



Advance PDP *Session 2*

8th February 2017

Khalid Mahmood, FCA

Contents

	Page
Filing of return	3
Audit / amended assessment proceedings	14
Record keeping	23
Communication with tax authorities	28





Filing of Return

Filing of return

Why filing of return is important

It provides legality to what we earn whether we are paying tax on it or not. Filing of return is significant in many ways:

- Concept of mandatory filing has been introduced for a person that falls under any of the prescribed categories even if it is below the minimum taxable limit.
- Any transaction can be legally entered into because the government is having records of the income and it is collecting tax on it.
- Payment of taxes helps every citizen to participate in the contribution towards national income and consequently in the appraisal of the national economy.
- Willful evasion of tax or intentional avoidance would lead to penal action including prosecution.
- If a person accrues losses in his business, he cannot carry it forward to set off against his income in the next year if he does not file his return for the relevant year.
- Taxpayer may not be able to claim refund, if any.
- After introduction of concepts of filer and non-filer taxpayers, return filing benefits in huge saving of excess deduction of tax from non-filers.

If a person has not filed return for any of the last five tax years then the Commissioner may require him to file the return for one or more of the last ten tax years.



Filing of return

Persons required to file income tax return

Every prescribed person has to file return whether:

- An individual – salaried or otherwise
- An AOP – firm / partnership
- A Company – Modaraba, co-operative society, finance society or any other society, trust, unit trust, a body of persons established or constituted by or under any law, NPO, body incorporated by or under the law of a country outside Pakistan relating to incorporation of companies, foreign association, Provincial Government, Local Government and a Small Company fall under the category of Company for income tax purposes.



Filing of return

Who is required to file the return

- An individual whose taxable income for tax year 2016 exceeds Rs. 400,000; however in case of business individual the limit is Rs. 300,000;
- Every Company;
- Any person who:
 - Has been charged to tax in any two preceding tax years;
 - Claims a loss carried forward for a tax year;
 - Owns immovable property with a land area of 250 sq. yards or more, or owns any flat located in areas falling within municipal limits existed before Local Governments laws were implemented or areas in a Cantonment or the Islamabad (A widow, an orphan below 25 years age, a disabled person or a non-resident person shall not be required to furnish a return solely by reason of this condition);
 - Owns immovable property with a land area of 500 sq. yards or more, or owns a flat with covered area of 2000 sq. feet or more in a rating area;
 - Owns a motor vehicle having engine capacity above 1000CC;
 - Has obtained NTN;



Filing of return

- Holder of commercial or industrial electricity connection and annual bill thereof exceeds Rs. 500,000;
- A resident person registered with any Chamber of Commerce and Industry; or any trade or business association; or any market committee; or any professional body including PEC, PMDC, PBC or any provincial Bar, ICAP or ICMAP;
- In specified cases, any person required by the Commissioner to furnish a return of income for a period of less than twelve months;
- In the opinion of the Commissioner, person is required to file a return for a tax year however he has failed to furnish the return may be required by the Commissioner through notice in writing to furnish the return for that year within thirty days from the date of service of such notice or such other period as may be allowed by the Commissioner.

*** If all income of a person is subject to final taxation then the person shall be required to furnish a statement of final taxation under section 115(4) of the Ordinance.
*In order to claim / avail any exemption under the Ordinance the person should also file the return of income.***

Filing of return

Method of filing the return

- The return is required to be furnished in the manner prescribed under Income Tax Rules, 2002 i.e. through form of return as prescribed by the FBR for that tax year.
- FBR prescribes form of return in the Rules every year.
- It is sensible that a working / computation of taxable income and tax liability be drawn before filling up the return form. This not only makes return filing easier but serves part of record that can be required by the Commissioner by notice.
- In the cases of Company and business individuals, results of financial statements are transformed into the return version and thereafter adjustments of admissible and inadmissible expenses in accordance with provisions of the Ordinance are made to arrive at total / taxable income and thereafter tax liability is worked out by applying relevant rate of tax and net tax payable / refundable is arrived at after deduction of applicable tax credits. **[Refer to the sample tax computation]**

Mode of filing the return

Electronic filing of return is now required at IRIS portal of the FBR. The taxpayer is to obtain NTN (an individual can use its CNIC).



Filing of return

Mandatory electronic filing is required in the following cases:

- In case salary income exceeds Rs. 500,000 or more
- Individual declaring taxable income above 1 million or turnover / receipts exceeding 50 million
- Persons (other than a company) claiming refund
- Persons registered for sales tax
- AOP
- Company
- Non-resident ship owner and aircraft owner or charterer thereof

Electronic return submitted without the consent of the person whose return has been so filed is an offence punishable on conviction with a fine or imprisonment not exceeding one year or both.

Persons other than the above can file manual return by downloading the form from FBR's website. Manual returns should be filed with the concerned Commissioner. Generally arrangements are made at the Regional Tax Offices to ensure the manual returns are filed in the correct jurisdiction.



Filing of return

Due dates

- Salaried individual / taxpayers required to file only statement of final taxation - by 31st August.
- Company having tax year ending between 1 Jan to 30 Jun - by 31 December.
- Company having tax year ending other than the above - on or before 30 September.
- In case of any other person (other than company) - on or before 30 September.

Extension of time

- The FBR is empowered under section 214A to extend the due date of filing of return as it may consider appropriate.
- A person can apply to the Commissioner by the due date given for the filing of return for extension of time for filing the return through application in writing.
- Commissioner may grant extension; if satisfied that the taxpayer is unable to furnish the return by the due date for the reason of (i) His absence from Pakistan; (ii) His sickness or other misadventure; or any other reasonable cause. Generally extension is granted for 15 days unless there exist exceptional

Extension granted by Commissioner does not extent due date for computation of default surcharge



Filing of return

Consequences for non-filing / late filing

- Penalty equal to 0.1% of tax payable (for that particular tax year) for each day of default subject to maximum penalty of 50% of tax payable and minimum Rs. 25,000 even in case no tax is payable
- Exposure of default surcharge @ 12% per annum in case there is tax payable.
- Failure to file return without reasonable excuse on the notice issued under section 114(3) of the Ordinance by the Commissioner will entail prosecution under section 191 for which the person can be punished with a fine or imprisonment for a term not exceeding one year or both.
- Provisional assessment in case of non-compliance to notice issued by the Commissioner for filing the return u/s 114(3) of the Ordinance, can be made by the Commissioner based on any available information / material and to the best of his judgment.
- Person will be considered as non-filer hence will be subject to higher rates of withholding tax.
- Automatic selection of case for audit u/s 214D in case of late filing of return.



Filing of return

Revision of return:

If any omission or wrong statement is discovered after filing of the return, the filer may revise the return provided if:

- It is accompanied with revised accounts;
- The reasons for revision of return are filed with the request for revision;
- It is accompanied with approval of the Commissioner for revision of return if revised after sixty days of its filing; and
- Taxable income declared is not less than and loss is not more than income or loss determined by an amended / rectified order.



Filing of return

A Complete Return

The return is taken as complete if:

- Return is filed on the prescribed form of return;
- All the relevant particulars are fully filled in as specified in the return form;
- Signed by the taxpayer or his representative u/s 172;
- Accompanied by evidence of payment of taxes being claimed in the return; and
- Accompanied by wealth statement, where applicable.

Any return not filed in accordance with the above requirement shall be treated as invalid and not filed at all and provisions of non-filing would be applicable.

It is therefore recommended that appropriate 'Return Review Checklists' should be used to ensure completeness.

[Refer to Return Review Checklist]





Audit / amended assessment nt proceedin

Audit / amended assessment proceedings

Why Audit

- The primary goal of a revenue authority is to manage and improve overall compliance with the tax laws, and in the process sustain confidence in the tax system and its administration.
- The actions of taxpayers, whether due to ignorance, carelessness, or deliberate evasion, or weaknesses in administration mean that instances of failure to comply with the law are inevitable.
- To the extent that such failure occur, governments, and in turn the communities they represent, are denied the tax revenues they need to provide services to citizens.
- Audit remains a fundamental and necessary approach to addressing non-compliance.

FBR Audit Policy – Mission statement

- Develop fair and effective tax administration
- Enforce compliance of tax laws
- Ensure efficient and high quality professional results
- Promote taxpayer facilitation and education



Audit / amended assessment proceedings

Impact of Audit

- Every complete return of income once filed is taken as deemed assessment order under self assessment scheme
- Self assessment scheme of new Ordinance is to repose trust and confidence on taxpayers encouraging them to file their return voluntary and declare actual / correct income
- Self assessment so accepted does not absolve the taxpayers from tax audits. Any deficiency if found then taxpayer is not absolved from an audit
- The audit was introduced to be used as a tool for deterrence for taxpayers i.e. setting an example for the taxpayers to deter from adopting illegitimate course (e.g. tax evasion, non-compliance to provisions of the Ordinance etc.)
- Unfortunately, audits being conducted as a revenue generating tool without considering the impact it may have on the taxpayers. Resultantly, according to FBR's own statement, the trend of voluntary compliance is towards decline
- Audit selection:
 - by FBR through computer balloting (parametric / random); and
 - by the Commissioner



Audit / amended assessment proceedings

PK Audit Policy 2016

– Aims and objectives

- Focus has been realigned from random to parametric selection of cases and from general to risk based approach.
- Minimize chances of selection of compliant taxpayers resulting in increased confidence in the system.
- To promote compliance with tax laws but to generate increased revenue
- To help in broaden the tax base and in focusing on high risk areas.

– Scope

- Covers tax year 2015 and provide selection of cases through computer balloting under Income Tax, Sales Tax and Federal Excise Duty laws
- Selection of 7.5% of total cases through computer ballot on parametric basis
- Commissioner Inland Revenue may also select cases for audit for any tax year u/s 177



Audit / amended assessment proceedings

FBR Audit Policy 2016

– Exclusions – Income Tax

- Cases already selected for audit u/s 177 by Commissioner for TY 2015;
- Cases already selected for audit u/s 177 by Director I&I (IR) for TY 2015;
- Cases already selected for audit u/s 214D by the Board for TY 2015.

Cases selected by Ballot held in FBR(HQ) on 5 January 2017



Audit / amended assessment proceedings

Amendment of assessment

Amendment of assessment is made under various sections but generally under:

- Section 122(5) – based on definite information from an audit; and
- Section 122(5A) – assessment order is erroneous in so far it is prejudicial to the interest of revenue



Audit / amended assessment proceedings

- Commissioner conveys selection of the case for audit whether by FBR u/s 214C or by himself u/s 177 (with reasons) and informs about the officer assigned jurisdiction
- Officer of Inland Revenue seeks various information commonly called Information Document Request [IDR].
- IDR generally comprises of:
 - Complete books of accounts, cash book, bank book, general ledgers etc.
 - Details of additions / deletions of fixed assets
 - Party wise details of items appearing on revenue side of P&L including other income
 - Details of expenses under each head appearing in P&L comprising party name, CNIC / NTN, amount, tax deducted or justification for tax not deducted along with copies of tax challans / exemption certificate etc. and reconciliations if any
 - Party-wise details of debtors / creditors with aging analysis
 - Payroll
 - Copies of all monthly and annual statements of withholding tax and a reconciliation of annual withholding tax with audited financial statements



Audit / amended assessment proceedings

How audit is conducted Cont'd

- Copies of tax challans
- Copies of invoices and vouchers with complete trailing
- Complete books of accounts comprising Trial Balance and ledgers
- Bank statements for the relevant period
- Officer of Inland Revenue shortlists focused areas of confrontation.
- Officer of Inland Revenue issues show-cause notice specifically matters of confrontation with reasons of his/her anticipated actions and seeking justification of taxpayer's position
- Replies to be filed based on legal as well as on facts/ merits of each issue. Recommended not to restrict response only on legality.
- Taxpayer to also ask for providing chance of personal hearing for explanation / clarification.
- Recommended to stay in constant contact during pendency of proceedings.



Audit / amended assessment proceedings

- Evaluating responses, Officer of Inland Revenue passes amended assessment order and if action taken adversely, by creating tax demand.
- The audit proceedings may be dropped if nothing unsatisfactory is found but this rarely happens.

With this the audit and consequent amended assessment proceedings culminate and further proceeding may start later, if required.

Beware of relevant penalties (Section 182 Serial number 8, 9, 10, 11, 12, 13) and about prosecution proceedings (section 191, 192, 192A, 195, 196)





Record keeping

Record keeping

‘Record’ a wide connotation – includes underlying information of transactions relevant to return

Record to be maintained for six years after end of relevant tax year (In case of pending proceedings till final decision without time limitation).

Conflict between corporate (ten years) & tax laws (above) to be addressed.

Rules 29 to 31 of the Income Tax Rules 2002 requires maintenance of variety of record. Some significant items include:

- Proper books of account, document and record “Income from Business” with respect to:
 - All sums of money received and expended by the taxpayer and the matters in respect of which the receipt and expenditure takes place;
 - All sales and purchases of goods and all services provided and obtained by the taxpayer;
 - All assets of the taxpayer;
 - All liabilities of the taxpayer; and
 - In case of a taxpayer engaged in assembly, production, processing, manufacturing, mining or like activities, all items of cost relating to the utilization of materials, labour and other inputs.

Record keeping

- For income from property:
 - Tenancy agreement;
 - Tenancy termination agreement;
 - Receipt for amount of rent received;
 - Evidence of deductions claimed in respect of premium paid to insure the building, local rate, tax, charge or cess, ground rent, profit/interest or share in rent on money borrowed, expenditure on collecting the rent, legal services and unpaid rent.
- For income from capital gains:
 - Evidence of cost of acquiring the capital asset;
 - Evidence of deduction for any other costs claimed; and
 - Evidence in respect of consideration received on disposal of the capital asset.
- Dividend warrants.
- Royalty agreement
- Others – as specified or that evidence particular transaction.

Record keeping

Besides records of transactions, documents / record of all tax / appellate proceedings form part of record to be maintained.

- Notices
- Replies to notices, supporting documents / annexures to the replies, if any
- Detailed workings / calculations / reconciliations, if any
- Orders passed on the proceedings
- Appeals filed (before the Commissioner Appeals, Appellate Tribunal, High Court, Supreme Court):
Grounds, written submissions (including case-laws), orders etc.
- Miscellaneous applications before authorities and orders

Beware of relevant penalties (Section 182 Serial number 2, 4, 7, 8, 9, 10) and about prosecution proceeding (section 193)



Record keeping

How to maintain tax record:

For smooth access following may be considered:

- Permanent file – maintaining record of permanent nature e.g. business background, incorporation documents, memorandum and articles of association (including other constitutive document), NTN, STRN, Certificate of commercial production etc. - To be kept updated.
- Return / Assessment – should contain record pertaining to return (including ancillary annexures) any assessment including compliance work (return, advance tax etc.) – All filings with the authorities to be kept in same manner. Every tax period / year to be maintained separately.
- Advisory / opinion – opinion given to client / sought from advisors.
- Back-up may preferably be kept on storage media.
- File notes may preferably be prepared for each proceedings mentioning events as and when happened including visits to tax / appellate authorities and placed in the relevant files

Safety of record not to be compromised.





Communication with tax authorities

Communication with tax authorities

Communication with tax authorities can be verbal or written, being sensitive generally conducted through Authorized Representative.

- This include meeting with tax authority for conducting personal hearing or a written letter in reply to any notice.
- Tax authorities are quasi judicial authorities - all communications to be conducted in a formal manner maintaining high standard of professionalism.
- Authorized representative to obtain Power of Attorney from client to represent / communicate with the authorities

Communication with tax authorities

Written communication

- Start with reference to the particular notice / letter or the issue
- Formal language is to be used
- Harsh language / any allegations, need to be avoided
- Relevant and to the point submissions be made (issues may be confronted on legal plains)
- Don't use jargons excessively
- A precedence to support your submission may be beneficial
- Enclosures / supporting documents to be serially numbered and referred in the letter
- Opportunity of personal hearing to be sought to explain the matter.
- Complicated sentences not to be used for avoiding any confusion.
- IRIS - Be able to make submissions (e.g. requests, replies, clarifications, applications, requests) using electronic communication via the tax authorities' electronic inbox.

Communication with tax authorities

Verbal communication

- Visit to the tax authorities with particular reference to the proceedings
- Send in your visiting card stating the case / matter
- Wait until the officer calls you in. Do not walk in his/her office without permission
- Visit during office hours and break timings be avoided
- Introduce yourself and state the purpose of visit
- Verbal language to be formal
- Avoid lengthy meetings



Communication with tax authorities

Hearing of appeals

- Ensure attendance on the date of hearing
- Written submissions / Paper books be prepared (including relevant documents and case laws):
 - Provide brief facts; and
 - Provide arguments as per grounds of appeal in sequential manner
- Hear and respond appropriately to the queries during hearing
- Decorum be maintained
- Conduct proceedings in professional manner
- Dress code be formal



Thank You



kpmg.com/socialmedia



kpmg.com/app

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2017 KPMG Taseer Hadi & Co., a Partnership firm registered in Pakistan and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.