

33 Income Tax Search & Seizure

As per section 132 of Income Tax, search operation takes place only when Income Tax Department has some strong evidence against an assessee. Either the Tax Payer is having undeclared property, income or even after getting a notice, he has not produced the desired info Criteria of filing of voluntary return/accounts. Competent officer issues notice separately for search and seizure in which, name of the person (against whom the action has to be taken) and names of the officers for search operation are mentioned.

During the search operation Income Tax Officer possesses the following power but he cannot arrest anybody:

- The officers can enter into any building, place or vehicle owned by the person. They can even search the persons coming to these areas. They can break the locks of almirahs and locker for search.
- They can check the accounts & other related documents & can seize them.
- They can seize cash, Gold or Silver, Jewellery above the limit prescribed (*One can possess jewellery without any record as 500 gms. per married lady, 200 gms. per unmarried lady & 100 gms. per male member*). If these articles are used as Stock in Trade, then instead of seizure an inventory note is prepared.

Rights of the Assessee :

An assessee may:

- check the notice & identity cards of officers engaged in the search operation
- check the officers before & after the search operation
- keep two local persons as witnesses & if necessary, can call a doctor
- remain present during search operations
- appoint tax consultant, CA / Lawyer to present his case during the search operation
- ask for lady officials to check his female relatives
- go for his regular work such as Pooja, taking food etc.
- send his children to school after checking their schoolbags
- move outside the premises with due permission of the Competent Officer
- check the statements written by the Income Tax Officers
- take true copies of Panchanama, Statement & other related documents
- sign on the paper seal put on the seized goods. & recheck his signature at the time of breaking the seal in court or other places
- oppose against seizure of such goods, as not authorised by income tax laws
- ask the competent officers to seize goods worth equivalent to the amount of income tax as may be due and take back other seized goods under section 132 (5) after the search operation is over

Duties of the Assessee:

An assessee should:

- not restrict the Income Tax Officials from checking his premises
- handover the keys of Lockers & Almirahs for peaceful operation
- introduce the persons present in his house & their relation to the officers
- sign the recorded statements & Panchanama after carefully reading them
- not remove any thing from the premises without intimating the officials
- give the statements as per his knowledge to the Officials
- not give any unwanted evidence or any false statement. If found, he guilty, can be penalised under section 179/181/191 of Indian Penal Code.