

GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE

Islamabad, the ^{29/6} June, 2021.

NOTIFICATION
(Income Tax)

S.R.O. 849 (I)2021.-The following draft of certain further amendments in the Income Tax Rules, 2002, which the Federal Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001), is hereby published for information of all persons likely to be affected thereby and, as required by sub-section (3) of the said section 237, notice is hereby given that objections and suggestions thereon, if any, may for consideration be sent to the Federal Board of Revenue within fifteen days of publication of the draft amendments in the official Gazette. Any objections or suggestions, which may be received from any person, in respect of the said draft, before the expiry of the aforesaid period, shall be considered by the Federal Board of Revenue, namely:-

DRAFT AMENDMENTS

In the aforesaid Rules,-

(1) after rule 19G, the following new rule shall be inserted, namely:-

“19H. Application of this rule:-(1) This rule applies for the purposes of sub-sections (5), (6) and (7) of section 101A to prescribe:

- (a) documents and statement for information required to be furnished to the Commissioner under sub-section (7) of section 101A;
- (b) fair market value of the assets for the purposes of sub-section (5) of section 101A; and
- (c) determination of reasonable attribution of income of the non-resident in respect of assets located in Pakistan for the purposes of sub-section (6) of section 101A.

(2) The value of a share or interest as mentioned in sub-section (5) of section 101A shall be computed in the following manner, namely: —

- (a) in case shares or securities are traded on any stock exchange and the transaction is carried out through the stock exchange, fair market value of such shares and securities shall be the transaction value as recorded in such stock exchange on the date of transaction;
- (b) in case shares or securities are traded on any stock exchange and the transaction is not carried out through the stock exchange, fair market value of such shares and securities shall be the market price (day-end price) of such shares or securities traded on stock exchange on the date of transaction:

Provided that if the shares or securities are not traded on the stock exchange on the date of transaction, fair market value of such shares and securities shall be the market price (day-end price) of such shares or securities traded on a date immediately preceding the date of transaction when such shares and securities were traded on the stock exchange.

- (c) in case shares or securities are not traded on any stock exchange and the shares are equity shares, the fair market value shall be computed according to the following formula, namely: —

$$(A + B + C - D) E/F$$

where—

- A** book value of all assets, other than those mentioned in component B;
- B** fair market value under section 68 in respect of:
- (i) immovable property; and
 - (ii) assets as mentioned in subsection (5) of section 38 under section 68;
- C** fair market value of shares and securities as computed in this sub-rule;
- D** book value of liabilities shown in the balance sheet excluding contingent liabilities, provisions made for meeting liabilities, paid-up capital regarding equity shares,

reserves and surpluses, amount set apart for dividends where such dividends (regarding equity as well as preference shares) have not been declared and provision made for taxation;

E paid-up value of equity shares; and

F paid-up equity share capital.

- (d) in case shares or securities are not traded on any stock exchange and the shares are not equity shares, the fair market value shall be estimated to be price it would fetch if sold in the open market on the date of transaction:

Provided that where the Commissioner is not satisfied with the valuation, the Commissioner may appoint any expert as is considered necessary for the purposes of obtaining valuation under section 222.

- (e) in case of interest by a member in an association of persons, the fair market value shall be computed in the following manner, namely:—

A + B

where—

A capital contributed by the member in the association of persons;

B share of the member in the value of the association of persons as is in excess of capital contributed.

- (f) value of the association of persons, as mentioned in clause (e) shall be computed in accordance with any internationally accepted valuation methodology:

Provided that where the Commissioner is not satisfied with the valuation or the valuation methodology, the Commissioner may appoint any expert as is considered necessary for the purposes of obtaining valuation under section 222.

(3) For the purpose of sub-section (6) of section 101A, income attributable to assets located in Pakistan shall be computed according to the following formula, namely: —

$$(A/B) \times C$$

where—

- A** income from the transfer of share of, or interest in, computed in accordance with the provisions of section 101, as if, such share or interest is located in Pakistan;
- B** fair market value of assets located in Pakistan from which the share or interest referred to in A derives its value substantially
- C** fair market value of all the assets of the company, computed under these rules.

(4) If the taxpayer required to furnish information under sub-section (7) or under these rules or transferor of the share or interest in the company or the entity fails to provide the information required under section 101 or under these rules the gain shall be computed in such manner as the Commissioner deems appropriate on the basis of whatever information available or obtained from any person or source.

(5) Every taxpayer through which a non-resident company holds, directly or indirectly, assets, the value of which is derived, wholly or principally from the assets located in Pakistan and the non-resident company disposes of the asset, the taxpayer shall furnish to the Commissioner within sixty days of the transaction of disposal or alienation of the asset by the non-resident company, the information and documents as specified in Form A of this rule:

Provided that where the said period of sixty days has already expired before coming into force of this rule, and the transaction has been made after first of July, 2018, the information and documents specified in Form A shall be furnished within thirty days of coming into force of this rule.

(6) The provisions of Division IV of Part V of Chapter X and section 205 shall apply, *mutatis mutandis*, to the person required to deduct tax under sub-section (8) of section 101A and company required to collect tax under sub-section (9) of section 101A.

Form A

[To be filled and furnished along with required documents as per section 107(7)]

Part I

(Taxpayer's Information)

Name and address of the taxpayer required to furnish information under section 101(7)_

NTN_____

Details of the transaction/asset(s) disposed of_____

Please attach the following documents and information with this form:

- (a) Balance Sheet and financial statements of the latest accounting period/tax year of the buyer and the seller
- (b) Copy of the Agreement of the transaction
- (c) Summary of all written and oral agreements and understandings relating to the transaction

Part II

(Seller's Information)

Name and full particulars of the person_____

Whether the person is Resident or Non-resident_____

Address of the person and country of residence_____

Nature of asset disposed of by the seller_____

Whether the asset was disposed of at fair market value_____

Total Gross Consideration received_____

(including consideration in kind or waiver of any liability etc.)

Part III

Buyer's Information

Name and full particulars of the person _____

Whether the person is Resident or Non-resident _____

Address of the person and country of residence _____

Nature of asset acquired _____

Whether the asset was acquired at fair market value _____

Total Gross Consideration paid _____

(including consideration in kind or waiver of any liability etc.)

Whether independent valuation of the asset was made(Yes/No) _____

if Yes, please provide the copy of independent valuation

if No, what was the basis of valuation of the asset _____

Place/country where transaction was completed _____”.

[F.No.1(18)R&S/2021]


(Tariq Iqbal)
Secretary (Rules & SROs)