

## **FAQs ON DETERMINATION OF VALUATION OF IMMOVABLE PROPERTY BY FBR**

### **Question 1:**

*I am a filer and I have purchased a plot in May, 2014 for Rs.5,000,000. Now I want to sell the said plot in August, 2016 at the value determined by FBR at Rs.7,500,000/-. What are the implication of taxes?*

### **Answer:**

In your case the advance income tax under Section 236C at the time of sale shall be collected from you @1% on the value determined by FBR at Rs.7,500,000/ which works out to Rs.75,000/-. This tax is adjustable against tax payable on income earned in the financial year 2016-17. The capital gain on sales of plot shall be Rs.7,500,000 – Rs.5,000,000 = Rs.2,500,000. That shall be declared in the return for tax year 2017 relevant to the financial year 2016-17. Capital gain tax shall be payable @ 5% on capital gain of Rs.2,500,000 i.e. Rs.125,000/-. The above withholding tax of Rs.75,000/- is adjustable against the tax liability on all type of income including capital gain.

### **Question 2:**

*My brother is a non filer. He had purchased a plot in February, 2015 for Rs.6,000,000/-. Now he intends to sell the plot in September, 2016. FBR notified rate at Rs.12,000,000/-. What will be tax implication?*

### **Answer:**

The advance income tax under section 236C shall be collected @ 2% i.e. Rs.240,000/- from your brother being non filer on sale consideration of Rs.12,000,000/- The said advance tax is adjustable against his tax liability once he files tax return.

The capital gain on sale of property shall be Rs.12,000,000 – Rs.6,000,000 = Rs.6,000,000 and tax thereon shall be @ 5% as property was purchased before June, 2016.

**Question 3:**

*I am a filer and I want to purchase a property in October 2016, the notified District Collector's rate before June 2016 was Rs.4,500,000, however, FBR has notified rate Rs.9,000,000/-. Whether all Federal and Provincial taxes shall be paid on FBR rate?*

**Answer:**

No. FBR notified rates are for the purpose of Federal taxes only. In your case advance income tax on the purchase of property under Section 236K shall be collected at the rate of 2% of sales consideration of Rs.9,000,000/- that come to Rs.180,000/-. However, FBR rates are not applicable for the levy payable under the stamp duty and other provincial taxes.

**Question 4:**

*I intend to purchase a property worth Rs.50,000,000/- at FBR notified rates in November, 2016 and advance tax under section 236K as per FBR notified rate of advance tax would be payable. Whether Commissioner of Inland Revenue shall still be empowered to re-determine the value of property.*

**Answer:**

No. He is not empowered to re-determine the value of the property purchased on the valuation as determined by FBR for which advance tax under Section 236K has been paid on such valuation

**Question 5:**

*I am a non filer and intend to purchase property at Rs.30,000,000/- at FBR notified rates and required to pay advance tax under section 236K at the time of purchase as per advance tax rates applicable on non-filer. Can the Commissioner ask the question of source of investment in above property?*

**Answer:**

Yes. The Commissioner of Inland Revenue can ask to explain the source of funds in the investment made in immovable property and apply the provision of unexplained income under section 111 by providing opportunity of being heard to you.

**Question 6:**

*I am a dependent of a 'Shaheed',. I was allotted one plot and I have certified official copy of allotment order. Whether any tax is payable on the sale of such plot.*

**Answer:**

No advance tax under Section 236C shall apply, at the time of registration of property. Besides no capital gain tax under section 37(1A) of Income Tax Ordinance shall be payable.

**Question 7:**

*I being a filer and if I purchase property worth Rs.5,000,000 in October 2016. How much tax I will have to pay while filing the return of income if the property is sold for Rs.10,000,000/- in July, 2018?*

**Answer:**

The tax liability on capital gain for the tax year 2019 shall be calculated on  $\text{Rs.}10,000,000 - \text{Rs.}5,000,000 = \text{Rs.}5,000,000 @ 7.5\%$  i.e. Rs.375,000/- for the reason that you have held the property for less than two years but more than one year.

**Question 8:**

*There is a confusion in the market and different persons are giving different advices regarding payment of capital gain tax at the time of registration of property. What is the legal position?*

**Answer:**

Capital gain tax under section 37(1A) is levied on the difference between sale price and purchase price of the property. The registration authorities are not authorized to collect such capital gain tax on immovable property. The registration authorities are authorized to collect advance tax under Section 236C from seller of the property and advance tax under section 236K from buyer of the property. Hence capital gain tax on the sale of immovable property is to be paid by the taxpayer himself while filing the income tax return. For example, if any sale of immovable property is made in the financial year from July 2016 to June

2017, the taxpayer while filing the income tax return for the tax year 2017 shall pay the capital gain tax after adjusting the advance tax paid under section 236C.

**Question 9:**

*My property is located in the area for which FBR has not notified the value of immovable property. I intend to sell my property immediately but due to non issuance of notification by FBR, the registration authority is reluctant to transfer my property with the advice to wait till FBR notify the valuation of immovable property. What is the FBR position as to whether I shall wait till FBR notify valuation table?*

**Answer:**

FBR notification shall apply on the areas which are notified in such notifications. The area which are not yet notified shall be subjected to value fixed by District Officer Revenue or provincial or any other authority authorized for the purpose of stamp duty.

**Question 10:**

I have received 90% of sales considerations of my property before June 2016 and balance amount of 10% is due in August 2016 from buyer as my property will be registered in August, 2016. Shall I pay taxes on my property as per FBR valuation in August 2016?

**Answer:**

FBR valuation shall apply on all the transfer of immovable properties from 31<sup>st</sup> July 2016 at the time of registration, irrespective of receipt of the payment on sale of property. In your case the FBR valuation shall apply for payment of advance tax under section 236C, being a seller of property and capital gain tax under section 37(1A) shall also be applicable on the valuation determined by FBR. Income from capital gain shall be declared in the return of income for tax year 2017.

**Question 11:**

I have been allotted land in a Society and I now intend to transfer my property to a buyer. Shall I be liable to pay taxes under section 236C and whether capital gain tax shall also apply in my case?

**Answer :**

The provision of advance income tax under section 236C in the case of seller of immovable property and provision of section 236K in the case of buyer of immovable property shall apply on registration of immovable property. Both advance taxes shall also be applicable on attesting transfer of immovable property. In your case there is attestation of transfer of immovable property in the Society therefore, the Society being a withholding agent are authorized to collect advance tax from seller under section 236C and from buyer under section 236K.