

BOND WASHING TRANSACTIONS

SECTION 94: AVOIDANCE OF TAX BY CERTAIN TRANSACTIONS IN SECURITIES

TRANSACTIONS IN SECURITIES

Section 94 aims at preventing **avoidance of tax** by an assessee where there is a **transfer of securities before the due date of payment of interest and re-acquisition thereof after due date**, whereby the transferor avoids tax or shifts the burden of tax to some other person. These are called **BOND WASHING TRANSACTIONS**.

In order to prevent this type of avoidance of tax by the assessee, section 94(1) provides that where the owner of any securities sells or otherwise transfers them and then buys them back or otherwise re-acquires them in such a manner that interest is received by transferee, then the interest received by the transferee shall be the income of the transferor and shall not be taxable in hands of transferee.

For example, Mr. X hold 10% debentures of ₹1 crore of Reliance Industries whose annual date of payment of interest is 31st March.

On 29th March, 2022 Mr. X sells the said debentures of ₹1 crore to his friend Mr. Y and re-acquires the debentures on 2nd April, 2022. Now interest of ₹10 lakh received by Mr. Y shall not be taxable in hands of Mr. Y but shall be taxable in hands of Mr. X by virtue of section 94.

However, section 94 shall not apply and the said interest shall not be taxable in hand of Mr. X if:

- (i) Mr. X proves that the said interest is taxable in hands of Mr. Y at the same rate as it would have been taxable in his hands i.e. there is no avoidance of Income tax or
- (ii) Mr. X proves that he sold debentures on 29th March, 2022 as he was in urgent need of money and there has been no such bond washing transaction in any of the 3 previous year ending on 31.03.2021.

Explanation to section 94(1) provides that if Mr. X buys back on 02.04.2022 let's say 11% debentures of Tata Steel, then the amount to be added to income of Mr. X shall be ₹ 10 lakhs and not ₹ 11 lakhs.