

LINKAGE OF SMUGGLING CASES WITH TERRORIST FINANCING: FBR ISSUES 'RED ALERTS CHECK LIST' FOR CTD

ISLAMABAD: The Federal Board of Revenue (FBR) has issued a "Red Alerts Check List" for the Counter Terrorism Department for possible linkage of smuggling cases with terrorist financing.

The FBR has notified the "Red Alerts Check List" for the Counter Terrorism Department (CTD) for determining whether the smuggling cases are linked with terrorist financing or not.

The FBR has specified 15 questions in the "Red Alerts Check List" for checking the records of the smugglers available with different government departments/foreign jurisdictions.

The FBR has communicated the "Red Alerts Check List" for compliance by the CTD. According to the FBR's "Red Alerts Check List for terrorist financing (TF) linkages, the department has to analyze the following aspects for determining the status of the smuggling cases:

- (1); Is the suspect on 4th Schedule of ATA 1997?
- (2); Is the suspect a known associate of a proscribed organization/individual?
- (3); Does he have indirect association with a proscribed Organization/individual?
- (4); Is the suspect a UN Designated Individual?
- (5); Is there any suspicion about likely involvement of any of the UN designated entities/individuals or proscribed organizations/individuals?
- (6); Is he suspected to have conducted cash / gold smuggling on behalf of or at the direction of a UN designated/ domestically proscribed entity or individual?
- (7); Is the suspect/accused found on unilateral sanctions list of countries e.g. US-OFAC, EU, etc.?
- (8); Use of cash is not consistent with the individual's purpose, objective and states activities?
- (9); Is there suspicion about the legitimate source of large amounts of cash / gold?
- (10); Was he previously reported to have been involved in any smuggling related cash or gold?
- (11); Is there any Intelligence / tip off that the currency is being smuggled for an act of terrorism that resulted in apprehension of the suspect?
- (12); Is there any specific or prior information shared by law enforcement agencies (LEAs) on likely involvement of the individual in TF related aspects?
- (13); Is he suspected to be part of any larger cash courier network?
- (14); Is there any request with respect to the suspect due to formal mutual legal assistance or informal assistance from local or foreign authorities?
- (15); Does the seizure made suspected to be used for financing terrorism?

AML/CFT-RELATED CASES PERTAINING TO CUSTOMS: FBR'S DIRECTORATE OF CBCM DESIGNATED AS DATA REPOSITORY

ISLAMABAD: The Federal Board of Revenue's Directorate of Cross Border Currency Movement (CBCM) has been designated as the overall data repository of all Anti-Money Laundering (AML)/Counter Financing Terrorism (CFT) related cases pertaining to Pakistan Customs.

According to a notification issued by the FBR on Wednesday, the FBR has directed customs staff at Border Stations, Sea Ports, Dry Ports and airports to maintain data of seized goods under the AML Act.

The FBR's record keeping and reporting framework for customs revealed that the Directorate of CBCM shall be the overall data repository of all AML/CFT related cases pertaining to Pakistan Customs, including cases referred to the Counter Terrorism Department (CTD), whether such cases are initiated on the reports of Financial Monitoring Unit (EMU) or of the Collectorates/Directorates of Pakistan Customs.

All Collectorates/ Directorates of Pakistan Customs shall also maintain an updated record of all cases of predicate offences and shall submit monthly reports to the Chief, Facilitation & Compliance (F&C), FBR with intimation to the Chief, Financial Action Task Force (FATF) Cell, FBR. All Collectorates/Directorates shall intimate the Directorate of CBCM on monthly basis about the number of money laundering (ML) cases, including cases referred to CTD or other agencies.

The International Customs (IC) Section of the Customs Wing, FBR shall maintain record/data of all incoming and outgoing MLA requests on the prescribed format.

All Collectorates /Directorates shall be bound to respond to the MLA request received from International Customs (IC) Section of FBR within the specified timelines, if any, and shall keep an updated record of all incoming and outgoing MLA requests pertaining to their respective jurisdiction.

The FBR has also given responsibilities to the Border Stations, Sea Ports, Dry Ports, Airports & Other Field Units. They would be required maintenance and updating of data of seizures of goods under the Customs Act, 1969 and other predicate offences, listed in Schedule-I of the AMLA, 2010 as per CGO 04/2019 dated 6th May 2019.

All Collectorates/ Directorates shall be required to send biannual reports to the Chief, FATF Cell, FBR on new risks and propose corresponding mitigation measures so that risk assessment, risk mitigation strategy and risk-based approach are updated for a dynamic and robust AML/CFT regime across all Pakistan Customs formations.

Risk-based approach should be followed while posting officers and officials at strategic locations and posts. While issuing their placement orders, it should be ensured by the respective heads of the Collectorate/Directorate that such officers and officials have acquired the relevant AML/CFT related training, the FBR added.

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FBR TO INVOLVE FOREIGN JURISDICTIONS FOR INVESTIGATING OF CRIMINAL CASES: ALL DIRECTORATES ARE ADVISED TO SUBMIT MONTHLY REPORTS TO VARIOUS UNITS

ISLAMABAD: The Federal Board of Revenue (FBR) on Wednesday decided to send Mutual Legal Assistance (MLA) requests to foreign jurisdictions for investigating cases linked to foreign jurisdictions. According to a Customs General Order No. 01 of 2023 issued on Wednesday, the customs collector or the director will ensure that in all cases where the accused or the criminal offense has links in a foreign jurisdiction, an MLA request will be sent before carrying out the investigation.

The request will be made directly through the national focal point under the MLA (Criminal Matters) Act, 2020, under intimation to the chief of International Customs of FBR. Under the customs laws, "Foreign Jurisdiction" means a foreign country with which Pakistan has a bilateral arrangement for mutual legal assistance. Efforts shall be made to develop and use an automated system to maintain and update records of all incoming and outgoing MLA requests and other forms of international cooperation.

The Directorate of Cross Border Currency Movement (CBCM) will be the overall data repository of all anti-money laundering and terror financing related cases. All directorates of Pakistan Customs are advised to maintain an updated record of all cases of predicate offenses and are required to submit monthly reports to the Chief, Facilitation & Compliance (F&C) with intimation to the Chief of Financial Action Task Force (FATF) Cell of the FBR. All directorates are bound to respond to the MLA request received from International Customs (IC) Section of FBR within the specified timelines, if any, and shall keep an updated record of all incoming and outgoing MLA requests pertaining to their respective jurisdiction.

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COS AND IFIS: NAMES ON ATL A MUST FOR APPOINTING SHARIAH BOARD MEMBERS: SECP

ISLAMABAD: The Shariah-compliant companies and Islamic Financial Institutions have been barred from appointing members of the Shariah supervisory board, whose names are not appearing on the Federal Board of Revenue's Active Taxpayers List. This condition has been mentioned in the draft of the Shariah Governance Regulations, 2023 issued by the Securities and Exchange Commission of Pakistan (SECP).

According to the new regulations, the SECP has imposed restrictions on such Islamic Financial Institutions from appointing persons as members of the Shariah supervisory board, whose names are not appearing on the FBR's ATL. The "Shariah supervisory board" means a board constituted, appointed or engaged by the Islamic financial institution to advise it on matters concerning Shariah principles and rules. Every Shariah-compliant company and Islamic financial institution shall form, constitute, appoint, or engage a Shariah supervisory board within such period as may be notified by the Commission, comprising at least two persons.

Provided that until a Shariah supervisory board is formed, appointed, or engaged by a Shariah-compliant company or an Islamic financial institution, it must appoint or engage a Shariah advisor registered under these regulations to perform the functions of the Shariah supervisory board. The Shariah supervisory board shall not function unless one of its members is registered as a resident member of the Shariah supervisory board under these regulations.

The term of appointment or engagement of the Shariah supervisory board or Shariah advisor shall be for a period of three years that may be extended further with mutual consent. However, such a term may be capped for the duration of the applicable Shariah-compliant security if it is a redeemable capital instrument. In the case of short-term securities for a period less than a year, the issuer may not retain the Shariah supervisory board or Shariah advisor for that particular security after its issuance. Any person, other than the issuer of Shariah-compliant securities, involved in the stock screening process, shall also appoint a Shariah supervisory board or the Shariah advisor.

The Shariah supervisory board shall enjoy such powers and perform such functions as may be agreed upon between the Shariah-compliant company or the Islamic financial institution, as the case may be, and members of the Shariah supervisory board. The said requirements shall be applicable to Shariah-compliant companies and Islamic financial institutions, as the case may be, on the principle of proportionality. A person shall be disqualified to become a member of a Shariah supervisory board, if he has been declared by a court of competent jurisdiction to be in default in the repayment of a loan to a financial institution. In case of a Pakistani national, his name is not included in active tax payer list of the FBR, Shariah Governance Regulations, 2023 added.

ONLY 50% OF DEEMED INCOME TAX BE PAID AT THE MOMENT: SC GRANTS INTERIM ORDER DIRECTS FBR TO EXPAND TAX BASE RATHER THAN ENHANCING TAXES ON COMPLIANT CITIZENS

The Supreme Court has granted an interim order that only 50% of the deemed income tax be paid at the moment till the Appeal is pending final adjudication.

In the second hearing of the appeal, the court told the Federal Board of Revenue (FBR) that it should expand tax base rather than enhancing taxes on compliant taxpayers.

Supreme Court Judge Ayesha Malik observed that "FBR should encourage compliant and rich taxpayers to grow and as a result of growth, tax collection will increase. However, here we see that FBR is hammering the same set of taxpayers who pay taxes".

Section 7C (Deemed Income from immovable properties) was added to the Income Tax Act as part of Finance Act 2022 for the tax year 2022 and onwards.

According to it, a resident person who owns capital assets on the last day of the tax year (ie June 30) with an aggregate fair market value above Rs25 million, is liable to pay tax on deemed income. The fair market value is the value notified by the FBR and deemed income is calculated as 5% of the fair market value. This deemed income is subject to a tax rate of 20%.

Last year, the tax was challenged in the Lahore High Court (LHC). In this regard, the LHC issued notice to the Attorney General of Pakistan.

According to an order of the LHC, the constitutional petition questioned the Constitutionality of the Section 7E (tax on deemed income) of the Income Tax Ordinance 2001, inserted through the Finance Act 2022, on the premise of legislative incompetence of the Parliament to enact law outside the scope of the entry number 50 of the Federal Legislative List, Fourth Schedule of the Constitution. The fundamental objection is that the tax added through section 7E is, in pith and substance, tax on immovable property, to which extent Parliament is not competent to make laws, after the 18th Constitutional Amendment 2010, where after the only provincial legislature is eligible and competent to tax immovable properties.

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RECORDS SEIZED: SRB RAIDS CLUB FOR RECOVERY OF SST DUES

KARACHI: Sindh Revenue Board (SRB) has carried out a raid on a luxurious club located in a posh area of Karachi.

The SRB officials seized the records and documents during the operation for further examination and scrutiny. It was revealed that the club had failed to pay the due amount of Sindh Sales Tax (SST) and had also been consistently non-compliant in filing SST returns. Despite receiving multiple notices from the SRB for payment of outstanding SST amounts and filing of missing tax returns, the club failed to comply with the regulations.

As a result, action was taken against the club under the provisions of the Act, 2011, and SRB officers are currently analyzing the seized records to determine the tax liability of the said club. This operation is a part of SRB's ongoing efforts to clamp down on non-compliant businesses in the hospitality and aesthetic sectors.

ISSUE OF SALES TAX VALUE ON SUGAR SUPPLY STILL PENDING IN LHC

ISLAMABAD: The Federal Board of Revenue (FBR) has not fixed the minimum value on the supply of sugar for sales tax calculation, as the matter is still pending in Lahore High Court (LHC). It is learnt that the case is under review at the LHC.

The FBR has yet not fixed the domestic price of sugar, which is usually considerably below the actual market price of the commodity for sales tax assessment. However, the delay in the fixation of the price of sugar has resulted in revenue loss to the national exchequer. Last year, the FBR issued a notification dealing with the fixation of the value of sugar for the assessment of sales tax at the domestic and import stages. According to the last order of the Lahore High Court (LHC), the proceedings before the FBR regarding the determination of the value of the supply of sugar shall remain suspended. Thus, the FBR will not fix the said price of the commodity till a final decision of the court.

TAX OFFICERS ACCUSED OF VIOLATING LAW BY DETERMINING PROFIT MARGINS ARBITRARILY

LAHORE: Tax authorities are involved in violating law by determining arbitrary profit margins in relation to a certain income stream, said sources. They said the taxation officers do not provide any reasoning as to why they determine a certain rate of profit to assess the income of a taxpayer for taxing purposes. The sources have pointed out that application of such a discretionary power by the taxation officers is causing harassment among taxpayers, leading to legal battles between them and the department.

According to the sources, the sad part of the whole exercise is that the taxation officers do not furnish reasons for applying a certain profit margin to the revenues generated by a taxpayer. They are least bothered about rendering any explanation as to why a discretionary profit margin is being applied, the sources added. It may be noted that what is vested on the taxation officer under the Income Tax Ordinance 2001 is not discretion but a right to exercise judgment while reassessing income pursuant to provisions of the Ordinance. It is also worth noting that where such judgment is exercised in a manner that rejects the treatment afforded to income by the taxpayer, the taxation officer is under an obligation to provide reasons for the manner in which he has chosen to exercise judgment. Without such reasons, said sources, rejection of tax treatment afforded by the taxpayer in the profit margin applied by the tax department cannot be countenanced.

The sources further lamented that the department as a whole and the appellate tribunals in general uphold the discriminatory treatment of tax officers while determining a notional profit margin out of the incomes of taxpayers. Instead, they added, the department encourages the tax officers to carry out such an unlawful exercise in order to squeeze maximum tax out of the taxpayer. This approach on the part of tax department disappoints the taxpayers at large and they prefer to avoid tax under one or the other pretext. Also, said the sources, most of the taxation officers' use their discretionary powers in determining profit margin of their own choice to force the taxpayers for an underhand deal, which again earns bad name for the department at the end of the day.

It may be noted that the taxpayers have been facing an abnormal situation in the recent past when the tax department was involved in creating fake tax demands at the sectoral basis to propagate a negative impression that a certain sector was avoiding tax liability with billions of rupees. The case of sugar land industry is one such glaring example in the recent past, which had approached the court of law to get declare any such demand as fake tantamount to harassment at large.

Similarly, a good number of businessmen had also approached the Federal Tax Ombudsman agitating a similar protest against the tax department for harassing them by creating fake tax demands. However, there is a break to this tendency since the government of former Prime Minister has been overturned through a vote of no-confidence.

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