



Prime Minister's Stimulus Package for Construction Industry



Contents

1. Foreword.....	3
2. Income Tax Amendments.....	4
2.1 New Fixed Tax Regime for Builders and Developers.....	4
2.2 Tax Incentives to Builders and Developers for Investment in Real Estate Projects.....	8
2.3 Tax Incentives for General Public.....	12
3. Amendments in Islamabad Capital Territory Tax Laws.....	14
4. Amendment in Khyber Pakhtunkhwa Tax Laws.....	16
5. Amendments in Punjab Tax laws.....	17



1. Foreword

The Prime Minister of Pakistan has announced a comprehensive relief / stimulus Package for the Construction Industry on 3' April' 2020 amidst COVID-19 Pandemic outbreak. The Package seeks to secure livelihood of the labor dependent on Construction Industry of the country, stimulating the economy and to shape access to affordable housing.

The President of Pakistan has promulgated the Tax Laws (Amendment) Ordinance, 2020 as the major legislative development to effect the relief package which introduces a Fixed Tax Regime for real estate projects and offers incentives for investment. Provinces have also introduced amendments in their tax laws in line with the steps of the Federal Government.

This memorandum provides insights into the amendments made in the tax laws introduced through the Tax Laws (Amendment) Ordinance, 2020 and amendments in relevant provincial tax laws.

2. Income Tax Amendments

The Tax Laws (Amendment) Ordinance, 2020 (the "Amendment Ordinance") has made amendments in the Income Tax Ordinance, 2001 ("ITO'2001") broadly in the following areas:

- Introduction of Fixed Tax Regime for Builders and Developers
- Tax incentives for investment in Real Estate Projects
- Incentives to build low-cost houses under the Naya Pakistan Housing Programme (NPHP)
- Tax incentives for General Public

2.1 New Fixed Tax Regime for Builders and Developers

A new fixed tax regime ("FTR") for Builders and Developers has been introduced. For this purpose, certain amendments have been made in the Income Tax Ordinance, 2001 ("ITO'2001") inter alia insertion of new section 100D (Special Rules for Special provisions relating to builders and developers) and Eleventh Schedule (Rules for Computation of Profits and Gains of Builders and Developers and Tax payable thereon).

Scope of Fixed Tax Regime

FTR introduced by the Amendment Ordinance provides option to Builders and Developers of real estate to be taxed on their income from sale of building or plots at a fixed and area based rate on a **project by project basis**. FTR is applicable on the income, profits and gains, derived by the Builders and Developers in respect of new projects as well as incomplete projects to be completed by 30' September' 2022. In respect of incomplete projects, the FTR will be applicable only to the income earned from such projects after tax year 2019.

'Existing project' is a construction and development project which:

- i) has commenced before the date of commencement of Amendment Ordinance;
- ii) is incomplete;

- iii) is completed on or before 30' September' 2022; and
- iv) a declaration is provided in the registration form under Eleventh Schedule to the effect of percentage of the project completed up to the last day of the accounting period pertaining to tax year 2019.

Basis of Fixed Tax Regime

The new tax regime is a final tax regime which provides fixed and area-based tax rates in lieu of normal tax liability as per ITO'2001. The income, profits and gains subject to tax under this regime will not be included in any other head of income and will not qualify for deduction of any expenditure, deductible allowance or set off of any loss. Tax Credits against tax payable is also not allowed except for tax collected on purchase of immovable property under section 236k of the ITO'2001. No refund of taxes collected or deducted which is paid on eligible projects is allowed.

Tax Rates

The fixed rates provided for determining tax liability of the Builders & Developers are as follows:

a) Tax Rates for Builders

Category of Location	Fixed Tax Rate (Rs. / SQF)		
	Commercial	Residential	
	Area - any size	Area < 3,000 SQF	Area >= 3,000 SQF
1. Karachi, Lahore and Islamabad	250	80	125
2. Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbottabad, Quetta	230	65	110
3. Urban Areas not specified in (1) and (2) above	210	50	100

b) Tax Rates for Developers (Entire Project)

Category of Location	Fixed Tax Rate (Rs. / SQY)	
	Project Developer	Industrial Developer
	Area – any size	Area – any size
1. Karachi, Lahore and Islamabad	150	20
2. Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbottabad, Quetta	130	20
3. Urban Areas not specified in (1) and (2) above	100	10

- In case of mixed-use buildings having both commercial and residential areas, respective rates mentioned above shall apply.
- In case of development of plots and constructing buildings on the same plots as one project, both rates shall apply.
- In the case of 'low-cost housing' and all projects developed by NAPHDA, the higher rates shall apply.

Annual Tax Liability

- The annual tax liability of the project shall be computed by dividing the project tax liability (as per rates tabulated above) over the estimated project life (in years - including fraction of a year).
- The estimated project life for tax purposes shall not exceed two and a half (2.5) years in case of new projects.
- In case of existing incomplete projects, the estimated project life shall be treated as three years (3 years) from tax year 2020 to tax year 2022, and the tax payable shall be reduced by the percentage of completion up to the last day of the accounting period pertaining to tax year 2019 as declared in registration form.

- The payment of tax liability calculated as aforesaid shall be treated as final tax on the income of Builder or Developer from sale of buildings or plots.
- The tax payment will be made in four quarterly instalments as per Section 147 of the ITO'2001. The tax liability of Tax Year 2020 shall be paid along with return.

Tax Exemptions

- The Builder and Developer opting for new tax regime will not be considered as a tax withholding agent in terms of section 153 and section 150 of the ITO'2001 while making following payments:
 - a) purchase of building material except steel and cement;
 - b) services of plumbing, electrification, shuttering and other similar services other than those provided by companies;
 - c) Dividend paid out of profits and gains of the project.
- The turnover of Builder and Developer will not be subject to minimum tax (sec. 113) or Alternative Corporate Tax (sec. 113C)
- Dividend received by shareholders from Company shall be exempt from tax.

Tax Reductions

Tax reduction of **90%** has been allowed to 'low-cost housing project' developed or approved by Naya Pakistan Housing and Development Authority (NAPHDA) or under the Ehsaas Programme. As a result, such projects will pay only 10% of the Fixed Tax liability.

2.2 Tax Incentives to Builders and Developers for Investment in Real Estate Projects

Exemption from Section 111 (Explanation of Source of Investments)

The important aspect of the incentive package is the amnesty offered on funds invested in the projects covered by the Fixed Tax Regime. The Builders and Developers who opt to declare a **new project** under this regime will not be questioned about the source of investment as per section 111 of the ITO'2001. The exemption from source of capital invested in the project shall be available to investors subject to the following conditions:

1	Investment	Investment can be made in the new project directly by an individual or through a Company or Association of Persons.	
	Investment by Individual	Cash investment	Land Investment
		Amount to be deposited in a new bank account on or before the 31' December' 2020.	Ownership title of the land is held at the time of commencement of this Ordinance.
	Investment in Company / Association of Persons	Company or AOP is a single object entity registered after commencement of this Ordinance and before 31' December' 2020.	
		<i>Amount to be invested through a crossed banking instrument deposited in entity's bank account on or before 31' December' 2020.</i>	<i>Land to be transferred to the entity on or before 31' December' 2020 provided that the person shall have the ownership title of the land at the time of commencement of this Ordinance.</i>
2	Submission of Prescribed Form	The person making investment as individual or through a company/AOP is required to submit prescribed Form in or IRIS web portal of FBR.	
3	Utilization of Money	The money or land invested in the project shall be utilized wholly in a project.	

4	Project Completion Certification	<p>Project completion is required to be certified in the following manner:</p> <p><u>Builder</u></p> <p>Map approving authority or NESPAK shall certify that grey structure as per the approved map has been completed by the builder on or before the 30' September' 2022.</p> <p><u>Developer</u></p> <p>a) Map approving authority or NESPAK shall certify that landscaping has been completed on or before the 30' September' 2022;</p> <p>b) a firm of chartered accountants having an ICAP QCR rating of 'satisfactory', notified by FBR for this purpose, 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 30' September' 2022; and</p> <p>c) at least 50% of the roads have been laid up to sub-grade level as certified by the approving authority or NESPAK.</p>
5	Restrictions on Change in Ownership	<p>a) The shareholder or a partner of an incomplete project shall not be allowed a change in the ownership of project unless fifty per cent (50%) of the total project cost has been incurred up to the date of change in ownership. The cost incurred shall be certified by a firm of Chartered Accountants having ICAP QCR rating of Satisfactory and notified for this purpose by FBR;</p> <p>b) Legal succession in case of death of a shareholder or partner is however allowed without aforesaid condition;</p> <p>c) Exemption shall also not available to the additional partners or shareholders who may join the project after 31' December' 2020.</p>

Persons Not Eligible

- Following person are not eligible to claim exemption from section 111 of ITO'2001:
 - a. Holder of any public office as defined in the Voluntary Declaration of Domestic Assets Act, 2018 or his benamidar as defined in the Benami Transactions (Prohibition) Act, 2017 (V of 2017) or his spouse or dependents;
 - b. a public listed company, a real estate investment trust or a company whose income is exempt under any provision of the ITO'2001; or
 - c. any proceeds derived from the commission of a criminal offence including the crimes of money laundering, extortion or terror financing but excluding the offences under the Ordinance.
- Return or declaration made through misrepresentation or suppression of facts, shall disqualify the person from availing the tax regime and all the provisions of the ITO'2001 shall apply except for bona fide mistake. No disqualification shall be made without providing an opportunity of being heard and without prior approval of FBR.

Incorporation of income / Profit in Books of Account

Incorporation of profits and gains into the books of accounts by the Builders and Developers opting for FTR is restricted to **ten (10) times** the tax paid on the project.

Reduction in Tax Rate on immovable property sold by auction

Rate of advance tax applicable on Sale of immovable property through auction under section 236A of the ITO'2001, has been reduced from to 5% (previously: 10%) of the gross sale price.

Registration of Project with FBR

- The Builder or Developer is required to electronically register a project on IRIS through FBR's website on or before the 31' December' 2020. For this purpose, following submission is required:
 - a) Prescribed Registration Form which shall include, inter alia, details of a member or shareholder of a builder or developer

- b) an irrevocable option to be assessed under Eleventh Schedule in respect of each project.
- In case a developer is also the builder for the project, two separate forms for registration as a developer and as a builder are required to be submitted.

Returns

A builder or developer is required to electronically file a return of income and wealth statement as may be prescribed accompanied with evidence of payment of due tax.

Inclusion of Builders and Developers in the Definition of “Industrial Establishment”

- An amendment in the ITO'2001 has been introduced to include within the definition of 'industrial establishment' person directly involved in the construction of buildings, roads, bridges and other such structures or the development of land, to the extent and for the purpose of import of plant and machinery to be utilized in such activity, subject to such conditions as may be notified by the FBR and this amendment is effective from May 01, 2020.
- The amendment will enable Builders and Developers to avail exemption from collection of import stage income tax in respect of imported plant and machinery.

2.3 Tax Incentives for General Public

Exemption from Section 111 (Explanation for Source of Investment)

General public has been offered exemption from explaining the source of investment in purchase of a building or a unit thereof, or plot subject to certain conditions which are summarized as under:

<p>First Purchaser of Building or a unit thereof</p> <p><i>(i.e. person who purchases a building or a unit directly from the builder and does not include a subsequent or a substituted purchaser)</i></p>	<p>i) Purchase from a new project</p> <p>Full payment is made through a crossed banking instrument to the builder during a period starting from the date of registration of the project with the FBR up to 30' September' 2022</p> <p>ii) purchase is from an existing incomplete project</p> <p>Full or balance amount of payment is made through a crossed banking instrument to the builder during a period starting from the date of registration of the project with FBR up to 30' September' 2022</p>
<p>Purchaser of Plot who intends to construct a building thereon.</p>	<p>i) the purchase is made on or before 31' December' 2020;</p> <p>ii) full payment is made on or before 31' December' 2020 through a crossed banking instrument;</p> <p>iii) construction on such plot is commenced on or before 31' December' 2020;</p> <p>iv) such construction is completed on or before the 30' September' 2022; and</p> <p>v) the person registers himself with FBR on the online IRIS web portal.</p>

<p><i>Value or Price of Building / Plot</i></p>	<p>The value or price of land or building to the first purchaser of Building or Purchaser of Plot who intends to construct a building thereon, shall be the higher of the following:</p> <p>(a) 130% of the fair market value as determined by FBR for respective categories</p> <p>(b) at the option of the investor, 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.</p>
--------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

One-time Exemption from Tax on Capital Gain from Sale of constructed residential immovable property

- A resident individual is allowed exemption from tax on Capital Gains arising from sale of constructed residential immovable property provided that:
 - a) at the time of sale, the residential property was being used for the purpose of personal accommodation by the resident individual, his spouse or dependents and for which any of the utility bills is issued in the name of such individual;
 - b) the land area of the property does not exceed 500 Sq. yards in case of a house and 4000 square feet in case of a flat; and
 - c) exemption under this clause has not previously been availed by the individual, his spouse or dependents."; and

At present, advance tax on sale of immovable property is collected @ 1% under section 236C of ITO'2001. The collection of advance tax will continue to apply after promulgation of the Amendment Ordinance unless seller obtains an exemption certificate. Tax collected under section 236C of the ITO'2001 is treated as minimum tax if property is disposed of within one (1) year of its acquisition.

3. Amendments in Islamabad Capital Territory Tax Laws

3.1 Suspension of Capital Value Tax in ICT

Capital Value Tax ("CVT") was levied vide section 7 of the Finance Act, 1989 on the capital value of assets. The tax was payable by the purchaser in respect of immovable property, shares of listed public companies, modaraba certificates and instruments of Redeemable Capital. According to amendment made in section 7 ibid through the Amendment Ordinance, CVT shall cease to apply upon commencement of the Ordinance. The amendment is applicable to Islamabad Capital Territory. As CVT is a provincial subject after Eighteenth Constitutional Amendment, therefore, the discontinuance of CVT in provinces will require amendment in respective provincial laws. It is anticipated that provinces will make such amendment in their laws in accordance with the policy of Federal Government.

3.2 Sales Tax Exemption

Through amendments in Amendment in Islamabad Capital Territory (Tax on Services) Ordinance, 2001 vide Notification No.326(I)/2020 dated 27' April' 2020, the following services have been exempted from sales tax:

- Construction Services, excluding:
 - i) Construction projects (industrial and commercial) of the value (excluding actual and documented cost of land) not exceeding Rs. 50 million per annum.
 - ii) The cases where sales tax is otherwise paid as property developers or promoters.
 - iii) Government civil works including Cantonment Boards.
 - iv) Construction of industrial zones, consular buildings and other organizations exempt from income tax.
 - v) Residential construction projects where the covered area does not exceed 10,000 square feet for houses and 20,000 square feet for apartments.
- Services provided by property dealers and realtors

- Services provided by the property developers and promoters (including allied services) relating to low-cost housing schemes sponsored or approved by Naya Pakistan Housing and Development Authority or under Government's Ehsaas programme.

The above exemptions are available subject to the condition that no input tax adjustment or refund shall be admissible.

4. Amendment in Khyber Pakhtunkhwa Tax Laws

4.1 Exemption from CVT

Amendment made in Khyber Pakhtunkhwa Finance Act, 2010 through a provincial Ordinance has exempted the purchase of immovable property (whose value is recorded) from CVT:

- Immoveable property other than commercial property, industrial property and residential flats situated in urban areas measuring at least 500 square yards or one kanal (whichever is less) and more;
- Immoveable Commercial and Industrial property of any size situated in an urban area;
- Commercial immoveable property including residential flats situated in Plazas or Multi-story buildings of any size situated in an urban area.

4.2 Exemption from Stamp Duty

According to amendment made at S.No.18 of Schedule-1 to the Act of 1899 (Khyber Pakhtunkhwa Act No.11 of 1899), the Stamp Duty applicable on the purchase of immovable property has been exempted from duty. Earlier, stamp duty was payable at the rate of the Two percent of the consideration equal to the amount of the purchase money.

4.3 Sales Tax Exemption to Construction Industry

According to Notification No. 709-11 dated 07' April' 2020, Khyber Pakhtunkhwa Revenue Authority ("KPRA") has given an optional exemption to Construction and Allied Services from sales tax subject to the following conditions:

- No input tax incurred at standard or higher rates during the currency of notification
- Every registered person engaged in providing exempt services shall be required to file monthly return under the said Act showing aggregate monthly value of such services.
- Mandatory registration and filing of return
- The option to operate under normal tax rates (15%) shall remain available to businesses. Such option once filed shall be irrevocable during the validity of this notification.

The notification is valid till 30' June' 2020.

5. Amendments in Punjab Tax laws

5.1 Reduction in Stamp Duty

The Governor of Punjab has promulgated The Stamp Duty (Amendment) Ordinance, 2020 on 20' April' 2020 amending the Stamp Act, 1899.

- According to amendments made in Schedule-1 of the Stamp Act, 1899, the rates of Stamp Duty relating to immovable property have been reduced to 1%.

5.2 Sales Tax Exemption on Services

Construction services were earlier declared exempt from sales tax payable under the Punjab Sales Tax on Services Act, 2012 up to 30' June' 2020 vide notification dated 2' April' 2020.

If you require our assistance in understanding the specific implications of this Alert to your business, please feel free to contact us.

Muzammal Rasheed

Chief Executive / Partner

muzammalr@enfoque.com.pk

Laeeq Siddique

Partner

laeeqs@enfoque.com.pk

Disclaimer:

This information contained herein is in summary form and is therefore intended for general guidance only. This alert is not intended to address the circumstances of any particular individual or entity. No one should act on such information without obtaining appropriate professional advice after a thorough examination of the particular situation. This alert is not a substitute for detailed research and opinion. Before acting on any matters contained herein, reference should be made to subject matter experts and professional judgment needs to be exercised. We cannot accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this alert.



**Enfoque Consulting (Private) Limited.
Islamabad**

144, 1st Floor, Street 82,
FECHS, E-11/2, Islamabad - 44000
Pakistan

T: +92 51 835 1551, +92 51 230 5388

F: +92 51 835 1552

E: info@enfoque.com.pk

www.enfoque.com.pk

Peshawar

13-A, 1st Floor, Sector D-5, Phase-1
Hayatabad, Peshawar

T: +92 91 581 1847