



March 2, 2022

Income Tax (Amendment) Ordinance, 2022 - Summary

Amendments to the Income Tax
Ordinance 2001

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Income Tax (Amendment) Ordinance 2022 - Summary

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EXECUTIVE SUMMARY

This document contains summary of amendments made to **the Income Tax Ordinance 2001** (here-in-after referred to as “ITO 2001”) through the **Income Tax (Amendment) Ordinance 2022** (here-in-after referred to as “the Ordinance” or the “Amendment”). The Ordinance has been promulgated on 2nd March 2022 after approval by the President with immediate effect.

There are 3 amendments made to ITO 2001 through the Ordinance primarily aimed at **promotion of investments in industrial undertakings** in Pakistan.

Reliefs provided include loss reliefs for revival of ‘sick industrial units’, 100% tax credits for investments by foreign individuals and amnesty for funds utilized for investment in industrial undertakings.

The rest of this document provides further description of these amendments.

The Amendment in its entirety can be accessed from the below link:

[Income Tax \(Amendment\) Ordinance 2022](#)

Any feedback or queries are welcomed. Feel free to contact us through any mode mentioned below.

Warm Regards,

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RELIEF FOR REVIVAL OF 'SICK INDUSTRIAL UNITS' (NEW SECTION 59C)

This amendment has provided incentive to an acquiring company in case of acquisition and revival of a '**Sick Industrial Unit**'. The acquiring company is allowed to adjust the acquired company's losses against its business income, provided that it '**revives**' the said unit by the tax year 2026, and subject to other conditions.

DEFINITION OF SICK INDUSTRIAL UNIT

'Sick Industrial Unit' has been defined as a company being an industrial undertaking which fulfils **any** of these criteria:

- The company has accumulated losses not less than total of its capital and reserves, for continuous 3 years prior to 1st July 2022, **or**
- The company has defaulted towards repayment of debts to Banks or Non-Banking Financing Institutions for a consecutive period of 3 years immediately before acquisition, **or**
- Any company that has been declared as such by the Federal Government.

RELIEF

In case of acquisition of **majority shares** of a sick industrial unit, the acquiring company is allowed to adjust **loss for the latest tax year**, except capital loss and **brought forward business losses of last 3 tax years** of the acquired company, subject to certain conditions.

The surrendered loss can be adjusted against **Income from Business** of the acquiring company in accordance with proportionate shareholding in the acquired company as follows:

$$\text{Loss available for adjustment} = \% \text{ shareholding in acquired company} \times \text{loss of acquired company}$$

Any loss not adjusted by the acquiring company can be carried forward by the acquired company in accordance with section 57.



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CONDITIONS

The following conditions need to be fulfilled by the acquired company to avail the relief under this section:

- a) Continued ownership for **5 years** starting from 30th June 2023 and no change in ownership of acquiring company,
- b) Assets of acquired company are not sold up to 30th June 2026, **and**
- c) Acquired company operates the same business till 30th June 2026.

'REVIVAL' OF THE SICK INDUSTRIAL UNIT

'Revival' has been defined in the section as achievement of **maximum production capacity** by the unit before it went 'sick'. A **certificate** to this effect, duly issued by the Engineering Development Board, would be required to be submitted by the acquired company along with the return of income filed for the tax year 2026.

If the acquiring company fails to revive the acquired unit by tax year 2026, the acquiring company shall, in tax year 2027 be required to include the profits in its tax returns against which losses had been adjusted previously.



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TAX CREDIT FOR FOREIGN INVESTMENT FOR INDUSTRIAL PROMOTION (NEW SECTION 65H)

This amendment has allowed a **one-time tax credit** in case of foreign investment made in industrial undertakings in Pakistan, equal to **100% of the amount invested**, subject to certain conditions.

TAX CREDIT

Tax credit equal to **100% of the amount** remitted and credited in Rupees in bank account is available to the foreign investor against their tax liability in the year in which commercial production commences.

Any unutilized tax credit can be carried forward for **5 tax years**.

ELIGIBLE PERSON

The tax credit is applicable to any individual that fulfills **any** of the following criteria:

- A Pakistani citizen who is **non-resident** for more than **5 continuous years**; or
- A resident individual having **foreign assets** declared in terms of section 116 or 116A of the ITO 2001, by 31st December, 2021,

ELIGIBLE INVESTMENT

Investment made to a company incorporated not before **1st March 2022** to set up an industrial undertaking in Pakistan with equity not less than **Rs. 50 Million** with funds remitted into Pakistan through proper banking channels.

ELIGIBLE COMPANY / INDUSTRIAL UNDERTAKING

Tax credit does not apply to a company / industrial undertaking established by splitting up or reconstitution of a company / industrial undertaking already in existence or by transfer of machinery or plant from an industrial undertaking established at any time before the 1st March, 2022.

Furthermore, commercial production is required to commence by the company / industrial unit by 30th June 2024.

TAX AMNESTY FOR INVESTMENT FOR INDUSTRIAL PROMOTION (NEW SECTION 100F)

This amendment allows a person to declare amounts not previously declared in tax returns till tax year 2021, upon **payment of tax at 5%**, provided that such amount is invested in a company incorporated for establishing an industrial undertaking and subject to certain conditions.

"**Industrial Undertaking**" means a company being a new industrial undertaking setup for the purpose of this section and is not established by the splitting up / reconstruction / reconstitution of an undertaking already in existence or by transfer or machinery or plant from an existing industrial undertaking established in Pakistan;

"**Investment**" means investment in equity and does not include borrowed funds and investment in land.

PROCEDURE

The eligible person shall file a statement by **30th September 2022** declaring the amount of funds, which have not been declared previously till tax year 2021, for investment in a new company formed for establishing and operating an industrial undertaking, and **pay tax at 5%** of such amount which shall not be refundable or adjustable against any other tax liability of the person.

The funds shall be deposited in Rupees in a dedicated bank account in Pakistan as equity of the newly incorporated company, incorporated under the Companies Act, 2017 before the filing of the statement.

Such funds shall only be used for purchase or import of plant and machinery through letter of credit or for construction of building and structure for the industrial undertaking.

The minimum amount to qualify for the benefit under this section is **Rs. 50 Million**.

INCENTIVE

The funds are allowed to be declared by the declarant in their wealth statement, financial statements or book of accounts and provisions of **section 111 shall not apply** to such funds.

Notwithstanding the provisions of any other law in force, except sub-section 3(a) and 3(g) of section 216, information received through the statement in this section and particulars of the person making the statement shall be **confidential**.



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ELIGIBLE PERSON

Eligible persons include all persons, **except**

- Holders of public office, their spouses and dependent children, **or**
- A public company as defined in ITO 2001, **or**
- 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, **or**
- A person that has been declared a bank loan defaulter by a bank or a financial institution within the last 3 years; **or**
- A director of a company who has been declared a bank loan defaulter by a bank or a financial institution within the last 3 years.

EXCEPTIONS

The provisions of this section do not apply to:

- any proceeds of crime, corruption, money laundering and terror financing, **or**
- any amount which is subject of any departmental or court proceedings, **or**
- the investments made in the following sectors,
 - arms and ammunitions;
 - explosives;
 - sugar;
 - cigarettes;
 - aerated beverages;
 - flour mills;
 - vegetable ghee; or
 - cooking oil manufacturing excluding extraction units.



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CONDITIONS

The statement shall **not** be valid if

- The newly formed industrial undertaking company fails to prove commercial production by June 30, 2024

(A certificate to this effect, duly issued by the Engineering Development Board, is required to be submitted to the Commissioner along with the return filed for tax year 2024); or

- There is change in ownership of the company prior to 30th June, 2026; or
- The company disposes of any of its assets prior to 30th June, 2026.

AMNESTY FOR EXISTING COMPANIES

The provisions of this section can also apply to an existing company being an industrial undertaking, for investment in **expansion and modernization**, from funds not declared up to tax year 2021.

Provided that such company opens a dedicated bank account to deposit the said funds before the filing of the statement and such 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 the existing industrial undertaking.

The expansion and modernization is required to be completed by 30th June, 2024, and a certificate with this effect, duly issued by the Engineering Development Board, is required to be submitted to the Commissioner along with the return filed for tax year 2024.