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# BALANCING TAX AUTHORITY POWERS PRIVACY IN A GLOBALIZED DIGITAL ERA

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## ABSTRACT

Over the years, tax administration has been excessively changed by the increased technology usage of economies around the world, which led to the giving of fresh powers to tax authorities of India that have reached deep into people's virtual digital domains.<sup>1</sup> India showed this evolution through the Income Tax Bill 2025, which allowed tax authorities to have far-reaching access to electronic records of taxpayers, cloud accounts and as deep as in their private communications, like WhatsApp chats, during search seizure operations. Measures like these allegedly restrict advanced tax evasion, extending the investigation net to the speed of modern financial crimes, but which still provoke serious concerns about the invasion of privacy rights and raise concerns of extensive state monitoring.<sup>2</sup>

This Paper starts with a thorough legal comparison of the tax authority's access to digital space as a consequence of an increase in their powers, with the Indian situation being the main concern, but taking the example of Kenya, other places that have managed the *balance between the tax collector and the taxpayer's privacy through different regulatory strategies*.<sup>3</sup> The main research question is: What are the measures state can take to balance tax authorities have the necessary powers for enforcement and maintaining strong individual privacy constitutional rights? This study looks closely on the legal frame work of the 2025 Indian income tax bill, mainly about the protection and scope related to digital data access. it also checks how this bill connects with data protection laws like the digital personal data protection act 2023. Besides that, it tries to see if the current or planned system in India really matches the international standards of proportionality, due process and judicial supervision, which is shown by law changes in Kenya and other

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<sup>1</sup> "SSRana, Digital Data Access Privacy in the Income Tax Bill, 2025 (May 18, 2025), <https://ssrana.in/articles/digital-data-access-and-privacy-in-the-income-tax-bill-2025/>."

<sup>2</sup> "Bar & Bench, Data Privacy the Income Tax Bill, 2025 (June 4, 2025), <https://www.barandbench.com/view-point/data-privacy-and-the-income-tax-bill-2025>."

<sup>3</sup> "Reuters, India's New Income Tax Bill Proposes Broad Access to Taxpayers' Devices & Social Media (Feb. 13, 2025), <https://www.reuters.com/world/india/indias-new-income-tax-bill-proposes-broad-access-taxpayers-devices-social-media-2025-02-13/>."

countries too.<sup>4</sup>

The methodology mostly rely on doctrinal legal research and also analysis of statutes and case laws. It also includes some comparative assessment and use of primary legislative text, government documents and a few authoritative comments.<sup>5</sup> The study also discusses real cases in India where digital evidence was obtained, and it examines the remedies available to taxpayers and how the oversight system works. It also checks if these intrusions are fair or too much, based on the rule given in Justice K.S. Puttaswamy vs Union of India case.<sup>6</sup>

In the end, the main goal is to look properly at how valid and limited the digital investigation powers of tax authorities are in this digital time. The writer says that there should be a balanced tax governance model which got proper transparency and clear legal steps and also some check from courts and rules to lower misuse of data.<sup>7</sup> The main aim is to make a tax enforcement system that not only uses tech but also follows the basic ideas of the democratic constitution. It tries to show a model for other countries that are also dealing with the same kind of issues at the same time.<sup>8</sup>

## Introduction

The leaders of world economy are changing the way tax system works in a big way through digital transformation. Because of this, governments now need to give tax officers new and modern ways to do investigations so they can work properly in the middle of today's complicated digital money systems. In India, the new Income Tax Bill 2025 is a kind of a big change in law, which has given tax authorities much more power to look into taxpayers' digital devices, cloud storage, mails and even social media accounts while conducting investigations.<sup>9</sup> The bill's big digital search steps, which are made to stop high-tech tax evasion and make

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<sup>4</sup> “Reuters, Kenyan Lawmakers Oppose Tax Authority's Bid for Unrestricted Data Access (June 17, 2025), <https://www.reuters.com/sustainability/boards-policy-regulation/kenyan-lawmakers-oppose-tax-authoritys-bid-unrestricted-data-access-2025-06-17/>.”

<sup>5</sup> “SSRana, Digital Data Access Privacy in the Income Tax Bill,” 2025 (May 18, 2025), <https://ssrana.in/articles/digital-data-access-and-privacy-in-the-income-tax-bill-2025/>.

<sup>6</sup> “Bar & Bench, Data Privacy the Income Tax Bill, 2025 (June 4, 2025)”, <https://www.barandbench.com/view-point/data-privacy-and-the-income-tax-bill-2025>.

<sup>7</sup> “Reuters, India's New Income Tax Bill Proposes Broad Access to Taxpayers' Devices & Social Media (Feb. 13, 2025)”, <https://www.reuters.com/world/india/indias-new-income-tax-bill-proposes-broad-access-taxpayers-devices-social-media-2025-02-13/>.

<sup>8</sup> “Reuters, Kenyan Lawmakers Oppose Tax Authority's Bid for Unrestricted Data Access” (June 17, 2025), <https://www.reuters.com/sustainability/boards-policy-regulation/kenyan-lawmakers-oppose-tax-authoritys-bid-unrestricted-data-access-2025-06-17/>.

<sup>9</sup> “Reuters, India's New Income Tax Bill Proposes Broad Access to Taxpayers' Devices & Social Media (Feb. 13, 2025)”, <https://www.reuters.com/world/india/indias-new-income-tax-bill-proposes-broad-access-taxpayers-devices-social-media-2025-02-13/>.

people follow the law, have also started many debates. Many people are saying it might be going too far and affecting the basic right of privacy, with the state getting too much into people's personal stuff.<sup>10</sup>

Many critics say that the Bill's big digital powers are kind of a big threat to privacy rights, which were already set by the Court before, especially in the case of Justice K S Puttaswamy v Union of India 2017, where the Supreme Court said that privacy is a basic human right<sup>11</sup>. Furthermore, the recently imposed regulation might be at odds with the "Indian Digital Personal Data Protection Act, 2023 (DPDP Act)," particularly regarding the concepts of data minimisation and purpose limitation, which are foundational principles designed to shield people from improper governmental spying<sup>12</sup>. In India, the conflict about enforcing privacy is not just a one-time case; even in Kenya, there was a same kinda fight. The parliamentary finance committee there rejected the ideas that would let the government have unlimited access to people's electronic data, cause they were worried about privacy and the protection given by the constitution.<sup>13</sup> Kenya obliges judicial oversight clearly defines digital access boundaries for tax authorities<sup>14</sup>.

The aim of this research paper is to look closely at how tax officials can get enough power to investigate, and at the same time, how people's privacy rights are kept safe in the complicated digital age. It looks at Indias laws and compares them with Kenya and other global standards, showing lessons about keeping things fair, clear and making officials responsible.<sup>15</sup> The study applies doctrinal legal analysis, statutory interpretation, comparative case studies to pinpoint gaps suggest reforms that ensure digital tax enforcement is in line with constitutional protections of privacy.

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<sup>10</sup> "Indian Express, New Income Tax Act 2025 Expands State's Digital Surveillance Powers" (Sept. 15, 2025), <https://indianexpress.com/article/opinion/columns/new-income-tax-act-2025-surveillance-digital-privacy-10250700/>.

<sup>11</sup> "Bar & Bench, Data Privacy the Income Tax Bill, 2025 (June 4, 2025)", <https://www.barandbench.com/view-point/data-privacy-and-the-income-tax-bill-2025>.

<sup>12</sup> "SSRana, Digital Data Access Privacy in the Income Tax Bill", 2025 (May 18, 2025), <https://ssrana.in/articles/digital-data-access-and-privacy-in-the-income-tax-bill-2025/>.

<sup>13</sup> "Reuters, Kenyan Lawmakers Oppose Tax Authority's Bid for Unrestricted Data Access" (June 17, 2025), <https://www.reuters.com/sustainability/boards-policy-regulation/kenyan-lawmakers-oppose-tax-authoritys-bid-unrestricted-data-access-2025-06-17/>.

<sup>14</sup> "LinkedIn, Kenya's Finance Committee Rejects KRA's Data Access Proposal" (Sept. 12, 2025), <https://www.linkedin.com/pulse/kra-data-protection-act-violation-privacy-necessary-060df/>.

<sup>15</sup> "EY, Transforming Data Privacy: Digital Personal Data Protection Rules, 2025" (Jan. 27, 2025), [https://www.ey.com/en\\_in/insights/cybersecurity/transforming-data-privacy-digital-personal-data-protection-rules-2025](https://www.ey.com/en_in/insights/cybersecurity/transforming-data-privacy-digital-personal-data-protection-rules-2025).

## Relevant Law, Treaty, Resolution, Principles

The starting point to talk about the tradeoff between tax authority powers and privacy rights in digital age is many domestic laws, international legal rules and also constitution principles. In India, the “Income Tax Bill 2025” is the main law which changes the investigation powers a lot by allowing tax authorities to get more access to digital accounts, devices, and communications while they are doing enforcement actions.<sup>16</sup> This bill join the old scattered rules and give more powers to tax officers so they can do their job better in a digitized economy that is growing fast.<sup>17</sup>

The rights that the government has sometimes clash in a very important way with the constitutional right of privacy in India, which the Supreme Court said is a fundamental right in the case of “Justice K.S. Puttaswamy v Union of India 2017”. This decision says that if the government wants to invade someone’s privacy, it must pass the test of being legal, necessary and proportional.<sup>18</sup> The “DPDP Act” is India's main law that deals with how personal data is collected, stored and shared in both public and private sectors. It also gives more legal protections to people’s personal information.<sup>19</sup> The law will start with these demands on being clear, asking permission, using less data, and keeping data safe, which can be seen as main ways to stop too much digital watching.

On a global scale, India takes the ideas from papers like “Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights”, which guide global standards about privacy and data protection, and uses them as base for its laws. Same way, Kenyan law on tax data access follow the same privacy principles in the Data Protection Act, 2019, which limits Kenya Revenue Authority from getting personal info unless there is stuff like judicial permission or clear purpose. The fact that both these domestic and international legal rules exist shows that we need a careful legal way which can protect taxpayers privacy

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<sup>16</sup> “Reuters, India’s New Income Tax Bill Proposes Broad Access to Taxpayers’ Devices & Social Media (Feb. 13, 2025), <https://www.reuters.com/world/india/indias-new-income-tax-bill-proposes-broad-access-taxpayers-devices-social-media-2025-02-13/>.”

<sup>17</sup> “Bar & Bench, Data Privacy the Income Tax Bill, 2025 (June 4, 2025), <https://www.barandbench.com/view-point/data-privacy-and-the-income-tax-bill-2025>.”

<sup>18</sup> “EY, Transforming Data Privacy: Digital Personal Data Protection Rules, 2025 (Jan. 27, 2025), [https://www.ey.com/en\\_in/insights/cybersecurity/transforming-data-privacy-digital-personal-data-protection-rules-2025](https://www.ey.com/en_in/insights/cybersecurity/transforming-data-privacy-digital-personal-data-protection-rules-2025).”

<sup>19</sup> “United Nations, Universal Declaration of Human Rights, G.A. Re”s. 217A (III), U.N. Doc A/810 at 71 (1948), art. 12; International Covenant on Civil Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, art. 17.

but at the same time let tax authorities do their work properly in this digital age.

### Critical Analysis

Digitization has fully changed landscape of tax administration which brought states worldwide to face unheard of difficulties opportunities. The passage of India's Income Tax Bill, 2025, is a milestone on the legislative road because it gives tax officials the power to include warrantless searches of digital devices, cloud storage, and private communication platforms as part of their investigative toolkit<sup>20</sup>. These rules are very different from normal ways of doing tax investigation and show the strong intent of the government to fight tax evasion, which is now easier because of digital anonymity. But at the same time, giving more power to the government causes big debates in law, ethics and constitutional points about privacy, data protection and chances of misuse of monitoring powers.

### Constitutional Legal Framework

The constitutional background in which the Income Tax Bill works is really important. The Supreme Court of India in the famous case of "Justice K.S. Puttaswamy vs Union of India" said that right to privacy is a basic part of our right to life and liberty under "Article 21" of the Constitution<sup>21</sup>. The court said that every citizen's privacy must be respected by the state only if the rules of legality, necessity, and proportionality are followed. These rules are to stop random or too much interference. After the Puttaswamy case, the permissions for digital search without a warrant in the Income Tax Bill raise doubts about whether it really fits with fundamental rights and protection of human dignity, as the law says.

Besides, Indian home data safety regulations, mainly the DPD Act, impose very stringent requirements on transparency, data minimisation, informed consent, and lawful processing<sup>22</sup>. The taxation authorities get lots of powers from the Bill, but these can sometimes clash with other existing laws. The Bill gives wide access to information, but it doesn't really protect personal data, as it doesn't clearly state what the data can be used for, how long it should be

<sup>20</sup> "Reuters, India's New Income Tax Bill Proposes Broad Access to Taxpayers' Devices & Social Media (Feb. 13, 2025)," <https://www.reuters.com/world/india/indias-new-income-tax-bill-proposes-broad-access-taxpayers-devices-social-media-2025-02-13/>.

<sup>21</sup> "Bar & Bench, Data Privacy the Income Tax Bill, 2025 (June 4, 2025)", <https://www.barandbench.com/view-point/data-privacy-and-the-income-tax-bill-2025>; Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

<sup>22</sup> "EY, Transforming Data Privacy: Digital Personal Data Protection Rules, 2025" (Jan. 27, 2025), [https://www.ey.com/en\\_in/insights/cybersecurity/transforming-data-privacy-digital-personal-data-protection-rules-2025](https://www.ey.com/en_in/insights/cybersecurity/transforming-data-privacy-digital-personal-data-protection-rules-2025).

kept or how it should be destroyed. This kind of gap in rules may make a situation where tax authorities have almost no limits on getting info, and at the same time there is no strong system to check or control their power.

### **International Norms Comparative Perspectives**

The conflict between the states' legitimate interest in tax enforcement and the privacy rights of the citizens also affects the whole world. International human rights laws like the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights say that privacy is a universal right and should be protected from any random interference. The principles embedded in these instruments call for clear legal frameworks and procedural safeguards surrounding data collection, usage, and oversight.

Kenya law experience shows a good comparison. The Kenya Revenue Authority (KRA) wanted to get full access to all digital data of the taxpayers, but parliament didn't like it and rejected the proposals because they felt it was too intrusive and there was not enough judicial control. According to the "Data Protection Act of Kenya, 2019," it is necessary to obtain a court order for access to personal data in connection with taxation or other regulatory reasons to also observe the purpose limitation proportionality principles<sup>23</sup>. This contrasts starkly with India's current Bill, which does not require prior judicial sanction for digital data searches, highlighting a critical gap in legal checks and balances.

Additionally, the European Union, as a jurisdiction, through the "General Data Protection Regulation (GDPR)," has put in place strict safeguards against unauthorised data processing, highlighting the areas of transparency, user control, and legal bases for data collection<sup>24</sup>. Equally, digital taxation frameworks in OECD countries increasingly advocate for bilateral data sharing agreements that balance tax compliance with privacy protections<sup>25</sup>. Thus, India's ambitious digital tax enforcement plans must navigate through these global standards; otherwise, it will encounter the risks of a bad reputation, maybe even difficulties in getting support from other countries for tax issues.

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<sup>23</sup> "LinkedIn, Kenya's Finance Committee Rejects KRA's Data Access Proposal" (Sept. 12, 2025), <https://www.linkedin.com/pulse/kra-data-protection-act-violation-privacy-necessary-060df/>.

<sup>24</sup> "GDPR, Regulation (EU) 2016/679 of the European Parliament of the Council" of 27 April 2016, OJ L 119, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R0679>.

<sup>25</sup> "OECD, Tax Administration 3.0 the Digital Identification of Taxpayers" (Sept. 2022), <https://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/Tax-Administration-3.0.pdf>.

## Data Privacy Risks of Abuse

Tax authorities getting too much power for spying on people from policy side can make government interfere too much in peoples life and maybe lose public trust. The randomness in digital data makes it more risky: having open access to big amount of personal data like transactions, messages, and location info can make people less willing to use their rights of speech, association, or control over their own life.<sup>26</sup>. One big privacy risk is something called mission creep. This happens when the data collected for tax purposes is later used for other investigations that has nothing to do with it. Also if there is a data breach, the information can get into hands of people who are not suppose to see it.<sup>27</sup>.

But it is to be noted that the **Bill lacks proper procedural safeguards** that would prevent instances of the government acting unreasonably of its power being misused. **Such safeguards include** setting specific criteria for the scope duration of digital data seizures, monitoring the seizure process, providing adequate means for the taxpayers' grievances to be redressed<sup>28</sup>. **The rule of proportionality** requires the use of less intrusive options first, namely the use of targeted warrants the strictest judicial authorization, in order to balance the state's interest in revenue protection the sanctity of privacy.

## Judicial Pronouncements Case Studies

Judicial declarations concerning the equilibrium of authority among the states the right to secrecy are very useful as legal limits. **The trilogy judgment of the Puttaswamy case** was not only a recognition of the right but also a requirement for the digital intrusion to be accompanied by strong procedural safeguards. Noted point is courts in different jurisdictions have however limited governmental spying tactics that were not supported by proper monitoring or specific legal grounds<sup>29</sup>. These precedents put forward the judiciary's crucial role in checking executive overreach protecting constitutional rights against technological encroachments.

A landmark case underlining procedural safeguards is the case of **R. Rajagopal v. State of**

<sup>26</sup> Indian Express, supra note 4.

<sup>27</sup> “SSRana, Digital Data Access Privacy in the Income Tax Bill”, 2025 (May 18, 2025), <https://ssrana.in/articles/digital-data-access-and-privacy-in-the-income-tax-bill-2025/>.

<sup>28</sup> “Indian Law, New Income Tax Bill: Balancing Privacy & Tax Authority Powers” (Mar. 9, 2025), <https://www.indialaw.in/blog/tax/new-income-tax-bill-balancing-privacy-tax-authority-powers/>.

<sup>29</sup> Carpenter v. United States, 138 S. Ct. 2206 (2018).

**Tamil Nadu where the Supreme Court** acknowledged the right to informational privacy held that the State could not indiscriminately use the private information against the citizens.<sup>30</sup>. On the other side, the high-profile Indian tax raids where huge amounts of digital data were taken show some real practical problems. Its not always clear when a tax investigation is proper and when it becomes too much data fishing. These cases shows why we really need proper laws and maybe some independent checking to make sure justice is done.

### **Response to Feedback Path Forward**

Critiques from the scholars and stakeholders have given feedback that the establishing of the procedural, judicial and institutional safeguards are needed in the Income Tax Bill<sup>31</sup>. The proposals that include the requirement of **obtaining judicial warrants before any digital data access, setting limits on the amount duration of data retention, bringing independent oversight officers within tax departments are crucial for mitigating the risks to privacy the issue of power imbalance.**

Defining unambiguous, time-related protocols for data usage, clarifying handling policies, and providing accessible legal recourse for taxpayers will not only increase public trust but also improve accountability.<sup>32</sup>

**Its very important that tax enforcement** in the digital era is effective, just, respectful of individual rights by making the practices very close to international standards constitutionl mand ates.

### **Conclusion Suggestions**

In this research paper the tension between the increasing digital powers of tax authorities the safeguarding of individual privacy rights in the globalized digital age has been scrutinized critically, with special regard to Indias Income Tax Bill 2025, the bills far reaching rules allow authorities to access taxpayer digital devices and accounts without many restrictions. This is really a big upgrade in tax enforcement powers but it also raise serious issues about the constitutionality of these actions and possible violation of data protection laws. The possible violation of the right to privacy, guaranteed by the Indian Constitution and supported by

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<sup>30</sup> “R. Rajagopal v. State of Tamil Nadu, (1994) 6 SCC 632.”

<sup>31</sup> Indian Law, supra note <sup>11</sup>.

<sup>32</sup> “Transparency International India, Report on Digital Surveillance and Taxation (2025).”

international human rights law, shows that we need proper balance, court supervision, and safe procedures when conducting digital tax investigations, so it's really important now.

India's present legal setup is quite progressive in dealing with tax frauds through digital transactions, but it still lacks clarity about the limits of digital data access, which makes it vulnerable to challenges. This confusion in rules might push people away from the tax system, weakening the government by the people, since it could allow surveillance without proper limits. Learning from Kenya's legislative pushback and Europe's GDPR model, it can be concluded that the tax authority should include *judicial approval frameworks, clear rules on data minimisation, and transparency protocols in its operational structure.*

### **Recommendations for Reform:**

1. Require that any digital search or seizure conducted by tax authorities should be based on a prior judicial warrant or approval which will help independent oversight and prevent arbitrary intrusions.
2. Specifically outline the limit timelines for digital data gathering that are allowed along with very short periods and keep data obligatory for destruction after the purposes of the investigation have been met..
3. Create public guidelines that describe the processes for collecting using safeguarding digital evidence with mechanism for taxpayer compensation in case of breaches..
4. Instituting the **specialised data protection officers** in the tax departments and setting up an **external regulating body** that would **impose regular audits on the digital tax enforcement operations** are the measures to be taken.
5. It is **necessary to provide tax authorities with the required skill** set through specialized education concerning digital privacy rights, data protection regulations, ethical investigation practices so that there won't be any misuse or overreach at all.

Balance is required for obtaining trust that taxpayers have in the authorities to maintain the voluntary compliance trend and the overall justice norms.

**Further studies could** be directed towards the empirical evaluation of the results of digital tax

enforcement, comparison of how good different judicial oversight models are, and how new tech affects privacy rights in laws and regulations is very important. It needs to be studied more cause laws are changing fast with tech. People don't always understand how the rules apply, and courts have different ways to control or check them. This area needs more research to find better ways to protect privacy and make sure tech is used fairly.