

Declarants of foreign liquid assets, Law spells out what is mandatory

ISLAMABAD: The Assets Declaration Ordinance 2019 has made it mandatory for the declarant of foreign liquid assets that repatriated foreign liquid asset is deposited into his 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. The fair market value of foreign assets shall be determined at the exchange rate prevalent on the date of declaration under the Assets Declaration Ordinance 2019.

According to the Assets Declaration Ordinance 2019, issued here on Wednesday, under the conditions for declarations, the declaration made shall be valid if 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 June 30, 2019; or the foreign currency held in Pakistan declared is deposited into declarant's own foreign currency bank account at the time of declaration and is retained in such account till June 30, 2019; or 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 foreign liquid assets not repatriated to Pakistan shall be deposited in declarant's foreign bank account on or before the 30th June, 2019.

According to the Assets Declaration Ordinance 2019, the rates of tax imposed on undisclosed assets, sales and expenditures shall be as specified: Rate of tax would be 4 percent on all assets except domestic immovable properties; rate of tax would be 1.5 percent on domestic immovable properties; rates of tax would be 6 percent on foreign liquid assets not repatriated; rate of tax would be 4 percent on unexplained expenditure and rate of tax would be 2 percent on undisclosed sales.

The amount of tax shall be increased by default surcharge by amount percentage as specified: If the tax is paid after June 30, 2019 and on or before September 30, 2019, the rate of default surcharge would be 10 percent of the tax amount. If the tax is paid after September 30, 2019 and on or before December 31, 2019, the rate of default surcharge would be 20 percent of the tax amount. If the tax is paid after December 31, 2019 and on or before March 31, 2020, the rate of default surcharge would be 30 percent of the tax amount and if the tax is paid after March 31, 2020 and on or before June 30, 2020, the rate of default surcharge would be 40 percent of the tax amount.

Under the ordinance, the value of domestic immovable properties shall be the price not less than 150 percent of the FBR notified value; 150% of the DC value, where FBR value has not been notified or the FBR value is less than the DC value; or 150% of FBR value notified under sub-section (4) of section 68 of the Income Tax Ordinance, 2001 for land and 150% of DC value for constructed property, where FBR value has not been notified for constructed property. In case of all other assets, the value 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.

Under the Assets Declaration Ordinance, 2019, any person may make, on or before 30th June 2019, a declaration only in respect of any undisclosed assets, held in Pakistan and abroad, acquired up to

30th June 2018; undisclosed sales made up to 30th June 2018; undisclosed expenditure incurred up to 30th June, 2018 or benami assets acquired or held on or before the date of declaration.

It is clarified that the benefit under this Ordinance shall also be available where any proceedings have been initiated or are pending or where any income has been assessed under the Income Tax Ordinance, 2001, which are relatable to undisclosed assets or expenditure except where the matter has attained finality; 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.

Charge of tax and default surcharge: 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.

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

The due date for payment of tax chargeable under this Ordinance shall be on or before June 30, 2019.

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

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. 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.

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, or the Federal Excise Act, 2005, without payment of default surcharge and penalty. **Incorporation in books of account:** 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.

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

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 repatriation of assets to Pakistan; deposit of tax in foreign currency through State Bank of Pakistan and method of conversion of value of assets held outside Pakistan in Pak rupees.

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

The provisions of this Ordinance shall not apply to holders of public office; a public company as defined under clause (47) of section 2 of the Income Tax Ordinance, 2001; any proceeds or assets that are involved in or derived from the commission of a criminal offence; gold and precious stones;

bearer prize bonds; bearer securities, shares, certificates, bonds or any other bearer assets; or proceedings pending in any court of law.

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.

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.

Confidentiality: (1) Notwithstanding any other law for the time being in force including the Right of Access to Information Act, 2017 and sub-section (3) of section 216 of the Income Tax Ordinance, 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.

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.

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.

Removal of difficulties: 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.

RECORDER REPORT