Immunity not for holder of public office

RECORDER REPORT ISLAMABAD (January 05, 2013) : Senate has recommended to the National Assembly on Friday that the immunity granted to individuals under tax registration and investment schemes would not be available to any person who was holder of public office in the preceding five years as defined under National Accountability Ordinance, 1999. According to the report of the Standing Committee on Finance and Revenue, Senate has recommended amendment to the Tax Laws (Amendment) Bill, 2012. Senate has recommended that the immunity under registration and investment schemes would not be available to any person who was holder of public office as defined in clause 'm' of section 5 of the National Accountability Ordinance 1999 (Ordinance XVIII of 1999) in the preceding five years and to his dependents. Under clause 'm' of section 5 of the National Accountability Ordinance 1999,"Holder of public office" means a person who has been President of Pakistan or the Governor of a Province. "Holder of public office" also means a person who is, or has been the Prime Minister, Chairman Senate, Speaker of the National Assembly, Deputy Speaker National Assembly, Federal Minister, Minister of State, Attorney General and other law officers appointed under the Central Law Officers Ordinance, 1970, Advisor to the Prime Minister, Special Assistant to the Prime Minister, Federal Parliamentary Secretary, Member of Parliament, Auditor General, Political Secretary, Consultant to the Prime Minister and holds or has held a post or office with the rank or status of a Federal Minister or Minister of State. "Holder of public office" also means a person who is, or has been, Chief Minister, Speaker Provincial Assembly, Deputy Speaker Provincial Assembly, Provincial Minister, Advisor to the Chief Minister, Special Assistant to the Chief Minister, Provincial Parliamentary Secretary, Member of the Provincial Assembly, Advocate General including Additional Advocate General and Assistant Advocate General, Political Secretary, Consultant to the Chief Minister and who holds or has held a post or office with the rank or status of a Provincial Minister. "Holder of public office" also means a person who is holding, or has held, an office or post in the service of Pakistan, or any service in connection with the affairs of the Federation, or of a province, or of a local council constituted under any federal or provincial law relating to the constitution of local councils [co-operative societies] or in the management of corporations, banks, financial institutions, firms, concerns, undertakings or any other institution or organisation established, controlled or administered by or under the federal government or a provincial government, other than a person who is a member of any of the armed forces of Pakistan, except a person who is, or has been a member of the said forces and is holding, or has held, a post or office in any public corporation, bank, financial institution, undertaking or other organisation established, controlled or administered by or under the Federal Government or a Provincial Government [or notwithstanding anything contained in the Pakistan Army Act, 1952 or any other law for the time being in force, a person who is a civilian employee of the Armed Forces of Pakistan. "Holder of public office" means a person who has been the Chairman or Vice Chairman of a zila council, a municipal committee, a municipal corporation or a metropolitan corporation constituted under any Federal or Provincial law relating to local councils, clause m of section 5 of the National Accountability Ordinance 1999 added. The report of the Standing Committee on Finance and Revenue has also proposed other amendment to the Tax Laws (Amendment) Bill, 2012. Senate has recommended to the National Assembly to introduce a new section 120B after section 120A of the Income Tax Ordinance 2001. According to the section, any person who does not opt to pay the registration tax required to be paid under the scheme and does not file appeal before the

concerned Commissioner in the time and the manner provided and the scheme or the appeal filed by him is rejected by the Commissioner, shall be liable to finalisation of provisional assessment under section 122C and all the provisions of the Ordinance shall apply accordingly. During the pendency of proceedings the person shall, notwithstanding anything contained in any other law, be liable to suspension of his CNIC with the approval of the Chairman, FBR placement of his name on the Exit Control List (ECL), freezing of his bank accounts and blocking of his mobile phone SIMs after being provided an opportunity of being heard, it added. Senate has recommended to the National Assembly that unregistered non-filers and registered non-filers who have made declaration under a scheme made under section 120B and desire to declare undisclosed income/assets/expenditure with declared value exceeding Rs 5 million shall be required to pay in addition to registration tax as defined in section 120B, investment tax on the declared value of the assets/income/expenditure exceeding Rs 5 million at the prescribed rates. An existing taxpayer who desires to declare undisclosed income/assets/expenditure up to the declared value of Rs 5 million shall file a declaration under the scheme made under sub-section (1) by payment of token investment tax of rupees 100; and an existing taxpayer who desires to declare undisclosed income/assets/expenditure with a declared value exceeding Rs 5 million shall pay investment tax at the provided rates. Where any person has paid investment tax under sub-section (2) and in accordance with the scheme made and & sub-section (1), he shall be entitled to incorporate income/assets /expenses declared in the declaration filed under the scheme in his books of accounts. Where a person has paid tax in accordance with the scheme, he shall not be liable to any further tax, charge, levy, penalty or prosecution under the Ordinance in respect of the income/assets/ expenses. The contents of a declaration shall remain confidential and shall not be disclosed. The provisions of section 216 shall be fully applicable to the declarations made under the scheme and nothing contained in any declaration shall be admissible in evidence against the declarant for the purposes of any tax/charge/proceedings/penalty/prosecution under any of the following Acts/Ordinance: Income Tax Ordinance 2001 as amended from time to time; Foreign Exchange Ordinance 2002 as amended from time to time; Companies Ordinance 1984 as amended from time to time; National Accountability Ordinance 1999 as amended from time to time; Federal Investigation Agency Act 1974 as amended from time to time. Provided that the immunity under this sub-section shall not extend to offences under: Narcotic Substances Act, 1997 As amended from time to time; Anti Terrorist Act, 1997 as amended from time to time and Anti Money Laundering Act, 2010". Provided further that the immunity under this sub-section shall not be available to any person who was holder of public office as defined in clause 'm' of section 5 of the National Accountability Ordinance 1999 (Ordinance XVIII of 1999) in the preceding five years and to his dependents, the Senate recommendation added. ***Copyright Business Recorder, 2013***