



BENAMI TRANSACTIONS INFORMANTS REWARD SCHEME, 2018 - AN ATTEMPT TO UNEARTH BLACK MONEY AND TO REDUCE TAX EVASION

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Background:

It was found in many cases that black money was invested in properties in the names of others, even though benefits were enjoyed by the investor concealing his beneficial ownership in his tax returns. As per the Prohibition of Benami Property Transactions Act, 1988, as amended by Benami Transactions (Prohibition) Amendment Act, 2016 effect from 1st November, 2016, any property acquired by a person in the name of a benamidar (other than his close family members or in fiduciary capacity), is liable to be attached and subsequently confiscated and all persons involved in such benami transactions are liable to be prosecuted which carries rigorous imprisonment for term up to seven years.

With the objective of obtaining people's participation in the Income Tax Department's efforts to unearth black money and to reduce tax evasion, a new reward scheme titled "Benami Transactions Informants Reward Scheme, 2018", has been issued by the Income Tax Department. This reward scheme is aimed at encouraging people to give information about benami transactions and properties as well as income earned on such properties by such hidden investors and beneficial owners.

Under the **Benami Transactions Informants Reward Scheme, 2018**, a person can get reward up to Rupees One crore for giving specific information in prescribed manner to the Joint or Additional Commissioners of Benami Prohibition Units (BPUs) in Investigation Directorates of Income Tax Department about benami transactions and properties as well as proceeds from such properties which are actionable under Benami Property Transactions Act, 1988, as amended by Benami Transactions (Prohibition) Amendment Act, 2016. Foreigners will also be eligible for such reward. Identity of the persons giving information will not be disclosed and strict confidentiality shall be maintained.

Who can be 'Informant' for the purposes of this scheme:

An 'Informant' means a person, and will include an individual or a group of individuals, who has –

(i) at a time, given specific information about one or more movable or immovable benami property / properties of which the fair market value, as defined in the Act, of movable property, and circle rate, as defined in this Scheme, of immovable property is more than Rupees One crore in a **single Annexure – A form**;

The fair market value of an immovable property shall be higher of
(i) its cost of acquisition; and
(ii) the price that the property shall ordinarily fetch if sold in the open market on the valuation date for which the assessee may obtain a valuation report from a valuer recognised by the Government of a country or specified territory outside India in which the property is located or any of its agencies for the purpose of valuation of immovable property under any regulation or law;

(ii) furnished in prescribed form in Annexure – A to the scheme; and

(iii) received 'Informant Code' from the authority prescribed in the scheme Explanation:

A person shall not be entitled to any reward under the scheme if he is not an informant under the scheme, even if such person has furnished specific information of benami property in any other manner, e.g., through letter, e-mail, CD, Whats App, SMS, phone, posting in social networking site or publishing letter in newspaper or any other media.

Secrecy of identity of informant & information:

Identity of the informant, information given by him (including all related documents/annexure) or the reward paid to him shall not be disclosed to any person/authority except when expressly required under any law for the time being in force or by order of any court of law. The documents/annexure relating to identity and information shall remain confidential and be dealt with accordingly.

'Specific information' under the scheme:

The information given by the informant can be treated as specific information under the scheme only if it includes:

- verifiable particulars of the benami property;
- name and address of the person in whose name the property has been acquired (benamidar); and
- credible basis including supporting evidence for the information that the property was actually benami property.

Procedure of furnishing information:

- A person who wants to give specific information in expectation of reward may contact the Joint Commissioner of Income Tax/Additional Commissioner of Income Tax (Benami Prohibition) [hereinafter referred to as 'JCIT/Addl. CIT (BP)'] having jurisdiction over the place where the benami property is situated. (Ref Notification No. 40/2017/F.No.173/429/2016-ITA-I dated 18.5.2017 issued by the CBDT)
- If the JCIT/Addl. CIT (BP) feels that the person has given specific information of benami property, he will give one set of prescribed form as per Annexure-A to such person who shall fill, sign and submit it to the JCIT/Addl. CIT (BP).
- If there are more than one benami properties located at different places, the person may give information to any of the JCIT/Addl. CIT (BP) having jurisdiction over any of these properties.
- Where the person gives information about benami properties to any other Income Tax authority, such other authority shall forward such information and guide him to the jurisdictional JCIT/Addl. CIT (BP). Where there are more than one BP units at a place, such person may be directed to approach the jurisdictional DGIT (Investigation).
- If the information is furnished by a group of persons, the prescribed form, statements, etc. shall be filled and signed by all such persons, jointly and Informant code will be allotted to each of them separately. The reward payable in such cases, if any, shall be disbursed in equal proportion, unless specified otherwise by such persons at the time of furnishing information in the prescribed format (Annexure A).
- Where a foreign person wants to give information of benami property actionable under the Act, he may contact the Member (Investigation), CBDT, North Block, New Delhi-110001 either in person or by post or by a communication at email id member.inv@incometax.gov.in with a copy to citinv-cbdt@nic.in for further action. He may take assistance of Income Tax Overseas Units (ITOU) working in Indian missions in some foreign countries in this regard.
- A person may give information about more than one benami properties either on one or multiple occasions, but the prescribed form in Annexure-A shall be filled and signed separately on each occasion. One form may be used for multiple properties only if such properties pertain to either the same benamidar or same beneficial owner. However, he will be given only one Informant Code and his reward will be computed on the basis of entitlement individually for each benami property. Also, if a person desires to get reward for information under both this Scheme and Income Tax Informants Reward Scheme, 2018, on the basis of substantially same facts, he shall have to furnish the same separately in accordance with the two Schemes. In other words, even if information furnished under this Scheme is collaterally used by the Income Tax Department for any purpose including that under Income Tax Act, 1961, the informant's entitlement shall be restricted to reward under this Scheme only.
- The informant shall be liable to render assistance as may be required by the JCIT/Addl. CIT (BP) or any other investigating officer to whom the JCIT/Addl. CIT (BP) concerned may assign the investigation into the information given by the informant.
- From the time of allotment of Informant Code, the person shall be identified with such Informant Code only and his actual identity shall be known to the JCIT/Addl. CIT (BP) only.
- In case of any difficulty, the person desirous of giving specific information of benami property, may contact the PDIT (Inv)/DIT (Inv) of the area. The decision of PDIT (Inv)/DIT (Inv) will be final in the matter of allotment of Informant Code under this scheme.
- It should be noted that furnishing false information/evidence is an offence and a person giving false information/evidence/ statement will be liable to be prosecuted for such offence.

When reward may be granted:

An informant under the scheme can be granted interim & final reward by the competent authority.

(i) Interim reward can be granted on fulfillment of the following conditions:

- the informant has given specific information of benami property in the prescribed format in Annexure-A and obtained informant code under the scheme;
- provided assistance required, if any, by the Addl./JCIT (BP) or any other investigating officer to whom the JCIT/Addl. CIT (BP) concerned may assign the investigation into the information given by the informant; and
- pursuant to such information, the benami property has actually been provisionally attached under Section 24(4) of the Act.

(ii) Final reward can be granted on fulfilment of the following conditions:

- the informant has given specific information of benami property in the prescribed format in Annexure-A and obtained informant code under the scheme;
- provided assistance required, if any, by the Addl./JCIT (BP) or any other investigating officer to whom the JCIT/Addl. CIT (BP) concerned may assign the investigation into the information given by the informant;
- the benami property has been confiscated under Section 27 of the Act; and
- Such confiscation has become final in judicial proceedings after confiscation order is passed. The confiscation shall be deemed to be final if two years have passed from the date of confiscation and there is no litigation pending against such confiscation.

Amount and stage of granting interim and final reward:

- Interim reward up to 1% (one per cent) of the fair market value, as defined in the Act, of movable property, and circle rate, as defined in this Scheme, of immovable property, provisionally attached under section 24(4) of the Act may be granted by the competent authority on fulfilment of eligibility conditions under the scheme subject to the maximum ceiling of an amount of interim reward of Rupees Ten lakh in respect of information of a single benami property.
- Final reward up to 5% (five per cent) of fair market value, as defined in the Act, of movable property, and circle rate, as defined in this Scheme, of immovable property, confiscated under the Act may be granted by the competent authority on fulfilment of eligibility conditions under the scheme. While granting the final reward, the amount of interim reward paid, if any, shall be reduced from the total final reward granted. However, maximum amount of total reward (interim and final) in respect of a single benami property shall be limited to Rupees One crore.
- If there are more than one benami properties informed in a single Annexure – A form, reward shall be computed on the basis of entitlement applying the above percentage rates and maximum limits individually for each benami property.
- If the informant has claimed reward under this Scheme as well as Income Tax Informants Reward Scheme, 2018, based upon substantially same facts (as was given for claiming reward under this scheme) and if the same is separately found eligible for grant of reward in accordance with this Scheme as well as the Income Tax Informants Reward Scheme, 2018, the total amount of reward under both the schemes taken together shall not exceed the maximum permissible amount under the Income Tax Informants Reward Scheme, 2018, or this Scheme, whichever is higher. In other words, if an informant is found eligible for reward under both the Schemes for information relating to the Act and the Income Tax Act, 1961, the total maximum reward under the two Schemes shall be restricted to ₹ 1 (one) crore as is the limit in this Scheme and if an informant is found eligible for reward under both the Schemes for information relating to the Act and the Black Money (Undisclosed Foreign Income and Assets) Act, 2015, the total maximum reward under the two Schemes shall be restricted to ₹ 5 (five) crore as is the limit in Income Tax Informants Reward Scheme, 2018.

Timelines for grant of interim and final reward:

Every endeavour shall be made to grant:

- interim reward within 4 months of actual provisional attachment of the benami property under section 24(4) of the Act; and
- final reward within 6 months of order of confiscation of the benami property becoming final. The confiscation shall be deemed to be final if two years from the date of confiscation have passed and there is no litigation pending against such confiscation.

Modalities of payment of reward to an Informant who is a foreign person:

The reward to an informant who is a foreign person may be paid by regular banking channel as per guidelines issued by Reserve Bank of India (otherwise than cash), to his bank account in India or abroad, as requested in writing by the Informant, in Indian Rupees or its equivalent US Dollar at the exchange rate prevailing at the time of actual payment of reward. Commission or charges for payment in US Dollar shall be deducted from the gross reward amount granted.

Authority competent to grant interim and final reward:

The authority competent to grant any reward under the Scheme shall be a committee consisting of:

- (i) DGIT (Inv.) holding jurisdiction over the JCIT/Addl. CIT (BP) concerned who has received the information;
 - (ii) PDIT (Inv)/DIT (Inv.) holding jurisdiction over the JCIT/Addl. CIT (BP) concerned who has received the information; and
 - (iii) a Principal Commissioner of Income Tax nominated by the Principal Chief Commissioner of Income Tax (CCA) of the area where provisional attachment order or, as the case may be, confiscation order, is passed by competent authority.
- (iv) The JCIT/Addl. CIT (BP) concerned shall be Secretary of the committee.

Factors relevant for granting the reward and determining its quantum:

The following factors, among others, may be considered by the competent authority in this regard:

- Fulfilment of conditions mentioned in this scheme.
- Specific nature, precision, accuracy, usefulness of information and quality of evidence furnished by the informant.
- Extent and nature of assistance rendered by the informant.
- Risk and trouble undertaken and the expenses incurred by the informant in securing and furnishing the information.

Circumstances under which informant will not be eligible to get any reward:

No reward under the scheme shall be granted-

- If information is not provided in accordance with the Scheme; or
- If terms and conditions of the scheme are not fulfilled, or
- Where information given is vague/non-specific and/or of general nature. For example, where informant says vague things like, "I believe X has many bank accounts in the name of his employees" or "X" has purchased many flats in Kolkata, Delhi and Mumbai in his own name and in the name of others", or
- Where information given was already available with the Income Tax Department, or
- Where the information was not received directly from the informant but through any organization other than Income Tax Department.
- On any incidental or collateral benefit that may arise to the Government in respect of any other property which is not mentioned in the information furnished by the informant in Annexure-A. In other words, the entitlement of the informant shall be restricted to only the property (ies) mentioned in the Annexure – A under this Scheme and shall not extend to any other property as the Department may find out by investigation into the information furnished by the informant.

Not taking cognizance of information:

In case it is found that the antecedents of the informant, nature of the information furnished by him and his conduct justify not taking cognizance of the information furnished by him, the JCIT/Addl. CIT (BP) may ignore the information furnished by the informant after recording detailed reasons for doing so.

Non-disclosure of information to Informant:

While maintaining secrecy of the information and informant, the information received from the informant can be used by the Income Tax Department for such purposes as are considered appropriate by the Department. The informant shall not have any right to receive any feedback regarding action taken or outcome achieved in any case. He may get feedback and/or update only about whether his information has been acted upon and, if yes, whether he is likely to get any reward. Accordingly, Directorates General of Income Tax (Investigation), who are exempt from providing information under Section 24 of the Right to Information Act, 2005 read with Second Schedule thereof, shall not be bound to provide any information about action taken or outcome achieved except as provided in the said Act.

Grievance redressal:

If the person giving such information is aggrieved in the matter of giving information and allotment of Informant Code, he may approach the PDIT/DIT(Inv) concerned, whose decision in the matter shall be final.

Prohibition on Rewarding Government Servants:

No reward shall be granted under this scheme to any Government Servant, who furnishes information or evidence obtained by him in the course of normal duties as a Government Servant. A person employed by the Central Government or State Government or Union Territory Government or a nationalized bank or local authority or public sector undertaking, corporation, body corporate or establishment, set up or owned by the Central Government or State Government or Union Territory Government shall be deemed to be a Government Servant for the purpose of this scheme.

Nature of Reward and Prohibition on Litigation/ Representation:

Reward under the scheme is ex-gratia payment which may be granted in the absolute discretion of the competent authority. The decision of the authority shall be final and it shall not be subject to any litigation, adjudication and arbitration except review as provided below in this Scheme.

Review in exceptional situations of grave injustice in case of final reward due to not following provisions of Reward Scheme or factual incorrectness:

In case an informant alleges grave injustice in the decision of the competent authority for final reward due to either non-adherence to the Reward Scheme issued by the Board or due to factual incorrectness, he may file a review petition within one month of receipt of the decision, before the DGIT(Inv). In such petition he has to clearly bring out the basis of the alleged grave injustice with specific reference to the provisions of the Reward Scheme which have not been followed by the reward committee or instances of factual incorrectness. No cognizance will be taken of a review petition if it is not mentioned as to which provision of Reward Scheme was not followed or instances of factual incorrectness and if the same is not explained clearly.

The DGIT (Inv) shall cause such a petition to be placed before a review committee consisting of

- (i) the Principal CCIT (CCA) of the region where the reward committee was located,
- (ii) a CCIT nominated by the Principal CCIT (CCA) and the
- (iii) the DGIT (Inv) concerned.

In case there is no CCIT in the region, the Principal CCIT may nominate a Principal CIT in the review committee. JCIT/Addl. CIT (BP) concerned shall be the Secretary of the committee. The review committee shall examine such grievance, take necessary action and communicate decision to the informant, preferably, within 3 months of the receipt.

Assignment of Reward not to be recognized but legal heirs will be eligible:

If reward is assigned by the informant in favor of some other person, the same will not be recognized. The authority competent to grant reward may, however, grant reward to the legal heirs or nominee(s) of an informant who has deceased before receiving reward. But the provisions of the Scheme shall apply to the heir as would have applied had the informant not died. For this purpose, the informant shall specify nominee(s) in Annexure A at the time of furnishing the information. If there are more than one legal heirs or nominees, the reward amount shall be distributed in equal share unless indicated otherwise in Annexure- A or the right is relinquished by any or more of the legal heirs.

Control and Audit of Expenditure Relating to Reward:

The control and audit of the expenditure incurred on payment of reward will be governed by the instructions specifically issued by the Government for the purpose from time to time.

Meaning of Terms used in the scheme:

- (i) For the purposes of this Scheme, subject to the context as may otherwise require, the terms that are used in this Scheme as also defined in the Act or Income Tax Act, 1961 or Black Money (Undisclosed Foreign Income and Assets) Act, 2015, shall have the same meaning as given in the Act or Income Tax Act, 1961 or Black Money (Undisclosed Foreign Income and Assets) Act, 2015, unless defined in this Scheme.
- (ii) "Circle Rate", in respect of an immovable property, means the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of transfer of such immovable property on the date of transaction of acquisition of such property by or for the benamidar.

A Guidelines for Departmental officers for dealing with information under the Benami Transactions Informants Reward Scheme, 2018 has been issued by Income Tax Department for follow up

The time will speak about the benefit received by Govt based upon the information given by Informant and enforcement by the Dept.

Note: For relevant Annexures – A, B & C, pl refer to the Banami Transaction Informants Reward Scheme 2018 as notified vide F.No.299/31/2017-Dir (Inv. III)/22 Government of India Ministry of Finance Department of Revenue Central Board of Direct Taxes.