



NITI Aayog

NITI Tax Policy Working Paper Series–II

Towards India's Tax Transformation: DECRIMINALISATION AND TRUST-BASED GOVERNANCE

CONSULTATIVE GROUP ON TAX POLICY





Towards India's Tax Transformation: Decriminalisation and Trust-Based Governance

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India's vision of *Viksit Bharat@2047* is anchored in a governance philosophy that combines growth, inclusion, and trust. Central to this transformation is the reimagining of India's direct tax framework — from one historically built on enforcement and deterrence to one that promotes voluntary compliance, simplicity, and fairness. The Government of India's ongoing reform agenda, reflected in initiatives such as the *Transparent Taxation - Honouring the Honest* platform, the *Jan Vishwas Act (2023)*, and the enactment of the *Income-tax Act, 2025*, underscores this paradigm shift towards a modern, predictable, and citizen-centric tax system.

This NITI Aayog's Working Paper, *NITI Tax Policy Working Paper Series-II "Towards India's Tax Transformation: Decriminalisation and Trust-Based Governance,"* examines the evolving contours of India's tax policy in the context of these reforms. It provides a structured analysis of the criminal provisions within the *Income-tax Act, 2025*, assessing their scope, necessity, and proportionality through a principled framework grounded in jurisprudence and global best practices. The study highlights the government's progressive approach to rationalisation — reducing criminalisation of minor procedural defaults, restoring judicial discretion, and focusing enforcement efforts on wilful and fraudulent tax evasion.

International experience shows that mature tax systems rely on trust-based governance, reserving criminal prosecution for deliberate and egregious non-compliance while addressing procedural or technical defaults through administrative and civil measures. By aligning with this approach, India can not only improve compliance outcomes and ease of doing business but also foster a culture of trust and cooperation between taxpayers and the administration.

The recommendations presented in this Working Paper support this vi-

sion by proposing a calibrated framework for decriminalisation, rationalisation of punishments, and legislative clarity. These reforms will help reduce litigation, enhance investor confidence, and lead to greater voluntary compliance and higher revenue collection by ensuring that enforcement mechanisms remain proportionate and fair.

I congratulate Dr P.S. Puniha and other members of the *Consultative Group on Tax Policy (CGTP)* and all other contributors for advancing this important dialogue on trust-based governance in India's tax system. Their rigorous analysis and balanced recommendations will serve as a valuable reference for policymakers, tax administrators, and legal experts working to strengthen India's evolving direct tax architecture.

BVR Subrahmanyam

CEO
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Executive Summary

The Government of India is driving a strategic reform of the direct tax regime, pivoting towards a philosophy of **Trust-Based Governance** and a compliance-first culture. This significant paradigm shift is underscored by the recent enactment of the **Income-tax Act, 2025**, which features comprehensive simplification—removing archaic provisions, clarifying language, and introducing a cleaner framework to enhance accessibility. Complementing this legal overhaul are key administrative initiatives, notably the **“Transparent Taxation – Honouring the Honest”** platform and the **Jan Vishwas Act (2023)**, which collectively seek to substantially reduce the overall compliance burden. Supporting the government’s overarching thrust in reforming the direct tax regime this NITI Aayog Working Paper on report seeks to provide a comprehensive and critical analysis of the criminal provisions within the Income-tax Act, 2025, mapping the present extent of criminalisation, documenting omissions and modifications, and recommending a trust-based regulatory transition for India’s direct tax regime. Recognizing the evolving policy landscape which stresses ease of business, citizen-centricity, and the need to move away from “fear-based” enforcement, the study evaluates each criminal provision through a principled criminal law-making framework rooted in jurisprudence, comparative regulatory best practices, and expert recommendations. Its central premise is that decriminalisation, rationalisation of punishments, and emphasis on proportionate sanctions will collectively align India’s income-tax law with the vision of a fair, accessible, and modern compliance regime.

Mapping the Criminal Landscape

India’s legislative history reflects a longstanding reliance on criminal law to enforce tax compliance, often criminalising even minor infractions, procedural omissions, or technical non-compliances. The Income Tax Act, 1961 criminalised 54 actions and omissions through 15 provisions, many of which pertained to regulatory infractions. The accompanying legal and social consequences—ranging from disqualification from public employment, denial of passports or visas, to restrictions on voting—were widely considered excessive when imposed on purely procedural defaults.

By contrast, the Income-tax Act, 2025 marks significant progress, omitting 13 offences (such as failures in administrative notifications by company liquidators or receivers) but continues to criminalise 35 actions and omissions across 13 provisions. All these offences are punishable with imprisonment and fine, and for 25 of them, the Act prescribes mandatory minimum imprisonment terms. While these measures are intended to safeguard state revenue and deter evasion, the continuing breadth of criminalisation, compounded by a presumption of culpable mental state, signals an ongoing reliance on criminal law as a routine enforcement tool rather than a targeted last resort.

Analytical Framework and Methodology

The report adopts a rigorous principled framework for criminal law-making, drawing on judicial precedents, recommendations of the Law Commission, and global best practices. This model asserts five core principles:

1. **Criminalisation must protect a fundamental societal value:** Only conduct that threatens core values like governance, public safety, law, and fiscal security should attract criminal sanctions.
2. **A clear, direct, and substantial harm is required:** Punishment must be reserved for acts causing real, quantifiable harm, not hypothetical or indirect inconvenience.
3. **Criminal law must be the only effective solution:** Civil, regulatory, or administrative measures should suffice for cases of non-malicious, procedural, or technical lapses.

4. **Proportionate response:** Severity of punishment must fit the seriousness of the violation, avoiding excessive sanctions for minor infractions.

5. **Clarity, precise drafting, and periodic review:** Offences should be clearly defined, fit-for-purpose, and subject to periodic legislative review to prevent redundancy or overreach.

This framework enabled the deconstruction of aggregate offences into their individual acts and omissions, allowing a nuanced evaluation of whether each criminal provision is justified, whether rationalisation is necessary, or whether alternative penalties are preferable.

Main Findings and Key Recommendations

Application of the framework reveals a persistent over-criminalisation in several domains. Notably, certain administrative and procedural faults—such as minor failures to comply with orders, or technical defaults in furnishing electronic assistance—still attract criminal penalties, despite posing no real risk to fiscal security or public interest. Conversely, serious conduct that is demonstrably fraudulent or wilfully evasive justifies retention of criminal penalties, but even here, punishments can often lack proportional gradation. The Act's approach to intent—frequently presuming culpability rather than requiring proven malafides—further risks unfair prosecution for inadvertent defaults.

International best practices, such as those in the United States, United Kingdom, Australia and others have been examined. They largely demonstrate sharply defined thresholds for prosecution. Only wilful, fraudulent, or deliberate malfeasance triggers criminal action, while civil penalties address all other non-compliances, supporting a more targeted and trust-based enforcement framework.

Anchored in the principle-based assessment, the report proposes a transformative trust-based compliance framework, with the following headline reforms:

- a. **Complete Decriminalisation:** Of the 35 criminal offences identified, 12 should be fully decriminalised and addressed through civil or monetary penalties alone, including a range of administrative and technical defaults.
- b. **Selective Criminalisation:** 17 offences should retain criminal liability only for fraudulent or malafide intent, removing criminal sanctions for good faith procedural lapses—thereby distinguishing fraud from honest error.
- c. **Retention of Criminal Provisions for Serious Misconduct:** Six core offences, involving deliberate, high-value, and injurious misconduct (such as orchestrated tax evasion or fabrication of evidence), should remain criminal with proportionate punishments.

Further recommendations include:

- a. **Removal of Mandatory Imprisonment:** Remove mandatory minimum imprisonment for most offences, enabling the judiciary to exercise discretion based on individual case circumstances and gradations of culpability.
- b. **Flexible Sentencing and Alternative Sanctions:** Permit courts to choose between fines and imprisonment, prioritising simple imprisonment or non-custodial measures, especially for first or low-level offences.
- c. **Omission of Reverse Burden of Proof:** Restore the prosecution's duty to demonstrate wilful or fraudulent intent beyond reasonable doubt, consistent with Indian criminal law standards and global best practices.

- d. Drafting Reform:** Simplify and clarify offence definitions; ensure that only specifically stated, serious, and intentional misdeeds attract criminal consequences.
- e. Periodic Legislative Review:** Establish mechanisms for regular review of criminal provisions to eliminate redundant or obsolete offences over time.

Policy Implications and Conclusion

These structural reforms are pivotal for realising the government's vision of a modern, user-friendly, and fair tax administration. The focus is to drive a transition from coercive compliance to a model that empowers taxpayers, differentiates between error and fraud, and deploys the criminal law only when vital public interests are at stake. Rationalised punishments, restoration of judicial discretion, and targeted criminalisation will lessen the burden on the criminal justice system while protecting fiscal interests and upholding constitutional rights.

Ultimately, implementation of these recommendations will embed trust at the heart of India's tax administration, encouraging voluntary compliance and ensuring that criminal prosecution remains the exception, not the norm. The resulting system will be robust, credible, and aligned with international standards for direct tax governance. This report aims to support and realise the government's vision of shaping a direct tax regime that is not only modern and accessible but also fair, balanced, and aligned with the broader vision of moving towards trust-based governance.

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1. Introduction

The Government of India is spearheading a strategic reform of the direct tax regime, fundamentally shifting to a philosophy of Trust-Based Governance and a compliance-first culture. This pivotal change is cemented by the new Income-tax Act, 2025 ('Act'), which replaces the Income-tax Act, 1961. The 2025 Act introduces comprehensive simplification—removing archaic provisions, clarifying language, and creating a cleaner, more accessible framework.

This legal overhaul is reinforced by key administrative initiatives like the "Transparent Taxation – Honouring the Honest" platform and the Jan Vishwas Act (2023). These efforts are part of a broader regulatory reform spanning years, driven by the goal of enhancing the ease of doing business and ease of living through simplified legal procedures, digitization, and the decriminalization of minor offenses.

At the heart of these reforms is the recognition that excessive regulation, especially the use of criminal law for minor or technical non-compliance, generates fear, uncertainty, and a trust deficit between citizens and the State. While the Income-tax Act, 2025 is a significant modernization, its full transformative potential hinges on also addressing the current overuse of criminal law in enforcing tax compliance.

Using criminal law to enforce compliance

Efficient tax administration is essential for the financial stability of the country and for financing welfare and developmental initiatives. Equally important is the fair and proportionate application of criminal law within the tax system — a critical reflection of the system's trust in its citizens, and essential for maintaining citizens' trust in the system. Together, these objectives ensure that taxes are filed and collected in a manner that is effective, efficient, and fair.

Despite this, the 1961 Act relied heavily on criminal law to enforce compliance. It criminalises 54 actions and omissions through 15 provisions, many of which are minor regulatory infractions. This reliance on criminal law to secure tax compliance is grounded in the belief that monetary penalties are insufficient deterrents. In fact, the Direct Taxes Enquiry Committee in its 1971 Report stated that *"In the fight against tax evasion, monetary penalties are not enough... Prospect of landing in jail, on the other hand, is a far more dreaded consequence to operate in terrorem upon the erring taxpayers... a conviction in a court of law is attended with several legal and social disqualifications as well... we consider it necessary for the Department to evolve a vigorous prosecution policy and to pursue it unsparingly."*

This approach has, however, undergone considerable change since then. Criminalisation of minor infractions is not only now seen as excessive and disproportionate, but also as impeding ease of doing business and ease of living.² This broader policy shift is reflected in the ongoing decriminalisation exercise under Jan Vishwas 1.0 and 2.0, as well as in the larger deregulation efforts as stressed upon in the Union Budget 2025. It is also seen more specifically in the context of evolving tax enforcement, through multiple circulars³ issued by the Central Board of Direct Taxes ('CBDT'). These circulars represent a shift in the tax administration policy, clearly emphasising that prosecution should not be

1 Direct Taxes Enquiry Committee, Final Report (December 1971) 29

<<https://indianculture.gov.in/reports-proceedings/direct-taxes-enquiry-committee-final-report>> accessed on 23 July 2025

2 Press Information Bureau, 'DPIIT working on Jan Vishwas 2.0 to further give a boost to "Make in India"', (28 September 2024) <<https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2059868>> accessed on 24 July 2025

3 Manual on Prosecution and Compounding 2020 - Volume I, Income-tax Department, New Delhi <https://nadt.gov.in/writereaddata/Menu-ContentImages/Manual_on_Prosecution_and_Compounding_2020_Vol_I_Part1638532041776204013.pdf> accessed on 9 April 2025.

pursued for minor non-compliances, such as failure to submit documents, and that compounding should also be pursued vigorously where possible. Instead, criminal sanctions must be reserved for serious cases involving significant fraud and fabrication of evidence. This change in enforcement approach strengthens the differentiation between minor regulatory violations and criminal conduct.

This distinction carries significant implications for the individual. A conviction or even being prosecuted can lead to disqualification from public employment⁴, restrictions on the right to vote⁵, loss of eligibility to contest elections, denial or revocation of passports⁶ and visas⁷, and disqualification from professional practice⁸. Some of these consequences of criminalisation are particularly harsh when imposed for procedural or technical defaults rather than malafide and fraudulent behaviour that causes clear and substantial harm to life, liberty, property, national security etc.

In recognition of this, the Income-tax Act, 2025 takes some significant steps to address this overreliance on criminalisation by omitting and thus decriminalising 13 offences, such as:

- a. Liquidator of any company being wound up failing to give notice to the Assessing Officer of appointment within thirty days of such appointment. [Section 276A(i) r/w Section 178(1)(a), Income Tax Act, 1961]
- b. Failing to surrender or deliver possession of the property to the appropriate authority within fifteen days in respect of which order has been made by the appropriate authority. [Section 276AB r/w Section 269UE(2), Income Tax Act, 1961]
- c. Receiver of any assets of any company failing to give notice to the Assessing Officer of appointment within thirty days of such appointment. [Section 276A(i) r/w Section 178(1)(b), Income Tax Act, 1961]
- d. Liquidator of any company failing to set aside an amount equal to the amount notified by the Assessing Officer. [Section 276A(ii) r/w Section 178(3)(b), Income Tax Act, 1961]

There is, however, further scope to firmly embed both the CBDT's practice and the broader decriminalisation policy within the legislative framework. In fact, the Act still continues to criminalise 35 actions and omissions across 13 provisions. These include criminalisation of acts such as failing to pay tax deducted at source⁹ and failing to provide reasonable technical assistance for inspection of books of account or other documents¹⁰.

The Act also continues to shift the burden of proof onto the accused by presuming a culpable mental state¹¹, a standard typically reserved for stringent criminal laws like the Protection of Children from Sexual Offences Act, 2012 (POCSO) and the Narcotics, Drugs, and Psychotropic Substances (NDPS) Act, 1985. This approach further reinforces the Act's reliance on harsh criminal measures rather than aligning with a more trust based regulatory framework.

4 Department of Personnel & Training, 2016, 'Attestation form for verification of character and antecedents prior to appointment in Government service', Office Memorandum Issued Vide F.No. 18011/2(s)/2016-Estt(b) Dated 30.03.2016, <<https://archive.pib.gov.in/documents/rlink/2016/mar/p201633101.pdf>> accessed on 24 July 2025.

5 Section 62(5), The Representation of People Act, 1951

6 Section 6(2)(f), The Passports Act, 1967

7 Section 212(a)(2), The Immigration and Nationality Act- Individuals seeking to enter the United States of America who are either convicted or are being prosecuted may be denied entry or have their visa application refused on such a ground.

8 Section 24A, The Advocates Act, 1961

9 Section 476, Income-tax Act, 2025.

10 Section 474, Income-tax Act, 2025.

11 Section 490(1), Income-tax Act, 2025.

Snapshot of the scope and extent of criminalisation			
35 actions and omissions are proposed to be criminalised under the Income-tax Act, 2025.			
Continued reliance on imprisonment			
All offences are punishable with imprisonment and fine.			
Terms of maximum imprisonment range from 1 year to 7 years.			
3 offences are punishable with a maximum of 1 year of imprisonment	17 offences are punishable with a maximum of 2 years of imprisonment	1 offence is punishable with a maximum of 3 years of imprisonment	13 offences are punishable with a maximum of 7 years of imprisonment
Limited judicial discretion			
Mandatory minimum imprisonment, with terms ranging from 3 months to 6 months, is prescribed for 25 offences.			
Compulsory prescription of rigorous form of imprisonment for all offences, except one.			
Judicial discretion, to choose whether a fine is to be imposed or not along with imprisonment, is available in only one offence.			
Stringent punishments for repeat offenders			
19 offences carry an enhanced punishment for second and subsequent commission.			
All repeat offences are punishable with a maximum of 7 years of imprisonment and a mandatory minimum of 6 months imprisonment.			
Mandatory and unspecified fines			
While fines are prescribed mandatorily, their quantum is not specified.			
34 offences carry mandatory fines in addition to imprisonment.	Only one offence allows the court discretion in imposing fines.	The quantum of fines for all offences has also been left to the court's discretion.	

2. Methodology

To understand the true extent and scope of criminalisation in the Act, and to assess the value and necessity of criminalising each provision, a two-step methodology has been adopted. Following this approach all criminal provisions in the Act have been mapped and the specific actions and omissions that have been criminalised have been identified [may please see Annexure I for the primer]. The methodology also facilitates a principled evaluation of whether criminalisation is justified by examining each case individually, on merits.

Review and identification of criminal provisions

Identification of all criminal provisions.

The Act has been analysed to identify all criminal provisions. This included reviewing compliances that attract civil penalties as well as criminal sanctions.

Simplification of offences

Laws often criminalise multiple actions and omissions within a single provision, making it difficult to determine the exact scope of criminalisation. To address this, these sections and sub-sections were deconstructed, and listed so that each distinct criminalised action and omission is brought out separately.

For example, Section 475 of the Income-tax Act, 2025 reads as 'Whoever, fraudulently removes, conceals, transfers or delivers to any person, any property or any interest therein, with the intent to prevent such property or interest from being taken in execution of a certificate as prescribed, shall be punishable with rigorous imprisonment for a term which may extend to 2 years and shall also be liable to fine.' This section was broken down into the following crimes:

1. Fraudulently removing any property or interest to any person, with the intent to prevent such property or interest from being taken in execution of a certificate.
2. Fraudulently concealing any property or interest to any person, with the intent to prevent such property or interest from being taken in execution of a certificate.
3. Fraudulently transferring or delivering any property or interest to any person, with the intent to prevent such property or interest from being taken in execution of a certificate.

This deconstruction and simplification enables an accurate assessment of all offences for the purposes of decriminalisation or the rationalisation of punishments. This is particularly important as different offences grouped within a single provision may not necessarily warrant criminalisation or identical punishments.

Cross-referencing of offences

In the Act, offences and their corresponding punishments are often defined and punished in separate provisions. In such cases, the punishment provision typically refers back to the definition, requiring both to be read together. Offences and their corresponding punishments have been documented after accounting for such drafting practices.

Assessment of criminal provisions

To carry out a principle-based assessment of each criminal provision, a clear guiding framework is essential. To do this, the foundational principles have been identified that guide criminal law-making in India. These principles form the basis on which the legitimacy and necessity of criminal provisions in the Act can be assessed. This helped in identifying offences suitable for decriminalisation or rationalisation of punishments.

3. Framework for Criminal Law Making & Decriminalisation: A Principle based Assessment Model

To understand India's approach to criminal lawmaking the judicial precedents, reports of expert committees, and recommendations of the Law Commission of India have been analysed. This analysis highlights the broad contours of India's policy of criminalisation.

Underlining that criminal law is an inherently harsh and coercive tool in the hands of the State, these precedents have consistently emphasised that it should be used sparingly, and only when essential to protect core values of the society and the political order.

For instance, in ***Federation of Obstetrics & Gynaecological Societies of India v. Union of India*¹²**, the Supreme Court upheld strict criminal provisions under the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994, observing that relaxing record-keeping requirements would defeat the objective of the law. It thus drew a link between the object of a law and the need for criminalisation, recognising its role in furthering the law's purpose. Similarly, in upholding the offence of contempt of court, the Court held that its object of maintaining public confidence in the justice system justified criminalisation.¹³

Conversely, provisions criminalising begging (***Harsh Mander v. Union of India*¹⁴**), homosexuality (***Navtej Johar v. Union of India*¹⁵**), attempt to commit suicide (***P. Rathinam v. Union of India*¹⁶**), and adultery (***Joseph Shine v. Union of India*¹⁷**) have been struck down, affirming the principle that criminalisation is unwarranted where it infringes personal autonomy, discriminates, or lacks a compelling State interest.

General principles for criminalisation

Based on this analysis a set of underlying principles and guidelines that guide the rational and legitimate use of criminal law have been identified. The framework provided is designed to limit the use of criminal law and ensure it remains a tool of last resort. It sets out general principles for criminalisation and specific considerations for drafting criminal provisions, guiding their principled, proportionate, and consistent application. This framework also serves as a basis for identifying provisions that can be decriminalised or where punishments can be rationalised.

Principle 1: Criminalisation must protect a fundamental societal value.

Criminal law should apply only to acts that threaten core societal values essential for governance, public safety, and stability, such as law and order, national security, life, liberty, property and social harmony.

Guidelines

- a. The link between the act and the value it seeks to protect must be direct and concrete, not abstract or speculative.

¹² (2019) 6 SCC 283.

¹³ In Re: Arundhati Roy, (2002) 3 SCC 343.

¹⁴ (2018) SCC OnLine Del 10427.

¹⁵ (2018) 1 SCC 791.

¹⁶ (1994) 3 SCC 394.

¹⁷ (2019) 3 SCC 39.

- b. If an act requires regulation but does not threaten these core values, civil or administrative penalties should be preferred.
- c. The law must clearly identify the specific societal value it aims to protect and prove that the act poses a direct and substantial threat to that value.
- d. Examples from the provisions under the Income-tax Act, 2025

<p>Failing to get inventory valued by a cost accountant and furnish the report.</p> <p>This act does not pose a threat to any core societal value. There is no direct or substantial link between the failure and any significant harm that warrants criminalisation.</p>	<p>Wilfully attempting to evade payment of any tax, penalty, or interest.</p> <p>Deliberate and fraudulent attempts to evade payment of tax pose a direct and concrete threat to economic security. The link between the act and the harm is clear and direct, justifying criminalisation.</p>
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Principle 2: Criminalisation must address a clear, direct, and substantial harm.

The law should only punish conduct that causes real, measurable harm to any of the values, not mere inconvenience, offence, or moral disapproval.

Guidelines

- a. Harm must be specific, identifiable, and demonstrable, not hypothetical or indirect.
- b. The link between the act and the harm must be immediate and clear, establishing concrete, substantial harm.
- c. Examples from the provisions under the Income-tax Act, 2025

<p>Failing to provide reasonable and technical assistance for inspection of electronic records</p> <p>The link between this unintentional failure and any real or substantial harm is remote and indirect. In the absence of clear, concrete, and demonstrable harm, criminalisation is not justified.</p>	<p>Fraudulently transferring any property with intent to defeat the execution of a certificate.</p> <p>The harm caused by transferring a property with intent to defeat recovery is specific, direct, and substantial. It poses a risk of substantial revenue loss. Criminalisation is justified given the fraudulent intent and significant risk involved.</p>
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Principle 3: Criminalisation must be the only efficient and effective solution.

Criminal law should only be used when no other mechanism - civil, regulatory, or administrative, can achieve the same goal as efficiently and effectively.

Guidelines

- a. Criminal punishment should serve one or more legitimate purposes, which include:
 - i. Deterrence – Only if the law ensures swift, certain, and stringent punishment.
 - ii. Incapacitation – Preventing individuals from causing further harm.
 - iii. Restitution – Addressing harm to victims.
- b. Criminal law should not be used when alternative procedures are simpler, more effective, fiscally responsible, and within the capacity of the system to manage.
- c. Examples from the provisions under the Income-tax Act, 2025

<p>Wilfully failing to furnish the return of total income in due time as required by notice given by the Assessing Officer.</p> <p>Non-production of documents or information is a regulatory compliance issue best addressed through civil sanctions.</p>	<p>Knowingly making a false statement in any verification, resulting in tax evasion of Rs. 25 lakh or more.</p> <p>Knowingly and fraudulently making a false statement with the intent to deceive and evade tax requires an element of deterrence to ensure honesty in tax proceedings.</p>
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Principle 4: Criminalisation and imposition of criminal punishment must be a proportionate response to harm.

The severity of punishment should align with the seriousness of the crime—neither excessive nor unnecessary.

Guidelines

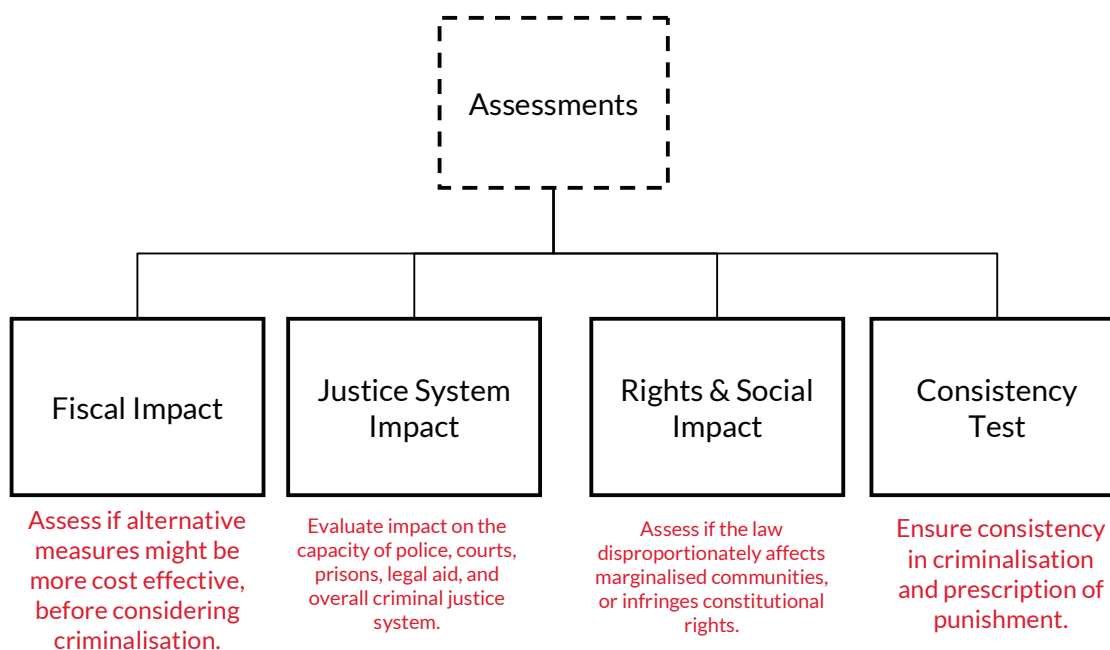
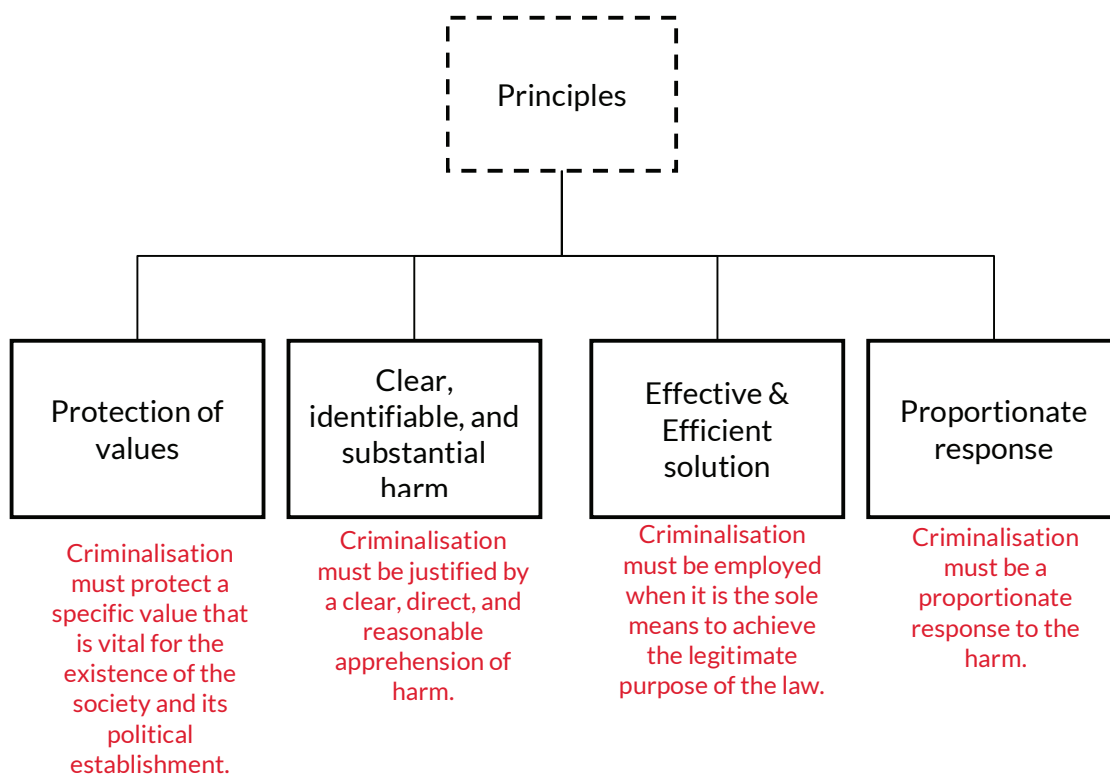
- a. Criminal punishments should be used only when truly necessary and not as a default response.
- b. If harm can be adequately addressed through fines, rehabilitation, or other non-criminal measures, those should be preferred.
- c. Punishments should reflect the level of culpability, distinguishing between intentional, reckless, and accidental acts.
- d. Examples from the provisions under the Income-tax Act, 2025

<p>Failing to produce accounts and documents as per notice served.</p> <p>Criminalisation of minor procedural or regulatory lapse such as failure to produce documents do not necessitate a criminal response, and can be corrected through civil processes.</p>	<p>Wilfully making a false entry or statement in any books of account, with intent to enable any other person to evade tax.</p> <p>Wilful acts of falsifying records with the intent to help them evade tax undermines tax compliance. Since the act is intentional, it necessitates a criminal punishment.</p>
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General considerations for drafting criminal provisions

- a. **Avoid duplication and ensure consistency:** If an offence is already covered under general criminal law, reference should be made to those provisions rather than creating new crimes. This helps avoid contradictions and ensures harmonisation of punishments.
- b. **Conduct pre-legislative impact assessments:**
 - i. **Fiscal impact:** Assess the financial burden of new criminal provisions on police, courts, prisons, and overall state resources.
 - ii. **Justice system capacity and effectiveness:** Evaluate the impact on the capacity and effectiveness of courts, correctional facilities, legal aid services, and the overall criminal justice system.
- c. **Human rights and social impact:** Ensure alignment with constitutional rights, avoid criminalising protected activities (e.g., speech, privacy, association), assess whether the law disproportionately affects marginalised communities, and ensure criminal law is not used to enforce moral beliefs unless justified by clear public harm.
- d. **Ensure clear and precise drafting:** Criminal provisions must avoid omnibus sections and ambiguity i.e., offences should be explicitly defined. Further, punishments should clearly differentiate between varying levels of severity of the offences.
- e. **Adopt alternative forms of punishments:** Prioritise restorative justice mechanisms such as community service, monetary penalties, and diversion programs for minor offences over short-term imprisonment, especially for first-time offenders.
- f. **Mandate periodic review of criminal laws:** Regular review of laws should be conducted to identify and decriminalise redundant offences.

Principles for criminalisation



4. Reviewing the Criminal Provisions of the Income-tax Act, 2025

The Income-tax Act, 2025 presents a timely opportunity to re-evaluate the role of criminal law in tax enforcement, particularly in light of its broader reform objective to create a simpler, more accessible, and trust-based tax regime.

This chapter offers an analysis of the criminal provisions under the Act. It classifies the provisions into broad categories and applies a principle-based framework for criminal law-making. The aim is to identify instances of excessive criminalisation and prescription of disproportionate punishments, and also to suggest pathways for decriminalisation and rationalisation of punishments.

Applying the framework for criminalisation

To apply the framework effectively, it is necessary to identify the fundamental societal values that the Act seeks to protect. It is apparent that one of the primary objectives of income-tax law is to further **economic security and fiscal integrity of the country**. When an individual or entity seeks to evade payment of tax, it may in some cases threaten or harm the fiscal integrity and economic security of the country. However, the degree and nature of harm may vary, and not all such instances may justify criminal sanction.

The other value sought to be protected is the **due process of law**. Certain actions or omissions, such as withholding information, falsifying records, or failing to respond to statutory notices, can undermine enforcement by misdirecting investigations, prolonging proceedings, and diverting limited administrative resources. While some of these actions may have a direct and substantial impact on the due process of law, others may not produce such clear or immediate harm and therefore require closer scrutiny to determine whether criminalisation is justified.

Values sought to be advanced by income-tax law	
Economic security & fiscal integrity of the country	Due process of law

Gradation of intent

The framework for criminalisation in the Act ascribes different degrees of intent to the acts and omissions it criminalises. These are: wilfully, knowingly, and fraudulently.

1. **Wilfully** means doing anything deliberately and intentionally, not necessarily implying malicious intent.¹⁸ Even though wilfulness denotes a level of awareness, it does not automatically imply a desire to deceive to cause harm.
2. **Knowingly** means doing anything with the knowledge of a particular fact or consequence. The focus is on the state of mind indicating the conscious awareness of a fact¹⁹, rather than the intentionality as implied by wilfully.
3. **Fraudulently** means doing anything with the intention to defraud²⁰, i.e., it necessarily involves an element of deceit.

¹⁸ M/S Chordia Automobile v. S. Moosa, 2000 (3) SCC 282.

¹⁹ A.S. Krishnan v. State of Kerala, (2004) 11 SCC 576.

²⁰ Section 2(9), Bharatiya Nyaya Sanhita, 2023.

Criminalising differing actions and omissions by assigning varying degrees of intent is important in ensuring a proportionate response. Yet, the punishments assigned to offences in the Act, it is noted do not strictly reflect such proportionality.

Furthermore, as **the Act presumes the culpable mental state**, such intent will be automatically assumed. This presumption defeats the gradation of intent such as 'wilfully,' 'fraudulently,' or 'knowingly' into a single, assumed culpability, undermining the principle of proportionality.

Category-wise classification

Based on the nature of the conduct criminalised and its impact on the identified fundamental values, all the 13 criminal provisions in the Act can be broadly classified into the following categories. The corresponding civil penalties for these offences, wherever prescribed, have also been identified. **A detailed comparison of criminal punishments vis-a-vis civil penalties can be found in Annexure III.**

Category	Relevant provisions - Criminal sanctions	Civil penalties
Obstruction of Tax Enforcement	Section 473 – Contravention of order made under section 247	No corresponding civil penalty section
	Section 474 – Failure to comply with Section 247(1)(ii)	No corresponding civil penalty section
	Section 475 – Removal, concealment, transfer or delivery of property to prevent tax recovery	No corresponding civil penalty section
	Section 480 – Wilful failure to furnish return of income in search/requisition cases	No corresponding civil penalty section
	Section 481 – Wilful failure to produce accounts and documents	Section 465 - Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.
Attempting Tax Evasion	Section 478 – Wilful attempt to evade tax, etc.	Section 439 - Penalty for underreporting and misreporting of income.
		Section 444 - Penalty for false entry, etc., in books of account
	Section 479 – Wilful failure to furnish returns of income	Section 465 - Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.
	Section 482 – False statement in verification, etc.	No corresponding civil penalty section
	Section 483 – Falsification of books of account or document, etc.	Section 444 - Penalty for false entry, etc., in books of account
	Section 484 – Abetment of false return, etc.	Section 444 - Penalty for false entry, etc., in books of account

Failing to Pay Tax	Section 476 - Failure to pay tax to credit of Central Government under Chapter XIX-B	Section 448 - Penalty for failure to deduct tax at source
	Section 477 - Failure to pay tax collected at source	No corresponding civil penalty section
Unauthorised Acts by Public Servants	Section 494 - Disclosure of particulars by public servants	No corresponding civil penalty section

While some of these offences do directly affect the key sovereign functions of tax collection, investigation, and enforcement, it is crucial now to assess whether all categorised offences in the Act comply with the principles and guidelines for criminal law making.

A. Obstruction of tax enforcement

The effectiveness of the tax administration depends on timely access to information, cooperation from assesseees and proper enforcement of measures such as search, seizure, survey action, summons for information or ensuring personal presence, prohibitory orders etc. The criminalisation of actions and omissions that may impede these processes, however, need scrutiny, particularly when the non-compliance is procedural, does not involve any intent to defraud or does not cause any direct or material harm.

1. Removing, parting with, or dealing with valuable articles, documents, or information systems under deemed seizure without permission of the authorised officer (Section 473).

The power of ordering deemed seizure is a practical tool used by tax officers when physical confiscation is difficult due to the property's volume, weight, dangerous nature, or other physical characteristics²¹. It functions as an administrative directive that effectively freezes the asset, preventing its use or movement. The officers may also issue orders to prohibit removal, dealing, or parting with, any books of account, documents, computer systems, assets, bank locker, bank accounts, without permission.²² The scope of such an order may also require the owner or person in possession of such items to take such steps as may be necessary to ensure compliance with the order.²³

While ensuring compliance with official orders is important to maintain integrity of the legal process, a violation of a deemed seizure order is fundamentally a failure to adhere to a restriction on property use. Criminalising such violations may be justified when there is clear intent to move seized goods or documents to defraud the government, tamper with evidence or evade tax. However, since the provision does not require proof of malicious intent, it risks criminalising mere procedural violations that may arise from misunderstanding, operational necessity, or oversight, rather than deliberate acts of fraud and tax evasion. These violations may often cause no real harm, and the impact may only be procedural.

Presently, Section 473 criminalises contravention of any order made under Section 247(4), which may end up including both minor procedural improprieties and more serious actions. Effectively, the section not only criminalises fraudulent removal, dealing, or parting with property in order to defeat the purpose of the order, but also extends to bonafide failures to take required steps to ensure compliance with the order.

²¹ Section 247(4)(a)(i), Income-tax Act, 2025.

²² Section 247(4)(b)(i), Income-tax Act, 2025

²³ *ibid*

The offence carries a punishment of rigorous imprisonment for up to 2 years and fine. This punishment seems disproportionate if applied to minor, non-malicious, or technical violations (e.g. shifting the object within the premises without any intention to defeat the object of the order). In such cases, using alternative measures such as civil penalties or attachment procedures would offer a more proportionate and effective means of ensuring compliance.

Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
No X	No X	No X

- Failing to provide reasonable technical and other assistance, including the access code, for inspection of books of account or other documents, which have been maintained in the form of electronic record on any computer system (Section 474).**

Section 247(1)(ii) of the Act empowers an authorised officer to require any person found in possession of electronic records, including books of account or documents or other information maintained in digital form, to provide reasonable technical and other assistance for inspection. This authority extends beyond merely accessing devices or local files; officers may now compel disclosure of access credentials, decrypt protected data, and directly inspect or seize digital information. These powers are significant and expand search operations into the digital realm, allowing physical search powers to now operate in 'virtual digital spaces.'

Virtual digital space

Definition of 'virtual digital space' under Income-tax Act, 2025:

Section 261(j): *"virtual digital space" means an environment, area or realm, that is constructed and experienced through computer technology and not the physical, tangible world which encompasses any digital realm 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.*

Through Section 247(1)(ii) and the newly inserted definition of virtual digital space, the Act enables tax officers to access not only institutional, investment, or financial data but also personal digital spaces including private emails, instant messages, social media accounts, and cloud-based storage. The combination of these provisions results in compelled digital transparency, where even encrypted or cloud-based personal content may be subject to inspection.

Section 474, criminalises the failure to provide any such assistance as required by the authorised officer, including withholding of passwords or encryption keys. In effect, it turns any form of

non-cooperation, even inability to provide assistance, into an offence punishable with rigorous imprisonment of up to 2 years and fine.

Impact on Fundamental Rights

While the objective of this provision is to ensure cooperation in digital investigations, it raises significant concerns around privacy and protection against self-incrimination. Compelling individuals to reveal access credentials to their devices or data could amount to testimonial compulsion, potentially violating the right against self-incrimination guaranteed under Article 20(3) of the Constitution of India. In the case of *CBI v. Mahesh Kumar*,²⁴ the court, while rejecting CBI's application for seeking passwords and user ID of the computer system of the accused, observed that recalling and disclosing such information involves mental effort and qualifies as a testimonial act. Such compulsion, without consent, would also contravene Section 161(2) of the Code of Criminal Procedure, 1973 [now section Section 180(2), Bharatiya Nagarik Suraksha Sanhita, 2023].

Furthermore, electronic devices often contain a vast amount of personal and sensitive information that extends far beyond financial records. Compelling access without robust safeguards could lead to indiscriminate access to private data, in violation of an individual's reasonable expectation of privacy.²⁵

The failure to provide assistance is, at best, a procedural non-compliance. It does not cause any harm to protected values or a direct obstruction to tax enforcement. Criminalising such non-cooperation, especially, when it could result in violations of constitutional rights, is excessive and disproportionate.

Globally, countries like Australia²⁶ and the United Kingdom²⁷ have enacted laws which require mandatory key disclosure, and criminalise the failure to provide access to personal data. However, enforcement of these laws are mostly confined to matters affecting national security and investigation of serious criminal cases such as terrorism and organised crime, and not routine tax enforcement.

The failure to provide technical assistance carries a punishment of rigorous imprisonment up to 2 years and fine. As a procedural offence, this punishment appears disproportionate when compared to a similar offence under the Bharatiya Nyaya Sanhita (BNS), 2023, i.e., failure to assist a public servant, which is punishable with up to 6 months' simple imprisonment or a fine of Rs. 5,000, or both.

Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
No X	No X	No X

²⁴ 2022 SCC OnLine Dis Crt (Del) 48

²⁵ Foundation for Media Professionals v. Union of India, Writ Petition (Criminal) No. 395 of 2022- The Supreme Court, while acknowledging these concerns, directed the Union government to form guidelines for the seizure of digital devices by investigative agencies.

²⁶ Section 3LA, The Cybercrime Act, 2001

²⁷ Section 53, The Regulation of Investigatory Powers Act, 2000

3. **Fraudulently removing, concealing, or transferring property to avoid execution of a certificate (Section 475).**

The act of fraudulently removing, concealing, or transferring property to avoid execution of a certificate is criminalised to safeguard the lawful recovery of dues owed to the State and to deter wilful tax evasion through fraudulent transfers of assets. Similar provisions exist under Section 243 of the BNS and Section 53 of the Transfer of Property Act, 1882. These provisions reflect a consistent legal principle i.e., once a liability has accrued, any deliberate effort to frustrate its enforcement through fraudulent means should attract civil or criminal liability.

Given that one of the core objectives of the Act is to ensure effective tax recovery, fraudulent transfer of assets directly impedes that. Additionally, since the offence as defined under the Act requires fraudulent intent, it excludes legitimate transactions that are not motivated by deceit.

However, while the nature of the offence warrants criminalisation, there is merit in rationalising the punishment. For this offence, the Act prescribes rigorous imprisonment of up to 2 years and fine. In contrast, for the same offence BNS provides for imprisonment of either description up to 3 years or a fine up to Rs. 5,000, granting the court discretion to determine both the form and extent of punishment. Mandatory prescription of imprisonment, that too rigorous in form, unduly restricts judicial discretion and may result in disproportionate outcomes, especially in cases where mitigating circumstances exist. **Aligning the punishment with the BNS would promote consistency and allow courts to tailor sentencing based on the facts of each case.**

Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
Yes ✓	Yes ✓	No ✗

4. **Wilfully failing to furnish returns in response to a notice (Section 480), or wilfully failing to produce documents (Section 481).**

Section 294(1)(a) empowers the Assessing Officer to issue a notice requiring any person to furnish a return, including details of undisclosed income, for the purpose of assessment. Section 480 criminalises failure to file such returns within the stipulated time, prescribing rigorous imprisonment of up to 3 years, with a mandatory minimum sentence of 3 months, along with a fine. Similarly, Section 268(1) allows the Assessing Officer to serve notice requiring a person to file returns not submitted on time, to produce accounts or documents, or to furnish information in writing. Section 481 criminalises wilful failure to comply with such a notice, prescribing rigorous imprisonment of up to 1 year and a fine.

While these provisions aim to ensure compliance during inquiry or search proceedings, resorting to criminalisation in such cases is excessive and disproportionate. By criminalising '*wilful*' rather than '*fraudulent*' conduct, they set a low threshold for criminal liability, capturing actions that may not involve any element of malice, dishonesty, or harm.

The Supreme Court in *M/S Chordia Automobile v. S. Moosa*²⁸, clarified that wilfulness denotes intentional action or a conscious disregard of duty, but does not necessarily imply malice.²⁹ Therefore, in cases where the act is wilful but not malicious or fraudulent, failures can merely delay assessment and may not necessarily lead to any revenue loss.

Considering punishment, the failure to furnish returns of income in search cases (Section 480) is punishable with rigorous imprisonment for up to 3 years, with a mandatory minimum imprisonment of 3 months, and fine. A similar offence in the Bharatiya Nyaya Sanhita, 2023, i.e., omission to produce a document or electronic record to a public servant is punishable with simple imprisonment up to 1 month or fine up to Rs. 5,000 or both. In case it is to be produced in Court, then the punishment is simple imprisonment up to 6 months or fine up to Rs. 10,000 or both. In comparison, the prescription of rigorous imprisonment and a mandatory minimum jail term under the Act seems excessively harsh.

Similarly, the wilful failure to produce accounts and documents in response to a notice (Section 481) is punishable with rigorous imprisonment for up to 1 year and fine. The offence is one of contempt of due process, but rigorous imprisonment of 1 year appears disproportionate. A similar offence in the BNS is punishable with a lesser jail term and/or a monetary fine.

Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
No X	No X	No X

5. **Wilfully failing to get accounts audited or inventory valued as directed by the Assessing Officer (Section 481).**

Section 268(5) empowers the Assessing Officer to direct any person to get their accounts audited by an accountant, have their inventory valued by a cost accountant, and submit the respective reports. Section 481 criminalises wilful failure to comply with such directions, prescribing rigorous imprisonment of up to 1 year and fine.

Similar to the provision above, the objective of this section is to ensure cooperation with the Assessing Officer to facilitate proper assessment of accounts and returns. However, criminalising non-compliance with such directions is a disproportionate response, particularly in cases where there is no fraudulent intent. These directions are procedural tools meant to aid assessment, and while compliance is important, failing to comply without any intent to deceive or suppress material facts does not warrant the use of criminal law.

The prescription of mandatory rigorous imprisonment up to 1 year with fine is excessive and harsh for what is a procedural violation. The violation is one of contempt of due process, and a similar offence in the BNS is punishable with a lesser jail term of 6 months and/or a monetary fine.

²⁸ 2000 (3) SCC 282.

²⁹ *Harrington v. U.S.*, C.A.R.I., 504 F.2d 1306, 1315- Act is 'willful' within meaning of section of Internal Revenue Code imposing penalty for willful failure to pay federal income and social security taxes withheld from employees if it is voluntary, conscious and intentional; no bad motive or intent to defraud the United States need be shown; According to California Penal Code, willful when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage.

Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
No X	No X	No X

B. Attempting to evade tax

This category deals with conduct that may result in tax evasion, such as underreporting of income or falsification of accounts. Such actions can directly lead to loss of revenue. However, just like for the acts that obstruct enforcement, it is important to distinguish between fraudulent attempts to evade tax and instances of non-compliance that occur inadvertently or even wilfully but without an intent to deceive.

The fundamental reliance of India's income tax system on taxpayer self-assessment necessitates full and honest disclosure. However, with the government's enhanced ability in the digital age to cross-verify data and gather information from multiple agencies, its dependency on the taxpayer's disclosure is diminished. Consequently, criminal sanctions should be used judiciously, targeting deliberate tax evasion rather than encompassing every technical reporting failure.

Wilfully attempting to evade tax (Section 478).

Section 478(1) lays down the various types of conduct that constitute an attempt to evade tax that is chargeable or imposable. These include:

- Underreporting of income;
- Possessing or controlling books of account or documents containing false entries or statements;
- Making or causing to be made any false entry or statement in such documents;
- Wilfully omitting or causing the omission of any relevant entry or statement;
- Creating or causing any other circumstance to exist that may facilitate the evasion of tax, penalty, or interest.

The punishment varies depending on the amount of tax sought to be evaded. If the tax sought to be evaded exceeds Rs. 25 lakh, the offence is punishable with rigorous imprisonment for a term not less than 6 months but may extend up to 7 years, along with a fine. Where the amount does not exceed Rs. 25 lakh, the offence is punishable with rigorous imprisonment for a term not less than 3 months but may extend up to 2 years, with or without a fine at the discretion of the court.

Section 478(1) serves a legitimate purpose by seeking to punish tax evasion. However, the provision is drafted broadly, covering a wide range of actions, some of which may stem from genuine error or oversight rather than fraudulent intent.

For instance, underreporting of income could arise from calculation mistakes, or misinterpretation of the law. In such cases, where there is no intent to deceive, the act of underreporting does not directly lead to any loss of revenue and can often be rectified once detected and communicated to the assessee. Similarly, merely possessing or controlling books or documents containing false entries does not imply that the person made those entries or that they were not the result of an honest mistake.

Furthermore, Section 478 criminalises '*creating or causing any other circumstance to exist that may facilitate the evasion of tax, penalty, or interest*'. Such a framing is vague and overbroad, lacking the specificity that any criminal provision needs. In the absence of clear definitions and thresholds, these catch-all formulations risk arbitrary interpretation and enforcement.

A blanket criminal response to all such actions is, therefore, disproportionate. **There is a clear need to rationalise the scope of criminalisation by distinguishing between fraudulent conduct and procedural or unintentional lapses.** While criminal prosecution may be appropriate in cases involving large sums and intent to defraud, not all cases of non-compliance should be criminalised. Most of these offences can be more appropriately dealt with through administrative or civil penalties such as those provided under Sections 439 and 444 of the Act.

This also aligns with the current enforcement practice of CBDT. The guidelines issued by CBDT state that criminal prosecution under Section 276C(1) of the Act (Wilful attempt to evade tax, etc.) would be launched only after confirmation of the penalty order by the Income Tax Appellate Tribunal (ITAT)³⁰. Hence, in cases involving minor amounts or bonafide mistakes, criminal processes may be avoided, since the recovery of tax will make good the loss and save resources.

Wilful attempt to evade payment of tax

Section 478(2) separately criminalises wilful attempts to evade the payment of any tax, penalty or interest, once the liability has already been determined.³¹ While this section also sets a relatively low threshold for intent, the conduct that it targets i.e., deliberate non-payment of arrears, causes direct and measurable harm to state revenue and may thus justify criminalisation.

Unlike Section 478(1), which criminalises preparatory or facilitative acts that may or may not lead to loss of revenue and are rectifiable, Section 478(2) targets situations where the assessee intentionally evades payment.

Section	Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
478(1)	Yes ✓ (When committed with fraudulent intent)	No ✗	No ✗
478(2)	Yes ✓ (Even when committed without fraudulent intent)	No ✗	No ✗

1. Wilfully failing to furnish return of income in due time (Section 479).

Section 479 criminalises the wilful failure to furnish a return of income. Timely filing of tax returns is central to the government's ability to collect revenue. Tax filings provide authorities with the necessary information on income, expenses, and other financial details to assess and collect taxes fairly. Moreover, a predictable and consistent schedule for return filing enhances administrative efficiency for both taxpayers and the tax department.

³⁰ Central Board of Direct Taxes, 2019, 'Procedure for identification and processing of cases for prosecution under Direct Tax Laws', Circular No. 24/2019 Issued Vide F.No. 285/08/2014-IT (Inv.V)/349 Dated 09.09.2019, <<https://incometaxindia.gov.in/communications/circular/circular-24-2019-11-09-2019.pdf>> accessed on 9 April 2025.

³¹ Vinodchandra v. State of Gujarat, 253 ITR 289, Vinaychandra v. State of Gujarat 213 ITR 307

However, failing to file a return on time is, at its core, a procedural lapse. It does not, by itself, indicate an intention to evade tax, nor does it necessarily result in revenue loss to the government. Individuals may fail to file on time for a variety of reasons, ranging from personal hardship and lack of awareness to technical glitches or misinterpretation of filing requirements. While such failures may technically qualify as wilful acts, to equate such lapses with criminal behaviour and subjecting them to prosecution can be disproportionate and counterproductive.

If the objective of the law is to ensure timely compliance and prevent revenue loss, there are already sufficient civil and administrative measures in place, such as penal interest for delayed filing and monetary penalties. These mechanisms are effective and proportionate for addressing procedural defaults.

In a recent judgment, the Karnataka High Court held that even after the assessee filed the return upon receiving a notice and paid the penalty imposed, they could still be prosecuted for delayed filing. The court held that compliance after the fact does not preclude criminal prosecution.³² This shows that prosecution in such cases does not serve the goal of ensuring compliance, because compliance was already achieved, so prosecution becomes a purely punitive measure.

Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
No X	Yes ✓ (But not fraudulent intent, only wilful conduct needs to be established)	No X

2. **Knowingly making a false statement or delivering a false account in a verification (Section 482).**

The act of knowingly making a false statement or delivering a false account in a verification is criminalised to ensure accuracy in information submitted to tax authorities. False statements, particularly when made with the intent to deceive, can undermine tax enforcement and lead to revenue loss. Therefore, there is a legitimate state interest in deterring deliberate falsification of facts or accounts through criminal sanctions.

However, false statements made deliberately, with intent to mislead, must be distinguished from inadvertent errors. Taxation law is extremely complex, and taxpayers often rely on interpretations of legal provisions, professional advice, or their own understanding when making disclosures. What may appear to be a false statement may, in practice, stem from ambiguity or oversight rather than an intent to mislead. In such cases, civil penalties and corrective measures such as revised returns, rectification, and assessment proceedings are better suited tools than criminal prosecution. The threshold of 'knowingly' making a false statement limits the scope of prosecution to some extent but it can be difficult to disprove that there was no knowledge and risks being applied too broadly.

Additionally, while the nature of the offence warrants criminalisation, there is merit in rationalising the punishment. Rigorous imprisonment for up to 7 years with a mandatory minimum for making a false statement or delivering a false account in any verification seems disproportionate. In comparison, giving a false statement on oath or affirmation is punishable with imprisonment up to 3 years and fine under the BNS³³.

³² Raj Kumar Agarwal v. Income Tax Department (CRL.P.NO.201214/2023).

³³ Section 216, Bharatiya Nyaya Sanhita, 2023

Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
Yes ✓	Yes ✓ (But not fraudulent intent, only knowledge needs to be established)	No ✗

3. Falsification of books of accounts or documents to enable tax evasion (Section 483), and abetting such conduct or evasion of tax (Section 484)

Section 483 criminalises wilfully making a false entry or statement in any books of account or document to enable another person to evade tax. It is punishable with rigorous imprisonment of up to 2 years but not less than 3 months, and fine. Similarly, Section 484 criminalises abetment of falsification or tax evasion making it punishable with imprisonment up to 7 years but not less than 6 months and fine, if the tax that would have been evaded exceeds Rs. 25 lakhs. In all other cases, with imprisonment up to 2 years but not less than 3 months and fine.

These sections extend the scope of criminal liability to include not just the primary offenders but also those who facilitate or abet evasion. It recognises collusion, whether through false accounting or advisory misconduct in tax fraud.

Both these sections have a *mens rea* requirement. Section 483 uses the phrase 'wilfully and with intent to enable any other person to evade tax,' indicating that both wilfulness and a specific intent to assist in tax evasion must exist. This sets a higher threshold for criminal liability and clearly distinguishes such conduct from technical non-compliance or bona fide errors.

Section 484, on the other hand, uses language similar to Section 482, criminalising those who 'knowingly' abet the making of false statements or the evasion of tax. It must be noted that the concept of abetment, as defined under Section 45 of the BNS, inherently requires intention. It involves instigating, engaging in conspiracy, or intentionally aiding an unlawful act. Therefore, *mens rea* remains a core requirement even under Section 484.

The prescription of a mandatory minimum and rigorous imprisonment, however, appears disproportionate and may need rationalisation, especially for cases involving minor amounts. Conduct criminalised under Section 483 as well as Section 484 is covered under civil penalty Sections³⁴ which allows for imposition of penalty of the aggregate amount of false entry or omission, on the person who causes another person to make a false entry or omission, for evading tax liability.

Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
Yes ✓	Yes ✓	No ✗

C. Failing to pay tax

This category includes offences where a taxpayer or intermediary, entrusted with deducting or collecting tax on behalf of the government, fails to deposit the tax within the stipulated time frame. The deductor acts as a fiduciary, not a taxpayer, and is responsible for ensuring that government dues are timely remitted.

³⁴ Section 444, Income-tax Act, 2025

4. Failure to pay tax to credit of the Central Government (Section 476) and Failure to pay tax collected at source (Section 477).

Sections 476 and 477 criminalise the failure to deposit tax deducted ('TDS') or collected at source ('TCS'), such as from salaries, rent, transfer of immovable property or sale of specified goods. Since the deductor/collector acts in a fiduciary capacity³⁵, the non-remittance of tax already deducted from other's income may amount to a breach of trust and directly harm public revenue. It is, therefore, valid for the law to punish the misuse of public money held in trust.

However, the offence, as currently framed, does not require fraudulent or wilful intent to be proved. Any delay or failure, even if unintentional or procedural, can lead to criminal prosecution. This criminalises even unintentional lapses such as defaults arising due to cash flow constraints, accounting errors, or administrative oversights, rather than deliberate misconduct.

The CBDT guidelines³⁶ acknowledge this distinction, stating that prosecution for failure to pay TDS or TCS should generally not be pursued for cases where the amount involved is below Rs. 25 lakhs and the delay is less than 60 days. Prosecution should be reserved for exceptional cases, such as against habitual defaulters or where the default is clearly intentional and repeated. The guidelines aim to ensure that criminal proceedings are not initiated for minor or inadvertent lapses and are instead focused on cases where there is clear evidence of deliberate non-compliance.

Moreover, where there is no fraudulent intent, civil remedies such as interest, penalties, and recovery mechanisms are sufficient and more appropriate.

The punishment for failure to deposit tax deducted or collected at source - rigorous imprisonment for a minimum of 3 months, extendable up to 7 years, is clearly disproportionate to the nature of the offence. In fact, the same maximum punishment under the BNS is prescribed for offences such as causing grievous hurt or kidnapping a child under 10 years of age, neither of which carry a mandatory minimum sentence.

Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
Yes ✓	No ✗	No ✗

D. Unauthorised acts by public servants

This category includes only one offence i.e., a public servant furnishing any information or producing any document, in contravention of a notification made by the Central Government prohibiting the same (**Section 494**). It seeks to protect confidentiality, integrity of tax proceedings, and public trust.

However, the offence does not require proof of corruption, malicious intent or resultant harm which creates the risk of penalising honest mistakes or administrative lapses. While such disclosures may undermine privacy or the fairness of proceedings, they typically do not result in direct financial loss or significantly obstruct tax assessments. In such cases, civil or administrative measures such as disciplinary action would be more appropriate and effective. The provision acknowledges the

³⁵ The Income Tax Officer v. M/s. Suryodaya Infrastructure Pvt., Ltd, CC.No.345-14 , 2017.

³⁶ Central Board of Direct Taxes, 2019, 'Procedure for identification and processing of cases for prosecution under Direct Tax Laws', Circular No. 24/2019 Issued Vide F.No. 285/08/2014-IT (Inv.V)/349 Dated 09.09.2019, <<https://incometaxindia.gov.in/communications/circular/circular-24-2019-11-09-2019.pdf>> accessed on 9 April 2025.

potential for non-malicious lapses, as prosecution can only be initiated with prior sanction from the government. This offers some safeguard against automatic penalisation for honest errors.

The prescribed punishment, mandatory imprisonment up to 6 months and a fine seems to be disproportionate to the nature of the offence, particularly when it may arise from inadvertent errors rather than deliberate misconduct. A clearer legislative distinction between malicious and non-malicious disclosures, accompanied by graded administrative responses for non-malicious disclosures, would better serve the objective of deterrence.

Harm to Protected Value	Requirement of Intent	Proportionality of Punishment
No X	No X	No X

Conclusion

From the above analysis, it is clear that the Act employs criminal sanctions for a range of actions and omissions, some of which are deliberate and fraudulent, while others are merely procedural and regulatory lapses. Although many of these offences require proof of criminal, or fraudulent intent, **the Act instead presumes the existence of a culpable mental state (Section 490)**. This effectively shifts the burden of proof to the accused, who must establish the absence of such intent.³⁷

Even as this presumption itself appears to be an excessively harsh measure, the manner in which punishments are prescribed is even more severe. In fact, all offences under the Act attract imprisonment, with harsh mandatory minimum terms prescribed for 25 offences, and all except one carrying rigorous imprisonment. All of this, when civil and regulatory tools are already available, prescribed, and even recommended over criminal prosecution for 18 of the 35 offences.

There is, therefore, a strong case for reform. While offences involving fraud, deliberate concealment, or repeated defaults may continue to attract criminal sanctions, several minor infractions can be decriminalised to rely instead on civil enforcement. Further, there is ample scope to rationalise the punishment framework by removing excessive mandatory minimum sentences, prescribing simple rather than rigorous imprisonment, and reducing overall terms of imprisonment.

In essence, a clearer distinction between serious tax fraud or evasion and non-criminal failures or defaults would improve enforcement outcomes for the department, reduce the burden on courts, and make tax administration more predictable and less coercive.

³⁷ Section 490, Income-tax Act, 2025

5. International Best Practices: Reserving Criminal Sanctions for Serious Violations

As a primary source of government revenue, direct tax regimes require robust systems of collection and enforcement. Even as the objective of ensuring compliance is universal, the extent to which criminal law is used for this purpose varies significantly across countries.

Offences related to income tax administration across the globe generally involve four kinds of non-compliances: non-payment of taxes owed i.e. tax evasion; failure to furnish documents or file returns as required; furnishing false documents or returns and underreporting income. Most countries criminalise these serious violations, particularly tax evasion, reflecting a broad consensus on their gravity.

However, there is a growing trend to reserve criminal sanctions for most egregious and culpable violations. Minor infractions, such as delays in filing, minor underreporting, or furnishing incorrect documents without fraudulent intent are typically managed through administrative procedures. These procedures usually involve monetary penalties and interest, focusing on correction, revenue recovery, and deterring future non-compliance, without invoking the criminal justice system.

Limiting criminal prosecution in tax compliance and enforcement

Countries limit the use of criminal prosecution through a range of mechanisms. For instance, the United States of America (U.S.A) has set high thresholds for initiating prosecution, requiring proof of fraudulent intent, wilfulness, or significant financial harm. Other countries such as Germany establish clear legal distinctions between criminal intent and lesser culpability like recklessness in its fiscal code. In countries like the United Kingdom (U.K.), tax authorities have adopted policies prioritising civil investigation routes first, reserving criminal referral for the most egregious cases. Japan follows a similar approach, imposing a high administrative penalty for fraud termed the 'Heavy Penalty Tax' before escalating to criminal prosecution, if necessary.

The following table provides a comparative overview of how some countries balance the use of criminal law and administrative measures in their tax enforcement frameworks.

Country	Threshold for Criminal Prosecution and Administrative Action
Germany	<p>a. The German Fiscal Code distinguishes between tax evasion and reckless tax evasion. Section 370 defines tax evasion as a crime and includes actions such as submitting incorrect particulars or failing to furnish relevant particulars leading to the understatement of taxes or unlawful tax benefits for oneself or others.³⁸</p> <p>b. Section 378, on the other hand, addresses reckless commission of the same acts, treating them as administrative offences.³⁹ No fine is imposed if the person voluntarily corrects or discloses the missing or incorrect information before being notified of legal proceedings.⁴⁰ Even if tax has already been understated or tax advantages have already been derived, a penalty is avoided if the person pays the due amount within a reasonable time.</p>

38 Section 370, The Fiscal Code of Germany <https://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p2615> accessed on 9 April 2025.

39 Section 378, The Fiscal Code of Germany <https://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p2684> accessed on 9 April 2025.

40 Section 371, The Fiscal Code of Germany <https://www.gesetze-im-internet.de/englisch_ao/englisch_ao.html#p2634> accessed on 9 April 2025.

United Kingdom (U.K.)	<p>a. The Tax Management Act, 1970 criminalises the fraudulent evasion of tax. By explicitly requiring proof of knowledge and fraudulent intent, the provision ensures that only deliberate acts aimed at deceiving the government fall within its scope. Other non-compliances such as failing to give notice of being chargeable to tax, failing to deliver return or making an inaccurate return are also punishable with imprisonment and fines.</p> <p>b. In practice, however, His Majesty's Revenue & Customs (HMRC) limits the scope of criminal prosecution. Its policy generally favours civil investigation mechanisms (such as Code of Practice 9) to recover tax and impose penalties, even in cases involving fraud.⁴¹ Criminal prosecution is reserved for select serious cases based on criteria like deliberate concealment, position of trust, or organised crime. These are only pursued when HMRC needs to send a strong deterrent message or where the conduct involved is such that only a criminal sanction is appropriate.⁴²</p>
Austria	Austria's Fiscal Penal Code also differentiates between intentional tax evasion (section 33) and negligent reduction of taxes (section 34). ⁴³ Negligent reduction of taxes is punishable only with a fine up to the applicable amount of reduced taxes.
Jersey	<p>a. Income Tax (Jersey) Law's tax framework under the Income Tax Law, 1961 and the Revenue Administration Law, 2019 clearly differentiates between criminal conduct and civil non-compliance. Only a limited set of actions are criminalised such as fraudulently providing a return that is incorrect in a material particular⁴⁴, obstructing a public officer⁴⁵, knowingly altering, concealing, destroying or otherwise disposing of the information requested by the Comptroller⁴⁶, or making wrongful disclosures⁴⁷.</p> <p>b. All other forms of non-compliances such as failure to deliver return on time, refusing to allow a deduction of tax or furnishing inaccurate returns are addressed through civil penalties</p> <p>c. The Revenue Jersey Code of Practice on Compliance Activities reinforces this, stating that administrative penalties are the standard response for errors, carelessness, or deliberate non-compliance that do not meet the threshold for serious cases.⁴⁸ Penalty amounts are linked to the level of culpability i.e., a careless act attracts a penalty between 10% and 30% of the tax difference, while deliberate non-compliance attracts a higher penalty ranging from 50% to 100%.</p>
The United States of America	<p>a. The Internal Revenue Code prescribes a range of tax-related offences, including attempts to evade or defeat tax, willful failure to collect or pay over tax, failure to file returns or pay taxes, and the intentional submission of false statements.⁴⁹ These offences are punishable with imprisonment and/or fines. However, criminal liability generally requires proof of 'willfulness' that is, an intentional violation, beyond a reasonable doubt. In many cases, corresponding civil penalties are also prescribed for the same acts.</p> <p>b. The authority to initiate criminal prosecution, however, rests with the Internal Revenue Service (IRS), which exercises this discretion selectively. Prosecution is authorised only where there is clear evidence of fraud, and decisions are based on factors (called 'badges of fraud') such as the strength of evidence, the gravity of the offence (including its scale, frequency, or deliberate nature), and the necessity of deterrence.</p>

41 Government of United Kingdom, HM Revenue and Customs, Code of Practice 9 (June 2023) <https://assets.publishing.service.gov.uk/media/64a821251121040013ee64ed/COP9_06_23.pdf> accessed on 9 April 2025.

42 Government of United Kingdom, HM Revenue and Customs, Criminal Investigation Policy <<https://www.gov.uk/government/publications/criminal-investigation/hmrc-criminal-investigation-policy>> accessed on 9 April 2025.

43 Fiscal Penal Act, 1958, Austria <https://extranet.who.int/fctcapps/sites/default/files/2024-04/2_legal%20bases_AT.pdf> accessed on 9 April 2025.

44 Section 137, Income Tax Law, 1961 <https://www.jerseylaw.je/laws/current/l_29_1961> accessed on 9 April 2025.

45 Section 141C, Income Tax Law, 1961 <https://www.jerseylaw.je/laws/current/l_29_1961> accessed on 9 April 2025.

46 Section 27H, Revenue Administration Law, 2019 <https://www.jerseylaw.je/laws/current/l_13_2019> accessed on 9 April 2025.

47 Section 9, Revenue Administration Law, 2019 <https://www.jerseylaw.je/laws/current/l_13_2019> accessed on 9 April 2025.

48 Government of Jersey, Treasury and Exchequer, Code of Practice on Revenue Jersey Compliance Activities (January 2024) <<https://www.gov.je/SiteCollectionDocuments/Tax%20and%20your%20money/ID%20RJ%20Code%20of%20Practice%20on%20Compliance%20Activities.pdf>> accessed on 9 April 2025.

49 Title 26, Internal Revenue Code, Subtitle F, Procedure and Administration <<https://uscode.house.gov/view.xhtml?path=/prelim@title26/subtitleF/chapter75/subchapterA&edition=prelim>> accessed on 9 April 2025.

Japan	<p>a. Japan adopts a similar approach to that of the U.S.A, maintaining both criminal offences and civil penalties within its tax enforcement framework. However, criminal prosecution is pursued only in a limited number of cases, typically where there is clear and demonstrable evidence of malicious intent or fraud.</p> <p>b. The penalty structure includes sanctions for underreporting, non-filing, and withholding tax payments. In instances of fraud, a distinct and more severe penalty referred to as the heavy penalty tax is imposed in place of the standard penalties. The amount of penalty is 35% of the additional tax for underreporting, 40% of the tax determined for non-filing, and 35% of the tax due for failure to fulfill withholding obligations.⁵⁰</p>
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⁵⁰ Grand Thornton, Japan Tax Bulletin (May 2017) <https://www.grantthornton.jp/globalassets/1.-member-firms/japan-2/pdfs/newsletter/bulletin/archive/bulletin_201705.pdf> accessed on 9 April 2025.

6. Recommendations For a Trust Based Framework

For the Act to truly facilitate trust-based governance it must move away from its overreliance on criminalisation for ensuring compliance. This requires decriminalising minor non-compliances, rationalising punishments to fit the offence, and prioritising alternative forms of sanctions.

Based on an analysis of all the criminal provisions in the Act, this report makes the following broad recommendations. The table below offers a snapshot of the nature and scope of these proposed recommendations, serving as a ready reference for the detailed recommendations that follow.

S. NO.	Category	Recommendations
1.	Decriminalisation of specified acts of omission or commission	Reclassify acts or omissions so they are no longer criminal offences and carry no criminal liability.
2.	Partial Decriminalisation/ Selective Criminalisation of specified acts of omission or commission	Retain criminal sanctions for fraudulent or malicious conduct, while decriminalising non-malicious failures like procedural or technical non-compliance. This ensures proportionate treatment based on intent and severity.
3.	Retain Criminalisation of specified acts of omission or commission	Maintain criminal provisions where necessary to respond to serious misconduct.
4.	Rationalisation of Punishments	Remove mandatory minimum sentences to allow proportionality in punishment. Permit judicial discretion to choose between fines and imprisonment, and replace rigorous imprisonment with simple or flexible alternatives.
5.	Simplification of Language	Redraft provisions using plain, accessible language. This ensures clarity in compliance requirements and enforcement.
6.	Presumption of Culpable Mental State	Omit the presumption to align with general principles of criminal law. Restore the burden of proof on the prosecution, as is standard practice.

Recommendations

Based on the above analysis of all the criminal provisions in the Act, this report makes the following broad recommendations to Decriminalise, partially de-criminalise and retain criminal provisions for specified acts of omissions and commissions enumerated in the following provisions of the Income-tax Act, 2025. The corresponding provisions of the earlier Income Tax Act, 1961 have also been stated.

Decriminalise	Partially decriminalise	Retain criminalisation
	Retaining criminalisation for fraudulent and malafide conduct	
12 offences	17 offences	6 offences

Provisions for Decriminalisation			
S. No.	Provisions in the 2025 Act & 1961 Act	Offence	Rationale & Recommendation
1.	<p><u>Income-tax Act, 2025</u></p> <p>Section 476. Failure to pay tax to credit of Central Government under Chapter XIX-B</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276B. Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B.</p>	<p>Failing to pay tax deducted at source as required by or under provisions relating to collection, recovery of tax, deduction and collection at source, to the credit of the Central Government.</p> <p>[Section 476(1)(a)]</p>	<p>Failing to pay tax deducted at source is a procedural default which may sometimes arise from unintentional or non-malafide lapses. While there is a reasonable connection with harm to public revenue and fiscal integrity, the harm is measurable and reparable. Such defaults do not threaten core societal values such as public safety, law and order, or national security.</p> <p>Further, civil remedies such as interest and penalties are proportionate and effective, offering greater swiftness and certainty in ensuring compliance without resorting to criminal prosecution.</p> <p>Recommendations:</p> <p>Omit Section 476.</p> <p>Amend Section 448 to penalise failure to pay tax deducted at source with civil penalty.</p>
2.	<p><u>Income-tax Act, 2025</u></p> <p>Section 476. Failure to pay tax to credit of Central Government under Chapter XIX-B</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276B. Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B.</p>	<p>Person responsible for releasing the winnings for any lottery, crossword puzzle, card game, gambling, betting or any other online game, failing to pay or ensure payment of tax that is deducted on such winnings, where it is wholly in kind, or is partly in kind and partly in cash but where the part in cash is not sufficient to meet the liability of deduction of tax, to the credit of the Central Government, before releasing the winnings.</p> <p>[Section 476(1)(b) r/w Note 6 to Section 393(1) (Table Sl. No. 8)]</p>	<p>A person responsible for releasing winnings failing to pay tax due on any income on lottery, etc. before releasing the winnings is a procedural default which may sometimes arise from non-malafide or unintentional lapses. While there is a reasonable connection to harm to public revenue and fiscal integrity, the harm is measurable and reparable. Such defaults do not threaten core societal values like public safety, law and order, or national security. Civil remedies are more proportionate and effective, offering greater swiftness and certainty in ensuring compliance without resorting to criminal prosecution.</p> <p>Recommendation: Omit Section 476.</p>
3.	<p><u>Income-tax Act, 2025</u></p> <p>Section 476. Failure to pay tax to credit of Central Government under Chapter XIX-B</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276B. Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B.</p>	<p>Person providing any benefit, perquisite or consideration failing to pay or ensure payment of tax that is deducted on such benefit, perquisite or consideration, where there is no part in cash (in respect of virtual digital assets), or is wholly in kind, or is partly in kind and partly in cash but where the part in cash is not sufficient to meet the liability of deduction of tax, to the credit of the Central Government.</p> <p>[Section 476(1)(b) r/w Note 6 to Section 393(1) (Table Sl. No. 8)]</p>	<p>Failing to pay tax deducted on a benefit, perquisite or consideration is a procedural default which may sometimes arise from an unintentional or non-malafide lapse without any fraudulent intent. While there is a reasonable connection with harm to public revenue and fiscal integrity, the harm is measurable, and reparable. Such defaults do not threaten public safety, national security, or law and order.</p> <p>Further, civil remedies are more proportionate and effective, offering greater swiftness and certainty in ensuring compliance without resorting to criminal prosecution.</p> <p>Recommendation: Omit Section 476</p>

4.	<p><u>Income-tax Act, 2025</u></p> <p>Section 477. Failure to pay tax collected at source.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276BB. Failure to pay the tax collected at source.</p>	<p>Failing to pay to the credit of the Central Government, the tax which one is required to collect at source.</p> <p>[Section 477(1) r/w Section 397(3)(a), Section 392(2)(a)]</p>	<p>Failure to pay to the credit of the government tax collected at source may be due to procedural and unintentional lapses with no malafide intent. Even as there is a direct connection with harm to public revenue, the harm is measurable, and reparable through recovery. This failure does not threaten public safety, national security, or law and order. Criminalisation is disproportionate and would not be as effective in repairing the harm. Enforcement should focus on civil or administrative measures which offer greater swiftness and certainty in enforcement.</p> <p>Recommendations:</p> <p>Add a section in Chapter XXI (Penalties) which penalises failure to pay tax collected at source.</p> <p>Omit Section 477.</p>
5.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by causing any circumstance to exist which may have the effect of enabling one to evade any tax, penalty, or interest chargeable or imposable, or the payment of such tax, penalty, interest, where the amount sought to be evaded exceeds twenty-five lakh rupees.</p> <p>[Section 478(1)(a) r/w Section 478(4)(d)]</p>	<p>Tax evasion directly impacts public revenue. However, the framing of the offence lacks precision and specificity. Such vague and broad sections risk blurring lines between minor infractions and fraudulent conduct, and lead to criminalisation of minor or technical non-compliances. Actions and omissions that may lead to tax evasion should be explicitly listed, defined and assigned proportionate criminal punishments, as is done for other offences.</p>
6.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by causing any circumstance to exist which may have the effect of enabling one to evade any tax, penalty, or interest chargeable or imposable, or the payment of such tax, penalty, interest, where the amount sought to be evaded does not exceed twenty-five lakh rupees.</p> <p>[Section 478(1)(b) r/w Section 478(4)(d)]</p>	<p>Recommendation: Omit Section 478(4)(d).</p>

7.	<p><u>Income-tax Act, 2025</u></p> <p>Section 479. Failure to furnish returns of income.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276CC. Failure to furnish returns of income.</p>	<p>Wilfully failing to furnish the return of income in due time as required, where the amount of tax which would have been evaded if the failure had not been discovered exceeds twenty-five lakh rupees.</p> <p>[Section 479(1)(a) r/w Section 263(1), Section 268(1) and Section 280]</p>	<p>Failing to file returns within the time specified does not, in itself, establish a direct and substantial harm to public revenue and fiscal integrity of the country. It is fundamentally a procedural lapse that can be remedied. The section risks criminalising delays or minor procedural lapses. It also imposes harsh and disproportionate punishments where civil penalties, under Section 465, may offer greater swiftness and certainty in enforcement, and are more effective and appropriate in securing revenue.</p>
8.	<p><u>Income-tax Act, 2025</u></p> <p>Section 479. Failure to furnish returns of income.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276CC. Failure to furnish returns of income.</p>	<p>Wilfully failing to furnish the return of income in due time as required, where the amount of tax which would have been evaded if the failure had not been discovered does not exceed twenty-five lakh rupees.</p> <p>[Section 479(1)(a) r/w Section 263(1), Section 268(1) and Section 280]</p>	<p>Recommendation: Omit Section 479.</p>
9.	<p><u>Income-tax Act, 2025</u></p> <p>Section 480. Failure to furnish return of income in search cases.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276CCC. Failure to furnish return of income in search cases.</p>	<p>Wilfully failing to furnish the return of total income in due time as required by notice given by the Assessing Officer in the case where any search has been initiated or requisition is made.</p> <p>[Section 480 r/w Section 294(1)(a)]</p>	<p>Failing to furnish return in response to a notice requiring furnishing of returns does not, in itself, establish a direct and substantial harm to public revenue and fiscal integrity of the country. It is fundamentally a procedural lapse that can be remedied. Presently the provision imposes harsh and disproportionate punishments where civil penalties, under Section 465, may offer greater swiftness and certainty in enforcement, and are more effective and appropriate in securing revenue.</p> <p>Where wilful non-compliance is part of a broader act of evasion or falsification, it can be addressed under other substantive offences.</p> <p>Recommendation: Omit Section 480.</p>
10.	<p><u>Income-tax Act, 2025</u></p> <p>Section 481. Failure to produce accounts and documents.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276D. Failure to produce accounts and documents.</p>	<p>Wilfully failing to produce, or to cause to be produced the accounts and documents referred to in a notice served by the Assessing Officer.</p> <p>[Section 481 r/w Section 268(1)]</p>	<p>Failing to comply with any orders to produce documents does not, in itself, establish a direct and substantial harm to public revenue and fiscal integrity of the country. It risks criminalising minor procedural or regulatory lapses that can be remedied. Presently, the provision imposes harsh and disproportionate punishments where civil penalties, under Section 465, may offer greater swiftness and certainty in enforcement, and are more effective and appropriate in securing revenue.</p> <p>Where wilful non-compliance is part of a broader act of evasion or falsification, it can be addressed under other substantive offences.</p> <p>Recommendation: Omit Section 481.</p>

11.	<p><u>Income-tax Act, 2025</u></p> <p>Section 481. Failure to produce accounts and documents.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276D. Failure to produce accounts and documents.</p>	<p>Wilfully failing to comply with a direction issued by the Assessing Officer, to get the accounts audited by an accountant and furnish the report.</p> <p>[Section 481 r/w Section 268(5)(i)]</p>	<p>Failure to comply with a requirement of getting accounts audited does not directly impact public revenue and fiscal integrity of the country. The audit supports the integrity of tax assessment, but non-compliance, especially due to oversight or delay, does not justify criminal sanction. Civil penalties, under Section 465, may offer greater swiftness and certainty in enforcement, and are more effective and appropriate in securing revenue.</p>
			<p>Where wilful non-compliance is part of a broader act of evasion or falsification, it can be addressed under other substantive offences.</p> <p>Recommendation: Omit Section 481.</p>
12.	<p><u>Income-tax Act, 2025</u></p> <p>Section 481. Failure to produce accounts and documents.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276D. Failure to produce accounts and documents.</p>	<p>Wilfully failing to comply with a direction issued by the Assessing Officer, to get the inventory valued by a cost accountant and furnish the report.</p> <p>[Section 481 r/w Section 268(5)(ii)]</p>	<p>Failure to comply with a direction to get inventory valued may be a serious regulatory infraction, but it does not significantly and directly impact public revenue and fiscal integrity of the country. The valuation supports the integrity of tax assessment, but non-compliance, especially due to oversight or delay, does not justify criminal sanction. Civil penalties under Section 465, and adverse inference provisions under assessment law provide sufficient corrective tools.</p>
			<p>Recommendation: Omit Section 481.</p>

Provisions for Partial Decriminalisation			
S. No.	Provisions in the 2025 Act & 1961 Act	Offence	Rationale & Recommendation
1.	<p><u>Income-tax Act, 2025</u></p> <p>Section 473. Contravention of order made under section 247.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 275A. Contravention of order made under sub-section (3) of section 132.</p>	<p>Contravening an order of deemed seizure of any valuable article or thing if it is not possible or practicable to take physical possession or removal to a safe place of such article or thing, due to its volume, weight, or other physical characteristics or it being of a dangerous nature, by removing or parting or otherwise dealing with such article or thing, without permission of the authorised officer.</p> <p>[Section 473 r/w Section 247(4)(a)(i)]</p>	<p>Contravening an order of deemed seizure with a malafide intent, including with an intent to tamper with evidence, may be detrimental to tax enforcement. In these cases criminal sanctions may be necessary.</p> <p>However, the current provision does not clearly differentiate between intentional actions and unintentional or procedural lapses. Non-malafide actions that technically contravene deemed seizure orders may be decriminalised. In such cases, civil or administrative penalties may be more effective and efficient, offering greater swiftness and certainty in enforcement.</p> <p>Recommendation: Amend Section 473 to clearly criminalise only intentional or fraudulent contravention of order of deemed seizure.</p>
2.	<p><u>Income-tax Act, 2025</u></p> <p>Section 473. Contravention of order made under section 247.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 275A. Contravention of order made under sub-section (3) of section 132.</p>	<p>Contravening an order prohibiting removal, parting or dealing of any books of account, documents, computer systems, asset, bank locker, bank account, if it was not practicable to seize the same, without permission of the authorised officer.</p> <p>[Section 473 r/w Section 247(4)(b)(i)]</p>	<p>Contravening an order prohibiting removal, parting with, or dealing in any books of account, documents, computer systems, or other assets without permission of the authorised officer may, when done with malafide intent, obstruct investigations and undermine tax enforcement.</p> <p>However, the current provision does not clearly distinguish between intentional wrongdoing and unintentional or procedural lapses. Non-malafide actions that technically contravene such orders may be decriminalised. In such cases, civil or administrative penalties may be more effective and efficient, offering greater swiftness and certainty in enforcement.</p> <p>Recommendation: Amend Section 473 to clearly criminalise only intentional or fraudulent contravention of prohibitory order.</p>
3.	<p><u>Income-tax Act, 2025</u></p> <p>Section 474. Section 474. Failure to comply with section 247(1)(ii).</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 275B. Failure to comply with the provisions of section (iib) of sub-section (1) of section 132.</p>	<p>Failing to provide reasonable technical and other assistance, including the access code, for inspection of books of account or other documents, which have been maintained in the form of electronic record on any computer system.</p> <p>[Section 474 r/w Section 247(1)(ii)]</p>	<p>Failing to provide assistance may impede investigation and result in obstruction. However, since the authorities are empowered under the law to take coercive measures such as breaking open and accessing physical and digital spaces for evidence, criminalising genuine inability to facilitate or mere non-compliance is excessive.</p> <p>Further, compelling individuals to reveal access credentials may be violative of constitutional protections against self-incrimination and failure to provide such access should not be criminalised. The scope of access often extends beyond traditional books of accounts to include emails, investment data, or social media, also raising serious constitutional concerns about investigative overreach and privacy.</p> <p>Hence, the scope of Section 474 may be limited to serious physical interference or the use of force or violence against a public servant.</p> <p>Recommendations: Amend Section 474 to only criminalise intentional physical interference or use of force against any authorised person discharging official duties.</p>

4.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Under-reporting one's income, where the tax on under-reported income exceeds twenty-five lakh rupees.</p> <p>[Section 478(1) r/w Section 478(1)(a)]</p>	<p>Evading tax liability by under-reporting poses a direct threat to the fiscal integrity of the country and warrants criminal prosecution. However, to ensure proportionality and targeted enforcement, criminal liability should be limited to fraudulent conduct, irrespective of the monetary threshold. Underreporting arising from bonafide error, technical oversight etc. without any fraudulent intent, should be decriminalised.</p> <p>Such cases should instead attract civil penalties under Sections 439 and 444, in line with CBDT's guidelines. This ensures that criminal prosecution is reserved for serious misconduct while avoiding penal consequences for procedural or unintentional lapses.</p> <p>Further, the monetary threshold of Rs. 25 lakh should be revised to Rs. 1 crore, to bring it in line with contemporary fiscal standards. This threshold was last revised in 2012.</p> <p>Recommendations:</p> <p>Decriminalise the conduct that arises from bonafide error, technical misreporting, or interpretative dispute, without fraudulent intent.</p> <p>Amend Section 478(1) to read as 'fraudulently under-reports his income'.</p> <p>The monetary threshold of Rs. 25 lakh should be revised to Rs. 1 crore, to bring it in line with contemporary fiscal standards.</p>
5.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or impossible, by possessing or controlling any books of account or other documents containing a false entry or statement, where the amount sought to be evaded exceeds twenty-five lakh rupees.</p> <p>[Section 478(1)(a) r/w Section 478(4)(a)]</p>	<p>Tax evasion poses a direct threat to the fiscal integrity of the country and warrants criminal prosecution. However, criminalising mere possession of books of account which contains a false entry or statement may be disproportionate.</p> <p>To ensure proportionality and targeted enforcement, criminal liability should be confined to clearly intentional misconduct, specifically instances where a person knowingly possesses books of account containing false entries or statements. This narrower scope ensures that only deliberate and conscious violations attract prosecution.</p> <p>Such cases should instead attract civil penalties under Sections 439 and 444, in line with CBDT's guidelines. This ensures that criminal prosecution is reserved for serious misconduct while avoiding penal consequences for procedural or unintentional lapses.</p> <p>Recommendations:</p> <p>Decriminalise the conduct that arises from bonafide error, technical misreporting, or interpretative dispute, without fraudulent intent.</p> <p>Amend Section 478(1) to read as 'fraudulently attempts in any manner to evade'.</p> <p>Amend Section 478(4)(a) to read as 'knowingly has in his possession or control any books'.</p>

6.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or impossible, by making or causing any false entry or statement to be made in books of account or other documents, where the amount sought to be evaded exceeds twenty-five lakh rupees.</p> <p>[Section 478(1)(a) r/w Section 478(4)(b)]</p>	<p>Evading tax liability by making false entries poses a direct threat to the fiscal integrity of the country and warrants criminal prosecution. However, to ensure proportionality and targeted enforcement, criminal liability should be limited to fraudulent conduct, irrespective of the monetary threshold. Bonafide errors, technical misreporting etc. without any fraudulent intent, should be decriminalised.</p> <p>Such cases should instead attract civil penalties under Sections 439 and 444, in line with CBDT's guidelines. This ensures that criminal prosecution is reserved for serious misconduct while avoiding penal consequences for procedural or unintentional lapses.</p> <p>Recommendations:</p> <p>Decriminalise the conduct that arises from bonafide error, technical misreporting, or interpretative dispute, without fraudulent intent.</p> <p>Amend Section 478(1) to read as 'fraudulently attempts in any manner to evade'.</p> <p>Amend Section 478(4)(b) to read as 'wilfully makes or causes to be made any false entry'.</p>
7.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or impossible, by wilfully omitting or causing any relevant entry or statement to be omitted in books of account or other documents, where the amount sought to be evaded exceeds twenty-five lakh rupees.</p> <p>[Section 478(1)(a) r/w Section 478(4)(c)]</p>	<p>Evading tax liability by wilfully omitting relevant entries poses a direct threat to the fiscal integrity of the country and warrants criminal prosecution. However, to ensure proportionality and targeted enforcement, criminal liability should be limited to fraudulent conduct, irrespective of the monetary threshold. Bonafide errors, technical misreporting etc. without any fraudulent intent, should be decriminalised.</p> <p>Such cases should instead attract civil penalties under Sections 439 and 444, in line with CBDT's guidelines. This ensures that criminal prosecution is reserved for serious misconduct while avoiding penal consequences for procedural or unintentional lapses.</p> <p>Recommendations:</p> <p>Decriminalise the conduct that arises from bonafide error, technical misreporting, or interpretative dispute, without fraudulent intent.</p> <p>Amend Section 478(1) to read as 'fraudulently attempting in any manner to evade'.</p>

8.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Under-reporting one's income, where the tax on under-reported income does not exceed twenty-five lakh rupees.</p> <p>[Section 478(1)(b) r/w Section 478(1)]</p>	<p>Evading tax liability by under-reporting poses a direct threat to the fiscal integrity of the country and warrants criminal prosecution. However, to ensure proportionality and targeted enforcement, criminal liability should be limited to fraudulent conduct, irrespective of the monetary threshold. Underreporting arising from bonafide error, technical oversight etc. without any fraudulent intent, should be decriminalised.</p> <p>Such cases should instead attract civil penalties under Sections 439 and 444, in line with CBDT's guidelines. This ensures that criminal prosecution is reserved for serious misconduct while avoiding penal consequences for procedural or unintentional lapses.</p> <p>Further, for lower-value cases, with a revised threshold of Rs. 1 Crore, a proviso may be added requiring civil penalty award to have been confirmed by the ITAT prior to launching criminal prosecution.</p> <p>Recommendations:</p> <p>Decriminalise the conduct that arises from bonafide error, technical misreporting, or interpretative dispute, without fraudulent intent.</p> <p>Amend Section 478(1) to read as 'fraudulently under-reports his income'.</p> <p>For cases involving amounts less than Rs. 1 crore, add a proviso requiring civil penalty award to have been confirmed by the ITAT prior to launching criminal prosecution.</p>
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9.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by possessing or controlling any books of account or other documents containing a false entry or statement, where the amount sought to be evaded does not exceed twenty-five lakh rupees.</p> <p>[Section 478(1)(b) r/w Section 478(4)(a)]</p>	<p>Tax evasion poses a direct threat to the fiscal integrity of the country and warrants criminal prosecution.</p> <p>However, criminalising mere possession of books of account which contains a false entry or statement may be disproportionate.</p> <p>To ensure proportionality and targeted enforcement, criminal liability should be confined to clearly intentional misconduct, specifically instances where a person knowingly possesses books of account containing false entries or statements. This narrower scope ensures that only deliberate and conscious violations attract prosecution.</p> <p>All other cases should attract civil penalties under Sections 439 and 444. This ensures that criminal prosecution is reserved for serious misconduct while avoiding penal consequences for procedural or unintentional lapses.</p> <p>Further, in line with CBDT's guidelines, for lower-value cases, with a revised threshold of Rs. 1 Crore, a proviso may be added requiring civil penalty award to have been confirmed by the ITAT prior to launching criminal prosecution.</p> <p>Recommendations:</p> <p>Decriminalise the conduct that arises from bonafide error, technical misreporting, or interpretative dispute, without fraudulent intent.</p> <p>Amend Section 478(1) to read as 'fraudulently attempts in any manner to evade'.</p> <p>Amend Section 478(4)(a) to read as 'knowingly has in his possession or control any books'.</p> <p>For cases involving amounts less than Rs. 1 crore, add a proviso requiring civil penalty award to have been confirmed by the ITAT prior to launching criminal prosecution.</p>
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10.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by making or causing any false entry or statement to be made in books of account or other documents, where the amount sought to be evaded does not exceed twenty-five lakh rupees.</p> <p>[Section 478(1)(b) r/w Section 478(4)(b)]</p>	<p>Evading tax liability by making false entries poses a direct threat to the fiscal integrity of the country and warrants criminal prosecution. However, to ensure proportionality and targeted enforcement, criminal liability should be limited to fraudulent conduct, irrespective of the monetary threshold. Bonafide errors, technical misreporting etc. without any fraudulent intent, should be decriminalised.</p> <p>Such cases should instead attract civil penalties under Sections 439 and 444, in line with CBDT's guidelines. This ensures that criminal prosecution is reserved for serious misconduct while avoiding penal consequences for procedural or unintentional lapses.</p> <p>Further, in line with CBDT's guidelines, for lower-value cases, with a revised threshold of Rs. 1 Crore, a proviso may be added requiring civil penalty award to have been confirmed by the ITAT prior to launching criminal prosecution.</p> <p>Recommendations:</p> <p>Decriminalise the conduct that arises from bonafide error, technical misreporting, or interpretative dispute, without fraudulent intent.</p> <p>Amend Section 478(1) to read as 'fraudulently attempts in any manner to evade'</p> <p>Amend Section 478(4)(b) to read as 'wilfully makes or causes to be made any false entry'</p> <p>For cases involving amounts less than Rs. 1 crore, add a proviso requiring civil penalty award to have been confirmed by the ITAT prior to launching criminal prosecution.</p>
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11.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by wilfully omitting or causing any relevant entry or statement to be omitted in books of account or other documents, where the amount sought to be evaded does not exceed twenty-five lakh rupees.</p> <p>[Section 478(1)(b) r/w Section 478(4)(c)]</p>	<p>Evading tax liability by wilfully omitting relevant entries poses a direct threat to the fiscal integrity of the country and warrants criminal prosecution. However, to ensure proportionality and targeted enforcement, criminal liability should be limited to fraudulent conduct, irrespective of the monetary threshold. Bonafide errors, technical misreporting etc. without any fraudulent intent, should be decriminalised.</p> <p>Such cases should instead attract civil penalties under Sections 439 and 444, in line with CBDT's guidelines. This ensures that criminal prosecution is reserved for serious misconduct while avoiding penal consequences for procedural or unintentional lapses.</p> <p>Further, in line with CBDT's guidelines, for lower-value cases, with a revised threshold of Rs. 1 Crore, a proviso may be added requiring civil penalty award to have been confirmed by the ITAT prior to launching criminal prosecution.</p> <p>Recommendations:</p> <p>Decriminalise the conduct that arises from bonafide error, technical misreporting, or interpretative dispute, without fraudulent intent.</p> <p>Amend Section 478(1) to read as 'fraudulently attempts in any manner to evade'.</p> <p>For cases involving amounts less than Rs. 1 crore, add a proviso requiring civil penalty award to have been confirmed by the ITAT prior to launching criminal prosecution.</p>
12.	<p><u>Income-tax Act, 2025</u></p> <p>Section 478. Wilful attempt to evade tax, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 276C. Wilful attempt to evade tax, etc.</p>	<p>Wilfully attempting to evade the payment of any tax, penalty or interest under this Act, in any manner.</p> <p>[Section 478(2)]</p>	<p>Intentionally evading payment of tax due directly impacts the fiscal security of the country. Criminalisation deals with this direct undermining of the tax system. However, to ensure proportionality and avoid overreach, prosecution should be limited to cases where fraudulent intent is clearly demonstrated. Bonafide errors or unintentional failures without any fraudulent intent, should be decriminalised.</p> <p>A distinction should also be made between low and high-value cases. For lower-value cases, under the threshold of Rs. 1 Crore, civil penalties under Section 439 and 444 should suffice, in line with CBDT prosecution guidelines.</p> <p>Recommendations:</p> <p>Amend Section 478(2) to read as 'fraudulently attempts in any manner to evade payment'</p> <p>Add a proviso, requiring civil penalty award to have been confirmed by the ITAT prior to launching criminal prosecution for cases involving amounts less than Rs. 1 crore.</p>

13.	<p><u>Income-tax Act, 2025</u></p> <p>Section 482. False statement in verification, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 277. False statement in verification, etc.</p>	<p>Knowingly making a false statement in any verification under the Act or under any rules made thereunder, where the amount of tax that would have been evaded if the statement had been accepted as true exceeds twenty-five lakh rupees.</p> <p>[Section 482(a)]</p>	<p>Knowingly making a false statement in a verification or delivering a false account prevents accurate assessment of tax liability. Criminalisation seeks to ensure integrity of tax proceedings.</p> <p>However, to ensure proportionality and avoid overreach, prosecution should be limited to cases where fraudulent intent is clearly demonstrated.</p> <p>Narrowing the scope will ensure that bonafide conduct or errors are decriminalised.</p> <p>Additionally, the monetary threshold of Rs. 25 lakh should be revised to Rs. 1 crore, to bring it in line with contemporary fiscal standards. This threshold was last revised in 2012.</p>
14.	<p><u>Income-tax Act, 2025</u></p> <p>Section 482. False statement in verification, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 277. False statement in verification, etc.</p>	<p>Knowingly delivering a false account, where the amount of tax that would have been evaded if the account had been accepted as true exceeds twenty-five lakh rupees.</p> <p>[Section 482(a)]</p>	
15.	<p><u>Income-tax Act, 2025</u></p> <p>Section 482. False statement in verification, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 277. False statement in verification, etc.</p>	<p>Knowingly making a false statement in any verification under the Act or under any rules made, where the amount of tax that would have been evaded if the statement had been accepted as true, does not exceed twenty-five lakh rupees.</p> <p>[Section 482(b)]</p>	
16.	<p><u>Income-tax Act, 2025</u></p> <p>Section 482. False statement in verification, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 277. False statement in verification, etc.</p>	<p>Knowingly delivering a false account, where the amount of tax that would have been evaded if the account had been accepted as true does not exceed twenty-five lakh rupees.</p> <p>[Section 482(b)]</p>	<p>Recommendations:</p> <p>Amend Section 482 to read as 'If a person fraudulently makes a statement in any verification'</p> <p>Amend Section 482 to increase monetary threshold for differing punishments from Rs. 25 lakh to Rs. 1 crore.</p>

17.	<p><u>Income-tax Act, 2025</u></p> <p>Section 494. Disclosure of particulars by public servants.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 280. Disclosure of particulars by public servants.</p>	<p>Furnishing any information or producing any document as a public servant, in contravention of a notification made by the Central Government prohibiting the same.</p> <p>[Section 494 r/w Section 258(3)]</p>	<p>Disclosures of information or documents in violation of a prohibitory notification may harm investigation. However, in most cases, the harm is procedural, indirect, and does not cause personal gain or financial loss. Presently, the section criminalises unintentional or bonafide mistakes, which is excessive and disproportionate.</p> <p>To ensure proportionality, criminalisation may be retained only for deliberate disclosures that pose a clear risk to sensitive investigations, and unintentional errors should be decriminalised.</p> <p>In other cases, internal disciplinary action or administrative penalties would be more effective.</p> <p>Recommendation: Amend Section 494 to clearly criminalise only deliberate or intentional breaches of confidentiality by public servants.</p>
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Retention of Criminalisation			
S. No.	Provisions in the 2025 Act & 1961 Act	Offence	Rationale & Recommendation
1	<u>Income-tax Act, 2025</u> Section 475. Removal, concealment, transfer or delivery of property to prevent tax recovery. <u>Income-tax Act, 1961</u> Section 276. Removal, concealment, transfer or delivery of property to thwart tax recovery.	Fraudulently removing any property or interest to any person, with the intent to prevent such property or interest from being taken in execution of a certificate. [Section 475]	Fraudulently removing any property or interest with the intent to prevent it from being taken in execution of a certificate obstructs tax enforcement and undermines the integrity of lawful processes. Such intentional and malafide actions cause direct and substantial harm and therefore warrant criminalisation.
2	<u>Income-tax Act, 2025</u> Section 475. Removal, concealment, transfer or delivery of property to prevent tax recovery. <u>Income-tax Act, 1961</u> Section 276. Removal, concealment, transfer or delivery of property to thwart tax recovery.	Fraudulently concealing any property or interest to any person, with the intent to prevent such property or interest from being taken in execution of a certificate. [Section 475]	
3	<u>Income-tax Act, 2025</u> Section 475. Removal, concealment, transfer or delivery of property to prevent tax recovery. <u>Income-tax Act, 1961</u> Section 276. Removal, concealment, transfer or delivery of property to thwart tax recovery.	Fraudulently transferring or delivering any property or interest to any person, with the intent to prevent such property or interest from being taken in execution of a certificate. [Section 475]	
			Recommendation: Retain the provision.

4	<p><u>Income-tax Act, 2025</u></p> <p>Section 483. Falsification of books of account or document, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 277A. Falsification of books of account or document, etc.</p>	<p>Wilfully making any false entry or statement in any books of account or other document relevant or useful in any proceedings under the Act, with the intent to enable any other person to evade any tax, interest or penalty.</p> <p>For the purposes of establishing the charge under this section, it shall not be necessary to prove that the second person has actually evaded any tax, penalty or interest chargeable or imposable under this Act.</p> <p>[Section 483]</p>	<p>This offence deals with wilful falsification of records with the intent to help another person evade tax, interest, or penalties, even if no actual evasion takes place.</p> <p>While criminalisation is justified for deliberate misconduct that undermines tax compliance, existing civil penalties under Section 444 may be preferred particularly in cases involving minor or first-time contraventions.</p>
			<p>Recommendation: Retain the provision.</p>
5	<p><u>Income-tax Act, 2025</u></p> <p>Section 484. Abetment of false return, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 278. Abetment of false return, etc.</p>	<p>Knowingly inducing or abetting any person to make or deliver a false account, statement or declaration relating to any income chargeable to tax, where the amount of tax, penalty or interest which would have been evaded if the account, statement or declaration had been accepted as true exceeds twenty-five lakh rupees.</p> <p>[Section 484(a) r/w Section 484(i)]</p>	
6	<p><u>Income-tax Act, 2025</u></p> <p>Section 484. Abetment of false return, etc.</p> <p><u>Income-tax Act, 1961</u></p> <p>Section 278. Abetment of false return, etc.</p>	<p>Knowingly inducing or abetting any person to make or deliver a false account, statement or declaration relating to any income chargeable to tax, where the amount of tax, penalty or interest which would have been evaded if the account, statement or declaration had been accepted as true does not exceed twenty-five lakh rupees.</p> <p>[Section 484(a) r/w Section 484(ii)]</p>	<p>Abetting filing of false returns which results in evasion of tax directly affects the nation's fiscal integrity. Such wilful abetment or inducement to submit false information for the purpose of evading tax warrants criminal liability. Criminalisation of clear, deliberate misconduct deters manipulation of financial records or concealment of income.</p>
			<p>Recommendation: Retain the provision.</p>

Rationalisation of punishments prescribed

Even as overreliance on criminal law to ensure tax compliance and enforcement is, in itself, not reflective of a trust-based system, the form and terms of imprisonment prescribed exacerbate the problem. Imprisonment, often meant for the most grave and serious offences, is used excessively in the Act, through mandatory minimum sentences, rigorous imprisonment, and little room for judicial discretion. For most offences, this is either unnecessary or grossly disproportionate.

The following are some key areas where punishments can be rationalised.

1. Remove mandatory minimum sentences and allow greater judicial discretion.

Of the 35 offences punishable under the Act, 25 carry mandatory minimum jail terms. Such a prescription of punishment disallows courts from granting lesser sentences after considering the specific circumstances of each case. It prevents judges from weighing aggravating and mitigating factors and from ensuring that punishment remains proportionate to the degree of culpability involved.

Even as only around 13% of all crimes under union laws attract mandatory minimum punishments,⁵¹ the Act imposes such terms on nearly 71% of crimes. This stark contrast further necessitates a critical relook at whether punishments, typically reserved for grave offences, such as those illustrated below, are appropriate or necessary to ensure compliance with taxation laws.

Mandatory minimum sentences for offences in the Act & BNS		
Offence in the Act	Mandatory minimum	Offence in BNS
Failing to pay tax deducted at source. (Section 476)	Yes	Selling a child for prostitution. (Section 98)
Wilfully underreporting income to evade tax. (Section 478)	Yes	Causing grievous hurt. (Section 116)
Knowingly making a false statement in any verification, where tax evaded is less than Rs. 25 lakh. (Section 483)	Yes	Child trafficking (Section 143)

2. Rationalise terms of imprisonment and allow judicial discretion between fine and imprisonment for offences

The term of imprisonment is considered to be reflective of the gravity of the offence. Out of 35 offences in the Act, 13 offences (38%) are punishable with 7 years of imprisonment. In addition, many minor infractions under the Act are punishable with lengthy durations of imprisonment, which prima facie appear excessive and do not align with the principle of proportionality.

For punishment to be just, it must be proportionate to the harm caused and applied consistently across similar offences. A comparative analysis with the BNS, the parent criminal statute, reveals several instances where the same or similar offences attract different punishments under the Act and the BNS, and conversely, where entirely different offences are prescribed the same punishment. This inconsistency highlights a lack of alignment between the gravity of the offence and the punishment imposed. **The terms of imprisonment should therefore be rationalised in line with the BNS to ensure that they are just, fair, and reasonable.**

⁵¹ State of the System Report, Vidhi Centre for Legal Policy, April 2025, available at <<https://crimeandpunishment.in/researches/the-state-of-the-system>> accessed on 3rd May 2025

These discrepancies are illustrated in the tables below.

Differing offences: Similar punishments			
Offence in the Act	Punishment	Punishment	Offence in BNS
Wilfully failing to furnish return of income in due time as required, resulting in tax evasion of Rs. 25 lakhs or more. (Section 479)	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	Imprisonment of either description up to 7 years and fine.	Kidnapping a child under the age of 10 years with intent to steal from them. (Section 97)
Person or employer responsible for paying any income, failing to pay the tax deducted, collected or determined to the credit of the Central Government. (Section 476)	Rigorous imprisonment up to 7 years, but not less than 3 months, and fine.	Imprisonment of either description up to 5 years, or fine, or both.	Rioting with a deadly weapon. (Section 191)

Similar offences: Differing punishments			
Offence in the Act	Punishment	Punishment	Offence in BNS
Failure to provide technical assistance for accessing electronic records. (Section 473)	Rigorous imprisonment up to 2 years and fine.	Simple imprisonment up to 1 month, or fine up to ₹5,000, or both.	Omitting to give information to a public servant when legally bound to do so. (Section 211)
Failing to furnish returns of income in search cases. (Section 480)	Rigorous imprisonment up to 3 years, but not less than 3 months, and fine.	Simple imprisonment up to 1 month, or fine up to ₹5,000, or both.	Omitting to produce a document or electronic record to a public servant when legally bound to do so. (Section 210)
Knowingly making a false statement or delivering a false account, resulting in tax evasion of Rs. 25 lakhs or more, if accepted as true (Section 482).	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	Imprisonment up to 3 years and fine.	Giving a false statement on oath or affirmation. (Section 216)

Discretion between fine and imprisonment: Comparison between the Act & BNS			
Offence in the Act	Punishment	Punishment	Offence in BNS
Fraudulently transferring any property, with intent to defeat execution of a certificate. (Section 475)	Imprisonment and fine	Imprisonment, or fine, or both	Cheating. (Section 318)
Wilfully failing to get inventory valued upon notice. (Section 481)	Imprisonment and fine	Imprisonment, or fine, or both	Fraudulently removing or concealing any property. (Section 323)

Moreover, all these offences do not allow for judicial discretion between imposition of fine and imprisonment or both. Enabling such judicial discretion allows courts to impose the necessary punishment that would best fit the facts and circumstances of the case. The courts are also able to take into account the willingness and ability of the accused to repair the harm caused, in these cases a monetary loss to exchequer, and impose the appropriate fine. Since the recovery of lost revenue will, in most cases, make good the loss, a mandatory prescription of imprisonment for 88% offences under the Act may be a disproportionate response.

3. Amend rigorous form of imprisonment with either form of imprisonment

The Act prescribes rigorous imprisonment for nearly all offences (97%) that are punishable with imprisonment. Such a mandatory prescription is typically reserved for grave and heinous crimes

or repeat offenders. In contrast, **only 7% of all crimes under Union laws are punishable with rigorous imprisonment. Under the BNS also, rigorous imprisonment is prescribed in only 11% of all offences.**⁵²

In fact, even for serious crimes such as throwing acid with intent to disfigure, attempt to murder, or causing a miscarriage, judges retain the discretion to determine the appropriate form of imprisonment.

For the Act to mandate rigorous imprisonment for 97% of offences is clearly disproportionate. It is therefore recommended that the language be amended to provide for 'either form of imprisonment', allowing judicial discretion to ensure that the punishment is reasonable and proportionate to the nature of the offence.

Form of imprisonment: Comparison between the Act & BNS			
Offence in the Act	Form of imprisonment	Form of imprisonment	Offence in BNS
Contravening an order of deemed seizure. (Section 473)	Rigorous	Either	Acid attack. (Section 124)
Wilfully failing to produce accounts and documents as per notice (Section 481)	Rigorous	Either	Causing a miscarriage. (Section 88)
Knowingly delivering a false account, leading to tax evasion. (Section 482)	Rigorous	Either	Attempt to murder. (Section 109)

Omit the presumption of culpable mental state

Determination of the culpable mental state of an accused is essential for adjudication and prescribing the appropriate punishment. For instance, the distinction between murder and culpable homicide not amounting to murder hinges on the intent and mental state of the accused.

Section 490 of the Act provides that, in the prosecution of any offence under the Act requiring a culpable mental state, the court shall presume the existence of such mental state.

As a result, where an offence is worded as 'wilfully attempting to evade tax' or 'fraudulently transfers a property,' the court will presume that the accused acted wilfully or fraudulently, unless proven otherwise. While many offences under the Act explicitly require a culpable mental state, this presumption shifts the burden of proof onto the accused. This inevitably leads to inadvertent or unintentional errors being prosecuted as wilful or fraudulent acts.

Moreover, **such presumptions are typically found in laws like the Protection of Children from Sexual Offences Act, 2012 (POCSO), and the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS),** which address serious crimes involving direct harm to individuals or society. In stark contrast, the Act is fundamentally civil in nature, dealing with taxation matters that affect all citizens seeking to meet their legal obligations. Its context is markedly different, rooted in enabling compliance, not in punishing criminal conduct.

Applying this presumption in the context of tax law imposes a disproportionately punitive standard on ordinary taxpayers and reflects a presumption of guilt rather than trust. It undermines the citizen-centric nature of the law and runs counter to the broader vision of trust-based governance. Accordingly, it is recommended that the provision on the presumption of culpable mental state be omitted from the Act.

⁵² State of the System Report, Vidhi Centre for Legal Policy, April 2025, available at <<https://crimeandpunishment.in/researches/the-state-of-the-system>> accessed on 3rd May 2025

Simplification of language

Even as the Act takes much needed steps toward simplifying the text of the law, **several criminal provisions remain difficult to interpret due to complex cross-referencing and indirect phrasing**. It is often unclear what specific act or omission is being criminalised. To ensure that the average citizen fully understands the letter and spirit of the law, the drafting should be simple, accessible, rational, and actionable (SARAL).⁵³

Criminal provisions, in particular, must clearly and directly state the conduct being criminalised. Each provision should avoid complex cross-references and be self-contained, specifying the prohibited act in precise terms. This will make the law more concise, lucid, and easier to read and apply.

To guide further simplification, some provisions have been re-drafted in a simple and precise manner, which can be found in Annexure IV. Below is one of the re-drafted provisions which clearly states what action or omission is being criminalised.

Present provision	Simplified provision
<p>Section 473. Contravention of order made under section 247. - Whoever contravenes any order referred to in section 247(1)(viii) or (4) shall be punishable with rigorous imprisonment which may extend to 2 years and shall also be liable to fine.</p>	<p>Section 473. Contravention of order made under Section 247. - (1) Any person whom without the permission of the authorised officer, does any of the following-</p> <p>(a) Removes, parts, or otherwise deals with any valuable article or thing that are subject to an order of deemed seizure as issued under Section 247(4)(a)(i), or</p> <p>(b) Removes, parts, or otherwise deals with any books of account, other documents, computer systems, asset, bank locker, bank account, that are subject to a prohibitory order issued under Section 247(4)(b)(i),</p> <p>shall be punishable with rigorous imprisonment of up to 2 years and shall also be liable to fine.</p>

7. Conclusion

A detailed analysis of all crimes and punishments proposed under the Act has been presented. Each criminal provision has been evaluated against a principled framework to assess the necessity, proportionality, and effectiveness of criminalisation in meeting the Act's objectives.

At the heart of this analysis is the need to reimagine compliance and enforcement frameworks under the Act. It urges for a reconsideration of the continued reliance on criminal law, particularly for minor, technical, or procedural non-compliances. Further, it underscores the importance of distinguishing between fraud and ordinary lapses, and ensuring that punishments are aligned with the nature and gravity of the harm caused.

The recommendations are anchored in the broader national commitment to improving Ease of Living and Ease of Doing Business. They reflect a necessary **shift away from fear-based enforcement and towards trust-based governance**, where the law enables compliance rather than assumes criminality. This also includes rationalisation of punishments, the removal of reverse burdens of proof, greater use of civil and administrative remedies where appropriate, and the simplification of legal provisions to make them more accessible and citizen-friendly.

⁵³ A. Nigam et al, 'The SARAL Manual', Vidhi Centre for Legal Policy, March 2023, available at <<https://vidhilegalpolicy.in/research/the-saral-manual/>> accessed on 1st May 2025

Finally, consistent with current policy position, which favours proportionate and targeted enforcement, the recommendations made in this report aim to assist in transforming the income-tax law into a coherent, fair, and future-ready compliance framework without compromising its efficacy or the department's ability to safeguard revenue.

Towards a trust based compliance framework

The table below presents a snapshot of the proposed shift towards a trust based compliance framework. It captures the “before” and “after” picture based on our recommendations.

Category	Before	After (Proposed Recommendations)
Scope of Criminalisation	35 criminal offences	6 offences retained
		12 offences completely decriminalised
		17 offences partially decriminalised - criminal liability retained only for fraudulent and malafide conduct.
Burden of Proof	Presumption of fraudulent, malicious, or wilful intent; burden on taxpayer to disprove	Prosecution must establish wilful or fraudulent intent beyond reasonable doubt
Punishment Framework	Mandatory imprisonment and fine in nearly all offences, with no judicial discretion to choose between the two	Judicial discretion introduced to allow courts to impose imprisonment or fine, case-by-case
	Mandatory minimum terms of imprisonment for 25 offences	Mandatory minimum terms of imprisonment removed, allowing for more proportionate sentencing
	Rigorous imprisonment prescribed for all imprisonable offences	Judicial discretion introduced to decide between granting imprisonment of either description - simple or rigorous
Focus on compliance rather than punishment	Excessive, lengthy imprisonment for unintentional or procedural defaults	Civil penalties prioritised where harm is repairable. Criminal prosecution reserved for clearly fraudulent, high-value cases
	No mechanism to correct minor regulatory errors	Allows correction of procedural defaults and minor infractions without criminal liability
Drafting & Accessibility	Complex cross-referencing and dense phrasing	Compliance-friendly, simply drafted provisions

A large, stylized chevron graphic composed of two overlapping shapes. The outer shape is a light blue chevron pointing left, and the inner shape is a darker blue chevron pointing right, creating a central negative space. The word "ANNEXURE" is positioned within this central space.

ANNEXURE

Annexure I: Analysis of the Income-tax Act, 2025 – A Primer

Introduction

Tax administration is one of the most fundamental functions of the State. It not only enables generation of resources for providing essential public services but also facilitates an equitable distribution of wealth in the society. In India, the framework for direct taxation is established by the Income-tax Act, 1961 ('1961 Act'). The 1961 Act regulates the imposition, administration, collection and recovery of income tax.

The Income-tax Act undergoes annual amendments through the Finance Acts to reflect changes in the tax rates, incorporate measures introduced to promote investment, employment and socio-economic welfare initiatives. These frequent amendments, however, have made the Act extremely complex, raising the cost of compliance for taxpayers and hampering efficiency of direct-tax administration. Both practitioners and taxpayers have highlighted challenges in understanding the complicated provisions and structure of the 1961 Act.⁵⁴

The Law Commission, in its 12th report on the Income-tax Act, 1922 raised similar concerns, describing income tax law as extremely complicated, illogically arranged, and in some respects, obscure, largely due to the 'precipitate and continuous tinkering with the Act'.⁵⁵ While the 1961 Act was intended to simplify and streamline taxation, it has gradually become just as complex as its predecessor.

To address these concerns, the Ministry of Finance introduced the Income-tax Act, 2025 ('Act'). The Act seeks to replace the 1961 Act with a framework that is simpler, more concise, lucid and easy to understand.⁵⁶ By enhancing accessibility and reducing ambiguity, the Act seeks to facilitate compliances and create a more efficient taxation system. Some of the key changes proposed in the Act are:⁵⁷

- a. Elimination of redundant and repetitive provisions to make the law easier to comply with.
- b. Reorganisation of provisions in a logical structure to increase coherence.
- c. Use of simplified language for improved readability and clarity.
- d. Consolidation of amendments to minimise fragmentation and ensure consistency.

54 Statement of Object and Reasons, Income-tax Act 2025.

55 Law Commission of India, 'Income Tax Act 1922', 1958 (12) <<https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022080592.pdf>> accessed 12th March 2025.

56 Statement of Object and Reasons, Income-tax Act 2025.

57 Press Release, 'Income-tax Act, 2025, tabled in Parliament today towards achieving comprehensive simplification of the Income-tax Act, 1961' <<https://pib.gov.in/PressReleasePage.aspx?PRID=2102744>> accessed 12th March 2025.

Using Criminal Law to Ensure Compliance

In addition to the complicated language and structure, the 1961 Act relies heavily on criminal law to enforce compliances. It criminalises 54 actions and omissions through 15 provisions⁵⁸, many of which are minor regulatory infractions, such as:

- a. Failing to give notice of appointment as a receiver or liquidator. [Section 276A(i) r/w Section 178(1)(a)]
- b. Failing to provide reasonable assistance for inspection of books of account or other documents, which have been maintained in the form of electronic record on any computer system. [Section 275B r/w Section 132(1)(iib)]
- c. Failing to get inventory valued by a cost accountant. [Section 276D r/w Section 142(2A)(ii)]
- d. Failing to furnish the audit report as required by the Assessing Officer. [Section 276D r/w Section 142(2A)(i)]

The criminalisation of such minor infractions is not only excessive and disproportionate, but also creates a pervasive fear of arrest amongst citizens, directly impacting their ease of living. Moreover, it necessitates the use of an elaborate administrative and criminal justice machinery to address violations that could otherwise be resolved through substantially less coercive and more efficient regulatory mechanisms.

The Income-tax Act, 2025 comes at a time when decriminalisation of minor regulatory non-compliances and rationalisation of punishments is a key policy priority. Reforms such as the Jan Vishwas Act, 2023, decriminalised 183 provisions across 42 laws to promote ease of living and ease of doing business. Given this broader policy shift, it is essential to evaluate whether the Act aligns with the shift towards decriminalisation and rationalisation of punishments or continues the overreliance on criminal law as is the case with the 1961 Act.

This primer analyses the provisions of the Act, mapping the full scope and extent of criminalisation and documenting all the provisions that have been decriminalised. There would be an application of a principled based assessment framework to identify provisions that warrant decriminalisation and the rationalisation of punishments.

Extent of Criminalisation in the Income-tax Act, 2025

The Income-tax Act, 2025, continues to rely on criminalisation as a tool to ensure compliances and effective enforcement. It **criminalises 35 actions and omissions** through **13 provisions**. These include criminalisation of acts such as failing to pay tax deducted at source⁵⁹, under-reporting one's income to evade payment of tax⁶⁰, and making a false statement in any verification⁶¹.

⁵⁸ Actions or omissions that are punishable by 1961 Act have been identified by breaking down the 15 criminal provisions.

⁵⁹ Section 476, Income-tax Act, 2025

⁶⁰ Section 478, Income-tax Act, 2025

⁶¹ Section 482, Income-tax Act, 2025

A snapshot of offences and punishments

35 actions and omissions are criminalised under the Act.

All offences are punishable with imprisonment and fine.

Mandatory minimum imprisonment, with terms ranging from 3 months to 6 months, is prescribed for 25 offences.

Judicial discretion, to choose whether a fine is to be imposed or not along with imprisonment, is available in only one offence.

Terms of maximum imprisonment range from 1 year to 7 years.

3 offences are punishable with a maximum of 1 year of imprisonment

17 offences are punishable with a maximum of 2 years of imprisonment

1 offence is punishable with a maximum of 3 years of imprisonment

13 offences are punishable with a maximum of 7 years of imprisonment

The form of imprisonment for all offences, except one, is rigorous.

Repeat offences carry enhanced punishments.

19 offences carry an enhanced punishment for second and subsequent commission.

All these offences are punishable with a maximum of 7 years of imprisonment and a mandatory minimum of 6 months imprisonment.

While fines are prescribed mandatorily, their quantum is not specified.

34 offences carry mandatory fines in addition to imprisonment.

Only one offence allows the court discretion in imposing fines.

The quantum of fines for all offences have also been left to the court's discretion.



Fig: Categories of offences criminalised by the Act

Offences Under the Income-tax Act, 2025

The table below provides a detailed breakdown of all the actions and omissions that attract criminal punishment under the Act. To provide a comprehensive view of the extent of criminalisation, the provisions have been broken down and simplified to clearly identify each action or omission that is criminalised.

S. No.	Offence in the Income-tax Act, 2025	Punishment for first commission	Changes from the 1961 Act
1	Contravening an order of deemed seizure of any valuable article or thing if it is not possible or practicable to take physical possession or removal to a safe place of such article or thing, due to its volume, weight, or other physical characteristics or it being of a dangerous nature, by removing or parting or otherwise dealing with such article or thing, without permission of the authorised officer. [Section 473 r/w Section 247(4)(a)(i)]	Rigorous imprisonment up to 2 years and fine.	No change
2	Contravening an order prohibiting removal, parting or dealing of any books of account, documents, computer systems, asset, bank account, if it was not practicable to seize the same, without permission of the authorised officer. [Section 473 r/w Section 247(4)(b)(i)]	Rigorous imprisonment up to 2 years and fine.	No change

3	Failing to provide reasonable technical and other assistance, including the access code, for inspection of books of account or other documents, which have been maintained in the form of electronic record on any computer system. [Section 474 r/w Section 247(1)(ii)]	Rigorous imprisonment up to 2 years and fine.	No change
4	Fraudulently removing any property or interest to any person, with the intent to prevent such property or interest from being taken in execution of a certificate. [Section 475]	Rigorous imprisonment up to 2 years and fine.	The terms of execution of the certificate will now be prescribed by the Central Government through rules. Previously, they were prescribed in the Act itself.
5	Fraudulently concealing any property or interest to any person, with the intent to prevent such property or interest from being taken in execution of a certificate. [Section 475]	Rigorous imprisonment up to 2 years and fine.	The terms of execution of the certificate will now be prescribed by the Central Government through rules. Previously, they were prescribed in the Act itself.
6	Fraudulently transferring or delivering any property or interest to any person, with the intent to prevent such property or interest from being taken in execution of a certificate. [Section 475]	Rigorous imprisonment up to 2 years and fine.	The terms of execution of the certificate will now be prescribed by the Central Government through rules. Previously, they were prescribed in the Act itself.
7	Failing to pay tax deducted at source as required by or under provisions relating to collection, recovery of tax, deduction and collection at source, to the credit of the Central Government. [Section 476(1)(a)]	Rigorous imprisonment up to 7 years, but not less than 3 months, and fine.	A person who pays the tax deducted at source before the time prescribed by the Central Government, will not be charged under this provision.

8	<p>Person responsible for releasing the winnings for any lottery, crossword puzzle, card game, gambling, betting or any other online game, failing to pay or ensure payment of tax that is deducted on such winnings, where it is wholly in kind, or is partly in kind and partly in cash but where the part in cash is not sufficient to meet the liability of deduction of tax, to the credit of the Central Government, before releasing the winnings.</p> <p>[Section 476(1)(b) r/w Note 2 below Table in Section 393(3)]</p>	Rigorous imprisonment up to 7 years, but not less than 3 months, and fine.	A person who pays the tax collected at source before the time prescribed by the Central Government, will not be charged under this provision.
9	<p>Person providing any benefit, perquisite or consideration failing to pay or ensure payment of tax that is deducted on such benefit, perquisite or consideration, where there is no part in cash (in respect of virtual digital assets), or is wholly in kind, or is partly in kind and partly in cash but where the part in cash is not sufficient to meet the liability of deduction of tax, to the credit of the Central Government.</p> <p>[Section 476(1)(b) r/w Note 6 to Section 393(1) (Table Sl. No. 8)]</p>	Rigorous imprisonment up to 7 years, but not less than 3 months, and fine.	A person who pays the tax collected at source before the time prescribed by the Central Government, will not be charged under this provision.
10	<p>Person or employer responsible for paying any income in the nature of a non-monetary perquisite which is chargeable to tax, failing to pay the tax deducted, collected or determined on such perquisite, to the credit of the Central Government.</p> <p>[Section 477(1) r/w Section 397(3)(a), Section 392(2)(a)]</p>	Rigorous imprisonment up to 7 years, but not less than 3 months, and fine.	A person who pays the tax collected at source before the time prescribed by the Central Government, will not be charged under this provision.
11	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by possessing or controlling any books of account or other documents containing a false entry or statement, where the amount sought to be evaded exceeds twenty-five lakh rupees.</p> <p>[Section 478(1)(a) r/w Section 478(4)(a)]</p>	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	No substantive change, minor textual changes in the provision.
12	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by making or causing any false entry or statement to be made in books of account or other documents, where the amount sought to be evaded exceeds twenty-five lakh rupees.</p> <p>[Section 478(1)(a) r/w Section 478(4)(b)]</p>	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	No substantive change, minor textual changes in the provision.

13	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by wilfully omitting or causing any relevant entry or statement to be omitted in books of account or other documents, where the amount sought to be evaded exceeds twenty-five lakh rupees.</p> <p>[Section 478(1)(a) r/w Section 478(4)(c)]</p>	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	No substantive change, minor textual changes in the provision.
14	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by causing any circumstance to exist which may have the effect of enabling one to evade any tax, penalty, or interest chargeable or imposable, or the payment of such tax, penalty, interest, where the amount sought to be evaded exceeds twenty-five lakh rupees.</p> <p>[Section 478(1)(a) r/w Section 478(4)(d)]</p>	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	No substantive change, minor textual changes in the provision.
15	<p>Wilfully under-reporting one's income, where the tax on under-reported income exceeds twenty-five lakh rupees.</p> <p>[Section 478(1) r/w Section 478(1)(a)]</p>	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	No substantive change, minor textual changes in the provision.
16	<p>Wilfully under-reporting one's income, where the tax on under-reported income does not exceed twenty-five lakh rupees.</p> <p>[Section 478(1) r/w Section 478(1)(b)]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	No substantive change, minor textual changes in the provision.
17	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by possessing or controlling any books of account or other documents containing a false entry or statement, where the amount sought to be evaded does not exceed twenty-five lakh rupees.</p> <p>[Section 478(1)(b) r/w Section 478(4)(a)]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	No substantive change, minor textual changes in the provision.
18	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by making or causing any false entry or statement to be made in books of account or other documents, where the amount sought to be evaded does not exceed twenty-five lakh rupees.</p> <p>[Section 478(1)(b) r/w Section 478(4)(b)]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	No substantive change, minor textual changes in the provision.

19	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by wilfully omitting or causing any relevant entry or statement to be omitted in books of account or other documents, where the amount sought to be evaded does not exceed twenty-five lakh rupees.</p> <p>[Section 478(1)(b) r/w Section 478(4)(c)]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	No substantive change, minor textual changes in the provision.
20	<p>Wilfully attempting to evade the payment of any tax, penalty, or interest chargeable or imposable, by causing any circumstance to exist which may have the effect of enabling one to evade any tax, penalty, or interest chargeable or imposable, or the payment of such tax, penalty, interest, where the amount sought to be evaded does not exceed twenty-five lakh rupees.</p> <p>[Section 478(1)(b) r/w Section 478(4)(d)]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	No substantive change, minor textual changes in the provision.
21	<p>Wilfully attempting to evade the payment of any tax, penalty or interest under this Act, in any manner.</p> <p>[Section 478(2)]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, with or without fine, as per court's discretion.	
22	<p>Wilfully failing to furnish the return of income in due time as required, where the amount of tax which would have been evaded if the failure had not been discovered exceeds twenty-five lakh rupees.</p> <p>[Section 479(1)(a) r/w Section 263(1), Section 268(1) and Section 280]</p>	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	Offence of failure to file fringe returns has been omitted.
23	<p>Wilfully failing to furnish the return of income in due time as required, where the amount of tax which would have been evaded if the failure had not been discovered does not exceed twenty-five lakh rupees.</p> <p>[Section 479(1)(b) r/w Section 263(1), Section 268(1) and Section 280]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	Offence of failure to file fringe returns has been omitted.

24	<p>Wilfully failing to furnish the return of total income in due time as required by notice given by the Assessing Officer in the case where any search has been initiated or requisition is made.</p> <p>[Section 480 r/w Section 294(1)(a)]</p>	Rigorous imprisonment up to 3 years, but not less than 3 months, and fine.	Omitted a proviso which exempted persons from being charged under this provision, who were searched during a specific time period (between 30.7.1995 and 1.1.1997).
25	<p>Wilfully failing to produce, or to cause to be produced the accounts and documents referred to in a notice served by the Assessing Officer.</p> <p>[Section 481 r/w Section 268(1)]</p>	Rigorous imprisonment up to 1 year, and fine.	No change
26	<p>Wilfully failing to comply with a direction issued by the Assessing Officer, to get the accounts audited by an accountant and furnish the report.</p> <p>[Section 481 r/w Section 268(5)(i)]</p>	Rigorous imprisonment up to 1 year, and fine.	No change
27	<p>Wilfully failing to comply with a direction issued by the Assessing Officer, to get the inventory valued by a cost accountant and furnish the report.</p> <p>[Section 481 r/w Section 268(5)(ii)]</p>	Rigorous imprisonment up to 1 year, and fine.	No change
28	<p>Knowingly making a false statement in any verification under the Act or under any rules made thereunder, where the amount of tax that would have been evaded if the statement had been accepted as true exceeds twenty-five lakh rupees.</p> <p>[Section 482(a)]</p>	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	No change
29	<p>Knowingly delivering a false account, where the amount of tax that would have been evaded if the account had been accepted as true exceeds twenty-five lakh rupees.</p> <p>[Section 482(a)]</p>	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	No change
30	<p>Knowingly making a false statement in any verification under the Act or under any rules made, where the amount of tax that would have been evaded if the statement had been accepted as true does not exceed twenty-five lakh rupees.</p> <p>[Section 482(b)]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	No change

31	<p>Knowingly delivering a false account, where the amount of tax that would have been evaded if the account had been accepted as true does not exceed twenty-five lakh rupees.</p> <p>[Section 482(b)]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	No change
32	<p>Wilfully making any false entry or statement in any books of account or other document relevant or useful in any proceedings under the Act, with the intent to enable any other person to evade any tax, interest or penalty.</p> <p>For the purposes of establishing the charge under this section, it shall not be necessary to prove that the second person has actually evaded any tax, penalty or interest chargeable or imposable under this Act.</p> <p>[Section 483]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	No change
33	<p>Knowingly inducing any person to make or deliver a false account, statement or declaration relating to any income chargeable to tax, where the amount of tax, penalty or interest which would have been evaded if the account, statement or declaration had been accepted as true exceeds twenty-five lakh rupees.</p> <p>[Section 484(a) r/w Section 484(i)]</p>	Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.	Omission of fringe benefit from the provision.
34	<p>Knowingly inducing any person to make or deliver a false account, statement or declaration relating to any income chargeable to tax, where the amount of tax, penalty or interest which would have been evaded if the account, statement or declaration had been accepted as true does not exceed twenty-five lakh rupees.</p> <p>[Section 484(a) r/w Section 484(ii)]</p>	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	Omission of fringe benefit from the provision.
35	<p>Furnishing any information or producing any document as a public servant, in contravention of a notification made by the Central Government prohibiting the same.</p> <p>[Section 494 r/w Section 258(3)]</p>	Imprisonment up to 6 months and fine.	No change

Offences Decriminalised by the Income-tax Act, 2025

Even as the Act largely continues to rely on criminalisation to enforce compliances, it has removed certain actions and omissions from the purview of criminalisation. Some provisions have been amended and some have been entirely omitted, indicating an effort to ease the unnecessary and disproportionate burden of criminalisation on the citizens. The table below enumerates these actions and omissions.

S. No.	Offence in the Income-tax Act, 1961
1	Liquidator of any company being wound up failing to give notice to the Assessing Officer of appointment within thirty days of such appointment. [Section 276A(i) r/w Section 178(1)(a)]
2	Receiver of any assets of any company fails to give notice to the Assessing Officer of appointment within thirty days of such appointment. [Section 276A(i) r/w Section 178(1)(b)]
3	Liquidator of any company failing to set aside an amount equal to the amount notified by the Assessing Officer. [Section 276A(ii) r/w Section 178(3)(b)]
4	Liquidator of any company parting with any assets of the company or the properties in their hands without the leave of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. [Section 276A(iii) r/w Section 178(3)(a)]
5	Doing or omitting to do anything which will effectively transfer any immovable property without the no objection certification of the appropriate authority. [Section 276AB r/w Section 269UL(2)]
6	Failing to surrender or deliver possession of the property to the appropriate authority within fifteen days in respect of which order has been made by the appropriate authority. [Section 276AB r/w Section 269UE(2)]
7	Effecting the transfer of any immovable property of value exceeding five lakh rupees without a written agreement between the parties to the transfer, drawn up four months before the intended date of transfer. [Section 276AB r/w Section 269UC]

8	An employer wilfully failing to furnish return of fringe benefits of the previous year corresponding to the relevant assessment year to the Assessing Officer within thirty days after being issued a notice where the amount of tax which would have been evaded if the failure had not been discovered exceeds twenty-five hundred thousand rupees. [Section 276CC(i) r/w Section 115WH]
9	An employer wilfully failing to furnish return of fringe benefits of the previous year corresponding to the relevant assessment year to the Assessing Officer within thirty days after being issued a notice where the amount of tax which would have been evaded if the failure had not been discovered does not exceed twenty-five hundred thousand rupees. [Section 276CC(ii) r/w Section 115WH]
10	An employer wilfully failing to furnish return of fringe benefits to the Assessing Officer within thirty days after being issued a notice where the amount of tax which would have been evaded if the failure had not been discovered exceeds twenty-five hundred thousand rupees. [Section 276CC(i) r/w Section 115WD(2)]
11	An employer wilfully failing to furnish return of fringe benefits to the Assessing Officer within thirty days after being issued a notice where the amount of tax which would have been evaded if the failure had not been discovered does not exceed twenty-five hundred thousand rupees. [Section 276CC(ii) r/w Section 115WD(2)]
12	An employer wilfully failing to furnish return of fringe benefits to the Assessing Officer in a case where the amount of tax which would have been evaded if the failure had not been discovered exceeds twenty-five hundred thousand rupees. [Section 276CC(i) r/w Section 115WD(1)]
13	An employer wilfully failing to furnish return of fringe benefits to the Assessing Officer where the amount of tax which would have been evaded if the failure had not been discovered does not exceed twenty-five hundred thousand rupees. [Section 276CC(ii) r/w Section 115WD(1)]

Examining Cognisability and Compoundability

For all offences that are laid down in the Chapter XXII (Offences and Prosecution), no prosecution can be initiated against any person without the previous sanction of the Principal Commissioner or Commissioner or Joint Commissioner (Appeals) or Commissioner (Appeals).⁶² For initiating prosecution against a public servant for disclosure of particulars, the previous sanction of the Central Government is mandatory.⁶³

⁶² Section 491, Income-tax Act, 2025

⁶³ Section 494(2), Income-tax Act, 2025

The majority of the offences (23 offences), have been classified as non-cognisable, meaning that investigation and arrest in such cases are subject to the magistrate's authorisation. These are enumerated under the following provisions:

1. Section 476: Failure to pay tax to credit of Central Government under Chapter XIX-B.
2. Section 478: Wilful attempt to evade tax, etc.
3. Section 479: Failure to furnish returns of income.
4. Section 480: Failure to furnish return of income in search cases.
5. Section 482: False statement in verification, etc.
6. Section 484: Abetment of false return, etc.

The remaining 12 offences, which are classified as cognisable offences, are enumerated under the following provisions:

1. Section 473: Contravention of order made under section 247.
2. Section 474: Failure to Comply with section 247 1(ii)
3. Section 475: Removal, concealment, transfer or delivery of property to prevent tax recovery.
4. Section 477: Failure to pay tax collected at source.
5. Section 481: Failure to produce accounts and documents.
6. Section 494: Disclosure of particulars by public servants.

Furthermore, all offences under the Chapter may be compounded at any stage, before or after the institution of proceedings, by the Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General. This has the effect of allowing the accused to settle the dispute, in all offences, through the authority vested in the enumerated officials, without the need for a lengthy trial.

Conclusion

The analysis above reflects ongoing efforts to decriminalise certain offences, in alignment with the Government of India's initiatives to foster trust-based governance and enhance ease of living and doing business.

However, the analysis also highlights the continued reliance on criminalisation to enforce compliance and facilitate tax recovery, an approach that, at least for some offences, appears disproportionate and excessively harsh. For instance, the use of jail terms for all offences, mandatory minimum sentences, and the lack of judicial discretion to choose between fines and imprisonment result in even minor infractions attracting stringent punishments.

There is, therefore, a need to revisit some of these offences, examine the necessity of criminalisation, and identify provisions that can be decriminalised or where punishments can be rationalised to ensure a more balanced and proportionate approach to tax enforcement.

Annexure II: Guidance note for prosecution of income-tax cases

The Central Board of Direct Taxes (CBDT) issues circulars for initiation of prosecution under the erstwhile Income-tax Act, 1961 ('Act'). These circulars recognise that certain pre-conditions must be met before any person is prosecuted and that prosecution should only be initiated in serious cases involving fraud and fabrication of evidence.

To this end, this note seeks to guide the prosecution under the Act and assists officers in a manner that prosecution is invoked only in appropriate cases and after all civil remedies are exhausted. It seeks to protect the integrity of tax administration, enable tax officials to carry out prosecution where necessary, and protect the rights of honest taxpayers by ensuring consistency, transparency, and fairness in enforcement.

The note presents various considerations that can supplement the independent assessment made by officers. However, these considerations are merely indicative and not exhaustive, and are not meant to replace statutory guidelines.

A. Guiding principles

1. Prosecution as a last resort: Prosecution should not be the first and only tool to enforce compliance. It must only be initiated in cases of serious and fraudulent conduct. Mere technical, procedural, or negligent non-compliances should not attract criminal prosecution.
2. Proportionality and harm: Prosecution should only be considered when the default results in clear, direct, and substantial harm to public revenue or obstructs the functioning of the tax system in a clear and direct way.
3. Civil and administrative remedies preferred: Where monetary penalties, interest recovery, or compounding are effective, they should be prioritised.
4. Safeguards and review: All prosecutions below the specified monetary thresholds must have necessary approvals before initiation. Every recommendation for prosecution must be supported by a detailed speaking order of the competent authority where applicable.
5. Opportunity for voluntary compliance: Taxpayers must be given a reasonable opportunity to comply voluntarily and rectify errors prior to initiating any criminal prosecution.

B. General pre-prosecution considerations

All Assessing Officers must abide by the statutory mandate of the Act as well as guidelines issued by CBDT to decide whether prosecution should be initiated or not. Following are some considerations to aid an officer's independent assessment to make such a decision:

General Pre-Prosecution Considerations			
S. No.	Questions	Yes/No	Remarks
1.	Is the offence compoundable under CBDT guidelines?		
2.	Has the taxpayer been offered an opportunity to rectify the error or comply voluntarily?		
3.	Has the offence resulted in substantial revenue loss exceeding Rs. 1 crore?		
4.	Is there clear evidence of wilful default or fraud?		
5.	Have civil remedies (e.g., penalty orders, interest recovery) been initiated and taken to conclusion?		
6.	Has the matter been reviewed and approved by the Competent Authority and Collegium (if applicable)?		
7.	Is the offence a minor or procedural lapse that can be rectified or remedied?		
8.	Are there any aggravating factors such as repeated violations?		
9.	Has the assessee been given notice and opportunity to apply for compounding before prosecution?		

C. Provision-specific prosecution considerations

a. Section 478. Wilful attempt to evade tax, etc.

Pre-Prosecution Considerations Section 478(1) – Wilful attempt to evade tax, penalty, or interest			
S. No.	Questions	Yes/No	Remarks
1.	Is the evasion amount above Rs. 1 crore?		
2.	Is there material on record (false books, false entries, omitted entries) showing wilful evasion?		
3.	Has the assessment been finalised, and has the assessee failed to file an appeal or rectification?		
4.	Has an opportunity to pay outstanding dues voluntarily been provided and ignored? (Number of opportunities given to be noted)		
5.	Has an order imposing civil penalties (under Section 439 or 444) been confirmed, but not complied with?		
6.	Are compounding guidelines followed before prosecution?		

b. Section 478. Wilful attempt to evade tax, etc

Pre-Prosecution Considerations Section 478(2) – Wilful attempt to evade tax, penalty, or interest			
S. No.	Questions	Yes/No	Remarks
1.	Is there an outstanding demand confirmed by assessment or appellate authority?		
2.	Has the assessee wilfully diverted assets, concealed income, or transferred property to avoid payment?		
3.	Has a recovery notice been issued and ignored?		
4.	Are there findings of concealment under Section 439 or Section 444?		
5.	Have civil penalties (under Section 439 or Section 444) been imposed, but not complied with?		

c. Section 482. False statement in verification, etc.

Pre-Prosecution Considerations Section 482 – False statement in verification			
S. No.	Questions	Yes/No	Remarks
1.	Has a false statement been filed in a return, verification, affidavit or document submitted?		
2.	Is there clear evidence of intentional falsification in the statement, which is not on account of clerical error or interpretation dispute?		
3.	Has the falsity been established post-assessment or through other proceedings?		
4.	Could the false statement materially affect computation of tax liability?		

d. Section 484. Abetment of false return, etc.

Pre-Prosecution Considerations Section 484 – Abetment of false returns, etc.			
S. No.	Questions	Yes/No	Remarks
1.	Is there direct involvement of chartered accountants, intermediaries, etc. in preparing false returns or documents?		
2.	Is there credible evidence (e.g. statements, emails, financial trails) that such chartered accountant, intermediary, etc. has instigated, engaged, or intentionally aided in evasion?		

D. Additional safeguards across all offences

Officers should actively encourage compounding where appropriate, and ensure applications are dealt with promptly under CBDT Compounding Guidelines (2024). The applicants should be informed that compounding is not an admission of guilt. In addition, prosecution may not be pursued:

- a. If the default is technical, clerical, or without malafide intent;
- b. If the taxpayer has voluntarily complied before detection;
- c. If the tax involved is below thresholds set in CBDT Circulars;
- d. Where compounding is opted and accepted;
- e. For financial hardship or first-time defaults.

E. Documentation and recording of reasons

All requests for sanction of prosecution must be accompanied by:

- a. Detailed justification for initiation of proceedings.
- b. Assessment records supporting wilful default or non-compliance.
- c. Approval of Collegium or Competent Authority, wherever applicable.
- d. Record of compounding opportunity and taxpayer response.
- e. Views/remarks on pre-prosecution considerations.

Annexure III: Criminal provisions and corresponding penalty provisions in the Income-tax Act, 2025

Criminal provision	Punishment	Penalty	Civil penalty provision
Section 473. Contravention of order made under section 247	Rigorous imprisonment up to 2 years and fine.	No corresponding civil penalty section	
Section 474. Failure to comply with section 247(1)(ii)	Rigorous imprisonment up to 2 years and fine.	No corresponding civil penalty section	
Section 475. Removal, concealment, transfer or delivery of property to prevent tax recovery	Rigorous imprisonment up to 2 years and fine.	No corresponding civil penalty section	
Section 476. Failure to pay tax to credit of Central Government under Chapter XIX-B	Rigorous imprisonment up to 7 years, but not less than 3 months, and fine.	Penalty equal to the tax which such person failed to deduct or pay or ensure payment of.	<p>Section 448. Penalty for failure to deduct tax at source</p> <p>[Only addresses failure to pay tax deducted as per Section 393(3) and 393(1), and failure to deduct tax at source.</p> <p>The provision does not address the act of failing to pay tax deducted at source.]</p>
Section 477. Failure to pay tax collected at source	Rigorous imprisonment up to 7 years, but not less than 3 months, and fine.	No corresponding civil penalty section	
Section 478. Wilful attempt to evade tax, etc.	<p>Evasion more than Rs. 25 lakh: Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.</p> <p>Evasion less than Rs. 25 lakh: Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.</p>	<p>Only addresses tax evasion as a result of underreporting:</p> <ol style="list-style-type: none"> 50% of tax payable in cases of underreporting. 200% of tax payable for underreporting which is a result of misreporting. 	Section 439. Penalty for underreporting and misreporting of income.
		Only addresses tax evasion due to false or omitted entry: Penalty equal to aggregate amount of false or omitted entry.	Section 444. Penalty for false entry, etc., in books of account

Section 479. Wilful failure to furnish returns of income	<p>Evasion more than Rs. 25 lakh Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.</p> <p>Evasion less than Rs. 25 lakh: Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.</p>	Rs. 10,000 for each default or failure (For all cases except failing to furnish return of income in response to notice under Section 280).	Section 465. Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.
Section 480. Wilful failure to furnish return of income in search/ requisition cases	Rigorous imprisonment up to 3 years, but not less than 3 months, and fine.	No corresponding civil penalty section	
Section 481. Wilful failure to produce accounts and documents	Rigorous imprisonment up to 1 year, and fine.	Rs. 10,000 for each default or failure (For all cases except failing to furnish return of income in response to notice under Section 280).	Section 465. Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.
Section 482. False statement in verification, etc.	<p>Evasion more than Rs. 25 lakh: Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.</p> <p>Evasion less than Rs. 25 lakh: Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.</p>	No corresponding civil penalty section	
Section 483 - Falsification of books of account or document, etc.	Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.	Penalty equal to aggregate amount of false or omitted entry.	Section 444. Penalty for false entry, etc., in books of account
Section 484 - Abetment of false return, etc.	<p>Evasion more than Rs. 25 lakh Rigorous imprisonment up to 7 years, but not less than 6 months, and fine.</p> <p>Evasion less than Rs. 25 lakh: Rigorous imprisonment up to 2 years, but not less than 3 months, and fine.</p>	Penalty equal to aggregate amount of false or omitted entry.	Section 444. Penalty for false entry, etc., in books of account
Section 494 - Disclosure of particulars by public servants	Imprisonment up to 6 months and fine.	No corresponding civil penalty section	

Annexure IV: Sample draft provisions

Scope of redrafting	Current Provision	Redrafted Provision
<p>Some of the criminal provisions in the Act rely on complex cross-referencing and do not clearly express what act or omission is being criminalised.</p> <p>To ensure provisions are not vague or ambiguous, the redrafted provision can be considered as a sample of how to simplify the criminal provisions and clearly express the conduct being criminalised.</p>	<p>Section 473. Contravention of order made under section 247. -</p> <p>Whoever contravenes any order referred to in section 247(4) shall be punishable with rigorous imprisonment which may extend to 2 years and shall also be liable to fine.</p>	<p>Section 473. Contravention of order made under Section 247. - (1) Any person whom without the permission of the authorised officer, does any of the following-</p> <p>(a) Removes, parts, or otherwise deals with any valuable article or thing that are subject to an order of deemed seizure as issued under Section 247(4)(a)(i), or</p> <p>(b) Removes, parts, or otherwise deals with any books of account, other documents, computer systems, asset, bank locker, bank account, that are subject to a prohibitory order issued under Section 247(4)(b)(i),</p> <p>shall be punishable with rigorous imprisonment of up to 2 years and shall also be liable to fine.</p>

<p>For various offences, the provisions in the Act lack any requirement of malafide or fraudulent intent for prosecution.</p> <p>To ensure proportionality in criminalisation, the sample redrafted provision adds an element of fraudulent intent to the criminalised act.</p>	<p>Section 482. False statement in verification, etc</p> <p>If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—</p> <p>(a) in a case, where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds twenty-five lakh rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine;</p> <p>(b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and shall also be liable to fine.</p>	<p>Section 482. False statement in verification, etc</p> <p>If a person fraudulently and with an intent to evade tax, makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, he shall be punishable,—</p> <p>(a) in a case, where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds one crore rupees, with imprisonment for a term may extend to seven years or fine;</p> <p>(b) in any other case, with imprisonment for a term which may extend to two years or fine.</p>
	<p>Section 494. Disclosure of particulars by public servants.</p> <p>(1) A public servant, who furnishes any information or produces any document in contravention of the provisions of section 258(3), shall be punishable</p> <p>with imprisonment which may extend to six months and shall also be liable to fine.</p> <p>(2) No prosecution shall be instituted under this section except with the previous sanction of the Central Government.</p>	<p>Section 494. Disclosure of particulars by public servants.</p> <p>(1) A public servant, who intentionally furnishes any information or produces any document in contravention of the provisions of section 258(3), shall be punishable</p> <p>with imprisonment which may extend to six months or fine.</p> <p>(2) No prosecution shall be instituted under this section except with the previous sanction of the Central Government.</p>

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