

Government of Pakistan
Revenue Division
Federal Board of Revenue

Islamabad, the 6th November, 2020.

NOTIFICATION
(Income Tax)

S.R.O. 1183 (I)/2020.— The following draft of certain further amendments in the Income Tax Rules, 2002, which the Federal Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 237 read with sub-section (12) of section 134A of the Income Tax Ordinance, 2001 (XLIX of 2001), is hereby published for the information of all persons likely to be affected thereby and, as required by sub-section (3) of the section 237, notice is hereby given that objections or suggestions thereon, if any, may for consideration of the Federal Board of Revenue be sent within seven days of publication of the draft in the official Gazette. Any objections or suggestions which may be received from any person in respect of the said draft, before the expiry of the aforesaid period, shall be considered by the Federal Board of Revenue, namely:—

DRAFT AMENDMENTS

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 of persons in case identical issues are involved who has brought a dispute for resolution under section 134A; and
- (b) "Committee" means a Committee constituted under sub-section (2) 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) Chief Commissioner Inland Revenue having jurisdiction over the case; and
- (b) two persons from a panel notified by the Board comprising of chartered accountants, cost and management accountants, advocates, having minimum of ten years' experience in the field of taxation and reputable businessmen.

(5) The Chief Commissioner Inland Revenue having jurisdiction over the case shall be Chairperson of the Committee.

(6) The Board shall notify a panel comprising of chartered accountants, cost and management accountants, advocates, having minimum of ten years' experience in the field of taxation and reputable businessmen, in accordance with eligibility criteria specified in Part II of the Schedule to this rule.

(7) The Committee shall decide the dispute through consensus within one hundred and twenty days from the date of its constitution by the Board.

(8) The decision of the Committee under sub-rule (7) shall be binding on the Commissioner when the applicant; being satisfied with the decision, has withdrawn the appeal pending before the court of law or any appellate authority in the form as set out in

Part III of the Schedule to this rule and has communicated the order of withdrawal to the Commissioner:

Provided that if the order of withdrawal is not communicated to the Commissioner within sixty days of the service of decision of the Committee upon the applicant, the decision of the Committee shall not be binding on the Commissioner.

(9) 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;
- (b) to specify date and time for conducting proceedings by the Committee;
- (c) to conduct the proceedings of the Committee as he things appropriate;
- (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 recommendations of the Committee and submission of a conclusive report to the Board; and
- (h) for any other matter covered under these rules.

(10) 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.

(11) 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.

(12) If the Committee fails to decide within the period of one hundred and twenty days under sub-rule (7), the Board shall dissolve the Committee by an order in writing and the matter shall be decided by the court of law or the appellate authority where the dispute is pending.

(13) On receipt of the Committee's decision the applicant may make the payment of income tax and other taxes as decided by the Committee under sub-rule (7) and all decisions and orders made or passed shall stand modified to the extent.

(14) A member of the Committee appointed under clause (b) of the sub-rule (4) shall on decision of the application by the Committee of which he is a Member, be paid a lump sum one time remuneration of one hundred thousand rupees for his services.

(15) The remuneration specified in sub-rule (14) shall be paid by the Board from its budget allocation within fifteen days of the receipt of the decision of the Committee 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. 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 Chartered Accountant, Cost and Management Accountant, Advocate and reputable businessman.—

- (i) 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.
- (ii) The Cost and Management Accountant shall be a member of Institute of Cost and Management Accountants of Pakistan and shall have minimum ten years experience of practice as a Cost and Management Accountant with at least five years of tax related practice and shall have in depth undertaking 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 (6) 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 (6) 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 without prejudice to reinstatement of appellant's aforesaid appeal or reference application or civil appeal if the committee constituted under section 134A fails to make a decision within the stipulated time.

Applicant

Signature

Name

Complete Address''.

[F.No.1(75)R&S/2020]



(Tariq Iqbal)
Secretary (Rules & SROs)