

## **RS300BN TAXATION MEASURES THRU ORD ON THE WAY: FBR DRAFTS PROPOSALS OF NEW TAXATION MEASURES TO BE ENFORCED THROUGH THE PROMULGATION OF THE TAX LAWS AMENDMENTS ORDINANCE, 2023**

ISLAMABAD: The Federal Board of Revenue (FBR) has drafted proposals of new taxation measures of nearly Rs300 billion to be enforced through the promulgation of the Tax Laws Amendments Ordinance, 2023. Sources told *Business Recorder* on Wednesday that the Ordinance is expected to be promulgated during the next 7-10 days. Initially, the revenue impact has been worked out at Rs200 billion, which has been raised to Rs300 billion. The revenue impact of the proposed withholding tax on banking transactions of non-filers is nearly Rs45 billion.

The three percent flood levy could generate additional revenue of Rs60 billion. The proposed increase in the rates of capital value tax rates on imported and locally-assembled vehicles has been estimated to generate an additional revenue of Rs10 billion. The proposal to impose tax on banks' foreign exchange income has been estimated to generate Rs20 billion.

The proposal to raise the Federal Excise Duty (FED) on sugary drinks would generate Rs60 billion. The proposed impact of further raise in the FED on cigarettes has been estimated at Rs25-30 billion. The proposed increase in the rate of advance tax on the purchase/sale of the immoveable property would generate about Rs20-30 billion.

The proposed withdrawal of sales tax exemption on the import of raw materials/inputs used in the manufacturing of export goods under the "export facilitation scheme" has a revenue impact of Rs20-25 billion. The said proposals are under discussion between the FBR and the Ministry of Finance but have yet not been finalised. After approval of the proposals, the Presidential Ordinance would be promulgated, sources added.

The government under the contingency revenue measures agreed with the International Monetary Fund (IMF) to increase FED on sugary drinks/cigarettes and withdrawal of sales tax exemption to the exporters if a month's revenue collection data underperformed.

### **'BREACH OF TAX AMNESTY' IHC ISSUES NOTICES TO FBR, AGP**

ISLAMABAD: The Islamabad High Court (IHC) issued notices to the Federal Board of Revenue (FBR) and the Attorney General for Pakistan in petitions alleging breach of Tax Amnesty.

Chief Justice Aamir Farooq on Wednesday heard series of seven different petitions alleging breach of Tax Amnesty. The petitioners are Pakistani taxpayers to whom FBR had issued show cause notices demanding recovery of Annual Capital Value Tax on foreign assets. They have alleged that the FBR has issued them notices in blatant breach of the Tax Amnesty granted by the Government of Pakistan in 2018 and 2019. It has breached Parliament's promise which was relied upon by taxpayers. As part of the Amnesty Scheme announced by the Imran Khan regime, taxpayers had been asked to pay a one-time tax equivalent to 4-6 per cent of the total value of foreign assets. In return, they were promised immunity from any further taxation on the same asset value. The Amnesty Scheme was a roaring success and the government earned billions in tax revenue at the time.

Section 12 of the Foreign Assets (Declaration and Repatriation) Act, 2018 and Section 13 of the Assets Declaration Ordinance, 2019 further promised that the wealth declarations may be kept confidential and will not be used against the taxpayers for levying any further taxes. However, three years later, the FBR has allegedly done precisely that. It has used this "classified" information regarding foreign assets to issue demand notices.

The petitioners in their support have annexed an expert opinion by one of the framers of the relevant statutes, Shabbar Zaidi, who was chairman of the FBR. Zaidi has publicly stated the Tax Amnesty laws have been breached by authorities. After hearing preliminary arguments of counsel Umer Ijaz Gilani, Chief Justice Aamir Farooq was pleased to admit the petitions for hearing. The chief justice was also pleased to suspend the demand notices, subject to submission of bank guarantee. Besides challenging demand notices, the petitioners have also assailed the constitutionality of the Capital Value Tax (CVT) levied by the federal government on foreign assets. The petitioners contend that after the 18th Amendment, CVT on immoveable property has been devolved to the provinces. The Federal Legislature no longer has the legislative competence to levy any tax on the capital value of immoveable property, be it local or foreign. The court was pleased to seek comments from the Attorney General for Pakistan about the constitutionality of the law. The case has been adjourned until 12th February.

## **TAX NOTICE PLACEMENT ON IRIS IS NOT VALID SERVICE: FTO**

In a case, the Federal Tax Ombudsman (FTO) has observed that mere placement of notice on the IRIS does not constitute a valid service. In a complaint filed by a taxpayer against the Federal Board of Revenue (FBR) alleging illegal assessment order date June 30, 2022 for tax year 2016 and consequent issuance of recovery notices.

According to details of the case, the complainant, an individual file income tax return for tax year 2016. The tax officer of Regional Tax Office (RTO) Karachi observed discrepancy in closing balance of net assets for tax year 2015. The tax officer considered the discrepancy as definite information and issued a show cause notice under various sections of the Income Tax Ordinance, 2001 including the section related to concealment of assets. After more than one year when the case was going to be time barred, an assessment order was passed on June 30, 2022 without giving any opportunity of being heard and creating tax liability.

The complainant came to know about the assessment when notice for recovery was issued on September 05, 2022. The FTO observed that service of notice under Section 122(9) read with Section 122(5) and Section 111(1)(b) of the Income Tax Ordinance, 2001 dated March 30, 2021 was not ensured and it is assumed that uploading on IRIS was valid service. "Complainant's duly updated profile is available on record with mobile number and email address. Complainant denied receipt of any SMS or email through which he can be alerted about the placement of any notice or order."

[Reading the relevant clauses] the FBR observed that it is thus clear that mere placement of notice on the IRIS does not constitute valid service within the meaning of Section 218(1)(d) read with Rule 74 of Income Tax Rules, 2002. "Even otherwise the department of IT system is expected to ensure that the taxpayers are informed about any event through an SMS or email rather than expecting every taxpayer to keep checking his IRIS profile on daily basis, which is against the principal of natural justice and fair play."

The FTO in its findings made remarks that passing of adverse order without providing fair opportunity for compliance and proper service of notice for hearing, brazenly violating the instructions of FBR; causing administrative excesses is tantamount to maladministration. The Ombudsman advised the FBR to direct the Commissioner Inland Revenue, Zone-II, RTO-I Karachi to revisit the impugned order for tax year 2016, after affording proper opportunity of hearing to the complainant.

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## **DONATION CONSIGNMENTS FOR FLOOD VICTIMS: ST, FED AND IT ON IMPORT, SUPPLY EXEMPTED**

ISLAMABAD: The Federal Board of Revenue (FBR) has exempted sales tax, federal excise duty (FED), and income tax on the import and supply of donation consignments and relief items for relief operations for flood victims for three months period. According to an SRO70(I)/2023 issued by the FBR here on Wednesday, the federal government has exempted for a period of three months from December 1, 2022, the import and supply of the donation consignments and relief items as certified by the National Disaster Management Authority or a Provincial Disaster Management Authority for relief operation for flood affectees, from the whole of the sales tax. Under an SRO71(I)/2023 issued on Wednesday, the FBR has exempted for a period of three months from December 1, 2022, the whole of FED leviable on the donation consignment and relief items goods as certified by the National Disaster Management Authority or a Provincial Disaster Management Authority for relief operation for flood affectees. As per SRO72(I)/2023, the FBR has amended the Second Schedule to the Income Tax Ordinance. In the aforesaid Schedule, in Part IV, in clause (123), for the words "ninety days", the expression "three months from December 1, 2022" shall be substituted.

## **ALL ATIR BENCHES, BENAMI TRIBUNAL BECOME DYSFUNCTIONAL**

ISLAMABAD: All benches of Appellate Tribunal Inland Revenue (ATIR) across Pakistan and Benami Tribunal have become dysfunctional from Thursday (Jan 26).

In this connection, the ATIR Islamabad issued instructions to all benches of the ATIR on Wednesday. The first independent forum available to taxpayers to file appeals against the Federal Board of Revenue (FBR) has now become dysfunctional till further orders.

According to the ATIR Islamabad (Headquarters) circular, due to the sudden death of the Chairman of ATIR all the benches of ATIR Pakistan will be nonfunctional with immediate effect till the appointment of Chairman ATIR or till further order, it added. Keeping in view the seriousness of the situation, President Lahore Tax Bar Association Muhammad Nauman Yahya has approached the federal secretary Ministry of Law and Justice to immediately appoint a new chairman of the ATIR. According to the Nauman Yahya communication to the Law Division, due to the sudden death of the Chairman of ATIR all the benches of ATIR Pakistan are nonfunctional as per the circular dated 25/01/2023 issued by the ATIR. The LTBA has serious concerns about the nonfunctional ATIR as the department is creating harassment to the taxpayer by attaching the bank accounts and withdrawing impugned income tax demand from the banks. He stated that the LTBA is also receiving complaints from its members that tax officials are also attaching moveable and immovable properties of the taxpayer. The ATIR always played an important role to safeguard the taxpayer from tax authority as ATIR is the first independent forum for the taxpayer, the president LTBA stated. Keeping in view the situation, it is requested to immediately appoint a Chairman for ATIR and for Benami Transaction Tribunal at earliest, Yahya added.

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