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**NEWS LETTER**

(For the month of April-May 2025)

**DTBA (Direct Taxes) Regd.**

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## President Message

Dear Professional Colleagues,

Greetings to all of you!

Group culture encompasses the shared values, beliefs, and behaviors that shape an organization. At DTBA, we are committed to fostering a positive and inclusive environment—one that promotes shared growth, knowledge exchange, and mutual support among Chartered Accountants, Advocates, Company Secretaries, and Tax Professionals.

The months of April and May 2025 have been incredibly productive, with several impactful initiatives and events successfully conducted. I take pride in sharing with you the highlights of this bi-monthly chapter:

### Membership Growth – 26 New Joins Since February 2025

Since this executive team assumed charge in February 2025, our association has seen a significant rise in membership. We welcomed 26 new professionals, strengthening the voice, diversity, and presence of DTBA. We wholeheartedly thank all the new members and encourage their active involvement in the association's activities.

### Felicitation of New Principal Chief Commissioner of Income Tax

In April, Mr. Surinder Kumar took charge as the Principal Chief Commissioner of Income Tax, Ludhiana. The DTBA Executive Committee had the privilege of visiting his office to extend warm congratulations and present a floral bouquet. During the meeting, we conveyed key concerns and suggestions of our members in a structured and respectful manner. The interaction was productive and laid the foundation for continued collaboration between the department and DTBA.

### Renovation of DTBA Bar Room

One of the most notable achievements this month has been the successful renovation of our Bar Room at Rishi Nagar. The upgraded space now provides a well-lit, air-conditioned, and modern environment that is ideal for meaningful interaction among members. Designed for comfort and functionality, it serves as a hub for seminars, discussions, and brainstorming sessions. The pictures speak for themselves—a welcoming, polished venue where our professional community can thrive through dialogue, debate, and exchange of ideas. We encourage all members to make full use of this upgraded facility. Whether it's an informal catch-up or a structured technical session, this space now truly reflects the evolving stature and aspirations of DTBA.



## Technical Webinar – Black Money Act, 2015

On the academic front, we had the privilege of organizing an insightful webinar on the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. Esteemed speakers Adv. Karanjot Singh Khurana, Partner, and Mr. Tanmay Bhatnagar, Principal Associate at Lakshmikumaran & Sridharan Attorneys, New Delhi, delivered a crisp yet comprehensive session. They illuminated the key provisions of the Act, explained recent judicial pronouncements, and demystified its connection with PMLA and FEMA. The interaction was engaging and thought-provoking. Member participation was commendable, and the quality of questions reflected the increasing depth of understanding and curiosity within our professional circle.

## Recreational Retreat to Kasauli – Where Bonds Grew Stronger

A major highlight of April was the two-day recreational trip to Kasauli, organized in collaboration with ITCA. It was much more than a getaway—it was a celebration of togetherness, laughter, and shared experiences. Over 27 professionals came together in the scenic lap of nature to unwind, recharge, and reconnect.

The itinerary was filled with fun and wellness activities—cricket matches, yoga sessions, antakshari, dancing, singing, bonfires, and even tree plantation. Each activity brought out the hidden talents and warmth of our members, fostering relationships that go beyond work. The joyous energy and team spirit visible in the photos are testimony to how deeply connected and cohesive our community is becoming.

## The Path Ahead – Together, We Rise

As DTBA continues to evolve, our core philosophy remains unchanged—collective growth through cooperation, communication, and continuous learning. The recent events have not only brought value to our knowledge base but also rejuvenated our social and professional bonds. Let us keep this momentum alive. I urge each one of you to actively participate in upcoming events, propose new initiatives, and most importantly, support one another. Let's continue building a culture where ideas are respected, contributions are appreciated, and everyone grows together.

With pride in what we've achieved and hope in what we can accomplish, I look forward to more such enriching months ahead.

Warm regards,  
**CA I S Khurana**

President, District Taxation Bar Association (DT)

## SECRETARY MESSAGE

Dear Members,  
Jai Hind.

As we step into the new financial year 2025–26, I extend my warm wishes to all members of the District Taxation Bar Association. May this year bring renewed energy, clarity of purpose, and continued camaraderie in all our professional pursuits.

It gives me great pleasure to share that we had the opportunity to extend our heartfelt greetings to Sh. Surendra Kumar on taking over the charge as Chief Commissioner of Income Tax, Ludhiana. The interaction was marked by mutual respect and a shared commitment towards enhancing coordination.

Month of May witnessed meaningful engagements including technical webinar on the Black Money Act, and a memorable retreat to Kasauli, each event enriching our professional and personal bonds alike.

In the past days, Income Tax Act, 1961 has also witnessed noteworthy developments. Notably, new ITR forms have been introduced with enhanced disclosure requirements followed by extension of due



dates for filing returns. This of-course will provide relief to taxpayers and professionals, offering flexibility amidst evolving compliance frameworks, however at the same time it will led to prolonged engagement with statutory work, stretching the busy season and impacting overall work-life balance for many in the profession.

Friends, one of the most encouraging facets of our Association continues to be the mutual support and collaborative spirit among its members. The readiness with which members extend assistance, particularly on our various WhatsApp groups—where queries are swiftly addressed and practical experiences are openly shared—is truly commendable. This cooperative culture not only reflects our professional maturity but also strengthens our collective knowledge and resilience.

As we move ahead, let us carry this momentum forward. Let our unity, sincerity, and mutual respect continue to define our path. Together, we can turn each challenge into an opportunity and each discussion into a learning experience.

In the words of Swami Vivekananda, “Arise, awake, and stop not till the goal is reached.”

Let us continue striving with dedication and integrity.

Warm Regards,  
CA Deepak Jain  
Secretary, DTBA (DT)

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## FROM THE DESK OF THE EDITOR

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The month of April marks the beginning of India’s fiscal calendar ushering in both continuity and change in the country’s economic and taxation framework. The changes brought in by the Finance Act, 2025 for the financial year 2025-26 have come into effect starting from April 2025. As tax professionals, businesses, and individual taxpayers recalibrate strategies, this month’s developments offer both opportunities and obligations.



The CBDT notified the ITR forms for AY 2025–26 at the fag end of April and early May, incorporating therein changes brought in by the previous Finance Act and other requirements. The ITR forms have undergone structural and content revisions which are aimed at simplifying compliance, enhancing transparency and enabling accurate reporting. Keeping in view the extensive changes and time required for system readiness and roll out of ITR utilities, the CBDT extended the due date for filing ITR which was originally due on 31st July 2025 to 15th September 2025. This may require all the professionals to recalibrate their audit obligations for which the due date of furnishing the audit reports is 30th September.

April 2025 also saw the Reserve Bank of India reducing repo rate by 25 basis points (bps) bringing it to 6 per cent which could further bring down interest rates benefitting business and individual borrowers alike. Inflation has also eased in the month of April as compared to March. These macroeconomic signals are crucial for tax planners, particularly those managing corporate tax strategy and investment-linked deductions.

As tax professionals, we must remain proactive, adaptable, and informed as we move through the changes ushered in by new developments. As always, knowledge and preparation are our best allies in ensuring both compliance and optimization in this evolving environment. Let us continue navigating these changes with clarity, professionalism and proactive awareness.

Sincerely yours,  
**CA Hitesh Bhakoo**  
Editor

## KNOWLEDGE SECTION

### MAINTAINABILITY OF RECTIFICATION DURING PENDENCY OF APPEAL BEFORE COMMISSIONER (APPEALS)

Section 154 of the Income Tax Act, 1961 provides for rectification of a mistake which is apparent from the record. It is not merely an arithmetical or clerical error alone that comes with the purview of rectification but it comprehends errors which, after a judicious probe into the records from which it is supposed to emanate are discerned. It is something which a duly and judiciously instructed mind can find out from the records. It may that sometimes an argument though not a complex study, may be required to find it out. In the ultimate analysis, the conclusion a well-equipped and trained judicial mind will reach after scrutinizing the record will govern and his finding whether a mistake or not has to be accepted.

Hence, a 'mistake' could be defined if something unintended is done inadvertently on the existing facts and law. This type of mistake can be rectified under the provisions of Section 154 but not the ones which have been done consciously and on the basis of deliberation and /or on its own logic. The second category of mistake can be rectified by the appropriate forum in appropriate proceedings. 'Mistake apparent from records' means which was in existence on the date of passing of the order and the same escaped notice of all concerned.

A question may arise as to whether there is any statutory restriction or bar for the Assessing Officer to rectify an order if an appeal is pending against order. The revenue authorities are often not inclined to entertain a rectification application when the order sought to be rectified is being agitated before the CIT (Appeals) on the ground that an appeal is pending before the appellate authority. On the other hand, the assessee argues that rectification application is maintainable

even when the appeal before CIT(Appeal) is pending. This divergence of opinion between the revenue and assessee leads to the question as to whether a rectification application can be entertained during the pendency of appeal before the CIT(Appeal).

This issue came for consideration before the Hon'ble Bombay High Court in the case of PIRAMAL INVESTMENT OPPORTUNITIES FUND vs. ASSISTANT COMMISSIONER OF INCOME TAX & ORS. (2019) 267 Taxman 297(Bom). The Hon'ble High Court after analyzing the provisions of Section 154 of the Income Tax Act, 1961 held that in view of plain language of section 154, there is no embargo on power of rectification u/s 154 during the pendency of appeal.

The Hon'ble High Court observed that Sec. 154(1A) provides that where if any matter has been considered and decided in any proceeding by way of appeal or revision, contained in any law for the time being in force, such order shall not be amended. Sec. 154(1A) thus places an embargo on the power of rectification in the cases where the matter has been considered and decided in appeal or revision. It is of importance that the legislature has used the phrase 'considered and decided' in the past tense. The phrase 'considered and decided' cannot be read as 'pending consideration in appeal or revision'. To do so would be adding and changing the plain language of the statute. In view of the plain language of s. 154, there is no embargo on the power of amendment if an appeal or revision is merely pending. The Hon'ble High Court held that the rejection of the rectification application on this ground was unwarranted.

This view also finds support from the decision

of the Hon'ble Madras High Court in N. Arjunan v. Income-tax Officer [2018] 96 taxmann.com 260 (Madras), where it was held that there is no statutory bar on the Assessing Officer to invoke the powers of rectification under section 154 even during the pendency of an appeal. The Court rejected the assessee's contention that rectification proceedings should be deferred until the appeal is decided, and emphasized that the pendency of appeal does not restrain the Assessing Officer from amending the order if there exists a mistake apparent from the record. This reinforces the legal position that rectification and appeal proceedings can proceed independently, provided that the issue

sought to be rectified has not already been "considered and decided" in the appellate proceedings.

The above judgments can serve as a precedent for the assessee to seek recourse to rectification of matters which are amenable to rectification but have not been yet decided by the CIT (Appeals) and help to reduce litigation in certain matters. Since, the issue is no longer res-integra, the same deserves to be followed by revenue authorities especially in view of the endeavor of the Government to reduce litigation.

**(CA HITESH BHAKOO)**  
Editor

## CIRCULARS/NOTIFICATIONS AND NEWS

1. CBDT vide Notification No. 38/2025 dated 23.04.2025 clarified that any expenditure incurred for settlement under SEBI Act, Competition Act, etc., shall not be allowed as deduction under Section 37 of the Income Tax Act, 1961.
2. CBDT vide Circular No. 06/2025 dated 27.05.2025 extended the due date for filing Income Tax Returns for non-audit cases covered under Explanation 2(c) of Section 139(1) from 31st July 2025 to 15th September 2025.
3. CBDT vide Notification No. 44/2025 dated 06.05.2025 notified revised ITR-6 form applicable to companies.
4. CBDT vide Notification No. 40/2025 dated 29.04.2025 notified ITR Forms 1 to 7 for Assessment Year 2025–26 with updated fields for disclosure of income, deductions, and foreign assets.
5. CBDT vide Notification No. 49/2025 dated 19.05.2025 notified the revised ITR-U form under Section 139(8A), enabling filing of updated returns within 48 months along with enhanced reporting requirements including segmented income and tax payment under Section 140B.
6. CBDT vide Notification No. 17/2025 preponed the due date for filing Form 64A and Form 64E by business trusts and securitisation trusts to 15th June 2025.
7. ITR-2 has been revised (dated 05.05.2025) applicable to individuals having income from salary, house property, capital gains, etc., and ITR-3 (dated 02.05.2025) applicable to individuals and HUFs having income from business or profession.
8. ITR-7 has been revised with effect from 01.04.2025 to include enhanced disclosures related to foreign contributions, voluntary donations, and activities carried out by political parties, charitable and religious institutions.
9. Form 3CD (Tax Audit Report) was amended for A.Y. 2025–26 to include new reporting requirements in respect of disallowance of expenses under Section 37 as per Notification No. 38/2025.
10. The CBDT via Notification No. 36/2025 dated 22-Apr-2025, notifies goods under section 206C(1F) of Income-tax Act for TCS on sales exceeding ₹10 lakh: wrist watch, art pieces, collectibles, yacht, sunglasses, bags, shoes, sports equipment, home theatre, and horses for racing or polo. Effective from publication date.

Compiled by:  
**CA. Megha Kalra**

## JUDGMENTS SECTIONS

**[2025] 173 taxmann.com 569 (SC) SUPREME COURT OF INDIA Income-tax Officer (TDS) v. Aditya Institute of Technology and Management**

SLP dismissed against order of High Court that where assessee-educational institute deducted TDS but deposited same belatedly, since 90 per cent of students admitted by assessee were on fee reimbursement scheme and due to delay in grant of fee reimbursement by State Government assessee failed to remit TDS within time, assessee established reasonable cause in view of section 278AA, and, thus, criminal prosecution against assessee was not warranted

**[2025] 173 taxmann.com 584 (SC) SUPREME COURT OF INDIA Mayor Foundation v. Commissioner of Income-tax**

SLP dismissed against order of High Court that where assessee-trust could not produce sufficient material to dispel suspicion which had been raised about donations received from companies which were not even based geographically close to educational institution run by assessee and reason to grant donation was never properly explained, Assessing Officer rightly made additions under section 68 to income of assessee

**[2025] 174 taxmann.com 910 (Madras) HIGH COURT OF MADRAS Sohanlal Jain Ramesh v. Assessment Unit, Income-tax Department**

Where assessee was unable to either file their reply or to appear before Assessing Officer for personal hearing due to medical condition of their authorized representative, and without considering same and without providing sufficient time for filing their reply, impugned order came to be passed by Assessing Officer, same was a clear violation of principles of natural justice

**[2025] 174 taxmann.com 159 (Bombay) HIGH COURT OF BOMBAY EPL Ltd. v. Deputy Commissioner of Income-tax**

Where pursuant to reopening notice, assessee filed its return and filed objections against reasons recorded for reopening of assessment, however Faceless Centre rejected assessee's objections by merely stating that Assessing Officer who issued

initial notice, had elaborately discussed each of issues, same would not amount to Faceless Centre dealing with objections in accordance with law and thus, JAO was to be directed to hear assessee and decide its objections to reopening of assessment

**[2025] 173 taxmann.com 725 (Agra - Trib.) IN THE ITAT AGRA BENCH 'DB' Faizan E Sahaba Aligarh v. Commissioner of Income-tax (Exemption)**

Where assessee-trust sought registration under section 12A and Commissioner (Exemptions) rejected same on ground that assessee had not incurred any expenditure on charitable activities carried out by it, since factually activities carried out by assessee-trust were religious in nature and not charitable and assessee sought registration only as a religious trust and not as a charitable trust, Commissioner (Exemptions) was to be directed to grant registration to assessee

**[2025] 173 taxmann.com 722 (Ahmedabad - Trib.) IN THE ITAT AHMEDABAD BENCH 'A' Archanaben Rajendrasingh Deval v. Income-tax Officer, TDS**

Where assessee had made payments to two sellers, both of which were individually below threshold of Rs.50 lakhs prescribed under section 194IA, provisions of section 194IA were not attracted and therefore, assessee could not be held to be an assessee-in-default under section 201(1)

**[2025] 173 taxmann.com 765 (Bangalore - Trib.) IN THE ITAT BANGALORE BENCH 'A' Fine Blanking (P.) Ltd. v. Income-tax Officer**

Where assessee imported second-hand machine and incurred expenditure on replacement of hydraulic system with electrical control panel of main machine, since assessee was aware that, to put old machinery into working condition, said component was required to be replaced, such expenditure was in nature of capital expenditure

**[2025] 174 taxmann.com 164 (Kerala) HIGH COURT OF KERALA Mridul Raj Kunnon v. Commissioner of Income-tax**

Where employer deducted TDS from salary of assessee but same was not remitted by employer to Income Tax Department, assessee were not entitled to credit of any amount of TDS deducted from their

salaries

**[2025] 174 taxmann.com 869 (Bombay) HIGH COURT OF BOMBAY Mehta Jaising Combine v. Income-tax Officer Ward-27(8) Mumbai**

Where assessee was constituted as a private specific trust and Assessing Officer held that trust, through trustees, was assessable as an AOP and accordingly, interest claim of certain amount to beneficiaries was disallowed, since assessee, while filing return, had described itself as an AOP for which neither any attempt had been made to correct same nor any explanation was offered for making such a mistake, order passed by the Assessing Officer was to be upheld

**[2025] 173 taxmann.com 342 (Mumbai - Trib.) IN THE ITAT MUMBAI BENCH 'B' Shilpa Shetty Kundra v. Deputy Commissioner of Income-tax**

Where Assessing Officer levied penalty under section 272A(1)(d) in respect of non-compliance of notices issued under section 142(1), however, in subsequent assessment order passed under section 143(3), Assessing Officer had expressed satisfaction with compliances made by assessee, penalty under section 272A(1)(d) could not be imposed

**[2025] 174 taxmann.com 219 (Mumbai - Trib.) IN THE ITAT MUMBAI BENCH 'C' Praksh Pushparaj Golcha v. Assistant Commissioner of Income-tax**

Where Commissioner (Appeals) upheld addition towards LTCGs disclosed by assessee pertaining to alleged penny stock of a company sold by assessee by treating transaction as pre-arranged method employed to evade tax, since assessee furnished various evidences showing genuineness of transaction such as copies of bills of purchase of shares, Demat account, copy of bank statement, copy of ledger of broker in year of sale of shares, etc., however, same were not considered and discussed at all by Commissioner (Appeals), impugned order of Commissioner (Appeals) was to be set aside and he was to be directed to pass denovo order as per law

**[2025] 173 taxmann.com 686 (SC) SUPREME COURT OF INDIA Deputy Commissioner of Income-tax v. Castrol India Ltd.**

SLP dismissed against order of High Court that where assessee made adequate disclosures regarding CSR expenditure and section 80G deductions in various financial documents, including annual accounts and

tax audit reports and those details were already considered by Assessing Officer during original assessment, subsequent reopening by Assessing Officer would be treated as change of opinion as belief so formed lacked fresh tangible materials

**[2025] 174 taxmann.com 16 (Gujarat) HIGH COURT OF GUJARAT Kalpesh Jayantilal Lakdawala v. Chief Commissioner of Income-tax**

Where assessee could not include compensation received on compulsory acquisition of land in original return filed as compensation was received by assessee subsequent to filing of return, delay in filing revised return to claim refund of TDS was required to be condoned to avoid genuine hardship

**[2025] 173 taxmann.com 853 (Calcutta) HIGH COURT OF CALCUTTA Arun Kumar Bose v. Income-tax Officer**

Where rectification order was passed without serving notice and affording opportunity of hearing to assessee, same was in violation of provision laid down under section 154(3) and thus said order was to be set aside

**[2025] 173 taxmann.com 690 (SC) SUPREME COURT OF INDIA Natesan Krishnamurthy v. Income-tax Officer**

SLP dismissed against order passed by High Court that where assessee made purchase of Jewellery worth Rs. 34.48 crores by way of cash in auction, since assessee could not demonstrate that he was representing any syndicate and, moreover, he also failed to demonstrate a situation which compelled him to make payment in cash, impugned disallowance made under section 40A (3) was to be confirmed

**[2025] 174 taxmann.com 695 (SC) SUPREME COURT OF INDIA Mini Muthoottu Credit India (P) Ltd. v. Commissioner of Income-tax**

SLP dismissed as withdrawn against order of High Court that where assessee-company acquired land for business purposes by taking loan however said land was used for agricultural purposes, which yielded agricultural income, interest paid in respect of loan could not be allowed as a deduction under section 36(1)(iii)

**[2025] 173 taxmann.com 618 (Delhi) HIGH COURT OF DELHI J. G'S Departmental Store v. Income-tax Officer**

Where Assessing Officer passed an order under section 148A(d) holding that cash deposited by assessee in its bank account during demonetization period was disproportionately higher in comparison with cash deposited during corresponding period in previous financial year, since there was no such allegation in notice issued under section 148A(b), impugned order passed under section 148A(d) had travelled beyond information furnished to assessee and, thus, could not be sustained

**[2025] 173 taxmann.com 634 (Delhi - Trib.) IN THE ITAT DELHI BENCH 'A' Birlasoft Ltd. v. Assistant Commissioner of Income-tax**

Where quantum of increase in rent as per lease agreement had been claimed separately under head 'rent/lease equalization reserve' in computation of income and this method of accounting was being followed consistently over years and being accepted by revenue, same had to be allowed as business expenditure irrespective of nomenclature under which such expenditure was put into

**[2025] 174 taxmann.com 1012 (Surat-Trib.) IN THE ITAT SURAT BENCH Sardar Patel Vidya Sankul v. Commissioner of Income-tax(Exemption)**

Where registration granted to assessee under sub-clause (i) of clause (ac) of sub-section (1) of section 12A was a regular registration valid for five years from assessment year 2022-23 to assessment year 2026-27, there was no requirement to assessee for applying for final/regular registration under sub-clause (iii) of clause (ac) of sub-section (1) of section 12A

**[2025] 173 taxmann.com 819 (Raipur - Trib.) IN THE ITAT RAIPUR BENCH 'SMC' Shrikant Sharma v. Income-tax Officer**

Where Assessing Officer made additions with respect to cash deposited in assessee's bank account on ground that same was unexplained, since during appellate proceedings assessee mentioned that source of cash deposit was income from shares transaction and thereafter he claimed that he only

had agricultural income, since examination of facts went to root of matter, matter was to be remanded back to Commissioner(Appeals)

**[2025] 173 taxmann.com 916 (SC) SUPREME COURT OF INDIA Nokia Solutions and Networks India (P.) Ltd. v. Deputy Commissioner of Income-tax**

SLP dismissed against order of High Court that where reassessment notice was issued in name of a non-existent company that had already amalgamated with assessee, however a subsequent reassessment notice was issued in name of assessee after following procedure outlined in section 148A, reassessment proceedings would not be vitiated

**[2025] 174 taxmann.com 151 (Delhi) HIGH COURT OF DELHI Umesh Chandra Sharma v. Income-tax Officer**

Where reopening notice was issued against on ground that assessee had made exports under shipping bills which involved high value transaction, however, assessee claimed that shipping bill in question had been manually corrected and he had made no exports linked to PAN on which Assessing Officer has issued reopening notice to assessee, since Assessing Officer had not addressed issue of shipping bill in respect of which income had allegedly escaped assessment, matter was to be remanded

**[2025] 174 taxmann.com 1078 (Madras) HIGH COURT OF MADRAS TVS Credit Services Ltd. v. Deputy Commissioner of Income Tax**

Where notice under section 148A and order passed thereon were issued by Jurisdictional Assessing Officer (JAO) and not by a Faceless Assessing Officer (FAO), as required by provisions of section 151A, reducing "faceless assessment" to assessment by JAO by means of E-Proceedings might not constitute assessment in a faceless manner, thus, matter was to be referred to a Division/ Larger Bench on question of jurisdiction of JAO to conduct proceedings under section 148A.

Compiled by: CA. Megha Kalra

## ARTICLE SECTION

### Succession Planning Decoded: Tax-Efficient Ways to Preserve Your Legacy

“True mastery lies not just in creating wealth, but in preserving it and passing it on with foresight.”

This sentiment resonates deeply with family businesses, self-made entrepreneurs, and high-net-worth individuals who have spent years building successful ventures.

As their financial empires grow, one critical question often remains unanswered: What happens when it's time to hand over the reins?

Modern succession planning is no longer limited to distributing assets. It demands a thoughtfully designed roadmap that ensures a smooth transition across generations, retains strategic control, and aligns with legal and tax frameworks.

Traditionally in India, succession has been driven more by emotions than execution. But as legal and regulatory oversight has intensified under laws like the Income-tax Act, Companies Act, FEMA, and others, casual transfers and unwritten understandings now pose serious risks ranging from tax complications and legal disputes to business discontinuity. Whether the subject is shares in a company, leadership roles, or real estate holdings, the process of succession is just as crucial as the successor.

Succession planning is best understood as a holistic legal and financial strategy that governs the handover of wealth, authority, and responsibilities. It involves much more than drafting a will and it includes estate structuring, asset protection, tax planning, and a long-term blueprint for sustainability. The objective is not only to transfer assets but to equip the next generation to manage and grow them effectively.

#### Despite its significance, succession planning often faces common roadblocks:

- **Delayed decision-making:** Many business owners hesitate to start these conversations due to emotional attachments, fear of relinquishing control, or the discomfort of discussing mortality. Yet, postponement can lead to ambiguous outcomes and conflict, especially if unforeseen circumstances arise without a documented plan.
- **Limited awareness of tax impact:** Transfers of wealth—whether through gifting shares, properties, or businesses—carry significant tax

consequences, such as capital gains, stamp duty, and provisions like Section 56(2)(x) which governs taxation of gifts. Without proper tax advice, families may face unexpected and unavoidable liabilities.



- **Lack of formal legal arrangements:** Verbal agreements and informal family understandings often lack legal enforceability. While simple wills may suffice for liquid assets, they fall short for complex asset structures like business interests, HUF stakes, or jointly held properties.
- **Cross-border complications:** With more families having global footprints, the international angle brings additional challenges such as FEMA compliance, taxation on overseas inheritances, and regulatory disclosures for NRIs receiving Indian assets.

To overcome these challenges, it is imperative to adopt mentioned below structured, legally enforceable mechanisms that allow for seamless asset transfer, protect against disputes, and optimize tax outcomes.

#### 1. The Role of Private Family Trusts in Modern Estate Planning

One of the most versatile tools for succession is the private family trust. It offers asset protection, continuity, and control without immediate transfer of ownership. Properly drafted trust can protect assets from potential disputes, avoid probate, and mitigate tax exposure.

From a tax point of view, when someone gives money or assets to an irrevocable trust (set up for the benefit of family members), such gifts are not taxed under Section 56(2)(x) of the Income Tax Act. Also, if the transfer to the trust doesn't qualify as a 'transfer' under Section 2(47), then capital gains tax under Section 45 won't apply.

Trusts can be structured in different ways—discretionary or specific (determinate), revocable or irrevocable—and each type has different tax rules. These are mainly covered under Sections 60 to 64 (for revocable transfers or clubbing) and Section 161 (for taxation of trust income).

## 2. Holding Companies and LLPs: Centralizing Control and Ownership

Family-owned enterprises with multiple verticals often benefit from a holding entity model typically a private limited company or LLP. Consolidating assets under a single holding structure allows phased transfer of ownership through shares or interest, while management control remains with senior family members.

Such entities also provide governance flexibility and limit personal liability. From a tax standpoint, equity transfers need careful valuation as per Rule 11UA to avoid disputes under Section 50CA (for unlisted shares) or Section 56(2)(x) (for undervalued or free transfers). Transfers of immovable property under Section 50C also require scrutiny of stamp duty valuation to avoid deemed capital gains.

## 3. Will and Codicil: Fundamental but Not Always Sufficient

Wills continue to be key component of succession, but they need to be professionally drafted. A well-structured will should clearly list asset-wise distributions, contingency plans, and executor roles. For families with complex holdings, codicils are useful for updates without revoking the original will.

## 4. Gifting Strategies and Tax Implications

Thoughtful lifetime gifting can simplify succession and avoid inheritance disputes. Gifts from one relative to another are exempt under Section 56(2)(x), provided the definition of 'relative' under Explanation (e) is satisfied. Gifts from parents to children, siblings, or spouse are fully exempt, including gifts made through a trust for their benefit.

However, clubbing provisions under Section 64—especially for gifts to spouses or minor children—can lead to unintended taxability. Careful planning, proper documentation, and valuation are critical to avoid revenue scrutiny. Additionally, cross-border gifts involving NRIs must comply with FEMA rules and may attract tax implications in both jurisdictions.

## 5. Instruments for Family Governance: Shareholders' Agreements & Constitutions

When business and family interests are closely linked, succession planning should also cover governance. This means setting clear rules for how ownership and control will be managed. For example, a shareholder agreement, when combined with the Articles of Association, can lay down policies on who can own shares, how they can be transferred, how profits will be shared, and how directors are appointed. This helps avoid confusion or disputes during transitions.

In addition, a family constitution can act as a guiding document. It's especially useful when family members have different goals or live in different locations. While it's not a legal document, it supports legal tools like trusts and wills by setting shared values and expectations for the family's future.

### Regulatory Considerations: Overlooked but Critical

Cross-border succession involving NRIs or foreign assets must consider the FEMA framework. Gifts to or from NRIs may require reporting under Form FC-GPR, Form ODI, or Form FC-TRS depending on the nature of the asset. Non-compliance attracts penalties under FEMA and jeopardizes the legality of the transfer. The Companies Act also needs to be reviewed for related party transactions, board approvals, and share transfer restrictions. Transparency and documentation are key, especially under the Benami Property Law, which penalizes undisclosed and proxy ownership arrangements. Succession planning is no longer optional for high-net-worth individuals, business families, or professionals with diverse holdings. A delay in planning often translates into avoidable tax outflows, legal battles, and irreversible dilution of legacy. A tax-aware, legally sound plan backed by professional advice—ensures the continuity of both wealth and values.

As the Income-tax framework continues to evolve, the earlier one begins succession planning, the greater the flexibility to structure transitions tax-efficiently and legally. In preserving wealth across generations, structure and timing are everything.

“Good fortune is not just about earning wealth—it is about passing it on without chaos.”

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NOTE : The views and opinions expressed or implied in this newsletter are that of the contributors and do not reflect those of the District Taxation Bar Association (Direct Taxes), Ludhiana.

## DTBA ACTIVITIES



### Meaning of Black Money

- What is 'black money'? - Not defined in the IT Act or even the BMA.
- 'Black money' generally understood to mean 'assets or resources that have neither been reported to the public authorities at the time of their generation nor disclosed at any point of time during their possession'.
- Black Money may be generated from legal activities as well as illegal activities.
- In respect of tax laws, 'black money' understood to mean income or assets which have not been reported to tax authorities and on which tax has not been paid.

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### Concept of Beneficial Owner under BMA

- In *Dariga Bhavnagar Shah v. CIT*, BMA No. 20,226/Mun/2021, ITAT Mumbai held that merely because the assessee was named as a joint owner for administrative convenience would not classify him as a beneficial owner as per BMA.
- In *Jitendra Vinayak v. CIT*, W.A. No. 844/2022, Karnataka HC held that:
  - Where information was received by authorities under BMA after a search assessment u/s 153A of IT Act had been set aside by the ITAT, the burden to prove that the assessee is a beneficial owner of a foreign asset is on the authorities.
  - An order under BMA cannot be mechanically passed by merely relying upon the findings of the IT Department.

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