

GOVERNMENT OF PAKISTAN
Revenue Division
Federal Board of Revenue

Islamabad, 7th April, 2009

NOTIFICATION
(Income Tax)

S. R. O. 301 (I)/2009.- 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 section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001), is hereby published for the information of all persons likely to be affected thereby, as required by sub-section(3) of the said section, and notice is hereby given that the draft will be taken into consideration after fifteen days of its publication in the official Gazette.

2. Any objection or suggestion 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.

DRAFT AMENDMENTS

In the aforesaid rules,

- (1) in rule 10, in sub-rule(1), clause(f) shall be omitted;
- (2) in rule 12, in sub-rule(1), clause(c) shall be omitted;
- (3) in rule 13,-

(a) for sub-rule(3) the following shall be substituted, namely:-

“(3) (a) Any common expenditure excluding financial expenses relatable or attributable to non-business advances or loans and the amount referred to in sub-rule(2) relatable to business including presumptive and exempt income, shall be allocated to each class of income according to the following formula, namely:-

A x B/C

Where-

A is the amount of the expenditure incurred;

B is the total amount of gross receipts (without deduction of expenditures) for the tax year for the class of income; and

C is the total amount of gross receipts (without deduction of expenses) and net gains for the tax year of all classes of income;

(b) Where, however, net gain, brokerage, commission and other income is to be taken into account on turnover of such transactions, such income shall be compared with gross profit from business for adopting figures for components “B” and “C” of the formula at (a) above.;

- (b). in sub-rule (5),
 - (i) after the word “books” the words “of accounts” shall be inserted;
 - (ii) for the word “sub-rule” occurring for the first time, the words “sub-rules” shall be substituted;
 - (iii) before the word “Commissioner” the word “the” shall be inserted; and
 - (c) the existing sub-rule(8) shall be renumbered as sub-rule(6); and
 - (d) in clause (o) of sub-rule (6) renumbered as aforesaid, the words, figure, semicolon and brackets “except proceeds realized from experts from which separate provision is made as sub-rule (8); and” shall be omitted;
- (4) in rule 14, in sub-rule (2), the words, brackets and letters “of clauses (a) and (b)” shall be omitted;
- (5) in rule 15, in sub-rule(8), in clause(a), in sub-clause(v), for the word “or” after the word “discharge” the word “of” shall be substituted;
- (6) in rule 16, in sub-rule (4), for the word “documentation” the word “documents” shall be substituted;
- (7) in rule 18,-
- (a) in the marginal note for the word “royalties” the word “royalty” shall be substituted;
 - (b) in clause (b) for the word “then” the word “than” shall be substituted; and
 - (c) in clause (d), for the word “sub-rule” the word “clauses” shall be substituted;

- (8) in rule 19,-
- (a) for the word “fees”, wherever occurring, the word “fee” shall be substituted;
 - (b) In sub-rule (1), in clause(c),-
 - (i) for the word and figure “Section 5” the word and figure “section 6” shall be substituted; and
 - (ii) for the word “royalty” wherever occurring, the words “fee for technical services” shall be substituted; and
 - (c) in clause (d), for the word “sub-rule” the word “clause” shall be substituted;
- (9) in rule 19A,-
- (a) in sub-rule (3), for the words “within fifteen days of the receipt of the application by him” the words “within thirty days of the receipt of the application by him from the Federal Board of Revenue” shall be substituted;
 - (b) in sub-rule (4), in the prescribed form of Certificate of Residence, for the words and brackets “Member (Direct Taxes)”, the words and brackets “Member (Inland Revenue)” shall be substituted;
- (10) in rule 19B,-
- (a) in sub-rule (3), for the words “within fifteen days of the receipt of the application by him” the words “within thirty days of the receipt of the application by him from the Federal Board of Revenue” shall be substituted;
 - (b) in sub-rule (4), in the prescribed form of Certificate of Payment in Pakistan, for the words and brackets “Member (Direct Taxes)”, the words and brackets “Member (Inland Revenue)” shall be substituted;
- (11) in rule 19(c),-
- (a) after the marginal note, the brackets and figure “(1)” shall be inserted;
 - (b) in sub-rule (3), for the words “within fifteen days of the receipt of the application by him” the words “within sixty days of the receipt of the

application by him from the Federal Board of Revenue” shall be substituted;

(c) in sub-rule (4),-

(i) for the figure “45” the word “ninety” shall be substituted;

(ii) in the prescribed form of Certificate for Tax Sparing Credit, for the words and brackets “Member (Direct Taxes)”, the words and brackets “Member (Inland Revenue)” shall be substituted;

(12) in rule 31, in sub-rule(4), clauses (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix) shall be re-lettered as clauses (a), (b), (c), (d), (e), (f), (g), (h) and (i) respectively.

(13) in rule 34,-

(a) for sub-rule(2) the following shall be substituted, namely:-

“(2) A return of income as required to be furnished under section 114 shall be in the form as specified in Annexure-XIII of Part VI of the Second Schedule.”;

(b) in sub-rule (4),-

(i) in clause(c), the word “and” shall be omitted; and

(ii) in clause(d), after the semicolons at the end, the word “and” shall be added and thereafter the following new clause shall be added, namely:-

“(e) in case of companies, the return of income shall be accompanied by audited accounts and reconciliation of profits as per accounts and taxable income as declared in the return.”; and

(c) the words and letters “as are specified in Part-VI of the Second Schedule”, appearing at the end shall be omitted.

(14) in rule 36, in sub-rule(2),-

(i) in clause(b), the word “and” shall be omitted; and

(ii) in clause(c), for the full stop at the end, semicolon and the word “; and” shall be substituted and thereafter the following new clause(d) shall be added, namely:-

“(d) accompanied by a wealth reconciliation statement.”;

(15) in rule 37, in sub-rule(2), in the table,-

- (a) in column 2, for the word “charter” the word “charterer” shall be substituted;
- (b) in column 5, after the word “passenger” the comma and word “,livestock” shall be inserted;
- (c) in column 6 after the word “respect” the word ”of” shall be inserted;
and
- (d) in column 7 for the existing entry the following shall be substituted,
namely:-

“Tax amount on earnings as per columns 4, 5 and 6.”;

(16) in rule 38, in sub-rule(2), in the table,-

- (a) in column (1), for the words “Name of Air-craft” the words “specification of the air craft” shall be substituted;
- (b) in column (2), for the word “charter” the word charterer” shall be substituted;
- (c) in column (3) after the word “arrival” the hyphen and word “/departure” shall be added;
- (d) in column 5, after the word “passengers”, the comma and word “,livestock” shall be inserted;
- (e) in column 6, after the word “respect”, the word “of” shall be inserted;
and
- (f) in column 7, for the existing entry the following shall be substituted,
namely:-

“Tax amount on earnings as per columns 4, 5 and 6.”;

(17) in rule 43, in clause(b) the words “seven days from the end of each fortnight” the words “ten days from the date of collection or deduction of tax” shall be substituted;

- (18) in rule 74, in sub-rule(3), in clause (c), after the word “Return” at the end, the words “or electronic withholding tax statement.” shall be added;
- (19) in rule 77, in the form of appeal, for the words “GROUND OF APPEAL” the words “GROUNDS OF APPEAL” shall be substituted;
- (20) In Chapter XIII, for heading “National Tax Number Card” the following shall be substituted, namely:-

“TAXPAYER’S REGISTRATION”;

- (21) for rule 79, the following shall be substituted, namely:-

“79. Application of Chapter. - The rules in this Chapter apply for the purposes of section 181 which provides for registration of taxpayers.”;

- (22) in rule 80,

(a) for word “Card” wherever occurring, the word “Certificate” shall be substituted;

(b) in sub-rule(1) for the word and letters “Part VIII” the word and letters “Part IX” shall be substituted;

(c) in sub-rule (2), for clause(e) the following shall be substituted, namely:-

“(e) in the case of an association of persons (other than a firm), the instrument of partnership or copies of NICs of the members of the association of persons. Detail of non-resident members be provided along with copies of their passports.”;

(d) in sub-rule(3), the words and letter “with the authority specified by the FBR through circular” shall be omitted;

- (23) in rule 81,-

(a) for the word “Card”, wherever occurring, the word “Certificate” shall be substituted;

(b) in sub-rule (2), the words “an application for” shall be omitted;

(24) after rule 81, the following new rule 81A shall be inserted, namely:-

“81A Taxpayer’s registration by the Commissioner.-(1) The Commissioner having jurisdiction over a case may register a person as a taxpayer where he is satisfied that the income of the person is taxable and is required to file a return of income under section 114.

(2) The Commissioner shall issue to the taxpayer a letter under sub-section(2) of section 181 to submit an application for registration prescribed under rule 80 along with documents specified therein within a reasonable time given in the said letter. In case of compliance NTN certificate shall be issued accordingly.

(3). In case of failure of the taxpayer to comply with the letter issued under sub-section (2) of section 181, the Commissioner shall register the taxpayer on a Trial Registration Number(TRN) for which a serially numbered Trial Register shall be maintained by the Commissioner. The Trial Register shall contain the basic information of the taxpayer like name of the person or business, available address, CNIC, nature of income generating activity and any other information regarded useful by the Commissioner. In such case, statutory notices shall be issued for assessment of income or other legal obligation of the taxpayer under the Ordinance on TR Number:

Provided that before allotment of Trial Registration Number the Commissioner shall verify and match the particulars of the taxpayer from the NTN Master Index to avoid duplication of registration.”;

(25) in rule 82, for the word “Card”, wherever occurring, the word “Certificate” shall be substituted;

(26) in rule 83, for the word “Card” wherever occurring, the word “Certificate” shall be substituted;

(27) in rule 85, in sub-rule(1), after the word “application”, the words and comma “to the Director-General, Regional Tax Office” shall be inserted;

(28) in rule 86, in sub-rule(3), in clause(d), in sub-clause(iii), after the word “equivalent”, the word “to” shall be inserted;

(29) in rule 87,-

- (a) for the words “Regional Commissioner”, wherever occurring, the words and comma “Director General, Regional Tax Office” shall be substituted; and
 - (b) for the letters “RCIT”, wherever occurring, the words and comma “Director-General, Regional Tax Office” shall be substituted;
- (30) In rule 88,-
- (a) in clause(a), for the words “Regional Commissioner of Income Tax”, the words and comma “Director General, Regional Tax Office” shall be substituted; and
 - (b) in clause(c), for the letters “RCIT” the words and comma “Director-General, Regional Tax Office” shall be substituted;
- (31) in rule 89 for the word “Commissioner” wherever occurring the words and comma “Director General, Regional Tax Office” shall be substituted;
- (32) for rule 90 the following shall be substituted, namely:-
- “90. **Appeal to Federal Board of Revenue.** (1) The appeal against the decision of the Director General, Regional Tax Office shall lie with the Federal Board of Revenue. However, the FBR on filing of an appeal may, pending decision of appeal, allow the ITP to represent cases pending, before decision is made by the Director General.
- (2) The FBR shall decide the case of the ITP within sixty days of the filing of the appeal.”;
- (33) in rule 92,-
- (a) in sub-rule (3), after the word “under”, the word “this” shall be inserted; and
 - (b) in sub-rule (4), for the words, brackets and figure “subject to sub-rule (5)” the words “Unless” otherwise specified by the Commissioner” shall be substituted;
- (34) in rule 94, in sub-rule(1),-
- (a) for the word “ to” appearing after the word “Ordinance” the word “against” shall be substituted;
 - (b) after the words “shall be” the words “made to Federal Board of Revenue” shall be inserted; and
 - (c) before the word “shall” occurring for the second time, the word “and” shall be inserted;

- (35) in rule 97, in clause(a), the commas, words, letters and figure “, whose salary does not exceed Rs.1000 per month,” shall be omitted;
- (36) in rule 104, in sub-rule(1),-
- (a) in clause (b), for the words, brackets, letter and figure “under clause (d) of sub rule (1) of rule ” the words, brackets, letter and figure “under clause (e) of sub rule (1) of rule 103” shall be substituted;
 - (b) in clauses (c), (d), (e), (f), (g) and (h) after the words, brackets and figure “sub-rule (1) of rule” , wherever occurring, the figure “103” shall be inserted; and
 - (c) in clause (g) after the words “the accumulated balance to” the words “credit of” shall be inserted;
- (37) in rule 106 in sub-rule(2), in clause(d), for the word “months” the word “monthly” shall be substituted;
- (38) in rule 115, in sub-rule(2), in the form of verification, for the word “that”, occurring for the first time the word “in” shall be substituted;
- (39) in rule 117, in sub-rule(3), for the word “employee” the word “employer” shall be substituted;
- (40) in rule 119,-
- (a) after the words “notice” occurring for the first time, the word “to” shall be inserted; and
 - (b) for the word “know” the word “known” shall be substituted;
- (41) in rule 122,-
- (a) before the word “rules” occurring for the first time, the word “these” shall be inserted; and
 - (b) after clause(c), the following new clause shall be inserted, namely:-
“(ca) “notice”, in this Chapter means a notice under sub-section (1) of section 138 of the Income Tax Ordinance 2001.”;
- (42) in rule 123, for sub-rule (1), the following shall be substituted, namely:-

“(1) The notice required to be served upon the taxpayer under subsection (1) of section 138 shall be in the form as prescribed in part-III of First Schedule to these rules.”;

- (43) in rule 126, in clause(a), for the word “certificate” the word “notice” shall be substituted;
- (44) in rule 127 for the words “Certificate duly filed” the words “notice duly issued” shall be substituted;
- (45) in rule 128,-
 - (a) in the proviso to clause(i),-
 - (i) the letters “III” shall be omitted; and
 - (ii) after the word “liable” the word “to” shall be inserted;
 - (b) in clause (j), after the word “Pakistan” occurring for the first time, the word “Army” shall be inserted;
 - (c) in clause (m), for the word “me” the word “merely” shall be substituted;
 - (d) in Explanation 1,-
 - (i) before the word “they” the word “after” shall be inserted; and
 - (ii) for the alphabet “t” the word “than” shall be substituted;
- (46) in rule 129,-
 - (i) in sub-rule (1), for the word “Certificate” the word “notice” shall be substituted; and
 - (ii) in sub-rule(4), the word “it” occurring for the last time, shall be omitted;
- (47) in rule 130, after the word “Commissioner” the words “ the attachment” shall be inserted;
- (48) in rule 132,-
 - (a) for the proviso to sub-rule (1), the following shall be substituted, namely:-

“Provided that, where the sale is being conducted in or within the precincts of the office of the concerned Commissioner of income tax, the officer shall not adjourn the sale without prior permission of the Commissioner.”; and

(b) in sub-rule(3),-

- (i) after the word “amount”, occurring for the first time, the words “due is” shall be inserted; and
- (ii) for the letter “e” the words “that the” shall be substituted;

(49) in rule 136,-

(a) in sub-rule (1), after the words “be construed” the word “as” shall be inserted; and

(b) after sub-rule(2), the following new sub-rule shall be added, namely:-

“(3) The warrant of attachment of movable property to be issued by the Commissioner under sub-rule (2) shall be in the following form, namely:-

**WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY
(Rule 136(2) of the Income Tax Rules, 2002)**

Commissioner _____

NO. _____ dated _____

To

S/O _____

You Mr./Mrs.M/s _____ have failed to pay Rs. _____ (Rupees _____) which was due as income tax arrears inspite of service of a notice under section 138(1) of the Income Tax Ordinance, 2001, dated _____.

In view of the said default and in pursuance of recovery of tax arrears, it is hereby ordered to attach moveable property belonging to Mr/Mrs/M/s _____, the defaulter of the said amount.

Mr. _____ is authorized under rule 136(1) of the Income Tax Rules, 2002, to execute this warrant. This order is given under my hand and seal at (name of city) _____ on this day of _____ (month) _____ (year) _____.

Commissioner of Income Tax”;

- (50) in rule 142, for the words “liable” and “this” the words “negotiable” and “his” shall respectively be substituted;
- (51) in rule 143, for the letter “s” the word “orders” shall be substituted;
- (52) in rule 144, in sub-rule(1),-
 - (a) before the word “of” occurring for the third time, the word “share” shall be inserted; and
 - (b) after the word, “subsequent”, the word “order” shall be inserted;
- (53) in rule 148, after the word “women” the word “to” shall be inserted;
- (54) in rule 154,-
 - (a) in sub-rule (1), for the word “on” the word “auction” shall be substituted; and
 - (b) the word “with” shall be omitted;
- (55) in rule 156, after the word “sold”, the word “is” shall be inserted;
- (56) the existing rule 158 shall be renumbered as sub-rule(1) of that rule and thereafter the following new sub-rule (2) shall be added, namely:-
 - “(2) The order of attachment of immovable property to be issued by the Commissioner under this rule shall be in the following form, namely:-

**ORDER OF ATTACHMENT OF IMMOVABLE PROPERTY
(Rule 158 of the Income Tax Rules, 2002)**

To,

S/O _____

You have failed to pay a sum of Rs. _____ (Rupees _____) payable by you, for which a notice under section 138(1) of the income Tax Ordinance, 2001, dated _____ has already been served upon you.

In view of the said default and in pursuance of recovery of income tax arrears you Mr/Mrs/M/s _____ are hereby prohibited and restrained until further orders of the undersigned from transferring of immovable property No. _____ located at (address) _____ or subjecting the same to a charge in any manner and, that all persons are prohibited from taking any benefit under such transfer or charge.

Given under my hand and seal at (name of city) _____ on this day of _____ (month) _____ (year) _____

Commissioner of Income Tax”;

- (57) in rule 160, for the word “aimed” the word “proclaimed” shall be substituted;
- (58) In rule 163, in sub-rule(1), after the word “conspicuous” occurring for the second time, the word “part” shall be inserted;
- (59) in rule 164 for the word “tile” the word “the” shall be substituted;
- (60) in rule 170, in sub-rule(1),-
 - (a) for the word “Certificate”, the word “notice” shall be substituted; and
 - (b) after the word “any” occurring for the second time, the word “time” shall be inserted;
- (61) in rule 171,-
 - (a) after the word “been”, the word “sold” shall be inserted; and
 - (b) the words and comma “the Commissioner of Income Tax,” shall be omitted.
- (62) in rule 172, after the word “At” the word “any” shall be inserted;
- (63) in rule 173,-

- (a) In sub-rule (1),-
- (i) after the word “setting”, the word “aside” shall be inserted;
 - (ii) for the word “owed” the word “disallowed” shall be substituted;
 - (iii) for the figure, apostrophe and word “1’ in” the word “an” shall be substituted; and
 - (iv) for the word “upon” the word “thereupon” shall be substituted; and
- (b) in sub-rule (2), for the words “and penalty, interest” the word “of tax penalty and additional tax” shall be substituted;
- (64) in rule 181,-
- (a) in sub-rule (1) for the word “Commissioner” the word “Officer” shall be substituted; and
 - (b) in sub-rule (4) after the word “discharge”, the word “of” shall be inserted;
- (65) in rule 183,-
- (a) in sub-rule(1), in clause(a), for the word “Certificate”, wherever occurring, the word “notice” shall be substituted;
 - (b) in sub-rule (4),-
 - (i) for the word “exclusively” the words “exclusive of” shall be substituted; and
 - (ii) in the proviso for the letters “ii” the word “of” shall be substituted; and
 - (c) after sub-rule(4) the following new sub-rule(5) shall be added, namely:-

“(5) The warrant of arrest of the defaulter to be issued by the Commissioner under sub-rule (2) shall be in the following form, namely:-

**WAARRANT FOR ARREST OF THE DEFAULTER
(Rule 183(2) of the Income Tax Rules, 2002)**

Commissioner _____
NO. _____ dated _____

To _____

S/O _____

Whereas a notice u/s 138(1) of the Income Tax Ordinance, 2001, dated _____ was issued and served upon Mr. _____ son of _____ (full address) _____ for recovery of arrears. An amount due from the said defaulter is detailed as below:-

Amount as per notice u/s 138(1): _____

Cost and charges: _____

Total: _____

In spite of the service of the said notice, the said arrears have not been paid. Accordingly, you are hereby commanded to arrest the said defaulter and produce him before the undersigned as soon as practicable in any event within 24 hours of his arrest (exclusive of time required for the journey) unless the defaulter pays to you the amount of arrears of Rs. _____ (Rupees _____) and Rs. _____ (Rupees _____) being the cost of executing the process.

You are hereby further commanded to return the warrant on or before the day of _____ with an endorsement given on the day on which and the manner in which it has been executed or the reasons why it has not been executed.

Given under my hand and seal at (city) _____ on this _____ day of (month) _____ (year) _____.

Commissioner of Income Tax”;

(66) in rule 186, after sub-rule(2), the following new sub-rule (3) shall be added, namely:-

“(3) The warrant for detention of the defaulter in civil prison to be made by the Commissioner under this rule shall be in the following form, namely:-

**WARRANT FOR DETENTION OF THE DEFAULTER IN CIVIL PRISON
(Rule 186(1) of the Income Tax Rules, 2002)**

Commissioner _____

NO. _____ dated _____

To

The Officer In charge of the civil prison

Whereas Mr. _____ S/O _____ (Full address)

has been brought before the undersigned under a warrant in execution of a notice under section 138(1) of the Income Tax Ordinance, 2001, for recovery of tax arrears.

And whereas he has not satisfied the undersigned that he is entitled to be discharged from custody and has not paid the amount due from him as specified below:-

Income Tax _____
Penalty _____
Additional Tax _____
Cost and charges _____
Total _____

And whereas the undersigned is satisfied that the said defaulter _____ should be committed to the civil prison and an order to that effect has been passed by the undersigned on this _____ day of (month) _____ (year)_____.

You are hereby commanded and required to take and receive the said defaulter _____ in the civil prison and to keep him imprisoned therein for a period of _____ or until the amount aforesaid together with further additional tax at a rate equal to _____ per cent per annum u/s 205 of the Income Tax Ordinance, 2001 on the amount unpaid being Rs. _____ for the period commencing immediately after the date of issue of this warrant to the date on which it is paid to you on behalf of the Commissioner of income tax or until you receive an order of his release from the undersigned.

The undersigned does hereby fix Rs. _____ per day (calculated under rule 198 of the Income Tax Rules, 2002) as a rate for subsistence allowance for the period of his detention.

Given under my hand and seal at (name of city) _____ on this day of _____ (month) _____ (year)_____

Commissioner of Income Tax”;

(67) in rule 187,-

(a) for the word “Certificate”, wherever occurring, the word “notice” shall be substituted;

- (b) In sub-rule (1),-
 - (i) after the word “detained”, the word “in” shall be inserted; and
 - (ii) in clause(b), in sub-clause(ii), for the word “rule” the word “rules” shall be substituted; and
- (c) in sub rule (2), after the word “by”, the word “reason” shall be inserted;
- (68) in rule 188, in sub rule (2) after the word “made” the words “by the” shall be inserted;
- (69) in rule 189,-
 - (a) in sub rule (1), after the word “the” occurring for the first time, the word “arrest” shall be inserted;
 - (b) in sub rule (2),-
 - (i) after the words “may”, the word “release” shall be inserted; and
 - (ii) before the word “to” the word “mind” shall be inserted;
 - (c) in sub-rule (3), after the word “be”, the word “released” shall be inserted; and
 - (d) in sub-rule (4), after the word “period”, the words “of his” shall be inserted;
- (70) in rule 190, in clause (b) for the word “bas” the word “has” shall be substituted;
- (71) in rule 193,-
 - (a) for the word “to”, occurring for the first time, the word “by” shall be substituted; and
 - (b) the word “be”, occurring for the last time, shall be omitted.
- (72) in rule 194,-
 - (a) for sub-rule (1), the following, shall be substituted, namely:-
 - “(1) Where –
 - (a) the Commissioner passes any order under Chapter XVI, the appeal against such order shall lie to the Director-General,

Regional Tax Office or Large Taxpayer Unit, as the case may be; and

(b) any taxation officer or authority to whom powers have been delegated passes any order under the said Chapter, an appeal against such order shall lie to the Commissioner,”;

(b) in sub-rule (4),-

(i) for the word “of” the word “for” shall be substituted; and

(ii) for the words “other party” the words “concerned parties” shall be substituted;

(c) for sub-rule (6) the following shall be substituted, namely:-

“(6). After hearing both the parties or their representatives or when the appeal is taken up for ex parte order, the appellate authority may make an order, to confirm, modify, reverse or remand the case for fresh decision in the light of directions that the appellate authority may think appropriate to give, being not inconsistent with these rules.”; and

(d) in sub rule (7), for the word “Certificate” the word “notice” shall be substituted;

(73) in rule 196,-

(a) for the letter “e” the word “become” shall be substituted; and

(b) for letter “r” the word “under” shall be substituted;

(74) in rule 198,-

(a) the brackets and figure “(1)” shall be omitted; and

(b) for the words “from the definition or of” the words “during detention or” shall be substituted;

(75) in rule 199, before the word “of” occurring for the last time, the word “decree” shall be inserted;

(76) in rule 200,-

(a) after the word “his”, occurring for the first time, the word “behalf” shall be inserted; and

(b) for the word “certificate” the word “notice” shall be substituted;

- (77) in rule 202, in sub rule (1), for the words “certificate is resisted” the words “notice is resisted or “shall be substituted;
- (78) in rule 204, for the word “of”, occurring for the second time, the word “or” shall be substituted;
- (79) in rule 208, in sub-rule(3),-
- (a) for the word “rest” the word “interest” shall be substituted; and
 - (b) for the word “chaser” the word “purchaser” shall be substituted;
- (80) in rule 211,-
- (a) in sub-rule(1), in the Schedule to the prescribed application, in para 5, after the word “ under”, the words, commas and figure “the Companies Ordinance, 1984, “ shall be inserted; and
 - (b) in sub-rule (2), in clause(c), after the words “under” occurring for the first time, the words, commas and figure “the Companies Ordinance, 1984,” shall be inserted;
- (81) in rule 213,-
- (a) in sub-rule(1),-
 - (i) in clause(b), after the word “under” the words, commas and figure “the Companies Ordinance, 1984,” shall be inserted; and
 - (ii) in clause(i), in the proviso, after the word and comma “securities,”, the words and commas “National Saving Schemes, issued by the Central Directorate of National Savings” shall be inserted;
 - (b) in sub-rule(2),-
 - (i) in clause(c), the word “or”, at the end, shall be omitted; and
 - (ii) in clause(d), for the full stop at the end, the words, brackets, figures and semicolon “or as evaluated by Director-General, Regional Tax Office or Large Taxpayer Unit under clause(g) of sub-rule(2) of rule 211; or ” shall be added; and
 - (c) after clause(d), the following new clause (e) shall be added, namely:-
 - “(e) has made expenditure on salaries exceeding 30% of the total receipts excluding restricted donations or funds received during a tax year.”

(82) in rule 215, for the words and figures “rule 211 and 214” the word and figure “rule 211” shall be substituted;

(83) in rule 217, in sub-rule(1), in clause(b),-

(a) in sub-clause(vii), for the full stop, at the end, the colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that where such detailed performance evaluation report is not submitted on or before 30th of September following every three tax years, the Commissioner shall issue a show cause notice for withdrawal of approval to the concerned organization as required under sub- rule (2); and

(b) after sub-clause(vii), amended as aforesaid, the following new sub-clause (viii) shall be added, namely:-

“(viii). failed to file statements of deduction of income tax under section 165 read with rule 44.”;

(84) in rule 218,-

(a) in clause (a), the word and figure “or 214” shall be omitted; and .

(b) In clause(b),

(i) the words “ Regional Commissioner of Income Tax” the words “Director-General, Regional Tax Office or Large Taxpayer Unit” shall be substituted; and

(ii) in the form prescribed to file appeal, under the heading “PARTICULAR” in para 5, after the word “under” the words, commas and figure “the Companies Ordinance, 1984, or” shall be inserted;

(85) in rule 220A,-

(a) in sub-rule (1), in clause(b), in sub-clause(iii), after the word “under” occurring for the first time, the words, commas and figure “Companies Ordinance, 1984,” shall be inserted;

(b) in sub-rule(3),-

(i) in clause(e), in sub-clause(vi), for the words “Federal Board of Revenue” the words “Regional Commissioner of Income Tax” shall be substituted; and

- (ii) in the proviso after the word and comma “securities,” the words and comma “National Saving Schemes issued by the Central Directorate of National Savings,” shall be inserted;
- (c) after sub-rule(3), the following new sub-rule(4) shall be added, namely:-
 - “(4) The Regional Commissioner of Income Tax shall make a decision on the application of the organization within two months of its receipt.”;
- (d) in sub-rule(7),-
 - (i) in para (1), in sub-para (b), in clause(vi), after sub-clause(e), the following proviso shall be added, namely:-

“Provided that where such detailed performance evaluation report is not submitted on or before the 30th of September following every three Tax Years, Regional Commissioner of Income Tax shall issue a show cause notice for withdrawal of approval to the concerned organization as required under para (2) of the sub-rule; and
 - (ii) in para(1), in sub-para(b), after clause(vi), the following new clause (vii) shall be added, namely:-

“vii). failed to file statements of deduction of income tax under section 165 of the Income Tax Ordinance, 2001 read with rule 44.”;
- (e) in para (2), for the word, brackets, and figure “sub- rule(1)” the words, brackets and figures “para (1) of sub-rule (7)” shall be substituted;
- (f) in para (3), for the word, brackets and figure “sub-rule(1)” the words, brackets and figures “para (1) of sub-rule (7)” shall be substituted; and
- (g) in Form-1, in the Schedule, in paragraph 5, after the words “organization has been registered under” the words, commas and figure “the Companies Ordinance, 1984,” shall be inserted;

(86) for rule 223 the following shall be substituted, namely:-

“223. Form of tax exemption certificate.- On receipt of an application under rule 221, the Commissioner shall issue an exemption certificate under section 145 in the following form, namely:-

COUNTERFOIL OF TAX EXEMPTION

TAX EXEMPTION CERTIFICATE

CERTIFICATE UNDER SECTION 145

Book No. _____ Serial No. _____
Name _____
Address _____
Nationality _____
Nature of business, profession or vocation
in Pakistan _____

Date of departure _____
Designation _____

Probable date of return to Pakistan _____
Certificate valid up to _____

Initials of Commissioner

Signature/left hand thumb impression of
Applicant/or person receiving the Certificate on
behalf of the applicant.

UNDER SECTION 145 OF THE
INCOME TAX ORDINANCE, 2001

Book No. _____ Serial No. _____

Commissioner

Division _____ Jurisdiction _____

Signature/left hand thumb impression
of Applicant/or person receiving
On behalf of the applicant.

(87) for rule 224, the following shall be substituted, namely:-

“224. Conditions for approval of leasing companies for claim of depreciation deduction.- The following conditions shall be fulfilled by a leasing company or a modaraba to claim deduction for depreciation on lease of depreciable assets under this rule, namely:-

- (i) The leasing company is engaged principally in the business of leasing of assets and has been issued a licence by the Securities and Exchange Commission of Pakistan to operate under the terms and conditions specified therein; and
- (ii) the leasing company or a modaraba doing leasing business undertakes that where a motor vehicle is given on lease, the purchase value thereof shall be restricted to the amount specified in the Third Schedule to the Ordinance, for the purposes of claiming depreciation or the expenditure on such lease.”;

(88) in rule 226, in sub-rule(3), in clause(c), for the letter “e” the word “be” shall be substituted;

(89) for rule 227, the following shall be substituted, namely:-

“227. Scale of remuneration, fees and allowances for a valuer.- (1) A valuer appointed under section 222 shall not be paid any retention fee but would be entitled to remuneration at the following scale:-

	Rs.
Where the value of assets does not exceed Rs.10, 00,000/-	5000/-
Where the value of assets exceeds Rs. 10, 00,000/- but does not exceed Rs. 50, 00,000/-	10000/-
Where the value of assets exceeds Rs. 50, 00,000/- but does not exceed Rs. 10,000,000/-	20000/-
Where the value of assets exceeds Rs. 10,000,000/-	30000/-

(2) In addition to remuneration at the scale prescribed under sub-rule (1), a valuer shall be entitled to the following fee and allowance: -

- (a) a fee of Rs. 500/- per day in the event of attendance before the Appellate Tribunal in connection with the valuation made in any case; and
- (b) traveling expenses to which a Government servant in BPS-17 is entitled.”;

(90) in rule 228, for sub-rule (1) the following shall be substituted, namely:-

“(1) The valuation of immovable property for the purposes of section 111 shall be taken to be-

- (a) in the case of open plot, the value determined by the development authority or government agency on the basis of the auction price in respect of similar plots in the area where the plot in question is situated or in case where such value is not determined, the value fixed by the District Officer Revenue or provincial authority authorized in this behalf for the purposes of stamp duty;
- (b) in the case of agricultural land, the value equal to the average sale price of the sales recorded in the revenue record of the estate in which the land is situated for the relevant period or time; or
- (c) in the case of constructed immovable property, value shall be determined at the fair market value as defined in section 68 or the value fixed by the District Officer (Revenue) whichever is higher.”;

- (91) in rule 229 for the letters and words “RCIT or Committees” the words “Federal Board of Revenue” shall be substituted;
- (92) in rule 231A, in sub-rule (2), in clause (b), for the words and brackets “Member (Direct Taxes)”, the words and brackets “Member (Inland Revenue)” shall be substituted;
- (93) after rule 231C, the following new rule shall be inserted, namely:-

“231D. Procedure for group taxation under section 59AA.-(1) For the purposes of this rule, a 100% owned company shall be a subsidiary company where another company, herein-referred to as “ holding company”, owns all equity shares of such company except those held by nominees to meet the statutory requirements of the Companies Ordinance, 1984 (XLVII of 1984).

(2) A holding company and each of its subsidiary companies of 100% owned group which fulfill the conditions specified in section 59AA shall make separate application containing declaration of irrevocable option for group taxation as one fiscal unit to the concerned Commissioner in the form as set out in the Schedule below within the first quarter of the tax year for which group taxation is opted for.

(3) The application shall be signed, in the case of a holding company, by the Chief Executive Officer of the holding company and in the case of a subsidiary company the Chief Executive Officer of the subsidiary company, identifying the Commissioner having jurisdiction over the holding company or as the case may be, subsidiary company, National Tax Number and Corporate Registration Number.

(4) The holding company as well as each subsidiary company shall furnish a certificate issued by the Securities and Exchange Commission of Pakistan verifying that the company has been complying with the Code of Corporate Governance as notified from time to time by the SECP.

(5) The return for the tax year following the option for group taxation shall be prepared as one fiscal unit under the name of the holding company and the tax liability shall be discharged or the refund shall be claimed respectively as if the business of the subsidiary companies were the business of the holding company. However, for that purpose, no effect shall be taken for losses including unabsorbed depreciation of subsidiary companies for the tax year prior to the exercise of option for group taxation. Along with the group return, copies of audited accounts of every company in the group shall be attached.

(6) On option for group taxation under sub-section (2) of section 59AA, the subsidiary companies shall furnish their returns of income in their respective tax jurisdiction along with a copy of application for group taxation for record

and future adjustments and intimating non-taxability of the returned income. The subsidiary companies shall also intimate to the Commissioner having jurisdiction over the holding company regarding their option for group taxation.

(7) Taxation matters relating to the period prior to the adoption of one fiscal unit shall continue to be dealt with by the Commissioner having jurisdiction over the subsidiary company.

(8) In case, there is divestment of a subsidiary company and the provisions of group taxation become inapplicable, no effect shall be taken for group taxation during the year of disposal.

(9) All the provisions of the Ordinance, including withholding provisions as applicable on a holding company shall mutatis mutandis apply to a subsidiary company during the period when the group is taxed as one fiscal unit. Each company shall file independent withholding statements as required under the provisions of the Ordinance.

(10) The relief under group taxation shall be limited only to those companies which are locally incorporated under the Companies Ordinance, 1984 (XLVII of 1984).

(11) All companies opting for group taxation under section 59AA shall have the similar accounting period for computation of income.

(12) The transaction by any company within the group and with its associated companies shall be carried out and recorded on arm's length basis.

SCHEDULE
(See sub-rule (2) of rule 231D)

APPLICATION/DECLARATION FOR GROUP TAXATION
UNDER SECTION 59AA OF THE INCOME TAX ORDINANCE, 2001.

To,

The Commissioner,

Dear Sir,

I _____ S/O _____ being Chief Executive of M/s _____ (Name/NTN and address of the holding company or as the case may be subsidiary company) duly authorized in this regard hereby apply on behalf of the aforesaid company for group taxation under section 59AA of the Income Tax Ordinance, 2001, in respect of the following companies of the group:-

S.NO.	Name of the company.	Address (Head Office/postal).	NTN No.	Incorporation No.	Whether holding or subsidiary company	Commissioner having jurisdiction over holding /subsidiary company.
(1)	(2)	(3)	(4)	(5)	(6)	(7)

2. The following documents are attached:-

- (i) Copies of incorporation certificates of the above mentioned companies seeking group taxation;
- (ii) Copy of the certificate issued by the SECP (as set out in Annexure to this Schedule) confirming that the company had complied with corporate governance requirements, as notified by the SECP and are not defaulters of any rules or regulations.

3. It is declared that,-

- (i) the company asks for irrevocable option for group taxation as one fiscal unit;
- (ii) the companies in the group are locally incorporated under the Companies Ordinance, 1984; and
- (iii) the company complies with corporate governance requirements as notified by the Securities and Exchange Commission of Pakistan from time to time.

4. Further I certify that to the best of my knowledge and belief the information given in the application is correct and complete in accordance with the provisions of section 59AA of the Income Tax Ordinance, 2001.

Yours faithfully,

Signature_____

Name _____

(in block letters)

CNIC No._____

Designation_____

Date_____

ANNEXURE
(See paragraph 2(ii) of the Schedule)

**CERTIFICATE FROM THE SECURITIES AND
EXCHANGE COMMISSION OF PAKISTAN**

It is certified that M/s _____, incorporated at No. _____ dated _____ is a holding company having 100% share of the following subsidiary companies, namely:-

- (a) -----
- (b) -----
- (c) -----
- (d) -----

And the holding company and its subsidiary companies (mentioned above) have not violated any corporate governance requirements notified by the SECP from time to time and the said companies are entitled to avail group taxation under section 59AA of the Income Tax Ordinance. The SECP shall also inform the Commissioner of Income Tax concerned, if any code of corporate governance is violated by the holding company or its subsidiary companies mentioned above availing the benefit of group taxation under section 59AA of the Income Tax Ordinance, 2001.

Signature _____
 Name of the issuing authority _____
 Seal/Stamp _____
 Date: _____

(94) in Part III of the First Schedule,-

- (a) for the figure and brackets “138(2)” the figure and brackets “138(1)” shall be substituted; and
- (b) in the notice, the word “ under the Income Tax Rules framed” shall be omitted;

(95) in part VI of the First Schedule, in the prescribed application after para c the following new para shall be inserted namely:-

“d. that I have already filed evidence of payment of tax along with my return of income for the year or I enclose herewith evidence of tax already paid during the tax year for taking credit.”;

(96) in part VII of the First Schedule,-

- (i) in the marginal note, after the word “section, the figure “159” shall be inserted; and
- (ii) in the application, for the figure “152, the figure “159” shall be substituted;

- (97) in part X of the First Schedule, for the words and comma “The Regional Commissioner of Income Tax” the words and comma “Director General of Regional Tax Office” shall be substituted;
- (98) in part XII of the First Schedule,-
- (a) in the heading of the prescribed notice of demand,-
- (i) the under-line shall be omitted; and
- (ii) for the word “in” the word “for” shall be substituted; and
- (b) in the notice, in para (4), in clause(i), for the figure “18” the figure “12” shall be substituted; and
- (99) after part XIII of the First Schedule, the following new part of the First Schedule shall be inserted, namely:-

**“PART XIV OF THE FIRST SCHEDULE
APPLICATION FOR GROUP RELIEF UNDER SECTION 59B
OF THE INCOME TAX ORDINANCE, 2001**

Prescribed application for group relief.- An application by the taxpayer for group relief under section 59B of the Income Tax Ordinance, 2001, shall be in the following form, namely:-

To, The Commissioner,

Dear Sir,

The undersigned being duly authorized hereby apply on behalf of M/s _____(Name, NTN and address of the company) for group relief under section 59B of the Income Tax Ordinance, 2001, in respect of the following companies of the group.

S.No.	Name of the company.	Address Head Office/postal.	NTN	Incorporation No.	Whether holding/ subsidiary company.	Commissioner having jurisdiction over holding/ subsidiary company.
(1)	(2)	(3)	(4)	(5)	(6)	(7)

2. The following documents are attached:-
- (i) Copies of locally incorporation certificates of the above mentioned companies under the Companies Ordinance, 1984; and .
- (ii) Copy of the certificate issued by the SECP (as set out in Annexure to this Part) confirming that the companies had complied with the

corporate governance requirements, as notified by the SECP, and are not defaulters of any rules or regulations.

3. It is declared that in accordance with the provisions of section 59B of the Income Tax Ordinance, 2001,-
- (i) there is continued ownership for five years of share capital of the subsidiary company to the extent of,-
 - (a) fifty five per cent in the case of a listed company; or
 - (b) seventy-five per cent or more, in the case of other companies;
 - (ii) a company within the group has not engaged in the business of trading;
 - (iii) holding company, being a private limited company with seventy-five per cent of ownership of share capital gets itself listed within three years from the year in which set off for loss is claimed;
 - (iv) the Board of Directors of the respective companies have approved the loss surrendered and loss claimed under section 59B of the Income Tax Ordinance, 2001;
 - (v) the Board of Directors of the loss claiming company has approved transfer of cash to the loss surrendering company equal to the amount of tax payable on the profit set off against the acquired loss; and
 - (vi) after the approval of cash transfer by the Board of Directors, the cash has been actually transferred before the filing of returns of the loss claiming company and the loss surrendering company.

Yours faithfully,

Signature_____

Name_____

(in block letters)

CNIC No._____

Designation_____

Date_____

ANNEXURE

(See paragraph 2(ii) of this part)

**CERTIFICATE FROM THE SECURITIES AND
EXCHANGE COMMISSION OF PAKISTAN**

It is certified that M/s _____, incorporated at No. _____ dated _____ is a holding company having 55% share of the following subsidiary companies, namely:-

- (a) -----
- (b) -----
- (c) -----
- (d) -----

It is certified that M/s _____, M/s _____ and M/s _____ are the subsidiary companies of the holding company M/s _____ holding 75% share of the aforementioned subsidiary companies.

And the holding company and its subsidiary companies (mentioned above) have not violated any corporate governance requirements notified by the SECP from time to time, and the above said companies are entitled to avail group relief under section 59B of the Income Tax Ordinance, 2001. This certificate shall be valid till no violation from the date of issuance of this certificate onwards is committed by the concerned companies. The SECP is obliged to intimate the Commissioner of Income Tax concerned, if any, code of corporate governance is violated by any of companies availing benefit of group relief under section 59B of the Income Tax Ordinance, 2001.

Signature _____
Name of the issuing authority _____
Seal/Stamp _____
Date: _____”.

[C.No.3(9)ITR/08]

(IRFAN NADEEM)
Member (Inland Revenue)/
Additional Secretary