

Ref : KTBA/10.2022/162

Date : October 27, 2022

Mr. Asim Ahmad,
Hon'ble Chairman,
Federal Board of Revenue,
Islamabad.

**Challenges in filling 7E Details and Unresolved Issues in IRIS
Income Tax Return / Wealth Statement; TY 2022
Due on 31st October 2022**

Dear Asim Sahab,

This is in continuation of our earlier letters numbered KTBA/09.2022/137 dated September 06, 2022 and KTBA/09/2022/148 dated September 23, 2022 on the subject in which we highlighted numerous errors and mistakes in the return forms uploaded on IRIS both technical, related to Information Technology (IT), and legal, owing to which the tax filers were deterred and unable to file their returns.

2- Through this letter, KTBA would like to place on record its due acknowledgement, at the outset, that the following issues raised by it, in its earlier letters have been given the desired attention and have duly been resolved by the FBR team:

ISSUES RESOLVED:

- a. Final Taxation of Profit on Debt/Interest Income on Government Securities has been made subject to FTR on IRIS @ 15% as is envisaged under clause 20 of Part III of Second Schedule of the Income Tax Ordinance, 2001 (the Ordinance) for the Tax Year 2022.
- b. IRIS has been enabled to import the details from Wealth Statements, which were revised last year under Section 116(3) of the Ordinance.
- c. Option list in drop downs for country and currency under Code "7006" having description "Investment (Non-Business) (Account / Annuity / Bond / Certificate / Debenture / Deposit / Fund / Instrument / Policy / Share / Stock / Unit, etc.)" has been made available for filing the Foreign Income & Assets Statement under section 116A(1) of the Ordinance.
- d. Disclosure of opening wealth in "Reconciliation of Net Assets" based on Value of net assets under code '703002' has been disabled after the taxpayers select his residency status as "non-resident" for Tax Year 2022, which was not disabled earlier.
- e. Column of Tax Credit under Section 64D for POS Machines (Code 9332), tax credit under Section 65F (code 931901 and tax credit under Section 103 (code 9320), which were inadvertently available in the Tax returns of Salaried Individuals, have been disabled.
- f. The reduced rate of withholding of income tax on Contract Receipts under section 153 from 7.5% to 7% for Tax Year 2022 has now been made available on IRIS.
- g. Erroneous Tax Calculation on Gain of Immovable Property on IRIS portal in violation of section 37(1A) of the Ordinance has been taken care of.
- h. Incorrect Tax Calculation on Profit on Debt from Behbood Certificates/ Pensioner's Benefit Account/ Shuhada Family Welfare Account in violation of clause (6) of Part-III, 2nd Schedule of the Income Tax Ordinance, 2001 has been taken care of and capped at 10 percent of such Profit/ Yield.



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ISSUES UNRESOLVED:

3- At the same time it is, however, noted with concern that other issues, which demanded not less than equal attention have not been considered as yet whilst the last date is drawn closer. These are enlisted hereunder:

3.1- INACTIVE COLUMN FOR REFUND ADJUSTMENT:

3.1.1- The very first issue, which has remained unaddressed despite our consecutive correspondences with your office in the last two months with regard to the disapproval of adjustment of bona fide tax refunds to taxpayers. The Taxpayers and the legal fraternity are very much perturbed with the inactive in the System.

3.1.2- The issue must be given its due cognizance and the FBR needs to understand that not paying refunds to the taxpayer is essentially the same as not paying the taxes to the FBR. The solitary distinction, however, available to the FBR in such a case is that it has all the possible powers to recover what is due to it, while on the other hand the taxpayer is left completely hapless and helpless if the FBR chooses not to payback its refunds. This is highly preposterous and unprecedented in any civilized society or in any of the developed tax regimes in the world.

3.1.3- This has understandably bred only discontentment and resentment amongst the taxpayers towards the sole regulator of federal taxes in the country, which can unimaginably afford to act entirely indifferently to the plight of its own taxpayers and chose not to even respond to the letters and applications, let alone the payment of refunds. The unfortunate mindset is beset with this grim situation in cases of all the millions of taxpayers that they cannot get their money back.

3.1.4- It is therefore emphasized once again, to please pay heed to the issue as any failure to do so and failure to bring the desired and necessary changes in IRIS will drag the issue closer to snatching of a fundamental right from the taxpayer.

3.1.5- The draft Return Forms which were issued through SRO 820(I)/2022, dated 21st June 2022 in pursuance of section 237(3) of Ordinance did contain the row bearing code 92101 for "refund adjustment of other year(s) against demand of the current year". The same was also available in the final version of the Tax Return, which was introduced through SRO 978(I)/2022 dated 30th June 2022, whereby, part-II-V was added in the Second Schedule, after Part II in the Income Tax Rules, 2002, which when uploaded electronically on IRIS didn't carry the said column for adjustment. It is obviously an afterthought and the situation is the same that the Tab is now there but is not catering the refund adjustment.

3.2- INCOME ATTRIBUTION WITH RESPECT TO MINIMUM TAXATION U/S. 153

3.2.1- The second issue, which is completely unattended is the behavior of the IRIS web portal that is presently computing and attributing income associated to provisions of Section 153 on certain predefined and programmed formula, which results in unwarranted higher taxation on the same income of the same taxpayer.

3.2.2- It was vehemently suggested that taxpayers should be allowed to compute and attribute their incomes based on facts of their cases instead of prefixed tabs of the System. Relevant fields for entering the figures should be kept unmanned and opened for taxpayers.

3.3- INITIAL DEPRECIATION ALLOWANCE ON PLANT & MACHINERY U/S. 23

3.3.1- The third issue which needs to be corrected in IRIS is the issue of incorrect calculation of Initial depreciation allowance @ 25%. Initial depreciation allowance is allowed on purchase of Plant and Machinery @ 25% under the provisions contained under Section 23 (read with Part II of the Third Schedule). The IRIS on web portal is presently not catering this scenario in line with law resulting in an incorrect computation of tax depreciation.

3.3.2- Further to the above, where brought forward Written Down Value and addition (new) simultaneously exist, the working of the current year depreciation get corrupted as well.

3.4- ERRONEOUS CALCULATION OF WRITTEN DOWN VALUE

The fourth issue is related to the erroneous calculation of Written Down Value of Assets, which is still unresolved. A "proviso" was inserted under section 22(2) of the Ordinance by the Finance Act, 2020 whereby depreciation on additions to fixed assets made after 01-Jul-2020 would be reduced by 50%. However, when entries related to written down values are entered in depreciation schedule as opening values, the IRIS is calculating depreciation at 50% on total values.

3.5- ADJUSTMENT OF BROUGHT FORWARD CAPITAL LOSSES NOT AVAILABLE

The fifth issue pending for resolution is availability of the Column for adjustment of brought forward capital losses on listed securities under the head of capital gains in Income tax return form due to which tax on capital gain cannot be calculated correctly under Section 37A of the Ordinance.

3.6- RETURN FOR SMEs FINALISED WITHOUT DRAFT RETURNS

The sixth issue is related to SME Sector. A simplified scheme for manufacturing SMEs with turnover up to 250 million was introduced by adding Section 100E read with Fourteenth Schedule through Finance Act, 2021. It is however, in patent disregard of Section 237 that no draft return for this purpose has ever been notified as required under sub-section (2) of section 100E of the Ordinance. This can potentially lead to illegality. It is, therefore, advisable to do away with this legal lacuna and issue draft forms first to meet with the requirement of law.

3.7- VALUE OF PROPERTIES for CALCULATION of DEEMED INCOME U/S. 7E

3.7.1- The seventh and the last issue, which has remained unaddressed in the catena of issues highlighted by the KTBA is the issue of property values for the purpose of Section 7E of the Ordinance i.e. Deemed Income on Capital Assets.

3.7.2- It is recalled that we stressed the need for incorporating the values given under the forty-two (42) notification (SROs) issued by the FBR in the month of March 2022 for property valuations under Section 68 of the Ordinance in the IRIS. It was recommended that those valuation tables were to be incorporated in the back end working of the income tax return in the IRIS after which the calculation of tax under Section 7E could be calculated automatically by the system, based on the description of property incorporated by the taxpayer in its wealth statement.

3.7.3- It is re iterated that had this been done, it would ensure swift and correct computation of 20% tax on 5% value under Section 7E of the Ordinance and would avoid any standard deviation therefrom.



4- A NEW 7E ANNEXURE:

4.1- We would now like to invite your kind attention towards a “new set of requirement” which has been ventured in the IRIS and what now has become a bigger concern in context of Section 7E i.e, the new 7E Annexure. This annexure has lately been introduced in IRIS on 13th October 2022. We at the KTBA hold a considered view that it is unnecessarily a detailed format for a taxpayer or his advisor to fill and that too in these last days of tax returns filing.

4.2- Uncalled for Details:

The new annexure contains all the possible and imaginable categories of properties one could have. A basic list is being reproduced hereunder:

- i. Agricultural Property
- ii. Commercial Property
- iii. Industrial Property
- iv. Residential Property
- v. Educational Property
- vi. Health Property
- vii. Natural Property
- viii. Public Property
- ix. Religious Property
- x. Mixed Use Property

Your office would appreciate that apart from the first four (04) categories, the rest of the six (06) are not only unheard of in the domestic culture or tax laws of the country but these are not even owned by an individual in the first place. What is worrisome is that there are duplications and triplications to be filled in for the same property, which will surely give rise to issuance of uncalled for show cause notices by the department. The rational, therefore, needs to be thrashed out.

4.3- Fields for Property Details:

The Annexure incorporated vide SRO 1892 of 2022 dated 13th October 2022, with its fine details may have either been designed bespoke or borrowed from external source but only suitable to be made applicable where there is plenty of days and manhours left with to work on the same, not only fifteen (15) days and that too where these details do not add any value to the information.

The details of properties which have been required to be filled in, are details consisting of the following, which, your office would acknowledge, are completely irrelevant for purpose of valuation of property under Section 68 of the Ordinance.

- i. Town Area of property
- ii. Tehsil of Property
- iii. Age of property

These are superfluous fields which have been required to be filled without any impact but have been made mandatory fields as without filling which one cannot move forward in IRIS and cannot proceed to file return. This is a serious deterrence.

Needless to mention that the size of the property and size of the built up or covered area with the name of City and location in the city are the only necessary data for valuation of property under the Ordinance as that is what is precisely needed not the town and tehsil, which is other as well is a cumbersome detail to be extracted.

4.4- Details for Exempt Properties:

It also merits a mention that above cumbersome details have been required to be punched in even in cases where there would not arise any liability on account of Section 7E or where the properties of the taxpayer are exempted from the purview of the provision. We understand that submission of details of the following exempted properties should also be exempted, which will actually be a facilitation in filing of return at least for those who do not have to pay this 1% tax;

1. Single self-owned property
2. Self-owned business properties
3. Self-owned agriculture land under cultivation
4. Fair market value of property less than Rupees 25 Million
5. Rented Properties
6. Properties purchased during the year with tax deposited CPR under Section 236K.

4.5- Valuations of Properties and Position of Valuation SROs

As for the valuation tables and the valuation SROs, it is critical for us to apprise your office that picking up the value from the SROs is not as easy as has recently been spelt out by the FBR. There are altogether forty-two (42) notifications (SROs) for the purpose, which were issued in the month of March 2022.

Out of these forty-two (42) SROs, twenty-eight (28) have been amended to date. Upon finding the applicable SRO for any city the portal provides you with the latest one. One consequently would need to search and recheck for the older SRO once again on the website. This is certainly time taking and painstaking exercise.

Secondly if a certain SRO has been amended, there is no amended SRO available in the cache, consequent to which the propensity to commit an error by taking the valuation from the older SRO gets certain.

In order to avoid such an impending consequence, the FBR should provide the final amended SRO of valuation failing to which the taxpayer will have to keep switching from older SRO to amended SRO or will commit the suspected error. This goes without saying as how much time consuming this exercise can become besides being tedious and painstaking.

4.6- Size of Notifications

It should not loose the sight of the regulator that apart from the amended Notifications, there are few SROs, which are unusually lengthy and detailed. This makes the job of the taxpayers even more arduous

to keep sifting the pages to find for the precise location of his property therein. It would be worthwhile to enlist hereunder few of these:

- i. Bahawalnagar is of 191 pages
- ii. Bahawalpur is of 51 pages
- iii. Multan is of 4,593 pages
- iv. Faisalabad is of 4,712 pages
- v. DG Khan is of 4,722 pages
- vi. Quetta is of 28 pages
- vii. Lahore is of 31 pages

The above have been quoted for giving few instances as to the ordeal your taxpayer will have to go through for filing your requirements, which is by any stretch of rational thinking is unwarranted.

4.7- Timing of Introduction of 7E Annexure:

And all of this has fallen due merely in the last fifteen days of October. Your office would appreciate that the timing of introduction of the 7E Annexure requires reconsideration. The Tax Return and their other Annexure were though introduced withing the legal time frame on June 30, however, the 7E Annexure was introduced on September 3rd, 2022, vide SRO 1829 of 2022 in draft form and finalized and uploaded on IRIS just after 10 days on Sep 13th, 2022 vide SRO 1891 of 2022. **This is not less than three and a Half (3.5) months late.**

4.8- REQUEST FOR A TUTORIAL AND DEMO PRESENTATION

Based on the forgoing it would be appropriate for us at the Bar to place genuine request in your office to kindly direct either the field formation or the relevant IT team to prepare at least a tutorial or to say a Demo Presentation for the basic level assistance of the taxpayers. The same can be placed on the website.

5- WAY FORWARD

It seems even more appropriate for the purpose of better appreciation of all issues in true spirit and to develop a harmonized approach to suggest that a joint meeting (physical or online) between the representatives of KTBA and FBR's Policy, Legal, IT/PRAL Divisions should be fixed. We, at KTBA, will be glad to assist the FBR's technical team and join hand for the earliest resolution of the issues.

6- LAST WORD

6.1- We at the KTBA understands that nor the Taxpayer neither the tax Consultants will be able to complete this task within the given time. It is a trite law that **whenever there is an SRO issued and finalized, due course of time should be available as per law and if there is made any further amendment, a new SRO has to be issued by giving the taxpayer a reasonable time as stipulated under the law.**

6.2- Hence, therefore, we are of the opinion that when the Tax Return is still not yet finalized and number of corrections are still pending and the changes are taking place Off and On, reasonable time should be provided to Taxpayers to facilitate them to file their Returns. It is reiterated that legal time for filing should be allowed as per the statute. The obligations have been placed by law through Rule 34A of the Income Tax Rules, 2002 as notified vide SRO1185(1)2020 whereby certain timelines in notifying



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the income tax return forms have been laid down. As per sub-rule (2) to (4) of Rule 34A the draft of income tax return has to be notified for suggestions on or before December 01 of the financial year following the financial year to which the return relates by observing following timelines and procedure prescribed therein. Vide clause (e) of sub-rule (4) of Rule 34A it is clearly provided that income tax return shall be made available on portal IRIS by January 31 of the financial year following the financial year to which the return relates.

Your urgent attention is solicited and redressal is requested for the facilitation of the Taxpayers of the Country who are contributing a huge amount into the Government Exchequer as their Moral and legal responsibilities.

Yours sincerely,


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C.C to :

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- iii. **Mr. Afaq Ahmad Qureshi, Member (Inland Revenue - Policy), FBR, Islamabad.**
- iv. **Mr. Abdul Majid Yousfani, Member (Information Technology), FBR, Islamabad.**
- v. **The Secretary (ST & FE-Policy), FBR, Islamabad**
- vi. **Mr. Mehboob-ur-Rehman, Manager Development, Pakistan Revenue Automation Limited, Islamabad**
- vii. **Mr. Rana Munir Hussain, President, Pakistan Tax Bar Association.**
- viii. **Press and Media**