

HIGH NET WORTH INDIVIDUALS, TRANSPARENCY AND INTERNATIONAL COOPERATION

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High Net worth Individuals (HNIs)

Merrill Lynch estimated the number of High Net Worth Individuals in the world at 9.5 million - more than double the number a decade ago. They are estimated to hold \$37 trillion in assets.

(HNI defined as owning at least US\$1million in financial assets)

India is estimated to be having about 170000 HNIs

This number apparently does not include those who own non financial assets

The distribution of incomes returned by Individuals for AY 2010-11 is:
(Note only data relating to e-filed returns taken)

Details Of Incomes Returned By Individual s for AY2010-11

Income Slab	No. of Returns	Tax Paid (in Rupees)
0-1Lac	24,35,930	10,84,32,11,370
1Lac-2Lac	1,35,46,961	36,84,57,23,797
2Lac-5Lac	88,14,931	1,70,86,95,62,707
5Lac-10Lac	13,16,270	81,21,30,07,029
10Lac-50Lac	6,74,579	3,07,92,61,01,691
50Lac-1Cr	39,218	1,47,17,26,59,968
1Cr-10Cr	21,768	1,27,42,79,06,608
10Cr-100Cr	631	30,90,57,56,296
>100Cr	83	8,25,99,34,232
Total	2,68,50,371	92146,38,63,698

*1 Lac = 1,00,000

1 Cr = 1,00,00,000

Indian Wealth Pyramid

High Networth Individuals stratified by Credit Suisse's *Global Wealth Report 2010*



HNIs

Apparently high net worth does not necessarily mean high returned income

It may however be mentioned that several types of incomes such as Agricultural income, interest on tax free bonds, dividends from companies, etc. are exempt from taxation in the cases of the recipients.

A specialised division of the Banking Sector i.e. Private and Investment Banking grew to service this group.

HNIs are the main customers of offshore finance business.

HNIs follow many methods to reduce tax incidence and for secrecy.

Some strategies used by HNIs

Own your assets, but not be the owner on paper

Obtain a second passport or even a second identity so that you are protected when times get rough. Certain jurisdictions grant a legal second passport on fast track if a person buys a property or commits certain investment

Rules of residency are misused/manipulated by many HNIs by adjusting the periods spent in India and other countries to become Non Residents

Shift incomes from taxable jurisdictions to more low / no tax jurisdictions

Make transactions in silence, low-profile is the key.

Misuse through Trusts

When a trust is set up the owner of the asset gives it to the trust and the trust becomes the legal owner of the asset. The asset has to be used in the manner specified in the trust deed for the benefit of the beneficiaries

Thus a legal barrier is created separating the ownership of asset and the beneficiary

It becomes an information barrier also as Trust creates secrecy.

For example, if a Trust owns shares, while the name of the Trust appears in records of the company, the names of donor and the beneficiary are not publicly available

Capital Flight

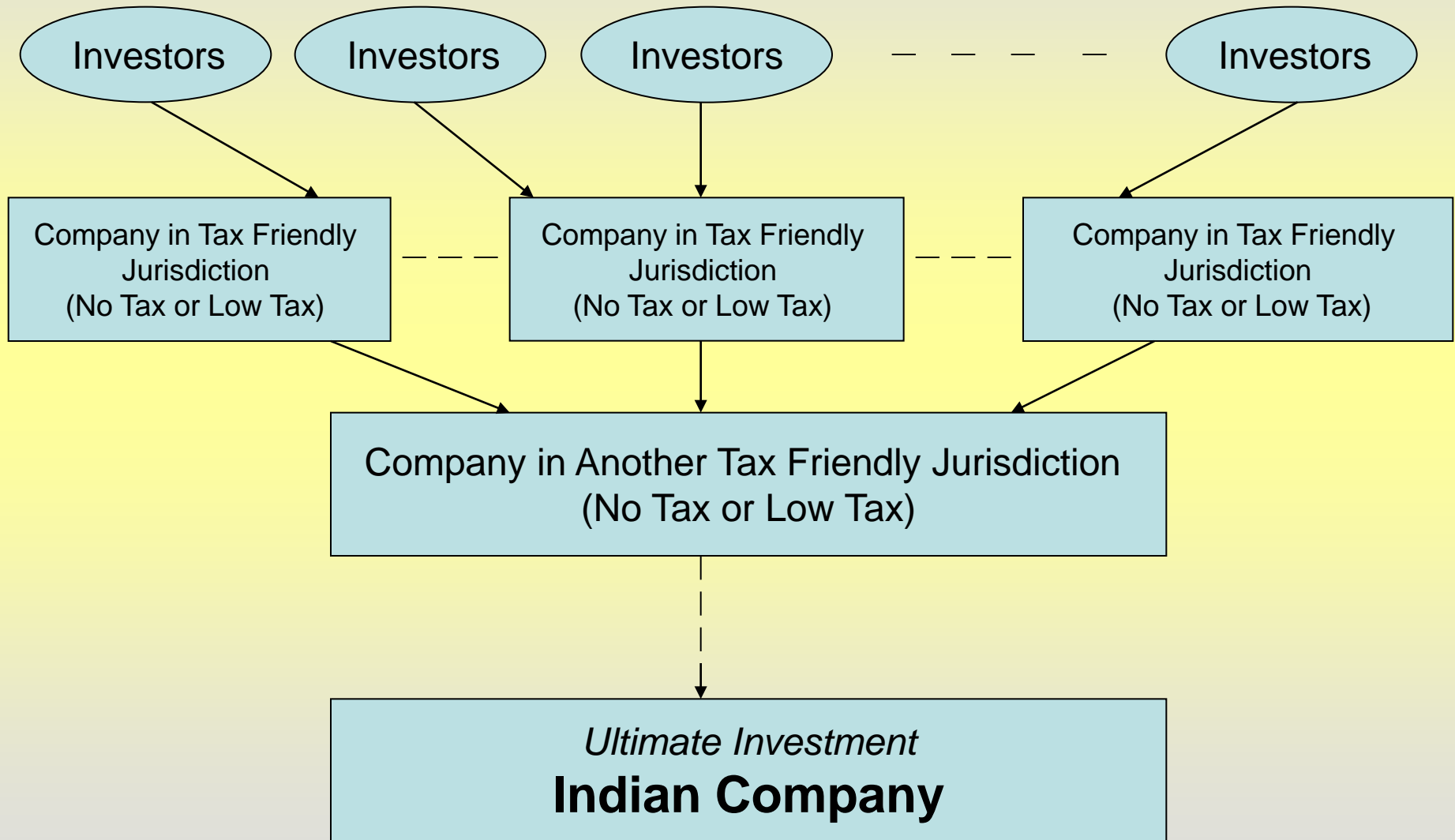
Investments flow through low/ no tax jurisdictions

Investments are made through circuitous and multi layered transactions across territorial jurisdictions.

As a result taxes are evaded/ avoided by transferring management control / assets in low tax / no tax jurisdictions.

There is a need to subject the transactions based on the content and spirit of the transaction rather than on the form.

Investment Pattern by Layering



Challenge

HNIs raise many issues for taxation.

More resources are needed to deal with them compared to other normal tax payers.

Acquiring the necessary information (including from other jurisdictions) to ensure compliance and dealing with avoidance schemes and tax shelters marketed to them by certain intermediaries requires high skills.

Securing International co operation between tax administrations

When substantial tax demand is raised, an HNI may shift his residence to a jurisdiction which does not cooperate or with which there is no arrangement for recovery of taxes.

International Co operation

In today's globalised economy effective information exchange is essential for countries to maintain sovereignty over the application and enforcement of their tax laws and to ensure the correct application of tax conventions.

While taxpayers can operate relatively unconstrained by national borders, tax authorities have to respect these borders in carrying out their functions.

Exchange of information provisions offer Tax Jurisdictions a legal framework for co-operating across borders without violating the sovereignty of other countries or the rights of taxpayers.

Exchange of Information

Information exchange can be classified into 4 broad areas

- Automatic exchange of information
- Exchange of specific information on request with respect to a particular tax payer
- Spontaneous exchange of information
- Simultaneous or tax examinations abroad, industry wise exchange of information etc.

Estimate of Black Money in India

Global Financial Integrity (GFI) in its Nov 2010 report estimated that from 1948 to 2008, India lost a total of \$213 billion in illicit financial flows (or illegal capital flight).

These illicit financial flows were generally the product of tax evasion, corruption, bribery and kickbacks, criminal activities, and efforts to shelter wealth from country's tax authorities and outflow of fund through mispricing (which account s for approximately 77.6% of total illicit outflows)

India's Strategy

The strategy comprises of

- Joining the Global crusade against black money;
- Creating an appropriate legislative framework;
- Setting up institutions for dealing with illicit money;
- Developing system for implementation; and
- Imparting skills to the manpower for effective action.

Global crusade against Black money

Initiatives of India

- In G20, India has played very active role in raising various issues and building consensus on them.
- India is playing a key role in Global Forum on Transfer Pricing and Exchange of Information for tax purpose as **Vice Chairman of Peer Review Group**.
- In June 2010 India became the 34th member of Financial Action Task Force, responsible for enforcement of anti-money laundering (AML) and combating financing of terrorism (CFT) regime.
- In December 2010 it became 9th member of Eurasia group. India has also joined Task Force on financial integrity and Economic Development.

Global crusade against Black money

Initiatives of India

- India joined Asia Pacific Group against money laundering
- India gained membership of Eurasian Group
- India joined Egmont group to facilitate faster communication and interaction among Financial Intelligence Units.
- India is actively participating in policy groups of OECD and UN on Exchange of Information, International Taxation and Transfer Pricing as observer and member respectively.

Creating Legislative framework

- Started renegotiation with
 - 75 countries to broaden the scope of Article concerning Exchange of Information to allow for Exchange of Banking Information and negotiation of DTAA and Tax Information Exchange Agreement (TIEA) with new countries and
 - 22 priority countries/jurisdictions (no tax or low tax countries/jurisdictions)
 - As on date, we have completed negotiation with 60 countries/jurisdictions (24 existing DTAA, 19 new DTAA and 17 TIEA with low or no tax countries/jurisdictions)
 - Negotiations with 26 countries/jurisdictions are under progress. 23 treaties (15 DTAAs/ 8 TIEAs) have been signed
- Efforts are on to get banking information relating to the earlier period also

Bank Secrecy

Bank secrecy is not incompatible with the standard of Global forum. All countries have some form of bank secrecy. What is important is that it can be lifted in well defined circumstances to enable countries to enforce their own tax laws and to respond to requests for information pursuant to TIEA or Tax treaties so that treaty partner can administer their own laws.

(Answer to **Q31 of FAQ** on Global Forum on Transparency and Exchange of Information)

Creating Legislative framework

- Tightened provisions of transfer pricing.
- Proposed GAAR, CFC rule and reporting requirement of foreign asset in DTC.
- PMLA was amended on 01.06.2009 to increase list of scheduled offenses.
- Commissioned study to estimate quantum of Black Money both inside and outside the country in March, 2011.
- 29 of our existing 81 DTAA contain article for assistance in collection of taxes including taking measures of conservancy. We are trying to have this Article in other treaties as well.

Creating Legislative framework

- Enacted legislation incorporating counter measure against non-cooperative jurisdiction (Section 94 A empowers govt to notify a country or territory for lack of effective exchange of information)
- Proposed GAAR, CFC rule and reporting requirement of foreign asset in DTC.
- PMLA was amended on 01.06.2009 to increase list of scheduled offenses.
- Commissioned study to estimate quantum of Black Money both inside and outside the country in March, 2011.
- 29 of our existing 81 DTAA also contain article for assistance in collection of taxes including taking measures of conservancy. We are trying to have this Article in other treaties as well.

Setting up Institutions to deal with illicit funds

- 8 more Income Tax Overseas Units are being set up (In addition to existing two overseas units).
- Computerized Exchange of Information unit (EOI Unit) has been set up.
- Directorate of criminal investigations has been set up.

Developing systems

- New policy for deployment of manpower to Directorate of Transfer Pricing and International Taxation is implemented.
- Manpower of FT&TR Division is doubled.
- Directorate of Enforcement is strengthened by creating additional posts

Imparting Skills

- More than 80 officers were imparted specialized training abroad in field of International Taxation and Transfer Pricing in F.Y. 2010-11 and in the current year till date.
- High level international seminar on transfer pricing was held in India in month of June 2011.
- Skill up gradation and capacity building exercises are regularly undertaken.

India has developed an Integrated Data Management System based on a phonetic search engine (for identifying similar sounding names of tax payers) that does a 360 degree profiling of a tax payer based on relationships, addresses, and pulls out all the data available within the system on such persons. This is being used extensively for investigation and enforcement.

Results Achieved

1. Specific requests have been made by tax authorities in 350 cases till date
2. 9920 pieces of Information regarding details of asset and payments received by Indian citizen in several countries have been obtained which are now under verification
3. 30,765 pieces of domestic information about suspicious transactions has been obtained by FIU which are under investigation
4. Directorate of Transfer Pricing has detected mispricing of Rs. 66,085 crore in last financial year and Rs 42,838 crore in the current financial year

Results Achieved-Taxes Realised

5. Directorate of International Taxation has collected taxes of Rs. 33,784 crore from cross broader transactions in last two financial years.
6. Investigation wing of CBDT has detected concealed income of Rs. 18,750 Crore in last two financial years. Focused searches have been conducted in a number of cases in the current year on the basis of information received from foreign jurisdictions under the provisions of Double Taxation Avoidance Agreements.
7. Under DTAA India received information regarding certain Indians having bank accounts abroad. In 80 cases, the department has detected undisclosed income of Rs 438 crores and taxes of Rs 135 crores realized so far

Results Achieved-International appreciation

8.OECD and Task Force on Financial Integrity & Economic Development have acknowledged outstanding work done by India in its crusade against Black Money.

9. International organizations like Global Forum, OECD, Task Force on Financial Integrity, etc. have appreciated the role played by India.

Thank You