



PAYMENT OF ADVANCE TAX U/S 147 AND
TAXABILITY OF PROPERTY INCOME UNDER
THE INCOME TAX ORDINANCE, 2001

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PRESENTATION OVERVIEW

- The presentation will primarily cover two important areas of taxation namely:
 - Computation and Payment of Advance Tax u/s 147 of the ITO, 2001 for all persons including individuals, AOP's and companies; and
 - Taxability of income and withholding of tax under the head of 'Income from Property.



WHAT IS ADVANCE TAX?

- “Advance Tax is not a tax but is merely a provisional payment of an amount towards due tax Therefore, it is a supplementary tax collection system, which is finally adjusted in the tax payable by the taxpayer” – 2010 PTD 1295
- “The collection of advance tax does not amount to levy of tax. Advance tax is a payment made merely on account to be adjusted against the charge of income tax as finally ascertained. It is not a tax but merely provisional payment on an amount towards tax due. The said amount does not become the property of the Central Government but remains vested in the assessee.” – 2010 PTD 2502



ADVANCE TAX U/S 147 OF THE ITO, 2001

General

- Every individual whose income was charged to tax for the latest tax/assessment year shall be liable to pay advance tax for the year, every quarter. (Section 147(1))
- For every AOP and Company, advance tax is payable by them even in the absence of last assessed income or declared turnover on the basis of their quarterly turnover after taking into account tax payable u/s 113 and making adjustment for the amount of tax if already paid. (Section 147(6A))
- A taxpayer who has paid advance tax shall be allowed tax credit u/s 4(3) at the time of computing the tax due by the taxpayer on its taxable income and if the tax is not able to be credited then it shall be refunded to the taxpayer in accordance with Section 170. (Section 147(8)(9) & (10))



ADVANCE TAX U/S 147 OF THE ITO, 2001

Exception

- No advance tax is payable on the following incomes: (Section 147(1))
 - Dividend (Section 5)
 - Tax on Certain payments to Non Residents (Section 6);
 - Shipping and Air Transport (Section 7);
 - Income subject to deduction of tax at source under the head Salary (Section 149); and
 - Income under the heads of income on which tax has been collected as final tax liability and no tax credit is allowed as result of sub-section (3) of section 168.



ADVANCE TAX U/S 147 OF THE ITO, 2001

Exception

- Individuals whose latest assessed taxable income is less than Rs. 1,000,000/- are not required to pay advance tax.
(Section 147(2))



ADVANCE TAX U/S 147 OF THE ITO, 2001

Time of Payment

- Advance Tax is payable by individuals on the 15th Day of September, December, March and June. (Section 147(5))
- Advance Tax is payable by an AOP & Company on the 25th Day of September, December, March and June. (Section 147(5A))



ADVANCE TAX U/S 147 OF THE ITO, 2001

Computation

- For an AOP and a Company, the amount of advance tax due for a quarter shall be computed using the following formulae: $(A \times B/C) - D$
 - A is taxpayers turnover for the quarter;
 - B is the tax assessed to the tax payer for the latest tax year;
 - C is the taxpayers turnover for the latest tax year; and
 - D is the tax paid in the quarter for which tax credit is allowed u/s 168 (Section 147(4))
- For an individual having latest assessed income more than Rs. 1,000,000/-, advance tax shall be calculated using the following formulae: $(A/4) - B$
 - A is the tax assessed to the tax payer for the latest tax year; and
 - B is the tax paid in the quarter for which tax credit is allowed u/s 168 (Section 147(4B))



ADVANCE TAX U/S 147 OF THE ITO, 2001

Computation

- Tax liability u/s 113 shall also be taken into account while working out payment of advance tax liability. (Section 147(4AA))
- This means that if the minimum tax for the quarter turns out to be more than the advance tax calculated u/s 147(4) then the minimum tax shall be payable as advance tax for that quarter.



ADVANCE TAX U/S 147 OF THE ITO, 2001

Estimation of tax for the relevant tax year

- Every AOP and Company shall estimate its tax payable for the relevant tax year before the Second Installment is due.
- If tax payable is likely to be more than the tax that is payable u/s 147 (4) then the taxpayer is required to furnish to the Commissioner an estimate of the amount of tax payable before the due date and thereafter pay 50% of such amount after making adjustment of the amount already paid.
- The remaining 50% amount shall be paid in equal installments. (Section 147(4A))



ADVANCE TAX U/S 147 OF THE ITO, 2001

Estimation of tax for the relevant tax year

- Every tax payer who estimates its tax payable anytime before the last installment is due to be less than the amount he is required to pay u/s 147(1) for the relevant tax year shall furnish to the Commissioner an estimate of the amount of tax payable by him and thereafter pay such estimated amount as reduced by the amount, in any, already paid u/s 147(1). (Section 147(6))



ADVANCE TAX ON CAPITAL GAIN ON SECURITIES U/S 147(5B)

- Advance tax is also payable on capital gain on securities within a period of 21 days after close of each quarter.
- 2% of capital gains derived during the quarter is payable as advance tax where holding period of the security is less than six months.
- 1.5% of capital gains derived during the quarter is payable as advance tax where holding period of the security is less than six months.



ADVANCE TAX U/S 147A OF THE ITO, 2001

- Every Non filer who is registered with the provincial sales revenue authority is required to pay advance tax every month at the rate of 3 % of its turnover declared before the provincial revenue authority in its monthly sales tax return. (Section 147A (1),(2) & (8))
- Advance tax paid under this section may be taken into account while computing advance tax payable u/s 147. (Section 147(A)(3))
- A taxpayer who has paid advance tax shall be allowed tax credit u/s 4(3) at the time of computing the tax due by the taxpayer on its taxable income and if the tax is not able to be credited then it shall be refunded to the taxpayer in accordance with Section 170. (Section 147A(5)(6) & (7))



CONSEQUENCES OF SHORT PAYMENT OR NON PAYMENT OF ADVANCE TAX U/S 147

- Section 147 (7) r/w Section 205 (1B) provides that if advance tax is not paid or the tax so paid is less than 90% of the tax chargeable for the relevant tax year, then the taxpayer shall be liable to pay default surcharge at the rate of 12% on the amount by which the tax paid by him falls short of 90%.
- Default surcharge shall be calculated from the 1st Day of April in that year to the date on which the assessment is made or the 30th Day of June of the next financial year, whichever is earlier.



CASE LAW ON ADVANCE TAX U/S 147

- 2017 PTD 1774 – LHC
 - In Paras 8 and 10 the Honorable LHC has discussed the concept of Advance Tax wherein they have held that basic theme of Advance tax is based on the estimate made by the tax payer and the tax authorities have no authority to disturb the estimate they have made. At most they can take action u/s 147(7) and that can be done only after the return has been filed and if it is seen that the advance tax paid is less than the tax that was actually due at the time of filing of the return.



CASE LAW ON ADVANCE TAX U/S 147

- 2011 PTD 1996 – SHC
 - In para 13 of the judgment the Court has held that when a wrong estimate is filed by the tax payer the tax officer at most can impose default surcharge u/s 205(1B) and that to after the assessment order for the tax year to which this advance tax pertains has been passed.
- 2011 PTD 476 – SHC
 - The Court in Para 11 of this case emphasized that in case no advance tax is paid or advance tax paid is less than 90 % of the tax chargeable for that tax year, then default surcharge will be levied pursuant to Section 147(7) r/w Section 205 (1B).



INCOME FROM PROPERTY U/S 15 OF THE ITO, 2001

- Any rent received or receivable by a person for a tax year, other than the rent that is exempt from tax, will be chargeable to tax in that year under the 'Income from Property' (Section 15(1))
- Individuals and AOP's are taxed at the same rates whereas companies are taxed at their corporate rates.
- Rental income from the lease of immovable property in Pakistan shall be Pakistan source income. (Section 101(9))
- Rent means any amount received or receivable (**inclusive of forfeited deposit for sale of land or building**) by an owner of land or a building as consideration for the use or occupation of or the right to use or occupy the land or building. (Section 15(2))



INCOME FROM PROPERTY U/S 15 OF THE ITO, 2001

- However, for the purposes of this section, definition of rent does not include rent received or receivable where building is leased together with plant and machinery. Such rent is charged to tax under the head '**Income from other sources**'. (Section 15(3))
- Any amount charged with rent received or receivable for the provision of amenities, utilities or any other service connected with the renting of immovable property shall be chargeable to tax under the head '**Income from other sources**'. (Section 15(4))
- Individuals or AOP's who derive income only under this head, not exceeding Rs. 200,000 in a tax year are exempt. (Section 15(7))



DEDUCTIONS U/S 15A OF THE ITO, 2001

- The following deductions are allowed to a company when computing income from property:
 - Amount used for repair of the building equal to $1/5^{\text{th}}$ of the rent chargeable;
 - Any premium for insurance of the building;
 - Any local tax, charge or rate in respect to the property or rent chargeable;
 - Ground rent payable or paid by the company;
 - Profit to be paid on money borrowed as a mortgage to improve the property;



DEDUCTIONS U/S 15A OF THE ITO, 2001

- Share in rent and share towards appreciation in the value of property (excluding the return of capital, if any) from the property paid or payable to the House Building Finance Corporation or a scheduled bank under a scheme of investment in property in the year under that scheme;
- The amount of interest or profit paid on the mortgage or charge of the property respectively;
- Any administration and collection charges (wholly and exclusively to earn rent chargeable to tax) paid or payable in the year not exceeding 6% of the rent chargeable to tax computed before any deduction;
- Any expenditure incurred as legal expenditure in relation to litigation with respect to the property in court;



DEDUCTIONS U/S 15A OF THE ITO, 2001

- Amount of unpaid rent which is irrecoverable. For such deduction to be allowed the company needs to establish that:
 - tenancy was bona fide, the defaulting tenant does not reside in any of the properties of the same owner and steps have been taken to compel the tenant to vacate the property:
 - The person has either taken all legal recourse to avail unpaid rent or believes such an attempt would be futile: and
 - The rent has already been included in income from property and tax has been paid on the income inclusive of the bad rent.



LIMITS ON DEDUCTIONS U/S 15A OF THE ITO, 2001

- Any recovery of unpaid rent claimed as a deduction, shall be chargeable to tax in the tax year in which it is recovered.
- If the company does not pay the liability within three years of claiming the deduction, the amount of liability unpaid shall be charged to tax immediately after the end of the three year period. However, the unpaid liability charged for tax is paid either fully or partially, then the company can claim the amount paid as deduction for the tax year when it is paid.
- Any expenditure allowed under the head of Income from property cannot be claimed under any other head.
- Section 21 of ITO, 2001 applies to deductions claimed under the head Income from Property.



ADVANCES NOT ADJUSTABLE U/S 16 OF THE ITO, 2001

- Amounts received from a tenant not adjustable against rent will be charged under the head income from property in equal proportions over 10 years. (Section 16(1))
- Where the amount received as advance is returned, it shall not be chargeable to tax in the year it is returned and any year subsequently. (Section 16(2))
- Where a new tenant replaces the old one and pays an advance, their amount will be reduced by the advance repaid to the previous tenant on which tax has been paid and it will then be chargeable to tax in equal proportions over the next 10 years, in the same way as the previous advance. (Section 16(3))



WITHHOLDING OF TAX U/S 155 R/W 158 OF THE ITO, 2001

- Every prescribed person shall deduct tax, at the time when the amount is actually paid, from the payment of gross rent on immovable property under the rates specified in Division V of Part III of the First Schedule.
- Gross amount of rent includes rent of furniture and fixtures, amounts of services relating to such property and adjustable amounts referred to in Section 16.



WITHHOLDING OF TAX U/S 155 R/W 158 OF THE ITO, 2001

- The word prescribed person for this section means:
 - All three tiers of government;
 - A company;
 - An organization not for profit;
 - A diplomatic mission;
 - Private school, boutique, parlour, maternity home, clinic and hospital; and
 - Individual or association of persons who pay gross rent of one and a half million or above per annum



TAX RATE ON INCOME FROM PROPERTY UNDER ITO, 2001

- Rates of tax chargeable and withholding tax on income from property for individual or an AOP is outlined below:

Gross Amount of Rent	Tax Rate
Where the gross amount of rent does not exceed Rs.200,000.	Nil.
Where the gross amount of rent exceeds Rs.200,000 but does not exceed Rs.600,000	5 per cent of the gross amount exceeding Rs.200,000
Where the gross amount of rent exceeds Rs.600,000 but does not exceed Rs.1,000,000	Rs.20,000 plus 10 per cent of the gross amount exceeding Rs.600,000
Where the gross amount of rent exceeds Rs.1,000,000 but does not exceed Rs.2,000,000	Rs.60,000 plus 15 per cent of the gross amount exceeding Rs.1,000,000
Where the gross amount of rent exceeds Rs.2,000,000	Rs.210,000 plus 20 per cent of the gross amount exceeding Rs.2,000,000



TAX RATE ON INCOME FROM PROPERTY UNDER ITO, 2001

- For Tax Year 2018 & onwards, tax will be charged @ 30 % on every company on its income from Property.
- Every prescribed person making payment of gross rent to a filer company will withhold 15% tax.
- Every prescribed person making payment of gross rent to a non-filer company will withhold 17.5 % tax.



Thank You!

Any Questions?

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