

**Government of Pakistan
Revenue Division
Federal Board of Revenue
Inland Revenue
Sales Tax Operations**

C. No. 5(1) ST-L&P/FFI/2023/ 137480 - R Islamabad, the 07th September, 2023

Sales Tax General Order No. 12 of 2023

Subject: Standard Operating Procedures (SOPs) to Deal with Cases Involving Fake / Flying Invoices

Of late, myriad of cases have emerged which establish the huge frequency of use of fake / flying invoices by the registered persons thereby compromising not only the government revenues but also creating legally-inadmissible refunds. Hence, in order to create uniformity in approach and consistency in reporting line and to deter the use of fake and flying invoices and effectively eliminate such malpractice, Federal Board of Revenue (FBR) is pleased to formulate and implement, with immediate effect, the following Standard Operating Procedure (SOP):

1. Identification of fake / flying invoices by Dedicated Staff

(i) Keeping in view the pervasive use of fake / flying invoices and sensitive nature of the task, each Chief Commissioner IR shall dedicate at least two senior officers of impeccable integrity, for the purpose of identification of fake/flying invoices and registered bogus/dummy firms in the respective jurisdictions. This function shall primarily be assigned to the **Assessment & Processing Cell**, if already existing in the respective formation. An uninterrupted and full access to sales tax & FED data available on IRIS, ITMS, CREST, FASTER and other relevant automated systems shall be given to the said officer(s) / A & P Cell to enable them for an effective data analysis and examination of whole supply chain through scrutiny of registered persons' sales tax returns and registrations. For this purpose, the CCIRs shall coordinate with Member IT for getting access for the dedicated staff.

(ii) The said officer(s) / Cell shall obtain complete data and make its thorough scrutiny to ascertain the truthfulness of declarations or otherwise for detection of

fake/flying sales tax invoices. They shall particularly focus, inter alia, on the following characteristics of registered persons' declarations for discovery of fraudulent use of fake /flying invoices:

- (a) High volume or value of transactions with little or no net sales tax payment;
- (b) Value of purchases and input tax thereon are equal or greater than the value of supplies and output tax respectively;
- (c) Consistently huge carry forwards, with unrealistic levels of stocks;
- (d) Meager capital amount declared in wealth statement / company's accounts vis a vis huge stocks;
- (e) Use of frequent & huge credit notes to avoid payment of due sales tax;
- (f) Recent registration, usually less than 2 years, with high value purchases or supplies or sudden start of voluminous transactions after a long dormant period;
- (g) Registered persons' addresses in low income, residential or remote areas;
- (h) Income tax returns are either not filed, or filed with very low income. No withholding tax deduction despite declaration of huge transactions;
- (i) Nature of supplies is different from purchases (purchases of textile goods but supplies of iron scrap or vice versa etc. etc.);
- (j) Focus on the cases of commercial importers, dealers/distributors of large companies and dealers of petroleum products which are generally engaged in issuing flying invoices. In such cases, a diligent comparison of goods imported/purchased with the nature of business of the buyers shall help establish the wrong-doing by the registered person(s).

(iii) Such persons usually operate in **networks**. When an issuer of fake/flying invoices is identified; scrutiny of the forward and backward transactions i.e. purchases and sales in Annex A and Annex C of their sales tax returns, shall help in uncovering other wrongdoers in the supply chain.

(iv) On having captured the data of fake / flying invoices and particulars of registered persons involved in the fraudulent activity, the staff shall also verify the physical existence of such registered persons and such reports shall be made part of record.

2. Suspension / blacklisting:

(i) On identification of the dubious/bogus/dummy registrations or use of fake / flying invoices by the registered persons, their registration, in accordance with the statutory procedure, must be immediately **suspended** by the concerned Commissioner of Inland Revenue in terms of section 21 of the Sales Tax Act, 1990 read with Rule 12(a) of the Sales Tax Rules, 2006. Such suspension must follow with the prompt statutory action for blacklisting.

(ii) All the actions required for **blacklisting** must be completed expeditiously, and show cause notice for blacklisting be issued within 7 days as specified in rule 12(a)(vi) of the Sales Tax Rules 2006. During the process of blacklisting, the Commissioner concerned shall get registered person's physical verification report to determine existence (or non-existence of the firm), availability of reasonably sufficient manufacturing facilities as the case may be, at the declared premises, etc. It is now an open secret that fake firms are registered in the name of low-level workers or even unconcerned persons and with office address at remote, lesser-known plazas, colonies, etc. Physical verification report shall expose element of tax fraud in such cases and have substantial evidentiary value during the subsequent proceedings.

(iii) Blacklisting proceedings must not suffer any delay and the order for blacklisting must be issued in terms of rule 12(b) of the said Rules, within 90 days of the issuance of the show cause notice. Utmost care shall be exercised to avoid committing of common mistakes in the suspension/blacklisting orders which generally enable the persons to easily obtain relief from appellate authorities. Hence, a speaking order shall be passed clearly mentioning the reasons e.g. the fact of issuance of fake/flying invoices without actual supply of physical goods, non-existence at the declared address, lack or insufficiency of capital to hold stocks, the malafide intent to avoid payment of due tax or claiming illegal refunds, etc.

3. Action Against Beneficiaries:

(i) Mere suspension and blacklisting of dubious/fake firms etc. is not enough to eliminate the phenomenon of fake/flying invoices, because the fraudsters easily create new registrations to continue their illegal activities. Further, no recoveries can be made from such bogus/non-existent firms and field formations continue to create huge tax demands and the phenomenon of fake / flying invoices continues unabated.

(ii) Hence, the RTO staff must pursue the cases of the **beneficiaries**, which are real and existing firms. Therefore, the officers shall identify the actual buyers/suppliers of fake/bogus firms to reach the real culprits. Immediate action must commence (under the relevant assessment, enforcement and penal provisions) against beneficiary(s) of fake and flying invoices for recovery of the sales tax evaded or receipt of false refunds. Here again, the show cause notices and orders must be drafted carefully to avoid those weaknesses which allow undue relief at appellate stage. Too many cases fail at appellate stage merely because the order simply states that purchases were made from a suspended/blacklisted person. Therefore, it must be clearly specified that the beneficiary knowingly and deliberately purchased/sold invoices, without any actual transaction of goods, in order to evade sales tax or to claim illegal refund(s). It should also be specified that although this fraudulent activity occurred prior to suspension/blacklisting; yet the beneficiary was fully aware of purchase/sale of fake / flying invoices, without physical transfer of any goods, with the intent to evade payment of tax or claiming undue refunds.

4. Registration of FIRs

The present loose and liberal enforcement regime has emboldened the unscrupulous registered persons to indulge, without the fear of being caught, in the lucrative business of use of fake / flying invoices. The edifice of sales tax law is erected on the glorious principle of self-assessment where complete trust is reposed in the taxpayers for submitting true & faithful declarations. To deter misutilization of such trust, law also has an in-built penal & prosecution mechanism. The officers, on having

established the case of tax fraud in using fake / flying invoices, shall not stop short of registering an FIR against the perpetrators of such tax fraud under the relevant legal provisions and shall vigorously pursue their cases during the prosecution stage. The officers shall, with the help of automated systems, find out the IP addresses, coordinates, etc. of the perpetrators of such crime and take statutory action accordingly. Definition of tax fraud as provided in Section 2 (37) of the Act may be carefully perused and the facts of fraudulent acts must clearly fall within the four corners of tax fraud.

5. Action Against e-Intermediaries

Sub-section (5) of Section 52A of the Act lays down that an e-intermediary shall, along with the registered person, be jointly and severally liable for the consequences if he knowingly or willfully submits a false or incorrect information to avoid payment of due tax, etc. Wherever, case is established with regard to use of fake / flying invoices, the officers shall also proceed against such e-intermediaries in terms of Section 37A of the Act as well as initiating proceedings for immediate suspension and subsequent cancellation of their licenses in accordance with the procedure prescribed in sales tax law.

6. Action against Insiders

It is not possible that so many firms/businesses keep on operating openly and defiantly by issuing false sales tax invoices which are used by a wide range of beneficiaries to cause huge loss of revenue, without the knowledge, active assistance and connivance of some officials of the department. The Chief Commissioners and Commissioners IR shall therefore, keep constant vigilance on their RTO staff to detect any such activity and based upon evidence of complicity, to take swift action against the departmental official(s) found involved or in connivance with such persons who are using fake / flying invoices..

Moreover, whenever any widespread fraud is detected in an RTO; responsibility should also be fixed on those officials who neglected to detect such activity and take appropriate legal action at the earliest.

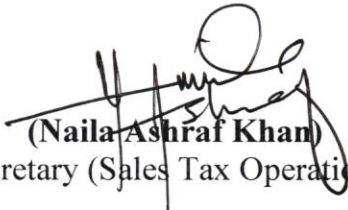
7. Other Jurisdictions:

It is often found that the buyers/suppliers of a fake/bogus firm fall in the domain of other jurisdictions. In such case, it shall be the responsibility of the Chief Commissioner concerned to immediately share details of such cases to the relevant jurisdictions clearly informing that such registered persons in their jurisdiction are engaged in buying/selling of fake/flying invoices, and that action must be taken against them in accordance with this SOP. Commissioners IR who issue orders for suspension/blacklisting should also endorse a copy of the order to the respective jurisdiction(s) where the beneficiaries are located.

8. Reporting to the Board

Along with detection of fraudulent activities related to misutilization of invoices, the field formations shall share reports to the Board for an analysis at Board level how to improve upon the existing automated systems and statutory procedures to eliminate this phenomenon and to safeguard government revenues.

The field formations may, for the sake of creating awareness among the masses and establishing deterrence, also consider giving widespread circulation to detection of such fraudulent activities without disclosing the particulars of the taxpayers.


(Naila Ashraf Khan)
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Distribution:

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