

SENATE OF PAKISTAN

REPORT NO.3 OF 2018



House of the Federation

REPORT OF THE STANDING COMMITTEE ON FINANCE, REVENUE AND ECONOMIC AFFAIRS

ON

**THE FOREIGN ASSETS (DECLARATION AND REPATRIATION)
BILL, 2018, LAID IN THE HOUSE ON 12TH APRIL, 2018, UNDER
ARTICLE 73 OF THE CONSTITUTION**

PRESENTED BY

SENATOR FAROOQ HAMID NAEK

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON FINANCE, REVENUE AND ECONOMIC AFFAIRS ON "THE FOREIGN ASSETS (DECLARATION AND REPATRIATION) BILL, 2018"

I, Senator Farooq Hamid Naek, Chairman Standing Committee on Finance, Revenue and Economic Affairs, have the honour to submit, on behalf of the Committee, this report on a money Bill to provide for declaration and repatriation of assets and income held outside Pakistan [The Foreign Assets (Declaration and Repatriation) Bill, 2018], laid on the table of the House on 12th April, 2018, under Article 73 of the Constitution for making recommendations, if any, thereon to the National Assembly and referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee is as under: -

(1)	Senator Farooq Hamid Naek	Chairman
(2)	Senator Saleem Mandviwalla	Member
(3)	Senator Ayesha Raza Farooq	Member
(4)	Senator Mushahid Ullah Khan	Member
(5)	Senator Musadik Masood Malik	Member
(6)	Senator Dilawar Khan	Member
(7)	Senator Muhammad Akram	Member
(8)	Senator Muhammad Talha Mahmood	Member
(9)	Senator Khanzada Khan	Member
(10)	Senator Mohsin Aziz	Member
(11)	Senator Aurangzeb Khan	Member
(12)	Senator Mian Muhammad Ateeq Shaikh	Member
(13)	Senator Anwar ul Haq Kakar	Member
(14)	Minister for Finance, Revenue and Economic Affairs	Ex-Officio Member

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3. The Committee considered the said Bill in its meeting held on 24th April, 2018, which was attended by the following:-

(1)	Senator Farooq Hamid Naek	Chairman
(2)	Senator Saleem Mandviwalla	Member
(3)	Senator Ms. Ayesha Raza Farooq	Member
(4)	Senator Musadik Masood Malik	Member
(5)	Senator Dilawar Khan	Member
(6)	Senator Muhammad Akram	Member
(7)	Senator Khanzada Khan	Member
(8)	Senator Mohsin Aziz	Member
(9)	Senator Aurangzeb Khan	Member
(10)	Rana Muhammad Afzal	Ex-Officio Member
	Minister of State for Finance and Revenue	

4. The Standing Committee considered the said Bill clause by clause and after due deliberations recommended that the Bill may be passed by the National Assembly with the following amendments:-

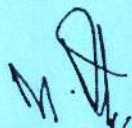
- (1) That in Clause 1, for the word "**Ordinance**", the word "**Act**", shall be substituted;
- (2) That in Clause 2,-
 - a) in sub-clause (1), for the word "**Ordinance**" the word "**Act**", shall be substituted;
 - b) in sub-clause (2), for the word "**Ordinance**" occurring in the second line, the word "**Act**", shall be substituted;

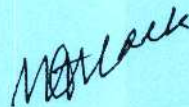
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- (3) That in Clause 3, for the word "**Ordinance**", the word "**Act**", shall be substituted;
- (4) That in Clause 4, for the word "**Ordinance**" wherever occurring, the word "**Act**", shall be substituted;
- (5) That in Clause 5, for the word "**Ordinance**" wherever occurring, the word "**Act**", shall be substituted;
- (6) That in Clause 7,-
 - a) In the table, at S.No.1, in Column (3), for the expression "**5%**", the expression "**10%**", shall be substituted;
 - b) In the table, at S.No.2, in Column (3), for the expression "**3%**", the expression "**10%**", shall be substituted;
- (7) That in Clause 9, in sub-clause (2), for the word "**Ordinance**", the word "**Act**", shall be substituted;
- (8) That in Clause 13, for the word "**Ordinance**", occurring in fifth and sixth lines, the word "**Act**", shall be substituted;
- (9) That in Clause 15, for the word "**Ordinance**", occurring in second and third lines, the word "**Act**", shall be substituted;
- (10) That in Clause 16, for the word "**Ordinance**", occurring in second and fourth lines, the word "**Act**", shall be substituted;

5. The Bill as laid in the Senate is Annexed. The Committee also gave approval for presentation of this report to the House.


(MUHAMMAD TAHIR KHAN)
Secretary (Committee)


(SENATOR FAROOQ HAMID NAEK)
Chairman (Committee)

[Published in the Gazette of Pakistan, Extraordinary, Part-I,
dated the 8th April, 2018]

ORDINANCE NO. III OF 2018

AN

ORDINANCE

*to provide for declaration and repatriation of assets and income
held outside Pakistan*

WHEREAS there is a large scale non-reporting and under-reporting of assets and income held outside Pakistan and it is expedient to provide for declaration and repatriation of assets and income held outside Pakistan for the purposes hereinafter appearing;

AND WHEREAS the Senate and the National Assembly are not in session and the President of the Islamic Republic of Pakistan is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Foreign Assets (Declaration and Repatriation) Ordinance, 2018.

(2) It shall come into force at once.

2. **Definitions.**—In this Ordinance unless there is anything repugnant in the subject or context:—

- (a) "cost of acquisition of the mortgaged asset" means the sum of mortgaged payments and other mortgaged cost of acquisition;
- (b) "declarant" means a person making a declaration under section 5;
- (c) "fair market value" means price of foreign asset determined and declared by a declarant himself, but in no case is less than the cost of acquisition of the foreign assets;
- (d) "foreign assets" means any movable or immovable assets held outside Pakistan and includes real estate, mortgaged assets, stock and shares, bank accounts, bullion, cash, jewels, paintings, accounts and loan receivables, beneficial ownership or beneficial interests or contribution in offshore entities and trusts;
- (e) "government security" means a bond, note or other debt instrument issued by the Federal Government with a promise of repayment upon maturity;
- (f) "liquid assets" means cash or an asset that can be readily converted into cash with a minimal impact on the assets' value and includes bank notes, marketable securities, stocks, promissory notes, government bonds, deposit certificates and other similar instruments; and
- (g) "holder of public office" means a person who is or has been at any time since 1st day of January 2000,—
 - (i) the President of the Islamic Republic of Pakistan or the Governor of a Province;

- (ii) the Prime Minister, Chairman Senate, Speaker of the National Assembly, Deputy Chairman Senate, Deputy Speaker National Assembly, Federal Minister, Minister of State, Attorney-General for Pakistan and other Law Officers appointed under the Central Law Officers Ordinance, 1970 (VII of 1970), Adviser or Consultant or Special Assistant to the Prime Minister and holds or has held a post or office with the rank or status of a Federal Minister or Minister of State, Federal Parliamentary Secretary, Member of Parliament, Auditor-General of Pakistan, Political Secretary;
- (iii) the Chief Minister, Speaker Provincial Assembly, Deputy Speaker Provincial Assembly, Provincial Minister, Adviser or Consultant or Special Assistant to the Chief Minister and who holds or has held a post or office with the rank or status of a Provincial Minister, Provincial Parliamentary Secretary, Member of the Provincial Assembly, Advocate-General for a Province including Additional Advocate-General and Assistant Advocate-General, Political Secretary;
- (iv) the Chief Justice or, as the case may be, a Judge of the Supreme Court, Federal Shariat Court, a High Court or a Judicial Officer whether exercising judicial or other functions or Chairman or member of a Law Commission, Chairman or Member of the Council of Islamic Ideology;
- (v) holding an office or post in the service of Pakistan or any service in connection with the affairs of the Federation or of a Province or of a local council constituted under any Federal or Provincial law relating to the constitution of local councils, co-operative societies or in the management of corporations, banks, financial institutions, firms, concerns, undertakings or any other institution or organization established, controlled or administered by or under the Federal Government or a Provincial Government or a civilian employee of the Armed Forces of Pakistan;
- (vi) the Chairman or Mayor or Vice Chairman or Deputy Mayor of a *zila* council, a municipal committee, a municipal corporation or a metropolitan corporation constituted under any Federal or Provincial law relating to local councils;

Explanation.—For the purpose of this sub-clause the expressions “Chairman” and “Vice Chairman” shall include “Mayor” and “Deputy Mayor” as the case may be, and the respective councilors therein; and

(vii) a District *Nazim* or District *Naib Nazim*, Tehsil *Nazim* or Tehsil *Naib Nazim* or Union *Nazim* or Union *Naib Nazim*;

(2) All other words and expressions used but not defined in this Ordinance shall have the same meaning assigned to them under the Income Tax Ordinance, 2001 (XLIX of 2001) and the rules made thereunder.

3. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

4. **Application.**—The provisions of this Ordinance shall apply to—

(a) all citizens of Pakistan wherever they may be, except holders of public office, their spouses and dependent children; and

(b) all foreign assets held by the persons first mentioned in clause (a) and tax paid on the value of such assets under section 8, except where proceedings are pending in any court of law in respect of the foreign assets.

(2) The provisions of this Ordinance shall not apply to any proceeds or assets that are involved in or derived from the commission of a criminal offence.

5. **Declaration and repatriation of assets held outside Pakistan.**—(1) Subject to the provisions of this Ordinance, any person may make to the Federal Board of Revenue, by the due date specified in section 6, a declaration in respect of foreign assets acquired before commencement of this Ordinance.

(2) The value of a foreign asset shall be fair market value as defined in section 2.

(3) The declaration of value and tax paid in respect of the foreign assets shall be in the manner as set out in Form A of the Schedule to this Ordinance.

(4) The description of the foreign assets declared under sub-section (1) and (3) shall be in the manner as set out in Form B of the Schedule to this Ordinance.

(5) A person declaring foreign assets under sub-section (1), may by the due date as specified in section 6 also repatriate the said foreign assets in Pakistan.

(6) The declaration of foreign assets shall be made in the manner as set out in Form A of the Schedule to this Ordinance, electronically on Federal Board of Revenue's web portal and shall be valid only if it is accompanied by the evidence of payment of tax.

6. **Period of applicability.**— The declaration and repatriation under section 5 shall be made on or after the tenth day of April, 2018 but on or before the thirtieth day of June, 2018.

7. **Charge of tax.**— The foreign assets declared and repatriated into Pakistan within the due date shall be chargeable to tax at the rates specified in the Table below, namely:—

TABLE

S.No.	Foreign assets	Rate (as a percentage of the value of foreign assets)
(1)	(2)	(3)
1.	Liquid assets not repatriated	5%
2.	Immovable assets outside Pakistan	3%
3.	Liquid assets repatriated and invested in Government securities upto 5 years in US dollars denominated bonds with six-monthly profit payment in equivalent Rupees (rate of return 3%) and payable on maturity in equivalent Rupees	2%
4.	Liquid assets repatriated	

8. **Payment of tax.**—(1) The due date for the payment of tax chargeable under section 7 shall be the date on which declaration is made under section 6.

(2) No tax shall be payable by the declarant under any law for the time being in force including the Income Tax Ordinance, 2001 (XLIX of 2001) where tax has been paid under sub-section (1) in respect of the foreign assets declared under section 5.

9. **Currency and rate of conversion.**—(1) The value of a foreign asset under sub-section (2) of section 5 shall be in Rupees.

(2) The tax payable under section 8 shall be paid in United States dollars as specified in Form A of the Schedule to this Ordinance.

(3) The value in Rupees under sub-section (1) shall be converted into United States dollars at the State Bank of Pakistan's rate applying between the United States dollar and the Rupee on the date the declaration is made under section 6 and tax is paid under section 8.

10. **Mode and manner.**—The State Bank of Pakistan (SBP) shall notify the mode and manner of—

- (a) repatriation of liquid assets in Pakistan;
- (b) deposit of tax in US dollars in SBP; and
- (c) deposit of tax in Rupees in the income tax account of the Federal Consolidated Fund.

11. **Incorporation in books of account.**—(1) Where a declarant has paid tax under section 8 in respect of foreign assets declared under section 5, the declarant shall be entitled to incorporate in his books of account such foreign assets.

(2) For the purpose of the Income Tax Ordinance, 2001 (XLIX of 2001), the cost of acquisition of foreign assets and date of acquisition shall be deemed to be the value declared by the declarant and the date on which declaration has been made by the declarant, respectively.

12. **Investment in Government securities.**—Investment in Government securities under S.No. 3 of the Table in section 7 shall be made in accordance with a scheme to be introduced by the Government of Pakistan through the State Bank of Pakistan, by notification in the official Gazette, specifying periodic rate of return, the period for the rate of return and period of maturity.

13. **Confidentiality.**—(1) Notwithstanding the provisions of sub-section (3) of section 216 of the Income Tax Ordinance, 2001 (XLIX of 2001), the Right of Access to Information Act, 2017 (XXXIV of 2017) and any other law for the time being in force, particulars of any person making a declaration under this Ordinance or any information received in any declaration made under this Ordinance shall be confidential.

(2) A person who discloses any particulars in contravention of sub-section (1) shall commit an offence punishable on conviction with a fine of not less than five hundred thousand Rupees but not exceeding one million Rupees or imprisonment for a term not exceeding one year or with both.

14. **Declaration not admissible in evidence.**— Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under section 5 shall be admissible in evidence against the declarant for the purpose of any proceedings relating to imposition of penalty or for the purposes of prosecution under any law including Income Tax Ordinance, 2001 (XLIX of 2001).

15. **Removal of difficulty.**— If any difficulty arises in giving effect to the provisions of this Ordinance, the Federal Government may make such

order in writing, as is not inconsistent with the provisions of this Ordinance, for removal of such difficulty.

16. **Misrepresentation.**—Notwithstanding anything contained in this Ordinance, where a declaration has been made by misrepresentation or suppression of facts, such declaration shall be void and shall be deemed never to have been made under this Ordinance.

Schedule

FORM A

DECLARATION UNDER SECTION 5				
FULL NAME				
CNIC*				
NTN (if available)				
ADDRESS				
TELEPHONE NUMBER:				
Email:				
FOREIGN ASSETS				
S.No.	Nature of assets	Amount in Rupees	Tax Rate	Tax in Pak Rupees
1.	Liquid assets not repatriated		5%	
2.	Immovable assets outside Pakistan		3%	
3.	Liquid assets repatriated and invested in Government securities		2%	
4.	Liquid assets repatriated		2%	
Total tax in Rupees(1+2+3+4)				
Total tax in US Dollars				
Whether evidence of payment of tax attached			YES	NO

*CNIC includes NICOP or any other identification number issued by National Database and Registration Authority.

FORM B

DESCRIPTION OF ASSETS		
[see section 5(4)]		
A. Liquid assets not repatriated		
1. Foreign currency		
Bank account details	Bank name and bank A/c 1	
	Bank name and bank A/c 2	

	Bank name and bank A/c 3	
	Bank name and bank A/c 4	
	Bank name and bank A/c 5	
2. Other liquid assets (securities, stocks, promissory notes, Government bonds, deposit certificates and other similar instruments, etc.)		
1.		
2.		
3.		
4.		
5.		
6.		
B. IMMOVABLE PROPERTY (Jurisdiction, address and size)		
1.		
2.		
3.		
4.		
5.		
6.		
7.		

VERIFICATION

I, the undersigned, solemnly declare that to the best of my knowledge and belief—

- (a) the information given in this declaration is correct and complete; and
- (b) the value of foreign assets has truly been declared.

I, further declare that I am competent to make this declaration and verify it in my own name.

Date _____

Signature _____

Name _____

STATEMENT OF OBJECT AND REASONS

Whereas there is a large scale non-reporting and under-reporting of assets and income held outside Pakistan and it is expedient to provide for declaration and repatriation of assets and income held outside Pakistan.

2. To strengthen the economy by endeavoring to bring undeclared foreign assets and income back to Pakistan and to provide an opportunity to taxpayers to regularize their tax affairs and disclose their concealed incomes and assets and thus become compliant.
3. To broaden the tax base and to collect revenue pertaining to non-reporting and under-reporting of assets and income without incurring high administrative costs for detecting and prosecuting tax evaders.
4. The Ordinance is being issued to collect revenues without any loss of time and it provides for declaration and repatriation of foreign assets into Pakistan.

(Rana Muhammad Afzal Khan)
Minister of State for Finance