.V.S. RAMESH:

Will the Minister of FINANCE be pleased to state:

- (a) the total number of Indian citizens and corporates having bank accounts outside the country during each of last three years;
- (b) the total amount of money saved in such accounts by Indian citizens and corporates during the same period;
- (c) whether Government has taken note of the phenomenon of offshore profit shifting by corporates operating in India and if so, the details thereof and the reaction of the Government thereto;
- (d) the estimated extent of revenue loss to Government due to offshore profit shifting by corporates;
- (e) the steps undertaken by the Government to curb the practice of offshore profit shifting; and
- (f) the amount of black money detected and recovered during each of the last eight years?

ANSWER

MINISTER OF STATE IN MINISTRY OF FINANCE
(SHRI PANKAJ CHAUDHARY)

(a): Residence in India as per the Income-tax Act, 1961 is different from Citizenship in respect of individuals. An individual, who is not a citizen of India, may also be a tax resident of India as per the relevant provisions of the Income-tax Act, 1961. A citizen of India may also not be considered as a tax resident of India as per the relevant provisions. Further, a company is said to be a resident in India if it is an Indian company or its place of effective management, in that year, is in India. In view of this, data is not available separately in respect of bank accounts held outside India by Indian citizens and corporates.

(b): No such data is available separately in view of (a) above.

(c): Offshore Profit Shifting (usually referred internationally as Base Erosion and Profit Shifting [BEPS]) refers to strategies adopted by Multinational Enterprises to exploit gaps and mismatches in international tax rules to shift profits from the jurisdiction where the economic activities giving rise to such profits are performed, to outside jurisdictions. Concerned about such BEPS risks for all countries, the Organisation for Economic Co-operation and Development (OECD)/G20 countries launched the BEPS project for addressing tax avoidance by Multinational Enterprises. India has actively participated in the BEPS project.

(d): There is no official estimate of the extent of revenue loss due to offshore profit shifting.

(e): Various measures have been undertaken by the Government to combat BEPS risks, which are, inter alia, as under:

- (i) India has signed and ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("Multilateral Instrument" or "MLI").
- (ii) Finance Act, 2017 introduced Section 94B of the Income-tax Act, 1961 which provides for limitation on deductibility of interest.
- (iii) Amendment to Section 90 of Income-tax Act, 1961 to incorporate the language of the preamble to the MLI, which is an express statement to prevent non taxation or reduced taxation through tax evasion or avoidance.
- (iv) Amendment to Section 9 of the Income-tax Act, 1961 in respect of taxable nexus through 'Significant Economic Presence'.
- (v) Amendment to Section 9 of the Income-tax Act, 1961 to prevent artificial avoidance of business connection in line with BEPS Action 7 recommendations.
- (vi) Under BEPS Action 13, all large multinational enterprises are required to prepare a Country-by-Country (CbC) report. This CbC report is shared with tax administrations of relevant jurisdictions, for appropriate use. India has entered into a Multilateral Competent Authority Agreement (MCAA) with other relevant countries for exchange of Country-by-Country reports and regularly exchanges such reports with other signatories.

- (vii) Robust and detailed Transfer pricing rules provide for transactions to be evaluated on Arm's length principles.

(f): Whenever any instance of unaccounted/black money comes to its notice, the Income Tax Department takes appropriate actions as per the provisions of the Income- tax Act, 1961. Such actions include conducting searches and surveys, assessment of income, levy of tax, imposition of penalty, launching of prosecution, etc.

The details of search & seizure actions conducted by the Income Tax Department during last eight years are as under:

Financial Year	Number of groups searched	Total assets seized [in Rs. Crore]
2014-15	545	761.70
2015-16	447	712.32
2016-17	1152	1469.42
2017-18	582	992.52
2018-19	966	1567.07
2019-20	984	1289.47
2020-21	569	880.83
2021-22	686	1159.59

Further, the Government enacted a comprehensive and a more stringent new law, namely, the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 that has come into force w.e.f. 01.07.2015. Apart from prescribing more stringent penal consequences, this law has included the offence of willful attempt to evade tax etc. in relation to undisclosed foreign income/assets as a Scheduled Offence under the Prevention of Money-laundering Act, 2002 (PMLA).

648 disclosures involving undisclosed foreign assets worth Rs. 4164 crores were made in the one-time three months compliance window, which closed on 30th September 2015, under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. The amount collected by way of tax and penalty in such cases was about Rs. 2476 crore.

The year-wise details of assessments completed under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 are as under:

Financial Year	Number of assessment orders passed	Demand raised [In Rs. Crore]
2018-19	16	135
2019-20	30	1026
2020-21	120	7055
2021-22	183	5350
