

DESAI SAKSENA & ASSOCIATES

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Friday Tax Alert

From:

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CBDT hereby notifies that expenses incurred to settle proceedings initiated under SEBI, SCRA, Depositories & Competition Act are not allowable.

In exercise of the powers conferred by clause (iv) of Explanation 3 of sub-section (1) of Section 37 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that any **expenditure incurred to settle proceedings initiated in relation to contravention or defaults under the following laws shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure**, namely:

- the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- the Depositories Act, 1996 (22 of 1996);
- the Competition Act, 2002 (12 of 2003).

(vide notification [F. No. 38/2025/F. No 370142/11/2025-TPL])

CBDT clarifies disallowance of legal settlement expenses under section 37 via FAQs dated 24.04.2025:

- **What is section 37 of the Income-tax Act, 1961 ('the Act')?**
Answer: Section 37 of the Act provides for allowability of expenditure laid out or expended wholly and exclusively for the purpose of business or profession.
- **What is Explanation 1 of sub-section (1) of section 37 of the Act and its relation with Explanation 3 thereof**
Answer: *Explanation 1 of sub-section (1) of section 37* provides that any expenditure incurred by an Assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and consequently, no deduction or allowance can be claimed for such expenditure.

Further, Explanation 3 of section 37 clarifies the term "expenditure incurred by an Assessee for any purpose which is an offence or which is prohibited by law"
- **What is the amendment made in Explanation 3 vide Finance (No. 2) Act, 2024?**
Answer: *Explanation 3 to sub-section (1) of section 37* of the Act was amended vide Finance No. 2 Act, 2024 to clarify that the term "expenditure incurred by an Assessee for any purpose which is an offence or which is prohibited by law" will also include any expenditure incurred by an Assessee to settle proceedings initiated in relation to a contravention under any law for the time being in force, as may be notified by the Central Government in the Official Gazette in this behalf.
- **Which laws been notified under the amended Explanation 3?**
Answer: *Vide CBDT Notification no. 38/2025, dated 23-4-2025* it has been provided that any expenditure incurred to settle proceedings initiated in relation to

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contravention or defaults under the following laws shall not be deemed to have been incurred for the purpose of business or profession –

- the Securities and Exchange Board of India Act, 1992 (15 of 1992)
- the Securities Contracts (Regulation) Act, 1956 [42 of 1956]
- the Depositories Act, 1996 [22 of 1996]
- the Competition Act, 2002 [12 of 2003].

➤ **What are the implications of this notification?**

Answer: Any expenditure incurred by an Assessee for settlement of proceedings initiated in relation to contravention or defaults under the abovementioned laws cannot be claimed as a deduction or allowance under the Income tax Act from AY 2025-26 onwards.

Form no. 3CD of the Income-tax Rules, 1962 has also been amended by CBDT Notification no. 23/2025, dated 28-3-2025 to capture details pertaining to such expenses.

➤ **From when has the amendment been made effective?**

Answer: This amendment is effective from 1st day of April, 2025 and shall accordingly apply from Assessment Year 2025-26 onwards.

CBDT notifies 10 new items on which TCS needs to be collected.

In exercise of the powers conferred by clause (ii) of sub-section (1F) of section 206C of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the following goods of the value exceeding ten lakh rupees for collection of tax at source as specified therein

Sl. No.	Nature of goods
1	any wrist watch
2	any art piece such as antiques, painting, sculpture
3	any collectibles such as coin, stamp
4	any yacht, rowing boat, canoe, helicopter
5	any pair of sunglasses
6	any bag such as handbag, purse
7	any pair of shoes
8	any sportswear and equipment such as golf kit, ski-wear
9	any home theatre system
10	any horse for horse racing in race clubs and horse for polo

This notification shall come into force on the date of its publication in the Official Gazette.

(vide notification [No. 36/2025/F. No. 370142/11/2025-TPL])