

Rule	Sub-rule	Clause	<b>ELEVENTH SCHEDULE [See section 100D] Gazette Finance Act 2021</b> <b>NEW / inserted Omitted and deleted substituted</b>
			<b>RULES FOR COMPUTATION OF PROFITS AND GAINS OF BUILDERS AND DEVELOPERS AND TAX PAYABLE THEREON</b>

<sup>1</sup>			<b>Eligibility</b> - These rules shall apply to projects undertaken by builders and developers under section 100D.
2			<b>Scope and payment of tax-</b>
	(1)		Income computed and tax payable thereon shall be on Project-by-Project basis which shall be computed and paid at the rates provided in rule 10.
	(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 <u>two</u> <sup>2</sup> 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>  <sup>3</sup> 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><sup>4</sup>Provided further that tax liability of tax year 2020 shall be paid along with return.</u>
		(c)	Year shall include fraction of a year; and
		(d)	The tax liability so calculated and paid shall be final tax.

<sup>1</sup> The Tax Law (Amendment) Ordinance no.1 of 2020, being part of Law through Finance Bill 2020-21

<sup>2</sup> Income Tax (Amendment) Ordinance 2021

<sup>3</sup> Income Tax (Amendment) Ordinance 2021

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(3)			<b>Registration and filing of return -</b>
	(1)		A builder or developer shall electronically register a project on IRIS through FBR website on or before the <sup>5</sup> 31 <sup>st</sup> day of December, 2020 31 <sup>st</sup> 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  <sup>6</sup> 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 <sup>th</sup> day of June, 2021; and "
		(b)	an irrevocable option to be assessed under the Schedule in respect of each project.
	(2)		A builder or developer availing this scheme shall electronically file a return of income and wealth statement as may be prescribed accompanied with evidence of payment of due tax which shall be taken for all purposes of the Ordinance to be an assessment order issued to the taxpayer by the Commissioner to the extent of income computed under these rules.
(4)			<b>Certification -</b>
			Every builder or developer shall be required to obtain and provide to the Board in the prescribed manner a certificate from approving authority or map approving authority or NESPAK, as the case may be, to the following effect, namely :-
		(a)	'total land area' in square yards;
		(b)	'covered area' in square feet;
		(c)	'saleable area' in square feet; and
		(d)	type (commercial, residential or industrial) of saleable area or the total land area, as the case may be.
(5)			<b>Advance Tax</b>
			A builder or developer falling under this scheme shall pay advance tax equal to one-fourth of the tax liability for the year as determined in accordance with sub-rule (1) or rule (2) in four equal installments in the manner laid down in section 147 of the Ordinance.

<sup>5</sup> Income Tax (Amendment) Ordinance 2021

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(6)			<p><b>Incorporation of profits and gains for computation of income-</b></p> <p>A builder or developer opting for taxation under section 100D shall not be allowed to incorporate profits and gains accruing from such project in excess of ten times of the tax paid under rule 2.</p> <p>Provided that such builder or developer shall not be allowed to incorporate profits and gains accruing from a low cost housing project as defined in clause (f) of rule 9 in excess of ten times of the tax liability under rule 2.</p> <p>Provided further that where profits and gains accruing from a project are in excess of ten times of the tax paid under rule 2, such excess profits and gains shall be incorporated in the books of account or wealth statement, as the case may be, and taxed under Part 1 of the First Schedule.</p> <p><sup>7</sup>Provided that profits and gains accruing from such projects in excess of ten times of tax paid under Rule (2) shall be incorporated by paying tax at the rate of 20% on profits and gains which are in excess of said limit.</p>
(7)			<p><b>Exemption from withholding of tax under section 150 and 153 -</b></p>
	(1)		<p>The provision of section 153 shall not apply to builders and developers on</p> <p>(a) the purchase of building material except steel and cement;</p> <p>(b) services of plumbing, electrification, shuttering and other similar services other than those provided by companies.</p>
	(2)		<p>The provision of section 150 shall not apply to payment of dividend exempt under sub-section (7) of section 100D.</p>

<sup>7</sup> Finance Act 2021

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(8)			<b>Restriction on change in pattern of ownership of a builder or developer before completion of a project:-</b>
			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 <sup>8</sup> <del>31<sup>st</sup> day of December, 2020</del> 30 <sup>th</sup> 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.

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(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 <sup>9</sup> <b>31<sup>st</sup> day of December, 2020</b> <b>31<sup>st</sup> day of December 2021</b> is not adhered to by the builder or developer, the Board may provisionally accept commencement of such project on case to case basis;
		(e)	"completion of project" means (i) in the case of a builder, the date on which the grey structure is completed;  Provided that such grey structure shall only be considered as completed when the roof of the top floor has been laid as per the approved plan: (ii) in the case of a developer, the date on which - (A) at least 50% of the total plots have been booked in name of buyers; (B) at least 40% of the sale proceeds have been received; (C) landscaping has been completed; and (D) at least 50% of the roads have been laid up to sub-grade level as certified by the approving authority or NESPAK;

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		(f)	"low cost housing" means a housing scheme as developed or approved by NAPHDA or under the "Ehsaas Programme"
		(g)	"NAPHDA" means Naya Pakistan Housing and Development Authority;
		(h)	"NESPAK" means National Engineering Services Pakistan (Private) Limited;
		(i)	"residential building" means a building which is not a commercial building but does not include buildings used for industrial purposes;
		(j)	"saleable area" in case of buildings means saleable area as determined by the approving authority or map approving authority or NESPAK under the relevant laws;
		(k)	"unit" means a self-contained or independent building or part thereof including houses, apartments, shops, offices, etc.,
	(2)		All other expressions used but not defined in these rules shall have the same meaning as assigned to them under the Ordinance.

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(10)			Rate and computation of tax liability -
	(1)		The rate of tax under section 100D shall be computed in accordance with the Table below, namely:-

**TABLE**

Rate in respect of			
(1)	(2)	(3)	(4)
Area	Karachi, Lahore and Islamabad	Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbottabad, Quetta	Urban Areas not specified in column (2) and (3)
<b>TAX ON BUILDERS FOR COMMERCIAL BUILDINGS</b>			
Sq ft	-	-	-
Any size	Rs. 250 per sq.ft	Rs. 230 per sq.ft	Rs. 210 per sq.ft
<b>FOR RESIDENTIAL BUILDINGS</b>			
Sq ft	-	-	-
upto 3000	Rs. 80 per sq ft.	Rs. 65 per sq ft.	Rs. 50 per sq ft
3000 and above	Rs. 125 per sq ft.	Rs. 110 per sq ft.	Rs. 100 per sq ft
<b>TAX ON DEVELOPERS (ENTIRE PROJECT)</b>			
Sq Yds	-	-	-
Any size	Rs. 150 per sq yd	Rs. 130 per sq yd	Rs. 100 per sq yd
<b>FOR DEVELOPMENT OF INDUSTRY AREA</b>			
Sq yds	-	-	-
Any size	Rs. 20 per sq yd	Rs 20 per sq yd	Rs. 10 per sq yd

	(2)		In case of mixed use buildings having both commercial and residential areas, respective rates mentioned above shall apply.
	(3)		In case of development of plots and constructing buildings on the same plots as one project, both rates shall apply:  Provided that in the case of 'low cost housing' and all projects developed by NAPHDA the higher rates shall apply.