TOLA ASSOCIATES
TAX & CORPORATE ADVISORS

FABRUARY 2018

TAX PAK

NEWSLETTER BY
TOLA ASSOCIATES

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EDITORIAL NOTE

We are extremely pleased to transmit the third edition of Tax Pak. We are getting positively huge response from readers who are really appreciating the efforts and are providing us with their valuable feedback. It is due to only their interest that we are able to keep moving and further improving this newsletter.

It may also be noted here that we have also developed mobile applications (Trial version) on both android and IOS platforms which may be accessed through following links:

1. https://goo.gl/QDM4ZM **(iOS)**
2. https://goo.gl/LFiWyx **(Android)**

These applications are helpful in keeping the users updated of our latest publications.

I am again grateful to my colleagues in ICAP Council, Teaching Fraternity and Students for their support and commitment. We specially request to students to contact us in case of any query whether theoretical or practical. We will do our best to resolve the same at earliest.

Lastly, it is requested to readers to spread the newsletter to their circles for the benefit of all.

Ashfaq Tola - FCA
Editor in Chief

1. TAX ON UNDISTRIBUTED PROFITS

Section 5A of Income Tax Ordinance, 2001 ("ITO") provides that a tax at 7.5% of accounting profits shall be charged on every public company other than a scheduled bank or a modaraba, that derives profit for a tax year but does not distribute at least 40% of its after tax profits within six months of the end of the tax year through cash or bonus shares.

Vide SRO 231(I)/2018 dated 13-02-2018, Section 5A shall not be applied to a company where a restriction has been imposed on distribution of dividend on account of an agreement with Government of Pakistan.

2. SINDH SALES TAX SPECIAL PROCEDURE (TRANSPORTATION OR CARRIAGE OF PETROLEUM OIL THROUGH OIL TANKERS)

In pursuance of the meeting held at Ministry of Energy (Petroleum Division) on September 22, 2017, the Sindh Government has issued special procedure rules which outlines the procedure for collection of Sindh Sales Tax on transportation of petroleum products in the province of Sindh.

In the aforesaid meeting held in Islamabad on September 22, 2017, it was agreed that there will be uniform rate of inter service tax of 15 percent of the value of services. In case the registered service provider elects to opt for or opts to pay the said higher rate of 15 per cent on the inter-Province services provided or rendered by him, for this he shall submit a written election or option, in the prescribed form. The said form will be submitted to Commissioner SRB within 14 days from the date of this notification. The option/ election, given in the prescribed form shall be valid for the period ending June 30, 2019.

The service provider shall issue an invoice in relation to the service provided or rendered by him and if the services provided by him include more than one rate of tax (i.e. 13 % and 15%, both) the invoices shall clearly indicate the destination, as per sub-clause (b of clause (iv) of sub rule (4) of rule 42 G of the Sindh Sales Tax on Services Rules 2011.

The whole amount of sales tax shall be withheld by the service recipients. In relation to tax on inter-Province services (other than non-tariff areas) the withholding agent shall, in accordance with paragraph 3 of the minutes of meetings held on September 13, 2017 as circulated under the Ministry of Energy (Petroleum Division) dated September 22, 2017, deposit 50 % of the amount of tax in the Sindh Government head of account "B-02384" and the balance amount shall be deposited in the respective province in the manner as may be prescribed by that Authority.

The service provider shall e-file his sales tax return, as defined in clause (75) of section 2 of the Act in the prescribed manner.

Provided that if the service recipient agrees with the service provider to e-file the service tax return on behalf of the services provider. The service provider will be required to file his own returns as prescribed in the Withholding Rules. The filling of service tax returns of service recipients will place additional burden of compliance on the service recipients as they will be required to file their own returns as well as those of the service providers.

3. REGULATORY DUTY PRONOUNCED ILLEGAL BY SINDH HIGH COURT

A Divisional bench of Honorable Sindh High Court comprising of Justice Munib Akhtar and Justice Omar Sial in its judgment dated February 07, 2018 decided the issue regarding the imposition of regulatory duty by mean of a statutory regulatory order no. 1035 (I)/2017 arose through the Constitution Petition D-7159/2017.

Soon after the imposition of regulatory duty in the month of October 2017 several taxpayers preferred petitions before the Higher Courts. The Honorable Court passed an interim order thereto with the directions to the taxpayers to pay half of the regulatory duty to the FBR and remaining to the Nazir of the Court. The issue raised in those petitions was the vires of an amendment made by the Finance Act, 2017 in S. 18(3) of the Custom Act, 1969, in view of seminal judgment of the Honorable Supreme Court in Mustafa Impex and others v. Government of Pakistan and others PLD 2016 SC 806 which is famous with "Mustafa Impex". The entire issue in hand revolves around the application of a principle enunciated in Mustafa Impex Case.

S. 18(3) of Custom Act allows for imposition of regulatory duty on goods imported or exported. By the Finance Act 2017 S. 18(3) was amended to the extent that for the word "Federal Government" the words "Board, with the approval of Federal Minister-in-charge" were substituted. The issue in particular was that the regulatory duty was imposed by the FBR, with the approval of Federal Minister-in-charge, that is, Finance Minister by means of Notification No. 1035(I)/2017.

The statute recognizes the distinction between the Federal Government and Federal Minister in charge, said the Learned counsel for the petitioners. Federal Government comprises of Parliament and Federal Ministers. A Minister, acting individually, could not take those decisions that were required to be taken by the Federal Government/Cabinet as held in the Mustafa Impex Case. Per Mustafa Impex case any matter relating to levy of custom duty could only be decided by the Cabinet as a whole. Hence, S. 18(3) only empowers the Federal Government as comprehended from Mustafa Impex Case and not otherwise.

As per S. 3 of the Federal Board of Revenue Act, 2007 the Federal Board of Revenue (FBR) is not a corporate body and is certainly not the Federal

Government. Thus, the endeavor to authorize the FBR by way of amendment was clearly unconstitutional.

The ***ratio decidendi*** of Mustafa Impex case rests on three aspects which per learned counsel for the petitioner were as follows:

a) That where the power is conferred by the same statute on "Federal Government" then such power can only be exercised by the Federal Cabinet and no one else.

b) That if at all certain types of powers are to be conferred on the executive by statute then some of those powers can only conferred on the Federal Government and none else, not even any officer or authority subordinate to the Federal Government.

c) If in response of a function or power that could only be conferred on the Federal Government, a statute either directly or indirectly sought to confer the same on any other body, authority or officer, then such a statutory provision would be unconstitutional and liable to be struck down as such.

The entire issue in the said petition revolved around the settled principle enunciated in Mustafa Impex Case by Honorable Supreme Court. The Honorable Sindh High Court, after taking into consideration the material and record relied upon by the learned counsel came up with the decision that the body that issued the SRO 1035 lacked the authority to do so, hence, the SRO was declared null and void. Taxpayers who paid their regulatory duty to the FBR based on the SRO were ordered to be refunded to the taxpayers.

4. CONSTITUTIONALITY OF SINDH WORKERS PROFIT PARTICIPATION FUND ACT, 2015

The Sindh High Court has recently passed a judgment on the issues arose from Constitution Petition D-1313 of 2013 and other connected petitions. The crux of the petition lied on the issues pertaining to interaction and applicability of Companies Profits (Workers' Participation) Act, 1968 ("Federal Law") and the Sindh Companies Profit (Workers' Participation) Act, 2015 ("Sindh Act").

Consequent to the 18th Amendment, the government of Sindh enacted the Sindh Companies Profits (workers Participation) Act, 2015. The question that required the determination was which of the two statutes applied in relation to trans-provincial Company?

"Trans-provincial Company" can be regarded as being a Company that, regardless of where its registered office is located, has business operations, undertakings, offices and/or workers in this province as well as other Provinces and/or the Islamabad Capital Territory. Per learned counsel for petitioner, with regards to the position of trans-provincial companies, there are two categories of such companies that were registered in Sindh but are also doing its business and have its workers outside the province, in such scenario the Sindh Act applies. The Second category is where the Companies are registered outside of Sindh but is also doing its business and have its workers in Sindh, in such scenario 1968 Act continues to Apply, contended the learned counsel for Petitioners.

This will be a land mark judgment and will be used as a reference in future by the judicial forums in the backdrop of ongoing cases of off shore companies unearthed by Panama Leaks and Paradise leaks. The decision will have the effect that courts cannot exercise their jurisdictions on offshore companies of resident individuals under the Ordinance.

Per learned Additional Attorney General the Sindh Act applied to Companies registered in Sindh which are obliged to distribute 5% of their profit among the workers. However, in respect of trans-provincial company it was only the 1968 Act that applied in respect of such companies regardless of the place where the registered office was located. Reliance in this regard was placed upon (2015 PLC 1).

However, the Honorable High Court of Sindh came up with the judgment that after coming into being of 18th Amendment to the Constitution, 1973 the single unified federal law fractured into provincial legislation and was then replaced by the Sindh Act. Consequent to the 18th Amendment, the Sindh Government passed the Sindh Companies Profit (Workers' Participation) Act, 2015, hence is constitutional. Further, the Sindh Act is applicable to all companies in Sindh regardless of where their registered office or industrial premises is located (i.e. if a Company's registered office is in Lahore and its manufacturing premises is in Peshawar, has 150 workers, of whom only 60 are in Sindh. The Sindh Act will apply only in respect of 60 workers. The fact that registered office and industrial undertaking are outside the province is irrelevant.

The companies to which Sindh Act applies will be liable to make a proportionate distribution of 5% of their profits to their workers in Sindh. For instance, if 25% of a Company's workers are in Sindh, then Company will distribute 25% of 5% i.e. 1.25% among them.

The 5% profit will be calculated on the total profit of the Company and not just those arising out of its operations from Sindh. Currently, in each province and in the Capital the same percentage of the profit is to be distributed, being five percent. But that need not always be the case. Since the competence is now exclusively provincial, each province can vary the amount.

The 1968 Act as applicable in other Provinces and Capital respectively will apply there in the same manner as the Sindh Act applies in this Province. Thus, if a worker in Punjab has a dispute with a Company that has its registered office here in Sindh, he does not have to come all the way to this province for redressal, he can simply invoke procedure stipulated in the 1968 Act.

5. CLAIM OF INPUT TAX PRIOR TO SUSPENSION OR BLACKLISTING ALLOWED.

In pursuance of order of Appellate Tribunal Inland Revenue, Lahore bench. The Judicial bench of Lahore High Court (LHC) comprising of Justice Shahid Jamil Khan and Justice Muhammad Sajid Mehmood Sethi in its judgement dated November 01, 2017 decided the issue regarding the claiming of input tax on basis of invoices issued by blacklisted/ suspended units.

Through the aforesaid order, the LHC has issued interpretation regarding the Section 21(3) of the Sales Tax Act,1990 which is reproduced hereunder:

> *21(3)During the period of suspension of registration, the invoices issued by such person* ***shall not be entertained for the purposes of Sales Tax refund or input tax credit,*** *and once such person is black listed, the refund or input tax credit claimed against the invoices issued by him, whether prior or after such black listing, shall 7[...] be rejected through a self-speaking appealable order and after affording an opportunity of being heard to such person.*

This subsection deals, mainly, with the invoices issued during the period of suspension and after consequent blacklisting; the invoices issued by such registered person. The subsection does authorize the department to go behind the blacklisting to reject refund or credit against invoices issued by the blacklisted supplier. Yet, it cannot be construed to have given power to reject the tax credit of all previously issued tax invoices for simple reason that the supplier was blacklisted subsequently. The requirement of self-speaking appealable order, after affording an opportunity of being heard has to be satisfied.

Further at para 9 of the order the LHC has provided that Intention of the legislature is that reclaim or adjustment of input tax should not be allowed for an invoice against which sales tax has not been deposited in Government Treasury. The clog appears logical because a tax not deposited in the exchequer, cannot and should not be allowed for refund or adjustment amounts to rob the Exchequer and cheat upon the state.

The crux of the decision is that the provisions of Section 21(3) cannot be read in isolation for refusing to entertain an invoice issued prior to Blacklisting of the supplier. S 21(3) has to be read with 7, 8 and 8(1)(ca) which imposes restriction on reclaim or deduction of input tax. Furthermore, the proof of burden is on the taxation officer. However, the burden can be shifted upon the registered person claiming adjustment or refund of tax in case of tax fraud, in accordance with provisions of S. 2(37) of the Sales Tax Act,1990.

6. TAXATION OFFICER CAN ONLY PROBE A PERSON AGAINST WHOM HE HOLDS JURISDICTION- DECIDES ATIR, LAHORE.

The Appellate Tribunal Inland Revenue, Lahore has recently rendered a consolidated judgment on three Appeals involving a common issue filed by three Appellants namely Mr. Hassan Mansha, Umer Mansha and Ammil Raza Mansha against the Commissioner Inland Revenue, Lahore. The consolidated judgment is passed on January 22, 2018 in ITA Nos. 3509, 3510 and 3511/LB/2017.

The issue involved in the instant case was that during tax year 2011, the Appellants above named formed a holding company in Singapore, namely Residential Holding Pte Limited, which acquired St. James Club Limited, United Kingdom through another intermediary holding company also formed in United Kingdom named Sea Capital Limited. The transaction, therefore, contemplated acquisition of St. James Club Limited, United Kingdom as a wholly owned subsidiary of Sea Capital Limited, United Kingdom which in turn remained a wholly owned subsidiary of Residential Holding Pte Limited, Singapore in which the three above named appellants were joint shareholders. All three entities were foreign companies formed outside Pakistan and that three individuals / Appellants had no direct interest in either of the United Kingdom based companies. It was only Singapore based company, that is, Residential Holdings Pte Limited in which the appellants were joint shareholders.

The taxation officer required the Appellants to explain, in terms of section 111 of the ITO, the nature and source of investment made by them in the Singapore based Company which admittedly being a foreign company formed and was operating outside Pakistan, therefore, remained outside the scope and jurisdiction of Pakistan tax laws.

Per learned Counsel for Appellants, by requiring the Appellant to explain the source of investment made by a foreign company, the taxation officer overstepped the jurisdiction vested in him under the law. Upon the elevation of jurisdictional point by the learned counsel, the taxation officer came up with the assertion of lifting the corporate veil principle which was even not confronted in the Show Cause Notice.

Per learned counsel, invocation of principle of lifting the corporate veil could lawfully be invoked in the cases which involved fraudulent and sham transactions aimed at evasion of tax and in the case of Appellants no such sham transaction, tax fraud or evasion was observed to be made in the amendment order by the taxation officer. Reliance in this regard was placed upon a decision of Supreme Court of

India reported as Vodafone International Holdings B.V. vs Union of India [2012 341 ITR 1].

It is a trite law that what cannot be done directly same cannot be done indirectly. There was no disagreement to the fact that Residential Holdings Pte Limited is a foreign company which was formed and is operating under the laws of Singapore. The action of the Revenue Authority was grossly erroneous on many counts. Firstly, the issue of lifting the corporate veil principle was never confronted in the Show Cause Notice, Secondly, the Revenue Authority has grossly misapplied the principle while exercising the jurisdiction in the case of individuals. Thirdly, through the amendment orders the taxation officer has assumed the jurisdiction in the case of a foreign company which he was prohibited by law.

The Bench disposed off the Appeals in the manner and to the extent that the taxation officer has committed a blatant violation of law by indirectly assuming the jurisdiction over a foreign company which is operating outside Pakistan and the Appellant could not have been compelled to explain the nature and source of investments by a foreign company while exercising jurisdiction under the Ordinance.

7. TOPIC OF THE MONTH

ASSETS DECLARATION SCHEME - A BURNING QUESTION

(A proposal for Tax Amnesty Scheme was presented by Mr. Ashfaq Tola to then Finance Minister in December 2016. The same was also published in a leading newspaper of the country. We are reproducing tax updated version for the benefit of our readers.)

To curb money laundering, tax evasion and smuggling of capital out of Pakistan, Individuals should be incentivize through an asset declaration scheme to provide a vent through which the suffocation of taxpayers is released. Although Pakistan, on September 14, 2016, signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters, bare reading of the convention reveals that the benefits of information availability and administrative support will be restrained by various limits as prescribed in the Convention (section 21 read with section 14), therefore, any such measure to trace back the individual and corporations involved in money laundering, assets parking and/or tax evasion through OECD convention will not get the desired results.

Currently, introduction of a scheme to bring the undeclared assets into the economy is inevitable. Examples of India and Indonesia may be suitable to refer here.

Indian Model

An Income Declaration Scheme was launched in India on June 01, 2016. Under the scheme, those who had evaded taxes were given the opportunity to avoid punishment by paying tax (30% of declared assets), penalty (25% of tax payable) and cess (25% of tax payable) totaling 45 per cent of the undisclosed income. The payments had to be made in three installments of 25%, 25% and 50% by November 2016; March 2017 and September 2017 respectively. Upto October 01, 2016, 64,275 declarants had declared approximately USD 97.5 billion. The Indian Government promised to maintain secrecy of declarants without any question on the source of Income. The scheme was expected to get approximately USD 44.8 billion as tax revenue from scheme. Salient features of the Scheme were as under:

1. The scheme applied to undisclosed income whether in the form of investment in assets or otherwise, pertaining to Financial Year 2015-16 or earlier.

2. Where the declaration was in the form of investment in assets, the Fair Market Value of such asset as on 1st June 2016 deemed to be the undisclosed income under the Scheme. However, foreign assets or income to which the Black Money Act 2015 applies (declared foreign assets for which there is no satisfactory explanation and non declared foreign assets) were not eligible for declaration under this scheme.

3. Assets specified in the declaration were exempted from Wealth tax.

4. No Scrutiny and enquiry under the Income-tax Act or the Wealth tax Act shall be undertaken in respect of such declarations.

5. Immunity from prosecution under the Income-tax Act and Wealth Tax Act was also provided along with immunity from the Benami Transactions (Prohibition) Act, 1988 subject to transfer of asset to actual owner within the period specified in the Rules.

6. Non-payment of total taxes, surcharge & penalty in time or declaration by misrepresentation or suppression of facts shall render the declaration void.

7. The circumstances in which the Scheme would not apply or where a person was held to be ineligible are specified in section 196 (Chapter IX) of the Finance Act, 2016. The persons held ineligible under section 196 are as under:

   a. Any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974
   b. Any persons involved in prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code (45 of 1860), the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985)

the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) and the Prevention of Corruption Act, 1988

c. any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992

d. any person involved in any undisclosed foreign income and asset which is chargeable to tax under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

e. any person involved in any undisclosed income chargeable to tax under the Income-tax Act for any previous year relevant to an assessment year prior to the assessment year beginning on the 1st day of April, 2017, for which proceedings are already in process.

8. Non declaration of undisclosed income under the Scheme, will render such undisclosed income liable to tax in the year in which it is detected by the Income Tax Department. Other penal consequences will also follow accordingly.

Indonesian Model

Indonesia also introduced a tax amnesty scheme. The amnesty collected USD 7.45 billion during first phase of the scheme which expired on September 30, 2016. Around 366,757 taxpayers signed up for the first phase of the scheme declaring approximately USD 277 billion. The penalty rates were as follows:

Clearance Levy Rates		
Declaration filing date	Onshore assets declared and Offshore assets declared **and** repatriated	Offshore assets declared but **not** repatriated
1 July, 2016 to 30 September, 2016	2% (if repatriated by 31 December, 2016)	4%
1 October, 2016 to 31 December, 2016	3% (if repatriated by 31 December, 2016)	6%
1 January, 2017 to 31 March, 2017	5% (if repatriated by 31 March, 2017)	10%

Following incentives were applicable:

1. Waiver of tax due, tax administrative sanctions and tax crime sanctions for all tax obligations for fiscal periods upto the end of latest fiscal year, for which no assessment letters have been issued.

2. Waiver of administrative sanctions in the form of interest and fines for fiscal periods upto the end of latest fiscal year.

3. Exemption from tax audit, preliminary evidence tax audit and tax crime investigation for all tax obligations for fiscal periods upto the end of latest fiscal year.

4. Discontinuation of any ongoing tax audit preliminary evidence tax audit and tax crime investigation for all tax obligations for fiscal periods upto the end of latest fiscal year.

5. Titles of assets in the form of land, building and/or stocks, that is not in the name of taxpayer will be transferred to the name of taxpayer. Such transfer shall be exempt from income tax if:

   a. The application for transfer of rights is carried out by 31 December, 2017; or
   b. In the case the title cannot yet be transferred, a notarial state ment stating that the asset is truly owned by the taxpayer, is carried out by December 2017.

6. Data and information shared by the taxpayer cannot be used as a basis of crime inquiry investigation and/or prosecution of the tax payer.

Proposed Pakistani Model

Pakistan can also benefit by introducing a scheme on similar lines to bring concocter money into the documented economy. The scheme may be inspired by the Indonesian and Indian models as follows. However, before any such adventure Federal Government with help of Provincial Government must bring Market value of Real Estate, at par with Collectorate Rates which is the biggest source of black money.

Clearance Levy Rates		
Filer/Non filer	**Onshore assets** declared and **Offshore assets** declared **and** repatriated	**Offshore assets** declared but **not** repatriated
Filer	5% (if repatriated within 3 months of declaration)	10%
Non-Filer – Registered	7.5% (if repatriated within 3 months of declaration)	15%
Non-Filer - Unregistered	10% (if repatriated within 3 months of declaration)	20%

Moreover, the features and conditions provided in Indian Model will be relevant for Pakistani dynamics and the same may also be introduced along with above levy rates as under:

1. The scheme may be available to individuals only.

2. The scheme may be applied to undisclosed income whether in the form of investment in assets or otherwise and undisclosed expenditures, pertaining to Tax Year 2018 or earlier.

3. The scheme may be time bound (for 6 months) for the following cases of declarants:

   a. Unregistered Non-Filers – who have not obtained NTN and have never filed any return of Income.

   b. Registered Non-Filers – who have obtained NTN, however, he either has:

      i. Not filed return of Income for tax year 2017 but has filed return of income of any of previous 5 tax years; or

      ii. Never filed return of income for any of the previous 5 year.

   c. Filers – who have been duly filing their returns of income for the last five years.

4. Persons holding public offices may not be eligible for scheme.

5. Data and information shared by the taxpayer may not be used as a basis of crime inquiry investigation and/or prosecution of the tax payer including under following statutes:

   a. Income Tax Ordinance, 2001 (“ITO”)
   b. Foreign Exchange Ordinance, 2002
   c. Companies Ordinance, 1984
   d. National Accountability Ordinance, 1999
   e. Federal Investigation Agency Act, 1974
   f. Benami Transactions (Prohibition) Act, 2017.

This immunity would not be available under Narcotic Substance Act, 1947; Anti Terrorist Act 1997; and Anti Money Laundering Act, 2010.

6. For the purpose of implementation of the scheme, limited scope powers may be extended to NADRA and Banks for accepting taxes and for issuance of receipts and NTN Certificates.

7. In the event the declarants failed to file returns and wealth statement, declaring all assets including foreign assets, for succeeding year and subsequent three years, all concessions enlarged under the

scheme would stand null and void and the impact of taxation under normal regime including penal clauses will be enforced, irrespective of the source of asset, income and/or expenditure.

8. Non declaration of undisclosed income under the Scheme, will render such undisclosed income liable to tax in the year in which it is detected by FBR. Other penal consequences will also follow accordingly.

9. All the declared assets, whether Pakistani or foreign, may be required to be declared in the wealth statement for the subsequent years and tax shall be paid in accordance with the principles laid down under section 11 of ITO.

10. No adjustment of tax already paid, including deducted or collected as withholding agent, would be allowed to the declarants.

11. Titles of assets in the form of land, building and/or stocks, that is not in the name of taxpayer will be transferred to the name of taxpayer. Such transfer shall be exempt from income tax if:

    a. The application for transfer of rights is carried out within 3 months of declaration; or

    b. In the case the title cannot yet be transferred, a notarial statement stating that the asset is truly owned by the taxpayer, is carried out within 3 months of declaration.

12. Where the declaration is in the form of investment in assets, the value of the asset may be the higher of values determined by FBR or values declared by declarant.

Other recommendations:

- Definition of resident person as in repealed Income Tax Ordinance, 1979, may be enacted. The definition was as under:

  "(40) ``resident'', in relation to any income year, means-

  (a) an individual, who-
  (i) is in Pakistan in that year for a period of, or for periods amounting in all to, one hundred and eighty two days or more; or
  (ii) is in Pakistan for a period of, or periods amounting in all to, ninety days or more in that year

and who, within the four years preceding that year, has been in Pakistan for a period of, or periods amounting in all to, three hundred and sixty-five days or more;or

(b) a Hindu undivided family, Firm, or other association of persons, the control and management of whose affairs is situated wholly or partly in Pakistan in that year; or

(c) a Pakistani company or any other company, the control and management of whose affairs is situated wholly in Pakistan in that year;

Clause (b) above may be amended to remove Hindu undivided family from the scope.

- A cap may be introduced to remit moneys outside Pakistan, i.e. amounts to be remitted outside Pakistan may be restricted upto USD 500,000 in a financial year. Moreover, 100% penalties may be imposed on transfer of moneys through informal channels.

The above proposed scheme will inject a fresh blood in the documented economy not only in the year of its implementation (due to repatriation of assets) but also for coming years as the income generated each year on assets declared will be charged to tax and will add to the reserves (even if repatriation is not opted).

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