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“This document contains the provisions of the Income-tax Act, 2025, as amended by the Finance Act, 2026.”

FAQs on Benami Property

Q1. What is the meaning of Benami property?

The term “Property” is defined in Section 2(26) of the Prohibition of Benami Property Transactions Act, 1988 (PBPT Act) as under:

- “Property” means assets of any kind, whether movable or immovable, tangible or intangible, corporeal or incorporeal.
- It includes any right or interest or legal documents or instruments evidencing title to or interest in the property;
- It also includes the converted form of any property where such property is capable of conversion into some other form;
- It also includes the proceeds from the property.

Therefore, all forms of assets come under the definition of “property”, bringing into its scope real estate, shares, vehicles, fixed deposits, bank deposits, Bank lockers, private lockers, etc.

The scope of the term “Benami Property” as defined in Section 2(8) of the PBPT Act covers:

- any property which is the subject matter of a Benami transaction; and
- proceeds from such property.

Benami properties are those that an owner holds through proxies. The property is purchased in the name of or held in the name of a person who neither paid for it nor actually enjoys it. It may even be held in the name of a non-existent person. Such a front person is known as 'Benamidar'. This name is only an alias for the actual owner, the

'Beneficial Owner'. Thus, the Benami property transaction is where the 'Beneficial Owner' buys the property in the name of a Benamidar but seeks to enjoy it himself.

Q2. What is the meaning of the Benami transaction?

A Benami transaction means the following transactions or arrangements:

(a) A transaction or an arrangement:

(A) Where a property is transferred to or is held by a person, and the consideration for such property has been provided, or paid by, another person; and

(B) The property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration.

However, a transaction or an arrangement which satisfies conditions (A) and (B) above is not treated as benami when the property is held by:

A Karta, or a member of a HUF, as the case may be, and the property is held for his benefit or the benefit of other members in the family, and the consideration for such property has been provided or paid out of the known sources of the HUF;

A person standing in a fiduciary capacity for the benefit of another person towards whom he stands in such capacity and includes a trustee, executor, partner, director of a company, a depository, or a participant as an agent of a depository under the Depositories Act, 1996 and any other person as may be notified by the Central Government for this purpose;

Any person being an individual in the name of his spouse or in the name of any child of such individual, and the consideration for such property has been provided or paid out of the known sources of the individual;

Any person in the name of his brother or sister or lineal ascendant or descendant, where the names of brother or sister or lineal ascendant or descendant and the individual appear as joint-owners in any document, and the consideration for such property has been provided or paid out of the known sources of the individual.

Examples

Mr. A buys a house in the name of his sister-in-law Mrs. B. Payment has been made by A. He and his family live in that house. Even if B is a rich lady, the transaction is benami. B is the Benamidar, and A is the beneficial owner. [Illustration from "Keep away from Benami Transaction" leaflet issued by the Income Tax Department].

It would, however, not be a benami transaction if it can be proved that consideration was paid out of HUF funds and the property was purchased for the benefit of the HUF family [Exception (i) to Section 2(9)(A)]. It would also not be a benami transaction if it can be proved that the sister-in-law B was in a fiduciary relationship vis-a-vis Mr A [Exception (ii) to Section 2(9)(A)]

Mr. P wants to take a liquor license from the government. He pays the money in the name of employee Mr K, and the contract is awarded to Mr K, but Mr P is deriving benefit from the liquor license. The transaction is a benami transaction. Mr. K is the

benamidar. Mr. P is the beneficial owner and profits from such liquor business shall be the benami property. [Illustration from "Keep away from Benami Transaction" leaflet issued by the Income Tax Department].

(b) A transaction or an arrangement in respect of a property carried out or made in a fictitious name;

Example: Fixed deposits kept in the name of fictitious persons are a benami transaction/benami property [Illustration from "Keep away from Benami Transaction" leaflet issued by the Income Tax Department].

(c) A transaction or an arrangement in respect of a property where the owner of the property is not aware of, or denies knowledge of, such ownership;

Example: Cash kept in a bank locker in the name of his employee/relative who denies knowledge is a benami property [Illustration from the leaflet "Keep away from Benami Transaction" issued by the Income-Tax Department].

(d) A transaction or an arrangement in respect of a property where the person providing the consideration is not traceable or is fictitious.

Q3. Who is Benamidar?

Benamidar means a person or a fictitious person, as the case may be, in whose name the benami property is transferred or held and includes a person who lends his name. Benamidar is only an alias for the actual owner, the 'Beneficial Owner'.

Q4. Who is the Beneficial Owner?

Beneficial owner means a person, whether his identity is known or not, for whose benefit the benami property is held by a Benamidar. Sometimes the Benamidar cannot know or disclose the identity of the real owner. He may have only taken the money and placed some signatures. Even in these conditions, the property will be benami.

Q5. What is the definition of property?

Property means assets of any kind, whether movable or immovable, tangible or intangible, corporeal or incorporeal. It also includes any right or interest of legal documents or instruments evidencing title to or interest in the property and where the property is capable of conversion into some other form, then the property in the converted form and also includes the proceeds from the property.

Q6. What is the meaning of transfer?

A transfer includes a sale, purchase, or any other form of transfer of right, title, possession, or lien.

Q7. Is property held as benami liable to confiscation?

Yes, any property that is the subject matter of a benami transaction shall be liable to be confiscated by the Central Government.

Q8. What are the prosecution provisions for a person who enters into a Benami transaction?

Whoever enters into any benami transaction on or after 01-11-2016 shall be punishable in accordance with Section 53 of the Act. Section 53(1) provides

that where any person enters into a benami transaction in order to defeat the provisions of any law, to avoid payment of statutory dues or to avoid payment to creditors, the following shall be guilty of the offence of benami transaction:

- Beneficial owner,
- Benamidar and

Any other person who abets or induces any person to enter into a benami transaction

Where any person is found guilty of the offence of benami transaction as above,

- he shall be punishable with rigorous imprisonment for a term not less than one year but which may extend to 7 years and
- he shall also be liable to a fine which may extend to 25% of the fair market value of the property.

However, the Initiating Officer may tender to benamidar or any other person (other than beneficial owner) immunity from penalty, with the previous sanction of the competent authority as referred to in section 55, on condition of his making a full and true disclosure of the whole circumstances relating to the benami transaction (w.e.f. 01-10-2024).

Q9. Can a Benamidar re-transfer the Benami property to the beneficial owner or any other person?

No. Re-transfer of the Benami property by the Benamidar to the beneficial owner or any other person acting on his behalf is prohibited, and such a re-transfer is deemed to be null and void.

Example: If A, the beneficial owner, purchases a property in the name of Benamidar B. To avoid confiscation, Benamidar B re-transfers the benami property either to A, the Beneficial Owner, or to P, a person acting on behalf of the Beneficial Owner. Both these transactions are null and void [Illustration from "Keep away from Benami Transaction" leaflet issued by the Income Tax Department].

Q10. Can a Benamidar sell away Benami property to avoid confiscation? Can the property be confiscated from the purchaser?

Section 27(2) of the PBPT Act protects the interests of a genuine purchaser/holder of property by providing that Adjudicating Authority shall not confiscate property adjudicated to be benami property if such property was held or acquired by a person from the Benamidar for adequate consideration prior to the issue of notice by Initiating Officer and without his having knowledge of the Benami transaction.

Further, Section 57 of the PBPT Act provides that where, after the issue of a notice under Section 24, any property referred to in the said notice is transferred by any mode whatsoever, such transfer shall, for the purposes of the proceedings under this Act, be ignored. If such property is subsequently confiscated by the Central Government then the transfer of such property shall be deemed to be null and void.

Q11. Who are the authorities under the PBPT Act?

The following shall be the authorities for the purposes of this Act:

- Initiating Officer;
- Approving Authority;
- Administrator; and
- Adjudicating Authority.

Q12. What are the powers of the authorities to initiate a proceeding under the PBPT Act?

The powers vested with the authorities are as follows:

- Power to issue summons;
- Power requiring certain authorities to assist in the enquiry;
- Power to call for information;
- Power to impound documents produced before him;
- Power of the authority to conduct an enquiry.

Q13. What is the procedure for confiscation of Benami property?

The procedure for attachment, adjudication and confiscation of benami property is explained in Sections 24 to 29 of the PBPT Act.

- Notice and attachment of property involved in Benami transaction (Section 24)
- Manner of service of notice (Section 25)
- Adjudication of Benami property (Section 26)
- Confiscation and vesting of Benami property (Section 27)
- Management of properties confiscated (Section 28)
- Possession of the property (Section 29)

The authorities shall follow the above procedure to confiscate the Benami property.

Q14. What is the pre-requisite to issue a show-cause notice under Section 24?

Pre-requisites under Section 24 for the IO to issue a show-cause notice to the Benamidar for confiscation of the alleged Benami property:

- a) The material is collected by the Income-Tax Department and is in the possession of IO;

- b) Based on the material in possession, IO forms a belief that property is held Benami by a Benamidar, and he has reasons for that belief;
- c) IO records reasons for belief that property is held Benami by a Benamidar. When the above conditions are satisfied, the IO can issue a show-cause notice to the person he has reasons to believe is a Benamidar in respect of any property to show cause within the time specified in the notice why property mentioned in show cause notice should not be treated as a Benami property.

Q15. How is the show-cause notice to be served?

Section 25 provides that the notice under Section 24(1) may be served on the person named therein either by post or as if it were a summons issued by a Court under the Code of Civil Procedure, 1908. The notice may be addressed:

- In the case of an individual, to such individual;
- In the case of a firm, to the managing partner or the manager of the firm;
- In the case of a HUF, to karta or any member of such family;
- In the case of a company, to the principal officer thereof;
- In the case of any other AOP or BOI, to the principal officer or any member thereof;
- In the case of any other person (not being an individual), to the person who manages or controls his affairs

Q16. Whether the show-cause notice has to be served to the beneficial owner also?

The copy of the show-cause notice has to be sent to the beneficial owner, if known.

Note: The benamidar, to whom a notice has been issued or the beneficial owner to whom a copy of such notice has been issued, shall furnish the explanation or submissions, if any, within the period specified in the said notice or such period as may be extended by the Initiating Officer, not exceeding three months from the end of the month in which the said notice is issued.

Q17. What is the procedure for the provisional attachment of property specified in the show-cause notice during the pendency of the inquiry?

Provisional attachment can be made if the IO is of the opinion that the noticed property would be alienated during the period specified in the show-cause notice. The provisional attachment can be made only with the previous approval of the Approving Authority.

The provisional attachment cannot be for more than 4 months from the end of the month in which notice under section 24(1) is issued. The said period of 4 months cannot be extended.

Within the said 4-month period, the following activities are to be completed by IO:

- a) necessary inquiries and investigations are to be completed;
- b) necessary reports or evidence to be called for;
- c) reply if received to SCN to be considered; and
- d) based on the above, decision is to be arrived at whether the initial bona fide doubt that the property is benami has been dispelled and IO is satisfied that it is not benami property. If so, with prior approval of the Approving Authority, the provisional attachment shall be revoked, proceedings dropped, and no reference to the Adjudicating Authority shall be made for adjudication;
- e) If the initial bona fide doubt that it is benami property is strengthened or is not dispelled, then it is a case to be referred to the Adjudicating Authority. If so, with prior approval of the Approving Authority, IO shall pass the order continuing the provisional attachment till the Adjudicating Authority completes adjudication and passes an order under Section 26(3). If not already provisionally attached, IO shall, with prior approval of the Approving Authority, pass the order of attachment till the Adjudicating Authority completes adjudication and passes an order under Section 26(3).

In case of (e) above, the case is to be referred to the Adjudicating Authority within one month from the end of the month in which the said order has been passed

Q18. What is the procedure for the adjudication before the Adjudicating Authority?

Section 26 provides for the adjudication hearing before Adjudicating Authority, culminating in an adjudication order holding the property/case referred by IO to be benami property or not and confirming or revoking IO's provisional attachment.

The procedure for adjudication hearings under Section 26, in a nutshell, is as follows:

- a) Receipt of reference under Section 24(5) from IO in respect of any alleged benami property;
- b) Where in the course of proceedings before it, the Adjudicating Authority has reason to believe that a property, other than a property referred to it by the IO is benami property, it shall provisionally attach the property, and the property shall be deemed to be a property referred to it on the date of receipt of the reference under Section 24(5);

- c) The Adjudicating Authority may, at any stage of the proceedings, either on the application of any party, or suo motu, strike out the name of any party improperly joined or add the name of any person whose presence before the Adjudicating Authority may be necessary to enable him to adjudicate upon and settle all the questions involved in the reference;
- d) Notice to be issued by Adjudicating Authority under Section 26(1) within 30 days of receiving a reference from IO;
- e) Notice should allow not less than 30 days for compliance with its requirement;
- f) The Adjudicating Authority shall consider the reply, if any, to the notice issued;
- g) The Adjudicating Authority may make or cause to be made such inquiries and calling for such reports or evidence as Adjudicating Authority deems fit;
- h) The Adjudicating Authority shall take into account all relevant materials;
- i) The Adjudicating Authority shall provide an opportunity of being heard to the person specified as a Benamidar in the notice, the Initiating Officer, and any other person who claims to be the owner of the property;
- j) Where the Adjudicating Authority is satisfied that some part of the properties in respect of which reference has been made to him is benami property, but is not able to specifically identify such part, he shall record a finding to the best of his judgment as to which part of the properties is held benami;
- k) The Adjudicating Authority shall pass an order under Section 26(3):
- l) holding the property not to be a benami property and revoking the attachment order; or
- m) holding the property to be a benami property and confirming the attachment order, in all other cases.
- n) No order under Section 26(3) shall be passed after the expiry of one year from the end of the month in which the reference from IO is received under Section 24(5).

Q19. What is the procedure for the confiscation of the property when an adjudication order is passed under Section 26 holding it to be a Benami property?

Section 27 provides for the confiscation and vesting of benami property as under:

Where an order is passed in respect of any property under Section 26(3) holding such property to be a benami property, the Adjudicating Authority shall, after giving an opportunity of being heard to the person concerned, make an order confiscating the property held to be a benami property.

Where an appeal has been filed against the order of the Adjudicating Authority, the confiscation of property shall be made subject to the order passed by the Appellate Tribunal under Section 46.

The confiscation order as above cannot be made if property adjudged benami property in order under Section 26(3) was held or acquired

- by a person from the benamidar
- for adequate consideration,
- prior to the issue of show cause notice under Section 24(1)
- without his having knowledge of the benami transaction.

Where an order of confiscation has been made as above, all the rights and title in such property shall vest absolutely in the Central Government free of all encumbrances, and no compensation shall be payable in respect of such confiscation.

Any right of any third person created in such property with a view to defeat the purposes of this Act shall be null and void.

Where no order of confiscation is made upon the proceedings under this Act attaining finality, no claim shall lie against the government.

Section 28(1) provides that the Administrator shall have the power to receive and manage the property in relation to which an order of confiscation under Section 27(1) has been made, in such manner and subject to such conditions, as may be prescribed.

Section 29 stipulates the procedure to be followed by the Administrator for taking possession of confiscated property. The Administrator shall:

- a) by notice in writing, order within seven days of the date of the service of notice to any person, who may be in possession of the benami property, to surrender or deliver possession thereof to the Administrator or any other person duly authorised in writing by him in this behalf;
- b) in the event of non-compliance of the order in (a) above, or if in his opinion, taking over of immediate possession is warranted, for the purpose of forcibly taking over possession, requisition the service of any police officer to assist him and it shall be the duty of the officer to comply with the requisition.

Q20. What is the time limit to file an appeal to Appellate Tribunal?

Any person, including the Initiating Officer, aggrieved by an order of the Adjudicating Authority (order of adjudication under Section 26(3) either holding property to be not benami property and revoking attachment order or holding property to be benami property and confirming the attachment) may prefer an appeal to the Appellate Tribunal within a period of 45 days from the date on which such order is received by the Initiating Officer or received by such person.

Q21. What is the process where a person dies during the course of any proceeding?

Where a person dies during the course of any proceeding under this Act, any proceeding taken against the deceased before his death shall be deemed to have been

taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased.

Q22. What is the time limit to rectify a mistake apparent on the face of the record?

The Appellate Tribunal or any authority may, in order to rectify any mistake apparent on the face of the record, amend any order passed by it within a period of 1 year from the end of the month in which such order was passed.

However, no amendment shall be made if the amendment is likely to affect any person prejudicially unless he has been given notice of intention to do so and has been given an opportunity of being heard.

Q23. What is the time limit to file an appeal to the High Court?

Any party aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within a period of 60 days from the date of communication of the decision or order of the Appellate Tribunal to him on any substantial question of law arising out of such order.

Q24. What is the punishment for false information submitted by the person who is required to furnish information under this Act?

Where any person, who is required to furnish information under this Act, knowingly gives false information to any authority or furnishes any false document in any proceeding under this Act, he shall be punishable with:

- Rigorous imprisonment for a term which shall not be less than 6 months, but which may extend to five years and
- Shall also be liable to a fine which may extend to ten per cent of the fair market value of the property.

Further, any person who enters into a benami transaction to evade the provisions of any law, avoid payment of statutory dues, or defeat the claims of creditors commits an offence under the Benami law. The beneficial owner, the benamidar, and any person who abets or induces such a transaction are all liable for prosecution.

Upon conviction, the offender is punishable with rigorous imprisonment ranging from 1 year to 7 years, along with a fine of up to 25% of the fair market value of the benami property.