

Government of Pakistan
Revenue Division
Federal Board of Revenue

Islamabad, the 24th January, 2019.

NOTIFICATION
(Income Tax)

S.R.O. 69(I)/2019.- In exercise of the powers conferred by sub-section (1) of section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001), the Federal Board of Revenue is pleased to direct that the following further amendments shall be made in the Income Tax Rules, 2002, the same having been previously published *vide* Notification No. S.R.O. 1352(I)/2018, dated the 6th November, 2018, as required by sub-section (3) of the said section, namely:—

In the aforesaid Rules, for rule 231C, the following shall be substituted, namely:—

“231C. Alternative dispute resolution.— (1) This rule shall apply to all cases of disputes brought or specified for resolution under section 134A.

(2) In this rule, unless there is anything repugnant in the subject or context,-

- (a) "applicant" means an aggrieved person or a class or persons who has brought a dispute for resolution under section 134A;
- (b) "Committee" means a Committee constituted under sub-section (2) of section 134A; and
- (c) "dispute" means any grievance of the applicant pertaining to—

- (i) the liability of tax against the aggrieved person, or admissibility of refunds, as the case may be;
- (ii) the extent of waiver of default surcharge and penalty; or
- (iii) any other specific relief required to resolve the grievance as specified in sub-section (1) of section 134A.

(3) Any person or class of persons interested for resolution of any dispute under section 134A shall submit a written application for alternative dispute resolution to the Board in the form as set out in Part I of the Schedule to this rule.

(4) The Board, after examination of the contents of an application by a taxpayer and facts stated therein and on satisfaction that the application may be referred to a Committee for the resolution of the hardship or dispute, shall appoint and notify a Committee, within a period of sixty days from the receipt of application specified under sub-rule (3), consisting of the following members, namely:-

- (a) an officer of Inland Revenue not below the rank of Commissioner to be nominated by the Board;
- (b) a person nominated by the applicant in the form mentioned in sub-rule (3) from a panel notified by the Board, comprising—
 - (i) senior chartered accountants and senior advocates having experience in the field of taxation; and

(ii) reputable businessmen as nominated by Chambers of Commerce and Industry; and

(c) a retired judge not below the rank of District and Sessions Judge, to be nominated under sub-rule (5).

(5) The members of the Committee appointed under clauses (a) and (b) of sub-rule (4) shall decide through consensus the third member for nomination under clause (c) of sub-rule (4) from a list notified by the Board, whereafter, the appointment of the three-member Committee shall be notified by the Board.

(6) The Board shall notify a panel of a retired judge not below the rank of District and Sessions Judge, senior chartered accountants, senior advocates and reputable businessmen in accordance with eligibility criteria specified in Part II of the Schedule to this rule.

(7) The retired judge appointed under clause (c) of sub-rule (4) shall be the Chairperson of the Committee.

(8) After notification of the Committee under sub-rule (5), the applicant or the Commissioner or both, as the case may be, shall withdraw any appeal relating to the dispute pending before any court of law or an appellate authority in the form as set out in Part III of the Schedule to this rule.

(9) The Committee appointed and notified under sub-rule (4) shall commence proceedings after receipt of order of withdrawal of appeal from the Board.

(10) The Chairperson of the Committee shall be responsible for deciding the procedure to be followed by the Committee which may, *inter-alia*, include the following, namely:-

- (a) to decide about the place of sitting of the Committee, in consultation with the Chief Commissioner having jurisdiction over the applicant;
- (b) to specify date and time for conducting proceedings by the Committee;
- (c) to supervise the proceedings of the Committee;
- (d) to issue notices by courier or registered post or electronic mail to the applicant;
- (e) to requisition and produce relevant records or witnesses from the Commissioner or other concerned quarters;
- (f) to ensure attendance of the applicant for hearing either in person or through an advocate, representative or a tax consultant;
- (g) to consolidate decision of the Committee and communicate it to the Board, the Commissioner and the applicant; and
- (h) for any other matter covered under these rules.

(11) The Committee may conduct inquiry, seek expert opinion, direct any officer of Inland Revenue or any other person to conduct an audit and make recommendations to the Committee in respect of dispute or hardship.

(12) The Committee may determine the issue and may thereafter seek further information or data or expert opinion or make or cause to be made such inquiries or audit as it may deem fit, to decide the matter specified in sub-section (1) of section 134A.

(13) Decision of its majority members shall be construed decision of the Committee and the Committee shall decide the dispute within one

hundred and twenty days from the date of receipt of order of withdrawal from the Board mentioned in sub-rule (9) and communicate the same to the Board, the Commissioner and the applicant.

(14) The decision of the Committee under sub-rule (13) shall be binding on the Commissioner and the aggrieved person.

(15) On receipt of the Committee's decision, the applicant shall make payment of income tax and other taxes as specified by the Committee in its decision and the Commissioner shall modify order as per decision of the Committee.

(16) The Chairman of the Committee appointed under sub-rule (7) shall be paid a lump sum one-time remuneration of seventy five thousand rupees or four percent of the disputed tax demand, whichever is less.

(17) The member of the Committee appointed under clause (b) of the sub-rule (4) shall be paid a lump sum one-time remuneration of fifty thousand rupees or three percent of the disputed tax demand, whichever is less.

(18) The remuneration specified in sub-rules (16) and (17) shall be paid by the Board from its budget allocation within fifteen days of the receipt of the order under sub-rule (13).

THE SCHEDULE

Part I

[see sub-rule (3)]

Application for Alternative Dispute Resolution under section 134A of the Income Tax Ordinance, 2001

To,
The Chairman,
Federal Board of Revenue,
Islamabad

Dear Sir,

The undersigned being _____ (name and address of the applicant) duly authorized hereby apply for hardship and dispute resolution under section 134A of the Income Tax Ordinance, 2001(XLIX of 2001).

2. Necessary details of the dispute or hardship are set out below and in the Annexure to this application.

3. A request is made to constitute a Committee as provided under sub-rule (4) of rule 231C of Income Tax Rules, 2002.

4. As provided in clause (ii) of sub-section (2) of section 134A read with clause (b) of sub-rule (4) of rule 231C, I hereby nominate Mr/Ms_____ (name and address of the senior chartered accountant or senior advocate or reputable businessman from a panel notified by the Board).

5. The following documents as are necessary for the resolution of the dispute or hardship are enclosed.

- (a) _____
- (b) _____
- (c) _____

Yours faithfully,
Signature

Name (in block letters)

NTN

Address

Date

Annexure

[see paragraph 2 of the Schedule]

- (1) Name of the applicant (in block letters) _____
- (2) National tax number _____
- (3) CNIC (for individuals) _____
- (4) Address of the applicant _____
- (5) Telephone Number _____ e-mail address _____
Fax Number _____
- (6) Tax year to which the dispute or hardship relates _____
- (7) The Commissioner with whom a dispute has arisen _____
- (8) The following is the statement of the relevant facts and law with respect to dispute or hardship having bearing on the questions on which the resolution is required (Please annex extra sheet, if required):-

- (9) Statement containing the applicant's interpretation of law or facts, as the case may be, in respect of questions on which resolution is required (Please annex extra sheet, if required) is as follows:-

- (10) The extent or the amount of tax which the applicant agrees to pay, if any.
Rs. _____
- (11) The undersigned, solemnly declares that-
 - (a) full and true particulars of the dispute or hardship for the purposes of resolution have been disclosed and no material aspect affecting the determination of the application filed under the Income Tax Ordinance, 2001 (XLIX of 2001), in this behalf has been withheld;

- (b) the above issues are pending adjudication before (name of the appellate forum, ATIR or Court)/ not pending before any forum, ATIR, High Court or Supreme Court of Pakistan.

Yours faithfully,
Signature

Name (in block letters)

Designation

Date

Part II

[see sub-rule (6)]

Following shall be the eligibility criteria for a retired judge not below the rank of a District and Session judge, Chartered Accountant, Advocate and reputable businessman.—

- (i) The retired Judge not below the rank of District Session Judge shall have at least fifteen years experience of tax practice or tax adjudication, and shall not be more than sixty five years old.
- (ii) The Chartered Accountant shall be a member of Institute of Chartered Accountants of Pakistan and shall have minimum ten years experience of practice as a chartered accountant with at least five years of tax related practice and shall have in depth understanding of complex tax issues. He shall not be more than sixty five years old.
- (iii) The advocate shall hold degree in LL.B from a recognized Institute having in depth understanding of complex tax issues and shall have at least two reported tax cases or three other reported cases or five unreported cases of appellate tribunal inland revenue or higher courts. He shall have a minimum ten years experience including at least five

years tax related practice and shall not be more than sixty five years old.

- (iv) A reputable businessman shall have a Master Degree from Higher Education Commission recognized University or Foreign University with in depth understanding of complex tax issues and shall be a proprietor or director or partner of a business concern having a turnover of over one hundred million rupees in each of the past three years. He shall not be more than sixty five years old.

Part III

[see sub-rule (8)]

**Before The [mention the respective appellate authority]
ITA No. / ITRA No / CA No. [mention whichever is applicable]**

Name of the Appellant / Respondent [mention whichever is applicable]

Address

Versus

Name of the Appellant / Respondent [mention whichever is applicable]

Address

Subject: APPLICATION FOR WITHDRAWAL OF APPEAL UNDER SUB-SECTION (3) OF SECTION 134A OF THE INCOME TAX ORDINANCE, 2001

Respectfully submitted,

1. That the appellant's appeal or reference application or civil appeal [mention whichever is applicable] in ITA No. / ITRA No / CA No [mention whichever is applicable] is pending.
2. That the appellant has filed an application to the Federal Board of Revenue for constitution of Alternative Dispute Resolution Committee under section 134A of the Income Tax Ordinance, 2001 read with rule

231C of the Income Tax Rules, 2002 and on appellant's application, the Federal Board of Revenue has constituted a Committee for resolution of the appellant's dispute.

3. That under the provision of sub-section (3) of section 134A of the said Ordinance read with sub-rule (8) of rule 231C of Income Tax Rules, 2002 the appellant withdraws the aforesaid appeal or reference application or civil appeal as ITA No. / ITRA No. / CA No. [mention whichever is applicable].
4. Therefore it is prayed that the aforesaid appeal or reference application or civil appeal may be disposed of as withdrawn and an original certified order of withdrawal under sub-section (4) of section 134A of the aforesaid Ordinance may kindly be communicated to the Member (Inland Revenue Operations), Federal Board of Revenue without prejudice to reinstatement of appellant's aforesaid appeal or reference application or civil appeal under sub-section (8) of section 134A of the aforesaid Ordinance if the respondent doesn't withdraw appeal, if any, or the Committee constituted under section 134A fails to make a decision within the stipulated time.

Applicant

Signature

Name

Complete Address

[F.No.1(85) R&S /2018]



(Ajaz Hussain)
Secretary (Rules & SROs)