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Black Income Generation in Urban Real Estate

1. Introduction

THE purpose of this chapter is to give some indication of the forms and dimensions of black income generation in urban real estate in India. The empirical analysis encompasses the three metropolitan centres of Delhi, Bombay and Madras. However, the extent and quality of the underlying information is far superior for Delhi as compared to the other two cities.

Before we proceed to the substantive analysis we must be clear about definitions. The concept of black income used in this chapter is the one deployed by the Income Tax Department. That is, in any transaction related to real estate the entire unaccounted amount detected in a particular year is treated as income for that year for the concerned assessee. Thus, if a property is sold and part of the proceeds are un-recorded on the sale deed, then all of this unrecorded portion is treated as black income for the seller. Note that this may not correspond to a more economic con-cept of black income which would have to take account of some of the costs "paid in black". For example, the seller may have originally purchased the property by paying part of the price in black and this would have to be netted out

in arriving at an economic concept of his black earnings from the current sale.

2. Black Income Generation: Forms and Causes

Even a cursory survey of the field of urban real estate suggests that the principal form of black income is undeclared capital gains, where this is defined to equal the black (or undeclared) portion of the proceeds received from the sale of a property.

Typically, both buyer and seller of real estate have incentives to declare a lower price on the sale deed than the one at which the transaction actually occurs. For the seller, these inducements include:

    a. the evasion of capital gains taxation;

    b. the continued evasion of wealth tax in so far as the black portion of the sale proceeds can be held in undeclared forms of wealth;

    c. ready access to black funds for use in activities—including fresh purchases of real estate—where such resources are necessary.

For the buyer, the incentives encompass:

    a. the evasion of wealth tax;

    b. the evasion of stamp duties and registration charges on the transaction;

    c. the evasion of income tax (corresponding to income from house property);

    d. the evasion of house property tax;

    e. investment of black resources in a form in which its detection is far more problematic and in which it earns a higher return than is the case with some alternatives such as undisclosed cash or 'benami' financial assets.

While the effective taxation of urban property through a variety of taxes is a prime reason motivating black transactions, it is by no means the only factor. In many urban localities the operation of rent control spurs the generation of black incomes, either in the form of black (that is, under

the table) rents or "pugree" payments, which capitalise the
difference between the anticipated profile of market clearing
rents and the stream of controlled, nominal payments[2].

Another source of black income generation is the variety
of permits that are required from government agencies for
construction or transfer of urban properties. Any new build-
ing requires sanction of a building plan, water connections,
electricity connections, a completion certificate and so forth.
For expeditious clearance each of these typically requires
payment of bribes. Even the simple registration of sale deeds
has often to be consummated through bribes. In the case of
Delhi a large portion of urban land is controlled by the Delhi
Development Authority (DDA) and the Land and Develop-
ment Office (L&DO) of the Union Ministry of Works and
Housing. Transfer of such lands or the associated construc-
tion requires prior sanction by the concerned authority. Fur-
ther, 50 per cent of capital gains (the "unearned increment")
is required to be shared with these governmental agencies. All
this affords substantial opportunities for unscrupulous ele-
ments in the staff of these agencies to extort bribes from the
concerned parties.

The law proscribes sale of many urban properties for a
stipulated period. Such restrictions apply, for example, to
DDA flats and leasehold land made available to many group
housing societies in Delhi. *De facto* circumvention of these
restrictions is often associated with substantial black income
generation. The burgeoning phenomenon of "power of attor-
ney sales" in Delhi is a case in point. Such transactions
avoid the need to obtain permission for transfer and evade
(or at least postpone) sharing of the capital gains and pay-
ment of various stamp duties and transfer charges[3].

Another form of black income generation in urban real
estate is associated with manipulation of changes in land use
patterns. Unauthorised occupation of land is frequently
"regularised" on payment of necessary bribes to appropriate
quarters. The same is true of many unauthorised construc-
tions. Frequently, bribes are paid not so much to regularise
unauthorised encroachments and constructions, as to induce
the concerned authorities to turn a blind eye to offending

transgressions. In some areas local politicians or "dadas" manage the necessary "protection" of the encroachers from the local authorities for a price and, in the process, consolidate their respective political bases.

New construction of urban structure also provides avenues for black income generation. "Siphoning off" from public sector construction projects is one method, which is discussed at length in the next chaper. In the case of new construction by private parties, undervaluatien of buildings affords substantial scope for relatively safe holding of black wealth, possibly reaped in other lines of activity.

Fundamental to most forms of successful black income generation in urban real estate is the enormous difficulty of arriving at an objective, legally acceptaple valuation of a piece of urban property[4]. Each property has an unique location, with its own physical infrastructure and potential for economic production and consumption. This is further modified by legal provisions (and their interpretations) relating to use, transferability and income flow. Quite apart from the difficulty of accessing the potential profile of income from a given piece of property, there are knotty questions regarding the discount rate which should be employed to capitalise the anticipated stream of income and/or consumption. All of this enormously complicates efforts at objective, legally acceptable valuatious of property.

To counter the widespread understatement of property values in sale deeds the Government added Chapter XXA to the Income-tax Act in 1972, authorising, in certain circumstances, public acquisition of a privately held immovable property if there was adequate reason to believe that such property was undervalued by more than 15 per cent in a sale. The reasóns for the limited efficacy of these provisions have becn widely commented upon and are briefly discussed in Chapter 10. But, there is some evidence to suggest that these provisions (together with the extension, through the 1981 Income-tax Amendment Act, of the threat of acquisition to cases of transfer of flats and tenements) have had *some* effect in moderating the extent of property undervaluation in transfers. Moreover, as we shall see, one consequence of this

legislation is that it has provided us with an important source
of information for gauging the extent of black income gene-
ration in urban real estate.

3. Sources of Data

The principal source of data for this chapter was the
Income Tax Department, in particular the Competent Auth-
orities concerned with acquisition of properties under Chapter
XXA in the cities of Delhi, Bombay and Madras and the
Valuation Cells charged with the responsibility of valuing
properties referred to them from these cities.

In brief, legal transfer of an immovable property requires
registration under the Indian Registration Act of 1908. With
the advent of Chapter XXA of the Income-tax Act, the
Registrar's office is obliged to intimate details of each trans-
action   involving an immovable property with registered
value in excess of Rs 10,000 to the Competent Authority—
typically an Inspecting Assistant Commissioner (IAC), Acq-
uisition—in a standard form 37G filled and verified by the
transferee[5]. Whenever the concerned IAC   (Acquisition)
suspects   undervaluation in excess of 15 per cent, a file is
opened on the property and a preliminary notice is sent to
the concerned buyer for appearance before the IAC to pro-
vide additional information—hence these are called "notified
cases"[6]. This notice provides information additional to that
contained in the corresponding form 37G, including the
judgement value of the IAC.

This initial judgement value has no particular legal signi-
ficance. But it can be taken as one indicator of the property's
market value, since it reflects the IAC's initial judgement in
this respect, before he has had a chance to be influenced by
the transferee or his agents or by subsequent legal proceed-
ings. Moreover, discussions with the IACs (Acquisition) in
Delhi suggested that "notified cases" were selected more or
less at random from the inflow of 37G forms, and thus a
sample of notified cases may be representative of all 37G
cases. However, it is important to recognise that the IAC's
judgement values would be coloured (typically biased down-
wards) by previous legal proceedings on property valuations,

including judicial precedents on issues of valuation. Never-
theless, the difference between the judgement value and the
registered (or declared) value provides one estimate of the
black element involved in a specific property transaction.

A subset of the notified cases is referred by the IACs to
the relevant Valuation Cell, though the extent to which this
occurs varies markedly across cities. The bulk of our data on
property values and all the data on judgement values came
from the offices of the IACs (Acquisition) and the valuation
Cells in the three metropolitan cities.

The basic sample on declared property values was aug-
mented by data from other sources, such as the offices of the
Registrars, the L&DO in Delhi and the Survey Wards of the
Income Tax Department.

In addition, information on market values and the black
components of these values was obtained by interviewing
real estate brokers, builders, accountants and other sources.

4. Black Income Generation in Urban Real Estate: Delhi

Table 7.4.1 presents estimates of black income generated
through sale of real estate in registered transactions for the
five years 1978-79 to 1982-83. For the sample of property
sales in each year, column (4) records the average declared
value per property. Columns (5) and (6) present two different
estimates of the average ratio (as a percentage) of black pay-
ments to white (or recorded) payments. The first of these
columns relies on data obtained from brokers, while the
second is based on the difference between "judgement values"
and registered values in the records of the Income Tax
Department. Invariably, the broker information indicates a
higher percentage of black payments than that shown by the
tax department's data. The reasons for downward bias in the
latter have already been noted. For that reason, we would
have preferred to rely on the data from brokers. But, for
each of the years, the size of the sample of information from
this source was too small to warrant full confidence. Accord-
ingly, we have presented estimates based on both sets of
information. On balance, despite the small size of samples,
we attach more significance to the broker information.

TABLE 7.4.1

Estimates of Black Income Generated in Registered Sales of Immovable Property in Delhi

Year	Number in sample	Total declared value (Rs 000)	Declared value per property (Rs 000)	Black as per cent of white value[1]		Black Value per property		Total number of Form 37b	Estimated Black Income	
				Broker sample	IT Dept. sample[2]	Broker sample $=\frac{(4)A(5)}{100}$ (Rs 000)	I-T Dept. sample $=\frac{(4)A(6)}{100}$ (Rs 000)		Broker valuation $=(9)A(7)$ (Rs 000)	I-T Dept. valuation $=(9)A(8)$ (Rs 000)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1978-79	305	48046	157.5	80(21)	50(131)	126.0	78.8	3013	379368	237424
1979-80	344	61910	180.0	208(18)	60(217)	374.4	108.0	3302	1236269	356615
1980-81	408	78400	192.2	154(23)	66(285)	296.0	126.8	5467	1618232	693216
1981-82	403	70036	173.8	146(17)	73(333)	253.7	12.69	6171	1565583	783100
1982-83	286	71909	251.4	188(23)	91(277)	472.6	228.8	5202	2458465	1190217

Note: [1] Numbers in parentheses refer to sample size.

[2] Refers to the excess of the judgment value over the declared value.

Source: As described in the text.

Columns (7) and (8) present estimates of black value per property. These estimates are multiplied through by the total number of 37G forms pertaining to each year [column (9)] to give alternative estimates of black incomes generated in such registered sales in columns (10) and (11), respectively. Thus, according to the valuation based on the broker sample, black income generated in registered property sales in Delhi in 1982-83 was in excess of Rs 240 crore. If we go by the valuation implicit in the Income Tax Department's "judgement values" the estimated black income is barely half that amount.

We now turn to some obvious limitations pertaining to those estimates. First, our reliance on 37G forms excludes, by definition, all sales of immovable properties with registered values less than Rs 10,000. On the basis of an analysis of records at the offices of the Sub-Registrar we estimate that in 1982-83 the number of registered sales of property with declared value less than Rs 10,000 was about 8,200. This means that the total value of such properties must have been less than Rs 8.2 crore. Accordingly, the black income asssociated with these sales should have been less than Rs 16 crore (even if we use our higher, broker-based estimate of the ratio of black to white).

Second, there is a question regarding the representativeness of our basic sample with respect to properties of registered value greater than Rs 10,000. Since more than half the ample is drawn from the offices of the Income Tax Department, there is a danger that the sample estimate of the average declared value of a property may be biased upwards (relative to the mean of the underlying population of transactions) because of the known tendency of the IACs to neglect low-valued properties, especially those below Rs 25,000 declared value. Analysis of an independent sample for 1982-83 (the only year for which data were made available) of properties with registered value higher than Rs 10,000 from the Office of the Collector of Stamps for Delhi confirms this possibility, since the average declared value was closer to one lakh than the 2.51 lakh estimate in our sample in Table 7.4.1 for 1982-83.

However, the problem posed by this bias may be mitigated by another finding revealed by our detailed analysis of "judgement values" and declared values, namely, that properties with lower absolute value tend to be under-valued significantly and systematically more (in percentage terms) than higher-valued properties. Of course, while these two facts work in opposite directions, there is no guarantee that they cancel out.

Third, our sample completely misses out black incomes involved in "pugree" payments associated with transfers of tenancies.

Fourth, the analysis in Table 7.4.1 excludes black incomes associated with "power of attorney sales". We tried to make some rough estimates of such black incomes using data from the 150th Report of the Public Accounts Committee of the Seventh Lok Sobha published in 1983. This report gives annual information on the total number of general powers of attorney (GPA) registered in Delhi and the total number of GPAs involving DDA-controlled property. Two different estimates of the number of "power of attorney sales" were obtained by assuming, first, that half of all GPAs related to such "sales" and second, that all DDA-property-related GPAs pertain to "sales" of immovable property. On the basis of these assumptions and the additional assumption that the information on black values per property pertaining to registered sales (Table 7.4.1) could be applied, as an approximation, to GPA "sales" of property, we computed some rough estimates which are presented in Table 7.4.2. Taking the year 1980-81 as an example, the estimates of black income generated in GPA sales of immovable property range from Rs 44 crore to Rs 146 crore. These are very substantial sums and can be compared to estimates of black income from registered property sales in that year ranging from Rs 69 crore to Rs 162 crore (Table 7.4.1).

Fifth, the estimates presented in Table 7.4.1 exclude black incomes associated with the transfer of flats and tenements, since these are not, by definition, included in the data 37G forms.

Finally, in addition to the estimates presented in Tables 7.4.1 and 7.4.2, we made some very rough estimates of the amount of black income associated with undervaluation of new private construction. These estimates were based on information pertaining to carpet area constructed each year in Delhi, estimates of costs of such construction obtained by using information from the Central Public Works Department, and the assumption (based on interviews with brokers and valuers) that the average prevailing rate of undervaluation was around 25 per cent. On this basis, the amount of black income associated with undervaluation of new private construction was roughly estimated to range from 8 crore in 1978-79 to Rs 13 crore in 1981-82. Clearly, though these are sizeable amounts, they are of secondary significance when compared to our earlier estimates of black income generated from registered property sales and GPA "sales".

5. Black Income Generation in Urban Real Estate: Bombay and Madras

a. *Bombay.* The information received from the Bombay offices of the Income Tax Department and other sources was incomplete, a fact which severely handicapped our analysis. An especially important lacuna relates to the absence of sale values for flats falling within the ambit of form 37EE after the promulgation of the 1981 Income-Tax Amendment Act, which extended the scope of Chapter XXA to include sales of flats and tenements. Another important gap in the data pertains to estimates of market values and the black components of such values—the sample information from market sources was grossly inadequate, much more so than in the case of Delhi.

Nevertheless, we make bold to present some very rough estimates in Table 7.5.1 on the basis of scanty data and a set of assumptions. Colums (1) through (9) of the table are obtained in the same way as for Table 7.4.1 for Delhi, with one important exception. In the absence of an adequate broker sample for Bombay we fell back to using the black/ white rates obtained from the Delhi data. In our judgement,

TABLE 7.4.2

Estimate of Black Income Generated in "Power of Attorney Sales" of Property in Delhi

(Rs thousand)

Year	Estimates of number of GPA sales of immovable property		Black value per property		Estimates of black income from GPA Sales of immovable property			
			Broker Sample	Income-tax Department Sample	Broker valuation		I.T. Dept. valuation	
	A	B			A	B	A	B
					=(2)X(4)	=(3)X(4)	=(2)X(5)	=(3)X(5)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1978-79	4931	3417	126.0	78.8	621306	430542	388563	269260
1979-80	5905	4922	374.4	108.0	2210832	1842797	637740	531576
1980-81	4940	3500	296.0	126.8	1462240	1036000	626392	443800
1981-82	3626	655	253.7	126.9	919916	166174	460139	83120

Source: Column (2) equals 50 per cent of all GPAs registered in Delhi as reported in the PAC Report cited in the text. Column (3) equals the total number of GPAs pertaining to DDA-controlled properties, from the same source. Columns (4) and (6) are from Table 7.4.1. Other columns obtained by computation.

TABLE 7.5.1

Estimates of Income Generated in Registered Sale of Immovable Property in Bombay

Year	Number in sample (37G)	Total value declar- ed	Declared value per/pro- perty	Black as per cent of white value		Black value Broker sample
		(Rs thousand)		Broker (Delhi sam- ple	I-T Dept. sam- ple[1]	$=(4)\times\dfrac{(5)}{100}$ (Rs)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1978-79	40	19695	492	80	35	393.6
1979-80	133	108268	814	208	55	1693.1
1980-81	103	57788	561	154	48	863.9
1981-82	95	41919	441	146	114	643.9
1982-83	74	25195	340	188	65	639.2

Note: 1 Refers to the excess of the judgement valve over the declared value as per cent of the declared value.

Source: As described in the text.

per property I-T. Deptt. sample $=\dfrac{4\times(6)}{100}$ (Rs 000)	Total number of Form 37G	Total number of Form 37EE	Estimated Black Income			
			From 37G transactions		From 37EE transactions	
			Broker valuaation $=(9)\times(7)$ (Rs 000)	I-T. Deptt. valuaaion $=(9)\times(8)$ (Rs 000)	Broker valuation	I-T Deptt. valuation (Rs 00)
(8)	(9)	(10)	(11)	(12)	(13)	(14)
172.2	—	—	—	—	—	—
447.7	682	—	1154694	305331	—	—
269.3	489	—	422447	131687	—	—
502.7	418	—	269150	210128	—	—
221.0	569	9830	363705	125749	216667	74111

the use of the Delhi rates for Bombay should be seen as a part of an attempt to obtain "lower-bound" estimates. This is because our scattered, market information on Bombay uniformly indicated substantially higher black/white rates than those prevailing in the corresponding year in our Delhi sample.

Columns (11) and (12) present the alternative estimates of black income generated in sales of registered property as recorded in 37G forms. A quick comparison of the values in these columns with the corresponding items in Table 7.4.1 reveals that the amounts in Bombay are much lower than those estimated for Delhi. The principal reason for this difference is simple: transactions recorded in 37G forms constitute a far smaller proportion of registered property sales in Bombay than in Delhi. Given the character of urban development in Bombay, the sales of flats are numerically far more important than sales of buildings. The monthly totals of 37EE forms were obtained from the Income Tax Department beginning with July 1982. On the basis of these data it was estimated that the number of registered sales of flats under the purview of 37EE forms was about 9.830 for the full year 1982-83. This compares with the lotal of transactions recorded in 37G forms of only 569 for the same year.

However, as indicated earlier, we did not receive information relating to the declared (and "judgement") values of transactions in 37EE cases, information which was necessary to estimate the black income generated in these transactions. Despite this crucial lacuna, we attempted a "lower-bound" estimate of black income associated with 37EE transactions in 1982-83 as follows.

Information from the District Deputy Registrar, Cooperative Societies, Bombay, indicates that the average number of members per group housing society in the period 1978-1983 was 29. We used this as an estimate of the average number of flats per building. We went on to assume that the 569 forms for 1982-83 *all* relate to sales of buildings consisting of flats. This permits us to estimate the average declared value of a flat by dividing the figure in column (4) of Table 7.5.1 by 29. Obviously, this estimate is biased downwards to the extent

that some of the 37G form cases pertain to sales of single unit structures, instead of buildings consisting of flats. Using this lower-bound estimate, the black/white ratios in (5) and (6), and the estimate of the total number of 37EE transactions in 1982-83, we obtain estimates of black income generated in 37EE cases. These are shown in columns (13) and (14) of Table 7.5.1. A comparison with columns (11) and (12) indicates that even using our "lower bound" estimate for the average declared value of flats sold, the estimated amount of black income generated in 37EE cases was quite substantial in Bombay in 1982-83.

b. *Madras.* As in the case of Bombay, our information regarding real estate transactions in Madras was incomplete in many respects. In particular, we had insufficient information on the relationship between market values and declared values for property sales. This may be a particularly serious handicap because of the prevalence of "guideline" values in the registration of property sales in Madras.

It was our understanding that the Registrar's office in Madras calculates guidelines values for property in all areas. These values are apparently based on a survey carried out in 1970-71, with subsequent upward adjustments at the rate of 5 per cent per year. Apparently, registration of property at values less than guideline values is not permitted. Though the guideline values are secret (they were not provided for the purposes of this study), touts in league with the staff of the Registrar's office are believed to do a brisk trade in this information. Because property values in Madras have appreciated much faster than the upward adjustments to the guideline values, it is very much in the interest of a property transactor to gain access to the relevant guideline value and register the sale at that low price, even though the "black-inclusive", actual market price would typically be much higher. Some piecemeal information gathered by us indicated massive differences between registered and market values for property sales in Madras.

In the absence of adequate information, and following the precedent of Bombay, we used the Delhi estimates of black/ white ratios as "lower-bound" proxy estimates for Madras.

The results are shown in Table 7.5.2.[7] These estimates should be treated with extreme caution. The "broker valuations" refer to information from Delhi and are, therefore, strictly speaking, not applicable to Madras. On the other hand, the "Income-Tax Department valuation" indicates a surprisingly small spread between declared values and "judgement values", a fact which sits awkwardly with what we learned about the operation of guideline values in Madras. Clearly, the matter requires deeper investigation. Furthermore, as in the case of Bombay, we were unable to exercise supervision regarding how the sample information was collected by the Income Tax Department. So there may be serious questions regarding how representative the sample is with respect to the underlying population of all Form 37G cases in a given year.

These strong caveats notwithstanding, Table 7.5.2 suggests that large amounts black income are generated through the registered sales of properties in Madras. For example, for 1982-83 our crude estimates of the total black income generated in such sales range from Rs 172 crore to Rs 677 crore.

6. Some Other Results

Further analysis of the underlying information, especially of the better data relating to Delhi, reveals some interesting features.

First, we have already noted the systematic tendency for lower-valued properties to be under-valued (in per cent terms) significantly more than higher valued properties. This observation can be marshalled in support of the view that the deterrence implicit in the Acquisition provisions of the Income-tax Act may be more potent than changes in the effective rate of capital gains taxation in containing the extent of undervaluation (that is the prevalence of black payments) in property sales. If the effective rate of capital gains taxation were the dominant factor, one might expect equal or higher rates of undervaluation on properties with higher absolute values as compared to low-valued properties. But given that higher-valued properties attract greater scrutiny from tax authorities it is not surprising to find that they display a lower rate of undervaluation than low-valued properties.

TABLE 7.5.2

Estimates of Black Income Generated in Sale of Immovable Property in Madras

Year	Number in sample	Total declar-value	Declared value per property	Black as per cent of white value		Black value per Property		Total number of Form 37G	Estimated black income	
				Broker I-T Deptt. (Delhi) sample[1]	I-T Deptt. sample	Broker sample $=(4)\times(5)/100$	I-TDeptt. sample $=(4)\times(6)/100$		Broker valuation $=(9)\times(7)$	I-T Deptt. valuation $=(9)\times(8)$
		(Rs thousand)				(Rs thousand)			(Rs thousand)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1979-80	106	50452	476.0	208	11(97)	990.0	52.4	6476	6411240	339342
1980-81	101	22646	224.2	154	23(94)	345.3	51.6	5800	1726500	258000
1981-82	77	26313	341.7	146	32(72)	498.9	109.3	8797	4388823	196512
	77	20468	265.8	188	48(67)	499.7	127.6	13550	6770935	1728980

Note: 1. Refers to the excess of the judgement value over the declared value as a per cent of the declared value.
Numbers in parentheses refer to sample size.

Sre: As described in text.

However, we should caution against inferring much from the pattern of correlation noted above. Such a pattern is also consistent with the hypothesis that the extent (in percentage terms) of undervaluation is influenced more by taxes levied on the declared value of property (such as stamp duties) than on the effective rates of capital gains taxation.

The evidence on the efficacy of the capital gains taxation concessions, introduced in the 1971 Finance Act and pertaining to 1978-79, in reducing undervaluation is mixed. On the one hand, the data from the Income Tax Department (Table 7.6.1) reveal a marked and temporary dip for that year in the average rate of undervaluation (as per cent of declared value)

TABLE 7.6.1

Undervaluation of Immovable Properties Detected by valuation Cells in Cases Referred by Acquisition Departments in Delhi, Madras and Bombay

Year	Delhi		Madras		Bombay	
	Cases received	Undervaluation as percentage of declared value	Cases received	Undervaluation as percentage of declared value	Cases received	Undervaluation as percentage of declared value
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1972-73	—	—	11	9.06	4	55.22
1973-74	116	41.05	49	16.72	250	59.77
1974-75	221	32.07	85	31.41	370	38.54
1975-76	622	26.04	106	17.60	294	33.11
1976-77	372	24.55	120	18.44	190	37.53
1977-78	206	40.08	123	18.57	79	35.05
1978-79	295	11.47	141	12.94	128	43.93
1978-80	305	31.19	202	15.95	155	52.94
1980-81	255	26.30	166	19.13	146	77.40
1981-82	272	31.41	70	15.81	116	74.07
1982-83	263	22.45	107	16.38	268	29.54
TOTAL	2927	26.45	1180	17.20	2000	47.01

Source: Central Board of Direct Taxes.

of immovable properties in Delhi detected by the Valuation
Cell in cases referred to by the IACs (Acquisition). On the
other hand, no such dip is observable for the comparable data
from Bombay and Madras. Furthermore, the time-profile of
the number of 37G forms received annually by the IAC
(Acquisition) in Delhi does not show the temporary peak in
1978-79 that one might expect if property transactors rushed
to avail themselves of the capital gains tax concessions.
Instead, the data in Table 7.6.2 suggest that registered pro-
perty sales fell sharply during the Emergency (perhaps reflec-
ting the effect of heightened deterrence of tax evasion) and
then recovered gradually to levels far in excess of that achi-
eved in 1978-79.

TABLE 7.6.2

Total Number of Forms No. 37G Received by the Office of IAC
(Acquisition), in the Union Territory of Delhi

Year	Number of No. 37G received
1973-74	3064
1974-75	2068
1975-76	1209
1976-77	796
1977-78	1308
1978-79	3013
1979-80	3302
1980-81	5467
1981-82	6171
1982-83	5202
1983-84	3058

Source: Office of the Inspecting Assistant Commissioner (Acquisition)
of Income Tax Department, New Delhi.

Of course, it may be unrealistic to expect that modifica-
tions in only one form of taxation capital gains taxation-
would, by itself, have a pronounced impact on the volume
and character of sales of urban property. As we indicated in
the beginning of this chapter, undervaluation (in sale deeds)
of property sales helps both seller and buyer evade several
taxes. Effective reduction of one tax may be insufficient to
significantly alter the behaviour of transactors.

Notes

1. The initial scope of this part of the study was more ambitious. However, the exercise was dogged by a number of problems, including prolonged delays (and sometimes failure) in obtaining data requested from official sources. As a consequence, this chapter is best seen as a brief, preliminary account of a larger report which may be separately prepared at a later stage, time and other resources permitting.

2. Incidentally, rent control is not a prerequisite for the existence of black (undeclared) elements in rental transactions. Even where rents are free of control, landlords frequently require a substantial portion of the payment to be paid "in black" in order to facilitate evasion of various taxes pertaining to property.

3. The 150th Report of the Public Accounts Committee of the Seventh Lok Sabha provides an illuminating account of such "power of attorney" transactions.

4. For a lucid discussion of economic and legal issues in property valuation and of alternative methods of valuation in the context of property taxation, see NIPFP (1981b).

5. The 1981 Income-tax Amendment Act extended the scope of Chapter XXA to flats and tenements; in their case the standard form is 37EE.

6. This departmental notification has no statutory basis and is not to be confused with any subsequent issue of a preliminary notice of acquisition under Sectiou 269D of the Income-tax Act. Furthermore, even the departmental notification is unlikely for cases involving declared values less than Rs 25,000 since such properties are not subject to acquisition (in 1984 this cut-off was legally amended to Rs 50,000).

7. Given what we knew about the operation of guideline values, the differences between the declared values and "judgement values" in the sample from the Income Tax Department were surprisingly small, ranging from 10 to 50 per cent. In the absence of opportunities to seek explanations for these low figures, we present them with considerable misgivings.

8. The higher is the absolute declared capital gain, the higher is the effective rate of tax it invites, since the rate of taxation depends on the assessed income of the seller.