

Ordinances Promulgated To Effect a Tax Amnesty Scheme For 2018

Regulatory



Introduction

On 8 April 2018, President Mamnoon Hussain promulgated the following ordinances to effect a one-time amnesty scheme to “whiten” undeclared assets in Pakistan and abroad, reduction in income tax rates, issuance of dollar-denominated bonds and restricting cash transactions in non-filer accounts:

- (i) Voluntary Declaration of Domestic Assets Ordinance, 2018
- (ii) Foreign Assets (Declaration and Repatriation) Ordinance, 2018
- (iii) Income Tax (Amendment) Ordinance, 2018
- (iv) Protection of Economic Reforms (Amendment) Ordinance, 2018

The above ordinances will collectively be referred to as the ‘2018 Ordinances’ hereinafter.

This Article sets out the scope and salient features of the 2018 Ordinances.

For detailed advice on the applicability of the 2018 Ordinances, please contact us at +92 111-LAW-YER or email us at pk@riaabg.com or ahsan.rizvi@riaabg.com.

Voluntary Declaration of Domestic Assets Ordinance, 2018

Scope:

The provisions of the Voluntary Declaration of Domestic Assets Ordinance 2018, apply to (a) every company, association of persons and all citizens of Pakistan wherever they may be, except holders of public office, their spouses and dependent children; and (b) undisclosed income and domestic assets held by the persons mentioned in (a), except where proceedings are pending in any court of law in respect of the domestic assets.

For the purposes of the Voluntary Declaration of Domestic Assets Ordinance 2018, holder of public office means a person who is or has been at any time since 1 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;
(the expressions "Chairman" and "Vice Chairman" will 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.

The provisions of the Voluntary Declaration of Domestic Assets Ordinance 2018, will not apply to any proceeds or assets that are involved in or derived from the commission of a criminal offence.

For the purposes of the Voluntary Declaration of Domestic Assets Ordinance 2018, 'domestic assets' means assets of every kind other than foreign assets under Foreign Assets (Declaration and Repatriation) Ordinance, 2018.

The provisions of the Voluntary Declaration of Domestic Assets Ordinance 2018 override anything to the contrary contained in any other law for the time being in force.

Salient Features

Declaration of domestic assets in Pakistan

Any person may make a declaration in respect of undisclosed income and domestic assets acquired before 8 April 2018 to the Federal Board of Revenue after 10 April 2018 but on or before 30 June 2018.

For the purpose of the Voluntary Declaration of Domestic Assets Ordinance 2018, the valuation of assets declared will be made in the following manner:

Undisclosed Income and Assets	Valuation of Assets being Declared
Undisclosed income	As declared
Open plots and land	Cost of acquisition or Federal Board of Revenue rates, whichever is higher.
Super structure	Rupees 400 per square feet.
Apartments and flats	Cost of acquisition or provincial stamp duty rates, whichever is higher.
Imported motor vehicles	A – B A = CIF value plus the amount of all charges, customs-duty, sales tax, levies, octroi, fees and other

	<p>duties and taxed leviable thereon and the costs incurred till their registration.</p> <p>B = a sum equal to 10% of the said value for each successive year up to a maximum of 5 years.</p>
Motor vehicles purchased from a manufacturer or assembler or dealer in Pakistan	<p>A – B</p> <p>A = The price paid by the purchaser, including the amount of all charges, customs duty, sales tax and other taxes, levies, octroi, fees and all other duties and taxes leviable thereon and the costs incurred till their registration.</p> <p>B = a sum equal to 10% of the said value for each successive year up to a maximum of 5 years.</p>
Used motor vehicles purchased locally	Value determined in the manner specified in relation to imported motor vehicles and motor vehicles purchased from a manufacturer or dealer in Pakistan, as the case may be, as reduced by an amount equal to 10% for every year following the year in which it was imported or purchased from a manufacturer.
Securities and shares traded on stock exchange	Day-end price of the share or security quoted on registered stock exchange as on 9 April, 2018 and where no day-end price of such share or security is quoted on stock exchange on 9 April, 2018 day-end price of the share or security quoted on a date nearest to 9 April 2018.
Securities and shares not traded on stock exchange	Break-up value or face value, whichever is higher. Breakup value will be the sum of paid-up capital, reserves and balance as per profit and loss account as reduced by the value of preference shares and divided by the amount of the paid up ordinary share capital.
National saving schemes, postal certificates, bonds, securities and other similar investments in capital instruments not traded or quoted on stock exchange	Face value.
Gold	Rupees 4000 per gram.
Other precious stones and metals	Market rate as on 9 April, 2018 or cost of acquisition, whichever is higher.
Stock-in-trade	Market rate as on 9 April, 2018.
Plant and machinery	Actual cost of acquisition with no depreciation.
Accounts receivable	Actual cost of acquisition.
Other assets	
Prize bonds, cash and bank accounts including foreign currency accounts.	Face value.

The description, value and tax paid in respect of the undisclosed income and domestic assets declared and the declaration of undisclosed income and domestic asset will be made in a prescribed form. The declaration will be made electronically on Federal Board of Revenue's web portal and will be valid only if it is accompanied by the evidence of payment of tax.

Charge of Tax

The domestic assets declared on or after 10 April 2018 but on or before 30 June 2018 will be chargeable to tax at the rates specified in the table below on the value of assets as determined in accordance with the table on valuation of assets above.

Assets	Rate
Foreign currency held in a foreign currency account in Pakistan as on the 31 March 2018 and encashed in equivalent rupees	2%
Foreign currency held in a foreign currency account in Pakistan as on 31 March, 2018 which is invested in Government securities up to 5 years in United States Dollars denominated bonds with six-monthly profit payment in equivalent Rupees (rate of return 3%) and payable on maturity in equivalent Rupees.	
Other assets	5%

The due date for the payment of the tax chargeable under the Voluntary Declaration of Domestic Assets Ordinance 2018 will be the date on which declaration is made under the said ordinance.

No tax will be payable by the declarant under any law for the time being in force including the Income Tax Ordinance, 2001, where tax has been paid under the Voluntary Declaration of Domestic Assets Ordinance 2018 in respect of the domestic assets declared under the said ordinance.

Incorporation in books of accounts

Where a declarant has paid tax under the Voluntary Declaration of Domestic Assets Ordinance 2018 in respect of undisclosed income and domestic assets declared under the said ordinance, the declarant will be entitled to incorporate in his books of account such domestic assets.

For the purpose of the Income Tax Ordinance, 2001, the cost of acquisition of domestic assets and date of acquisition will be deemed to be the value of assets as determined in accordance with the table on valuation of assets above and the date on which declaration has been made by the declarant, respectively.

Confidentiality

Overriding the provisions of sub-section (3) of section 216 of the Income Tax Ordinance, 2001, the Right of Access to Information Act, 2017 and any other law for the time being in force, particulars of any person making a declaration under the Voluntary Declaration of Domestic Assets Ordinance 2018 or any information received in any declaration made under the said Ordinance will be confidential. A person who discloses any particulars in contravention of this confidentiality provision will commit an offence punishable on conviction with a fine not less than Rupees 500,000 but not exceeding Rupees 1,000,000 or imprisonment for a term not exceeding 1 year or with both.

Declaration not admissible in evidence

Overriding anything contained in any other law for the time being in force, nothing contained in any declaration made under the Voluntary Declaration of Domestic Assets Ordinance 2018 will be admissible in evidence against the declarant for the purpose of any proceedings relating to imposition of penalty or for the purpose of prosecution under any law including Income Tax Ordinance, 2001.

Misrepresentation

Overriding anything contained in the Voluntary Declaration of Domestic Assets Ordinance 2018, where a declaration has been made by misrepresentation or suppression of facts, such declaration will be void and

will be deemed never to have been made under the Voluntary Declaration of Domestic Assets Ordinance 2018.

The Foreign Assets (Declaration and Repatriation) Ordinance, 2018

Scope

The provisions of the Foreign Assets (Declaration and Repatriation) Ordinance 2018 will 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 such persons and tax paid on the value of such assets under the said ordinance, except where proceedings are pending in any court of law in respect of the foreign assets.

Foreign Assets (Declaration and Repatriation) Ordinance 2018 employs the same of definition of holder of public office as employed by the Voluntary Declaration of Domestic Assets Ordinance 2018.

The provisions of the Foreign Assets (Declaration and Repatriation) Ordinance 2018 will not apply to any proceeds or assets that are involved in or derived from the commission of a criminal offence.

For the purposes of the Foreign Assets (Declaration and Repatriation) Ordinance 2018, '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.

The provisions of the Foreign Assets (Declaration and Repatriation) Ordinance 2018 override anything to the contrary contained in any other law for the time being in force.

Salient Features

Declaration and repatriation of assets held outside Pakistan

Any person may make a declaration in respect of foreign assets acquired before 8 April 2018 to the Federal Board of Revenue on or after 10 April 2018 but on or before 30 June 2018.

The value of a foreign asset will be fair market value. For the purposes of the Foreign Assets (Declaration and Repatriation) Ordinance 2018, 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. This value will be in Rupees. The value in Rupees will 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 and tax is paid.

The declaration of value and tax paid in respect of the foreign assets and the description of the foreign assets being declared will be made in prescribed forms. The declaration will be made electronically on Federal Board of Revenue's web portal and will be valid only if it is accompanied by the evident of payment of tax.

A person declaring foreign assets under the Foreign Assets (Declaration and Repatriation) Ordinance 2018, may on or after 10 April 2018 but on or before 30 June 2018, also repatriate the said foreign assets in Pakistan.

Charge of Tax

The foreign assets declared within the specified time period, will be chargeable to tax at the rates specified in the table below.

Foreign Assets	Rate
Liquid assets not repatriated	5%
Immovable assets outside Pakistan	3%
Liquid assets repatriated and invested in government securities up to 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%
Liquid assets repatriated	

For the purposes of the Foreign Assets (Declaration and Repatriation) Ordinance 2018, '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.

For the purposes of the Foreign Assets (Declaration and Repatriation) Ordinance 2018, 'government security' means a bond, note or other debt instrument issued by the Federal Government with a promise of repayment upon maturity. Investment in government securities will 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.

The payment of tax chargeable in accordance with the table above will be made in United States Dollars and the due date for the payment of the said tax, will be the date on which the declaration is made.

No tax in respect of the foreign assets declared under the said ordinance will be payable by the declarant under any law for the time being in force including the Income Tax Ordinance, 2001 where tax has been paid under the Foreign Assets (Declaration and Repatriation) Ordinance 2018, in respect of the foreign assets declared under the said ordinance.

Mode and manner

The State Bank of Pakistan will notify the mode and manner of:

- (a) repatriation of liquid assets in Pakistan
- (b) deposit of tax in United States Dollars in State Bank of Pakistan; and
- (c) deposit of tax in Rupees in the income tax account of the Federal Consolidated Fund.

Incorporation in books of accounts

Where a declarant has paid tax under the Foreign Assets (Declaration and Repatriation) Ordinance 2018, in respect of foreign assets declared under the said ordinance, the declarant will be entitled to incorporate in his books of accounts such foreign assets.

For the purposes of the Income Tax Ordinance, 2001, the cost of acquisition of foreign assets and date of acquisition will be deemed to be the value declared by the declarant and the date on which declaration has been made by the declarant, respectively.

Confidentiality

Overriding the provisions of sub-section (3) of section 216 of the Income Tax Ordinance, 2001, the Right to Access Information Act, 2017 and any other law for the time being in force, particulars of any person making a declaration under the Foreign Assets (Declaration and Repatriation) Ordinance 2018, or any information received in any declaration made under the said Ordinance will be confidential. A person who discloses any particulars in contravention of this confidentiality provision, will commit an offence punishable

on conviction with a fine not less than Rupees 500,000 but not exceeding Rupees 1,000,000 or imprisonment for a term not exceeding 1 year or with both.

Declaration not admissible in evidence

Overriding anything contained in any other law for the time being in force, nothing contained in any declaration made under Foreign Assets (Declaration and Repatriation) Ordinance 2018 will 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.

Misrepresentation

Overriding anything contained in the Foreign Assets (Declaration and Repatriation) Ordinance 2018, where a declaration has been made by misrepresentation or suppression of facts, such declaration will be void and will be deemed never to have been made under the Foreign Assets (Declaration and Repatriation) Ordinance 2018.

Income Tax (Amendment) Ordinance, 2018

Scope

The Income Tax (Amendment) Ordinance, 2018 extends to the whole of Pakistan as it amends the Income Tax Ordinance 2001 which extends to the whole of Pakistan.

Salient features

Unexplained income or assets

Prior to the Income Tax (Amendment) Ordinance 2018, unexplained income or assets which are included in the person's income chargeable to tax under head "Income from Other Sources", were to be included in the person's income chargeable to tax in the year to which the amount of unexplained income or assets relates. The Income Tax (Amendment) Ordinance 2018, has substituted the said provision with another provision, by virtue of which, unexplained income and assets which are included in the person's income chargeable to tax under the head "Income from Other Sources" will be included in the person's income chargeable to tax in the tax year to which the amount of unexplained income or assets relates if the amount representing investment, money, valuable article or expenditure is situated or incurred in Pakistan or concealed income is Pakistan-source and, in the tax year immediately preceding the year in which the investment, money, valuable article or expenditure is discovered by the Commissioner Inland Revenue and is situated or incurred outside Pakistan and concealed income is foreign source.

Prior to the Income Tax (Amendment) Ordinance 2018, any amount of foreign exchange remitted from outside Pakistan through normal banking channels that is encashed into rupees by a scheduled bank and a certificate from such bank is produced to that effect, would not fall within the ambit of unexplained income or assets which are included in the person's income chargeable to tax under the head "Income from Other Sources". The Income Tax (Amendment) Ordinance, 2018 has amended this provisions to the extent that such amounts will not fall within the ambit of unexplained income or assets which are included in the person's income chargeable to tax under the head "Income from Other Sources" only if they do not exceed 10 million Rupees in a tax year.

Foreign income and assets statement

Pursuant to the Income Tax (Amendment) Ordinance, 2018, every resident person being an individual will also be required to file a foreign income and assets statement under section 116A of the Income Tax Ordinance 2001. In addition, a return of income will also be accompanied with a foreign income and assets statement required under section 116A of the Income Tax Ordinance 2001.

Prior to the promulgation of the Income Tax (Amendment) Ordinance, 2018, the Commissioner Inland Revenue could, by notice in writing, could require any person who in the Commissioner's opinion is required to file a return of income for a tax year or assessment year but who has failed to do so to furnish a return of income for that year within thirty days from the date of service of such notice or such longer or shorter period as may be specified in such notice or as the Commissioner Inland Revenue may allow. Such a notice could be issued in respect of one or more of the last five completed tax years or assessment years,

provided that in a case of a person who has not filed return for any of the last five completed tax years, the said notice could be issued in respect of one or more of the last ten completed tax years. The Income Tax (Amendment) Ordinance, 2018 has introduced a further proviso, by virtue of which the said notice may be issued in respect of one or more of the last five completed tax years or assessment years, provided that the said time limits will not apply if the Commissioner Inland Revenue is satisfied on the basis of reasons to be recorded in writing that a person who failed to furnish his return has foreign income or owns foreign assets.

The Income Tax (Amendment) Ordinance, 2018 has inserted section 116A after section 116 of the Income Tax Ordinance 2001. Pursuant to section 116A of the Income Tax Ordinance 2001, every resident taxpayer being an individual having foreign income equal to or in excess of 10,000 United States Dollars or having foreign assets with a value of 100,000 United States Dollars or more will furnish a statement, which will be referred to as the foreign income and assets statement, in the prescribed form and verified in the prescribed manner giving particulars of the person's total foreign assets and liabilities as on the last day of the tax year, any foreign assets transferred by the person to any other person during the tax year and the consideration for the said transfer, and complete particulars of foreign income, the expenditure derived during the tax year and the expenditure wholly and necessarily for the purposes of deriving the said income. Further, the Commissioner Inland Revenue may, by notice in writing, require any person being an individual, who is in the opinion of the Commissioner on the basis of reasons to be recorded in writing, was required to furnish a foreign income and assets statement but who has failed to do so, to furnish the foreign income and assets statement on the date specified in the notice.

Pursuant to further amendments introduced by the Income Tax (Amendment) Ordinance, 2018, a foreign income and assets statement under 116A, if applicable will be furnished in the prescribed manner and where salary income for the tax year is Rupees 500,000 or more, the taxpayer will file return of income electronically in the prescribed form and it will be accompanied by the proof of deduction or payment of tax and wealth statement as required under section 116, or a foreign income and assets statement under 116A, if applicable. In addition, where any person fails to furnish a foreign assets and income statement within the due date, such persons will pay a penalty of 2 percent of the foreign income or value of the foreign assets for each year of default.

Rates of Tax

As opposed to the same rate of tax imposed on the taxable income of both individuals and association of persons, the Income Tax (Amendment) Ordinance, 2018 has introduced different rates for individuals and association of persons. Division 1 of Part 1 of Schedule 1 has been substituted to reflect this. For the purposes of the Income Tax Ordinance 2001, association of persons includes a firm, a Hindu undivided family, any artificial judicial person and any body of persons formed under a foreign law, but does not include a company. By virtue of the said substitution, with effect from 1 July 2018, the rates of tax imposed on the taxable income of every individual will be as set out in the following table:

Taxable Income	Rate of Tax
Where the taxable income does not exceed Rupees 1,200,000	0%
Where the taxable income exceeds Rupees 1,200,000 but does not exceed Rupees 2,400,000	5% of the amount exceeding Rupees 1,200,000
Where the taxable income exceeds Rupees 2,400,000 but does not exceed Rupees 4,800,000	Rupees 60,000 + 10% of the amount exceeding Rupees 2,400,000
Where the taxable income exceeds Rupees 4,800,000	Rupees 180,000 + 15% of the amount exceeding Rupees 4,800,000

The rates of tax imposed on the taxable income of every association of persons will be as set out in the following table:

Taxable Income	Rate of Tax
Where the taxable income does not exceed Rupees 400,000	0%
Where the taxable income exceeds Rupees 400,000 but does not exceed Rupees 500,000	7% of the amount exceeding Rupees 400,000
Where the taxable income exceeds Rupees 500,000 but does not exceed Rupees 750,000	Rupees 7,000 + 10% of the amount exceeding Rupees 500,000
Where the taxable income exceeds Rupees 750,000 but does not exceed Rupees 1,500,000	Rupees 32,000 + 15% of the amount exceeding Rupees 750,000
Where the taxable income exceeds Rupees 1,500,000 but does not exceed Rupees 2,500,000	Rupees 144,500 + 20% of the amount exceeding Rupees 1,500,000
Where the taxable income exceeds Rupees 2,500,000 but does not exceed Rupees 4,000,000	Rupees 344,500 + 25% of the amount exceeding Rupees 2,500,000
Where the taxable income exceeds Rupees 4,000,000 but does not exceed Rupees 6,000,000	Rupees 719,500 + 30% of the amount exceeding Rupees 4,000,000
Where the taxable income exceeds Rupees 6,000,000	Rupees 1,319,500 + 35% of the amount exceeding Rupees 6,000,000

However, in the case of an association of persons that is a professional firm prohibited from incorporating by any law or the rules of the body regulating their profession, the 35% rate of tax where the taxable income exceeds Rupees 6,000,000 will be 32% for the tax year 2016 onwards.

Further, where the taxable income in a tax year, other than income on which the deduction of tax is final, does not exceed Rupees 1,000,000 of a person holding a National Database Registration Authority's Computerized National Identity Card for disabled persons or a taxpayer at the age of not less than sixty years on the first day of that tax year, the tax liability on such income will be reduced by 50 per cent.

Protection of Economic Reforms (Amendment) Ordinance, 2018

Scope

The Protection of Economic Reforms (Amendment) Ordinance 2018 extends to the whole of Pakistan as it amends the Protection of Economic Reforms Act, 1992 which extends to the whole of Pakistan.

The provisions of the Protection of Economic Reforms (Amendment) Ordinance 2018 will override anything contained in Foreign Currency Accounts (Protection) Ordinance, 2001 or any other law for the time being in force.

Salient features

Pursuant to the Protection of Economic Reforms Act 1992, the State Bank of Pakistan or other banks could not impose any restrictions on deposits in and withdrawals from the foreign currency accounts and restrictions, if any, stood withdrawn upon the promulgation of the Protection of Economic Reforms Act 1992. The Protection of Economic Reforms (Amendment) Ordinance 2018 has added a proviso to this provision whereby the State Bank of Pakistan or other banks may not impose such restrictions, provided that no cash will be deposited in an account of a citizen of Pakistan resident in Pakistan unless the account holder is a filer as defined in Income Tax Ordinance, 2001.

Commentary

Repeal and consequences thereof

A material concern raised by the 2018 Ordinances is whether the rights and privileges offered by the said ordinances will be affected if the 2018 Ordinances are repealed under the Constitution of Pakistan. For the sake of clarity, ordinances stand repealed after expiry of 120 days of their promulgation unless (i) they are extended for a further period of 120 days by a resolution of the appropriate house of Parliament (upon expiration of which they will stand repealed), or (ii) if before the expiration of that a period a resolution disapproving it is passed by the assembly; or (iii) a resolution approving it and promulgating it as an act of Parliament is passed.

Pursuant to Article 264 of the Constitution of Pakistan, where a law is repealed, or is deemed to have been replaced by, under, or by virtue of the Constitution, the repeal will not, except as otherwise provided in the Constitution, revive anything not in force or existing at the time at which the repeal takes effect, affect the previous operation of the law or anything duly done or suffered under the law, affect any right, privilege, obligation or liability acquired, accrued or incurred under the law, or affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the law had not been repealed.

In light of the provisions of the Constitution of Pakistan discussed above, in the event the 2018 Ordinances stand repealed, the obligations and liabilities imposed by the said ordinances, such as the obligation to declare domestic assets and foreign assets and subsequently pay taxes, within the period prescribed in such ordinances will not be affected. Similarly, the rights and privileges acquired under the ordinances, such as the privilege of the information received under the declarations made under the ordinances to remain confidential and the privilege of such declarations not being admissible in evidence will not be affected if the said ordinances are repealed by virtue of the Constitution.

Criminal procedure

The Voluntary Declaration of Domestic Assets Ordinance 2018 and the Foreign Assets (Declaration and Repatriation) Ordinance, 2018, expressly provide that they will not apply to any proceeds or assets that are involved in or derived from the commission of a criminal offence. Although it is unclear how the authorities will ascertain the sources of the assets being declared, it is important to note that the rights and privileges granted to declarants under the said ordinances (relating to confidentiality and the inadmissibility of evidence) only offer protection to the extent that the proceeds or assets being declared under the said ordinances are not involved in or derived from the commission of a criminal offence.

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