

KTBA PROFESSIONAL DEVELOPMENT PROGRAM 2016 (PDP) – 10TH SESSION

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FBR's MIND SET FOR TAXPAYERS:

17% Sales Tax
WE DO NOT
CHARGE TAX...
WE ONLY
COLLECT IT...



SCOPE OF PRESENTATION:

Registration, Change in Particulars (Section 14 and Sales Tax Registration Rules) Temporary Registration & Compulsory Registration De-registration Suspension

SCOPE OF PRESENTATION:

Black Listing Non-Active Taxpayer Restoration as an Active Taxpayer

WHO IS NOT REQUIRED FOR REGISTRATION?

Registration, Voluntary & Compulsory Registration and De-registration:

Requirement of Registration – SECTION 14 of the Sales Tax Act, 1990:

Following persons engaged in <u>making of taxable supplies</u> in <u>Pakistan</u>, including zero-rated supplies, <u>in the course or furtherance of any taxable activity</u> carried on by them, are required to be registered:

MANUFACTURER not being a Cottage Industry:

whose annual turnover from <u>taxable supplies</u>, made in any tax period during the last twelve months <u>exceeds TEN million rupees</u>;

- <u>Definition of Cottage Industry (Section 2(5AB))</u>
 Turnover less than Rs.10 million, <u>or</u>
 Annual utility bills (electricity, gas and telephone) less then Rs. 800,000/-
- Serial No. 3 of Table 2 of the Sixth Schedule to the Act exempts Supplies made by cottage industry AND Section 14(1)(a)

Registration, Voluntary & Compulsory Registration and De-registration:

- RETAILER who is liable to pay sales tax under the Act or rules made there under, excluding such retailer required to pay sales tax through his electricity bill under sub-section (9) of section 3
- IMPORTER
- WHOLESALER (including dealer) and distributor:
- > EXPORTER who intends to obtain sales tax refund against his zero rated supplies.
- A person required, under any other Federal law or Provincial law, to be registered for the purpose of any duty or tax collected or paid as if it were a levy of sales tax to be collected under the Sales Tax Act, 1990.
- Persons not engaged in making of taxable supplies in Pakistan, if required to be registered for making imports or exports, or under any provisions of the Act, or any other Federal law, may apply for registration.

Registration, Voluntary & Compulsory Registration and De-registration:

Registration / Change in Particulars / De-registration – Sales Tax Rules, 2006 – Chapter – I

- Rule 3 Application
- Rule 5 Application for Registration Form STR 1
 Jurisdiction / Documents / Biomertic Verification / GPS tagged
 Photographs etc.
- Rule 5A Temporary Registration
- Rule 6 Compulsory Registration
- Rule 7 Change in Particulars Form STR 1
- Rule 8 Transfer of Registration
- Rule 9 Option to file Application with Commissioner Inland Revenue
- Rule 10 Cancellation of Multiple Registrations
- Rule 11 De-registration

Application of Registration under the Sales Tax Act, 1990 read with Rule 5, Sales Tax Rules, 2006:

A person required to be registered under the Act shall **before making taxable supplies**:

- Apply through electronic means through owner, member or director, as the case may be.
- Application shall be made in the form STR-1
- Transmitted electronically.
- Such application will specify the RTO in whose jurisdiction the registration is sought:

Jurisdiction Criteria:

Dublic Company	Othera		
Public Company	Private Company	Others	
the place where the registered office is located	1. Primarily Activity:Manufacture or ProcessingPlace where the factory is	1. Jurisdiction where the business is carried on.	
	2. Primarily Activity: Others Place where the business is actually carried on	2. Single Manufacturing Unit whose business premises and manufacturing unit are located in different areas, jurisdiction shall be where the manufacturing unit is located	

Jurisdiction Criteria:

<u>Provided that</u> the jurisdiction of <u>Large Taxpayers Units</u> shall remain as specified by the Board:

<u>Provided further</u> that the **Board** may transfer the registration of any registered person to a jurisdiction where the place of business or registered office or manufacturing unit is located.

Local Registration Offices:

OFFICE	CONTACT PERSON
Large Taxpayer Unit	Mr. Akbar Meher Additional Commissioner PRC Towers
Large Taxpayer Unit – II	Mr. Saeed-uz-Zafar 2 nd Floor, RTO House
Corporate Regional Tax Office	Mr. Zulfiqar Khohar 11 th Floor, RTO House
Regional Tax Office – II	Mr. Kazi Hifz-ur-Rehman Additional Commissioner Mr. Imran Mehboob Deputy Commissioner
Regional Tax Office – III	Mrs. Shazia Abid Commissioner, Zone – II

Application of Registration under the Sales Tax Act, 1990 read with Rule 5, Sales Tax Rules, 2006:

The applicant shall submit through the computerized system the following documents, namely:-

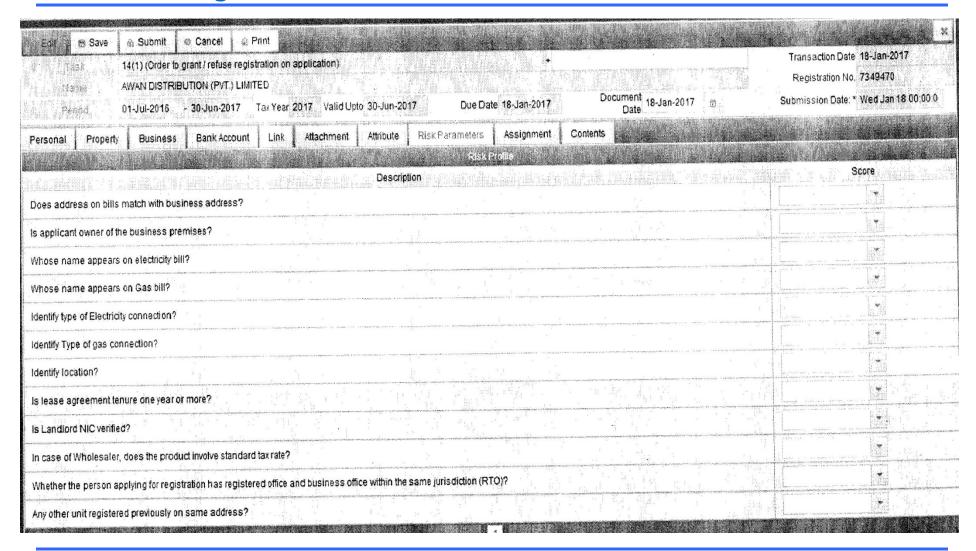
- a. CNIC of all owners, members, partners or directors, as the case may be, and the representative, if any, and in case of non-residents, their passports;
- b. in case of a company or registered AOP, the Registration or Incorporation Certificate, along with Form III or Form A as prescribed in the Companies Ordinance, 1984 (XLVII of 1984);
- c. in case of a partnership, the partnership deed;
- d. bank account certificate issued by the bank in the name of the business;
- **e. lease or rent agreement**, if the premises is on rent, along with CNIC of the owner of the premises;

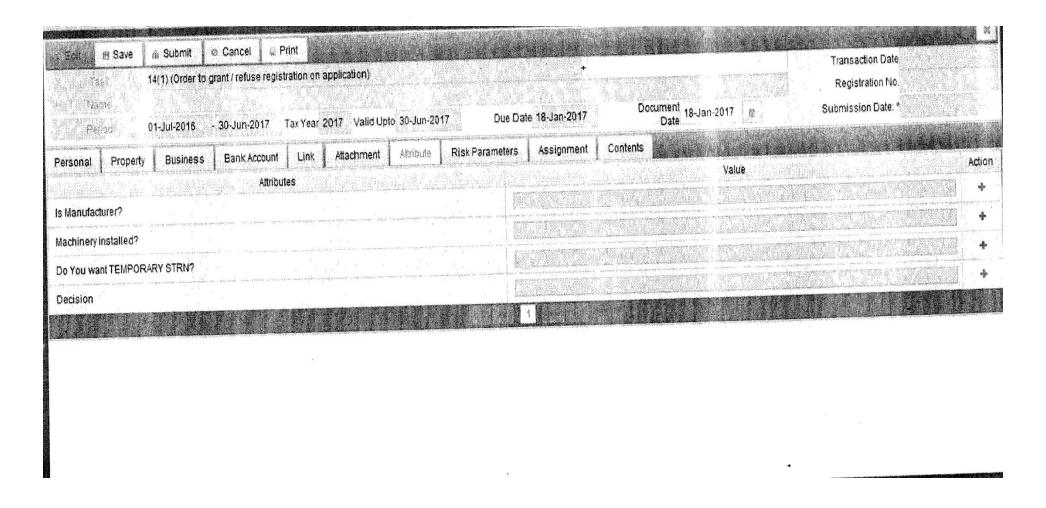
Application of Registration under the Sales Tax Act, 1990 read with Rule 5, Sales Tax Rules, 2006:

- f. ownership documents of the premises, such as registered sale deed or registered transfer deed;
- g. attested utility bills (electricity, gas, land-line telephone, and post-paid mobile phones, as the case may be);
- h. list of machinery installed in case of manufacturer;
- i. distribution certificate from the principal showing distributorship or dealership, in case of distributor or dealer;
- j. balance sheet/statement of affairs/equity of the business;
- k. particulars of all branches in case of multiple branches at various locations;
 and
- I. particulars of all franchise holders in case of national or international franchise.

Process of Registration under the Sales Tax Act, 1990 read with Rule 5, Sales Tax Rules, 2006:

- (a) BIO-METRIC Verification
- (b) GPS-Tagged Photographs etc.
- (c) Un-sold stock U/s. 59 STR-4 to file alongwith application
- (d) Case may be sent to CIR in case of application is found to be high risk
- (e) Particulars of application can be revised
- (f) In case of application as MANUFACTURING who is sharing the premises, evidence of demarcation and installation of sub-meter shall be provided if separate meter is not available





5A. Temporary registration

- Person applying as a **Manufacturer without having installed machinery**, <u>for the purpose of import of machinery to be installed by him,</u> temporary registration shall be allowed to him for a period of 60 days <u>subject to furnishing of the complete list of machinery to be imported along with Bill of Lading (BL) or Goods Declaration (GDs).</u>
- Temporary registration shall be issued within 72 Hours of filing of the complete application.
- After receiving temporary registration, the person shall be allowed to import plant, machinery and raw materials, etc. as a manufacturer, subject to submission to the customs authorities of a post-dated cheque equal to the difference in duties and taxes to be availed as a manufacturer.

5A. Temporary registration

- In case the requirements prescribed in clause (h) of sub-rule (1A) and sub-rule (1B) of rule 5 are not fulfilled within sixty days of issuance of the temporary registration, such temporary registration shall be disabled and the post-dated cheques submitted shall be encashed.
- A person holding temporary registration shall file monthly return in the form STR-7, but shall not issue a sales tax invoice and if such invoice is issued, no input tax credit shall be admissible against such invoice.
- No sales tax refund shall be paid to the person during the period of temporary registration and the amount of input tax may be carried forward to his returns for subsequent tax periods.

Change in Particulars:

7. Change in the particulars of registration

- In case there is a <u>change in the name</u>, <u>address</u> or <u>other particulars</u> as stated in the registration certificate, the registered person **shall notify the change in the Form STR-I** to the computerized system, <u>within 14 days of such change</u>.
- The <u>change of business category</u> **as 'manufacturer'** shall be allowed subject to fulfillment of all applicable requirements as specified in rule 5.
- In case of approval of the change applied for, <u>a revised registration</u> certificate shall be issued through computerized system, which shall be effective from the date the person applied for the change.
- The Commissioner may, based on available information or particulars and after making such inquiry as he may deem necessary and after providing reasonable opportunity of being heard to a person, by an order in writing, make modifications in registration of the person.



Compulsory Registration:

Compulsory Registration – Rule 6, Sales Tax Rules, 2006

- An <u>authorized officer</u>, if <u>satisfied</u> that any person is <u>required to be registered</u> under the Sales Tax Act, 1990, he may compulsorily register any person.
- An opportunity of being heard would be provided before compulsorily registration.
- Registration certificate should be delivered to the said person.
- A person registered compulsorily is <u>required to</u>
 - Comply with all the provisions of the Act and rules from the date of compulsory registration.
 - Otherwise the Commissioner may take any action required under the law against such person

Compulsory Registration:

Compulsory Registration – Rule 6, Sales Tax Rules, 2006

If <u>subsequently</u> established that:

- such person was not liable to be registered the CRO, shall <u>cancel his</u> registration.
- In case of <u>cancellation of registration</u>, such person shall <u>not be liable to pay</u>
- Any tax, default surcharge or penalty under the Act or rules made there under.
- Sales tax <u>collected excess</u> payable (Section 3B)

Services Laws:

Registrations under various Service Laws:

	SRB	PRA	KPK
Registration	24	25	41
Voluntary Registration	24A	26	42
Compulsory Registration	24B	27	43
Suspension	25	28	45
De-Registration	25A	29	46

De-registration:

DE-REGISTRATION

De-registration:

De registration – Sales Tax Act, 1990 – Rule 11

- A registered person <u>may apply for cancellation</u> of his registration who:
 - ceases to carry on his business
 - whose supplies become exempt from sales tax
 - whose total taxable turnover during the last twelve months remains below the limit specified (Cottage industries and retailers)
- The Commissioner on request or on its own initiative may issue order of deregistration or cancellation of registration of a registered person from such date as may be specified but <u>within three months of application</u> and/or on the date of deposit of outstanding due (if any)
- A registered person fails to file tax returns for six consecutive months.

De-registration:

De registration – Sales Tax Act, 1990 – Rule 11

- An audit or inquiry shall be conducted upon the application to ascertain the tax liability (in any).
- All outstanding liability should be discharged before de registration
- Filing of normal returns not required after filing of application of deregistration (Budget Instructions dated June 07, 2003)
- Final sales tax return would be filed for discharging outstanding liabilities, if any (section 28)
- De-registration effective from the date of deregistration mentioned by the Commissioner in his order or the date of filing of final sales tax return, whichever is the later.



- i. Where a Commissioner, having jurisdiction, is satisfied that a registered person has issued fake invoices, evaded tax or committed tax fraud, registration of such person may be suspended by the Commissioner through the system, without prior notice, pending further inquiry. The basis for such satisfaction may inter alia include the following, namely:—
 - A. non-availability of the registered person at the given address;
 - B. <u>refusal to allow access</u> to business premises or refusal to furnish records to an authorized Inland Revenue Officer;
 - C. <u>abnormal tax profile</u>, such as taking excessive input tax adjustments, continuous carry-forwards, or sudden increase in turnover;
 - D. <u>making substantial purchases</u> from or making supplies to other blacklisted or suspended person;
 - E. <u>non-filing of sales tax returns</u>;
 - F. on recommendation of a commissioner of any other jurisdiction;
 - G. any other reason to be specified by the Commissioner;

- ii. the suspension shall be made by the <u>Commissioner Concerned through a written order giving reasons for suspension</u>. This order shall be <u>endorsed to</u> the <u>registered person</u> concerned, <u>all other LTUs/RTOs</u>, <u>the FBR's computer system</u>, <u>the STARR computer system</u> and the <u>Customs Wing computer syste</u> for information and necessary action as per law;
- iii. a registered person who does not file sales tax return for six consecutive months shall be caused to be suspended through the system without any notice;
- iv. in cases, where the buyers and suppliers of any such person, whose registration is being suspended, belongs to another LTU/ RTO, and these buyers / suppliers are also required to be suspended, the Commissioner shall intimate the Chief Commissioner of the concerned LTU/RTO in whose jurisdiction such buyers/suppliers fall, in writing explaining the complete facts of the case and the reasons on the basis of which these buyers/suppliers are to be suspended, to initiate proceedings for suspension/blacklisting of the buyers/suppliers;

- v. no input tax adjustment/refund shall be admissible to the registered person during the currency of suspension. Similarly, no input tax adjustment/refund shall be allowed to any other registered persons on the strength of invoices issued by such suspended person (whether issued prior to or after such suspension), during the currency of suspension;
- vi. the Commissioner shall, within seven days of issuance of order of suspension, issue a show cause notice (through registered post or courier service) to the registered person to afford an opportunity of hearing with fifteen days of the issuance of such notice clearly indicating that he will be blacklisted, in case—
 - A. there is no response to the notice;
 - B. he has not provided the required record;
 - C. he has not allowed access to his business record or premises; and
 - D. any other reason specified by the Commissioner;

- vii. in case show cause notice is not issued within seven days of the order of suspension, the order of suspension shall become void ab-initio;
- viii. in case of non-availability of the suspended person at the given address, the notice may be affixed on the main notice Board of the LTU/RTO;
- ix. on receipt of the reply to the notice and after giving an opportunity of hearing to the registered person, if the Commissioner is satisfied, **he may order for revoking of suspension** of the registered person;

Black Listing:



Black Listing:

Black Listing – Sales Tax Act, 1990 – Rule 12 (b)

- i. in case, after giving an opportunity of hearing, the offence is confirmed, the Commissioner shall issue an appealable self-speaking order for blacklisting of the registered person, and shall proceed to take legal and penal action under the relevant provisions of the Act;
- ii. the order of blacklisting shall <u>contain the reasons for blacklisting</u>, <u>the time period for which any refund or input tax claimed</u> by such person <u>or by any other registered person</u> on the strength of invoices issued by him from the date of his registration shall be inadmissible, any recovery to be paid or penalties to be imposed;
- iii. the **order of blacklisting shall be issued within ninety days** of the issuance of the notice of hearing. In case, the order of blacklisting is not issued within this time period the suspension of registered person shall become void ab-initio;
- iv. copies of the order shall be endorsed to the registered person concerned, all other LTUs/RTOs, the FBR/PRAL computer system, the STARR computer system and the Customs Wing computer system. Each LTU/RTO shall circulate all such lists to their refund sections, audit sections and other concerned staff to ensure that the order is implemented in letter and spirit by all concerned;

Black Listing:

Black Listing – Sales Tax Act, 1990 – Rule 12 (b)

- v. all LTUs / RTOs shall further circulate the copies of the order along with a computer system-generated list of invoices issued by the blacklisted persons as referred to in the preceding clause, to all officers of Inland Revenue having jurisdiction over the registered persons who have claimed credit of input tax or refund on the strength of the invoices issued by the said blacklisted persons;
- vi. the officer of Inland Revenue receiving the aforesaid list under clause (v) shall issue show-cause notice under section 11 and sub-section (3) of section 21 of the Act to a registered person for rejecting the input tax or refund claimed against the invoices so circulated and further proceed to decide the matter as per law through a self-speaking appealable order and after affording a reasonable opportunity of being heard to such person, in the manner as provided in the said sub-section (3).]

Active Taxpayer:

ACTIVE TAXPAYER

Active Taxpayer:

Active Taxpayer - Sales Tax Act, 1990 - Section 2 (1)

"active taxpayer" means a registered person who does not fall in any of the following categories, namely:-

- (a) who is blacklisted or whose registration is suspended or is blocked in terms of section 21;
- (b) fails to file the return under section 26 by the due date for two consecutive tax periods;
- (c) who fails to file an Income Tax return under section 114 or statement under section 115, of the Income Tax Ordinance, 2001(XLIX of 2001), by the due date; and
- (d) who fails to file two consecutive monthly or an annual withholding tax statement under section 165 of the Income Tax Ordinance, 2001;

NON - ACTIVE TAXPAYER

Non – Active Taxpayer:

Non – Active Taxpayer – Sales Tax Act, 1990 – Rule 12A

- i. A registered person who does not fulfil any of the conditions prescribed in clause (1) of section 2 of the Act shall automatically become a non-active taxpayer and his name shall be removed from the active taxpayers list maintained by the Board.
- ii. A non-active taxpayer shall not be entitled to—
 - A. file Goods Declarations for import or export;
 - B. issue sales tax invoices;
 - C. claim input tax or refund; or
 - D. avail any concession under the Act or rules made thereunder.
- iii. No person, including government departments, autonomous bodies and public sector organizations, shall make any purchases from a non-active taxpayer.
- iv. In case of entry of an invoice issued by a non-active taxpayer by any registered buyer in Annexure-A of his return, a message shall appear to the effect that the supplier is a non-active taxpayer and no input tax credit shall be admissible against such invoice.

Restoration as an Active Taxpayer:

RESTORATION AS AN ACTIVE TAXPAYER

Restoration as an Active Taxpayer:

Restoration as an Active Taxpayer – Sales Tax Act, 1990 – Rule 12B

A non-active taxpayer may be restored as active taxpayer, if -

- i. the registered person files the return or statement along with payment of any tax due under the Act or Income Tax Ordinance, 2001 (XLIX of 2001);
- ii. the RTO or LTU having jurisdiction, on satisfying itself after conducting such audit or other investigation as may be necessary, recommends to the Board for restoration; and
- iii. the Board issues an order to such effect.]

Sales Tax Returns:

SALES TAX RETURNS

Sales Tax Returns:

- □ Single sales tax return STR-7 for registered person
- A return is required to be e-filed monthly
- ☐ Due date for payment is 15th day of month following the tax period
- ☐ Due date for e-filing is 18th day of month following the tax period
- Due date for CNG Stations & Special Procedure for Payment of Extra Sales Tax of Specified Goods listed under Chapter XIII under Special Procedure Rules, 2007 is 15th day of month following the quarter end
- Payments shall be deposited before due date of filing of return
- ☐ In case of no activity a Null return will be e-filed
- Separate returns in case of change in rate of tax during tax period
- Revised return may be filed within 120 days subject to approval of Commissioner
- All registered private or public limited companies are required to file an annual return, by 30th September of the relevant financial year.

Revision of Sales Tax Returns:

REVISION OF SALES TAX RETURNS

Revision of Sales Tax Returns:

According to Sub-section (3) of Section 26 of the Sales Tax Act, 1990:

- A registered person may, <u>subject to approval of the Commissioner Inland Revenue having jurisdiction</u>, file a revised return <u>within one hundred and twenty days</u> of the filing of return under sub-section (1) or, as the case may be, subsection (2) or under clause (a) or clause (b) of Section 27, to correct any omission or wrong declaration made therein.
- An application for revision of the sales tax return under the Sales Tax & Federal Excise Act, 2005 may be e-filed on the FBR web portal.

Revision of Sales Tax Returns:

Registered Person revises return voluntarily

BUT

before Receipt of Notice of Audit → No Penalty

on pointing by the officer or at any time before issuance of the show cause notice

25% Penalty

After issuance of SCN → Full Amount of Penalty

This is in addition to TAX AMOUNT and DEFAULT SURCHARGE

RECOVERY OF ARREARS OF TAX

- **48.** Recovery of arrears of tax.--(1) [Subject to sub-section (1A), where] any amount of tax [...] is due from any person, the officer of [Inland Revenue] may:-
- (a) deduct the amount from any money owing to person from whom such amount is recoverable and which may be at the disposal or in the control of such officer or any officer of Income Tax, Customs or Central Excise Department;
- (b) require by a notice in writing any person who holds or may subsequently hold any money for or on account of the person from whom tax may be recoverable to pay to such officer the amount specified in the notice;
- (c) stop removal of any goods from the business premises of such person till such time the amount of tax is paid or recovered in full;

- [(ca) require by a notice in writing any person to stop clearance of imported goods or manufactured goods or attach bank accounts;]
- (d) seal the business premises till such time the amount of tax is paid orrecovered in full;
- (e) attach and sell or sell without attachment any movable or immovable property of the registered person from whom tax is due [; and]
- (f) recover such amount by attachment and sale of any moveable orimmovable property of the guarantor, person, company, bank or financial institution, where a guarantor or any other person, company, bank or financial institution fails to make payment under such guarantee, bond or instrument.]

Recovery – Sales Tax Rules, 2006 – Chapter – XI

Rule – 70 Application Rule – 71 - Initiation of Recovery Action Rule – 72 - Stoppage of Clearances and sealing of Business Premises Rule – 73 - Demand Note Rule – 74 - Attachment and Sale of Property Rule – 75 Master Register to be maintained Rule – 76 Power to require information to be furnished Rule – 77 - Mode of Service of Notice Rule – 78 - Disposal of Proceeds of execution Rule – 79 - Ruling regarding Disputed Matters - Property liable to attachment and sale in execution Rule – 80 Rule – 81 Objections and Investigations, thereof Rule – 82 - Removal of attachment on satisfaction of cancellation of a demand Note Rule – 83 Officer entitle to attach and sale Rule – 84 Adjournment or stoppage of sale Rule – 85 Defaulter not to interfere with attached property Rule – 86 - Prohibition against bidding or purchase by officer Rule – 87 Assistance for action

Rule - 71:

Initiation of recovery action-

On expiry of thirty days from the date on which the Government dues are adjudged, the referring authority shall deduct the amount from any money owing to the person from whom such amount is recoverable and which may be at the disposal or in the control of such officer.

In case the Government dues are not fully recovered under sub-rule (1); the referring authority may,--

Inter Departmental Recovery with the copy to the defaulter; From any person holding money of defaulter

Thank you

Presentation by:

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AT

Karachi Tax Bar Chamber

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