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KARACHI: 2nd Fl, Panorama Centre-I, Fatima Jinnah Rd. Tel: 35641410, 35437701, 0333-2209862.
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S. A. SALAM's
Complete Income Tax Law
(8th Edition)
175th Update – September 20, 2023

Please find enclosed **108** updated pages so as to complete and update your copy of Complete Income Tax Law *8th Edition*. Kindly insert as follows:

Existing Page to be removed	Updated Page to be inserted	Existing Page to be removed	Updated Page to be inserted
Pt. I – Income Tax Ordinance			
18(5), (6)	18(5) to (6.1)		
21 to 22(1)	21 to 22(1)		
28(3) to (8)	28(3) to (12)		
84(1) to (4)	84(1) to (5)		
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165 to 168(3)	165 to 168(4)		
244(5), (6)	244(5), (6)		
257 to 260(2)	257 to 260(2)		
267 to 270(2)	267 to 270(2)		
291 to 294	291 to 294(1)		
324(3) to (10)	324(3) to (10.1)		
423 to 430(4)	423 to 430(4)		
430(27) to (32)	430(27) to (32.1)		
430(41) to (43)	430(41) to (44)		
446(22.1)	446(22.1), (22.2)		
Pt. II – Income Tax Rules			
5, 6	5, 6		
-	72G to 72Q		

Yours sincerely,
Abdul Rab Khan
Manager

Note from the Author

It gives me great pleasure to complete the 175th update of Complete Income Tax Law *8th Edition*. This update covers:

-SROs: 1117(I)/2023; and.

-Circulars: 1 to 3 of 2023.

The changes are briefly listed as follows:-

Part I – Income Tax Ordinance

1. On page I-18(6.1) onwards, extracts from **Circulars Nos. 01 of 2003** dated July 21, 2023, **02 of 2023** dated July 26 and **03 of 2003** dated August 15, 2023 respectively have been placed under relevant sections as footnotes.

Part II – Income Tax Rules

2. On page II-72G onwards, Chapter XIIIA containing Rules 83A to 83E have been added by **SRO 1117(I)/2023** dated August 28, 2023. These are regarding **Record of Beneficial Owners**.

Your suggestions, comments etc. will be very useful for improvement of the work.

Sheikh Asif Salam
Chartered Accountant

[1][(36) "non-profit organization" means any person, other than an individual, which is–

(a) established for religious, educational, charitable, welfare [2][purposes for general public], or for the promotion of an amateur sport;

(b) formed and registered [3][by or] under any law as a non-profit organization;

(c) approved by the Commissioner for specified period, on an application made by such person in the prescribed form and manner, accompanied by the prescribed documents and, on requisition, such other documents as may be required by the Commissioner;

and none of the assets of such person confers, or may confer, a private benefit to any other person;]

(37) "non-resident person" means a non-resident person as defined in Section 81;

(38) "non-resident taxpayer" means a taxpayer who is a non-resident person;

[4][(38A) "Officer of Inland Revenue" means any Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Inland Revenue Officer, Inland Revenue Audit Officer [5][, District Taxation Officer Inland Revenue, Assistant Director Audit,] or any other officer however* designated or appointed by the Board for the purposes of this Ordinance;]

[6][(38AA) "offshore asset" in relation to a person, includes any movable or immovable asset held, any gain, profit, or income derived, or any expenditure incurred outside Pakistan;

(38AB) "offshore evader" means a person who owns, possesses, controls, or is the beneficial owner of an offshore asset and does not declare, or under declares or provides inaccurate particulars of such asset to the Commissioners;

[1]Clause (36) substituted by Finance Ordinance, 2002 dated June 15, 2002.
[2]Substituted for "or development purposes" Finance Act, 2020 dated June 30, 2020.
[3]Words inserted by Finance Act, 2020 dated June 30, 2020.
[4]Clause (38A) inserted by Finance Act, 2010 dated June 30, 2010 and this amendment shall be deemed to have taken effect from June 05, 2010. Earlier this amendment was made by Finance (Amendment) Ordinance, 2009 dated October 28, 2009.
[5]Words inserted by Finance Act, 2017 dated June 20, 2017.
[6]Clauses (38AA) to (38AC) inserted by Finance Act, 2019 dated June 30, 2019.
*apparently intended word is "howsoever".

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(38AC) "offshore enabler" includes any person who, enables, assists, or advises any person to plan, design, arrange or manage a transaction or declaration relating to an offshore asset, which has resulted or may result in tax evasion;]

[1][(38B) "online marketplace" means an information technology platform run by e-commerce entity over an electronic network that acts as a facilitator in transactions that occur between a buyer and a seller.]

(39) "Originator" means Originator as defined in the Asset Backed Securitization Rules, 1999;

(40) "Pakistan-source income" means Pakistan-source income as defined in section 101;

[2][(40A) "Pension Fund Manager" means an asset management company registered under the Non-Banking Finance Companies (Establishment and Regulations) Rules, 2003, or a life insurance company registered under Insurance Ordinance, 2000 (XXXIX of 2000), duly authorized by the Securities and Exchange Commission of Pakistan and approved under the Voluntary Pension System Rules, 2005, to manage the Approved Pension Fund];

(41) "permanent establishment" in relation to a person, means a [3][ ] place of business through which the business of the person is wholly or partly carried on, and includes–

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[1]Clause (38B) inserted by Finance Act, 2017 dated June 20, 2017.
[2]Clause (40A) inserted by Finance Act, 2005, dated June 29, 2005.
[3]Word "fixed" deleted by Finance Act, 2023 dated June 26, 2023. Earlier it was inserted by Finance Act, 2006, July 01, 2006.

S.2(41)- Permanent Establishment, "Fixed" place of business.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023 clarifying the deletion of word "Fixed":-

"In order to enlarge the scope of definition of "Permanent Establishment" (PE), Finance Act has made amendment in section 2(41) of the Ordinance by removing word "fixed" wherever appearing in the definition. In the existing definition the word "fixed" preceded the word "place". Hence, in the existing definition scope was limited to fixed place of business. In the present world non-residents also carry out business in other countries or territories through virtual presence or non-fixed presence, hence, the amendment is made to cater to new reality. Consequently, the second amendment is also made in the definition by enlarging the scope of PE to "virtual business presence". The new clause (bb) has been inserted after the clause (ba) to define the virtual business presence in Pakistan as any business where transactions are conducted through internet or any other electronic medium, with or without physical presence. Further, a third amendment has also been made in clause (d) of sub-section (41) of section 2 of the Ordinance. This clause includes the furnishing of services, including consultancy services, by any person through employees or other personnel engaged by the person for such purpose in the definition of PE. In the clause word 'entity' has been inserted after the word personnel. Therefore, furnishing of services including consultancy services through an entity in Pakistan is now covered under the definition of PE. The definition of PE as amended shall apply for determination of status of the non-residents in Pakistan as regards existence of PE, however; the definition shall be applied based on facts of each case and in accordance with relevant provisions of applicable Agreement for Prevention and Avoidance of Double Taxation between Pakistan and the country/state of the non-resident person."

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(a) a place of management, branch, office, factory or workshop, [4][premises for soliciting orders, warehouse, permanent sales exhibition or sales outlet,] other than a liaison office except where the office engages in the negotiation of contracts (other than contracts of purchase);

[5][(ba) an agricultural, pastoral or forestry property;]

[6][(bb) virtual business presence in Pakistan including any business where transactions are conducted through internet or any other electronic medium, with or without having any physical presence;]

(b) a mine, oil or gas well, quarry or any other place of extraction of natural resources;

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[4]Words and commas inserted by Finance Act, 2003, dated June 17, 2003.
[5]Sub-clause (ba) inserted by Finance Act, 2003 dated June 17, 2003.
[6]Sub-clause (bb) inserted by Finance Act, 2023 dated June 26, 2023.

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(iv) income computed [1][(other than brought forward depreciation, brought forward amortization and brought forward business losses)] under Fourth, Fifth, Seventh and Eighth Schedule.

(3) The super tax payable under sub-section (1) shall be paid, collected and deposited on the date and in the manner as specified in sub-section (1) of section 137 and all provisions of Chapter X of the Ordinance shall apply.

(4) Where the super tax is not paid by a person liable to pay it, the Commissioner shall by an order in writing, determine the Super tax payable, and shall serve upon the person, a notice of demand specifying the super tax payable and within the time specified under section 137 of the Ordinance.

(5) Where the super tax is not paid by a person liable to pay it, the Commissioner shall recover the super tax payable under sub-section (1) and the provisions of Part IV, X, XI and XII of Chapter X and Part I of Chapter XI of the Ordinance shall, so far as may be, apply to the collection of super tax as these apply to the collection of tax under the Ordinance.

(6) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.]

[2][**4C. Super tax on high earning persons**.- (1) A super tax shall be imposed for tax year 2022 and onwards at the rates specified in Division IIB of Part I of the First Schedule, on income of every person:

Provided that this section shall not apply to a banking company for tax year 2022.

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[1]Word inserted by Finance Act, 2019 dated June 30, 2019.
[2]S. 4C inserted by Finance Act, 2022 dated June 30, 2022.

S. 4C.- Rationalizing Super Tax.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023, pl. also see S.37 & 100B:-

"Super Tax on high earning persons was introduced through Finance Act, 2022 providing for graduated tax rates ranging from 1% to 4% on income slabs starting from Rs. 150(m) to Rs. 300(m) and above. Certain specified business sectors were required to pay Super Tax at higher rate of 10% where income exceeded Rs. 300 (m). In order to broaden the scope of Super Tax as well as to bring progressivity and uniformity in Super Tax rates structure, additional income slabs of Rs. 350(m) to Rs. 400(m), Rs. 400(m) to Rs. 500(m) and Rs. 500(m) and above providing for Super Tax rates of 6%, 8% and 10% respectively have been enacted through Finance Act, 2023. These Super Tax rates will apply on all persons across the board for Tax Year 2023 and onwards. However, under the second proviso to Division IIB of Part I of the First Schedule, for Tax year 2023, a banking company will be required to pay Super Tax at the rate of 10% if income as defined under section 4C exceeds Rs. 300(M).

Furthermore, an ambiguity persisted regarding payment of Super Tax as to whether Super Tax payable under section 4C of the Ordinance will only be discharged as lump sum amount at the time of filing of income tax return or Super Tax has to be paid along with monthly / quarterly installments of advance tax payable under section 147 of the Ordinance. In order to remove this ambiguity and to bring more clarity, Finance Act, 2023 has introduced a new sub-section (5A) in section 4C of the Ordinance whereby Super Tax liability computed by a person under the said section will be paid along with monthly/ quarterly installments, as the case may be, of advance tax payable under section 147 of the Ordinance. Corresponding amendments have also been made in section 147 of the Ordinance."

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(2) For the purposes of this section, "income" shall be the sum of the following:-

(i) profit on debt, dividend, capital gains, brokerage and commission;

(ii) taxable income (other than brought forward depreciation and brought forward business losses) under section 9 of the Ordinance, excluding amounts specified in clause (i);

(iii) imputable income as defined in clause (28A) of section 2 excluding amounts specified in clause (i); and

(iv) income computed, other than brought forward depreciation, brought forward amortization and brought forward business losses under Fourth, Fifth [1][, Seventh and Eighth] Schedules.

(3) The tax payable under sub-section (1) shall be paid, collected and deposited on the date and in the manner as specified in sub-section (1) of section 137 and all provisions of Chapter X of the Ordinance shall apply.

(4) Where the tax is not paid by a person liable to pay it, the Commissioner shall by an order in writing, determine the tax payable, and shall serve upon the person, a notice of demand specifying the tax payable and within the time specified under section 137 of the Ordinance.

(5) Where the tax is not paid by a person liable to pay it, the Commissioner shall recover the tax payable under sub-section (1) and the provisions of Part IV, X, XI and XII of Chapter X and Part I of Chapter XI of the Ordinance shall, so far as may be, apply to the collection of tax as these apply to the collection of tax under the Ordinance.

[2][(5A) The provisions of section 147 shall apply on tax payable under this section.]

[1]Substituted for "and Seventh" by Finance Act, 2023 dated June 26, 2023.
[2]Sub-section (5A) inserted by Finance Act, 2023 dated June 26, 2023.

S. 4C-Super tax on High Earning Persons.-Following is an extract from FBR's Circular No. 15 of 2022, dated 21 July, 2022, explaining the amendment:-

"A new section 4C has been introduced through Finance Act, 2022 and this section will apply for tax year 2022 and onwards. Except for the persons whose income as envisaged in this section is below Rs. 150 million, all other persons including those assessed under Fourth, Fifth and Seventh Schedules to the Ordinance are liable to pay super tax on graduated rates ranging from 1% to 4% based on graduated income slabs provided in Division JIB of Part I of First Schedule given as under:

S. No	Income under section 4C	Rate of Tax
1.	Where income does not exceed Rs. 150 million	0% of the income
2.	Where income exceeds Rs. 150 million but does not exceed Rs. 200 million	1% of the income
3.	Where income exceeds Rs. 200 million but does not exceed Rs. 250 million	2% of the income
4.	Where income exceeds Rs. 250 million but does not exceed Rs. 300 million	3% of the income
5.	Where income exceeds Its. 300 million	4% of the income

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(6) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.]

5. Tax on dividends.– (1) Subject to this Ordinance, a tax shall be imposed, at the rate specified in Division III of Part I of the First Schedule, on every person who receives a dividend from a [1][ ] company [2][or treated as dividend under clause (19) of section 2].

[1]Word "resident" omitted by Finance Act, 2003 dated June 17, 2003.
[2]Inserted by Finance Act, 2009 dated June 30, 2009.

However, for tax year 2022 the rate of super tax under this section will be 10% instead of 4%, where the income of the persons engaged, partly or wholly, in business of airlines, automobiles, beverages, cement, chemicals, cigarette & tobacco, fertilizer, iron & steel, LNG terminal, oil marketing, oil refining, petroleum & gas exploration and production, pharmaceuticals, sugar and textiles exceeds Rs.300 million. For tax year 2023, this super tax on income of banking companies will be 10% if the income for the year exceeds Rs. 300 million.

For the purposes of this section, the income will be the sum of the following:

(i) Profit on debt, dividend, capital gains, brokerage, and commission;

(ii) Taxable income (other than brought forward depreciation and brought forward business losses) under section 9 of the Ordinance, excluding amounts specified in (i) above;

(iii) Imputable income as defined in clause (28A) of section 2 excluding amounts specified in clause (i) above; and

(iv) Income computed, other than brought forward depreciation, brought forward amortization and brought forward business losses under Fourth, Fifth and Seventh Schedule.

Super tax payable under this section will be paid on the date and manner as specified in under section 137(1) of the Ordinance. In case of default by the person liable to pay super tax under this section, Commissioner through an order in writing will determine the liability of the person and proceed to recover the same under applicable provisions of the Ordinance."

S. 5–Presumptive taxation of dividends.– Following are extracts from CBR's Circular No. 8 of 1991 dated June 30, 1991, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"Through the newly inserted section 80B read with paragraph CC of Part I of the First Schedule, a simple flat-rate income tax at 10% of dividends and interest or profit on bank deposits etc. (hereinafter referred to as the "unearned income") has been introduced with the following salient features:

(i) This tax is to be deducted without any monetary threshold out of-"

"(b) dividend on which tax is deductible under sub-section (6A) of section 50;"

"(iv) the tax deducted at source shall constitute full and final discharge of tax liability in respect of unearned ……."

"(vi) The persons who have no other income shall not file the prescribed return of income. They will, however, be required to furnish simplified statements of their unearned income and tax deducted at source as will be prescribed under section 143A.

(vii) Since a person having no other income shall not be required to file return of income nor any assessment in his case shall be made, a provision has been made whereby an order under section 59A shall be deemed to have been [*]in respect of such unearned income without making a formal assessment order."

[*]Word "made" is missing in the Circular.

Please also see sections 150, 151 and 156(1).

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[1][**7C. Tax on builders**.- (1) Subject to this Ordinance, a tax shall be imposed on the profits and gains of a person deriving income from the business of construction and sale of residential, commercial or other buildings at the rates specified in Division VIIIA of Part I of the First Schedule.

(2) The tax imposed under sub-section (1) shall be computed by applying the relevant rate of tax to the area of the residential, commercial or other building being constructed for sale.

(3) The Board may prescribe:

(a) the mode and manner for payment and collection of tax under this section;

(b) the authorities granting approval for computation and payment plan of tax; and

(c) responsibilities and powers of the authorities approving, suspending and cancelling no objection certificate to sell and the matters connected and ancillary thereto.

[2][(4) This section shall apply to projects undertaken for construction and sale of residential and commercial buildings initiated and approved.-

(a) during tax year 2017 only;

(b) for which payment under rule 13S of the Income Tax Rules, 2002 has been made by the developer during tax year 2017; and

(c) the Chief Commissioner has issued online schedule of advance tax installments to be paid by the developer in accordance with rule 13U of the Income Tax Rules, 2002.*]*]

[1]Sections 7C & 7D inserted by Finance Act, 2016 dated June 24, 2016.
[2]Sub-section (4) substituted by Finance Act, 2017 dated June 20, 2017. Earlier it was inserted by Finance Act, 2016 dated June 24, 2016.

S. 7C(4)-Substitution.- Before substitution it read as follows:-

"(4) This section shall apply to business or projects undertaken for construction and sale of residential, commercial or other buildings initiated and approved after the 1st July, 2016."

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[1][**7D. Tax on developers**.- (1) Subject to this Ordinance, a tax shall be imposed on the profits and gains of a person deriving income from the business of development and sale of residential, commercial or other plots at the rates specified in Division VIIIB of Part I of the First Schedule.

(2) The tax imposed under sub-section (1) shall be computed by applying the relevant rate of tax to the area of the residential, commercial or other plots for sale.

(3) The Board may prescribe:

(a) the mode and manner for payment and collection of tax under this section;

(b) the authorities granting approval for computation and payment plan of tax; and

(c) responsibilities and powers of the authorities approving, suspending and cancelling no objection certificate to sell and the matters connected and ancillary thereto.

[2][(4) This section shall apply to projects undertaken for development and sale of residential and commercial plots initiated and approved.-

(a) during tax year 2017 only;

(b) for which payment under rule 13S of the Income Tax Rules, 2002 has been made by the developer during tax year 2017; and

(c) the Chief Commissioner has issued online schedule of advance tax installments to be paid by the developer in accordance with rule 13ZB of the Income Tax Rules, 2002.]

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[1]Sections 7C & 7D inserted by Finance Act, 2016 dated June 24, 2016.

[2]Sub-section (4) substituted by Finance Act, 2017 dated June 20, 2017. Earlier it was inserted by Finance Act, 2016 dated June 24, 2016.

S. 7D(4)-Substitution.- Before substitution it read as follows:-

"(4) This section shall apply to projects undertaken for development and sale of residential, commercial or other plots initiated and approved after the 1st July, 2016."

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[1][**7E. Tax on deemed income**.- (1) For tax year 2022 and onwards, a tax shall be imposed at the rates specified in Division VIIIC of Part-I of the First Schedule on the income specified in this section.

(2) A resident person shall be treated to have derived, as income chargeable to tax under this section, an amount equal to five percent of the fair market value of capital assets situated in Pakistan held on the last day of tax year excluding the following, namely:–

(a) one capital asset owned by the resident person;

(b) self-owned business premises from where the business is carried out by the persons appearing on the active taxpayers' list at any time during the year;

[1]Section 7E inserted by Finance Act, 2022 dated June 30, 2022.

S. 7E.- Tax on deemed income (capital assets exclusion).- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"Section 7E was introduced through Finance Act, 2022 whereby every resident person is treated to drive, as income, an amount equal to five percent of the fair market value of capital assets situated in Pakistan. Certain capital assets themselves or capital assets up to a monetary limit of Rs. 25(m) are excluded from the purview of tax chargeable under sub-section (2) of this section. A new proviso has been added under section (2) whereby benefit of following capital assets exclusions mentioned at clauses (a), (e), (f) and (g) of sub-section (2) of section 7E of the Ordinance has been restricted to ATL persons only.

(a) one capital asset owned by the resident person;

(e) any property from which income is chargeable to tax under the Ordinance and tax leviable is paid thereon;

(f) capital asset in the first tax year of acquisition where tax under section 236K has been paid;

(g) where the fair market value of the capital assets in aggregate excluding the capital assets mentioned in clauses (a), (b), (c), (d), (e) and does not exceed Rupees twenty-five million;

However, this newly introduced proviso to sub-section (2) of section 7E will not apply on persons covered under rule (2) of Tenth Schedule to the Ordinance who are not required to file an income tax return under section 114 of the Ordinance."

S. 7E-Sale or Transfer of Immovable Property.- Following is an extract from FBR's Circular No. 1 of 2023 dated July 21, 2023:-

"Through Finance Act, 2022 section 7E was introduced whereby, for tax year 2022 and onwards, every resident person has been treated to have derived as income, an amount equal to 5% of the fair market value of the capital asset situated in Pakistan subject to exclusions of the capital assets provided under sub-section (2). The said deemed income is chargeable to tax at the rate of 20% (effective rate 1% of fair market value of immoveable property)."

"The following instructions are issued for catering for situations arising out of change in law prescribing mode, form and manner of collection of payment of tax u/s 7E:

(A) Where the seller or transferor is on ATL:

The said seller or transferor will provide evidence to the transferring authority that he has discharged his liability u/s 7E in any of the following modes:

(i) If the seller/transferor has not already paid the tax u/s 7E along with his income tax return filed for TY 2022, then, such person is required to pay the due amount of tax payable under section 7E of the Ordinance and produce evidence to the transferring authority. For this purpose, a separate payment challan (CPR) has been provided in FBR online payment system. The payment made into government treasury through CPR in this regard will be treated as evidence for the purpose and to the extent of newly inserted sub-section (2A) of section 236C of the Ordinance; or

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(c) self-owned agriculture land where agriculture activity is carried out by person excluding farmhouse and land annexed thereto;

(d) capital asset allotted to–

(i) a Shaheed or dependents of a shaheed belonging to Pakistan Armed Forces;

(ii) a person or dependents of the person who dies while in the service of Pakistan armed forces or Federal or provincial government;

(iii) a war wounded person while in service of Pakistan armed forces or Federal or provincial government; and

(iv) an ex-serviceman and serving personal of armed forces or ex-employees or serving personnel of Federal and provincial governments, being original allottees of the capital asset duly certified by the allotment authority;

(e) any property from which income is chargeable to tax under the Ordinance and tax leviable is paid thereon;

(f) capital asset in the first tax year of acquisition where tax under section 236K has been paid;

(g) where the fair market value of the capital assets in aggregate excluding the capital assets mentioned in clauses (a), (b), (c), (d), (e) and (f) does not exceed Rupees twenty-five million;

(ii) If the seller / transferor has already declared the said property in his declaration u/s 7E filed along with his income tax return for tax year 2022 or the said seller/transferor is not required to pay tax u/s 7E due to any stay granted by any court of law or authority, then the seller / transferor will furnish a certificate annexed as Form 'A' to this circular duly issued by the Commissioner Inland Revenue holding jurisdiction over the seller/transferor. The certificate issued by the Commissioner Inland Revenue will be treated as evidence for the purpose and to the extent of newly inserted sub-section (2A) of section 236C of the Ordinance;

(iii) For the purpose of issuance of above certificate, the seller/transferor will fill the requisite particulars in attached Form 'A' and submit the same to the Commissioner Inland Revenue holding jurisdiction over the person. The Commissioner Inland Revenue will examine the particulars and will accordingly issue the certificate.

(iv) The said certificate will be issued by the Commissioner Inland Revenue within 7 days of the receipt of the pre-filled form 'A' submitted by the seller/transferor.

(v) If property owner is more than one person, each person shall discharge liability u/s 7E with respect to his or her respective share in the said property in any of the modes described above.

(B) Where the seller/transferor is a non-ATL person:

Such person is required to pay the due amount of tax payable under section 7E of the Ordinance and provide evidence to the transferring authority. For this purpose, a separate payment challan (CPR) has been provided in FBR online payment system. The payment made into government treasury through CPR in this regard will be treated as evidence for the purpose and to the extent of newly inserted sub-section (2A) of section 236C of the Ordinance.

These instructions have been issued for uniform application of procedure by all transferring authorities. Based on the feedback and monitoring of the procedure, suitable amendments if necessary will be made to these instructions."

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S. 7E.- Clarified that contents of the Circular No. 1 of 2023.- Following is an extract from FBR's Circular No. 3 of 2023-24 dated August 15, 2023:-

2. "In order to remove any difficulty arising for the implementation of newly introduced sub-section (2A) and in partial modification and addendum to the instructions contained in Circular No.1 of 2023-24 dated 21st July, 2023, it is clarified that contents of the Circular will not apply in cases falling in the Jurisdiction of the Honourable Lahore High Court with reference to the Judgment in WP no. 52559 of 2022 dated 06-04-2023 unless the said judgment is reversed, suspended or vacated in an Intra Court Appeal or by the Honourable Supreme Court of Pakistan.

3. Further, wherever expression "tax year 2022" appearing in the Circular No. 1 of 2023-24 dated 21st July, 2023, the same may be read as "Tax Years 2022 and onwards".

4. It is further clarified that the conditions regarding obtaining certificate from the Commissioner outlined in Circular No. 1 of 2023-24 dated 21st July, 2023 will not apply with respect to situations enumerated below. However, transferring authority of immovable property will maintain a proper record of the seller/transferor data along with relevant documents with respect to properties under sale/transfer covered under these specified situations. The aforesaid record of data will be shared by the transferring authority with the concerned Chief Commissioner IR of Regional Tax Office having jurisdiction over the seller/transfer on weekly basis starting from the date of issuance of this circular:

(i) Provisions of section 7E are applicable only on resident persons as defined in section 82 of the Income Tax Ordinance, 2001. Non-resident individuals including non-resident Pakistanis are not required to pay tax under section 78, therefore the condition of mode and manner of furnishing of evidence to the transferring authority of immovable property notified through Circular No. 1 of 2023-24 will not apply on non-resident persons. However. non-resident individuals while selling or transferring immovable property, will furnish duly filled attached Form-B along with scanned copy of valid passport and in case of non-resident Pakistanis, in addition to Form-B along with scanned copy of valid passport, copy of CNIC/NICOP/POC to the transferring authority.

The transferring authority will transfer the property under sale/transfer, after verifying the credentials declared in the Form-B and strictly ensuring that the non-resident person stay in Pakistan is less than 183 days for each applicable tax year for which non-resident individual claiming non-residency status i.e. 01.07.2021 to 30.06.2022 (tax year 2022) or 01.07.2022 to 30.06.2023 (tax year 2023) and onwards.

(ii) Provisions of sections 7E of the Income Tax Ordinance, 2001 is not attracted to an immoveable property allotted to-

1. Shaheed or dependents of a Shaheed belonging to Pakistan Armed Forces;
2. A person who dies while in the service of the Pakistan Armed Forces or the Federal and Provincial Government.
3. A war wounded person while in the service of the Pakistan armed forces or Federal or Provincial Government;
4. An-ex-serviceman and serving personnel of armed forces or ex-employees or serving personnel of Federal and Provincial Government;

Therefore, where a seller or transferor belongs to aforesaid categories of persons, the condition of mode and manner of furnishing of evidence to the transferring authority notified through Circular No. 1 of 2023 will not apply on such categories of persons. However, the transferring or registering authority shall obtain evidence to the effect that-

(a) the seller/transferor belongs to aforesaid category of persons;
(b) property under sale/transfer has been allotted as an original allottees of such immoveable property, duly certified by the official allotment authority.

(iii) Provisions of section 7E are not applicable on a property in the first year of acquisition on which tax under section 236K has duly been paid by the purchaser. In such a case the seller/transferor of property will furnish to the transferring authority Computerized Payment Receipt (CPR) having a unique CPR number, bearing seller or transferor's name, CNIC number and showing the tax paid under section 236K, date of payment as well as tax year. If the CPR evidencing that the property under sale or transfer is acquired during the same tax year, then the tax u/s 7E is not payable to the extent of that tax year and the transferring authority will not require evidence of tax payment under section 7E or Form-A attached to Circular No. 01 of 2023-24 dated 21st July, 2023 with respect to said property to the extent of said tax year in case if seller or transferor is appearing in Active Taxpayers' List (ATL).

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Illustration I: An ATL person has purchased an immovable property on 15.06.2022 on which tax under section 236K has been paid through CPR having a unique CPR number bearing seller or transferor's name, CNIC number and showing the tax paid under section 236K, date of payment and tax year printed on it as 2022. Later on, the said purchaser subsequently disposes of that property on 01.07.2023, the tax liability u/s 7E with respect to said property will be computed in the following manner.

Tax Years	Tax liability u/s 7E
2022	No Tax
2023	1% of Fair Market Value

For the tax year 2023, the transferring authority of immovable property will seek from such ATL person either challan of tax payment u/s 7E or Form-A prescribed vide Circular No. 01 of 2023-24 with respect to such immovable property under sale or transfer.

Illustration II: An ATL person has purchased an immovable property on 15.02.2023 on which tax under section 236K has been paid through CPR having a unique CPR number bearing seller or transferor's name, CNIC number and showing the tax paid under section 236K, date of payment and the tax year printed on it as 2023. Later on, said purchaser subsequently disposes of that property on 01.07.2023. In this scenario, no tax liability u/s 7E is payable by seller or transferor for tax year 2023 with respect to such immovable property and the transferring authority will not seek from the seller or transferor evidence of payment of tax u/s 7E or the Form-A attached to Circular No. 01 of 2023-24 dated 21st July, 2023 against such immovable property.

(iv) Excluding the farmhouses and the land annexed thereto constructed on agriculture land, self-owned agriculture property where agriculture activities are carried out by person do not attract the provision of section 7E of the Ordinance. Therefore, where immovable property under sale or transfer is agriculture property excluding farmhouse(s), as evidenced through the property documents, the transferring authority, with respect to that agriculture property under sale or transfer, will execute transfer without seeking from the seller or transferor evidence of payment of tax u/s 7E or the Form-A attached to Circular No. 01 of 2023-24 dated 21st July, 2023.

However, where one or more than one farmhouse has been constructed on an agriculture property, then the conditions outlined in circular No. 1 of 2023-24 dated 21st July, 2023 will *mutatis mutandis* apply on such farmhouse(s). A farmhouse house has been defined as

"A house constructed on a total minimum area of 2000 square yards with a minimum covered area of 5000 square feet used as a single dwelling unit with or without an annex:

Provided that where there are more than one dwelling units in a compound and the average area of the compound is more than 2000 square yards for a dwelling unit, each one of such dwelling units shall be treated as a separate farmhouse."

(v) Section 7E of the Ordinance does not apply on immoveable property owned by a local authority, a development authority and builders and developers for land development and construction, subject to the condition that such persons are registered with Directorate General of Designated Non-Financial Business and Professions (DNFBP). Therefore, where the seller or transfer is a local authority, development authority and builders or developers for land development and construction, such seller or transferor will furnish to the transferring authority of immovable property a certificate of aforesaid registration with DNFBP as well as furnish certificate from the authority concerned to the affect that the property under sale or transfer is being sold or transferred after development or construction. The transferring authority after obtaining these aforesaid certificates will execute the transfer without seeking from the such seller or transferor evidence of payment of tax u/s 7E or the Form-A attached to Circular No. 01 of 2023-24 dated 21st July, 2023.

5. Other contents of the circular shall remain the same unless further substituted or amended subsequently.

6. This explanatory Circular, which is being issued for facilitating the sale of property or transfer transactions, will be valid for an interim period till development of an automated system for this purpose.

7. In case of any conflict between this Circular and the letter of the law, the latter would prevail."

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(h) capital assets owned by a provincial government or a local government; or

(i) capital assets owned by a local authority, a development authority, builders and developers for land development and construction, subject to the condition that such persons are registered with Directorate General of Designated Non-Financial Businesses and Professions [1][:]

[1][Provided that the exclusions mentioned at clauses (a), (e), (f) and (g) of this sub-section shall not apply in case of a person not appearing in the active taxpayers' list, other than persons covered in rule 2 of the Tenth Schedule.]

(3) The Federal Government may include or exclude any person or property for the purpose of this section.

(4) In this section–

(a) "capital asset" means property of any kind held by a person, whether or not connected with a business, but does not include–

(i) any stock-in-trade, consumable stores or raw materials held for the purpose of business;

(ii) any shares, stocks or securities;

(iii) any property with respect to which the person is entitled to a depreciation deduction under section 22 or amortization deduction under section 24; or

(iv) any movable asset not mentioned in clauses (i), (ii) or (iii);

(b) "farmhouse" means a house constructed on a total minimum area of 2000 square yards with a minimum covered area of 5000 square feet used as a single dwelling unit with or without an annex:

Provided that where there are more than one dwelling units in a compound and the average area of the compound is more than 2000 square yards for a dwelling unit, each one of such dwelling units shall be treated as a separate farmhouse.]

[1]Full stop substituted and proviso inserted by Finance Act, 2023 dated June 26, 2023.

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S. 7E- Tax on Deemed Income from Immovable Property.-Following is an extract from FBR's Circular No. 15 of 2022, dated 21 July, 2022, explaining the amendment:-

"A new section 7E has been introduced through Finance Act, 2022 whereby for tax year 2022 and onwards, a resident person is treated to have derived income equal to five percent of fair market value of the capital assets situated in Pakistan which will be chargeable to tax at the rate of 20% under Division VIIIC of Part I of First Schedule of the Ordinance. Following exclusions have been provided to which this section will not apply:

(i) One capital asset owned by the resident person;

(ii) Self-owned business premises from where the business is carried out by the persons appearing on the active taxpayer's list at any time during the year;

(iii) Self-owned agriculture land where agriculture activity is carried out by the person but excluding farmhouse and annexed land. Farmhouse has been defined in this section;

(iv) Capital asset allotted to—

(a) A Shaheed or dependents of a Shaheed belonging to Pakistan Armed Forces;

(b) A person or dependents of a person who dies while in the service of Pakistan armed forces or federal or provincial government;

(c) A war wounded person while in service of Pakistan armed forces or federal or provincial government;

(d) An ex-serviceman and serving personnel of armed forces or ex-employees or serving personnel of federal and provincial governments who are original allotees of the capital asset as duly certified by the allotment authority;

(v) Any property from which income is chargeable to tax under the Ordinance and tax leviable has been paid;

(vi) Capital asset in the first year of acquisition on which tax under section 236K has been paid;

(vii) Where fair market value of the capital assets in aggregate excluding capital assets mentioned in serial nos. (i) to (vi) above does not exceed rupees twenty-five million;

(viii) Capital assets which are owned by a provincial government or local government;

(ix) Capital assets owned by local authority, a development authority, builders and developers for land development and construction subject to the condition that such persons are registered with Directorate General of Designated Non-Financial Businesses and Professions."

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8. General provisions relating to taxes imposed under sections [1][**5, 5A, 5AA, 6, 7, 7A, 7B and 7E**].– Subject to this Ordinance, the tax imposed under sections [1][5, 5A, 5AA, 6, 7, 7A, 7B and 7E*/*] shall be a final tax on the amount in respect of which the tax is imposed and–

(a) such amount shall not be chargeable to tax under any head of income in computing the taxable income of the person who derives it for any tax year;

(b) no deduction shall be allowable under this Ordinance for any expenditure incurred in deriving the amount;

(c) the amount shall not be reduced by–

(i) any deductible allowance; or

(ii) the set off of any loss;

(d) the tax payable by a person under [2][section] 5, [3][5A, 6, 7, [4]*/*7A, 7B and 7E*/*] shall not be reduced by any tax credits allowed under this Ordinance; and

(e) the liability of a person under [2][section] 5, 6 or 7 shall be discharged to the extent that –

(i) in the case of shipping and air transport income, the tax has been paid in accordance with section 143 or 144, as the case may be; or

(ii) in any other case, the tax payable has been deducted at source under Division III of Part V of Chapter X [5][.]

[5][ ]

[1]Substituted for "5, 5AA, 6, 7, 7A and 7B" by Finance Act, 2022 dated June 30, 2022. Earlier it was substituted for "5, 6 and 7" by Finance Act, 2021 dated June 30, 2021. Earlier figure "5A," deleted by Finance Act, 2018 dated May 23, 2018. This was substituted for "6 and 7" by Finance Act, 2015 dated June 30, 2015, Figure "5AA" was inserted by Tax Laws (Amendment) Ordinance, 2016 dated August 31, 2016, effect 01-07-16 and word and figure "and 7B" was substituted for ", 7B, 7C and 7D" by Finance Act, 2017 dated June 20, 2017, it was earlier substituted for "and 7B" by Finance Act, 2016 dated June 24, 2016.

[2]Substituted for "sections" by Finance Act, 2014 dated June 26, 2014.

[3]Substituted for "6 or 7" by Finance Act, 2015 dated June 30, 2015.

[4]Substituted for "7A and 7B" by Finance Act, 2022 dated June 30, 2022. Earlier it was substituted for ", 7B, 7C and 7D" by Finance Act, 2017 dated June 20, 2017. Earlier comma substituted for "or" by Finance Act, 2016 dated June 24, 2016 and words "7B, 7C and 7D" was inserted by Finance Act, 2016 dated June 24, 2016.

[5]Full stop substituted for colon and Proviso deleted by Finance Act, 2013 dated June 29, 2013. Earlier the Proviso was inserted by Finance Act, 2007, dated June 30, 2007.

S. 8(e)(ii)Proviso-Omission.- Before omission by F.A. 2013, it read as follows:-

"Provided that the provision of this section shall not apply to dividend received by a company."

Dividend income of companies, 10% final tax.-Following is an extract from FBR's Circular No. 6 of 2013 dated July 19, 2013:

"Through an amendment in section 8 and corresponding amendment in Section 169 of the Income Tax Ordinance, 2001 dividend received by a corporate taxpayer is now taxable at the rate of 10% as fixed and final tax."

INCOME TAX ORDINANCE, 1979

[Section 80A]

AIR TRANSPORT BUSINESS OF NON-RESIDENT

QUARTERLY RETURN

AIRLINE PERIOD FROM TO

1. Type of Revenue Passenger Freight Mail (See attached Note for Guidances for completion of this Return).
2. Travelled Revenue Realised from Carriers own Tickets/ documents sold in Pakistan.
3. Travelled Revenue realised from Other Carriers tickets/ documents sold in Pakistan.

GRAND TOTAL

4. Total of Line (2) + (3).
5. Average Exchange rate during period covered by this Return-Carriers Currency vs. Pakistan Rupee.

   Rs.
6. Grand total amount shown in line (4) expressed in Pakistan Rupees using Exchange Rate shown in Line (5).

   Rs.
7. Total Tax liability at 3% of aggregate amount as per line (6).

   Rs.
8. I, the undersigned, solemnly declare that to the best of my knowledge and belief:

   (a) the information given above is correct and complete and (b) the amount of income and particulars are truly stated.

   I further declare that I am competent to make this return and verify it in my capacity as ..... of.....

Name (in Block Letters).....Signature.....Date.....Airline Head Office.....Address in Pakistan.

Please Supply the Following Particulars:

9. In the case of Carriers who are represented in Pakistan by another Airline or General Sales Agents.

   (a) Name of Airline or GSA representing the carrier .....

   (b) Name of responsible official of the Airline or GSA empowered to act on behalf of the Carrier .....

   (c) Address in Pakistan of the Airline or GSA .....

   (d) Head Office Address of Carrier Represented.....
10. Name and address of the official Auditors to the Carrier submitting the Return. (These Auditors would normally be those who audit your Company's annual Accounts, etc.)

    Name .....Address .....
11. Tax paid (a) Challan and amount paid (copy attached) .....

    (b) Date of payment .....

    (c) Any balance payable ....."

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(5) In this section, "capital asset" means property of any kind held by a person, whether or not connected with a business, but does not include–

[1][(a) any stock-in-trade [2][ ], consumable stores or raw materials held for the purpose of business;]

(b) any property with respect to which the person is entitled to a depreciation deduction under section 22 or amortisation deduction under section 24; [3][or]

[4][ ]

(d) any movable property [5][[excluding capital assets specified in sub-section (5) of section 38]] held for personal use by the person or any member of the person's family dependent on the person [6][.]

[1]Clause (a) substituted by Finance Ordinance, 2002 dated June 15, 2002.
[2]Words & brackets "(not being stocks and shares)" omitted by Finance Act, 2010 dated June 30, 2010.
[3]Word inserted by Finance Act, 2012 dated June 26, 2012.
[4]Clause (c) omitted by Finance Act, 2012 dated June 26, 2012.
[5]Substituted for "(including wearing apparel, jewellery, or furniture)" by Finance Act, 2003, dated June 17, 2003.
[6]Full stop substituted for "; or" by Finance Ordinance, 2002 dated June 15, 2002.

The aforesaid is elaborated in the following manner:-

Open plots

S. No.	Holding Period	Gain
1.	Holding period of open plot is up to one year	100% gain will be taxed
2.	Holding period of open plot is more than one year but not more than eight years	75% of the gain will be taxed.
3.	Holding period of open plot is more than eight years	No gain will be taxed.

Constructed properties

S. No.	Holding Period	Gain
1.	Holding period of constructed property is up to one year	100% gain will be taxed
2.	Holding period of constructed property is more than one year but not more than four years	75% of the gain will be taxed
3.	Holding period of constructed property is more than four years	No gain will be taxed.

The tax rates will be applicable on the gain in the following manner:-

S. No.	Amount of gain	Rate of tax
1.	Where the gain is up to Rs.5 million	5%
2.	Where the gain is more than Rs.5 million but not more than Rs.10 million	10%
3.	Where the gain is more than Rs.10 million but not more than Rs.15 million	15%
4.	Where the gain is more than Rs.15 million	20%"

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[1][ ]

[1]Clause (e) omitted by Finance Ordinance, 2002 dated June 15, 2002.

S. 37(5)(a)–Substitution.– Clause (a) before substitution by Finance Ordinance, 2002, read as follows:– "(a) any stock-in-trade;"

S. 37(5)(c)–Omission.– Clause (c) before omission by Finance Act, 2012, read as follows:–

"(c) any immovable property; [1][or]"

[1]Word inserted by Finance Ordinance, 2002 dated June 15, 2002.

S. 37-Capital Gains on Immovable Property.-Following is an extract from Circular No. 2 of 2012 dated July 27, 2012:-

"Prior to the 18th Constitutional Amendments effective from 19th April 2010 Entry 50 of the Federal Legislative List contained in Part-I of the Fourth Schedule to the Constitution of Islamic Republic of Pakistan empowered the Federal Legislature to levy taxes on the capital value of the assets, not including taxes on capital gains on immoveable property. The words "on capital gains" were omitted by the 18th Constitutional amendment. The effect of omission of these words is that the Federal Legislature cannot impose taxes on capital value of immoveable property but can levy tax on capital gains on disposal of immoveable property.

In view of the aforesaid modified constitutional position exemption to capital gains on the disposal of immoveable property held for a period upto two years was withdrawn by making amendments in section 37 of the Income Tax Ordinance, 2001 through the Finance Act, 2012. Simultaneously, a new Division was added in the First Schedule to the Income Tax Ordinance, 2001 giving the following rates of tax to be paid on capital gains from disposal of immoveable property:-

S. No	Period	Rate of Tax
1.	Where holding period of Immovable property is up to one year.	10%
2.	Where holding period of Immovable property is more than one year but not more than two years.	5%

To overcome the administrative problems in respect of collection of CGT on disposal of immoveable property and to keep a track of the transactions of immoveable property adjustable advance withholding tax @ 0.5% of the consideration received on sale/transfer of immoveable property was levied on sellers/transferors of immoveable property under section 236C of the Income Tax Ordinance, 2001.

It is clarified that the advance tax to be collected under section 236C has been introduced for the purposes of providing a mechanism for collection of capital gain tax on disposal of immoveable property. The actual quantum of capital gain and tax payable thereon is to be computed at the time of filing of return of income. Section 236C is not an independent provision and does not operate in isolation. Since Capital Gain Tax has been imposed only on disposal of properties held for a period up to two years therefore, advance tax is also to be collected from sellers who held the immoveable properties for a period upto two years."

S. 37(5)(e)–Omission.– Clause (e) before omission by Finance Ordinance, 2002, read as follows:–

"(e) any modaraba certificate or any instrument of redeemable capital listed on any stock exchange or shares of a public company."

S. 37(5)–Valuation of bonus shares for determination of capital gains.– Following is an extract from CBR's Letter C. No. 1(13)IT-1/72 dated May 18, 1972, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"The correct method to value the bonus shares would be to spread the cost of the old shares over the old shares plus the bonus shares taken together."

The above interpretation has been upheld by the Supreme Court of Pakistan vide its order dated April 26, 1992 in the case of *Ebrahim Brothers Ltd.* vs. *CIT*, reported as 66 Tax 6 (S.C. Pak.). This has disapproved the different interpretation given by the Lahore High Court in cases reported as *CIT* vs. *Umar Saigol*, 28 Tax 159 and *Miss Shirin Ayub Khan* vs. *CIT*, 33 Tax 227.

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[1][(6) The person acquiring a capital asset, being shares of a company, shall deduct advance adjustable tax from the gross amount paid as consideration for the shares at the rate of ten percent of the fair market value of the shares which shall be paid to the Commissioner by way of credit to the Federal Government, within fifteen days of the payment.

(7) Notwithstanding the provisions of section 68, the value of shares, for the purpose of sub-section (6), shall be the fair market value, as prescribed for sub-section (4) of section 101A, without reduction of liabilities.

[1]S. 37(6) to (10) inserted by Finance (Supplementary) Act, 2023 dated February 23, 2023.

S. 37(6).- Introduction of tax from Capital Gains of non-listed companies.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023:-

"Through Finance (Supplementary) Act 2023 new sub-sections (6) to (10) have been inserted in section 37 providing for deduction of tax on sale of shares transactions other than covered under section 37A. New provisions inserted require the acquirer of the capital asset [being shares of the company, other than shares of companies listed on registered stock exchange traded on said stock exchange and settled by the NCCPL], to deduct advance adjustable tax at the rate of 10% from gross amount of the sale consideration at fair market value of shares. The fair market value of shares shall be determined without deduction of liabilities as envisaged in sub-section (4) of section 101A of the Ordinance. The person acquiring the shares may seek certificate of exemption or reduced rate certificate from the Commissioner holding the jurisdiction where the person considers the transaction of sale of shares is either exempt or subject to reduced rate of tax under any of the provisions of the Ordinance. A person disposing of the shares is required within 30 days to furnish to the Commissioner holding jurisdiction over the case, information or documents in a statement as may be prescribed. However, Commissioner can call for the said information or documents within less than 30 days by a notice in writing if necessitated. Moreover, proviso has been inserted in section 37A ousting shares of listed companies not traded on registered stock exchange and not settled through NCCPL from ambit of section 37A. In such cases provisions of section 37 shall apply with respect to collection and payment of taxes. This is done to capture off market transactions of shares of listed companies which are not traded through registered stock and not settled by NCCPL. In this regard relevant amendment in Income Tax Rules, 2002 has been made through SRO 776(I))/2023 dated 27th June, 2023.

The Finance Act, 2023 made further two amendments on account of capital gains on securities covered under section 37A of the Ordinance namely:-

i. Through the Finance (Supplementary) Act, 2023, capital gain arising on disposal of shares of a listed company which is made otherwise than through registered stock exchange and which are not settled through NCCPL, is taxed under section 37 of the Ordinance instead of section 37A of the Ordinance. The said amendment had resulted in unwarranted tax implications on public offerings of listed securities. Through an amendment made by the Finance Act 2023, disposal of shares through initial public offer during the listing process will remain subject to tax under section 37A of the Ordinance provided the detail of such disposal is furnished to NCCPL for the computation of Capital Gains and tax thereon has been collected and paid.

ii. Capital gains arising on disposal of securities that were acquired before July 1, 2013 were subject to tax at the rate of 12.5%. Through Finance Act 2023, capital gains arising on disposal of such securities will be subject to tax at 0%. Through the Finance Act 2022 the rate of 12.5% tax was applicable on capital gains arising on disposal where the securities were acquired on or before the 30th day of June, 2022 irrespective of holding period of such securities. Now the rate of 12.5% tax shall apply on capital gain arising on disposal where the securities are acquired on or after the first day of July, 2013 till the 30th day of June, 2022.

iii. Moreover, reduced rate based on holding period shall continue to apply on securities acquired on or after July 1, 2022."

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(8) The Commissioner may, on application made by the person acquiring of the shares, and after making such inquiry as the Commissioner thinks fit, allow to make the payment, without deduction of tax or deduction of tax at a reduced rate.

(9) The provisions of sections 161, 162, entry No. 15 of the Table in section 182, clause (c) of sub-section (1) of section 191 and section 205 shall *mutatis mutandis* apply to the tax deductible and payable under this section.

(10) The person disposing of the capital asset, being shares of a company, shall furnish to the Commissioner within thirty days of the transaction of disposal, the prescribed information or documents, in a statement as may be prescribed:

Provided that the Commissioner may, by notice in writing, require the said person, to furnish information, documents and statement within a period of less than thirty days as specified in the notice.]

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[1][**37A. Capital gains on sale of securities.**- (1) The capital gain arising on or after the first day of July 2010, from disposal of securities [2][ ] [3][, other than a gain that is exempt from tax under this Ordinance], shall be chargeable to tax at the rate specified in Division VII of Part I of the First Schedule;

[4][ ]

Provided [5][ ] that this section shall not apply to a banking company and an insurance company [6][:]

[7][Provided further that this section shall not apply to the disposal of shares-

(i) of a listed company made otherwise than through registered stock exchange and which are not settled through NCCPL;

(ii) through initial public offer during listing process except where the detail of such disposal is furnished to NCCPL for computation of capital gains and tax thereon under this section,

and the provisions of section 37 shall apply on such disposal of shares of a listed company or disposal of shares through initial public offer, accordingly.]

[8][(1A) The gain arising on the disposal of a security by a person shall be computed in accordance with the following formula, namely:-

A - B

Where–

(i) **'A'** is the consideration received by the person on disposal of the security; and

(ii) '**B'** is the cost of acquisition of the security.]

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[1]S. 37A inserted by Finance Act, 2010 dated June 30, 2010.
[2]Words "held for a period of less than a year" deleted by Finance Act, 2015 dated June 30, 2015.
[3]Words etc. inserted by Finance Act, 2012 dated June 26, 2012.
[4]Proviso deleted by Finance Act, 2014 dated June 26, 2014.
[5]Word "further" deleted by Finance Act, 2014 dated June 26, 2014.
[6]Full stop substituted by Finance (Supplementary) Act, 2023 dated February 23, 2023.
[7]Proviso substituted by Finance Act, 2023 dated June 26, 2023. Earlier it was inserted by Finance (Supplementary) Act, 2023 dated February 23, 2023.
[8]Sub-section (1A) inserted by Finance Act, 2012 dated June 26, 2012.

S. 37A(1)-Proviso-Omission.- Before omission by F.A. 2014, it read as follows:-

"Provided that this section shall not apply if the securities are held for a period of more than a year;"

S. 37A(1)-2nd Proviso-Substitution.- Before substitution by F.A. 2023, it read as follows:-

"Provided further that this section shall not apply to the disposal of shares of a listed company made otherwise than through registered stock exchange and which are not settled through NCCPL and the provisions of section 37 shall apply on such disposal of shares of a listed company, accordingly."

Division III

Associates

85. Associates.– [1][(1) Subject to sub-section (2), two persons shall be associates where–

(i) the relationship between the two is such that one may reasonably be expected to act in accordance with the intentions of the other, or both persons may reasonably be expected to act in accordance with the intentions of a third person;

(ii) one person sufficiently influences, either alone or together with an associate or associates, the other person;

Explanation.- For the purpose of this section, two persons shall be treated as sufficiently influencing each other, where one or both persons, directly or indirectly, are economically and financially dependent on each other and, decisions are made in accordance with the directions, instructions or wishes of each other for common economic goal; or

(iii) one person enters into a transaction, directly or indirectly, with the other who is a resident of jurisdiction with zero taxation regime.]

[1]Sub-section (1) substituted by Finance Act, 2023 dated June 26, 2023.

S. 85(1)-Substitution.- Before substitution it read as follows:-

"(1) Subject to sub-section (2), two persons shall be associates where the relationship between the two is such that one may reasonably be expected to act in accordance with the intentions of the other, or both persons may reasonably be expected to act in accordance with the intentions of a third person."

S. 85- Substitution of "Associates" explained.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"Finance Act has amended section 85 of the Ordinance to enlarge the scope of "associate" as under:

Two persons shall be associates where-

(i) the relationship between the two is such that one may reasonably be expected to act in accordance with the intentions of the other, or both persons may reasonably be expected to act in accordance with the intentions of a third person;

(ii) one person sufficiently influences, either alone or together with an associate or associates, the other person; an explanation has been inserted for the purpose of the section to the effect that two persons shall be treated as sufficiently influencing each other, where one or both persons, directly or indirectly, are economically and financially dependent on each other and, decisions are made in accordance with the directions, instructions or wishes of each other for common economic goal; or

(iii) one person enters into a transaction, directly or indirectly, with the other who is a resident of a jurisdiction with zero taxation regime.

The above amendments in section 85 has enhanced and further elaborated the existing scope of law regarding associates for proper application of anti-avoidance measures and arm's length principles. The Board is empowered to prescribe rules for the purpose of section 85 elaborating resident of a jurisdiction with zero taxation regime."

(2) Two persons shall not be associates solely by reason of the fact that one person is an employee of the other or both persons are employees of a third person.

(3) Without limiting the generality of sub-section (1) and subject to sub-section (4), the following shall be treated as associates–

(a) an individual and a relative of the individual;

(b) members of an association of persons;

(c) a member of an association of persons and the association, where the member, either alone or together with an associate or associates under another application of this section, controls fifty per cent or more of the rights to income or capital of the association;

(d) a trust and any person who benefits or may benefit under the trust;

(e) a shareholder in a company and the company, where the shareholder, either alone or together with an associate or associates under another application of this section, controls either directly or through one or more interposed persons –

(i) fifty per cent or more of the voting power in the company;

(ii) fifty per cent or more of the rights to dividends; or

(iii) fifty per cent or more of the rights to capital; and

(f) two companies, where a person, either alone or together with an associate or associates under another application of this section, controls either directly or through one or more interposed persons–

(i) fifty per cent or more of the voting power in both companies;

(ii) fifty per cent or more of the rights to dividends in both companies; or

(iii) fifty per cent or more of the rights to capital in both companies.

(4) Two persons shall not be associates under clause (a) or (b) of sub-section (3) where the Commissioner is satisfied that neither person may reasonably be expected to act in accordance with the intentions of the other.

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[1][(5) In this section,–

(i) "relative" in relation to an individual, means-

(a) an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual, or of a spouse of the individual; or

(b) a spouse of the individual or of any person specified in clause (a);

(ii) jurisdiction with zero taxation regime means jurisdiction as may be prescribed.]

[1]Sub-section (5) substituted by Finance Act, 2023 dated June 26, 2023.

S. 85(5)-Substitution.- Before substitution it read as follows:-

"(5) In this section, "relative" in relation to an individual, means–

(a) an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual, or of a spouse of the individual; or

(b) a spouse of the individual or of any person specified in clause (a)."

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PART II

INDIVIDUALS

Division I

Taxation of Individuals

86. Principle of taxation of individuals.– Subject to this Ordinance, the taxable income of each individual shall be determined separately.

87. Deceased individuals.– (1) The legal representative of a deceased individual shall be liable for–

(a) any tax that the individual would have become liable for if the individual had not died; and

(b) any tax payable in respect of the income of the deceased's estate.

(2) The liability of a legal representative under this section shall be limited to the extent to which the deceased's estate is capable of meeting the liability.

[1][(2A) The liability under this Ordinance shall be the first charge on the deceased's estate.]

(3) For the purpose of this Ordinance,–

(a) any proceeding taken under this Ordinance against the deceased before his or her death shall be treated as taken against the legal representative and may be continued against the legal representative from the stage at which the proceeding stood on the date of the deceased's death; and

(b) any proceeding which could have been taken under this Ordinance against the deceased if the deceased had survived may be taken against the legal representative of the deceased.

(4) In this section, "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in representative character the person on whom the estate devolves on the death of the party so suing or sued.

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[1]Sub-section (2A) inserted by Finance Act, 2010 dated June 30, 2010.

S. 87(2A)-First charge on estate of the deceased individual.- Following is an extract from FBR's Circular No. 13, dated July 16, 2010:-

"Through Finance Act, 2010, a new sub-section (2A) in section 87 of the Income Tax Ordinance, 2001, has been inserted whereby any liability under the Income Tax Ordinance, 2001, outstanding against a deceased person shall be the first charge on the estate of such deceased person, in preference to any other outstanding liability of the deceased."

Division II
Provisions Relating to Averaging

88. An individual as a member of an association of persons.– If, for a tax year, an individual has taxable income and derives an amount or amounts exempt from tax under sub-section (1) of section 92, the amount of tax payable on the taxable income of the individual shall be computed in accordance with the following formula, namely:–

(A/B) x C

where–

A is the amount of tax that would be assessed to the individual for the year if the amount or amounts exempt from tax under sub-section (1) of section 92 were chargeable to tax;

B is the taxable income of the individual for the year if the amount or amounts exempt from tax under sub-section (1) of section 92 were chargeable to tax; and

C is the individual's actual taxable income for the year.

[1][ ]

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[1]Section 88A deleted by Finance Act, 2014 dated June 26, 2014. Earlier it was inserted by Finance Act, 2003, dated June 17, 2003.

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*apparently intended word "of" is missing.

S. 88A–Omission.– Before omission by F. A. 2014, it read as follows:-

"**88A. Share *profits of company to be added to taxable income.–** (1) Notwithstanding the provisions of sub-section (1) of section 92, the share of profits derived by a company from an association of persons shall be added to the taxable income of the company.

(2) The company shall be allowed a tax credit in accordance with the following formula, namely:–

[1]*[(A/B) x C]*

Where –

A is the amount of share of profits received by the company from the association;

B is the taxable income of the association; and

C is the amount of tax assessed on the association.

(3) The tax credit allowed under this section shall be applied in accordance with sub-section (3) of section 4."

[1]The brackets, figures and letter substituted for Finance Act, 2005, dated June 29 2005.

S. 88A–Share of AOP in company.– Following is an extract from CBR's Circular No. 7 of 2003, dated July 11, 2003:–

"Where tax is paid by the AOPs wherein the company is a member, the share income is to be added to other income of the company. Since the AOP has already paid tax on its income, a credit for the tax indirectly paid by the company on its share in AOP should be admissible. Accordingly section 88A has been added in the Income Tax Ordinance 2001 laying down the formula for allowing tax credit to the company."

(4) The provisions of section 100BA and rule 1 of the Tenth Schedule shall not apply to the tax collectible under this section unless specifically provided in respect of the person or class of persons mentioned in the income tax general order issued under sub-section (2).]

[1][**99B. Special procedure for small traders and shopkeepers**.- Notwithstanding anything contained in this Ordinance, the [2][Board with the approval of the Minister-in-charge] may, by notification in the official Gazette, prescribe special procedure for scope and payment of tax, filing of return and assessment in respect of such small traders and shopkeepers, in such cities or territories, as may be specified therein.]

[3][**99C. Special procedure for certain persons.-** Notwithstanding anything contained in this Ordinance, the [2][Board with the approval of the Minister-in-charge] may, by notification in the official Gazette, prescribe special procedure for scope and payment of tax, record keeping, filing of return and assessment in respect of small businesses, construction businesses, medical practitioners, hospitals, educational institutions and any other sector specified by the Federal Government, in such cities or territories, as may be specified therein.]

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[1]Section 99B inserted by Finance Supplementary (Second Amendment) Act, 2019 dated March 09, 2019.
[2]Substituted for "Federal Government" by Finance Act, 2021 dated June 30, 2021.
[3]Section 99C inserted by Finance Act, 2019 dated June 30, 2019.

S. 99–Insurance Business.– See the Fourth Schedule and footnotes thereto.

S. 99A–Substitution.– Before substitution by F. Act, 2022 it read as follows:-

"**99A. Special provisions relating to traders.–** (1) Subject to sub-section (3), tax payable on the profits and gains of a trader as defined in sub-section (4) who upto thirty first day of December, 2015 has not filed a return for any of the preceding ten tax years shall be computed in accordance with the rules laid down in Part I of the Ninth Schedule.

(2) Subject to sub-section (3), tax payable on the profits and gains of any trader as defined in sub-section (4), who-

(a) is a filer; or

(b) is NTN holder and a non-filer but has filed return or returns in any of the last ten preceding tax years,

shall be computed in accordance with the rules laid down in Part II of the Ninth Schedule.*

(3) Sub-sections (1) and (2) shall apply, if-

(a) the return filed by the trader qualifies for acceptance in accordance with the rules laid down in the Ninth Schedule;

(b) return relates to tax years 2015 to 2018; and

(c) income from business consists of profits and gains from trading activity only.

(4) For the purpose of this section and the Ninth Schedule, 'trader' means an individual or an association of persons (AOP) buying goods or merchandise and selling the same without further processing and providing, business-related after sales, services by doing repair jobs.

Explanation 1.- For the removal of doubt it is clarified that any person engaged in-

(a) rendering of, or providing, services as defined in clause (ii) of sub-section (7) of section 153; or

(b) business of retailer falling under rule (5) of Chapter II of the Sales Tax Special Procedures Rules, 2007, shall not be treated as a trader for the purposes of this section.

Explanation 2.- It is also clarified that this section shall not apply to a person who is a Member of the Senate of Pakistan, the National Assembly of Pakistan or a Provincial Assembly."

*In the gazette this appears as part of clause (b) which is an apparent formatting error.

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[1][**99D. Additional tax on certain income, profits and gains.**– (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, for any of the last three tax years preceding the tax year 2023 and onwards, in addition to any tax charged or chargeable, paid or payable under any of the provisions of this Ordinance, an additional tax shall be imposed on every person being a company who has any income, profit or gains that have arisen due to any economic factor or factors that resulted in windfall income, profits or gains.

(2) The Federal Government may, by notification in the official Gazette,-

(a) specify sector or sectors, for which this section applies;

(b) determine windfall income, profits or gains and economic factor or factors including but not limited to international price fluctuation having bearing on any commodity price in Pakistan or any sector of the economy or difference in income, profit or gains on account of foreign currency fluctuation;

(c) provide the rate not exceeding fifty percent of such income, profits or gains;

(d) provide for the scope, time and payment of tax payable under this section in such manner and with such conditions as may be specified in the notification; and

(e) exempt any person or classes of persons, any income or classes of income from the application of this section, subject to any conditions as may be specified in the notification.

(3) The Federal Government shall place before the National Assembly the notification issued under this section within ninety days of the issuance of such notification or by the 30th day of June of the financial year, whichever is earlier.]

[1]Section 99D inserted by Finance Act, 2023 dated June 26, 2023.

S. 99D.- Additional Tax on Windfall Profits.- Following is an extract from FBR' Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"Finance Act, 2023 has introduced a new section 99D which will provide for imposition of additional tax on windfall income profits and gains of any person being a company. The Federal Government has been empowered under this section to prescribe any rate not exceeding fifty percent, specify any sector or sectors for which this section will apply, determine economic factor or factors including but not limited to international price fluctuation having bearing on any commodity price in Pakistan or any sector of the economy and or difference in income, profit or gains on account of foreign currency fluctuation, provide for the scope, time and payment of tax payable and include or exempt any person or classes of persons, any income or classes of income from the application of this section through a notification in the official gazette.

Corresponding amendments have also been incorporated in Fourth Schedule, Fifth Schedule and Seventh Schedule dealing with Insurance companies, Oil and Gas Exploration companies and Banking companies, respectively. This section will apply for last three preceding tax years commencing from tax year 2023 and onwards. All notifications issued by the Federal Government under this section will be presented before the National Assembly within 90 days of the issuance of the notification or by 30th June of the financial year whichever is earlier."

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PART II

OIL, NATURAL GAS AND OTHER MINERAL DEPOSITS

100. Special provisions relating to the production of oil and natural gas, and exploration and extraction of other mineral deposits.– (1) Subject to sub-section (2), the profits and gains from –

(a) the exploration and production of petroleum including natural gas and from refineries set up at the Dhodak and Bobi fields;

(b) the pipeline operations of exploration and production companies; or

(c) the manufacture and sale of liquified petroleum gas or compressed natural gas,

and the tax payable thereon shall be computed in accordance with the rules in Part I of the Fifth Schedule.

(2) Sub-section (1) shall not apply to the profits and gains attributable to the production of petroleum including natural gas discovered before the 24th day of September, 1954 [1][:]

[2][Provided that the for tax year 2017 and onward the provisions of this sub-section shall not apply on profit and gains derived from sui gas field.]

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[1]Substituted for full stop by Finance Act, 2017 dated June 20, 2017.
[2]Proviso inserted by Finance Act, 2017 dated June 20, 2017.

S. 100–Computation of petroleum profits.– Following is an extract from CBR's Circular No. 6 of 1994 dated July 10, 1994, explaining the corresponding provision of the Income Tax Ordinance, 1979:–

"In order to promote investment in petroleum exploration and production, income earned from refineries to be set-up at Dhodak and Bobi fields, income from pipe-line operations by exploration and production companies, income received by exploration and production companies from the manufacture and sale of liquified petroleum gas and compressed natural gas will also now be taxed on the basis similar to that applied in case of income earned from exploration and production of oil under the Fifth Schedule, Section 26 and Fifth Schedule have, accordingly, been amended to incorporate these activities in the special provisions of assessment." [**Ref:** *94 ITC 6 p. 13*]

Computation of profits of minerals extraction business.– Following is an extract from CBR's Circular No. 6 of 1987 dated July 5, 1987, explaining the corresponding provision of the Income Tax Ordinance, 1979:–

"Under clause (c) of Section 26, income from exploration and extraction of certain notified mineral deposits of a wasting nature (other than petroleum and natural gas) is computed in accordance with rules contained in Part II of the Fifth Schedule to the Ordinance. The said clause has been amended to provide that where the income of an assessee from the exploration or extraction of coal deposits ever enjoys exemption under clause (123A) of Part I of the Second Schedule to the Ordinance, his income from exploration and extraction of the aforesaid notified mineral deposits shall not be computed under Part II of the Fifth Schedule. In other words, once the assessee enjoys exemption under clause (123A) ibid, for any income year, his income from exploration and extraction of any of the mineral deposits (including coal), notified under Notification No. S.R.O. 170, dated 1st April, 1959, in respect of the said income year and any income year thereafter, shall be computed like ordinary business income and not in accordance with rules contained in Part II of the Fifth Schedule."

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(3) The profits and gains of any business which consists of, or includes, the exploration and extraction of such mineral deposits of a wasting nature (not being petroleum or natural gas) as may be specified in this behalf by the [1][Board with the approval of the Minister-in-charge] carried on by a person in Pakistan shall be computed in accordance with the rules in Part II of the Fifth Schedule.

[2][**100A. Special provisions relating to banking business**.– (1) Subject to sub-section (2), the income, profits and gains of any banking company as defined in clause (7) of section 2 and tax payable thereon shall be computed in accordance with the rules in the Seventh Schedule.

(2) Sub-section (1) shall apply to the profits and gains of the banking companies relevant to tax year 2009 and onwards.]

[3][(3) Notwithstanding anything contained in sub-section (1), income, profits and gains and tax payable thereon shall be computed subject to the limitations and provisions contained in Chapters VII and VIII.]

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[1]Substituted for "Federal Government" by Finance Act, 2021 dated June 30, 2021.
[2]Section 100A inserted by Finance Act, 2007 dated June 30, 2007.
[3]Section 100A(3) inserted by Finance Act, 2018 dated May 23, 2018.

S. 100A-Banking business, separate schedule.-Following is an extract from Circular No. 2 of 2008 dated February 28, 2008:-

"A new section 100A has been inserted in the Income Tax Ordinance, 2001 through Finance Act, 2007, which provides that income, profit and gains of a banking company and tax payable thereon shall be computed in accordance with the rules in Seventh Schedule which has also been provided through the said Act by substituting the earlier one.

2. It has clearly been provided under Rules 5(2) of the Seventh Schedule that provisions of withholding tax under the Ordinance shall not apply to a banking company as a recipient of the amount on which tax is deductible. However, it has come to the knowledge of the Board that withholding agents dealing with the banking companies do not comply with the provision of the said Rule and insist on production of a specific exemption certificate for making payment without deduction of tax.

3. It is clarified that provisions of the Seventh Schedule to the Ordinance are applicable from 1st January, 2008 (relevant to tax year 2009) and no tax is required to be deducted at the time of making payment to a banking company. Accordingly, the withholding agents are not required to ask for a specific exemption certificate from the banks."

Computation of profits of banking business.-Following is an extract from CBR's Circular No. 1 of 2007 dated July 2, 2007:-

"For computation of income of the banking companies, a separate schedule has been provided by substituting the Seventh Schedule to the Income Tax Ordinance, 2001 as "Rules for computation of the profits and gains of a banking company and tax payable thereon". The salient features of scheme as provided in the Seventh Schedule are as under:

(i) a banking company's income as disclosed in the annual accounts furnished to the State Bank of Pakistan, subject to specified adjustments, shall be taken as "Income from Business";

(ii) deductions for depreciation, initial allowance and amortization of intangibles shall be available in accordance with law [Sections 22, 23 and 24];

(iii) deductions shall be inadmissible if covered under section 21 of the Ordinance;

(iv) gain or loss on disposal of depreciable asset shall be computed in accordance with law [Section 22(8)];

(v) provisions of law relating to disposal and acquisition of asset shall be applied to make adjustments [Sections 68 to 79];

(vi) provision for classified advances and off balance sheet items shall be allowed as claimed in the accounts, provided a certificate from the external auditors is furnished by the banking company to the effect that such provisions are in line with the requirements of Prudential Regulations;

(vii) expense charged in the accounts in respect of a debt classified as 'substandard' under Prudential Regulations shall not be allowed as deduction. However, if such debt is re-classified as 'doubtful' or 'loss' subsequently, a deduction shall be allowed for the amount disallowed being 'substandard'. Further, reversal of provision in respect of a substandard debt, which was disallowed earlier, shall not be taken as income;

(viii) adjustments made in the accounts due to application of International Accounting Standards 39 and 40 and consequently any gain or loss arising, shall be excluded while computing the income of the banking companies;

(ix) liabilities, against which deduction was allowed, if remain unpaid for 3 years shall be added in the first tax year following the end of the 3 tax years. Payment of such liability shall however be allowed as deduction in the year of the payment;

(x) gain or loss on sale of shares of listed securities shall be dealt separately:

(a) loss on sale of shares of listed companies, disposed of within one year of the date of acquisition, shall be adjustable against business income of the tax year;

(b) where such loss is not fully set-off against business income during the tax year, it shall be carried forward to the following tax year and set-off against capital gain only; and

(c) no loss shall be carried forward for more than 6 years immediately succeeding the tax year for which the loss was first computed;

(xi) any special treatment for 'Shariah Compliant Banking' approved by the State Bank of Pakistan shall not be provided for any reduction or addition to income and tax liability. A statement, certified by the auditors of the banking company, shall be attached to the return of income to disclose the comparative position of transaction as per Islamic mode of financing and as per normal accounting principles. Adjustment shall be made to take into account treatment under normal accounting principles;

(xii) foreign banks shall be allowed deduction for head office expenditure in the ratio of gross receipts of permanent establishment to world gross receipts, provided that expenditure is:

(i) charged in the books of accounts of the permanent establishment; and

(ii) a certificate from the external auditors is provided to the effect that the claim of such expenditure:

(a) has been made in accordance with the provisions of this rule; and

(b) is reasonable in relation to the operation of permanent establishment in Pakistan.

(xiii) Federal Government has been empowered to amend, or modify or omit any entry in this schedule.

(xiv) special provisions relating to banking business (section 100A) shall apply to the profit and gains of the banking companies relevant to tax year 2009 and onwards."

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[1][**100B Special provision relating to capital gain tax**.- (1) Capital gains on disposal of listed securities and tax thereon [2][including super tax under section 4C], subject to section 37A, shall be computed, determined, collected and deposited in accordance with the rules laid down in the Eighth Schedule.

(2) The provisions of sub-section (1) shall not apply to the following persons or class of persons, namely:-

(a) a mutual fund;

(b) a banking company, a non-banking finance company and an insurance company subject to tax under the Fourth Schedule;

(c) a modaraba;

[3][(d) a company, in respect of debt securities only; and]

(e) any other person or class of persons notified by the Board.]

[4][**100BA. Special provisions relating to persons not appearing in active taxpayers' list.-** (1) The collection or deduction of advance income tax, computation of income and tax payable thereon [5][in respect of a person not appearing on the active taxpayers' list] shall be determined in accordance with the rules in the Tenth Schedule.

(2) The provisions of the Tenth Schedule shall have effect notwithstanding anything to the contrary contained in this Ordinance.]

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[1]Section 100B inserted by Finance Act, 2012 dated June 26, 2012.
[2]Clause (d) substituted by Finance Act, 2014 dated June 26, 2014.
[3]Words inserted by Finance Act, 2023 dated June 26, 2023.
[4]Section 100BA inserted by Finance Act, 2019 dated June 30, 2019.
[5]Words inserted by Finance Act, 2020 dated June 30, 2020.

S. 100B(2)(d)-Substitution.-Before substitution by F. A. 2014, it read as follows:-

"(d) a "foreign institutional investor" being a person registered with NCCPL as a foreign institutional investor; and"

S. 100B.- Collection of super tax on Capital Gains.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"Amendments have been made in section 4C, 100B and the Eighth Schedule to the effect that in addition to capital gains tax, NCCPL shall also compute and collect tax under section 4C at the rates specified in Division IIB of Part I of the First Schedule on the amount of capital gains computed under Eighth Schedule in the manner specified in the said Schedule and rules made thereunder."

S.100B-Capital Gains on Securities.-Following is an extract from Circular No. 2 of 2012 dated July 27, 2012:-

"A new sub-section has been inserted in section 37A that lays down the method of calculating the capital gain arising on the disposal of a security as under:-

A – B

Where-

'A' Consideration received on disposal of the security,

'B' Cost of acquisition of security.

Special provisions relating to Capital Gain arising from the disposal of securities of listed companies and tax thereon have also been enacted. It also stipulates that the rules for computing capital gain tax have been laid down in the Eight Schedule. These special provisions were introduced through insertion of section 100B and a new Eighth Schedule through Presidential Ordinance dated April 24, 2012. The Ordinance has now been incorporated in the Finance Act, 2012.

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Under these new provisions, National Clearing Company of Pakistan Limited ('NCCPL'), licensed as "Clearing House" by the Securities and Exchange Commission of Pakistan, will be responsible to compute and collect the capital gains tax on disposal of securities on the basis of information collected from Central Depository Company.

Furthermore, enquiries shall not be made for the nature and source of the amount invested in companies listed on stock exchanges till June 30, 2014 subject to the conditions that amounts remain invested for 120 days, tax on capital gains has been duly discharged in the manner prescribed and a statement of investments is filed with the return of total income/ wealth Statement.

A mutual fund, banking company, non-banking finance company and insurance company subject to tax under the Fourth Schedule to the Ordinance, modaraba, foreign institutional investor being a person registered with NCCPL as a foreign institutional investor and any other person or class of persons notified by the FBR have been excluded from the ambit of these provisions.

Moreover, a person can opt out from payment of tax under Eighth Schedule by obtaining prior approval of Commissioner Inland Revenue and filing of an irrevocable option with NCCPL to this effect and the person shall be subject to scheme of taxation provided for in section 37A of the Ordinance."

S. 100BA–Collection of tax, computation of income and tax payable of persons not appearing in the ATL.- Following is an extract from FBR's Circular No. 9 of 2019 dated July 30, 2019:-

"Prior to the Finance Act. 2019, a concept of non-filer existed in the Ordinance whereby higher tax rates of withholding were prescribed for persons who were non-filers. Such non-filers could claim adjustment of the higher tax collected at the time of filing of income tax returns. The aim was to compel the non-filers to file their returns of income. However, it was observed that the non-filers, even though subjected to higher withholding rates, still had a propensity not to file their returns. This proved detrimental to the exercise of expansion or tax base. This was due to the absence of an explicit provision specifying a standard procedure for action against such persons. Through the Finance Act, 2019, the concept of "Non-Filers" has been done away with and a new concept regarding persons not appearing in the active taxpayers' list has been introduced. This concept is a major paradigm shift from the erstwhile non-filer higher tax regime in that it not only penalizes those persons not appearing in the ATL but also introduces an effective mechanism for enforcing returns from such persons. In this regard, a new section 100BA has been introduced which provides that collection or deduction of advance income tax, computation of income and tax payable thereon shall be determined in accordance with the rules in the newly introduced "The Tenth Schedule" which envisages the entire path to be adopted by the Inland Revenue Department to enforce returns from persons who make financial transactions yet choose not to file their returns of income. The salient features of this scheme are as under:-

i. Persons whose names are not appearing in the ATL will be subjected to hundred percent increased rate of tax.

ii. Where a withholding agent is of the opinion that hundred percent increased tax is not required to be collected on the basis that the person was not required to file return, the withholding agent shall furnish a notice to the Commissioner having jurisdiction over withholding agent setting out-

   a. the name, CNIC or NTN and address of the person not appearing in the ATL;

   b. the nature and amount of the transaction on which tax is required to be collected or deducted; and

   c. reason on the basis of which it is considered that the person was not required to file return or statement, as the case may be.

iii. The Commissioner shall accept or reject the contention on the basis of existing law within thirty days. In case the Commissioner fails to respond within thirty days, permission shall be deemed to be granted not to deduct tax at hundred percent increased rate. Withholding agent shall however be responsible for any inaccurate furnishing of such information and penal action may be undertaken against diligent withholding agents.

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iv. Where the person's tax has been deducted or collected at hundred percent increased rate and the person fails to file return of income for the year for which tax was deducted, the Commissioner shall make a Provisional Assessment within sixty days of the due date for filing of return by imputing income so that tax on imputed income is equal to the hundred percent increased tax deducted or collected from such person and the imputed income shall be treated as concealed income. However, the imputable income so calculated or concealed income so determined shall not absolve the person so assessed, from requirement of filing of wealth statement under sub-section (1) of section 116, the nature and source of amounts subject to deduction or collection of tax under section 111 selection of audit under section 177 or 214C or subsequent amendment of assessment as provided in rule 8 and all the provisions of the Ordinance shall apply.

v. The provisional assessment shall abate if the person files its return within forty five days of completion of provisional assessment. Where the return is not filed within forty five days of provisional assessment, it shall be treated as final assessment and the Commissioner shall initiate penalty proceedings for concealment of income."

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CHAPTER IX

MINIMUM TAX

[1][**113. Minimum tax on the income of certain persons.**– (1) This section shall apply to a resident company, [2][permanent establishment of a non-resident company,] [3][an individual (having turnover of [4][hundred] million rupees or above in the tax year [5][2017] or in any subsequent tax year) and an association of persons (having turnover of [4][hundred] million rupees or above in the tax year [5][2017] or in any subsequent tax year)] where, for any reason whatsoever allowed under this Ordinance, including any other law *or for the time being in force-

(a) loss for the year;

(b) the setting off of a loss of an earlier year;

(c) exemption from tax;

(d) the application of credits or rebates; or

(e) the claiming of allowances or deductions (including depreciation and amortization deductions)

no tax is payable or paid by the person for a tax year or the tax payable or paid by the person for a tax year is less than *[6][the percentage as specified in column (3) of the Table in Division IX of Part-I of the First Schedule] of the amount representing the person's turnover from all sources for that year:

[7][ ]

[1]S. 113 inserted by F.A. 2009 dt. June 30, 2009. Earlier it was omitted by F.A. 2008 dt. June 27, 2008.
[2]Inserted by Finance Act, 2020 dated June 30, 2020.
[3]Inserted by Finance Act, 2010 dated June 30, 2010.
[4]Substituted for "ten" by finance Act, 2021 dated June 30, 2021. Earlier it was substituted for "fifty" by Finance Act, 2016 dated June 24, 2016.
[5]Substituted for "2009" & "2007" respectively by Finance Act, 2016 dated June 24, 2016.
[6]Substituted for "one per cent" by Finance Act, 2017 dated June 20, 2017. Earlier it was substituted for "one-half" by Finance Act, 2013 dated June 29, 2013. Earlier it was substituted for "one" by Finance Act, 2012 dated June 26, 2012 and was substituted for "one-half" by Finance Act, 2010 dated June 30, 2010.
[7]Proviso deleted by Finance Act, 2016 dated June 24, 2016.
*word "or" appears to be superfluous.
**in the original the closing sentence erroneously appears as part of clause (e).
***The Finance Act 2014 seeks to substitute the words "equal to one per cent of the person's turnover for the year" by "the amount of minimum tax computed on the basis of rates as specified in Division IX of Part I of First Schedule" in sub-section (1). This appears to be a mistake as the words sought to be substituted do not appear as such. However reference to the rate of one per cent appears in the closing sentence.

S. 113(1)-Proviso Omission.- Before omission by F. Act, 2016, it read as follows:-

"Provided that this sub-section shall not apply in the case of a company, which has declared gross loss before set off of depreciation and other inadmissible expenses under the Ordinance. If the loss is arrived at by setting off the aforesaid or changing accounting pattern, the Commissioner may ignore such claim and proceed to compute the tax as per historical accounting pattern and provision of this Ordinance and all other provisions of the Ordinance shall apply accordingly."

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[1][*Explanation*.- For the purpose of this sub-section, the expression "tax payable or paid" does not include-

(a) tax already paid or payable in respect of deemed income which is assessed as final discharge of the tax liability under section 169 or under any other provision of this Ordinance; and

(b) tax payable or paid under section 4B [2][or 4C].]

(2) Where this section applies:

(a) the aggregate of the person's turnover as defined in sub- section (3) for the tax year shall be treated as the income of the person for the year chargeable to tax [3][.]

[3][*Explanation*.- For the removal of doubt, it is clarified that the definition of turnover covers receipts from all business activities in line with expression "turnover from all sources" used in sub-section (1) including but not limited to receipts from sale of immoveable property where such receipt is taxable under the head Income from Business;]

(b) the person shall pay as income tax for the tax year (instead of the actual tax payable under this Ordinance), [4][minimum tax computed on the basis of rates as specified in Division IX of Part I of First Schedule];

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[1]Explanation substituted by Finance Act, 2016 dated June 24, 2016. Earlier it was inserted by Finance Act, 2012 dated. June 26, 2012.
[2]Words etc. inserted by Finance Act, 2022 dated June 30, 2022.
[3]Substituted for semi colon and explanation inserted by Finance Act, 2021 dated June 30, 2021.
[4]Substituted for "an amount equal to [one] per cent of the person's turnover for the year" by Finance Act, 2014 dated June 26, 2014. Earlier word "one" was substituted for "one-half" by Finance Act, 2013 dated June 29, 2013, was substituted for "one" by Finance Act, 2012 dated June 26, 2012 and was substituted for "one-half" by Finance Act, 2010 dated June 30, 2010.

S. 113(1)-Explanation Substitution.- Before substitution by F. Act, 2016, it read as follows:-

"Explanation.- For the purpose of this sub-section, the expression "tax payable or paid" does not include tax already paid or payable in respect of deemed income which is assessed as final discharge of the tax liability under section 169 or under any other provision of this Ordinance."

S. 113(2)- Reference to "aforesaid Part".- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023:-

"An explanation has been added in the provisions relating to Minimum Tax under section 113 of the Ordinance. In sub-section (2) there is a reference of the word 'aforesaid Part'. The explanation has been added to clarify that 'aforesaid Part' refers to the actual tax payable under Part I, clause (1) of Division I, or Division II of the First Schedule. This explanation removes the ambiguity and clarifies that the excess amount of minimum tax paid over actual tax shall be carried forward for adjustment against actual tax liability payable under Part-I, Clause (1) of Division I or Division II of the First Schedule to the Ordinance in the subsequent tax years."

S. 113-Miniumum Tax, Adjustment of Excessive Minimum Tax.- Following is an extract from FBR's Circular No. 6 of 2013 dated July 19, 2013:-

"The rate of Minimum tax under section 113 on the income of certain persons has been charged from 0.5% to 1%. Prior to Finance Act, 2013 carrying forward of excess amount of tax paid than the actual tax payable under section 113 was available to companies only. Now this facility has been extended to individuals and association of persons and they can also carry forward the excess amount of tax paid as per provisions of section 113."

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(c) where tax paid under sub-section (1) exceeds the actual tax payable under Part 1, [1][clause (1) of Division I, or] Division II of the First Schedule, the excess amount of tax paid shall be carried forward for adjustment against tax liability under the aforesaid Part of the subsequent tax year:

[2][Provided that if tax is paid under sub-section (1) due to the fact that no tax is payable or paid for the year, the entire amount of tax paid under sub-section (1) shall be carried forward for adjustment in the manner stated aforesaid:

Provided further that the amount under this clause shall be carried forward and adjusted against tax liability for [3][three] tax years immediately succeeding the tax year for which the amount was paid.]

[1]Inserted by Finance Act, 2013 dated June 29, 2013.
[2]Proviso substituted Finance Act, 2021 dated June 30, 2021.
[3]Substituted for "five" by Finance Act, 2022 dated June 30, 2022.

S.113(2)(c)Proviso-Substitution.- Before substitution by F. Act, 2021 it read as follows:-

"Provided that the amount under this clause shall be carried forward and adjusted against tax liability for [1][five] tax years immediately succeeding the tax year for which the amount was paid."

[1]Substituted for "three" by Finance Act, 2011 dated June 30, 2011.

S. 113-Minimum Tax on Turnover.-Following is an extract from FBR's Circular No. 15 of 2022 dated 21 July, 2022, explaining the amendment:-

"Minimum tax on turnover under section 113 is payable by a resident company, permanent establishment of a non-resident company, an individual or an AOP having turnover of Rs. 100 million and above under certain specific situations mentioned therein. Following major changes have been introduced in the minimum tax on turnover regime:

(a) Previously, a person who had paid minimum tax on turnover under section 113 was allowed to carry forward the said tax for five succeeding tax years. Now this carry forward has been restricted to three years.

(b) The rate of minimum tax on turnover of Oil Marketing Companies have been brought down from 0.75% to 0.5%."

Following is an extract from FBR's Circular No. 7 of 2011 dated July 01, 2011:-

"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."

Treatment of Fixed Tax.-Following is an extract from Circular No. 2 of 2012 dated July 27, 2012:-

"Minimum tax u/s 113 at a rate of 1% has been reduced to 0.5%. Moreover, the controversy as to whether or not 'tax payable or paid' includes the taxes under FTR, while determining the applicability of section 113 has also been resolved by adding an explanation inserted in section 113(1) to the effect that "tax payable or paid" does not include tax paid under FTR. Accordingly, consequent to this amendment, while determining the applicability of section 113, tax under FTR would not be considered as part of 'tax payable or paid' for the year."

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[1][*Explanation*.– For the removal of doubt it is clarified that the aforesaid Part referred to in this clause means clause (1) of Division I or Division II of Part I of the First Schedule.]

(3) "turnover" means,-

(a) the [2][gross sale or] gross receipts, exclusive of Sales Tax and Federal Excise duty or any trade discounts shown on invoices, or bills, derived from the sale of goods, and also excluding any amount taken as deemed income and is assessed as final discharge of the tax liability for which tax is already paid or payable;

(b) the gross fees for the rendering of services for giving benefits including commissions; except covered by final discharge of tax liability for which tax is separately paid or payable;

(c) the gross receipts from the execution of contracts; except covered by final discharge of tax liability for which tax is separately paid or payable; and

(d) the company's share of the amounts stated above of any association of persons of which the company is a member.]

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[1]Inserted by Finance Act, 2023 dated June 26, 2023.
[2]Words inserted by Finance Act, 2011 dated June 30, 2011.

Re-Introduction of minimum tax on turnover declared by resident companies.- Following is an extract from FBR's Circular No. 03 of 2009 dated July 17, 2009:-

"Finance Act 2008 abolished minimum tax payable by a resident company @ 0.5% of the turnover over for the year where no tax was payable or paid for the relevant tax year or tax payable or paid for the relevant tax year was less than 0.5% of the turnover from all sources for the said tax year. The same has been revived. However, according to the newly inserted section minimum tax will not be payable by a resident company declaring gross loss before set off of depreciation and other inadmissible expenses under the Ordinance and also such gross loss has not been arrived at by changing the accounting pattern. In such cases the Commissioner of Income Tax has been empowered to compute the tax as per historical accounting pattern and other provisions of the Ordinance shall apply.

The turnover has been defined to mean

a) The gross receipts from sale of goods excluding sales tax and Federal Excise Duty or trade discount shown on invoices/bills. Any amount taken as deemed income and assessed as final tax shall also be excluded.

b) The gross fees for rendering of services or benefits including commission except those covered by Presumptive Tax Regime (PTR).

c) The gross receipts from the execution of contracts other than those liable to final tax.

d) The company's share of the aforesaid amounts of any Association of Person of which the company is a member.

Various exemptions which were earlier available to certain institutions from the application of section 113 have also been revived. However the exemption earlier available to a small company has not been made available."

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S. 113-Omission in 2008.- Before omission by F. Act, 2008, the section read as follows:-

"113. Minimum tax on the income of certain persons.– (1) This section shall apply to a resident company where, for any reason whatsoever, including the sustaining of a loss, the setting off of a loss of an earlier year, exemption from tax, the application of credits or rebates, or the claiming of allowances or deductions (including depreciation and amortisation deductions) allowed under this Ordinance or any other law for the time being in force, no tax is payable or paid by the person for a tax year or the tax payable or paid by the person for a tax year is less than one-half per cent of the amount representing the person's turnover from all sources for that year.

(2) Where this section applies–

(a) the aggregate of the person's turnover for the tax year shall be treated as the income of the person for the year chargeable to tax; [1][ ]

(b) the person shall pay as income tax for the tax year (instead of the actual tax payable under this Ordinance), an amount equal to one-half per cent of the person's turnover for the year [2][; and]

[3][(c) where tax paid under sub-section (1) exceeds the actual tax payable under Part I, Division II of the First Schedule, the excess amount of tax paid shall be carried forward for adjustment against tax liability under Part I, Division II of the First Schedule of the subsequent tax year:

Provided that the amount under this clause shall be carried forward and adjusted against tax liability for five tax years immediately succeeding the tax year for which the amount was paid.]

(3) In this section, "turnover" means –

(a) the gross receipts, exclusive of [4][sales tax and [5][Federal] excise duty or] any trade discounts shown on invoices or bills, derived from the sale of goods;

(b) the gross fees for the rendering of services [6][or giving benefits], including commissions;

(c) the gross receipts from the execution of contracts; and

(d) the company's share of the amounts stated above of any association of persons of which the company is a member."

[1]Word "and" omitted by Finance Act, 2004, w.e.f. July 1, 2004.
[2]Substituted for full stop by Finance Act, 2004, w.e.f. July 1, 2004.
[3]Clause (c) inserted by Finance Act, 2004, w.e.f. July 1, 2004.
[4]Words inserted by Finance Ordinance, 2002 dated June 15, 2002.
[5]Substituted for "central" by Finance Act, 2005 dated June 29, 2005.
[6]Words inserted by Finance Ordinance, 2002 dated June 15, 2002.

Withdrawal of Minimum Tax in 2008.- Following is an extract from FBR's Circular No. 5 of 2008 dated July 05, 2008:-

"A resident company was not required to pay income tax due to loss or exemption from tax (under the Second Schedule) or as per other provisions of the Ordinance but where tax payable was less than 0.5% of the declared turnover, it had to pay minimum tax @ 0.5% of its declared turnover. Where tax so paid exceeded the actual tax payable for a year, the excess amount of tax paid was allowed to be carried forward for adjustment against tax liability upto succeeding five tax years. Loss incurring companies at times would pay minimum tax out of equity. This tax has, therefore, been abolished."

Constitutionality of minimum tax.– For constitutionality of section 113 (80D of the repealed Ordinance) see judgment of the Supreme Court given u/s 169.

Charge of minimum tax from travel agents on the basis of commission.– Following is an extract from CBR's letter C. No. 308(E&IC)/95 dated October 31, 1996, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"I am directed to refer to the subject and to clarify that turnover in case of travel agents, whose sole business is selling of airline tickets, for the purposes of levy of minimum tax under section 80D, be taken as the gross commission on airline tickets received by them and not their gross receipts from the sales of airline tickets." [**Ref:** *96 ITL 27 p. 21*]

Minimum tax on Excise Duty, Sales Tax.– Following is the text of CBR's Circular No. 3 of 1996, dated 18th March, 1996, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"An issue had been raised that turnover, if taken inclusive of sales tax/excise duty, causes hardship where excise duty/sales tax constitute a predominant share of receipts. Keeping that in view, directions were issued by the Board, vide its C. No. 4(33)TP-I/92 dated 8th August, 1992, that where sales tax and/or excise duty constitutes more than 50% of turnover, the provisions of section 80D shall not be applied in such cases to such portion of the turnover as represents such duties.

2. Representations have now been received that this limit is arbitrary and those with a very heavy sales tax/excise duty element, though less than 50%, are hard hit as they have to pay minimum tax on their total turnover inspite of the fact that their vouchers and books of account clearly show the elements of duties and sales.

3. The "turnover" has been explained in sub-section (2) of section 80D to mean the gross receipts, exclusive of trade discount shown on invoices or bills, derived from the sale of goods or from rendering, giving or supplying services or benefits or from execution of contracts. Keeping in view this spirit and the fact that in Pakistan it is a well established convention and principle in accounting profession that "turnover" is supposed not to include sales tax and central excise, it has been decided to modify the existing instructions referred to in paragraph 1 ante. The turnover will be exclusive of sales tax and excise duty charged, if these two taxes are mentioned on invoices separately from the sales price. In other words if the sales vouchers, sales book and the ledger accounts clearly show these three things separately, the "turnover" will not include the two levies. However, if the sales voucher, sales book etc. show only one figure of sale price which is inclusive of these taxes, the "turnover" will consist of that one figure and these will not be segregated or split up on the basis of any formula, the entire amount will be treated as turnover for the purposes of section 80D.

4. In other words it will not be the quantum of sales tax and central excise in the total sales figures that will determine its exclusion or inclusion in the turnover but the factum of their being so shown in the vouchers and books of account and their payment to the Government.

5. The pending assessments may also be finalized in the light of these instructions."

Exclusion from purview of minimum tax.– Following is an extract from CBR's Circular No. 5 of 2001, dated July 4, 2001, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"Individuals, AOP's, URF and HUF have been excluded from the purview of minimum tax leviable under section 80D."

Following is the text of CBR's Circular No. 10 of 1991 dated June 30, 1991, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"A minimum tax equal to 0.5% of the declared turnover of every company, body corporate and trust resident in Pakistan has become payable as income tax with effect from the assessment year 1991-92 under section 80D of the Income Tax Ordinance, 1979.

2. **Overriding effect:** The provisions of section 80D have the overriding effect and nothing contained in the Income Tax Ordinance, 1979, or any other law for the time being in force can be so construed as to authorise any exemption, concession or relief in respect of the said income tax.

3. **Deemed Income:** The minimum tax is payable on the deemed income representing the total amount of the declared turnover from all sources falling under the head "Income from business or profession". This would mean the gross receipts of the company, body corporate or trust derived from–

(a) goods sold; (b) services rendered, given or supplied;
(c) benefits rendered, given or supplied; or (d) contracts executed.

However, trade discount shown on invoices or bills will not form part of the declared turnover.

4. **Tax-holiday entities etc:** This tax becomes payable by every company, body corporate or trust even though it may be exempt otherwise due to tax holiday or may not be paying any tax under the Income Tax Ordinance, 1979, for any reason, including accounting concessions like depreciation allowances and tax credits or set off of losses.

5. **Computation of Tax:** Where no tax is otherwise payable by the company, body corporate or trust, for any reason whatsoever, income tax equal to 0.5% of the declared turnover will be paid. In other cases, difference between the tax otherwise payable and the amount equal to 0.5% of the said turnover will be paid alongwith the return of income required to be furnished under section 55 of the Income Tax Ordinance, 1979. This is illustrated as under:–

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EXAMPLE-I.		
Declared turnover from all sources.	Rs.	10,000,000
Tax liability (Due to loss or exemption from tax etc.)	Rs.	NIL
Minimum tax to be paid @ 0.5% of the declared turnover.	Rs.	50,000
EXAMPLE-II		
Declared turnover from all sources	Rs.	10,000,000
Tax liability at normal rates	Rs.	30,000
Tax @ 0.5% of the turnover	Rs.	50,000
Balance tax payable	Rs.	20,000"

Following is the text of CBR's letter No. 4(19)TP-1/91 Pt. dated October 15, 1991, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"I am directed to say that in correspondence relating to "minimum tax" under section 80D, it has been noted that, inadvertently, the term of "turnover tax" is also being used. Such use of different nomenclature may lead to confusion. It is, therefore, clarified that in future all correspondence regarding the said section be made under the head "minimum tax under section 80D."

Following is an extract from 'Notes on Clauses of Finance Bill, 2004' explaining the amendment:–

"Seeks to provide an option to individuals and association of persons engaged in trading and having turnover upto rupees five million to pay presumptive tax equal to three quarters of one percent of their turnover as final discharge of tax liability in lieu of normal taxation."

Relief for cigarette distributors.– See **clause (3) of Part III** of the Second Schedule for reduction of rate of minimum tax from 0.5% to 0.1% in case of distributors of cigarettes.

Comparison with super tax in case of firms.– Following is an extract from CBR's letter No.4(19)TP-1/91.Pt. dated August 1, 1992, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"2. I am directed to clarify that minimum income tax at the rate of 0.5% of the declared turnover of a registered firm is to be compared with the amount of super tax paid or payable by the firm and has nothing to do with the income tax of the partners in view of the provisions of section 80D, as amended through the Finance Act, 1992."

Charitable institutions.– Following is the text of CBR Letter C. No. 80(1)DTP.I/94(D) dated February 19, 1995, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"I am directed to withdraw instructions contained in CBR letter No. 4(19)TP-I/91.Pt.3. dated 17th September, 1992 (copy enclosed) regarding non-applicability of Section 80D to charitable institutions/trusts in case of short fall in receipts against their running expenses."

The above referred CBR's Letter C. No. 4(19)TP-I/91.Pt.3. dated September 17, 1992 read as follows, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"Minimum tax @ 0.5% of the declared turnover was levied under section 80D through Finance Act, 1991 on all companies, bodies corporate and trusts where no tax is payable for any reason or the tax payable is less than 0.5% of the declared turnover.

2. 'Trusts' established for charitable purposes coming within the ambit of section 80D have agitated against the applicability of this provision on the ground that they were non-profit oriented entities established solely for charitable purposes and this levy on them was, therefore, not justified.

3. The issue has been considered in the Board. At present the income of trusts from the following sources is exempt from income tax.

a) donations
b) voluntary contributions
c) subscriptions
d) house property
e) profit from investment in securities of Federal Government.

4. The problem arises when the receipts of such trusts/charitable institutions from sources other than those mentioned above, exceed the expenditure attributable to such sources, in a year. In order to remove the genuine difficulties being faced by such trusts/institutions, it has been decided that if the receipts, excluding income from sources enumerated in Para 3 (which are specifically exempt), exceed the revenue expenditure thereon, the excess is liable to tax and the provision of section 80D will be applicable. In case, such receipts fall short of running expenses of such institutions, the provision of section 80D shall not apply.

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5. These instructions may please be conveyed to all concerned for compliance."

S. 113(2)–Rationalizing minimum tax for edible oil units.– Following is an extract from Finance Minister's budget speech of June 12, 2004:–

"Rationalization of minimum tax for edible oil units: Ghee/cooking oil units pay minimum tax at the rate of 3% on import of edible oil which is adjustable against final tax liability but if the final tax is less than 3% the minimum tax liability remains 3%. It is proposed to treat the same as final discharge of tax liability. To encourage local production of oil it is proposed that the ghee/cooking oil units may pay minimum tax at the rate of 1% as final discharge of tax liability. It will encourage local production of edible oil and act as an incentive for the ghee mills to purchase locally produced edible oil."

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(11) If the Committee fails to decide within the period of sixty days under sub-section (5), the Board shall dissolve the Committee by an order in writing and the matter shall be decided by the court of law or the appellate authority where the dispute is pending under litigation.

(12) The Board shall communicate the order of dissolution to the aggrieved person, court of law or the appellate authority and to the Commissioner.

(13) On receipt of the order of dissolution, the court of law or the appellate authority shall decide the appeal within six months of the communication of the said order.

(14) The Board may prescribe the amount to be paid as remuneration for the services of the members of the Committee, other than the member appointed under clause (ii) of sub-section (3).

(15) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.]

S. 134A.- Revamping of Alternate Dispute Resolution Mechanism.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"Through the Finance Act, 2023, the mechanism of alternate dispute resolution has been revamped. Major highlights and departure points from previous regime are highlighted as under:

(a) Previously, the initial proposition for resolution of the dispute including an offer of tax payment required to be filed with application for dispute resolution could not be retracted by a taxpayer. Through Finance Act, 2023, now a taxpayer is only required to offer an initial proposition for resolution of the dispute including an offer of tax payment;

(b) The Board will appoint the committee within 15 days of receipt of application for dispute resolution instead of previous 45 days;

(c) The third member of the dispute resolution committee which previously was appointed through consensus between the Chief Commissioner and taxpayer nominated member from the panel has been replaced with a retired judge not below the rank of a judge of a High Court, who will also be the Chairperson of the dispute resolution committee, to be nominated by the Board from a panel notified by the Law and Justice Division;

(d) Previously, both taxpayer and Commissioner were required to withdraw pending appeals before appellate fora in respect of the dispute. Now no such requirement of withdrawal of appeal is binding on both taxpayer and the Commissioner for the resolution of the dispute. The Board will only communicate the order of appointment of Committee to the aggrieved person, court of law or the appellate authority where the dispute is pending and to the concerned Commissioner;

(e) Dispute resolution committee will decide the dispute within 45 days extendable by 15 days for reason to be recorded in writing. Previously, the dispute resolution committee was bound to decide the dispute within 120 days;

(f) Recovery of tax payable by the taxpayer in connection with the dispute will be deemed to be stayed from the constitution of the committee till decision or dissolution of committee. Previously, the deemed stay was applicable from withdrawal of appeal from appellate fora till decision or dissolution of committee;

(g) The decision of the committee will be binding on commissioner after the aggrieved person has withdrawn his appeal and communicate the same to Commissioner within 60 days of such decision instead of previous binding nature of decision to both Commissioner and aggrieved person;

(h) The Commissioner will withdraw the appeal pending before any court of law or an appellate authority within thirty days of the communication of the order of withdrawal of appeal by the aggrieved person to the Commissioner subject to payment of income tax and other taxes within such time as decided by the Committee."

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S.134A-Substitution.- Before substitution by F. Act, 2023 it read as follows:-

"**134A. Alternative Dispute Resolution**.- (1) Notwithstanding any other provision of the Ordinance, or the rules made thereunder, an aggrieved person in connection with any dispute pertaining to-

(a) the liability of tax of one hundred million and above against the aggrieved person or admissibility of refund, as the case may be;

(b) the extent of waiver of default surcharge and penalty; or

(c) any other specific relief required to resolve the dispute;

may apply to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application, which is under litigation in any court of law or an Appellate Authority, except where criminal proceedings have been initiated.

(2) The application for dispute resolution shall be accompanied by an initial proposition for resolution of the dispute, including an offer of tax payment, from which, the applicant would not be entitled to retract.

(3) The Board may, after examination of the application of an aggrieved person, appoint a committee, within forty five days of receipt of such application in the Board, comprising,-

(i) Chief Commissioner Inland Revenue having jurisdiction over the case;

(ii) person to be nominated by the taxpayer from a panel notified by the Board comprising–

(a) chartered accountants, cost and management accountants and advocates having a minimum of ten years' experience in the field of taxation;

(b) officers of the Inland Revenue Service who have retired in BS 21 or above; or

(c) reputable businessmen as nominated by Chambers of Commerce and Industry:

Provided that the taxpayer shall not nominate a Chartered Accountant or an advocate if the said Chartered Accountant or the advocate is or has been an auditor or an authorized representative of the taxpayer; and

(d) person to be nominated through consensus by the members appointed under (i) and (ii) above, from the panel as notified by the Board in clause (ii) above:

Provided that where the member under this clause cannot be appointed through consensus, the Board may nominate a member proposed by the taxpayer eligible to be nominated as per clause (ii).

(4) The aggrieved person, or the Commissioner, or both, as the case may be, shall withdraw the appeal pending before any court of law or an Appellate Authority, after constitution of the committee by the Board under sub-section (3), in respect of dispute as mentioned in sub-section (1).

(5) The committee shall not commence the proceedings under sub-section (6) unless the order of withdrawal by the court of law or the Appellate Authority is communicated to the Board:

Provided that if the order of withdrawal is not communicated within seventy five days of the appointment of the committee, the said committee shall be dissolved and provisions of this section shall not apply.

(6) The Committee appointed under sub-section (3) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit and shall decide the dispute by majority, within one hundred and twenty days of its appointment:

Provided that in computing the aforesaid period of one hundred and twenty days, the period, if any, for communicating the order of withdrawal under sub-section (5) shall be excluded.

(7) The decision by the Committee under sub-section (6) shall not be cited or taken as a precedent in any other case or in the same case for a different tax year.

(8) The recovery of tax payable by a taxpayer in connection with any dispute for which a Committee has been appointed under sub-section (3) shall be deemed to have been stayed on withdrawal of appeal up to the date of decision by the Committee or the dissolution of the Committee whichever is earlier.

(9) The decision of the committee under sub-section (6) shall be binding on the Commissioner and the aggrieved person.

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142. Recovery of tax due by non-resident member of an association of persons.– (1) The tax due by a non-resident member of an association of persons in respect of the member's share of the profits of the association shall be assessable in the name of the association or of any resident member of the association and may be recovered out of the assets of the association or from the resident member personally.

(2) A person making a payment under this section shall be treated as acting under the authority of the non-resident member and is hereby indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extra-judicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.

(3) The provisions of this Ordinance shall apply to any amount due under this section as if it were tax due under an assessment order.

143. Non-resident ship owner or charterer.– (1) Before the departure of a ship owned or chartered by a non-resident person from any port in Pakistan, the master of the ship shall furnish to the Commissioner a return showing the gross amount specified in sub-section (1) of section 7 in respect of the ship.

(2) Where the master of a ship has furnished a return under sub-section (1), the Commissioner shall [1][, after calling for such particulars, accounts or documents as he may require,] determine the amount of tax due under section 7 in respect of the ship and, as soon as possible, notify the master, in writing, of the amount payable.

(3) The master of a ship shall be liable for the tax notified under sub-section (2) and the provisions of this Ordinance shall apply to such tax as if it were tax due under an assessment order.

(4) Where the Commissioner is satisfied that the master of a ship or non-resident owner or charterer of the ship is unable to furnish the return required under sub-section (1) before the departure of the ship from a port in Pakistan, the Commissioner may allow the return to be furnished within thirty days of departure of the ship provided the non-resident owner or charterer has made satisfactory arrangements for the payment of the tax due under section 7 in respect of the ship.

(5) The Collector of Customs or other authorised officer shall not grant a port clearance for a ship owned or chartered by a non-resident person until the Collector or officer is satisfied that any tax due under section 7 in respect of the ship has been paid or that arrangements for its payment have been made to the satisfaction of the Commissioner.

(6) This section shall not relieve the non-resident owner or charterer of the ship from liability to pay any tax due under this section that is not paid by the master of the ship.

[1]Commas and words inserted by Finance Ordinance, 2002 dated June 15, 2002.

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144. Non-resident aircraft owner or charterer.– (1) A non-resident owner or charterer of an aircraft [1][ ] liable for tax under section 7, or an agent authorised by the non-resident person for this purpose, shall furnish to the Commissioner, within forty-five days from the last day of each quarter of the financial year, a return, in respect of the quarter, showing the gross amount specified in sub-section (1) of section 7 of the non-resident person for the quarter.

(2) Where a return has been furnished under sub-section (1), the Commissioner shall [2][, after calling for such particulars, accounts or documents as he may require,] determine the amount of tax due under section 7 by the non-resident person for the quarter and notify the non-resident person, in writing, of the amount payable.

(3) The non-resident person shall be liable to pay the tax notified under sub-section (2) within the time specified in the notice and the provisions of this Ordinance shall apply to such tax as if it were tax due under an assessment order.

(4) Where the tax referred to in sub-section (3) is not paid within three months of service of the notice, the Commissioner may issue to the authority by whom clearance may be granted to the aircraft operated by the non-resident person a certificate specifying the name of the non-resident person and the amount of tax due.

(5) The authority to whom a certificate is issued under sub-section (4) shall refuse clearance from any airport in Pakistan to any aircraft owned or chartered by the non-resident until the tax due has been paid.

[1]Words "shall be" omitted by Finance Act, 2003 dated June 17, 2003.
[2]Commas and words inserted by Finance Ordinance, 2002 dated June 15, 2002.

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[1][**145. Assessment of persons about to leave Pakistan.–** (1) Where any person is likely to leave Pakistan during the currency of tax year or shortly after its expiry with no intention of returning to Pakistan, he shall give to the Commissioner a notice to that effect not less than fifteen days before the probable date of his departure (hereinafter in this section referred to as the 'said date').

(2) The notice under sub-section (1) shall be accompanied by a return or returns of taxable income in respect of the period commencing from the end of the latest tax year for which an assessment has been or, where no such assessment has been made, a return has been made, as the case may be, and ending on the said date, or where no such assessment or return has been made, the tax year or tax years comprising the period ending on the said date; and the period commencing from the end of the latest tax year to the said date shall, for the purposes of this section, be deemed to be a tax year (distinct and separate from any other tax year) in which the said date falls.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Commissioner may serve a notice on any person who, in his opinion, is likely to leave Pakistan during the current tax year or shortly after its expiry and has no intention of returning to Pakistan, to furnish within such time as may be specified in such notice, a return or returns of taxable income for the tax year or tax years for which the taxpayer is required to furnish such return or returns under sub-section (2).

(4) The taxable income shall be charged to tax at the rates applicable to the relevant tax year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.]

[2][(5) Notwithstanding anything contained in any other law, for the time being in force, where on the basis of information received from any offshore jurisdiction, the Commissioner has reason to believe that such person who is likely to leave Pakistan may be involved in offshore tax evasion or such person is about to dispose of any such asset, the Commissioner may freeze any domestic asset of the person including any asset beneficially owned by the person for a period of one hundred and twenty days or till the finalization of proceedings including but not limited to recovery proceedings under this Ordinance whichever is earlier.]

[1]Section 145 substituted by Finance Act, 2003 dated June 17, 2003.
[2]Section 145(5) inserted by Finance Act, 2019 dated June 30, 2019.

S. 145–Persons leaving Pakistan, substitution.– Section 145 before substitution by Finance Act, 2003, read as follows:–

"145. Collection of tax from persons leaving Pakistan permanently.– (1) Where the Commissioner has reasonable grounds to believe that a person may leave Pakistan permanently without paying tax due under this Ordinance, the Commissioner may issue a certificate containing particulars of the tax due to the Commissioner of Immigration and request the Commissioner of Immigration to prevent that person from leaving Pakistan until that person –

(a) makes payment of tax in full; or

(b) makes an arrangement satisfactory to the Commissioner for payment of the tax due.

(2) A copy of a certificate issued under sub-section (1) shall be served on the person named in the certificate if it is practicable to do so.

(3) Payment of the tax specified in the certificate to a customs or immigration officer or the production of a certificate signed by the Commissioner stating that the tax has been paid or satisfactory arrangements for payment have been made shall be sufficient authority for allowing the person to leave Pakistan."

S. 145–Definitions of terms related to offshore tax evasion and consequent penalty and prosecution.- Following is an extract from FBR's Circular No. 9 of 2019 dated July 30, 2019:-

"Through the Finance Act, 2019, the term "offshore asset" has been defined by inserting a new clause (38AA) in section 2 which includes any movable or immovable asset held, any gain, profit or income derived, or any expenditure incurred outside Pakistan. The term "offshore evader" has been defined by inserting a new clause (38AB) in section 2 and it means a person who owns, possesses, controls, or is the beneficial owner of an offshore asset and does not declare, or under declares or provides inaccurate particulars of such asset to the Commissioners. Penalty has also been provided in serial No.22 in sub-section (1) of section 182 that where an offshore tax evader is involved in offshore tax evasion in the course of any proceedings under this Ordinance before any income tax authority or the appellate tribunal, such person shall pay a penalty of Rs.100,000 or an amount equal to 200% of the tax sought to be evaded, whichever is higher. Prosecution for concealment of an offshore asset has been provided by inserting a new section 192B according to which any person who fails to declare an offshore asset to the Commissioner or furnishes inaccurate particulars of an offshore asset and the revenue impact of such concealment or furnishing of inaccurate particulars is ten million rupees or more shall commit an offence punishable on conviction with imprisonment up to three years or with a fine up to Rs.500,000, or both.

A new sub-section (5) has been added in section 145 as per which the Commissioner may freeze any domestic asset of a person where on the basis of information received from an offshore jurisdiction, the Commissioner has reason to believe that such person who is likely to leave Pakistan may be involved in offshore tax evasion or such person is about to dispose of any asset. The Commissioner may freeze any domestic asset of the person including any asset beneficially owned by such person for a period of 120 days or till the finalization of proceedings including recovery proceedings and any other proceedings under the Ordinance, whichever is earlier.

The term "offshore enabler" has been defined by inserting a new clause (38AC) in section 2 to include any person who enables, assists, or advises any person to plan, design, arrange or manage a transaction or declaration relating to an offshore asset, which has resulted or may result in tax evasion. Penalty has been provided in serial no. 23 of sub-section (1) of section 182 that where in the course of any transaction or declaration made by a person an enabler has enabled, guided, advised or managed any person to design, arrange or manage that transaction or declaration in such a manner which has resulted or may result in offshore tax evasion in the course of any proceedings under the Ordinance, such person shall pay a penalty of Rs.300,000 or an amount equal to 200% of the tax which was sought to be evaded, whichever is higher. Prosecution for enabling offshore tax evasion has been provided by inserting a new section 195B to the effect that any enabler who enables, guides or advises any person to design, arrange or manage a transaction or declaration in such a manner which results in offshore tax evasion, shall commit an offence punishable on conviction with imprisonment for a term not exceeding seven years or with a fine up to five million rupees or both.

The term "asset move" has been defined by inserting a new clause (5C) in section 2 and it means the transfer of an offshore asset to an unspecified jurisdiction by or on behalf of a person who owns, possesses, controls or is the beneficial owner of such offshore asset for the purpose of tax evasion. An unspecified jurisdiction means a jurisdiction which has not committed to automatically exchange information under the Common Reporting Standard with Pakistan. The term "specified jurisdiction" has been defined by inserting a new clause (60A) in section 2 and it means any jurisdiction which has committed to automatically exchange information under Common Reporting Standard with Pakistan. Penalty has also been provided in serial 24 of sub-section (1) of section 182 that any person who is involved in asset move from a specified to un-specified territory shall pay a penalty of Rs.100,000 or an amount equal to 100% of the tax, whichever is higher."

146. Recovery of tax from persons assessed in Azad Jammu and Kashmir [1][**and Gilgit-Baltistan**].– (1) Where any person assessed to tax for any tax year under the law relating to income tax in the Azad Jammu and Kashmir [1][or Gilgit-Baltistan] has failed to pay the tax and the income tax authorities of the Azad Jammu and Kashmir [1][or Gilgit-Baltistan] cannot recover the tax because–

(a) the person's residence is in Pakistan; or

(b) the person has no movable or immovable property in the Azad Jammu and Kashmir [1][or Gilgit-Baltistan],

the Deputy Commissioner in the Azad Jammu and Kashmir [1][or Gilgit-Baltistan] may forward a certificate of recovery to the Commissioner and, on receipt of such certificate, the Commissioner shall recover the tax referred to in the certificate in accordance with this Part.

(2) A certificate of recovery under sub-section (1) shall be in the prescribed form specifying–

(a) the place of residence of the person in Pakistan;

(b) the description and location of movable or immovable property of the person in Pakistan; and

(c) the amount of tax payable by the person.

[2][**146A. Initiation, validity, etc., of recovery proceedings.**– (1) Any proceedings for the recovery of tax under this Part may be initiated at any time;

(2) The Commissioner may, at any time, amend the certificate issued under section 138A, or recall such certificate and issue fresh certificate, as he thinks fit;

(3) It shall not be open to a taxpayer to question before the District Officer (Revenue) the validity or correctness of any certificate issued under section 138A, or any such certificate as amended, or any fresh certificate issued, under sub-section (2).

(4) The several modes of recovery provided in this Part shall be deemed to be neither mutually exclusive nor affect in any way any other law for the time being in force relating to the recovery of debts due to the Government and the Commissioner may have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from a taxpayer by any other mode.]

[1]Words inserted by Finance Act, 2017 dated June 20, 2017.
[2]S. 146A inserted by Finance Ordinance, 2002 dated June 15, 2002.

S. 146–Recovery of tax from persons assessed in Azad Kashmir.– An assessee in Pakistan who has done some business in Azad Kashmir and is assessed there in respect of such income, may also be assessed, rightly or wrongly, in Pakistan in respect of the same income. Tax may be recovered by the Azad Kashmir Tax Authorities even if the assessee has already paid tax in Pakistan in respect of the same income."

Also see footnotes u/s **107**.

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[1][**146B.Tax arrears settlement incentives scheme.-** (1) Subject to provisions of this Ordinance, the Board may make scheme in respect of recovery of tax arrears or withholding taxes and waiver of [2][default surcharge] or penalty levied thereon.

(2) The Board may make rules under section 237 for implementation of such scheme.]

[3][**146C. Assistance in the recovery and collection of taxes**.- The provisions of sections 138, 138A, 138B, 139, 140, 141, 142, 143, 144, 145, 146, 146A, and 146B shall *mutatis mutandis* apply in respect of assistance in collection and recovery of taxes in pursuance of a request from a foreign jurisdiction under a tax treaty, a multilateral convention, an intergovernmental agreement or similar arrangement or mechanism.]

[4][**146D. Recovery of liability outstanding under other laws**.– (1)* Where any outstanding liability in or under any other statute or law for the time being in force enacted through an Act of Parliament, in respect of any defaulter is–

(a) treated as Income Tax arrears in that law;

(b) required to be recovered or collected by Commissioner (Inland Revenue); or

(c) is referred to Commissioner (Inland Revenue) for the recovery–

the Commissioner (Inland Revenue) shall recover the said liability and deposit the receipts in the designated account specified in that law.]

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[1]S. 146B inserted by Finance Act, 2008 dated June 27, 2008.
[2]Substituted for "additional tax" by Finance Act, 2010 dated June 30, 2010 and this amendment shall be deemed to have taken effect from June 05, 2010. This amendment was earlier made by Finance (Amendment) Ordinance, 2009 dated October 28, 2009.
[3]S. 146C inserted by Finance Act, 2021 dated June 30, 2021.
[4]S. 146D inserted by Finance Act, 2023 dated June 27, 2023.

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*Sub-sction (1) is erroneous as there is only one sub-section.

S. 146B– Scheme for waiver of additional tax, penalty etc. on payment of principal amount of tax in arrears.- Following is an extract from FBR's Circular No. 5 of 2008 dated July 05, 2008:-

"At present, tax arrears of Rs.20.25 billion are outstanding. Similarly tax withheld by the withholding agent at times is not deposited due to fear of additional tax and levy of penalty. In order to effect speedy recovery of such tax arrears an opportunity has been provided to the defaulter taxpayers and withholding agents to settle the arrears under Tax Arrears Settlement Incentive Scheme (TASIS) 2008. Under this scheme, if the taxpayer pays the principal outstanding tax liability, surcharge, additional tax or penalty levied or leviable on such amount would be waived off and a certificate of settlement of arrears shall be issued to the taxpayer. The TASIS has been issued vide Circular No.04 of 2008 dated July 1, 2008."

S. 146D.- Recovery of Liabilities outstanding under other laws.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"A new section 146D has been introduced in the Ordinance through Finance Act, 2023 enabling the Commissioner Inland Revenue to recover the outstanding amount of liabilities which is treated as income tax arrear and payable in or under any other statute or law for the time being in force enacted through an Act of Parliament."

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[1][(4A)Any taxpayer [2][including a banking company] who is required to make payment of advance tax in accordance with sub-section (4), shall estimate the tax payable for the relevant tax year, at any time before the second installment is due. In case the tax payable is likely to be more than the amount that the taxpayer [2][including a banking company] is required to pay under sub-section (4), the taxpayer [2][including a banking company] shall furnish to the Commissioner on or before the due date of the second quarter an estimate of the amount of tax payable by the taxpayer [2][including a banking company] and thereafter pay fifty per cent of such amount by the due date of the second quarter of the tax year after making adjustment for the amount, if any, already paid in terms of sub-section (4). The remaining fifty per cent of the estimate shall be paid after the second quarter in two equal installments payable by the due date of the third and fourth quarter of the tax year.]

[1]Sub-section (4A) substituted by Finance Act, 2015 dated June 30, 2015. Earlier existing sub-section (4A) re-numbered as (4B) and new sub-section (4A) inserted by Finance Act, 2006 dated July 01, 2006.Sub-section (4A) was originally inserted by Finance Act, 2003 dated June 17, 2003.
[2]Words inserted by Finance Act, 2018 May 23, 2018.

II) The last date for payment of the last quarterly instalment of advance tax by the companies and RFs has been revised and will now be 21st June." [**Ref:** *98 ITC 11 p. 13*]

Payment by companies & registered firms.– Following is the text of CBR's Circular No. 13 of 1997 dated September 29, 1997, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"Certain queries have been raised regarding computation of advance tax payable by companies and registered firms under the amended section 53.

2. The method of computation has already been explained through circular No. 6 of 1997 dated 15th July, 1997. It is, however, clarified that for purposes of computation of advance tax, the turnover which constitutes presumptive income under section 80C and 80CC and the income from securities from which tax under sub-section 2 of section 50 is deducted, is to be excluded. Consequently, the tax withheld under section 50 in respect of such income shall neither be included in the amount of"tax assessed" nor shall such tax be accounted for as payment of quarterly advance tax instalments. The "tax assessed" to "turnover assessed" ratio shall, therefore, be computed accordingly.

3. It is further clarified that the expression "turnover" as used in section 53 has the same meaning as understood in common parlance, including the "explanation" contained in section 80D of the Income Tax Ordinance, 1979, and in relation to banks and financial institutions includes such receipts as interest, gains, discounts, return, mark-up, rent commission, exchange and brokerage, and receipts from sale of investments etc.

4. It is also clarified that industrial undertakings covered by the Schedule to the Protection of Economic Reforms Act, 1992 (Act XII of 1992) are not liable to pay advance tax under section 53 as they enjoy exemption in terms of the relevant clauses of the Second Schedule to the Income Tax Ordinance, 1979." [**Ref:** *97 ITC 13 p. 35*]

S. 147-Advance Tax Paid by the Taxpayer.– Following is an extract from FBR's Circular No. 7 of 2011 dated July 01, 2011:–

"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 30th June each year."

S.147(4A)-Substitution.- Before substitution by F. Act, 2015, it read as follows:-

"(4A) Any taxpayer who is required to make payment of advance tax in accordance with sub-section (4), shall estimate the tax payable by him for the relevant tax year, at any time before the last installment is due. In case the tax payable is likely to be more than the amount he is required to pay under sub-section (4), the taxpayer shall furnish to the Commissioner an estimate of the amount of the tax payable by him and thereafter pay such amount after making adjustment for the amount (if any) already paid in terms of sub-section (4)."

[1][ ]

[2][(4AA)Tax liability under [3][sections [4][4C,] 113 and 113C] shall also be taken into account while working out payment of advance tax liability under this section.]

[5][(4B)] Where the taxpayer is an individual [6][ ] having latest assessed income of [7][one million] rupees or more as determined under *section (2), the amount of advance tax due for a quarter shall be computed according to the following formula, namely:–

†"(A/4) – B

Where–

A is the tax assessed to the taxpayer for the latest tax year or latest assessment year under the repealed Ordinance; and

B is the tax paid in the quarter for which a tax credit is allowed under section 168, other than tax deducted under section 149 [8][ ].]

[9][*Explanation*.– For removal of doubt, it is clarified that tax assessed includes tax liability under section 4C.]

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[1]Sub-section (4AA) omitted by Finance Act, 2008 dated June 27, 2008. It was inserted by Finance Act 2007 dated June 30, 2007.
[2]Sub-section (4AA) inserted by Finance Act, 2009 June 30, 2009.
[3]Substituted for "section 113" by Finance Act, 2016 dated June 24, 2016.
[4]Inserted by Finance Act, 2023 June 26, 2023.
[5]Sub-sectuib (4A) substituted by Finance Act, 2015 dated June 30, 2015. Earlier existing sub-section (4A) re-numbered as (4B) and new sub-section (4A) inserted by Finance Act, 2006 dated July 01, 2006.Sub-section (4A) was originally inserted by Finance Act, 2003 dated June 17, 2003.
[6]Words "or an association of persons" omitted by Finance Act, 2010 dated June 30, 2010. Earlier these words were inserted by Finance Act, 2005 June 29, 2005.
[7]Substituted for "five hundred thousand" by Finance Act, 2017 dated June 20, 2017. Earlier it was substituted for "two" by Finance Act, 2010 dated June 30, 2010.
[8]Substituted for "a taxpayer" by Finance Act, 2009 dated June 30, 2009.
[9]Explanation inserted by Finance Act, 2023 dated June 26, 2023.

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*should have been "sub-section".†inverted commas are superfluous.

S. 147(4AA)-Omission.-Before omission it read as follows:-

"(4AA) Tax liability under section 113 shall also be taken into account while working out payment of advance tax liability under this section."

(5) Advance tax is payable by [3][an individual [4][//]] to the Commissioner –

(a) in respect of the September quarter, on or [5][before] the [6][15th day of September];

(b) in respect of the December quarter, on or before the [7][15th day of December];

(c) in respect of the March quarter, on or before the [8][15th day of March]; and

(d) in respect of the June quarter, on or before the [9][15th day of June].

[3]Word and figure "or 155" deleted by Finance Act, 2013 dated June 29, 2013.
[4]Words "or an association of persons" deleted by Finance Act, 2010 dated June 30, 2010.
[5]Substituted for "by" by Finance Act, 2005 June 29, 2005 to make an editorial correction as per 'Notes on Clauses of Finance Bill 2005'.
[6]Substituted for "7th day of October" by Finance Act, 2004, w.e.f. July 1, 2004.
[7]Substituted for "7th day of January" by Finance Act, 2004, w.e.f. July 1, 2004.
[8]Substituted for "7th day of April" by Finance Act, 2004, w.e.f. July 1, 2004.
[9]Substituted for "21st day of June" by Finance Act, 2004, w.e.f. July 1, 2004.

Payment of Advance tax on basis of turnover.– Following is an extract from CBR's Circular No. 6 of 1997, dated the 15th July, 1997, explaining the corresponding provisions of Income Tax Ordinance, 1979:–

"Section 53 has been substituted. The following are the effects of this change:–

(i) Now, companies and registered firms have to pay advance tax in respect of their income (excluding the income to which sections 27, 80C, 80CC, or sub-section (2) of section 50 applies) on the basis of ratio of tax to assessed turnover for the latest assessment year in respect of which the tax payable has been determined under sections 59, 59A, 60, 62, 63 or 65, as reduced by the tax already paid under section 50 in the financial year. The following is an example:–

Example:

Turnover assessed for the latest assessment year e.g. A/Y = 1996-97 = Rs. 1,000,000

Tax determined for the A/Y = 1996-97 = Rs. 40,000

Ratio = $\frac{\text{Tax assessed}}{\text{Turnover assessed}} = \frac{40,000}{1,000,000} = 4\%$

Advance Tax Liability for Financial Year 1997-98.

	Turnover	Ratio	Advance Tax Payable	Payment due by
1st Quarter =	400,000	4%	= Rs. 16,000	7th Oct. 97
2nd Quarter =	500,000	4%	= Rs. 20,000	7th Jan. 98
3rd Quarter =	300,000	4%	= Rs. 12,000	7th Apr. 98

Tax for 4th Quarter

a) Turnover for the period 1st Aprilto 30th May = Rs. 400,000

b) Turnover for 1st June to15th June = Rs. 50,000

c) Turnover for 16th to 30th June to betaken equal to (b) = Rs. 50,000

Turnover of 4th Quarter = Rs. 500,000 4% = Rs. 20,000 15th Jun. 98"

"iii) In the case of non-resident assessees, dividend income shall be excluded from the total income for the purposes of payment of advance tax.

iv) Assessees, other than companies and registered firms, shall continue to pay advance tax in four equal instalments, as before, on 15th September, 15th December, 15th March and 15th June." [**Ref:***97 ITC 6 p. 6*]

[1][(5A) Advance tax shall be payable by an association of persons or a company to the Commissioner-

(a) in respect of the September quarter, on or before the 25th day of September;

(b) in respect of the December quarter, on or before the 25th day of December;

(c) in respect of the March quarter, on or before the 25th day of March; and

(d) in respect of the June quarter, on or before the 15th day of June.]

[2][(5B) Advance tax on capital gains on sale of securities shall be as follows, namely:-

S. No.	Period	Rate of advance tax Liability
(1)	(2)	(3)
1.	Where holding period of a security is less than six months.	2% of the capital gains derived during the quarter
2.	Where holding period of a security is more than six months but less than twelve months.	1.5% of the capital gains derived during the quarter.

Provided that such advance tax shall be payable to the Commissioner within a period of [3][twenty one] days after the close of each quarter;

Provided futher that the provisions of this sub-section shall not be applicable to individual investors.]

[4][(5C) Notwithstanding anything contained in this section, every person deriving income from the business of–

(i) construction and disposal of residential, commercial or other buildings; or

[1]Sub-section (5A) substituted by Finance Act, 2010 dated June 30, 2010. Earlier it was inserted by Finance Act, 2009 dated June 30, 2009.
[2]Sub-section (5B) inserted by Finance Act, 2010 dated June 30, 2010.
[3]Substituted for "seven" by Finance Act, 2011 dated June 30, 2011.
[4]Sub-section (5C) inserted by Finance Act, 2023 dated June 26, 2023.

S. 147(5A)-Substitution.-Before omission it read as follows:-

"(5A) Advance tax is payable by a company to the Commissioner-

(a) in respect of the September quarter, on or before the 15th day of October;

(b) in respect of the December quarter, on or before the 15th day of January;

(c) in respect of the March quarter, on or before the 15th day of April; and

(d) in respect of the June quarter, on or before the 15th day of June."

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(ii) development and sale of residential, commercial or other plots for itself or otherwise, shall be liable to pay adjustable advance tax on Project-by-Project basis, as may be prescribed, for the tax year as per the rates specified in Part IIB of the First Schedule in four equal installments:

Provided that such advance tax shall be payable to the Commissioner in accordance with sub-sections (5) and (5A):

Provided further that the provisions of sub-sections (7) to (10) shall *mutatis mutandis* apply.]

[2][(6) If any taxpayer who is required to make payment of advance tax under sub-section (1) estimates at any time before the last installment is due, that the tax payable by him for the relevant tax year is likely to be less than the amount he is required to pay under sub-section (1), the taxpayer may furnish to the Commissioner an estimate of the amount of the tax payable by him, and thereafter pay such estimated amount, as reduced by the amount, if any, already paid under sub-section (1), in equal installments on such dates as have not expired [3]*[:]*]

[4][Provided that an estimate of the amount of tax payable shall contain turnover for the completed quarters of the relevant tax year, estimated turnover of the remaining quarters along with reasons for any decline in estimated turnover, documentary evidence of estimated expenses or deductions which may result in lower payment of advance tax and the computation of the estimated taxable income of the relevant tax year [5]*[.]*

[5][ ]

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[2]Sub-section (6) substituted by Finance Act, 2004, w.e.f. July 1, 2004.
[3]Substituted for full stop by Finance Act, 2018 dated May 23, 2018.
[4]Proviso inserted by Finance Act, 2018 dated May 23, 2018.
[5]Colon substituted and provisos deleted by Finance Act, 2021 dated June 30, 2021. It was inserted by Finance Act, 2018 dated May 23, 2018.

S. 147(5C).- Advance tax from builders and developers.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"A new sub-section (5C) has been inserted in section 147 through Finance Act, 2023 whereby builders and developers, instead of discharging advance tax liability on the basis of tax payable to turnover ratio, are now required to compute their advance tax liability on the basis of area and size of the building or land development project and the liability so computed will be paid in terms of other provisions of the section 147 of the Ordinance. The rates of tax for the purpose of sub-section (5C) of section 147 have been provided in Part IIB of First Schedule to the Ordinance. The advance tax will be computed by builders and developers on the basis of rates provided in aforementioned division which will be paid in four equal quarterly installments and shall be paid in terms of sub-sections (5) and (5A) of section 147. Furthermore, the builder and developer will compute and pay the advance under this section on project-to project basis. Rules for the purpose of sub-section (5C) of section 747 will be notified accordingly."

Sub-section (6)2nd Proviso.-Before omission by Finance Act, 2021 read as follows:-

"Provided further that where the Commissioner is not satisfied with the documentary evidence provided or where an estimate of the amount of tax payable is not accompanied by details mentioned in the first proviso, the Commissioner may reject the estimate after providing an opportunity of being heard to the taxpayer and the taxpayer shall pay advance tax according to the formula contained in subsection (4)."

[1][(6A) Notwithstanding anything contained in this section, where the taxpayer is a company or an association of persons, advance tax shall be payable by it in the absence of last assessed income or declared turnover also. The taxpayer shall estimate the amount of advance tax payable on the basis of quarterly turnover of the company or an association of persons, as the case may be, and thereafter pay such amount after,-

(a) taking into account tax payable under [2][sections 113 and 113C] as provided in sub-section (4AA); and

(b) making adjustment for the amount (if any) already paid.]

[3][ ]

[1]Sub-section (6A) substituted by Finance Act 2009 dated June 30, 2009. Earlier it was inserted by Finance Act, 2007 dated June 30, 2007.
[2]Substituted for "section 113" by Finance Act, 2016 dated June 24, 2016.
[3]Clauses (a) and (b) omitted by Finance Act, 2008 dated June 27, 2008.

Payment by banks.– Following is the text of CBR's Circular No. 1 of 1998 dated February 10, 1998, explaining the corresponding provisions of Income Tax Ordinance, 1979:–

"The undersigned is directed to state that representations have been received by the Board that the explanation of the basis of computation of tax-turnover ratio for advance tax payable under section 53 as explained in Board's Circular No. 13 of 1997 dated 29-09-1997, has resulted in hardship for the banks particularly the foreign banks.

2. After considering the matter, it has been decided that the advance tax liability of non-resident foreign banks under section 53 of the Ordinance would be determined on gross turnover including income from securities on which tax under sub-section (2) of section 50 in respect of such income shall be accounted for as payment of quarterly advance tax instalments.

3. It has been further decided that as far as the local banks are concerned, they may approach the concerned Deputy Commissioner for the issuance of certificates for exemption, from deduction under section 50(2) or for deduction at a reduced rate."

S. 147(4A)–Allowing individuals to pay advance tax on last assessed income.– Following is an extract from CBR's Circular No. 7 of 2003 dated July 11, 2003:–

"A new sub-section (4A) has been inserted in section 147 of the Income Tax Ordinance 2001, by virtue of which, individuals are required to pay advance tax where latest assessed income is rupees Rs. 200,000 or more excluding income chargeable under the head capital gain, salary income, property income, dividend income and income under presumptive tax regime. For determination of quarterly liability of advance tax, an easy formula has also been provided."

Associations of persons.-Following is an extract from 'Notes on Clauses of Finance Bill 2005':-

"Seeks to provide a formula for computation of advance tax by an association of persons;"

Sub-section (6A)(a) & (b).-Before omission by Finance Act, 2008 read as follows:-

"(a) taking into account tax payable under section 113 as provided in sub-section (4AA);
(b) making adjustment for the amount (if any) already paid."

S. 147(6)–Substitution.–Before substitution by F.A. 2004, it read as follows:–

"(6) The turnover of a taxpayer for the period from 16th to 30th June of the June quarter shall be taken to be equal to the turnover for the period from 1st to 15th June of that quarter."

S. 147(6)–Substitution.–Before substitution by F.A. 2009, it read as follows:–

"(6A) Notwithstanding anything contained in this section, where the taxpayer is a company, advance tax shall be payable by it in the absence of last assessed income also. The taxpayer shall estimate the amount of advance tax payable on the basis of estimated quarterly accounting profit of the company and thereafter pay such amount after [1][making adjustment for the amount (if any) already paid.]"

[1]Inserted by Finance Act, 2008 dated June 27, 2008.

[1][(2AA) Sub-section (1AA) shall not apply to an amount, with the written approval of the Commissioner, that is taxable to a permanent establishment in Pakistan of the non-resident person.]

[2][(2B) The tax deductible under sub-section (2A) shall be minimum tax:

Provided that tax deductible under clause (a) of sub-section (2A) shall not be minimum tax where payments are received for sale of goods by a company being a manufacturer of such goods.]

(3) Sub-section (2) does not apply to an amount–

(a) that is subject to deduction of tax under section 149, 150, [3][ ] [4][ ] 156 [5][or 233];

(b) with the written approval of the Commissioner, that is taxable to a permanent establishment in Pakistan of the non-resident person;

(c) that is payable by a person who is liable to pay tax on the amount as representative of the non-resident person under sub-section (3) of section 172; or

(d) where the non-resident person is not chargeable to tax in respect of the amount.

(4) Where a person claims to be a representative of a non-resident person for the purposes of clause (c) of sub-section (3), the person shall file a declaration to that effect with the Commissioner prior to making any payment to the non-resident person.

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[1]Sub-sections (2A) & (2AA) inserted by Finance Act, 2012 dated June 26, 2012.

[2]Sub-section (2B) substituted by Finance Act, 2020 dated June 30, 2020. Earlier it was inserted by Finance Act, 2018 dated May 23, 2018.

[3]Figure and comma "153," omitted by Finance Act, 2012 dated June 26, 2012.

[4]Figure "155," deleted by Finance Act, 2013 dated June 2013. Earlier comma was inserted by Finance Act, 2010 dated June 30, 2010.

[5]Comma substituted for "or" and "or 233" inserted by Finance Act, 2006 dated July 01, 2006.

Sub-section (2B)-Substitution.- Before substitution by F. Act, 2020, it read as follows:-

"(2B) The tax deductible under clause (b) of sub-section (2A) shall be a minimum tax and the provisions of sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (3) [1][ ] of section 153 shall *mutatis mutandis* apply."

[1]Words "and sub-section (4A)" deleted by Finance Act, 2019 dated June 30, 2019.

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Commissioner's certificate for exemption or lower rate.– See section 159.**Withholding Tax on payments to non-residents.**– Following is an extract from CBR's Circular No. 6 of 2003 dated July 9, 2003:–

"A person, who intends to make payment to a non-resident person without deduction of tax, is required under sub-section (5) of section 152 to furnish a notice to the Commissioner before making the payment. However, law was silent on the responsibility of Commissioner to respond to such notice. In order to resolve this, a new sub-section (5A) has been inserted in section 152 making it obligatory on the Commissioner to respond to such notice either, accepting payer's contention or pass an order under sub-section (6) sking the payer to deduct tax from the payment to a non-resident."

(a) Payments to branches of non-resident insurance companies; (b) obligation to furnish declaration by agents of non-residents; and (c) furnishing of information about payments to non-residents etc.– Following is an extract from CBR's Circular No. 8 of 1999, dated July 27, 1999, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"i. The second proviso to sub-section (3) of section 50 has been amended to exclude payments to branches of non-resident insurance companies, like non-resident banking companies, from the purview of tax withholding under this clause.

ii. The new provisions added to the law provide that where a person claims to be an agent of a non-resident, he must file a declaration to that effect, with the concerned Deputy Commissioner of Income Tax, before making any payment to such non-resident. Similarly, new provisions also provide that where a person does not intend to deduct tax from any payment falling within the ambit of sub-section (3), to a non-resident except payment on account of imports of goods or remittances on account of educational and medical expenses in accordance with the State Bank's regulations, he must furnish particulars of such non-resident and the nature and quantum of such payments to the concerned Deputy Commission of Income Tax.

iii. The new provisions further provide that where a person notifies that he does not intend to deduct tax from a non-resident but the Deputy Commissioner has reason to believe that the payment is chargeable to tax under the Ordinance, he may direct such person to deduct tax from such payment at the rates specified in the First Schedule or such lower rate as he may specify by a written order."

Payments made to branches of non-resident companies.– Following is an extract from CBR's Circular No. 11 of 1998 dated July 25, 1998, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"As a result of amendment of second proviso to sub-section (3) of section 50, the exemption from withholding tax under the said sub-section, in respect of branches of non-resident companies, would now be available only to branches of non-resident banking companies. Other non-resident companies may, as provided in the law, obtain certificate of exemption or deduction at a reduced rate from the concerned Deputy Commissioner of Income Tax." [**Ref:** *98 ITC 11 p. 13*]

Deduction from payments to non-resident banks.– Following is an extract from CBR's Circular No. 4 of 1995 dated July 9, 1995, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"Non-resident foreign companies operating in Pakistan are subjected to withholding tax under section 50(3) when they receive various types of income/receipts. This provision was found to be burdensome for branches of non-residents operating in Pakistan. Exception was, therefore, provided in section 50(3) in respect of interest paid to Pakistani branches of non-resident banking companies. This treatment has now been extended to all payments made to Pakistani branches of non-resident companies. The proviso to section 50(3) has been suitably modified to incorporate this change.

In 1987 before the amendment regarding bank interest, disallowances for the first time were made on account of non-deduction of tax from interest/return on finance to Pakistani branches of foreign banks, such disallowances were, however, held by some Commissioners of Income Tax (Appeals) as against the provisions of the Ordinance. [**Ref:** *95 ITC 4 p. 3*]

[1][(4A) The Commissioner may, on application made [2][in the prescribed form] by the recipient of payment referred to in sub-section (1A) having permanent establishment in Pakistan, or by a recipient of payment referred to in sub-section (2A), as the case may be, and after making such inquiry as the Commissioner thinks fit, allow by order in writing, in cases where the tax deductable under sub-section (1) or sub-section (2A) is [3][not minimum tax], any person to make the payment without deduction of tax or deduction of tax at a reduced rate.]

[4][(4B) The Commissioner may, in case of payment that constitutes part of an overall arrangement of a cohesive business operation as referred to in paragraph (ii) of sub-clause (g) of clause (41) of section 2, on application made by the person making payment and after making such inquiry, as the Commissioner thinks fit, allow by order in writing, the person to make payment after deduction of tax equal to [5][twenty] percent of the tax chargeable on such payment under sub-section (1A):

Provided that the credit of the tax so deducted shall be available to the permanent establishment of the non-resident accounting for overall profits arising on the overall cohesive business operation.]

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[1]Sub-section (4A) substituted by Finance Act, 2017 dated June 20, 2017. Earlier it was inserted by Finance Act, 2015 dated June 30, 2015.
[2]Inserted by Finance Act, 2020 dated June 30, 2020.
[3]Substituted for "adjustable" by Finance Act, 2019 dated June 30, 2019.
[4]Sub-section (4B) inserted by Finance Act, 2019 dated June 30, 2019.
[5]Substituted for "thirty" by Finance Act, 2020 dated June 30, 2020.

S. 152(4A)-Substitution.- Before substitution by F. Act, 2017, it read as follows:-

"(4A) The Commissioner may, on application made by the recipient of a payment referred to in sub-section (2A) and after making such inquiry as the Commissioner thinks fit, may allow in cases where the tax deductable under sub-section (2A) is adjustable, by order in writing, any person to make the payment, without deduction of tax or deduction of tax at a reduced rate."

Non-residents have also been excluded from the purview of section 50(3) in respect of payments made to them under the following heads:–

i) Commission or brokerage; and

ii) Public auction of property.

Therefore, now the tax will be withheld from non-residents under the respective provisions like residents i.e. as required under sub-section (4A) and (7A) of section 50."

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(5) Where a person intends to make a payment to a non-resident person without deduction of tax under this section, [6][other than payments liable to reduced rate under relevant agreement for avoidance of double taxation,] the person shall, before making the payment, furnish to the Commissioner a notice in writing setting out–

(a) the name and address of the non-resident person; [1][ ]

(b) the nature and amount of the payment [2][; and]

[2][(c) such other particulars as may be prescribed.]

[3][(5A) The Commissioner on receipt of notice shall [4][, within thirty days,] pass an order accepting the contention or making the order under sub-section (6) [5][:]]

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[1]Inserted by Finance Act, 2008 dated June 27, 2008.
[2]Word "and" deleted by Finance Act, 2020 dated June 30, 2020.
[3]Substituted for full stop and clause (c) inserted by Finance Act, 2020 dated June 30, 2020.
[4]Sub-section (5A) inserted by Finance Act, 2003 dated June 17, 2003.
[5]Commas and words inserted by Finance Act, 2004, w.e.f. July 1, 2004.

S. 152(5)–Withholding Tax On Payments To Non-Residents Covered By Avoidance Of Double Taxation Treaty.– Following is an extract from FBR's Circular letter No. 5 of 2008 dated July 05, 2008:–

"Before the amendment of sub-section (5) of section 152 of the Ordinance, any person making payment to a non-resident person without deduction of tax, was required to give, complete particulars of the non-resident as well as nature and amount of the payment, to the Commissioner, for allowing him to make payments without deduction of the tax.

Such exercise, however was, futile where Avoidance of Double Taxation Agreements provide exemption or a reduced rate of tax for a particular payment.

17.2 The said provisions have been amended. Now these would not be applicable where payments are subjected to "nil" or "reduced tax rate" as per the provisions in the Avoidance of Double Taxation Treaty. This measure would reduce the unnecessary hassle of the taxpayers of getting exemption certificate for remittance of such amounts with deduction of tax or deduction as per the provision of the treaty."

Sub-section (5A)–Procedure for payments to non-residents without tax deduction.– Following is an extract from CBR's Circular No. 17 of 2004 dated July 17, 2004:–

"Sub-section (5A) of section 152 has been amended to make it obligatory for the Commissioner to pass order within 30 days of the receipt of notice under sub-section (5) of the said section."

Following is an extract from 'Notes on Clauses of Finance Bill, 2004' explaining the amendment:–

"Seeks to provide thirty days limitation for passing an order by the Commissioner on receipt of notice regarding payment to a non-resident without deduction of tax."

Rate of deduction.– Following is a modified summary of Letter No. SG/15/1166, dated October 6, 1980 from M/s. S. A. Salam & Co., CAs, addressed to the Member (Taxes-I) CBR:–

The rate of deduction of tax at source in case of non-residents is 30%. Thus 100% of the payments received by non-residents are being treated as income. In case of residents the rate is 3% (S. 50(4)) of the gross payments, the same rate should be made applicable in case of non-residents.

[1][Provided that the Commissioner shall be deemed to have issued the exemption certificate upon the expiry of thirty days and the certificate shall be automatically processed and issued by Iris subject to the condition that in computing the said period of thirty days, there shall be excluded days taken for adjournment by the applicant:

Provided further that the Commissioner may modify or cancel the certificate issued automatically by Iris on the basis of reasons to be recorded in writing after providing an opportunity of being heard.]

[1]Full stop substituted and provisos inserted by Finance Act, 2023 dated June 26, 2023.

S. 152(5A).- Automatic issuance of exemption certificate.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"For ease of doing business, automatic issuance of exemption certificate has been provided under sections 159 and 153 of the Ordinance. However, the same facilitative measure was missing in section 152. For achieving the purpose of ease of doing business also for resident persons who intends to make time bound payments to non-resident persons, a new proviso has been inserted vide Finance Act, 2023 in sub-section (5A) of section 152 of the Ordinance whereby an application filed by a taxpayer for issuance of exemption certificate will be deemed to have been granted after expiry of 30 days from the date of application where the Commissioner Inland Revenue fails to pass an order within said period of 30 days.

For computing the above mentioned period of 30 days, the adjournment period sought by the applicant will be excluded. Furthermore, Commissioner Inland Revenue has been empowered to modify or cancel the certificate issued automatically by Iris on the basis of reasons to be recorded in writing and after providing an opportunity of being heard to the taxpayer to whom exemption certificate has been issued automatically."

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S.154-Collection of Tax from Exporters receiving export proceeds in cash.-Following is an extract from FBR's Circulars No. 03 of 2009 dated July 17, 2009:-

"Under section 154 of the Ordinance, every authorized dealer in foreign exchange is required to deduct tax at the time of realization of foreign exchange proceeds on account of export of goods. There is a special arrangement for export of goods to Afghanistan whereby goods are exported without Form "E" and export proceeds are directly received by the exporters in local currency. Such exports are allowed in terms of para (7) of SRO 759(1)/2008 dated 18.07.2008. Since the export proceeds are not realized in foreign exchange through authorized dealers, therefore, no tax is collected thereon.

In order to cover the above situation, a new sub-section (3C) has been inserted which provides that in respect of goods exported without Form "E" the Collector of Customs shall collect tax @ 1% at the time of clearing such goods for export."

Sub-section (4), changes by F.A. 2007.-Following is an extract from 'Notes on Clauses of Finance Bill 2007':-

"Seeks to make an editorial correction."

Commissioner's certificate for exemption or lower rate.– See section 159.

Export of tribal residents.– Following is the text of CBR's Letter C. No. 1(14)WHT/92 dated February 22, 1993:–

"I am directed to refer to your letter dated 2nd November, 1992 on the subject and to say that the Board has examined your request. The foreign exchange proceeds of Cattle exported by you are subject to tax under section 50(5A) of the Income Tax Ordinance, 1979.No exemption is available to residents of Tribal Areas in respect of aforesaid receipts." [**Ref:***93 ITL 19 p. 11*]

The clarification appears to be erroneous, see footnotes u/s 149.

Taxation of export buying houses and indenting agents.– Following is the text of CBR's Circular No. 03 of 2000, dated February 17, 2000:–

"In continuation of the Board's Circular No. 13 of 1999 dated 25.08.1999, it is clarified that clause (2A) inserted in Part II of the Second Schedule to the Income Tax Ordinance, 1979, vide SRO 1052(I)/99 dated 17.09.1999 and subsequently amended vide SRO 313(I)/99 dated 30.11.1999, provides that the tax chargeable in respect of commission received by an export indenting agent or an export buying house shall be at the rate equal to the rate of tax applicable to the exporter on export of goods to which such commission relates.

2. In view of the foregoing, the general rate of withholding tax for indenting commission remains 10% as per paragraph CCCC of Part I of the First Schedule to the Ordinance, but the reduced rate applicable in respect of commission received by an export indenting agent or an export buying house shall be 0.50% or 0.75% or 1.00%, depending on the goods exported to which such commission relates." [**Ref:***2000 ITC 4 p. 3*]

Following is the text of CBR's Circular No. 13 of 1999, dated August 25, 1999, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"Under sub-section (5A) of section 50, tax was, previously, withheld by the banks at the time of realization of foreign exchange proceeds on account of export of goods by an exporter. Through the Finance Act, 1999, foreign exchange proceeds on account of commission due to an indenting commission agent, have also been brought within the purview of this sub-section.

2. The tax from indenting commission mentioned above is to be deducted by the bank @ 10% of the foreign exchange proceeds as per paragraph CCCCC of Part I of the First Schedule inserted through the Finance Act, 1999. Tax so deducted will be the full and final discharge of tax liability of the indenting agent in respect of such income under section 80C.

3. The banks responsible for deduction of tax under this sub-section are under legal obligation to furnish annual statement as prescribed under Rule 201A of Income Tax Rules, 1982, to be filed by 1st September each year, regarding foreign exchange proceeds and tax deducted therefrom. They should use the same statement to separately report the payments on account of foreign exchange proceeds made to indenting commission agents and the tax deducted therefrom." [**Ref:***99 ITC 14 p. 23*]

Following is an extract from CBR's Circular No. 8 of 1999 dated July 27, 1999, explaining the corresponding provisions of the Income Tax Ordinance, 1979:–

"Sub-section (5A) of section 50 has been amended to provide presumptive taxation of commission received in foreign exchange from foreign principals by indenting agents. The tax would be withheld @ 10% by banks. The tax deducted @ 10% shall constitute final discharge of tax liability in respect of such income from assessment year 2000-2001." [**Ref:***99 ITC 9 p. 9*]

[1][**154A. Export of Services**.- (1) Every authorized dealer in foreign exchange shall, at the time of realization of foreign exchange proceeds on account of the following, deduct tax from the proceeds at the rates specified in Division IVA of Part III of the First Schedule-

(a) exports of computer software or IT services or IT enabled services [2][where the exporter is registered with and duly certified by the Pakistan Software Export Board (PSEB).];

(b) services or technical services rendered outside Pakistan or exported from Pakistan;

(c) royalty, commission or fees derived by a resident company from a foreign enterprise in consideration for the use outside Pakistan of any patent, invention, model, design, secret process or formula or similar property right, or information concerning industrial, commercial or scientific knowledge, experience or skill made available or provided to such enterprise;

(d) construction contracts executed outside Pakistan [3][:]

[4][(da) foreign commission due to an indenting commission agent;]

(e) other services rendered outside Pakistan as notified by the Board from time to time;

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[1]Section 154A inserted by Finance Act, 2021 dated June 30, 2021.
[2]Substituted for "in case tax credit under section 65F is not available" by Finance Act, 2022 dated June 30, 2022.
[3]Substituted for "; and" by Finance Act, 2022 dated June 30, 2022.
[4]S. 154A(1)(da) inserted by Finance Act, 2022 dated June 30, 2022.

S. 154A.- Export of services.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"(i) An exporter of IT & ITeS is charged to concessionary final tax rate of 0.25% on export proceeds realised if such exporter is registered with and duly certified by the Pakistan Software Export Board (PSEB). The exporters of IT & ITeS can avail above referred concessionary final tax rates after fulfilment of conditions listed in sub-section 2 of section 154A of the Ordinance. One such condition was filing of sales tax returns if required to be filed. In order to facilitate the exporters of IT & ITeS, through Finance Act, 2023, a new proviso has been inserted in subsection (2) of section 154A, whereby the aforesaid mandatory condition of filing of sales tax return if required, for the purpose of availing concessionary final tax regime under this section has been withdrawn. Needless to say that this relaxation is for availing reduced rate of 0.25% under section 154A of the Ordinance, and does not by itself absolve the exporter to file Sales Tax return under respective statutes if required to be filed.

(ii) Furthermore, in order to provide certainty of tax rates for exporters for IT & ITeS, an amendment has been made in Division IVA of Part III of First Schedule to the Ordinance through Finance Act, 2023 whereby the concessionary final tax rate of 0.25% will continue for tax years 2024, 2025 and 2026."

(2) The tax deductible under this section shall be a final tax on the income arising from the transactions referred to in this section, upon fulfilment of the following conditions–

(a) return has been filed

[1][(b) withholding tax statements for the relevant tax year have been filed if required under the Ordinance;]

(c) sales tax returns under Federal or Provincial laws have been filed, if required under the law [2][:]

[2][Provided that this condition shall not apply in case of an exporter mentioned in clause (a) of sub-section (1) of this section.]

(d) no credit for foreign taxes paid shall be allowed.

(3) The provisions of sub-section (2) shall not apply to a person who does not fulfill the specified conditions or who opts not to be subject to final taxation:

Provided that the option shall be exercised every year at the time of filing of return under section 114.

[3][ ]

(5) The Board in consultation with State Bank of Pakistan shall prescribe mode, manner and procedure of payment of tax under this section.

(6) The Board shall have power to include or exclude certain services for applicability of provisions of this section.]

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[1]S. 154A(2)(b) substituted by Finance Act, 2022 dated June 30, 2022.
[2]Semi-colon substituted and proviso inserted by Finance Act, 2023 dated June 26, 2023.
[3]S. 154A(4) deleted by Finance Act, 2022 dated June 30, 2022.

S. 154A(2)(b)-Substitution.- Before substitution by F. Act, 2022 it read as follows:-

(b) withholding tax statements for the relevant tax year have been filed; and

S.154A(4)-Omission.- Before omission by F. Act, 2022 it read as follows:-

"(4) Where a taxpayer, while explaining the nature and source of any amount, investment, money, valuable article, expenditure, referred to in section 111, takes into account any source of income which is subject to final tax in accordance with the provisions of this section, he shall not be entitled to take credit of a sum that can be reasonably attributed to the business activity or activities mentioned in sub-section (1)."

Export of services.- Following is an extract from FBR's Circular No. 02 of 2021 dated July 01, 2021:-

"In line with the policy of the Government to attract legal flow of remittances into the country and to promote export of services in all sectors of economy, a special regime at par with export of goods regime has been introduced through insertion of section 154A. The service providers would be subjected to 1% withholding tax under Division IVA of Part III of First Schedule on their export proceeds remitted in Pakistan through Banks and authorized dealers of foreign exchange. This would be final tax. The Board has also been empowered to include or exclude certain services from operation of this section. Moreover, the Board may prescribe rules for the purposes of this section."

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155. [1][**Rent of immovable**] **property.–** (1) [2][Every] prescribed person making a payment in full or part (including a payment by way of advance) to any person on account of rent of immovable property (including rent of furniture and fixtures, and amounts for services relating to such property) shall deduct tax from the gross amount of rent paid at the rate specified in Division V of Part III of the First Schedule.

[3][*Explanation*.- "gross amount of rent" includes the amount referred to in sub-section (1) or (3) of section 16, if any.]

[4][*Explanation*.- For removal of doubt, it is clarified that the sub section (1) shall apply when a payment is made on account of rent of immoveable property irrespective of head of income.]

[5][ ].

[6][(3) In this section, "prescribed person" means –

(i) the Federal Government;

(ii) a provincial Government;

(iii) a [7][Local Government];

(iv) a company;

(v) a non-profit organization [8][or a chairtable institution];

(vi) a diplomatic mission of a foreign state; [9][ ]

[1]Substituted for "Income from" by Finance Act, 2021 dated June 30, 2021.
[2]Substituted for "Subject to sub-section (2), every" by Finance Act, 2006 dated July 01, 2006.
[3]Explanation inserted by Finance Act, 2006 dated July 01, 2006.
[4]Explanation inserted by Finance Act, 2021 dated June 30, 2021.
[5]Sub-section (2) omitted by Finance Act, 2010 dated June 30, 2010. It was earlier substituted by Finance Act 2006.
[6]Sub-section (3) substituted by Finance Act, 2006 dated July 01, 2006.
[7]Substituted for "local authority" by Finance Act, 2008 dated June 27, 2008.
[8]Words inserted by Finance Act, 2013 dated June 29, 2013.
[9]Word "or" deleted by Finance Act, 2013 dated June 29, 2013.

S. 155(2)–omission-Before omission it read as follows:-

"(2) The tax deducted under sub-section (1) shall be a final tax on the income from property [1][ ]"

[1]Words and figure "subject to section 15" omitted by Finance Act, 2008 dated June 27, 2008.Earlier these words etc. were inserted by Finance Act, 2007 dated June 30, 2007.

Substitution of S.155(2) and (3).- Before substitution these read as follows:–

"(2) Sub-section (1) shall apply only where the annual rent exceeds [1][three] hundred thousand rupees.

(3) In this section, "prescribed person" means the Federal Government, a Provincial Government, local authority, a company, a non-profit organisation or a diplomatic mission of a foreign state."

[1]Substituted for "two" by Finance Act, 2004, w.e.f. July 1, 2004. Earlier "two" was substituted for "one" by Finance Act, 2003 dated June 17, 2003.

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[1][(via) a private educational institution, a boutique, a beauty parlour, a hospital, a clinic or a maternity home;]

(vib) individuals or association of persons paying gross rent of rupees one and a half million and above in a year; or]

(vii) any other person notified by the [2][Board] for the purpose of this section.]

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[1]Clauses (via) & (vib) inserted by Finance Act, 2013 dated June 29, 2013.
[2]Substituted for "Central Board of Revenue" by Finance Act, 2007 dated June 30, 2007.

S.155-Income from property.– Following is an extract from FBR's Circular No. 6 of 2013 dated July 19, 2013:-

The following changes have been made in section 155 through Finance Act, 2013:

(a) The scope of prescribed person for the purposes of Section 155 has been extended to include:

(i) a charitable institution,
(ii) a private educational institution,
(iii) a boutique,
(iv) a beauty parlour,
(v) a hospital,
(vi) a clinic,
(vii) a maternity home, or
(viii) individuals or association of persons paying gross rent of Rs.1.5 million and above in a year.

(b) The rate of deduction of income tax under section 155 has been revised as follows:

(i) The rate of tax to be deducted under section 155, in the case of individual and association of persons, shall be-

S.No.	Gross amount of rent	Rate of tax
(1)	(2)	(3)
1.	Where the gross amount of rent does not exceed Rs.150,000	Nil
2.	Where the gross amount of rent exceeds Rs.150,000 but does not exceed Rs.1,000,000	10% of the gross amount exceeding Rs.150,000
3.	Where the gross amount of rent exceeds Rs.1,000,000	Rs.85,000 + 15% of the gross amount exceeding Rs.1,000,000

(ii) The rate of tax to be deducted under section 155, in the case of company shall be 15% of the gross amount of rent."

S. 155(2)–No PTR where rent is less than Rs. 150,000.–Following is an extract from CBR's Circular No. 1 of 2007 dated July 2, 2007:-

"Under section 155, a prescribed person is required to deduct tax @ 5% at the time of making payment on account of rent of immoveable property, which is treated as final tax liability of the taxpayer. No threshold is prescribed for deduction of tax on such payments. On the other hand, section 15(7) envisages that no tax is chargeable in respect of income from property not exceeding Rs.150,000/-, in the case of an individual or AOP, who does not derive taxable income under any other head.

An amendment has been made in section 155(2) by inserting the words "subject to section 15" by virtue of which tax deducted in such cases will be refundable."

Following is an extract from 'Notes on Clauses of Finance Bill, 2006':–

"(a) Seeks to make an editorial change.

(b) Seeks to bring income from property into final tax regime.

(c) Seeks to enlarge the definition of "prescribed person."

Progressive Tax Rates.–Following is an extract from FBR's Circular No. 5 of 2008 dated July 05, 2008:-

"Gross rental income from property was chargeable to tax at a fixed rate of 5%, which, on the one hand had created hardship for small tax payers and on the other hand higher income bracket was taxed at a very low rate.

2.1 To remove this distortion and ensure universally accepted principle of progressive taxation of income, it has been subjected to progressive rates of tax i.e. 5%, 10% and 15%. No tax would, however, be deducted/paid on rent upto Rs.150,000/- per annum, in the case of individuals and AOPs having no other source of income.

2.2 Rental income, in the case of Individuals/Association of persons would be chargeable to tax under section 15 read with Division VI of Part I of the First Schedule and subjected to WHT under section 155 read with Division V, Part III of the First Schedule, as follows:-

S.No.	Gross amount of Rent	Rate of Tax
(1)	Where the gross amount of rent does not exceed Rs.150,000	Nil;
(2)	Where the gross amount of rent exceeds Rs.150,000 but does not exceed Rs. 400,000	5 per cent of the gross amount exceeding Rs. 150,000
(3)	Where the gross amount of rent exceeds Rs.400,000 but does not exceed Rs. 1,000,000	Rs. 12,500 plus 10 per cent of the gross amount exceeding Rs. 1,000,000
(4)	Where the gross amount of rent exceeds Rs.1,000,000	Rs. 72,500 plus 15 per cent of the gross amount exceeding Rs. 1,000,000

2.3 In case of company, the rental income would be chargeable to tax and liable to WHT (Section 15 read with Division VI of Part I and section 155 read with Division V of Part III of First Schedule – respectively) as per following Table:-

S.No.	Gross amount of Rent	Rate of Tax
(1)	Where the gross amount of rent does not exceed Rs.400,000	5 per cent of the gross amount of the rent.
(2)	Where the gross amount of rent exceeds Rs.400,000 but does not exceed Rs. 1,000,000	Rs. 20,000 plus 10 per cent of the gross amount of rent exceeding Rs. 400,000
(3)	Where the gross amount of rent exceeds Rs.1,000,000	Rs. 80,000 plus 15 per cent of the gross amount of rent exceeding Rs. 1,000,000."

Misc. Clarifications.–Following is an extract from CBR's Circular No. 3 of 2007 dated September 29, 2007:-

"Certain queries have been received by the Board regarding chargeability of tax in respect of rental income under section 15 and deduction of tax under section 155 of the Income Tax Ordinance, 2001. The same have been considered and are clarified as under:-

Issues Raised	**Board's Clarification**
i. Whether amount upto Rs.150,000/ per annum is exempt.	In the case of an individual or AOP, no tax is chargeable on rental receipts upto Rs.150,000/- provided the taxpayer **does not derive taxable income under any other head of income.** The term **"taxable income"** has been defined in section 9 of the Income Tax Ordinance, 2001.
ii. What treatment is to be given to self hiring cases.	Tax is to be deducted @ 5% as the taxpayer is receiving payment as owner of the property.
iii. Whether property income of Rs.150,000/ and Rs.150,000/- on account of pay and allowances (Total Rs.300,000/-) is exempt from tax deduction.	Salary income of Rs.150,000/- is taxable, however, it is chargeable to tax at 0% rate as per Division I of Part I of the First Schedule to the Income Tax Ordinance, 2001. Since the taxpayer is deriving taxable income from salary, therefore, in the instant case rental income of Rs.150,000/- is chargeable to tax @ 5%.

v. If the owner gives undertaking/ affidavit that he has no other source of income and rental income is his only source of income, should such certificate be accepted and no tax on income less then Rs.150,000/ be deducted.	Under section 155 of the Income Tax Ordinance, 2001, a prescribed person is required to deduct tax @ 5% at the time of making payment on account of rent of immoveable property. For deduction of tax no threshold has been given under the law and the payer is responsible to deduct tax from the rent paid of any amount. Further, as explained vide paragraph 24 of CBR's Circular No.1 of 2007 an amendment has been made in section 155(2) by virtue of which tax deducted in the case of an individual or AOP having no other taxable income is refundable on filing of the return of income. In such a case the taxpayer may file application for refund under section 170 of the Income Tax Ordinance, 2001.
v. Property income exceeding Rs.150,000/ plus business income Rs.125,000/- tax deducted is adjustable or final tax.	Income from property is chargeable to tax @ 5% as a separate block of income and tax paid/ withheld is the final tax.
vi. Property income is exceeding Rs.150,000/-, but there is no other source of income.	Income from property is assessable @ 5% of the gross amount of the rent as a separate block of income. No deduction against such income is allowed and on gross property income tax of 5% will be deductible if payment is made by the prescribed person.
vii. Property income not exceeding Rs.150,000/ plus business income Rs.125,000/-.	Income from property is chargeable to tax @ 5% of the gross amount of the rent as a separate block of income, whereas business income is chargeable to tax @ 1% for current tax year.
viii. Income from property rent not exceeding Rs.150,000/- and there is no other source of income.	No tax is payable on such income by the taxpayer for that tax year. Tax deducted on such income can be refunded as explained at S. No. iv above.
ix. What will happen to tax deducted u/s 155 by a prescribed person on income less than Rs.150,000. Whether it will be considered as final liability of the assessee.	Yes – If the person has taxable income (not exempt) from any other source. In case property income being the only source of income, such person can claim refund in respect of tax deducted on rental income.
x. Whether tax will be charged at 5% on entire income from property or on income exceeding Rs.150,000/-.	Tax @ 5% is payable on gross amount of rent without any deduction/exemption that means the entire income is chargeable to tax.
xi. 5% of the rent ceiling has been deducted by the department. The department has issued salary certificate that includes 45% of house rent allowance against the taxable income.	Withholding tax @ 5% is liable in respect of property income in the case of self hiring and otherwise. Taxability on account of accommodation is on notional basis, according to Rule-4 of the Income Tax Rules, 2002. Valuation of fair market value of accommodation provided by the employer may invariably be higher than 45% of the minimum of time scale. However, this measure has been adopted to simplify the valuation of accommodation.

2. It is further clarified that explanation given at the end of the example No.2 in CBR's Circular No.3 of 2006 dated July 11, 2006, regarding taxability of property income may be treated as withdrawn."

Commissioner's certificate for exemption or lower rate.– See section 159.

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Clarifications.– Following is the text of CBR's Letter No. C. No. 1(9)DTA-III/89, dated June 2, 2001, addressed to M/s. S.A. Salam & Co, CAs, explaining the corresponding provisions of Income Tax Ordinance, 1979:–

"I am directed to refer to your letter No. SG/30/457 dated 03.04.2001 on the above subject and to say that under section 50(7B) of the Income Tax Ordinance, 1979, "any person responsible for making any payment in full or in part (including a payment by way of an advance)…where the annual rent of such property exceeds 100000/- rupees, deduct advance tax, at the time of making such payment, at the rates specified…,".

2. In view of the above provision of the income tax law, withholding tax under section 50(7B) is deductible in the cases where annual rent of a property exceeds Rs. 100000/-. In the case mentioned by you, an advance rent for five years, amounting to Rs. 400000/- has been received. Withholding tax is not liable to be deducted under the aforesaid section of the Income Tax Ordinance, 1979, from this payment as annual rent of the property does not exceed rupees one lac (Rs. 100000/-) per annum."

Exemption for certain assessees.– See clause (47) of Part IV of Second Schedule.

Liability of NGOs, hospitals and private educational institutions to withhold tax from rents paid by them.– Following is an extract from CBR's Circular No. 08 of 1999 dated July 27, 1999, explaining the corresponding provisions of Income Tax Ordinance, 1979:–

"An amendment has been made in sub-section (7B) of section 50 with the result that now all non-government charitable institutions, private hospitals, maternity homes, clinics and private educational institutions are required to withhold tax from rent paid to any person, in respect of buildings hired by them, where the annual rent exceeds Rs. 100,000/-." [**ref:** *99 ITC 9 p. 9*]

Miscellaneous Clarifications.– Following is the text of CBR's Circular No. 14 of 1999 dated August 25, 1999, explaining the corresponding provisions of Income Tax Ordinance, 1979:–

"Under sub-section (7B) of section 50 of Income Tax Ordinance, 1979, tax was, previously, to be deducted from the payments (including a payment by way of an advance) on account of rent of house property (including rent of furniture, fixtures and services) made on behalf of the Government, a local authority, a company or the diplomatic mission of a foreign state, where annual rent exceeds one hundred thousand rupees.

2. By virtue of the amendment made in sub-section (7B) of section 50, through the Finance Act, 1999, all Non-Government Organisations (NGOs), educational institutions, hospitals, clinics, and maternity homes are now required to withhold tax @ 7.5% from the rent paid by them, in respect of any premises rented by them, where such rent exceeds Rs. 100,000 per annum. The tax so withheld is to be deposited by them in State Bank of Pakistan or National Bank of Pakistan on prescribed challan form (I.T. 31(Rev) giving, among others, the particulars of the person to whom rent has been paid.

3. The person responsible for deducting withholding tax under sub-section (7B) of section 50 are obliged to file prescribed annual statement under Rule 61C of the Income Tax Rules, 1982, by the first day of September every year."

Following is an extract from Circular No. 9 of 1989 dated July 26, 1989, explaining the corresponding provisions of Income Tax Ordinance, 1979:–

"A new sub-section (7B) has been inserted in section 50 whereby tax is required to be deducted from rent (including payment by way of an advance) of house property (including rent of furniture and fixture, if any) paid by or on behalf of Government, a local authority, a company or the diplomatic mission of a foreign state,where the annual rent of such property exceeds Rs. 1,00,000/-. Tax is to be deducted @ 5% of such rental income with effect from 1st July, 1989 and such deduction would be adjustable against advance tax payments under section 53 and/or the regular tax demand."

Following is an extract from CBR's Circular No. 6 of 1994 dated July 10, 1994, explaining the corresponding provisions of Income Tax Ordinance, 1979:–

"Tax under sub-section (7B) was being withheld only in respect of the rent from house property (inclusive of furniture and fixture). It has been observed that, at times, in order to avoid tax, separate agreements are entered with the tenants regarding services associated with the rented properties. Sub-section (7B) of section 50 has, therefore, been amended to extend withholding tax to these rental receipts also." [**Ref:***94 ITC 5 p. 5*]

Following is an extract from CBR's Circular No. 10 of 1996 dated 16th July, 1996, explaining the corresponding provisions of Income Tax Ordinance, 1979:–

"The rate of deduction of tax on payments on account of rent of house property exceeding Rs.100,000 has been raised to from 5% to 7.5% through an amendment in the First Schedule to the Ordinance. The deduction at the new rate shall be made w.e.f. 1st July, 1996." [**Ref:***96 ITC 10 p. 25*]

Exemption to recipients.– Notification No. SRO 1130(I)/91 dated November 7, 1991 was issued under the provisions of Income Tax Ordinance, 1979 though there is no corresponding provision in the Income Tax Ordinance, 2001, but it is saved and continued by section 239(12) unless specifically rescinded. Text of the Notification is as follows:–

"In exercise of the powers conferred by clause (ii) of the proviso to sub-section (7B) of section 50 of the Income Tax Ordinance, 1979 (XXXI of 1979), the Central Board of Revenue is pleased to specify the following to be the recipients or classes of recipients to whom the said sub-section, shall not apply, namely:–

(i) any person who produces a certificate from the Inspecting Assistant Commissioner of Income Tax to the effect that the recipient's income during the income year is exempt from tax, under the Ordinance or any other law *or the time being in force; and

(ii) any person who produces a certificate from the Inspecting Assistant Commissioner of Income Tax to the effect that the recipient's income during the income year is not likely to exceed the minimum amount not chargeable to tax under the Ordinance."

*The apparently intended word is "for".

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Whether withholding tax is attracted on credit card issued by Non-banking companies like Diners Club?	Withholding tax is not attracted.
Account closing through clearing referred in Circular No. 1. Whether clearing is cash withdrawal?	The clearing transaction referred to in Circular No.1 of 2005 has been used with reference to clearance of the account and not with reference to clearing transactions normally understood in banking terminology. Transactions through "clearing house" are not cash withdrawals and therefore withholding tax is not attracted. Whenever there is a cash withdrawal of full amount or amount of withdrawal and tax involved exceed the balance, then either the bank should refuse payment on account of "withdrawal amount exceeds the balance" or make payment to the person presenting the instrument after setting aside the amount of tax involved.
Whether withholding tax is attracted on cash withdrawals by banks from accounts maintained with sub-treasury for their day-to-day cash requirements?	Withholding tax is not attracted.
Whether withholding tax is attracted on withdrawal from ATMs for meeting day-to-day requirements?	Generally, the withdrawal limit per day is below Rs. 25,000 and therefore, withdrawals for day-to-day requirements by default do not attract withholding tax. However, in case cash withdrawal per transaction exceeds Rs.25,000, withholding tax would be attracted.
Would the banks be required to maintain detailed records in this regard? What shall be the time frame for deposit of tax by the banks into the Government Treasury? Can an account holder demand a certificate of tax deduction from the bank at any time during the year?	In order to allow credit of tax deducted under section 231A to the person from whom it is deducted, it is necessary that such tax is deposited in the Government Treasury in his/her/its name with related particulars. For the reasons stated above and to ensure verification of taxes paid and processing of refund claims, the new automated tax payment system introduced w.e.f. 1st July, 2005 does not accept any tax payment without the NTN or CNIC of the withholding agent as well as of the person from whom the tax has been deducted/ collected. The revised withholding tax rules already notified vide SRO 641(I)/2005 dated 27th June, 2005 require payment of all taxes collected/ deducted within seven days from the end of each fortnight. The revised withholding tax rules also provide for an annual certificate of all taxes deducted/ collected. However, a person can demand for a certificate covering a specific period."

[1][ ]

[1]Section 231AA deleted by Finance Act, 2021 dated June 30, 2021. Earlier it was inserted by Finance Act, 2010 dated June 30, 2010.

S. 231AA-Omission.– Before omission by F. Act, 2021, it read as follows:–

"**231AA. Advance tax on transactions in bank**.- (1) Every banking company, non-banking financial institution, exchange company or any authorized dealer of foreign exchange shall collect advance tax at the time of sale against cash or any instrument, including Demand Draft, Pay Order, CDR, STDR, SDR, RTC, or any other instrument of bearer nature or on receipt of cash on cancellation of any of these instruments [1][.]

[2][ ]

(2) Every banking company, non-banking financial institution, exchange company or any authorized dealer of foreign exchange shall collect advance tax at the time of transfer of any sum against cash through online transfer, telegraphic transfer, mail transfer or any other mode of electronic transfer

(3) The advance under this section shall be collected at the rate specified in Division VIA of Part IV of the First Schedule, where the sum total of payments for transactions mentioned in sub-section (1) or sub-section (2) as the case may be, exceed twenty-five thousand rupees in a day.

[3][ ]]"

[1]Substituted for full stop by Finance Act, 2015 dated June 30, 2015.

[2]Proviso deleted by Finance Act, 2015 dated June 30, 2015.

[3]Sub-section (4) deleted by Finance Act, 2015 dated June 30, 2015.

S. 231AA(1)Pro-Omission.– Before omission by F. Act, 2015, it read as follows:–

"Provided that this sub-section shall not be applicable in case of inter-bank or intra- bank transfer and also where payment is made through a crossed cheque for purchase of a financial instrument as referred to in sub-section (1)."

S. 231AA(4)-Omission.– Before omission by F. Act, 2015, it read as follows:–

"(4) Advance tax under this section shall not be collected in the case of transactions made by,-

(a) the Federal Government or a Provincial Government;

(b) a foreign diplomat or a diplomatic mission in Pakistan; or

(c) a person who produces a certificate from the Commissioner that his income during the tax year is exempt."

[1][**231AB. Advance tax on cash withdrawal**.- (1) Every banking company shall deduct advance adjustable tax at the rate of 0.6% of the cash withdrawal from a person whose name is not appearing in the active taxpayers' list on the sum total of the payments for cash withdrawal in a day, exceeding fifty thousand rupees.]

Explanation.– For removal of doubt, it is clarified that the said fifty thousand rupees shall be aggregate cash withdrawals in a single day.]

[2][**231B. Advance tax on** [3][ ] **motor vehicles.**- (1) Every motor vehicle registering authority of Excise and Taxation Department shall collect advance tax at the time of registration of a motor vehicle, at the rates specified in Division VII of Part IV of the First Schedule [4][:]

[5][Provided that no collection of advance tax under this sub-section shall be made after five years from the date of first registration as specified in clauses (a), (b) and (c) of sub-section (6).]

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[1]Section 231AB inserted by Finance Act, 2023 dated June 26, 2023.
[2]S. 231B substituted by Finance Act, 2014 dated June 26, 2014. Earlier it was substituted by Finance Act, 2009 dated June 30, 2009 & was substituted by Finance Act, 2008 dated June 27, 2008. It was inserted by F.A. 2007.
[3]Word "private" deleted by Finance Act, 2022 dated June 30, 2022.
[4]Substituted for full stop by Finance Act, 2016 dated June 24, 2016.
[5]Inserted by Finance Act, 2016 dated June 24, 2016.

S. 231AB.- Advance tax on cash withdrawal from bank.- Following is an extract from Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"The Finance Act, 2023 has reintroduced tax collection on cash withdrawals from Non-ATL persons by Banks. A new section 231AB has been introduced, requiring every banking company to deduct advance adjustable tax @ 0.6% from a person whose name is not appearing in Active Taxpayer List, at the time of making payment for sum total of cash withdrawal (aggregate cash withdrawal) in a single day exceeding Rs.50,000/-. Cash withdrawals made on credit cards or from ATMs shall also be covered by this provision.

Illustration: If aggregate of cash amount withdrawn in a single day exceeds Rs.50,000, the tax is required to be deducted on the entire amount of cash withdrawn as illustrated below:

Amount of Cash Withdrawal in a single day	Tax to be withheld @
Rs.50,000	Nit
Rs. 50,500	Rs. 303
Rs. 55,000	Rs.330
Rs. 75,000	Rs. 450

The withholding tax on cash withdrawal is an adjustable tax against tax liability of the person for a tax year. The tax shall not be deducted in the case of withdrawals made by-

(a) the Federal Government or a Provincial Government;
(b) a foreign diplomat or a diplomatic mission in Pakistan; or
(c) a person who produces a certificate from the Commissioner that his income during the tax year is exempt."

[1][(1A) Every leasing company or a scheduled bank or a non-banking financial institution or an investment bank or a modaraba or a development finance institution, whether shariah compliant or under conventional mode, at the time of leasing of a motor vehicle to a [2][person whose name is not appearing in the active taxpayers' list], either through ijara or otherwise, shall collect advance tax at the rate of four per cent of the value of the motor vehicle.]

(2) Every motor vehicle registering authority of Excise and Taxation Department shall collect advance tax at the time of transfer of registration or ownership of a [3][ ] motor vehicle, at the rates specified in Division VII of Part IV of the First Schedule.

Provided that no collection of advance tax under this sub-section shall be made on transfer of vehicles after five years from the date of first registration in Pakistan.

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[1]Sub-section (1A) substituted by Finance Act, 2017 dated June 20, 2017. Earlier it was inserted by Finance Act, 2016 dated June 24, 2016.
[2]Substituted for "non-filer" by Finance Act, 2019 dated June 30, 2019.
[3]Word "private" deleted by Finance Act, 2022 dated June 30, 2022.

S. 231B(1A)-Substitution-Before substitution by F.A. 2017 it read as follows:-

"(1A) Every leasing company or a scheduled bank or an investment bank or a development finance institution or a modaraba shall, at the time of leasing of a motor vehicle to a non-filer, collect advance tax at the rate of three per cent of the value of the motor vehicle."

S. 231B-Substitution-Before substitution by F.A. 2014 it read as follows:-

"**231B. Advance tax on private motor vehicles.**- Every motor vehicle registering authority of Excise and Taxation Department shall collect advance tax at the time of registration of a new locally manufactured motor vehicle, at the rates specified in Division VII of Part IV of the First Schedule:

S. 231B-Substitution-Before substitution by F.A. 2009 it read as follows:-

"**231B. Purchase of motor cars and jeeps.**-Every person shall pay, at the time of registration of a new motor car or a jeep, advance tax at the rates specified in Division VII of Part IV of the First Schedule:

Provided that the provisions of this section shall not be applicable in the case of –

(i) the Federal Government;
(ii) the Provincial Government;
(iii) a foreign diplomat; or
(iv) a diplomatic mission in Pakistan."

Substitution.-Before substitution by Finance Act, 2008 it read as follows:-

"231B. Purchase of motor cars,–(1) Every manufacturer or authorized dealer of motor cars shall at the time of sale of a motor car, collect advance tax at the rate specified in Division VIII of Part IV, of the First Schedule.

(2) Advance tax under this section shall not be collected in the case of purchase made by–

(i) the Federal Government or a Provincial Government; or
(ii) a foreign diplomat or diplomatic mission in Pakistan."

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S. 231B.- Advance Tax on Motor Vehicle.- Following is an extract from Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"Previously, fixed amount of withholding tax was required to be collected by the withholding agent under section 231B of the Ordinance at the time of purchase or registration of motor vehicle having engine capacity of 2001 cc and above. Through Finance Act, 2023, this fixed amount of tax on motor vehicle having engine capacity of 2001cc and above has been replaced with collection of tax at the rate of 6%, 8% and 10% of the value of motor vehicle having engine capacity of 2001cc to 2500cc, 2501cc to 3000cc and above 3000cc respectively. The aforementioned rates will apply for persons on ATL. In case of non-ATL persons, the rates will be increased by two hundred percent i.e. 18%, 24% and 30% respectively in terms of second proviso to rule 1 of Tenth Schedule to the Ordinance.

The value of the motor vehicle having engine capacity of 2001cc and above for the purpose of collection of withholding tax is provided in the following manner:

(i) Imported vehicle: The import value assessed by the Customs authorities as increased by customs duty, federal excise duty and sales tax payable at import stage.

(ii) Vehicle manufactured or assembled locally in Pakistan: The invoice value inclusive of all duties and taxes.

(iii) Auctioned Vehicle: the auction value inclusive of all duties and taxes.

It has been further provided that where engine capacity is not applicable and the value of vehicle is Rupees five million or more, the rate of tax collectible will be 3Yo of the import value as increased by customs duty, sales tax and federal excise duty in case of imported vehicles or invoice value in case of locally manufactured or assembled vehicles."

Collection of advance tax on private motor vehicles.-Following is an extract from FBR's Circular No. 03 of 2009 dated July 17, 2009:-

"Section 231B has been substituted to provided that every motor registering authority shall collect advance tax at the time of registration of a new locally manufactured motor vehicle, at the rate specified in Division-VII of Part-IV of the First Schedule. Previously the authority for collection of this tax was not specified which had created problems for field formations in enforcement of this provision. Further, the Local Government has also been included in the list of person to whom the provision of this section shall not apply."

Treatment of Withholding Tax vehicles.–Following is an extract from FBR's Circular No. 5 of 2008 dated July 05, 2008:-

"31.3 Previously, every manufacturer or authorized dealer of Motor cars was required under section 231B to collect advance tax @ 2.5% of the value of the vehicle.

The manufacturer used to collect such tax at the time of booking of a car whereas delivery of the vehicle was normally made after a period of 3 to 6 months. In order to facilitate the taxpayers (buyers of vehicles) now such tax shall be paid by the owner at the time of registration of car or jeep by the Motor Vehicle Registration Authority.

31.4 Advance tax to be paid under section 231B at the time of registration of a new motor car or jeep by the owner would be as under:-

Engine Capacity	Amount of Tax
upto 850cc	Rs. 7,500
851cc to 1000cc	Rs. 10,500
1001cc to 1300cc	Rs. 16,875
1301cc to 1600cc	Rs. 16,875
1601cc to 1800cc	Rs. 22,500
1801cc to 2000cc	Rs. 16,875
above 2000cc	Rs. 50,000"

31.5 The provisions of section 231B, shall, however, not be applicable in the case of–

(i) the Federal Government or the Provincial Governments; and

(ii) a foreign diplomat or a diplomatic mission in Pakistan."

WHT on local manufactured cars.–Following is an extract from 'Notes on Clauses of Finance Bill 2007':-

"Seeks to levy adjustable WHT on purchase of motor car."

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[1][(2A) Every motor vehicle registration authority of Excise and Taxation Department shall, at the time of registration, collect tax at the rates specified in Division VII of Part IV of the First Schedule, if the locally manufactured motor vehicle has been sold prior to registration by the person who originally purchased it from the local manufacturer.]

(3) Every manufacturer of a motor car or jeep shall collect, at the time of sale of a motor [2][vehicle], advance tax at the rate specified in Division VII of Part IV of the First Schedule from the person to whom such sale is made.

(4) Sub-section (1) shall not apply if a person produces evidence that tax under sub-section (3) in case of a locally manufactured vehicle or tax under section 148 in the case of imported vehicle was collected from the same person in respect of the same vehicle.

(5) The advance tax collected under this section shall be adjustable:

Provided that the provisions of this section shall not be applicable in the case of–

(a) the Federal Government;

(b) a Provincial Government;

(c) a Local Government;

(d) a foreign diplomat; or

(e) a diplomatic mission in Pakistan.]

[3][(6) For the purposes of this section the expression "date of first registration" means-

[1]Inserted by Finance Act, 2021 dated June 30, 2021. Earlier sub-section (2A) was inserted by Tax Laws (Amendment) Ordinance, 2021 dated February 12, 2021.
[2]Substituted for "car or jeep" by Finance Act, 2015 dated June 30, 2015.
[3]Sub-sections (6) & (7) inserted by Finance Act, 2015 dated June 30, 2015.

Following is an extract from CBR's Circular No. 1 of 2007 dated July 2, 2007:-

"A new section 231B has been inserted envisaging that every manufacturer or its authorized dealer of cars is obliged to collect advance tax @ 2.5% (as amended by clause (9A) of Part II) of the value of car after 31.08.2007 at the time of sale, irrespective of the date of booking or advance payment made by the purchaser. The tax so collected is adjustable and the taxpayers are entitled to claim credit of the same while filing return of income for the relevant tax year."

S. 231B(2A)–Substitution.– Before substitution by Finance Act, 2021, read as follows:–

"(2A) Every motor vehicle registering authority of Excise and Taxation Department shall collect advance tax from the buyers of locally manufactured motor vehicles who subsequently sell it within ninety days of delivery of such vehicle whether prior to or after registration, at the rates specified in Division VII of Part IV of the First Schedule:

Provided that no collection of advance tax under this sub-section shall be made after the 30th day of June, 2021."

S. 231B(2A)-Enhancement of Advance Tax on Vehicle Registration.-Following is an extract from FBR's Circular No. 12 of 2022 dated January 12, 2022:-

"Advance tax on vehicle registration under section 231B(2A) of the Ordinance has been increased for the persons who register such motor vehicles which have been sold prior to their first registration. The purpose is to discourage huge "on money" on such vehicles which are booked by investors as a result of which the vehicles remain unavailable to the genuine buyers."

(a) the date of issuance of broad arrow number in case a vehicle is acquired from the Armed Forces of Pakistan;

(b) the date of registration by the Ministry of Foreign Affairs in case the vehicle is acquired from a foreign diplomat or a diplomatic mission in Pakistan;

(c) the last day of the year of manufacture in case of acquisition of an unregistered vehicle from the Federal or a Provincial Government; and

(d) in all other cases the date of first registration by the Excise and Taxation Department.]

[2][(7) For the purpose of this section, motor vehicle includes car, caravan automobiles, jeep, limousine, pickup, sports utility vehicle, trucks, vans, wagon and any other automobile excluding–

(i) a motor vehicle used for public transportation, carriage of goods and agriculture machinery;

(ii) a rickshaw or a motorcycle rickshaw and

(iii) any other motor vehicle having engine capacity upto 200cc.]

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[1]Sub-section (6) inserted by Finance Act, 2015 dated June 30, 2015.
[2]Sub-section (7) substituted by Finance Act, 2022 dated June 30, 2022. Earlier it was inserted by Finance Act, 2015 dated June 30, 2015 & Explanation inserted by Finance Act, 2020 dated June 30, 2020.

S. 231B(7)–Substitution.– Before substitution by F. Act, 2022, read as follows:–

"(7) For the purpose of this section "motor vehicle" includes car, jeep, van, sports utility vehicle, pick-up trucks for private use, caravan automobile, limousine, wagon and any other automobile used for private purpose."

"*Explanation*.- For the removal of doubt, it is clarified that a motor vehicle does not include a rickshaw, motorcycle-rickshaw and any other motor vehicle having engine capacity upto 200cc."

S. 231B-Advance Tax on Motor Vehicles.-Following is an extract from FBR's Circular No. 15 of 2022, dated 21 July, 2022, explaining the amendment:-

"(i) Provision of section 231B was limited to private motor vehicles. The scope of withholding tax has now been enhanced though omission of the word 'private' from the heading and elsewhere in the section. Further, an inclusive definition of motor vehicle has been provided in the substituted sub-section (7) of section 231B with following exclusions:

(i) a motor vehicle used for public transportation, carriage of goods and agriculture machinery;

(ii) a rickshaw or a motorcycle rickshaw and

(iii) any other motor vehicle having engine capacity upto 2 00cc.

Except motor vehicles mentioned at i, ii and iii above, provision of section 231B will apply on motor vehicles of all makes and models irrespective of its private or commercial use by the end users.

(ii) The withholding tax amount required to be collected at the time of purchase or registration of motor vehicle has been enhanced with engine capacity of 1601cc and above. In cases of electric vehicles where engine capacity of a vehicle is not available and value of vehicle is rupees five million or more, the amount of tax collected will be 3% of import value as increased by customs duty, sales tax and federal excise duty in case of imported vehicles or invoice value in case of locally manufactured or assembled vehicles.

[1][**231C. Advance tax on foreign domestic workers**.– (1) Any authority issuing or renewing domestic aide visa to any foreign national as a domestic worker at the time of issuing or renewing such visa shall collect from the agency, sponsor or the person as the case may be, employing the services of such foreign national a tax of two hundred thousand rupees.

(2) The tax collected or collectible under this section shall be adjustable advance tax for the tax year to which it relates on the income of such agency, sponsor or a person, as the case may be, employing the services of such foreign national.]

[2][ ]

[1]S. 231C inserted by Finance Act, 2023 dated June 26, 2023.
[2]S. 232 omitted by F.O. 2002 dated June 15, 2002.

(iii) Rates of tax required to be collected at the time of transfer of registration or ownership of a motor vehicles have been provided in clause (2) in the Table in Division VII of Part IV of First Schedule of the Ordinance. A new proviso has been inserted whereby a vehicle in which engine capacity is not applicable (electric vehicles) and the value of said vehicle is rupees five million or more, then tax amount of rupees twenty thousand will be collected at the time of transfer of registration or ownership of such vehicle.

(iv) In case of a person not appearing in active taxpayer list, tax collectible under this section will increase by two hundred percent. Necessary change has been incorporated in rule 1 of Tenth Schedule of the Ordinance."

S. 232–Transfer of funds, omission.– Section 232 before omission by Finance Ordinance, 2002, read as follows:–

"232. Transfer of funds.– (1) Advance tax at the rate specified in Part-IV of the First Schedule shall be collected by a person–

(a) clearing an outstation cheque of an amount excluding twenty-five thousand rupees;

(b) issuing a demand draft, pay order, special deposit receipts, cash deposit receipt or rupee traveller's cheque; and

(c) effecting a telegraphic or electronic transfer of funds, from the drawer of such cheque, draft, pay order, receipt or person ordering transfer of funds.

(2) Advance tax under sub-section (1) shall not be collected in the case of payments made by–

(a) Federal Government, Provincial Governments, statutory bodies and universities;
(b) a non-profit organization within the meaning of clause (37) of section 2;
(c) an industrial undertaking or institution exempt from tax under the Second Schedule;
(d) a public company whose shares are traded on a registered stock exchange in Pakistan;
(e) a foreign diplomat or a foreign diplomatic mission in Pakistan;
(f) a branch or office of a company to another branch or office of such company;
(g) a person who holds National Tax Number and furnishes a statement to that bank in the prescribed **from and manner."

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[1][**233. Brokerage and Commission.–** (1) Where any payment on account of brokerage or commission is made by the Federal Government, a Provincial Government, a [2][Local Government], a company or an [3][association of person or individual having turnover of hundred million rupees or more] (hereinafter called the "principal") to a [4][ ] person (hereinafter called the "agent"), the principal shall deduct advance tax at the rate specified in [5][Division II of] Part IV of the First Schedule from such payment.

(2) If the agent retains Commission or brokerage from any amount remitted by him to the principal, he shall be deemed to have been paid the commission or brokerage by the principal and the principal shall collect advance tax from the agent.

[1]Section 233 substituted by Finance Act, 2005 dated June 29, 2005.
[2]Substituted for "local authority" by Finance Act, 2008 dated June 27, 2008.
[3]Substituted for "association of persons constituted by, or under any law" by Finance Act, 2021 dated June 30, 2021.
[4]Word "resident" omitted by Finance Act, 2006 dated July 01, 2006.
[5]Inserted by Finance Act, 2010 dated June 30, 2010.

S. 233-Substitution.- Before substitution by Finance Act, 2005, read as follows:–

"**233. Brokerage and Commission.–** (1) Where any payment on account of brokerage or commission is made by the Federal Government, a Provincial Government, a local authority, a company or an association of persons [1][constituted by, or under, any law] (hereinafter called the "principal") to any person [2][other than travel agents and insurance agents] (hereinafter called the "agent"), the principal shall deduct advance tax at the rate specified in Part IV of the First Schedule from such payment.

(2) If the agent retains commission or brokerage from any amount remitted by him to the principal, he shall be deemed to have been paid the commission or brokerage by the principal and the principal shall collect advance tax from the agent.

[3][(3) Where any payment on account of brokerage or commission is made by the principal to a travel agent or an insurance agent, the principal shall deduct advance tax at the rate specified in Part IV of the First Schedule from such payment.

(4) Where any tax is collected from a person under sub-section (1) or sub-section (3), the tax so collected shall be the final tax on the income of such persons*.]

*should have been "person".
[1]Words and commas inserted by Finance Act, 2003, dated June 17, 2003.
[2]Words inserted by Finance Act, 2004, w.e.f. July 1, 2004. The insertion is stated in the Act to be made after the word "persons", this appears to be a typing error as the insertion is apparently intended after the word "person".
[3]Sub-sections (3) & (4) inserted by Finance Act, 2004, w.e.f. July 1, 2004.

Individual and AOPs as withholding agent for commission income.- Following is an extract from FBR's Circular No. 02 of 2021 dated July 01, 2021:-

"Under the other provisions of the Ordinance individuals and AOPs having turnover of 100 million or more are withholding agents. However, this provision was not provided for commission agents. Necessary amendments have been made in section 233 of the Income Tax Ordinance, 2001."

Tax deducted on aforesaid commission is the final discharge of tax liability.

In order to bring clarity in law and to provide uniformity in tax rate, withholding tax rate on commission including indenting commission and yarn dealers commission has been made uniform @ 10%. Advertising agents will, however, be liable @ 5% under clause (26), Part II of Second Schedule. Furthermore, previously, the final tax regime was applicable to commission/brokerage received by resident agents only. In order to remove the anomaly, the law has been suitably amended to provide similar treatment to non-residents also."

[1][(2A) Notwithstanding the provisions of sub-section (1), where the principal is making payment on account of commission to an advertising agent, directly or through electronic or print media, the principal shall deduct tax (in addition to tax required to be deducted under clause (b) of sub-section (1) of section 153 on advertising services excluding commission), at the rate specified in Division II of Part IV of the First Schedule on the amount equal to-

$$\frac{A \times 15}{85}$$

Where A = amount paid or to be paid to electronic or print media for advertising services (excluding commission) on which tax is deductible under clause (b) of sub-section (I) of section 153.

(2B) Tax deducted under sub-section (2A) shall be [2][minimum] tax on the income of the advertising agent.]

(3) Where any tax is [3][required to be] collected from a person under sub-section (1), [4][such tax] shall be the [2][minimum] tax on the income of such persons.]

[5][***Explanation***.– For the removal of doubt, it is explained that the income of person referred to in sub-sections (2B) and (3) means the amount on which tax is deductible under sub-sections (1) or (2A) of this section.]

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[1]Sub-sections (2A) & (2B) inserted by Finance Act, 2017 dated June 20, 2017.
[2]Substituted for "final" by Finance Act, 2019 dated June 30, 2019.
[3]Words inserted by Finance Act, 2012 dated June 26, 2012.
[4]Substituted for "the tax so collected" by Finance Act, 2012 dated June 26, 2012.
[5]Explanation inserted by Finance (Supplementary) Act, 2022 dated January 15, 2022.

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Withholding tax on commission and brokerage.–Following is an extract from 'Notes on Clauses of Finance Act, 2006':–

"Seeks to extend the scope of final tax regime in case of brokerage and commission to include non-residents."

Following is an extract from CBR's Circular letter No. C.No.1(6)WHT/2006, dated June 27, 2006:–

"Brokerage or commission was subject to withholding tax as below:–

- In the case of indenting commission agents, advertising agents and yarn dealers. 5% of the amount of the payment
- In the case of others 10%

Tax deducted on aforesaid commission was the final discharge of tax liability.

Withholding tax rate of commission including indenting commission and yarn dealers commission has been made uniform @ 10%. Advertising agents will, however, be liable @ 5% under clause (26) of Part II of Second Schedule. Under the previous law, final tax regime is applicable to commission/brokerage received by resident agents only. The law has been amended to provide similar treatment to non-residents also."

Following is an extract from CBR's Circular No. 1 of 2006 dated July 1, 2006:–

"Brokerage or commission was subject to withholding tax as below:-

- In the case of indenting commission agents, advertising agents and yarn dealers. 5% of the amount of the payment
- In the case of others 10%

S. 233–Substitution.– Following is an extract from 'Notes on Clauses of Finance Bill 2005':-

"Seeks to restructure the existing legal provision in respect of withholding tax on brokerage and commission in order to make it simple to understand."

Following is an extract from CBR's Circular No. 1 of 2005, dated July 5, 2005:-

"Under section 233 of the Income Tax Ordinance 2001, brokerage and commission paid to any person is subject to withholding tax at the rates specified in the First Schedule.

Section 233 needed simplification/re-writing since insertion of some inclusions for the purpose of application of reduced rate in the past had made it complicated to some extent. The needful has been done without bringing any change in the effect."

Following is an extract from CBR's Circular No. 17 of 2004 dated July 17, 2004:–

"Under section 233, income from brokerage and commission was liable to deduction of withholding tax at the rate of 5% which was adjustable against final tax liability. The said section has been amended to make the deduction on commission income as final discharge of tax liability as per following rates:–

(a) The rate of collection of tax under sub-section (1) of section 233 in respect of indenting commission agents, advertising agents and yarn dealers shall be 5% of the amount of payment.

(b) The rate of collection of tax under sub-section (1) of section 233 in respect of other commission income other than (a) above, shall be 10% of the amount of payment.

(c) The rate of collection of tax under sub-section (3) of section 233 shall be10% of the amount of payment.

A separate circular No.07 of 2004 dated July 1, 2004, explaining the amendments in the said section has been issued."

Following is an extract from 'Notes on Clauses of Finance Bill, 2004':–

"Seeks to provide for rate of withholding tax at 10% on commission income of travel agents and insurance agents, as final discharge of their tax liability. It also seeks to treat the withholding tax deducted at the rate of 5% on commission income in the case indenting commission agent, yarn dealers, and advertising agents as final discharge of tax liability."

Following is the text of CBR's Circular No. 7 of 2004 dated July 1, 2004:–

"As per existing provisions, income from commission and brokerage was liable to withholding tax @ 5% of the commission/brokerage income. The said tax was adjustable against final tax liability. Section 233 has been amended through Finance Act, 2004, whereby commission income of indenting commission agents, advertising agents and yarn dealers would continue to be subjected to deduction of withholding tax @ 5% of the gross commission/brokerage. Such deduction would be a final tax in respect of commission income of these categories for tax year 2005 and onward.

[*] apparently intended word should have been "exceeding".

[**] apparently intended word should have been "form"

2. Moreover, the rate of withholding tax on travel agents, insurance agents and any other commission, would be 10% of the commission income with effect from July 1st, 2004. This would also constitute final discharge of tax liability for these categories for tax year 2005 and onward. Corresponding amendments in section 115, section 169 and section 233 of the Income Tax Ordinance, 2001 have accordingly been made.

3. It is further clarified that the withholding tax under sub-section (2) of section 154 of the Income Tax Ordinance, 2001, relating to export indenting commission agents shall also be the final tax."

Following is the text of CBR's Circular No. 10 of 2002, dated July 19, 2002:–

"Section 233 of the Income Tax Ordinance, 2001 provides that in the case of any payment on account of brokerage or commission, made by the Federal Government, a Provincial Government, a local authority, a company or an association of persons constituted by or under, law, as principal to any person/agent advance tax shall be deducted by the principal from the said payment at the specified rates.

2. It is clarified for the information of all concerned that rates of withholding tax on brokerage and commission has been reduced from 10% to 5% w.e.f. 1st July, 2002. Besides, it is adjustable against final tax liability of the taxpayer.

3. All withholding agents are, therefore, advised to deduct tax, while realizing the payment on account of commission @ 5% w.e.f. 1st July, 2002."

[1][ ]

[1]Section 236B deleted by Finance Act, 2021 dated June 30, 2021. Earlier it was inserted by Finance Act, 2010 dated June 30, 2010.

S. 236B-Omission.- Before omission by F. Act, 2021, it read as follows:-

"236B. Advance tax on purchases of air ticket.- (1) There shall be collected advance tax at the rate specified in Division IX of Part IV of the First Schedule, on the purchase of gross amount of domestic air ticket [1][:]

[2][Provided that this section shall not apply to routes of Baluchistan coastal belt, Azad Jammu and Kashmir, Federally Administered Tribal Areas, Gilgit-Baltistan and Chitral.]

(2) The [3][airline issuing] air ticket shall charge advance tax under sub-section (1) in the manner air ticket charges are charged.]

[4][(2A) The mode, manner and time of collection shall be as may be prescribed.]

[5][(3) The advance tax collected under sub-section (1) shall be adjustable.]

[6][ ]"

[1]Substituted for full stop by Finance Act, 2015 dated June 30, 2015.
[2]Proviso inserted by Finance Act, 2015 dated June 30, 2015.
[3]Substituted for "person preparing" by Finance Act, 2014 dated June 26, 2014.
[4]Sub-section (2A) inserted by Finance Act, 2014 dated June 26, 2014.
[5]Inserted by Finance Act, 2011 dated June 30, 2011.
[6]Sub-section (4) deleted by Finance Act, 2015 dated June 30, 2015. Earlier it was inserted by Finance Act, 2011 dated June 30, 2011.

S. 236B(4)-Omission.- Before omission by F. Act, 2015, it read as follows:-

"(4) The advance tax under this section shall not be collected in the case of-

(a) the Federal Government or a Provincial Government; or

(b) a person who produces a certificate from the Commissioner Inland Revenue that income of such person during the tax year is exempt."

S. 236B-Advance tax on Air Tickets.-Following is the text of FBR's Circular No. 06 of 2010 dated June 30, 2010:-

"Through Finance Act, 2010, a new section 236B has been inserted in the Income Tax Ordinance, 2001. The new enactment provides that person preparing the air ticket shall charge advance tax on the gross amount of domestic air ticket, at the time of its purchase.

2. Accordingly a new Division-IX has been inserted in Part-IV of the First Schedule to the Income Tax Ordinance, 2001, which provides that advance tax under section 236B shall be charged @ 5% of the gross amount of domestic air ticket.

3. This enactment shall be effective from 1st July 2010 onwards."

S. 236B-Withholding tax alongwith Air Tickets for domestic travel.- Following is an extract of FBR's Circular No. 10, dated July 16, 2010:-

"Through Finance Act 2010, a new section 236B has been inserted in the Income Tax Ordinance 2001. The new enactment provides for charge of adjustable withholding income tax on purchase of tickets for inland air travel:-

This tax shall be collected @ 5% on **gross** amount of air ticket for inland travel along with the payment for the air ticket.

This advance tax shall be adjustable against the overall tax liability of the purchaser of such air ticket.

This tax shall not be charged on purchase of air ticket by the Federal / Provincial Governments and by a person who produces a certificate from the relevant Commissioner Inland Revenue that income of such person during the tax year is exempt.

Tax deducted under this section shall be paid to the relevant Commissioner Inland Revenue as required under the Law.

Tax deducted under this section shall be allowed to be adjusted against the tax liability of the person whom such ticket for inland air travel is issued.

However, in cases where payment is made by the employer/parents of the dependents travelers, such adjustment can be claimed by the employer/parents."

[1][**236C. Advance Tax on sale or transfer of immovable Property**.- (1) [2][Subject to sub-section (2A), any person] responsible for registering [3][, recording] or attesting transfer of any immovable property shall at the time of registering [3][, recording] or attesting the transfer shall collect from the seller or transferor advance tax at the rate specified in Division X of Part IV of the First Schedule [4][:]

[5][*Explanation*.-For removal of doubt, it is clarified that the person responsible for registering, recording or attesting transfer includes person responsible for registering, recording or attesting transfer for local authority, housing authority, housing society, co-operative society [6][, public and private real estate projects registered/ governed under any law, joint ventures, private commercial concerns] and registrar of properties [7][:]]

[7][Provided that this sub-section shall not apply to a seller, being the dependant of a Shaheed belonging to Pakistan Armed Forces or a person who dies while in the service of the Pakistan Armed Forces or the service of Federal or Provincial Government, in respect of first sale of immovable property acquired from or allotted by the Federal Government or Provincial Government or any authority duly certified by the official allotment authority, and the property acquired or allotted is in recognition of or for services rendered by the Shaheed or the person who dies in service [8][*:]*]

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[1]Section 236C inserted by Finance Act, 2012 dated June 26, 2012.
[2]Substituted for "Any person" by Finance Act, 2023 dated June 26, 2023.
[3]Inserted by Finance Act, 2017 dated June 20, 2017.
[4]Substituted for full stop by Finance Act, 2017 dated June 20, 2017.
[5]Explanation inserted by Finance Act, 2017 dated June 20, 2017.
[6]Words inserted by Finance Act, 2021 dated June 30, 2021.
[7]Colon substituted for full stop and proviso inserted by Tax Laws (Amendment) Ordinance, 2016 dated August 31, 2016, effective 01-07-16.
[8]Full stop substituted and proviso inserted by Finance Act, 2021 dated June 30, 2021. Earlier the same was inserted by Tax Laws (Amendment) Ordinance, 2021 dated February 12, 2021.

S. 236C-Sale or Transfer of Immovable Property.- Following is an extract from Circular No. 1 of 2023 dated July 21, 2023:-

"Under section 236C of the Income Tax Ordinance 2001 (the Ordinance), any person responsible for registering, recording, or attesting transfer of any immovable property has been designated as the person responsible (hereinafter referred to 'transferring authority') to collect advance adjustable Income tax from the seller or transferor. The rate of tax collection is 3% of the gross amount of the consideration received by the seller or transferor in case of seller's/transferor's name if appearing on the Active Taxpayers' List (ATL) and 6% in case of non-ATL seller/transferor.

Finance Act 2023 has introduced a new sub-section (2A) in section 236C of the Ordinance which places a bar on the transferring authority for registering, recording or attesting transfer of any immovable property unless the seller or transferor has discharged his tax liability under section 7E of the Ordinance and evidence to this effect has been furnished to the transferring authority in the prescribed mode, form and manner."

S. 236C-Increase in withholding tax rates on sale and purchase of immovable property.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023:-

"Through Finance Act, 2023, the withholding tax rates on sale and purchase of immovable property have been increase from 2% to 3% under sections 236C and 236K respectively. Now any person responsible for registering, recording or attesting transfer of any immovable property at the time of registering, recording or attesting the transfer will collect 3% or 6% tax of the gross amount of the consideration received under section 236C from the seller on ATL or non-ATL respectively. Similarly, the aforementioned withholding agent will collect 3% or 10.5% tax of the fair market value under section 236K from the purchaser on ATL or non-ATL respectively."

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[1][Provided further that if the seller or transferor is a nonresident individual holding Pakistan Origin Card (POC) or National ID Card for Overseas Pakistanis (NICOP) or Computerized National ID Card (CNIC) who had acquired the said immovable property through a Foreign Currency Value Account (FCVA) or NRP Rupee Value Account (NRVA) maintained with authorized banks in Pakistan under the foreign exchange regulations issued by the State Bank of Pakistan, the tax collected under this section from such persons shall be final discharge of tax liability in lieu of capital gains taxable under section 37 earned by the seller or transferor from the property so disposed of.]

(2) The advance tax collected under sub-section (1) shall be adjustable [2][:]

[3][Provided that where immovable property referred to in sub-section (1) is acquired and disposed of within the same tax year, the tax collected under this section shall be minimum tax.]

[4][(2A) Notwithstanding anything contained in any other law, for the time being in force, any person responsible for registering, recording or attesting transfer of any immovable property shall not register, record or attest transfer unless the seller or transferor has discharged its tax liability under section 7E and evidence to this effect has been furnished to the said person in the prescribed mode, form and manner.]

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[1]Full stop substituted and proviso inserted by Finance Act, 2021 dated June 30, 2021. Earlier the same was inserted by Tax Laws (Amendment) Ordinance, 2021 dated February 12, 2021.
[2]Substituted for full stop by Finance Act, 2017 dated June 20, 2017.
[3]Proviso inserted by Finance Act, 2017 dated June 20, 2017.
[4]Sub-section (2A) inserted by Finance Act, 2023 dated June 26, 2023.

S. 236C(2A).- Advance Tax on immovable property.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"Finance Act, 2023 has introduced a new sub-section (2A) in section 236C of the Ordinance which places a bar on the person responsible for registering, recording or attesting transfer of any immovable property to register, record or attest such sale or transfer unless the seller or transferor has discharged his tax liability under section 7E of the Ordinance and evidence to this effect has been furnished to the withholding agent. In this regard, a separate circular No. 1 of 2023 has been issued describing mode, form and manner for furnishing evidence of the payment of tax under section 7E by both ATL and Non-ATL persons to the persons responsible for registering, recording or attesting transfer of any immovable property."

S. 231C.- Advance tax on foreign domestic helpers employed in Pakistan.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"Finance Act, 2023 has introduced a new section 231C whereby advance tax of Rs. 200,000 will be collected and deposited by any Pakistan authority issuing or renewing domestic aide visa to such foreign domestic worker. Such authority will collect this advance tax from the employer or sponsor or agency, as the case may be, at the time of issuance or renewing of domestic aide visa. This is an adjustable tax and the person from whom this tax has been collected can adjust this advance tax against tax liability assessed for a tax year. The provision of rule (1) of Tenth Schedule to the Income Tax Ordinance will apply if the person name, from whom the tax is collectable under this section, is not appearing in Active Taxpayer list."

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[1][ ]

[2][(4) Sub-section (1) shall not apply to:-

(a) a seller, if the seller is dependent of:

(i) a seller, if the seller is dependent of: a Shaheed belonging to Pakistan Armed Forces; or

(ii) a person who dies while in the service of the Pakistan Armed Forces or the Federal and Provincial Governments; and

(b) to the first sale of immovable property which has been acquired or allotted as an original allottee, duly certified by the official allotment authority.]

[3][**236CA. Advance tax on TV plays and advertisements**.- (1) Any licensing authority certifying any foreign TV drama serial or a play dubbed in Urdu or any other language, for screening and viewing on any landing rights channel, shall collect advance tax at the rates specified in Division XA of Part IV of the First Schedule.

(2) Any licensing authority certifying any commercial for advertisement starring foreign actor, for screening and viewing on any landing rights channel shall collect advance tax at the rates specified in Division XA of Part IV of the First Schedule.

(3) The tax required to be collected under this section shall be minimum tax in respect of income arising from such drama serial or play or advertisement referred to in sub-section (1) or (2) of this section.]

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[1]Sub-section (3) deleted by Finance Act, 2022 dated June 30, 2022. Earlier it was inserted by Finance Act, 2016 dated June 24, 2016 before this it was deleted by Finance Act, 2015 dated June 30, 2015.
[2]Sub-section (4) inserted by Income Tax (Fourth Amendment) Act, 2016 dated December 06, 2016. Earlier it was deleted by Tax Laws (Amendment) Ordinance, 2016 dated August 31, 2016, effective 01-07-16 and was inserted by Income Tax (Amendment) Ordinance, 2016 dated July 31, 2016.
[3]S.236CA inserted by Finance (Supplementary) Act, 2022 dated January 15, 2022.

S. 236C(3)-Omission.-Before omission by F. Act, 2022, it read as follows:-

"(3) Advance tax under sub-section (1) shall not be collected if the immovable property is held for a period exceeding [1][four] years]."

[1]Substituted for "five" by Finance Act, 2020 dated June 30, 2020. Earlier it was substituted for "three" by Finance Act, 2019 dated June 30, 2019, was substituted for "five years" by Income Tax (Fourth Amendment) Act, 2016 dated December 06, 2016, the same was substituted by Income Tax (Amendment) Ordinance, 2016 dated July 31, 2016.

S. 236C(3)-Omission.-Before omission by F. Act, 2015, it read as follows:-

"(3) The advance tax under this section shall not be collected in the case of Federal Government, Provincial Government or a Local Government."

S. 236C(4)-Omission.-Before omission by IT (Amendment) Ord. 2016, it read as follows:-

"(4) Sub-section (1) shall not apply to:-

(a) a seller, if the seller is dependent of:

(i) a *Shaheed* belonging to Pakistan Armed Forces; or

(ii) a person who dies while in the service of the Pakistan Armed Forces or the Federal and Provincial Governments; and

(b) to the first sale of immovable property which has been acquired or allotted as an original allottee, duly certified by the official allotment authority."

[1][**236CB. Advance tax on functions and gatherings**.- (1) Every prescribed person shall collect advance tax at the rate specified in Division XI of Part IV of the First Schedule on the total amount of the bill from a person arranging or holding a function in a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose, subject to such conditions or limitations as may be prescribed.

(2) Where the food, service or any other facility is provided by any other person, the prescribed person shall also collect advance tax on the payment for such food, service or facility at the rate specified in Division XI of Part IV of the First Schedule from the person arranging or holding the function.

(3) The advance tax collected under sub-section (1) and subsection (2) shall be adjustable.

(4) In this section-

(a) "function" includes any wedding related event, a seminar, a workshop, a session, an exhibition, a concert, a show, a party or any other gathering held for such purpose; and

(b) "prescribed person" includes the owner, a leaseholder, an operator or a manager of a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose.]

[2to4][ ]

[1]S.236CB inserted by Finance (Supplementary) Act, 2023 dated February 23, 2023.
[2]Section 236D deleted by Finance Act, 2020 dated June 30, 2020. Earlier Ss. 236D to 236J were inserted by Finance Act, 2013 dated June 29, 2013.
[3]Section 236E deleted by Finance Act, 2016 dated June 24, 2016. Earlier it was inserted by Finance Act, 2013 dated June 29, 2013.
[4]Section 236F deleted by Finance Act, 2020 dated June 30, 2020. Earlier Ss. 236D to 236J were inserted by Finance Act, 2013 dated June 29, 2013.

S. 236D-Omission.-Before omission by F. Act, 2020, it read as follows:-

"**236D. Advance tax on functions and gatherings.**- (1) Every prescribed person shall collect advance tax at the rate specified in Division XI of Part IV of the First Schedule on the total amount of the bill from a person arranging or holding a function in a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose.

(2) Where the food, service or any other facility is provided by any other person, the prescribed person shall also collect advance tax on the payment for such food, service or facility at the rate specified in Division XI of Part IV of the First Schedule from the person arranging or holding the function.

(3) The advance tax collected under sub-section (1) and sub-section (2) shall be adjustable.

(4) In this section,-

(a) "function" includes any wedding related event, a seminar, a workshop, a session, an exhibition, a concert, a show, a party or any other gathering held for such purpose; and

(b) "prescribed person" includes the owner, a lease-holder, an operator or a manager of a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose."

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S. 236D-Advance Tax on functions and gatherings.-Following is an extract from FBR's Circular No. 6 of 2013 dated July 19, 2013:-

"Through Finance Act, 2013 a new section 236D has been introduced which provides for collection of adjustable income tax from a person arranging or holding a function in a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose. Where food, service or any other facility is provided by the same place the prescribed person shall collect the income tax at the rate of 10% on the total amount of bill from the person, arranging such function.

However, where the food, service or any other facility is provided by any other person, the prescribed person shall also collect advance income tax at the rate of 10% on the payment for such food, service or facility from the person arranging or holding the function.

The prescribed person for the purposes of this provision includes the owner, a lease-holder, an operator or a manager of a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose.

An inclusive definition of the term functions has also been provided which includes any wedding related event, a seminar, a workshop, a session, an exhibition, a concert, a show, a party or any other gathering.

The prescribed person is also liable to file withholding statement under section 165 of the Ordinance."

S. 236E-Omission.-Before omission by F. Act, 2016, it read as follows:-

"236E. Advance tax on foreign-produced TV plays and serials.- (l) Any licensing authority certifying any foreign TV drama serial or a play dubbed in Urdu or any other regional language, for screening and viewing on any landing rights channel, shall collect advance tax at the rates specified in Division XII of Part IV of the First Schedule.

(2) The advance tax collected under sub-section (1) shall be adjustable."

S. 236E-Advance Tax on foreign produced TV plays and serials.-Following is an extract from FBR's Circular No. 6 of 2013 dated July 19, 2013:-

"Through Finance Act, 2013 a new Section 236E has been introduced which provides for collection of advance income tax as per rates provided in Division XII of Part IV of the First Schedule from any landing rights channel for screening and viewing of any foreign TV drama serial or a play dubbed in Urdu or any other regional language. The advance tax collected under this section is adjustable.

This tax shall be collected by the licensing authority certifying the foreign-produced TV plays and serials for screening and viewing. The licensing authority is also obligated to file withholding statement under section 165."

S. 236F-Advance Tax on cable operators and other electronic media.-Following is an extract from FBR's Circular No. 6 of 2013 dated July 19, 2013:-

"As per newly inserted section 236F Pakistan Electronic Media Regulatory Authority shall collect advance income tax from cable operators and persons providing other electronic media at the time of issuance and renewal of license to a licensee and permission to cable television operators and other distribution services i.e. Direct to Home Television Distribution System (DTH), electronic media, Internet Protocol TV (IPTV), loop holder, Multi Channel Multi Point Distribution Systems (MMDS), Mobile TV, FM Radio, Mobile Audio, Satellite TV Channel and Landing Rights.

The tax withheld under this section shall be adjustable. The withholding agent for the purposes of this section, Pakistan Electronic Media Regulatory Authority shall have to file withholding statement under section 165.

The rates of withholding tax are provided in Division XIII of Part IV of the First Schedule."

S. 236F-Omission.-Before omission by F. Act, 2020, it read as follows:-

"236F. Advance tax on cable operators and other electronic media.-(1) Pakistan Electronic Media Regulatory Authority, at the time of issuance of licence for distribution services or renewal of the licence to a licencee, shall collect advance tax at the rates specified in Division XIII of Part IV of the First Schedule.

(2) The tax collected under sub-section (1) shall be adjustable.

(3) For the purpose of this section, "cable television operator", "Dill", "Distribution Service", "electronic media", "IPTV", "loop holder", "MMDS", "mobile TV", shall have the same meanings as defined in Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (XIII of 2002) and rules made thereunder.

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[1][**236G. Advance tax on sales to distributors, dealers and wholesalers**.- (1) Every manufacturer or commercial importer of [2][pharmaceuticals, poultry and animal feed, edible oil and ghee, auto-parts, tyres, varnishes, chemicals, cosmetics, IT equipment,] electronics, sugar, cement, iron and steel products, fertilizer, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam sector, at the time of sale to distributors, dealers and wholesalers, shall collect advance tax at the rate specified in Division XIV of Part IV of the First Schedule, from the aforesaid person to whom such sales have been made.

(2) Credit for the tax collected under sub-section (1) shall be allowed in computing the tax due by the distributor, dealer or wholesaler on the taxable income for the tax year in which the tax was collected.

[1][**236H. Advance tax on sales to retailers**.-(1) Every manufacturer, distributor, dealer, wholesaler' or commercial importer of [3][pharmaceuticals, poultry and animal feed, edible oil and ghee, auto-parts, tyres, varnishes, chemicals, cosmetics, IT equipment,] electronics, sugar, cement, iron and steel products, [4][ ] motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam sector, at the time of sale to retailers [5][, and every distributor or dealer to another wholesalers in respect of the said sectors], shall collect advance tax at the rate specified in Division XV of Part IV of the First Schedule, from the aforesaid person to whom such sales have been made.

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[1]Sections 236D to 236J inserted by Finance Act, 2013 dated June 29, 2013.
[2]Word etc. inserted by Finance Act, 2021 dated June 30, 2021.
[3]Word etc. inserted by Finance Act, 2021 dated June 30, 2021.
[4]Word etc. "fertilizer," deleted by Finance Act, 2015 dated June 30, 2015.
[5]Words etc. inserted by Finance Act, 2015 dated June 30, 2015.

S. 236G-Advance Tax on sale to distributors, dealers and wholesalers.-Following is an extract from FBR's Circular No. 6 of 2013 dated July 19, 2013:-

"Through Finance Act, 2013 a new section 236G is introduced which requires collection of advance income tax by every manufacturer or commercial importer of electronics, sugar, cement, iron and steel products, fertilizer, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam sector. The tax shall be collected from distributors, dealers and wholesalers, at the time of sale of the above goods/ products.

The rate of tax is prescribed at 0.1 percent of the gross amount of the sale which shall be adjustable in the hands of the distributor, dealer or wholesaler on the taxable income for the tax year in which the tax was collected."

[1][ ]

[2][ ]

[3][ ]

[4][ ]

[1]Section 236S deleted by Finance Act, 2021 dated June 30, 2021. Earlier sections 236O to 236T inserted by Finance Act, 2015 dated June 30, 2015.
[2]Section 236T deleted by Finance Act, 2016 dated June 24, 2016. Earlier Ss. 236O to 236T inserted by Finance Act, 2015 dated June 30, 2015.
[3]Section 236U deleted by Finance Act, 2020 dated June 30, 2020. Earlier Ss. 236U & 236V were inserted by Finance Act, 2016 dated June 24, 2016.
[4]Section 236V deleted by Finance Act, 2021 dated June 30, 2021. Earlier sections 236U & 236V inserted by Finance Act, 2016 dated June 24, 2016.

S. 236S-Omission.- Before omission by Finance Act, 2021, it read as follows:-

"236S. Dividend in specie.- Every person making payment of dividend-in-specie shall collect tax from the gross amount of the dividend in specie paid at the rate specified in Division I of Part III of the First Schedule.]

S. 236T-Omission.- Before omission by Finance Act, 2016, it read as follows:-

"236T. Collection of tax by Pakistan Mercantile Exchange Limited (PMEX).- (1) Pakistan Mercantile Exchange Limited (PMEX) shall collect advance tax,-

(a) at the rates specified in Division XXII of Part IV of First Schedule from its members on purchase of futures commodity contracts;

(b) at the rates specified in Division XXII of Part IV of First Schedule from its members on sale of futures commodity contracts; and

(2) The tax collected under clauses (a) and (b) of sub-section (1) shall be an adjustable tax."

S. 236U-Omission.– Before omission by F. Act, 2020, it read as follows:–

"**236U. Advance tax on insurance premium**.- (1) Every insurance company shall collect advance tax at the time of collection of insurance premium from [1][a person whose name is not appearing in the active taxpayers' list] in respect of general insurance premium and life insurance premium, at the rates specified in Division XXV of Part IV of the First Schedule.

(2) Insurance premium collected through agents of the insurance company shall be treated to have been collected by the insurance company.

(3) Advance tax collected under this section shall be adjustable."

[1]Substituted for "non-filers" by Finance Act, 2019 dated June 30, 2019.

S. 236V-Omission.– Before omission by F. Act, 2021, it read as follows:–

"236V. Advance tax on extraction of minerals.- (1) There shall be collected advance tax at the rate specified in Division XXVI of Part-IV of the First Schedule on the value of minerals extracted, produced, despatched and carried away from the licensed or leased areas of the mines.

(2) Advance tax under sub-section (1) shall be collected by the provincial authority collecting royalty per metric ton from the lease-holder of mines or any person extracting minerals.

(3) Advance tax collected under this section shall be adjustable.

(4) The value of the minerals for the purpose of this section shall be as specified by the Board.]

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[1][ ]

[2][ ]

[3][ ]

[1]Section 236W deleted by Finance Act, 2019 dated June 30, 2019. Earlier it was inserted by Income Tax (Fourth Amendment) Act, 2016 dated December 06, 2016.
[2]Section 236X deleted by Finance Act, 2020 dated June 30, 2020. Earlier it was inserted by Finance Act, 2017 dated June 20, 2017.
[3]Section 236Y deleted by Finance Act, 2021 dated June 30, 2021. Earlier it was inserted by Finance Act, 2018 dated May 23, 2018.

S. 236W-Omission.– Before omission by F. Act, 2019, it read as follows:–

"236W. Tax on purchase or transfer of immovable property.- (1) Every person responsible for registering [1][, recording] or attesting transfer of any immovable property shall at the time of registering [1][, recording] or attesting the transfer shall collect from the purchaser or transferee advance tax at the rate of three per cent of the amount computed under clause (c) of sub-section (4) of section 111.

[1][*Explanation*,- For removal of doubt, it is clarified that the person responsible for registering, recording or attesting transfer includes person responsible for registering, recording or attesting transfer for local authority, housing authority, housing society, co-operative society and registrar of properties.]

(2) Tax collected under sub-section (5) shall not be adjustable."

[1]Words inserted by Finance Act, 2017 dated June 20, 2017.

S. 236W–Omission of section 236W.- Following is an extract from FBR's Circular No. 9 of 2019 dated July 30, 2019:-

"As per section 236W read with clause (c) of sub-section (4) of section 111, every person responsible for registering, recording or attesting transfer of any immovable property was required to collect tax at the rate of 3% of the difference between the FBR value of property and the value recorded by the authority registering or attesting the transfer in cases where FBR value was greater than the recorded value. So by paying three percent on the difference, the purchaser was not required to explain the source of difference of amount between FBR value and the recorded value. Through the Finance Act, 2019, section 236W as well as clause (c) of sub-section (4) of section 111 have been omitted. Consequently, the purchasers are now required to explain the source of investment of property up to the FBR value of property whereas previously such purchasers were required to explain the source of investment to the extent of recorded value of property."

S. 236X-Omission.– Before omission by F. Act, 2020, it read as follows:–

"**236X. Advance tax on tobacco**.- (1) Pakistan Tobacco Board or its contractors, at the time of collecting cess on tobacco, directly or indirectly, shall collect advance tax at the rate of five percent of the purchase value of tobacco from every person purchasing tobacco including manufacturers of cigarettes.

(2) Tax collected under this section shall be adjustable."

S. 236Y-Omission.– Before omission by F. Act, 2021, it read as follows:–

"236Y. Advance tax on persons remitting amounts abroad through credit or debit or prepaid cards.- (1) Every banking company shall collect advance tax, at the time of transfer of any sum remitted outside Pakistan, on behalf of any person who has completed a credit card transaction, a debit card transaction, or a prepaid card transaction with a person outside Pakistan at the rate specified in Division XXVII of Part IV of the First Schedule.

(2) The advance tax collected under this section shall be adjustable."

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[1][**236Y. Advance tax on persons remitting amounts abroad through credit or debit or prepaid cards**.- (1) Every banking company shall collect advance tax, at the time of transfer of any sum remitted outside Pakistan, on behalf of any person who has completed a credit card or debit card or prepaid card transaction with a person outside Pakistan at the rate specified in Division XXVII of Part IV of the First Schedule.

(2) The advance tax collected under this section shall be adjustable.]

[2][**236Z. Bonus shares issued by companies**.– (1) Notwithstanding anything contained in any law for the time being in force, every company, issuing bonus shares to the shareholders of the company, shall withhold ten percent of the bonus shares to be issued.

(2) Bonus shares withheld under sub-section (1) shall only be issued to a shareholder, if the company collects from the shareholder, tax equal to ten percent of the value of the bonus shares issued to the shareholder including bonus share withheld, determined on the basis of day-end price on the first day of closure of books in the case of listed company and the value as prescribed in case of other companies.

(3) Tax under sub-section (2), shall be deposited by the company, within fifteen days of closure of books, whether or not tax has been collected by the company under subsection (2).

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[1]Section 236Y inserted by Finance Act, 2022 dated June 30, 2022.
[2]Section 236Z inserted by Finance Act, 2023 dated June 26, 2023.

S. 236Y.- Tax on payments to non-residents persons through debit/credit card.- Following is an extract from Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"Section 236Y was introduced through Finance Act 2022, whereby payment to non-residents through a debit/credit card had been subjected to 1% withholding tax rate for ATL persons and 2% for Non-ATL persons.

These payments to non-resident persons have substantial impact on foreign exchange outflow from the country. In order to discourage unnecessary outflow of foreign exchange reserves, withholding tax rates under section 236Y have been increased from 1% to 5% for ATL persons and from 2% to 10% for non-ATL persons through Finance Act, 2023."

S. 235Y-Collection of Tax from Persons Remitting Amounts Abroad.-Following is an extract from FBR's Circular No. 15 of 2022, dated 21 July, 2022, explaining the amendment:-

"Section 236Y was omitted vide Finance Act, 2021. Now this section is reinserted. Every banking company will collect this adjustable advance tax at the time of remitting money outside Pakistan on behalf of a person who has completed a credit card, debit card or prepaid card transaction with a person outside Pakistan. The rate will increase by 100% in case of persons not on Active taxpayers list."

S. 236Z.- Tax on issuance of bonus shares.- Following is an extract from Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"The Finance Act has reintroduced tax on shareholders for any bonus share issued by a company. This law is applicable on both public and private companies. In this regard three amendments are made as under:

i. In the definition of the 'income' under section 2(29) of the Ordinance reference to newly inserted section '236Z' has been added by treating any amount which is subject to tax collection and payment under section 236Z as 'income' under the Ordinance.

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(4) A company liable to deposit tax under this section shall be entitled to collect and recover the tax deposited from the shareholder, on whose behalf the tax has been deposited, before the issuance of bonus shares.

(5) If a shareholder neither makes payment of tax to the company nor collects its bonus shares, within fifteen days of the date of issuance of bonus shares, the company may proceed to dispose of its bonus shares to the extent it has paid tax on its behalf under this section.

(6) Issuance of bonus shares shall be deemed to be the income of the shareholder and the tax collected by a company under this section or proceeds of the bonus shares disposed of and paid under this section shall be treated to have been paid on behalf of the shareholder.

(7) Tax paid under this section shall be final tax on the income of the shareholder of the company arising from issuing of bonus shares.]

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ii. In section 39 of the Ordinance which is relating to head 'Income from other sources', a clause (1b) has been inserted to include income arising to the shareholder of a company, from issuance of bonus shares as income from other sources.

iii. A new section 236Z has been inserted in the Ordinance for collection and payment of tax on issuance of bonus shares. The section 236Z of the Ordinance makes a company responsible for collection and payment of tax on issuance of bonus shares to any shareholder. Sub-section (1) of section 236 requires the company to with-hold 10% of the bonus shares as WHT to be deposited at the day-end price on the first day of closure of books in the case of listed companies. The shares so withheld will be available to the shareholder if he pays to the company an amount equivalent to the value of bonus shares with-held. As regards the value of bonus shares of other than listed company, separate rules will be laid down for prescribing value of bonus shares on which tax is to be collected and paid. If a shareholder does not pay the amount to acquire the with-held bonus shares, then the company is required to sell the with-held shares in the market and deposit the sale proceeds to the extent of tax liability on behalf of the shareholder. The tax shall be deposited by the company within 15 days of closure of books and the company will be entitled to recover the tax from the shareholder by way of disposal of 10%with-held shares or collection of such amount of tax from the shareholder. The tax collected and paid under this section by the company shall be treated as tax paid by the shareholder which shall be final discharge of tax liability of the shareholder on deemed income arising on account of issuance of bonus shares."

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1st Sch.- Withholding Tax Rates on Import of Goods by Commercial Importers.- Following is an extract from FBR's Circular No. 2 of 2023 dated July 26, 2023, explaining the amendment made by the F. Act, 2023:-

"(a) Increase in Withholding Tax Rates on Import of Goods by Commercial Importers

The rate of withholding tax on import of goods falling in Part III of Twelfth Schedule to the Ordinance has been enhanced from 5.5% to 6% for commercial importers, which shall be minimum tax."

"(b) Increase in Withholding Tax Rates on Supply of Goods on Rendering of Services and on Execution of Contracts

Through Finance Act, 2023, rate of existing WHTs on payments made by resident and non-resident persons having Permanent Establishment in Pakistan have been increased by 1% of their existing rates in the following manner.

Description/ Section	Person	Previous rates		New rates	
		ATL	Non-ATL	ATL	Non-ATL
On supply of goods u/s 152(2A)(a)t 153(1)(a)	Company	4%	8%	5%	10%
	Individual & AOP	4.5%	9%	5.5%	11%
On rendering of services u/s 152(2A)(b)/ 153(1)(b)	Individual, AOP & Company for specified services	3%	6%	4%	8%
	Company	8%	16%	9%	18%
	Individual & AOP	10%	20%	11%	22%
On execution of contract u/s 152(2A)(c)/ 153(1)(c)	Resident company	6.5%	13%	7.5%	15%
	Individual, AOP & non-resident company	7%	14%	8%	16%"

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PART III
DEDUCTION OF TAX AT SOURCE
(See Division III of Part V of Chapter X)

[1][DIVISION-I
Advance Tax on Dividend

The rate of tax to be deducted under section 150 [2][ ] shall be-

[3][(a) 7.5% in case of dividend paid by Independent Power [4][Producers] where such dividend is a pass through item under an Implementation Agreement or Power Purchase Agreement or Energy Purchase Agreement and is required to be re-imbursed by Central Power Purchasing Agency (CPPA-G) or its predecessor or successor entity.]

[5][(b) 15% in mutual funds [6][, Real Estate Investment Trusts] and cases other than those mentioned in clauses (a) [7][, (c) and (d);/]]

[8][(c) 0% in case of dividend received by a REIT scheme from Special Purpose Vehicle and 35% in case of dividend received by others from Special Purpose Vehicle as defined under the Real Estate Investment Trust Regulations, 2015; and]

[9][/(d)/] 25% in case of a person receiving dividend from a company where no tax is payable by such company, due to exemption of income or carry forward of business losses under Part VIII of Chapter III or claim of tax credits under Part X of Chapter III.]

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[1]Division I and 1A substituted by Finance Act, 2014 dated June 26, 2014 for Division I. Earlier Division I and II were substituted by Finance Act, 2006 dated July 01, 2006.
[2]Words "and 236S" deleted by Finance Act, 2021 dated June 30, 2021. Earlier it was inserted by Finance Act, 2015 dated June 30, 2015.
[3]Paragraph (a) substituted by Finance Act, 2019 dated June 30, 2019.
[4]Substituted for "Purchasers" by Tax Laws (Amendment) Act, 2020 dated March 30, 2020. Earlier the same was substituted by Tax Laws (Second Amendment) Ordinance, 2019 dated December 27, 2019.
[5]Clause (b) substituted by Finance Act, 2020 dated June 30, 2020.
[6]Words inserted by Finance Act, 2021 dated June 30, 2021.
[7]Substituted for "and (ba); and" by Finance (Supplementary) Act, 2022 dated January 15, 2022.
[8]Clause (c) inserted by Finance (Supplementary) Act, 2022 dated January 15, 2022. Earlier clause (c) deleted by Finance Act, 2019 dated June 30, 2019.
[9]Clause (ba) renumbered as (d) by Finance (Supplementary) Act, 2022 dated January 15, 2022. Originally it was inserted by Finance Act, 2020 dated June 30, 2020.

Part III–Div I(a)-Substitution.-Before substitution by F.A. 2019, it read as follows:–

"(a) 7.5% in the case of dividends declared or distributed by purchaser of a power project privatized by WAPDA or on shares of a company set up for power generation or on shares of a company, supplying coal exclusively to power generation projects;"

Part III–Div I(b)-Substitution.-Before substitution by F.A. 2020, it read as follows:–

"(b) [1][15]% [2][ ] other than mentioned in (a) above;"

[1]Substituted for "12.5" by Finance Act, 2017 dated June 20, 2017. Earlier it was substituted for "10" by Finance Act, 2015 dated June 30, 2015.
[2]Words "for filers" deleted by Finance Act, 2019 dated June 30, 2019.

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[1][CHAPTER XIIIA
RECORD OF BENEFICIAL OWNERS

83A. Application of Chapter.- (1) The rules in this chapter shall be applicable for the purposes of section 181E of the Income Tax Ordinance, 2001 (XLIX of 2001) providing for record of beneficial owners.

(2) Every company and association of persons (AOP), on its initial registration with FBR, shall electronically furnish the particulars of its beneficial owners to the Board as prescribed in Form BOF-01 of Part IXA of the First Schedule to these rules through Board's online system.

(3) Every company and AOP, already registered with FBR, shall electronically furnish the particulars of its beneficial owners to the Board on or before the 31st day of December, 2023, as prescribed in Form BOF-01 of Part IXA of the First Schedule to these rules through Board's online system.

(4) The record of the beneficial owners shall be updated whenever there is a change in any of the particulars of the beneficial owner as stipulated in Form (BOF-01) of Part IXA of the First Schedule of these rules, within 30 days from the date when the change occurs.

(5) In case of non-profit organization as defined under section 2(36) of the Income Tax Ordinance,2001, the settlor, trustee, founder, promoter, beneficiary, class of beneficiary, as the case may be, will be the beneficial owners of the nonprofit organization:

Provided that where the beneficiary or class of beneficiary of the non-profit organization is general public, the beneficiary or class of beneficiary of such nonprofit organization shall be exempted from the requirement of providing information of beneficial owners under this rule.

(6) In case there is no change in the beneficial owners of the Company or AOP throughout a particular tax year,, the Company or AOP as the case may, shall furnish a "Certificate of Confirmation for Beneficial Owner" to this effect as prescribed in Form (BOF-02) under Part IXA of the First Schedule to these rules through Board's online system along with the Income Tax return to be filed for that tax year.

83B. Definitions.- In this Chapter unless there is anything repugnant in the subject or context,-

(1) "Board" means Federal Board of Revenue as defined in section 2(8) of the Income Tax Ordinance, 2001 (XLIX of 2001);

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[1]Rules 83A to 83E inserted by SRO 1117(I)/2023 dated August 28, 2023.

(2) "chain of ownerships" means all the legal entities and the legal arrangements through which the ownership rights (shareholdings) of a company or AOP are ultimately held by the natural person;

(3) "contractual association" means the legal tie or contractual tie of two or more persons and/or legal entities and/or legal arrangements on the basis of a contract executed by the parties of the contract;

(4) "direct means" means (i) exercise of control by natural person including exercise of ultimate control over a company or AOP through direct ownership i.e. without having ownership of intervening legal person or persons between the natural persons and the company or AOP, as the case may be, or (ii) exercise of control through voting rights;

(5) "indirect means" means exercise of control through means other than the direct means, and includes but not limited to means of control through (i) chain of ownerships; (ii) joint control arrangement; (iii) contractual associations; (iv) personal or family connections; or (v) senior managerial position;

(6) "Joint control arrangement" means a situation where two or more natural or legal persons, each having ownership or voting rights of less than twenty-five percent, but their aggregate ownership or voting rights is twenty-five percent or more in a company or AOP and exercise or may exercise control over that company or AOP for being associates to each other in terms of section 85 of the Income Tax Ordinance, 2001 (XLIX of 2001); and

(7) "ultimate effective control" means a situation in which ownership or control is ultimately exercised through direct or indirect means.

83C. Record of beneficial owner.- (1) The beneficial owner who exercise ultimate effective control over a company or AOP through direct ownership rights (through shareholding) of twenty-five percent or more, shall provide the following particulars or information, namely:

(a) name of beneficial owner;

(b) father's name or spouse's name;

(c) date of birth;

(d) nationality of beneficial owners;

(e) CNIC, NICOP, NTN, passport number or foreign national identity number of beneficial owner;

(f) percentage of shareholding or ownership interest held by the beneficial owner;

(g) date of acquisition of ownership interest; and

(h) residential and commercial address of the beneficial owner.

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(2) The beneficial owner who exercises ultimate effective control over the company or AOP through ownership rights of twenty-five percent or more through chain of ownerships, shall provide the following particulars and information, namely:-

(a) name of beneficial owner;

(b) father's name or spouse's name;

(c) date of birth;

(d) nationality of beneficial owner;

(e) CNIC, NICOP, NTN, passport number or foreign national identity number of beneficial owner;

(f) particulars of legal owner i.e. all legal entities and arrangements through which the company or AOP is indirectly owned by the beneficial owner, including-

(i) name of the legal owners;

(ii) type of legal owner involved in chain of ownership e.g. joint stock company, limited liability company, foundation, trusts etc.;

(iii) country of incorporation or registration of legal owner;

(iv) incorporation or registration details of the legal owner i.e. incorporation or registration number, date of incorporation or registration and name of incorporating or registering authority; and

(v) registered address of the legal owner;

(g) percentage of shareholding or ownership interest held by the beneficial owner;

(h) date of acquisition of ownership interest; and

(i) residential and commercial addresses of the beneficial owners.

(3) The beneficial owner who exercises ultimate effective control over the company or AOP through joint control arrangement, shall provide the following particulars, namely:-

(a) name of beneficial owner;

(b) father's name or spouse's name;

(c) date of birth;

(d) nationality of beneficial owners;

(e) CNIC, NICOP, NTN, passport number or foreign national identity number of beneficial owners;

(f) nature of relationship between the beneficial owners involved in joint control arrangement For example, Mr. X who holds x percentage of ownership interests in M/s ABC company or AOP is the spouse of Ms. Y who holds y percentage of ownership interest in M/s ABC company or AOP, such as-

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(i) relatives;

(ii) friends; and

(iii) other associates; (please specify)

(g) percentage of shareholding or ownership interest of each beneficial owner involved in joint control arrangement;

(h) date of acquisition of ownership interest by each beneficial owner; and

(i) residential and commercial addresses of the beneficial owners.

(4) The beneficial owner, who exercises ultimate effective control over the company or AOP through voting rights, shall provide the following particulars, namely:-

(a) name of beneficial owner;

(b) father's name or spouse's name;

(c) date of birth;

(d) nationality of beneficial owner;

(e) CNIC, NICOP, NTN, passport number or foreign national identity number of beneficial owner;

(f) nature and details of voting rights that provide the effective control to the beneficial owner;

(g) percentage of voting rights held by the beneficial owner;

(h) residential and commercial addresses of the beneficial owners.

(5) The beneficial owner, who exercises ultimate effective control over the company or AOP through contractual associations, shall provide the following particulars and information, namely:-

(a) name of beneficial owner;

(b) father's name or spouse's name;

(c) date of birth;

(d) nationality of beneficial owner(s);

(e) CNIC, NICOP, NTN, passport number or foreign national identity number of beneficial owner;

(f) nature and details of the contract which provides effective control over the company or AOP to the contracting parties of the contract. Copy of the contract shall be provided to the Board; and

(g) residential and commercial addresses of the beneficial owner.

(6) The beneficial owner who exercises ultimate effective control over the company or AOP through personal or through family connections with the owners, directors or management of the company or AOP shall provide the following particulars and information, namely:-

(a) name of beneficial owner;

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(b) father's name or spouse's name;

(c) date of birth;

(d) nationality of beneficial owners;

(e) CNIC, NICOP, NTN, passport number or foreign national identity number of beneficial owner;

(f) nature and details of the personal and family connection which provides effective control to the beneficial owner [e.g. Mr. X (the beneficial owner) has influence over the company or AOP for being associated to Mr. Y (company's managing director)]; and

(g) residential and commercial addresses of the beneficial owner.

(7) The beneficial owner who exercises ultimate effective control over the company or AOP through senior managerial position or other indirect means shall provide the following particulars and information, namely:-

(a) name of beneficial owner;

(b) father's name or spouse's name;

(c) date of birth;

(d) nationality of beneficial owner;

(e) CNIC, NICOP, NTN, passport number or foreign national identity number of beneficial owner;

(f) managerial position held by senior managing officer and the nature of control he exercises in the company or AOP [For example, Mr. X the CEO of the company holds the power of appointing or removing the directors of the company];

(g) date of acquisition of senior management position in the company or AOP; and

(h) residential and commercial addresses of the beneficial owner.

83D. The Cascading Process for recording of beneficial ownership information.- (1) Rule 83C represents a cascading process which entails three Tests. Rule 83C(1), 83C(2), 83C(3) and 83C(4) shall collectively represent Test 1. Rule 83C(5) and 83C(6) shall collectively represent Test 2 and Rule 83C(7) shall represent Test 3 of the cascading process.

(2) The three Tests of the cascading process shall be applied in succession when a previous test has been applied but has not resulted in the identification of all beneficial owner i.e. Test 2 shall only be applied in case if there is doubt as to whether a person with controlling ownership interest is a beneficial owner, or where no beneficial owner has been identified as a consequence of application of Test 1. Similarly, Test 3 shall only be applied in case the information about all beneficial owners is not recorded or captured by application of Test 1 and Test 2.

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83E. Retention of records of beneficial owner.- (1) Every company or AOP shall retain the records of all beneficial owners for a period of ten years from the date when the beneficial owners of that company or AOP, as the case may be, cease to be the beneficial owners of that company or AOP.

(2) Board shall retain the records of beneficial owners of all companies and AOPs registered with the Board for a period of ten years from the date when that company or AOP ceases to be registered with FBR.

Form BOF-01

Record of Beneficial Owner
prescribed under section 181E of Income Tax Ordinance,200l

RECORDS OF BENEFICIAL OWNER(S)			
Cascading Tests and Application	Sr. No	Category of Beneficial Owner(s)	Information to be Obtained
Test 1 The test aims at identifying, obtaining and verifying the particulars of the beneficial owner(s) who exercise(s) ultimate effective control over the company or AOP through direct/ indirect ownership and voting rights.	1	Particulars of beneficial owner(s) who exercise(s) ultimate effective control over the company or AOP through direct ownership rights (shareholding) of twenty-five percent or more.	Name of beneficial owner
			Father's name/Spouse's name
			Date of Birth
			Nationality of beneficial owner(s)
			CNIC/NICOP/NT/Passport number(s)/ Foreign National Identity number of beneficial owner(s)
			Percentage of shareholding/ ownership interest held by the beneficial owner(s)
			Date of acquisition of ownership interest
			Residential and Commercial addresses of the beneficial owner.
	2	Particulars of the beneficial owner(s) who exercise ultimate effective control over the company or AOP through ownership rights of twenty-five percent or more through chain of ownerships.	Name of beneficial owner
			Father's name/Spouse's name
			Date of Birth
			Nationality of beneficial owner(s)
			CNIC/NICOP/NTN/Passport number(s)/Foreign National Identity number of beneficial owner(s)

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			Particulars of all legal owner(s) i.e. all legal entity(ies) or/and arrangement(s) through which the company or AOP is indirectly owned by the beneficial owner(s). i. Name(s) of the legal owner(s) ii. Type of legal owner(s) involved in chain of ownership (e.g. Joint Stock Company, Limited Liability Company, Foundation, Trusts etc.) iii. Country of Registration/ Incorporation of legal owner(s) iv. Incorporation /Registration detail(s) of the legal owner(s) i.e. Incorporation number, date of incorporation and name of registering authority. v. Registered addresses of the legal owner(s)
			Percentage of shareholding/ownership interest held by the beneficial owner(s)
			Date of acquisition of ownership interest
			Residential and Commercial addresses of the beneficial owner.
	3	Particulars of the beneficial owner(s) who exercise ultimate effective control over the company or AOP through joint control arrangements.	Name of beneficial owner
			Father's name/Spouse's name
			Date of Birth
			Nationality of beneficial owner(s)
			CNIC/NICOP/NTN/Passport number(s)/ Foreign National Identity number of beneficial owner(s)
			Details/nature of relationship between the beneficial owners involved in joint control arrangement.

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			. Relatives [For example, Mr. X who holds x percentage of ownership interests in Ms. Y ABC company/ AOP is the spouse of Ms. Y who holds y percentage of ownership interest in the same company/ AOP]. . Friends . Other associates (Please specify)
			Percentage of shareholding/ownership interest of each beneficial owner involved in joint control arrangement
			Date of acquisition of ownership interest by each beneficial owner
			Residential and Commercial addresses of the beneficial owner(s).
	4	Particulars of the beneficial owner(s) who exercise ultimate effective control over the company or AOP through voting rights.	Name of beneficial owner
			Father's name/Spouse's name
			Date of Birth
			Nationality of beneficial owner(s)
			CNIC/NICOP/NTN/Passport number(s)/ Foreign National Identity number of beneficial owner(s)
			Details of voting rights that provide control to the beneficial owner(s).
			Percentage of voting rights held by the beneficial owner(s)
			Residential and Commercial addresses of the beneficial owner

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Test 2 Test 2 aims at Identifying, obtaining and verifying the particulars of the beneficial owner(s) who exercise(s) ultimate effective control over the company or AOP through contractual associations and personal and/or family connections with the owners / directors/ management of the company or AOP.	1	Particulars of the beneficial owner(s) who exercise ultimate effective control over the company or AOP through contractual associations.	Name of beneficial owner
			Name of beneficial owner
			Date of Birth
			Nationality of beneficial owner(s)
			CNIC/NICOP/NTN/Passport number(s)/Foreign National Identity number of beneficial owner(s)
			Nature and details of the contract which provides effective control of the company or AOP to the contracting parties / beneficial owner.
			Residential and Commercial addresses of the beneficial owner(s)
If there is doubt under Test I as to whether a person with direct/ indirect/joint ownership interest or direct/indirect voting rights is a beneficial owner, or where no natural person exerts control through ownership interests and voting rights, then the particulars of a natural person(s) exercising control over company or AOP through means of control other than ownership and voting rights, are obtained by application of Test 2.	2	Particulars of the beneficial owner(s) who exercise ultimate effective control over the company or AOP through personal and/or family connections with the management/owners/ directors of the company or AOP.	Name of beneficial owner
			Father's name/Spouse's name
			Date of Birth
			Nationality of beneficial owner(s)
			CNIC/NICOP/NTN/Passport number(s)/Foreign National Identity number of beneficial owner(s)
			Nature and details of the personal/family connection which provides effective control to the beneficial owner [e.g. Mr. X (the beneficial owner) has influence over the company or AOP for being associated to Mr. Y (company's managing director)].
			Residential and Commercial addresses of the beneficial owner.

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Test 3 Test 3 aims at Identifying, obtaining and verifying the particulars of beneficial owner(s) who exercise(s) ultimate effective control through senior managerial position(s). Where no natural person is identified under Test 1 and Test 2 above, reasonable measures shall be taken to verify the identity of the relevant natural person(s) who holds(s) senior managerial position(s) in the company or AOP.	1	Particulars of the beneficial owner(s) who exercise ultimate effective control over the company or AOP through senior managerial positions (e.g. senior managing officer who has the power to appoint and remove majority of directors or control over the affairs of the company) and other indirect means of control.	Name of beneficial owner
			Father's name/Spouse's name
			Date of Birth
			Nationality of beneficial owner(s)
			CNIC/NICOP/NTN/Passport number(s)/Foreign National Identity number of beneficial owner(s)
			Position held by senior managing officer and the nature of control he/she exercises in the company or AOP. [For example, Mr. X the CEO of the company holds the power of appointing or removing the Directors of the company].
			Date of acquisition of senior management position of in the company or AOP
			Residential and Commercial addresses of the beneficial owner.

Note: The 3 Tests represents a cascading process and shall be applied in succession when a previous test has been applied but has not resulted in the identification of all beneficial owner i.e. Test 2 shall only be applied in case if there is doubt as to whether a person with controlling ownership interest is a beneficial owner, or where no beneficial owner has been identified as a consequence of application of Test l. Similarly, Test 3 shall only be applied in case the information about all beneficial owners are not recorded or captured by application of Test I and Test 2.

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Form BOF-02

Certificate of Confirmation in respect of Beneficial Owner prescribed under Rule 83A(6) of Income Tax Rules, 2002.

1. This is to certify that the particulars of the Beneficial owners in respect to M/s_____ (Name of the Company/AOP/Trust/NPO) holding NTN_____ provided to FBR under Section 181E of Income Tax Ordinance, 2001 were updated latest on _____ (Day/Month/Year) in accordance with the rules prescribed under Chapter XIIIA of Income Tax Rules,2002.

2. This is to further certify that the particulars of the Beneficial Owners in respect of M/s _____ (Name of the Company/AOP/Trust/NPO) holding NTN _____ updated latest on _____ (Day/Month/Year) remained unchanged for tax year _____.

Authorized Signatory for
M/s _____
Dated _____]

[1]Rules 83A to 83E inserted by SRO 1117(I)/2023 dated August 28, 2023.

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