GOVERNMENT OF PAKISTAN

REVENUE DIVISION

CENTRAL BOARD OF REVENUE

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C.No.1(5)WHT/97 Islamabad, July 9, 2003.

CIRCULAR NO.06 OF 2003.
(INCOME TAX)

SUBJECT: FINANCE ACT, 2003 – EXPLANATION OF IMPORTANT PROVISIONS RELATING TO WITHHOLDING TAXES.

The Finance Act, 2003 has introduced various changes in the withholding tax regimes. Important amendments made in different sections, First Schedule and Second Schedule relating to withholding taxes are explained as under:-

(1) Exemption Certificate U/S 148.

Previously validity period of exemption certificate under section 148 was governed by administrative instructions issued from time to time. Further, such certificate was to be issued on fulfillment of certain conditions. In order to facilitate the taxpayers, Section 148 has been amended to allow swift issuance of exemption certificate for full one year to manufacturers importing raw material, plant and machinery etc., for their own use. In this regard, a separate Circular No.02 of 2003 dated 18.06.2003 has already been issued explaining in detail the new provisions.

(2) Withholding Tax On Profit On Debt U/S 151.

Amendment has been made in section 151(1)(c) to omit the words “other than a financial institution”. Prior to amendment, the profit earned on securities issued by the Federal/Provincial Governments or local authority, by any person other than a financial institution, was liable to withholding tax. An issue arose whether a bank is a financial institution and as such not liable to withholding tax. Now as a result of this amendment, all recipients of profit on said securities are liable to withholding tax and provisions of section 151(1)(c) are applicable to all financial institutions including banks.

(3) Withholding Tax on Payments To Non-Resident U/S 152.

A person, who intends to make payment to a non-resident person without deduction of tax, is required under sub-section (5) of section 152 to furnish a notice to the Commissioner before making the payment. However, law was silent on the responsibility of Commissioner to respond to such notice. In order to resolve this, a new sub-section (5A) has been inserted in section 152 making it obligatory on the Commissioner to respond to such notice either, accepting payer’s contention or pass an order under sub-section (6) asking the payer to deduct tax from the payment to a non-resident.

(4) Withholding Tax On Payments For Goods and Services U/S 153.

The following amendments have been made in section 153 for deduction of tax on payments for goods and services:

(i) The word "Professional" has been omitted from clause (c) of sub-section (1) and sub-section (9) of section 153. As a result of these amendments, services rendered through a contract or otherwise by only accountants, doctors, lawyers, architects etc., fall in the purview of clause (b) of section 153(1) and the tax so deducted shall be adjustable. Persons providing other types of services such as by the security companies are obviously not covered by clause (b) and, therefore, in their case tax deducted is not adjustable and will be treated as final tax as provided under sub-section (6) of section 153.

(ii) A new clause (ba) has been inserted in sub-section (5) of section 153, which provides that tax is not to be deducted on payments made to a contractor on account of construction material supplied by the Federal Govt., a Provincial Government or a local authority.

(5) Withholding Tax U/S 154.

(i) Withholding Tax On Indenting Commission. Indenting commission under section 154(2) was previously subjected to withholding tax at the rate 10% as provided in para (2) of Division IV of Part III of the First Schedule. However, payments on account of brokerage and commission were liable to deduction of tax @ 5% under section 234. There was a persistent demand from indenting commission agents to reduce the rate of tax deduction from 10% to 5% so as to bring it at par with the rate applicable to payments on account of brokerage and commission under section 234. In order to meet this genuine demand, amendment has been made in Para (2) of Division IV of Part III of First Schedule and the rate of withholding tax on indenting commission has been reduced from 10% to 5%.

(ii) Withholding Tax in Export Processing Zones. A new sub-section (3A) has been inserted in section 154 to provide collection of withholding tax by the Export Processing Zone Authority at the time of export of goods by an industrial undertaking located in an export processing zone. The rates of withholding tax are the same as are applicable in the case of other exporters and specified in Division IV of Part III of First Schedule.

(iii) Concessional Withholding Tax For Indirect Exporters Under DTRE Regime.

Under sub-section (3) of section 154, indirect exporters are already enjoying the facility of taxation at par with the direct exporters where payment is received under an inland back to back letter of credit or through a crossed cheque against a Special Purchase Order as explained in Circular No.24 of 1999. In order to further boost exports, a new sub-section (3B) has been inserted in section 154 and this facility has also been extended now to an indirect exporter as defined in the Duty and Tax Remission for Export Rules, 2001 provided in Sub-Chapter 7 of Chapter XII of Customs Rules, 2001. The new provision requires a DTRE direct exporter and an export house to deduct tax at the rates specified in Division IV of Part III of First Schedule at the time of making payment under a firm contract to such an indirect exporter. The sub-section (4) of section 154 has also been amended to make tax so deducted as discharge of final tax liability.

(6) Withholding Tax On Rental Income U/S 155.

An amendment has been made in sub-section (2) of section 155, by virtue of which, threshold of annual rent for tax withholding has been increased from Rs.100,000 to Rs. 200,000. In addition, the rate of withholding tax has also been reduced from 7.5% to 5% through an amendment in Division V of Part III of the First Schedule.

(7) Scope Of Withholding Tax U/S 156.

Sub-section (1) of section 156 has been amended to extend the scope of withholding tax to prize on winning a quiz and the prizes offered by companies for promotion of their sales. Further, sub-section (2) has been substituted to provide that the person giving a prize, other than in cash, shall collect tax on the fair market value of the prize.

(8) Scope of Exemption Certificate U/S 159.

The scope of exemption certificate under section 159 has been enlarged. Now, the Commissioner can also issue exemption certificate in respect of profit on securities of the Federal Government, a Provincial Government or a local authority, received by a person whose income is not likely to be chargeable to tax under the Income Tax Ordinance, 2001.

(9) Concession in Withholding Tax to Goods Transport U/S 234.

The Amendments made in section 234 and the First Schedule to the Income Tax Ordinance, 2001 have provided certain relief to the owners of goods transport vehicles which are old by ten years or more. The concessions have been explained in detail in the CBR's Circular No.3 of 2003 dated 19.06.2003

(10) Rationalization of Withholding Tax Rates on Electricity Bills U/S 235.

Rates of withholding tax on electricity bills have been reduced in respect of small commercial and industrial consumers of electricity. The new rates have been provided in Division V, Part IV of the First Schedule, which are re-produced herein below:-

where the amount of electricity bill,-

(a)	does not exceed Rs.400	Rs.60
(b)	exceeds Rs.400 but does not exceed Rs.600	Rs.80
(c)	exceeds Rs.600 but does not exceed Rs.800	Rs.100
(d)	exceeds Rs.800 but does not exceed Rs.1000	Rs.160
(e)	exceeds Rs.1000 but does not exceed Rs.1500	Rs.300
(f)	exceeds Rs.1500 but does not exceed Rs.3000	Rs.350
(g)	exceeds Rs.3000 but does not exceed Rs.4500	Rs.450
(h)	exceeds Rs.4500 but does not exceed Rs.6000	Rs.500
(i)	exceeds Rs.6000 but does not exceed Rs.10000	Rs.650
(j)	exceeds Rs.10000 but does not exceed Rs.15000	Rs.1000
(k)	**exceeds Rs.15000 but does not exceed Rs.20000**	**Rs.1500**
(l)	exceed Rs.20000.	Rs.2000.

(11) Exemption from Withholding Tax on Import of Certain Goods Specified in Clauses (28), (29) and (30) of Part IV of Second Schedule.

(i) Clause (28) allows exemption from withholding tax under section 148 to goods imported in Pakistan which were exempt from Sales Tax and Customs Duties under SROs 360(I)/2000, 362(I)/2000 and 363(I)/2000 dated 17.6.2000. These goods include equipments, reagents, spares etc., imported by non profit institutions or hospitals of Federal and Provincial Governments and also goods imported by educational and research institutions. All these SROs have been rescinded and the corresponding concession is now allowed under heading 9913, 9914 and 9915 of Sub-Chapter III of Chapter 99 of First Schedule to the Customs Act, 1969. Consequently clause (28) has been amended to give effect of amendments made in Customs Act.

(ii) Clause (29) grants exemption from withholding tax under section 148 to goods imported by direct and indirect exporters covered under Customs SROs 1140(I)/97, 843(I)/98 and 185(I)/2001. These S.R.Os. stand repealed and relevant categories of tax payers are now covered by Sub-Chapter 4 of Chapter XII, Sub-Chapter 6 and Sub-Chapter 7 of Chapter XII of SRO 450(I)/2001 dated 18.6.2001. The said clause has also been amended to give effect to the amendments made in Customs Act.

(iii) Clause (30), provides exemption from withholding tax on import of un-cut precious and semi-precious stones, and other goods used in manufacturing of gems and jewelry. The said clause also allowed exemption from withholding tax on goods temporarily imported in Pakistan and its subsequent exportation, covered by Customs SRO 410(I)/2001 dated 18.6.2001. Since the said SRO being time bound has been expired, therefore, the exemption available under the Income Tax Ordinance, has also been withdrawn and consequently clause (30) has been substituted.

(12) Exemption of Payments on Supply of Petroleum Products from Withholding Tax.

The government has recently de-regulated import of POL products and has allowed import of petroleum products for trading purposes. Supply of petroleum products is a high volume business with low profit margins and therefore, the supplier cannot afford to pay withholding tax at the rate of 3.5% which is a final discharge of tax liability. For this purpose, clause (43A) of Part IV of the Second Schedule has been substituted whereby the payments on accounts of supply of petroleum products, imported under the Government of Pakistan de-regulation policy of POL products, have been exempted from withholding tax under section 153.

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