

**Government of Pakistan
(Revenue Division)
Federal Board of Revenue**

C.No.ITP/B-2010-11/EC-e-Dox # 105236-R

Islamabad the July 16, 2010

**Circular No. 10 of 2010
INCOME TAX**

Subject: **FINANCE ACT, 2010 – EXPLANATION REGARDING
IMPORTANT AMENDMENTS MADE IN THE INCOME TAX
ORDINANCE, 2001.**

Salient features of the amendments made in the Income Tax Ordinance, 2001 through Finance Act, 2010 are explained as under:

1. **AMMENDMENT IN CAPITAL VALUE TAX LAW (Section 7 of Finance Act, 1989)**

Consequent upon amendment in the Federal Legislative List of the Constitution of Islamic Republic of Pakistan, through 18th Amendment, Federal Government is no more empowered to levy/collect Capital Value Tax on immovable properties located in Provinces. Therefore, through an amendment in CVT Law, brought about through Finance Act 2010, capital value tax rates applicable on immovable properties have been omitted. Consequently, capital value tax is no more chargeable under section 7 of the Finance Act, 1989 on immovable properties with effect from 1st July, 2010.

2. **TAXABILITY OF INTEREST FREE/CONCESSIONAL LOANS
[Section 13(7)]**

Sub-section (7) of section 13 provides for taxation of benefit arising on free or concessional loan in the hands of an employee. A proviso has now been added under this section whereby such benefit shall not be taxable in the hands of an employee in cases where such benefit is extended by the employer due to the waiver of interest by such employee on his accounts (e.g. provident fund etc) maintained with the employer.

3. **TAX ON CAPITAL GAINS ON DISPOSAL OF SECURITIES
[Section 37A]**

On expiry of exemption on tax on capital gains, capital gains arising on disposal of securities has been made chargeable to capital gains tax through newly introduced section 37A:-

“Securities”

For the purposes of capital gain tax (CGT), “securities” mean share of a public company, voucher of Pakistan Telecommunication Corporation, Modaraba Certificate, an instrument of redeemable capital and derivative products.

Date of chargeability of CGT.

Capital gain tax shall be chargeable on capital gain arising from securities disposed off on or after 1st July 2010.

Charge of CGT according to the holding period.

Capital gain tax shall not be chargeable on disposal of securities which are held for a period of more than one year.

Holding period.

Holding period of securities shall be calculated from the date of acquisition (whether before or after the thirtieth day of June, 2010) to the date of disposal of such security falling after 30th June 2010.

Adjustment of losses.

Adjustment of losses on disposal of securities in a tax year shall be adjustable only against the gain from disposal of any other securities and such loss shall not be carried forward to a subsequent tax year.

Capital gains – a separate block of income.

Capital gains on disposal of securities shall be taxed as a **separate block of income** and shall be charged on capital gain arising to securities holders **irrespective of taxpayer’s tax (exemption) status**.

CGT on banking company and on insurance company.

Provision of section 37AA are not applicable to an insurance company and a banking company as CGT in these cases is governed under the provisions of Fourth Schedule and the Seventh Schedule to the Income Tax Ordinance 2001, respectively.

CGT by Collective Investment Scheme/Mutual Fund.

A new proviso has been inserted under clause (103) Part-I of the Second Schedule to the Income Tax Ordinance, 2001 whereby exemption from CGT available to a collective investment scheme registered with SECP/mutual fund has been restricted only to the investment by such schemes/funds which are **debt** or **money market** funds. Thus CGT is now chargeable on the unit holders of such schemes/funds **at the time of redemption of a security by the unit holder and a collective investment scheme/mutual fund shall be responsible to deduct tax (at the**

prescribed CGT rates as given below) on redemption of securities. Such tax shall be adjustable against the overall CGT liability, and tax so deducted shall be payable to the relevant Commissioner Inland Revenue within seven days of its deduction.

CGT Rates.

The rate of capital gain tax under section 37A as specified in Division VII of Part I of the First Schedule to the Income Tax Ordinance, 2001 are as under:-

S.No.	Period	Tax Year	Rate of Tax
(i)	Where holding period of a security is less than six months.	2011	10%
		2012	10%
		2013	12.5%
		2014	15%
		2015	17.5%
(ii)	Where holding period of a security is more than six months but less than twelve months.	2011	7.5%
		2012	8%
		2013	8.5%
		2014	9%
		2015	9.5%
		2016	10%
(iii)	Where holding period of a security is more than one year.	--	0%.

Capital Gains Tax payable by the Insurance companies:

Rules (6B) and (6C) have been introduced under the FOURTH SCHEDULE to the Income Tax Ordinance, 2001, for levy of CGT on disposal of securities by Insurance Companies. "Securities" shall have the same meaning as defined under Section 37A.

CGT on Insurance Companies is chargeable at the following rates:

Tax year	Where withholding period of securities is less than six months	Where withholding period of securities is more than six months but less than twelve months
2011	10.0%	8.0%
2012	12.5%	8.5%
2013	15.0%	9.0%
2014	17.5%	9.5%
2015	17.5%	10.0%

No CGT shall be chargeable on disposal of securities held for a period of more than one year by an insurance company.

Loss on disposal of securities sustained in a tax year shall be set off only against the gain from any other securities chargeable to tax in the hands of such insurance company.

No loss shall be carried forward to the subsequent tax year.

4. **TAX CREDIT FOR INVESTMENT IN INDUSTRIAL UNDERTAKING.**
[Section 65B].

In order to encourage companies for investment in balancing, modernization and replacement of the already installed plant and machinery in an industrial undertaking set up in Pakistan and owned by such company under the provisions of newly inserted section 65B, 10% rebate in income tax payable for the tax year in which such plant and machinery is installed, shall be admissible if such investment is made in the purchase and installation of plant and machinery at any time between the 1st day of July, 2010 and the 30th day of June, 2015.

In case where investment in purchase of machinery and completion of installation thereof do not occur in the same tax year, such tax rebate shall be admissible in the tax year of installation of such plant and machinery.

In cases where no tax is payable by the taxpayer in the year of installation of plant and machinery or where the tax payable is less than the amount of tax credit, the amount of such credit or the amount of unadjusted tax credit, as the case may be, shall be carried forward and deducted from the tax payable by the taxpayer in respect of the following tax year, and so on, but no such amount shall be carried forward for more than two tax years and shall not exceed in aggregate the 10% limit as specified.

5. **INCENTIVE FOR ENLISTMENT BY A COMPANY [Section 65C]**

To encourage companies for enlistment in any registered stock exchange in Pakistan, a new section 65C has been introduced through Finance Act, 2010 in the Income Tax Ordinance, 2001, whereby companies opting for enlistment shall be entitled to the benefit of 5% tax credit on tax payable in the tax year of its enlistment.

6. **FIRST CHARGE ON ESTAE OF THE DECEASED INDIVIDUAL.**
[Section 87(2A)].

Through Finance Act, 2010, a new sub-section (2A) in section 87 of the Income

Tax Ordinance, 2001, has been inserted whereby any liability under the Income Tax Ordinance, 2001, outstanding against a deceased person shall be the first charge on the estate of such deceased person, in preference to any other outstanding liability of the deceased.

7. **UNEXPLAINED INCOME OR ASSETS [Section 111].**

Amend
Under the existing provision of sub-section (2) of section 111 of the Income Tax Ordinance, 2001, any un-explained amount/investment, on discovery, was required to be added to the income of the taxpayer in the financial year preceding immediately to the year of such discovery. This treatment in taxation of un-explained amount suffered a disconnect viz-a-viz the facts of the case pertaining to the year to which the un-explained income/investment pertained. Such treatment, apart from resulting in technical lacunae, also has the potential to effect adversely the quality of assessment/revenue. Therefore, an amendment in sub-section (2) of section 111 has been made through Finance Act, 2010 to add such unexplained amount/investment be taxed in the year to which it pertains.

8. **APPLICABILITY OF MINIMUM TAX ON INCOME OF CERTAIN PERSONS. [Section 113]**

The following changes have been made in the minimum tax regime:

- Amend*
- (i) Rate of minimum tax has been enhanced from 0.5% to 1%, and minimum tax shall be applicable where a loss is suffered under the conditions as described under sub-section (1) of section 113, also in the case of –
 - (a) an association of persons having turnover of fifty million rupees or above in the tax year 2007 or in any subsequent tax year shall also be liable to pay minimum tax on turnover @ 1% of their turnover; and
 - (b) an individual having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent tax year shall also be liable to 1% tax on the turnover.

Provisions of section 113 shall be applicable accordingly.

9. **CHANGE IN DEADLINE FOR FILING OF ANNUAL STATEMENT BY THE EMPLOYER [Section 118(3)]**

Sub-section (3) of section 118 has been substituted to provide for change in deadline for furnishing of annual statement of deduction of income tax from salary to be filed by an employer of an individual, return of income through e-portal in the

case of a salaried person or a statement required under sub-section (4) of section 115 of the Income Tax Ordinance, 2001 from 30th day of September after the end of tax year to **31st day of August after the end of tax year.**

Last date for filing of income tax return in the case of individual and AOPs (30th September) remains unchanged. Also the deadline for filing of income tax return in the cases of the companies remains unchanged

10. **AMENDMENT OF ASSESSMENTS [Section 122].**

The following amendments have been made in section 122 of the Income Tax Ordinance, 2001:-

- (i) Sub-section (4) of section 122 of the Income Tax Ordinance, 2001 has been amended. This sub-section provides for further amendment of assessments amended already under sub-section (1) and sub-section (3) of section 122 of the Income Tax Ordinance, 2001. In certain situations assessments amended under sub-section (5A) are also allowed to be further amended now under sub-section (4) of section 122. These amendments are aimed at streamlining the functions of assessment for safeguarding revenues.
- (ii) Through insertion of sub-section (5AA) the Commissioner has been empowered to amend an assessment order under sub-section (5A) and such coverage operates retrospectively, from 1st day of July, 2003.

11. **ASSESSMENT GIVING EFFECT TO AN ORDER [Section 124(2)].**

Since the Commissioner appeal is no more empowered to set-aside an assessment, therefore necessary amendment in sub-section (2) of section 124 of the Income Tax Ordinance, 2001 has been made to delete the reference pertaining to “set-aside orders”

12. **ESTATE IN BANKRUPTCY [Section 138B].**

In order to safeguard the interest of revenue in cases of bankruptcy, a new section 138B in the Income Tax Ordinance, 2001 has been introduced through which if a taxpayer is declared bankrupt, his income tax liability will be passed on to the taxpayer estate in bankruptcy. It has also been provided that in such cases income tax liability shall be paid in preference over the claims of other creditors against such estate in bankruptcy and such payment of income tax shall be deemed to be an expenditure of current nature in the operations of the estate in bankruptcy.

13. **ADVANCE TAX PAID BY THE TAXPAYER [Section 147].**

Through amendments in section 147 of the Income Tax Ordinance, 2001 following changes have been brought in the advance tax regime:-

- (i) Exemption on capital gains available for the purposes of this section has been omitted [clause (a) of sub-section (1) has been omitted] ;
- (ii) Association of Persons (AOPs), with annual turnover of Rupees Fifty Million and above, has also been made liable to pay advance tax under section 147 (sub-sections (2) & (4) amended);
- (iii) Basic income threshold for the purposes of payment of advance tax under this section has been raised from two hundred thousand rupees to five hundred thousand rupees (sub-section (2) amended); and
- (iv) In order to ensure timely payment of advance tax during the relevant quarter, sub-section (5A) has been substituted to prescribe the amended dates for payment of quarterly advance tax as under:-
 - (a) in respect of the September quarter, on or before the 25th day of September;
 - (b) in respect of the December quarter, on or before the 25th day of December;
 - (c) in respect of the March quarter, on or before the 25th day of March; and
 - (d) in respect of the June quarter, on or before the 15th day of June.

Rates of quarterly adjustable advance tax on capital gains from disposal/redemption of securities – Not applicable to individual investors. (Sub-section (5B) of section of section 147) –

S.No	Period	Rate of Advance Tax
1.	Where holding period of a security is less than six months	2% of the capital gains derived during the quarter
2.	Where holding period of a security is more than six months but less than twelve months	1.5% of the capital gains derived during the quarter

14. **INDIVIDUAL WITH TURNOVR RS.50 MILLION AND ABOVE TO ACT AS A WITHHOLDING AGENT [Section 153].**

Through an amendment in sub-section (9) of section 153 of the Income Tax Ordinance, 2001, an individual taxpayer with annual turnover of Rs.50 million or above in the tax year 2009 or any subsequent tax year, has also been designated as “prescribed person”. Now an individual taxpayer with turnover of Rs. 50 million or above shall also be required to act as withholding agent responsible to withhold advance tax under the various provisions of income tax law.

15. **ACTIVE TAXPAYERS LIST [Section 181A].**

A new section 181A has been inserted in the Income Tax Ordinance, 2001 to institute a list of taxpayers called “Active Taxpayers List” (ATL). Compliant taxpayers will be recognized by enlistment under this section. Also the non-compliant taxpayers shall be made eligible for placement on this list on completing the deficiencies in compliance requirements, as prescribed under the rules.

16. **SELECTION FOR AUDIT BY THE BOARD [Section 214C].**

Through introduction of new section 214C in the Income Tax Ordinance, 2001 Federal Board of Revenue has been empowered to select person or classes of persons for audit through random or parametric computer ballot. Audit in such cases shall be conducted in accordance with the provisions of section 177 [except the first proviso to sub-section (1) of section 177] of the Income Tax Ordinance, 2001 and the Board shall be deemed always to have had such powers.

17. **COMPUTATION OF LIMITATION PERIOD [Section 226].**

Clause (b) of section 226 of the Income Tax Ordinance, 2001 has been substituted to provide for exclusion of the period from the period of limitation for assessment purposes, for which proceedings for a taxpayer remained stayed or pending before any Court, Appellate Tribunal or any other authority.

18. **ADVANCE TAX ON TRANSACTIONS IN BANK [Section 231AA].**

A new section 231AA has been introduced in the Income Tax Ordinance, 2001. Banking transactions shall be charged to adjustable advance tax as under:

This tax shall be chargeable only on **purchase through CASH** of any of the following instruments:-

- (i) Demand Draft;
- (ii) Pay order;
- (iii) Call Deposit Receipt (CDR);
- (iv) Special Deposit Receipt (SDR);
- (v) Short Term Deposit Receipt (STDR);
- (vi) Rupee Traveller Cheque (RTC); or
- (vii) Any other instrument of bearer nature;

This tax shall be collected on **CASH** sale of any of the above mentioned instrument by any:-

- (i) Banking company;
- (ii) Non-banking financial institution;
- (iii) Exchange company; or
- (iv) Any authorized dealer of foreign exchange

Such tax shall also be deductible on transfers **AGAINST CASH** including:-

- (i) on line transfer;
- (ii) telegraphic transfer;
- (iii) mail transfer; and
- (iv) any other mode of electronic transfer.

This tax shall also be charged on payment **if made in cash** on cancellation of any of the instruments referred above in cases where tax is not withheld on preparation of such instrument against cash.

This tax shall only be charged where total amount of payments for transactions referred to above **exceeds twenty five thousand rupees in a day**.

This tax shall not be collected on –

- (i) payment made through a crossed cheque for purchase of any of the financial instrument as referred above;
- (ii) inter-bank and intra-bank transfers.
- (iii) transactions made by the Federal or a Provincial Government;
- (iv) transactions made by a foreign diplomat or a diplomatic mission in Pakistan; and transactions made by a person who produces a certificate from the Commissioner that his income during the tax year is exempt; and
- (v) online transmission of day to day collections to centralized account of a distributor, where the depositor and the beneficiary is the same,

maintained under cash management arrangements provided by a bank, shall be treated as inter bank transfer.

Tax deducted under this section shall be adjustable against overall tax liability of the taxpayer and tax deducted under the provisions of this section shall be deposited to the relevant Commissioner Inland Revenue as required under the Law.

19. **ADVANCE TAX AT THE TIME OF SALE BY AUCTION [Section 236A].**

In order to clarify the ambiguity regarding the applicability of the provisions of section 236A of the Income Tax Ordinance, 2001, the expression “**including**” has been inserted to clarify that advance tax on sale through auction is applicable on the sale of property or goods, including property or goods which are confiscated or attached and sold through auction, tender etc. Remaining provisions of section 236A of the Income Tax Ordinance, 2001 remains the same.

20. **WITHHOLDING TAX ALONG WITH AIR TICKETS FOR DOMESTIC TRAVEL [Section 236B].**

Through Finance Act 2010, a new section 236B has been inserted in the Income Tax Ordinance 2001. The new enactment provides for charge of adjustable withholding income tax on purchase of tickets for inland air travel:-

This tax shall be collected @ 5% on **gross** amount of air ticket for inland travel along with the payment for the air ticket.

This advance tax shall be adjustable against the overall tax liability of the purchaser of such air ticket.

This tax shall not be charged on purchase of air ticket by the Federal / Provincial Governments and by a person who produces a certificate from the relevant Commissioner Inland Revenue that income of such person during the tax year is exempt.

Tax deducted under this section shall be paid to the relevant Commissioner Inland Revenue as required under the Law.

Tax deducted under this section shall be allowed to be adjusted against the tax liability of the person whom such ticket for inland air travel is issued. However, in cases where payment is made by the employer/parents of the dependents travelers, such adjustment can be claimed by the employer/parents.

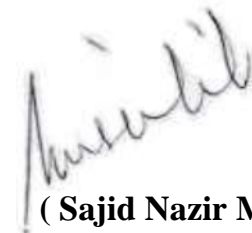
21. **DEFINITION OF INDUSTRIAL UNDERTAKINGS [Section 2(29C)].**

Editorial nature of changes regarding formatting of paragraphs has been brought in the definition of "industrial undertakings", for correct understanding and application.

22. **WEALTH STATEMENT [Section 116].**

A new sub-section (2A) has been introduced for the requirements of furnishing of Wealth statement, wealth reconciliation statement and explanation regarding sources of acquisition of assets appearing in the wealth statement, along with return of income filed in response to the provisional assessment.

Secondly, the requirements of filing of wealth statement and wealth reconciliation along with statement in cases of final tax regime (under sub- section (4) of section 115), has been added to this section. This provision existed earlier under section 115. However, threshold of amount of tax under FTR has been enhanced from rupees twenty five thousand to rupees thirty five thousand for furnishing of wealth statement in such cases.



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