

PAKISTAN 2018 TAX REFORMS PACKAGE

Preamble

The President of Pakistan promulgated four Ordinances on April 8, 2018 which have been placed before the National Assembly. Through these Ordinances, a Tax Reforms Package has been introduced that offers a one-time amnesty scheme to declare the assets in Pakistan and abroad, reduction in income tax rates, promote compliance with appropriate deterrents against non-disclosure in future. These Ordinance are:

- 1) The Foreign Assets (Declaration and Repatriation) Ordinance, 2018;
- 2) Voluntary Declaration of Domestic Assets Ordinance, 2018;
- 3) Income Tax (Amendment) Ordinance, 2018; and
- 4) The Protection of Economic Reforms (Amendment) Ordinance, 2018;

The provisions contained in Income Tax (Amendment) Ordinance, 2018 have now been made part of the Finance Bill, 2018 which was presented on April 27, 2018. The other three Ordinances referred above laid before the National Assembly are deemed to be the Bills introduced as per Article 89 of the Constitution of Pakistan. The Finance Bill 2018 and these three Bills are expected to be passed simultaneously by the National Assembly.

This fact sheet is a summary of the significant measures introduced through Ordinances mentioned in 1 to 3 above.

THE FOREIGN ASSETS (DECLARATION AND REPATRIATION) ORDINANCE, 2018

This Ordinance is intended to provide an opportunity for declaring the foreign assets. The Ordinance lays down the following:

Persons covered under the Scheme

Under this Ordinance, all citizens of Pakistan wherever they may be, except holders of public office as defined in the Ordinance, their spouses and dependent children, may declare their foreign assets except where proceedings are pending in any court of law in respect of such assets. These persons are referred as 'declarants'.

Important definitions

'Foreign assets' means any movable or immovable property held outside Pakistan and include real estate, mortgaged assets, stocks and shares, bank accounts, bullion, cash, jewels, paintings, accounts and loan receivables, beneficial ownership or beneficial interests or contributions in offshore entities and trusts.

'Liquid assets' means cash or an asset that can be readily converted into cash with the minimal impact on the assets' value and includes bank notes, marketable securities, stocks, promissory notes, government bonds, deposit certificates and other similar instruments.

Overriding effect and confidentiality

The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force. All confidentiality provisions of the Income Tax Ordinance, 2001 and Right of Access to Information Act, 2017 shall apply to declarations made under this Ordinance and any person in breach of such provisions may be fined and / or imprisoned.

Valuation of assets

The declaration shall be made at the 'Fair Market Value' which is defined as the price of foreign asset determined and declared by the declarant himself but in no case to be less than the cost of acquisition of such assets.

Mode and manner of declaration and payment

The Form for declaration of assets under this Ordinance is prescribed. The said declaration can be submitted on the online web portal of the Federal Board of Revenue. Further, the State Bank of Pakistan has notified the procedure for payment and deposit of tax and repatriation of liquid assets in Pakistan under this Ordinance.

Rates of tax

Foreign assets declared under this Ordinance shall be chargeable to tax at the following rates:

Liquid assets not repatriated	5%
Immovable assets outside Pakistan	3%
Liquid assets repatriated and invested in government securities for 5 years in US Dollar denominated bonds with 6 monthly profit payment in equivalent Rupees (rate of return being 3% per annum) and payable at maturity in equivalent Rupees	2%
Liquid assets repatriated	2%

Effective date

The declaration and repatriation shall be made on or after April 10, 2018 but on or before June 30, 2018.

Declaration not admissible as evidence

Nothing contained in the declaration made under this Ordinance shall be admitted as evidence against the declarant for the purpose of any proceedings relating to imposition of penalty or for the purpose of prosecution under any law including the Income Tax Ordinance, 2001.

Effect of declaration

No tax shall be payable by the declarant under any law for the time being in force including Income Tax Ordinance, 2001 in respect of assets declared under this Ordinance. Declarants shall be entitled to incorporate the same in their books of account. For the purpose of Income Tax Ordinance, 2001, the cost of acquisition of foreign assets shall be the declared value and the date of acquisition shall be the date of declaration.

VOLUNTARY DECLARATION OF DOMESTIC ASSETS ORDINANCE, 2018

This Ordinance is intended to provide an opportunity for declaring the domestic assets. The Ordinance lays down the following:

Persons entitled under the Scheme

Under this Ordinance, every company, Association of Persons and all citizens of Pakistan wherever they may be, except holders of public office as defined in the Ordinance, their spouses and dependent children, may make declaration for undisclosed income and domestic assets except where proceedings are pending in any court of law in respect of such assets.

Assets covered

Domestic asset means assets of every kind other than foreign assets as defined in the Foreign Assets (Declaration and Repatriation) Ordinance, 2018.

Overriding effect and confidentiality

The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force. All confidentiality provisions of the Income Tax Ordinance, 2001 and Right of Access to Information Act, 2017 shall apply to declarations made under this Ordinance and any person in breach of such provisions maybe fined and / or imprisoned.

Valuation

A table has been prescribed in the law for valuation of various assets to be declared under the aforesaid Ordinance.

Manner of declaration

The Form for declaration of income and assets under this Ordinance is prescribed and the same is required to be submitted on the online web portal of the Federal Board of Revenue.

Rates of tax

The assets declared shall be charged at the following rates:

Foreign currency held in foreign currency accounts in Pakistan as on March 31, 2018 and encashed in equivalent Pak Rupees	2%
Foreign currency held in foreign currency account in Pakistan as on March 31, 2018 which is invested in Government Securities for 5 years in US Dollar denominated bonds with 6 monthly profit payment in equivalent Rupees (rate of return being 3% per annum) and payable at maturity in equivalent Rupees	2%
All other assets	5%

Effective date

The declaration and repatriation shall be made on or after April 10, 2018 but on or before June 30, 2018.

Declaration not admissible as evidence

Nothing contained in the declaration made under this Ordinance shall be admitted as evidence against the declarant for the purpose of any proceedings relating to imposition of penalty or for the purpose of prosecution under any law including the Income Tax Ordinance, 2001.

Effect of declaration

No tax shall be payable by the declarant under any law for the time being in force including Income Tax Ordinance, 2001 in respect of assets declared under this Ordinance. Declarants shall be entitled to incorporate the same in their books of account. For the purpose of Income Tax Ordinance, 2001, the cost of acquisition of domestic assets shall be the declared value as prescribed and the date of acquisition shall be the date of declaration.

**INCOME TAX (AMENDMENT)
ORDINANCE, 2018
[AS AMENDED THROUGH THE FINANCE BILL
2018]**

Some major amendments have been made in the Income Tax Ordinance, 2001 in relation to the overall tax reforms package:

Year of taxability for concealed and unexplained assets

Prior to the amendment introduced through Income Tax (Amendment) Ordinance, 2018 in section 111(2), both domestic and foreign assets if remained concealed or unexplained were chargeable to tax in the tax year to which such amount relates i.e. the year of acquisition. However, a very fundamental change was made with respect to concealed foreign assets and concealed foreign source income.

The concept of taxability in the 'year of discovery' was introduced as against the 'year of acquisition' in respect of foreign assets and foreign income. This concept does not apply to domestic assets.

The tax authorities are consequently empowered to ask any taxpayer to file a return in respect of foreign assets and foreign income in the year of discovery for any prior tax year without any time limitation.

The above amendments are now being made part of the Finance Bill 2018, however, with a further additional explanation to the effect that the concept of taxability in the year preceding the year of discovery will not be applicable if the person explains the source of asset or investment at the time of assessment being made in the year of discovery.

Threshold introduced for immunity on foreign remittances

Under the position prior to Income Tax (Amendment) Ordinance, 2018, any amount of foreign exchange remitted from outside Pakistan through normal banking channel and encashed into Pak Rupees could not be subject to any enquiry for income tax purposes.

The aforesaid blanket exemption was made unavailable for remittances exceeding PKR 10 Million in a tax year per person after the effective date of the above Ordinance. This amendment has now been made part of the Finance Bill 2018.

Detailed statement of foreign income and foreign assets

Foreign assets formed part of the Wealth Statement to be filed under section 116 of the Income Tax Ordinance, 2001. Through Income Tax (Amendment) Ordinance, 2018 every resident taxpayer being an individual, having foreign income equal to or in excess of US\$ 10,000 or

having foreign assets with a value of US\$ 100,000 or more has been required to file a separate statement of foreign income and foreign assets under a newly inserted Section 116A. The said provision has now been made part of the Finance Bill 2018.

The statement shall include the following information:-

- a) The person's total foreign assets and liabilities as of last date of the tax year;
- b) Any assets transferred by the person to another person during the tax year and the amount of consideration;
- c) Complete particulars of foreign income and expenditure wholly and exclusively incurred to derive such income; and
- d) Expenditure incurred during the year.

The Commissioner may also require any person to file or furnish the above statement.

Non-filing of the above statement will be penalized at 2% of the value of foreign income or foreign assets for each year of default.

Rate of tax for individuals (salaried and non-salaried)

The rate of tax for Individuals (salaried and non-salaried) has been revised downward effective July 1, 2018.

IMPORTANT NOTICE

The information in this document has been prepared by an external consultant and is for general guidance only. The information may not be complete nor suited to your specific circumstances and therefore should not be relied upon. Each taxpayer should evaluate their facts and circumstances to determine whether the Tax Reform Package is appropriate for them. Further, given the complexity of the Tax Reforms Package as well as the various conditions and implications thereof, we highly recommend that taxpayers engage the assistance of an independent legal or tax counsel.

This document should not be construed as tax advice. You are reminded that you are responsible for your own tax affairs.