



# *How to prevent Search & Seizure*

*Under Income Tax Act*

## What leads to income tax raids, searches and seizures

- ❖ Non compliance with Summon & Notice u/s 131(1),142(1) and other relevant section
- ❖ The summons or notice calls for the books of account or other documents to be produced before the authorised officer as soon as earlier
- ❖ One should not keep any unaccounted or undisclosed money, property or income popularly known as black money.
- ❖ All unaccounted income, should be declared. If such a disclosure is made before its detection by the Income Tax Department, the chances of being trapped in a tax raid are minimised



## *Make correct disclosure of income and wealth in returns*

- It is always better to make a full and true disclosure of one's income, whether taxable or fully or partially exempt, in the income tax return filed
- This ensures compliance with the statutory provisions of the Income Tax Law





## *Comply with summons or notices to prevent a tax raid*

- Non-compliance with the summons issued under Section 142(1) by the Assessing Officer for the production of books of account or other documents might result in an income tax raid.
- It is, therefore, absolutely necessary to fairly and properly comply with the summons
- Co-operation on the part of a person, whether he is an income tax assessee or not, will ensure prevention of a raid.



## *How to declare exempted or non-taxable income and wealth*

- It is advisable for an assessee to declare the nature and source of such non-taxable income or other receipts in the income tax and wealth tax returns, or in a statement enclosed with the returns
- When the entire picture is placed before the Assessing Officer, there is little scope or raid on the grounds of possessing undisclosed income



## *Guidelines for seizure of jewellery and ornaments in course of search*

- In the case of a wealth-tax assessee, gold jewellery and ornaments found in excess of the gross weight declared in the wealth-tax return only need be seized.
  - In the case of a person not assessed to wealth-tax
    - Gold jewellery and ornaments
      - 500 gms. per married lady
      - 250 gms. per unmarried lady
      - 100 gms per male member of the family
- need not be seized  
(Instruction : No. 1916, dated 11-5-1994.)





## *Matters relating to search and seizure*

- Tax officers should henceforth strictly adhere to the following guidelines :
  - Credible evidence to indicate substantial unaccounted income/assets by the assessee or where the expected concealment is more than Rs. 1 crore.
  - Search operation will also be mounted when there is evidence of hidden unaccounted assets arising out of a conspiracy to cause public harm, terrorism, smuggling, narcotics, fraud, gangsterism, fake currency, fake stamp papers and such other manifestations;

contd..

## Cont..

- Taxpayers who are professionals of excellence should not be searched without there being compelling evidence and confirmation of substantial tax evasion.
- Henceforth, search operations shall be authorised only by the concerned DGIT (Inv.), who will be accountable for the action initiated by the officers working under him.

(**Source** : *Instruction No. 7/2003, dated 30-7-2003.*)





*Preserve important vouchers and other documentary evidence for the acquisition of assets*

- All vouchers of movable and immovable assets in excess of Rs. 1,000 per item must be preserved.
- Where gold ornaments or jewellery have not been purchased by the owner but have been acquired by way of a gift on some ceremonial occasion or otherwise it is advisable that certificates carefully preserved



## *How to prevent an income tax raid on lockers, and safe deposit vaults*

- Income tax raids are often conducted to seize bank lockers, safe deposit vaults and other lockers
- It is necessary to declare the lockers in the income tax statements and ensure that no unaccounted income, property or wealth is kept in them.
- If all lockers are duly declared there is no risk of a raid

## *Sometimes a person is not the owner*

- If a person is not the owner of any bullion, jewellery, precious stones or any other article or books of account in his possession but merely a custodian of a friend or relative's property
- In such cases it is always better for the custodian to get a declaration from the owner regarding the nature and source of the articles to satisfy himself that they do not represent any undisclosed income or property.





*Identify the income tax personnel authorised to conduct the raid*

- Very important to verify the identity of the persons executing the alleged warrant.
- The income tax consultant or legal adviser should be immediately notified.
- The assistance of neighbours can also be sought for the purpose.
- Once a search or seizure should be allowed only when their proper identity is established.



*Who is entitled to represent a person before the  
I. T authorities in search and seizure matters*

- Except when a person is required to be personally present before any income tax authority, he has the right, under Section 288, to be represented by an "authorised representative."
- This could be any person authorised by him in writing to appear on his behalf.

contd..



*Cont. .*

- A relative; or
- A person regularly employed by him; or
- Any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings; or
- Any legal practitioner who is entitled to practise in any civil court in India; or

contd..



*Cont. .*

- Any Chartered Accountant, or any auditor within the ambit of Section 226 of the Companies Act.
- Any person who has acquired a degree in Commerce or Law from any Indian.
- Any Income Tax Practitioner practising before 1 April 1962.

*Thanking You*

**CA. Satendra Kumar**

