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# COMMENTS ON CONSTRUCTION PACKAGE 2020 – SECOND EDITION

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408, CONTINENTAL TRADE CENTRE, BLOCK-8, CLIFTON, KARACHI

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## ➤ PROLOGUE

Special incentives were provided to Builders and Developers vide The Tax Laws (Amendment) Ordinance No. 1 of 2020 dated 17<sup>th</sup> April 2020 [herein after “Ordinance”]. This Ordinance was issued by the president, as the Parliament was not in session. The amendments through this Ordinance were made part of the Income Tax Ordinance, 2001 (“ITO”), through the Finance Act, 2020.

The Construction package (including amnesty) ended on 31<sup>st</sup> December 2020, which now been extended with various timelines through “The Income (Amendment) Ordinance, 2021” promulgated by President of Pakistan on 20<sup>th</sup> January 2020. We are issuing this second edition of our comments of Construction package with changes of dates incorporated along with Frequently Asked Questions.

## ➤ SUMMARY OF EXTENSIONS IN DEADLINES

The ordinance has extended various deadlines as provided in section 100D and eleventh Schedule of ITO. A comparison of previous deadlines with extended deadlines is provided in summarize form hereunder:

Description	Old Date/Period	New Date/Period
Last date of Project Completion of new and existing Projects	30th September 2022	30 <sup>th</sup> September 2023
Last date of registration of Builder/Developer with FBR <b>where immunity from inquiry with respect to source of funds is not availed.</b>	31 <sup>st</sup> December 2020	31 <sup>st</sup> December 2021
Last date of registration of Builder/Developer with FBR <b>where immunity from inquiry with respect to source of funds is availed.</b>	31 <sup>st</sup> December 2020	30 <sup>th</sup> June 2021
Last date for commencement of new project	31 <sup>st</sup> December 2020	31 <sup>st</sup> December 2021
First tax year under fixed taxation regime in case of existing projects	Tax Year 2020	Tax Year 2020 or 2021 the option of taxpayer.
The maximum estimated project life	2.5 Years	3 Years
Last date for deposition of money into bank account to claim immunity from inquiry with respect to sources of funds	31st December, 2020	30th June, 2021
Last date of transfer of investment into bank account of Company or Association of Persons in form of money through a crossed banking instrument to claim immunity from inquiry with respect to source of funds.	31st December, 2020	30th June, 2021
Last date of transfer of land to Company or Association of Persons as investment to claim immunity from inquiry with respect to source of funds with condition that person shall have ownership of land as on 19 <sup>th</sup> April 2020.	31st December, 2020	30th June, 2021
Last date for the first purchaser of building or unit of building to make full payment through crossed banking instrument.	30th September 2022	31 <sup>st</sup> March 2023
Last date for purchase of plot for the purchaser who intends to construct a building thereon to claim immunity from inquiry with respect to source of funds.	31 <sup>st</sup> December 2020 provided construction on such plot is also commenced on or before 31 <sup>st</sup> December 2020.	30 <sup>th</sup> June 2021 provided construction on such plot is commenced on or before the 31 <sup>st</sup> December 2021
Date of joining of additional partners or shareholders in a builder or developer after which such partners or shareholders shall not be eligible for exemption provided under sub-section (3) of section 100D (i.e., immunity from inquiry of source of funds)	31 <sup>st</sup> December 2020	31 <sup>st</sup> December 2021

## ➤ DETAILED COMMENTS INCORPORATING AMENDMENTS

The above amendments have been incorporated in our detailed comments on construction package issued on July 28<sup>th</sup>, 2020.

The projects under the scheme have been classified into two categories i.e., Existing projects and New Projects.

### ➤ CHAPTER 1 – EXISTING PROJECTS

Existing development or construction projects are those:

- Which were started before 17<sup>th</sup> April 2020;
- Were incomplete on 17<sup>th</sup> April 2020; and
- Will be completed before the 30<sup>th</sup> September 2023 (earlier 30<sup>th</sup> September 2022).

A **declaration/percentage of completion certificate** as on last day of tax year 2019 or tax year 2020 at the option of the taxpayer (earlier tax year 2019) is also required to be provided in the registration form as discussed in section 1.1 below.

Last day of tax year 2019 and 2020 will be 30<sup>th</sup> June in case of normal years ending on 30<sup>th</sup> June each year. In other cases, this will be the last day of the accounting period with respect to tax year 2019 or 2020. For e.g., in case of a Company which follows accounting year ending on 31<sup>st</sup> December, last day with respect to tax year 2019 in such case will be 31<sup>st</sup> December 2018.

#### 1.1. REGISTRATION AS BUILDER OR DEVELOPER OR BOTH

An existing builder or developer shall electronically register a project on IRIS through FBR website on or before the 31<sup>st</sup> December 2021(earlier 31<sup>st</sup> day of December, 2020. Step by Step guide is provided below:

1. A person not registered with FBR is required to be registered first through link <https://iris.fbr.gov.pk/public/txplogin.xhtml> and click “registration for unregistered person”.
2. A person registered with FBR is required to login into IRIS application using his login ID and Password.
3. After logging in, on left upper corner of your window, Click Registration and select Builder / Developer.

4. A window will be opened, and the person will be required to click on the tab titled as ‘Builder/Developer’

5. A new window will be displayed where the person can add details of his project by clicking on ‘+’ button at right upper corner of the screen. Following information will be required in this window:

- Project Name\*
- Approved by NAPHDA/Ehsas Program or not?\*
- Project Type\* (i.e. Development or Construction)
- Project Nature\* (i.e. Existing Project or New Project). Following additional information is required for Existing Projects:
  - Total estimated Cost\*
  - Percentage of completion\*
  - Total cost incurred till last day of tax year 2019 or tax year 2020 at the option of taxpayer\*
- Date of Registration with SECP (optional)
- Project Location\* (may be located using search icon at right side). After clicking on search icon, a pop-up window will be opened requiring following details.
  - Type of property\* (i.e. agricultural, commercial, residential, etc.)
  - Form of property\* (i.e. Apartment, arcade, factory, etc. based on selection of type of property)
  - Measurement Unit (i.e. Square meter, feet, yards, etc.)
  - Unit no.\* (for example plot no.)
  - Complex Street\*
  - Area/Locality\*
  - City\*
  - District
  - Additional particulars

After adding details of property as above, the person is required to click ‘OK’

6. After exiting from pop-up window, previous screen will be displayed and the person is required to click ‘Next’.

7. In next window, particulars of seller of plot will be required in case the purchaser of plot intends to avail exemption under section 111 with respect to source of purchase price of the plot on which he

intends to do construction (exemption discussed in below sections). Following details are required:

- Value of the plot
  - Date of transfer
  - NTN of seller
  - Name of Seller
  - Instrument type
  - Crossed banking instrument number
8. Person is required to click on 'next' button after which a new screen will be displayed for the details of amount and/or land invested:
- For money invested click on '+' icon. Following information is required:
    - IBAN\*
    - Amount\*
    - Date of deposit\*
  - For land invested click on '+' icon. Following information is required:
    - Land location (through search icon)
      - Type of property\* (i.e., agricultural, commercial, residential, etc.)
      - Form of property\* (i.e., Apartment, arcade, factory, etc. based on selection of type of property)
      - Measurement Unit (i.e., Square meter, feet, yards, etc.)
      - Unit no.\* (for example plot no.)
      - Complex Street\*
      - Area/Locality\*
      - City\*
      - District
      - Additional particulars
        - Owner's NTN No.\* (through search icon by inserting CNIC)
        - Owner's Name\*
        - Date of transfer\*
        - Value in PKR\*
9. Person is then required to click 'Next' after which a new screen will appear for following attachments:
- Transfer Deed of Land
  - FBR Rates
  - Certificate of registration
  - Approval documents of project
  - Certificate by NESPAK/Approving authority under rule 4 of 11<sup>th</sup> Schedule

Documents may be attached after clicking '+' sign against each document. The person will be required to click 'finish' icon after attaching the documents.

10. After clicking 'finish' button, a message box will appear with message *"This project has been temporarily registered. Registration will come into effect upon submission of requisite documents and verification of antecedents by the Commissioner"*. All the details provided will be displayed on the main window.
11. Multiple projects may be added in same manner after clicking '+' sign at top right corner of the main window.
12. A developer who is also a builder in case of a project shall submit two separate forms for registration as a developer and as a builder.
13. An already added project may be edited after clicking pencil icon next to it.
14. An already added project may also be deleted after clicking bin icon next to it.
15. After adding and updating all the projects, a verification will be required to be submitted along with an irrevocable option to be assessed under 11th Schedule. Such verification may be submitted through verification tab in the main window.

**(Data with \* sign is mandatory)**

A pictorial guide has also been published by FBR, which is provided in **Annexure A**

## 1.2. ELIGIBLE TAXPAYERS

Following persons, running existing projects, and registered with FBR in manner as provided in 1.1 above, are eligible to be assessed under this fixed tax scheme.

- An **individual builder** who is registered as builder with the FBR;
  - An **individual developer** who is registered as developer with the FBR;
  - A **single object Company**, registered under the Companies Act 2017;
  - A **single object Limited Liability Partnership** (hereafter "LLP"), registered under the Companies Act 2017; or
  - A **single object Association of Persons** (hereafter "AOP") registered under Partnership Act 1932.
- For 'builders' the sole object should be the construction of buildings and their disposal
  - For 'developers' the sole object should be development of any kind of land.

## 1.3. CERTIFICATION OF THE PROJECTS

- Every builder or developer shall be required to obtain and provide to the Board, in the prescribed

manner, a certificate from the approving authority, or map approving authority or NESPAK, as the case may be, to the following effect:

- 'total land area', 'covered area' and 'saleable area' of the project in square foot or square yard
- such other documents as may be prescribed by FBR.

If the certificate is not obtained before provisional registration as builder/developer with FBR, the same may be obtained afterwards but not later than 31<sup>st</sup> December 2021 (earlier 31<sup>st</sup> December, 2020).

The specimen for certificate to be issue by NESPAK and map approving authority is given in **Annexure B**.

#### 1.4. TAX TREATMENT

Income of Existing projects will be of two types. Those which are earned up to tax year 2019 and those earned afterwards.

##### 1.4.1. Up to Tax Year 2019 and/or 2020

Taxation of incomes earned up to tax year 2019 (and 2020 at person's option) shall be taxed as per provisions of ITO in normal manner i.e. income will be chargeable under the head income from business and provision of section 36 Long terms contracts will apply. The tax rates will be applied on taxable income at normal rate specified in Division 1 of Part 1 of First Schedule of ITO.

##### 1.4.2. From Tax Year 2020 and/or 2021 and onwards

From Tax Year 2020 and/or 2021 the income earned for tax year 2020 (and 2021 at option of taxpayer) will be a separate block of income under the head income from business and will be taxed at fixed rates on the basis of area as under:

- No expenditure or losses shall be deductible from income.
- No tax credit shall be allowed to compute tax liability.
- No advance tax adjustment shall be allowed from tax payable, except advance tax paid under section 236K of ITO after promulgation of this ordinance on purchase of Immovable property utilized in an eligible project.
- There shall be no refund of any tax collected or deducted under the Ordinance.
- Turnover tax or alternate corporate tax under section 111 or 113C shall not be applicable to eligible builders and developers.

##### 1.4.3. Rates of Taxes and Tax Liability

- Tax liability shall be computed on the basis of fixed rates provided in the Eleventh Schedule inserted

through the Ordinance. **The fixed rates are provided at end of the document.**

- The aforementioned rates will be applicable for computing tax liability for the project on an annual basis as per the formula infra, which shall be final tax:

Tax liability as per the rates mentioned in Rule 10 of the Eleventh Schedule

Estimated project life in years

- In case of existing projects, estimated project life will be treated as 4 years (earlier 3 years) from 2020 to 2023 (earlier 2022) and the tax payable shall be reduced by the percentage of completion upto last day of accounting period pertaining to tax year 2019 or tax year 2020 (earlier tax year 2019) as declared in the registration form.

##### Example I:

Building type:	Commercial
Activity:	Construction
Covered Ares:	10,000 Sq. Ft.
Applicable Tax Rate as per 11 <sup>th</sup> Schedule:	Rs. 250/Sq.Ft.
Project life:	4 Years.
% of Completion upto 30 <sup>th</sup> June 2019:	20%
Per year liability for TY 2020 onwards:	[(Rs. 250 x 10,000 Sq. Ft)/ 4 yrs x (100% - 20%)

Therefore, in above case, tax liability to be paid in each year of 2020, 2021, 2022, and 2023 will be **Rs. 500,000**. Total liability as per total project life was Rs. 2,500,000 which was reduced by 20% (i.e. percentage completed upto 2019). The resultant amount of Rs. 2,000,000 was then divided between four years.

- In case of development of plots and construction of buildings on the same plots, both rates shall apply.

##### Example II

Where a commercial plot of 10,000 Sq. Yds. is to be developed in Karachi, and a commercial building is to be constructed thereon:

Building type:	Commercial
Activity:	Construction and Development
Land Area:	5,000 Sq. Yds.
Covered Ares:	10,000 Sq. Ft.
Applicable Tax Rate as per	



11 <sup>th</sup> Schedule:	Rs. 250/Sq. Ft. for construction and Rs. 150/Sq. Yds for Development
Project life:	3.5 Years.
Per year liability for TY 2020 onwards:	$(150 \times 5,000 + 250 \times 10,000)/3.5 =$ <b>Rs.928,571</b>

- The tax so computed shall be paid in advance in 4 equal quarterly installments under Section 147 of ITO.
- In the case of buildings having dual usage i.e. both commercial and residential the respective rates specified for each category shall apply. The commercial rates will apply for area to be used as commercial activity and residential rates will apply to area allotted for residential purpose.

### 1.5. DATE OF PROJECT COMPLETION

#### • For a builder

It shall be the date on which the grey structure is completed. Such grey structure shall only be considered as completed when the roof of the top floor has been laid as per the approved plan.

#### • For a developer,

It shall be the date on which:

- at least 50% of the total plots have been booked in name of buyers;
- at least 40% of the sale proceeds have been received;
- landscaping has been completed; and
- at least 50% of the roads have been laid up to subgrade level as certified by the approving authority or NESPAK;

### 1.6. MAXIMUM PROJECT LIFE

The Scheme provides for maximum project life to be 3.5 years (earlier 2.5 years), however, relaxation is given for existing projects such that the estimated project life shall be treated as four years (**three years**), from tax year 2020 through to tax year 2023 (earlier 2022).

### 1.7. EXEMPTIONS AND CONCESSIONS SPECIFIC TO EXISTING PROJECTS

For Tax Year 2020, the following exemptions are available with respect to Existing Projects.

#### 1.7.1. Exemption u/s 111 for first purchaser

Section 111 of ITO shall not be applicable in case of **first purchaser** of building or unit provided that:

- Full or balance amount of payment is paid through a crossed banking instrument to the builder; and
- The payment is made during a period starting from the date of registration of the project with the Board under the ordinance and ending on the 31<sup>st</sup> March 2023, (earlier 30<sup>th</sup> September 2022).

#### 1.7.2. Exemption from withholding tax under section 150 and 153 of ITO:

- A builder or developer shall not be required to withhold tax under section 153 on;
  - the purchase of building material **other than steel and cement**.
  - the services of plumbing, electrification, shuttering and other similar and allied services **other than those provided by companies**.
- An eligible company under the ordinance shall not be required to deduct tax under Section 150 of ITO while making payment of dividend to its shareholders.

#### 1.7.3. Income to be Incorporated in the books of accounts – 10 times of Tax Paid

- A builder or developer opting for taxation under Section 100D shall only be allowed to incorporate profits and gains accruing from such projects up to ten times of the tax paid.
- Where profit and gains from such projects are in excess of ten times, such excess profits and gains shall be incorporated in the books of account or wealth statement and will be taxed on normal rates provided under Part 1 of the First Schedule.

#### Example III

Taxpayer Status:	Company
Building type:	Commercial
Activity:	Construction
Covered Area:	10,000 Sq. Ft.
Applicable Tax Rate as per 11 <sup>th</sup> Schedule:	Rs. 250/Sq. Ft. for construction and
Project life:	2.5 Years.
Tax Paid:	$(250 \times 10,000)/2.5 =$ Rs. 1,000,000
Attributable Income:	Rs. 1,000,000 x 10 = Rs. 10,000,000
Actual Income:	Rs. 25,000,000
Excess Income:	Rs. 15,000,000
Additional Tax to be paid:	Rs. 15,000,000 x 29% <b>= Rs. 4,350,000</b>

Given above, where the tax paid by a company in the first year is Rs. 1,000,000, and the company intends to record profit of Rs. 25,000,000 in its books, excess profits of Rs. 15,000,000, above Rs. 10,000,000, will be allowed to be incorporated only after payment of taxes on Rs. 15,000,000 at normal rates.

- Dividend income paid to a person by a builder or developer being a company **out of the profits and gains** derived from a project shall be exempt from tax.

## 1.8. GENERAL EXEMPTION

### 1.8.1. Exemption from Capital Gains from sale of first Residential property

Any capital gain as derived by a resident individual from the sale of constructed residential property will be exempt, subject to the following conditions:

- The residential property was being used for personal accommodation by the individual, his spouse or dependents and utility bill is issued in name of such individual;
- 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
- Exemption under this clause has not previously been availed by the individual, his spouse, or dependents.

## 1.9. CHANGE IN OWNERSHIP

- A shareholder or partner in a builder or developer shall not be allowed change in ownership of incomplete project without the prior approval of FBR.
- The FBR will not allow change of ownership where expenditure made is less than 50% of the total estimated cost as certified by a firm of Chartered Accountants having an ICAP QCR rating of satisfactory notified by the Board for this purpose has been incurred up to the date of change of ownership.
- The FBR may allow succession to legal heirs in case of deceased shareholder or a partner.
- However, the FBR may allow additional partners or shareholders after 30<sup>th</sup> June 2021(earlier 31<sup>st</sup> December 2020). Such additional partners will not be eligible for exemption under Section 111.

## ➤ CHAPTER 2 – NEW PROJECTS

New Development or Construction projects are those:

- which were started between 17<sup>th</sup> April 2020 and 31<sup>st</sup> December 2021(earlier 31<sup>st</sup> December, 2020); and

- will be completed before the 30<sup>th</sup> September 2023 (earlier 30<sup>th</sup> September 2022).

## 2.1 REGISTRATION AS BUILDER OR DEVELOPER OR BOTH

(Same as provided in section 1.1 above)

## 2.2 ELIGIBLE TAXPAYERS

- An **individual builder** who is registered as builder with the FBR;
- An **individual developer** who is registered as developer with the FBR;
- A **single object Company**, registered under the Companies Act 2017;
- A **single object Limited Liability Partnership** (hereafter “LLP”), registered under the Companies Act 2017; or
- A **single object Association of Persons** (hereafter “AOP”) registered under Partnership Act 1932.
- For ‘builders’ the sole object should be the construction of buildings and their disposal.
- For ‘developers’ the sole object should be development of any kind of land by itself, or otherwise.
- The company and AOP should be registered between the date of commencement of ordinance i.e. 17<sup>th</sup> April 2020 to 31<sup>st</sup> December 2021 (earlier 31<sup>st</sup> December 2020).
- The company, LLP and AOP, should also be registered with FBR as a Builder or Developer, as the case may be, between the date of promulgation of ordinance i.e. 17<sup>th</sup> April 2020 and 31<sup>st</sup> December 2021 (earlier 31<sup>st</sup> December 2020).

## 2.3 CERTIFICATION OF THE PROJECTS

(Same as provided in 1.3 above)

## 2.4 PROJECT COMMENCEMENT

- In the case of a construction project, on the date when the layout plan is approved by the concerned authority; and
- In case of developers, the date when the development plan is approved by the concerned authority.
- Where the builder or developer has taken all necessary steps to procure all approvals, but such approval is delayed for more than 30 days, and resultantly the cut-off date of 31<sup>st</sup> December is not met, the Board has been empowered to provisionally accept commencement of such projects on a case-to-case basis.

## 2.5 DATE OF PROJECT COMPLETION

(Same as provided in 1.5 above)

## 2.6 MAXIMUM PROJECT LIFE

The Scheme provides for maximum project life to be 3.5 (earlier 2.5 years).

## 2.7 TAXATION

The income earned will be a separate block of income under the head income from business.

- No expenditure or losses shall be deductible from income.
- No tax credit shall be allowed to compute tax liability.
- No advance tax adjustment shall be allowed from tax payable, except advance tax paid under section 236K of ITO after promulgation of this ordinance on purchase of Immovable property utilized in an eligible project.
- There shall be no refund of any tax collected or deducted under the Ordinance.
- Turnover tax or alternate corporate tax under section 111 or 113C shall not be applicable to eligible builders and developers.

## 2.8 RATES OF TAXES AND TAX LIABILITY

- Tax liability shall be computed on the basis of fixed rates provided in the Eleventh Schedule inserted through the Ordinance. **The fixed rates are provided at end of the document.**
- The aforementioned rates will be applicable for computing tax liability for the project on an annual basis as per the formula infra, which shall be final tax:

$$\frac{\text{Tax liability as per the rates mentioned in Rule 10 of the Eleventh Schedule}}{\text{Estimated project life in years}}$$

### Example IV:

Building type:	Commercial
Activity:	Construction
Covered Ares:	10,000 Sq. Ft.
Applicable Tax Rate as per 11 <sup>th</sup> Schedule:	Rs. 250/Sq.Ft.
Project life:	4 Years.
Per year liability for TY 2020 onwards:	$[(Rs. 250 \times 10,000 \text{ Sq. Ft}) / 4 \text{ years}]$

Therefore, in above case, tax liability to be paid in each year of 2020, 2021,2022 and 2023 will be **Rs. 625,000.**

- In case of development of plots and construction of buildings on the same plots, both rates shall apply.

### Example V

Where a commercial plot of 10,000 Sq. Yds. is to be developed in Karachi, and a commercial building is to be constructed thereon:

Building type:	Commercial
Activity:	Construction and Development
Land Area:	5,000 Sq. Yds.
Covered Ares:	10,000 Sq. Ft.
Applicable Tax Rate as per 11 <sup>th</sup> Schedule:	Rs. 250/Sq. Ft. for construction and Rs. 150/Sq. Yds for Development
Project life:	2.5 Years.
Per year liability for TY 2020 onwards:	$(150 \times 5,000 + 250 \times 10,000) / 2.5 =$ <b>Rs. 1,300,000</b>

- The tax so computed shall be paid in advance in 4 equal quarterly installments under Section 147 of ITO.
- For low-cost projects developed or approved by Naya Pakistan Housing and Development Authority (hereafter "NAPHDA"), or under the Ehsaas Programme, the tax rates levied will be reduced by 90%.

### Example VI,

Building type:	Commercial
Approved By NAPHDA/Ehsas:	Yes
Activity:	Construction
Covered Ares:	10,000 Sq. Ft.
Applicable Tax Rate as per 11 <sup>th</sup> Schedule:	Rs. 250/Sq. Ft. for construction and 2 Years.
Project life:	2 Years.
Per year liability in normal case:	$(250 \times 10,000) / 2 =$ <b>Rs. 1,250,000</b>
Per year liability in this case:	$Rs. 650,000 \times (100\% - 90\%) =$ <b>Rs. 125,000</b>

- In case of development of plots and construction of buildings on the same plots for low-cost housing and all projects developed by NAPHDA, the higher rates shall apply.

### Example VII,

Building type:	Commercial
Approved By NAPHDA/Ehsas:	Yes
Activity:	Construction and Development

Land Area: 5,000 Sq. Yds.  
 Covered Area: 10,000 Sq. Ft.  
 Applicable Tax Rate as per 11<sup>th</sup> Schedule: Rs. 250/Sq. Ft. for construction and Rs. 150/Sq. Yds for Development  
 Project life: 2 Years.

Per year liability in normal case:  $(250 \times 10,000)/2 =$   
**Rs. 1,250,000**

Per year liability in this case:  $Rs. 1,875,000 \times (100\% - 90\%) =$  **Rs. 125,000**

- In the case of buildings having dual usage i.e. both commercial and residential the respective rates specified for each category shall apply. The commercial rates will apply for area to be used as commercial activity and residential rates will apply to area allotted for residential purpose.

## 2.9 CHANGE IN OWNERSHIP

- A shareholder or partner in a builder or developer shall not be allowed change in ownership of incomplete project without the prior approval of FBR.
- The FBR will not allow change of ownership where expenditure made is less than 50% of the total estimated cost as certified by a firm of Chartered Accountants having an ICAP QCR rating of satisfactory notified by the Board for this purpose has been incurred up to the date of change of ownership.
- The FBR may allow succession to legal heirs in case of deceased shareholder or a partner.
- However, the FBR may allow additional partners or shareholders after 30<sup>th</sup> June 2021 (earlier 31<sup>st</sup> December 2020). Such additional partners will not be eligible for exemption under Section 111 as described below.

## 2.10 EXEMPTIONS AND CONCESSIONS UNDER THE ORDINANCE

Further concessions have been provided to the persons related to construction industry. These are as follows;

### 2.10.1 Exemption from withholding tax under section 150 and 153 of ITO:

- A builder or developer shall not be required to withhold tax under the Section 153 on;
  - the purchase of building material **other than steel and cement.**

- the services of plumbing, electrification, shuttering and other similar and allied services **other than those provided by companies.**

- An eligible company under the ordinance shall not be required to deduct tax under Section 150 of ITO while making payment of dividend to its shareholders.

### 2.10.2 Income to be Incorporated in the books of accounts – 10 times of Tax Paid

- A builder or developer opting for taxation under Section 100D shall only be allowed to incorporate profits and gains accruing from such projects up to ten times of the tax paid.
- Where profit and gains from such projects are in excess of ten times, such excess profits and gains shall be incorporated in the books of account or wealth statement and will be taxed on normal rates provided under Part 1 of the First Schedule.

### Example VIII

Tax Payer Status:	Company
Building type:	Commercial
Activity:	Construction
Covered Area:	10,000 Sq. Ft.
Applicable Tax Rate as per 11 <sup>th</sup> Schedule:	Rs. 250/Sq. Ft. for construction and 2.5 Years.
Project life:	$(250 \times 10,000)/2.5 =$
Tax Paid:	Rs. 1,000,000
Attributable Income:	$Rs. 1,000,000 \times 10 =$ Rs. 10,000,000
Actual Income:	Rs. 25,000,000
Excess Income:	Rs. 15,000,000
Additional Tax to be paid:	$Rs. 15,000,000 \times 29\% =$ <b>Rs. 4,350,000</b>

Given above, where the tax paid by a company in the first year is Rs. 1,000,000, and the company intends to record profit of Rs. 25,000,000 in its books, excess profits of Rs. 15,000,000, above Rs. 10,000,000, will be allowed to be incorporated only after payment of taxes on Rs. 15,000,000 at normal rates.

- Dividend income paid to a person by a builder or developer being a company **out of the profits and gains** derived from a project shall be exempt from tax.

### 2.10.3 Exemption from section 111 of ITO

The following amounts will be exempted from the application of Section 111 of ITO (i.e. inquiry regarding source of unexplained income):

### **i. Eligible amounts**

- Any amounts invested by an individual builder or developer in an eligible project.
- Any amount invested by a shareholder or partner of a builder or developer as capital or land transfer, on or before 30<sup>th</sup> June 2021(earlier 31<sup>st</sup> December 2020). Capital shall not include borrowed funds.
- Any amount invested in first purchase of newly constructed buildings of an eligible project.
- Any amounts invested in purchase of a plot for construction of building thereon.

### **ii. Exclusions**

This exemption shall not be available to:

- Holder of any Public Office as defined in the Voluntary Declaration of Domestic Asset Act 2018, or his benamidar as defined in the Benami Transactions (Prohibition) Act, 2017 (V of 2017), or his spouse or dependents.
- A public listed company, a real estate investment trust or a company whose income is exempt under any provision of the Ordinance.
- Any proceeds derived from the commission of a criminal offence including crime of money laundering & terror financing but excluding offence of tax evasion.

### **iii. Procedure and conditions**

The procedure to be followed to avail exemption under Section 111 will be as follows:

- Where an individual builder or developer is investing cash in the projects, he shall deposit in a designated new bank account through cross banking instrument on or before 30<sup>th</sup> June 2021 (earlier 31<sup>st</sup> day of December 2020). Where the aforesaid is investing through 'land', he must have the ownership title of the land at the commencement date of this Ordinance i.e. 17<sup>th</sup> April 2020.
- Where the investment is made through a Company or an AOP in cash, it must be done in the same manner as above. Furthermore, if the same opts to invest in the form of land, it must ensure that the ownership title of the land shall be transferred in the name of the Company or the AOP on or before 30<sup>th</sup> June 2021 (earlier 31<sup>st</sup> December 2020). It may be noted that in such a situation, the person investing in the form of land must possess the ownership title at the commencement date of this Ordinance 17-04-2020.

- All monies that are to be invested for first purchase of these projects shall be deposited in a designated new bank account of the person on or before 31<sup>st</sup> March 2023 (earlier 30<sup>th</sup> September 2022). The same will then, have to be subsequently paid to the builder or developer through a crossed bank cheque.
- Any person making the investment shall submit a prescribed form on IRIS web portal by 30<sup>th</sup> June 2021.
- If an investment is made through the transfer of land, the transfer will be at 130% of value as defined in Section 68 of ITO, or at the option of investor, the lower of the values as determined by at least two independent valuers from the list of valuers approved by the SBP. Moreover, the transferor should own the land at the time of promulgation of the ordinance.
- The monies or land invested shall be wholly utilized in the eligible projects.
- In case of first purchaser of building or unit, 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 Board under this section and ending on the 31<sup>st</sup> March 2023 (earlier 30<sup>th</sup> day of September, 2022); and
- In case of purchase of plot for construction thereon, following conditions are required to be fulfilled:
  - the purchase is made on or before the 30<sup>th</sup> June 2021(Earlier 31<sup>st</sup> day of December, 2020);
  - the full payment is made on or before the 30<sup>th</sup> June 2021(Earlier 31<sup>st</sup> day of December, 2020) through a crossed banking instrument;
  - construction on such plot is commenced on or before the 31<sup>st</sup> day of December, 2021 (earlier 31<sup>st</sup> day of December, 2020);
  - such construction is completed on or before the 30<sup>th</sup> September, 2023 (earlier 30<sup>th</sup> September 2022; and
  - the person registers himself with the Board on the online IRIS web portal.

### **iv. Certification**

- In the case of a builder, the map approving authority, or NESPAK, shall certify that the grey structure, as per the approved map, has been completed by the builder, on or before, 30<sup>th</sup> September 2023(earlier 30<sup>th</sup> September 2022).
- In case of a developer;
  - the map approving authority or NESPAK shall certify that landscaping has been completed on

or before 30<sup>th</sup> September, 2023 (earlier 30<sup>th</sup> September 2022);

- a firm of chartered accountants having an ICAP QCR rating of 'satisfactory', notified by the Board 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 30<sup>th</sup> September, 2023(earlier 30<sup>th</sup> September 2022); and
- at least 50% of the roads have been laid up to sub-grade level as certified by the approving authority or NESPAK.

#### **2.10.4 Advance tax at the time of sale by Auction**

In case of an immovable property sold by an auction, the rate of collection of tax under Section 236A has been reduced to 5% (from 10% previously) of the gross sale price.

#### **➤ AOP VS CORPORATE STRUCTURE ANALYSIS**

It is common business practice in Real Estate development projects that more than one investors bring their investment and form a pool. An analysis is presented here to identify which is the best ownership structure in this case.

##### **1. AOP:**

- In this form of entity structure, there are no corporate requirements of SECP such as Annual Reporting.
- In this form of entity, the liquidation is relatively easier through dissolution of Partnership.
- In case of Loss suffered by AOP such that capital is not sufficient to meet liabilities, the partners will be personally liable.

##### **2. COMPANY/LLP:**

- In this form, the corporate requirements of SECP and Companies Act, 2017 need to be complied.
- In case of Loss, the investors are not personally liable if capital is not sufficient to meet liability.
- The liquidation of Company and LLP will be as per long procedures provided in Companies Act, 2017 and Limited Liability Partnership Act, 2017.

**In view of above, the better option is AOP in our opinion.**

➤ **RATES OF TAX**

Persons	Property Type	Area	(A) Karachi, Lahore, and Islamabad	(B) Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbottabad, Quetta	(C) Urban Areas not specified in A and B
<b>Tax on Builders</b>		<b>Area in Sq. Ft.</b>	<b>Rate/ Sq. ft.</b>		
	<b>Commercial Buildings</b>	Any size	Rs.250	Rs.230	Rs.210
	<b>Residential Buildings</b>	up to 3000	Rs.80	Rs.65	Rs.50
		3000 & above	Rs.125	Rs.110	Rs.100
<b>Tax on Developers</b>		<b>Area in Sq. Yds.</b>	<b>Rate/Sq. Yd</b>		
	<b>Other than Industrial Plots</b>	Any size	Rs.150	Rs.130	Rs.100
	<b>Industrial Plots</b>	Any size	Rs.20	Rs.20	Rs.10

## ➤ FREQUENTLY ASKED QUESTIONS ON CONSTRUCTION PACKAGE

### 1. What is procedure to register project with the FBR for availing the fixed tax scheme for the construction sector?

Please check procedures for registration in Annexure A.

### 2. Can I avail fixed tax scheme for the construction sector without registering with the FBR?

Only registered person can avail the scheme.

### 3. Who is eligible to avail fixed tax scheme for the construction sector? Please elaborate its scope.

The fixed tax scheme is applicable to builders and developers, who opt for the scheme by registering their project(s) with FBR. The term "Builder" means a person who is registered as a builder with FBR and is engaged in the construction and disposal of residential and commercial buildings. The term "Developer" means a person who is registered as a developer with FBR and is engaged in the development of land in the form of plots of any kind either for itself or otherwise. Builders and Developers eligible for this fixed tax scheme include individuals, a company, or an Association of Persons.

### 4. Whether only new projects can be registered with FBR or does the fixed tax scheme cater for existing projects as well?

The Fixed tax scheme encompasses a new project as well as an incomplete existing project subject to completion of such projects by 30th September 2023.

### 5. Which project will be considered as a new project?

A 'new project' means a construction or development project, which commences during the period starting from 17.04.2020 till

31.12.2021 and is completed on or before 30.09.2023.

### 6. Which project will be considered as an existing project?

An 'Existing project' means an incomplete construction or development project, which has commenced before 17.04.2020, is completed on or before 30.09.2023 and a declaration is provided in the registration form with regard to the percentage of completion of the project up to the last day of the accounting period pertaining to Tax Year 2019 or Tax year 2020 at the option of taxpayer.

### 7. How will the tax payable by builders and developers registered under the fixed tax scheme be determined?

The tax payable by builders and developers on their income, profits and gains emanating from the sale of buildings or plots shall be determined on a project-by-project basis on the basis of specified rates per square foot/per square yard for commercial and residential buildings and commercial, residential and industrial plots.

For e.g. in case of a person being a builder of a commercial building in Karachi the total tax liability (irrespective of actual profit or loss) shall be equal to Rs 250 per square feet. If a building is built having a covered area of 10,000 square feet, the tax liability of the builder for that project will be Rs 10,000\*250 = Rs2.5 million.

### 8. Which rate of fixed tax shall apply if the project is meant for both residential and commercial purposes?

In the case of buildings having dual usage i.e. both commercial and residential, the respective rates specified for each category shall apply. Moreover, in case the development of plots and construction of buildings upon the same constitutes a single



project, the respective rates for developers and builders shall both apply.

**9. Are builders and developers opting for the scheme required to withhold tax on payments?**

Builders and developers opting for the proposed scheme are not required to withhold income tax on the purchase of building material except steel and cement. Moreover, they are not required to withhold tax on services of plumbing, electrification, shuttering and other similar services other than those provided by companies.

In other words, Builders and Developers under the scheme will be required to withhold tax while making payments on account on steel and cement only. Whereas, in case of services received, the Builders and Developers will be required to deduct tax only when such services are provided by a company.

**10. Whether builders and developers opting for the scheme are required to explain their source of investment?**

The scheme provides immunity from the provisions of section 111 of the Ordinance, and no questions will be asked regarding nature and source of funds from investors making capital investment in **NEW** construction projects in the form of money or land, either as an individual, as an association of persons or a company, subject to the conditions as explained below:

Type of Investor	Investment Mode	Conditions
Individual	Monetary	Investor shall open a new bank account and deposit such amount in it on or before 30.06.2021.
	Land	Land Investor shall have the

		ownership title of the land as on 17.04.2020
<b>Corporate shareholder /Partner of a single object company or partnership formed after 17.04.2020</b>	Monetary	Such amount shall be invested through a crossed banking instrument deposited in the bank account of such association of persons or company on or before 30.06.2021.
	Land	Land owned by a partner or shareholder as on 17.04.2020 shall be transferred to such association of persons or company on or before 30.06.2021.

In other words, the immunity is limited to ‘individuals’ only or a shareholder and partner of a company and AOP, respectively. Company cannot avail immunity for itself.

**11. Is there any incentive for the purchaser in terms of requirement to explain source of funds?**

Yes, the first purchaser of a building or a unit in the building is not required to explain the source of funds used for purchase from a project registered with FBR under this scheme if the complete payment is made before 31.03.2023 and is made through banking channels.

Similarly, the source of funds will not be inquired into if a plot is purchased by 30.06.2021, the payment is made by 30.06.2021 through banking channels, the person registers himself as a builder with FBR and completes construction on such plot by 30.09.2023.

**12. One of the requirements for availing the scheme is completion of Project (both new and existing projects) by 30th day of September 2023. When will the project be treated as complete for the purposes of this scheme?**

In case of a builder, the project shall be treated as complete on the date of completion of the grey structure. Moreover, the roof of the top floor should have been laid as per the approved plan. Furthermore, the map approving authority or NESPAK shall certify that the grey structure as per the approved map has been completed by the builder on or before the 30th day of September 2023.

In the case of a developer, the project shall be treated as complete on the date on which the following conditions have been fulfilled:-

- At least 50% of the total plots have been booked in the name of the buyers;
- At least 40% of the sale proceeds have been received;
- Landscaping has been completed; and
- At least 50% of the roads have been laid up to sub-grade level as certified by the approving authority or NESPAK.

Moreover, the map approving authority or NESPAK shall certify that landscaping has been completed on or before the 30th day of September 2023 and at least 50% of the roads have been laid up to sub-grade level. A firm of chartered accountants 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 September 2023.

**13. Is there any tax credit allowed against the tax payable under the scheme?**

Builders and developers opting for the scheme shall only be eligible for availing tax credit for tax collected under section 236A and 236K of the Ordinance from such builders or developers pursuant to the commencement

of the Tax Laws (Amendment) Ordinance, 2020 (I of 2020) i.e from 17th April ,2020 onwards on the purchase of immovable property utilized in a project registered under the scheme.

If tax suffered U/S 236A or 236K is more than tax liability under this scheme, no amount of such higher deduction shall be refundable.

**14. Are deductions allowed for expenditures incurred in deriving income from the projects registered under the tax scheme?**

No deduction shall be allowed for expenditures incurred in deriving income from projects registered under this fixed tax scheme. Moreover, such income shall not be reduced by any deductible allowance or the set-off of losses and any tax collected or deducted under the Income Tax Ordinance, 2001 shall not be refunded.

**15. At what stage shall a project registered under the scheme be considered as commenced for the purpose of the scheme?**

In the case of a construction project, a project shall be treated as commenced when the layout plan is approved by the concerned authority. In the case of a development project, the project shall be treated as commenced when the development plan is approved by the concerned authority.

**16. Will minimum tax under section 113 of the Ordinance be applicable on turnover of a builder or developer from a project registered under the scheme?**

No, it is not applicable in any case. Minimum tax under section 113 of the Ordinance shall not be applicable on turnover of a builder or developer in respect of a project registered under the scheme.

**17. How will the value or price of land be determined in respect of capital investment made in the project registered under the scheme in the form of land for availing exemption from investigation into sources of investment?**

The value or price of land or building, shall be the higher of:

- a) 130% of the fair market value as determined by the FBR under subsection (4) of section 68; or
- b) At the option of the person making investment, 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.

In other words, in case the investor of land thinks that the value of the land is more than 130% of the of the FBR notified values, he may opt to get the land valued by at least two independent valuers.

**18. Is there any requirement of providing details of area of the project??**

Yes. Every builder or developer is required to obtain and provide to the FBR following details in respect of area of the project:-

- Total land area in square yards.
- Covered area in square feet.
- Saleable area in square feet.
- Type (commercial, residential, or industrial) of saleable area or the
- Total land area, as the case may be.

The aforementioned details are required to be certified from approving authority or map approving authority.

**19. What is meant by the term "saleable area" in case of buildings?**

"saleable area" in case of buildings, means saleable area as determined by the approving authority or map approving authority or NESPAK under the relevant laws.

**20. Is there any requirement of paying the tax computed under the scheme in advance or installments?**

Yes, a builder or developer falling under this scheme shall pay advance tax equal to one-fourth of the tax liability for the year as determined under the scheme in four equal installments.

**21. Does the scheme allow incorporation of profits and gains accruing from such projects?**

A builder or developer opting for taxation under section 100D shall be allowed to incorporate profits and gains accruing from such projects up to ten times of the tax paid under the scheme. Any profits or gains in excess of 10 times shall be taxable as income from business under normal law and chargeable to tax rates provided under first schedule.

**22. What are the rates for Commercial/Residential buildings and developers in big cities?**

There are separate fixed tax rates for big cities and small cities. The cities are divided as under for taxation under the scheme:-

(1)	(2)	(3)
<b>Karachi, Lahore and Islamabad</b>	Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbottabad, Quetta	Urban Areas not specified in columns (1) and (2)

The rate of fixed tax under the scheme for **commercial** buildings in Karachi, Lahore, and Islamabad is Rs.250 per Sq. ft.

The rate of fixed tax under the scheme for **residential** buildings in Karachi, Lahore, Islamabad is as under :-

<b>Up to 3000</b>	Rs.80 per Sq. Ft
<b>3000 and Above</b>	Rs.125 per Sq. ft

The rate of fixed tax under the scheme for commercial buildings in Karachi, Lahore, and Islamabad is Rs.150 per Sq. yd for entire project.

As per definition of area in Rule 9 of Eleventh Schedule:

(a) "area" means

(i) in case of a builder,-

(a) in case of a commercial or a residential building excluding a house, the saleable area of the building; and

(b) in case of a house, the covered area of house; (ii) in case of a developer, the total and area of the project;

Therefore, the rate of tax in case of builder will apply on saleable area of building and in case of developer gross area.

### **23. Will tax under section 236C be collected on sale of immovable property by the builder or developer from these projects?**

All applicable withholding taxes shall remain liable to collection / deduction. However, the builder / developer is not entitled to adjust or claim refund of such taxes except tax u/s 236A or 236K.

### **24. Will dividend income received in lieu of income subject to normal tax i.e., income from a project which is in excess of ten times of the tax paid under the fixed tax scheme also be exempt from tax?**

Yes, all dividend income paid out of the profits and gains from a project whether taxed under fixed tax or normal tax is exempt from tax.

### **25. Will Sales Tax be leviable on construction services?**

Construction services are presently zero rated in Islamabad Capital Territory with certain exceptions in view of SRO 326(1)/2020 dated 27.04.2020.

The rate of construction services in Sindh is as follows:

- Services provided by Property Developers or Promoters

- Development of purchased or leased land for conversion into residential or commercial plots: Rs 100 per square yard of land
- Construction of residential or commercial units: Rs 50 square foot of constructed covered area.
- The Construction service by builders is 8%.

The rates in Punjab on construction services is 5% in case of builders with exemptions also available in certain cases. Sales tax on services provided by property developers and promoters is Rs. 100 per square yard for land development and Rs.50 per square feet for Building construction. There is no sales tax on affordable housing services provided under Government sponsored housing programs.

The Rate of sales tax in KPK is 2%. In case of land development, tax shall be charge at the rate of rupees one hundred (Rs.100 only) per square yard and in case of commercial construction of residential buildings, flats or apartments, commercial plazas, malls, towers, or complexes etc., the rate of tax shall be rupees fifty (Rs.50 only) per square foot of the covered area.

### **26. What is the definition of "Transfer of Land" under amnesty?**

Transfer of land has the same meaning as in The Transfer of Property Act, 1882 which governs all transfers of immovable property.

### **27. Whether this "Transfer" is to be registered in land record? If yes, cost of transfer of land will be calculated on what value.**

Such transfer is required to be registered in the land records under the respective laws of the Provincial Land Record Authorities. The cost of such transfer shall be Higher of;

- 130% of the fair market value as determined by the Board under subsection (4) of Section 68; or
- at the option of the person making investment, 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.

**28. At the time of transfer of land from partner/shareholder to AOP/Company, whether gain U/S 37 of Income Tax Ordinance, 2001 will be calculated and declared by the partner/shareholder?**

The AOP / Company is a separate legal entity from its partner / shareholder. Transfer of land by a partner / shareholder to an AOP/Company shall be treated as disposal of land to a separate person and capital gain shall be calculated accordingly.

**29. In case gain is to be calculated and declared by partner/shareholder, what value will be considered for calculation of gain U/S 37 of the Ordinance?**

The value of land for such disposal by partner/shareholder shall be higher of;

- a. 130% of FBR value or
- b. Lower of the two values determined by authorized valuers of SBP and the gain will be calculated by deducting cost of such property to such partner/shareholder.

**30. In case a "person" gets a project registered and hires services of a contractor being a developer. The same contractor becomes the first purchaser of a specific part of the said project and he wants to start a construction project on that portion. How can he avail benefit under this scheme?**

The Scheme under construction package is open to all for benefit subject to fulfillment of conditions and timelines given in section 100D of the Ordinance.

**31. Land may be invested under this amnesty only if title of land is already in the name of individual/ partner/shareholder before April 17, 2020. However, in case a person makes investment in cash "deposited in a new bank account" is he entitled to claim benefit of the scheme in case he purchases a new land from that particular bank account after April 17, 2020 and before June 30, 2021, through proper banking**

**channel, as in this case title will be transferred after April 17, 2020?**

Yes, he will be entitled to claim benefit of the scheme given all other conditions and timelines are also fulfilled.

**32. In case investment is made in cash i.e., by opening a new bank account, whether there is a time limit during which funds must be retained in the bank account? If yes, what is the timelines?**

There is no such limit to maintain amount in bank account and such cash can only be withdrawn from the bank account for a business expense of the project at any time after deposit.

**33. In case no such restriction is imposed under the amnesty, how will authorities ensure that same amount is not being re-deposited in the same bank account again and again in order to claim exemption from provisions of section 111 of the Ordinance?**

The money deposited can only be wholly utilized for the project and the scheme does not permit withdrawing cash from bank account to deposit the same in another for availing benefit of section 100D.

**34. If a developer has 1000 kanals of land and wants to avail this scheme for only 500 kanals by registering a project for only 500 kanals, is he allowed to do so?**

As this scheme is an optional scheme for builders and developers and provides for taxation on project-by-project basis, any developer who wishes to opt this scheme for a part of his total held land and form a project to be offered for tax under this scheme, he is allowed to do so. However, the remaining land if developed by the developer and for same developer does not opt for this scheme for remaining part, same shall be offered for taxation under normal tax regime.

**35. If a builder has a piece of land where 20 story building is allowed to be built but currently the layout plan is approved for only 10 stories and builder plans to build 10 stories only, can he opt for this scheme.**

As this scheme is an optional scheme for builders and developers and provides for taxation on project-by-project basis, any builder who wishes to opt this scheme for a project, he is allowed avail this scheme if the certificate issued by the map approving authority mentions that the project is planned for covered area of ten stories only. However, any time later, the remaining building if extended beyond ten stories, the next ten stories will be treated as a separate project and same shall be offered for taxation under normal tax regime.

**36. Is it permissible to change pattern of ownership of a builder or developer before completion of a project under this scheme?**

Where immunity from provisions of section 111 has been claimed, pattern of ownership can only be changed subject to conditions and restriction contained in rule-8 of the Eleventh Schedule.

As per Rule 8, the following restrictions shall apply:-

- (a) A shareholder or a partner of a builder or developer shall not be allowed a change in ownership of an incomplete project except where at least fifty percent of the total project cost, as certified by a firm of chartered accountants having an ICAP QCR rating of satisfactory notified by the Board for this purpose has been incurred up to the date of change of ownership;
- (b) The succession to legal heirs in case of deceased shareholder or a partner shall be allowed;
- (c) The additional partners or shareholders in a builder or developer after the 30<sup>th</sup> June 2021 may join but additional partners or shareholders shall not be eligible for

exemption provided under sub-section (3) of section 100D i.e. amnesty.

**37. The law allows existing / incomplete project to become part of tax regime laid down in 11th schedule. The law allows builder / developer to declare percentage of completion as at June 30, 2019 which shall be declared in the registration forms without mention how to compute percentage of completion. Please elaborate how percentage of completion is calculated?**

Percentage of completion of a project is calculated by using following formula;

$$\text{Percentage of completion} = A/B \times 100$$

Where:

'A' is the cost incurred on project till last day of tax year 2019.

'B' is the total estimated cost of completion of the project.

**38. If a person intends to remit money to his Pakistan account from his undeclared bank account in a foreign country and invest that money in a construction project in Pakistan, would he be eligible to claim immunity from section 111 under this scheme and would that fall under anti money laundering law?**

This scheme applies to such cases if and only if the money invested is not a crime money derived from the commission of a criminal offence including the crimes of money laundering, extortion, or terror financing. However, if the money is not derived from commission of such criminal offences but had not been earlier offered / declared under the Income Tax Ordinance, 2001, it can be invested under this scheme and shall enjoy immunity from section 111.

**39. If overseas Pakistani book a suite / office in Pakistan which is not handed over till September 30, 2023, does he qualify for the incentives of being first buyer**

**provided in scheme? What if tax is already paid by him on his income in foreign country in last 5 years whether tax exemption will still be available for purchase of property with FC remittance? Whether advance tax@ 1% u/s 236K will be deducted at the time of purchase of property by overseas Pakistani?**

Yes, overseas Pakistanis are also eligible to avail incentives of this scheme as first buyer of newly built units or as builder or developer. If they purchase property as first buyer or invest as builder or developer, they can also claim immunity under this scheme from probe of sources of funds under section 111.

If overseas Pakistani being non-residents purchase newly built property in Pakistan and have paid taxes during last five years anywhere in the world, they will not be subject to any further taxes in Pakistan. However, in case they invest in Pakistan as builder or developer and opt for this scheme they will have to pay fixed tax on their project under this scheme even if they have paid tax during last five years anywhere in the world.

Overseas Pakistanis being non-residents having no Pakistan source income can claim exemption from collection of tax @ 1% under section 236K by filing an application for exemption with the Commissioner having jurisdiction.

**40. Do residential buildings mentioned in scheme include "house"? Means If a person registers himself as a builder and purchases plot and constructs house and sell it, then will this mechanism also come under this scheme of amnesty?**

Yes, the definition of building read with definition of unit provided in 11th schedule includes houses. Therefore, this scheme is applicable on houses as well.

**41. In definition of "developer" in section 100D(9)(c), what does development for**

**itself or otherwise means? Does 'otherwise' means to include development of land where developer may not have land title and is rendering services for development of land for others?**

The words 'for itself' means that the person may be developing the land for its own purposes/utilization, for usage in construction of projects subsequently and then selling those constructed projects.

The words 'or otherwise' means that the person may be developing the land and then selling the developed land to the Builders who will perform construction activities on such developed land.

In both the above cases, the development work should be performed by the developer on its own land.

**42. Is it possible to initiate more than one project through single AOP / Company or every new project require new AOP or Company?**

An AOP / Company incorporated for the purpose of this scheme may initiate more than one project. However, every project needs separate registration on IRIS portal of FBR through filing of a prescribed form. However, each new project which wants to avail exemption from section 111 u/s 100D (3) will require a new single object company, LLP or AOP.

**43. Capital investment is defined in clause (b) of subsection (9) of section 100D. Advance against issue of shares is considered as equity under the accounting standards. Does the word equity used in definition above also include advance against issue of shares?**

Yes, the word equity covers 'advance against issue of shares'. However, such amounts should be transferred to the new bank account as per requirements of sub-section (3) of the section 100D. However, if advance

against equity is not from banking channel, it will be income from other sources u/s 39(3) of the Income Tax Ordinance, 2001.

**44. Another critical condition is deposit of funds in bank account of the Company account on 31st December 2020 to avail amnesty scheme amnesty under section 111 of the Ordinance. Whereas we are aware that such investors will incur a number of costs during the intervening period after registration of land and before FBR registration which should be allowed amnesty too. Some of these costs are as under:**

- i. Land or property transfer costs
- ii. Property status transfer costs
- iii. Property costs for development of business
- iv. plans or layouts etc.
- v. Property possession acquiring costs.
- vi. Property transfers costs for utilities
- vii. Company registration costs especially capital authorization fee in case of companies, which will be in millions.

**These associated or ancillary costs incurred during registration of company/AOP till final registration with FBR should also be allowed amnesty under section 111 of the Ordinance, 2001?**

Such expenses can be paid out of the monies transferred in the new bank account for claim of immunity from provisions of section 111 after registration with FBR. The Iris System allows temporary registration where a project can be registered even before its approval.

**45. The Finance Act, 2020 has included builders and developers in the definition of “Industrial undertaking”. What benefits accrue to them by this status?**

The persons directly involved in the construction of buildings, roads, bridges and other such structures or the development of land have been included in the definition of industrial undertaking with effect from

01.05.2020 vide sub clause (aa) of clause (29C) of Section 2 of the Income Tax Ordinance, 2001. As per law, this inclusion is only to the extent and for the purposes of import of plant and machinery to be utilized in the activities aforementioned. The person directly involved in the construction of buildings, roads, bridges or other such structures or the development of land can import plant and machinery (capital goods) for the aforementioned purposes at the rate of 1%, if classified in Part I of twelfth schedule to the Ordinance. This tax is adjustable against the tax payable for builders and developers. However, the credit of this tax is not available to persons opting for fixed tax regime under section 100D of the Ordinance.

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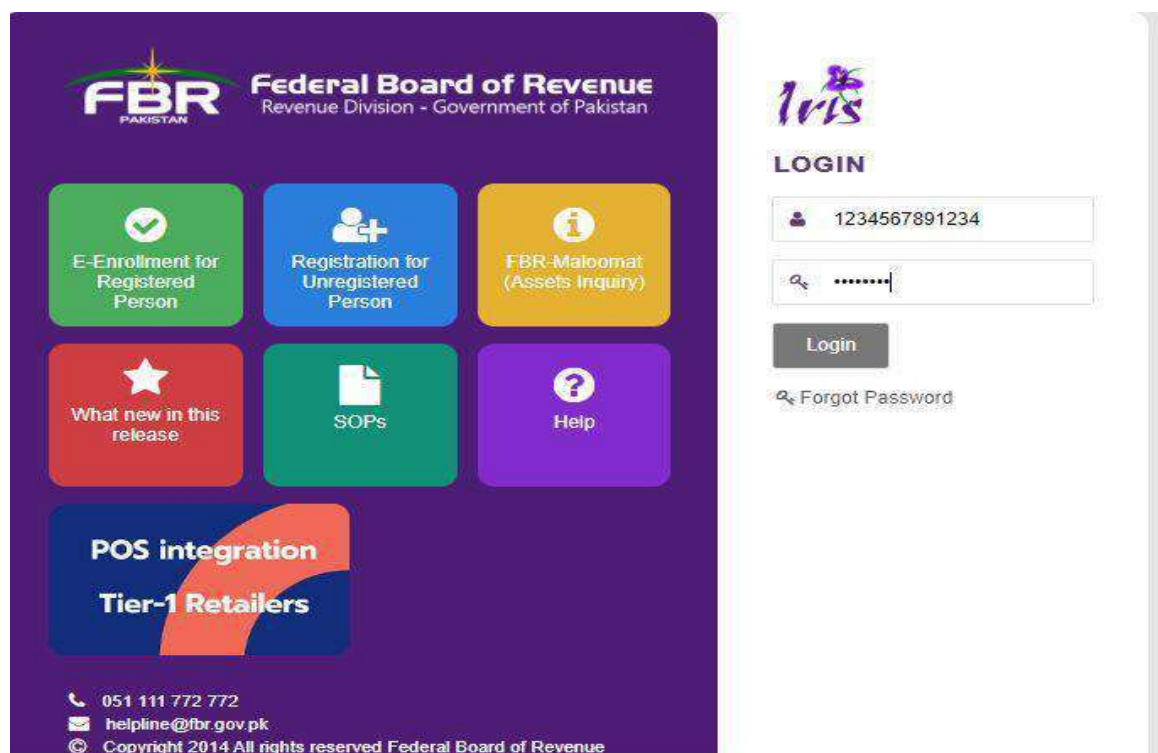
# Step-Step Guide for Registration as Builder & Developer

## Not Registered

Please go to <https://iris.fbr.gov.pk/public/txplogin.xhtml> and Click “Registration for Unregistered Person”.

## Already Registered

1. Please use your Iris login and password to enter in Iris application.



The image shows two side-by-side screenshots of the FBR Iris application interface. The left screenshot is a dashboard with a dark purple background. At the top left is the FBR Pakistan logo, and at the top right is the text 'Federal Board of Revenue Revenue Division - Government of Pakistan'. Below this are six colored buttons: a green button for 'E-Enrollment for Registered Person', a blue button for 'Registration for Unregistered Person', a yellow button for 'FBR-Maloomat (Assets Inquiry)', a red button for 'What new in this release', a teal button for 'SOPs', and a purple button for 'Help'. At the bottom left, there is a blue button for 'POS integration Tier-1 Retailers'. At the bottom, there is contact information: a phone icon with '051 111 772 772', an email icon with 'helpline@fbr.gov.pk', and a copyright notice '© Copyright 2014 All rights reserved Federal Board of Revenue'. The right screenshot is a white login page. At the top left is the 'Iris' logo. Below it is the word 'LOGIN' in bold. There are two input fields: the first contains the number '1234567891234' and the second contains a masked password '.....'. Below the input fields is a grey 'Login' button and a link for 'Forgot Password'.

2. After logging in, on left upper corner of your window, Click **Registration** and select **Builder / Developer**.

Registration Declaration Assets Declaration Rectification Refund

Forms	Applications	Applications
14(1) (Form of Registration filed voluntarily through Simplified) (Sales Tax)	2(36)(c) (Application for approval as Non-Profit Organization)	1(1) / Part I Sixth Sch. (Application for recognition to Provident Fund)
181 (Form of Registration filed for modification) (Income Tax)	2(36)(c) (Application for revision Order to grant / refuse / maintain / withdraw approval to Non-Profit Organization)	1(1) / Part II Sixth Sch. (Application for recognition to Superannuation Fund)
★ <b>Builder / Developer</b>	32(4) (Application for permission to change to accounting method)	1(1) / Part III Sixth Sch. (Application for recognition to Gratuity Fund)
	74(3) / (4) (Application for permission to adopt special / normal tax year)	117(3) Part III Sixth Schh. (Application for special contribution to Gratuity Fund)
		21(1) Application for De-Registration of Sales Tax
		2(59A) Application for change of rate of tax for companies

3. Click on tab **Builder / Developer** on the following window:

Edit Save Submit Cancel Print

Task: Registration as Builder / Developer Transaction Date: 08-Jun-2020

Name: \_\_\_\_\_ Registration Number: \_\_\_\_\_

Period: 01-Jul-2019 - 30-Jun-2020 Tax Year: 2020 Valid Upto: \_\_\_\_\_ Due Date: 30-Sep-2020 Document Date: \_\_\_\_\_ Submission Date: \_\_\_\_\_

Property Business **Builder/Developer** Link Verification

Properties

Type	Form	Address	Capacity	% Share	Residence / Head Office
No records found.					

4. After clicking on **Builder / Developer** tab, you will arrive at following screen where you can add detail of your Project by click on **+** button in right side of corner of your screen.

Property Business **Builder/Developer** Link Verification

Project Name	Project Nature	Project Type	Approved By NAPHDA/Ehsas Program	Total Estimated Cost	Total Cost Incurred till last day of tax year 2019	Date of transfer	Value	Reg. Status	Attachment
No records found.									

Seller Information

Name	Reg No.	Instrument Type	Crossed Banking Instrument No.
No records found.			

Money Invested

Bank Acc No	Amount	Date of Deposit
No records found.		

Land Invested

Address	Reg No.	Name	Date of transfer	Value
No records found.				

5. Please add detail of your project in the following screen. Information for **Annexure-B** is optional. To add the location of the project, please click on search button against **Project Location**.

The screenshot shows a web form for project registration. The 'Basic Information & Annex-B' tab is highlighted with an orange circle. The form includes fields for Project Name, Project Nature (set to 'Existing Project'), Date of Registration with SECP/ROP(Coy/AOP), Project Type (set to 'Development'), and Project Location. A search icon is visible next to the Project Location field, with an orange arrow pointing to it. Below these fields are sections for Annexure-B (Total Estimated Cost, Percent of Completion, Total Cost Incurred) and navigation buttons for 'Previous' and 'Next'.

6. After adding detail of the property, click **OK** to continue.

The screenshot shows a modal dialog box titled 'Address'. It has radio buttons for 'Local' (selected) and 'Foreign'. Fields include Type, Measurement Unit, Unit No., Area / Locality, City, Form, Area, Complex / Street, and District. There is a text area for 'Additional Particulars'. At the bottom, the 'OK' button is highlighted with an orange circle, and a 'Close' button is also visible.

7. Click **NEXT** on the following screen:

The screenshot shows the project registration form after data entry. The 'Project Name' is 'Test Project', 'Project Nature' is 'New Project', 'Date of Registration' is '03-Mar-2006', and 'Project Location' is 'Unit 1, Street 1, G 21/3, Islamabad Islamabad'. The 'Next' button at the bottom right is highlighted with an orange circle. A red note at the bottom states: 'These Fields are only required for existing projects'.

8. In Annex-C, please add the **information about the seller**. If you have no information to enter, please click on **Next**.

The screenshot shows a software interface with a breadcrumb trail: "Basic Information & Annex-B" > "Purchases 100D(4) - (for persons wishing to avail this exemption)" > "Investments 100D(3) - (for persons wishing to avail this exemption)" > "Attachments". The "Purchases 100D(4)" tab is highlighted with an orange oval. Below the breadcrumb, there are input fields for "Value" and "Date of transfer". A table below has columns for "Name", "Reg No.", "Instrument Type", and "Crossed Banking Instrument No.", with "No records found." displayed. A plus sign icon in a circle is next to the table. At the bottom right, "Previous" and "Next" buttons are visible, with the "Next" button circled in orange.

The "Seller Information" dialog box contains four required fields: "Registration No.", "Name", "Instrument Type", and "Crossed Banking Instrument No.". Each field has a search icon. At the bottom are "OK" and "Close" buttons.

9. Click **Next** and you will find following screen to enter information about **Money Invested** and **Land Invested**.

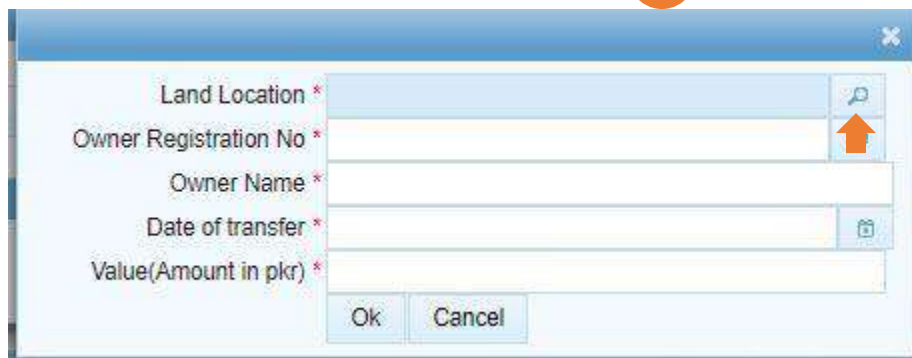
The screenshot shows the "Investments 100D(3) - (for persons wishing to avail this exemption)" tab highlighted with an orange oval. The breadcrumb trail is: "Basic Information & Annex-B" > "Purchases 100D(4) - (for persons wishing to avail this exemption)" > "Investments 100D(3) - (for persons wishing to avail this exemption)" > "Attachments". There are two sections: "Money Invested" and "Land Invested". The "Money Invested" section has a table with columns "Bank Acc No" and "Amount", and "No records found." below it. The "Land Invested" section has a table with columns "Address", "Reg No.", "Name", "Date of transfer", and "Value", and "No records found." below it. Plus sign icons in circles are next to both tables. At the bottom right, "Previous" and "Next" buttons are visible, with the "Next" button circled in orange.

10. Add detail of **Money Invested** by clicking at **+**



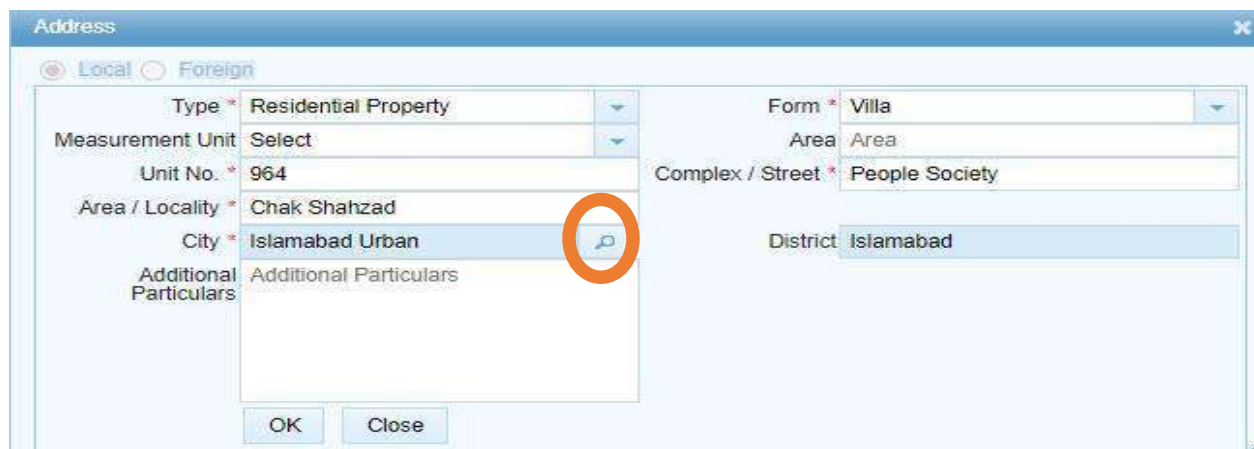
A dialog box titled "Add detail of Money Invested" with a close button (X) in the top right corner. It contains three input fields: "Bank Account No. \*" with the value "PK36SCBL1112001123456702" and a red error message "PK36 SCBL 1112 0011 2345 6702" below it; "Amount \*" with the value "10,000,000.00"; and "Date of Deposit \*" with the value "01-Jun-2020" and a calendar icon. At the bottom are "Ok" and "Cancel" buttons.

11. Add detail of **Land Invested** by clicking at **+**



A dialog box titled "Add detail of Land Invested" with a close button (X) in the top right corner. It contains five input fields: "Land Location \*" with a search icon; "Owner Registration No. \*" with an orange arrow pointing to the search icon; "Owner Name \*"; "Date of transfer \*" with a calendar icon; and "Value(Amount in pkr) \*". At the bottom are "Ok" and "Cancel" buttons.

12. To add the Land Location, Click **Search** button and fill the following form.



An "Address" dialog box with a close button (X) in the top right corner. It has two radio buttons: "Local" (selected) and "Foreign". The form is divided into two columns. The left column contains: "Type \*" (Residential Property), "Measurement Unit" (Select), "Unit No. \*" (964), "Area / Locality \*" (Chak Shahzad), "City \*" (Islamabad Urban) with a search icon circled in orange, and "Additional Particulars" (Additional Particulars). The right column contains: "Form \*" (Villa), "Area" (Area), "Complex / Street \*" (People Society), and "District" (Islamabad). At the bottom are "OK" and "Close" buttons.

13. To add the detail, press search icon in front of **Owner Registration No.**

Land Location \*

Owner Registration No \*

Owner Name \*

Date of transfer \*

Value(Amount in pkr) \*

Ok Cancel

14. Enter **CNIC** of the owner and press **Search Icon** to find from **Iris Database**, then **select** the relevant **Registration No.**

11111

Sr.	Registration No.	Name	Action
1	1234560	AYX	Selec
2	1234560		Selec
3	1234560		Selec
4	1234569		Selec
5	1234560		Selec
6	1234569		Selec
7	1234569		Selec
8	1234560		Selec

723 record(s) found

15. After Inserting **Date of Transfer** and **Value**, click **OK**

Land Location \* 964, People Society, Chak Shahzad, Islamabad

Owner Registration No \*

Owner Name \*

Date of transfer \*

Value(Amount in pkr) \* 10,000,000

Ok Cancel

## 16. Now add **Mandatory document (with \*)** and other documents

Document Type	File Upload
Transfer deed of land	+
FBR Rates	+
Certificate of registration	+
Approval document of project	+
Certificate by NESPAK/Approving authority under rule 4 of Eleventh schedule	+

17. To attach a document, click + against each category of document.

Attach Document

Document: Transfer deed of land

File \* [ ] +

OK Close

18. After adding all documents, click **Finish**.

Document Type	File Upload
Transfer deed of land	+
FBR Rates	+
Certificate of registration	+
Approval document of project	+
Certificate by NESPAK/Approving authority under rule 4 of Eleventh schedule	+

19. Print Template

**Project(s) of Builders / Developers:**

Project 1	
<b>Project Nature :</b> New Project	<b>Project Type :</b> Construction
<b>Registration No. :</b> 8885801	<b>Date of Registration with SECP / ROP:</b> 03-Mar-2006
<b>Name:</b> RTO GUJRANWALA-58 COMPANY	
<b>Total Estimate Cost:</b>	<b>Percentage of Completion (in case of existing projects):</b> null %
<b>Approved By NAPHDA / EHSASS Program:</b> No	<b>Total Cost Incurred till last day of Tax Year 2019:</b>
<b>Project Location:</b> Unit 1, Street 1, G 13 / 4, Islamabad	
<b>Value:</b>	<b>Transfer Date :</b>
<b>Registration Status:</b>	This project has been temporarily registered. Registration will come into effect upon submission of requisite documents and verification of antecedents by the Commissioner.

New Project 2	
<b>Project Nature :</b> Existing Project	<b>Project Type :</b> Construction
<b>Registration No. :</b> 8885801	<b>Date of Registration with SECP / ROP:</b> 03-Mar-2006
<b>Name:</b> RTO GUJRANWALA-58 COMPANY	
<b>Total Estimate Cost:</b> 10,000,000.00	<b>Percentage of Completion (in case of existing projects):</b> 43 %
<b>Approved By NAPHDA / EHSASS Program:</b> Yes	<b>Total Cost Incurred till last day of Tax Year 2019:</b> 2,000,000.00
<b>Project Location:</b> Unit 4, Street 3, H 31/ 4, Islamabad	
<b>Value:</b>	<b>Transfer Date :</b>
<b>Registration Status:</b>	Registered



CERTIFICATE TO BE ISSUED BY NESPAK OR APPROVING AUTHORITY OR MAP APPROVING AUTHORITY		
[See Rule 4 of the Eleventh Schedule to the Income Tax Ordinance, 2001]		
Name of Taxpayer	CNIC / Registration No.	
Business Address		
Project Name	Type of Project (Construction / Development)	
Project District	Please ( <input type="checkbox"/> ) One	
Project Site Address	Existing Project	New Project
	AREA	
FOR CONSTRUCTION PROJECT		
Residential Buildings		Commercial Building
Covered Area (House)	Saleable Area (Other)	Saleable Area
FOR DEVELOPMENT PROJECT		
Total Area (Entire Project)		Total Area (Industrial)

Name & Designation of Authorized Officer / Official	(Signature & Stamp)
---	---------------------



## **OFFICES IN PAKISTAN**

### **Karachi Address:**

**Office no. 408, 4th Floor, CTC  
Building, Clifton Block-8,  
Karachi**

**Tel #: +92 21 3530 3293-6**

### **Islambad 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**