

Section	Subsection	Clause	Income Tax (Amendment) Ordinance, 2021 - NEW / inserted Omitted and deleted substituted
			In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made, namely:-

100D			Special provisions relating to builders and developers.-
	(1)		For tax year 2020 and onwards, the tax payable by a builder or a developer, as defined in sub-section (9), who opts to pay tax under this section shall be computed and paid in accordance with the rules in the Eleventh Schedule on a project by project basis on the income, profits and gains derived from the sale of buildings or sale of plots, as the case may be, from-
		(a)	a new project to be completed by the 30th day of September, 2023; or
		(b)	an incomplete existing project to be completed by the 30th day of September, 2023 Provided that any income, profits and gains of a builder or developer of an incomplete existing project earned up to tax year 2019 or tax year 2020, as the case may be shall be subject to the provisions of this Ordinance as were in force prior to the commencement of the Tax Laws (Amendment) Ordinance, 2020 (Ordinance I of 2020): Provided further that any income of a builder or developer other than income, profits and gains subject to this section shall be subject to tax as per the provisions of this Ordinance.
	(2)		Where sub-section (1) applies, —
		(a)	the income shall not be chargeable to tax under any head of income in computing the taxable income of the person;
		(b)	no deduction shall be allowed under this Ordinance for any expenditure incurred in deriving the income;
		(c)	the amount of the income shall not be reduced by — (i) any deductible allowance under Part IX of Chapter III; or (ii) the set off of any loss;
		(d)	no tax credit shall be allowed against the tax payable under sub-section (1) except credit for tax under section 236A or 236K collected from the builder or developer after the commencement of the Tax Laws (Amendment) Ordinance, 2020 (I of 2020) on purchase of immovable property utilized in a project;
		(e)	there shall be no refund of any tax collected or deducted under this Ordinance;
		(f)	if the tax payable has not been paid or short paid, the said amount of tax may be recovered and all the provisions of this Ordinance shall apply accordingly; and
		(g)	sections 113 and 113C shall not apply on the turnover, income, profits and gains of a builder or developer from a project.

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	(3)		The provisions of section 111 shall not apply to capital investment made in a new project under clause (a) of sub-section (1) in the form of money or land, subject to the following conditions, namely:-
		(a)	if the investment is made by a builder or developer being an individual - (i) in the form of money, such builder or developer shall open a new bank account and deposit such amount in it on or before the <u>31st day of December, 2020</u> 30 th day of June 2021; or (ii) in the form of land, such builder or developer shall have the ownership title of the land at the time of commencement of the Tax Laws (Amendment) Ordinance, 2020 (I of 2020);
		(b)	if the investment is made by a person in a project through a company or an association of persons,- (i) such company or association of person shall be a single object (builder or developer) company or association of persons registered under the Companies Act, 2017 (XIX of 2017) or the Partnership Act, 1932 (IX of 1932), as the case may be, after the date of commencement of the Tax Laws (Amendment) Ordinance, 2020 (I of 2020) and on or before the <u>31st day of December, 2020</u> 30 th day of June 2021; and (ii) the person shall be a member or shareholder of such association of persons or company, as the case may be; and if the capital investment is made,- (i) in the form of money, such amount shall be invested through a crossed banking instrument deposited in the bank account of such association of persons or company, as the case may be, on or before the <u>31st day of December, 2020</u> 30 th day of June 2021; or (ii) in the form of land, such land shall be transferred to such association of persons or company, as the case may be, on or before the <u>31st day of December, 2020</u> 30 th day of June 2021; Provided that the person shall have the ownership title of the land at the time of commencement of the Tax Laws (Amendment) Ordinance, 2020 (I of 2020);
		(c)	a person making an investment under clause (a) or (b) shall submit a prescribed form on IRIS web portal by 30th day of June, 2021;
		(d)	the money or land invested under clause (a) or (b) shall be wholly utilized in a project; and
		(e)	completion of the project shall be certified in the following manner, namely:- (i) in case of a builder, the map approving authority or NESPAK shall certify that grey structure as per the approved map has been completed by the builder on or before the 30th day of September, 2023; and

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			(ii) in case of a developer,- A. the map approving authority or NESPAK shall certify that landscaping has been completed on or before the 30th day of September, 2023; B. a firm of chartered accountants having an ICAP QCR rating of 'satisfactory', notified by the Board for this purpose, shall certify that at least 50% of the plots have been booked for sale and at least 40% of the sale proceeds have been received by the 30th day of September, 2023; and C. at least 50% of the roads have been laid up to sub-grade level as certified by the approving authority or NESPAK.
	(4)		The provisions of section 111 shall also not apply to:-
		(a)	the first purchaser of a building or a unit of the building purchased from the builder in respect of purchase price of the building or unit of the building subject to the following conditions, namely:- (i) full payment is made through a crossed banking instrument to the builder during a period starting from the date of registration of the project with the Board under this section and ending on the <u>30th day of September, 2023</u> <u>31st day of March 2023</u> , in case the purchase is from a new project; and (ii) full or balance amount of payment is made through a crossed banking instrument to the builder during a period starting from the date of registration of the project with the Board under this section and ending on the <u>30th day of September, 2023</u> <u>31st day of March 2023</u> , in case the purchase is from an existing incomplete project; and
		(b)	the purchaser of a plot who intends to construct a building thereon, if - (i) the purchase is made on or before the <u>31st day of December, 2020</u> <u>30th day of June 2021</u> ; (ii) the full payment is made on or before the <u>31st day of December, 2020</u> <u>30th day of June 2021</u> through a crossed banking instrument; (iii) construction on such plot is commenced on or before the <u>31st day of December, 2020</u> <u>31st day of December 2021</u> ; (iv) such construction is completed on or before the 30th day of September, 2023; and (v) the person registers himself with the Board on the online IRIS web portal.

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	(5)		Where sub-section (3) or (4) apply, the value or price of land or building, as the case may be, shall be the higher of clause (a) or (b) below:-
		(a)	130% of the fair market value as determined by the Board under sub-section (4) of section 68; or
		(b)	at the option of the person making investment, the lower of the values as determined by at least two independent valuers from the list of valuers approved by the State Bank of Pakistan.
	(6)		Sub-sections (3) and (4) shall not apply to -
		(a)	holder of any public office as defined in the Voluntary Declaration of Domestic Assets Act, 2018 or his benamidar as defined in the Benami Transactions (Prohibition) Act, 2017 (V of 2017) or his spouse or dependents;
		(b)	a public listed company, a real estate investment trust or a company whose income is exempt under any provision of this Ordinance; or
		(c)	any proceeds derived from the commission of a criminal offence including the crimes of money laundering, extortion or terror financing but excluding the offences under this Ordinance.
	(7)		Dividend income paid to a person by a builder or developer being a company out of the profits and gains derived from a project shall be exempt from tax.
	(8)		Notwithstanding anything contained in this section or the Eleventh Schedule, where a return or declaration has been made through misrepresentation or suppression of facts, such return or declaration shall be void and all the provisions of this Ordinance shall apply: Provided that no action under this sub-section shall be taken if such misrepresentation has been made on account of a bona fide mistake: Provided further that no action under this sub-section shall be taken without providing an opportunity of being heard and without prior approval of the Board.”;
	(9)		In this section, -
		(a)	“builder” means a person who is registered as a builder with the Board and is engaged in the construction and disposal of residential or commercial buildings;
		(b)	“capital investment” means investment as equity resources and does not include borrowed funds;
		(c)	“developer” means a person who is registered as a developer with the Board and is engaged in the development of land in the form of plots of any kind either for itself or otherwise;
		(d)	“existing project” means a construction or development project, which - (i) has commenced before the date of commencement of the Tax Laws (Amendment) Ordinance, 2020; (ii) is incomplete; (iii) is completed on or before the 30th day of September, 2023; and

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			In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made, namely:-
			(iv) a declaration is provided in the registration form under Eleventh Schedule to the effect of percentage of the project completed up to the last day of the accounting period pertaining to tax year 2019 or tax year 2020 at the option of the taxpayer;
		(e)	"first purchaser" means a person who purchases a building or a unit, as the case may be, directly from the builder and does not include a subsequent or a substituted purchaser;
	(9)	(f)	"new project" means a construction or development project, which - (i) is commenced during the period starting from the date of commencement of the Tax Laws (Amendment) Ordinance, 2020 and ending on the 31st day of December, 2020 31st day of December 2021 ; and (ii) is completed on or before the 30th day of September, 2023;
		(g)	"project" means a project for construction of a building with the object of disposal, or a project for development of land into plots with the object of disposal or otherwise;
		(h)	"registered with the Board" means registered after submission of form on project-by-project basis on the online IRIS web portal;
	(10)		The provisions of the Ordinance not specifically dealt with in this section or the rules made thereunder shall apply mutatis mutandis to builders and developers in so far as they are not inconsistent with this section or the rules made thereunder.";

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			In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made, namely:-

120			Assessments
	(1)		Where a taxpayer has furnished a complete return of income (other than a revised return under sub-section (6) of section 114) for a tax year ending on or after the 1st day of July, 2002,—
		(a)	the Commissioner shall be taken to have made an assessment of taxable income for that tax year, and the tax due thereon, <u>equal to the respective amounts adjusted under sub-section (2A)</u> ; and
		(b)	the return shall be taken for all purposes of this Ordinance to be an assessment order issued to the taxpayer by the Commissioner on the day the <u>adjustments were made under sub-section (2A)</u> return shall be substituted. <p>Provided that until the date specified under the fourth proviso to sub-section (2A) is notified, this sub-section shall be in force as if sub-section (2A) is not in operation:</p> <p>Provided further that once the date under the fourth proviso to sub-section (2A) is notified, clause (a) and (b) shall only apply when the provisions of sub-section (2A), if invoked, are first complied with :</p> <p>Provided further once compliance is made under the second proviso-</p> <p>(i) the adjusted amount under sub-section (2A) shall be construed to be the tax payable and due under clause (a);</p> <p>(ii) the date of the compliance under sub-section (2A) shall be the date for the purpose of clause (b).";</p>

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			In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made, namely:-

	(2A)		A return of income furnished under sub-section (2) of section 114 shall be processed through automated system to arrive at correct amounts of total income, taxable income and tax payable by making adjustments for-
		(i)	any arithmetical error in the return;
		(ii)	any incorrect claim, if such incorrect claim is apparent from any information in the return;
		(iii)	disallowance of any loss, deductible allowance or tax credit under Parts VIII, IX and X respectively of Chapter III; and
		(iv)	disallowance of carry forward of any loss under clause (b) of sub-section (I) of section 182A:
			Provided that no such adjustments shall be made unless a system generated notice is given to the taxpayer specifying the adjustments intended to be made:
			Provided further that the response received from the taxpayer, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such notice, adjustments shall be made.
			Provided also that where no such adjustments have been made within six month of filing of return, the amounts specified in the return as declared by the taxpayer shall be deemed to have been taken as adjusted amounts on the day the return was filed and the taxpayer shall be intimated automatically through Iris.
			Provided also that the provisions of this sub-section shall apply from the date notified by the Federal Board of Revenue in the official Gazette";

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Rule	Sub-rule	Clause	ELEVENTH SCHEDULE [See section 100D] NEW / inserted Omitted and deleted substituted
			RULES FOR COMPUTATION OF PROFITS AND GAINS OF BUILDERS AND DEVELOPERS AND TAX PAYABLE THEREON
2			Scope and payment of tax-
	(2)	(a)	The above-referred rates shall be applicable for computing tax liability for the project on annual basis. The annual tax liability shall be worked out as under. <p style="text-align: center;"><u>Tax liability as per the rates in rule 10</u> Estimated project life in years.</p>
		(b)	The estimated project life for tax purposes shall not exceed two ¹ three and a half years; <u>Provided that in case of existing incomplete projects, the estimated project life shall be treated as three years from tax year 2020 through tax year 2022, and the tax payable shall be reduced by the percentage of completion up to the last day of the accounting period pertaining to the tax year 2019 as declared in registration form;</u> ² Provided that in case of existing incomplete projects, the estimated project life shall be treated as four years maximum from the tax year 2020 through tax year 2023 and the tax payable shall be reduced by the percentage of completion up to the last day of accounting period pertaining to tax year 2019 or tax year 2020 as declared in the registration form,"; <u>³Provided further that tax liability of tax year 2020 shall be paid along with return.</u>

¹ Income Tax (Amendment) Ordinance 2021

² Income Tax (Amendment) Ordinance 2021

³ Income Tax (Amendment) Ordinance 2021

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Rule	Sub-rule	Clause	ELEVENTH SCHEDULE [See section 100D] NEW / inserted Omitted and deleted substituted
(3)			Registration and filing of return -
	(1)		A builder or developer shall electronically register a project on IRIS through FBR website on or before the ⁴ 31st day of December, 2020 31st day of December, 2021 through submission of -
		(a)	registration from as may be prescribed which shall include inter alia, details of a member or shareholder of a builder or developer as the case may be; Provided that a developer who is also a builder in case of a project shall submit two separate forms for registration as a developer and as a builder ; and ⁵ Provided further that where benefit of sub-section (3) of section 100D is required to be claimed by builder or developer, the project shall be registered latest by 30 th day of June, 2021; and "
(8)			Restriction on change in pattern of ownership of a builder or developer before completion of a project:-
			Where exemption from the provision of section 111 has been claimed sub-section (3) of section 100D, the following restrictions shall apply, namely:-
		(a)	a shareholder or a partner of a builder or developer shall not be allowed a change in ownership of an incomplete project except where at least fifty percent of the total project cost, as certified by a firm of chartered accountants having an ICAP QCR rating of 'satisfactory' notified by the Board for this purpose, has been incurred up to the date of change of ownership;
		(b)	The succession to legal heirs in case of deceased shareholder or a partner shall be allowed;
		(c)	The additional partners or shareholders in a builder or developer after the ⁶ 31st day of December, 2020 30th day of June, 2021 may join but additional partners or shareholders shall not be eligible for exemption provided under sub-section (3) of section 100D.

⁴ Income Tax (Amendment) Ordinance 2021

⁵ Income Tax (Amendment) Ordinance 2021

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Rule	Sub-rule	Clause	ELEVENTH SCHEDULE [See section 100D] NEW / inserted Omitted and deleted substituted
(9)			Definition
	(1)		In these rules, unless there is anything repugnant in the subject or context, -
		(a)	"area" means (i) in case of a builder, - (a) in case of a commercial or a residential building excluding a house, the sealable area of the building; and (b) in case of a house, the covered area of house; (ii) in case of a developer the total land area of the project;
		(b)	"building" means a residential or commercial building or unit thereof;
		(c)	"commercial building" includes any building or part thereof which is to be used for commercial purposes in accordance with the relevant laws;
		(d)	"commencement of project" means (i) in case of a construction project, when layout plan is approved by the concerned authority; and (ii) in case of a development project, when the development plan is approved by the concerned authority; Provided that where the builder or developer has taken all actions and done all things which are required and necessary to procure any approvals but any such approval is delayed beyond a period of 30 days from date of relevant application and the cutoff date of 31st day of December, 2020 31 st day of December 2021 is not adhered to by the builder or developer, the Board may provisionally accept commencement of such project on case to case basis;

⁷ Income Tax (Amendment) Ordinance 2021