

Session 27  
Sitting 05

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ORDINANCE No. XV OF 2015

AN

ORDINANCE

*further to amend the Income Tax Ordinance, 2001*

WHEREAS it is expedient further to amend the Income Tax Ordinance, 2001 (XLIX of 2001) for the purposes hereinafter appearing;

AND WHEREAS, the Senate and the National Assembly are not in session and the President of the Islamic Republic of Pakistan is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Income Tax ( Second Amendment) Ordinance, 2015.

(2) It shall come into force at once.

2. **Amendment of sections 153 and 236P and Second Schedule, Ordinance XLIX of 2001.**—In the Income Tax Ordinance, 2001 (XLIX of 2001),—

(1) in section 153,—

(a) in sub-section (3), in the proviso, in clause (b), for semicolon and the word “; and” the expression “, provided that—” shall be substituted and thereafter the following sub-clauses shall be added, namely:—

“(i) where the aforesaid minimum tax for providing or rendering services, in respect of sectors as specified in clause (94) of Part IV of the Second Schedule is in excess of tax payable under Division II of Part I of the First Schedule, the excess amount of tax paid shall be carried forward for adjustment against tax liability under the aforesaid Part of the subsequent tax year;

- (ii) where the excess tax is not wholly adjusted, the amount not adjusted shall be carried forward to the following tax year and adjusted against tax liability under the aforesaid Part for that year, and so on, but the said excess shall not be carried forward to more than five tax years immediately succeeding the tax year for which the excess was first paid; and
  - (iii) the said excess amount shall not be carried forward in case of a company for which provisions of this clause are not applicable under clause (94) of Part IV of the Second Schedule; and”;
- (b) after sub-section (4), the following new sub-section shall be inserted, namely:—

“(4A) The Commissioner, on an application made by the recipient of a payment referred to in clause (94) of Part IV of the Second Schedule, in cases where the said recipient has fulfilled the conditions as specified in the said clause, by an order in writing for a period of at least three months, may allow any person to make the payment without deduction of tax in respect of payments as referred to in clauses (b) of sub-section (1) of section 153:

Provided that the recipient of the payment has made advance payment of tax equal to two percent of the total turnover of the corresponding period of the immediately preceding tax year.”;

- (2) in section 236P, in sub-section (4), the expression “Pakistan Realtime Interbank Settlement Mechanism (PRISM) transactions or” shall be omitted; and
- (3) in the Second Schedule, in Part IV, after clause (93), the following new clause shall be added, namely:—

“(94) The provisions of clause (b) of the proviso to sub-section (3) of section 153 shall not apply for tax year 2016 to a company being a filer and engaged in providing or rendering freight forwarding services, air cargo services, courier services, manpower outsourcing services, hotel services, security guard services, software development services, tracking services, advertising services (other than by print or electronic media), share registrar services, engineering services or car rental services:

Provided that the tax payable or paid on the income from providing or rendering aforesaid services shall not be less than two percent of the gross amount of turnover from all sources and that the company furnishes in writing an irrevocable undertaking by the fifteenth day of November, 2015 to present its accounts to the Commissioner within thirty days of filing of return, for audit of its income tax affairs for tax year 2016.”.

### STATEMENT OF OBJECTS AND REASONS

In order to resolve the hardship caused to corporate service providers resulting from the tax deductible u/s 153(1)(b) of the Income Tax Ordinance, 2001 at 8% as minimum tax.

2. To provide two mutually exclusively options, for the corporate sectors of Freight Forwarders, Air Cargo Services, Courier Services, Manpower Suppliers, Hotel Services, Security Guard Services, Software Development Services, Trakker Services, Advertisers, Share Registrar Services, Engineering Services and Car Rental Services as under:

a) The aggrieved corporate service sector be allowed an option to opt out of the minimum tax regime under section 153(1)(b) read with section 153(3)(b) of the Income Tax Ordinance, 2001 provided the said aggrieved corporate service sectors offer themselves for audit by an irrevocable undertaking in writing in advance latest by October 15, 2015 (or date to be decided by government) for the Tax Year 2016.

b) The aggrieved corporate service sector be allowed to carry forward the tax paid under section 153(1)(b) read with section 153(3)(b) of the Income Tax Ordinance, 2001 in excess of their tax liability otherwise for 10 years in the same manner as carry forward of the Minimum Tax under section 113(1)(c) [to be slightly modified] of the Income Tax Ordinance, 2001 is allowed. Needless to say that the rate of minimum tax of 8% will remain intact for the corporate service sector and no exemption certificate will be issued.

3. To rationalize the provisions regarding exemption from withholding tax on certain banking transactions thereby preventing loss to the national exchequer.

4. The Ordinance seeks to amend Income Tax Ordinance, 2001.

**SENATOR MOHAMMAD ISHAQ DAR**  
**Minister for Finance, Revenue, Economic Affairs,**  
**Statistics and Privatization**  
**Minister-in-charge**