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## *Memorandum on Tax Reforms Package*



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a member firm of the PwC network*



## **MEMORANDUM ON TAX REFORMS PACKAGE**

### **Preamble**

The Prime Minister of Pakistan announced salient features of the Tax Reforms Package on April 6, 2018. Firm's comments on the Package were released on the same day (available at <https://www.pwc.com/pk>).

As announced by the Prime Minister, these measures have now been incorporated in four Ordinances promulgated by the President of Pakistan which will be effective from April 10, 2018. These Ordinances<sup>1</sup> are:

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

These are four Independent Ordinances; however, they represent interdependent status for an overall tax reforms package as announced by the Prime Minister. An integrated analysis and review of the aforesaid provisions reveals that a one-time opportunity is being provided for compliance with appropriate deterrents against non-disclosure in future.

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<sup>1</sup> *The comments are based on the drafts available through press information.*

## **THE FOREIGN ASSETS (DECLARATION AND REPATRIATION) ORDINANCE, 2018**

### ***Persons covered***

Under this Ordinance, all citizens of Pakistan wherever they may be, except holders of public office as defined in the Ordinance (Annexure A) 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'.

### ***Definition of foreign assets***

Foreign assets have been defined to mean any movable or immovable property held outside Pakistan and include real estate, mortgaged assets, stocks and shares, bank accounts, bullion, cash, jewels and paintings, accounts and loan receivables, beneficial ownership or beneficial interest or contributions in offshore entities and trusts.

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

### ***Rates of tax***

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

1.	Liquid assets not repatriated	5%
2.	Immovable assets outside Pakistan	3%
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%
4.	Liquid assets repatriated	2%

### ***Valuation of assets***

The declaration shall be made at the 'Fair Market Value' which shall be 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.

### ***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.

### ***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.

***Effective date***

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

**THE PROTECTION OF ECONOMIC REFORMS (AMENDMENT) ORDINANCE, 2018**

An important amendment has been made in the Protection of Economic Reforms Act, 1992 which shall have effect notwithstanding anything contained in the Foreign Currency Accounts (Protection) Ordinance, 2001.

Under this amendment, no cash shall be allowed to be deposited in any foreign currency account unless the account holder is a filer as defined in the Income Tax Ordinance, 2001.

This effectively means that the present system of feeding the foreign currency accounts by cash shall be limited only to person who are filers under the Income Tax Ordinance, 2001.

This provision is applicable from April 9, 2018.

## **VOLUNTARY DECLARATION OF DOMESTIC ASSETS ORDINANCE, 2018**

### ***Persons entitled***

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 (Annexure A) 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.

### ***Rate of tax***

The assets declared shall be charged at the following rates:

1.	Foreign currency held in foreign currency accounts in Pakistan as on March 31, 2018 and encashed in equivalent Pak Rupees	2%
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%
3.	All other assets	5%

### ***Valuation***

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

### ***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 and the date of acquisition shall be the date of declaration.

### ***Effective date***

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

## **INCOME TAX (AMENDMENT) ORDINANCE, 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 this amendment, 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, now a very fundamental change has been made with respect to concealed foreign assets and concealed foreign source income.

The concept of taxability in the 'year of discovery' has been introduced as against the 'year of acquisition' in respect of foreign assets and foreign income.

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

This provision is to be read in relation to Foreign Assets (Declaration and Repatriation) Ordinance, 2018 and it appears that the legislature does not intend to provide time limitation provisions for foreign assets and foreign income that would remain undeclared.

### ***Section 111(4)***

Under the present position, any amount of foreign exchange remitted from outside Pakistan through normal banking channel and encashed into Pak Rupees cannot be subject to any enquiry for income tax purposes.

The aforesaid blanket exemption shall not be available for remittances exceeding Rs 10 Million in a tax year per person after the effective date of this Ordinance.

### ***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. Now, through this Ordinance, 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 shall be required to file a separate statement of foreign income and foreign assets under a newly inserted Section 116A, the contents of which are prescribed (Annexure C).

### ***Penalty for not filing statement under Section 116A***

A penalty at the rate of 2% of the value of foreign income or foreign assets shall be payable in case of default in filing of statement of foreign income and foreign assets.

### ***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 (Annexure D).

**HOLDER OF PUBLIC OFFICE**

The term "holder of public office" has been defined in the Foreign Assets (Declaration and Repatriation) Ordinance, 2018 to mean a person who is or has been at any time since 1<sup>st</sup> 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 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;
- (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 *Naib Nazim*, Tehsil *Nazim* or Tehsil *Naib Nazim* or Union *Nazim* or Union *Naib Nazim*;



**ANNEXURE 'B'**

**VALUATION TABLE FOR DECLARATION OF DOMESTIC ASSETS**

For the purpose of Voluntary Declaration of Domestic Assets Ordinance, 2018, the valuation of declared assets shall be made in the following manner, namely:

<b>S. No.</b>	<b>Undisclosed income and assets</b>	<b>Value</b>
1.	Undisclosed income.	As declared.
2.	Open plots and land.	Cost of acquisition or FBR rates, whichever is higher.
3.	Super structure.	Rs 400 per square feet.
4.	Apartments and flats.	Cost of acquisition or Provincial stamp duty rates, whichever is higher.
5.	Imported motor vehicles.	A-B  Where:  A= CIF value plus the amount of all charges, customs-duty, sales tax, levies, octroi, fees and other duties and taxes leviable thereon and the costs incurred till their registration.  B= a sum equal to 10% of the said value for each successive year upto a maximum of five years.
6.	Motor vehicles purchased from a manufacturer or assembler or dealer in Pakistan.	A-B  Where:  A= The price paid by the purchaser, including the amount of all charges, customs duty, sales tax and other taxes, levies, octroi, fees and all other duties and taxes leviable thereon and the costs incurred till their registration.  B = a sum equal to 10% of the said value for each successive year upto a maximum of five years.



<b>S. No.</b>	<b>Undisclosed income and assets</b>	<b>Value</b>
7.	Used motor vehicles purchased locally.	Value determined in the manner specified in Serial No. 5 or 6, as the case may be, as reduced by an amount equal to 10% for every year following the year in which it was imported or purchased from a manufacturer.
8.	Securities and shares traded on stock exchange.	Day-end price of the share or security quoted on registered stock exchange as on April 9, 2018 and where no day-end price of such share or security is quoted on stock exchange on April 9, 2018 day-end price of the share or security quoted on a date nearest to April 9, 2018.
9.	Securities and shares not traded on stock exchange.	Break-up value or face value, whichever is higher. Breakup value shall be the sum of paid-up capital, reserves and balance as per profit and loss account as reduced by the value of preference shares and divided by the amount of the paid up ordinary share capital.
10.	National saving schemes, postal certificates, bonds, securities and other similar investments in capital instruments not traded or quoted on stock exchange.	Face value.
11.	Gold.	Rs. 4,000 per gram.
12.	Other precious stones and metals.	Market rate as on the April 9, 2018 or cost of acquisition, whichever is higher.
13.	Stock-in-trade.	Market rate as on the April 9, 2018.
14.	Plant and machinery.	Actual cost of acquisition with no depreciation.
15.	Accounts receivable.	Actual cost of acquisition.
16.	Other assets.	
17.	Prize bonds, cash and bank accounts including foreign currency accounts.	Face value.



**ANNEXURE 'C'**

**FOREIGN INCOME AND ASSETS STATEMENT**

Newly introduced section 116A requires 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) to furnish a statement giving particulars of:

- (a) the person's total foreign assets and liabilities as on the last day of the tax year;
- (b) any foreign assets transferred by the person to any other person during the tax year and the consideration for the said transfer; and
- (c) complete particulars of foreign income, the expenditure derived during the tax year and the expenditure wholly and necessarily for the purposes of deriving the said income.



**ANNEXURE 'D'**

**RATES OF TAX FOR  
INDIVIDUALS**

With effect from July 1, 2018, the rates of tax imposed on the taxable income of every individual (both salaried & non-salaried) shall be as set out in the following table, namely:

<b>S. No.</b>	<b>Taxable income</b>	<b>Rate of tax</b>
1.	Where the taxable income does not exceed Rs. 1,200,000	0%
2.	Where the taxable income exceeds Rs.1,200,000 but does not exceed Rs.2,400,000	5% of the amount exceeding Rs.1,200,000
3.	Where the taxable income exceeds Rs.2,400,000 but does not exceed Rs.4,800,000	Rs. 60,000 + 10% of the amount exceeding Rs.2,400,000
4.	Where the taxable income exceeds Rs.4,800,000	Rs. 180,000 + 15% of the amount exceeding Rs.4,800,000