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ORDINANCE NO. IV OF 2016

AN

Ordinance

further to amend the Income Tax Ordinance, 2001

WHEREAS it is expedient further to amend the Income Tax Ordinance, 2001 (XLIX, of 2001), for the purposes hereinafter appearing;

AND WHEREAS the Senate and the National Assembly are not in session and the President 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 is pleased to make and promulgate the following Ordinance:-

1. **Short title and commencement.**—(1) This Ordinance may be called the Income Tax (Amendment) Ordinance, 2016.

(2) It shall come into force at once.

2. **Amendment of Ordinance XLIX of 2001.**—In the income Tax Ordinance, 2001 (XLIX of 2001),—

(1) in section 68,

(a) in sub-section (4), for the expression “the fair market value of immovable property shall be determined on the basis of valuation made by a panel of approved valuers of the State Bank of Pakistan” the expression “the Board may, from time to time, by notification in the official Gazette, determine the fair market value of immovable property of the area or areas as may be specified in the notification” shall be substituted;

(b) after sub-section (4), amended as aforesaid, the following new sub-sections shall be added, namely:—

“(5) Where the fair market value of any immovable property of an area or areas has not been determined by the Board in the notification referred to in sub-section (4), the fair market value of such immovable property shall be deemed to be the value fixed by the District Officer (Revenue) or provincial or any other authority authorized in this behalf for the purposes of stamp duty.

- (i) In respect of immovable property—
- (i) component A of the formula in sub-section (2) of section 37;
 - (ii) "consideration received" as mentioned in Division X of Part IV of First Schedule;
 - (iii) "value of Immovable property" as mentioned in Division XVIII of Part IV of the First Schedule; and
 - (iv) valuation for the purposes of section 111,

shall not be less than the fair market value as determined under sub-section (4) or (5).

Explanation.—(1) For the removal of doubt, it is clarified that the fair market value as determined under sub-section (4) or (5) shall be for carrying out the purposes of this Ordinance only.

- (2) It is further clarified that for the purposes of clauses (i) to (iv) of this sub-section if the fair market value determined under sub-section (4) or (5) is different than the auction price the applicable price shall be the higher of the two.”;

(2) in section 236C,—

- (a) in sub-section (3), for the words "five years" the words "three year;" shall be substituted;
- (b) after sub-section (3), amended as aforesaid, the following new sub-section shall be added, namely:—

“(4) Sub-section (1) shall not apply to:—

- (a) a seller, if the seller is dependent of:
 - (i) a *Shaheed* belonging to Pakistan Armed Forces; or
 - (ii) a person who dies while in the service of the Pakistan Armed Forces or the Federal and Provincial Governments; and
- (b) to the first sale of immovable property which has been acquired or allotted as an original allottee, duly certified by the official allotment authority.”;

(3) in the First Schedule,—

(a) in Part I, in Division VIII, for the Table the following shall be substituted, namely:—

"S. No.	Period	Rate of tax
(1)	(2)	(3)
For immovable property allotted to persons mentioned in sub-section (4) of section 236C.		
1.	Immovable property is held irrespective of the holding period.	0%
For immovable property acquired on or after July 1, 2016, other than those mentioned against S. No. 1		
2.	Where holding period of immovable property is up to one year.	10%
3.	Where holding period of immovable property is more than one year but less than two years.	7.5%
4.	Where holding period of immovable property is more than two years but less than three years.	5%
5.	Where holding period of immovable property is more than three years.	0%
For immovable property acquired before July 1, 2016, other than those mentioned against S.No.1		
6.	Where holding period of immovable property is up to three years.	5%
7.	Where holding period of immovable property is more than three years:	0%

Provided that rate of tax to be paid under sub-section (1A) of section 37 shall be reduced by fifty per cent on the first sale of immovable property acquired or allotted to ex-servicemen and serving personnel of Armed Forces or ex-employees or serving personnel of Federal and Provincial Governments, being original allottees of the immovable property, duly certified by the allotment authority.”;

(b) in Part IV, in Division XVIII, in the Table, in column (1), against both S.N. 1. and 2., in column (2) for the figure and word “3 million” the figure and word “4 million” shall be substituted;

STATEMENT OF OBJECTS AND REASONS

In order to bring undocumented part of transactions of immovable property into formal economy and to document transactions at fair market value, amendments were introduced in the Income Tax Ordinance, 2001 through Finance Act, 2016, whereby the powers of Commissioner were withdrawn and valuation was to be made by a panel of approved valuers of State Bank of Pakistan. Similarly, the binding nature of the value determined by the Provincial Revenue authorities for the purpose of collecting stamp duty has also been withdrawn.

2. To resolve the concerns of business community in general and realtors, real estate developers and property dealers associations in particular, regarding valuations to be made by the valuers of the State Bank of Pakistan, Federal Government intends to notify fair market valuation tables through Federal Board of Revenue in order to remove ambiguity and to bring transparency with regard to the fair values of the properties. The objective is being pursued in such a way so as to promote documentation and to generate fair and due revenues for the state.

3. The amendments are being introduced with immediate effect through promulgation of Ordinance in order to collect revenues without any loss of time.

The Ordinance seeks to amend Income Tax Ordinance, 2001.

Senator Mohammad Ishaq Dar
Minister for Finance, Economic Affairs,
Revenue, Statistics and Privatization