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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN
MINISTRY OF LAW AND JUSTICE

Islamabad, the 15th May, 2019

No. F. 2 (1)/2019-Pub.—The following Ordinance promulgated by the President on 14th May, 2019 is hereby published for general information:-

ORDINANCE NO. III OF 2019

AN

ORDINANCE

*to provide for voluntary declaration of undisclosed assets, sales
and expenditure*

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

AND WHEREAS it is expedient to make provisions for declaration of such assets, sales and expenditure for the purposes hereinafter appearing;

(63)

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AND WHEREAS it is expedient to—

- (a) allow the non-documented economy's inclusion in the taxation system; and
- (b) serve the purpose of economic revival and growth by encouraging a tax compliant economy;

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 the 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 all domestic and foreign assets of every kind;
- (b) “Board” shall have the same meaning as defined in clause (8) of section 2 of the Income Tax Ordinance, 2001 (XLIX of 2001);
- (c) “court of law” means a High Court or Supreme Court of Pakistan;
- (d) “declarant” means a person making a declaration under section 5;
- (e) “holder of public office” means a person as defined in the Voluntary Declaration of Domestic Assets Act, 2018 or his benamidar as defined in the *Benami* Transactions (Prohibition) Act, 2017 (V of 2017) or their spouses and dependents;
- (f) “undisclosed assets” includes benami assets as defined in the *Benami* Transactions (Prohibition) Act, 2017 (V of 2017) and any assets the value of which has been unreported, under-reported or understated;

- (g) “undisclosed expenditure” means any unexplained or unaccounted expenditure under the provisions of the Income Tax Ordinance, 2001 (XLIX of 2001) up to the tax year 2018, which has not been declared in the return of income or for which a return of income has not been filed and such expenditure is not accounted for;
- (h) “undisclosed sales” means sales or supplies chargeable to sales tax or federal excise duty under the Sales Tax Act, 1990 or the Federal Excise Act, 2005, respectively, which were not declared or have been under-declared up to 30th June, 2018.

(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. **Declaration of undisclosed assets, sales and expenditure.**—Subject to the provisions of this Ordinance, any person may make, on or before 30th June, 2019, a declaration only in respect of any—

- (a) undisclosed assets, held in Pakistan and abroad, acquired up to 30th June, 2018;
- (b) undisclosed sales made up to 30th June, 2018.
- (c) undisclosed expenditure incurred up to 30th June, 2018; or
- (d) *benami* assets acquired or held on or before the date of declaration;

Explanation.— It is clarified that the benefit under this Ordinance shall also be available where—

- (a) any proceedings have been initiated or are pending or where any income has been assessed under the Income Tax Ordinance, 2001 (XLIX of 2001), which are relatable to undisclosed assets or expenditure except where the matter has attained finality;
- (b) any proceedings have been initiated or are pending or have been adjudicated under the Sales Tax Act, 1990, or the Federal Excise Act, 2005, which are relatable to any undisclosed sales or supplies except where the matter has attained finality.

4. **Charge of tax and default surcharge.**—(1) The undisclosed assets shall be chargeable to tax and default surcharge at the value mentioned in section 5 and at the rates specified in the Schedule to this Ordinance.

(2) The undisclosed sales and expenditure shall be chargeable to tax and default surcharge at the rates specified in the Schedule to this Ordinance.

5. **Value of Assets.**—Value of assets,—

(a) in case of domestic immovable properties shall be the price not less than—

(i) 150% of the FBR value notified under sub-section (4) of section 68 of the Income Tax Ordinance, 2001 (XLIX of 2001); or

(ii) 150% of the DC value, where FBR value has not been notified or the FBR value is less than the DC value; or

(iii) 150% of FBR value notified under sub-section (4) of section 68 of the Income Tax Ordinance, 2001 (XLIX of 2001) for land and 150% of DC value for constructed property, where FBR value has not been notified for constructed property;

(b) in case of all other assets, shall be the price which the assets would ordinarily fetch on sale in the open market on the date of declaration but in no case shall be less than the cost of acquisition of the asset:

Provided that in case of foreign assets, the fair market value shall be determined at the exchange rate prevalent on the date of declaration.

Explanation.—It is clarified as follows—

(a) in case any declarant has already filed a declaration in respect of any immovable property under the Income Tax Ordinance, 2001, or the Voluntary Declaration of Domestic Assets Act, 2018 and wishes to enhance the declared value of the said immovable

property, he may file a declaration under this Ordinance in terms of the value mentioned in section 5 and above;

- (b) in case a person has already filed a declaration in respect of any immovable property which is in line with section 68 of the Income Tax Ordinance, 2001, or the Voluntary Declaration of Domestic Assets Act, 2018 no further proceedings or action will be initiated against him in view of the provisions of this Ordinance, in particular section 5 thereof.

6. **Time for payment of tax.**—(1) The due date for payment of tax chargeable under this Ordinance shall be on or before 30th June, 2019:

Provided that after the due date under this sub-section, the tax shall be paid on or before the 30th June, 2020 along-with default surcharge at the rates given in clause (2) of the Schedule to this Ordinance.

(2) The tax in respect of foreign assets or foreign currency held in Pakistan shall be paid in foreign currency according to the procedure prescribed by the State Bank of Pakistan, in the mode and manner provided in section 9.

(3) If a person fails to pay tax and default surcharge according to this section, the declaration made shall be void and shall be deemed to have never been made under this Ordinance.

(4) Notwithstanding the provisions of clause (g) of section 11, in case of outstanding demand at the time of filing of declaration, the declarant may pay the amount of such tax determined by the Officer of Inland Revenue, under the provisions of the Sales Tax Act, 1990 or the Income Tax Ordinance, 2001 (XLIX of 2001), or the Federal Excise Act, 2005, without payment of default surcharge and penalty.

7. **Incorporation in books of account.**—(1) Where a declarant has paid tax under section 6 in respect of undisclosed assets, sales and expenditure the declarant shall be entitled to incorporate such assets, sales or expenditure in his return, wealth statement or financial statement irrespective of the fact that the asset, sales or expenditure were relatable to a year which is barred by time for the purpose of revision of return of income or wealth statement, as the case may be.

(2) No allowance, credit or deduction under any law for the time being in force shall be available for assets so incorporated.

8. **Conditions for declaration.**—The declaration made shall be valid if—

- (a) cash held by the declarant is deposited into a bank account in the manner specified at the time of declaration and is retained in such bank account up to the 30th June, 2019; or
- (b) the foreign currency held in Pakistan declared under section 3 is deposited into declarant's own foreign currency bank account at the time of declaration and is retained in such account till 30th June, 2019; or
- (c) the repatriated foreign liquid asset is 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; or
- (d) foreign liquid assets not repatriated to Pakistan shall be deposited in declarant's foreign bank account on or before the 30th June, 2019.

9. **Mode and manner of repatriation of assets held outside Pakistan and payment of tax thereon.**—The State Bank of Pakistan shall notify the mode and manner of—

- (a) repatriation of assets to Pakistan;
- (b) deposit of tax in foreign currency through State Bank of Pakistan; and
- (c) method of conversion of value of assets held outside Pakistan in Pak rupees.

10. **Tax paid not refundable.**—Any amount of tax or default surcharge paid under the provisions of this Ordinance shall not be refundable.

11. **Ordinance not to apply to certain persons, assets or proceedings.**—The provisions of this Ordinance shall not apply to—

- (a) holders of public office;
- (b) a public company as defined under clause (47) of section 2 of the Income Tax Ordinance, 2001;

- (c) any proceeds or assets that are involved in or derived from the commission of a criminal offence;
- (d) gold and precious stones;
- (e) bearer prize bonds;
- (f) bearer securities, shares, certificates, bonds or any other bearer assets; or
- (g) proceedings pending in any court of law.

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 this Ordinance shall be admissible in evidence against the declarant for the purpose of any proceedings relating to imposition of penalty or adverse action or for the purposes of prosecution under any law.

13. **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.

14. **Confidentiality.**—(1) Notwithstanding any other law for the time being in force including the Right of Access to Information Act, 2017 (XXXIV) and sub-section (3) of section 216 of the Income Tax Ordinance, 2001 (XLIX of 2001), except the provisions of clauses (a) and (g) of sub-section (3) of section 216 of the Income Tax Ordinance, 2001 (XLIX of 2001), particulars of any person making a declaration under this Ordinance or any information received in any declaration made under this Ordinance shall be confidential.

15. **Power to make rules.**—The Board may by notification in the official Gazette make rules for carrying out the purposes of this Ordinance including the manner, procedure, payment of tax and conditions under which the declaration under this Ordinance shall be filed.

16. **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.

17. **Removal of difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Federal Government may, by notification in the official Gazette, remove such difficulty as is inconsistent with the provisions of this Ordinance.

THE SCHEDULE*[see section 4]***RATES OF TAX**

(1) The rates of tax imposed on undisclosed assets, sales and expenditures shall be as specified in the following Table, namely:—

Table

S. No.	Undisclosed assets, sales or expenditure	Rate of tax
(1)	(2)	(3)
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%

Rates of Default Surcharge

(2) The amount of tax under clause (1) of the Schedule shall be increased by a default surcharge by amount percentage as specified in the following Table, namely:—

Table

S. No.	Time of payment of tax	Rate of default surcharge
1.	If the tax is paid after the 30th June, 2019 and on or before the 30th September, 2019	10% of the tax amount
2.	If the tax is paid after the 30th September, 2019 and on or before the 31st December, 2019	20% of the tax amount
3.	If the tax is paid after the 31st December, 2019 and on or before the 31st March, 2020	30% of the tax amount
4.	If the tax is paid after the 31st March, 2020 and on or before the 30th June, 2020	40% of the tax amount

DR. ARIF ALVI,
President.

Justice (R),
ABDUL SHAKOOR PARACHA.
Secretary.