

WILL THE TAX AMNESTY SCHEME WORK?

Zafar Iqbal Kalanauri¹



The Government has recently announced a Tax Amnesty Scheme for owners of off-shore Assets, under which the citizens of resident Pakistanis' can declare their holdings of off shore assets. Under the scheme such individuals will pay a one off "tax" to regularise them and bring them in the tax net.

There are certain concerns and weaknesses in this scheme and noted below are some suggestions for improvement.

1. Not all properties have been purchased via ill gotten money and / or via illegal transfers of funds from Pakistan. At present all such owners are being held hostage to the fact that all such acquisitions were made via illegal operation. One should consider the fact that millions of Pakistani's have work overseas and invested in assets (properties, stocks and shares etc). These people have also sent billions of dollars home to prop up the economy. One can say that they should have declared these assets on return to Pakistan. There are mitigating factors to consider – see – below and there is case for not including them in the same situation like that of Mr. Zardari and Messrs Sharif family.
2. Many people living in Pakistan have earned money honestly, purchased US Dollars and then transferred such sums overseas for investment. Certainly some funds were transferred via Hawala but most were done using Forex accounts in local Bank using inter-bank transfer procedures. Such banking channels are cheaper and more efficient than the Hawala method.
3. **Why were funds invested overseas? This is a fundamental question and needs to be answered. Such funds were invested overseas for:**
 - a. For future benefit – children's education, old age usage.
 - b. Fear of seizure of foreign currency accounts by the Govt.

- c. Ensuring value of savings – In Rupees buying power has been decreasing steadily and surely
- d. Isolation of assets from Inflation which has not been managed by the Govt.
- e. Planning for the future migration abroad etc.
- f. Safety from rapacious FBR staff – this is major issue for all tax paying Pakistani's.
- g. Belief in safety of assets under a foreign Govt.
- h. Following the example of our leaders to invest overseas
- i. Lack of investment opportunities. Today the biggest complaint of overseas Pakistani's related to frauds committed on their investments in Pakistan.

4. What alternatives do holders of overseas assets have in Pakistan

- a. If US Dollar assets are converted in Rupees the depreciations starts at once and so there is no incentive to bring back the forex.
- b. What investments opportunities are available – stock market is for a select few brokers and out leading politicians, property market is beset by clear title issues, valuations issues by FBR, corrupt Govt. Functionaries, bad legislation and no future clear tax implications. There is no comfort in investing in Pakistani markets.
- c. For example take Lahore Development Agency. It runs on miracles. When an applicant visits LDA he is informed right at the start that his documents, files etc. are lost. Only by bribing the first official does a miracle happen – miraculously the file is found and then it makes it way around various officials each of whom has to be paid. Not only does the applicant have to pay bribes but he has to waste a lot time going from pillar to post. After the first visit it is highly unlikely he will ever invest in property that is under the control of LDA (and other such institutions in other cities).
- d. Tax implications – the less said about FBR the better because one can go on forever. It is a thoroughly corrupt institutions and should be fixed as soon as possible. Unless one is assured of an honest treatment from FBR nobody would like to invest here and do a clean declaration of overseas assets. One can see the saga with FBR starting after such a declaration- source of funds, value of property on acquisition and now, ownership etc. etc. The good news is that all these hurdles can be over come by paying bribes. This is reality.
- e. Our documentation is bad – how does one prove transfer of funds when our banks, State Bank do not have systems to manage such information. First create a proper management system.

Now we come to the overseas assets and the treatment of such assets in the holding country. Most investments have been made in Western countries because the investor has confidence in fair and correct treatment by the tax authorities. Now it is also certain the local taxes are paid by the owners because they have to be paid. Pakistan has double taxation treaties with most Western countries and this is to ensure that taxed assets are not taxed twice. Will FBR honour such agreements – They will not. All the more reason not to declare such assets.

5. What is to be done?

An amnesty scheme will only work if the following matters are also seem to and fixed:

1. Fix FBR, State Bank and ensure that the culture of bribery is eliminated. Which is impossible
2. Ensure that if foreign currency is repatriated it can be held in its denomination without any future seizure by the Govt.
3. Guarantee that it can be withdrawn, converted without any Govt. intervention
4. Investment opportunities are safe and not backed up by corrupt officials.
5. Stock market is made clean.
6. Legislation is proper and results should be handed out within days not years.
7. Double taxation treaty obligations are honoured by FBR.
8. Citizens are allowed to hold overseas investments / assets.
9. Forex accounts are guaranteed constitutionally

6. Conclusion

No amnesty scheme will work under the present circumstances. On a cynical note one can say that the only amnesty scheme which will work is the one which will attract Mr. Zardari and Mr. Sharif. We need to fix our own house before we can attract overseas funds.

I, regret, that I am submitting such a pessimistic document but circumstances at present will not result in any massive inflows. If cases are registered against individuals many will escape by bribing, or delaying matters. Our FBR will be complicit in such matters. Many Pakistani's may well leave the country rather than throw themselves at the mercy of the wolves of FBR. Only a proper cleaning of the Aegean stables will set matters right.

ⁱⁱ Zafar Iqbal Kalanauri, Mediator & Advocate Supreme Court of Pakistan, Adjunct Faculty of Law at SAHSOL, Lahore University of Management Sciences (LUMS), SAF Center, #3 3rd Floor, 8-Fane Road Lahore 54000, Pakistan. Cell: (92) 300- 4511823 E-mail: kalanauri@gmail.com ; Web: <http://www.zklawassociates.com>