

FREQUENTLY ASKED QUESTIONS

1. Who can avail this scheme?

Any person can avail the scheme and make declaration, except the following:

- (a) A person who is or has been holder of public office, their spouses and dependents; his or her benamidar;
- (b) A public company as provided in Income Tax Ordinance, 2001.

2. Who is holder of a public office?

A holder of a public office is a person who is or has been, during the preceding ten years commencing from the 22nd May, 2018—

- (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: Provided that a member of the Board, not actively engaged in the business and day-to-day affairs of the said corporations,

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;

- (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 NaibNazim, Tehsil Nazim or Tehsil NaibNazim or UnionNazim or Union NaibNazim.

3. Whether undisclosed income can be declared?

Assets Declaration Ordinance, 2019 is primarily for the purpose of declaration of undisclosed assets as reflected in the tax year 2018. Income up to the tax year 2018 will be reflected either as undisclosed asset or undisclosed expenditure. Any income subsequent to tax year 2018 is not covered under the scheme.

4. What kinds of assets can be declared?

Any undisclosed assets can be declared except the following:

- (a) Any proceeds or assets that are involved in or derived from the commission of a criminal offence;
- (b) Gold and precious stones;
- (c) Bearer prize bonds;
- (d) Bearer securities, shares, certificates, bonds or any other bearer assets.
- (e) Any undisclosed assets / undisclosed expenditures on which proceedings are pending in High Court or Supreme Court;
- (f) Cash in hand (local or foreign) except that which is deposited in the bank account in the manner laid down in the scheme.

5. Whether jewelry made up of Gold, precious stones and metals can be declared?

No. Jewelry made up of gold, precious stones and metals in any shape cannot be declared.

6. My name appears in Panama and Paradise Leaks and I have undisclosed offshore

assets. I am not a public office holder as defined in the scheme and the assets are not involved in or derived from the commission of a criminal offence. Can I declare such assets under the scheme?

Yes.

7. I wish to declare undisclosed sales. Can I incorporate assets or expenditures resulting from declaration of such undisclosed sales in the wealth statement or the financial statement?

(1) The scheme envisages benefit for the undisclosed assets or undisclosed expenditures and tax at the rates prescribed under the Ordinance has to be paid on such assets or expenditures.

(2) There is an additional benefit that undisclosed sales which are liable to standard tax rate under the Sales Tax Act, 1990 or the Federal Excise Act, 2005, can be declared at the reduced rate of 2% under the scheme. The undisclosed assets or undisclosed expenditures created out of such sales are required to be declared as referred above in (1).

Illustration

(1)	Undisclosed Sales	= Rs. 1,000	
	Tax @ 2%		= Rs. 20
(2)	Undisclosed Assets / expenditures out of the undisclosed sales as referred above		
	Undisclosed assets	= Rs. 500	
	Undisclosed expenditure	= <u>Rs. 100</u>	
		= Rs. 600	
	Tax @ 4% on Rs. 600		= <u>Rs. 24</u>
	Total Tax under the scheme		= Rs. 44

8. Where taxes were paid under the Voluntary Declaration of Domestic Assets Act, 2018 but declaration could not be filed within the due date i.e. 31st July, 2018, whether can take credit of those taxes paid for declaration of assets under this scheme?

No. Credit of taxes paid under the Voluntary Declaration of Assets Act, 2018 cannot be taken under this scheme. As explained in Circular No. 07 of 2018 dated the 24th October, 2018 such taxes were adjustable against a person's normal tax liability for the tax year and necessary correction in CPR was required for this.

9. What is the last date of declaration?

The last date of declaration is the 30th June, 2019.

10. Can declaration be made without payment of tax?

Yes. Declaration and payment of tax has to be made by the 30th June, 2019. In case if no payment is made by the 30th June, 2019, then default surcharge shall be charged for payments made after the 30 June, 2019.

11. Can tax be paid in installments?

Yes. Tax can be paid in installments subject to default surcharge.

12. A person owns shares of a non-resident company having assets in Pakistan. Can he declare such shares?

Yes.

13. Whether bearer shares can be declared under the scheme?

No. bearer shares cannot be declared under the scheme.

14. A person owns shares of a non-resident company having assets in Pakistan. Will the shares be treated as local asset or foreign asset?

Shares of a non-resident company shall be foreign assets.

15. I have filed a declaration on 15th June, 2019, declaring a foreign asset. Now I want to revise the said declaration. Can I revise the declaration of the said foreign asset?

Yes. However, the revised value cannot be less than the original declared value and tax shall be paid on the revised value.

16. Can a person during audit proceedings under ITO, avail this facility of scheme?

Yes, a person may opt for the scheme during audit proceedings to the extent of addition in income related to undisclosed assets or undisclosed expenditure.

17. Where a tax demand has been raised in assessment under section 122 relating to undisclosed assets or expenditure and the taxpayer is in appeal before the Commissioner IR (Appeals). Can he file declaration under the scheme?

Yes, he can file declaration.

18. Where a tax demand has been raised in assessment under section 122 relating to undisclosed assets or expenditure and the taxpayer is in appeal before the Appellate Tribunal. Can he file declaration under the scheme?

Yes, he can file declaration.

19. What will be the consequences if we do not avail the scheme?

(1) Confiscation of 'Benami Assets' under the Benami Transactions (Prohibition) Act, 2017 plus seven year imprisonment

(2) All proceedings envisaged under the Income Tax Ordinance, 2001, which inter alia includes

- (a) tax at full rate
- (b) penalty @ 100%
- (c) imprisonment up to five years

20. If someone has filed declaration but wished to revise his declaration up to the 30th June 2018? Can he revise his declaration?

Yes, he can revise his declaration but he cannot decrease the value of undisclosed assets or tax liability already declared. He also has to file revised return and revised financial statement for tax year 2018 also which shall be filed along with declaration.

21. What is meant by fair market value with respect to foreign assets?

The fair market value has been defined in section 5 of the Ordinance as the price which the assets would ordinarily fetch on sale in the open market but in no case shall be less than the cost of acquisition.

22. At what value the local immovable property will be declared by resident person?

- (a) In case of open plots, the local immovable property shall be declared at the higher of cost of acquisition or 150% FBR value or 150% of DC value.
- (b) In case of constructed immovable property, it shall be declared at the value as in (a) PLUS 150% of DC value for constructed property if FBR value for constructed property has not been notified.
- (c) If FBR value has been provided for constructed property, the value shall be

declared at the higher of cost of acquisition of constructed property or 150% of FBR value or 150% of DC value.

23. I have an undisclosed open plot, cost of acquisition of which is Rs. 10 million, however, the FBR value is Rs. 7.5 million and DC value is Rs. 7 million. At what value the plot will be declared as per the Ordinance?

The plot shall be declared at 150% of FBR value which will be equal to Rs. 11.25 million.

24. I have an undisclosed open plot, cost of acquisition of which is Rs. 10 million, however, the FBR value is Rs. 7.5 million and DC value is Rs. 8 million. At what value the plot will be declared as per the Ordinance?

The plot shall be declared at 150% of DC value being higher than FBR value. It shall be declared at Rs. 12 million.

25. I have an undisclosed open plot, cost of acquisition of which is Rs. 50 million, however, the FBR value is Rs. 10 million and DC value is Rs. 9 million. At what value the plot will be declared as per the Ordinance?

If the cost of acquisition has been disclosed, then there is no case for declaration. However, if cost of acquisition at Rs. 50 million has not been disclosed and the declarant intends to declare it at Rs. 50 million, that would be the appropriate method. The values prescribed in the scheme are the minimum values.

26. I purchased open plot in 2016 which is undisclosed at the time when FBR issued values of immovable properties for the first time. Should I declare this open at FBR value prevailing in 2016 or existing FBR value?

The open plot has to be declared at existing FBR value or cost of acquisition, whichever is higher.

27. I have an undisclosed constructed property. Its cost of acquisition for open plot was Rs. 8 million. Cost of construction was Rs. 2.5 million. FBR value for open plot is Rs. 6 million, DC value for open plot is Rs. 4 million, DC value for construction is Rs. 1,000 per square foot, constructed area of my property is 5000 square foot and there is no FBR value for constructed property. What would be value of my constructed property to declare under the scheme?

In this case,

value of open plot shall be 150% of FBR value	= 9 million
Plus value for construction being 150% of DC value	= 7.5 million

Value of constructed property for declaration under the scheme = 16.5 million

28. I have an undisclosed constructed property. Its cost of acquisition for open plot was Rs. 40 million. Cost of construction was Rs. 20 million. FBR value for open plot is Rs. 6 million, DC value for open plot is Rs. 4 million, DC value for construction is Rs. 1,000 per square foot, constructed area of my property is 5000 square foot and there is no FBR value for constructed property. What would be value of my constructed property to declare under the scheme?

In this case,

Value of open plot being cost of acquisition = 40 million

Plus value for construction being cost of construction = 20 million

Value of constructed property for declaration under the scheme = 60 million

29. I want to declare my foreign assets in the scheme and pay tax. Will my future earnings from these assets be exempted too?

Under the income tax law in Pakistan, world income of a person is taxable in Pakistan subject to the condition that the person is tax resident in Pakistan.

30. In case of undisclosed account, what will be the treatment in following cases

(a) There is a balance of Rs. 1,000,000 on 30th June 2018 and there is no transaction in the bank thereafter

(b) There is a balance of Rs. 1,000,000 on 30th June 2018 and thereafter, there are credits of Rs. 300,000 and debits of Rs. 500,000.

(c) There is a balance of Rs. 1,000,000 on 30th June 2018 and thereafter, the account was closed on 31st January 2019

The balances held in the accounts on the 30th June, 2018 will be declared.

However, the transactions carried out in the accounts will also obtain benefit under the scheme if resultant assets or expenditures out of these transactions are also declared under the scheme.

31. Who is a non-resident individual?

As per section 82 of the ITO, an individual shall be a resident for a tax year if he is present in Pakistan for a period in aggregate amounting to 183 days or more in that tax year.

32. Whether a non-resident individual is required to file return of income?

Yes, for Pakistan-source income. For certain other conditions which are provided in section 114 of the Income Tax Ordinance, 2001.

33. A non-resident person owns immovable property only in Pakistan. Is he required to file return?

As per section 115(3)(d) of ITO, a non-resident person is not required to file return of income solely due to the reason that he owns immovable property.

34. Whether a non-resident person is required to file wealth statement?

As per section 116 of ITO, a non-resident individual is not required to file wealth statement. However, the commissioner may issue notice to a non-resident person to file wealth statement. In such a case, the non-resident individual will be required to file wealth statement.

35. Are non-resident persons covered under the scheme?

Yes. As per section 3 of the Ordinance, every person is eligible to opt for the scheme and make declaration, except the following:

- (1) Holders of public office, their spouses, dependents and benamidars;
- (2) A public company as provided in Income Tax Ordinance, 2001;

36. Which assets of non-resident persons are covered under the scheme?

All undisclosed assets / undisclosed expenditures chargeable to tax in Pakistan.

37. Can a non-resident person revise his wealth statement?

Yes. A non-resident person may revise his wealth statement if he has filed the same earlier at any time before the receipt of notice under sub-section (9) of section 122 of the ITO, 2001.

38. In what currency the tax is required to be paid by non-resident person on declaration of local assets?

Tax is required to be paid in Pak Rupees in case of local assets.

39. At what value the foreign assets will be declared by resident person?

As per section 5 of the Ordinance, the value of foreign asset shall be the fair market value, but it should not be less than the cost of acquisition. Such value shall be determined at the exchange

rate prevalent on the date of declaration.

40. Whether an individual resident in Pakistan can declare his/her foreign assets under the scheme?

Yes. An individual can declare his foreign assets.

41. Whether an AOP/company can declare their domestic assets under the scheme?

All AOPs and companies are eligible to file declaration except a company as defined in the Income Tax Ordinance, 2001.

42. Whether an AOP or company can declare their foreign assets under the scheme?

Yes. An AOP or a company excluding a public company as defined in the Income Tax Ordinance, 2001, can declare their foreign assets under the Ordinance.

43. Is there any possibility of enhancing the declared value of immovable property?

Answer: Yes. Any declarant can enhance by paying the tax as prescribed under the Act on the difference of declared and enhanced value.

44. I have declared an undisclosed asset being immovable property in the Voluntary Declaration of Domestic Assets Act, 2018 at FBR value. However, the cost of acquisition of that asset was higher than FBR value; hence that asset was under-reported. Can I declare the under-reported part of that asset under this scheme and pay tax?

Answer: Yes.