

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

TAX EVASION AND TAX AVOIDANCE IN INDIA: A LEGAL, ECONOMIC, AND COMPARATIVE STUDY

AUTHORED BY - YASHWARDHAN SINGH TOMAR

Institution- Jagran Lakecity University

Course- B.B.A LL.B.(Hons.)

Abstract

Tax evasion and tax avoidance, two of the major problems with the tax systems especially developing countries such as India, are not a single phenomenon but rather two conceptually different aspects of not meeting tax obligations. Tax evasion is an illegal practice on the part of taxpayer who aims to disguise income and circumvent the tax burden by fraudulently understating his tax liability while tax avoidance is to use loopholes in the taxation laws so as to lessen tax payable without actually doing anything illegal. The two activities considerably affect government revenue and create distorting effects in terms of equity in economy, fairness and the overall integrity of the tax system. In this research, an account of lessons learned from tax evasion and tax avoidance in India is reviewed and is presented in the form of doctrinal, policy and empirically based study using updated literature. Conceptual distinctions of tax evasion and tax avoidance, causes of both the phenomenon, forms and effects have been highlighted with review of legal and policy responses in India. A cross country comparison has been done by considering developed countries so as to provide insights into structural differences of tax compliance and enforcement mechanisms. The research indicates that overcoming these problems requires multi-dimensional approaches which integrate legal reforms, efficiency of tax administration, use of technology, and behavioral changes.

1. Introduction

Taxation is the main way that governments capture resources for public spending and economic growth. Here in India, taxes are integral in funding infrastructure, health care, education and social welfare programmes. But tax evasion and tax avoidance act as serious drag factors on the excellence of the taxation system. Such practices not only limit the potential for government revenues, but also results in favoured economic inefficiencies and exacerbated social inequities.

Tax evasion is the intentional & illegal act of justifying nonpayment or underpayment of tax through deception such as, but not limited to: underreporting income, falsifying financial statements and/or hiding assets. Conversely, tax avoidance is the legal manipulation of one's tax liability by taking advantage of loopholes and ambiguities in the laws surrounding income taxation. While tax avoidance may not be illegal, it frequently violates the spirit of law and in many businesses creates ethical dilemmas. These practices have a deep effect on the Indian economy with revenue losses, fiscal deficits, and erosion of public trust in the taxation system. India's taxation landscape is further complicated by factors such as a large informal economy, complex tax laws, and administrative inefficiencies. As a result, tax evasion and avoidance have become systemic issues requiring comprehensive legal and policy interventions.

2. Theoretical Framing: Tax Evasion & Tax Avoidance

Understanding the distinction between tax evasion and tax avoidance is of crucial importance to assessing their respective impacts. Tax evasion, a crime, is defined as the deception of the tax authorities in order to reduce the tax burden, and may involve acts such as concealment of income, falsification of accounts or assets held in foreign accounts. The income tax act 1961 dictates punishments including substantial fines or even prison.

Tax avoidance, on the other hand is defined as a legitimate method of reducing one's tax liability. Examples include the claiming of deductions, the use of tax efficient investments and structures and the implementation of tax effective arrangements. While avoiding the law, it bends the spirit of tax laws using technicalities and loopholes to lessen tax. There is evidence that taxpayers believe tax avoidance is unethical when considered in relation to aggressive tax planning.

The key distinction lies within legality and intent. Tax evasion requires both the element of legality, or lack thereof, and the act of deception. Tax avoidance is permissible, however may pose moral questions and in relation to each other they decrease tax revenues and cause economic inequality.

3. Causes of Tax Evasion and Tax Avoidance in India

Tax evasion and tax avoidance are endemic to the Indian economy as a result of an interplay of economic, legal, administrative and behavioral factors. Economic factors may contribute as a belief of high tax rates can stimulate people and entities to seek more ways to alleviate their tax burdens. If individuals believe their taxes to be unjustifiably high, tax evasion will likely

take place, both in legal and illegal forms.

The complexity of tax laws can also have a substantial impact in allowing tax evasion and avoidance to flourish. India's tax legislation is complicated by a wide range of rules and exemptions, and the constant fluctuation of these rules makes compliance rather difficult for taxpayers, creating the opportunity to exploit loopholes. Administrative imperfections are also to be blamed as inadequate audit procedures and low enforcement capabilities contribute to the likelihood of evaders getting away with their crimes, while corruption in the tax departments can diminish tax compliance as citizens may resort to bribery. Finally, individual motivations have to be taken into account; low tax morale, or beliefs of injustice can act as a precursor to non-compliance. People are more likely to evade taxes when they believe taxes to be mismanaged, or if they perceive the tax system to be unfair. A considerable portion of India's economy occurs in the informal sector and is therefore, beyond the purview of tax law.

4. Modus Operandi of Tax Evasion and Avoidance:

Tax evasion and avoidance are perpetrated by way of varied means that could be anything between simple concealing to complicated financial transactions. The common methods of tax evasion include hiding or under-reporting of income, over-deducting, non-filing and the utilization of cash transactions so as to get over the eye of the taxman. Offshore accounts and tax heavens have been used by various individual and entities for sheltering their respective income from the native tax departments. However, in contrast to tax evasion, tax avoidance involves legal tactics of exploiting deductions under various tax legislations such as 80C of the IT Act, 1961, tax exempt securities and arranging transactions in such a way as to minimize the tax burden. The profit shifting method is usually practiced by Multinational Corporations by inflating the transfer pricing to shift the profits in low tax jurisdiction so as to lessen their tax liability. While evasion is based on the theory of fraud and cheating, avoidance can be argued to operate on the other side of the legal boundary of tax compliance which can be challenged to be in the spirit of the law. However, with the passage of time, these methods have become so sophisticated as to make it imperative that a strict tax administration be maintained and robust enforcement measures should be implemented.

5. Economic Impact on the Indian Economy:

The economic implications of tax evasion and avoidance are immense and pervasive. Firstly, a direct impact would be on government revenue, which would hinder its capacity to finance important public expenditure programs like health care, education, etc. The shortfall in revenue would also be responsible for raising the fiscal deficit of the government. Thus it would put reliance on borrowing for funding expenditure that would eventually be responsible for inflation and economic instability. Secondly, tax evasion leads to an uneven distribution of tax burden. Wealthy individuals and corporations are found more often to be in practice of these activities since they have access to better resources and experts, thus reducing the effective rate of taxes applicable to them. Therefore, while honest taxpayers, mostly with no tax planning and preparation expertise have to borne with the additional cost, their wealthy counterpart benefit. Thirdly, tax evasion leads to distorted market competition, as they provide an unfair advantage to the businesses over compliant ones, thereby decreasing efficiency in the economy. Further, low tax revenue implies decreased public spending on investment, and thus a restriction on long term growth of economy in form of infrastructure development, health, education etc. Fourthly, investor confidence is affected, which is regarded as one of the direct consequences, as tax evasion and avoidance reflects a potentially unstable system which is likely to make foreign investors move away.

6. Empirical Evidences: Regional Distribution of Tax Evasion

Empirical evidences reveal that there exists a regional distribution in tax evasion in India. Evidence from recent empirical studies show that Maharashtra, Delhi, Gujarat, Karnataka and Tamil Nadu contribute a higher proportion to total tax evasion¹⁴. These states are observed to be states of high economic activity and high industrialization, which can provide with greater scope for evasion.

In contrast, smaller states and Union Territories, such as Lakshadweep and Chandigarh, have low tax evasion. Population size, levels of economic activity, administrative capacity of the government all appear to be significant variables.

Concentration of evasion in few high-income states indicates that effective detection and prevention would likely require region specific action, instead of a uniform approach across the country.

7. Legal Framework and Policy Measures in India

To prevent tax evasion and avoidability, India has developed a complex and structured legal system. Tax evasion can result in prosecution and penalties under the Indian Income Tax Act, 1961 (the "Act"). For instance, Section 270A and Section 276C, inter alia, are related to underreporting of income and willful evasion of tax, respectively, both of which could entail imprisonment and financial penalties. Besides its domestic law, India has incorporated measures like the General Anti-Avoidance Rules (GAAR), under which tax authorities may disregard transactions, or deny tax benefits derived from arrangements, that are structured purely for the purpose of avoiding tax and lack commercial substance.

In terms of policy measures, India has introduced measures like the Goods and Services Tax (GST) which have led to a much simplified indirect tax regime, making the system more transparent and reducing avenues for avoidance/evasion. Increased digitization of the tax system, electronic filing, and enhanced use of data analytics have further enabled detection of evasion and ensured greater compliance. Besides domestic mechanisms, India cooperates internationally, both bilaterally through Double Taxation Avoidance Agreements (DTAAs) and multi-laterally through forums such as the Base Erosion and Profit Shifting (BEPS) framework.

8. Evolution of legal Framework: old and New tax Provisions in India

One of the key dimensions through which one could analyze tax evasion and tax avoidance in India is through an examination of the evolution of the country's statutory provisions. The introduction of a new Income Tax Act, 2025 (w.e.f. AY 2026-27) in substitution of the existing Income Tax Act, 1961 demonstrates India's desire to move toward a more simplified regime with enhanced enforcement of anti-avoidance principles and better compliance.

8.1 Old regime: Income Tax Act, 1961

Under the extant Income Tax Act, 1961, tax evasion is defined as criminal offense that entails not disclosing income to tax authorities or concealing the fact that income has been received or earned, or if the person had knowledge of having received or earned the same; it has criminal repercussions and severe penalties such as rigorous imprisonment for three months to seven years or fine, under Section 276 C and filing of false verification in return as a false statement, under Section 277.

There were provisions like section 68, 69, 69A, 69B, 69C and 69D under the 1961 Act that allowed tax authorities to treat unexplained income, investments and expenditure as taxable in

the hands of a taxpayer, usually subjected to very penal tax rates (varying between about 60%-83% as of now) discouraging nondisclosure. Tax avoidance was permitted, though the judicial system as well as the legislature have attempted to bring certain transactions within the ambit of the law. The law introduced General Anti-Avoidance Rules (GAAR) under Sections 95-102 in the year 2017 to prevent tax avoiding arrangements, to deny tax benefits arising from impermissible avoidance arrangements, and it states that the said benefit be recharacterized or ignored for purposes of computation of total income. The rules allow for tax authorities to re-characterize or ignore transactions if they lack commercial substance and if it has been structured to obtain a tax benefit; they have stipulated that GAAR applies where tax benefit in such arrangement exceeds Rs.3 crore in case of domestic transactions. Further, the Act also brought forth provisions on Transfer Pricing under Section 92-92F so as to deny profiting shifting, Benami Property Transactions Act, 2016, Anti-Black Money Act and Disclosure scheme. However the 1961 Act is quite fragmented in nature and there were overlapping sections.

8.2 New Regime: Income Tax Act, 2025 (Proposed)

The earlier Act, namely, the Income Tax Act, 1961 contained specific anti-evasion and anti-avoidance measures that helped to deter taxpayers from indulging in unlawful transactions. For example, the transfer pricing provisions under Section 92 to 92F prevent profits from being shifted by multinational corporations, and ensure compliance with the arm's length principle. It also aimed to restrict illegal transactions by introducing the Prohibition of Benami Property Transactions Act, 2016 which prevents benami transactions. The law was also updated with an Anti-black Money Act, which prescribed disclosure of certain foreign assets and incomes. Despite all these provisions, the 1961 Act has been heavily criticized for its fragmentation and for containing overlapping provisions and that the judiciary often had to give clarification as to the intention behind these provisions, thus making the overall mechanism ineffective.

However, the Income Tax Act, 2025 intends to resolve these issues by introducing sections like Chapter 10: Special provisions relating to avoidance of tax and Chapter 11: General Anti-Avoidance Rules (GAAR), which have strengthened these provisions, thereby aligning India's tax system with global best practices such as that followed by OECD. The GAAR provisions in the 2025 Act have now expanded to have greater application than that under the 1961 Act and have clearer provisions of 'substance over form'. The Act now has separate sections pertaining to penalties in case of under-reporting/misreporting of income; such penalties were

mostly encompassed under a few sections earlier, hence providing some relief for taxpayers who might make unintentional errors.

8.3 Key Comparative Insights

Comparing the 1961 Act with the proposed 2025 Act, the former can be said to rely more heavily on penalizing tax evasion whereas the latter aims at both stricter anti-evasion as well as anti-avoidance by ensuring clarity in provisions and a well-structured system of penal measures that are more reasonable, thereby ensuring better tax compliance and less litigation. While in the 1961 Act the GAAR regime was an additional feature in terms of tax avoidance in the form of Sections 95-102 which gave powers to the department to re-characterize arrangements in the absence of commercial substance or where the main purpose was to avoid tax, now under the new regime these powers have been consolidated under Chapter 11 which has clear sections with regard to the powers of tax authorities. Also, the 1961 Act was criticized for its fragmented nature and for containing over-lapping provisions, however, the 2025 Act intends to restructure these provisions thematically, in an effort to make it more user-friendly. Further, unlike the 1961 Act, the proposed Act contains safeguard provisions in relation to invoking of GAAR provisions so as to prevent its misuse and Arbitrary decisions by the authorities; such safeguards may include multi-layered approval mechanisms and clear thresholds for invocation of the GAAR provisions.

8.4 Critical Evaluation

From the perspective of law and policy, the reforms envisaged in the Income Tax Act, 2025 represent a quantum leap forward for the Indian tax regime. With its consolidated and thematic provisions, the new Act streamlines the tax provisions, minimizes ambiguity and thereby enhancing its enforceability. Its strong emphasis on the principle of "substance over form" would empower tax authorities to curb elaborate schemes of tax avoidance in the modern world of globalized and digitally driven economy. Additionally, inclusion of specific procedural safeguards ensures the responsible exercise of administrative discretion thereby safeguard taxpayers rights.

However, the success of the new regime is inherently contingent on effective implementation. A number of challenges persist, including; Capacity building of the tax administration; Reliance on judicial interpretation of the provisions of GAAR; need for higher levels of technology integration in tax monitoring. Furthermore, simplicity would hinge upon effective

communication of these provisions to taxpayers and effective enforcement of the compliance measures. Without it, the legal framework even if strong would fall short of the desired outcomes.

In conclusion, the reforms are progressive in ushering in a new era of Indian tax law. This new regime reflects an emerging approach which balances enforcement with fairness and regulation with efficiency. Continuous evaluation, adaptive policymaking and unwavering institutional support is critical for its desired goals of transparency, equity and compliance.

9. Comparative Analysis of India with developed countries

Comparison with developed nations presents a vast divergence between India and developed nations with regard to tax compliance and enforcement. In nations such as the United States and the United Kingdom, a high degree of compliance is largely attributed to their strong institutions, advanced technological infrastructure and the higher tax morale observed in their citizens.

Developed economies boast highly automated tax administration and leverage extensively on data analytics and AI to identify anomalies and detect evasion. Such economies are reliant on voluntary compliance supported by transparency in governance and effective delivery of public services.

In stark contrast, India confronts issues such as an enormous informal sector, disparity in digital penetration, and weakly enforced mechanisms for the administration. Despite significant advancements in the adoption of technology and strengthening the legal framework for tax purposes, a gap persists on several fronts.

The comparison demonstrates that besides legal provisions and institutional mechanisms, public trust in the taxation system is an indispensable requirement for successful tax compliance.

10. Recommendations

To counter tax evasion and avoidance in India a robust and a multi-pronged approach is imperative. The recommendations to overcome the persistent issues would include: simplification of tax laws; strengthening the enforcement mechanisms of the tax administration; increased use of technology and data analytics; taxpayer awareness and education programs; reducing corruption and enhancing transparency; region-specific policy interventions targeting regions with high risks.

11. Conclusion

Tax evasion and tax avoidance are critical hurdles for India's fiscal stability and economic progress. Whereas tax evasion constitutes an illegal activity, tax avoidance poses policy and ethical dilemma. Both undermine tax revenues, create inequality and impede the efficacy of the tax system.

India has made tangible progress in overcoming the problem with the introduction of legislation, policies, and technology. The continued prevalence of tax evasion, however, underscores the necessity for a more holistic approach that integrates legal compliance, administrative efficacy and behavioural shifts.

Therefore, it is critical for India to embrace a comprehensive strategy in tackling tax evasion and avoidance to promote sustained economic growth, resource distribution and the overall integrity of governance.

