



JUNE 2019

TAX PAK

NEWSLETTER BY
TOLA ASSOCIATES

<https://goo.gl/LFiWyx>



<https://goo.gl/QDM4ZM>



ADDRESS



408, 4th Floor, Continental Trade Centre,
Clifton Block-8, Karachi



Email: connect@tolaassociates.com



Ph# 35303294-6



Website: www.tolaassociates.com

[This page is left blank intentionally]

CONTENTS

1. **Notifications/ Circulars**
2. **Parameters shall not be Confidential for Audit u/s 214C of ITO, 2001 - LHC**
3. **Economic Indicators**
4. **Topic of the Month - Benami Act, 2017**

CONTRIBUTORS

Mr. Ashfaq Tola - FCA
Editor in Chief

Mr. Muhammad Furqan - ACA
Managing Editor

Mr. Talha Shahid - Contributor

Mr. Sameer Ahmed
Designer

EDITORIAL NOTE

Another monthly issue of Tax Pak, for the month of June 2019 is in your hands due to blessings of Almighty Allah, support and appreciation of readers, and commitment and dedication of Tola Associates' team. This is the twentieth continuous issue. We have covered the important topic of Benami Act in section of topic of the month, as amnesty for such transaction sends on 3rd July 2019 and Federal Government with aid of various agencies has started taking action against the assets still not declared in amnesty scheme.



Federal Government had presented budget 2019-20 on 12 June 2019 with major change in taxation regimes in both direct and indirect taxes. Being appointed as Chairman of Budget Anomaly committee to review technical issues in budget, I am thankful to Federal Government for posing trust on my shoulders

Currently, we are witnessing unrest among trade bodies on new requirements of CNIC under the Federal Sales Tax. It is reiterated that there might be some practical difficulties in implementing it on commercial basis, but it is necessary to account for undocumented economy.

Readers are requested to visit our website www.tolaassociates.com or download our mobile apps from below links to access previous issues and other publications and to stay updated of future notifications.

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

Readers are also requested to circulate this e-copy within their circle, as our primary aim is to benefit the masses. Feedback is always welcomed.

Ashfaq Tola - FCA
Editor in Chief

1. NOTIFICATIONS/ CIRCULARS

1. Further Extension in Filing of Income Tax Returns & Statements up to 2nd August 2019

FBR vide Circular No. 7 dated 2nd July 2019, has further extended the date of filing of Income Tax Returns under section 114 and statements under section 115 to 2nd August 2019 for the following:

- Companies with Special Tax Year & Normal Tax Years
- Salaried persons
- Other Individuals
- Association of persons

Similarly, the individuals/ AOPs and companies who intend to revise the income tax return for the tax year 2018, may file revised income tax return/ statements till 02.08.2019.

2. FBR Clarification regarding FBR Valuation Tables for Immovable Properties

FBR had uploaded proposed valuation tables for immovable property of various cities of Pakistan on its official website on 21.06.2019 for views and comments. Now FBR has issued Circular 8 dated 5th July 2019 whereby it is clarified that until the official notification of new rates, the existing rates notified on 01.02.2019 shall be applicable for carrying out the purposes of Income Tax Ordinance, 2001.

3. Increase in Petroleum Rate vide SRO 603(I)/2019 dated May 31, 2019

The Federal Government [FG] has maintained prices for July 2019 by increasing Sales Tax rates on petroleum products vide SRO 700(I)/ 2019 dated 30th June 2019, as OGRA had recommended Rs 0.77 per litre cut in petrol prices and Rs 2.94 per litre decrease in the kerosene oil. As per the latest SRO, the sales tax on petrol now stands at 17%, HSD at 17 %, LDO at 17 %

and Kerosene at 17 %. A comparison of Sales Tax rates of petroleum products from August 2017 to June 2019 can be found below:

Date	SRO	Effective from	Products ST rate %				
			MS	HSD	LDO	HOBC	Kerosene
31/12/17	1331	Jan 01, 18	17	25.5	6	17	6
31/1/18	98	Feb 01, 18	17	25.5	7.5	17	7
28/2/18	265	Mar 01, 18	17	25.5	17	17	17
31/3/18	414	Apr 01, 18	21.5	27.5	16.5	17	17
30/4/18	560	May 01, 18	15	27.5	11.5	17	12
31/5/18	663	Jun 01, 18	7	17	1	17	7
11/6/18	729	Jun 12, 18	12	24	9	17	12
30/6/18	830	Jun 30, 18	17	31	17	17	17
1/8/18	993	Aug 01, 18	9.5	22	1	17	6
30/9/18	1167	Sep 30, 18	4.5	17.5	0	17	1.5
31/10/18	1308	Nov 01, 18	4.5	12	0	17	1.5
30/11/18	1461	Nov 30, 18	8	13	0.5	17	2
31/12/18	1574	Dec 31, 18	17	17	17	17	17
30/04/19	499	May 01, 19	2	13	9	17	8
04/05/19	507	May 05, 19	12	17	17	17	17
31/05/19	603	June 01, 19	13	13	17	13	17
30/06/19	700	July 01, 19	17	17	17	17	17

MS	=	Motor Spirit (Petrol)
HSD	=	High Speed Diesel
LDO	=	Light Diesel Oil
HOBC	=	High Octane Blending Component

4. Non-operational Sales Tax General Orders [STGOs] Rescinded (with immediate effect) vide STGO no 1 of 2019 in lieu of incorporation in Sales Tax Act and Rules:

S. No	STGO No. and Date	Subject of the SRO
1	STGO No. 03/2004 Dated 12th June, 2004	Consolidation of STGOs; desirable provisions being transposed to the Sales Tax Rules, 2006
2	STGO No. 04/2004 Dated 4th September, 2004	Amendment in STGO 3/2004
3	STGO No. 01/2005 Dated 21st April, 2005	e-filing of Sales Tax return at LTU, Karachi and Lahore - Redundant STGO
4	STGO No. 02/2005 Dated 15th August, 2005	Amendment in STGO 1/2005
5	STGO No. 03/2005 Dated 1st September, 2005	Repayment of Sales Tax to Duty Free Shops on locally manufactured goods.
6	STGO No. 04/2005 Dated 29th September, 2005	Special Procedure for collection and payment of S.T. on vehicles
7	STGO No. 01/2006 Dated 5th June, 2006	Procedure for payment of S.T. against advance receipt

S. No	STGO No. and Date	Subject of the SRO
8	STGO No. 03/2006 Dated 28th July, 2006	Issues relating to steel sector
9	STGO No. 06/2006 Dated 8th September, 2006	Amendment in STGO 3/2006
10	STGO No. 01/2007 Dated 10th January, 2007	Mitigating the hardships of Islamabad based taxpayers
11	STGO No. 02/2007 Dated 6th February, 2007	Refund claims relating to local supply made by the five-export oriented zero-rated sectors
12	STGO No. 03/2007 Dated 30th July, 2007	Issues relating to Commercial Importers
13	STGO No. 04/2007 Dated 21st August, 2007	Procedure for e-filing of ST returns
14	STGO No. 05/2007 Dated 25th August, 2007	Payment of S.T. by Steel Melters and re-rolling mills operating on self-generation basis
15	STGO No. 06/2007 Dated 28th August, 2007	Transfer of jurisdiction of collectorate of S.T. & FE now RTO, Rawalpindi to RTO, Islamabad
16	STGO No. 22/2008 Dated 26th June, 2008	Revision of S.T. Rate, printing of retail price
17	STGO No. 32/2008 Dated 8th July, 2008	Issues relating to solvent extraction units.
18	STGO No. 1/2010 Dated 20th January, 2010	Fiscal relief to rehabilitate the economic life in NWFP, FATA, installment in arrears.
19	STGO No.3/2010 Dated 27th January, 2010	Refund of Sales Tax by Customs Collectorate.
20	STGO No. 11/2010 Dated 30th March, 2010	Delivery of sales tax registration certificates to registered persons of Gilgit Baltistan. _
21	STGO No. 18/2010 Dated 10th May, 2010	Input tax adjustment to Pakistani registered person against their purchases from AJK registered persons
22	STGO No. 19/2010 Dated 13th May, 2010	Filing and processing of expeditious refunds by IT system of FBR.
23	STGO No.20/2010 Dated 1st July, 2010	Revision of Sales Tax rates w.e.f. 1st July 2010 Printing of retail price.
24	STGO No.35/2010 Dated 23rd September, 2010	Revision of Sales Tax rates w.e.f. 1st July 2010 Printing of retail price.
25	STGO No.37/2010 Dated 24th September, 2010	Establishment of CSTRO.
26	STGO No.49/2010 Dated 30th November, 2010	Revision of Sales Tax rates w.e.f. 1st July 2010 Printing of retail price.
27	STGO No.50/2010 Dated 23rd December, 2010	Revision of Sales Tax rates w.e.f. 1st July 2010 Printing of retail price.
28	STGO No. 1/2011 Dated 8th January, 2011	Filing and processing of expeditious refund by IT system of FBR.
29	STGO No.3/2011 Dated 24th June, 2011	Revision of Sales Tax rates w.e.f. 1st July 2011 Printing of retail price
30	STGO No.4/2011 Dated 27th June, 2011	Monitoring committee for the steel sector.
31	STGO No.9/2011. Dated 26th August, 2011	Monitoring committee for the steel sector
32	STGO No. 10/2011 Dated 26th August, 2011	Monitoring committee for the steel sector.
33	STGO No.28/2013 Dated 5th July, 2013	Revision of Sales Tax rates w.e.f. 13th June 2013 Printing of retail price
34	STGO No.34/2013 Dated 16th August, 2013	Uniform procedure for action under sub-section (4) of Section 21 of the Act
35	STGO No.27/2014 Dated 18th March, 2014	Levy of 2% extra tax on the supply of auto parts and accessories, tyres and tubes etc.
36	STGO No.66/2014 Dated 21st July, 2014	Collection of Sales Tax from retailers in terms of sub-section (9) of section 3 of the Act, read with SRO 608(I)/2014.
37	STGO No.68/2014 Dated 11th August, 2014	Clarification regarding persons liable to be registered but not actually registered in terms of rule 2(3)(ii) of the Sales Tax Special Procedure (Withholding) Rules, 2007

S. No	STGO No. and Date	Subject of the SRO
38	STGO No. 117/2015 Dated 14th July, 2015	Procedure for issuance of STGOs for grant / withdrawal and rejection of zero-rating on electricity and gas to RPs falling under SRO 1125(I)/2011.
39	STGO No. 18/2016 Dated 9th February, 2016	Procedure for adjustment of S.T. by Steel melters under sub-rule-2C of rule-58H.
40	STGO No. 107/2016 Dated 20th September, 2016	Procedure for issuance of STGOs for grant / withdrawal and rejection of zero-rating on furnace oil, diesel oils and coal to RPs falling under SRO 1125(I)/2011.
41	STGO No. 130/2016 Dated 2nd November, 2016	Processing of application of exemption under sr.no. 48 of table-1 of 6th schedule of the Act. (Grant in aid)
42	STGO No. 144/2018 Dated 12th July, 2018	Procedure for adjustment of S.T. by Steel melters under sub-rule-2C of rule-58H

2. PARAMETERS SHALL NOT BE CONFIDENTIAL FOR AUDIT U/S 214C OF ITO, 2001 - LHC

Through the writ petition W.P 10035/2017 dated 27.06.2019 the Lahore High court [LHC] has directed the Federal Board of Revenue [Board] to inform the parameters to the person selected under section 214C forthwith if requested by them. The specific parameters on the basis of which the case is selected for audit is to be provided to the selected person.

Earlier, the learned counsel for the FBR [respondent] on the other hand argued that mere selection for audit does not cause any actionable injury to taxpayers. The respondent submitted that guidelines for selection of audit are administrative in nature and meant only for internal consumption of tax authorities, therefore, no fundamental right of petitioners has been infringed for not disclosing said guidelines. He placed reliance on cases of Messrs. Allah Din Steel and Messrs. Media Network and others. The respondent further submitted that restriction through impugned provision on right of information, is reasonable to avoid tax evasion as also observed by Hon'ble Supreme Court in M/S Media Network case.

Honorable LHC stated that although the above judgment of Hon'ble Supreme Court relates to selection of audit by Commissioner Income Tax under section 59 of the Repealed Ordinance and to the period before

promulgation of Article 19-A of the Constitution in year 2010 through 18th amendment, however, even in said judgment, it was specifically directed that basis for proposed selection for audit shall be communicated before final selection of the case. Further the present controversy relates to parametric selection of audit by Board after returns are filed by assessee under the Ordinance, hence there is no question of any tax evasion or frustration of Audit Policy, merely because parameters are disclosed. Therefore, the reliance of the respondent department on para 23 of Media Network case to justify the impugned restriction is misplaced.

3. ECONOMIC INDICATORS

- The 3-month, 6-month and 1-year KIBOR rate for the month of May 2019 was 12.63%, 12.76% and 12.86%, respectively, which hiked in June 2019 to 12.72%, 12.86% and 12.97%, respectively.
- The 3-month T-Bills rate for the month of May 2019 was 11.55% which hiked to 13.00% in June 2019; The 6-month T-Bills rate for the month of May 2019 was 11.39% which rose to 13.25% in June 2019. The rate for 1 year for the month of May 2019 was 6.97% which rose to 13.48% in June 2019.
- The PSX 100 index at the end of May 2019 was 35,031 points and at the end of June 2019 was 33,996 points indicating a decrease of 3%.
- The rate for Crude Oil in the OPEC basket at the end of May 2019 was USD 70.35, whereas, at the end of June 2019 was USD 65.60. The decrease in price was 6.75%.
- The rate of Gold per troy ounce in the month of May 2019 was USD 1,285.81 whereas in the month of June 2019 it increased to USD 1,389.30 per troy ounce by 7.45%.
- The rate of Sugar at end of May 2019 was 0.33 USD/KG which remained unchanged in the month of June 2019.

- The rate of Palm Oil in the month of May 2019 was 479.99 USD/MT which declined in the month of June 2019 to 456.66 USD/MT by 4.86%.
- The USD parity to Chinese Yuan at the end of May 2019 was 6.86 whereas in the month of June 2019 it was 6.85 showing a decrease of a meagre 0.14%.
- The USD parity to Indian rupee at the end of May 2019 was 70.41 whereas in the month of June 2019 it was 68.95.
- The USD parity to Bangladesh Taka at the end of May 2019 was 84.36 whereas at the end of June 2019 it was 84.53 showing an increase of 0.20%.
- The USD parity to Pakistan Rupee at the end of May 2019 was 145.84 which changed to 160 at end of June 2019 by 8.85%.
- Workers' remittances for the month of May and June 2019 were USD 2,315.7 million and USD 1,650.5 million respectively, a decrease of 28.7%.
- The Net Government Sector borrowings at end of June 30th, 2018 were Rs. 10,199.67 billion which increased by Rs. 1,420.52 billion up to June 29th, 2019 to Rs. 11,620.19 billion. The net government sector borrowings were used for the purpose of budgetary support (Rs. 9,392 billion) and commodity operations (Rs. 819.68 billion); and supported by others (Rs. -12.97 billion).
- The stock of currency in circulation was Rs. 4,388 billion as on June 30th, 2018 which increased by Rs. 520.58 billion up to 4,908.58 billion till June 29th, 2019.
- The volume of imports in June 2019 was approx. 677,510 Million rupees (4,364 million \$) while the exports were approx. 266,540 Million rupees (1,717 million \$). Exports in July 2018 to June 2019 decrease by 1.00% to \$ 22,979 million over the same period last year, while Imports in July 2018 to June 2019 decrease by 9.86% to \$54,799 million over same period last year.

➤ YEAR TO YEAR COMPARISON JUNE 18 / JUNE 19

Key Factor	Unit	June 2019	June 2018	Increase / (Decrease) = Unit	% change
KIBOR					
- 3 Months	%	12.97	6.67	(6.3)	(48.57)
- 6Months	%	13.11	6.79	(6.32)	(48.20)
- 1 Year	%	13.63	7.03	(6.6)	(48.42)
T-Bills (Auction Rates)					
- 3 Months	%	13.00	7.00	(6)	(46.15)
- 6Months	%	13.25	7.00	(6.25)	(47.16)
- 1 Year	%	13.48	6.97	(6.51)	(48.3)
Stock Market					
- PSX 100 Index	Points	33,901.58	41,910.90	(8,009.32)	(19.11)
Other Stock Markets					
- Dow Jones (New York)	Index Points	26,599.96	24,271.41	2,328.55	8.75
- FTSE (London)	Index Points	7,425.63	7,636.93	(211.3)	(2.8)
- Nikkei (Japan)	Index Points	21,275.92	22,304.51	(1,028.59)	(4.6)
- Hang Seng (Hong Kong)	Index Points	28,542.62	28,955.11	(412.49)	(1.42)
- Sensex (Mumbai)	Index Points	39,394.64	35,423.48	3,971.16	10.08
- Saudi Index	Index Points	8,796.61	8,314.19	482.42	5.5
International Markets					
-Crude Oil NYMEX	USD/Barrel	58.47	74.25	(15.78)	(21.25)
-OPEC Basket	USD/Barrel	65.61	74.31	(8.7)	(11.7)
- Brent Crude	USD/Barrel	66.55	79.44	(12.89)	(16.22)
- Natural Gas	USD/MMBTU	2.31	2.92	(0.61)	(20.9)
- Cotton (PIMA 2)	PKR/ Maund	0.6608	0.8392	(0.18)	(21.25)
- Gold	USD/ Troy OZ	1,413.70	1,254.20	159.5	11.3
- Gold Grams Conversion	PKR / Gram	7,272.24	4,903.33	2,368.91	32.57
- Wheat	US USD / MT	199.52	206.90	7.38	3.56
- Wheat	PKR / Kgs	31.92	25.16	6.76	21.17
- Sugar No. 5	US USD / KG	0.3292	0.3495	(0.02)	(5.8)
- Sugar No. 5	PKR / KG	52.67	42.50	10.17	19.31
- Palm Oil	US USD / MT	446.65	577.89	(131.24)	(22.71)
US USD Parity Chinese Yuan	CNY	6.90	6.62	0.28	4.1
US USD Parity Indian Rupee	INR	69.43	68.47	0.96	1.38
US USD Parity Bangla Taka	BDT	84.50	83.78	0.72	0.85
US USD Parity (Interbank Selling)	PKR	154.69	121.60	33.09	21.4
Workers Remittance	Million USD	1,650.52	1,627.65	22.87	1.38
IMPORTS	Million PKR	677,510	672,112	5,398	0.07
EXPORTS	Million PKR	266,540	223,786	42,754	15.83
IMPORTS	Thousand USD	4,364,000	5,652,000	(1,288,000)	(22.78)
EXPORTS	Thousand USD	1,717,000	1,882,000	(165,000)	(8.76)
CPI INFLATION	%	8.9	5.2	3.7	41.57
NET GOVERNMENT SECTOR BORROWING	Billion PKR	11,620.19	10,199.67	1,420.52	12.22
Credit to Non-Government Sector	Billion PKR	8,050.46	7,033.59	1,016.87	12.63

3. TOPIC OF THE MONTH

- BENAMI ACT, 2017

A. PREAMBLE:

One begs to ask himself as to when financial discipline through strict implementation of the Laws of the Land will be the norm, and its evasion the exception, in a country like Pakistan. A couple of years ago (in 2017 to be precise), a rhetoric (as it seemed then) surrounded the air, as the Benami Transaction Act 2017 (hereafter “the Act”) was enacted by the Government of the time, Pakistan Muslim League (N). However, as history repeated itself, an era of political instability marred the upcoming months, and hence practical implementation of the aforementioned had to unfortunately be shelved to the sidelines for the next couple of years, to go unto other major issues surrounding the Country.

However, through the Notification of the Statutory Regulatory Order (which is more commonly termed as a “S.R.O”) No. 326(I)/2019, the incumbent Government has been pleased to make rules regarding the adjudication and administration of the references that fall within the ambit of the Act, thereby paving the way, albeit after a couple of years and amnesty schemes later, for its practical implementation.

Now one may ask, as to what the word “Benami” really means? A literal meaning of the word could be construed as a Benami asset/property having no name. However, in the simplest of terms, a benami property is one which is owned through Mr. X, whilst Mr. Y has injected the capital for purchasing of such property and is the real beneficiary thereof.

An individual may choose to own a property in

someone else’s name for many reasons, including but not limited to maintaining a low-key profile and deceiving creditors by declaring bankruptcy after failure to repay their liabilities. However, the most common incentive of entering into such dubious transactions is to evade taxes, which is one of the reasons why the Act was enacted.

B. KEY DEFINITIONS:

1. Benami transaction

A benami transaction is defined by the following scenarios:

A. A transaction or arrangement where a person holds a property in his name but the consideration for such property has been provided or paid by another person, **and** such property is held for the benefit of the person providing consideration.

However, in such a situation the following will not come under the purview of a benami transactions:

- i. A transaction or arrangement where a person standing in a fiduciary capacity for the benefit of another person; or
- ii. A transaction or arrangement where any person being an individual in the name of his close family member, where, the individual appears as joint owner in any document and the consideration has been provided out of known sources of income of individual.

B. A transaction or arrangement for a property come out in a fictitious name;

C. A transaction or arrangement or where owner is not aware of, or denies knowledge of, such ownership; or

D. A transaction or arrangement for a property where the person providing consideration is not traceable or is fictitious.

According to Benami Transactions (Prohibition) Act, 1988 of India, the definition of Benami transactions is similar with the one being used in Pakistan. However, the Indian definition has two additional exceptions i.e. when a property is being held by a Karta, or a member of a Hindu undivided family, and that the property is held for his or his family members benefit with payment for such property being made out of the known sources of the Hindu undivided family.

Other exception is when any property is involved in part performance (for which the stamp duty is paid and the contract is registered), for which consideration is provided and the transferee has the property in possession but the transferor still holds the right to ownership.

It is pertinent to note here, that property situated in foreign countries aren't specifically included, nor are they excluded within the ambit of this Act. However, in any case, even if the intention of the legislature is to confiscate the benami properties held abroad, this cannot be done in the absence of bilateral agreements pertaining to confiscation of the same abroad.

2. Person Definition:

Includes Individual, company, firm, AOP or body of individuals.

3. Property:

A. Asset of any kind whether moveable or immovable; tangible or intangible; Corporeal or incorporeal; and Includes any right, interest, legal document, or instrument evidencing title or interest in property;

B. Property in the converted form where the property is capable of conversion into other form; and

C. Proceeds from one property as defined in A or B above.

4. Benami Property

A benami property has been defined as a **Property** which is the subject matter of a **benami transaction**.

Moreover, benamidaar has been defined as a person (real or fake) in whose name the benami property may be held.

5. Initiating Officer

An 'initiating officer' shall be a Deputy Commissioner Inland Revenue appointed under section 208 of the Income Tax Ordinance, 2001 ("ITO")

6. Approving Authority

The Approving Authority shall be a Commissioner Inland Revenue as defined in clause (13) of section 2 of the ITO.

C. SALIENT FEATURES OF THE ACT

Restrictions

- The Act restricts every person from entering into a benami transaction
- The Act also proposes that property held benami (including property held benami prior to enactment of this Act) is liable to be confiscated.
- The Act further provides that property held by benamidar is prohibited to be retransferred to the beneficial owner of the property.

Adjudicating Authority

• Composition

The Federal Government shall appoint one or more adjudicating authorities, comprising of a Chairperson and at least two other Members, to exercise jurisdiction, powers and authority under the Act.

- **Power to call for information**

Any authority, Chairperson, or member of the Appellate Tribunal, under the Act shall have powers to require any Government (including Provincial as well) officer to furnish any information in relation to any person, point or matter as deemed useful by him in his opinion, for the purposes of the Act. This power extends to any local body, authority, or any officer/person responsible for registering any property, or for maintaining books or accounts or other documents containing a record of any transaction.

The powers conferred above are quite wide, and as can be seen above, all resources leading to any information which may be helpful in creating a trail to a Benami transaction, can now be tapped. Moreover, as per Section 17 of the Act, it is now a legal obligation for a number of authorities including but not limited to the Customs, Anti-Narcotic Forces, and the State Bank of Pakistan to assist the Authorities, Chairpersons and Members of Tribunals constituted under this Act to help discharge their functions under the pertinent legislation. The intention of the legislature is very clear that no stone will be left unturned in catching a benami transaction.

However, since most of the database is manual in nature, problems may arise such as delay in finding of and receipt of information. Moreover, due to lack of a uniform electronic database, forged documents may come into play, hindering the process of effective adjudication.

- **Free access at all times**

Any authority under the Act shall have full and free access to any premise, place, accounts, documents or computer, at all times and without prior notice.

- **Power to hold documents**

The authority shall have powers to impound documents for a period not exceeding three months. The period may be extended for further three months for reasons to be recorded in writing.

- **Power to conduct inquiry**

The initiating officer shall have power to conduct any inquiry or investigation after obtaining prior approval of the authority.

- **Irregularities etc to not invalidate proceedings**

The Legislature, by virtue of Section 13, has plugged a loophole over here, by clearly stating that no defects or vacancies in the constitution of the Authority or appointment of a member shall render an act or proceeding of the Adjudicating Authority invalid. Moreover, no procedural irregularity, unless it affects the merit of the case, shall render an act or proceeding invalid.

Attachment Procedure:

- Where the initiating officer has information in his possession to believe that any person is benamidar, he may issue a show cause notice to him requiring him to show cause as to why one property in question should not be treated as benami property.
- A copy of the notice shall also be served to beneficial owner of the property indicated in the notice issued to benamidar.
- Initiating officer if of the opinion that the benami property may be alienated by the person in possession of it during the period specified in the notice may also provisionally attach the subject property by an order, after approval of the authority, for a period not exceeding 90days from date of show cause notice.
- After expiry of 90 days:
 - o Where the provisional attachment has been made:
 - o Pass an order after obtaining prior approval of the authority to continue provisional attachment till the final decision is made by adjudicating authority; or
 - o Revoke the provisional attachment after prior approval of authority.
 - o Where the provisional attachment has been made:

- o Pass order after prior approval of the authority to provisionally attach the property till the final decision is made by adjudicating authority; or
- o Decide not to attach property after prior approval of authority.

Within 60 days of the continuing attachment or first attachment under this point, the initiating officer shall make a statement of the case and **refer** the same to adjudicating authority.

Adjudication

- A notice shall be issued by the adjudicating authority within 30 days of reference, to serve information which is deemed necessary. The notice shall be served on benamidar, beneficial owner, any interested property and any person making any claim with respect to the subject property. The adjudicating authority shall provide a time of not less than 30 days to provide any information sought in the notice.
- The adjudicating authority shall pass an order within a period of one year of reference, revoking the attachment or confirming the attachment, after providing an opportunity of being heard to interested persons in the property and the initiating officer.

Confiscation and Vesting

- Where an order is passed by the adjudicating authority holding the subject property as benami Property, the adjudicating authority shall make an order, after providing an opportunity of being heard to concerned persons, confiscating the subject property.
- All the rights of the subject property shall vest into the Government after passing of the confiscation order by the Adjudicating Authority.

Federal Appellate Tribunal

- The Federal Government shall establish Federal Appellate Tribunal to hear appeals against the orders of adjudicating authority, under the Act.
- An appeal may be filed before Federal Appellate Tribunal against orders passed by adjudicating authorities, under the Act, within a period of 45 days from receipt of such orders.

Miscellaneous

- Any party aggrieved by any decision or order of the Appellate Tribunal may file an appeal to High Court within a period of sixty days from the date of service of decision or order of the tribunal to him, on any question of law arising out of such order.
- The Federal Government, in consultation with Chief Justice of the High Court, shall designate one or more courts of session as Special Court.
- The provisions of the Code of Criminal Procedure, 1898, shall apply to the proceedings before Special Court.
- Penalty for Benami transaction. Whoever is found guilty of offense of Benami transaction shall be punishable with rigorous imprisonment for a term from one year to seven years. The person shall also be liable for a fine upto twenty five percent of the fair market value of the property. It may also be noted that abettors and people who induce other to enter into a benami transaction will be liable to such punishment as well.
- Penalty for False Information. Any person who is required to furnish information under this Act knowingly gives false information will be punishable with rigorous imprisonment for a term of six months to five years and will also be liable to fine which up to 10 percent of the fair market value of the property.

DISCLAIMER

This newsletter is the property of Tola Associates and contents of the same may not be used or reproduced for any purpose without prior permission of Tola Associates in writing.

The contents of this newsletter may not be exhaustive and are based on the laws as of date unless otherwise specified. Tax laws are subject to changes from time to time and as such any changes may affect the contents.

The comments in the newsletter are a matter of interpretation of law and is based on author's judgments and experience, therefore, it cannot be said with certainty that the author's comments would be accepted or agreed by the tax authorities. Furthermore, this newsletter does not extend any guarantee, financial or otherwise. Tola Associates do not accept nor assume any responsibility, whatsoever, for any purpose.

This newsletter is circulated electronically free of cost for general public to create tax awareness in the country.



OFFICES IN PAKISTAN

Karachi Address:

Office no. 408, 4th Floor, CTC
Building, Clifton Block-8,
Karachi
Tel #: +92 21-3530 3294-6

Islamabad Address:

144, 1st Floor, Street No.82
Sector E-11 / 2 FECHS
Islamabad 44000,
Tel #: +92 51-835 1551

Lahore Address:

202-E, 2nd Floor, Sadiq Plaza
69-The Mall Road, Lahore
Tel #: +92 42-3628 0403



<https://goo.gl/LFiWyx>



<https://goo.gl/QDM4ZM>