



Bringing Back the Money through Offshore Voluntary Disclosure Programme (OVDP): Bangladesh Perspective

Dr. Sams Uddin Ahmed
Commissioner of Taxes
ahmedsamsuddin593@gmail.com

Abstract

Illicit capital flight has become a growing problem for Bangladesh. Every year a huge amount of money is being siphoned off from Bangladesh. According to Global Financial Integrity (GFI) report 'Illicit Financial Flows from Developing Countries: 2004-2013' Bangladesh ranks 26th among 149 countries draining more than \$5.58 billion money per annum. Nearly \$9,666 million in illicit money was siphoned off from Bangladesh in 2013 which is \$2,000 million more than the previous year. This money remains untaxed to the detriment of the national revenue. Due to flaws of anti-money laundering act and institutional weakness of the revenue administration this illicit financial flow out of Bangladesh has become a regular phenomenon. The purpose of this article is to argue that it is high time that the tax administration declares offshore tax amnesty to bring the money back to Bangladesh. Offshore tax amnesty like 'Voluntary Disclosure Programmes' is now common place and tax administrations around the world are using this scheme to tackle the problem of capital flight. Bangladesh can follow the suit and bring back the money into formal economy.

Keywords: Bangladesh, Tax amnesty, Voluntary Disclosure Programme, illicit financial flow.

Part I: Introduction

Illicit capital flight has become a growing problem for developing countries like Bangladesh. Because of illegal capital flight mostly to tax havens, the developing countries lose huge amount of much needed tax revenue (Purje al, 2010). Capital flight erodes the domestic tax base (Cuddington, 1986). Every year a huge amount of money is being siphoned off to the tax havens from countries around the world. It is estimated that almost eight percent of global wealth is sent to tax havens without being reported to the tax authorities (Zucman,

2013 cited by Gould and Rabel, 2018). According to Global Financial Integrity (GFI) report 'Illicit Financial Flows from Developing Countries: 2004-2013' Bangladesh ranks 26th among 149 countries draining more than \$5.58 billion money per annum. Nearly \$9,666 million in illicit money was siphoned off from Bangladesh in 2013 which is \$2,000 million more than the previous year. The 'Banks in Switzerland 2016' report reveals that Bangladeshi nationals have deposited over Tk1,000cr in various Swiss banks in 2015. The total deposited amount in

Swiss banks from Bangladesh stood at Tk4,730cr in 2015, which increased to Tk5,685cr in 2016 (Mowla, 2017). This money remains untaxed to the detriment of the national revenue. Country's the then finance minister admitted that money was laundered from the country, but it was not possible to stop the outflow of money completely. "What we can do is to lessen the opportunity for siphoning off money. That means taking measures to stop generation of black money." (Haque, 2017). It is interesting to note that in six years between 2012 and 2017, the country has seen a 17.3 per cent growth in the number of what is called 'Ultra High Net Worth (UHNW)' (WEALTH-X, 2017). But tax GDP ratio remains one of the lowest in region, around 10%. It might be an indication who might be involved in the illicit financial transfer from Bangladesh. So it is clear that illicit financial flows poses a major hurdle for emerging economies like Bangladesh. The current anti-money laundering law and tax measures seem to fail to curb the problem of illicit financial flow. Under the circumstances, the government should adopt new measures to combat the problem. The purpose of this article is to suggest that right at this moment Bangladesh can go for offshore tax amnesty programs like Overseas Voluntary Disclosure (OVD) to bring back the money to Bangladesh. Tax administrations around the globe are declaring offshore tax amnesty programmes. According to OECD (2015), 'Offshore voluntary compliance programmes or initiatives offer the opportunity to maximize the benefits of improvements in transparency and exchange of information for tax purposes, to increase short-term tax revenues and improve longer-term tax compliance.' So it is worthwhile for Bangladesh to declare offshore tax amnesty to bring back the laundered money. The article is arranged as follows: While part I gives an introduction, part II discusses offshore tax amnesty of some specific countries like Italy, Indonesia, India and some others. Part III makes some suggestions about the nature and extent of suggested offshore tax amnesty in Bangladesh. Part IV makes some concluding remarks.

Part II: Offshore Tax Amnesty: Country Experiences

Tax amnesty is a common tools for the tax administration around the world to collect quick revenue and also to curb the problem of tax evasion. As Mouloud (2015) states, "Quick glance of the financial history of governments all over the world

notes the most governments introduced tax amnesty programs to fight against tax evasion and adjust the shadow economy and increase tax revenues in the short term and expand tax base in the long term."

Of late offshore voluntary disclosure programmes have become popular among the tax administrations around the world. As OECD(2015) notes, "In general terms, voluntary disclosure programmes are opportunities offered by tax administrations to allow previously noncompliant taxpayers to correct their tax affairs under specified terms. Several countries currently operate explicit voluntary disclosure programmes or have an administrative practice which supports voluntary disclosures. Such rules or programmes provide an opportunity to facilitate compliance in a timely and cost effective manner, saving costly and contentious audits, litigation and criminal proceedings." However, tax administrations around the world have found the voluntary disclosure programme useful in collecting the revenue through voluntary disclosure of assets and money hidden abroad. For example from 1978 Greece implemented 11 tax amnesty programs and many more amnesty-like schemes (Argyropoulou, 2018). Italy has a long history of tax amnesty programmes (Grilli, 2015). The US offers repeated tax amnesty. In the 1980's, nearly 30 states in the United States (Villalba, 2017) and later more countries joined the group (Shevlin et al, 2016). Spain also follows the suit like its other European partners and introduced amnesty in 2012 and the same was declared unconstitutional by the Spanish court (Espinosa, 2018). Indonesia implemented successful tax amnesty programmes. Pakistan also offered the same amnesty to tax dodgers who held assets and money within and outside the country. Thus until 2016, 38 countries implemented tax amnesty programmes (Hermansyah, 2016) and this trend is ongoing. Emphasis is being shifted on the offshore amnesty rather than onshore one. According to Johannesen and Zucman (2014) there has been a rise of offshore tax amnesty participants because of the G20 countries forced the tax havens to exchange bank information with the tax administrations. Below a few selected county experiences are furnished briefly that could be useful guide for Bangladesh.

Australia

In 2014, Australia launched Project DO IT, as a short-term "never-to-be-repeated" opportunity for taxpayers to correct their offshore tax affairs and

to return back into the tax system. Incomes in the wake of reinforced commitments to exchange of information and automatic exchange of information and is supported by a strong communication campaign. The project DO IT attempted to encourage taxpayers with illegal offshore money to come forward and declare the same to the ATO. It is to be noted that the ATO did not impose the usual financial and non-financial penalties for such kind of tax evasion (Moretti, 2016). The Project specifically targeted taxpayers with undeclared offshore accounts or those who regularly profit from international affairs that escape imposition of proper tax. The ATO is not willing to call it a tax amnesty due to the apprehension that this might cause resentment among the honest taxpayers. The ATO says, "The initiative ran for nine months from March 2014 to December 2014. It was not an amnesty. Rather, it was an initiative that encouraged taxpayers with undisclosed income, capital gains and over claimed deductions to re-engage with the Australian tax system by making a voluntary disclosure." The Project DO IT programme encouraged participants to disclose all offshore assets and income, not in any particular financial institution. In fact, disclosures were received for accounts in more than 90 different countries or jurisdictions. The following taxpayers were not eligible to take advantage of the project if they:

- were under audit in relation to any prior disclosure
- had been involved in promoting or marketing or tax evasion schemes
- were under criminal investigation concerning tax-related offences, or
- had assets or income derived from serious criminal offences unrelated to tax.

More than 5,900 taxpayers declared offshore money under the Project DO IT. Previously undisclosed income of approximately \$656 million and previously undisclosed assets of approximately \$6.7 billion were disclosed. The Project raised over \$264 million in taxes. It is anticipated by the ATO because of the expansion of the tax net additional tax revenue will continue to be received in coming years. The project also helped the ATO in gathering valuable information about financial institutions, advisors and promoters involved in offshore matters which could not have otherwise been revealed. The ATO can apply this intelligence in the future enforcement action to tackle offshore tax evasion

The ATO never repeated the amnesty programme. But it can be said that the project was a success in bringing lost revenue and also expanding the tax net for the future, creating scope for additional revenue.

Indonesia

In Indonesia tax amnesty was first introduced in 1964 covering income tax, corporate tax and property tax. Under that scheme no question was asked as to the source of the money declared. So basically anybody including corrupt government officials could declare money and seek amnesty easily. After a long break again in 1984 second tax amnesty was declared by the president of Indonesia. This time monetary penalty was imposed for some cases 1% and in some other cases 10%. In 2016 tax amnesty was declared for the third time in Indonesia. Huda and Hernoko (2017) states, "The motive of establishing the policy of tax amnesty, in this three time, dealt with the importance of people's contribution for national development by optimizing all existing resources one of which was from tax. People awareness and obedience to do their tax liabilities still needed to be improved since the assets, both inbound and outbound, were not fully reported in income tax return. In order to improve the national revenue, the economic growth, people's awareness and obedience in tax implementation, it needed to establish the policy of tax amnesty".

The latest amnesty programmes was launched in July 2016 and the program lasted for nine months. The programme is considered to be a success in repatriating assets from tax havens (Suroyo and Jefriando, 2018). The program offered generous tax rates for repatriated assets (2% on domestic assets and 4% on offshore assets for the first three months, 3% and 6% in the next three months, and 5% and 10% in the last three months). Moreover, the participants in the program are not required to declare the origin of their funds. Interestingly the taxpayers taking advantage of the amnesty were immune from prosecution. The programme is criticized for (i) unfairly rewarding tax evaders for their past financial crimes and (ii) unequally treating the law-abiding Indonesian taxpayers. However, more than 600,000 Indonesian taxpayers joined the program, making it a grand success.

The US Tax Amnesty Programmes

United States have both a permanent voluntary disclosure programme and have also run short-

term programmes aimed directly at improving offshore compliance. The terms of the short-term programmes have become less generous each time, creating a sense of urgency as taxpayers can see that the opportunities for making a voluntary disclosure are steadily reducing, while the risks of detection are rising. The IRS estimates that it loses over \$200 billion in tax revenue per year on unreported offshore assets of over \$30 trillion. In 2003 the US was aware of the large number of foreign accounts in Swiss bank by US citizens. Focus was on the UBS bank that entered into an agreement with the US to provide information regarding investment by the US citizens. But UBS failed to keep its promise and as a result the IRS announced the 2009 OVDP in March 2009. It offered taxpayers an opportunity to avoid criminal prosecution and a settlement of a variety of civil and criminal penalties in the form of single miscellaneous offshore penalty. It was based on existing voluntary disclosure practices used by IRS Criminal Investigation. The 2009 OVDP program resulted in many disclosures and furthered the investigation of many individuals and financial institutions that facilitated non-compliance with U.S. tax laws. In February 2011, the IRS announced the 2011 OVDI, which lasted until Sept. 9 of that year. The 2011 OVDI drew 15,000 disclosures and resulted in the collection of \$1.6 billion in back taxes, interest and penalties for the cases that were closed that year. The third programme started in 2012 followed by another one in 2014. The 2012 programme was successful in drawing 12000 disclosures. The 2014 program came to an end in September 2018. The IRS states, "Since the OVDP's initial launch in 2009, more than 56,000 taxpayers have used one of the programs to comply voluntarily. All told, those taxpayers paid a total of \$11.1 billion in back taxes, interest and penalties. The planned end of the current OVDP also reflects advances in third-party reporting and increased awareness of U.S. taxpayers of their offshore tax and reporting obligations." The US OVDP appears to be a success. The IRS says, "The implementation of the Foreign Account Tax Compliance Act (FATCA) and the ongoing efforts of the IRS and the Department of Justice to ensure compliance by those with U.S. tax obligations have raised awareness of U.S. tax and information reporting obligations with respect to undisclosed foreign financial assets."

The Italian Experience

Italy has a long history of tax amnesty programmes. Between 1991 and 2009, Italy implemented four tax amnesty programs (Grilli, 2015). Italy introduced a tax amnesty in 2001 that came to be known as Scudo Fiscale i.e., Tax Shield, which was extended in 2003. The 2001 Scudo Fiscale brought to light that 78 billion euros were held by Italians in Switzerland. In 2009 the Italian tax amnesty subjected repatriated assets to a flat tax of 5%. In total around €80 billion in assets were declared, which resulted in tax revenues of €4 Billion. The Bank of Italy estimated that Italian citizens held around €500bn in undeclared funds outside the country. In 2018 Italy is conducting another tax amnesty programs probably being encouraged at the success of the earlier programmes.

Tax Amnesty in India

The Government of India has introduced Income Disclosure Scheme, 2016 as one time opportunity for disclosing undisclosed Indian income. The Scheme provides an opportunity to persons who have not paid full taxes in the past to come forward and declare the undisclosed income. In 1997 another Voluntary Disclosure of Income Scheme was introduced under which income or assets worth INR 333.39 billion were voluntarily declared and an aggregate tax of 95.84 billion rupees was paid to the government coffer. The idea of introducing a tax amnesty scheme was inspired by the fact that the National Development Council (NDC) suggested that the government should think of a scheme to pave the way for black money to be used for productive purposes. Considering the suggestion the Government went for the Voluntary Disclosure of Income Scheme (VDS) in 1997 (Vikraman, 2017). The 2016 scheme is the second amnesty introduced by the government after coming to power. In 2015 a one-time compliance window for disclosure of foreign income and assets was offered. The disclosure programme recovered \$575 million of unreported funds under a tax amnesty scheme that offered a chance to citizens to disclose created doubts over a campaign against tax dodgers (Kumar, 2015).

Other Countries

In Canada, a tax amnesty scheme called the "Voluntary Disclosure Programme" already exists for income tax and Excise related offences. In Belgium, during 2004, the country's legislative house

had adopted a law allowing individuals subject to Belgian income tax to regularize the undeclared, or untaxed, assets they held before June 1, 2003. In 2004, Germany had also granted a tax amnesty in connection with tax evasion. In 2003, South Africa had enacted the Exchange Control Amnesty and Amendment of Taxation Laws Act, a tax amnesty. In 2012, the Spanish government had announced a tax evasion amnesty for undeclared assets or those hidden in tax havens. Repatriation was allowed by paying a 10 percent tax, with no criminal penalty. In 2007, a Russian tax amnesty programme had collected \$130 million in the first six months. The Russian programme, however, was not open to anyone previously convicted of tax crimes such as tax evasion. On September 30, 2010, the government of Greece had granted tax amnesty to millions of Greek citizens by paying just 55 percent of the outstanding debts. The latest Pakistani offshore tax amnesty programme has been successful in making taxpayers declaration of assets hidden overseas worth around 577 billion rupees which equals \$4.8 billion. The reasons of such success have been identified as the low rate of 2 to 5 percent and Pakistan's access to information as being a signatory to the OECD Multilateral Convention which provides access to information about offshore financial accounts of Pakistani residents from September 2018 (Ahmed, 2018).

Part III: Offshore Tax Amnesty Programmes in Bangladesh

Bangladesh never offered offshore tax amnesty. As it was described earlier, many Bangladeshi citizens transferred money illegally to different tax haven or low tax countries with a view to evading tax on those incomes. The Paradise Paper (The Independent, 2017), the Panama Papers (The Daily Observer, 2016) and other Offshore Leaks contain the names of Bangladeshi people and companies that illegally took money from Bangladesh. It is observed that only the highly rich people are involved in the practice of illegal offshore tax evasion (Alstadseter et al, 2018) it can be argued that such tax evasion by the wealthy Bangladeshi people might encourage other no wealthy people to evade tax in Bangladesh. This type of tax evasion might affect the tax morale of the taxpayers by implicating the fairness of the tax administration of Bangladesh. However, following the suits, it is time that Bangladesh goes for overseas voluntary disclosure programmes on the income

and assets and money of the Bangladeshi nationals held abroad. This might pour into the national exchequer to a remarkable extent. But before doing that Bangladesh income tax administration should craft the programme in a way that would be clear, cost effective and able to ensure compliance to the expected level. In this respect Bangladesh can follow the international best practice and the opportunity should be given for one time. Repeated schemes might be counterproductive for the collection of revenue. The OECD pointed out some features of such kind of tax amnesty programmes which can be followed by Bangladesh. OECD (2015) states, "Voluntary disclosure programmes complement the rapid improvement in exchange of information and the ability of governments to detect offshore evasion. They are an integral part of a broader compliance strategy – they need to be considered as part of a variety of compliance actions that tax administrations and governments take in order to encourage all taxpayers to meet their obligations."

According to OECD (2015) a successful voluntary disclosure program should be transparent about its purpose and terms; contribute to noticeable and cost-effective rise in revenue collection; should not be symmetrical with the existing prescribed compliance and enforcement strategies; should work in deterring and discouraging non-compliance; should increase the level of compliance tapping all the eligible taxpayers for the programme; and should augment the immediate revenue collection from disclosures targeting the long term revenue impact. So Bangladesh should formulate the policy for a one time not to be repeated offshore voluntary disclosure programme in line with the recommendations of the OECD. It is observed from a survey conducted by the OECD that this type of offshore disclosure programmes can contribute to bring the offshore assets to Bangladesh and contribute to the national exchequer. This can be a novel approach to increase voluntary compliance. Research found that offshore voluntary disclosure programme increases revenue if conducted in an efficient and practical manner (Langenmay, 2017). While declaring such offshore voluntary programme the income tax department should consider the reduced rate of tax to be imposed on the hidden assets and money; should consider imposing penalty for non-declaration consistent with the volume of evasion; should think

of publishing the names of the declarants in public to encourage others to participate in the programme. Publishing the name can work as deterrence measure since naming and shaming has the effect of improving compliance (Dwenger and Trebor, 2018).

Part IV: Conclusion

To generate additional tax revenue in the short term, Bangladesh several times offered onshore tax amnesties with not very enterprising result. It is argued that proper enforcement of taxing statutes can generate more revenue than the tax amnesty schemes. Particularly in developing countries like Bangladesh implementing such type of programmes can be costly and frustrating for the honest taxpayers. However, a number of benefits can be achieved through the offshore amnesty programmes. Windfall revenue might be collected since in the past a number of countries gathered revenue through such type of programmes. This might in turn help Bangladesh getting out of borrowing culture. 

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