

**GOVERNMENT OF PAKISTAN**  
*REVENUE DIVISION*  
**FEDERAL BOARD OF REVENUE**

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C.No.1(9) WHT/2006-Pt

Islamabad, December 22, 2010

**CIRCULAR NO.16**  
**(INCOME TAX)**

Subject: **UNIFORM TREATMENT FOR PROVIDING EXEMPTION TO TELECOM SECTOR COMPANIES FROM DEDUCTION OF ADVANCE TAX UNDER SECTION 148 OF THE INCOME TAX ORDINANCE 2001**

Honourable Lahore High Court in WP No.247/2010 dated 09<sup>th</sup> February 2010 has been pleased to direct that a uniform policy should be practiced in allowing exemption on imports made by the taxpayers of similar trade engaged in the business of Telecommunication. The issue has been examined in the light of the directions of the Honourable High Court and applications filed by the telecommunication companies in various cases for grant of exemption certificates for non-deduction of advance tax under section 148 of the Income Tax Ordinance 2001, on import of Plant, machinery, equipments etc.

2. Exemption certificate under section 159(1)(a) of the Ordinance read with clause (V) of SRO. 947(I)/2008 Dated 05<sup>th</sup> September 2008 can be issued by Commissioner of Inland Revenue to a person who imports plant, machinery, fixtures, fittings or its allied equipment for the purposes of setting up an industrial undertaking owned by such person, or for installation in an existing "*industrial undertaking*". However Clause (29C) of section 2 of the Ordinance recognizes only those undertakings as *industrial undertakings* which are engaged in:

- i) the manufacture of goods or materials or the subsection of goods or materials to any process which substantially changes their original condition; or
- ii) ship-building; or
- iii) generation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power; or

iv) the working of any mine, oil-well or any other source of mineral deposits;

3. It has been observed that various field formations have been issuing exemption certificates to such taxpayers under section 159(1)(a) read with SRO 593(I)/91 dated 30<sup>th</sup> June 1991, which was superseded by a conscious policy of FBR vide SRO 947(I)/2008 dated 05<sup>th</sup> September 2008, and which aimed to restrict issuance of exemption certificate only to an “*industrial undertaking*” engaged in the business of manufacturing and processing only. Since the Telecom Sector taxpayers are not covered under the said definition of Industrial Undertaking, hence they are not entitled to exemption certificates under the provisions of SRO 947(I)/2008 of 5<sup>th</sup> September 2008.

4. It is therefore desired that while issuing an exemption certificate under section 159(1)(a) read with SRO 947(I)/2008 dated 05<sup>th</sup> September 2008, the Commissioner of Inland Revenue must strictly adhere to the definition of “*industrial undertaking*” as given under section 2(29C) of the Ordinance.

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