

Government of Pakistan
Revenue Division
Federal Board of Revenue

Islamabad, the ^{22nd} December, 2020.

NOTIFICATION
(Draft Assets Declaration Rules 2020)

S.R.O. 1368 (I)/2020.— The following draft of certain further amendments in the Assets Declaration (Procedure and Conditions) Rules, 2019, which the Federal Board of Revenue proposes to make in exercise of the powers conferred by sub-section 15 of the Assets Declaration Act, 2019 is hereby published for the information of all persons likely to be affected thereby and notice is hereby given that objections or suggestions thereon, if any, may for consideration of the Federal Board of Revenue be sent within fifteen days of publication of the draft in the official gazette. Objections or suggestions which may be received from any person in respect of the said draft, before the expiry of the aforesaid period, shall be considered by the Federal Board of Revenue, namely:—

DRAFT AMENDMENT

In the aforesaid Rules,-

(1) in rule 2, in sub-rule (1), for clauses (a) and (b), the following shall be substituted, namely:-

- “(a) “Act” means the Assets Declaration Act, 2019;
- (b) “common reporting standard (CRS)” means information obtained and exchanged under Multilateral Convention on Mutual Administrative Assistance in Tax Matters;
- (c) “declaration” means the declaration made under section 3 of the Act;
- (d) “foreign asset” shall have the same meaning as defined in clause (e) of sub-section (1) of section 2 the Foreign Assets (Declaration and Repatriation) Act, 2018;

- (e) “Ordinance” means the Income Tax Ordinance, 2001 (XLIX of 2001);
 - (f) “relative” shall have same meaning as defined in the Ordinance;
 - (g) “relevant office” means office or organization having or having had administrative control over holder of public office; and
 - (h) “value of assets” means value as per section 5 of the Act as on the date of declaration.”;
- (2) the word “ordinance” wherever occurring shall be substituted with expression “Act”.
- (3) after rule 7, the following new rules shall be added, namely:-

“8. Treatment of asset, income or expenditure in a declaration.-

The amount of asset, income or expenditure in a valid declaration shall not be included in the taxable income of the declarant for any tax year upto and including tax year 2018 under the Ordinance.

9. Proceedings under the Ordinance in respect of the information received other than under CRS.- (1) Subject to sub-rule (2), no proceedings under any provision of the Ordinance shall be initiated on the basis of any information relating to an asset, income or expenditure as at the 30th day of June, 2018 or any prior period, provided the declarant files an irrevocable written statement along with plausible documentary evidence to the effect that source to that extent has been declared in the declaration irrespective of the form of the asset or jurisdiction at the date of filing the declaration.

(2) The nature and source of asset, income or expenditure shall not be treated as explained and the Commissioner Inland Revenue or his delegate shall be entitled to proceed under section 111 of the Ordinance, on the basis of definite information acquired from any source other than a valid declaration itself, in following cases: -

(a) where the value of asset, income or expenditure, as at the 30th day of June, 2018, as per the definite information is in excess of value as per declaration; and

(b) where the source of asset, income or expenditure relates to a person other than the declarant.

(3) Where an action under section 111 of the Ordinance as undertaken in accordance with sub-rule (2) results in invalidation of the declaration then such an action cannot be initiated without prior approval, for reasons to be recorded in writing, of the Chief Commissioner Inland Revenue as defined in clause (11B) of section 2 of the Ordinance.

10. Declaration filed and the information under CRS.- (1) Where a foreign asset or income is reported to the Board under CRS, then prior to any action under any provision of the Ordinance, the Board shall ensure compliance of the conditions under the Protocol for CRS including exchange of information by the person whose information has been received. On completion of that process, following procedure shall be followed:—

(a) the Commissioner Inland Revenue of the concerned person or delegate of the Commissioner shall issue a notice under section 176 of the Ordinance;

(b) the notice referred in clause (a) of the rule shall enquire as to whether or not such asset, income or expenditure has been declared under the Voluntary Declaration of Domestic Assets Act, 2018 and the Foreign Assets (Declaration and Repatriation) Act, 2018 or Assets Declaration Act, 2019;

(c) if the taxpayer informs the Commissioner Inland Revenue or his delegate that the asset, income or expenditure, as reported under the CRS has been declared in a declaration, the Commissioner

Inland Revenue or his delegate shall require the taxpayer to provide a copy of the declaration; and

(d) the taxpayer on receipt of such notice under section 176 of the Ordinance shall.–

(i) provide a copy of his declaration where such asset, income or expenditure, as the case may be, has been declared; and

(ii) provide a copy of the declaration of another person, being the beneficial owner, where the asset, income or expenditure referred to in the CRS has been declared.

(2) Subject to the provision of section 11 of the Assets Declaration Act, 2019, in case the information received under CRS and the declaration as referred above are in agreement then a confirmation in writing shall be issued by the Commissioner Inland Revenue or his delegate that the asset, income or expenditure to the extent referred to in the letter has been declared under the respective declaration law.

11. Beneficial ownership.- (1) In case of matter relating to legal or beneficial ownership of an asset, income or expenditure, the claim of beneficial ownership shall not be questioned unless there is definite information that the asset was created out of sources of a person other than the person claiming the beneficial ownership.

(2) Where in case of a foreign trust the contribution to the trust is sourced by any person other than settlor, beneficiary or the trustees, the person so contributing shall be entitled to declare his contribution under the Act irrespective of the settlor, beneficiary or any other person. Such declaration shall not be called in question merely on account that such person is not the settlor, beneficiary or trustee of the trust.

12. Holder of public office. - (1) The status of a person as to the holder of public office or otherwise and the period during which a person remained holder of public office shall not be questioned or challenged by the Commissioner Inland Revenue or his delegate if the same is confirmed by the relevant office.

(2) No declaration by a person entitled to file a declaration under the Act shall be questioned only for the reason that the declarant is a relative other than spouses and dependent children of the declarant of a person being a holder of public office unless it is confirmed through a definite information that the asset, income or expenditure have been created out of the undisclosed sources of a holder of public office.

13. Immunity from proceedings under any other law.- (1) Subject to section 11 of the Assets Declaration Act, 2019, no proceedings in respect of a legally valid declaration shall be undertaken under any other law for the time being in force, including Foreign Exchange Regulation Act,1947, Protection of Economic Reforms Act,1992 and the Anti-Money Laundering Act, 2010 (to the extent of section XII-A of the Schedule) or any rules, notifications or orders made thereunder with respect to assets, income or expenditure declared under the Act.

14. Voluntary Declaration of Domestic Assets, 2018 and Foreign Assets (Declaration and Repatriation) Act, 2018.- (1) These rules shall apply, mutatis mutandis, on declarations made under the Voluntary Declaration of Domestic Assets, 2018 and Foreign Assets (Declaration and Repatriation) Act, 2018.

(2) Proceedings under section 122 of the Ordinance shall be preceded by a notice under these rules to the effect of facts available with the FBR and those given in a declaration. The declarant shall be provided with an opportunity of being heard.

(3) The information contained in a legally valid declaration shall not be used in any manner to initiate the proceedings for misrepresentation and suppression of asset, income or expenditure.

(4) No declaration shall be declared void under section 13 of the Act unless definite information regarding misrepresentation or suppression of facts is available with the Commissioner Inland Revenue or his delegate.”

[F.No.1(101)R&S/2020]



(**Said Iqbal**)
Secretary (Income Tax Policy)