Government of Pakistan
Revenue Division
Federal Board of Revenue
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C.No.4(36)IT-Budget/2019 Islamabad, the 30th July, 2019

Circular No. 09 of 2019
(Income Tax)

SUBJECT:- FINANCE ACT, 2019 - EXPLANATION OF IMPORTANT AMENDMENTS MADE IN THE INCOME TAX ORDINANCE, 2001

Finance Act, 2019 has brought about certain amendments in the Income Tax Ordinance, 2001. Some significant amendments are explained hereunder:-

1. Definitions of terms related to offshore tax evasion and consequent penalty and prosecution [Sections 2, 145, 182, 192B &195B]

Through the Finance Act, 2019, the term "offshore asset" has been defined by inserting a new clause (38AA) in section 2 which includes any movable or immovable asset held, any gain, profit or income derived, or any expenditure incurred outside Pakistan. The term "offshore evader" has been defined by inserting a new clause (38AB) in section 2 and it means a person who owns, possesses, controls, or is the beneficial owner of an offshore asset and does not declare, or under declares or provides inaccurate particulars of such asset to the Commissioners. Penalty has also been provided in serial No.22 in sub-section (1) of section 182 that where an offshore tax evader is involved in offshore tax evasion in the course of any proceedings under this Ordinance before any income tax authority or the appellate tribunal, such person shall pay a penalty of Rs.100,000 or an amount equal to 200% of the tax sought to be evaded, whichever is higher. Prosecution for concealment of an offshore asset has been provided by inserting a new section 192B according to which any person who fails to declare an offshore asset to the Commissioner or furnishes inaccurate particulars of an offshore asset and the revenue impact of such concealment or furnishing of inaccurate particulars is ten million rupees or more shall commit an offence punishable on conviction with imprisonment up to three years or with a fine up to Rs.500,000, or both.

A new sub-section (5) has been added in section 145 as per which the Commissioner may freeze any domestic asset of a person where on the basis of information received from an offshore jurisdiction, the Commissioner has reason to believe that such person who is likely to leave Pakistan may be involved in offshore tax evasion or such person is about to dispose of any asset. The Commissioner may freeze any domestic asset of the person including any asset beneficially owned by such person for a period of 120 days or till the finalization of proceedings including recovery proceedings and any other proceedings under the Ordinance, whichever is earlier.

The term "offshore enabler" has been defined by inserting a new clause (38AC) in section 2 to include any person who enables, assists, or advises any person to plan, design, arrange or manage a transaction or declaration relating to an offshore asset, which has resulted or may result in tax evasion. Penalty has been provided in serial no. 23 of sub-section (1) of section 182 that where in the course of any transaction or declaration made by a person an enabler has enabled, guided, advised or managed any person to design, arrange or manage that transaction or declaration in such a manner which has resulted or may result in offshore tax evasion in the course of any proceedings under the Ordinance, such person shall pay a penalty of Rs.300,000 or an amount equal to 200% of the tax which was sought to be evaded, whichever is higher. Prosecution for enabling offshore tax evasion has been provided by inserting a new section 195B to the effect that any enabler who enables, guides or advises any person to design, arrange or manage a transaction or declaration in such a manner which results in offshore tax evasion, shall commit an offence punishable on conviction with imprisonment for a term not exceeding seven years or with a fine up to five million rupees or both.

The term "asset move" has been defined by inserting a new clause (5C) in section 2 and it means the transfer of an offshore asset to an unspecified jurisdiction by or on behalf of a person who owns, possesses, controls or is the beneficial owner of such offshore asset for the purpose of tax evasion. An unspecified jurisdiction means a jurisdiction which has not committed to automatically exchange information under the Common Reporting Standard with Pakistan. The term "specified jurisdiction" has been defined by inserting a new clause (60A) in section 2 and it means any jurisdiction which has committed to automatically exchange information under Common Reporting Standard with Pakistan. Penalty has also been provided in serial 24 of sub-section (1) of section 182 that any person who is involved in asset move from a specified to un-specified territory shall pay a penalty of Rs.100,000 or an amount equal to 100% of the tax, whichever is higher.