

GOVERNMENT OF PAKISTAN
(REVENUE DIVISION)
FEDERAL BOARD OF REVENUE

C.NO.1(24)Ex/2008

Islamabad, the 19th July, 2008.

CIRCULAR NO. 07 OF 2008
(INCOME TAX)

SUBJECT: INVESTMENT TAX SCHEME, 2008 – CLARIFICATION REGARDING.

Through the Finance Act, 2008, Government has introduced Investment Tax Scheme 2008 with effect from July 1, 2008 under section 120A of the Income Tax Ordinance, 2001 for the payment of tax on unexplained income/assets @ 2% of Fair Market Value as on 30.06.2008. In this regard various queries/issues have been raised which have been considered by the Board and are clarified hereunder:-

S.No.	QURIY RAISED	CLARIFICATION
1.	Whether the scheme comes only for the resident taxpayers or the non-resident as well, and whether it extends to FATA/Northern Areas/Azad Jammu and Kashmir also. This may kindly be clarified.	This scheme is applicable to every person whose income is chargeable to tax under the Income Tax Ordinance, 2001.
2.	No formula is prescribed for determination of fair market value of various classes of assets	No formula or basis has been given for determination of the Fair Market Value in the scheme because Government of Pakistan has reposed full confidence in the tax payer in stating the value of the assets as on 30.06.2008 in the declaration form. It is expected that the taxpayers would declare the fair market value of the assets as only nominal tax of 2% of the value has to be paid

		in lieu of a much higher tax and penalties payable on the value of assets/investments under the deeming provisions of the Income Tax law.
3.	Scheme does not elaborate the types of deficiencies covered under the sub para (ii) of paragraph 6. It appears that under-declaration of fair market value also constitutes deficiency.	As mentioned in para 6 (ii) of the scheme, “deficiency” refers to any mistake in calculation of tax or filling in of columns of the declaration form etc. The scheme does not prescribe any method of valuation of Fair Market Value as was available in the earlier amnesty schemes. Accordingly fair market value as declared by the taxpayer is liable to be accepted.
4.	(i) Cut off date for conveying the deficiency under para-6(ii) is not prescribed. (ii) Valuation date (30-06-2008) has been mentioned in the proforma of declaration but the same has not been mentioned in the main circular.	(i) The declarant is required to meet the deficiency within 10 days of the receipt of the intimation letter as mentioned at para 6(ii) of the scheme. (ii) It has been mentioned in para 2(b) and 7 of the main circular that valuation date would be 30.06.2008.
5.	Whether declaration can be filed with regard to the issues pertaining to audit and already communicated to the taxpayer or not? Moreover, the cases where concealment proceedings/NAB proceedings are pending are also not excluded.	(i) The scheme is applicable to all undisclosed assets/income which somehow or the other could not be disclosed and remained un-explained. Issues pending in appeals or raised /detected by the department would be dealt with under normal law and not under specific provisions of the scheme.

		(ii) Its scope is limited to the proceedings covered by the Income Tax Ordinance, 2001 only. The declaration made and tax paid under the scheme, therefore, shall not absolve the declarants from any action under the provisions of other applicable laws.
6.	Whether any action can be taken if the declaration subsequently proves wrong. Similarly, it is not clear about the fate of declaration if the taxpayer fails to file returns of succeeding three years.	Under para 4 of the scheme, a new taxpayer is obliged to file return of income for the tax year 2008 and succeeding three tax years. In case the taxpayer fails to do so, then immunity under the scheme shall not be available in his case.
7.	The language of para 2, sub-para (b) of the Circular, which defines unexplained income/assets proposes that any person can also declare his untaxed income for the tax year 2008.	The scheme primarily applies to income represented by any undisclosed/unexplained investment made or asset acquired in the past. Normal income relating to tax year 2008 which is required to be included in the total income and chargeable to tax under the ordinance, is obviously not covered by the scheme. It will cover the period upto tax year 2007 where tax payer is prevented under the law to make good any under declaration or non-declaration of income/assets. All incomes and assets pertaining to tax year 2008 are to be declared in the return of income/wealth statement for the tax year 2008 and tax paid on normal rates.

8.	Whether income or assets covered under the repealed Income Tax Ordinance, 1979 are covered by the scheme?	The scheme covers all assets/investments pertaining upto the tax year 2007 and the period falling within the ambit and scope of the repealed Income Tax Ordinance, 1979.
9.	Investment Tax is payable @ 2% of the fair market value of the assets at the time of declaration which seems to be illogical.	Had the tax payer disclosed such income/asset in relevant tax year in the past a much higher tax rate/tax liability would have been attracted including invoking of the penal provisions of the Income Tax Ordinance. Since the scheme provides a fair opportunity of making true declaration at a very nominal rate of 2% the fair market value, as declared by the tax payer, has been made the basis of declaration. The taxpayer, obviously, knows the market value of his assets and is expected to declare it in all fairness.
10.	The purpose of mentioning member of AOP/Principal Officer/Chief Executive Officer of the Company at S.No. 5 of the declaration form is not understandable.	It is to identify the person who will sign the declaration on behalf of AOP or Company. The portion not applicable may be struck off by the declarant.
11.	For vehicles and other assets not shown in column A, B and C part-I of Annexure I the information regarding the tax year in which these assets were acquired is required only. Whereas for all other kind of assets the condition for the tax year in which assets are acquired is not required. This requires explanation.	The value of assets including a motor vehicle is to be declared on the basis of fair market value as on 30-06-2008, therefore, mentioning of the year of acquisition, is for reference purposes only and will have no material bearing on the declaration. Even otherwise complete particulars of the assets declared under the scheme should be provided as these are subsequently entered in the books of the taxpayers.

12.	<p>What will be the criteria to determine the fair market value in case of the followings:-</p> <ol style="list-style-type: none">1. Shares of Private Limited Companies.2. Investment in Government Securities. DSC. Behbud certificates with maturity period of ten years.3. Stock-in-Trade.	<p>The criteria for declaration of these assets should be the accounting and legal practice followed for valuation of such assets and any deviation therefrom could not be suggested in the scheme.</p>
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(SARFRAZ AHMAD)
SECRETARY (EXEMPTIONS)