

Government of Pakistan  
(Revenue Division)  
Federal Board of Revenue

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C.No.ITP/B-2011-12-EC

Islamabad, the July 01, 2011

**Circular No. 07 of 2011**  
**INCOME TAX**

Subject: **FINANCE ACT, 2011 – 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, 2011 are explained as under:-

1. **Enhancement of Basic Income Tax Exemption Threshold.**

Basic income tax exemption limit has been raised from Rs.300,000 to Rs.350,000. This shall have effect from 1<sup>st</sup> July, 2011 for individual business taxpayers as well as salaried taxpayers. However, income tax return and annual statement of deduction of income tax from salary for the tax year 2011 shall be filed in accordance with the basic exemption limit of Rs.300,000.

Accordingly, changes have been made under section 114 and under the First Schedule to the Income Tax Ordinance, 2011.

2. **Definition of Assessment. [Section 2(5)]**

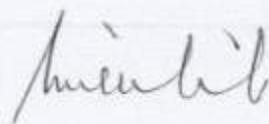
"Provisional assessment" has been included in the definition of assessment for abundant clarification of the legal coverage available to a provisional assessment.

3. **Definition of Collective Investment Scheme. [Section 2(11C)]**

Since the term "Collective Investment Scheme" has been used in the Income Tax Ordinance, 2001 there was a need to define this term. "Collective investment scheme" therefore has been defined to mean a closed-end fund and an open-end scheme as defined under the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003.

4. **Income from Business. [Section 18]**

Although under section 18 of the Income Tax Ordinance, 2001, the fair market value of any benefit or perquisite, whether convertible into money or not, is chargeable to tax. In order to clarify the situation regarding taxability of such benefit or perquisite the word 'benefit' has been elaborated through an explanation to include explicitly any benefit derived by way of waiver of profit on debt or the debt itself under the State Bank of Pakistan, Banking Policy



Department's, Circular No.29 of 2002 dated 15<sup>th</sup> October, 2002 or in any other scheme issued by the State Bank of Pakistan.

5. **Tax Credit for investment in shares and insurance. [Section 62]**

Under the existing provisions of Section 62 a tax credit is allowed for investment by a person other than a company, in new shares of a listed company in Pakistan to the original allottee of such shares or the shares acquired from Privatization Commission of Pakistan. Through substitution of the existing section 62, new section has been inserted which provides for tax credit on shares or tax credit for investment in life insurance premium paid on a policy to a life insurance company registered with the Security and Exchange Commission of Pakistan under the Insurance Companies Ordinance, 2000 (XXXIX of 2000). This tax credit shall be allowed for the year of investment if the resident person (other than a company) is deriving income chargeable to tax under the head "salary" or "income from business".

Tax credit under this section shall be calculated on the basis of lesser of –

- (a) total cost of acquisition of the shares or total contribution or premium paid;
- (b) fifteen per cent of the persons taxable income for the year; or
- (c) five hundred thousand rupees.

6. **Contribution to an Approved Pension Fund. [Section 63]**

Limit of 'five hundred thousand rupees' under sub-section (2) of section 63 of the Income Tax Ordinance, 2001, imposed for calculation of person's tax credit for contribution to an Approved Pension Fund has been withdrawn to provide a level playing field to Voluntary Pension Schemes.

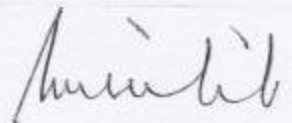
7. **Tax credit for Enlistment. [Section 65C]**

In section 65C, limit for the amount of tax credit of the tax payable allowed for the tax year in which the said company is enlisted has been increased to fifteen per cent through Finance Act 2011 to encourage companies opting for enlistment in any registered Stock Exchange in Pakistan.

8. **Tax credit for Equity Investment in newly established Industrial Undertaking. [Section 65D]**

A new section 65D has been introduced in order to provide incentive for investment in new industrial undertaking in Pakistan. Tax rebate equal to 100% of the tax payable by a newly established company is admissible where all of the following conditions are fulfilled:-

- (i) the company is incorporated / registered under the Companies



Ordinance 1984 (XLVII of 1984) having its registered office in Pakistan and formed for establishing and operating a new industrial undertaking for manufacturing in Pakistan;

- (ii) the industrial undertaking managed by such company is set up / established in Pakistan between the 1<sup>st</sup> day of July, 2011 and 30<sup>th</sup> day of June, 2016;
- (iii) the said industrial undertaking is established with 100% equity owned by the said company;
- (iv) the company or the industrial undertaking is not established by the splitting up or reconstruction or reconstitution of an industrial undertaking already in existence; and
- (v) the company or the industrial undertaking is not established by transfer of machinery or plant from an existing industrial undertaking.

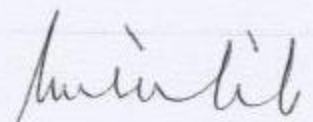
Tax credit under this section shall be available for a period of five years and this period will begin from the later of the date of setting up of such industrial undertaking or from the date of commencement of commercial production.

9. **Tax credit for Equity Investment for BMR/Expansion in Industrial Undertaking Established before the first day of July, 2011. [Section 65E]**

Newly introduced section 65E is meant to provide tax credit on investment by a company with 100% equity investment in balancing, modernization, replacement, or for expansion of the plant and machinery already installed, in an industrial undertaking set up in Pakistan before the 1<sup>st</sup> day of July 2011 subject to the fulfilment of all of the following conditions:

- (i) tax credit shall be allowed on the basis of proportion which such equity investment bears to the total investment in the company;
- (ii) tax credit shall be allowed if the plant and machinery is purchased and installed at any time between the 1<sup>st</sup> day of July, 2011, and the 30<sup>th</sup> day of June, 2016; and
- (iii) amount of tax credit shall be allowed against the tax payable by the taxpayer in respect of the tax year in which the plant or machinery is purchased and installed and for the subsequent four years;

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 four tax years and shall not exceed in aggregate the limit of the tax credit.



10. **Unexplained income or assets. [Section 111]**

In order to clarify further the application of provisions of section 111 of the Income Tax Ordinance, 2001, suppression of any production, sale or any amount chargeable to tax and suppression of any item of receipt liable to tax in whole or in part has also to be treated as "concealed income" if the sources of these items cannot be explained satisfactorily.

11. **Minimum Tax on the Income of Certain Persons. [Section 113]**

Clause (c) of sub-section (2) of section 113 of the Income Tax Ordinance, 2001 allows adjustment of minimum tax paid under this section for the year in which such tax is paid and subsequent three years period, where minimum tax paid under section 113 exceeds the actual tax payable in the case (worked out on the basis of applicable of rate of tax). In order to facilitate the taxpayers this period of adjustment is extended from three years to five years.

12. **Return of income. [Section 114]**

Through Finance Act 2011, the following changes have been made in section 114 of the Income Tax Ordinance, 2001:-

- (i) the scope for filing of return has been extended and now a person who is the holder of commercial or industrial connection of electricity where the amount of annual bill exceeds rupees one million is also required to furnish a return of income for a tax year,
- (ii) evidence of payment of due tax, as per return of income, and wealth statement as required under section 116 of the Income Tax Ordinance, 2001 has to be accompanied with the return.

13. **Wealth Statement. [Section 116]**

The following amendments have been made in section 116 of the Income Tax Ordinance 2001:

- (i) It has been clarified that only an individual taxpayer is required to file a wealth statement.
- (ii) Existing income threshold for the requirement of filing of wealth statement has been increased from rupees five hundred thousand to rupees one million.
- (iii) It has been clarified that a member of an association of person whose share of income from such AOP, before tax, is rupees one million or more, is also required to file wealth statement and wealth reconciliation statement for the year along with the return of income of the AOP.

- (iv) The existing sub-section (2A) has been substituted whereby it has been clarified that in cases of individuals, wealth statement along with wealth reconciliation statement and explanation of the sources of acquisition of assets specified in the wealth statement is also required to be filed along with the return of income filed under provisional assessment (section 122C). Accordingly such requirements also apply to a member of an AOP.

14. **Appeal to the Commissioner (Appeals). [Section 127]**

The existing provisions of section 127 of the Income Tax Ordinance, 2001 do not specify the eligibility of a taxpayer to file an appeal before the Commissioner (Appeals) against a provisional assessment framed under section 122C. However, after the receipt of assessment order of a provisional assessment, taxpayers tend to abate provisional assessment by filing an appeal. Therefore, to strengthen the return filing requirement, through this express amendment, "provisional assessment" has been excluded from the purview of appellate jurisdiction of the Commissioner (Appeals).

15. **Appointment of the Appellate Tribunal. [Section 130]**

Under the existing provisions of section 130 of the Income Tax Ordinance, 2001, a member of the Inland Revenue Appellate Tribunal, sitting singly is empowered to hear the cases where the amount of tax or penalty involved does not exceeds rupees five million. In order to ensure that cases involving high revenues get better attention by a division bench, this limit of rupees five million is changed to rupees one million.

16. **Disposal of Appeals by the Appellate Tribunal. [Section 132]**

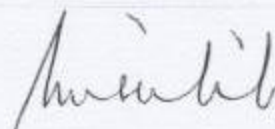
This amendment is aimed at rationalizing the powers available to the Appellate Tribunal. Powers to dismiss an appeal in default has been withdrawn and now the Appellate Tribunal, after affording an opportunity of being heard to the parties to the appeal, in case of default by any of the party on the date of hearing, may proceed ex-parte to decide the appeal on the basis of the available record.

17. **Advance Tax Paid by the Taxpayer. [Section 147]**

In view of the problems reported by the taxpayers in payment of advance tax on Capital Gain on disposal of securities within prescribed time limit of seven days for payment, this limit has been increased to twenty-one days after the close of each quarter. However, the payment pertaining to the fourth installment of advance tax in June is to be paid by 30<sup>th</sup> June each year.

18. **Profit on Debt. [Section 151]**

Previously, deduction of tax by the Federal Government, Provincial Government or a Local Government while making payment to any person as profit on any security (other than yields on account, deposit or a certificate



under the National Savings Schemes or post office saving account) was not treated as final discharge of tax liability. Through Finance Act 2011, the deduction of tax on such profit on debt has been made a final tax. Now the tax deducted on 'profit on debt' under section 151 of the Income Tax Ordinance, 2001 is a final tax.

19. **Payments for Goods and Services and Contracts. [Section 153]**

The provisions of section 153 of the Income Tax Ordinance, 2001 have been streamlined to provide clarity required due to numerous changes over the period of time. Only the existing provisions of this section have been re-aligned without changing the existing taxation regime under this section.

20. **Withdrawal of Balance under Pension Fund. [Section 156]**

In order to liberalize taxation regime on Pension Fund, existing limit of twenty-five per cent for tax free withdrawal from the balance under a pension fund has been increased to fifty per cent of the accumulated balance to be withdrawn at or after the retirement age.

21. **Statements. [Section 165]**

The following amendments have been made in respect of withholding statement required to be filed by each withholding agent under this section:-

- (i) The existing requirement of "quarterly" filing of withholding statement has been changed to "monthly statement", which is required to be furnished or e-filed by the 15<sup>th</sup> day of the month following the month to which the withholding tax pertains;
- (ii) Along with the existing requirements of the particulars of the taxpayer whose tax is withheld, recording of information regarding Computerized National Identity Card Number and National Tax Number of the taxpayer in the withholding tax statement, has also been made mandatory.

22. **Offences and Penalties. [Section 182]**

In order to clarify the term "tax payable" for a clear understanding and compliance, it has been defined that "tax payable" means "tax chargeable" on the taxable income on the basis of assessment made or treated to have been made under sections 120, 121, 122 or 122C of the Income Tax Ordinance, 2001.

Secondly, an incentive of fifty per cent reduction in penalty payable has been provided to a taxpayer where tax due is paid on the basis of an order u/s 129, on or before the due date given in the notice under sub-section (2) of section 137, issued in consequence of the said order and no appeal under section 131 is filed by the taxpayer.

23. **Advance Ruling. [Section 206A]**

The concept of "Advance Ruling" was brought to facilitate foreign investors. However a foreign company with a permanent establishment in Pakistan is taxed as a "resident company" and Advance Ruling in such cases is likely to be attracted in the cases of resident companies' also. Therefore, in order to bring clarity in the application of "Advance Ruling" regime, non-resident taxpayer with permanent establishment in Pakistan shall not be entitled to "Advance Ruling".

24. **Advance Tax at the time of Sale by Auction. [Section 236A]**

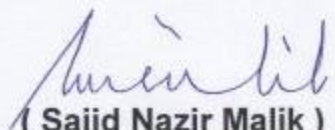
In order to clarify the ambiguity regarding the applicability of the provisions of section 236A of the Income Tax Ordinance, 2001, the expression "or auction by a tender" has been inserted to clarify that advance tax on sale through auction or auction by a tender is applicable. Remaining provisions of section 236A of the Income Tax Ordinance, 2001 remains the same.

25. **Part-II of the Second Schedule. [Clause (5A)]**

Through this amendment it has been provided that tax deducted on profit on debt from debt instruments, Government securities including treasury bills and Pakistan Investment Bonds from a non-resident person having no permanent establishment in Pakistan shall be a "final tax" where the investments for purchase of these instruments are exclusively made through a Special Rupee Convertible Account maintained with a Bank in Pakistan.

26. **Seventh Schedule. [Rule 1 and 6]**

- (i) In pursuance to the amendment made in Rule 1, clause (c) of the Seventh Schedule to Income Tax Ordinance, 2001, through Finance Act, 2010 (whereby limit of provisioning for advances and off-balance sheet items had been allowed @ 5% of total advances for consumers and Small & Medium Enterprises) it has been provided that where such provisioning is less than 5% of advances for consumer and SMEs, then actual provisioning for the year shall be allowed and this provisioning shall be allowable from the first day of July, 2010;
- (ii) Under Rule 2 of the Seventh Schedule, a proviso has been added whereby rate of tax on "dividend" received by a banking company from its asset management company shall be taxed @ 20% in the hands of such banking company.

  
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