

# BRIEF ON ASSETS DECLARATION ORDINANCE, 2019

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An scheme has been announced by the Federal Government for declaration of undisclosed assets, sales and expenditure vide promulgation of the Assets Declaration Ordinance, 2019 on 14<sup>th</sup> May 2019. The scheme is announced as another opportunity to regularize the assets and to disclose the income and expenditure claimed by the taxpayer where source is not verifiable. A step has been taken towards inclusion of un-documented economy in the taxation system and for economic revival and growth by encouraging a tax compliant economy. The salient features of the scheme are as follows.

### 1. Scope of scheme

The scheme is applicable to any person irrespective of his Pakistani citizenship in respect of undisclosed assets (domestic or foreign) acquired, undisclosed expenditure and undisclosed sales made upto 30<sup>th</sup> June 2018. Further, benami assets acquired or held on or before date of declaration under this scheme are also eligible to avail the amnesty. Please note that asset acquired (excluding benami assets) or income and expenditure related to tax year 2019 is not covered under this amnesty scheme.

Benami asset are covered under this scheme as an opportunity to regularize such assets as the Benami Transactions (Prohibition) Act, 2017 has become operational in 2019 owing to issuance of relevant Rules whereby holding of benami assets is declared as illegal. Here, it is pertinent to discuss the meaning of benami assets / property in order to avail the amnesty.

The Benami Act defines the benami assets / property as the property acquired under benami transaction and includes proceeds from such property. Such benami transaction or arrangement includes:

- a. Where the property is held by a person but the consideration for purchase of property is paid by another person for whose benefit such property is utilized however, following person are not covered:
  - i. A person holds property on behalf of another in a fiduciary capacity including trustee, executor, partner, director of a company, agent or legal adviser and any other person notified by the Federal Government; or
  - ii. A person holds property being a spouse, child, brother, sister, lineal ascendant or descendant and the individual appearing as joint owner. However, consideration for such property has been provided or paid out of known resources of income of such individual
- b. Where a transaction or arrangement in respect of a property carried out or made in a fictitious name; or
- c. Where owner of the property is not aware of or denies knowledge of such ownership; or
- d. Where person providing consideration for purchase of property is not traceable or is fictitious

It may be noted that the Federal Government may in exercise of powers conferred under the Benami Act may take following actions:

- i. Confiscate the said property
- ii. Impose restriction on transfer of said property to any other person
- iii. Imprisonment upto 7 years
- iv. Penalty upto 25% of fair market value of such property

In order to avoid the consequences under the Benami Act, it is advisable that the benamidar i.e. the person holding benami property may avail this amnesty scheme.

This amnesty is also available where any proceedings have been initiated or pending under the Income Tax Ordinance, 2001, the Sales Tax Act, 1990 and the Federal Excise Act, 2005 in respect of such undisclosed assets, sales and expenditure unless matter has attained finality.

### 2. Persons, assets or proceedings not eligible for amnesty

Following person are not allowed to avail amnesty scheme as provided under the Ordinance:

1. Holders of public office
2. Public company defined under section 2(47) of the Income Tax Ordinance, 2001
3. Proceeds or assets involved or derived from criminal offence
4. Gold and precious stones
5. Bearer prize bonds
6. Bearer securities, shares, certificates, bonds or any other bearer assets; or
7. Proceedings pending in any court of law

### 3. Value of assets

For the purpose of payment of tax under this amnesty scheme, assets shall be valued at follows:

<b>Domestic immovable property</b>	<b>Any other asset including foreign immovable property</b>
The value of property shall not be less than: (i) 150% of FBR value; or (ii) 150% of DC value where FBR value is not notified or less than DC value; or (iii) 150% of FBR value for land and 150% of DC value for constructed property where FBR value is not notified for constructed property	The value of asset shall be the higher of following: (i) Open market price on date of declaration; or (ii) Cost of acquisition of property  Note: in case of foreign assets, the fair market value shall be determined at the exchange rate prevalent on date of declaration

## BRIEF ON THE ASSETS DECLARATION ORDINANCE, 2019

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Where the person has declared any property in previous amnesty scheme, he is not required to again declare the same. However, if a person wish to increase value of property declared in previous amnesty scheme, he may do so by declaring the property at above value and pay tax accordingly.

### 4. Rate of tax

Following rate of tax shall be applicable under this amnesty scheme:

S. NO.	Undisclosed assets, sales or expenditure	Rate of tax
1	All assets except domestic immovable properties	4%
2	Domestic Immovable properties	1.5%
3	Foreign liquid assets not repatriated	6%
4	Unexplained expenditure	4%
5	Undisclosed sales	2%

### 5. Conditions for declaration

In order to avail amnesty scheme under this Ordinance, following conditions are required to be fulfilled:

1. Any cash shall be deposited into declarant's bank account at the time of declaration and retained till 30<sup>th</sup> June 2019; or
2. Any foreign currency held in Pakistan shall be deposited into declarant's own foreign currency bank account at the time of declaration and retained in such account till 30<sup>th</sup> June 2019;
3. The repatriated foreign liquid assets shall be deposited into declarant's own Pak Rupee account or his foreign currency bank account in Pakistan or is invested into Pakistan Banao Certificates or any foreign currency denominated bonds issued by the Federal Government
4. Foreign liquid assets not repatriated to Pakistan shall be deposited in declarant's foreign bank account on or before the 30<sup>th</sup> June 2019

**Note:** Procedure for repatriation of assets held outside Pakistan shall be prescribed by the State Bank of Pakistan

### 6. Manner and time for filing of declaration and payment of tax

- Declaration under this Ordinance is required to be filed on or before 30<sup>th</sup> June 2019
- The tax in respect of foreign assets or foreign currency held in Pakistan shall be paid in foreign currency as per procedure to be provided by the State Bank of Pakistan
- Due date for payment of tax under this amnesty scheme shall be 30<sup>th</sup> June 2019 however, in case of late payment till 30<sup>th</sup> June 2020, default surcharge shall be paid as per following rates:

<b>Time of payment of tax</b>	<b>Rate of default surcharge</b>
Upto 30.09.2019	10% of tax amount
Upto 31.12.2019	20% of tax amount
Upto 31.03.2020	30% of tax amount
Upto 30.06.2020	40% of tax amount

- Where any income tax, sales tax or FED demand assessed by the department is outstanding at the time of filing of declaration, the declarant may pay such demand without payment of default surcharge and penalty
- Tax payment made under the amnesty shall not be refundable

### **7. Incorporation of assets, income and expenditure declared in amnesty in books of accounts**

Upon filing of declaration and payment of tax under this amnesty scheme, such declared assets, sale or expenditure shall be incorporated in his return, wealth statement or financial statement of respective tax year irrespective of the fact that the said tax year is barred by time for the purpose of revision of return or wealth statement. However, no tax credit, allowance or deduction shall be allowed in respect of such assets so incorporated.