

**Economic Affairs Committee**  
NATIONAL COUNCIL OF BHUTAN

A BACKGROUND NOTE  
on  
A MOTION TO FRAME A LAW RELATING  
TO BHUTANESE OWNING  
UNDISCLOSED INCOME AND ASSETS  
ABROAD

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8 June 2016

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## INTRODUCTION

The rapid integration of global markets has necessitated business and enterprises to engage in cross border financial transactions to facilitate trade and investments through purchase of assets and investments. However, the very means that are necessary to promote economic integration can also be misused to facilitate illicit fund flows.<sup>1</sup> This is done by criminals and tax dodgers to hide income gained from corrupt means, evade taxes, circumvent foreign exchange regulations, launder money etc.,

The most shocking revelations to the world came in April 2016, when the International Consortium of Investigative Journalists (ICIJ) released what is now known as the Panama Papers. The Panama Papers, which is a huge leak of confidential documents, revealed how the rich, the corrupt and the criminals across the world used overseas business accounts and asset ownership, to launder money, hide their wealth and evade taxes.

The growth in illicit fund flows and proliferation of means to move such funds across borders have led governments around the world to respond by framing laws and regulations to record, regulate and monitor such cross border financial flows. In 2015, the Government of India passed the Undisclosed Foreign Income and Assets Act 2015 as to address the growing menace of what is colloquially known as black money.

As early as 1980, the Royal Government was concerned about illicit fund flows and asset acquisition abroad by Bhutanese citizens and issued a regulation on ownership of accounts and assets abroad by Bhutanese Citizens which was subsequently updated in by the National Assembly in 1993 **as Regulations Related to the Possession of Assets and Properties Outside Bhutan by Bhutanese Citizens, 1993.**

While the rules and regulations remain on paper, enforcement has been lax and there is sufficient knowledge in the country that individuals and corporations observe the regulations only in its breach.

The flows of undisclosed income and acquisition of undisclosed assets outside, can create undesired macroeconomic and socio-political consequences. Therefore, it is important for Bhutan to address this issue before it becomes a much larger political and economic challenge.

The Draft Economic Development Policy of the Government 2015 also proposes to allow outward FDI from Bhutan to other countries. In this regard, a clear law to govern ownership of assets and accounts by Bhutanese in other countries area is even more critical to ensure transparency and accountability.

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<sup>1</sup> Illicit fund flows is defined as: "The movement of money that is illegally acquired, transferred or spent across borders. The sources of the funds of these cross-border transfers come in three forms: corruption, such as bribery and theft by government officials; criminal activities, such as drug trading, human trafficking, illegal arms sales and more; and tax evasion and transfer mispricing." [www.transparency.org](http://www.transparency.org)

As approved by the 28<sup>th</sup> Plenary Session held on 19 May 2015, the Economic Affairs Committee is pleased to present this report as a background document to move a motion to frame a law on undisclosed foreign income and assets.

The rationale for a law is primarily to strengthen the 1993 regulation and elevate the regulation to a law, ensure wider publicity and respect for the laws so that is applied uniformly for benefit of the nation.

## **A. LEGISLATIVE BACKGROUND:**

This section will briefly look at the historical discussions of the issue in Bhutan and look at current rules and regulations governing the area.

### **A.1. Historical Background**

The concerns pertaining to this issue arose almost 35 years ago. It can be traced to two sessions of the former National Assembly. The issue was first discussed during the 52<sup>nd</sup> Session of the National Assembly in June 1980 when concerns were expressed by public representatives who stated that: “*possession of land, money and house outside Bhutan by the nationals may constitute a risk to the security of the country.*” The Assembly resolved that rules and regulations would be strictly framed and enforced to forbid such investments and transactions.<sup>2</sup>

The same issue was raised and discussed during the 72<sup>nd</sup> Session of the National Assembly held in July 1993.<sup>3</sup> The Finance Minister presented an updated version of the rules and regulations in keeping with the changing circumstances relating to economy, trade, finance and investments. The new regulations permitted investments and transactions in foreign assets and accounts provided prior permission was obtained from the relevant authorities.

The Finance Minister, in 1993, highlighted that: “*since the Ngolop problem began in the South, the accounts of the financial institutions indicated that many people were withdrawing money which was probably being deposited outside the country.*”

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<sup>2</sup> Proceedings and Resolutions of the 52<sup>nd</sup> Session of the National Assembly. Subject: Regarding Restriction of Possession of Land Money and House outside Bhutan. Page 117-118. June 1980.

<sup>3</sup> Proceedings and Resolutions of the 72<sup>nd</sup> Session of the National Assembly: Subject: Discussion and enactment of “Regulations and enactment of the Possession of Asset and Properties Outside Bhutan by Bhutanese National, page 269-272. July 1993.

The Finance Minister in his submission to the Assembly submitted that while the country was going through a difficult time some people were: *“sitting on the fence and were living with one foot in the country and the other outside.”* He also noted that : *It was not right for members of the private sector to make money within the country by taking full advantage of service facilities, loans low taxation and the many opportunities provided by the government and then take the benefits out of the country.”*

His Majesty the King in his meeting with the business community on 31 May and 1<sup>st</sup> June 1993 also provided Royal Advice and emphasized the importance of addressing this issue comprehensively. Considering the magnitude of the problems the country faced and the lack of sensitivity shown by some members of the private sector, and concerns at the highest level, the 72<sup>nd</sup> Session of the National Assembly approved the Regulations Related to the Possession of Assets and Properties outside Bhutan by Bhutanese Citizens, 1993 (Annexure 1). The Assembly resolved that the same be implemented strictly and penalties enhanced if necessary.

## **A.2. Current Laws and Regulations:**

Having covered the political and economic background of the issue this section will look at the current legal and regulatory frameworks relevant to the subject in under consideration. Based on the legal provisions, the section will also see if the legal provisions are currently observed and implemented.

### **A.2.i. Constitution of the Kingdom of Bhutan**

Article 8.8 in articulating the Fundamental Duties of a citizen states that: *“A person shall have the responsibility to pay taxes in accordance with the law.”*

Article 8.9 requires that *“Every person shall have the duty to uphold justice and to act against corruption.”*

Article 9.7 states that: *“The State shall endeavor to develop and execute policies to minimize inequalities of income, concentration of wealth, and promote equitable distribution of public facilities among individuals and people living in different parts of the Kingdom.”*

Further Article 14.15 states that: *“Trade and Commerce with foreign nations shall be regulated by law.”*

### **A.2.ii. Regulations relating to the Possession of Assets and Properties outside Bhutan by Bhutanese Citizens, 1993**

Sections 1 & 2 of the 1993 Regulation require Bhutanese citizens to seek permission of the RMA to open accounts abroad (with exceptions for students, diplomats, trainees etc.) and also seek RMAs permission to invest in foreign securities.

Sections 3, 4 & 5 of the 1993 Regulation requires Bhutanese citizens and Companies to seek permission of the Ministry of Finance to invest in immovable properties outside Bhutan; establish business ventures abroad and open and maintain commercial offices and representations abroad.

### **A.2.iii. Foreign Exchange Rules and Regulations 2013**

Some of the above provisions were reinforced in the Foreign Exchange Rules and Regulations 2013 issued by the Royal Monetary Authority, states as follows:

Section 49: “No Bhutanese citizens except the following persons are allowed to open and maintain account abroad:

- i. Diplomatic and consular missions of Bhutan located abroad and their staff;
- ii. Authorized banks;
- iii. Citizens who are stationed outside Bhutan for higher studies, training or employment abroad; and
- iv. Public corporations and trust funds approved by the Royal Government with regular operations abroad.”

### **A.3. Non-adherence to Laws and Regulations**

In view of existing rules and regulations on ownership of assets and accounts abroad by Bhutanese citizens, the Economic Affairs Committee on 20<sup>th</sup> May 2015 inquired with both the Ministry of Finance and the Royal Monetary Authority if any natural or legal persons have sought the necessary permissions to open accounts and own assets abroad as per the of the 1993 Regulation.

The Ministry of Finance in their response (MoF/PPD/NC/9/9117 dated 27 May 2015) stated: “*The MOF does not have any record of receiving any applications from Bhutanese Citizens, companies or firms seeking approval to possess immovable properties outside Bhutan, participate in concern outside Bhutan or to open offices and representations abroad.*”

Similarly, the Royal Monetary Authority in their letter (RMA/forex/2014-15/4367 dated 25 May 2015) said that: “As of date, no person has been accorded approval for the same.”

While there is sufficient anecdotal evidence that Bhutanese businesses and citizens operate accounts and own assets abroad, the authorities have clearly not been informed nor have approvals been sought. Hence it leads to a firm conclusion that regulations are not being followed.

## **B. CURRENT ISSUES**

The issue of growth in illicit fund flows is considered a major challenge in fighting corruption globally. Transparency International a global NGO believes that: “*it is essential to promote greater transparency, integrity and accountability of financial institutions to avoid another global financial crisis and crack down on corrupt and unethical behavior*<sup>4</sup>.”

The need to address this issue in the context of Bhutan has assumed critical importance in light of the following:

- A. Studies that have revealed the existence of large scale non-remittance of export earnings to Bhutan in 2006 and 2007 (Table 1);
- B. Existence of Fronting in the business sector in border towns;
- C. The Rupee Shortage Crisis of 2012 which showed large scale trade imbalances;
- D. Issue of huge commissions for cross border business intermediation as shown in the BHEL procurement issue that came to the forefront in 2014;
- E. International reports in illicit transfer of funds from Bhutan to other countries (Table 2);
- F. Audit Reports revealing existence of ingrained corporate corruption in Mining Sector and supply of essential commodities such as LPG and SKO; and
- G. Anti Corruption Commission’s Investigations in Border towns.

Considering the above, there is high potential for the problem to assume more complex dimensions if not addressed in a timely manner. This is particularly due to the fact that Bhutan is a small economy (2013 GDP Nu. 107.493 or about US\$ 1.7 billion) with limited export earnings, that even a small unrecorded transaction or a small volume of unrecorded financial transfer could have major impact on macroeconomic management.

Considering that it is illegal to maintain accounts and assets abroad by Bhutanese nationals it is not possible to provide concrete evidence of such practices in vogue.

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<sup>4</sup> [www.transparency.org](http://www.transparency.org)

However, past experience and the following issues point to the existence of this problem.

### **B.1. Non Repatriation of Export Earnings**

In early March 2012, Bhutan faced the most severe economic crisis ever with the shortage of Indian Rupee leading the government and central bank to take drastic economic measures. At that time it was surmised that many Bhutanese industries and exporters were not repatriating the earnings back to the country. This leads one to surmise that they may be stashing such funds in accounts abroad.

While hard evidence is difficult to come by, a joint report by the Ministry of Finance and Ministry of Economic Affairs and the Royal Monetary Authority in 2007 provide some perspective of the existence and magnitude of the problem as shown below.

<b>Table 1. Comparison of export value vis-à-vis inflows for the year 2006 and Jan-May 2007</b>							
		<b>2006</b>			<b>January to May 2007</b>		
	<b>Exporter</b>	<b>Total Export to India</b>	<b>Total Inflow</b>	<b>Difference</b>	<b>Total Export to India</b>	<b>Total Inflow</b>	<b>Difference</b>
1	Jigme Ploytex Pvt. Ltd	243.34	38.95	-204.39	112.12	30.73	-81.39
2	Singye Vanaspati Pvt. Ltd	850.8	656.16	-194.64	294.49	193.1	-101.39
3	Mega Pvt. Ltd.	42.56	91.86	49.3	215.66	237.61	21.95
4	Yarab Pvt. Ltd	622.219	422.88	-199.339	214.02	175.9	-38.12
5	Bhutan Metal Pvt. Ltd	1656.09	726.57	-929.52	1105.62	183.23	-922.39
6	Khenpa Pvt. Ltd.	574.13	157.37	-416.76	255.18	144.29	-110.89
7	Rangsher Pvt. Ltd	409.3	275.12	-134.18	270.05	13.64	-256.41
8	Yarkey Pvt. Ltd.	170.61	104.93	-65.68	81.39	25.47	-55.92
9	Choden Wire Pvt. Ltd	19.89	72.37	52.48	113.54	34.28	-79.26
10	RSA Pvt Ltd.	163.181	104.07	-59.111	100.07	40.96	-59.11
	<b>Total</b>	<b>4752.12</b>	<b>2650.28</b>	<b>-2101.84</b>	<b>2762.14</b>	<b>1079</b>	<b>-1682.93</b>

Source: Business Bhutan “The fronting investigation that never made it to the front,” 23 October 2010

In 2006, the total exports amounted to Nu. 18.772 billion; total exports without hydropower exports amounted to Nu 4.982 billion and GDP was estimated at Nu. 40.674 billion. The total export earnings not accounted for by only 10 industries in that year was Nu. 2.101 billion.

The amount of export proceeds that was not repatriated to Bhutan in 2006, therefore amounts to 11.19 % of total exports and 42.18% of total exports excluding hydropower. This is a staggering percentage that would have severe problems in balance of payments and the economy.

As Bhutan's economy is open and small (with GDP estimated at Nu. 40.674 billion in 2006), such major outflow of unaccounted funds could also destabilize the economy. As percentage of GDP, the unaccounted funds of 2006 is about 5% of total GDP.

Therefore, it is critical that legal measures are in place to ensure that export proceeds are repatriated back to Bhutan and not invested in accounts outside the country. This is especially pertinent for industries and sectors that have been established with major subsidies and tax incentives from the Royal Government.

When the Rupee Shortage loomed large in 2012, the RMA and DRC instituted a process whereby export proceeds have to be accounted for within 91 days. This also points to the possible practice where export earnings were not ploughed back to Bhutan. Therefore, it would logically have to be stashed in accounts outside Bhutan.

## **B.2. Transfer Mispricing**

While the above issues are clear to identify, there is existing doubt on a more sophisticated manner in which Bhutan's export earnings may not be repatriated and thus stashed in accounts outside through transfer mispricing.

In economic parlance, transfer pricing refers to the method of pricing goods and services within the various divisions of the same company or different companies owned by the same proprietor. For example Goods from the production division may be sold to the marketing division, or goods from a parent company may be sold to a foreign subsidiary.

The business rationale for transfer pricing is to evaluate the managerial and economic performance of the various divisions and for administrative autonomy. However, the fundamental principle that must be upheld for this practice to be legal is that the transfer price should be similar to the price that would be charged if the product were sold to outside customers or purchase from outside vendors.

However, in the real world of business the principle is often ignored and transfer mispricing is used to evade tax, minimize dividend payouts and thereby maximize

profits for the parent company by deliberately hiding, disguising or accumulating money in another account often in a foreign jurisdiction

A simplified example of the anecdotal evidence in the case of Bhutan is considered below:

For example the Company **A** (the Parent Company) is a publicly held corporate entity listed on the stock exchange of Bhutan which produces wooden tables. Company **A** then exports the wooden tables to its subsidiary company “B” in a foreign country at an intercompany negotiated price Nu. 1,000 per unit.

Following standard accounting procedures and deductions for costs incurred in the production process, Company A will pay taxes to the Department of Revenue and Customs based on its profit (made on exporting tables at Nu. 1,000 per table). After the Annual General meeting of shareholders, it will declare dividends to shareholders on the above price and volume sold.

However, unknown to the Bhutanese shareholders and tax authorities, the subsidiary Company **B** located in a foreign country sells or re-exports the same tables imported from Bhutan for an equivalent of Nu. 1,500 per table. The difference of Nu. 500 will be windfall profit for the owners.

This windfall gain received by the private entity has not benefitted legitimate Bhutanese shareholders and also escaped the jurisdiction of Bhutanese tax authorities.

In essence, the wooden tables have been made using Bhutanese lumber, located in Bhutanese sovereign territory, enjoyed tax breaks and subsidies, stable political and economic environment. But a large margin of the profit is cornered by the business unit through transfer mispricing using the subsidiary company.

There is a need to check the proliferation of such practices because the existence of such rent seeking activities only helps to enable the privatization of gains for a few and socialization of losses to the nation.

Based on anecdotal sources there are sufficient grounds for suspicion that Business Houses and Industries that use Bhutan as a base to manufacture products may be using transfer pricing strategies to skim off profits and keep the profits made in accounts abroad.

Further the proliferation of such practices could make it difficult to address corruption issues, tax evasion issues. Hence it is necessary for companies to seek permission

from Bhutanese authorities about the operations and their subsidiaries so that such shadow operations are controlled.

**B.3. Corporate Corruption**

The National Council requested the Royal Audit Authority to conduct an audit on the mining sector in 2013 and on the supply of Liquefied Petroleum Gas and Kerosene LPG in 2014. The findings of the Royal Audit Authority showed prevalence of widespread impropriety in the corporate sector coupled with lax application and enforcement of laws by government agencies.

Examples of other countries show that corrupt practices occur in sectors that require government approvals and permits and when approving authorities are either ignorant or collude with businesses to defraud the state and its people thereby giving rise to cronyism. The people who engage in such practices often resort to transferring their income to accounts abroad in case it is detected by tax and anti-corruption authorities.

**B.4. International Data and Statistics.**

In addition to the above information, there are also international studies that indicate and corroborate occurrence of illicit outflows of funds from Bhutan. For example, the Global Financial integrity Report indicates that Bhutan is ranked 131 out of 145 countries in terms of illicit financial outflows.<sup>5</sup>

While this is a good sign that illicit financial flows are relatively low, it should not be a consolation considering the small size of our economy and the fact that others who rank better than Bhutan are mainly small island states with limited economic potential.

What must be noted is the fact that there are internationally recorded figures of illicit outflows from Bhutan as shown below:

**Table 2 Estimate of Illicit Fund Flows from Bhutan**

<b>Year</b>	<b>Amount of illicit outflows in US Dollars</b>
2007	101 million
2011	44 million
2012	168 million

Source: Kar, Dev, and Spanjers, Joseph, Global Financial Integrity, “Illicit Financial Flows from the Developing World: 2003-2012,” December 2014.

<sup>5</sup> Global Financial Integrity, “Illicit Financial Flows from the Developing World: 2003-2012,” [www.gfintegrity.org/reports/](http://www.gfintegrity.org/reports/)

The illicit outflows are probably saved in accounts abroad. On the other and the RMA has confirmed that no individual or company has sought permission to open accounts abroad thus far, it is clear that the existing rules and regulations are being violated.

If we consider the motives to open accounts abroad, then if it is not to hide income and dodge taxes, there must be economic or financial logic for such action. For example, Singapore is a popular destination for people in the region to open savings accounts due to the stable and mature financial sector.

However, a comparison of the highest savings rate between Singapore (1.25%) versus Bhutan (8.75%) shows that savings interest rates in Bhutan are 7 times higher.<sup>6</sup> Hence, it is obviously not for higher returns and this leaves one to conclude it is perhaps to hide income from tax authorities in Bhutan.

### **C. FUTURE RISK**

Given the high level of sophistication and nexus between the elite that straddle the political, bureaucratic and business world, white collar crimes are harder to detect and often operate under the legal radar. Though invisible, these illegal activities pose immense threat to national security by undermining economic security of a country as highlighted earlier.

There is sufficient anecdotal evidence that points out that the existing regulations are being flouted and nothing is being done about it. If such inaction continues, it will undermine uniform application of laws across social strata and further widen the gap between the privileged and the others which will become an affront to our national vision of promoting a just and equitable society.

From the preceding sections; it is amply clear that there was a significant historical basis for framing the 1980 and 1993 regulation. We must never forget the ignoble intent and actions of fence sitters who moved their assets to accounts abroad when the whole nation was going through difficult times during the Ngolop uprising in the 1990s.

In more recent times, we cannot afford to forget the fact that actions of a few unscrupulous businesses intensified the magnitude of the rupee shortage problem and led to severe macroeconomic problems for the nation and its people and what is perhaps the one of the greatest economic crisis of modern times for Bhutan.

If the problem is not addressed, it could grow to such an extent that the national economic security can be compromised while the gains of not taking the issue seriously is captured by a few powerful private individuals. The possibilities of that private interest groups using their financial accounts abroad to finance political parties in Bhutan cannot be ruled out.

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<sup>6</sup> <http://www.deposits.org/compare-countries/7-126/singapore-vs-bhutan.html> 1 June 2015.

As the Ministry of Finance and the Royal Monetary Authority have not received applications for approval to own assets and accounts abroad, it clearly shows a blatant disregard for existing regulations. The authorities on their part have also neither investigated nor taken proactive measures to implement the 1993 Regulations in letter and spirit.

While it is not possible to quantify the risk and threats that could arise, we can also draw from the experience and learn lessons from our neighborhood.

For example, in the case of Nepal it is estimated that between 2001 and 2010, Nepal recorded huge financial outflows of about US \$ 8 billion (amounting on average to \$ 801.4 million Nepalese Rs 70.39 billion annually).<sup>7</sup> It is reported that such unchecked practices have immense negative consequences on macroeconomic management, curbing corruption etc.,

In India, the issue of undisclosed income (colloquially known as Black Money) out away in accounts abroad has also assumed great importance. Unofficial estimates indicate that there may be somewhere between US\$466 billion to US\$ 1.4 trillion stashed away overseas.<sup>8</sup> Considering the importance of addressing the issue, the Indian Parliament recently passed the Undisclosed Foreign Income and Assets Bill 2015 in May 2015.

Both the cases of Nepal and India are instructive for Bhutan in terms of recognizing the issue before it becomes a bigger issue and more importantly in providing avenues for addressing it head on through appropriate legal framework.

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<sup>7</sup> MUKUL HUMAGAIN, BHADRA SHARMA, "Capital Flight \$8b siphoned off Nepal in 10 yrs: GFI report". Kathmandu Post, 19 December 2012 <http://www.ekantipur.com>

<sup>8</sup> "Black Money Bill Passed in Lok Sabha" [www.ndtv.com](http://www.ndtv.com), 11 May 2015

## **D. LEGISLATIVE INTENT**

The preceding sections have elucidated the historical basis of the concern and also current inactions that could lead to future problems in our country. This section will dwell on the intent and importance of having a law.

### **1. Strength of Law versus Regulations**

Considering that existing regulations are being observed only in its beach, it has become urgent to have an Umbrella Act to give legal teeth to the regulations of 1993 and provisions of other rules and regulations. If the issue is left unaddressed and if legal teeth is not granted, the magnitude of this problem will rise exponentially as the Bhutanese economy rapidly expands, FDI grows and movement of capital to regional and global banks increase.

In the context of Bhutan, regulations are considered a notch below a law especially since the adoption of the Constitution in 2008. Therefore, there is every possibility of regulations not being taken as seriously as a regulation. Further is also the possibility of line Ministries, agencies and authorities amending regulations and for this we cannot rule out lobbying by vested interest groups. It is more difficult to amend laws and thus less vulnerable to manipulations.

A speedy enactment of a law to address the subject in discussion will provide a preventative basis rather than a punitive basis for our society.

### **2. Objectives of the proposed law**

An urgent enactment of a law by Parliament will not only bring greater focus on the issue but also provide the following benefits to the nation:

1. Support Anti Corruption drive by preventing corruption and the corrupt from hiding illicit gains in offshore accounts;
2. Support better macroeconomic management of the economy and reporting;
3. Address issues related to the external sector particularly related to foreign exchange management, export earning and balance of payments;
4. Ensure timely and proper repatriation of earnings based on investments in Bhutan so that capital accumulated through Bhutan's economy is used to support growth and development within the country;

5. Ensure greater transparency and good governance in the corporate sector and effective tax administration;
6. Prevent the potential for Bhutan to become an avenue for money laundering.
7. Ensure social economic justice and prevent huge income disparities

### **3. Application**

The intent of this submission for a law is not to harass students, trainees and Bhutanese living abroad or to discourage legitimate business operations. In this globalized world of trade and commerce, it is also important for business entities to have accounts abroad for business transactions. However, this must be above board and subject to disclosure to Bhutanese authorities.

The main objective of framing a law is to hold both natural and legal persons (proprietors of Companies, Businesses, and industries) to higher standards of disclosure and regulations especially if these individuals and entities whether natural or legal persons are recognized as one or more of the following among others:

1. Registered as a legal entity in Bhutan;
2. Utilizing the sovereign territory of the Kingdom of Bhutan to establish business;
3. Engaged in the extraction and sale of natural resources either in raw or processed forms;
4. Beneficiaries of tax breaks and/or subsidies granted by the government;
5. Using foreign exchange from national reserves;
6. Engaged in supply and provision of publicly consumed goods and services;
7. Engaged on any businesses or services that involve utilization of monies from the consolidated fund;
8. Listed on the stock exchange of Bhutan.

### **E. SUBMISSION**

As approved by the 28<sup>th</sup> Plenary Session held on 19 May 2015, the Economic Affairs Committee of the National Council would like to submit the following for kind consideration of the House:

1. Submit to consider this subject as a matter of national significance; and
2. Considering that past regulations have neither been observed nor been implemented, approve the motion for the enactment of a law to govern this issue.

# **ANNEXURE: REGULATIONS RELATING TO THE POSSESSION OF ASSETS AND PROPERTIES OUTSIDE BHUTAN BY BHUTANESE CITIZENS**

## **Preface (translated from Dzongkha)**

Along with the development of the kingdom of Bhutan, our dealing with other countries of the world is increasing year by year. Since existing legal procedures do not adequately cover ownership of properties by Bhutanese nationals in foreign countries, it becomes important to adopt new systems in accordance with the need of our times.

Therefore, the Ministry of Finance has drafted these rules as per the resolution of the 53<sup>rd</sup> session of the National Assembly which had been submitted to the Cabinet, wherein approval was granted during the 139<sup>th</sup> session of the Cabinet. The Cabinet approved rules were then submitted to the National Assembly during its 72<sup>nd</sup> session where each section was deliberated and approved as shown in resolution Ka (Ra).

The legal procedures for ownership of properties by Bhutanese nationals in foreign countries shall be enforced with effect from 1/8/1993. Issued to everyone concerned.

Tashi Chho Dzong  
Thimphu  
Dated : 13-8-1993

(Dorji Tshering)  
Finance Minister

## **1. MAINTENANCE OF FOREIGN CURRENCY ACCOUNTS ABROAD**

Bhutanese citizens are not permitted to open, maintain and operate on accounts outside the territory of Bhutan except with the prior permission of the Royal Monetary Authority. Bhutanese citizens who proceed abroad for purposes such as higher studies, training, diplomatic posting, and to work in regional/international organizations, etc. are however permitted to open foreign currency accounts with banks abroad and operate them during their stay abroad.

## **2. INVESTMENT IN FOREIGN SECURITIES**

Except with the permission of the Royal Monetary Authority, Bhutanese citizens may not acquire, hold or dispose off any foreign security which is issued or payable outside Bhutan. For the purpose of this regulation, foreign securities shall include shares, stocks, bonds, debentures, certificates of deposit, units and sub-units of unit trusts, and any other security the principles of or interest on which is to be paid or payable outside Bhutan.

**3. INVESTMENT IN IMMOVABLE PROPERTIES OUTSIDE BHUTAN**

Except with the specific permission of the Ministry of Finance, Bhutanese citizens, firms and companies registered or incorporated in Bhutan are not permitted to acquire or hold any immovable property situated outside the territory of Bhutan.

**4. ESTABLISHMENT OF BUSINESS VENTURES AND SUBSIDIARIES ABROAD**

Without the specific permission of the Ministry of Finance, Bhutanese citizens, firms and companies are not permitted to set up, or participate in any concern outside Bhutan which is engaged in any activity of a trading, commercial or industrial nature, whether such concern is a body corporate or not. Persons who were associating themselves with, or participating in concerns outside Bhutan as on date of effectiveness of these regulations, are required to seek the permission of the Ministry of Finance to continue such association or participation, and such application should be routed through the Ministry of Trade & Industry.

**5. OPENING AND MAINTENANCE OF COMMERCIAL OFFICES AND REPRESENTATIONS ABROAD**

Bhutanese citizens, firms and companies are not permitted to open offices and representations abroad without the prior approval of the Ministry of Finance. Exporters having large turnover to their credit may be permitted on application to establish offices abroad on a selective basis on the merits of their applications. Exporters desiring to set up such establishments must satisfy the Ministry of Finance, inter alia, that the proposed overseas office will be instrumental in expanding and/or diversifying their exports in the territories covered by it and its establishment will result in a net benefit to Bhutan. All matters in the regard should be routed through the Ministry of Trade & Industry.

**6. PENALTY**

Contravention of any provision of these regulations, or any rule, directive or order issued pursuant to these regulations shall be punishable with imprisonment for a term which may extend upto two years or a fine equal to the value of the amount involved in the contravention.

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