

Offences and Penalties and Compounding of certain offences

Disclaimer: This document is intended solely for educational purposes. The content herein is subject to change based on evolving finance trends and any relevant rulings by the Government of India. Readers are advised to consult with qualified professionals for specific guidance related to their individual circumstances.

Q1. What are the offences and penalties under FCRA, 2010?

Ans. Under section 41, the government has issued a gazette notification dated 01.07.2022 which is highlighted as below:

| Sr No. | Offence | Amount of Penalty |
|--------|---|---------------------|
| 1. | Offence punishable under section 35 for accepting any hospitality in contravention of section 6 of the Act. | Ten thousand rupees |

| | | |
|----|---|--|
| 2. | <p>Offence punishable under section 37 for transferring any foreign contribution to any other person in contravention of section 7 of the Act or any rule made thereunder:</p> <p>Provided that transfer of foreign contribution (inclusive of more than one instance of transfer, if any) shall be compoundable only once.</p> | One lakh rupees or ten % of such transferred foreign contribution whichever is higher. |
| 3. | <p>Offence punishable under section 37 for defraying of foreign contribution beyond twenty percent of the contribution received for administrative expenses in contravention of section 8 of the Act.</p> | One lakh rupees or five per cent of such foreign contribution beyond the permissible limit, whichever is higher. |

| | | |
|----|---|--|
| 4. | Offence punishable under section 35 for accepting foreign contribution in contravention of section 11 of the Act. | One lakh rupees or thirty per cent. of the foreign contribution whichever is higher. |
|----|---|--|

| | | |
|----|--|--|
| 5. | <p>Offences punishable under section 37 read with section 17 of the Act for-</p> <ol style="list-style-type: none"> 1. receiving foreign contribution in any account other than specified account in his application for grant of certificate; 2. non-reporting the prescribed amount of foreign remittance or source and manner of such remittance by banks and authorised person | <p>One lakh rupees or five per cent of the foreign contribution received in such account, whichever is higher;</p> <p>One lakh rupees or three per cent of the foreign contribution deposited in such an account, whichever is higher.</p> <p>One lakh rupees or two per cent. of such deposit, whichever is higher.</p> |
|----|--|--|

| | | |
|----|---|---|
| 6. | Offence punishable under section 37 for non furnishing of intimation of the amount of each foreign contribution received and the source from which and in the manner in which, such foreign contribution is received as required under section 18 of the Act. | One lakh rupees or five per cent of the foreign contribution received during the period of non submission, whichever is higher. |
| 7. | Offence punishable under section 37 for not maintaining the account and records of foreign contribution received and manner of its utilisation as required section 19 of the Act. | One lakh rupees or five per cent of the foreign contribution received during the relevant period of non maintenance of accounts, whichever is higher. |

| | | |
|----|---|--|
| 8. | Offence punishable under sections 3, 11 and 35 of the Act read with rule 6 for failure to intimate about receipt of foreign contribution within the prescribed time limit. | Five per cent of such foreign contributions are received in a year. |
| 9. | Offence punishable under section 37, section 17 and section 19 of the Act read with clause (e) of sub-rule (1) of rule 9 for failure to intimate about opening of account or accounts within the prescribed time. | Ten thousand rupees per utilisation account for failure to intimate about the prescribed time. |

| | | |
|-----|---|---|
| 10. | Offence punishable under section 37, section 17 and section 19 of the Act read with clause (e) of sub-rule (2) of rule 9 for failure to intimate about opening of account or accounts within the prescribed time. | Ten thousand rupees per utilisation account for failure to intimate within the prescribed time. |
| 11. | Offence punishable under section 37, section 11 and section 17 of the Act read with rule 17A, for failure to intimate details within the prescribed time. | Ten thousand rupees for each violation of failure to intimate within the prescribed time. |
| 12. | Offence punishable under section 37 and section 19 of the Act read with rule 13, for failure to place on website as prescribed in clause (a) of rule 13 within the prescribed time. | Ten thousand rupees for each violation. |

Note: The amount of penalty computed under column (3) of the Table in respect of any offence or offences referred to in column (2) thereof shall not be more than the value of the foreign contribution received.

Q2. How does one apply for compounding of an offence under FCRA, 2010?

Application for compounding of an offence under Section 41 of FCRA, 2010 shall be made in electronic form on website – <https://fcraonline.nic.in> with a fee of Rs.3000/- (Rupees three thousand only) to the Secretary, Ministry of Home Affairs, New Delhi. The fee will be paid through the payment gateway specified by the Central Government.

Q3. What happens if the person is unwilling or unable to pay the penalty imposed?

In the event of failure to pay the penalty, for whatever reason, necessary action for prosecution of the person shall be initiated.

Q4. Which are the investigating agencies for investigating and prosecuting a person for violation of FCRA?

The Central Bureau of Investigation or the investigating agencies (Crime Branch) of the State Governments/ UTs in which the cause of offence arises are the designated agencies for investigating and prosecuting a person for violation of FCRA.

Revision #3

Created 29 July 2024 10:25:40 by Pooja

Updated 4 September 2024 04:02:40 by Pooja