

GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE

C.No.4(49)IT-Budget/2017

Islamabad, the 6th September, 2017

Circular No. 04 of 2017
(Income Tax)

SUBJECT: FINANCE ACT 2017- EXPLANATION OF IMPORTANT AMENDMENTS
MADE IN THE INCOME TAX ORDINANCE, 2001

Finance Act 2017, has brought certain amendments in the Income Tax Ordinance, 2001. Some important amendments are explained hereunder:-

1. Definition of "Fast Moving Consumer Goods" [Section 2(22A)]

Definition of "Fast moving consumer goods" has been amended to specifically exclude "durable goods". The words "durable goods" have not been defined in the Income Tax Ordinance, 2001 however the dictionary meaning is as under:

"a durable good or a hard good is a good that does not quickly wear out , or more specifically, one that yields utility over time rather than being completely consumed in one use."

"goods not for immediate consumption and able to be kept for a period of time."

"Consumer goods that are designed to be used repeatedly over a long period, such as automobiles and personal computers."

A few examples of durable goods are cars, household goods (home appliances, consumer electronics, furniture etc), sports equipment etc.

Even prior to the present amendment, durable goods were not classifiable as Fast Moving Consumer Goods. However, the objective of the amendment is to specifically oust durable goods from the ambit of definition of Fast Moving Consumer Goods to guard against any possibility of misinterpretation.

2. Insertion of Definition of Liaison Office [Section 2(30C)]

Prior to the Finance Act, 2017 the term "Liaison Office" was not defined in the Income Tax Ordinance, 2001. A liaison office is not included in the definition of "permanent establishment" as per section 2(41) of the Ordinance, except in circumstances where such office engages in the negotiation of contracts barring contracts of purchase.



The determination of whether or not a place of business or an entity constitutes a liaison office is therefore pivotal for establishing the existence of a permanent establishment in Pakistan of a non-resident person which, in turn, has far reaching consequences with regard to taxation. Through the Finance Act, 2017 the term "liaison office" has been explicitly defined in order to impart greater clarity and explicitly delineate the scope of a Liaison Office. Insertion of this definition will also assist in plugging revenue leakages from interpretational issues arising with respect to definition and scope of the term "liaison Office". An office or establishment which engages in the negotiations of contract (other than purchase contracts) or commercial or trading activities will not be treated as a "liaison office". However, activities only of an exploratory or preparatory nature to determine the possibilities of trading with or in Pakistan or the possibility of collaboration or promotion of products which are yet to be sold in Pakistan and where the liaison office or its associated establishments do not have an existing commercial business in Pakistan providing after sales services and marketing or promoting pharmaceutical products shall be treated as commercial activities and engaging in such activities will be beyond the scope of liaison office. It is also clarified that w.e.f. 1st July, 2017, an establishment treated as liaison office by any other department or organization shall not be treated as liaison office unless it is a liaison office as per the definition introduced through the Finance Act, 2017.

3. Expansion in scope of definition of NCCPL [Section 2(35AA)]

Prior to the Finance Act, 2017 the National Clearing Company of Pakistan Limited was defined as a company incorporated under the Companies Ordinance, 1984 and licensed as a "Clearing House" by the Securities and Exchange Commission of Pakistan. The scope of definition of National Clearing Company of Pakistan Limited has been enhanced through the Finance Act, 2017 by including within its ambit any subsidiary of NCCPL that has been notified by the Federal Board of Revenue.

4. Extending scope of definition of "Officer of Inland Revenue". [Section 2(38A), Section 207]

Through the Finance Act, 2017 the scope of definition of Officer of Inland Revenue has been extended to include District Taxation Officer Inland Revenue and the creation of a new Inland Revenue Authority designated as District Taxation Officer has been envisaged. The main impetus behind creating the position of a District Taxation Officer is to expand the outreach of Inland Revenue Officers in smaller Districts where there are no Regional Tax Offices. The presence of District Taxation Officers at the level of districts will aid in facilitation of taxpayers at their doorstep, ensure greater efficiency in collection and administration of Federal taxes and fortify efforts for broadening of the tax base. In addition, "Assistant Director Audit" has also been made part of the definition of "Officer of Inland Revenue" and designated as an Income Tax Authority.



5. Introducing concept of an “Online Marketplace” [Section 2(38B)]

The Finance Act, 2017 has introduced the concept of an online marketplace and the same has been defined as an information technology platform run by an e-commerce entity over an electronic network that acts as a facilitator in transactions that occur between a buyer and a seller. A person running an online marketplace shall be subject to reduced /concessionary rate of minimum tax under section 113 of the Ordinance @ 0.5% for the Tax Year 2018. Moreover, in terms of clause (28C) of Part II of the Second Schedule to the Ordinance inserted through the Finance Act, 2017 the rate of collection of advance tax on brokerage and commission for a person running an online marketplace shall be 5% which shall constitute final tax.

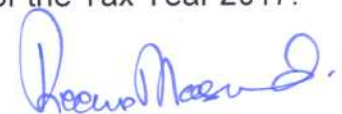
6. Introducing concept of start – ups. [Section 2(62A)]

In order to promote and encourage innovation and entrepreneurship in Pakistan, particularly in the field of Information Technology the concept of start-up has been introduced through the Finance Act, 2017. A start-up has been defined as a business set-up by a resident individual, AOP or a company having turnover upto Rs.100 Million in the last five tax years, registered and certified by the Pakistan Software Export Board (PSEB) as an information technology entity engaged in offering technology driven products or services to any sector of the economy .

For incentivizing start-ups, exemption has been accorded to profits earned by such entities in the tax year in which the entity is certified by Pakistan Software Export Board (PSEB) and the subsequent two tax years. Existing undertakings engaged in similar businesses incorporated or registered on or after July 1, 2012 are also entitled to this exemption subject to certification by Pakistan Software Export Board (PSEB). Furthermore, the Federal Government has also been empowered, through the Finance Act, 2017 to notify any business as a “startup” subject to specific conditions. Moreover, exemption has also been accorded to such “Start-ups” from levy of minimum tax under section 113 of the Ordinance in terms of sub-clause (xxix) of clause (11A) of Part IV of the Second Schedule inserted through the Finance Act, 2017 as well as deduction of withholding tax upon receipt of payments specified in section 153 of the Ordinance in terms of clause (43F) Part IV of the Second Schedule to the Ordinance inserted through the Finance Act, 2017.

7. Extension of Super Tax [Section 4B]

Super tax for rehabilitation of Temporary Displaced Persons was introduced @ 3% for every person (other than a banking company), having income of Rs.500 Million and above and @4% for every banking company for the Tax Year 2015 and subsequently for the Tax Year 2016. It has now been extended for the Tax Year 2017.



8. Tax on undistributed profits [Section 5A]

A tax on undistributed reserves was introduced vide the Finance Act, 2015 whereby a company, other than a scheduled bank or a modaraba, which did not distribute dividends within 6 months of the end of the Tax Year or distributed dividends to an extent that its reserves, after such distribution, exceeded 100% of its paid up capital was subject to tax @10%. However, this tax was not to apply to a public company which distributed either 40% of its after tax profits or 50% of its paid up capital within six months of the end of the financial year.

This provision has been further amended through the Finance Act, 2017 whereby the tax on undistributed reserves has been substituted by a new concept of tax on undistributed profits for the Tax Year 2017 and onwards. The Finance Act, 2017 stipulates that every public company barring a scheduled bank or a modaraba shall be subjected to tax @7.5% of its accounting profit before tax if it fails to distribute a least forty percent of its after tax profits in the form of cash or bonus shares within six months of the end of the tax year. The basis of levy of such tax, is therefore solely dependent upon the extent to which a public company distributes/disburses its after tax profits. This tax is applicable from the Tax Year 2017. As in the case of earlier tax on undistributed reserves the tax on undistributed profits too, shall remain inapplicable in the case of power companies and State Owned companies.

Example 1

Accounting profit before tax	Rs. 10,000,000/-
40% of profit	Rs. 4,000,000/-
Dividend paid (within six months of the end of the tax year)	Nil
Tax @7.5% under section 5A	Rs. 750,000/-

Example 2

Accounting profit before tax	Rs. 10,000,000/-
40% of profit	Rs. 4,000,000/-
Dividend paid (within six months of the end of the tax year)	Rs. 2,500,000/-
Tax @7.5% under section 5A	Rs. 750,000/-



Example 3

Accounting profit before tax	Rs.10,000,000/-
40% of profit	Rs.4,000,000/-
Dividend paid (within six months of the end of the tax year)	Rs.5,000,000/-
Tax @7.5% under section 5A	Nil

9. Scope of tax on return on investment in Sukuks to be extended. [Section 5AA. Section 150A]

Under section 5AA of the Ordinance, every person who receives a return on investment in Sukuks from a Special Purpose Vehicle as defined in Clause (60) of section 2 of the Income Tax Ordinance, 2001 is subjected to tax at the rates specified in Division IIIB of Part-I of the First Schedule. Sukuks, however, are not exclusively being issued by Special Purpose Vehicles, rather, several corporate entities are issuing Sukuks as well. The scope of tax on return on investment in Sukuks is therefore being enlarged to include return on investment in Sukuks received by a person from a company in addition to a Special Purpose Vehicle.

Corresponding amendment has also been made in section 150A of the Ordinance which is the enabling provision for deduction of tax on the gross amount of return on investment in Sukuks.

10. Abolition of fixed tax regime for Builders and Developers [Section 7C and 7D]

The Finance Act, 2013 introduced minimum tax upon the income of builders from the business of construction and sale of residential or commercial buildings and the income of developers from the business of sale of residential or commercial plots. Thereafter, the minimum tax regime was abolished and a fixed tax regime for builders as well as developers was introduced through the Finance Act, 2016 whereby the tax liability was based on square footage of area developed/constructed under section 7C and 7D of the Ordinance.

The fixed tax regime available to builders and developers has now been abolished/withdrawn through the Finance Act, 2017. Tax shall now be charged on the income of builders and developers under the normal tax regime for the Tax Year 2018 onwards. However, for projects initiated and approved during Tax Year 2017 the provisions of section 7C and 7D shall remain applicable, subject to fulfillment of the following conditions:-



