

Government of Pakistan  
Revenue Division  
Federal Board of Revenue

\*\*\*

C.No.1(31) WHT/2012/edox 147873-R

Islamabad, November 16 ,2012

To  
All Chief Commissioners  
Inland Revenue  
LTUs/RTOs

**SUBJECT: CLARIFICATION REGARDING AMENDMENTS MADE IN  
SECTION 152 OF THE INCOME TAX ORDINANCE 2001  
VIDE FINANCE ACT 2012.**

Section 152 of the Income Tax Ordinance 2001 has been amended vide Finance Act 2012 in a way that all withholding provisions regarding non residents are consolidated. The tax practioners have apprised the Board that some confusion exists in the field formations regarding application of the said provision.

- 2 I am therefore directed to clarify as under;
- a) Sub section (1) provides for deduction of tax on payment of royalty or fees for technical services ;
  - b) Sub section (1A) provides for deduction of tax on payment in full or part (including payment by way of advance) on the execution of a contract or sub contract under a construction, assembly or installation project or supply of supervisory activities in relation to such project , or any other contract , or a contract for advertisement services rendered by T.V. satellite channels in Pakistan;
  - c) Sub section (1AA) applies to payment of insurance premium or re-insurance premium;

- d) Sub section (1AAA) relates to payment for advertisement services to a media person relaying from outside Pakistan;
- e) Sub section (2A) covers deduction of tax for sale of goods, rendering or providing of services and execution of contract for the sale of goods or rendering or providing of services.

3 All the transactions covered by sub sections discussed above are liable to tax at separate rates. Sub section (2) further provides that, in case of any other payment not covered by sub sections discussed above, withholding tax shall be deducted as per rates provided under Division II of Part III of the first schedule with certain exclusions as per sub section (3) which are summarized below;

- a) Amounts on which tax is to be with held under other provisions of the Ordinance viz, Salary (u/s149), Dividends (u/s 150)), Profit on debt(u/s 151), Income from Property (u/s 155), Prizes and Winnings (u/s 156) and Brokerage and Commission(u/s 233);
- b) On payment to permanent establishment in Pakistan of a non resident person subject to the written approval of the Commissioner that the payment may be made without deduction of tax;
- c) Representative of nonresident person under section 172(3);
- d) A nonresident person who is not chargeable to tax in Pakistan.

It is clarified that the exclusions provided under sub section (3) are not applicable on the payments referred to in paragraph 2 supra as these payments are subject to withholding tax independently under the relevant sub sections and not under sub section (2).

4 The term permanent establishment has been defined in sub section (41) of section 2 of the Income Tax Ordinance 2001. No declaration of permanent establishment (P.E.) to be issued by any other government agency such as Board of

Investment is required for treating an establishment of a non resident as its P.E. for the purposes of Income Tax Ordinance 2001

5 The legal position discussed above may be brought into the notice of all field formations.



**(IMRAN LATIF MINHAS)**  
Secretary (Withholding Taxes)