

**Government of Pakistan
Revenue Division
Federal Board of Revenue
[Inland Revenue Wing]**

C.No.4(25)ITP/2011

Date: August 18, 2011

**[Circular No. 09 of 2011]
[Income Tax]**

Subject: Deduction of Tax at Source from Payment of 'Profit on Debt' Under Section 151 and 152 of the Income Tax Ordinance, 2001, and Reporting Requirements

Till now the withholding of tax on 'profit on debt' at the operational level, was being governed by Circular No. 13, of 1991, and various other subsequent instructions handed out in this regard, which had primarily been issued to explain the implementation mechanism of sub-section (2A) of Section 50 of the (repealed) Income Tax Ordinance, 1979. The promulgation of the Income Tax Ordinance, 2001, necessitates issuance of a new set of instructions on the subject. Accordingly, Circular No. 13 of 1991 is hereby rescinded, and the withholding income tax on 'profit on debt' under section 151 and 152 of the Income Tax Ordinance, 2001, henceforth shall be governed as laid down in the succeeding paragraphs.

2. The deduction of tax at source from payment of 'profit on debt' and the allied reporting requirements are governed by Section 151, 152 and 165 of the Income Tax Ordinance, 2001, as well as Rule 43, and 44 of the Income Tax Rules, 2002, and Part VIII of Second Schedule to the Income Tax Rules, 2002. The following instructions are being issued to further clarify the statutory provisions for uniform, standardized, and smooth discharge of respective responsibilities under the law by all the stakeholders:-

I. The statutory requirements of the provisions of Section 151 and 152 of the Income Tax Ordinance, 2001, are outlined as under:

#	Person(s) Liable to Deduct Tax	From Whom To Deduct Tax	Rate of Withholding Tax	On [Basis]
i	Person paying yield (profit on debt) on an account, deposit or a certificate under the National Savings Scheme or Post	Resident recipient of yield (Profit on debt).	10% of the gross amount of profit on debt before deduction of Zakat.	Yield (profit on debt) on an account, deposit or a certificate under the National Savings Scheme or

	Office Savings Account.			Post Office Savings Account.
ii	Banking Company and Financial Institution.	Resident recipient of Profit on debt on an account or deposit.	10% of the gross amount of profit on debt before deduction of Zakat.	Profit on debt on an account or deposit maintained with them.
iii	Federal Government, Provincial Government and Local Government.	Resident recipient of profit on debt.	10% of the gross amount of profit on debt before deduction of Zakat.	Profit on debt on any security issued by them.
iv	Banking Company, Financial Institution, Company as defined in the Companies Ordinance, 1984, Body Corporate formed by or under any law in force in Pakistan and Finance Society.	Resident recipient of Profit on debt.	10% of the gross amount of profit on debt before deduction of Zakat.	Profit on debt on any bond, certificate, debenture, security or instrument of any kind issued by them.
v	Every Person.	Non-resident recipient of Profit on Debt not having a permanent establishment in Pakistan.	10% of the gross amount of profit on debt before deduction of Zakat.	Any profit on debt.
vi	Every Person.	Non-resident recipient of Profit on Debt.	10% of the gross amount of profit on debt before deduction of Zakat.	Any profit on debt.

II. Profit on debt paid to the following recipients is exempt from deduction of tax at source:

- (i) The Federal Government [Section 49].
- (ii) Provincial Government [Section 49].
- (iii) Local Government [Section 49].
- (iv) Institutions of the Agha Khan Development Network (Pakistan) listed in Schedule 1 of the Accord and Protocol dated November 13, 1994, executed between the Government of the

- Islamic Republic of Pakistan and Agha Khan Development Network. [Clause (16), Part IV, 2nd Schedule].
- (v) Non-resident, (excluding local branches or subsidiaries or offices of foreign banks, companies, associations of persons or any other person operating in Pakistan), in respect of their profit on debt from Pak rupees denominated Government and corporate securities and redeemable capital, as defined in the Companies Ordinance, 1984, listed on a registered stock exchange, where the investments are made exclusively from foreign exchange remitted into Pakistan through a Special Convertible Rupees Account maintained with a bank in Pakistan. [Clause (19), Part IV, 2nd Schedule].
- (vi) Special Purpose Vehicle for the purposes of securitization [Clause (38), Part IV, 2nd Schedule].
- (vii) Venture Capital Company [Clause (38A), Part IV, 2nd Schedule].
- (viii) Islamic Development Bank [Clause (38C), Part IV, 2nd Schedule].
- (ix) National Investment (Unit) Trust [Clause (47B), Part IV, 2nd Schedule].
- (x) A Modaraba [Clause (47B), Part IV, 2nd Schedule].
- (xi) A Collective Investment Scheme [Clause (47B), Part IV, 2nd Schedule].
- (xii) An approved Pension Fund [Clause (47B), Part IV, 2nd Schedule].
- (xiii) An approved Income Payment Plan [Clause (47B), Part IV, 2nd Schedule].
- (xiv) Real Estate Investment Trust (REIT) Scheme [Clause (47B), Part IV, 2nd Schedule].
- (xv) A Private Equity and Venture Capital Fund [Clause (47B), Part IV, 2nd Schedule].
- (xvi) A recognized Provident Fund [Clause (47B), Part IV, 2nd Schedule].
- (xvii) An approved Superannuation Fund [Clause (47B), Part IV, 2nd Schedule].
- (xviii) An approved Gratuity Fund [Clause (47B), Part IV, 2nd Schedule].
- (xix) International Finance Corporation established under the International Finance Corporation Act, 1956 [Clause (67), Part IV, 2nd Schedule].
- (xx) Pakistan Domestic Sukuk Company Limited [Clause (68), Part IV, 2nd Schedule].

- (xxi) Asian Development Bank established under the Asian Development Bank Ordinance, 1971 [Clause (69), Part IV, 2nd Schedule].
- (xxii) ECO Trade and Development Bank [Clause (72), Part IV, 2nd Schedule].
- (xxiii) A person who produces a certificate from the Commissioner to the effect that their income during the *tax year* is exempt from tax under the Income Tax Ordinance, 2001 or any other law for the time being in force. [Section 159(1) / SRO 594(I)/91 dated June 30, 1991].

III. Profit on debt arising from the following accounts, deposits, certificates, or arrangements is exempt from deduction of tax at source: -

- (i) Under a loan agreement by the borrower to a Banking company or a development financial institution. [Section 151(1) (d)].
- (ii) Account, deposit or certificate issued under the National Savings Scheme of Post Office Savings Account which were exempt from tax under the repealed Income Tax Ordinance, 1979 and where investment was made on or before June 30, 2001 [Section 239(14)].
- (iii) Mahana Amadni Account held under the National Savings Scheme where the monthly installment does not exceed Rs. 1,000 [Section 239(14)].
- (iv) Bahboud Savings Certificate or Pensioner's Benefit Account issued under the National Savings Scheme [Clause (36A), Part IV, 2nd Schedule].
- (v) Term Finance Certificate held by a company, which has been issued on or after the first day of July, 1999 [Clause (59) (i), Part IV, 2nd Schedule].
- (vi) Term Finance Certificates being the instruments of redeemable capital under the Companies Ordinance, 1984 (XLVII of 1984), issued by Prime Minister's Housing Development Company (Pvt.) Limited (PHDCL) [Clause (59) (ii), Part IV, 2nd Schedule].
- (vii) Pak rupee accounts or certificates, which are created out of foreign currency account or deposit held on May 28, 1998, with a bank authorized under the Foreign Currency Scheme of State Bank of Pakistan [Clause (59)(iii), Part-IV, 2nd Schedule].
- (viii) Defence Saving Certificate, Special Savings Certificate and Savings Account held under National Savings Scheme or Post Office Savings Account, or Term Finance Certificates,

held by any resident individual, where such deposit does not exceed one hundred and fifty thousand rupees (*applies to resident individual only*) [Clause (59)(iv)(a), Part-IV, 2nd Schedule].

- (ix) Monthly income Savings Account held under the National Savings Scheme, where monthly installment in an account does not exceed one thousand rupees (*applies to a resident individual only*) [Clause (59) (iv) (b), Part-IV, 2nd Schedule].
- (x) Foreign currency account or deposit maintained by a person with authorized banks in Pakistan, in accordance with Foreign Currency Accounts Scheme introduced by the State Bank of Pakistan, by citizens of Pakistan and foreign nationals residing abroad, foreign association of persons, companies registered and operating abroad and foreign nationals residing in Pakistan. [Clause (78), Part I, 2nd Schedule / SRO 594(I)/91 dated June 30, 1991].
- (xi) Rupee account or deposit held by a citizen of Pakistan residing abroad with a scheduled bank in Pakistan, where the deposits in the said account are made exclusively from foreign exchange remitted into the said account. [Clause (79), Part I, 2nd Schedule / SRO 594(I)/91 dated June 30, 1991].
- (xii) Inter-bank deposits by a banking company [SRO 594(I)/91 dated June 30, 1991]

IV. The reporting requirements for the withholding agents (persons obliged to deduct tax from payment of profit on debt) are governed by Section 165 of the Income Tax Ordinance, 2001 read with Rule 44 of the Income Tax Rules, 2002. According to the said Section and the Rule, such withholding agents are obliged to furnish Monthly Withholding Tax Statements in the format prescribed under Rule 44(2) of the Income Tax Rules, 2002 and divulging therein the following information in respect of each person to whom profit on debt has been paid or credited to his account, including those from whom tax has not been deducted on account of any (claim of) exemption: -

- (a) CNIC or NTN;
- (b) Name;
- (c) Address;
- (d) Date of payment;
- (e) Gross amount of profit on debt paid or credited to account;
- (f) Rate of tax deducted;
- (g) Amount of tax deducted;

- (h) Amount of tax deposited in Government Treasury;
- (i) Date of deposit of tax in Government Treasury;
- (j) Computerized Payment Receipt Number of tax deposited; &
- (k) Reasons for not deducting the tax (i.e., relevant provision of Law or number, date and name of the issuing authority of exemption certificate).

V. The tax deducted from payment of profit on debt has to be deposited in accordance with the provisions of Section 160 of the Income Tax Ordinance, 2001 read with Rule 43 of the Income Tax Rules, 2002, which require that the tax deducted has to be deposited in State Bank of Pakistan or National Bank of Pakistan within 7 days from the end of each week ending on every Saturday. It is mandatory to provide the following information through challan of payment at the time of deposit of the tax deducted: -

A. Particulars of the withholding agent:

- (i) National Tax Number (NTN) or Free Tax Number (FTN);
- (ii) Name and address.

B. Particulars of the person from whom tax has been deducted:

- (i) National Tax Number (NTN) or Computerized National Identity Card Number (CNIC) or Passport # (in case of non-residents); &
- (ii) Name and address.

C. Particulars of the transaction from which tax has been deducted:

- (i) Nature of transaction (Profit on Debt);
- (ii) Section of the Income Tax Ordinance, 2001 under which tax has been deducted (Section 151 or 152);
- (iii) Gross amount of the profit on debt on which tax has been deducted; &
- (iv) Amount of tax deducted.

At the option of the withholding agent:

- (i) A separate tax payment in respect of each person from whom tax has been collected or deducted can be made; or

- (ii) A combined payment in respect of all persons from whom tax has been deducted can be made, in which case the particulars and details of the transaction in respect of each *person* from whom tax has been deducted are to be separately stated. In case of manual tax payment deposit slip form (Challan) a maximum of ten persons can be accommodated and in case of computerized tax payment deposit slip particulars of any number of recipients may be recorded.

3. Although, the existing governing legal regime is not much different from that provided under the (repealed) Income Tax Ordinance, 1979, yet in order to keep the compliance cost of the banking sector at a reduced level in view of the manual nature of their working, FBR through Circular No. 13 of 1991 (Para 8), had provided a specific special waiver to the banks from providing detailed particulars of the account-holders from whom tax was being withheld.

4. However, in view of the amendments to Section 165 of the Income Tax Ordinance, 2001 introduced through the Finance Act, 2011, providing of the detailed information in respect of each account-holder from whom taxes are withheld /deducted is mandatory in order to: -

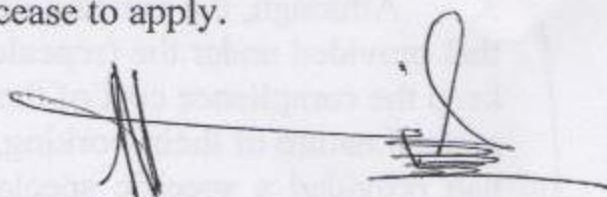
- (i) Determine the amount and category of transaction to ascertain nature of withholding liability;
- (ii) Ascertain the application of correct rate of tax deduction;
- (iii) Allow credit to individual taxpayers whose tax has been deducted/collected; and
- (iv) Arrive at overall correct tax liability of each taxpayer from all sources under all heads of income.

5. Therefore, the withholding agents including banks and Financial Institutions, hereinafter, will accordingly be required to disclose the information stipulated in Sub-Para (IV) and (V) above in the Monthly Withholding Tax Statements (and through the challan of payment at the time of deposit of tax deducted from payment of profit on debt) mandated to be furnished under Section 160 and 165 of the Income Tax Ordinance, 2001. Where tax is not deducted as required under the Income Tax Ordinance, 2001, it is also obligatory to provide similar details and the basis of non-deduction of tax.

6. The information required from Banks or Financial Institutions in respect of a specific person will continue to be governed under Section 176 of the Income Tax Ordinance, 2001 by the Commissioner or his delegates under approval of the Commissioner. The Commissioner is empowered in

requisitioning from the Banks or Financial Institutions, information in respect of a specific person, on the basis of CNIC in case of an account or accounts of an individual or joint account or accounts of the individuals or NTN/Registration No./Name in case of other entities like, Companies, Partnerships, NPOs/Trusts, etc.. For the purposes of Section 176 of the Income Tax Ordinance, 2001, the availability/provision of the exact bank account No. is thus no more a pre-requisite in the presence of information about the CNIC.

7. These instructions shall come into force with immediate effect, and all previous instructions issued earlier on the subject, in particular vide Circular No. 13 of 1991 dated June 30, 1991, hereby cease to apply.



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