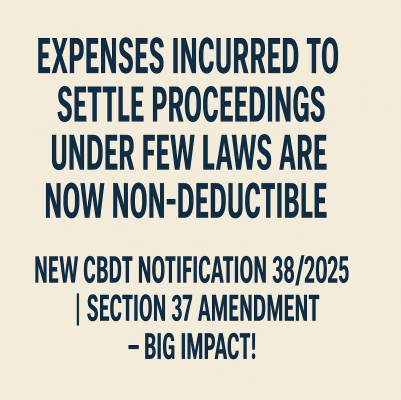

Expenses incurred to settle proceedings under few laws are now non-deductible. New CBDT Notification 38/2025 | Section 37 Amendment – Big Impact!

Description

🚨**New CBDT Notification 38/2025 | Section 37 Amendment – Big Impact!**

Expenses incurred to settle proceedings under these laws are now non-deductible:

SEBI Act, 1992

Securities Contracts Regulation Act, 1956

Depositories Act, 1996

Competition Act, 2002

My 2 Concerns 👇

📌 Notification says: Effective 23rd Apr 25

📌 FAQs say: Effective from 1st Apr 25 — for AY 2025-26

Why this intentional anomaly from @IncomeTaxIndia?

🎯The Core Issue: Businesses planned taxes based on prevailing law till 31st March 2025.

A post-year-end clarification changes the taxability. Genuine tax planning goes for a Toss!!

Tax planning cannot be a guessing game. Laws must be predictable, stable, and known before the financial year ends — not reinterpreted after closure!

Same happened with S. 87A rebate also.

In my opinion Tax authorities if issuing a clarification then they shall issue it from Current FY and not retrospectively for a FY which has already ended.

https://x.com/abhashalakhandi?s=11

MINISTRY OF FINANCE

(Department Of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 23rd April, 2025

(INCOME-TAX)

S.O. 1838(E).—In exercise of the powers conferred by clause (iv) of *Explanation 3* of sub-section (1) of section 37 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that any expenditure incurred to settle proceedings initiated in relation to contravention or defaults under the following laws shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure, namely:–

(a) the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(b) the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c) the Depositories Act, 1996 (22 of 1996);

(d) the Competition Act, 2002 (12 of 2003).

2. This notification shall come into force on the date of its publication in the Official Gazette.

[F. No. 38/2025/F. No 370142/11/2025-TPL]

ASHISH KUMAR AGRAWAL, Dy. Secy.

@

FAQs on Notification No. 38/2025 [F. No 370142/11/2025-TPL] / SO 1838(E)

Q1. What is section 37 of the Income-tax Act, 1961 ('the Act')?

Ans. Section 37 of the Act provides for allowability of expenditure laid out or expended wholly and exclusively for the purpose of business or profession.

Q2. What is *Explanation 1* of sub-section (1) of section 37 of the Act and its relation with Explanation 3 thereof ?

Ans. *Explanation 1* of sub-section (1) of section 37 provides that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and consequently, no deduction or allowance can be claimed for such expenditure.

Further, Explanation 3 of section 37 clarifies the term "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law"

Q3. What is the amendment made in *Explanation 3* vide Finance (no. 2) Act, 2024?

Ans. *Explanation 3* to sub-section (1) of section 37 of the Act was amended vide Finance no. 2 Act, 2024 to clarify that the term "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" will also include any expenditure incurred by an assessee to settle proceedings initiated in relation to a contravention under any law for the time being in force, as may be notified by the Central Government in the Official Gazette in this behalf.

Q4. Which laws been notified under the amended *Explanation 3?*

Ans. Vide CBDT Notification no. 38/2025 dated 23.4.2025 it has been provided that any expenditure incurred to settle proceedings initiated in relation to contravention or defaults under the following laws shall not be deemed to have been incurred for the purpose of business or profession –

(i) the Securities and Exchange Board of India Act, 1992 (15 of 1992)
(ii) the Securities Contracts (Regulation) Act, 1956 [42 of 1956]
(iii) the Depositories Act, 1996 [22 of 1996]
(iv) the Competition Act, 2002 [12 of 2003].

Q5. What are the implications of this notification?

Ans. Any expenditure incurred by an assessee for settlement of proceedings initiated in relation to contravention or defaults under the abovementioned laws cannot be claimed as a deduction or

Category

1. Income Tax

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