

GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE

C.No.1(10)WHT/2006-Pt.III

Islamabad, the November 8,2012.

Circular No.09/2012

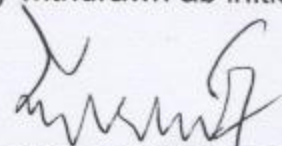
SUBJECT: TAXABILITY OF TAX DEDUCTION UNDER SECTION 153(1)(b) OF THE INCOME TAX ORDINANCE 2001 – SERVICE SECTOR

Section 153(1)(b) of the Income Tax Ordinance 2001 (hereinafter referred to as the Ordinance) was amended vide Finance Act 2009 whereby tax deducted on services was made minimum tax. References were made to the Board regarding taxability of amount received by the Executive Directors on the board of a company (not being employee of the company). In this regard, a clarificatory letter was issued by the Board vide C.No.1(10)WHT/2006/Pt.III dated 01.11.2010, whereby it was stated that *"income falling under section 153(1)(b) is to be treated as a separate block of income and therefore cannot be clubbed with any other source of income."* Representations were filed by tax practitioners/queries from field formations were received, pointing out that the Boards' clarification was contrary to the law.

2. The matter was examined in the light of relevant provisions of law and it was found that the said clarification was contrary to the legal provisions. Receipts on which the withheld tax constitutes minimum tax are not be treated as a separate block in contradistinction to Income falling under the Fixed Tax Regime.

3. It is thus clarified that, the amount received under section 153(1) (b) of the Income Tax Ordinance 2001, on account of "rendering or providing of services", shall be clubbed with other receipts of the taxpayer falling under the normal tax regime and taxable income shall be worked out accordingly. Normal tax rates are to be applied to the resultant taxable income. However, if the tax worked out on the payments, subject to deduction under section 153(1)(b), is less than the withheld tax, the later being the minimum tax shall be the tax liability on the payments for services rendered which have been subjected to deductions of tax under section 153(1)(b).

4. The earlier clarification issued by the Board vide letter C.No.1(10)WHT/2006-Pt.III dated 01.11.2010 being contrary to the law is hereby withdrawn ab initio.


(Imran Latif Minhas)
Secretary (Withholding Taxes)