

Benami Transactions (Prohibition) Amendment Bill, 2015

1) What is Benami?

In this Bill, the word is used to define a transaction in which the real beneficiary is not the one in whose name a property has been purchased. As a result, the person in whose name the property is purchased is just a mask of the real beneficiary.

2) What is a Benami transaction?

An arrangement where a property is held by one person and amount for it is provided by another. The property is held for the benefit — direct or indirect — of the person paying the amount.

3) What will not constitute Benami property?

- a) Property held in the name of spouse or child for which the amount is paid out of known sources of income
- b) A joint property with brother, sister or other relatives for which the amount is paid out of known sources of income
- c) Property held by someone in a fiduciary capacity

4) What could be considered Benami property?

Assets of any kind — movable, immovable, tangible, intangible, any right or interest, or legal documents. As such, even gold or financial securities could qualify to be Benami.

5) Who initiates proceedings against alleged Benami property beneficiaries?

An assistant or deputy income-tax commissioner, designated as initiator by the government, will be authorized to start proceedings into an alleged Benami transaction. The officer will refer the case to an adjudicating authority (which will be set up). The authority will decide within a year if the property is Benami. The Bill provides for an appellate tribunal, too.

6) Will Benami property be confiscated?

After an order becomes final, the property or properties in question will be confiscated. These will be managed and disposed of by designated officers, who will be appointed from among income-tax officers.

7) What is the punishment?

Benamidar, or the beneficial owner or any other person who abets any person to enter into such a transaction, will face rigorous punishment ranging from a year to seven years in jail.

8) How much is the fine?

These persons will be liable for a fine of up to 25 per cent of the fair market value of the Property

9) How will the fair market value be determined?

It will be a price that the property would ordinarily fetch on sale in open market. In cases where the price is not ascertainable, another procedure will be prescribed.

10) What is the punishment for those giving false information?

Imprisonment from six months to five years

11) How much is fine for those giving false information?

Up to 10 per cent of the fair market value of the property

12) Will the government frame rules under the proposed Act?

The present Bill provides for the framing of the rules.