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## ***Practical Guide on Foriegn Assets (Declaration & Repatriation) Act, 2018***



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## ***INTRODUCTION***

This booklet has been prepared for the guidance of citizens of Pakistan with respect to Foreign Assets (Declaration & Repatriation) Act, 2018. This is not a comprehensive commentary or opinion on various matters involved in the law. This booklet provides primary understanding about the law, the procedures in summary for adopting the concessions and benefits under the law and other some information about the manner of availing the concession under the law.

It is however suggested that professional opinion and assistance be sought before filing the declaration under the law.

AFF Partners

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## **1. THE ACT**

- 1.1 President of Pakistan issued Foreign Assets (Declaration and Repatriation) Ordinance, 2018 [FADRO] under Article 89(1) of the Constitution on April 8, 2018.
- 1.2 National Assembly of Pakistan passed the Finance Act, 2018 that has been gazetted by **F. 22(I)2018.Legis dated May 24, 2018** as Act No. XXX of 2018.
- 1.3 Section 11 of the Finance Act, 2018 includes the Act termed as '**Foreign Assets (Declaration & Repatriation) Act, 2018**'. (The Act). This Act contains all the provisions of the Ordinance as referred above to provide for declaration and repatriation of assets and income held outside Pakistan. The preamble to the Act states that:

*Whereas there is large scale non-reporting and under-reporting of assets and income held outside Pakistan;*

*and Whereas it is expedient to provide for declaration and repatriation of assets and income held outside Pakistan for the purposes hereinafter appearing....*

- 1.4 This Act requires declaration for assets acquired before **April 10, 2018** and the said concession as per the Act is valid upto **June 30, 2018**. This provides continuation to the provisions as laid down in the Ordinance. It has been stated in the Act that it shall come in force at once.

## **2. 'PERSONS' ELIGIBLE**

- 2.1 *Citizenship:* All 'Citizens' of Pakistan other than holders of public office, their spouses and dependent children are eligible to avail the concession and protection laid down in the Act.
- 2.2 'Citizens of Pakistan' has been defined in the Pakistan Citizenship Act, 1951. A person having dual nationality is also treated as citizen of Pakistan.
- 2.3 Every person who was born in Pakistan is always deemed to be a citizen of Pakistan, however, a person who was born in Pakistan and after having acquired a foreign nationality and has also filed a declaration to the effect of renunciation of Pakistani citizenship under the Pakistan Citizenship Act 1951, shall not be deemed to be a citizen of Pakistan.
- 2.4 For the purposes of the Act, tax residence which is determined under the Income Tax Ordinance, 2001 or the applicable treaty, as the case may be is not relevant. All citizens of Pakistan irrespective of their residential status are eligible under the Act.

- 2.5 *Proceeding in Court of Law*: This scheme is not applicable in respect of those assets where any proceedings are pending in any court of law in respect of such foreign assets. The term ‘court of law’ has been defined in the Act.
- 2.6 For example, in this case, if any matter relating to such assets is pending before the National Accountability Court as a result of a ‘Reference’ filed by NAB then such assets would not be eligible under the Act. However, if the matter before NAB is under enquiry or investigation then the same being not a matter pending before the court of law will not disentitle the said asset under Act.

### **3. PERSONS NOT ELIGIBLE FOR SCHEME**

- 3.1 ‘Holders of public office’ as defined in the Act and assets acquired through commission of a criminal offence are not eligible for declaration under the Act.
- 3.2 ‘Holders of Public office’ has specifically been defined under Act.
- 3.3 For persons other than government employees, who holds a post or office government owned entities has been discussed in Section 2(h)(v) of Act
- 3.4 It has been clarified in the proviso inserted under this sub-section by the Finance Act, 2018 that:

*“Provided that a member of the Board, not actively engaged in the business and day-to-day affairs of the said corporations, banks, financial institutions, firms concerns, undertakings or any other institution or organization shall not be treated as holder of public office under this sub-clause”*

### **4. KINDS OF FOREIGN ASSETS**

- 4.1 The Act is applicable on all ‘foreign assets’. The term ‘foreign asset’ has been defined by way of an exhaustive definition to mean any movable or immovable assets held outside Pakistan. Nevertheless, following kinds of assets have specifically been included in the term ‘foreign assets’ as per Act.

- (i) Real estate without any mortgage;
- (ii) Mortgaged real estates;
- (iii) Stock and shares;
- (iv) Bank accounts;
- (v) Bullion;
- (vi) Cash;
- (vii) Jewels;
- (viii) Paintings;
- (ix) Accounts and Loan Receivables; and
- (x) Beneficial ownership or beneficial interests or contribution in offshore entities and trusts.

Two terms used in the aforesaid list require further elaboration. These are ‘*mortgaged assets*’ and ‘*beneficial ownership or interests in offshore entities and trusts*’.

- 4.2 The term '**mortgaged asset**' has not been defined in Act. The term 'cost of acquisition of mortgaged asset' has been defined as the sum of mortgaged payments and other mortgaged cost of acquisition. This, however, for all purposes, includes the owner's own contribution in the acquisition of a mortgaged assets. In other words, a mortgaged asset has been deemed to be a cost of acquisition or in other sense a liability has been recognized in respect of an asset. This can be further explained as under:

***Illustration 1***

	<b>US\$</b>
<i>Property acquired in UAE.</i>	<i>1,000,000</i>
<i>Amount contributed by the owner</i>	<i>250,000</i>
<i>The asset to be declared in this case will be:</i>	
<i>(i) Capital contribution in real estate</i>	<i>250,000</i>
<i>(ii) Mortgaged assets</i>	<i>750,000</i>
<i>This mortgaged asset will not be reflected as liability in the declaration. In the declaration however the same shall form part of wealth at the gross value.</i>	
<i>This effectively means that though USD 750,000 is not the asset of the declarant however the same shall be treated as asset of the declarant for the purposes of Act.</i>	

- 4.3 The other term used in this case is '**Beneficial owner or beneficial interest**' or **contribution in offshore entities and trust**.
- 4.4 The term "**Contribution**" in an offshore entity or a trust is highly important from the practical viewpoint. In almost all the tax haven jurisdiction, the offshore companies maintain minimum capital say USD 100 whereas remaining value of assets of such entity is financed by way of an item termed as 'contribution' by the actual or beneficial owner of that entity. In order to include such assets into the overall framework the amount of 'contribution' in such company/entity has also been included in the definition of assets.

This aspect is illustrated as under:

**Illustration 2**

	<b>US\$</b>
<i>Mr. A is the owner of X Ltd BVI where the share capital is</i>	<i>100</i>
<i>X Ltd BVI is the owner of a property in UK equal to</i>	<i>10 million</i>
<i>The present market value such property is</i>	<i>15 million</i>
<b><u>Analysis:</u></b>	
<ul style="list-style-type: none"> <li>For all practical purposes the difference between USD 100 and USD 10 million is the asset of Mr A and the same is termed as 'contribution'.</li> </ul>	
<ul style="list-style-type: none"> <li>The declaration under FADRO shall be for share capital in X Ltd BVI of USD 100 and contribution of USD [10 million less 100]</li> </ul>	
<ul style="list-style-type: none"> <li>The underlying value of the UK property is not an asset of a Pakistani citizen therefore same is not required to be disclosed. The concept of beneficial ownership as used in Act has not been used in the sense of Benami Transactions.</li> </ul>	

- 4.5 Under the Pakistan's tax statute, a 'trust', whether settled in Pakistan or outside Pakistan has been included in the definition of a 'company'.
- 4.6 It is advisable to declare a 'trust' where the settlement has not been disclosed in the wealth statement of the settlor or the beneficiary. The related question is the "person" required to disclose the settlement / corpus / contribution in the trust. The situations are:

<b>S.No.</b>	<b>Situation</b>	<b>Declarant</b>
(i)	"Revocable trust"	The person shall be "settlor"
(ii)	'Discretionary irrevocable trust' where the beneficiary and respective interest of the beneficiary is not known	To be settlor as other party or parties are not identified
(iii)	Identified beneficiary with identified share for an irrevocable non-discretionary trust	The identified beneficiary to extent of the respective share



### **Illustration 3**

- (a) *Mr A created a foreign trust in Cayman with a settlement of USD 10 million. The trust is discretionary and beneficiaries are dependents of Mr A and their lineage at the discretion of the Mr A.*

*In this case the declarant will be Mr A.*

- (b) *In the similar case if the trust specifies that beneficiaries will be B and C in equal proportion not at the discretion of Mr A.*

*Then the declarant will be B and C for their respective shares.*

- 4.7 In many cases, the trust or foreign entity so declared is the owner of shares of Pakistani listed or unlisted companies. The declaration of ownership of ostensible or beneficial ownership of an offshore entity will not change the character and nature of ownership of shares of the Pakistan entity. The right conferred on such owners of shares including those under the Foreign Exchange Regulations remain intact.

### **Illustration 4**

- *Mr A is the owner of X Limited BVI. Shares of a PakCo are held by X Ltd BVI.*
- *The ownership of X Limited is not declared under the Pakistan regulation.*

*Analysis:*

*A declaration of ownership of X Limited BVI will not change the right, nature and privileges available to X Limited BVI.*

## **5. CLASSIFICATION OF ASSETS**

- 5.1 For the purpose of this law, 'liquid assets' have been defined in the Act and these include:

1. Cash or asset that can be converted into cash with a minimal impact on asset value;
2. Bank notes;
3. Marketable securities;
4. Stocks;
5. Promissory notes;
6. Government Bonds;
7. Deposit certificates; and
8. Other similar instruments.



- 5.2 Furthermore the term ‘foreign asset’ has also been defined to mean ‘any’ movable or immovable assets held outside Pakistan. This means that ‘all foreign assets’ which are not ‘liquid assets’ as defined under this law will be considered as ‘immovable assets’. This means that the term ‘immovable asset’ as used under this law relates to the concept of ‘repatriation’. For this purpose, the term ‘liquid asset’ has been defined is an asset that is convertible into cash with minimal impact on asset value. Any other asset that is not convertible into cash with a minimal impact on value shall be deemed to be ‘immovable asset’ for the purposes of Act.
- 5.3 This, therefore, means that shares of private companies and or beneficial ownership or beneficial interest or contribution will be treated as ‘immovable asset’ for the purposes of this law. This makes sense for the reason that in this case the test is repatriation without impact in value. The case is illustrated as:

### **Illustration 5**

#### *Undeclared Assets of Mr. A:*

1. *Real Estate in UAE in Mr A's name;*
2. *A UAE Company owning Real Estate in UAE;*
3. *A Trust in BVI owning property in Canada;*
4. *A Bank Account in UK;*
5. *Foreign Bonds and Shares in Singapore;*
6. *Shares in Private Limited Company in Singapore;*
7. *Contribution in a BVI Company owning shares in Listed Entities of Pakistan.*

For the purposes of declaration only 4 and 5 shall be treated as ‘Liquid Assets’ whereas all others assets will be treated as ‘Immovable Assets’. Nevertheless the shares in a private limited company where the substantial assets of the underlying company are liquid asset be declared as liquid asset for the purposes of the Act.

## **6. CRYSTALLIZATION**

### **Date of Acquisition and the Date of Ordinance: Change in the nature and ownership of Assets between date of scheme and the date of declaration**

- 6.1 Declaration can be made at any time before June 30, 2018, however such declaration can only be made for the foreign assets acquired **before April 10, 2018**. This means that right to avail the protection of one time compliance has been crystallized for the foreign assets acquired before April 10, 2018.
- 6.2 This clearly implies that any ‘asset acquired’ by the declarant on or after April 10, 2018 is not eligible for declaration. This provides an implied restriction for the change in the ownership of asset between the ‘date of announcement of scheme’ and the ‘date of declaration’.

## **7. VALUATION OF ASSETS**

- 7.1 Declaration of foreign assets is to be made at the 'fair market value' of such assets that has specifically been defined under the Act as the 'price' of foreign assets determined and declared by a declarant himself, but in no case is less than the cost of acquisition of the foreign assets.
- 7.2 Declarant has the right to make declaration at cost. The market value of such asset as at that date is not necessarily the value for declaration unlike the local compliance scheme where a mechanism has been prescribed for valuation.

### **Illustration 6**

- *Mr A acquired a property in UAE for USD 1 million in 2010.*
  - *The market value of the property on April 9, 2018 is USD 3 million.*
  - *Declarant is entitled to declare the value at USD 1 million and market value is not relevant. Nevertheless Mr A cannot be denied the right to declare the value at USD 3 million.*
- 7.3 In this case the cost will invariably be in the currency other than Pakistan Rupee and declaration has to be made in Pakistan rupee at the exchange rate applicable on the day of commencement of this scheme.
- 7.4 The other relevant statement in the definition of fair market value is 'determined and declared by declarant himself'. This qualification has substantial relevance in relation to one time compliance process. The value as determined and declared by the declarant is not subject to any enquiry, examination or verification by any authority. The use of the word 'himself' emphasizes the acceptance of the value declared by the declarant.
- 7.5 There is, however, a condition that declarant cannot place a value that is less than cost of acquisition. Since there is no possibility of examination or verification at the time of filing, therefore, it can be implied that such cases will be considered as misrepresentation at the time when there is a subsequent disposal of such assets. Consequently one time compliance can be treated as invalid, at that time if there is an evidence that declaration was at a price less than the cost of acquisition.

### **Illustration 7**

- *Mr A acquired property in UK for USD 1 million in 2015.*
- *The market value of the property in 2018 is USD 1.5 million.*
- *For the purposes of declaration the value assigned is USD 800,000.*
- *The property is sold in 2019 at USD 1.6 million can be an evidence to can make the declaration invalid at any subsequent date.*

- 7.6 The aforesaid matter can also raise the issue whether or not a declarant can make a declaration at the market value of the asset that is higher than the cost of acquisition. In our view, if the definition of fair market value as laid down above, is read in complete context then that possibility exist under the law.

## **8. UNDISCLOSED INCOME**

- 8.1 The Act also provides immunity from taxation for undisclosed income. In usual cases such undisclosed income is reflected in the form of asset that are disclosed as part of wealth. However there are cases where there was income outside Pakistan that was chargeable to tax and had not been taxed in Pakistan, for example rental income of undisclosed real estate properties outside Pakistan and such amount are not reflected as part of any asset as at April 10, 2018.
- 8.2 The amount as referred above, is required to be disclosed as income. This is actually unexplained expenditure. These facts demonstrate that there is no asset available outside Pakistan that has been created out of such income therefore there is no column for disclosing such income in foreign asset declaration.
- 8.3 The local asset declaration has rightly included a column for undisclosed income, whether in or outside Pakistan, therefore any income even outside Pakistan, which is not reflected in the form of assets outside Pakistan is required to be disclosed as income under the local declaration form. Bank balances to be disclosed in foreign asset declaration is the balance as at April 10, 2018. Any sum spent out of such account, prior to this date, represents undisclosed income as referred above.

## **9. MISREPRESENTATION**

- 9.1 This section restricts the protection and concession under Act if the same is made by way of misrepresentation or suppression of facts. The law has not defined both the words. This requires practical interpretation of these terms. For example change in the 'nature' or ownership of asset for genuine reasons may not be used to avail the benefit of scheme to any person not eligible for the scheme such as politically exposed persons or with respect to any asset that has been acquired as a result of criminal offence.

### **Illustration 8**

- *Mr A declares the value of assets acquired through this particular act of smuggling.*

*Though it can be alleged that this is an asset acquired as a proceed of crime, therefore the same is not eligible for declaration under the law. This position is not valid.*

*A declaration can be made, however, the same will become invalid on settlement of the case finally.*

- *As an extension if Mr A declares a foreign asset under Act. Subsequently there is a criminal case against Mr A that proves that the said asset has been acquired out of proceed of crime.*

*The amnesty under Act will become repugnant once the matter is finally decided against Mr A.*

- 9.2 There is a concept of suppression of fact under Section 16 of Act. This may under adverse situation imply that in a case where there is an incomplete declaration of the total foreign asset held then the declaration about the asset declared will also be deemed to be invalid. On the other hand it may imply that such suppression of facts is status of the person, date of acquisition of asset declared etc. In our view, both the terms ‘misrepresentation’ and ‘suppression of facts’ are to be adopted in positive sense.

### **Illustration 9**

- *Mr A is owns X Ltd BVI and Y Ltd BVI.*

*If Mr A declares X Ltd BVI and does not declare Y Ltd BVI then declaration to the extent of X Ltd BVI will not be treated as invalid.*

## **10. INCORPORATION IN THE BOOKS**

- 10.1 Declarant is entitled to incorporate the assets at the value declared in the books of accounts, which in the case of an individual [the only person entitled to declared foreign assets] is the wealth statement as filed under Section 116 of the Income Tax Ordinance, 2001. Now the wealth statement for foreign assets shall be as prescribed under Section 116A of the Ordinance.
- 10.2 Now every person who is a resident in Pakistan is required to file a separate statement as prescribed under Section 116A of the Ordinance for foreign income and assets if the value of such assets exceeds USD one hundred thousand or the foreign income exceeds 10,000 USD. There are severe penalties for any non-disclosure or incomplete disclosure. This resultantly means that in case of a resident person, the option of not disclosing the assets is not available.

## **11. EXTENT OF IMMUNITY**

- 11.1 Section 3 of Act states that the provisions of the Act shall have effect ‘notwithstanding anything to the contrary contained in any other law for the time being in force’. The matters that can be examined in this respect are:
- Taxability of the sum declared under the taxing laws of the country including Money Laundering law to the extent of evasion of income as taxable under the Income Tax Ordinance, 2001. This means that any income that has evaded taxation under the Income Tax Law and its consequential action under AML cannot be questioned if the same is declared under Act;

- The declaration is for foreign assets and income outside Pakistan. This means that the law recognizes the existence of assets or income outside Pakistan. Any law relating to movement of funds from Pakistan, would therefore be overridden by Act.
- 11.2 The other consequence of this provision is that compliance of Act represents payment of tax under the Income Tax Ordinance, 2001 for all the past years. Any proceeding under any law for the time being in force, before the income tax authorities or any other authority that leads to payment of tax under the Income Tax Ordinance, 2001 would therefore be dropped once Act has been applied.

## ***12. CONFIDENTIALITY***

- 12.1 An overriding cover has been provided to Act in respect of confidentiality. It includes Section 216 of the Income Tax Ordinance, 2001, the Right of Access to Information Act, 2017 and any other law for the time being in force.
- 12.2 In addition to the same, unlike other schemes in the past the person disclosing any such information shall be subject to imprisonment not exceeding one year in addition to fine of Rs 1 million.
- 12.3 In this connection it is highly important to note that Pakistan's experience with respect to confidentiality of prior amnesty schemes has remained very reasonable. There had never been a case where such confidentiality has been tampered.

## ***13. MANNER OF FILING***

- All the declarations have to be e-filed;
- There is no involvement of Federal Board of Revenue in the process of filing;
- The procedure of filing the declaration and manner of payment is briefly illustrated as under:

### ***For accessing Declaration Forms:***

- Use your existing IRIS Login credentials to access the FBR IRIS portal (URL: <https://iris.fbr.gov.pk/infosys>).
- If not already registered on IRIS portal, click the link “Registration for Tax Amnesty (If not already registered)” shown on IRIS portal and get registered only for purpose of filing Amnesty Declarations (you will NOT be able to do other tasks such as filing income tax returns etc.)
- After successful login, IRIS Dashboard Screen shall appear. Select the “Tax Amnesty” tab from Mega Menu.

- To access declaration of Foreign Assets, select “Declaration and Repatriation of Assets and Income held outside Pakistan” / from menu options which will open the amnesty declaration form as under:
- Enter the relevant information, the declaration form, in input fields enabled for editing.
- Once the liability in Pakistani rupee is determined then the declarant will move to the next step relating to discharge of tax liability for which the following procedure will have to be undertaken.

**For preparing Payment Slip for deposit of tax:**

- Approach FBR Portal (<https://e.fbr.gov.pk>). Click on “e-Payments” tab and select “92033 – 5 – Payment of tax on Repatriation of assets & income under section 5”.
- Enter the tax amount to be paid and the system shall automatically convert the entered amount in US Dollars.
- Select your mode of payment from available list (Cash, Cheque, Pay Order).
- Press “Create” button, the system shall prepare PSID.
- Declarant shall intimate his/her bank account outside Pakistan to arrange deposit of the tax liability in the designated account of the State Bank of Pakistan.
- The declarant after receipt of confirmation from his/her bank will intimate to SBP (through an email) for that particular PSID. Once the credit is available of SBP, will issue CPR (Computerised Payment Receipt) acknowledging the receipt of tax.

**Submission of Declaration Forms after tax payment:**

- Once CPR is received, again login to FBR IRIS website and access “Payment” Tab under the declaration form.
- Click button provided at the right most corner to attach CPR details.
- System shall display the CPR as received from Bank Verify and then submit the form.

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THE GAZETTE OF PAKISTAN, EXTRA., MAY 24, 2018

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AN

ACT

*to provide for declaration and repatriation of assets and income held  
outside Pakistan*

WHEREAS there is a large scale non-reporting and under-reporting of assets and income held outside Pakistan;

AND WHEREAS it is expedient to provide for declaration and repatriation of assets and income held outside Pakistan for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Foreign Assets (Declaration and Repatriation) Act, 2018.

(2) It shall come into force at once.

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

- (a) “cost of acquisition of the mortgaged asset” means the sum of mortgaged payments and other mortgaged cost of acquisition;
- (b) “court of law” means an Appellate Tribunal, a High Court or Supreme Court of Pakistan;
- (c) “declarant” means a person making a declaration under section 5;
- (d) “fair market value” means price of foreign asset determined and declared by a declarant himself, but in no case is less than the cost of acquisition of the foreign assets;
- (e) “foreign assets” means any movable or immovable assets held outside Pakistan and includes real estate, mortgaged assets, stock and shares, bank accounts, bullion, cash, jewels, paintings, accounts and loan receivables, beneficial ownership or beneficial interests or contribution in offshore entities and trusts;
- (f) “government security” means a bond, note or other debt instrument issued by the Federal Government with a promise of repayment upon maturity;



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- (g) “liquid assets” means cash or an *asset* that can be readily converted into cash with a minimal impact on the assets’ value and includes bank notes, marketable securities, stocks, promissory notes, government bonds, deposit certificates and other similar instruments; and
- (h) “holder of public office” means a person who is or has been, during the preceding ten years,—
- (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 any service in connection with the affairs of the Federation 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 or in the 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 or a civilian employee of the Armed Forces of Pakistan;

Provided that a member of the Board, not actively engaged in the business and day-to-day affairs of the said corporations, banks, financial institutions, firms, concerns, undertakings or any other institution or organization shall not be treated as holder of public office under this sub-clause;

- (vi) 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;

**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; and

- (vii) a District *Nazim* or District *NaibNazim*, Tehsil *Nazim* or Tehsil *NaibNazim* or Union *Nazim* or Union *NaibNazim*;

(2) All other words and expressions used but not defined in this Act shall have the same meaning assigned to them under the Income Tax Ordinance, 2001 (XLIX of 2001) and the rules made thereunder.

(3) **Act to override other laws.**—The provisions of this Act 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 Act shall apply to—

- (a) all citizens of Pakistan wherever they may be, except holders of public office, their spouses and dependent children; and
- (b) all foreign assets held by the persons mentioned in clause (a) and tax paid on the value of such assets under section 8, except where proceedings are pending in any court of law in respect of the foreign assets.

(2) The provisions of this Act shall not apply to any proceeds or assets that are involved in or derived from the commission of a criminal offence.

5. **Declaration and repatriation of assets held outside Pakistan.**—

(1) Subject to the provisions of this Act, any person may make to the Federal Board of Revenue, by the due date specified in section 6, a declaration in respect of foreign assets acquired before the tenth day of April, 2018.

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THE GAZETTE OF PAKISTAN, EXTRA., MAY 24, 2018

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(2) The value of a foreign asset shall be fair market value as defined in section 2.

(3) The declaration of value and tax paid in respect of the foreign assets shall be in the manner as set out in Form A of the Schedule to this Act.

(4) The description of the foreign assets declared under sub-section (1) and (3) shall be in the manner as set out in Form B of the Schedule to this Act.

(5) A person declaring foreign assets under sub-section (1), may by the due date as specified in section 6 also repatriate the said foreign assets in Pakistan.

(6) The declaration of foreign assets shall be made in the manner as set out in Form A of the Schedule to this Act, electronically on Federal Board of Revenue's web portal and shall be valid only if it is accompanied by the evidence of payment of tax. The declarant may be required to provide additional item-wise details of such assets while filing declaration on Federal Board of Revenue's web portal.

6. **Period of applicability.**—The declaration and repatriation under section 5 shall be made on or after the tenth day of April, 2018 but on or before the thirtieth day of June, 2018.

7. **Charge of tax.**—The foreign assets declared and repatriated into Pakistan within the due date shall be chargeable to tax at the rates specified in the Table below, namely:—

TABLE

S. No.	Foreign assets	Rate (as a percentage of the value of foreign assets)
(1)	(2)	(3)
1.	Liquid assets not repatriated	5%
2.	Immovable assets outside Pakistan	3%
3.	Liquid assets repatriated and invested in Government securities upto 5 years in US dollars denominated bonds with six-monthly profit payment in equivalent Rupees (rate of return 3%) and payable on maturity in equivalent Rupees	2%
4.	Liquid assets repatriated	

8. **Payment of tax.**—(1) The due date for the payment of tax chargeable under section 7 shall be the date on which declaration is made under section 6.

(2) No tax shall be payable by the declarant under any law for the time being in force including the Income Tax Ordinance, 2001 (XLIX of 2001) where tax has been paid under sub-section (1) in respect of the foreign assets declared under section 5.

9. **Currency and rate of conversion.**—(1) The value of a foreign asset under sub-section (2) of section 5 shall be in Rupees.

(2) The tax payable under section 8 shall be paid in United States dollars as specified in Form A of the Schedule to this Act.

(3) The value in Rupees under sub-section (1) shall be converted into United States dollars at the State Bank of Pakistan's rate applying between the United States dollar and the Rupee on the date the declaration is made under section 6 and tax is paid under section 8.

10. **Mode and manner.**—The State Bank of Pakistan (SBP) shall notify the mode and manner of—

- (a) repatriation of liquid assets in Pakistan;
- (b) deposit of tax in US dollars in SBP; and
- (c) deposit of tax in Rupees in the income tax account of the Federal Consolidated Fund.

11. **Incorporation in books of account.**—(1) Where a declarant has paid tax under section 8 in respect of foreign assets declared under section 5, the declarant shall be entitled to incorporate in his books of account such foreign assets.

(2) For the purpose of the Income Tax Ordinance, 2001 (XLIX of 2001), the cost of acquisition of foreign assets and date of acquisition shall be deemed to be the value declared by the declarant and the date on which declaration has been made by the declarant, respectively.

12. **Investment in Government securities.**—Investment in Government securities under S.No. 3 of the Table in section 7 shall be made in accordance with a scheme to be introduced by the Government of Pakistan through the State Bank of Pakistan, by notification in the official Gazette, specifying periodic rate of return, the period for the rate of return and period of maturity.

13. **Confidentiality.**—(1) Notwithstanding the provisions of subsection (3) 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 Act or any information received in any declaration made under this Act shall be confidential.

(2) A person who discloses any particulars in contravention of subsection (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.

14. **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 Income Tax Ordinance, 2001 (XLIX of 2001).

15. **Removal of difficulty.**—If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may make such order in writing, as is not inconsistent with the provisions of this Act, for removal of such difficulty.

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

THE GAZETTE OF PAKISTAN, EXTRA., MAY 24, 2018

Schedule

Form A

DECLARATION UNDER SECTION 5														
FULL NAME														
CNIC*						-								
NTN (if available)														
ADDRESS														
TELEPHONE NUMBER:														
Email:														
FOREIGN ASSETS														
S.No.	Nature of assets					Amount in Rupees	Tax Rate	Tax in Pak Rupees						
1.	Liquid assets not repatriated						5%							
2.	Immovable assets outside Pakistan						3%							
3.	Liquid assets repatriated and invested in Government securities						2%							
4.	Liquid assets repatriated						2%							
Total tax in Rupees(1+2+3+4)														
Total tax in US Dollars														
Whether evidence of payment of tax attached								YES	NO					

\*CNIC includes NICOP or any other identification number issued by National Database and Registration Authority.

Form B

DESCRIPTION OF ASSETS [see section 5(4)]		
A. Liquid assets not repatriated		
1. Foreign currency		
Bank account details	Bank name and bank A/c 1	
	Bank name and bank A/c 2	
	Bank name and bank A/c 3	
	Bank name and bank A/c 4	
	Bank name and bank A/c 5	

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2. Other liquid assets (securities, stocks, promissory notes, Government bonds, deposit certificates and other similar instruments, etc.)
1.
2.
3.
4.
5.
6.
<b>B. IMMOVABLE PROPERTY (Jurisdiction, address and size)</b>
1.
2.
3.
4.
5.
6.
7.

**VERIFICATION**

I, the undersigned, solemnly declare that to the best of my knowledge and belief—

- (a) the information given in this declaration is correct and complete;  
and
- (b) the value of foreign assets has truly been declared.

I, further declare that I am competent to make this declaration and verify it in my own name.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_





**STATE BANK OF PAKISTAN**  
**FINANCE DEPARTMENT**  
I.I. Chundrigar Road  
KARACHI

No. FD/1704 /2011/ 2018

April 16, 2018

## **NOTIFICATION**

### **Procedure for Deposit of Tax on, and Repatriation of liquid assets under, Foreign Assets (Declaration and Repatriation) Ordinance, 2018**

In exercise of powers conferred by the section 10 of the Foreign Assets (Declaration and Repatriation) Ordinance, 2018, the State Bank of Pakistan is pleased to notify the Procedure for payment and Deposit of Tax in US Dollars, and Repatriation of liquid assets in Pakistan under, Foreign Assets (Declaration and Repatriation) Ordinance, 2018, for the information of general public.

A handwritten signature in black ink, appearing to read 'Saleemullah'.

(Saleemullah)  
Director

Encl: Procedure for Deposit of Tax on, and Repatriation of liquid assets under, Foreign Assets  
(Declaration and Repatriation) Ordinance, 2018

## **Procedure for Deposit of Tax on, and Repatriation of liquid assets under, Foreign Assets (Declaration and Repatriation) Ordinance, 2018**

In pursuance of the section 10 of the Foreign Asset (Declaration & Repatriation) Ordinance, 2018 (hereinafter referred to as the "Ordinance"), State Bank of Pakistan (hereinafter abbreviated as SBP) is pleased to notify the procedure for repatriation of liquid assets and payment and deposit of tax:-

### **2. Short title and commencement:**

- i. The Procedure may be called Repatriation and Deposit of Tax on Foreign Assets (Declaration and Repatriation) Procedure 2018; and
- ii. It shall be deemed to have come into force from 10<sup>th</sup> day of April 2018.

### **3. Declaration of Assets and Generation of PSID**

The taxpayer shall electronically fill the Form 'A', set out in the schedule to the Ordinance, at the FBR portal and generate PSID for payment of tax due on the foreign assets declared in the Form 'A'. To generate the PSID, the tax payer will open the link <https://paysys.fbr.gov.pk> and enter the tax liability in PKR as determined in Form 'A'; the system will convert the PKR into USD and give the amount of tax liability in both US Dollars and PKR as per the daily PKR/USD exchange rate notified by the SBP to FBR through a dedicated e-mail. The PSID shall be generated on the same day, the tax payment is to be made.

### **4. Payment of tax by wire transfer to SBP Account**

- i. After declaration of assets and generation of PSID as described in para '3' above, the taxpayer shall arrange to remit the USD funds against the tax liability as reflected in the PSID and Form 'A' to SBP by wire transfer in the following SBP account:

Name of Payee:	STATE BANK OF PAKISTAN
Payee's Address:	I.I. CHUNDRIGAR ROAD, KARACHI, PAKISTAN
Payee's SWIFT Code:	SBPPPKKA
Bank Name:	NATIONAL BANK OF PAKISTAN
Bank Address:	NEW YORK, U.S.A
Payee's Account No:	55854560
Bank SWIFT Code:	NBPAUS33

- ii. After remitting the funds to SBP Account, the taxpayer shall electronically send following information and documents to SBP, Karachi, at the email ID @ [tax.foreignasset@sbp.org.pk](mailto:tax.foreignasset@sbp.org.pk):
  - A copy of wire transfer, or swift message, bearing necessary instructions including specification of the CNIC/NTN of the taxpayer in field 72 ;
  - Scanned copy of duly signed Form A and PSID
- iii. SBP shall, after verifying receipt of the money in its account, convert the USD funds into PKR and credit the same to the "Federal Government Account No. I" against the tax receipt.
- iv. For collecting the tax receipt in the "Federal Government Account No. I", SBP will generate CPR against the PSID received from the tax payer; the CPR (computerized payment receipt) is the formal evidence of payment of tax both for the tax payer and FBR.
- v. SBP shall electronically transmit a scanned copy of the CPR so generated to the taxpayer for its record.
- vi. The tax payer shall then link CPR no. received from SBP with the Form A at the FBR portal as the tax payment evidence to complete the assets declaration process.

## 5. Repatriation of liquid Assets in Pakistan

- i. The liquid assets declared to be repatriated into Pakistan in Form 'A' for investment in Federal Government bonds and/or for credit to the tax payer's PKR account, shall also be remitted to the SBP account given in 4 (i) above by wire transfer.
- ii. After remitting the funds to SBP Account, the taxpayer shall electronically send following information and documents to SBP, Karachi, at the email ID @ [tax.foreignasset@sbp.org.pk](mailto:tax.foreignasset@sbp.org.pk):
  - A copy of wire transfer, or swift message, bearing necessary instructions including specification of the CNIC/NTN of the taxpayer in field 72 ;
  - Scanned copy of a duly signed statement of application of funds remitted to SBP i.e. the amount of funds to be invested in Government bonds and the amount to be credited to PKR account of the tax payer.
  - A copy of the CNIC

- The details of PKR account (Bank and Branch Name, account title, IBAN) in which the tax payer would like to have credit of periodic profit payments on Government Securities to be purchased under the scheme; and/or PKR equivalent of liquid assets repatriated to Pakistan.
- iii. SBP shall, after verifying receipt of the money in its account, convert the USD funds into PKR at rate applicable on government receipts and give credit: i) to the “Federal Government Account No. I” for the amount to be invested in government Securities, and ii) to the PKR account of the tax payer for the amount of remittance to be converted into PKR.
- iv. For the amount to be invested in Government Security, SBP shall create scrip less Government Security in its SGLA.
- v. For the tax payer’s information and record, SBP shall electronically send the confirmation of investment of the funds in government securities. Similarly the tax payer will get confirmation for the amount, if any, credited to his/her PKR account.
- vi. SBP shall maintain a register of taxpayers embodying details contained in Form A which will be shared with FBR periodically.

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