

# **Withholding Taxes Regime in Pakistan**

By:

Amna Faiz Bhatti

Commissioner Withholding Taxes RTO II Lahore

Dated: 29<sup>th</sup> January ,2020

# SEQUENCE OF PRESENTATION

1. What are Withholding Taxes
2. Why do we need Withholding Taxes
3. Withholding Taxes in the modern world
4. Application in Pakistan
5. Responsibilities of Withholding Agents
6. Exemption from Withholding Taxes
7. Consequences of non deduction/collection
8. Recent Amendments (through Tax Laws (Second Amendment) Ordinance, 2019
9. Sales Tax Withholding

# WHAT IS WITHHOLDING TAX

- **Deduction:** While making any payment prescribed persons deduct certain amount and deposit the same into government treasury on behalf of the payees. This is also called “Retention Tax” .
- **Collection:** Prescribed persons are required to collect certain amount of taxes along with their own revenue. The collected amount is deposited into government exchequer on behalf of the payers.

# WHY WITHHOLDING TAXES

1. Revenue generation on daily basis
2. Smooth flow with minimum cost
3. Contains tax evasion
4. Helps in widening of tax net
5. Documentation of economy
6. Lesser interface with tax authorities

## **WITHHOLDING TAX IN THE MODERN WORLD**

- Prevalence of withholding taxes in U.S.A and Canada
- In United Kingdom and other Common Law countries WHT is known as pay-as-you-earn (PAYE), pay-as-you-go (PAYG) and tax deduction at source TDS system (India).
- Effective Tool for tax collection:
  - » In undocumented economies
  - » Having lower taxpayer compliance levels
  - » With minimum cost

## **RESPONSIBILITIES OF A WITHHOLDING AGENT**

- Application of correct rate of tax
- Timely deposit of Tax Deducted
- Timely filing of Withholding Statements u/s 165

# APPLICATION OF CORRECT RATE

- Ensure collection/deduction as provided under the I.T. Ordinance 2001
- Consulting the [ATL](#) for application of rate of filers/non-filers
- Adherence to Rule 1 and 2 of the Tenth (10<sup>th</sup>) Schedule to I.T Ordinance 2001

# WITHHOLDING TAX RATES

SECTION	WITHHOLDING AGENT	Rate
148	Collector of Customs	Varies from 4% to 11 % depending upon category and filing status
149 Salary	Person responsible for paying salary to the employee	Slab rates
150 Dividend Income	Every Person Paying Dividend	15% for filer
151 Profit on debt	Every Person Making payment of profit / yield	Up to Rs. 5 Lac 10% of the gross yield/profit paid Exceeding Rs. 5 Lac 15% of the gross yield/profit paid for filers
152 Payments to non-residents	Every person paying Royalty or Fee for technical services to a non-resident	15% of the gross amount for filers



# WITHHOLDING TAX RATES

SECTION	WITHHOLDING AGENT	Rate
<b>153(1)(a) sales of goods</b>	Every Prescribed Person (section 153(7))	Company 4% of the gross amount Other than company 4.5% of the gross amount No deduction of tax where payment is less than Rs. 75,000/- in aggregate during a financial year [S.153(1)(a)]
<b>153(1)(b) services</b>	Every Prescribed Person (section 153(7))	a) In case of company 8% b) In any other case 10% c) In respect of persons making payment to electronic & print media for advertising services 1.5%
<b>153(1)(c) Execution of Contracts</b>	Every Prescribed Person (section 153(7))	i) In case of sportsperson 10% ii) In the case of Companies :7% iii) In the case of persons other than companies 7.5%

# WITHHOLDING TAX RATES

SECTION	WITHHOLDING AGENT	Rate
<b>154 Exports</b>	Every Authorized dealer in Foreign Exchange	Non-export indenting agent II. Export indenting agent / export buying 5% of gross value house Others 1% of gross value
<b>155 Income from Property</b>	Every Prescribed Persons as per Section 155 of Income Tax Ordinance, 2001	Slab rates depending upon the rent of property.
<b>156 Prizes and winnings</b>	Every person making payment	15% of the gross amount.
<b>156 A Petroleum Products</b>	Every person selling petroleum product to Petrol pump operator	12% of the gross amount Every person selling petroleum product to petrol pump operator

# WITHHOLDING TAX RATES

SECTION	WITHHOLDING AGENT	Rate
<b>231A Cash Withdrawal from a Bank</b>	Every Banking Company	cash withdrawal, in a day, exceeding Rs, 50,000/- for persons not appearing in the Active Taxpayers' List 0.6%
<b>234 Tax on Motor Vehicle</b>	Person collecting motor vehicle tax	Rs. 2.5 per kg of the laden weight for filers.
<b>236A Sale by auction</b>	Every person making sale by Auction	10 % of gross amount
<b>236C Immoveable property</b>	Every person Registering, Recording or attesting or Transfer including local authorities, Housing authorities, Housing Society Cooperative Society and registrar or properties.	1% of the gross amount of the consideration received.

# WITHHOLDING TAX RATES

SECTION	WITHHOLDING AGENT	Rate
<b>236G Advance Tax on sales to distributor, dealer &amp; wholesaler</b>	Every Manufacture or Commercial importer of Electronics sugar, cement, iron & steel products, fertilisers, motorcycles, pesticides, Cigarettes, glass, textile, beverages, paint or foam sector.	Fertilizers: 0.7 %  Other than Fertilizer 0.1 %
<b>236H Advance Tax on sales to retailers</b>	Every Manufacture, distributor, dealer, wholesaler or Commercial importer of electronics, sugar, cement, iron & steel products, motorcycles, pesticides, Cigarettes glass, textile, beverages, paint or foam sector	Electronics 1.0% Others 0.5%

# **RULE 2 OF TENTH SCHEDULE**

- Withholdee not appearing in ATL and not required to file return or statement.
- the withholding agent will furnish a notice to CIR giving reason on the basis of which it is considered that the person was not required to file return or statement, as the case may be.
- Decision in 30 days by the CIR

## **TIME OF PAYMENT/ DEPOSIT: RULE 43**

- Federal/Provincial/Local Government – same day (Rule 43(a))
- Other than government within **Seven days** from the end of each week ending on every Sunday (Rule 43(b))

# FILING OF WITHHOLDING STATEMENTS

- Section 165(2) amended for filing of biannual statements as under [through Finance Supplementary (Second Amendment ) Act 2019].
- in respect of the half-year ending on the 30th June, on or before the **31<sup>st</sup> day of July**; and
- in respect of the half-year ending on the 31st December, on or before the **31<sup>st</sup> day of January**.

# FILING OF WITHHOLDING STATEMENTS

- In addition law also requires u/s 165(6):

“Every person deducting tax from payment under section 149 shall furnish to the Commissioner an annual statement in the prescribed form and manner.”



# **PENALTY FOR NON FILING /LATE FILING OF STATEMENTS U/S 165**

- Penalty u/s 182(1) (Sr.1A) rationalized through **Finance Act, 2018.**
- 1. Penalty of Rs. 5,000 if tax already paid and statement filed within 90 days of due date.
- 1. In all other cases, a penalty of Rs. 2,500 for each day of default subject to a minimum penalty of Rs. 10,000.

# **EXEMPTION OR LOWER RATE CERTIFICATE**

- Either one of 3 conditions u/s 159 for applying to CIR for a certificate:
  - Amount is exempt from tax or
  - subject to tax at a lower rate than that specified in the First Schedule or
  - is subject to hundred percent tax credit u/s 100C
- Power of CCIR u/s 122B to Revise the order of CIR relating to issuance of Certificate u/s 159

# IMPORTANT SROS RELATING TO SECTION 159

- **SRO 717 (I)/2014 dated 17.08.2014  
dealing with:**

- i. Conditions to qualify for  
issuance of exemption u/s 148 on import  
of raw material
- ii. Procedure for applying for the  
Exemption Certificate

- **SRO 947(1)/2008 dated 5.9.2008  
dealing with:**

- i. Entities or companies exempt  
from Section 148(1)
- ii. Imports of plant, machinery,  
fixtures, fittings or allied equipment by  
an Industrial undertaking (including  
hotels)

## **LEGAL PROCEEDINGS ON FAILURE TO DEDUCT WITHHOLDING TAX**

- As per Rule 44(4), WHA to furnish reconciliation of payments made and reflected in statements with claimed payments in tax return.
- Failure of WHA to collect, deduct or deposit tax results in order **u/s161 read with section 205**.
- Similarly, order u/s **162 read with section 205** can also be passed against the withholdee from whom tax was not collected/deducted.

## **AMENDMENTS IN SECOND AMENDMENT ORDINANCE, 2019 RELATING TO WITHHOLDING TAX**

- Traders, being individuals and having turnover upto Rs. 100 Million not required to act as a withholding agent under section 153 .
  
- Clause (66) of Part-IV of the Income Tax Ordinance, 2001 {exemption from collection of advance tax under section 235} amended in light of SRO 1125 abolished. (WP# 47110 of 2019 Dar Es Salaam Textile Vs. FBR dated 9.01.2020).

## CONTINUED...

- In order to facilitate manufacturers importing raw material Clause (72B) Part IV of 2<sup>nd</sup> Sch. amended. If a Commissioner fails to issue exemption certificate u/s 148 within the time period prescribed the certificate to be automatically processed and issued by IRIS .

# **SALES TAX WITHHOLDING**

## **Amendments In Sales Tax Act, 1990 (Withholding Rules)**

- Subsection (7)  
inserted in Section 3
  
- Sales Special  
Procedure  
(Withholding) Rules  
2007 and related  
SRO's merged into  
Eleventh Schedule



S No.	Withholding agent	Supplier category	Rate or extent of deduction
1	<p>Federal and provincial government departments; autonomous bodies; and public sector organizations (b) Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001) .</p>	<p>a)Registered persons</p> <p>b) Person registered as a wholesaler, dealer or distributor</p>	<p><u>1/5th</u> of Sales Tax as shown on invoice</p> <p><u>1/10th</u> of Sales Tax as shown on invoice</p>
2	<p>Federal and provincial government departments; autonomous bodies; and public sector organizations</p>	Unregistered persons	<p><u>Whole of the tax</u> involved or as applicable to supplies on the basis of gross value of supplies</p>

## THE ELEVENTH SCHEDULE

S No.	Withholding agent	Supplier category	Rate or extent of deduction
3	Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001)	Unregistered persons	5% of gross value of supplies
4	Registered persons as recipient of advertisement services	Person providing advertisement services	Whole of sales tax applicable
5	Registered persons purchasing cane molasses	Unregistered persons	Whole of sales tax applicable

## **EXCLUSIONS**

- Electrical energy;
- Natural gas;
- Petroleum products as supplied by petroleum production and exploration companies, oil refineries, oil marketing companies and dealers of motor spirit and high speed diesel;
- Vegetable ghee and cooking oil;
- Telecommunication services;
- Goods specified in the Third Schedule to the Sales Tax Act, 1990;
- Supplies made by importers who paid value addition tax on such goods at the time of import; and
- **Supplies made by an Active Taxpayer as defined in the Sales Tax Act, 1990 to another registered persons with exception of advertisement services.**

# Thank You