

FREQUENTLY ASKED QUESTIONS (FAQS)

(Construction Package)

1. How can I get copy of the fixed tax scheme for the construction sector?

Answer: You can access and download copy of the fixed tax scheme for the construction sector from the FBR website at <http://download1.fbr.gov.pk/Docs/2020731075425133GazetteofTheFinanceAct2020.pdf?>

2. How can I get my project registered with the FBR for availing the fixed tax scheme for the construction sector?

Answer: Registration form for availing the scheme will have to be filed online. If you have an Iris login, then please use your IRIS login and password to enter into the Iris application. After logging in, on the left upper corner of your window, click Registration and select Builder / Developer. For this purpose, FBR has prepared a detailed "User Guide for step by step registration" and "video tutorial for registration" which, among other things, explains how to register a project. User Guide is available at <http://download1.fbr.gov.pk/Docs/20207181472055685StepbyStepGuideforRegistrationasBuilder&Developer-Updated.pdf>

If you do not have any Iris login, please go to <https://iris.fbr.gov.pk/public/txplogin.xhtml> and Click "Registration for Unregistered Person" and then follow the aforementioned guide through your Iris login.

3. Can I avail fixed tax scheme for the construction sector without registering with the FBR?

Answer: No. For availing the scheme, you shall have to register with the FBR's online portal. Please refer to the User Guide and register at <https://iris.fbr.gov.pk/public/txplogin.xhtml>.

4. Who is eligible to avail fixed tax scheme for the construction sector? Please elaborate its scope.

Answer: The fixed tax scheme is applicable to builders and developers, who opt for the scheme by registering their project(s) with FBR. The term "Builder" means a person who is registered as a builder with the Board and is engaged in the construction and disposal of residential and commercial buildings. The term "Developer" means a person who is registered as a developer with the Board and is engaged in the development of land in the form of plots of any kind either for itself or otherwise.

Builders and developers eligible for this fixed tax scheme include individuals, a company or an Association of Persons.

5. Whether only new projects can be registered with FBR or does the fixed tax scheme cater for existing projects as well?

Answer: The Fixed tax scheme encompasses a new project as well as an incomplete existing project subject to completion of such projects by 30th September, 2023.

6. Which project will be considered as a new project?

Answer: A 'new project' means a construction or development project, which commences during the period starting from 17.04.2020 till 31.12.2021 and is completed on or before 30.09.2023.

7. Which project will be considered as an existing project?

Answer: An 'Existing project' means an incomplete construction or development project, which has commenced before 17.04.2020, is completed on or before 30.09.2023 and a declaration is provided in the registration form with regard to the percentage of completion of the project upto the last day of the accounting period pertaining to Tax Year 2019 or Tax Year 2020 at the option of taxpayer.

8. How will the tax payable by builders and developers registered under the fixed tax scheme be determined?

Answer: The tax payable by builders and developers on their income, profits and gains emanating from the sale of buildings or plots shall be determined on a project by project basis on the basis of specified rates per square foot/per square yard for commercial and residential buildings and commercial, residential and industrial plots.

9. Which rate of fixed tax shall apply if the project is meant for both residential and commercial purposes?

Answer: In the case of buildings having dual usage i.e. both commercial and residential the respective rates specified for each category shall apply. Moreover, in case the development of plots and construction of buildings upon the same constitutes a single project, the respective rates for developers and builders shall both apply.

10. Will the rate of tax be same for projects undertaken by Naya Pakistan Housing and Development Authority or under the Ehsaas Programme?

Answer: Fixed tax shall be reduced by 90% in the case of low cost housing developed or approved by the Naya Pakistan Housing and Development Authority or under the Ehsaas Programme.

11. Are builders and developers opting for the scheme required to withhold tax on payments?

Answer: Builders and developers opting for the proposed scheme are not required to withhold income tax on the purchase of building material except steel and cement. Moreover, they are not required to withhold tax on services of plumbing, electrification, shuttering and other similar services other than those provided by companies.

12. Whether builders and developers opting for the scheme are required to explain their source of investment?

Answer: The scheme provides immunity from the provisions of section 111 of the Ordinance, and no questions will be asked regarding nature and source of funds from investors making capital investment in NEW construction projects in the form of money or land, either as an individual, as an association of persons or a company, subject to the conditions as explained below:-

Type of Investor	Investment Mode	Conditions
Individual	Monetary	Investor shall open a new bank account and deposit such amount in it on or before 30.06.2021
	Land	Investor shall have the ownership title of the land as on 17.04.2020
Corporate shareholder / Partner of a single object company or partnership formed after 17.04.2020	Monetary	Such amount shall be invested through a crossed banking instrument deposited in the bank account of such association of persons or company, as the case may be, on or before 30.06.2021
	Land	Land owned by a partner or shareholder as on 17.04.2020 shall be transferred to such association of persons or company, as the case may be, on or before 30.06.2021.

13. Is there any incentive for the purchaser in terms of requirement to explain source of funds?

Answer: Yes, the first purchaser of a building or a unit in the building is not required to explain the source of funds used for purchase from a project registered with FBR under this scheme if the complete payment is made before 30.09.2022 and is made through banking channels.

Similarly, the source of funds will not be inquired into from a person who intends to construct a building if a plot is purchased by 30.06.2021, the payment is made by 30.06.2021 through banking channels, the construction is commenced on or before 31.12.2021, the person registers himself with FBR and completes construction on such plot by 30.09.2023.

14. One of the requirements for availing the scheme is completion of Project (both new and existing projects) by 30th day of September, 2023. When will the project be treated as complete for the purposes of this scheme?

Answer:

In case of a builder, the project shall be treated as complete on the date of completion of the grey structure. Moreover, the roof of the top floor has been laid as per the approved plan. Furthermore, the map approving authority or NESPAK shall certify that the grey structure as per the approved map has been completed by the builder on or before the 30th day of September, 2023.

In the case of a developer, the project shall be treated as complete on the date on which the following conditions have been fulfilled:-

- at least 50% of the total plots have been booked in the name of the buyers;
- at least 40% of the sale proceeds have been received;
- landscaping has been completed; and
- at least 50% of the roads have been laid up to sub-grade level as certified by the approving authority or NESPAK.

Moreover, the map approving authority or NESPAK shall certify that landscaping has been completed on or before the 30th day of September, 2023 and at least 50% of the roads have been laid up to sub-grade level. A firm of chartered accountants shall certify that at least 50% of the plots have been booked for sale and at least 40% of the sale proceeds have been received by the 30th day of September, 2023.

15. Is there any tax credit allowed against the tax payable under the scheme?

Answer:

Builders and developers opting for the scheme shall only be eligible for availing tax credit for tax collected under section 236A and 236K of the Ordinance from such builders or developers pursuant to the commencement of the Tax Laws (Amendment) Ordinance, 2020 (I of 2020) i.e from 17th April ,2020 onwards on the purchase of immoveable property utilized in a project registered under the scheme.

16. Are deductions allowed for expenditures incurred in deriving income from the projects registered under the tax scheme?

Answer:

No deduction shall be allowed for expenditures incurred in deriving income from projects registered under this fixed tax scheme. Moreover, such income shall not be reduced by any deductible allowance or the set-off of losses and any tax collected or deducted under the Income Tax Ordinance, 2001 shall not be refunded.

17. At what stage shall a project registered under the scheme be considered as commenced for the purpose of the scheme?

Answer:

In the case of a construction project, a project shall be treated as commenced when the layout plan is approved by the concerned authority. In the case of a development project, the project shall be treated as commenced when the development plan is approved by the concerned authority.

18. Which schemes shall fall under the “low cost housing” to avail benefits provided under the construction package?’

Answer:

Any housing scheme as developed or approved by NAPHDA or under the ‘Ehsaas Programme.

19. Will minimum tax under section 113 of the Ordinance be applicable on turnover of a builder or developer from a project registered under the scheme?

Answer:

No. Minimum tax under section 113 of the Ordinance shall not be applicable on turnover of a builder or developer in respect of a project registered under the scheme.

20. How will the value or price of land be determined in respect of capital investment made in the project registered under the scheme in the form in land for availing exemption from investigation into sources of investment?

Answer:

The value or price of land or building, as the case may be, shall be the higher of:—

- (a) 130% of the fair market value as determined by the FBR under sub-section (4) of section 68; or
- (b) at the option of the person making investment, the lower of the values as determined by at least two independent valuers from the list of valuers approved by the State Bank of Pakistan.

21. Is there any requirement of providing details of area of the project?

Answer:

Yes. Every builder or developer is required to obtain and provide to the FBR following details in respect of area of the project -

- total land area in square yards.
- covered area in square feet.
- saleable area in square feet.
- type (commercial, residential or industrial) of saleable area or the total land area, as the case may be.

The aforementioned details are required to be certified from approving authority or map approving authority or NESPAK, as the case may be.

22. What is meant by the term “saleable area” in case of buildings?

Answer:

“saleable area” in case of buildings, means saleable area as determined by the approving authority or map approving authority or NESPAK under the relevant laws.

23. Is there any requirement of paying the tax computed under the scheme in advance or installments?

Answer:

A builder or developer falling under this scheme shall pay advance tax equal to one-fourth of the tax liability for the year as determined under the scheme in four equal installments.

24. Does the scheme allow incorporation of profits and gains accruing from such projects?

Answer:

A builder or developer opting for taxation under section 100D shall be allowed to incorporate profits and gains accruing from such projects upto ten times of the tax paid under the scheme. Any profits or gains in excess of 10 times shall be taxable as income from business under normal law.

25. Do the fixed tax rates under the scheme vary from city to city?

Answer:

Yes. There are separate fixed tax rates for big cities and small cities. The cities are divided as under for taxation under the scheme:-

Rate in respect of			
(1)	(2)	(3)	(4)
Area in	Karachi, Lahore and Islamabad	Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbottabad, Quetta	Urban Areas not specified in columns (1) and(2)

<u>TAX ON BUILDERS</u> FOR COMMERCIAL BUILDINGS			
Sq. Ft.	-	-	-
Any size	Rs. 250 per Sq. ft	Rs. 230 per Sq. ft	Rs. 210 per sq. ft
<u>FOR RESIDENTIAL BUILDINGS</u>			
Sq. ft.	-	-	-
Upto 3000	Rs. 80 per Sq. ft	Rs. 65 per Sq. ft	Rs. 50 per Sq. ft
3000 and above	Rs. 125 per Sq. ft	Rs. 110 per Sq. ft	Rs. 100 per Sq. ft
<u>TAX ON DEVELOPERS (ENTIRE PROJECT)</u>			
Sq. Yds.	-	-	-
Any Size	Rs. 150 per Sq. yd	Rs. 130 per Sq. yd	Rs. 100 per Sq. yd
<u>FOR DEVELOPMENT OF INDUSTRIAL AREA</u>			
Sq. Yds.	-	-	-
Any size	Rs. 20 per Sq. yd	Rs. 20 per Sq. yd	Rs. 10 per Sq. yd

26. What are the rates for Commercial buildings in big cities?

Answer:

The rate of fixed tax under the scheme for commercial buildings in Karachi, Lahore and Islamabad is Rs.250 per Sq. ft.

27. What are the rates for Residential buildings in big cities?

Answer:

The rate of fixed tax under the scheme for commercial buildings in Karachi, Lahore, Islamabad is as under :-

upto 3000	Rs.80 per Sq. ft
3000 and above	Rs.125 per Sq. ft

28. What are the rates for developers in big cities?

Answer:

The rate of fixed tax under the scheme for commercial buildings in Karachi, Lahore and Islamabad is Rs.150 per Sq. yd for entire project.

29. Is it essential for title of land to be transferred to the builder / developer even in case the project is on government land or is being done under NAPHDA?

Answer:

It is essential for the builder / developer to have ownership of the immovable property developed or constructed by him in the project.

30. Will tax under section 236C be collected on sale of immovable property by the builder or developer from these projects?

Answer:

All applicable withholding taxes shall remain liable to collection / deduction. However, the builder / developer is not entitled to adjust or claim refund of such taxes except tax u/s 236A or 236K

31. Will dividend income received in lieu of income subject to normal tax i.e. income from a project which is in excess of ten times of the tax paid under the fixed tax scheme also be exempt from tax?

Answer:

Dividend income paid out of the profits and gains from a project is exempt from tax.

32. Will Sales Tax be leviable on construction services?

Answer:

Construction services are presently zero rated in Islamabad Capital Territory with certain exceptions in view of SRO 326(1)/2020 dated 27.04.2020.

33. The scheme gives various deadlines for completion of project by developer / builder. Would a purchaser of plot or a house unit be entitled to immunity from probe regarding sources of funds if the project is rendered disentitled for the benefit of scheme because of not meeting target datelines for completion of project?

Answer:

The law does not provide a clear answer to this question. FBR feels that the purchaser of plot/housing unit cannot be penalized for the fault of builder/ developer

34. I have an existing project which I initiated in Tax Year 2020. I am not being able to enter my percentage of completion as Zero in the registration form.

Answer:

This issue has been resolved by the IT wing of FBR.

35. What is the definition of “Transfer of Land” under amnesty?

Answer:

Transfer of land has the same meaning as in The Transfer of Property Act, 1882 which governs all transfers of immovable property.

36. Whether this “Transfer” is to be registered in land record? If yes, cost of transfer of land will be calculated on what value?

Answer:

Such transfer is required to be registered in the land records under the respective laws of the Provincial Land Record Authorities. The cost of such transfer for the purpose of Income Tax Ordinance, 2001 shall be Higher of

- a. 130% of the fair market value as determined by the Board under sub- section (4) of Section 68; or
- b. at the option of the person making investment, the lower of the values as determined by at least two independent valuers from the list of valuers approved by the State Bank of Pakistan.

37. At the time of transfer of land from partner/shareholder to AOP/Company, whether gain U/S 37 of Income Tax Ordinance, 2001 will be calculated and declared by the partner/shareholder?

Answer:

The AOP / Company is a separate legal entity from its partner / shareholder. Transfer of land by a partner / shareholder to an AOP/Company shall be treated as disposal of land to a separate person and capital gain shall be calculated accordingly

38. In case gain is to be calculated and declared by partner/shareholder what value will be considered for calculation of gain U/S 37 of the Ordinance?

Answer:

The value of land for such disposal shall be higher of

- a. 130% of FBR value or
- b. Lower of the two values determined by authorized valuers of SBP

39. In case a "person" gets a project registered and hires services of a contractor being a developer. The same contractor becomes the first purchaser of a specific part of the said project and he wants to start a construction project on that portion. How can he avail benefit under this scheme?

Answer:

The Scheme under construction package is open to all for benefit subject to fulfillment of conditions and timelines given in section 100D of the Ordinance.

40. Land may be invested under this amnesty only if title of land is already in the name of individual/partner/shareholder before April 17, 2020. However, in case a person makes investment in cash "deposited in a new bank account" is he entitled to claim benefit of the scheme in case he purchases a new land from that particular bank account after April 17, 2020 and before December 31, 2020, through proper banking channel, as in this case title will be transferred after April 17, 2020?

Answer:

In such case, the person can only claim exemption from section 111 (probe regarding source of funds) on cash deposited in the bank account.

41. In case investment is made in cash i.e. by opening a new bank account, whether there is a time limit during which funds must be retained in the bank account? If yes, what is the timelines?

Answer:

Such cash can only be withdrawn from the bank account for a business expense of the project at any time.

42. In case no such restriction is imposed under the amnesty, how will authorities ensure that same amount is not being re-deposited in the same bank account again and again in order to claim exemption from provisions of section 111 of the Ordinance?

Answer:

The money deposited can only be wholly utilized for the project and the scheme does not permit withdrawing cash from bank account to deposit the same in another for availing benefit of section 100D.

43. If tax liability on the project completed under this scheme becomes lower than the tax deducted U/S 236A or 236K, the excess tax will be refundable or not?

Answer:

If tax suffered U/S 236A or 236K is more than tax liability under this scheme, no amount of such higher deduction shall be refundable.

44. If a developer has 1000 kanals of land and wants to avail this scheme for only 500 kanals by registering a project for only 500 kanals, is he allowed to do so?

Answer:

As this scheme is an optional scheme for builders and developers and provides for taxation on project by project basis, any developer who wishes to opt this scheme for a part of his total held land and form a project to be offered for tax under this scheme, he is allowed to do so. However, the remaining land if developed by the developer and for same developer does not opt for this scheme for remaining part, same shall be offered for taxation under normal tax regime.

45. If a builder has a piece of land where 20 story building is allowed to be built but currently the layout plan is approved for only 10 stories and builder plans to build 10 stories only, can he opt for this scheme.

Answer:

As this scheme is an optional scheme for builders and developers and provides for taxation on project by project basis, any builder who wishes to opt this scheme for a project, he is allowed avail this scheme if the certificate issued by the map approving authority mentions that the project is planned for covered area of ten stories only. However, any time later, the remaining building if extended beyond ten stories, same shall be offered for taxation under normal tax regime.

46. Is it permissible to change pattern of ownership of a builder or developer before completion of a project under this scheme?

Answer:

Where immunity from provisions of section 111 has been claimed, pattern of ownership can only be changed subject to conditions and restriction contained in rule-8 of the Eleventh Schedule.

47. The law allows existing / incomplete project to become part of tax regime laid down in 11th schedule. The law allows builder / developer to declare percentage of completion as at June 30, 2019 which shall be declared in the registration forms without mention how to compute percentage of completion. Please elaborate how percentage of completion is calculated?

Percentage of completion of a project is calculated by using following formula

$$\text{Percentage of completion} = A/B \times 100$$

Where:

'A' is the cost incurred on project till last day of tax year 2019

'B' is the total estimated cost of completion of the project.

48. If a person intends to remit money to his Pakistan account from his undeclared bank account in a foreign country and invest that money in a construction project in Pakistan, would he be eligible to claim immunity from section 111 under this scheme and would that fall under anti money laundering law?

Answer:

This scheme applies to such cases if and only if the money invested is not a crime money derived from the commission of a criminal offence including the crimes of money laundering, extortion or terror financing. However, if the money is not derived from commission of such criminal offences but had not been earlier offered / declared under the Income Tax Ordinance, 2001, it can be invested under this scheme and shall enjoy immunity from section 111.

49. If overseas Pakistani book a suite / office in Pakistan which is not handed over till September 30, 2023, does he qualify for the incentives of being first buyer provided in scheme? What if tax is already paid by him on his income in USA in last 5 years whether tax exemption will still be available for purchase of property with FC remittance? Whether advance tax @ 1% u/s 236K will be deducted at the time of purchase of property by overseas Pakistani?

Answer:

Yes, overseas Pakistanis also eligible to avail incentives of this scheme as first buyer of newly built units or as builder or developer. If they purchase property as first buyer or invest as builder or developer they can also claim immunity under this scheme from probe of sources of funds under section 111.

If overseas Pakistani being non-residents purchase newly built property in Pakistan and have paid taxes during last five years anywhere in the world, they will not be subject to any further taxes in Pakistan. However, in case they invest in

Pakistan as builder or developer and opt for this scheme they will have to pay fixed tax on their project under this scheme even if they have paid tax during last five years anywhere in the world.

Overseas Pakistanis being non-residents having no Pakistan source income can claim exemption from collection of tax @ 1% under section 236K by filing an application for exemption with the Commissioner having jurisdiction.

50. In case filer is a senior citizen 74 years of age, whether 50 % exemption for senior citizen still be available under this scheme?

Answer:

There is no further reduction in tax liability for Senior Citizens under this scheme.

51. Do residential buildings mentioned in scheme include "house"? Means If a person registers himself as a builder and purchases plot and constructs house and sell it, then will this mechanism also come under this scheme of amnesty?

Answer:

Yes, the definition of building read with definition of unit provided in 11th schedule includes houses. Therefore, this scheme is applicable on houses as well.

52. In definition of "developer" in section 100D(9)(c), what does development for itself or otherwise means? Does 'otherwise' means to include development of land where developer may not have land title and is rendering services for development of land for others?

Answer:

The words 'for itself or otherwise' means that the person may be developing the land for its own purposes/utilization, for usage in subsequent building construction projects or the person may be developing the land for utilization by others but in both cases as per section 100D(1) the scheme shall apply to developers who opts to pay tax under this section on project by project basis on income, profits and gains derived from the sale of plots.

The terms 'for itself or otherwise' caters for the following two situations:

- a. A development society develops plots for provision to its members against their contribution.
- b. A developer, not being development society, develops plots for sale.

Therefore, the person rendering development services as a contractor and not earning income, profits or gains from sale of plots cannot opt to pay tax under this scheme.

53. Is it possible to initiate more than one project through single AOP / Company or every new project require new AOP or Company?

Answer:

An AOP / Company incorporated for the purpose of this scheme may initiate more than one project. However, every project needs separate registration on IRIS portal of FBR through filing of a prescribed form. However, each new project which wants to avail exemption from section 111 u/s 100D(3) will require a new single object company, LLP or AOP

54. In terms of clause (a) of sub-section 3 of section 100D of the Ordinance, incase investment is made by a builder or developer being an individual in the form of money, such builder or developer shall open a new bank account and deposit such amount in it on or before the 31st day of December, 2020.

Answer:

In case of an individual, the person shall first open a new bank account and deposit the amount in it in accordance with section 100D(3)(a). Subsequently, the person shall register the project on IRIS web portal

In case of an AOP, an LLP or a company, the person shall firstly register an AOP, an LLP or a company if desires to do this business as such then will open a new bank account, then will transfer monies in new bank account through banking instrument and at the end shall register as builder / developer on IRIS portal and shall provide details of the transaction on which immunity from provisions of section 111 is claimed.

55. Capital investment is defined in clause (b) of subsection (9) of section 100D. Advance against issue of shares is considered as equity under the accounting standards. Do the word equity used in definition above also include advance against issue of shares?

Answer:

Yes, the word equity covers 'advance against issue of shares'. However, such amounts should be transferred to the new bank account as per requirements of sub-section (3) of the section 100D. However, if advance against equity is not from banking channel, it will be income from other sources u/s 39(3) of the Income Tax Ordinance, 2001.

56. Another critical condition is deposit of funds in bank account of the Company account on 31st December, 2020 to avail amnesty scheme amnesty under section 111 of the Ordinance. Whereas we are aware that such investors will incur a number of costs during the intervening period after registration of land and before FBR registration which should be allowed amnesty too. Some of these costs are as under:

- i. Land or property transfer costs**
- ii. Property status transfer costs**
- iii. Property costs for development of business plans or layouts etc.**
- iv. Property possession acquiring costs**
- v. Property transfers costs for utilities**
- vi. Company registration costs especially capital authorization fee in case of companies, which will be in millions.**
- vii. Etc.**

These associated or ancillary costs incurred during registration of company/AOP till final registration with FBR should also be allowed amnesty under section 111 of the Ordinance, 2001.

Answer:

Such expenses can be paid out of the monies transferred in the new bank account for claim of immunity from provisions of section 111 after registration with FBR. The Iris System allows temporary registration where a project can be registered even before its approval.

57. The Finance Act, 2020 has included builders and developers in the definition of “Industrial undertaking”. What benefits accrue to them by this status?

Answer:

The persons directly involved in the construction of buildings, roads, bridges and other such structures or the development of land have been included in the definition of industrial undertaking with effect from 01.05.2020 vide sub clause (aa) of clause (29C) of Section 2 of the Income Tax Ordinance, 2001. As per law, this inclusion is only to the extent and for the purposes of import of plant and machinery to be utilized in the activities aforementioned. The person directly involved in the construction of buildings, roads, bridges or other such structures or the development of land can import plant and machinery (capital goods) for the aforementioned purposes at the rate of 1%, if classified in Part I of twelfth schedule to the Ordinance. This tax is adjustable against the tax payable for builders and developers. However, the credit of this tax is not available to persons opting for fixed tax regime under section 100D of the Ordinance.

58. According to section 100D (2)(d) no credit of tax except 236K would be allowed. Cases where plots have been purchased in auction, tax u/s 236A is payable and not under 236K. Is credit of tax paid u/s 236A on auctions of plots allowed?

Answer:

Credit of taxes paid u/s 236A and 236K by builder or developer on purchase of immovable property used in the project is allowed as per clause (d) of sub section (2) of section 100D of the Income Tax Ordinance, 2001. However, the credit of taxes deducted or collected under other provisions of law is not allowed.

59. As per clause (7)(1)(a) of Eleventh Schedule, the provisions of section 153 shall not apply to builders and developers on the purchase of building material except steel and cement; services of plumbing, electrification, shuttering, and other similar services other than those provided by the companies. Does this apply to the payments to be made after 30th September 2023?

Answer:

Exemption from withholding tax under section 150 and 153 of the Income Tax Ordinance, 2001 is only available till 30th September, 2023.

60. Please clarify that expenses incurred on the Finishing/Furnishing of the Project (after completion of Grey structure) shall be entitled to be adjusted as "Direct & Indirect Expenses) for the calculation on NET GAIN/Profit of the project?

Answer:

All expenses are allowed to be deducted. A builder or developer opting for taxation under section 100D of the Income Tax Ordinance, 2001 shall not be allowed to incorporate profits and gains accruing from such projects in excess of ten times of the tax paid under Rule 2 of Eleventh Schedule. If the income exceeds 10 times of the tax paid, the excess income shall be liable to tax at normal rates.

61. According to Section 100D(4)(b), is there any requirement to Purchase plot from registered Developer as wording of subsection is silent over it?

Answer:

The plot can be purchased from registered or unregistered persons.

62. According to Section 100D(4)(b), is there any requirement to get the building map approved from any authority. If yes from what authority?

Answer:

No such requirement is given in the Income tax law but in order to declare and prove completion, the certificate of the concerned authority is required. The completion certificate can only be issued if approval has been obtained.

63. According to Section 100D(4)(b), is there any requirement to open a separate bank account and make construction related payments from that account?

Answer:

No such requirement is given in the law but the payment is required to be made through crossed banking instrument from new or existing bank account.

64. According to Section 100D(4)(b), is there any requirement to sell the building after construction completion? As there is no specific requirements and nor the word "Project" has been used in this sub-section"?

Answer:

No such requirement is given in the law.

65. If an individual avail amnesty under section 100D(4)(b), what will be the taxation implication, shall an individual be liable to pay taxation according to eleventh schedule?

Answer:

Fixed tax is only payable under Eleventh Schedule of the Ordinance by Builders and Developers who have availed the scheme. If a person avails amnesty u/s 100D (4)(b) no tax is payable by the person if property is not sold.

66. According to Section 100D(3)(a), is there any requirement to construct building only over land whose ownership title is in individual's Name?

Answer:

The provisions of section 100D(3)(a) provides immunity from probe u/s 111 of the Ordinance to all builders and developers subject to conditions and procedure laid therein. The ownership of land is a mandatory requirement.

67. According to Section 100D(3)(a), is there any requirement to open separate account for each Project?

Answer:

A new bank account needs to be opened for each project and the money needs to be deposited in it by the closing date.

68. In case of a taxpayer who once opted for the scheme and afterwards fail to deposit the scheduled installment on due date, what would be the remedial action on the part of department?

Answer:

Benefits of amnesty scheme are only applicable to Builders, Developers and purchasers who comply with the conditions given in section 100D and Eleventh Schedule of Income Tax Ordinance, 2001. In case of noncompliance, all provisions of Income Tax Ordinance, 2001 will be applicable.

69. Can the house be gifted to blood relation?

Answer:

No such provision is given in the law. Sub- section 9 of section 100 defines a builder as a person who is registered with the Board and is engaged in the construction and disposal of residential or commercial buildings. FBR considers that in order to avail benefit of section 100D as builder and developer, the sale of property is mandatory. However, persons availing benefit of section 100D(4)(b) can subsequently gift house.

70. Can I have to proof that the project earned 10 time of the fixed tax paid?

Answer:

A builder or developer opting for taxation under section 100D of the Income Tax Ordinance, 2001 is allowed to incorporate profits and gains accruing from such projects equal to ten times of the tax paid under Rule 2 of Eleventh Schedule. If the income exceeds 10 times of the tax paid, the excess income shall be liable to tax as per law. The builders and developers need not to provide proof of earning as law allows them to record profits upto ten times of taxes paid.

71. Can a resale of a cancelled unit (purchased by a subsequent buyer direct the builder) in an eligible project can be eligible for immunity u/s 111?

Answer:

The provisions of section 111 shall only be applicable to first purchaser of a building or a unit in a building purchased from the builder in respect of purchase price. The immunity from probe u/s 100D(4)(a) is available to first purchaser of plot/unit/building u/s 100D(3)(a). The first purchaser would be a person who pays amount through banking channel to builder and developer and property is transferred to him. The first transfer would constitute sale. The first transferee can avail the benefit of immunity of probe u/s 100D(3)(a).

72. A builder buys a commercial plot for a project and pays down payment from his own sources. However he pays the installments from the sale proceeds of the project. For how much amount he is allowed to claim amnesty?

Answer:

Immunity from probe is available to any amount deposited either lump sum or in installments in the bank account on or before 30th day of June 2021. The immunity is available only to the amount of capital investment from personal sources. The deposit from sale proceeds would not constitute investment.

73. If there are two separately registered companies having one plot each in their names and if they merge into a joint venture by registering a LLP for the purpose of launching, marketing and construction of the project on two plots which are still in the name of individual companies, how the LLP may avail the amnesty?

Answer:

In order to claim immunity from probe, the land must be transferred in the name of LLP on or before 30th day of June 2021.

74. If a project is registered in Feb 2021 as a new project, whether annual tax worked out on the basis of Rule 10 of Eleventh Schedule have to be paid for 2 and a half years or up to the completion of project if it gets delayed for any reason beyond their control?

Answer:

Tax payable on project by project basis is calculated as per rates given in Rule 10 of Eleventh Schedule. The tax liability so calculated is required to be paid within time stipulated. The delay in completion would not delay tax payments.

75. Does a builder includes the person who is building houses for sale as Section 100D(9)(g) defines the “Project “ as construction of building with the object or a project for development of land with the object of disposal. However, Rule 9 of Eleventh schedule do include houses?

Answer:

The builder includes a person who is registered as a builder with the Board and is engaged in the construction and disposal of residential or commercial buildings.

76. Whether payment made for purchase of plot and construction on such plot for self-use covered under section 100D(4)(b)?

Answer:

No. Section 100D(4)(b) covers only the payment made for the purchase of plot. It does not cover the payment made for construction thereon.