



TAX

New Income Tax Bill: A Conundrum Between Right To Privacy And Authorized Officers' Access To Virtual Digital Space

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Introduction

The Income-Tax Bill, 2025, introduced in the Lok Sabha on February 13, 2025, aims to modernize India's direct tax framework by replacing the six-decade-old Income Tax Act, 1961. While the bill simplifies tax laws and includes provisions for virtual digital asset taxation and presumptive tax schemes, it has sparked controversy due to a clause that grants tax authorities access to taxpayers' emails and social media during investigations.

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Key Provisions of the New Income Tax Bill

The new Income Tax Bill consolidates the existing law's 52 chapters into 23 chapters and reduces its word count by nearly half, making it easier to understand for taxpayers. It introduces a unified "tax year" aligned with the financial year and simplifies compliance by removing redundant provisions.

Previously, the Income tax Authority under Section 132 of the Income Tax Act, 1961, allowed the authorized officer to conduct search and seize assets and books of accounts of individuals upon having reason to believe that the said individual has any undisclosed income or documents to evade paying tax. This allowed the authority to break the lock on any door, box, or locker if they couldn't find their keys or had cause to believe that any books of accounts or undeclared valuables were being stored there.

Presently, as per clause 261 of the Bill, "virtual digital space" means an environment, area or field, that is constructed and experienced through computer technology and not the physical, tangible world which encompasses any digital field that allows users to interact, communicate and perform activities using computer systems, computer networks, computer resources, communication devices, cyberspace, internet, worldwide web and emerging technologies, using data and information in the electronic form for creation or storage or exchange and includes— (i) email servers; (ii) social media account; (iii) online investment account, trading account, banking account, etc.; (iv) any website used for storing details of ownership of any asset; (v) remote server or cloud servers; (vi) digital application platforms; and (vii) any other space of similar nature^[1]. Virtual digital assets like cryptocurrencies are also included in undisclosed income definitions.

Controversial Clause 247

Clause 247 of the bill allows tax officers to bypass passwords and access digital platforms like emails and social media during searches if taxpayers refuse cooperation. The clause stipulates that an authorized officer, in consequence of information in his possession, has reason to believe, can "break open the lock of any door, box, locker, safe, almirah, or other receptacle for exercising the powers conferred by clause to enter and search any building, place, etc., where the keys thereof or the access to such building, place, etc., is not available, or gain access by overriding the access code to any said computer system, or virtual digital space, where the access code thereof is not available^[2]".

The provision granting access to digital platforms has sparked significant debate. Concerns about potential misuse of these powers has become a conundrum between the regulatory compliance and broad interpretation of this provision and safeguard of fundamental right to privacy. This provision could lead to overreach and infringe on citizens' privacy rights. Due to lack of safeguard, such extensive power in the hands of tax authorities will lead to needless monitoring of personal data of taxpayers. The Bill is also silent on as to what extent "reason to believe" may overlap a mere suspicion of tax version.

Implications for Taxpayers

Starting April 1, 2026, when the new income tax law comes into force, income tax officials could get the authority to access individuals' digital accounts if they suspect tax evasion. This includes emails, social media, bank accounts, trading platforms, and online investments. Taxpayers must ensure full disclosure of assets and maintain proper records to avoid legal scrutiny.

Constitutional Validity

The Supreme Court has previously observed that the Right to Privacy under Article 21 is sacrosanct, and any intrusion by the state must pass the tests of legality, necessity, and proportionality. In the landmark judgment pronounced by the Supreme Court of India in *K.S. Puttaswamy vs Union of India*^[3], the scope of Right to Privacy was redefined and was held to be sacrosanct. It balances the protection of individual privacy with the state's responsibility to ensure public welfare and security.

The broad and vague definition of "virtual digital space" allows unrestricted surveillance over an individual's financial and private digital presence. This raises concerns about potential state overreach and arbitrary scrutiny. Such a search and seize challenges constitutional validity of the provision as there are no reasonable ground imposed by the provision and is interpreted to be exercised as a rule and not an exception. Before accessing private property and personal data of an individual, the objective of the search and seizure must be properly given, and there must be reasonable and probable grounds for search and seize.

Conclusion

While simplifying India's tax laws is a welcome step toward reducing litigation and improving compliance, granting unchecked access to personal digital platforms raises serious privacy concerns. The Legislative must strike a balance between effective enforcement and safeguarding citizens' fundamental rights. Without court intervention or particular procedural protections, such an arbitrary and unclear provision runs the risk of turning into an instrument for capricious examination rather than a methodical approach to tax enforcement. The absence of explicit procedural safeguards in the new Income Tax Bill might result in unfettered data collection and fishing expeditions against individuals, companies, and professionals.

For further details write to contact@indialaw.in

^[1] The Income Tax Bill, 2025 (Bill No. 24 of 2025), cl 261 (i)

^[2] The Income Tax Bill, 2025 (Bill No. 24 of 2025), cl 247 (1) (b) (iii).

^[3] *K.S. Puttaswamy vs Union of India*, (2017) 10 SCC 1