

Government of Pakistan
Revenue Division
Federal Board of Revenue

Islamabad, the 14th February, 2020

**NOTIFICATION
(Income Tax)**

S.R.O. 111(I)2020.- The following draft of certain further amendments in the Income Tax Rules, 2002, which the Federal Board of Revenue proposes to make in exercise of the powers conferred by sub-section(1) of section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001), is hereby published for information of all persons likely to be affected thereby and as required by sub-section (3) of the said section 237, notice is hereby given that objections or suggestions thereon if any may, for consideration by the Federal Board of Revenue, be sent within seven days of publication of the draft in the official Gazette.

Any objections or suggestions, which may be received from any person, in respect of the said draft, before the expiry of the aforesaid period, shall be taken into consideration by the Federal Board of Revenue, namely:-

DRAFT AMENDMENT

In the aforesaid Rules, after Chapter XVI, the following new Chapter shall be inserted, namely:-

**CHAPTER XVIA
RECOVERY OF TAX FROM PERSONS HOLDING MONEY ON BEHALF OF A
TAXPAYER**

210A. Definitions.- For the purposes of this chapter, unless there is anything repugnant in the subject or context,-

- (a) "owing or who may owe money to the taxpayer" includes an employer owing or who may owe salary to its employee, a tenant owing or who may owe rent to its landlord, or a debtor owing or who may owe money to the taxpayer;
- (b) "holding or who may hold" includes bank accounts or TDRs / CDRs, fixed deposits;

- (c) "holding or who may hold money on account of some other person for payment to the taxpayer" includes money held by a member of an association of persons or by an agent;
- (d) "money" means any currency, token, bank-notes, or other circulating medium in general use as the representative of value;
- (e) "tax recovery" means recovery of debt due to the Federal Government under the Income Tax Ordinance, 2001;
- (f) "defaulter" means the taxpayer mentioned in the notice; and
- (g) "notice", means a notice under sub-section (1) of section 140 of the Income Tax Ordinance 2001.

210B. Notice of recovery to be issued by Commissioner.- (1) Where any tax is due under section 137 of the Ordinance, the Commissioner may, subject to sub-rule (2), (3) and (4), serve a notice upon any person mentioned in sub-section (1) of section 140 of the Ordinance in the form as prescribed under rule 69.

Provided that where the power to issue notice of recovery has been delegated by the Commissioner, prior approval of the Commissioner shall be obtained who shall satisfy himself as to the service of order and that no refund due to the defaulter is available for adjustment against the tax demand. He shall also satisfy him that no application for rectification is pending hearing against the demand.

(2) Where the tax due is a consequence of an ex-parte order or rejection of estimate under sub-section (6) of section 147, the notice shall be issued after obtaining approval in writing from the Chief Commissioner who shall satisfy himself of the propriety of the service of order.

(3) Where the taxpayer has preferred an appeal under section 127 in respect of the order under which the tax sought to be recovered has become payable and the appeal has not been decided by the Commissioner (Appeals), the notice shall be issued after obtaining approval in writing from the Chief Commissioner who shall satisfy himself that the taxpayer has not voluntarily paid ten percent of the said amount of tax;

(4) No notice shall be issued before expiry of due date under section 137;

(5) Recovery under this chapter shall be independent of recovery under chapter XVI.

210C. Service and compliance of notice.- (1) The notice referred to in sub-rule (1) of rule 210B shall be served on the person in the manner provided in section 218 of the Income Tax Ordinance, 2001,

(2) A copy of the notice shall be forwarded to the defaulter at his last known address, and in case an account or money is held jointly, to all the joint-holders on their last known address.

(3) The person shall remit or send the money to the Commissioner through pay order or demand draft or through banking transfer or cheque for payment to the government treasury on the same day the notice is served, or, in case the money is to become due for payment to the defaulter at a future date, on the same day it becomes due.

Provided that where the person is liable to make a series of payments to the taxpayer, the Commissioner may specify the amount to be paid out of each payment until tax due has been paid.

(4) Recovery of tax shall be made only to the extent of tax due by the taxpayer; Provided that in case the money is held jointly with any person other than the defaulter, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(5) Every person to whom a notice is issued shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or other document to be produced for the purpose of any entry, endorsement, or the like being made before payment is made, notwithstanding any rules, practice or requirement to the contrary.

210D. Determination of disputes.- (1) Any question, arising between the Commissioner and the defaulter or their representatives relating to the execution, discharge or satisfaction of a notice duly issued under these rules, shall be determined by order of the Commissioner before whom such question arises.

(2) The commissioner shall decide the matter under this rule within thirty days of preference of claim or making of objection.

210E. Appeal.- (1) Where –

(a) the Commissioner passes any order under rule 210D, an appeal against such order shall lie to the Chief Commissioner, Regional Tax Office or Large Taxpayer Unit, as the case may be; and

(b) any officer of Inland Revenue or to whom powers have been delegated passes any order under rule 210D, an appeal against such order shall lie to the Commissioner.

(2) Where an appeal is admitted for hearing under sub-rule (1), the authority hearing appeal shall fix a date for hearing for which notice shall be served to the concerned parties.

(3) After hearing both the parties or their representatives or when the appeal is taken up for exparte 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.

210F. Receipt to be given.- If any amount is received by the Commissioner in pursuance of these rules, he shall issue a receipt of the amount so received and such amount shall be considered to have been paid under the authority of the taxpayer.

210G. Withdrawal of notice.- The notice shall remain in force until withdrawn by the Commissioner.

210H. Failure to comply with notice.- (1) Where a person fails to comply with a notice in the manner provided in rule 210C, the person shall personally be liable to pay the amount to the Commissioner who may pass an order under sub-section (5) of section 140 to that effect and seek to recover the same.

(2) No order under sub-section (5) of section 140 shall be made unless the person has been provided with an opportunity of being heard.

(3) Where at the time of recovery of tax on an order under sub-section (5) of section 140, it is established that the tax that was to be recovered from the person has meanwhile been paid by the defaulter, no recovery shall be made from the person but the said person shall be liable to pay default surcharge at the rate provided in sub-section (1B) of section 161 from the date he failed to comply with the notice.

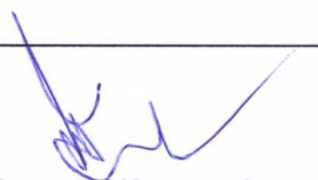
(4) A person personally liable for an amount of tax under sub-section (5) of section 140 as a result of failing to comply with notice shall be entitled to recover the tax from the defaulter.

(5) An order under sub-section (5) of section 140 shall not absolve the defaulter and the Commissioner may proceed to recover the tax from the defaulter until the entire amount is recovered either from the person or the defaulter.

210I. Board may issue instructions.- (1) Board may, from time to time, issue instructions, impose conditions, or limitations, or specify procedure to regulate recovery under this section.

(2) Any instructions, by the Board, issued earlier shall continue in force unless rescinded.

[F.No.3(4)/2020-S(CM)]


(Dr. Muhammad Nauman Anees)
Second Secretary (Court Matter)