



I. Tax Incentive Package for Construction Sector

Tax Laws (Amendment) Ordinance, 2020 and ValYou Insights



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Foreword

By the time these lines are put into publication, as per John Hopkins University, over 2.3 million population of the world has been diagnosed with COVID-19 and this disease has taken more than 162k lives all over the world. This disease which is now officially declared as pandemic has driven 1/3rd of world population into lockdown. It is feared that this disease will result one of the worst economic recession world has ever seen in its recent history following by major job losses, unprecedented industry shutdowns, huge budgetary deficits, hyper-inflation and the worst out of all i.e. food shortages, God Forbids.

Governments all over the world are battling hard to reduce the spread of this disease and also announcing financial relief packages for their people and businesses. Prime Minister of Pakistan has recently announced that his government has allocated USD 8 billion as Coronavirus relief package. Various administrative and policy measures are being taken to ease out the situation for the businesses and people including softening the regulatory

compliances, reducing tax and interest rates, allowing extension in compliance deadlines and removing procedural delays of the system.

Likewise, Prime Minister of Pakistan also announced a major relief package for construction sector on April 3, 2020 which can be accessed at <https://valyouconsulting.com/2020/04/07/stimulus-package-for-construction-sector/>. Later, major Income Tax related changes are promulgated through **the Tax Laws (Amendment) Ordinance, 2020** on April 17, 2020 which are being presenting in this document. This Ordinance adds a new section i.e. 100D and relating rules through a new schedule i.e. Eleventh Schedule in in ITO, 2001.

Please share your feedback and queries at contact information provided on last page of this document.

ValYou Consulting
April 19, 2020



Key Features of Package

Amnesty for
Undisclosed
Wealth

Final Tax
Regime

Reduction
in Tax
Liability

Softer
Compliance



A) Amnesty Scheme

Regularization of Undisclosed Assets

1.1) Amnesty for Builders and Developers for Investment

Immunity from provisions of section 111 of ITO, 2001 granted thus, no tax liability, no penalty and no disclosure of source of income.

Deadline

Deposit, title transfer & FBR declare by: 31-Dec-2020
Project completion by: 30-Sep-2022

Eligible Persons

- Sole-proprietor
- AoP
- Company

Ineligible Persons

- Public office holders or their Benamidars
- All criminal proceeds except tax evasion proceeds
- REITs, listed companies or exempt income companies as per ITO

Eligible Projects

- New building construct & land development

Conditions Specific to Investment

- i. Investment not made from borrowed money
- ii. AoP & company newly registered/incorporated as single object entity before 31-Dec-2020
- iii. Land be taken in wealth statement at higher of 130% of value as determined in section 68 of ITO or, at the option of declarant, lower of the values as determined by at least two valuers from SBP panel
- iv. With regards to completion of project:
 - Builder: A certificate for completion of grey structure from NESPAK or relevant approving authority
 - Developer: All of the following be submitted:
 - Certificate of completion of landscaping from NESPAK or relevant authority;
 - Certificate of laying atleast 50% roads to sub-grade level by NESPAK or relevant authority; and
 - Notified QCR CA certificate for atleast 50% plot booking & atleast 40% recovery of sale proceeds

Investment Form

Sole-proprietor

AoP/Company

Money

Must deposit in new bank account as per deadline

Member/shareholder deposit it through crossed bank instrument in AoP/Co bank a/c

Land

Must possess the title of the land at promulgation of this ordinance

Member/shareholder possesses the title of property by promulgation of this Ordinance and transfer this title to AoP/Co as per said deadline



A) Amnesty Scheme

Regularization of Undisclosed Assets

1.2) Amnesty for Individuals for Purchase of Property

A complete immunity from provisions of section 111 of ITO, 2001 granted on investment made in construction sector thus, no tax liability, no penalty and no disclosure of source of income.

Eligible Persons

- Individual

Ineligible Persons

- Public office holders or their Benamidars
- All criminal proceeds except tax evasion proceeds
- REITs, listed companies or exempt income companies as per ITO

Eligible Projects

- New & already under construction building/unit
- Purchase of land

Deadline

- Full payment of plot and start construction by: 31-Dec-2020
- Construction on plot must complete by: 30-Sep-2020
- Full payment of building/unit made by: 30-Sep-2022

Conditions Specific to Purchase

- Declaration be made on FBR portal
- Purchase of Building/Unit
 - Directly being purchased from builder (First Purchaser)
 - Payment is being made through crossed banking instrument
- Purchase of Land
 - Purchase of plot for construction purposes
 - Full payment through crossed cheque to seller of land

ValYou Insights

- Strange: if a person has a plot before this ordinance & want to use it for construction then he/she can't declare it under this scheme
- For construction, cross cheque payment to builder is a mandatory condition. A huge chunk of population prefers to construct their houses without engaging a builder or if they even engage a builder then they don't get material from him/her therefore, it is virtually impossible for such type of people to declare the whole construction cost under this scheme.



B) Reduction in Cost of Doing Business

Change of Tax Regime

2) Option of Final Tax Regime

- An option is provided on Project-by-Project basis to the construction sector for opting Final Tax Regime under the head of Business Income in place of Normal Tax Regime.
- Under this, tax will be charged on the basis of project area at rates provided in Annex-B.

Deadlines

- i. Project complete by 30-Sep-2022
- ii. Exercise FTR option not later than 31-Dec-2020

Eligible Persons

- Registered Builder
- Registered Developer

Eligible Projects

- At the date of promulgation of this Ordinance, Construction projects either:
 - In-process (existing); or
 - Yet to start (new)

Conditions/Manner

- FTR option opted once will never be changed (irrevocable)
- Project registration with FBR (separately for land & building)
- Projects already in process can also opt this scheme for the incomplete part as self-declared while opting this scheme.
- Certification to be submitted from relevant authority, map approving authority, NESPAK certifying the area of project.
- Return filed with evidence of tax payment would be considered assessment order.
- A person would not be allowed to record more than ten times of the tax paid under this scheme in books of a/cs.

FTR Effects

- Full and final discharge of tax liability
- Exemption from proceedings of tax audit and amended assessment
- No Turnover and Alternate Corporate Tax
- There will be no more:
 - Admissible expenses
 - No tax credit except of section 236K
 - No setting-off of losses
 - No refund of tax

ValYou Insights

- *The option of FTR can be exercised on project-by-project basis meaning thereby a Builder or Developer could simultaneously have projects under NTR and FTR. This will test the enforcement capacity of the tax authorities and may create nuisance.*
- *What if a FTR opted project is not completed till 30-Sep-2022? Perhaps assessment would be amended as per NTR.*



B) Reduction in Cost of Doing Business Builder/Developer No More a Withholding Agent with exceptions

3) No Withholding of Tax by Builder/Developer

Deadline

Not Applicable

No tax will be deducted by a Builder/Developer.

Eligible Persons

- Builder
- Developer

Exceptions

Tax will be deducted only from the following:

- Suppliers of cement and steel
- Companies providing services like plumbing, electrification, shuttering and other similar services

ValYou Insights

- *This will reduce cost of doing business for construction sector and will simultaneously encourage suppliers and services providers of construction sectors operating in unorganized sector.*



C) Reduction in Personal Tax

Capital Gain and Share of Profit or Gain

4) Waiver in Tax on Capital Gain

100% exemption granted on capital gain earned by the seller of constructed property.

Deadline

Not Applicable

Eligible Persons

- Resident Individuals

Conditions

- Must be a residential property used by individual, spouse or dependents proven by atleast one utility bill
- No exemption availed earlier by individual, spouse or dependents means this exemption is only valid for first transaction and not thereafter
- Property must not exceed by:
 - House: 500 sq. yards (land area)
 - Flat: 4000 sq. feet (assumed to be covered area)

ValYou Insights

- *As per the provisions of this clause, sale of a let-out or vacant residential property will not qualify for claiming this exemption. This will be difficult to ascertain the residence of individual or his/her spouse & dependents therefore, enforceability of this clause may create frictions between tax authorities and tax payers.*

5) Exemption of Share in Profit or Gains

- No tax on amount received from profit and gain as dividend.



D) Miscellaneous Provisions

Change of Ownership of Builder/Developer

FBR will not allow change of ownership after registering a project except:

- A hardship case
- At least 50% of total cost incurred as certified by an FBR's notified QCR rated firm of Chartered Accountants
- Succession to legal heirs in case of death
- Additional members/shareholder may be allowed after 31-Dec-2020 but they will not be offered amnesty.

Reduction in Withholding Tax on Auctioned property

Earlier Rate of withholding tax u/s 236A of ITO was 10% which is now being reduced to 5% at gross value of auction price.

How to Pay Tax under This Scheme

For tax year 2020, liability will be discharged with the tax return and for later tax years Section 147 will apply which required discharge of yearly liability in four equal instalments.

Yearly liability will be calculated as per the following formula:

Yearly Liability = Total FTR Liability / No. of Years to Complete the project (must not exceed 3 years from tax year 2020 and 2.5 years from the date of FBR registration for existing & new projects respectively).

Benefits of Being Industrial Undertaking

W.e.f. May 1, 2020, persons involved in construction or development of:

- Buildings
 - Roads
 - Bridges
 - Land
 - Other structures
- will be included in definition of industrial undertaking. Therefore, now this sector can import machinery without tax deduction at import stage by getting exemption certificate on account of their income being subjected on FTR regime.

Abolishment of CVT in Federal Capital

In line with few other provinces, federal government has also abolished Capital Value Tax (CVT).



ValYou Added Suggestions

Although this ordinance contains various initiatives those will have a positive impact on the construction industry and business sectors associated with it but the following measures should also be considered for extending the warmth of support further from the policy makers in upcoming Finance Bill 2020-21:

100% Tax Exemption for Certain Rural Areas

Geographical area specific 100% tax exemption should also be granted for rural area economic uplift as this package may be deemed by some as a package for urban pockets.

Increase in Limited of Deductible Allowance of Profit on Debt

Limit for deductible allowance on profit on debt u/s 60C of ITO, 2001 i.e. needs to be linked with the policy rate. In 2016, this limit was determined at Rs. 2 million when policy rate was 5.75% but it is not increased ever since though policy rate has been increased more than double.

Increasing the Financing Threshold limits of Bank for Construction Sector

In 7th Schedule of ITO, 2001 (Banking Company Taxation), currently tax reduction is given on bank's portfolio relating to low cost housing project. This should also be enhanced and the whole construction sector should be included therein.

Discounted Markup through Refinancing

While encouraging banks to finance more low cost housing projects, government should also extend its refinancing facility to banks for financing first house purchase/construction taking into account middle class community needs as well. It can limit the maximum exposure per account or even can fix a reasonable maximum value of these middle class housing projects

Inclusion of Infrastructure Development Projects

Projects of road, bridges, water channels and other public infrastructure were not considered for Final Tax Regime although these are included in the definition of industrial undertaking alongwith construction sector.



Annex-A: Glossary of Terms/Abbreviations

- **Area:** House: covered area, Land: total land area, Others: Saleable area
- **Builder:** A person who is registered as a builder with the Board and is engaged in the construction and disposal of residential or commercial buildings
- **Developer:** 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
- **Project:** A project for construction of a building with the object of disposal, or a project for development of land into plots with the object of disposal or otherwise
- **Building** Includes all types of residential and commercial buildings
- **Date of commencement of project:** The date of approval of layout / development plan respectively by the concerned authority. Board may accept a project after the cut-off date i.e. December 31, 2020 if it is satisfied that request for approval submitted thirty days ago and no approval received from the authority till cut-off date.
- **Date of completion of project:**
 - Construction project: The date when grey structure is completed i.e. roof of top floor plan is laid as per approved plan
 - Land development project: The date when:
 - At least 50% plot are booked in the names of buyers
 - 40% sale proceeds recovered
 - Landscaping has been completed
 - 50% of the roads are laid up to subgrade level as certified by approving authority or NESPAK
- **Low cost housing schemes:** Housing schemes which are approved or developed by:
 - Naya Pakistan Housing and Development Authority
 - Ehsaas program
- **ITO:** Income Tax Ordinance, 2001
- **AoP & Co:** Association of Persons & Company



Annex-B: Rates of Income Tax under FTR

Person	Property Type	Area	City Tier & Rate		
			Tier-1	Tier-2	Tier-3
Builder	Residential	Upto 3000 Sq. ft.	80	65	50
		More than 3000 Sq. ft.	125	110	100
	Commercial	Any size	250	230	210
Developer	Residential	Upto 250 Sq. Yrds.	120	90	75
		More than 250 Sq. Yrds.	150	120	100
	Commercial	Any size	250	230	210
	Industrial	Any size	20	20	10

Notes:

- These rates will be reduced by 90% for low cost projects developed or approved by NAPHDA.
- If same person is developing the land and thereafter makes construction on it; both rates of Builder and Developer would continue to apply except for projects under NAPHDA where only higher rate will apply.
- **Tier-1:** Karachi, Lahore & Islamabad
- Tier-2:** Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbotabad, Quetta
- Tier-3:** Rest of the area/cities of Pakistan

Annex-C.1: Illustration – Amnesty & Valuation



Particulars	Ref.	Investment for Purchase		Capital Investment by Builder/Developer			
		Scnerio A.1	Scnerio A.2	Scnerio B.1	Scnerio B.2	Scnerio B.3	Scnerio B.4
Person	A	Individual	Individual	Sole-proprietor	Sole-proprietor	AoP	Company
Date of AoP/Co Incorporation/Register	B	N/A	N/A	N/A	N/A	1-May-2020	1-Apr-2020
Investment - Cash	C	5,000,000	8,000,000	4,000,000	2,000,000	20,000,000	2,000,000
Investment - Land	D	No	Yes	Yes	Yes	Yes	Yes
Full payment made by first purchaser to plot seller	E	N/A	5-Jan-2021	N/A	N/A	N/A	N/A
Full payment made by first purchaser to builder	F	30-Aug-2022	1-Nov-2022	N/A	N/A	N/A	N/A
Construction started at	G	N/A	6-Jan-2021	N/A	N/A	N/A	N/A
Date of owning the land by declarant	H	N/A	N/A	1-Apr-2020	1-Jun-2020	1-Apr-2020	1-May-2020
Transfer of title or deposit of money in bank account	I	N/A	N/A	1-Nov-2020	1-Jan-2021	1-Dec-2020	1-Jan-2021
Estimated / actual date of completion of project	J	N/A	1-Oct-2022	30-Sep-2022	1-Oct-2022	30-Jun-2022	30-Sep-2022
FBR value of land (assumed)	K	N/A	-	6,000,000	-	40,000,000	-
Lower of the values determined by two SBP valuers	L	N/A	-	5,000,000	-	35,000,000	-
Land value to be considered for Amnesty	M=Higher of K/L	N/A	-	6,000,000	-	40,000,000	-
Qualify for Amnesty	N	Yes	No (due to above red)	Yes	No (due to above red)	Yes	No (due to above red)

Annex-C.2: Illustration – FTR Regime & Tax Exemption



Particulars	Ref.	Scnerio A	Scnerio B	Scnerio C	Scnerio D
Project Type	A	Buidling	Land Dev.	Buidling & Land Dev.	Buidling & Land Dev.
Low-cost	B	No	No	No	Yes
Completion as on 30-06-2019	C	60%	N/A	N/A	N/A
City	D	Karachi	Bahawalpur	Mardan	Sukkur
Project Type	E	Commercial	Industrial	Residential	Residential
Commencemnt Date	F	1-Jul-2018	15-May-2020	1-Jul-2020	1-Jul-2020
FBR Registration Date	G	1-May-2020	1-Jul-2020	1-Jul-2020	1-Jul-2020
Estimated completion Date	H	30-Jun-2022	30-Jun-2022	30-Jun-2022	30-Jun-2022
Project life from registration date	I=H-G	3.00	2.00	2.00	2.00
Area - Building (Sq. Feet)	J	9000		38000	38000
Area - Land (Sq. Yards)	K		100000	5000	5000
Tax Rate - Building	L	250		110	110
Tax Rate - Land	M		10	120	120
Building	N=JxL	2,250,000	-	4,180,000	4,180,000
Land	O=KxM	-	1,000,000	600,000	600,000
Gross tax liability	P=N+O	2,250,000	1,000,000	4,780,000	4,180,000
Less: Share of completed portion	Q=PxC	(1,350,000)			
Less: 90% reduction of low cost	R=Qx90%				(3,762,000)
Net tax liability of project	S=P-Q-R	900,000	1,000,000	4,780,000	418,000
Tax payment in tax year 2021	T=S/I	300,000	500,000	2,390,000	209,000
Deemed income	U=Tx10	3,000,000	5,000,000	23,900,000	20,900,000
Actual income	V	2,000,000	6,000,000	40,000,000	60,000,000
Income to be recorded in accounts	W=Lower of U/V	2,000,000	5,000,000	23,900,000	20,900,000
Dividend income	X	2,000,000	6,000,000	40,000,000	60,000,000
Tax on dividend income	Y	Exempt	Exempt	Exempt	Exempt



The End

Disclaimer

Information contained in this document is only for the guidance purposes and all the insights / commentary provided therein are the viewpoint of the ValYou which are developed considering a general perspective therefore, application of these guidelines in a particular scenario / case may produce incorrect results.

We tried our best to provide accurate information but there could be some errors or omissions therefore, we advise you to refer the original document / statute first before proceeding further.

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Valuably yours!!!

Suggestions, Comments, Query

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