

ASSETS DECLARATION ORDINANCE, 2019

WHEREAS there is a reportedly large scale non-declaration of sales, income and assets;

AND WHEREAS to serve the purpose of economic revival and growth by encouraging a tax compliant economy it is expedient to make provisions for declaration of such sales, income and assets for the purposes hereinafter appearing;

AND WHEREAS the Senate and the National Assembly are not in session and the President of the Islamic Republic of Pakistan is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.— (1) This Ordinance shall be called the **Assets Declaration Ordinance, 2019**.

(2) It shall extend to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.— (1) In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “assets” means asset of any kind including all domestic and foreign assets.;

(b) “court of law” means a High Court or Supreme Court of Pakistan;

(c) “declarant” means a person making a declaration under section 5;

(d) “holder of public office” means a person as identified in First Schedule to this Ordinance;

(e) “undeclared asset” means any asset that has remained undeclared, under-declared including any asset held in the name of the declarant or in the name of Benamidar as defined in Benami Transaction (Prohibition) Act, 2017 held on June 30, 2018.

(f) “undisclosed income” means any income chargeable to income tax under any provision of the Income Tax Ordinance, 2001 that has remained undeclared / untaxed or under-declared/ untaxed for any period upto June 30, 2018 and is not represented by any undeclared asset.

(g) “undisclosed sales” means sales chargeable to sales tax or federal excise duty under the Sales Tax Act, 1990 or the Federal Excise Act, 2005 respectively, but were not declared up to the 30th June, 2018 and includes under-declared sales and also input tax excessively or unlawfully claimed under the respective laws.

(2) All other words and expressions used but not defined in this Ordinance shall have the same meaning assigned thereto under the Income Tax Ordinance, 2001 (XLIX of 2001), the Sales Tax Act, 1990, the Federal Excise Act, 2005, the *Benami* Transactions (Prohibition) Act, 2017 (V of 2017) and the rules made thereunder.

3. Ordinance to override other laws.— The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

- 4. Application.**— (1) The provisions of this Ordinance shall apply to any undisclosed asset, undisclosed sales, undisclosed income of every person other than public company as defined in the Income Tax Ordinance, 2001.
- (2) The provisions of this Ordinance shall not apply to—
- (a) holders of public office, their spouses, children, sisters, brothers and parents if the children, sisters, brothers and parents are dependent on the holder of public office during the period of the person holding such public office;
- (b) any proceeds or assets that are involved in or derived from the commission of a criminal offence;
- (c) assets, incomes and sales in cases or proceedings pending before a court of law.
- 5. Declaration.**— (1) Subject to the provisions of this Ordinance, any person may make a declaration of the undeclared assets, undeclared income and undeclared sales to the Federal Government by the due date specified in section 6.
- (2) The declaration under sub-section (1) shall be made electronically on the web portal as specified by the Federal Government.
- (3) The procedure of filing of returns and wealth statements with respect to the declaration is laid down in Second Schedule.
- 6. Charge of tax on undeclared assets.**— (1) The undisclosed assets within the due date shall be chargeable to tax at the rates specified in the Table below on the value of such assets and income as determined under section 10, namely:—

| Class of assets / income | Declaration is filed on or before | | | Valuation |
|--|-----------------------------------|--------------------|-------------------|--|
| | June 30, 2019 | September 30, 2019 | December 31, 2019 | |
| Undeclared assets (other than domestic real estate) / undisclosed income | 5% | 10% | 20% | Fair market value or cost whichever is higher, as declared by the declarant |
| Domestic Real Estate | 1% | 2% | 4% | Fair market value (not less than value prescribed by the FBR under section 68 of Income Tax Ordinance, 2001), as declared by the declarant |

The value of foreign assets to be declared under this Ordinance shall be converted into Pak Rupees by applying the Exchange Rate prevalent on the date of declaration.

- 7. Charge of tax on undeclared sales and excess input tax claimed.**— The undisclosed sales shall be chargeable to tax at the rate of three percent (3%) of such sales in lieu of sales tax and federal excise duty.
- 8. Repatriation of foreign assets.**— Any foreign asset declared under this Ordinance shall be required to be repatriated to Pakistan or invested in Pakistan Banao Certificate before filing of declaration in the manner prescribed by the State Bank of Pakistan. This condition shall not be applicable on such foreign asset which represents foreign real estate.
- 9. Incorporation in books of account.**— (1) Where a declarant has made a declaration under section 5, he shall be entitled to incorporate such assets, income or sales in his books of accounts.

(2) Any person shall be entitled to incorporate assets in the books acquired which have been barred by the time of limitation under the Income Tax Ordinance, 2001.

10. Restriction on transfer of assets / deposit and conversion of bearer assets.— (1) Notwithstanding anything contained in any other law for the time being in force, an asset declared under this Ordinance shall be prohibited to be transferred to any holder of public office as gift or below the fair market value by any person. Where an asset declared under this Ordinance, is transferred in violation of the said condition, such declaration shall be void and shall be deemed to have been never made under this Ordinance.

(2) Where any cash in hand has been declared, the same shall be deposited before the filing of declaration.

(3) No bearer assets shall be allowed to be declared including bearer prize bonds.

11. Confidentiality.— (1) Notwithstanding the provisions of sub-section of section 216 of the Income Tax Ordinance, 2001 (XLIX of 2001), the Right of Access to Information Act, 2017 (XXXIV of 2017) and any other law for the time being in force, particulars of any person making a declaration under this Ordinance or any information received in any declaration made under this Ordinance shall be confidential.

(2) A person who discloses any particulars in contravention of sub-section (1) shall commit an offence punishable on conviction with a fine of not less than five hundred thousand Rupees but not exceeding one million Rupees or imprisonment for a term not exceeding one year or with both.

12. Declaration not admissible in evidence.— Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under section 5 shall be admissible in evidence against the declarant for the purpose of any proceedings relating to imposition of penalty or for the purposes of prosecution under any law including the Income Tax Ordinance, 2001 (XLIX of 2001), the Sales Tax Act, 1990, the Federal Excise Act, 2005 and the *Benami* Transactions (Prohibition) Act, 2017 (V of 2017).

13. Removal of difficulty.— (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Federal Government may, by notification in official Gazette, remove such difficulty as is not in consistent with the provisions of this Ordinance.

(2) In order to provide guidance and clarity with regards to the provisions of this Ordinance, the Federal Board of Revenue may issue circulars as may be required.

14. Misrepresentation.— Notwithstanding anything contained in this Ordinance, where a declaration has been made by misrepresentation or suppression of facts, such declaration shall be void and shall be deemed to have been never made under this Ordinance.

FIRST SCHEDULE

[Section 2(1)(d)]

Holder of Public Office means a person who is or has been, at any time since the 1st day of January, 2000,—

- (i) the President of the Islamic Republic of Pakistan or the Governor of a Province;
- (ii) the Prime Minister, Chairman Senate, Speaker of the National Assembly, Deputy Chairman Senate, Deputy Speaker National Assembly, Federal Minister, Minister of State, Attorney-General for Pakistan and other law officers appointed under the Central Law Officers Ordinance, 1970 (VII of 1970), Adviser or Consultant or Special Assistant to the Prime Minister and holds or has held a post or office with the rank or status of a Federal Minister or Minister of State, Federal Parliamentary Secretary, Member of Parliament, Auditor-General of Pakistan, Political Secretary;
- (iii) the Chief Minister, Speaker Provincial Assembly, Deputy Speaker Provincial Assembly, Provincial Minister, Adviser or Consultant or Special Assistant to the Chief Minister and who holds or has held a post or office with the rank or status of a Provincial Minister, Provincial Parliamentary Secretary, Member of the Provincial Assembly, Advocate- General for a Province including Additional Advocate- General and Assistant Advocate-General, Political Secretary;
- (iv) the Chief Justice or, as the case may be, a Judge of the Supreme Court, Federal Shariat Court, a High Court or a Judicial Officer whether exercising judicial or other functions or Chairman or member of a Law Commission, Chairman or Member of the Council of Islamic Ideology;
- (v) holding an office or post in the service of Pakistan or of a Province or of a local council constituted under any Federal or Provincial law relating to the constitution of local councils, co-operative societies established, controlled or administered by or under the Federal Government or a Provincial Government.
- (vi) persons actively engaged in the day to day management of corporations, banks, financial institutions, firms, concerns, undertakings or any other institution or organization established, controlled or administered by or under the Federal Government or a Provincial Government. However, this disqualification shall not be applicable in respect of those assets acquired by such persons before becoming the holder of public office.
- (vii) the Chairman or Mayor or Vice Chairman or Deputy Mayor of a *Zila* council, a municipal committee, a municipal corporation or a metropolitan corporation constituted under any Federal or Provincial law relating to local councils; and
Explanation.— For the purpose of this sub-clause the expressions "Chairman" and "Vice Chairman" shall include "Mayor" and "Deputy Mayor" as the case may be, and the respective councilors therein;
- (viii) a District *Nazim* or District *Naib Nazim*, Tehsil *Nazim* or Tehsil *Naib Nazim* or Union *Nazim* or Union *Naib Nazim*.

SECOND SCHEDULE

[Section 5(3)]

Procedure

- (1) The procedure mentioned in section 5(3) shall be as under:-
 - (a) where return has not been filed, the declarant shall file his—
 - (i) income tax return for tax year 2018 and pay tax on income other than that utilized in acquisition of undisclosed assets, income or sales offered for tax under section 7, at the rates specified in Divisions I or II of the First Schedule to the Income Tax Ordinance, 2001 (XLIX of 2001), notwithstanding the provisions of sub-section (6) of section 114, sections 205 and 182 and Part XI of Chapter X of the Income Tax Ordinance, 2001 (XLIX of 2001); and
 - (ii) wealth statement as at June 30, 2018, if required to be filed under the Income Tax Ordinance, 2001, to incorporate assets declared under sub-section (1);
 - (b) where return for tax year 2018 has been filed under the provisions of the Income Tax Ordinance, 2001 (XLIX of 2001), the declarant shall revise his—
 - (i) income tax return filed for tax year 2018 and pay tax on income other than that utilized in acquisition of undisclosed assets, income or sales offered for tax under section 7, at the rates specified in Divisions I or II of the First Schedule to the Income Tax Ordinance, 2001 (XLIX of 2001), notwithstanding the provisions of sub-section (6) of section 114, sections 205 and 182 and Part XI of Chapter X of the Income Tax Ordinance, 2001 (XLIX of 2001); and
 - (ii) wealth statement as at June 30, 2018, if required to be filed under the Income Tax Ordinance, 2001 to incorporate assets declared under sub-section (1);
 - (c) where the declarant is a registered person or liable to be registered under the provisions of the Sales Tax Act, 1990 or the Federal Excise Act, 2005, he shall declare his undisclosed sales for the tax periods from the 1st July, 2013 till the 30th June, 2018 (both days inclusive) subject to tax under the Sales Tax Act, 1990 or the Federal Excise Act, 2005 and pay tax at the rate specified under sub-section (2) of section 7 and provisions of default surcharge and penalty shall not apply:

Provided that the declarant shall not be entitled to claim or deduct any input tax against tax;

Provided further that tax under section 113 of the Income Tax Ordinance, 2001 (XLIX of 2001) shall not be chargeable on such sales;
 - (d) where the declarant is a registered person or liable to be registered under the provisions of the Sales Tax Act, 1990 or the Federal Excise Act, 2005, he shall declare his excessive or unlawful input tax claimed for the tax periods from the 1st July, 2013 till the 30th June, 2018 (both days inclusive) and pay tax at the rates specified under the Sales Tax Act, 1990 or the Federal Excise Act, 2005 and provisions of default surcharge and penalty shall not apply;
- (2) The procedure referred above is required to be complied within three months of the date of filing of declaration.