

# *Audit & Assessment under Income Tax & Sales Tax laws*

*By: Muhammad Raza, FCA (Pakistan),  
ACA (Eng. & Wales), ADIT (UK)*

February 17, 2022

---

## ***Agenda***

Section 1	Introduction
Section 2	Income Tax
Section 3	Federal Sales Tax
Section 4	Sindh Sales Tax
Section 5	Questions & Answers

# ***SECTION - 1***

## ***Introduction – Audit & Assessment***

# Assessment – General concept

- The definition of the amount subject to taxation under a particular statute requires an analysis of the taxpayer's situation and of the legal provisions that apply to him;
- With the income tax as well as sales tax, the taxpayer submits a tax return providing information as to his occupation, his real and personal property, his professional expenditures, and other pertinent matters;
- The return, with the attached reports and statements, is meant to provide such complete information that the assessing tax official can rely on it to compute the correct tax;
- Assessment is thus a process whereby the tax liability of a taxpayer is determined and this process of determination which may including verification of underlying details and basis for the same can be termed as 'Audit'.

# Tax Audit – General concept

## Tax Audit Framework issued by the FBR – As quoted in Chenone's Judgement

- Under the current provisions of the tax laws (Income Tax Ordinance, 2001, Sales Tax Act, 1990 and Federal Excise Act 2005), there is a system of self assessment that enables the taxpayer to determine his own tax liability.
- Under this system, there is major reliance on the taxpayer to file accurate and reliable tax return. The purpose of tax audit is to ensure that declarations made by the taxpayers are accurate and reliable. **Main objective of the tax audit is to create deterrence for under or incorrect declarations of income by the taxpayers.**
- In order to ensure taxpayer's confidence on this system, the selection of taxpayers to be audited will be done on a random basis, using an appropriate system, that ensure objectivity in the selection process. Such a process will also be adequately publicized and communicated to the taxpayers.

# ***SECTION - 2***

## ***Income Tax***

---

# Income Tax

## **Scheme of assessments under the repealed 1979 Ordinance**

- Returns filed by the taxpayers were subjected to mandatory assessment process
- Self Assessment Scheme used to be announced every year
- Assessment based on evidence or record
- Best Judgement / Ex-parte assessment

---

# Income Tax

## **Scheme of Assessment under the 2001 Ordinance**

- Universal Self Assessment Scheme - returns filed deemed as assessment order
- Originally a return could only be amended subject to certain conditions
- Returns were expected to be audited under certain parameters only
- Paradigm shift from Assessment to Audit
- Subsequent insertion of section 122(5A)



---

# Income Tax

## Evolution of section 177 & 214C

- Amendments and substitutions made around 12 times since inception
- Originally the Commissioner was empowered to select a case for audit within certain parameters
- Subsequently the Board was also empowered to lay down criteria for selection of cases for audit
- The Commissioner's power to select a case for audit was linked with Board's criteria
- The Commissioner was empowered to select any case for audit whereas Board was separately empowered through section 214C for balloting
- Empowerment to have the audit conducted by CA or ICMA Firms
- Concept of appointment of Special Audit Panels introduced which may have two or more members of prescribed qualifications

---

# Income Tax

## Controversies relating to tax audit

- Commissioner's powers to select a case for tax audit vis-à-vis Board's powers of selection – The matter is currently decided by Sindh High Court and other High Courts in Department's favour
- Opportunity of being heard before selection of a case for audit by the Commissioner
- Risk based parameters for FBR to select cases for audit under balloting but such risk parameters can be kept confidential
- Issuance of an Audit Report upon finalization of the Audit under section 177 before issuance of a formal notice under section 122

---

# Income Tax

## **Steps / procedure followed in tax audit**

- Intimation of selection for audit and the reasons therefor
- Information Document Request – generally through a notice under section 176
- Conduct of audit
- Audit completion leading to Audit report or objections in terms of section 177(6)
- Issuance of notice under section 122 in case of unresolved differences
- Passing of an amendment order

---

# Income Tax

## **A new concept of E-Audit**

- A new concept of E-Audit introduced by Finance Act, 2020 through section 177(2A)
- The failure to furnish requisite information may allow the finalization of audit on the basis of sectoral benchmark ratios (as defined) prescribed by the FBR
- The detailed procedure in this regard prescribed through Rule 231FA introduced with effect from July 1, 2021
- The procedure is almost similar to the one otherwise adopted except that the physical presence of taxpayer will not be required

---

# Income Tax

## Time Limitations

- Have to be read in terms of section 174(3) whereby the record has to be ordinarily kept for six years from the end of the tax year to which it relates
- Furthermore, the time limitation of taking an action under section 122 is five years from the end of the tax year in which the return is filed
- There is no prescribed time period for completing the audit process, however, as per the audit policy issued by the FBR for the respective period, such time period is prescribed and recommended to be followed
- For completion of action under section 122, now a period of 180 days is prescribed

# ***SECTION - 3***

## ***Federal Sales Tax***

---

# Federal Sales Tax

## Assessment of tax – Section 11

- Prior to 2012, section 36 also provided for assessment of tax which was then merged into section 11
- Assessment powers under section 11 are subject to the cases provided for within the provisions of section 11, such as non filing of return or short payment of tax due to miscalculation, non-payment or short payment of tax due to other reasons, collusion or deliberate act, inadvertence and non withholding of sales tax
- A show cause notice has to be issued within 5 years from the end of the tax period
- Proceedings have to be completed within the specified time period subject to extensions and condonations

# Federal Sales Tax

## Tax Audit – Sections 25 & 72B

- Parallel to the provisions of section 177 of the Income Tax Ordinance, 2001
- The powers of Board under section 72B for selection of cases through balloting similar to section 214C of Income Tax Ordinance, 2001
- Powers of the Commissioner or authorised officer to call for records
- On the basis of such record, audit can be conducted once in a year, however, mere audit by AGPR does not preclude a re-audit by the Commissioner
- In case of a tax fraud or evasion of tax, an authorised officer can conduct an inquiry or investigation under section 38
- The concept of audit report is not expressly mentioned but the provisions are worded to convey such intention
- After completion of audit, necessary action can be taken under section 11 on any points of differences



# ***SECTION - 4***

## ***Sindh Sales Tax***

---

# Sindh Sales Tax

## Assessment of tax – Section 23

- AC-SRB makes assessment of SST liability on the basis of audit, inquiry, inspection or otherwise
- In absence of information / return / records, AC-SRB can assess the SST liability on the basis of available information / material, determining the minimum tax liability
- MTL is not final liability, which is determined as result of audit, special or forensic audit
- Show cause notice can be issued within 8 years and Order is required to be passed within 180 days, extendable for 60 days excluding the time of adjournments
- Amendment in assessment order is also authorized
- Generally, SRB makes assessments on the basis of desk audits focusing on disclosures as per audited financial statements / accounts

*Questions*

*&*

*Answers*