

FOREIGN ASSETS (DECLARATION AND REPATRIATION)

ACT, 2018

CONTENTS

Short title and commencement

Definitions

Act to override other laws

Application

Declaration and repatriation of assets held outside Pakistan

Period of applicability

Charge of tax

Payment of tax

Currency and rate of conversion

Mode and manner

Incorporation in books of account

Investment in Government securities

Confidentiality

Declaration not admissible in evidence

Removal of difficulty

Misrepresentation

Page 1 of 9

FOREIGN ASSETS (DECLARATION AND REPATRIATION) ACT, 2018

[22nd May, 2018]

Act No. XXX

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;

(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

(h)

notes,

government bonds, deposit certificates and other similar

instruments; and

“holder of public office” means a person who is or has been, during the preceding ten years,—

(i)

(ai)

(iii)

(iv)

(v)

the President of the Islamic Republic of Pakistan or the Governor of a Province;

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;

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;

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;

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,

(vi)

(vii)

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;

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

a District Nazim or District NaibNazim, Tehsil Nazim or Tehsil NaibNazim or UnionNazim 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)

(b)

all citizens of Pakistan wherever they may be, except holders of public office, their spouses and dependent children; and

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.

(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)

dd) (2) (3)

1. Liquid assets not repatriated 5%

Immovable assets outside Pakistan 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} 2%
on maturity in equivalent Rupees

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 sub-section (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 sub-section (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.

Schedule
Form A

DECLARATION UNDER SECTION 5

IFULL NAME

ICNIC*

INTN (if available

~V~

[ADDRESS

JTELEPHONE NUMBER:

Email:

FOREIGN ASSETS

S.No.

Nature of assets

Amount in
Rupees

Tax Rate

Tax in Pak Rupees

[Liquid assets not repatriated

5%

Immovable assets outside
Pakistan

3%

[Liquid assets repatriated
land 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 Data

Registration Authority.

Page 7 of 9

base and

DESCRIPTION OF ASSETS

[see section 5(4)]

|A. Liquid assets not repatriated

1. Foreign currency

Bank name and bank A/c 1

Bank name and bank A/c 2

Bank name and bank A/c 3

Bank account details Bank name and bank A/c 4

Bank name and bank A/c 5

2. Other liquid assets (securities, stocks, promissory notes, Government bonds, deposit certificates and other similar instruments, etc.)

1.

2.

5.

6.

|B. IMMOVABLE PROPERTY (Jurisdiction, address and size)

1.

2.

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

Page 9 of 9