

**Government of Pakistan
Revenue Division
Federal Board of Revenue
Inland Revenue**

C.No.4(24) IT-Budget/2021-142150-R

Islamabad, the 23rd September, 2021

**Circular No. 07 of 2021-22 – Policy
(Income Tax)**

Subject: Explanation of Important Amendments Introduced in the Income Tax Ordinance, 2001, Via the Tax Laws (Third Amendment) Ordinance, 2021

The Tax Laws (Third Amendment) Ordinance, 2021, (hereinafter “the New Ordinance”) has brought about certain amendments in the Income Tax Ordinance, 2001 (hereinafter “the Ordinance”). Some significant amendments are explained as under: -

(1) Amendment in Section 21 of the Ordinance

(a) Digital Payments by Corporate Sector

To improve documentation, a new clause (1a) has been inserted in section 21 of the Ordinance. Previously payments under a single head account exceeding two hundred and fifty thousand rupees, made by any taxpayer were required to be made through crossed cheque or crossed banking instruments including digital payments. Through this amendment, payments made by a company under a single head of account exceeding two hundred and fifty thousand rupees other than by digital means from business bank account of the taxpayer notified to the Commissioner under section 114A of the Ordinance shall not be admissible as deductions.

However, certain expenditures on account of utility bills, freight charges, travel fare, and payment of taxes and fines would continue to be admissible even though paid in cash or via traditional banking instruments. The purpose behind this legislative enactment is to encourage digital payments and discourage traditional mode of transactions by the corporate sector in the first phase. However, owing to lack of total digital readiness by some corporate taxpayers, the corporate taxpayers are allowed to switch to this mode w.e.f. 01.11.2021. In the intervening period they may use digital payments or continue with the existing procedure of making payments by a crossed cheque drawn on a bank or by crossed bank draft or crossed

pay order or any other crossed banking instrument showing transfer of amount from the business bank account of the taxpayer.

(b) Payment of Salary via Digital Mode

Currently, any salary paid or payable exceeding twenty five thousand rupees per month has to be made through cross cheque or direct transfer of funds to the employee's bank account under clause (m) of section 21 of the Ordinance. In order to bring this provision in conformity with newly inserted clause (la) ibid, in case of payments against salary in excess of twenty five thousand rupees per month, the mode of digital payment has been added to the available modes referred to above.

(2) Amendment in Section 53 of the Ordinance

Section 53 provides for powers to grant exemptions and tax concessions. These powers have been vested with the Board with the approval of Federal Minister In-charge pursuant to the approval of Economic Coordination Committee of the Cabinet (ECC). The New Ordinance provides that such powers shall also be available to the Federal Government in addition the existing powers of the Board.

(3) Amendment in Section 111 of the Ordinance

Section 111(4) provides exclusion from unexplained income or assets to any amount of foreign exchange remitted from outside Pakistan through normal banking channels not exceeding five million rupees en-cashed into rupees by a scheduled bank. The amendment through insertion of an explanation has now also treated remittances through Money Service Bureaus (MCBs), Exchange Companies (ECs) and Money Transfer Operators (MTOs) or other similar entities as foreign exchange remitted from outside Pakistan through normal Banking channels. After a formal clarification from SBP, Circular No. 05 of 2022 was issued by the Board. Through this amendment the Board's clarification has now been made part of legislation to facilitate foreign remittance and align the law with innovations that have taken place in the banking industry.

(4) Insertion of Section 114B in the Ordinance

Broadening of the tax base is the highest priority of the Board and paramount to increase the revenue. To augment the existing measures to broaden the tax net and to increase the number of return filers, a new section 114B has been inserted which empowers the Board to issue Income Tax General Order in respect of persons who are not appearing on ATL but are liable to file return under the provisions of the Ordinance. Board is also empowered to discontinue the use of Mobile Phone connections, electricity

connections and gas connections of the non-filers. Board or the concerned Commissioner are also empowered to issue orders to restore above discontinued connections in cases where the return has been filed or the person was not required to file return of income. Before inclusion of any person in the general order, following conditions are required to be met:

- (i) Notice under sub-section (4) of section 114 has been issued;
- (ii) Date of compliance of the notice under sub-section (4) of section 114 has lapsed; and
- (iii) Tax return has not been filed.

(5) Insertion of Section 175B in the Ordinance

A new section 175B has been inserted in the Ordinance aiming to broaden the tax base through collaboration between NADRA and FBR. Sub-section (1) of section 175B mandates NADRA to share its records or any other information available or held by it, on its own motion or upon application by the Board. Sub-section (2) thereof allows NADRA to compute indicative income and tax liability on the basis of various expenses, receipts, assets, properties and liabilities etc. using artificial intelligence, mathematical or statistical modeling or any modern methods.

The Board may forward such information to the concerned tax authorities having jurisdiction in connection to the subject matter relating to the information, who may utilize the information for the purpose of levy of tax. The indicative income and tax liability shall be communicated to the person to whom it relates. Such person shall have the option to pay tax as prescribed. In case of failure to pay such liability within stipulated timeframe, the tax authority shall take action under the provisions of the Ordinance on the basis of the Indicative Income so computed. If the person against whom the liability has been determined under sub-section (4) of the newly inserted section pays such liability, such payment shall be construed to be an amended assessment order under section 120 or 122(1) or 122(4) as the case may be.

Board is also vested with the powers to make rules for the purposes of sub-sections (4) and (5) to prescribe the extent of installments, and any relief regarding the penalty and default surcharge, and time limits. To provide an enabling environment for the joint mechanism the restrictions on provision of information in terms of section 198 have been done away with and the said section is now omitted.

(6) Amendment in Section 182 of the Ordinance

 A new penal regime for non-filing of income tax return has been introduced through amendment in section 182 of the Ordinance. A person who fails to

file return within due date will have to pay a penalty of higher of Rs.1000/- or 0.1% of tax payable for each day of default. However, the minimum penalty shall be Rs. 10,000/- in case of individuals having 75% or more income from salary and Rs. 50,000/- in other case and the maximum penalty shall not exceed 200% of tax payable by the person. Furthermore, above mentioned penalties shall also be reduced by 75%, 50% and 25% in case return is filed by the person within one, two or three months respectively after the due date. General penalty for contravening any provisions of the ordinance has been omitted.

(7) Amendment in Section 235 of the Ordinance

Section 235 of the Income Tax Ordinance, 2001, has been amended wherein sub-section (1A) has been inserted which stipulates that professionals including Accountants, Lawyers, Dentists, Health Professionals, Engineers, Architects, IT Professionals, Tutors, Trainers and other persons engaged in provision of services but are not appearing on Active Taxpayers' List (ATL) and operating from residential premises having domestic electricity connections have been made liable to pay advance tax at slab rates starting from 5% to 35% of electricity bills amounting to Rs.10,000/- to Rs.75,000/- and above. This advance tax shall be in addition to the tax collectable on residential electricity bills exceeding Rs.25,000/- provided that such professionals are not appearing on the ATL.

(8) Reduced rate for Steel sector

The major concern of distributors, dealers, sub-dealers, wholesalers and retailers is the higher withholding tax rate on supply of goods that is 4.5% and minimum turnover tax rate that is 1.25%. Dealers, sub-dealers, wholesalers and retailers of certain sectors have been incentivized by reduced rate of 0.25% under section 153(1)(a). Through the New Ordinance, Steel sector has also been included in the reduced rate sectors falling under clause (24C) of Part II of the Second Schedule. Furthermore, steel sector has also been included in list of sectors in clause (24D) of Part II of the Second Schedule for reduced rate of minimum tax on turnover. The reduced rate for steel sector shall be 0.25% under section 113 of the Ordinance.

(9) Exemption from minimum tax

In order to encourage and provide economic benefit to local manufacturing of mobile phones, manufacturers of locally produced mobile phone devices have been granted exemption from minimum tax on turnover by including the same in clause (11A), Part IV, Second Schedule to the Ordinance.

(10) Exemption to Pakistan Mortgage Refinance Company Limited

Pakistan Mortgage Refinance Company Limited has been recognized as a pass through organization for improving the mortgage-refinancing situation in Pakistan and has been granted exemption from total income by including it in Table I of clause (66) of Part I of Second schedule to the Ordinance.

(11) Substitution of word "Assets" with Gross Advances

In order to avoid any misinterpretation, the word "assets" has been replaced with "Gross Advances" in sub-rule (6A) of Rule 6C of Seventh Schedule. The taxable income of a banking company attributable to investment in the Federal Government securities is taxable at the rates provided in sub-rule (6A) according to the Gross Advances to deposit ratio as on last day of the tax year.

(12) Enhanced scope of donations for claiming Tax credit.

All entities mentioned in Table I of clause (66) of Part I of Second Schedule are exempt from total income. These organizations have also been included in the Thirteenth Schedule to the Ordinance. Donations paid to these organizations shall now be eligible for claiming tax credit.

2. This is an explanatory Circular and in case of any conflict between the Circular and the letter of the law, the latter would prevail.


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