

BUDGET PROPOSALS
BY Karachi Tax Bar Association

Section 177
AUDIT

Under this provision of law, the Commissioner has been empowered to select any person for an audit of the person's income affairs having regard to;

- the person's history of compliance or non-compliance with the Ordinance.
- the amount of tax payable the person
- the class of business conducted by the person, and
- any other matter which the Commissioner considers relevant.

It is, in this regard, stated that the parameters if any, framed by the CBR should be framed under Section 237 after having open discussion with the persons to be affected and with the professional bodies, trade organizations etc. The parameters for the selection of an audit on a case are very necessary. We have been informed that an audit parameters under the Sales Tax Act, 190 were framed after deliberation with such bodies referred above.

Proposal

It is, therefore, recommended that parameters through framing the rules, be framed and while framing the said rules, in our considered opinion, emphasize should be on the tangible material of concealment of income.

Section 183

Penalty For Non Payment of Tax.

Penalty for non payment of tax (other than penalty) has been imposed on the failure of payment any tax due by the due date. Person is liable for penalty at various rates of penalties ranging for 5% to 100% of such tax due. No time frame is provided for imposition of penalties between each default.

Proposal

It is therefore proposed that a proviso be added to provide the said time frame.

“Proviso

Provided that no penalty shall be imposed in case of subsequent failure unless the time between passing of each order is not less than 15 days”.

Section 205

ADDITIONAL TAX .

Rate of Additional tax was gradually reduced from 24% to 18% in the Repealed Ordinance, probably after considering the reduction in mark-up/interest rates. The rates have further reduced substantially.

Proposal

It is, therefore, proposed that looking to the reduction of markup and interest rates, the rate of additional tax may be suitably reduced..

Section 206A

Advance Ruling

Advance Ruling provision is very good development and will have positive and far reaching effect in investment environment of the country. Recently framed rules have also been appreciated. However, the provision of section is restricted to non-resident only.

Proposal

It is our considered opinion that its scope can now be widened and extended to other tax payers like tax payers resident companies having foreign share holders holding majority share, other Public Companies, Public Limited Banking and Insurance Companies.

Section 210 AND 211

DELEGATION AND POWER OR FUNCTION EXERCISED.

Since, under section 210 Commissioner has been empowered to delegate to any Taxation Officer all or any of the powers or functions conferred upon or assigned to the Commissioner. However, no check and balance has been put to see the performance of Taxation Officer.

Proposal

Therefore, it is proposed that where all or any functions relating to assessment or amendment of assessment is delegated, it should be subjected to prior approval of the Commissioner. Therefore, following proviso be added:

“Provided that if any delegation is in respect of action under Section 122, the taxation officer shall not pass an assessment order without prior approval of the Commissioner”.

SECOND SCHEDULE (PART I)

CLAUSE 110

Under Clause 110 exemption from Capital Gain has been provided. In this clause

wrong reference has been made to the definition of Public Company. The correct reference is Clause (47) of Section 2, where Public Company has been defined.

Proposal

Therefore, necessary amendment is proposed to correct the wrong reference.

Secondly the cut off date for exemption has been provided as " in respect of any tax year 2005". It is our understanding that the proper words should be " in respect of any tax year up to 2005". This also needs correction.

Thirdly, looking to the improved market conditions and to give impetus to the growth, the exemption from Capital Gains be extended till tax year 2010 as similar proposal has been made by Karachi Stock Exchange,

SECOND SCHEDULE (PART II)

RATE OF TAX FOR SALARIED INDIVIDUALS. MARGINAL RELIEF

The basis for valuation of perquisites, allowances and benefits differ widely where salary is Rs. 600,000 or more as compared to a salary of less than Rs. 600,000 and this leads to a disproportionate increase in tax liability if the salary marginally increases over the threshold of Rs. 599,999. However there is no provision for marginal tax relief in such cases and this should be provided.

Proposal

It is, therefore, proposed that following amendments be made.

In Part III Reduction in tax liability, the following be inserted as Clause (!B).

"(1B) The income tax payable under the head salary of an employee where the value of perquisite is determined under rule 9 of the Income Tax Rules, 2002, shall not exceed an amount equal to:

(i) income tax which would have been payable if the total salary income including the value of perquisites determined under rules 4 to 8 is Rs. 599,999; plus.

(ii) a sum equal to 50% of the amount by which the Salary Income including the value of perquisites as determined under Rule 4 to 8 exceeds Rs.599,999"

FOURTH SCHEDULE RULES FOR COMPUTATION OF THE PROFIT AND GAINS OF INSURANCE BUSINESS

Exemption to income from capital gains on sale of modaraba certificates or any instruments of redeemable capital listed on a stock exchange or shares of a public company and the Pakistan Telecommunication Corporation vouchers issued by the Government of Pakistan are exempt from tax up to the tax year 2004 under clause

110 of Part 1 of the Second Schedule. However this exemption does not appear in the Fourth Schedule in the Rules for the computation of the profits and gains of Insurance Business.

Proposal

It is therefore, proposed that new Rule may be inserted in the Fourth Schedule to exempt capital gains on sale of shares of listed companies etc. similar to the clause 110 of Part I of the Second Schedule.