[2025] 178 taxmann.com 100 (Article)

[2025] 178 taxmann.com 100 (Article)©
Date of Publishing: September 5, 2025

# Request for Clarification and Amendment of Definitions of “Income” and “Transfer” in the New Income-tax Act, 2025

**GOPAL NATHANI**
FCA

Smt. Nirmala Sitharaman

Hon'ble Finance Minister of India

Ministry of Finance

North Block, New Delhi

**Subject: Request for Clarification and Amendment of Definitions of "Income" and "Transfer" in the New Income-tax Act, 2025**

Respected Madam,

I write this with utmost respect to draw your kind attention to two important definition clauses in the recently introduced Income-tax Act, 2025, namely section 2(49) defining income and section 2(109) defining transfer. Both definitions have been drafted in an open-ended manner using the term "includes." While the intent is perhaps to provide flexibility, in practice, this open-ended drafting risks creating boundary less interpretations, avoidable litigation, and uncertainty for both taxpayers and the administration.

In particular section 2(109)(*f*) of the new Act states that "transfer" includes any transaction—whether by acquiring shares or membership in an association, or "by way of any agreement or arrangement or in any other manner"—that has the effect of transferring or enabling the enjoyment of immovable property. In other words, the section states that "transfer" includes any agreement or arrangement that enables the enjoyment of immovable property, even without a registered instrument. Notably, thus the clause is silent on whether the underlying agreement must be registered or stamp duty paid. Read literally, an unregistered arrangement that merely "enables enjoyment" could be treated as a transfer for tax purposes. That reading would (*a*) erode the centrality of registration and transfer of property law, (*b*) create friction with the Prohibition of Benami Property Transactions Act, 1988, and (*c*) expose taxpayers to premature or double tax triggers in such instances. This runs contrary to well-settled principles of property law, which recognize transfer of title only through duly stamped and registered documents. It also risks undermining the objectives of the Registration/Transfer of Property Act, 1882 and the Prohibition of Benami Property Transactions Act, 1988 both of which safeguard transparency and revenue.

My humble submission is as follows:

1. The definition of transfer under the new Income Tax Act should be expressly conditioned upon the execution of duly stamped and registered instruments.
2. Explicit cross-references may be inserted to the Transfer of Property Act, 1882 and Registration Act, the Prohibition of Benami Property Transactions Act, 1988 thereby harmonizing tax law with property and anti-benami frameworks.
3. The definition of income should be recast into a closed-list with a residuary clause, to ensure clarity and predictability.

Such clarifications will not only strengthen the law against abuse, but will also provide taxpayers with the certainty and trust that a modern Act must deliver.

Respectfully urge the Ministry to consider suitable amendments so that the new Act truly fulfils its promise of simplification, transparency, and fairness.

Yours faithfully,

Gopal Nathani

■■

© Copyright Taxmann. No part can be copied or circulated without the permission of Taxmann.