

FINANCE BILL 2011 INCOME TAX PROPOSALS

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INCOME FROM BUSINESS – Sec 18

- Existing Clause deals with taxation of benefits or perquisites in the course of business relationship.
- Explanation is proposed to be added to define the term “benefit” to include any benefit derived by way of waiver of the **profit on debt or the debt itself** under the SBP circular 29 of 2002 or in any other scheme issued by SBP.

INCOME FROM BUSINESS – Sec 18

○ Comments

- > Write off of Profit/mark up on debts or debt itself (principal amount) would become chargeable to tax.
- > The above treatment would be restricted to write off of debt under SBP and not any other privately negotiated settlement with banks.

INCOME FROM BUSINESS – Sec 18

○ Comments

- > Write off of profit/ mark up is chargeable to tax under section 34(5A). This explanation to The extent of markup and profits is un necessary and not required.
- > Write off of principal is allowed in exceptional hard circumstances and expectation of tax on relief is a very harsh measure.

INCOME FROM BUSINESS – Sec 18

- Comments :
 - > Loans other than banking.
 - > Debt write off treatment in the hands of lender other banking company. (sec. 29)

TAX CREDITS – Sec 62

- Under the existing law a person other than company is entitled to tax credit in respect of investment made in new share offered to public through stock exchanges & Privatization Commission.
- Proposed Changes:
 - > Restrict the benefit to resident persons other than companies.
 - > Investment in shape of life insurance premium paid to be eligible for tax credit.

TAX CREDITS – Sec 62

- > Life Insurance Co. to be registered with SECP
- > Resident persons with income chargeable under the head 'Salary" and "income from Business" eligible for the above credit.
- > Holding period of Investment in shares proposed to be increased to 36 months from 12 months.
- > Limits proposed to be increased to 15% of total income or Rs. 500,000 from existing 10% or Rs. 300,000.

TAX CREDITS – Sec 63

- ◉ Contribution or premium paid to Approved Pension Fund by person chargeable to tax under the head "salary" or "income from business" is eligible for tax credit with existing limit of 20% of taxable income or Rs. 500, whichever is less. The limit of Rs. 500 is now proposed to be abolished.

TAX CREDITS – Sec 65C

- A tax credit of 5% of the tax payable is available to any body who opts for enlistment on registered stock exchanges in Pakistan.
- The above credit is proposed to be increased to 15%.

TAX CREDITS – Sec 65D

- A new incentive in the shape of 100% tax credit of the tax payable for five years is proposed for all new industrial projects and BMR financed through equity.
- Comments:
 - › Though the intent of the law is very clear but the proposal in the present form raises a number of questions. The proposal in the present form is as under:-

TAX CREDITS – Sec 65D

- *Where a taxpayer being a company:*
 - (a) *establishes a new industrial undertaking for manufacturing in Pakistan; or*
 - (b) *invests any amount in the purchase and installation of plant and machinery, for the purposes of balancing, modernization and replacement of the plant and machinery, already installed therein, in an industrial undertaking set up in Pakistan & owned by it.*

TAX CREDITS – Sec 65D

with hundred percent equity owned by it, a tax credit equal to hundred per cent of the tax payable shall be allowed to such company on or after first day of July, 2011, for a period of five years or commencement of commercial production, whichever is later.

TAX CREDITS – Sec 65D

○ Comments:

- > What does equity owned by it means?
- > In BMR project there is no relation of investment with tax payable.
- > The BMR if 100% financed through equity is their a condition the project being so?
- > Whether it would apply to any project currently being set up which comes into commercial production after 1 July 2011?

TAX CREDITS – Sec 65D

○ Comments

- > What does it means when it say that five years or commercial production commences which ever is later?
- > What is the rationale of not extending the above to project partly funded by equity?

Unexplained Income – Sec 111

- An amendment is proposed to add the following in the list un explained income or assets ;
 - > The suppression of any production, sales, or any amount chargeable to tax; or'
 - > The suppression of any item of receipt liable to tax in whole or in part.

Unexplained Income – Sec 111

- Comments:
 - > Taxes income from un known sources.
 - > Legal structure of the section.
 - "... offers no explanation about the nature and source of the amount credited or the investment , money or the valuable article or funds from which the expenditure was made..."*
 - > Intent of the proposal.

MINIMUM TAX – Sec 113

- Carry Forward of un adjusted tax credits is proposed to be allowed to be carried forward to a period of five year from existing three years.
- The definition of term “turnover” proposed to be corrected to include the word “Gross Sales” along with word “Gross Receipt”.

FILING OF RETURN – Sec 114

- The following are now proposed to file return of income:
 - > Persons having commercial or industrial connection of electricity where the amount of annual bill exceeds Rs. 1 million.
 - > Individual having income under the head “Income from Business” in excess of Rs. 300,000 but not exceeding Rs.350,000 in a tax year.

FILING OF RETURN – Sec 114

- Following are now proposed to be accompanied with return of income:
 - > Shall be accompanied with due payment of tax as per return of income; and
 - > Shall be accompanied with wealth statement as required under section 116.

Wealth Statement – Sec 116

- Following changes are proposed:
 - > Every individual taxpayer to file wealth statement along-with reconciliation statement whose last declared or assessed income or the last declared income for the year is Rs. 1 Million or more. Existing limit is Rs.500,000.
 - > Similar proposal for member of AOP whose share of income for the year is one million rupees or more.

APPELLATE TRIBUNAL – Sec 130

- The limit on jurisdiction of single member bench is proposed to be reduced to cases with tax and penalty involving Rs. 1 Million from existing 5 Million.
- The word “chairman” is proposed to be replaced by word “Chairperson”

DECISION BY APPELLATE TRIBUNAL - 132

- The power to dismiss the appeal due to default of either party to appear on the date is proposed to be withdrawn.

ADVANCE TAX ON CAPITAL GAINS – Sec 147 (5B)

- Under the existing provision the advance tax on capital gains on sale of securities is payable within seven days of the close of each quarter.
- The bill seeks to extend this period to 21 days.

PROFIT ON DEBT - 151

- Under the existing law tax deducted at source on various types of debt instruments, accounts or deposits is a final discharge of tax except profits earned on federal, provincial and local governments securities for all taxpayers except a company. Now it is proposed to add above within the ambit of final tax regime.

PAYMENT FOR GOODS, SERVICES – Sec 153

- The above section is proposed to be redrafted to make is more rationale and reduce the effect of patch done over a period of time.
- The proposed section is similar to the current section except for the following changes:-
 - > The taxation of PE of a non resident now subjected to final taxation.

PAYMENT FOR GOODS, SERVICES – Sec 153

- > The commissioner of income tax now being authorized to issue exemption certificate at reduced rate.
- > The tax deducted on payment made on account of services now would be treated as minimum tax even in the hands of company.
- > Definition of turnover tax is now proposed to be added as provided in section 113 except that this is inclusive of sales tax whereas it is exclusive of sales tax in section 113.

PAYMENT FOR GOODS, SERVICES – Sec 153

- > The definition also includes (d) which reads as follow:-
- > “ the company’s share of the amounts stated above of any association of persons of which the company is a member”
- > Not relevant as the definition is meant for deciding whether an AOP or individual has become liable to the above provisions.

PAYMENT FOR GOODS, SERVICES – Sec 153

- The payment to yarn trader is also proposed to be exempted from the provisions of the above section as provided in clause 45A of part IV of 2nd schedule.
- Comments:
 - > Why here if it is exempt in the part IV of second schedule.

STATEMENTS – Sec 165

- A quarterly statement is required to be filed for all withholding taxes under the current law.
- The bill now proposes as follow:
 - > A monthly statement to be filed for all with holding taxes manually or through e-filing by 15th of each month.
 - > A annual statement is also required to be filed for person with holding taxes under the head salaries.

STATEMENTS – Sec 165

- > The statement to include salaries between Rs.300,000 to Rs. 350,000 although they are not chargeable to tax.
- > Mentioning of CNIC and NTN along-with details made mandatory.

OFFENCES AND PENALTIES –Sec 183

- Failure to furnish return of income or statement U/S 115 or wealth statement/reconciliation or a statement u/s 165 is liable to penalty equal to 0.1% of the tax payable for the each day of default subject to minimum penalty of Rs. 5,000 and maximum penalty of 25% of the tax payable.

OFFENCES AND PENALTIES –Sec 183

- An amendment is proposed to define the word “tax payable” as **tax chargeable on the taxable income** on the basis of assessment made under sections 120,121, **122** or 122C.

Advance Ruling – 206A

- Benefits of advance ruling are proposed to be restricted to non resident taxpayer not having a PE in Pakistan.

JURISDICTION OF TAX AUTHORITIES – Sec 209

- The bill seeks to provide for powers to the Board and Chief Commissioner, as the case may be, to transfer jurisdiction in respect of cases of person from one commissioner to another.

THE FIRST SCHEDULE – Rate of Taxes

- The exemption threshold for individual tax payers both salaried and non salaried is proposed to be increased to Rs.350,000 from existing Rs. 300,000.

THE FIRST SCHEDULE – Rate of with holding tax on cash withdrawals

- The rate of with holding tax on cash withdrawals is proposed to be reduced to 0.2% from existing 0.3%.

THE SEVENTH SCHEDULE

- Existing Rule 1 (c) of the seventh schedule contain anomalies. It provides for provision for advances at 1% of total advances and 5% of advances for consumer and SME. Then further the provision in excess of 1% is allowed to be carried forward

THE SEVENTH SCHEDULE

- and if actual provision is less than the same is allowed but is silent about such treatment for consumer and SME advances.
- Now amendments are proposed to rectify the above rule.

THE SEVENTH SCHEDULE

- ◉ Dividend received by a banking company is chargeable to tax at the rate of 10%. It is proposed that dividend received by a banking company from its assets management company will be subject to a tax rate of 20%.