

Synopsis of Toxes

Income Tax- Assessment

[20-36e1

Special Audit Panels 1177 (1 1) to (17)l

ln order to contact the audit, including a forensic audit, of income tax affairs of a person or class of persons the Federal Board of Revenuei may appoint as many special audit panels as may be necessary. Other provisions in this regard are as below:

1. The special audit panel shall be comprising two or more members selected from the

following persons:

i) An officer or officers of lnland Revenue;

ii) A firm of Chartered Accountants;

iiD A firm of Cost and Management Accountants;

iv) Any other person (including a foreign expert or specialist) as directed by the FBR; or

v) A tax audit expert deployed under an audit assistance programme of an international organization or a tax authority outside Pakistan.

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The scope of such audit shall be as determined by the FBR or the CIR on case-to-case basis.

Special audit panel shall be headed by a Chairman who shall be an officer of lnland Revenue.

Powers u/s 175 and 176 of the lncome Tax Ordinance shall only be exercised by such an officer of lnland Revenue, urho is member of the special audit panel and is so authorized by the C!R foi' the purpose of audit.

lf any one member of the special audit panel (other than the Chairman)'is absent from conducting an audit, the proceedings of the audit may continue. The audit conducted by the special audit panel shall not be invalid or called in question merely on the ground of such absence.

Functions performed by an officer of lnland Revenue as members of the special audit panel, for conducting audit, shall be treated to have been performed bythe special audit panel.

The FBR may prescribe the rnode and manner of constitution, procedure and working of the special audit panel.

Special Audit Panel Rules [Rule-231E]

ln order to conduct audit (including forensic audit) of the income tax affairs of any person or class of persons the FBR may appoint as many special audit panel as may be necessary out of the persons enumerated above. Other legal provisions in this regard are as below:

1 For this purpose the FBR shall invite firm of Chartered Accountants or Cost and

Management Accountants. lt shall determine their eligibility and remuneration on case to

case basis or some oti''er basis oetennlned by the FBR

2. The scope of audit shall be determined by the CIR on case-to-case basis.

The chairperson of the panel shall be responsible for, inter alia. the procedure:

i) To decide in consultation with the CIR about the place of the sitting of the panel;

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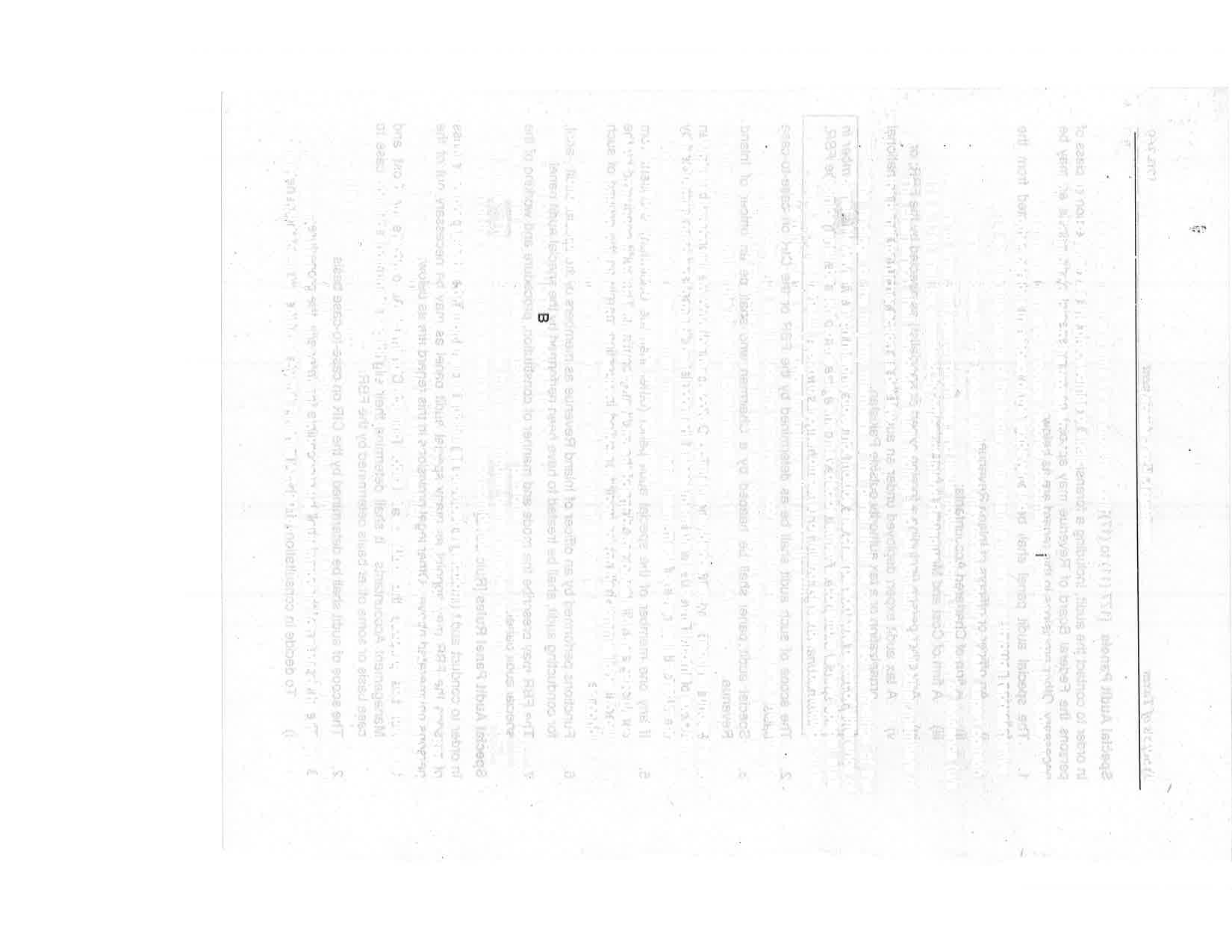
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A person, other than an officer of lnland Revenue, shall only be included as a member in the special audit panel if he has entered into an agreement of confidentiality with the FBR, international tax organization or a tax authority, as the case may be.



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ri) iii) iv) v)

To To To To

specify date and time for conducting audit;

supervise the proceedings of audit;

issue rctices to the taxpayer;

requis lion and produce records, documents,

nformation

from

the taxpayer

and

other persons in respect ofthe taxpayer; and

To ensure attendance of the taxpayer for hearing in person or through representative.

lf consiCered necessary, the special audit panel mdy conduct inquiry or seek expert opinion.

Powersto enter and search-premises and issue notice'to bbtain infoimatioh orevidence (u/s 175 & 176) shali be exercised by officer of lnland Revenue.

The chairperson shall consolidate audit findings and get signatures of all other members of the panel for furrer action as per law.

The flndings of the majority members of the panel shall be considered as findings of the panel hlowever if such majority does not include the chairperson, the report of difference of opinion shall be sent to the CIR who may decide either to constitute a new special audit panel or send the said report to another officer(s) of lnland Revenue. The findings under new arrangemerts would suffice for further action under the law.

8 Audit proceedin3s shall include the taxpayer's record, documents, statements and difference

of opinion by previous special audit panel and opportunity of being heard to the taxpayer. ..

Failure in Producing the Records, Documents, Etc. [177 (10) & (14)]

Whera a person fails to produce the record, documents, evidence, etc., as required under the law, the ClRmay proceed to make best judgment assessment u/s 121 of the lncome Tax Ordinance.

Under such a case tl-e assessment treated to have been made on the basis of return or revised return filed by the taxpayer shall be of no legal effect.

Note:The powers of the CIR uts 177 are independent of the powers of the FBR u/s 214C and

nothing contain=d in that section restricts the powers of the Commissioner to call for the record or documents including books of accounts of a taxpayer for audit and to conduct audit

r-, under section 177.

SELECT]ON FOR AUDIT

Y BOARD l214cl

The Federal Board of Revenue (FBR) may select persons or classes of persons for audit of income tax affairs. Thrs selection shall be through computer ballot, whether random or parametric, at the discretion of the FBR. The parameters shall be kept confidential.

The persons selected ior audit shall be audited as provided in secttion177.

i'lote:The powers of ihe Commissioner uts 177 are independent of the powers of the FBR u/s

214C and nothing contained in that section restricts the powers of the Commissioner to call

for the record cr documents including books of accounts of a taxpayer for audit and to conduct audit under section 177.

cLosuRE oF AUD|T l214El

The Frnance Act, 2015 inserted sectton 214D lo the lncome Tax Ordinance, which provided that under certarn cases a :-rson was liable to be selected automatically for audtt of his income tax

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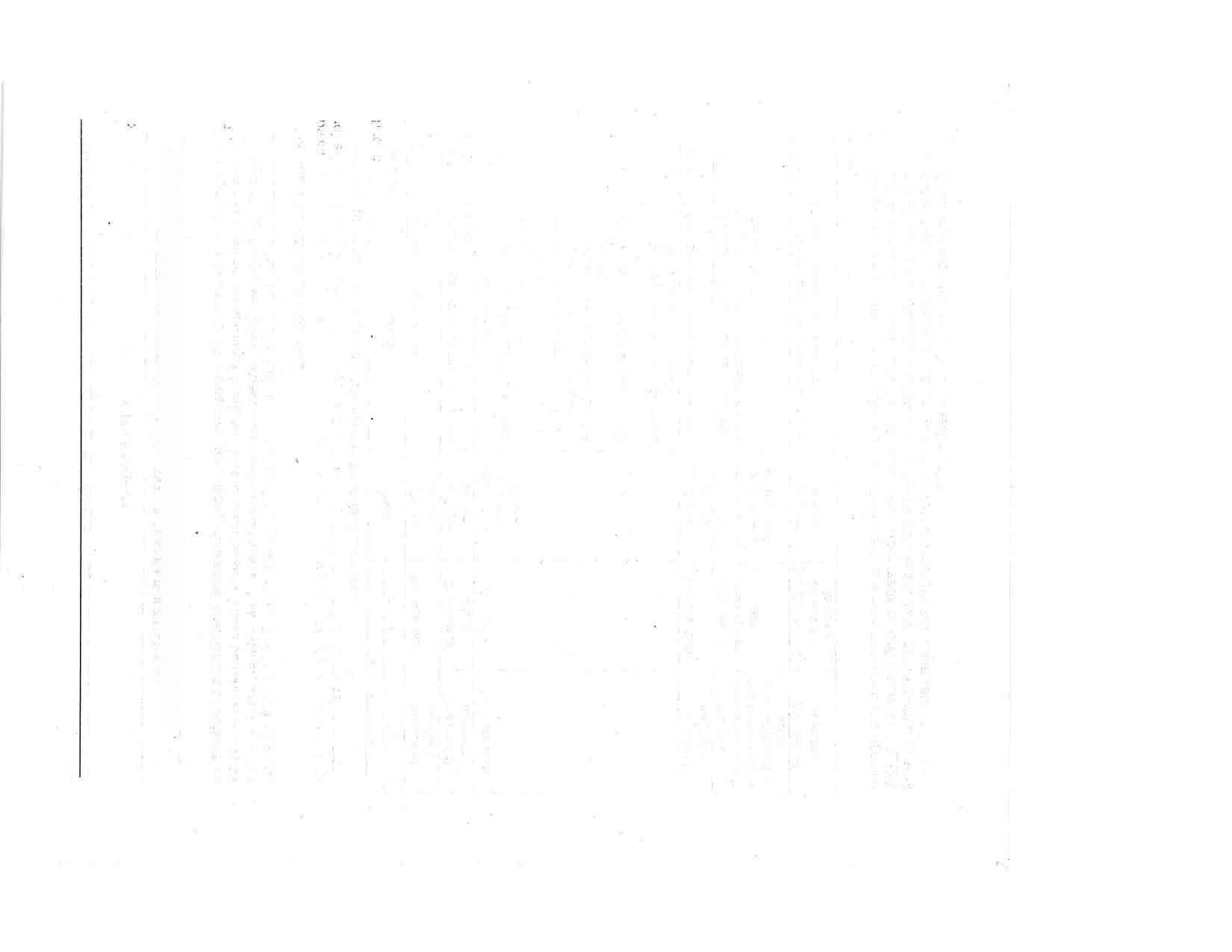
Thnt sectron was omttted bV the Frnance Act, 2018

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The Finance Supplementary (Amendment) Act,2018 inserted section 2148 contarning conditions under which audit of income tax affairs of a taxpayer [initiated u/s 214D(2)] should be deemed t' have been"concluded. That too was effective till 31-12-2018.

AUTOMATED TMPERSONAL TAX REGTME 1227D)

For low risk and compliant taxpayers only (as may be prescribed) the FBR may design an alterrrat r impersonal taxation regime whereby personal interaction will be minimized.

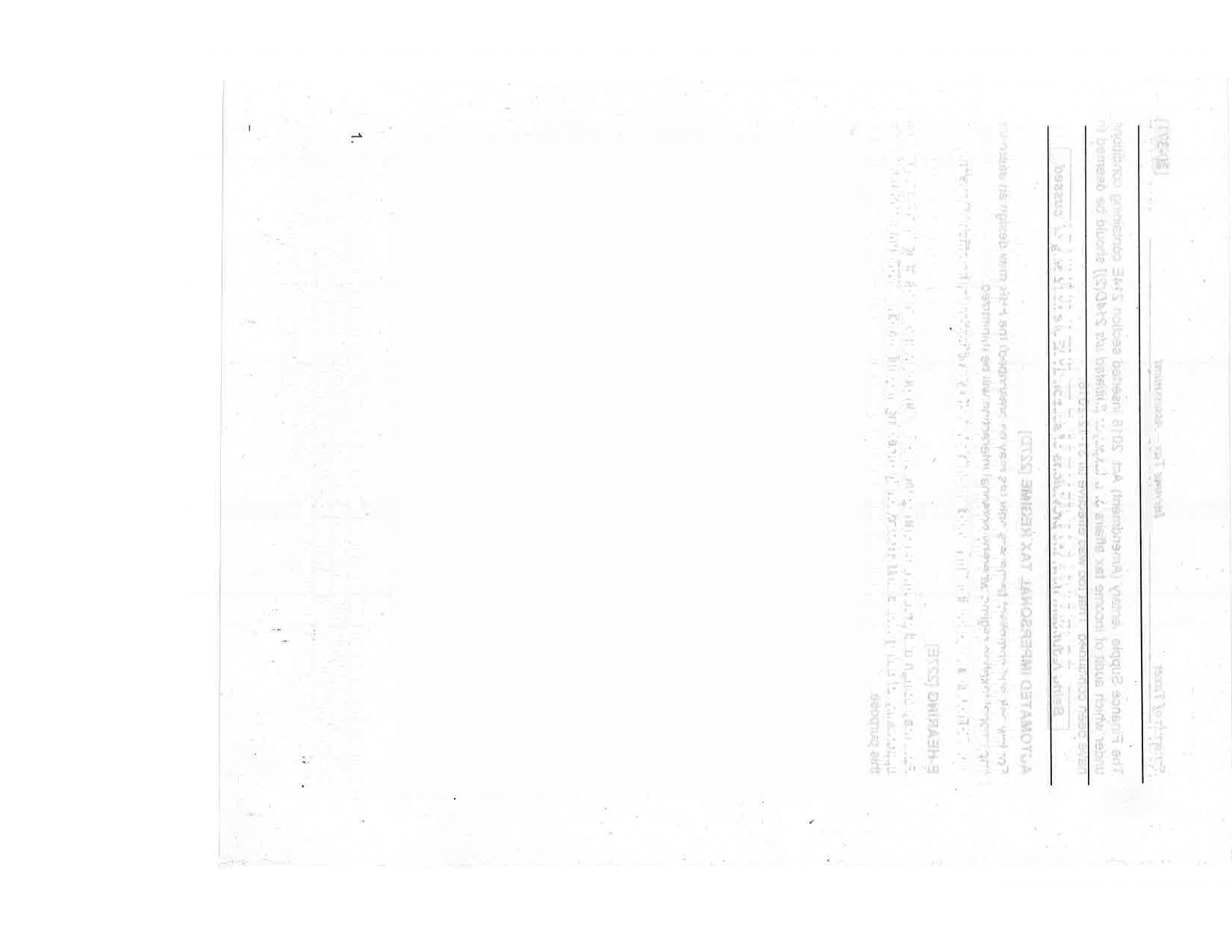
The FBR shall also prescribe the procedure in this behalf by notification in the official Gazette.

E-HEARING l227El

FBR may design and prescribe e-hearing module for the purpose of conducting hearings, gra r opportunity of being heard and electronically receiving any information. FBR may make rult 1 this purpose.

The r:ecording of e-hearing proceedings shall be admrssible as evrdence before any forum o' c' rr of law for the purpose of the lncome Tax Ordinance.

Being redundant now, the provisions of section 214E are not being discussed.



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Incomc Tax - Offences

[2r-372]

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CHAPTER.2l

"OFFENCES AND PUNISHMENTS

The lncome Tax Ordinance, 2001, renders certain actions, omissions, abstinences or defaults as

offences and suggests various types of punishments for such defaults. These punishments may be the default surcharge, penalties, prosecutions and imprisonment. This chapter deals with the various defaults under lhe lncome Tax Ordinance and the punishments applicable to such defaults.

DEFAULT SURCHARGE [205, etc.] ,

Default surcharge is a penalty levied on a taxpayer upon non-payment of any amount of tax or penalty under any provision of the lncome Tax Ordinance, 2001. The "table" given below contains a summarized version sf the sections dealing with the default surcharge.

Notes:

Default surcharge shall not be payable if tax is paid within due.date mentioned in a demand notice issued by ClR [u/s 137(2fl on the basis of an order made by ClR (Appeals) tu/s 1291 and apoeal to the Appellate Tribunal [u/s 131] is not filed. Inthis case, default surcharge shall not be payable far the period beginning from the date of order u/s 161 to the date of ' r,r( [Proviso to sub-sections (1) & (3) of section 205]

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Section | Default | Rate | . Period | |
| From | lo |
| 137(6) | Payment of tax in installments. |  | The due date. | The date of payment. |
| 161(18) | Failure in deduction or payment of tax at source. |  | The date of default. | The date of payment. |
| 2O5(1) |  | Higher of 12o/o p.a. or Kibor + 3o/o p.a. | Due date | Payment date |
| 205(14) | Non-payment of advance taxuls 147. |  | The due date | The date of payment. |
| 205(1 B) | Payment ci advance tax less than 90% of th€ tax chargeable for the relevant tax year. | 12o/o pet annum on the amount fulls short of 90%. | First day of April in that year. | The date of  assessment or 30s June of next financial year, whichever is eadier. |
| 205(3) | Failure in deduction of tax at source or 'non-payme-t of tax deducted. |  | The date on which  tax was to be deposited. | The date of payment. |

Failure in payment of

i) Tax otl-er than advance tax and

il ii

) i)

default surcharge;

Penalty

Tax by a person who holds moneys. etc., on behalf of taxpayer and demanded by CIR u/s 140

Tax by a liquidator as required u/s 141

Tax wlh return u/s 137 (nonpayment or short-payment).

iv)

v)

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Income Tax - Offences

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ln case of a special tax year, defaLlt surcharge shall be calculated on and from the first day of the fourth quarter of the special tax year till earlier of the date of assessment or the last day of special tax year. [Proviso to 205(18)]

Where it is held that default surcharge or penalty wes not payable or was less payable, the excess amount recovered from the taxpayer shall be refunded to him. t205(2)l

While imposing the default surcharge, the CIR shall make the assessment after providing the taxpayer an opportunity of being heard. [205(5) & (6)]

Where a person is liable for default surcharge, the ClR, at his discretion, may make assessment of default surcharge for the period of default, whether the tax due has not actually been paid. t205(7)I

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REDUCTTON rN DEFAULT SURCHARGE [2054]

Where, in consequence of any order made under the lncome Tax Ordinance, the amount penalty is reduced, the default surcharge on such tax or penalty, if any, shall also be accordingly.

of tax or reduced

PENALTTES [182]

The lncomd Tax Ordinance imposes certain penalties for non-compliance of its certain provisions.

Provisions relating to penalties for certain offences are summarized below:

|  |  |  |
| --- | --- | --- |
| Offence U/S | I Offence | Penalty |
| 20,111 and General |  |  |
|  | Plrchase, of immoveable property having FMV 'm8ierthan Rs. 5,000,0d0 inrougn cish or I beaier cheque. | 5o/o of the value of the property determined u/s 68(4) or for stamp duty, whichever is the higher. |
| ll 107,108& 1658 | Failu're by any reporting financial institution or ppqrting entity in furnishing information or cour.rtry-by-country report to FBR. | Higher of Rs 25,000 or Rs. 2,000 for each day of default. |
| 108 |  |  |
| i 114 and 116 | Failure in fumishing the wealth statement or vriealth. reconciliation statement. | Higher of 0.1o/o of the taxable income perweek or Rs 100,000. |
| 114 and 118 |  |  |

Higher of Rs. 100,000 or amount equal to tax sought to be evaded.

No penalty shall be imposed on mere disallowance of a claim of exemption frcjm tax of any income or amount declared or disallowance of any expenditure, unless it is proved that the person made the claim knowing it to be wrong.

1% of the value record of which maintained.

of transactions, is required to

the be

1. Oloh of the tax payable or Rs. 1,000

for each day of default.

2. Minimum penalty:

i) Rs. 10,000 lor 'salaied taxpayer";

or

ii) Rs. 50,000 for all other persons.

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Maximum

penalty

Rs. 200,000 in a

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Concealment of rncome or furnishing of inaccurpte particulars of income, claiming of any deduction not actually incurred and any act lreferred in section 111(1).

FaitihE in keeping and maintaining document

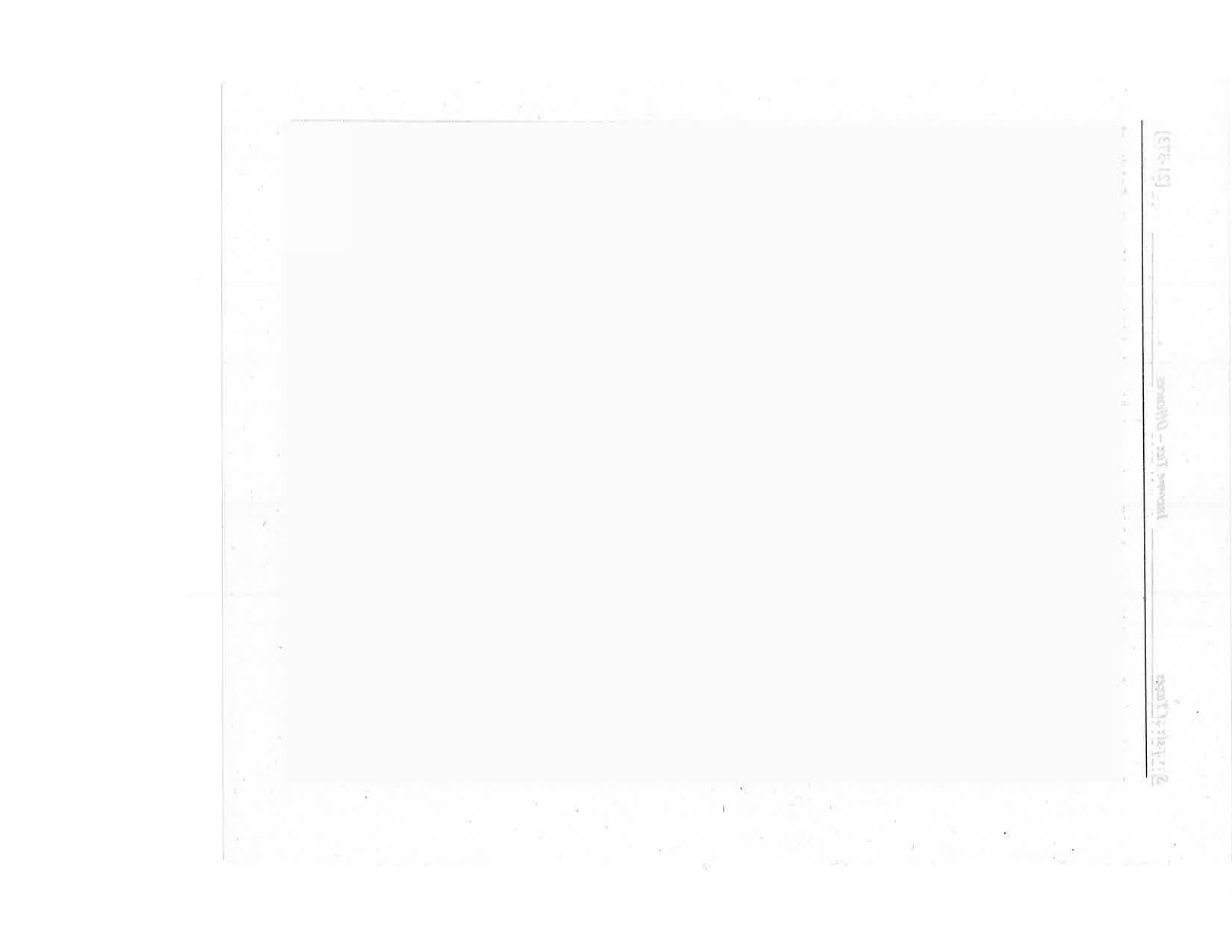
bnd information u/s 108.

Failure in furnishing a return of income within

the due date.

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|  |  | tax year.  4. Reduction in penaltY on filing of  retum within:  i) One month: 75% .  ii) Two months: 50Yo  iii) Three months. 25%  'Tax payable' means tax chargeable on the taxable income on the basis of assessment u/s 120, 121,122or 122C. |
| 1 164 | Failure in furnishing a foreign assets and income statement within the due date. | 2% of the foreign income or value of the foreign assets for each year of default. |
| 114,116,174, 176,177 and general. | (a) Making a false or misleading statement to  an lnland Revenue Authority either in ' writlng or orally or electronically in any  . document, statement, books of accounts,  etc.. made, prepared, gtven, filed or  furnished under the lncome Tax  Orcnance:  (b) Fumishing or filing a false or misleading  infcrmation or document or statement to an  lncqne tax Authority either in writing or  ora,ly or electronically;  (c) Omitting from a statement made or  lnformation furnished to an lncome tax  Autrrority any matter or thing without which  the statement or the information is false or misleading in a material particular. | Higher of Rs. 25,000 or 50% of tax shortfall.  ln case of an assessment order deemed u/s 120, penalty shall not be imposed, to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of ITO to the taxpayers' position. . : |
|  |  |  |

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Failure in depositing the amount of tax due or any'part thereof in the time or manner laid down under the law.

Reper;tion cf erron:ous calculation in the retum for mor= than one year urhereby lesser amount of tax is paid.

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Failure in furnishing a statement within the due

date.

On first default 5% of tax in default.

On second default Additional

25o/o of tax in default.

On third and subsequent defaults: Additional 50% of tax in default.

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enalty shall be re

duced by 50% if the

person does not file an appeal u/s 131 and opts to pay tax within the due date rn a notice uls 137(2) rssued on the basis of an order u/s 129.

Higher of Rs. 10,000 or 3% of tax involved.

Penalty shaii not be imposed where taxpayer takes a reasonably arguable position on the application of ITO to his position.

1. Rs. 5,000, if tax withheld is paid

within the due date and statement is

filed within 90 days from the due

date; and

2. ln all other cases: Rs. 2,500 for each day of default with a minimum

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of Rs. 10,000.

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Income Tax - Offences

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| --- | --- | --- |
|  |  | 3. Minimum penalty of Rs. 10,000 if it  is established that tax was not to be withheld. |
| 1658 | Failure of Reporting Financial lnstitution to comply the provisions of section 1658. | Rs 10,000 for each default and additional Rs. 10,000 each month until the default is redressed. |
| Filing of incomplete or inaccurate report by a Reporting Financial lnstitution u/s 1658. ,' | Rs.10,000 for each default and an additional Rs. 10,000 each month until the default is redressed. |
| Failure of a Reporting Financial tnstitution in obtaining valid self-certification for new accounts or furnishing false self-certification made by the Reportable Jurisdiction Person under Common Reporting Standard Rules. | Rs.',l0,000 for each default and an additional Rs. 10,000 each month until the default is redressed. |
| Failure of a Reportable Jurisdiction Person in furnishing valid self-certification or furnishing false self-certification under Common Reporting Standard Rules. | Rs. 5,00b for each default and an additional Rs. 5,00C each month until the default is redressed. |
| 174 and  Chapter Vll of ITR | Failure in issuing of cash memo or invoiee or receipt if so required under the law. | Higher of Rs. 5,000 or 3o/o of the amount of tax involved. |
| 174,108 | Failure in maintaining the required records. | Higher of Rs. 10,000 or 5% of the tax involved. |
| 175 and 177 | Denial or obstructing access of CIR or other authorized officer to the premises, place, accour,.ts, documents, computers or stocks. | Higher of Rs 50,000 or 50% of tax involved. |
| 176, 108 | Failure in furnishing the required information or to comply with any other term of the notice served under these sections |  |
| 177 |  |  |
| 181 | Failure in making application for registration if so required. | Rs. 10,000 |
| 181 | Failure rn notifying the material changes tn particulars of registration. | Rs.5,000 o |
|  | | Rs. 10,000 for each day of default since the date of submission of application or date of opening of undeclared business bank account, whichever is laier.  Minimum Rs. 100,00C if per:alty is less than Rs. 100,000 for each undeclared br.rsiness bank account. |
| 181AA | Contravention of section 181AA. |  |

1. On first default Rs 25,000 2. For subsequent defaults: 50,000 for each default.

Rs.

Rs.25,000

Rs. 50,000; and

Rs. 100,000.

Rs. 100,000 for each connection

provided to an unregistere

Failure in producing the record or documents on receipt of first notice.

Failure in producing the recoid or documents on receipt of second notice.

Failure in producing the record or documents on receipt of third notice.

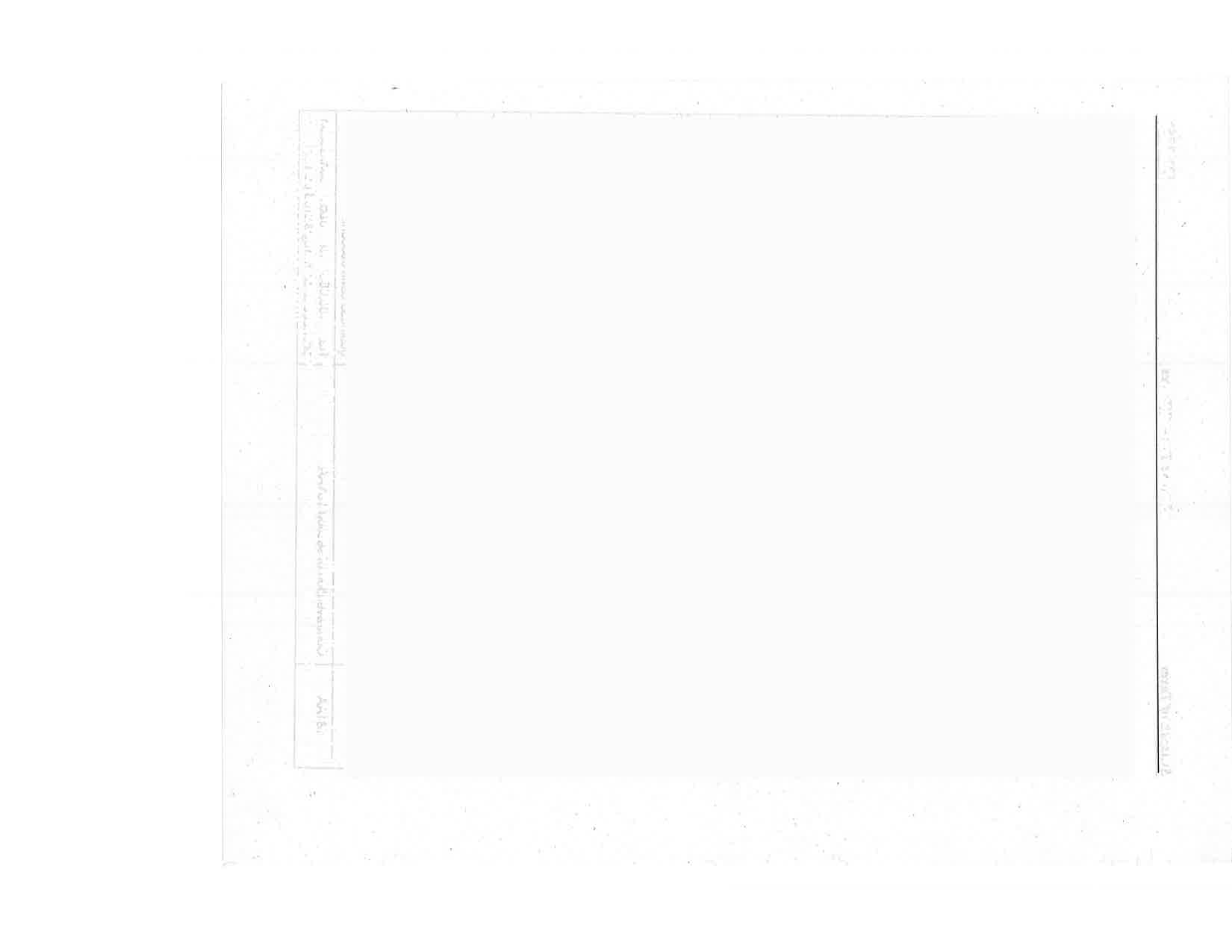
(a)

(b) (c)

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Failure in declaring business bank account(s), rn registration application or amending registration profile to declare existing business bank account(s) willfully



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| --- | --- | --- | --- | --- | --- | --- | --- |
| 181C& 181D | | Failure in displaying NTN or business licence certificate at the place of business. | | | Rs. 5,000. | | |
| 181E | | Contravention of section 181E by a company or an AOP. - ": ' | | | Penalg of Rs. 1,000,000 for each default. | | |
| 209, 210 and General. | |  | | | Rs. 25,000 | | |
| 148,149,150, 151,152, 1s3, 154, 154A, '155, 156, 1564, 158, 16A,2318,233,.  234,235,236, 236A, 236C, 236CA, 236G,236H,236K 2360 | | | | Failure in collecting or deducting tax at source or non-payment of tax withheld. | | Higher of Rs. 40,000 or 107o oftax. | |
| 237A. | Any person, who is integrated for monitoring, tracking, reporting or recording of sales, services and similar business transactions with FBR or its computerizedsystem: ",,:,:.. '  . Conducts such transactions rn a manner so as to avoid monitor:ing,  tracking, reporting or recording of such transactions, or  . lssues an invoice which does not carry the prescribed invoice number or  QR code or bears duplicate invoice number or counterfeit QR code,.or'  defaces the prescribed invoice number or QR code, or  . Any person vrho abetscommissioning of suchoffence. | | | | | | Penalty which rs higher of Rs.  : 500,000 ot 2OOo/o of the amount of tax involved. |
| 237A | Failure in getting registration of if registered failure in integrat,ng in the specified manner for monitoring, t:ac<ing, reporting or recording of sales, servrces and similar business transactions wi:h FBR or itp computerized system. i - | | | |  | |  |
| 2374 | Failure of a person required to integrate his business to get-.himsetf registered under the lTO, and if registererl, fails to integrate in he prescribed manner. | | Penalty for:  i) First default Rs. 500,000  iD Second defaultafter 15days offirstdefault Rs. 1,000,000  iii) Third default after 15 days of second default Rs. 2,000,000  iv) Fourth default after 15 days of third default Rs. 3,000,000  Where integration rs not made within 15 days of imposition of penalty for fourth default, the business premrses shall be sealed till the person integrates his business.  lf the person integrates his business before imposition of penalty for second default, penalty for first default shall be waived by the ClR. | | | | |
| General | |  | | | Higher of Rs. 100,000 or 200% of the tax sought to be evaded. | | |
| General | | Where e-rabler has enabled, guided, advised ormanaEed any person to design, arrange or manage that transaction or declaration resulting in offsho-e tax evasion. | | | Higher of Rs. 300,000 or 200% of the tax sought to be evaded. | | |
| General | | lnvolvement in 'asset move' from a specified territory [o an un-specified territory. | | | Higher of Rs. 100,000 or 100o/o of the tax. | | |

lnvolvement of an offshore offshore bx evasion.

tax . evader in

Obstructing any lncome Tax Authority performance of his official duties.

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Penalty up to Rs. 1,000,000.

Where the person continues to commit the same offence after a period of two months from imposition of penalg, his business premrses shali be sealed till he integrates his business in the prescribed manner.

'Asset Move' 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. [2(5C)]



'Offshore Enabler' 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 ClR. t2(38A8)l

'offshore Evade/ 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. t2(3gAC)l

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Offences

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'Specified Jurisdiction' means any jurisdiction which has committed to automatically exchange information under the common Reporting standard with pakistan. t2(6oA)l

'Unspecified Jurisdiction' means a iurisdiction wh'rch is not a 'specified jurisdiction'. t2(73A)l

Notes:

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The penalties shall be applied in a consistent rnanner. These shall be payable only if a wriften order has been passed by the Commissioner, Commissioner tnfipeats) or in" Appellate Tribunal after providing an opportuTity of being heard to the concerned person.

Establishing mens rea is not necessary for levying of penatty u/s 1g2. t1g2(z)l

'mens rea' means the intention or knowledge of wrong-doino that constitutes part of a crime.

2 Where the taxpayer admits his default he may voluntarily pay the amount of penatty due.

3 Where order is made. by the Commissioner (Appeals)'or the Appeilate Tribunat a copy of the

order imposing penalty shall be sent to the CIR who shall make arrangements for recovery of

the penalty. 1182(3)I

4 Where, as a result of any order, the original amount of tax is reduced, the amount of pena'lty

shallalso be reduced accordingly. [132(3)] '

IMPRISONMENT AND PROSECUTTON [1 91 to199]

There are certain offences under the lncome Tax Ordinance, 2001 in respect of which the offender has -not only\_to pay the default surcharge and penalties but blso has to bear further punishment in the form of fines and imprisonment. Such offences and their punishments are summarized in the table given below:

|  |  |  |
| --- | --- | --- |
| Section | Offence | Penalty |
| 1e1(1) |  | lmprisonment up to one (1) year or a fine or both. |

Failure in compliance of the provision refating to:

r) ii) iii) iv) v) vi)

Filing of retum of income u/s 114(3) & (4); Filing of retum on notice by CIR u/s 117(3); Furnishing of wealth statement u/s 116; Advance lax uls '147.

Tax withholding.

Furnishing complete and accurate particulars of persons mentioned u/s 165(1).

vii) Tax recovery notice u/s 140.

viii) Furnishing information orevidence u/s 176.

ix) Requirements of section 141 by a liquidator, etc.

x) Providing facilities to tax officer u/s 175(3).

xi) Declaring of business bank'account(g) in fie registration form or updated registration form or retum of income or

wealth statement.

xii) lntegrate business with FBRIs com

puterized system.



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191 B

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192B

|  |  |  |  |
| --- | --- | --- | --- |
|  | xiii) Generate 'tax invoice'verifiable by FBR's system. I '  'Tax invoice' meaiis an invoice ds prescribed under the lncome Tax Rules, 2'i02 [2(66A)] | | Further imprisonment uP to two (2) year or a fine uPto Rs.  50,000 or both. |
| Upon convictlon for an offence u/s 191(1), failure in furnishing of return of income or wealth statement (without reasonable excuse) witl',in the time specified by the Court. | | |
| A company (rrcluding a banking company) or an AOP who:  (a) fails to fully state all tlie relevant particulars or information  as specrfied in the form of return, including a declaration  of the records kept by the taxpayer;  (b) furnishe blank or incomplete particulars or information  as spec fied in the return of income; or  (c) attaches blank or incomplete.annexures, statements or  documents where such annexures, statements or rgcorQs were 97 required to be filed | | | Fine or imprisonment upto one (1) year or both. |
|  | | | lmprisonment upto slx (6) months or a fine or both. |
| Making a fa se statement in any verification. | | | lmprisonment upto three (3) years, or a fine or both. |
| Concealmerd of income or furnishing inaccurate particulars of such lncom:, where revenue impact is Rs, 500,000 or more. | | | lmprisonment upto two (2) years or a fine or both. |
| Non-declara:ion, of an offshore asset to or furnishing inaccurate particulars of an offshore asset having revenue impact of Rs. 10,000,000 or more. | | | lmprisonment upto three (3) years or wlth a fine upto Rs.  500,000 or both. |
| 193 | Failure in maintaining prescribed records. |  | |
| 194 | lmproper use of NTN Card. |  | |
| 195 |  |  | |
| 195A |  | lmprisonment upto one year or a fine upto Rs. 50,000 or both. | |
| 195B | Enabling offshore tax evasion. |
| 196 |  | lmprisonment upto three (3) years or a fine upto Rs. 100,000 or both. | |
| 197 | Disposal (sale, mortlage, charge, lease, etc.) of any property after receipt of notice from Tax Recovery Dfficer, with a view to prevent the attachment cf such croperty. |
| 199 | Knowingly and wilful abetment, assistance to or inducing another person to make a false statement or deliver a false account, return, etc. | lmprisonment upto three (3) years or a fine or both. . : | |

Non-registration u/s 998

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Obsiructior of any income tax authority discharge o'its functions under lTO.

Failure, without reasonable complying notice u/s 1164(2).

excuse, rn

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i) ii)

Making a false or misleading statement; Omittirg any matter or thing without which the sta:ement is misleading.

Offence commifted knowingly

lmprisonment upto two

fine or both.

/n ofhercases; A fine.

or recklessly: (2) years or a

lmprisonment upto one (1) year or a fine Rs.

50,000 or both.

a) For deliberate failure:

'v lmprisonment upto two iz)

fine upto Rs. 50,000 or both.

b) \_ Fgr other cases.'

--i:rfi A fine upto Rs. 50,000

years

or

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lmprisonment upto one year or a fine upto Rs. 50,000 or both.

lmprisonment upto one (1) year or a fine or both.



Synopsis ofTaxes

Income Tar - Offences

lzt-3791

Notes:

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'Concealment of incone or furnishing of inaccurate particulars of income' includes:

i) Suppression of any income or amount chargeable to tax;

ii) Claiming of any deduction for any expenditure not actually incurred; or

rr) Any act referred to in section 1 1 1 (1). [1924(2)]

The following persons shall be prosecuted for a case where any of the above-mentioned offences is committed by a company or an AOP: [200(1) & (2)]

|  |  |
| --- | --- |
| Offender | Person Liable to Prosecution |
| Company. | The principal officer, a director, general manager, company secretary or other similar officer of the company. |
| Association of persons. | A member of the association. |

However, the above persons shall not be punishable if the offence was committed without their knowledge or consent, or they have exercised all diligence to prevent the offence.

[200(3)]

Prosecution for an offence may be instituted without affecting any other liability incurred by a person under the lncome Tax Ordinance. 12011

The Federal Government has a power to tender immunity from prosecution under specified circumstances. [204]

Where any person has committed any offence, the Chief Commissioner may, with the prior approval of the Board, compound offences subject to payment of tax due and default surcharge and penalty determined under the lncome Tax Ordinance. Such order may be made before or after the institution of proceedings. 12021

Where a person did not know and could not reasonably be expected to have known that the .statement was false or misleading, then he shall not commit any offence. [195(2)]

Statement means a statement made (in writing or orally or electronically) by a person to an income tax authority in any of the following documents: [195(3) & S. No. 10 of Table in section 1821

i) An application.

ii) A Certificate.

iii) A Declaration.

iv) A Notification.

v) A return.

vi) Any other document.

TRIAL BY SPECTAL JUDGE [203]

'Special Judge'means the Special Judge appointed u/s 203 of the lncome Tax Ordinance.

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Prosecution for offences under the lncome Tax Ordinance decided by a Special Judge appointed for this purpose.

discussed below:

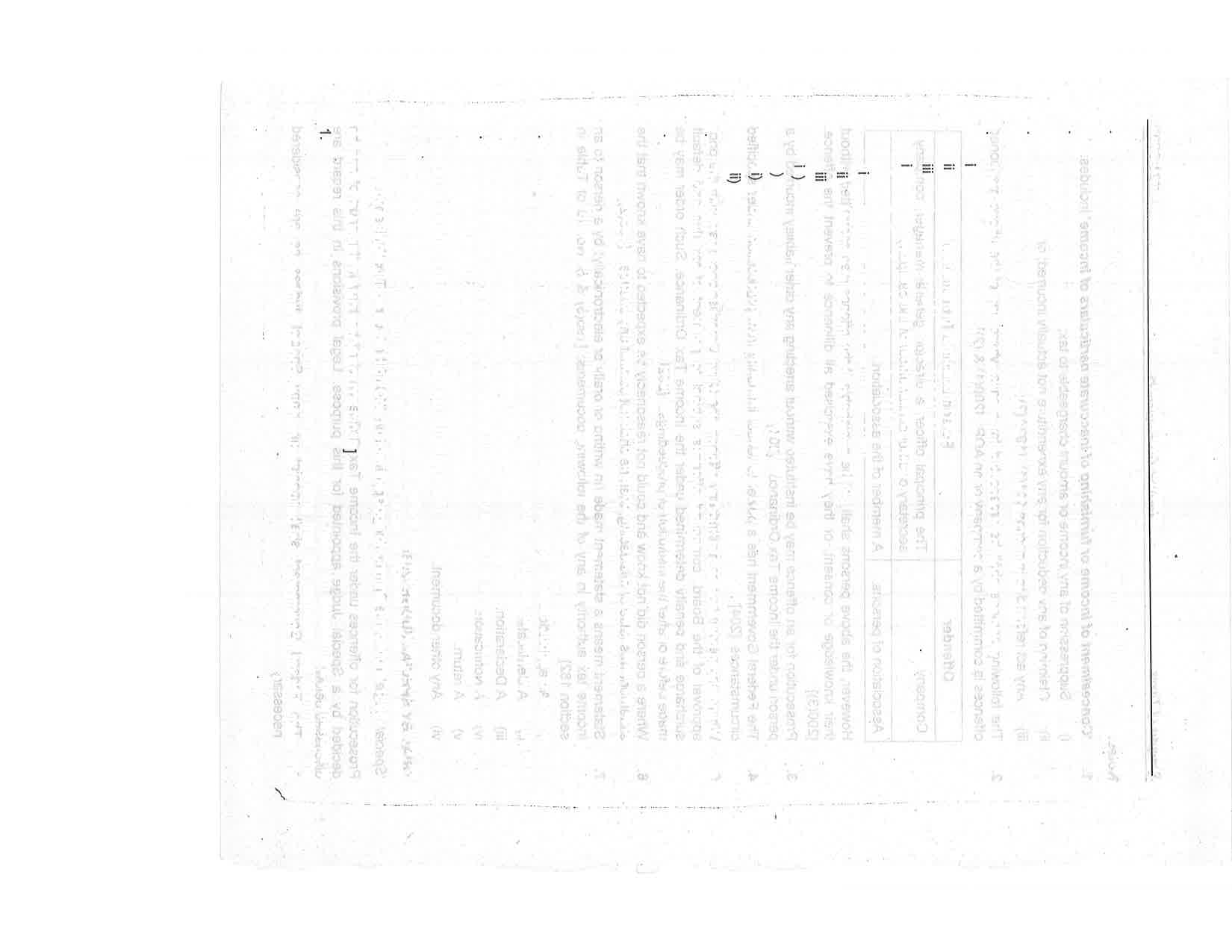
1. The Federal Government shall appoint as many necessary.

shall be tried in the Legal provisions in

Special Judges as

court of and be this regard are

are considered



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Income Tax - Olfences

t2r-3801

Where more than one Special Judge is appointed, the Government shall also notify the territorial jurisdiction of each of them.

A person to be appointed as Special Judge should be such person who is or has been a Sessions Judge.

The Federal Government may notify that a Special Judge appointed u/s 185 of the Qustoms Act, 1969 shall ha',re jurisdiction under the lncome Tax Ordinance, 2001'

Special Judge shall have exclusive jurisdiction to try offences Non-compliance with certain statutory obligation. [191]

False staternent in verification. [192]

Concealment of income. [192A]

Concealment of an offshore asset. [192B]

Failure to maintain records. [193]

lmproper use of NTN certificate. [194]

Making a false or misleading statement. [195]

Non-compliance with notice u/s 1 164. [1954]

Enabling offshore tax evasion, [1958]

Obstructing an income tax authority. 1196I

Disposal of properly to prevent attachment. [197]

Abetment to commit an offence. [199]

I

The Court of Special Judge bhall be deemed as a Court of Sessions and provisions of Code of Criminal Procedure, 1898 shall apply to the proceedings.

The Special Judge shall take cognizance of, and have jurisdiction to try only upon a written complaint made by the Commissioner.

The procedure provided in seition 2038 of the lncome Tax Ordinance shall be applicable where the offence of concealrnent of incoine which has resulted in non-payment of tax is:

D Rupees one hundred million and abpve in case of a filer; and

ii) Rupees twenty five million or above in case of non-filer.

The Federal Government may transfer a case from one Special Judge to another if it appears that such transfer shall promote the ends of justice or tend to the general convenience of parties ot witnesses.

Where a case is bansferred, the Special Judge may act on the evidence already recorded by the previous coun before transfer of the case.

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AppEAL AGAINST ORDER OF SPECIAL JUDGE [203A]

An appeal against order of a Special Judge shall lie before the respective High Court. lt may be filed within a period of thirty (30) days of the passing of order by Special Judge. Such appeal shall be heard by a Single Judge of the High Court under the Code of Criminal Procedure, 1898.

POWER TO ARREST AND PROSECUTE [2038

Where on the bais of material evidence brought on record an assessment or amended is made and the msessing otficer records a finding that the taxpayer has committed the offence of concealment of income which has resulted in non-payment of tax of Rupees one



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Synopsis of Tu,es

Income Tax -

Offences

[2r-381]

hundred million and above in case of a filer and rupees twenty five million or above in case of non-filer, the taxpayer may be arrested after obtaining written approval of the committee.

Material evidence is brought on record as a result of audit conducted by the auditors u/s 177(8) read with section 2i4C of the lncome Tax Ordinance.

The committee shall comprise the Minister for Finance and Revenue, the Chairman of the FBR and the senior most member of the FBR

All arrests made shall be carried out in accordance with the relevant provisions of the Code of Criminal Procedure, 1 898.

Where any person has committed offence of concealment of tncome or any offence warranting prosecution, the Chief Commissioner with the prior approval of the FeR may, either before or after the institution of any proceedings foi recovery of tax, compound the offence if such person pays the amount of tax due along with such default surcharge and penalty as is determined under the provisions of the lncome Tax ordinance.

Where the person suspected of offence of concealment of income or any offence warranting prosecution is a company, every director or officer of that company whom the authorized officer has reason to believe rs personally responsible for aciions of the company contributing to offence of concealment of income or any offence warranting prosecution shail be liable to arrest:

Any arrest such shall not absolve the company from the liabilities of payment of tax, default surcharge and penalty imposed on it.

PROCEDURE TO BE FOLLOWED ON ARREST OF A PERSON t2O3Cl

\A/hen an authorized officer of lnland Revenue arrests a person, he shall immediately

intimate this fact to the Special Judge who may direct such officer to produce that person at

such time and place and on such date as the Special Judge considers expedient. The Officer shall act accordingly.

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Any arrested person shall be produced before the Special Judge or, if there is no Special Judge within a reasonable distance, to the nearest Judicial Magistrate, within 24 hours of arrest. Time necessary for the journey from the place of arrest [o the Court of the Special Judge or Magistrate shall be excluded.

When any person is produced before the Special Judge, he may, on the request of such person, admit him to bail on his executing a bond, with or without sureties, or refuse to admit him to bail and direct his detention at such place as he deems fit. This is to be done after perusing the record, if any and after giving the prosecution an opportunity of being heard

The above provision shall not preclude the Special Judge from cancelling the bail of any such person at a subsequent stage if, for any rgason, he consiclers such cancellation necessary. Before passing such order he shall affcjrd such person an opportunity of being heard, unless for reasons to be recorded he considers that the affording of such c,::por.tunity shall defeat the purposes of the Ordinance.

When such person is produced before a Judicial Magistrate, such Magistrate may, direct his production before the Special Judge on a date and time to be fixed by him or direct such person to be forthwith taken to, and produced before, the Special Judge and he shall be so

taken.

The above provisions shall not preclude the Special Judge or the Judicial Magistrate from remanding any such person to the custody of an officer of lnland Revenue noiOing inquiry

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i-' Income Tax - Olfences

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Synopsis of faxes

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against that person if such officer makes a request in writing to that effect, and the special .tiCge or the:JucEcial Magistrate, after perusing the record, il. "1y, and hearing such person' is oi tne opinicn that forihe completion of inquiry or investigation it is necessary to make such order. The period of such custody shall not excged 14 days'

When any persol is arrested, an officer of lnland Revenue shall record the fact of arrest and oin"1 r"fdu"nt par-ticulars in a specified register and shall immediately proceed to-inquire into the charge against such person. lf he completes the inquiry within 24 hours of his arrest' excluding the time necessary for journey as aforesaid, he may, after producing such person before 1^ie Spec al Judge oitn" n""r"si Judiciat Magistrate, make a request for his further detention in his custodY. \_a. ,.a

-. while holding an inquiry, an \*ori6r of lnland Revenue shall exercise the same powers as are exercisable 5y an otficei in charge of a police station under the Code of Criminal Procedure, ig9g. However, while holding ari inquiry the officer shall exercise such powers in the light of the above-discussed Provisions.

lf, after and inqu ry, an officer of lnland Revenue is of the opinion that there is no sufficient evidence or reasonable ground for suspicion against such person, he shall release him on his executing a bond, wit6 or without suieties, and shatt direct such person to appear,.as and when requir6d, before the Special Judge. He shall also rnake a report to the Special Judge for the discharge of such person and aiull report of the case to his immediate superior.

The Special Judge may, after the perusal'of record of the.lnqulry, and trearing. the prosecution, agree with iuch report and discharge the accused. Where he is of the opinion that there is sufficient ground foi proc.:edings agiinst such person, proceed withohis trial and direct the prosecution to produce evidence. , , - ':: An officer of lnland Revenue empowered to hold inquiry shall maintain a register to be called ,,Register of Arrests and Detentions" in the prescribed form in.which he shall enter the name and-otner particulars of every person arrested, together with the time and date of arrest, the detaiis of the information received, the details of things, goods or documents, recovered from . his custody, the name of the witnesses and the explanation, if any, given by him an.d the manner in which the inquiry has been conducted from day to day and, such register or authenticated copies of its entries shall be produced before the Special Judge, whenever so directed 6y him-

After completing the inquiry, an officer of lnland Revenue shall, as early as possible, submit to Special Judgi a complarnt in the same form and manner in which the officer in-charge of a police station zu:mits a report, before a court. - ; i "

Magistrate of the first class may record any statement'or confession during inqutry, tn acc-ordance with provisions of section 164 of the Code of Criminal Procedure, 1898.

FBR, with the' apjroval of the Federal Minister-in-charge, may also authorize any other officer working lnder it to exercise the powers and perform the functions of an officer of lnland Revenie u/s 203C. This authority is to be exercised by a notification in the official Gazette and shall be subject to such condttions as FBR may deem fit to impose. .,.

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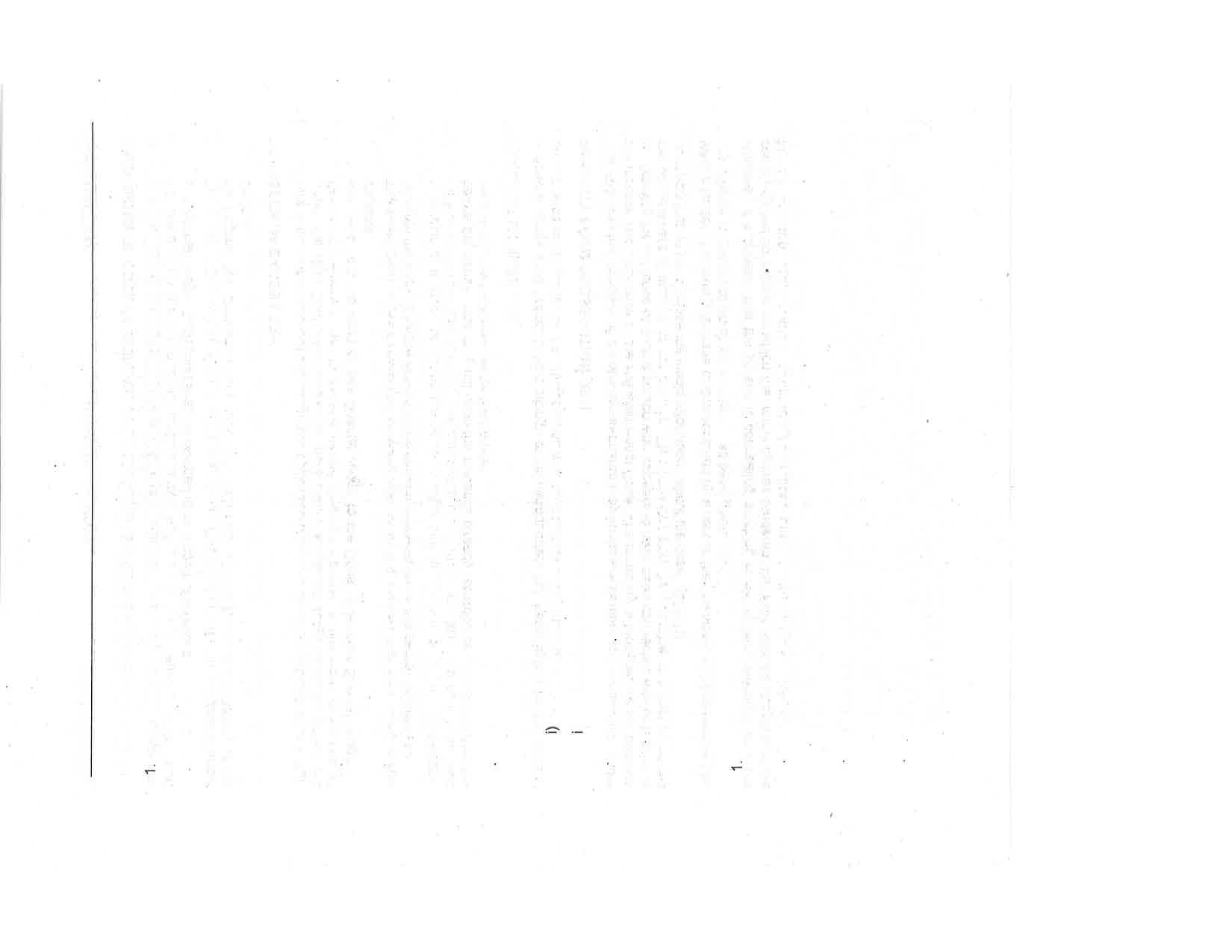
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SPECTAL JUDGES [203D]

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The Federal Gcvernment shall appoint as many Special Judges as it considers necessary' , Where more than one Special Judge is appointed, it shall notify headquarter of each Special Judge and ihe terrrtonal lrmrts within which he shall exercise his jurisdiction'

The psrson to be appointed as a Special Judge must'be or has been a Sessions Judge.



SJ,nopsis of Taxes

Income Tax - Olfences

[2 r-383]

cocNrzANcE oF oFFENCES By SPEC|AL JUDGES [203E]

lrrespective of any contained in any other law, a Special Judge may, within the limiis of his r jurisdiction, take cognizance of any offence punishable under the lncome Tax Ordinance upon:

A written report made by an officer of lnland Revenue or by any other officer especially authorized in this behalf by the Federal Government;

Receiving a complaint or information of facts constituting such communicated by any person;

iii) His own knowledge acquired during any proceeding before him under the lncome Tax

Ordinance or under any other law for the time being in force

Upon the receipt of report from an officer, the Special Judge shall proceed with the trial of the accused.

Upon the receipt of a complaint or information, the Special Judge may, before issuing a summon or warrant for appearance of the person complained against, hold a preliminary inquiry for the purpose of ascertaining the truth or falsehood of the complaint, or direct any magistrate or any officer of lnland Revenue or any police officer to hold such inquiry and submit a report, and such Magistrate or officer shall conduct such inquiry and make report accordingly.

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The Special Judge may proceed against the person complained against in accordance with law if, after conducting such inquiry or after considering the report of such Magistrate or officer, he is of the opinion that there is:

No sufficient ground for proceeding, he may dismiss the complaint, or Sufficient ground for proceeding.

A special Judge or a Magistrate or an officer holding inquiry may hold such inquiry, as early as possible, rn accordance with'the provision of section 202'of the Code of Criminai Procedure,1898.

SPEG|AL JUDGE, ETC. TO HAVE EXCLUSTVE JURTSDTCTTON [203F]

Notwithstanding anything contained in the lncome Tax Ordinance, 2001 or in any other law for the

time being in force no,-

Court other than the Special Judge having jurisdiction, shall try an offence punishable under the lncome Tax Ordinance, 2001;

Other court or officer, except in the manner and to the extent specifically provided for in the lncome Tax Ordinance, 2001 , shall exercise any power, or perform any function under the lncome Tax Ordinance, 2001;

Court, other than the High Court, shail entertain, hear or decide any application, petition or appeal under Chapters XXXI and XXXII of the Code of Criminal Procedure, 1898, against or in respect of any order or directron made under the lncome Tax Ordinance, 2001; and

No court, other than the Special Judge or the High Court, shall entertain any application or petition or pass any order or give any directron.under Chapters XXXV|l, XXXIX, XLIV or XLV of the Code of Cnminal Procedure, 1898.

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offence made or

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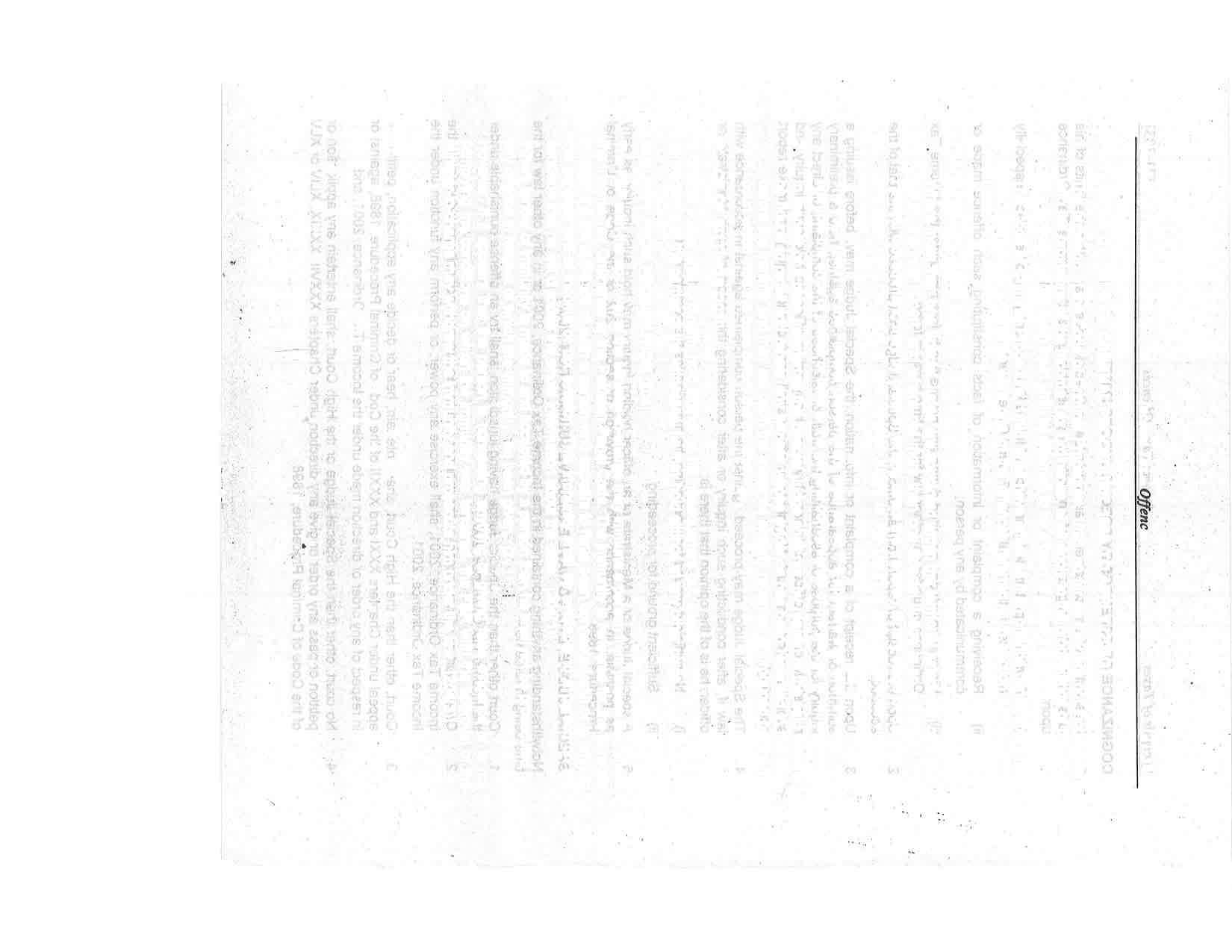
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Synopsis of Taxes

Income Tax-'

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PROVTSTQNS OF CODE OF CR|MINAL PROCEDURE,1898, TO APPLY [203G]

1. The provision of the Code of Criminal Procedure, 1898, so far as they are not inconsistent " ': with the provisions of the lncome Tax Ordinance, shall apply to the proceedings of the court

of a Special Jucge. Such court shall be deemed to be a court of Sessions.

2. The Code of Criminal Procedure, 1898, shall have effect as if an offence punishable under the lncome Tax Ordinance were one of the offences referred to in section 337(1) of the

Code.

TRANSFER OF CASES [203HI

\Alhere more than one Special Judge are appointed within the territorialjurisdiction of a High Court, the High Court, and wherq not more than one Special Judge is so appointed, the Federal Goverrnent, may by order in writing direct the transfer, at any stage of the trial, of any case from the court of one Special Judge to the Court of another Special Judge for disPosal' ,,.r ei-r

The High Court or the Federal Government shall do so if it appears that such transfer may promote the ends of justice or tend to the general convenience of the parties or witnesses.

ln respect of a case transferred the Special Judge shall'not, by reason of the said transfer, be bound to recall and rehear any witness whosg evidence has been recorded in the case before the transfer and may act uilon the evidenie already recorded or produced before the

court which tried the case before the transfer.

PLnCE OF STTTINGS [20311

A Special Judge shall ordinarily hold sittings at his headquarters but, keeping in view the general

convenience of the parties or the witnesses, he may hold sittings at any other place.

TMMUNTTY FROM PROSECUTTON [204]

The FBR with the approval of the Minister-in-charge may immune a person from prosecution under the lncome Tax Ordinance or the Pakistan Penal Code. The immunity is tendered for the purpose of obtaining the eviderce of such a person who appears to have been connected with or is privy to the concealment of irrcorne or tax evasion. This immunity shall be available to a person on the condition that he will disclose the whole information about the case. [204(1)]

Where tender of immunity is made to and accepted by a pcrson therr he shall rrct be prosecuted for any offence in respect of which the immuniiy as becn given., {2ut:.\_

However, if it appears that the person is concealing anything or giving false "evidence or is not complying the conditions on which the immunity was tcndered, the FBR with the approval of the Minister-in-charge may withdrawthe immunity and prosecute him under the law. [204(3)]

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Synopsis of Taxes

Income Tar - Refund

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CHAPTER-22

REFUND OF TAX

REFUND

Refund is an amount payable by the Tax Department to a taxpayer. lt may arise due to an excessive deposit of tax as against the amount that was payable under the provisions of the law.

Sections 170 and 171 o'f the lncome Tax Ordinance,200'1 and Rule-71 of the lncome Tax Rules, 2002 specify the provisions relating to the refund of tax.

INSTANCES OF REFUND

A refund may accrue or arise as a result of any or all of the following situations:

1 Where the amount paid by the taxpayer himself or by any other person on his behalf eiceeds

the amount of tax payable by him for the year.

2. Where a loan or advance, given by a private company to any of its members, is treated as

dividends [u/s 2('1gXe)] of a taxpayer and he has repaid such loan or advance.

3. Where the iotal income of a person includes such income of some other person which

cannot be clubbed with his incomes.

4. Where the tax liability of a taxpayer is wrongly assessed and the taxpayer had to pay more

tax than what he was liable for.

5. Where the tax liability is reduced due to rectification of an error or a relief granted by any

competent authority.

6. Where the tax at source was deducted at a higher rate.

7. Where the taxpayer was wrongly charged to tax at a higher rate.

8. Due to any other reason.

PERSONS ENTITLED TO CLAIM A REFUND

The following persons are entitled to claim a refund from the Tax Department:

1 The taxpayer himself, or

2 The legal representative, trustee, guardian or receiver of the taxpayer in the case of his incapacity, insolvency, liquidation, death, etc.

CONDITIONS APPLICABLE TO REFUND [170 & Rule 71]

The following conditions shall be applicable to a claim for refund being lodged- before the Commissioner:

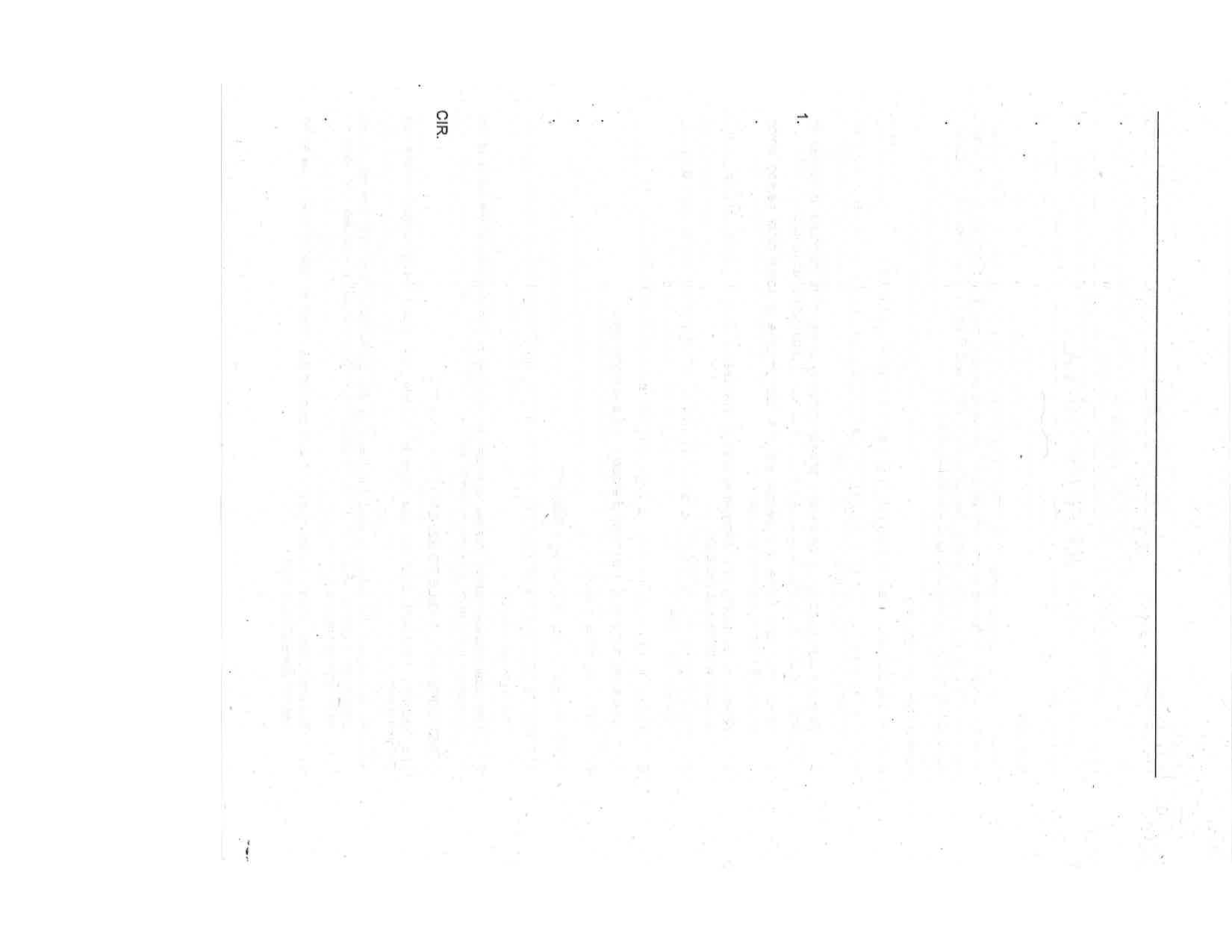
prescribed Form and verified tn the Rules, 2002 orescribes the form of

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The application should be accompanied by a copy of the return of total income, if the same has not already been filed.

An apprication for refund should prescribed manner. [Rule-71 of application for refu nd.l

be made in the the lncome Tax



Syrcpsis of Taxes

Income Tax - Refund

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The application should be made to the Commissioner for the CIRCLE in which the applicant is assessable, otherryise to the Commissioner for the CIRCLE in which he resides.

The application rnay be presented in person or through a duly authorized agent. lt may also be sent by post.

The application for iefund shall state the following information: r) Total tax con:puted for the tax year;

ii) Total tax chargeable in respect of the total income; and iii) Total amount of tax paid.

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The FBR may make rules regulating procedure for expeditious processing and automatic payment of,refunds through centralized processing system. That system shall be effective from a date to be notified by the FBR. [170(6)]

PERTOD FOR MAKTNG AN AppLtCATtON FOR REFUND l17\(2)l

An application for refund sfrall be made within a specified time period. Otherwise it may be liable to be rejected by the ClR. The allowable time period for submission of an application for refund is three (3) years of the later of:

The date on which the Commissioner has issued the assessment order for the year to which refund relates; or

2 The date on which tre tax was paid.

ORDERS BY THE cOMMtsStoNER [170(3) to (s)]

The Commissioner may make necessary enquiry and call for such particulars, documents or evidence as he may require and thereafter, may admit or reject the application. The order for refund or rejection of an acplication shall be made in writing.

Where the Commissioner is satisfied ihat tax has been over paid, he may apply that amount in the following order:

1 Adjust it against any other tax liability of the person under the lncome Tax Ordinance, 2001; 2 Adjust against tax liability under any other tax laws (e.g., Sates Taxl etc.); and

3 Refund the balance amount, if any, to the taxpayer.

Ttrc order for application and refund of excess amount shall be made by Commissioner within sixty (60) days of the receipt of refund apptication.

Where the Commissioner rejects the application of the taxpayer, he shall communicate it to the applicant in writing along rvith the reasons of rejection. fne appiicant may file an appeal against the order of ClR. lf the orders are not made within the specified time or he disagrees with thebrders of

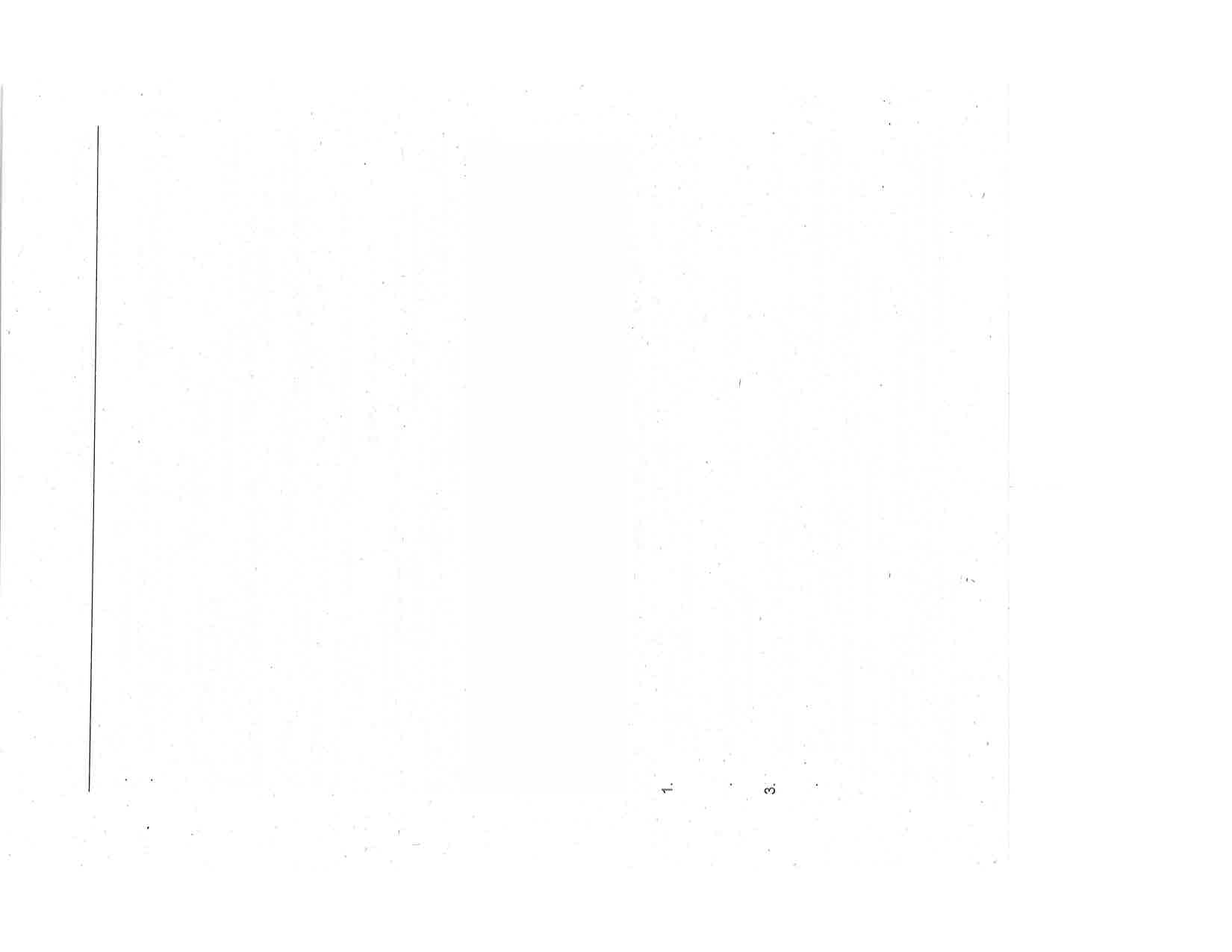
ELECTRONIC PROCESSING AND TSSUANCE OF REFUNDS By FBR t17OAl

From tax year 2021, the FBR may process and issue refund to the taxpa return of income without requiring refund application by the taxpayer to'th verified by FBR's computerized system. other provisions in this regard are:

This shall apply notrrvithstanding anything contained in section 170 of the lncome TaOrdinance,2001.

yer who has filed the e extent of tax credit

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Synopsis of Taxes

Income Tax - Refwnd

[22-387]

2 FBR may be prescribed rules in this regard.

3 The refund amount sanctioned under this procedure shall be electronically transferred in the

taxpayer's notified bank acccunt.

ADDITTONAL pAynrrENT FOR DELAYED REFUND l17i(1)l -

The Ordinance specifies that payment on account of refund shail be made within a period of three (3) months of the date on which it becc,mes due. ln case of a delay in payment, an additional amount at the rate of KIBoR plus 0.5% per annuln shall be payable to fhe taxpayer.

Where there is a reason to believe that a person has claimed the refund which is not admissible-to him, the payment of additional amount shall not apply till the investigation of the claim is compteted and the claim is either accepted or rejected.

'KIBOR' means Karachi lnter-Bank Offered Rate prevalent on the first day of each quarter of the financial year. [2(30AB)]

WHEN A REF|JhTD BECOMES DUE t171(2)l

Determination of the date on which a refund becomes due is very important for ascertaining the period in which a i"efund..may be made vrithout any additicnal compensation io the taxpayer. The dates when a refund shall be cjeemed to have become due are exhibited in table given below.

|  |  |  |
| --- | --- | --- |
| Sr. No. | Nature of the Case | Due Date |
| I I | Refund as a result of an order passed by any authority in an appeal or a revision petition. | The date of receipt of the orcjer by ClR. |
| 2 | Refund as a result of a revision order passed by ClR. | The date on which Commissioner made the order. |
| 3 | Any other case. | The date on which refund order is madb. |

Alofes.'

For the purpose of compensation for late refund in a case where refund order is made u/s 170(1), the r:efund becomes due from the date of refupd order and not the date of assessment.

The Commissioner may withhold the.amount of refund if an order, givinE rise to,refund, is the subject matter of an appeal.

Amount of refund may be utilized for setting off the tax liability of a taxpayer under the lncome Tax ordinance, Federal Excise Act, Sales Tax Act or customs Act. 117o(3xb)l

4 From tax year 2009 onwards, wherever refund of tax is claimed in a non-cornpany case,

income tax return shall be filed electronically, and in all cases, whether relating to a company

or a non-company, electronic filing of refund application shall be mandatory. [Rule 73(2E)] PAYMENT OF REFUhJD THROUGH ]NCOME TAX REFUND BONDS T2(22C) & 171A]

lnstead of paying income tax refunds through cheques or bank debit advices, income tax refund bonds may aiso be issued by FBR RetunO-settlement Company Limited (FRSC) in book-entry .form through a central depository licensed by the SECP. Payment of refunds thrrough bonds is subiect to the following conditions:

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Synopsis of Tosces

Income Tar - Refund

122-3881

1 The ciaimant has opied for payment of refund in thi-s manner; and

2. The procedure for rssuance, redemption and other matters notified by the Federal

Government is observed.

The procedure to be adopted for this purpose shall be as below:

1 Tne FBR shall ssue a promissory note to the FRSC incorporating the details of refund

claimants and th=ir i'espective amounts of refund.

? The FRSC shall ssue the bonds having maturity period of three (3) years with simple profit

@ 10% p.a. The bonds shall be:

r) lssued in ualues in multiples of Rs. 100,000;

u) Traded freely in the country's secondary markets; \

iii) Approved -.,ecurity for calculating the statutory liquidity reserve;

;v) Accepted by the banks as collateral;

v) Exempt from the compulsory deduction ol Zakat. The Sahrb-e-Nrsab may pay Zakat

voiuntarily according to Sharaah.

Redemption ot Bonds

On Maturity of Bond:

The FRSC snaii returr the promissory note to the FBR, which shall make payment of the amount due (along wiih the prcfit due) under the bonds to the bond holders.

Before Maturity of Bcnds:

The FBR, at its own cption, may redeem the bonds in the manner discussed above and pay the amount due along with the profit due to the bond holders. This redemption shall be in the light of any general or specific policy to be formulated by the FBR.

'FBR Refund Settlement Company Limited (FRSC)'mbans the company which is incorporated under the Companies Act,2017, for the purposes of settlement of income tax refund claims including payment by vray of issuing refund bonds under section 171A.I2(22A)l



S\_ynopsis of Taxes

Income Tax - Appeals

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CHAPTER-23

APPEALS AND REVISH

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Any proceeding under the lncome Tax Ordinance, 2001 gives rise to an inter-acrion betweei t're Tax Department on one part and the taxpayer on the other. lt may happen that the pcin"i of view cf one party does not coincide with that of the other's. Under such a condition ihe Oi"dinance prcvldes two courses of action, which are:

1 Consideration of the case by the Administrative Authorities; and

2. Referring the matter to the Appellate Authorities.

APPEAL

Whenever a dispute or difference of opinion is brought before the Appellate Authorities foi'decisicn, it is commonly termed as "appeal".

REVISION

"Revision" is the reconsideration of the case by the same or the higher Administrative Aulhcri:y' Revision may be initiated by the Authority revising the case of its own or on an appiication n aca ly the taxpayer.

PECUNTARY JURTSDTCTTON lN APPEALS [1264]

Pecuniary Jurisdiction of Appetlate Authorities t1 26A(1 )l

An appeal against the order of Cornmissioner [C/R/ or other officer shali lie to Cor,rmissioner (appeals) [ClR(A)] or Appellate Tribunal lnland Revenue [ATIR] as below

|  |
| --- |
| Value of Assessment of Tax or Refund of Tax |
| z l)p to Rs. 20 million |
| Exceeding Rs. 20 million |

Appeal Shall l-ie To

Appeal Against Order of clR(A) & ATIR t1264(2) & (3)I

An appeal against the order of CIR or other officer shall lie to CIR(A) or ATIR as b'eiov".

|  |  |
| --- | --- |
| Value of Assessment or Refund | Appeal Decided By |
| Up to Rs. 20 million | CIR (Appeals) |
| Exceeding Rs. 20 million | Appellate Tribunal |

Refererce Sha;i -ic Before

'Value of Assessrnent of lax'means the net increase in tax liability of a per"s:;-1 a.s a r"esult of order sought to be assailed.

'Value of Refund'means net reduction in refund as a result of order souqht io be ass . '-a

Cases Pending Before CIR(A) t1264(4) & (5)I

Cases pending before the CIR(A) and having value more than Rs. 2-0 miliiorr shali a'r cr before 31-12-2024 stand transferred to ATIR.



Synopsis of Taxes

Income Tax - Appeak

123-3e01

Cases so transferred sl'rall be decided by ATIR within six (6) months from the date starting from 1606-2024 or the date of tansfer of case.

Cases so transferred sl'all be decided by ATIR within six (6) nronths frorn the dbte starting frorn 1606-2024 or the date of t:ansfer of case.

coMMtsstoNER (APPEALS)

"Commissioner (Appea s)" means a person appointed to be a Commissioner lnland Revenue (Appeals) under section 208 of the tncome Tax Ordinance, 2001. t2(13A)l

The Federal Board of Revenue (FBR) is empowered to appoint as many Commissioners (Appeals) as is Ceemed necessary. He will be subordinate to the FBR and his jtrrisdiction shali also be determined by the FBR

FBR's ordersl instructions and directions are to be followed by all officers and persons employed in the execution of the lncome Tax Ordinance,2001. However, the FBR cannot issue such oiders, instructions or directions so as to interfere with the discretion of the Commissioner (Appeals) in the exercise of his appellate functions.

APPEAL TO THE COMMTSSTONER (APPEALS) [127\_129]

Appeal before Commissioner (Appeals) lies only if the value of assessment of tax or refund does not exceed Rs. ?-o million. Any person dissatisfied with the orders may file an app taxpayer may file an appeal to the Commissioner (Appeals) against any of the foilowing issued by the Commissioner or officer of lntand Revenue: l12Z(1)l

[120(2A)]

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of tax eal. A orders

Shipping

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Assessment after making adjustments in the return filed by a taxpayer.

Assessment of peson who has not furnished a return.[121]

Alteration in the assessment through amended assessment.[122]

Determination of the income and the tax liability of a non-resident Business. [143]

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Determination of the income and the tax liability of € non-resident carrying on Air Transport Business. l-1441

Holding a person [able to pay the amount of tax collected but not deposited or not deducted as required underthe law. [161(1)]

Recovery of tax from a person from whom it was not deducted or collected at source.

t162(1)l

Legal action (i.e., imposition of default surcharge, disallowance of an expense as deduction, etc.) against the person who has not deducted or collected the tax at source. t162(2)l

Declaring a person as representative of a non-resident person. t172(3)(01

An order giving effect to any finding or directions in any order made by the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court.

Determination of the refund or adjusfnent of the excess amount paid by a taxpayer. [170]

imposition of penalty for Failure to furnish return of total income, statement, etc. [182]

lmposition of defau t surcharge foq failure in payment of any tax, penalty, etc. [205]

Refusal to rectify the mistakes in the orders pointed out by the taxpayer. 12211

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Synopsis of Taxes

Income Tax-

Appeals

123-3e11

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lssuance of an order having the effect of enhancing the assessment.

lssuance of an or{er having the effect of reducing the refund.

lssuance of an order through which the liability of the person is increased.

Conditions Applicable to the Appeat t127(2) to (6)l

The following conditions shall be applicable to the dppeal before the Commissioner (Appeals).

1 The application for appeal shall be made in the Form specified in Rule-76 of the lncome Tax

Rules, 2002.

2 ]he taxpayer shall verify the application for appeal in the manner as specified in Rule-76.

3 An appeal shall state precisely the grounds upon which it is made.

4 The taxpayer has paid the admitted tax liability as is required u/s 137(1) of the lncome Tax

Ordinance, if appeal is against an assessment order.

5 The FBR may prescribe mechanism for electronic Tiling of the appeals.

6 The appeal fee has been paid. The evidence as to the payment of appeal fee shail be

aftached with the appeat. The appeat fee shall be payabte as per the foilowing:

a) ln a case of an appeal against assessmenf..

i) ln the case of companies: Rs. 5,000; and

ii) For other taxpayers: Rs. 2,500.

b) ln any othercase:

i) ln the case of companies: Rs. 5,000; and

l) For other taxpayers: Rs. 1,000.

7 The appeal shali be frled within thirty (30) days of the intimation of orders against which the

lPOeat is being filed. The Commissioner (Appeals) has the powers to extend the filing period

if he is satisfied that there existed some sufficient cause.

Note: ln a case where amount of tax is involved, the date of intimation of order shall be the

date on which the Demand Notice is served to the taxpayer.

8 The appeal shoutd be fited in duplicate.

9 The appeal should be accompanied by the notice of demand and/or a copy of the

assessment or other order being appealed against.

10' A true copy of the appeal shall be sent to the concerned Commissioner by Registered

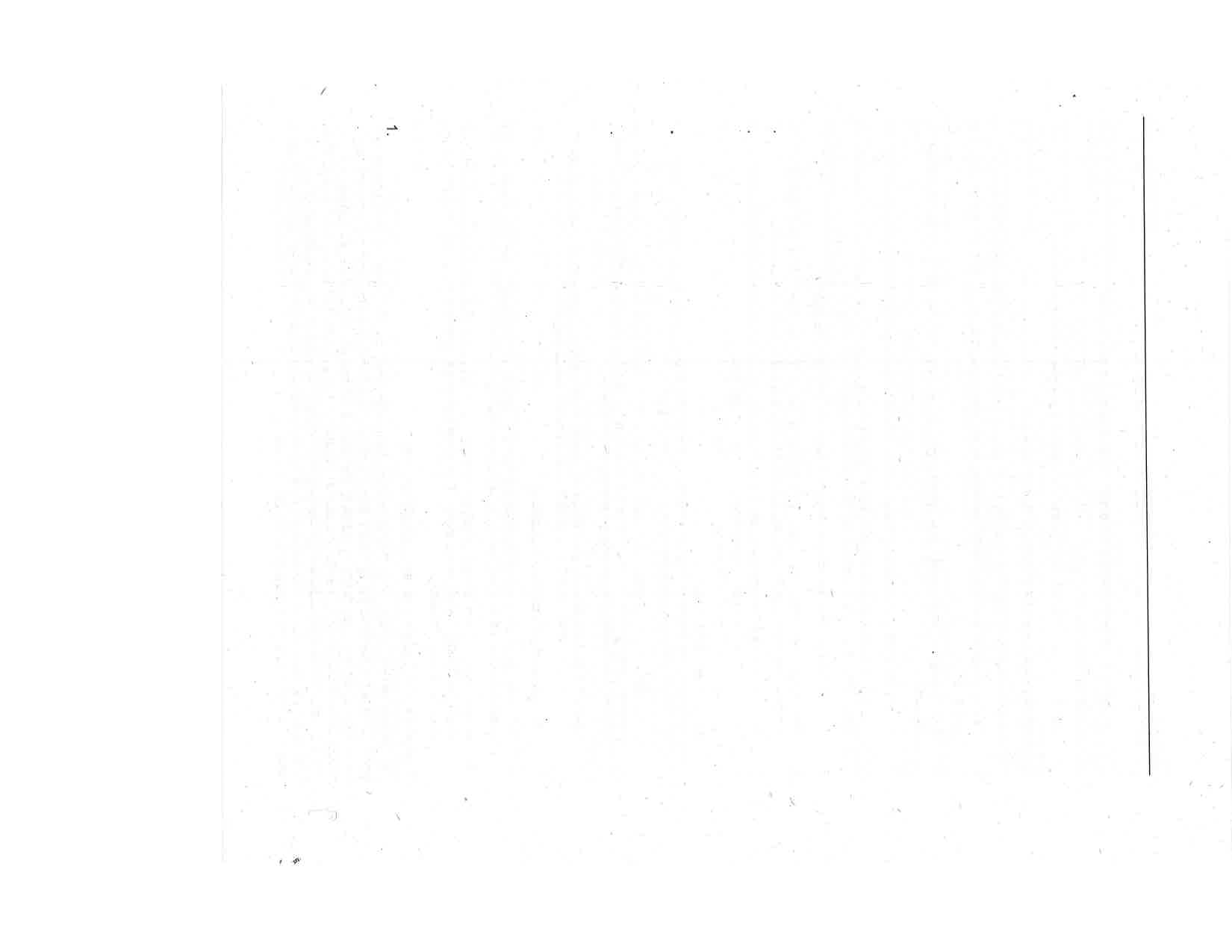
PoSVAD/Courier service/personally. The appellant shall certify that he has diipatched the

copy to the Commissioner.

Procedure and Decision of the Appeal 1129, l1gl

On receipt of an appeal, the Commissioner (Appeals) shall fix the date of iis hearing and communicate the same to the appellant and the concerned Commissioner. During the proceedings, he shall provide an opportunity to each of the parties to present arguments, 6vidences, etc.,-in favour of his point of view. The Commissioner (Appeals) may adjourn tEe hearing from time to time.

He.may also allow the appellant to file any new ground of appeal not atrea-dy specified if the omission was not willful or unreasonable. He may require the concerned Commissioner to further enquire a matter arising in the appeat. t128(1) to i+)l '



Synopsis of Taxes

Income Tax - Appeals

123-3e21

Generally, the Commissioner (Appeals) shall not admit any documentary material or evidence, which wls not produced before the Commissioner. However, where he is satisfied that the appellant was preventec by s;rfficient cause from producing such material or evidence before the Commissioner, then he may.admit the material or evidence. t128(5)l

Where in a particular cese, the Commissioner (Appeals) is of the opinion that the recovery of tax (levied under the lncome Tax Ordinance) shall cause undue hardship to the taxpayer, he may stay ihe recovery of such tax for a period not exceeding thirty (30) days in aggregate. Before issuing such an orber the Commissioner (Appeals) shall afford an opportunity of being heard to the Commissioner against whose order appeal has been made. t128(14)l

The Commissioner (Appeals) may stay the recovery of such tax for a further period of thirty (30) days. While doing so it shall be ensured that opportunity of being heard ts provided to the Commissioner against whose order appeal has been made and the order on appeal shall be passed within this extended period of thirty (30) days.

After complete examinalion of the case, and in the light of the documents, records, evidences and the arguments presenteJ before him, the Commissioner (Appeals) shall decide the case. He may make any of the followin3 orders: [129(1)]

1. Confirm the order passed by the Commissioner;

2 Modify the assessnent orders made by the Commissioner; or

3 Annul (cancel) the orders made by Commissioner; or

4. Any other order as he may think fit.

Notes:

1 The Commissioner (Appeals) shall provide the taxpayer a reasonable opportunity of being

heard before making an order which enhances the tax liability or reduces the refund or tax credit of the taxPal's1. 1129(2)l

Where, as a resu t of an appeal, there is a change in the assessment of an Association of Persons (AOP), the Commissioner (Appeals) may authorize the Commissioner to amend accordingly the assessment of the members of AOP.-Under such a case the time limit for amended assessr,ent shall not apply. [129(3)]

Communication of the Orders t129(4)l

As soon as practicable after deciding the appeal, the Commissioner (Appeals) shall specify in the order the amount of tax upheld and communicate his orders to the following persons:

1. The appellant (i.e., the taxpayer).

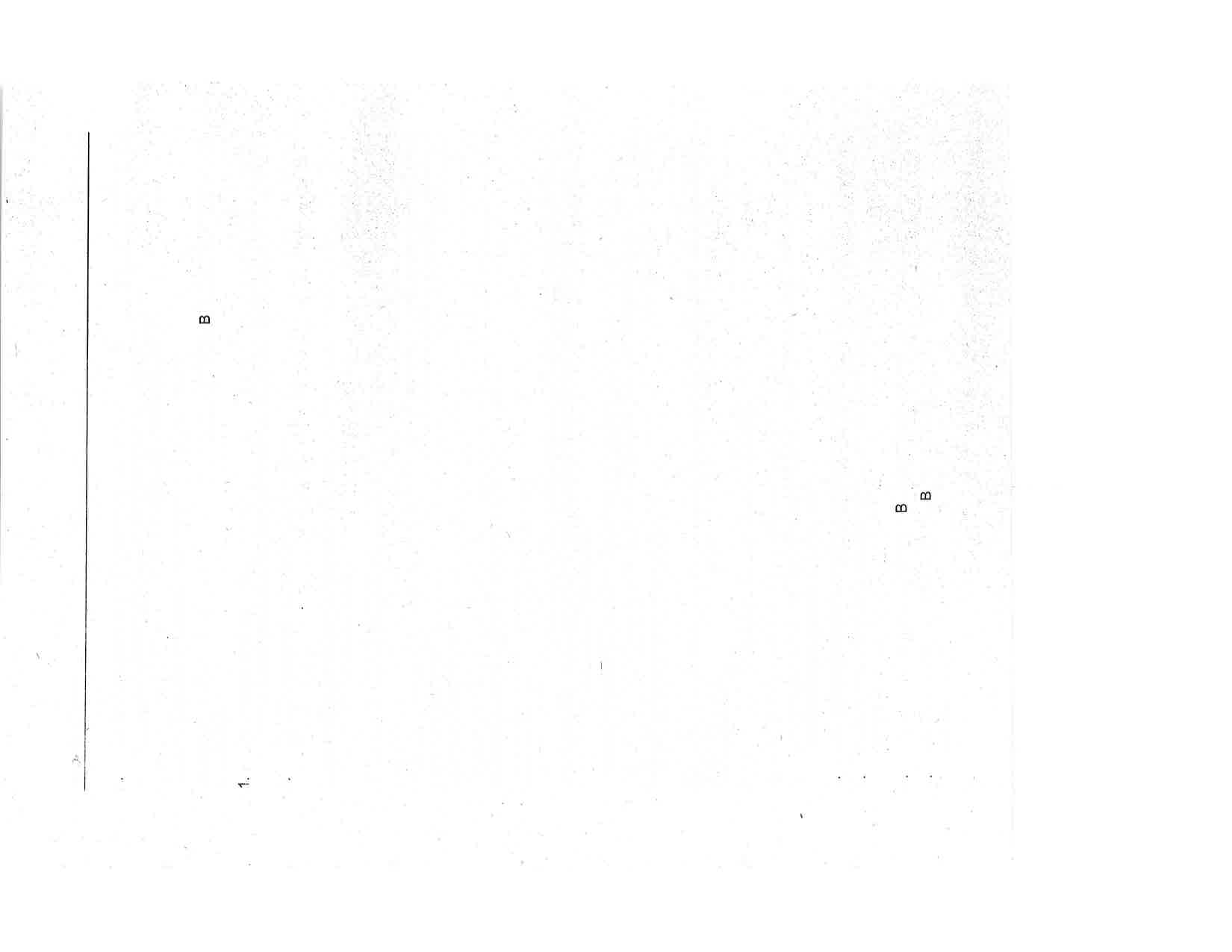
2. The concerned Commissioner lnland Revenue.

Notes:

The order shall be passed within a period of 120 days from the date of filing an appeal. The Commissioner (Arpeals) may extend this period upto further 60 days. This extension must be in writing and contain the reasons for extension

Where the hearin'3 of an appeal is adjourned at the request of the appellant or is postponed due to anv appeal or proceedings or stay order, remand or alternate dispute resolution proceedings or for any o{her reason, the period of adjournment, postponement, etc., shall be excluded in the computation of the above-referred periods.

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Income Ta,u - Appeals

123-393)

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It is tire tar:ayer who can file an appeal to the Commissioner (Appeals). Tax Department is not allowed to file such appeal. lf an order passed by the Commissioner results in the loss to the revenue, it may be revised by the Commissioner under section 122..

Status of Decision of Commissioner (Appeats) [126A & 1 33(1 )]

Seemingly, the law is silent about the status of the decision of CtR(A).

reveals that:

,ut perusal of section 133(1)

A referbnce may be filed by any of the parties before the High Court only if any 'guestion of law' or a 'mixed question of law and facfs' arises out of the order of CIR(A); and

No reference may be filed before the High Court if only the 'question of fact'arises out of the order of CIR(A).

It may be construed from the above that in a case where 'pure question of fact' is invotved, the decision of CIR(A) shall be final.

APPELLATE TRttsUNAL TNLAND REVENUE [2(2) &130]

'Appellate Tribunal' means the Appellate Tribunal lnland Reri6nue (ATIR) established u/s 130 of the Income Tax Ordinance, 2001 in the manner as may be prescribed in the Rules. The Tribunal is established to exercise the powers and perform the functions conferred on it under the lncome Tax Ordinance. lt consists of a chairman and such number of members as are considered necessary.

The constitution of benches of ATIR, case management system, distribution of cases and other matters ancillary or incidental thereto shall beregulated by the rules specified by the FG.

Members of Appellate Tribunal t130(1) to (2)l

ATIR shall consist of a chairperson and such other mernbers as are by+he appointed by the FG in such terms and conditions nufib€fs and in accordance with such procedure and rules as may be prescribed by the Federal Government.

The existing menrbers including Chairman shall continue to hold office, on the same terms and conditions as applicable to them prior to 03-05-2024 (i.e., the commencement of Tax Laws (Amendment) Act, 202q ffi the completiorr of their term of office unless resigned or removed earher on the grounds of inefficiency or misconduct.

Rules made in this regard shall take effect notwithstanding anything containedin s'ection 237 of ITO or the Federal Public Service Commission Ordinance, 1977 or any other law or rules, for the tlme being in force.

Persons Eligible to be Appointed as Members [130(3)]

Following persons are eligible to be appointed as members of ATIR:

1. An advocate of a High Court for not less than fifteen (15) years and possesses such other

qualifications as prescribed in the Rules;

2 A Chartered Accountant who .has practiced professionally for at least ten (1 0) learsi

3 A Cost and Management Accountant who has practiced professionally for at least ten (10)

years;

An ciiicer of the lnland Revenue in

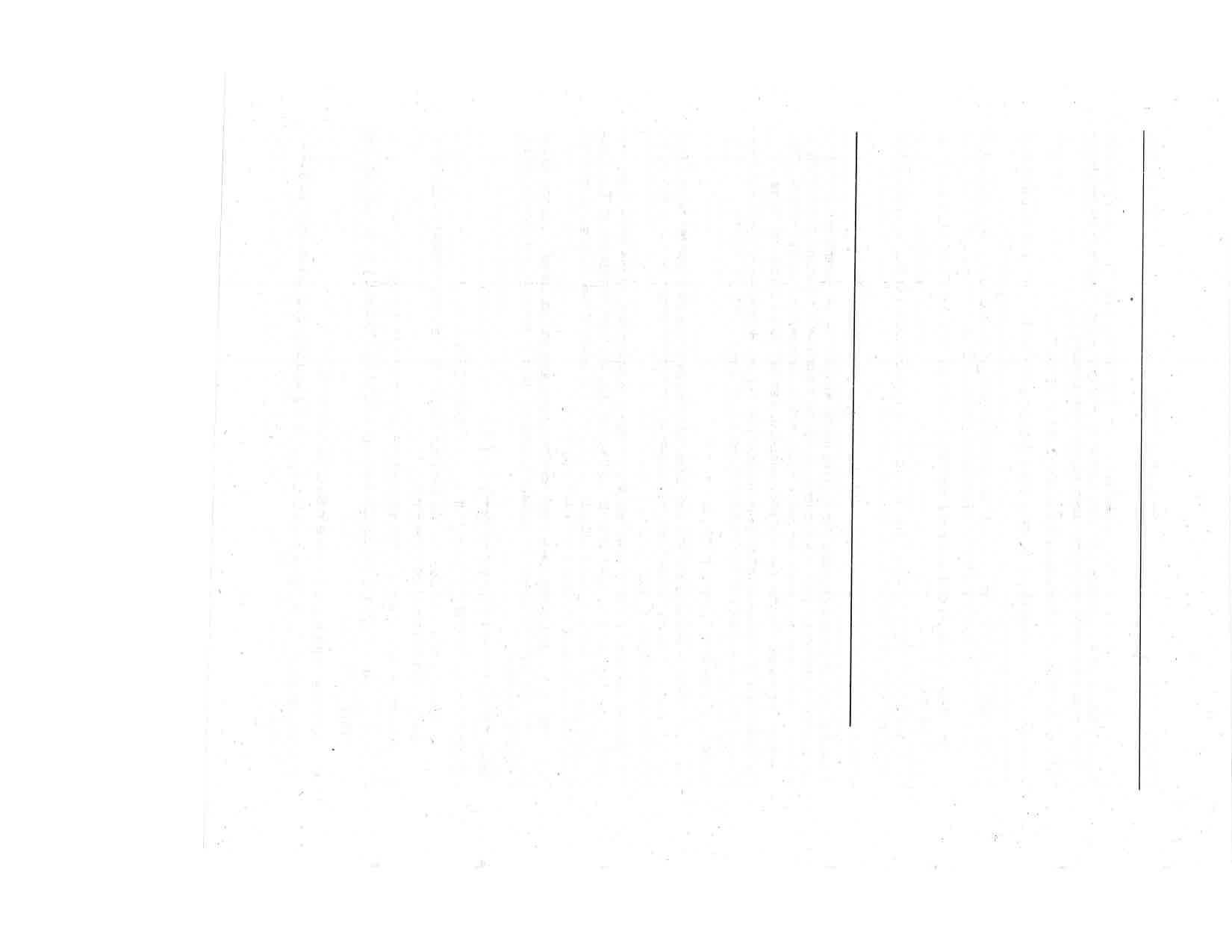
S-20, having served in such grade for three years or

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S-21 or above; or

An officer of the lnland Revenue in more.



Synopsis of Taues

Income Tax - Appeak

[23-394]

Chairman of Appellab Tribunat t130(4)l

Any member who is an advocate, CA or CMA Shall be appointed by FG as Chairman of ATIR.

Term of office shall be three (3) years. The FG may reappoint him/her for such further term or terms as deemed apprcpriaie.

Term of Office of Members t130(5)I

Members including chairman shall hold office till attaining the age of sixty-tvro (62) years. However, the service of officer of lnland Revenue appointed Js meiners sfr'alt Oe'suOlect to the law reguiating their services. They will cease to hold office on attaining the age of superinnuation.

Procedure of Appellate Tribunat t130(5) & (6)l

Constitution, functioning.of benches and procedure of the Appellate Tribunal shall be regulated by the prescribed rules. ln the absence of the above-referred ruies, provisions of section 150 existing prior to commencement of the Tax Laws (Second Amendment; nit, zozo shall continue in force.

Repealed Prov

isions or

Secfrbn 130 StillOo

erative til

I Formulation of th

e Prescribed Rules

The Chairperson of the Appellate Tribuna! is appointecl by the Federal Government. The powers and functions of AppeJtate Tribunal are exerciseb and distharged by the Benches. The Benches are constituted by the C\_hairperson out of the members oi tne Appellate Tribunal, who are appointed by the Federal Government.

Every Bench shall consist of at least two members. The number of each type of members shall be equal in a Bench. Hourever, the Chairperson may constitute a Bench which does not contain equal number of members of\ each type. Under such a case, the difference between two types of members should not be more than one.

The Federal Government is empowered to direct that all or any of the powers of the Appellate Tribunal may be exercised by any member or members of the Tribunal.

N-otwithstanding any other provision, the Chairperson may constitute as many benches consisting of a single member as he may deem necessary to heir such cases or class of cases as the Federal Government may be order in writing, specify.

The Chairperson or other member of the Appellate Tribunal, authorized in this behalf by the Chairperson, may, sitting single, dispose of any case \*neie tne amount of tax or penalty involved does not exceed Rs. 1,000,000.

The decisions of the Appellate Tribunal are made according to the opinion of the majority of the members of the bench. Where the members are equally CiviOeO in their opinion, th'e matter is refened to the Chairperson. He, under such a case, will idO one or more members to the bench and the decision of the majority shall be deemed to be the decision of the Appellate Tribunal.

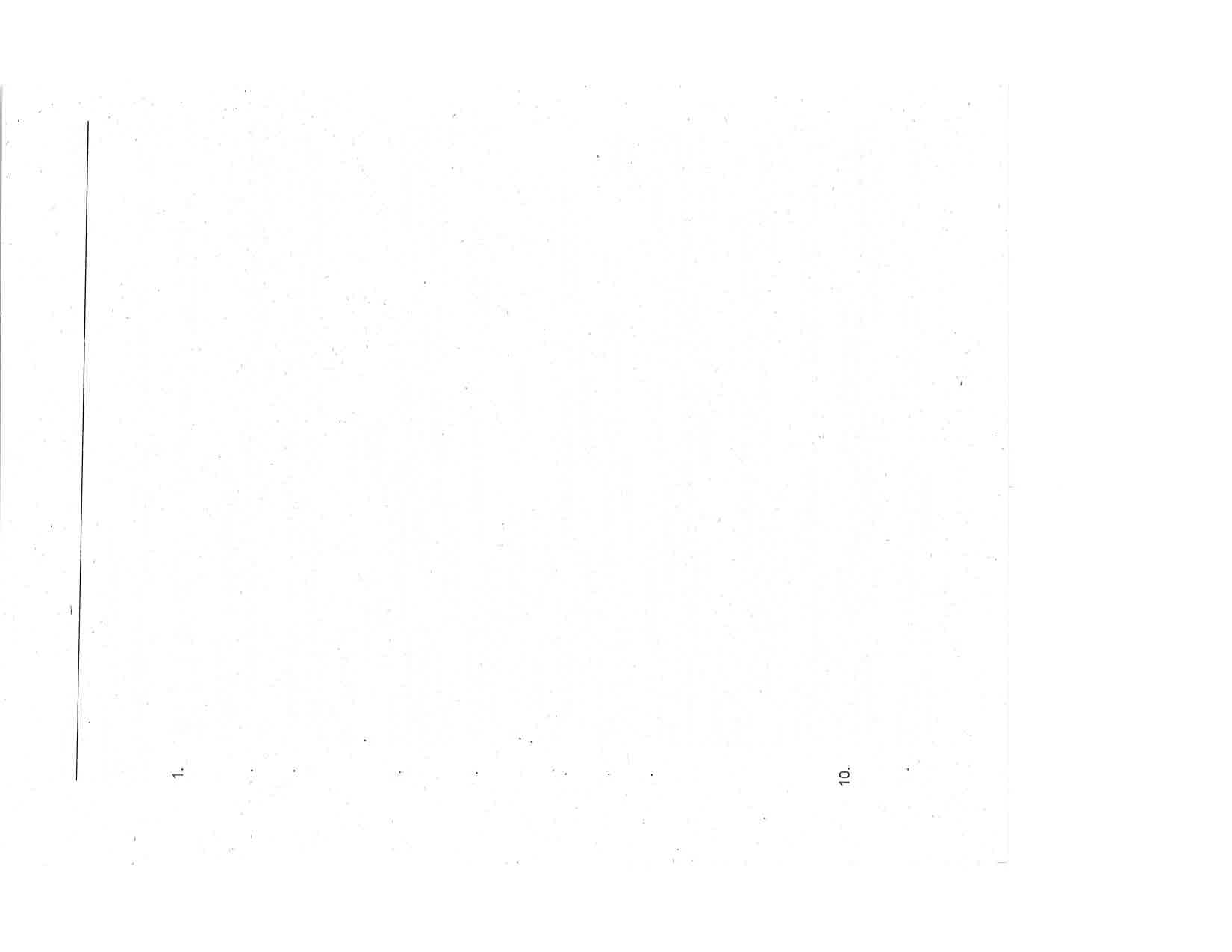
The Appellate Tribunai has the powers to regulate its own procedure and the procedure of its Benches in all matters arising out of the discharge of its functions.

APPEAL TO THE APPELLATE TRtBtJNAL [131, 132 & Rute\_77]

The taxpayer or the Gommissioner lnland Rdvenue not satisfied with the orders passed by an officer of lnland Revenue, ClR, CCIR or FBR may file an appeal to the Appellate Tribunal. Appeal mav be made ontv if the value of assessme nt of tix or refund or tax exceeds Rs. 20 mittiOn.

I a te ^O wn ed En te rp ris e (S O E) t1 3 1 (1 ) & 1 34 A(1 1 )I

An soE cannot file an..appeal before ATIR. However, where a matter is referred to ADRC uis ;'''JtJl l'ff #3,:,."" l'$J: "1 il ffi # n'n \*m: -' #lo: fi i,, \* d iss;t;; ;h ; 6 m m ittee,



Synopsis ofTaxes

Income Tax - A

ppeals

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Conditioms Appticable to the Appeat

+l;rl"jf\*'tg conditions shall be satisfied at the time of making an appeat to the Appelare

The application for appeal shall be made in the Form specified in Rule-77 of the lncome Tax

Rules, 2002.

2. lt should be verified in a prescribed rnanner.

The appellant shall verify that whatsoever is stated in the appeal is true to the best of his knowlecjge.

The appeal fee has been paid. The evidence as to the payment of appeal fee shall. be attached with the appeal. only the taxpayer is required to pay fneippeat tb'e. rn" prescrioeo fee shall be as beiow:

i) - ln the case of companies: Rs. 20,000; and

ri) For other taxpayers: Rs. 5,000.

The appeal shall be filed w-ithin thirty (30) days of the communication of the orders against which the appeal is being filed. The nppeitate-tribunat has power to extend the filing pirioo, if it is satisfied that there existed some sufficient cause wnicn prevented the appellant from filing the appeal within the specifled period. 'v -rrY'rsr r( rr \

The memorandum"of appeal must be in triplicate and shall be accompanied by two copies of each of the following orders:

i) Orders against which the appeat is being filed; and

ri) Orders of the Commissioner

The"memorandum of appeal should set forth the ground of appeai without any argument or -narrative. These grounds should be numbered conlecutively.

The tax shall have to be paid according to the assessrnent order. However,.the Appellate Tribunal may grant stay against its recovery.

lf on filing of application in a particular case, the Appettate Tribunat is of th'e opinion that the recovery of tax, Ievied by Commissioner shall cause undue hardship to the taxpayer, the Tribunal may stay the recovery of tax for 90 days. Such stay order shall be issued on an application of the taxpayer and after providing an opportunity of being heard to the Commissioner.

lf the taxpayer does not adhere to the hearing schedule for the appeal, the stay order shall cease to have effect and the CIR shall be entitled to recover tax determin"O Uy RftR in accordance with the rules made u/s 130.

Where an appeal is not decided within the statutory period, the stay order shall not cease (as above) till finalization of appeat by ATtR.

Where recover of tax has been stayed, such stay order shall cease on expiration of 1g0 days following the date on which it was made. Theieafter the CtR shail proceeo io i""o\*iin" due tax.

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While compullng tl'e period of 180 days, the period if any, for which the recovery of tax was stayed by a High Court shall be excluded.



Synopsis ofToxes

Income Tax - Appeals

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Procedure of Appeal t132(2) & (3)l

At the first hearing of ap:eal, ATIR shall give an option to the taxpayer of ADR u/s 134A of lTO.

Where the taxpayer dedines thd option of ADR and wishes to continue with the appeal, ATIR shall fix date or dates for hearing and decision of the appeal. The date shall be fixed in consultation with the taxpayer and CIR ard in accordance with the rules.

The ATIR shall fix the cjate or dates for hearing the appeal. lt shall ensure strict adherence of by the taxpayer and the Commissioner the hearing schedule and decide the appeal. Generally there will be no adjournment, rowever, under the following cases it may be granted:

1 Wh\_dre there are oompelling reasons for adjournment, which shall be recorded by ATIR; and 2 On mandatory pay'ment of such cost as deemed fit ny nftn. The cost shall not be less than

Rs. 50,000. \

Decision of the Appeal

The Appellate Tribunal, after due examination of the case and considering the evidences, documents, records and arguments presented before it, shall decide the appeal within six (6) months of its filing. Appellate Tribunal may make any of the following decisions:

1. Confirm the orders passed by Commissioner (Appeals).

2 Annulthe orders passed by Commissioner (Appeals).

3. Reduce the tax liability or the penalty.

4. Enhance the tax lbbility or the penalty.

5. ln case of default by any of party on the date of hearing, Appellate Tribunal riay proceed ex-

pafte to decide the appeal on the basis of available record.

6. Remand the case to Commissioner or Cornmissioner (Appeals) for making such enquiry or

taking such actior as Appellate Tribunai may direct.

7. Any other order as it may think fit.

Notes:

1 The Appellate Tribunal must provide the taxpayer an opportunity of being heard before .' enhancing the tax liability or penalty or reducing the tax refund or tax credit.

2. Where, as a resrrlt of an appeal, there is a change in the assessment of an AOP, the

Appellate Tribund may authorize Commissioner to amend accordingly the assessment of the

members of AOP. Under such a case the time limit for amended assessment shall not apply.

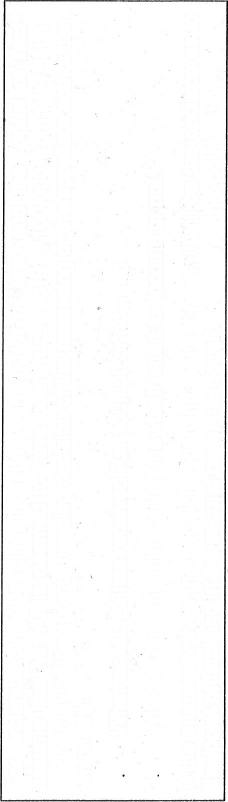
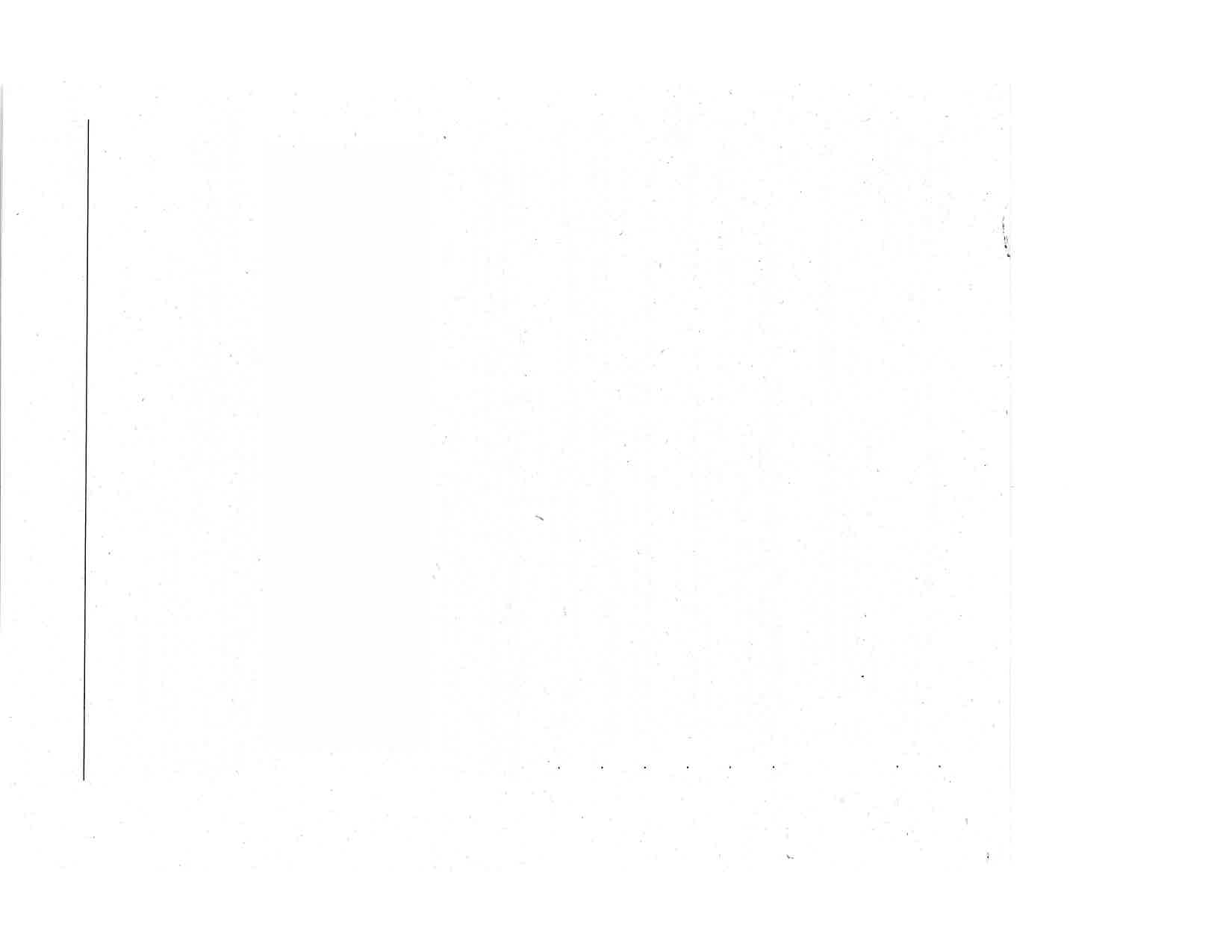
Decision Period t1 32(1 jl

The ATIR shall decide the appeal within ninety (90) days from the date of its filing.

However, appeals pending before ATIR on 03-05-2A24 (i.e., the date of commencement of the Tax Laws (Amendmenl) Act 2024), shall be decided within 180 days. Where an appeal is not decided within the specified perbd, the ATIR shall seek condonation from the Minister of Law and Justice, which shall not extend beyond ninety days.

' Communication of Orders

The Appellate Tribunal shall communicate its orders to the following persons:



Synopsis of Toxes

Income Tax - Appeals

123-3e71

1. The taxpayer; and

2. The concerned Commissioner lnland Revenue.

Status of the Appellate Tribunal's Decision

Any case before any appellate authoiity may involve either a 'point of fact' or a 'point of taw'. lf the matter before the Appellate Tribunal relates to the point of fact, the decision of the Tribunal shall be final and no appeal shall lie before any other authority. However, if a point of law or 'mixed question of law and fact' is involved, the case may be referred to the High Court.

REFERENCE TO THE HlcH COURT [133 & Rule-78]

Any of the parties, i.e., the taxpayer or the Tax Department, if not satisfied with the decision (involving 'question of law' or 'mixed question of law and fact) given by the Appellate Tribunal or Commissioner (Appeals), may refer the case to the High Court. The provisions of the law in this regard are summarized below:

Any party (i.e., the Commissioner or the aggrieved person) may file an application to the High Court against the orders of Appellate Tribunal or Commissioner (Appeals).

Only such orders of the tribunal may be referred to the High Court which involve any question of law or 'mixed question of law and fact'.

The application shall be made within ninety thirty (30) of the communication of the impugned order.

Application by the CIR shall be dccompanied by a written authorization by the relevant CCIR, otherwise his application shall not be entertained.

The applicant shall also fiie complete record of the ATIR or CIR(A) within 15 days of preferring an application before High Court.

The application shall be on the prescribed form along with the statement of the case, which shall set out:

i) The facts of the case;

ii) The determination of the Appellate Tribunal or Commissioner (Appeals); and

iii) The 'question of law' or 'mixed question of law and fact' arises out or- the impugned

oroer.

The High Court shall oroceed to hear the case only if it is satisfied that there exists a question of law.

The taxpayer shall pay a fee of Rs. 50,000.

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For understanding the difference between 'point of law' and the 'point of fact', assume that Mr. Ali is deemed to have been received Rs. 100,000 from Mr. Babar.

There may be two points needing decision of the assessing or the appellate authorities, which are:

Whether Mr. Ali has received Rs. 100,000 or not; and

Whether the amount received may be treated as income or not.

lf the matter involves the decision regarding the first point, it will be the decision as to the 'point of fact' and in the second case, the decision relates to the 'point of law'.

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Synopsis of Taxes

Income Tax - Appeals

123-3981

7 A certification by the appellant that respondenl has been intirnated r.egarding filing of

reference along with copy of the reference and the date of intimation.

8. The application slrall be made on a prescribed form and it shall be veritied as prescribed

under Rules-78 of ihe lncome Tax Rules, 2002.

9. A Bench of at least two Judge\ of the High Court shall hear the case.

10. lrrespective of the reference made to the High Court, the tax shail be payable in accordance

with the impugned order. However, the Court may grant stay for the recovery of tax. i

However, the CIR shall not make the tbx recovery during thirty (30) days from the date of

communication of the order of ATIR or CIR(A).

11. Where the High Courthas stayed the recovery of tax, the stay order shall cease to have

effect by the date which is earlier of the following:

r) Expiration of six (6) months from the date on which stay was granted;

ii) The date on which appeal is decided; or

iii) ' The date on which stay order is withdrawn by the High Court.

12. Where the High Court has not granted the stay, the taxpayer has to pay the amount of tax

decided by the Appellate Tribunal or Commissioner (Appeals). And if as a result of the

judgment of the High Court the amount of tax is reduced, it will be refunded to ihe taxpayer.

However, the High Court may authorize the Commissioner to postpone the refund until rhe

disposal of the appeal by the Supreme Court. The Court shall pass such order oniy if the

Commissioner has filed an application (within thirty (30) days of the decision by tl-re High

Court) that he wants to prefer an appeal to the Supreme Court.

Deuision of the Appeal

Any appeal before the High Court shall be heard by special bench of at least two JudEes.

Provisions of section 98'of tlre Code of Civil Procedure, 1908 and section 5 of the Limitation Act, 1908 shall apply to an application made to the High Court.

:fhe Court, after complete examination of the case, shall decide the reference within six (6) months from the date of its filing. lt shall:

1 ..Decide the question of law raised by the reference and pass judgment thereon; and

2, Specify the grounds on which the judgment is based.

'On "nnouncement of the judgment by the High Court, the order of Appellate Tribunal or Commissioner (Appeals) shall stand modified accordingly. The judgment shall be communicated by the Court to the Appellate Tribunal, whieh shall pass the necessary orders for the compleie implementation of the said judgment.

APPEAL TO THE SUPREME COURT

Although the lncome Tax Ordinance, 2001 Coes not provide the provrsrons regarciing appeal against the orders of High Court before the Supreme Court, yet any of the parties may prefer an appeal as'permitted by the constitution.

While filing an appeal under the lncome Tax Ordinance, 2001, the appellant shali iravb to follow the provisions of the Code of Civil Procedure, 1908 relating to the appeals against ihe decree issuecj by the High Court.



Synopsis of Taxes

Income Tax - A

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Decision of the Appeat

Any appeal filed before.the Supreme Court concerning disputes under the lncome Tax ordinance, 2001 shall be heard by bench constituted for this purpjse.

T.he Court, after complete examination of the'case, shall give its judgment. The Court,s judgment shall be communicated to the Appellate Tribunal, wnicn Inatt pass tne necessary orders for the complete implementation^of the judgment. The.cost of the appeal shail be borne by ine-parties,as decided by the Supreme court. The court has discretionary po\*"r. in this regards.

ALTERNATIVE DISPUTE RESOLUTION (ADR) [134A& RuIe 231C]

ADR (introduced in income tax law in 2004).is resolving the income..tax disputes througn an alternate mechanism. ADRC and its functions shall be regu-lated by the notified rur"r.lrsantrslt Subject Matter and Conditions of ADR [1344(1) & (2)]

Sub

iect Matter

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Dispute pertaining to the following issues may be referred to ADR: 1 The liability of tax of Rs. 50 miilion or above;

2 The admissibitity of refund;

3 The extent of waiver of default surcharge and penalty; or 4 Any other specific relief required to resolve the dispute.

Conditions

The application shall contain the details of the hardship or Qispute. Where criminal proceedings have been initiated, matter cannot be referred to non.

Application for ADR shail be accompanied by:

i) An initial proposition for resolution of the dispute (including an offer of tax payment); and

D

An undertaking that the-applicant shall accept the decision of the ADRC in all respects and shall on receipt of the decision immediately withdraw any pending litigation or cases connected with the dispute (whose details is mentioned inine app'tiiation;.

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Where the aggrieved person is SOE, the limit of tax liability of Rs. 50 million or above shall not apply. lt shall be mandatory for SoE to apply for appointment of ADRC for the r""oiution of any dispute.

No suit, prosecution, or other legal proceedings shall iie against the SOE or the ADRC in relation to the dispute resolved u/s 134A.

The SoE shall immediately withdraw all relevant pending litigation and cases and mention the details thereof in the undertaking.

The SOE may file an appeal to ATIR or a reference to the High Court or a petition for leave to appeal the Supreme Court, where ADRC is dissolved.

Procedure of ADR [134A(1), (4) to (6) & (8)]

1' An'applicanf'may apply to the FBR for appointment of aiternate dispute resolution

committee (ADRC) for resolution of any hardship or dispute mentioned in tne application on a prescribed form.



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Synopsis of Taxes

Income Tax - Appeals

123-4001

'Applicant'means an aggrieved person or a class of persons (in case identical issues are involved) who has brought a dispute for resolution u/s 134A. [R-231C(2Xa)]

The FBR, if satisfied after examination of the application, shall appoint and notify ADRC within fifteen (15) days of the receipt of application.

The FBR shall communicate the order of appointment of ADRC to the:

r) Aggrieved person;

ii) Court or the appellate authority where the dispute is pending; and

iii) Concerned Commissioner.

The recovery of tax payable by a registered person in connection with any dispute shall be deemed to have been stayed on constitution of ADRC till earlier of the final decision by the ADRC or its dissolution.

The aggrieved person shall pay the tax within the time decided by the ADRC. ln that case, all decisions and orders made or passed shall stand modified to that extent.

ADRC shall function under the rules notified by the FBR,

Decision by ADRC [1344(5) to (9)]

1. 16e aDRC sha:l decide the dispute within 42045 days of its appointment. Decision period

may be extended by another 15 days through a written order containing reasons for

extension.

2. ADRC shall decide the dispute by maioritv.

3 The decision by the ADRC shall not be cited or taken as a precedent in any other case or in

the same case for a different tax year.

4. The decision of the ADRC shall be binding on the CIR and the aggrieved person.

Faildre of ADRC in Deciding the Dispute [134A(11) to (13)]

1. FBR shdll dissdve the ADRC if it fails to decide within 60 days of its appointment. FBR shall

communicate tl".e order of dissolution of ADRC to the aggrieved person, court or the appellate

authority and the ClR.

2 On dissolution of ADRC, the matter shall be decided by the court or the ATIR within ninety

(90) days of the communication of dissolution order.

Alternative Dispute Resolution Committee (ADRC) t1 344(3)l

ADRC shall have three members consisting of the following members:

1. A retired judge not below the rank of a judge of a High Court nominated by FBR from a panel

notified by the Law and Justice Division for such purpose. This member shall be the

Chairperson of the ADRC;

2 CQIR Having jurisdiction over the case; and

3 A Sierson to be rominated by the taxpayer from a panel notified by FBR comprising of:

r) CAs, CMAs, advocates having at least 10 years' experience in the field of taxation;

ri) '\* Retired Officers of lnland Revenue (retired in BS 21 or above); and

iii) Reputable businessmen nomina'tedby Chambers of Commerce and lndustry.

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Synopsis of Taxes

Income Tax- A

ppeals

[23-401]

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.

Remuneration of ADR

C

[1344(14)l

FBR shall prescribe the remuneration for services of members of ADRC.

to receive the remuneration.

CCIR shall not be entitled

BURDEN OF PROOF [136]

ln any appeal made by a taxpayer under the lncome Tax Ordinance lie on the taxpayer. He shall have to prove that:

1 The order does not correctly reflect his tax liability for the year; 2. The decision is erroneoud.

Note: Section 136 deals only with an appeal filed by taxpayer. lt is silent about the appeals filed by

the tax department. Under such a case, general rules are applied. Where an appeal is filed

by the tax department, the burden of proof shall be upon the tax department and not on the taxpayer.

REPRESENTATTVES [172]

For the purposes of the lncome Tax Ordinance, 2001, the following persons are representatives of taxpayers:

2001

or

burden of

proof sha

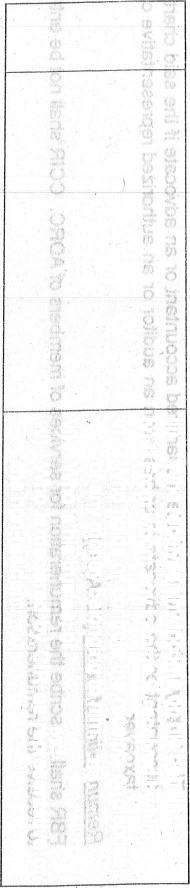
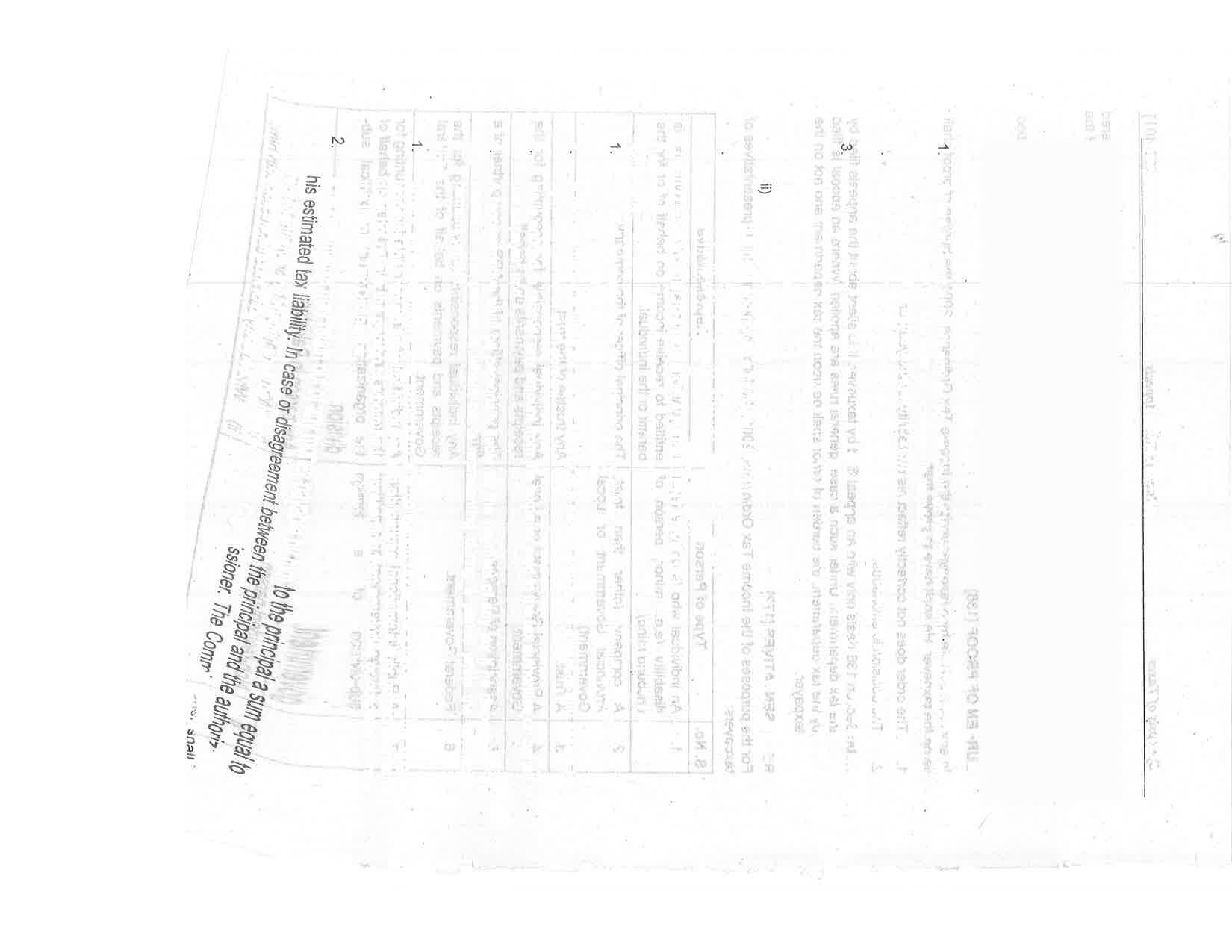
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| --- | --- | --- |
| S. No. | Type of Percon | Representative |
| 1 | An individual who is under a legal disability (e.9., minor, person of unsound mind). | The guardian, or manager who receives or rs entitled to receive income on behalf, of or for the benefit of the individual. |
| 2 |  | The principal officer of the company. |
| 3 | A Trust. | Any trustee of the trust. |
| 4 | A Provincial Government or a Local Government. | Any individual responsible for accor.rnting for the receipts and payments on its behalf. |
| 5 | Association of Persons. |  |
| 6 | Federal Government. | Any individual responsible for accounting for the receipts and payments on behaif of the Federal Government. |
| 7 | A Public international organization, a foreign government or a political sub-division of a foreign government. | Any individual who is responsible for accounting for the receipts and payments in Pakistan on behalf of the organization, government or political subdivision. |
| 8 | Non-resident person. | Any person in Pakistan:  i) Who is employed by or on his behaif;  ii) Who has any business connection with him; |

The principal officer of the AOF or any partner of a

firm.

A company (other than Provincial Government or Government).

trust, Local



Synopsis of Taxes

Income Tax -,4,ppeals

,[23-402]

iii) Who receives any income on his behalf;

ivlj. pto\*.\*hom any income is received by him; v) Who holds or contrc)ls the receipts or disposal

of any m,oney belonging'to him; .1tr\*-,

vi) Who is his trustee; or \*,!r

vii) Who is declared by CIR as repiesentative of the non-resident.

Notes:

2

Where a Court appoints any person as Court of Warcts, the AdminrsiiSi6ibendrat, Official Trustee, Receiver, Manager or Liquidator in respect of a taxpayer, then such person shall be the representative of the taxpayer. t172(3)j

'Bustness connection' includes transfer of an asset or business in pakistan by a nonresident.

An independent brokel in Pakistan whSs'does hot deal direcfly wiih or on't"ri"rr 8\*i.onresident principal but deals with or through a non-resident brok-er shall not be treated as a representative of the non-iesident principal, if:

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i) The transactions are carried on in the ordinary course of business: and The non-resident broker is carrying on surch transactions in the ordinE

business and not as a pr,incipal. 1172(4)l ,

A person cannct be declared as a representative of a non-resident an opportunity 9T being heard. t172(5)l \*T----:: \* \*

ry ctfuY#or nis

unless he has been

grven

and

e disposes of the e the tax liability

LIABILITIES AND OB

LTGATIONS OF A REPRE',SETTAIVE t1731

Under thte lncome Tax Ordinance a

representative shall have

the

following lia,h'ilities

obligations:

2

3

He shall be responsible for performing any duties or obligations (including payment of tax) imposed on the person under the Ordinance;

A representative is liable for the tax liability of a person only to the extent of any assets held by him on behatf of such person;

He is entitled to recbver any amount from the taxpayer paid to th-e tax authorities on behalf of the taxpayer; and

4 A representatiVe shall be personally lia

remains unpaid.

Notes: ;i-:

ble for the payment of any tax if h representing during a period whil

where a-rbpresentative,fails to perform any obligation under the ordinance, the original taxpayer shall remain liable for his duties anci outig"atib.r irporirg a outy on iepi"i.niiiiu.

does not relieve the person to whorn he is represJnting from'any iufi"".i1. Lorigjii".r'rio", the lncome Tax Ordinance. , . ; ;/.\*,, - J -' ,. ..:.

A representative rnay retain out 0f any lll0l'lt

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Synopsis of Taxes

Income Tax - Appeals

123-4031

APPEARANCE 3Y AUTHORISED REPRESENTATIVE [223]

During the proceedings under the lncome Tax Ordinance, a taxpayer may appoint some other person to appear before any tax authority as his authorized representative. The following persons may be authorized to appear on behalf of a taxpayer:

1. A relative of the taxpayer;

2 Aperson who is currently a whole time employee of the taxpayer;

3. Any officer of a Scheduled Bank with which the taxpayer maintains a current account or has

other regular dealings;

4. Any legal practitioner who is entitled to practice in any Civil Court in Pakistan;

5. A Chartered Accountant;

6. A Cost and Management Accountant; , ;

7 Amember of any association of accountants recognized in this behalf by FBR; or

8 An lncome Tax Practitioner registered under the lncome Tax Ordinance.

Recognized Associations of Accountants [223(11) & Rule-225]

For the purpose of section 223, the FBR has recognized the following bodies as association of accountants:

1. The lnstitute of Chartered Accountants of England and Wales;

2 The lnstitute of Chartered Accountants of Scotland;

3. The lnstitute of Chartered Accountants of lreland;

4. The Society of lncorporated Accountants and Auditors, London; and

5. The Association of Certified Accountants, United Kingdom.

Inelig ibility of Authorized Representative [223(3)]

The following persons cannot be appointed as authorized representative to appear before any tax authority on behalf of a taxpayer:

1. A person who has been dismissed or removed from service in the lncome Tax Department.

2. An insolvent

A person who has resigned from his service in the lncome Tax Department and whose service was not less than two (2) years. Such a person may become eligible after the expiry of two years from the date of resignation.

A person who has retired from service in the lncome Tax Department, for a period of one year from the date of retirement.

A person who has been convicted of any offence connected with any tncome tax proceedings. I'

MISCONDUCT BY AUTHORIZED REPRESENTATIVE [223(4) to (9)]

An authorized representative has to follow the rules of professional ethics during his practice. A pei"son who is iound guilty of misconduct cannot represent othei persons. Legal provisions in this regards are summarized below.

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Synopsis of Taxes

Income Tax - Appeals

123-4041

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A legal practitiorer or an accountant may be declared as guilty of professional misconduct by any authority entitled to take disciplinary action against him. Decision of that authority shall also be effective for tax purposes. 1223(4)j

ln case of an auihorized representative other than a legal practitioner or an accountant the Commissioner lrland Revenue may direct that he has ceased to represent the taxpayer before tax authorities, if such person is found guilty of misconduct. 1223(5)l

The Commissiorer shall issue the above-referred direction in writing and after prouiding the concerned person an opportunity of being heard. t223(6)l

Any person whc is convicted as above may appeal to FBR for i-ancellation of the order of Commissioner. The appeal may be filed within thirty (30) days of the service of order. The FBR may admit the appeal after the expiration of this period if it is satisfied that there existed some sufficient cause which prevented the appellant from lodging the appeal within the period. [223(7) A (8)] ''

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The order of Commissioner shall be effective after:

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(i) , Expiration of thirty (30) days from the date on which order is served; or

(ii) The dispo=l of appeal by FBR, if the person ha\_s lolged an appeal against the order of Commissioner. [223(9)]

REGISTRATION AS.IH

coME TAX PRACTTTTONER 1223(10\l

The lncome Tax Practitioners are registered by FBR, which is empowered to frame and regulate the provisions regardirg registration and related matters. lt may also establish a code of conduct for lncome Tax Practitioners.

GoMPUTATTON OF UM|TAT|ON pERtOD [226]

ln computing the limilation period for appeals and other applications under the lncome Tax Ordinance, the day on which the order complained of was served shall be excluded. lf the taxpayer was not provided with a copy of order, the reasonable time required for obtaining the orders shall aiso be excluded. .t

'. ln the case of any assessment or other proceedings, the period for which such proceedings were

stayed by or the period, if any, for which any proceeding for the tax year remained pending before

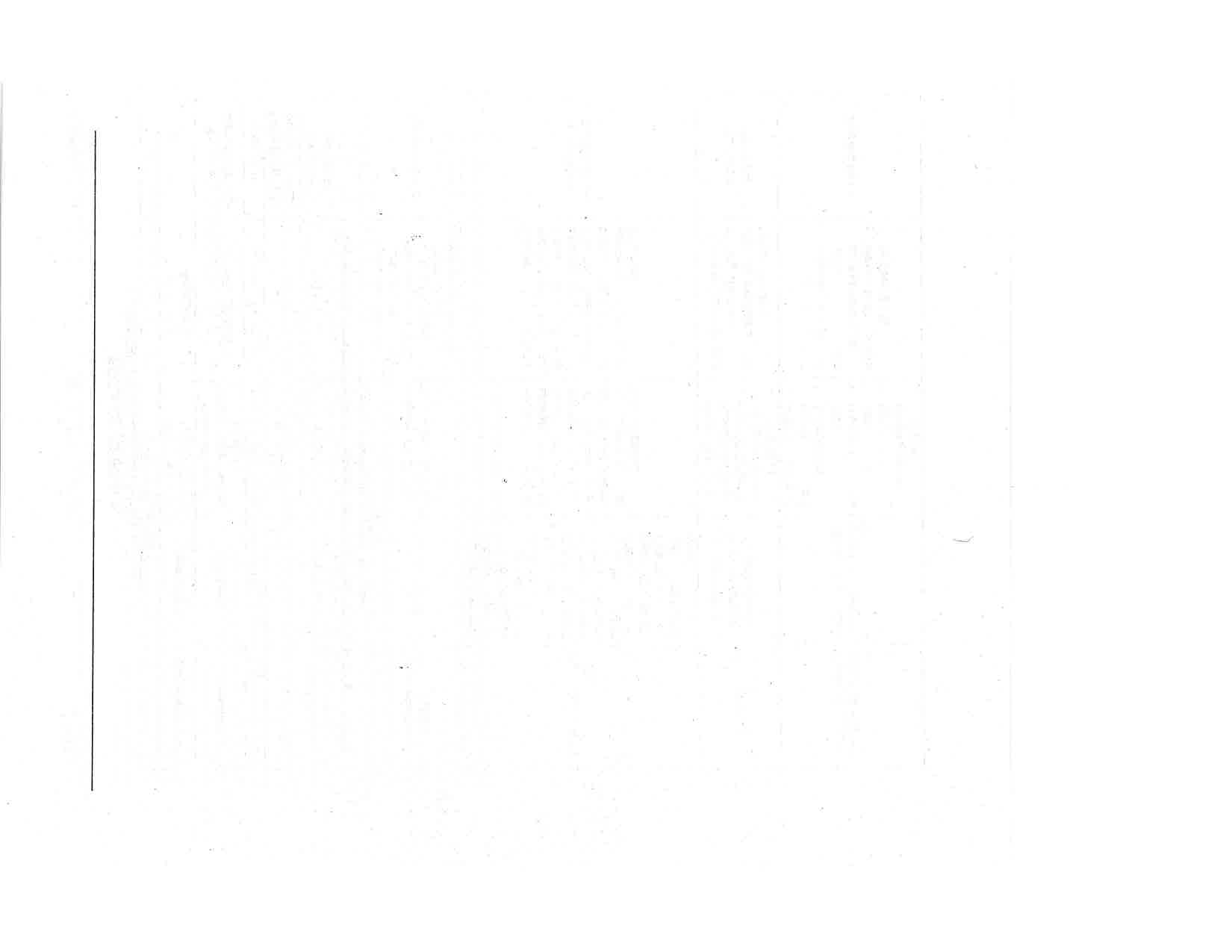
any Court, Appellate -ribunal or any other authority shall qlgo be excluded while computing the limitation period.

BAR OF SUITS tN CtVtL COURTS [227]

No Civil Court has jurisdiction against an order passed or any notice issued under the lncome Tax Ordinance,2001. Further no prosecution, suit orother proceeding shall lie against anyperson for anything done or intended to be done, in good faith, under any provisions of the Ordinance or Rules, orders made or any notice issued under the Ordinance.

'Civil Court'includes any court exercising power of the civil court.

Prior approval of the FBR shall be required for undertaking or initiating any investigation or inquiry by any governmental agency against any officer or official for anything done in his official capacity under the lncome Tax Crdrnance lncome Tax Rules or instructions or directions thereunder.



Syzopsis of Taxes

Income Tax - Appeals

[23-40s]

PROCEEDTNGS UNDER THE TNCOME TAX ORD|NANCEl224l

Any proceedings under the lncome Tax Ordinance before any tax authority (i.e., Commissioner, Commissioner (Appeals) or Appellate Tribunal) shall be treated as judieial proceedings u/s 193, 196 and 228 of the Pakistan Penal Code, 1860 (PPC).

The above-refened sections of PPC deal with crime relating to false evidence and insult of public servant sitting in judicial proceedings.

PROCEEDTNGS AGA|NST iOUpeHtES UNDER sIQU|DATION [225]

Section 310 of the Companies Act, 2017 provides that when a winding-up order has been made or a Provisional Manager has been appointed, no suit or other legal proceeding shall be proceeded with or commenced against the company except by leave of the Court. However, according to section 225 of the lncome Tax Ordinance, 2001, leave of the Court shall not be required for continuing with or commencing any proceedings under the lncome Tax Ordinance against such a company. lt is to be noted that section 3 of the lncome Tax Ordinance rules out any such provision of any other law, which is contrary to the lncome Tax Ordinance.

JURISDICTIONS OF THE COURTS, etc. 1216(2)l

Beyond the provisions of the lncome Tax Ordinance, 2001 no court or authority is entitled to require any public servant to produce before it any return, accounts or documents relating to any proceeding under the Ordinance. lt cannot enforce him to give evidence before it for any matter relating to the proceedings under the lncome Tax Ordinance.



Synopsis of Taxes

Income Tax - Appeals

[23-4061

FORA OF APPEALS

SUMMARY OF IMPORTANT PROVISIONS

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | ' AppellateAuthorities | | | |
| Commissioner (Appeals)U | Appellate TribunalU | High CourtU | Supreme CourtU |
| Pecuniary Jurisdiction + | Value of Tax or Refund Upto Rs. 20 Million | Value of Tax or  Refund more than Rs.  20 Million |  |  |
| Appellant + | Only the Taxpayer | Only the Taxpayer | Any of the parties | Any of the parties |
| Appeal Against the Order of+ | , crR | CIR (Appeals) | AT{ | High Court |
| Days for Appeal= | 30 Days i - | 30 Days | 30 Days :,',. | As per CPC, { 908 |
| rhe apperrate authoritv t:H;iffrTfffiJ?HilttJ',"r5ffi3":ir on surricientsrounds' | | | |
| Appeal Fee + | Assessrnenl cases:  Company: Rs. 5,000 Other person: Rs. 2,500  All other cases:  Company: Rs. 5,000 Other person: Rs. 1,000 | Company: Rs. 20,000 Other person: Rs. 5,000 |  | As p6r CPC, 1 908 |
| Any Other Condition:+ | Appeal against assessment shall be made c'nly if tax payable uis 137(1) of ITO has been paid or stay against its payments has been obtained. | Appeal against assessment shall be made only if tax payable u/s 137(1 ) of ITO has been paid or stay against its payments has been obtained. | . Appeal lies only  if 'point of law'or  'mixed question  of law and fact'is  involved.  . Tax as per  CIR(A) or ATIR  decision is paid  or stay has been  obtained after  deposit of at  least 30% of tax  determined by  last appellate forum. |  |
| Decision Period= | 120 days from the date of filing of appea!.  May be extended upto further 60 days. | Ninety (90) days Appeals pending before 03-05-2024 shall be decided in '180 days | Six (6) months from the date of filing of appeal | Not fixed |
| Decisions:+ |  |  |  | Make any order which is deemed fit. |

O

Confirm, modiff or annul the assesgnent order.

Make such orders as deemed fit.

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Affirm, modify or annul the Fssessment

order

Remand the case to CIR

lssue

consequential

directions

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Make which fit.

any order is deemed

Rs. 50,000

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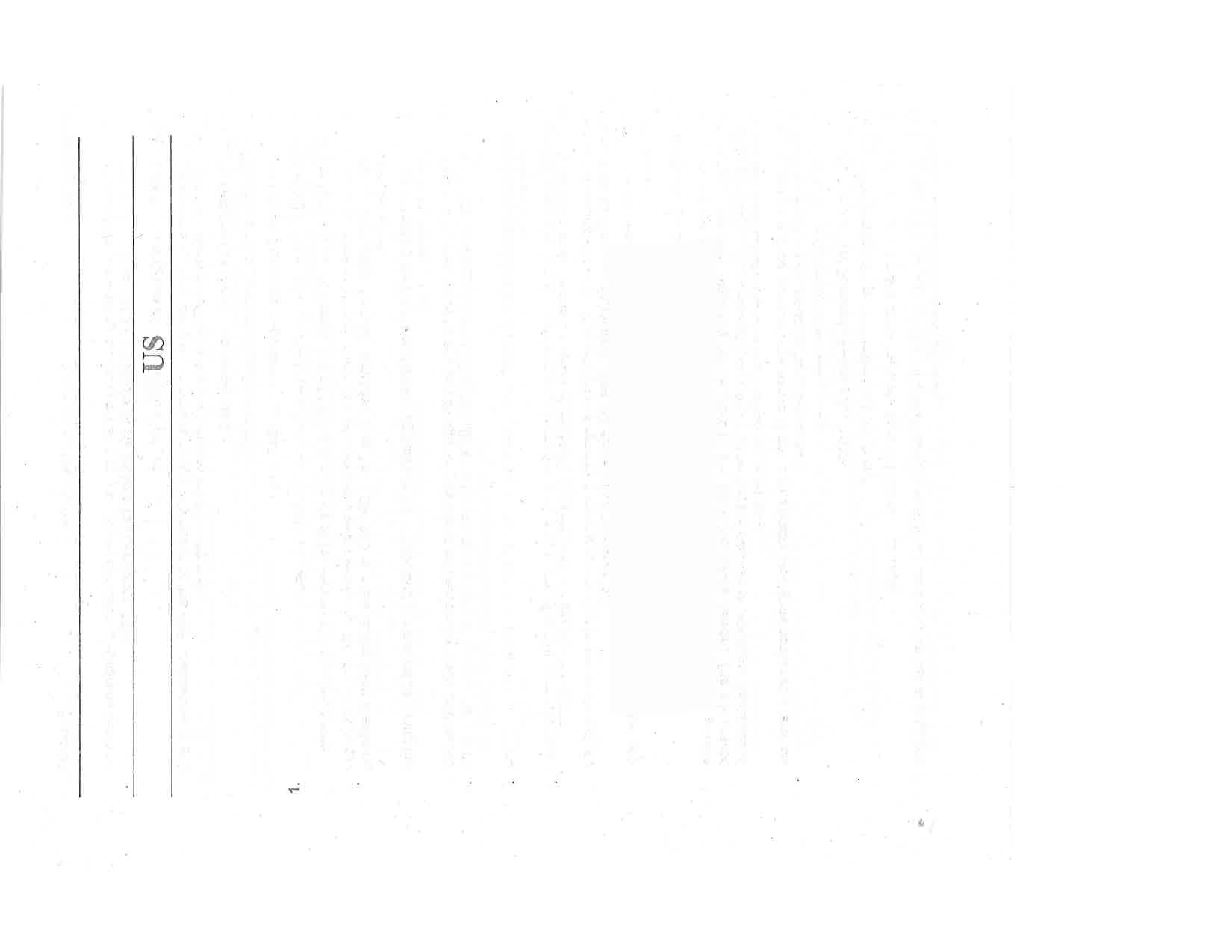
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Synopsis of Taxes

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FURNISHING OF DIFFERENT STATETVIENTS [165 & Rule-42 to 45]

The lncome Tax Ordinance, 2001 requires certain persons to furnish different statements to the Commissioner lnland Revenue during or after the close of the income year. The legal provisions in this regard a!'e sunnmarized below:

Every person collecting or deducting tax at source under various sections cf the lncome Tax Ordinance, 2001 or the Tenth Scheduleshall furnish respective statements in the form prescribed under Rule-44 and 45 of the lncorne Tax Rules, 2002.

This statement shall be biannual and shall contain the followlng information:

i) Name and address of each person from whom tax has been deiucted or collected;

ii) Amounts paid to the person from rrvhich tax has been deducted or collected;

iii) Total amount of tax deciurcted or coliected; and

iv) z Other particulars as specified in the Rules.

Every withholding agent shail be required to file withholding statement even where no withholding tax is collected or deducted during the period.

Statement u/i 165 shall not be furnished if the person has sr.rbmitted thb information required u/s 1654(1).

Every person who is involved in prescribed econornic transactions shall furnish to CIR a quarterly statement in the prescribed form and manner.

The statements shall be filed on quarterly basis as per the following schedule:

|  |  |
| --- | --- |
| Quafter Ending On | Last Date of Filing of Statement |
|  |  |

20th April 20th July

20th October

20th January

31"t March 30th June

301h September

31st December

The Commissioner, as he deems fit, may any person (i.e., the withholding agent) to furnish a statement. The notice shall contain the period for which the statement is required and the period within which it is to be furnished, t165(28)l

A person may appiy to Commissioner for an extension of time for furnishlng the staternent after the due date. The Comrnissioner, if satisfied that a reasonable cause exists for nonfurnishing of the statement by the due date, nray grant the extension. [165{4)]

The FBR i.nay prescri[e a statement requiring any person to furnish informaiion periocically in respect of any transactions. For this purpose it may prescribe the form and also the rnanner of furnishing the information. [165(3)]

The FBR may make rules relating to electronic furnishing of statements and other related matters including rnandatory electronic fiiing of siatements and determination of eligibility of the data of such statements and e-intenmediaries, etc. [165(5)]

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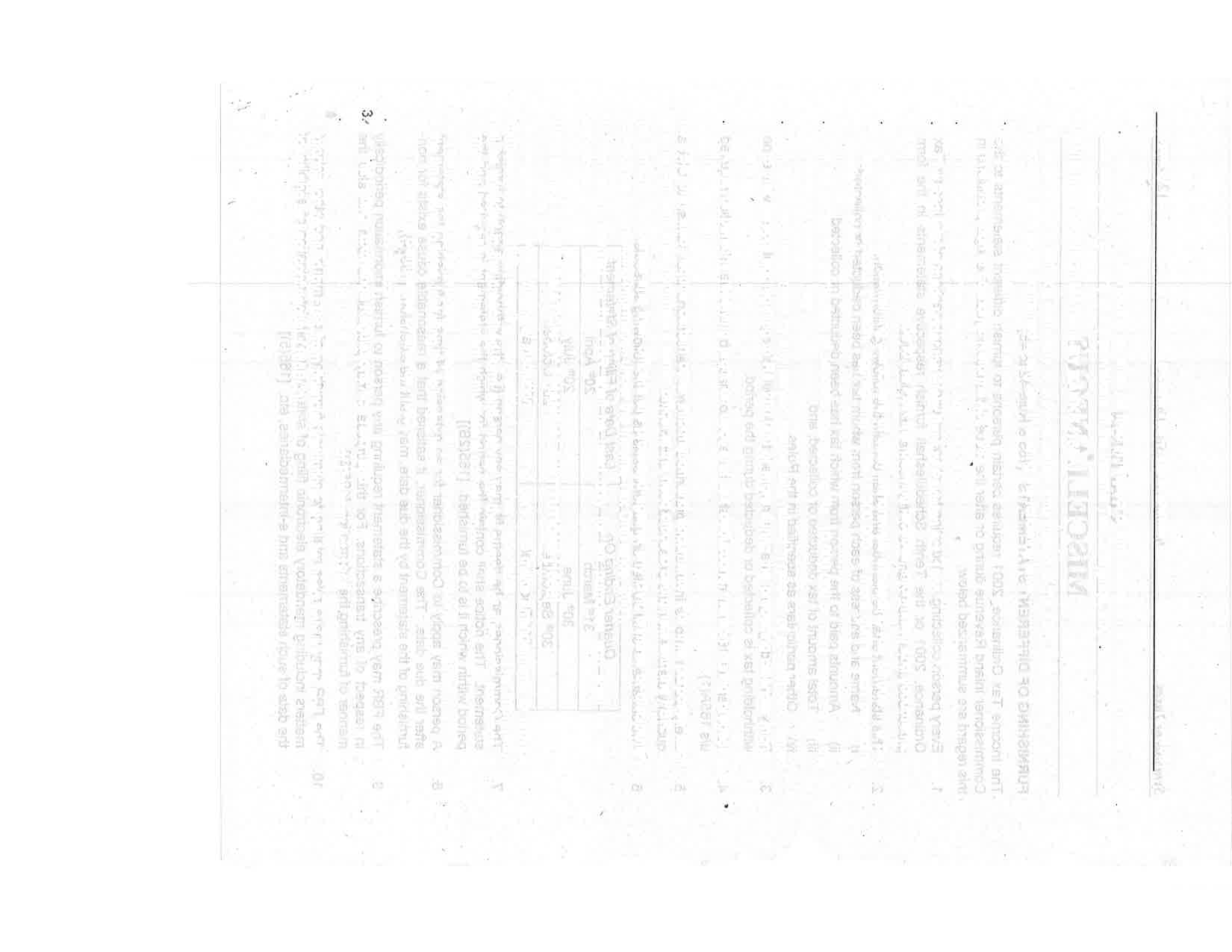
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Synopsis of Taxes

Income Tax - Miscellaneous

124-4081

11 Statements for withholding tax shall be filed in respect of any deduction or collection made by

a taxpayer under arry of the provisions of the lncome Tax Ordinance, 2001

FURNTSHTNG OF INFORMATTON By BANKS [165A]

It is obligatory on a banking company to provide certain information to the FBR irrespective of any

contradictory provisions contained in any law including the following laws: 1 The Banking Companies Ordinance, 1962;

2. The Protection of Economic Reforms Act, 1992

The Foreign Exchange Regulations Act, 1947, and

The Regulations made under the State Bank of Pakistan Act, 1956.

A banking coinpany has to provide to the FBR the following facilities, information and documents: 1 A list of persons containing particulars of cash withdrawals exceeding Rs. 50,000 in a day

and tax deductions thereon, aggregating to Rs. 1,000,000 or more during each preceding

oalendar month;

2 A list containing particulars of deposits aggregating Rs. 10,000,000 or more made during the

preceding calendar year;

3 A list of payments made by any person against bills raised in respect of a credit card issued to that person, aggregating to Rs. 200,000 or more during the preceding calendar, month;

. and

4 A list of persons receiving profit on debt and tax deductions thereon during preceding

financial year.

The FBR may also require certain other information and documents. For this purposes each banking company shall nominate a senior officer at the head office to cocrdinate with the FBR.

The banking companies and their officers are protected against any civil, criminal proceedings for providing information under the lncome Tax ordinance, 2001.

All information received by the FBR shall be used only for tax purposes and confidential.

or disciplinary

shall be kept

FI.IRNISFIING OF INFORMATION

BY FTNANCIAL |NST|TUT|ONS [1658]

it is obligatory on every 'financial institution' (including banks) to make arrangements to proriide information to the FBR regarding non-resident or any olher'reportable person'. The information shall be provided in the prescribed form and manner for the purpose of auromatic exchange of information under bilatei'al agreement or mr;ltilateral convention.

1. The Banking Companies Ordinance, 1962;

2 The Fr'otection of Economic Reforms Act, 1gg2;

Tne Foreign Exchange Regulations Act. 1947; and

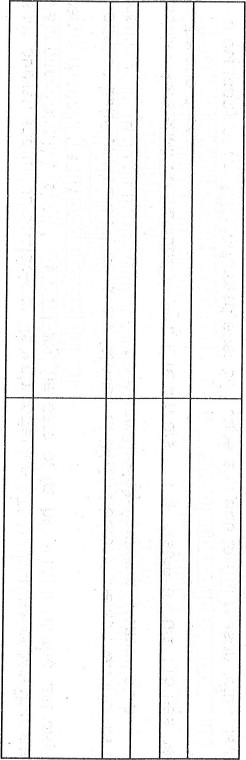
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The ,Qeguii:tlons made under the State Bank df Pakistan Act, 1956.

The information is to be provided irrespective of any contradictory provisions contained in any law for the tinne being in force, inctuding the following laws:

All information received by FBR from financiai institutions shall be used only for tax and related purposes ahC ne kept confidentiat. [1658(2)]

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Synopsis

of Taxes

Income Tax - Miscellaneous

[24-4091

'Reportable Person'means a person other than the following:

1' A corporation the stock oiwhich is regulaily traded on one or more established securities markets;

Any corporation that is a Re/aied Entity, A Governmental Entity;

An lnternational Organization; l

A Central Bank; or

A Financial lnstitution. [Rule-7SB(aj)]

'Related Entity'means if either entity controls the other Entity, or two Entities are under common, control' For this purpose control included direct or indirect ownership of more than fifty percent of the vote and vatue in an Entity. [Rute-7gB(au)]

'Financial lnstitution'means a Custodial lnstitution, a Depository lnstitution, an lnvestment Entity or a Specified lnsurance Company. [Rule-7SB(c)]

TAXPAYER'S REGTSTRATTON [1 81]

Section 181 contains certain provisions regarding registration of iaxpayers, which are enumerated below:

1 Every taxpayer is required to apply for registration. The apptication shall be made in the

prescribed form and in the prescribed manner.

2 The Commissioner having Jurisdiction over a case may also register a taxpayer in the

, prescribed manner if so necessitated by the facts of the ca-se.

3 ]31nayers' registration scheme shall be regulated through the rules to be notified by the

FBR.

4 ln case of incjividuals having CNIC issued by NADRA, CNIC sha[ be used as NTN.

Rules 79 through 83 of the lncome Tax Rules, 2002 deal with the matters relating to the NTN. The provisions of the Rules are summarized below:

The application for NTN shall be submitted in the form specified in part-Vlll of First Schedule to the lncome Tax Rules.

The application shall be accompanied by a documentary evidence of the applicant,s entity.

For this purpose the following documents are used:

of above referred

corporation;

Document

NlC, current passport or other document having photograph of the individuat (e.g.,

driving licence).

Certificate of incorporation or registration.

The Trust deed.

The partnership deed.

The instrument through which the AOP is

constituted.

2

Person

An individual.

A Company (other than a Trust).

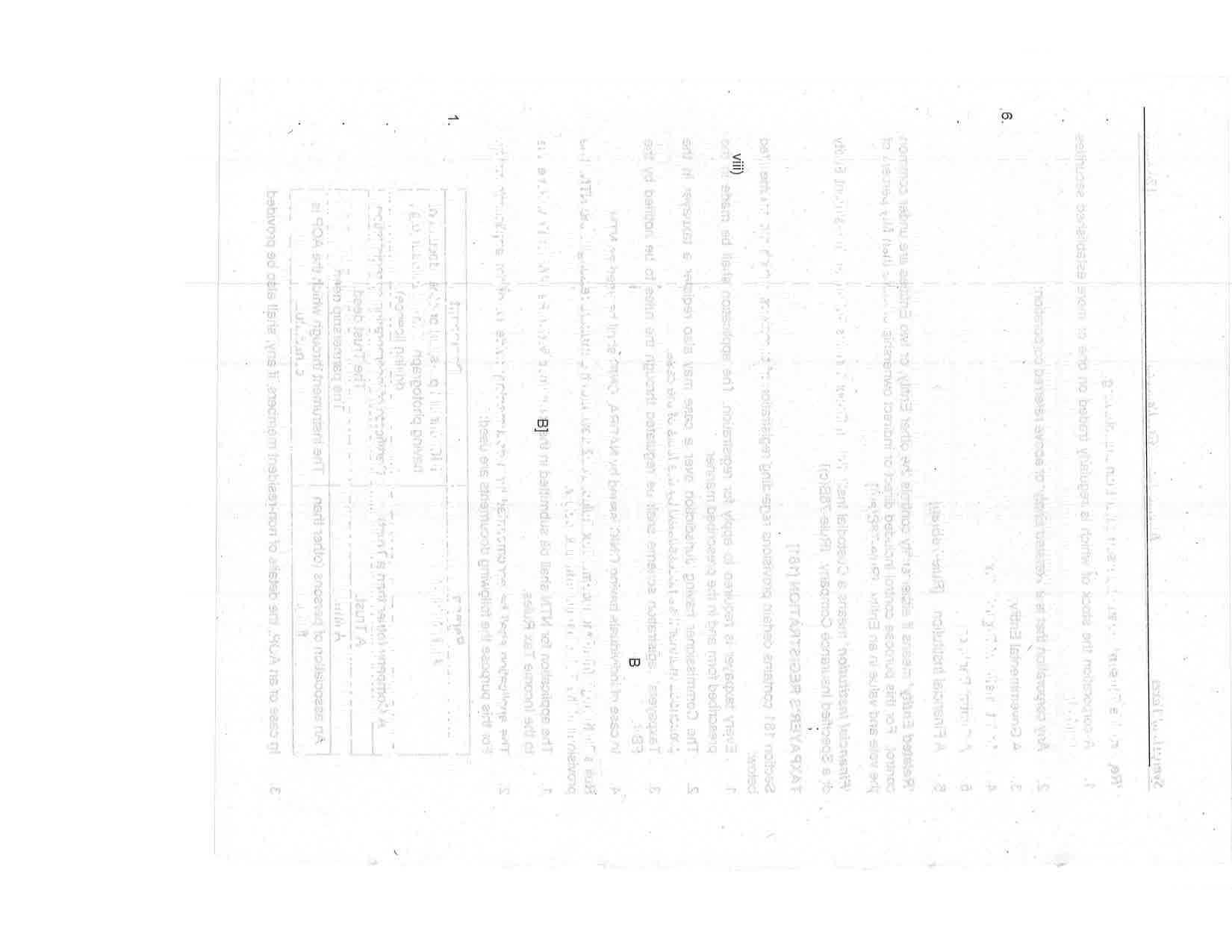
A Trust.

A firm.

An association of persons (other than firm).

3

ln case of an AoP, the details of non-resident members, if any, shall also be provided.



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Synopsis of Taxes

Income Tax - Miscellaneous

124-4101

The application for NTN may be given either by hand or through post. lt may also be submitted along with the first return of income.

The Commissioner shall issue the NTN Certificate within fifteen (15) days of the submission of the application or he will intimate the applicant, in writing, about the reason for its

non-tssuance.

7

The Commissioner may after giving an opportunity of being heard cancel the NTN. The Commissioner's order for cancellation of NTN shall contain the reasons on which it is made.

Every person who holds NTN shall display it at a conspicuous place at his every plaee of

5

business. NTN shall also be quoted in the following documents:

i) Allcommercid transaction entered into bythe taxpayer; .

ii) Cash memos rssued;

iii) Returns and statements furnished by him to the Commissioner;

iv)

Any correspondence with the Commissioner;

Application for new utility connections (e.9., gas, water, electricity Lo'an agreement with a bank or a financial intuition;

Opening a letter of credit; and

Transferring an immovable property located in an urban area.

v)

and telephone)

vii)

E-ENROLLMENT [Rule 80A, 80B & 81]

Every individual, an AOP, a company or a foreign government required to e-fiie return of total

income shall submit presc:ibed form cf e-enrolment through FBR's online system. -r!

A person shall submit the nformation and documents as prescribed under Rule 80

of lTR. :

The Commissioner may, within 15 days of application, grant registration (e-enrollment) or refuse the same. An aggrieved person may, within 30 days of the order of the Commissioner, file a representation before the ,lhief Commissioner, who shail decide after making necessary inquiry.

ACTIVE TAXPAYERS' LIST [181A & Rule-81

The FBRshall have the power to institute 'active taxpayers' lis( (ATL). This list shall be regulated in accordance with the Rule - 81 B of the lncome Tax Rules; 2002. Applibable rules in this regards

are as below:

FBR shall publish and made available on its web portal the ATL by first day of March in each financial ,!ear; The ALT shall be valid from the date. of its publication till the last day of February in the following year.

2

The'updation date' of ATL shall be every Sunday at24:00 hours. A person who fulfills the prescribed criteria shall be included in ATL on the immediately following updation date.

A person's name shall be included in ATL if return uls 114 or statement U/s 115 has been

filed by the due date.

4

Where a company or an AOP is formed after 30th June and due to this reason return is not due to be file, the name of such person shall be entered in ATL without filing of return.

vi)

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Synopsis of Tuxes

Incotte Tax - Miscellaneous

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Notes:

Where some persons have joint account in a bank, they shall be treated as an entity and if any of the persons in the joint account meets the criterii for inclusion in ATL, the entityshall be deemed to have met the criteria. '

iltillt account holder in a bank shall be deemed to have met the criteria for inclusion in AIL if the parent, guardian or any person who has made deposits in his account meets the criteria.

Section 182A of the lncome Tax Ordinance,2001 specifies that where return is not filed by the due date or within time extended by FBR or CIR (which inctudes late filing of return), the person shall not be entifled to be included in ATL in that tax year.

coMpulsoRy REGTSTRATTON tN CERTATN CASES [181AAl

Any application for commercial or industrial connection of electricity or natural gas shall not be processed and such connection shall not be provided unless the perion aoplying ior connection is registered u/s 181.

TAXPAYER CARD [1818]

ln order to motivate individual taxpayers and give incentive to them the FBR may make a scheme for introduction of "Taxpayer Honour card". it srralt be issued to such individuals who fulfill the minimum crileria to render them eligible for the benefits contained in the scheme.

DTSPLAYING OF NTN [181C]

It is mandatory on every person deriving taxable business income and is having NTN to display his NTN at a conspicuous place at every place of his business.

BUSTNESS HCENCE SCHEME [181D]

Every person engaged in any business, profession display a business licence as prescribed by the FBR

The CIR may impose the foltowing fines if a licence.

shall be required to obtain and

to obtain the required business

Rs. 20,000 Rs. 5,000

or vocation

person fails

i)

Person deriving incorne taxable under lncome Tax Ordinance: ln all other cases:

2 This fine is in addition to and not in derogation of any punishment to which the person may

be liable under any law, including the lncome Tax Ordinqnce.

3 The clR may cancel a business licence already issued if the person:

t) Fails to notify any change in particulars within thirty days of such change; or

ii) ls convicted of any offence under any federal tax law.

4 Cancellation of licence shall be made after providing an opportunity of being heard to the

person and through a written order.

RECETPT OF TNCOME [69]

A person shall be treated as having received an amount, benefit or perquisite if it is:

1. Actually received by him;



Synopsis of Taxes

Income Tax - b[iscellaneous

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2 3 4

Applied on his behalf at his instruction;

Applied on his behalf under any law; or : : ,,:

Made available to him (e.9., transferred to the credit of a person's bank account).

RECOUPED EXPENDTTURE [70]

Where a person has received any amount in respect of such an expenditure been allowed as deduction while computing income under any head of income, be taken.as income under the same head for the year in which it is received.

or loss which has such amount shall

1 2

CURRENCY CONVERSTON t71 l

The calculation under the lncome Tax Ordinance, 2001 shall be in Rupees. ln case of a foreign currency transaction, the amount shall be conveded into Rupees. The State Bank of Pakistan rate on the date the arnount is taken into account shall be used for converting the foreign currency into Pak Rupees.

rNcoME FROM A CEASED SOURCE OF TNCOME [72]

An income shall be chargeable to tax in the tax year in which it is received, if the following ,

conditions are satisfi ed:

The income is recdved from such source that has ceased before or during the tax year; and The income would rave been taxable if the source had not ceased.

PRTNCTPLE REGARDTNG RECOGNTTTON OF TNCOME OR EXPENDTTURE [73]

While computing the taxable income of a person any method of accounting (i.e., cash-basis or accrual-basis) may be used subject to the rules laid down by the law. However, while recognizing an income or allowing a deduciion for expenditure it should be ensured that the same transaction is not recorded twice (i.e., at the time of accrual as well as at the time of payment or receipt).

TRANSACTTON BETWEEN ASSOCTATES [1 08]

Legal provisions in respe':t of any transaction between persons who are associates are as below:

The Commissioner (ClR) rnay distribute, apportion or allocate income, deductions or tax credits between th= persons as is necessary to reflect the income that the persons would have realized in an arm's length transaction: \ri .\,rc

While making adjustment the CIR may determine the source of income and the nature of any payment or loss as revenue, capital or otherwise

Every taxpayer who has entered into a transaction with associate shall maintain and furnish

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Master file and a locai file containing the prescribed documents and information; Prescribed country-by-country report, where applicable; and

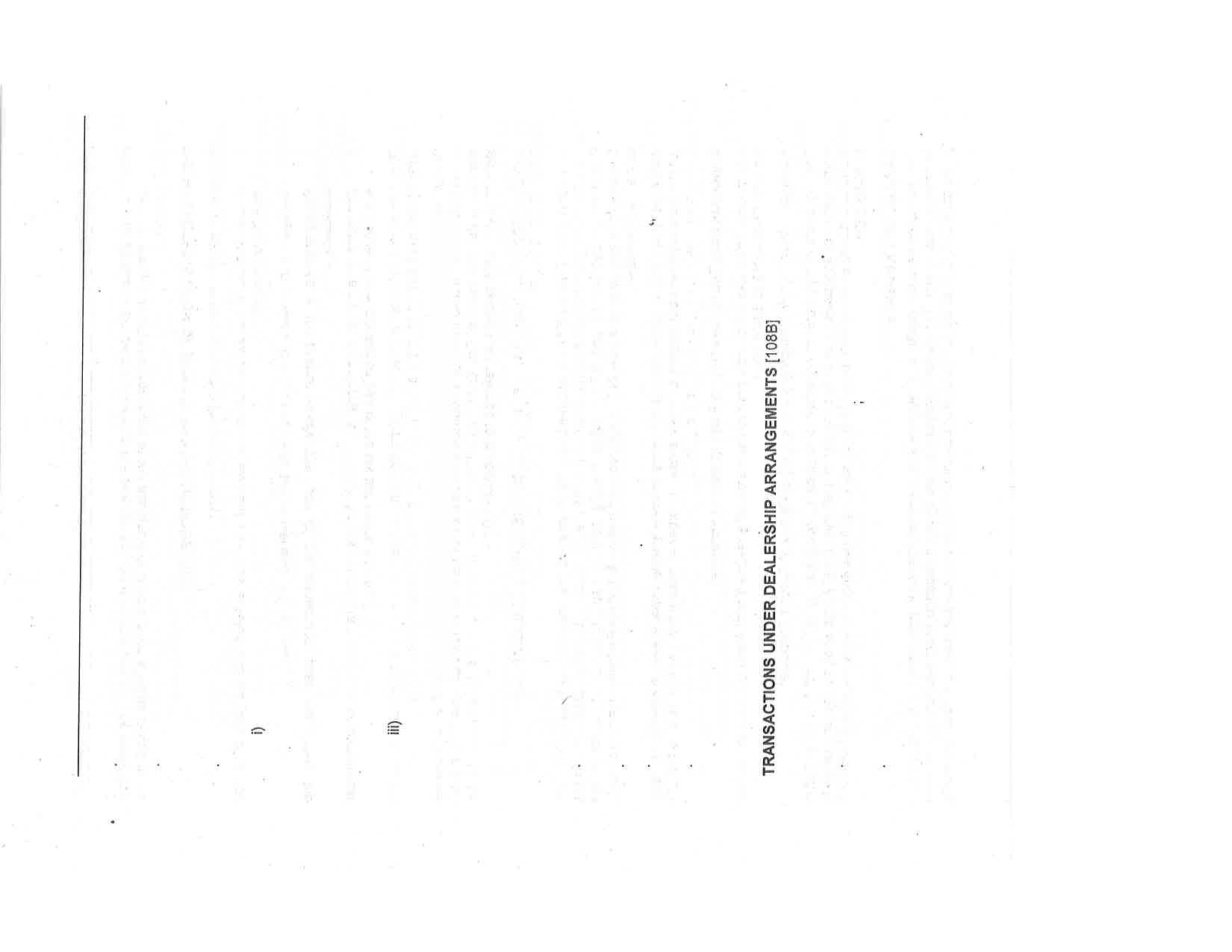
Any other prescribed information and document in respect of the transaction.

4. The above mentioned files, documents, information and reports shall be kept for a period as

may be prescribed.

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Synopsis of Taxes

Income Tqx - Miscellaneous

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Where the CIR so requires under any proceedings, the documents and information shall be furnished to him within thirty (30) days of the requisition.

The CIR may grant extension in the time for furnishing of documents, etc., if so applied by a taxpayer. The extension should be for a maximum period of 45 days. Under the exceptional circumstances the extension may be for a longer period.

Tlvenly five percent (25Vo) total expenditure for the tax year on sates piomotion, advertisement and publicity shall be disallowed to a person and ailowed to its associate if:

ii)

The person has claimed a deduction for the current tax year or any of the two preceding tax years on account of royalty paid or payable to an associite. payment may be made directly or indirectly;

-Royalty expense is for use of any brand name, logo, patent, invention, design or model, secret formula or process, copyright, trademark, scientific or technical knowledge, franchise, license, intellectual property or other like property or right or contractual right; and

On a notice issued by the ClR, the taxpayer fails to furnish evidence that no beneflt has been conferred on the associate.

This provisions applies for the tax year 2024 and onwards.

REPORT FROM TNDEPENDENT ACCOUNTANT t108Al

For the purpose of determining the FMV of the asset, product, expenditure or service at the time of transaction, the Commissioner, with prior approval of the FBR, may obtain report from an independent chartered accountant or cost and management accountant. The relevant provisions are as below:

7

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any explanation or

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Such report may be obtained if the Commissioner is of the opinion that a transaction has not been declared at arm's length.

Thb scope, terms and conditions of the report shall be regulated by the rules.

Where the Commissioner ts satisfied'with the report of the accountano the FlvlV as determined in the report shalt be treated as definite iniormaticn u/s i22(g).

Where the Commissioner is not satisfied with the report of accountant, the Commissioner may record reasons for dissatisfaction and seek report from another independent accountant, to determine the FMV of asset, product, expenditure or seryice at the time of

transaction.

Seventy-five percent (75o/o) of the dealer's margin shall be added to ihe incorne of the person making the supplies, if:

1 The supplier is supplying the products listed in the Third Schedule to the Sales Tax Act,

1990 or any other products prescribed by the FBR

2 The products are being supplied under a dealership arrangement with such dealers who are

not:

i) Registered under the Sales Tax Act, 1990;

ii) Appearing in the acfive taxpayers'list under the lncome Tax Ordinance,

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Synopsis o-f Taxes

Income Tux - Miscellaneous

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i Not", For this purposes, ten percent (10%) of the sale price of tne mancutacturer shall be treated as

dealers' margin. ln other words 7.5% of the manufacturer's sale price shall be added to his tncome.

RECHARACTERTSATTON OF TNCOME AND DEDUCTTONS 11091 For the purpose of determining tax liability, the CIR may:

1.nre Recharacterise a transaction or an its element that was entered into as part of a'tax

avoidance .scheme';

Disregard a transaction that does not have substantial economic effect;

Recharacterise a transaction where the form of the transaction does not reflect the

substance; or

4. Disregard an entity or a corporate structure that does not have an economic or commercial

substance or was created as part of the tax avoidance scheme.

'Tax avoidance sclrcme'means any transaction where one of the main purposes of a person in entering into the transaction is the avoidance or reduction of any person's tax liability.

'Reduction in a person's tax liabili$l'means a reduction, avoidance or deferral of tax or increase in a refund of tax. lt also includes a reduction, avoidance or deferral of tax that would have been payable under the lncome Tax Ordinance, 2001, but are not payable due to a tax treaty for avoirlance of double :axation (as referred to in section 107).

APPLICATION OF INCOME TAX ORDINANCE ON ERSTWHILE TRIBAL A.REAS lsRo 121 3(r)t2018, 5-1 0-1 8l

The Constitution (Twenty-Fifth Amendment) Act, 2018 received the assent of the President on 31"t , , , May,'2018. This Act nerged the tribal areas (as mentioned in Article 246 of the Constitution) in the

Provinces of Balochistan and KPK. While making other consequential amendments in the Constituti6n it also omitted Article 247, which provided that an Act of the Parliament shall not apply

to the Tribal Areas.

With effect from May 31, 2A18 the ITO is in force to the erstwhile Tr:ibal Areas. lt created hardship for the individuals and businesses of those areas. ln order to restore the position prior to the 25th Amendment, the following exemptions are granted.

Exemption from Tax [Clause (146) of Part-l of Second Schedule]

Any income which was not taxable prior to the merger of erstwhile Tribal Areas will be exempt from tax from 01-06-2018 to 30-06-2023. I .r. \*T

Exemption from Tax Withholding [Clause (1 10) of Part-lV of Second Schedule]

The provisions of deduction or collection of withholding tax (sections 149 to 158 & 231A to 236Y) which were not applicable prior to the merger of erstwhile Tribal Areas shall not be applicable to individuals domiciled or companies and AOPs resident in those areas for a period from 01-06-2018 to 30-06-2023.

CAPITAL AND REVENUE

The distinction between capital and revenue is of great importance in preparation and plesentation of financial statements. The capital expenditures are shown in balance sheet whereas the revenue in lhe profit and loss account. lt is also important for the income tax purposes because, generally,

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Synopsis of Taxes

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the i"evenue incomes and the revenue expenditures are taken into account while computing the total income and the tax liability of a taxpayer:. The only exception is the inclusion of gain or loss on disposal or a fixed asset and a capital asset. The rules in respect of classification of expencjitures into the capital or revenue are summarized below:

CAPITAL EXPENDITURES.

,,. /

An expenditure shall be a capital expenditure if it is incurred for:

1. Acquisition of fixed asset.

2. lmprovement and extension of a fixed asset.

3. lncreasing the profitability or earning capacity of the business.

4. Raising capital.

REVENUE EXPENDITURES

An expenditure shall be a revenue expenditure if it is incurred for: 1. Purchase of assets for resale purpose (floating assets).

Maintenance of fixed assets.

Payment of dayto-day expenses necessary for the business.

ACTTVE TAXPAYERS' L|ST [181A]

The FBR shall have the pourer to institute "active taxpayers' list". This list shall be regulated in accordance with the rules as rnay be prescribed by the FBR

Active Taxpayer's List [2(1A)]

"Active Taxpayers'Lrsf" means the list instituted by the FBR under section 181A and includes such list issued by the Azad Jammu and Kashmir Central Board of Revenue or Gilgit-Baltistan Council Board of Revenue-

SPECIAL PROCEDURE FOR PERSONS NOT tN A,CTIVE TAXPAYERS' LIST (ATL) [10084 & Tenth Schedulel

Provisions relating to collection or deduction of advance income tax, computation of income and payment of tax thereon'and assessment of persons not appearing in the "Active Taxpayers' List" or persons appearing in ATL who have not filed return by the due date u/s 118 or as extended u/s 119 or 2144 are as below:

Rate for Deduction or Collection of Tax

Tax required to be deducted or collected under any provision of the ITO shall be shall be increaseC by 100% (double) of the rate specified in the ITO if the person is not appearing in

ATL.

Tax required to be collected u/s 231B of ITO (on motor vehicles) shall be increased by 200oh Grfple) of the rate specified in First Schedule in case of persons not appearing in the ATL.

Tax required to be collected u/s 236K of the l-l-O (fr'om purchaser on fansfer of property) shall be as

below:

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Synopsis of Taxes

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[24-4161

Fair Market Value of lmmovable Property

r Upto Rs. 50 miliion

ExceeCing Rs. 50 million but upto Rs. 100 million

Exceeding Rs. 100 million

Tax Rate 12o/o

4

Tax required to be collected-lrnder different sections of tre IFO shall be as below:

|  |  |  |
| --- | --- | --- |
| Sectlon | Description - | Tax Rate |
| 151 | On yield or profit on debt | 35o/o |
| 236C | On the grossamount ofconsideration received on sale or transfer of immovable property | t\*t' lOYo |
| 236G | On the gross amount of sale to distributors, dealers or wholesalers other than sale of fertilizer. | 2o/o |
| 236H | On the gross amount of sale to retailers | 2.5o/o |

Persons Appearing In ATL But Have Not Filed Return by Due Date [Rule 1A of 1Oth Schedule] Rate of tax to be collected in respect of persons who are appearing in ATL but have not filed return of income by the due date u/s 1 18 or as extended u/s 1 19 or 214A of ITO shall be as below

Tax u/s 236C of the IIO (frrom Selleron Transfelof prcperty;: .

|  |  |
| --- | --- |
| Fair Market Value of lmmovable Property | Tax Rate |
| Upto Rs. 50 million | 60/o |
| Exceeding Rs. 50 million but upto Rs. 100 miltion | 7o/o |
| ,. fxceeding Rs. 100 million : 'l | ' 8o/o |

- Tax u/s 236K of the IIO (frrom Purchaser on Transfer of properly):

|  |  |
| --- | --- |
| Fair Market Value of lmmovable Property | Tax Rate |
| Upto Rs. 50 million | 60/o |
| Exceeding Rs. 50 million but upto Rs. 100 miilion | 7o/o |
| Exceeding Rs. 100 million | 8o/o |

' Non-Application of Rule 1A of iOth Schedule

Persons Not Required to File the Return

Rule 1A shall not apply to a person who has filed return by the due date specified in section 118 or as extended u/s 119 ar 214A of ITO for all of the last three tax years. preceding the tax year for which the return has not been filed by the due date.

1

ln case of a person who is not required to file return u/s 114 of the lfo, the withholding agent shall electronically furnish a notice to the'ClR(before tax withholding) containing tne toltoiing informaiion about that person:



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Synopsis of Taxes

Income Tax - Miscelluneous

[24-417]

i) The name, CNIC or NTN and address of the person;

ii) The nature and amount of the transaction subject to tax withholding; and

iii) The reason why the person is not required to file the return.

[tg Ctn shall pass an order accepting or rejecting the contention. lt shall be deemed that CIR has accepted the contention if no order is passeO witnin 30 days of the receipt of notice.

ln case of rejection, the CIR may direct the withholding agent to withhold the applicable tax.

Provisional Assessment

The person from whom tax is withheld is required to file return within 60 days of the due daie

provided in section 1 18 or as extended by FBR

2 Where the return is not filed, the CIR shall issue a provisional assessment order specifying

the taxable income and the tax due. While making the provisional assessment:

t) The CIR shalldetermine the'imputable income'considering the iax withhetd.

ii) The imputed income shall be considered as concealed income u/s 1 1 1(1)(d).

iii) Any unexplained income, asset or expenditure in excess of imputed income shall be

treated as concealed income and provisions of section 111 shall apply thereon.

3. The imputable tncome or concealed income determined and treated as above shall not

absolve the person so assessed from:

i) The requirement of fiting of weatth statemenf u/s 1 16(1);

ii) Explanation u/s 111 about the nature and source of amounts subject to withholding

tax;

Iri) Selection for audit uls 177 or 2j4C; or

iv) Subsequent amendment of assessment.

Status of Provisional Assessment

1 The provisional assessment shall be treated as final after expiry of 45 days from the date of

service of the provisional assessment order.

2 The provisional assessment order shall abate, if returns and wealth statement for the

relevant tax year and the preceding tax year are filed within the above-referred 45 days.

Under this case, the returns filed shall be taken to be assessment finalized u/s 120(1) of lTb.

3. Where return is filed before, or within 45 days of, the provisional assessment order, the tax

withheld shall be adjustable in the return filed for the reievant tax year.

tfnposition of Penalty

Within 30 days of treating the provisional assessment as final assessment (on non-filing of returns and statements), the CIR may initiate proceedings for imposition of penatties u/s 182 on-account of non-furnishing of return and concealment of income.

Non-Compliance by Withhotding Agent

The withholding agent shall furnish complete particulars of the persons not appearing on the active taxpayers' list in statement u/s 165, case of defautt, the CtR, within 3b oays it filing of the statement, shall initiate proceedings aga nst the withholding agent ute 192 and 1gi,



Synopsis ofTaxes

Income Tax - Miscellaneous

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Amendment of Assessrnent

Under the following cases the CIR may amend the assessment order:

1 Where on the basis of 'definite information' acquired from an audit or otherwise, the CIR is

satisfied that:

i) Any income has escaped assessment;

ii) Total income is under-assessed, assessed at too low a rate or has been the subject of

excessive relief or refund; or

iii) Any amouni has been misclassified.

2 Where, under any of the following cases, an assessment order is considered erroneous in so

far it is prejudicial to the interest of revenue:

r) A provisional assessment order is treated as final;

ii) A i'eturn is filed in response io a provisional assessment order; or

iii) The return is amended by clR on the basis of definite information.

Application of the lncorne Tax Ordinance' 2001

ln case of proceedings against such persons, the provisions of the ITO shall mutafr.s mutandis apply.

Example

Asim is not appearing n the active taxpayers' list. On 17th August 20x1 he purchased a plot having FBR Value of Rs. 14,500,000. The transferring authority, besides other dues, collected Rs. 1,450,000 as advance tax u/s 236K (being 1oo/o of FBR value). Due date for filing of return is 30-09-20x2.

Discuss the possible actions where the CIR makes a provisional assessment on 20-11'20x2 assumrng:

1. Asim files the return of inconie; and

2. Asim does not file return of income.

P rov i s i o n a I A -qsessrnenf

Under the both cases, the CIR shall make the provisional assessment order, determining the tax as below:

Tax collected u/s 236K

1,450,000 5,200,000 1,450,000 1,450.000 Nit

,450,000

AS

tax table)

Net tax payable on provisional assessment

Date.

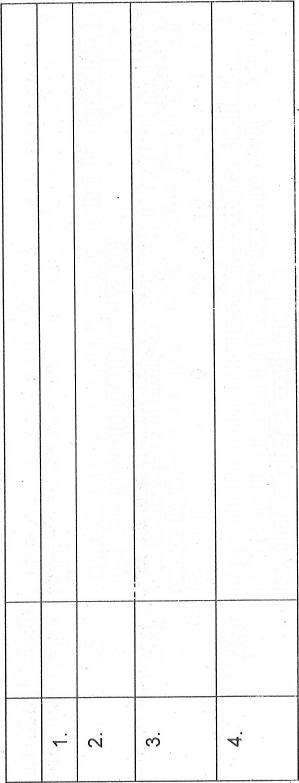
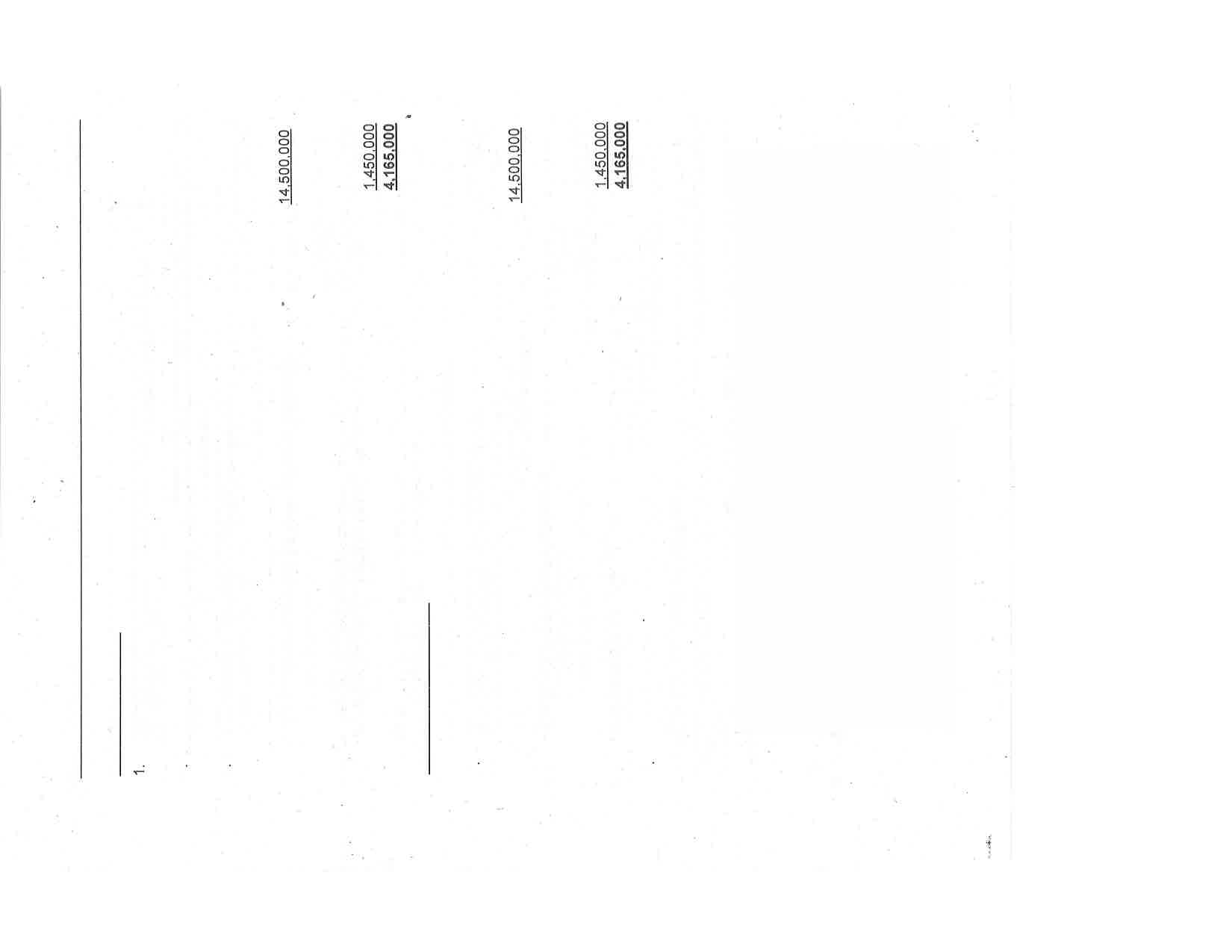
of Filin

of Retr;ms and Wealth Statement

Asirn has to file returns of income and wealth statements for tax years 20xl & 2" .," Dy U4-01-20x3, (i.e., within 45 days of the date of the provisional assessment order, which is .J-11-20x2).

tmpr"itable incorre (on tax of Rs.

Tax payable on Rs. 3,600,000 Tax paid u/s 236K



Synopsis of Taxes

Income Tax - Miscellaneous

124-4191

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Where Return is Filed

The provisional assessment shall abate and return so filed shall be treated as assessment u/s 120(1) of the lTO.

lf the source of investment is explained in the wealth statement, no further action for purchase of property shall be initiated.

lf the source of investment is not explained in the wealth statement, the ClR, after providing an opportunity of being heard, shall amend the assqssment and determine the tax liability as below

Total unexplained investment (i.e., value of the property)

Tax on Rs. '14,500,000 as per tax table:

Tax on Rs. 5,600,000 1,610,00C

Tax on balance of Rs. 8,900,000 @ 45% 4,005,000 5,615,000

Less: Tax paid u/s 236K

Net tax payable

Where Return is Not Filed

1. The provisional assessntent shall be treated as finalized.

2 The ClR, after providing an opportunity of being heard, shall amend the assessment and

determine the tax liability as below

Total unexplained investment (i.e., value of the property)

Tax on Rs. 14,500,000 as per tax table:

Tax on Rs. 5,600,000 1,610,000

Tax on balance of Rs. 8,900,000 @ 45% 4,005'000 5'615'000

Less: Tax paid u/s 236K

Net tax payable

3 The CIR may initrate the penalty and prosecution proceedings under the lTO.

Non-Applicability of Special Procedure

Provisions of the Tenth Schedule shall not apply on tax collectible or deductible under the following

sections:

S. No.

Secfion

149 152

Pafticulars

152(2)

l-ax deducted from profit on debt payable to a non-resicjent person having no PE. [under clause (5A) of Part-ll of Second Schedulel

152(2)

Payment to an individual on account of protit cn debt earned on debt securities issued by Federal Government. [under clause (5AA) of Part-ll of Second Schedulel

Salary

Payments to non-residents. However, it shall be applicable to sub-sections (2A)(a),(2AXb) and (2A)(c)



Synopsis of Taxes

Income Tax - Miscellaneous

124-4201

|  |  |  |
| --- | --- | --- |
| 5 | 154 | Exports |
| b.' | 1544 | Export of services |
| 7 | 231A8 | Cash withdrawal from banks |
| 8 | 235 | Electriciiy consumption |
| o | 236 | Telephone and internet users |
| 10 | 374 | Capital gain on securities. |

REGULATION OF ACTIVE TAXPAYERS' LIST [181A & Rule-81B]

Publishing of ATL

FBR shall publish and make available on its web portal the ATL by first day of March in each financial 'year.'The ATL shall'be valid from the date of its publication till the last day of February in the following year.

The 'updation date' of ATL shall be every Sunday at 24:00 hours. A person who fulfills the prescribed criteria shal be included in ATL on the immediately following updation date.

Criteria for lnclusion in ATL For AII Persons:

A person who has filed the return u/s 114 by the due date.

For Companies and AOPs Formed After 30th June:

ln this case furnishing of return will not be due. Such person shall be entered in ATL without filing of return.

Joint Holders of a Bank Account:

These persons shall be treated asan entity, which shall be deemed to have metthe criteria if any of the joint account holders meets the criteria.

Minor account holder in a bank:

Minor shall be entitled for inclusion in ATL if the parent, guardian or any person who has made deposits in his account meets the criteria.

lmpact of Non-Filing of Return on ATL [Proviso to 1824(1)(a)]

A person, who has not filed the return of income by the due date or within the date extended by FBR or the ClR, shall not be included in 'active taxpayers'llsf'. Late filing of return shall have the same consequences.

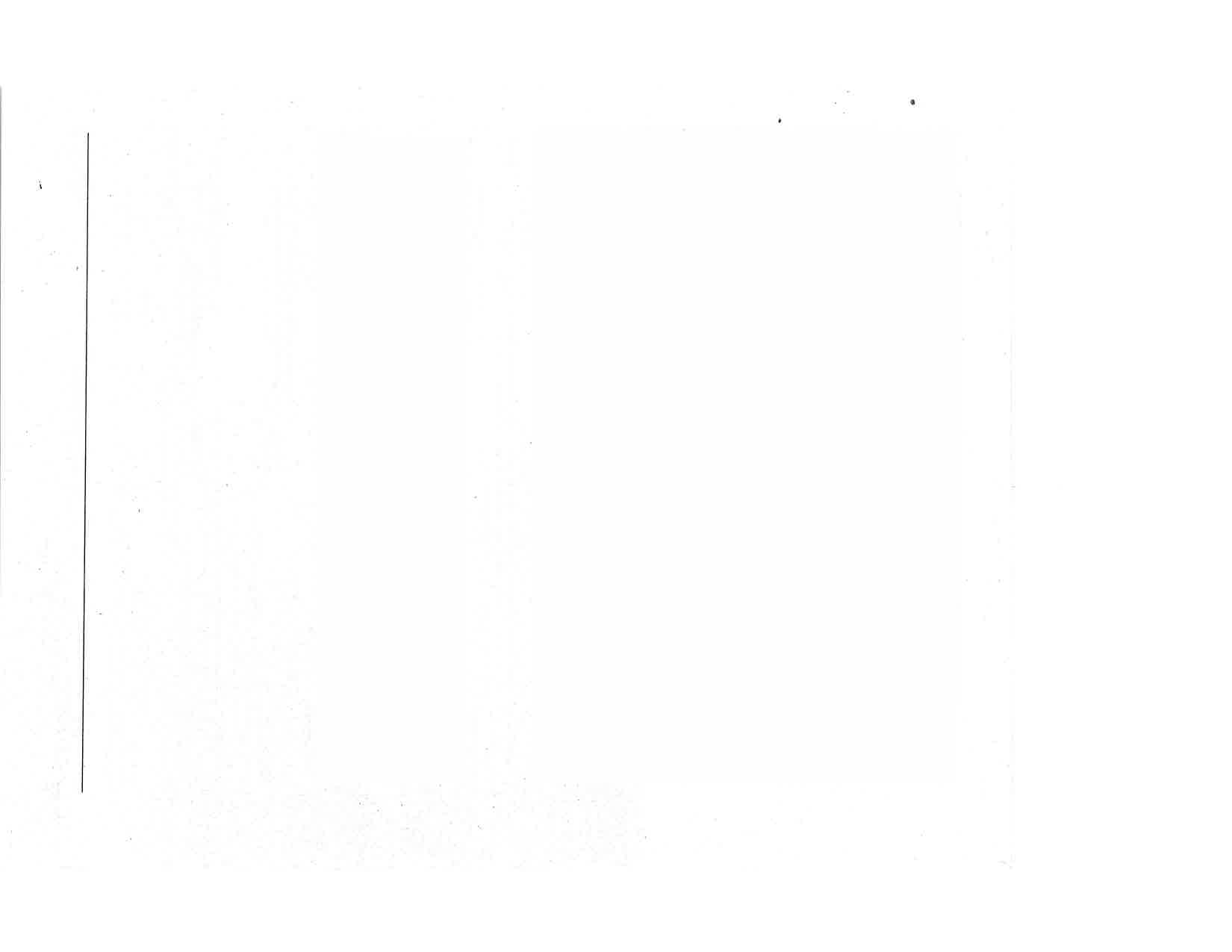
lnclusion in ATL

A person shall be included in ATL on filing return after the due date on payment of surcharge at the following rates:

1. Company Rs. 20,000

2. AOP Rs. 10,000

3, lndividual Rs. 1,000



Synopsis of Taxes

Income Tax - Miscellaneoas

[24-4211

ONLINE INTEGRATION OF BUSINESSES

Integrated Enterprise 12(30A)I

'lntegrated enterprise' means a person integrated with the FBR through approved fiscal electronic device and software, and who fulfills prescribed obligations and requirements for integration.

Rules 33A to 33G deal with the matters connected with 'integrated enterprise'. Some of those rules are discussed in comihg paragraphs.

Application [R-33A]

These rules are applicable to all specified persons whose principal place of business is situated as below: '

|  |  |  |
| --- | --- | --- |
| s.# | Persons | Place of Business |
| 1 | Company | Anywhere in Pakistan |
| 2 | All other persons |  |

Within the civil limits including cantonments of the following

districts:

1.

3.

A

Karachi

lslamabad Faisalabad

2 4 6

Lahore

Rawalpindi Multan

Businesses Subject to Online lntegration

The following business, except those which are excluded, (hereinafter called as "integrated enterprise") are required to be online integrated:

|  |  |  |
| --- | --- | --- |
| S. No. | Description | Exclusion, if any |
| 1 | Restaurants | Where -  i) The restaurant is operating otherwise than as  part of a food court; and  ii) The facility of air-conditioning is not installed or available in the premises. |
| 2 | Hotels, motels, guest houses, maniage halls, Marquees, clubs including race clubs. | Where-  i) The covered area is less than 4500 sq. feet  ir) The facility of air-conditioning is not instailed or available in the premises. |
| 3 | lnter-city travel by road. | Where -  i) The taxpayer is only providing non air conditioned  travel service; or  ii) Travel service maintaining a fleet of less than ten vehicles. |
| 4 |  | Where -  i) The taxpayer is not a company; and  ir) The taxpayer is offerinE only domestic courier or cargo servrce. |
| 5 | Services provided for personal care by beauty parlours, clinics and slimming clinics, body | Where -'  i) The covered area is less than 1000 sq. feet; or ii) The facility of air-conditioning iq not installed or |

Courier servrces servtces

and cargo



Income Tax - Miscellaneous'

124-4221

Synopsis of Toxes

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| --- | --- | --- |
|  | massage cerltres, pedicure centres; including cosmetic and plastic surgery cy such Parlours / clinics, | available in the Premises. |
| 6 |  |  |
| 7 | Pathological laboratories, medical diagnostic laboratories including X-Rays, CT Scan, M.R. lmaging etc. | Where -  i) The taxpayer is not a comPanY; and  ii) The taxpayer is not maintaining more than one  branch whether under its own name or through an associate. |
| 8 | Hospitals or medical care centres providing medical consultation, hospitalization or other ancillary services |  |
| I | Health clubs, gyms, PhYsical fitness centres, and body or sauna'massage cenires | Where-  i) The covered area is less than 1000 sq. feet; or ii) The facility of air-conditioning is not installed or available in the Premises. |
| 10 | Photographers | Photographers charging less than Rs. 100,000 per event |
|  | Accountants | Accountants who are not operating as part of a firm or a company |
|  | - Retailers including  manufacturer-cum-retai ler,  wholesaler-cum-retailer,  im porter-curn-retailer or such other person who combines the activity of retail sale with  another business activitY. |  |
| 13. | Foreign Exchange Dealers / Exchange Companies. | Respective headings |

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Medical

consultants

practitioners and

A retailer who does not fall in any on the following categories, namely:-

A retailer operating as a unit of national or international chain of stores;

A retailer operating in an air-conditioned shopping mall, plaza or center, excluding kiosks; A retailer whose cumulative electricity bill during the immediately preceding twelve consecutive months exceeds rupees twelve hundred thousand;

A wholesaler-cum-retailer, engaged in bulk import and supply of consumer goods on wholesale basis to retailers as well as on retail basis to the general body of consumers, or

A retailer whose shop measures one thousand square feet in area or more.

i) :.

il)

ii)

iv)

v)

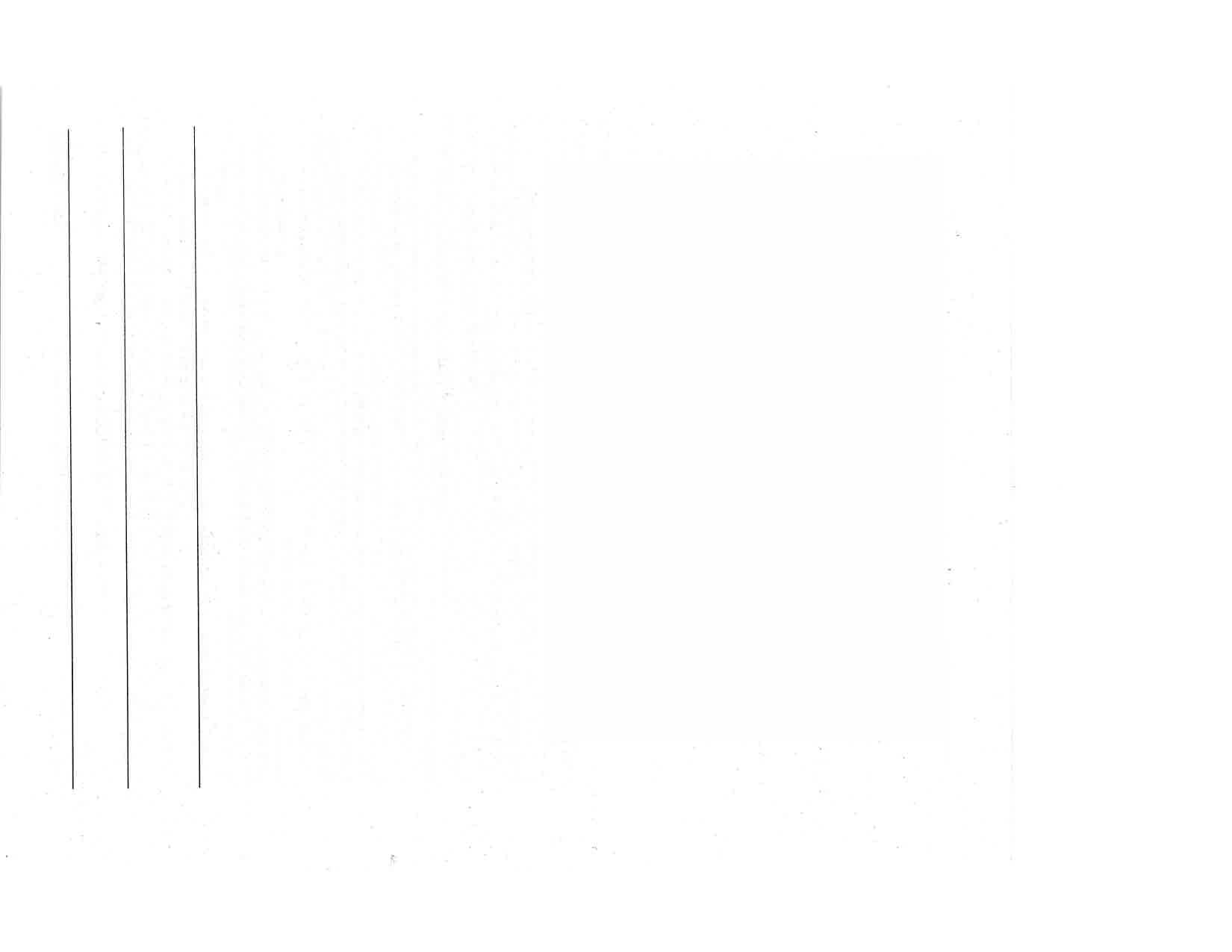
Where -

i) The consultaiion ts being provided at a place

other than a hospital or Poly-Clinic; and -

The consultation fee is less than Rs. 1500/-.

i)



Synopsis of Taxes

Income Tax - Final Tax Regime

lzs-4231

CHAPTER-25

FINAL TAX REGXIUE AFID MINIftAUM TAX LIABTLITY

Final Tax Regime (FTR) is a procedure through which the amount of 'tax withheld'is treated as a full and final discharge of tax liability of a taxpayer in respect of transaction on which the tax was deducted or collected at source. The amount on which tax has been so deducted cr collected is presumed as income of the taxpayer.

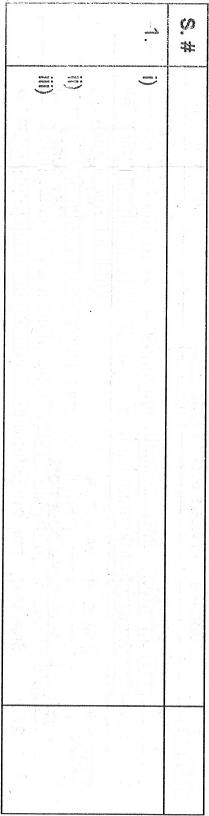
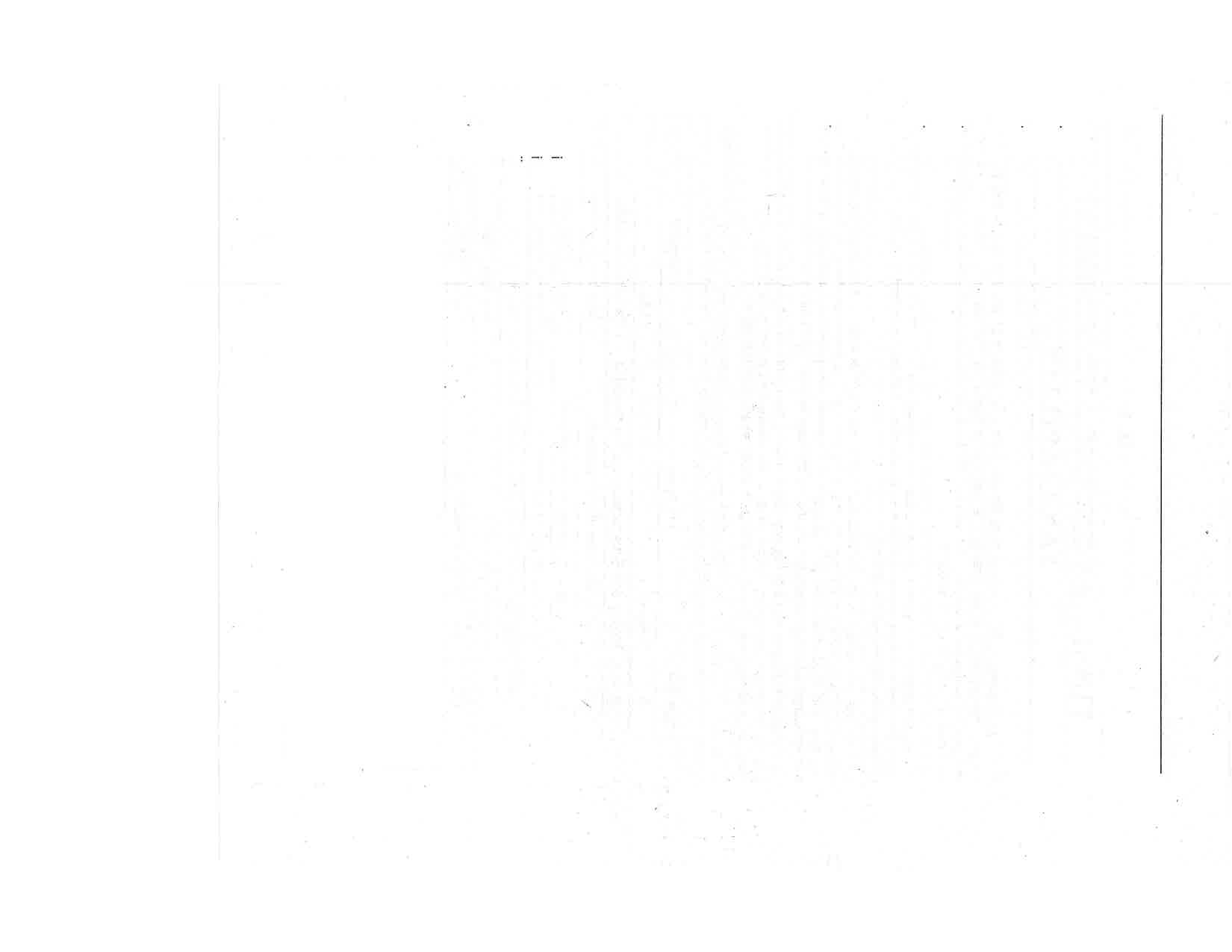
The idea of treating the receipt or even under some cases the costs as income was promulgated in 1991. Througn imflementation of FTR the Government, indirectly, admitted its failure in collection of taxes under the normal tax regime.

Another idea introduced by the Finance Act, 1991 was the imposition of a minimum tax liability on certain taxpayers. This tax, termed as the "Turnover Tax", is based on the total turnover of the taxpayer and'is payable whether a taxpayer has earned income or has sustained a loss. These concepts continued-even after promulgation of the new lncome Tax Ordinance in 2001'

This chapter highlights some of the provisions relating the Final Tax Regime and the Minimum Tax Liability bf certiin laxpayers. Under: most of the cases the reader is suggested to i^efer to some other parts of the book. This is an attempt to avoid repetition of the material.

Certain incomes falling under FTR / STR are discussed in other chapters of the book. The table below contains the summary of the incomes and the chapter wherein those are discussed:

|  |  |  |
| --- | --- | --- |
| Sections | lncomes | Chaptens |
| 5 | Dividend | Scope of Tax |
| 6 | Royalty and Fees received by non-residents | Taxation of persons |
| 7 &143 | Shipping business of non-residents | Taxation of persons |
| 7 &144 | Air transport business of non-residents | Taxation of persons |
| 7A | Shipping business of residents | Taxation of persons |
| 148 | lmports | Payment of tax |
| 151 | Profit on debt | Payment of tax |
| 152 | Payments to. non-residents | Payment of tax |
| 153 | Supplies, services & contracts | Payment of tax |
| 154 | Exports | Payment of tax |
| 1544 | Expurt of services | Payment of tax |
| 156 | Prizes and winnings | Payment of tax |
| 1564 | Petrol pump operators | layment of tax |
| 233 | Brokerage and commission | Payment of tax |



Synopsis of Taxes

Income Tax- Final Tax Regime

l2s-4241

SUNDRY PROVTSTONS AppLtCABLE TO FTR / STR [8 & 169(2) & (3)]

The law has laid down certain special provisions regarding incomes and persons taxable under FinalTax Regime (FTR). These provisions are summarized below:

1 Where an income is taxable under FTR it shall not be chargeable to tax under any head of

income while computing taxable income of the person.

2 The person shall not be allowed any deduction for any expenditure incurred in deriving such

income.

3. The income shall not be reduced by any deductible allowance available under the law.

4 The income snall not be reduced by the set off of any loss sustained by the person under any

head of income.

5 The tax determined under FTR shall not be reduced by any tax credits otherwise allowed

under the lncome Tax Ordinance.

6. The tax deducted o- collected under this system shall not be refunded. However, where such

tax exceeds the amount of tax chargeable under the law, then refund of the excess amount

may be claimed.

7 Where all the income derived by a person in a tax year is subject to final taxation, an assessnrent shall be treated to have been made u/s 120.

MINTMUM TAX ON TNCOME OF CERTATN PERSONS [113]

l{istorlcal Background of Turnover Tax \

The idea of taxation on the basis of turnover was introduced in the lncome Tax Ordinance, 1g79, for the first time, in 1991. Under this procedure the tax, commonly known as 'Turnover Tax' or "Minim,urn Tax", is levied on the turnover of certain persons deriving income from business. The idea of taxing the turnover as minimum tax liability has also been adopted, with slight modifications, in the lncome Tax Ordinance, 2001. The Finance Act, 2006 abolished the turnover tax. But the same was once again levied through the Finance Act, 2009.

Frovlsions of Turnover Tax

1-he provisions relating to the Turnover Tax are the following: 1. lt is applicable to:

A resident company;

Permanent establishment of a non-resident company;

rri) An individual raving turnover of hundred (100) million rupees or more; and

iv) An AOP havipg turnover of hundred (100) million rupees or above.

Turnover Tax (Minimum Tax) is levied at the following rates applied to the person's turnover for the tax year:

Persons

Tax Rate

) i)

2

Sui Southern Gas Company Limited, Sui Northern Gas Pipelines Limited (for the cases where annual turnover exceeds rupe3s one billion);

Pakistan lnternational Airlines Corporation; and

Pouliry industry including poultry breeding, broiler production, egg production and poultry feed production.

0.75%



Synopsis of Taxes

Income Tax - Final Tqx R

egtme

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|  |  |  |
| --- | --- | --- |
| 2 |  | 0.5% |
| D J |  | 0.25% |
| 4 | ln all other cases (general rate). |  |
| 5 | Distributors, dealers, sub-dealers, wholesalers and retailers of fasf movng consumer goods, fertilizer, locally manufactured mobile phones, sugar, electronics excluding imported mobile phones, cement, steel and.edible oil appearing on the ATL issued under STA and lTO. [Clause (2aD), Part-ll of 2^d Sch.]  This reduced rate shatt be avaitabte to onty thdbe Tier-1 retailers who are integrated and configured with FBR or its computerized sysfem for real time reporting of sa/es or receipts. | " 0.25o/o |
| 6 | Company operating Trading House, which fulfills the conditions taid down in clause (57) of Part-lV of 2nd Sch.):  For tax years upto 2021  For tax year 2022and thereafter | 0.5% 1o/o |

25

1

%

i) ii) ii i)

Oilrefinerres;

Motorcycle dealers registered under STA; Oil marketing companies.

D

ri) iii) iv)

v)

vi)

vii)

Distributors of pharmaceutical products, 'fast moving con su me rs goods' and cigarettes;

Petroleum agents and distributors registered under STA;

Rice mills and dealers;

Tier-1 retailers of fasf moving consumer goods, who are integrated with FBR or its computerized system for real time reporting of sales and receipts;

Person's turnover from supplies through e-commerce including from running an 'online market place,;

Persons engaged in the sale and purchase of used vehicles; and

Flour mills.

Online Marketplace t2(388)l

It 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:

3

A person running online marketplace shall be subject to a withholding tax on brokerage and commission u/s 233 of ITO at a lower rate of 5%. [Clause (28C), pt. il, 2nd Schedute]

'Fast Moving Consumer Goods' means the consumer goods which are supplied in retail marketing as per daily demand of a consumer. lt does not include durable goods. t2(22A)l 'Gonsumer Goods' means goods that are"conSumed by the end consumer rather than used in the production of another good. [2(13A8)]

Where any of the above-referred persons has no tax liability or tax liabiiity under the normal tax procedure is less than the tax as per above table, then the person shall be required to pay this tax. ln othei words the tax liability of a person for any tax year shall be the higher of



6

Syn opsis of Taxes

Income Tax - Final Tax Regime

l2s-426)

4

the tax determined under NTR or tax computed by applying the above rates to the person's turnover for the ta: year. .

The reasons for no tax liability or less tax liability may be all or any of the following:

i) Sustaining cf a [oss,

ii) Setting off of a loss of an earlier year;

iiD Exemption from tax;

iv) Application of credits or rebates; or

v) Claiming of allowances or deductions (including depreciation and amortization) allowed under lncome Tax Ordinance or any other law'

Notes:

1. "Tax payable or paid" does not include:

i) Tax already paid or payable in respect of deemed income

finaltax regime (FTR): and

ri) Tax payable or paid as super tax u/s 48 or 4C.

2. The deflnition of 'turnovef covers receipts from all business activities ireceipts from sale of immoveable property where such receipt is taxable

which is assessed under

including but not limited to under the head lncome from

Busrness

Turnover [2(7CA) & 113(3)]

For the purpose of charging minimum tax on the income of a specrfied person, 'turnover' means:

1 The gross sales or gross receipts excluding the following:

i) Sales tax and Federal excise duty derived from the sale of goods;

ii) Any trade drscount shown on invoices or billing; and

iii) Any amount taken as deemed income and assessed as final discharge of tax liability

for which tax is already paid or payable.

2 The gross fees for the rendering of services for giving beneflts including commissions.

3. The gross receipts from the execution of contracts.

4 Where the company is a member of an association of persons (AOP), the company'i share

of the fpllowing amounts received by the AOP:

r i) The gross receipts;

ii) The gross fees for rendering services and the commissions; and

iii) The gross receipts from the execution of contracts.

Note: The amounts, receipts, fees or commissions covered by final discharge of tax liabilfty for

which tax is'separately paid or payable shall be excluded while computing turnover for the

purpose of charging minimum tax.

Example: 25.1

Qasba l-imited is a resident public company engaged in manufacturing of textile products. During the year it has a total turnover of Rs. 2,500,000. As per tax rules, it has a taxable income of Rs. 100,000. Compute the tax liability of the company.

lncome tax on income of Rs. 100,000 @ 29To Rs.29,000