Indians Can Get Rs 10 Lakh Fine If Foreign Properties Are Not Disclosed

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Indian residents acquiring property abroad must follow strict compliance rules under FEMA and the Income-Tax Act. When buying property overseas, funds are often remitted through the Liberalised Remittance Scheme (LRS), allowing residents to send up to $250,000 annually for legitimate purposes, including real estate. Tax expert Shefali Mudra explains, "Under LRS, all resident individuals, including minors, may remit up to $250,000 per financial year for permissible transactions, including buying property abroad."

However, a 20% Tax Collected at Source (TCS) applies on remittances exceeding Rs 7 lakh. "For remittances under LRS for property purchases, TCS at 20 per cent applies for amounts over Rs 7 lakh," adds Sandeep Jhunjhunwala, partner at Nangia Andersen. Funds sent abroad must be declared in the individual's Income Tax Return (ITR), as failure to do so could lead to penalties and inquiries by the tax authorities.

Disclosing Foreign Property in Tax Returns

Indian residents holding overseas properties are required to declare them in their ITR under the Foreign Asset (FA) schedule. "Failure to disclose is considered a violation under the Black Money Act and results in a penalty of Rs 10 lakh for each financial year for which disclosure was not made," says Naveen Wadhwa, Vice-President, Research & Advisory, Taxmann. Rental income from such properties is also taxed under the "Income from House Property" section, and a standard 30% deduction applies for maintenance and repairs.

If taxes are paid abroad on rental income, a foreign tax credit can be claimed in India. Similarly, capital gains from property sales are subject to tax. Properties held for over 24 months qualify for Long-Term Capital Gains (LTCG) with a 20% tax rate and indexation benefits, provided they were purchased before July 23, 2024. If purchased after this date, LTCG is taxed at 12.5% without indexation benefits.

Section 54 Exemption: Overseas Property Sale Proceeds

Section 54 of the Income-Tax Act provides tax relief for reinvested capital gains from the sale of overseas property. For HNIs, this can be a strategic tax-saving option. The exemption is available if the gain is long-term, and the reinvestment is in residential property in India. Vishal Dhawan, Chief Financial Planner at Plan Ahead Wealth Advisors, advises, "It's beneficial to work with a tax advisor who understands the tax regulations in both jurisdictions and the Double Tax Avoidance Agreement (DTAA) between that country and India."

Final Thoughts

The increase in tax scrutiny for undeclared foreign properties signals India's strong stance against tax evasion. Those with overseas assets should seek expert guidance to ensure compliance, maximize benefits, and avoid penalties.