

# COMMENTS ON INCOME TAX (AMENDMENT) ORDINANCE, 2022 (THE ORDINANCE)

March 2022

# FOREWORD

The Ordinance is applicable from date of assent by President of Islamic Republic of Pakistan i.e., March 02<sup>nd</sup> 2022.

This document summarizes such amendments.

*Reanda Haroon Zakaria & Company.*

4<sup>th</sup> March 2022.

# CARRY FORWARD OF BUSINESS LOSSES OF SICK INDUSTRIAL UNITS

- ❑ In order to revive Sick Industrial Unit, the incentive with regard to adjustment of brought forward loss of the acquired Sick Industrial Unit shall be allowed to acquiring company. Provided that majority share capital of Sick Industrial Unit is acquired subject to the following conditions:
  1. That there is continued ownership for five years starting from the 30th June, 2023 and there is no change in share capital of the acquiring company;
  2. That the assets of the acquired company shall not be sold up to the 30th June, 2026;
  3. That the acquired company continues the same business till the 30th June, 2026; and
  4. The loss of acquired company shall be allowable to adjustment on the basis of percentage of capital held by the acquiring company.
  
- ❑ However, the carry forward loss of Sick Industrial Unit shall be adjustable for succeeding three years.
  
- ❑ “**Sick Industrial Unit**” means a company incurred accumulated losses prior to July 2022 equal to or exceeding entire capital and reserves **OR** has defaulted towards repayment of outstanding debts owing to banking companies or non-banking financial institutions for a consecutive period of three years immediately before acquisition, as the case may be, **OR** has been declared as such by the Federal Government in a notification published in the official Gazette.

# CARRY FORWARD OF BUSINESS LOSSES OF SICK INDUSTRIAL UNITS

- ❑ Revival of Sick Industrial Unit is subject to attaining maximum production capacity that was obtained before the industrial unit went sick, a certificate to that effect to be obtain from Engineering Development Board along with return of income filed for tax year 2026.
- ❑ Accordingly new section 59C has been inserted.

# 100% TAX CREDIT FOR FOREIGN INVESTMENT FOR INDUSTRIAL PROMOTION

- ❑ In order to encourage foreign direct investment to set-up industrial undertaking in Pakistan one time 100% tax credit benefit shall be allowable subject to the following where a taxpayer being:
  1. A non-resident Pakistani citizen having continued nonresidential status for more than five years; or
  2. A resident individual having foreign assets declared in terms of section 116 or 116A by the 31st of December 2021.

## **Other Conditions**

1. A company incorporated on or after the 1st of March 2022.
2. Investment being equity should not be less than fifty million Pak rupee.
3. Funds should be remitted into Pakistani through proper banking channel at any time up-to the 31st of December 2022.
4. If tax credit is not adjusted shall be carry forward up-to five tax years.
5. Commercial production should commence by the 30th of June 2024.

# SPECIAL PROVISIONS RELATING TO INVESTMENT FOR INDUSTRIAL PROMOTION

## A) ESTABLISHING AND OPERATING NEW INDUSTRIAL UNDERTAKING

No question of source asked on amount to be invested in industrial undertaking subject to payment of five percent tax thereof on the following conditions:

1. Investment to be made in new company formed for establishing and operating an industrial undertaking.
2. A statement for investing funds to be filed by the 30<sup>th</sup> of September 2022.
3. The amount of investment shall be deposited in rupees in bank account in Pakistan as equity in newly formed company incorporated under Companies Act, 2017 before the filling of statement i.e., 30<sup>th</sup> of September 2022.
4. Filling of statement by the 30<sup>th</sup> of September 2022 declaring therein the amount of funds for investment in a new company formed for establishing and operating an industrial undertaking.
5. The minimum amount should be invested not less than 50 million.
6. The investment should be used for the purpose of purchase or import of plant and machinery through letter of credit OR for construction of factory building.
7. The newly formed industrial undertaking shall commence production by 30<sup>th</sup> of June 2024 and a certificate to that effect to be obtain from Engineering Development Board.
8. A statement to be filed by 30<sup>th</sup> of September 2022 declaring therein the amount of funds to be invested.

# SPECIAL PROVISIONS RELATING TO INVESTMENT FOR INDUSTRIAL PROMOTION

❑ Following persons are **not eligible** to avail this scheme:

1. holders of public office, their spouses and dependent children;
2. a public company as defined in clause (47) of section 2 of this Ordinance;
3. a person who has filed a declaration under the Voluntary Declaration of Domestic Assets Act, 2018, the Foreign Assets (Declaration and Repatriation) Act, 2018, or the Assets Declaration Act, 2019;
4. a person that has been declared a bank loan defaulter by a bank or a financial institution within the last three years; or
5. a director of a company who has been declared a bank loan defaulter by a bank or a financial institution within the last three years.

# SPECIAL PROVISIONS RELATING TO INVESTMENT FOR INDUSTRIAL PROMOTION

The negative list of sectors given below:

- arms and ammunitions.
- explosives.
- sugar.
- cigarettes.
- aerated beverages.
- flour mills.
- vegetable ghee; and
- cooking oil manufacturing excluding extraction units.

There shall be no change of ownership of the company and no disposal of assets of industrial undertaking company prior to 30th of June 2026.



# SPECIAL PROVISIONS RELATING TO INVESTMENT FOR INDUSTRIAL PROMOTION

## B) EXPANSION AND MODERNIZATION OF EXISTING INDUSTRIAL UNDERTAKING

- The scheme is also available for investment in expansion and modernization of existing company being industrial undertaking.
- A company must open a dedicated bank account to deposit the funds subject to payment of five percent tax thereof before filling the statement i.e., by the 30th of September 2022.
- The funds shall only be used for expansion and modernization by way of purchase or import of plant and machinery including IT hardware through letter of credit, or software and IT services or for construction of building and structure for the manufacturing premises of industrial undertaking.
- The expansion and modernization shall be completed by the 30th of June 2024 and a certificate to that effect shall be obtained from Engineering Development Board.
- Accordingly new section 100F has been inserted.
- However, tax on income shall be computed as per **normal provisions of Income Tax Ordinance, 2001** including turnover tax.



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