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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 29th January, 2016

No. F. 22(2)/2016-Legis.—The following Act of *Majlis-e-Shoora* (Parliament) received the assent of the President on the 29th January, 2016 and is hereby published for general information :—

ACT NO. III OF 2016

An act further to amend the Income Tax Ordinance, 2001

WHEREAS it is expedient further to amend the Income Tax Ordinance, 2001 (XLIX of 2001) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**— (1) This Act may be called the Income Tax (Third Amendment) Act, 2016.

(2) It shall come into force at once.

(43)

2. **Amendment of Ordinance XLIX of 2001.**— In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made, namely:—

(1) after section 99, the following new section shall be inserted, namely:—

“99A. Special provisions relating to traders.— (1) Subject to sub-section (3), tax payable on the profits and gains of a trader as defined in sub-section (4) who upto thirty first day of December, 2015 has not filed a return for any of the preceding ten tax years shall be computed in accordance with the rules laid down in Part I of the Ninth Schedule.

(2) Subject to sub-section (3), tax payable on the profits and gains of any trader as defined in sub-section (4), who —

(a) is a filer; or

(b) is NTN holder and a non-filer but has filed return or returns in any of the last ten preceding tax years, shall be computed in accordance with the rules laid down in Part II of the Ninth Schedule.

(3) Sub-sections (1) and (2) shall apply, if—

(a) the return filed by the trader qualifies for acceptance in accordance with the rules laid down in the Ninth Schedule;

(b) return relates to tax years 2015 to 2018; and

(c) income from business consists of profits and gains from trading activity only.

(4) For the purpose of this section and the Ninth Schedule, ‘trader’ means an individual or an association of persons (AOP) buying goods or merchandise and selling the same without further processing and providing, business-related after sales, services by doing repair jobs.

Explanation 1.— For the removal of doubt it is clarified that any person engaged in—

(a) rendering of, or providing, services as defined in clause (ii) of sub-section (7) of section 153; or

- (b) business of retailer falling under rule (5) of Chapter II of the Sales Tax Special Procedures Rules, 2007, shall not be treated as a trader for the purposes of this section.

Explanation 2.— It is also clarified that this section shall not apply to a person who is a Member of the Senate of Pakistan, the National Assembly of Pakistan or a Provincial Assembly.”;

- (2) in the Second Schedule, in Part IV, in clause (94),—
- (a) for the expression “tax year 2016” occurring for the first time, the expression “the period beginning on the first day of July, 2015 and ending on the thirtieth day of June, 2016” shall be substituted; and
- (b) in the proviso, after the figure “2016” the expression “or 2017, as the case may be,” shall be inserted; and
- (3) after the Eighth Schedule, the following new Schedule shall be added, namely:—

“THE NINTH SCHEDULE

(See section 99A)

Notwithstanding anything contained in this Ordinance or any other law for the time being in force, a trader qualifying under this Schedule shall have the option to be assessed including for filing of return, either—

- (a) under the provisions of this Ordinance, other than this Schedule; or
- (b) under the provision of this Schedule.

PART I

RULES FOR THE COMPUTATION OF THE TAX PAYABLE ON PROFITS AND GAINS OF A TRADER FALLING UNDER SUB-SECTION (1) OF SECTION 99A.

1. The tax payable on profits and gains of a trader falling under sub-section (1) of section 99A in respect of trading activities chargeable under the head “income from business” shall be computed in the manner hereinafter provided.

2. For trader qualifying under this Part, working capital for tax year 2015 shall not exceed rupees fifty million and tax at the rate of one per cent of the working capital shall be the tax payable on profits and gains from the trading activity.

3. For tax years 2016, 2017 and 2018, trader qualifying under this Part and who has paid tax for the tax year 2015 under rule 2 of this Part shall pay tax specified in rule 4 of this Part subject to the following conditions, namely:—

(a) for tax year 2016, the trader shall declare turnover at least three times of the working capital declared during tax year 2015; and

(b) for tax years 2017 and 2018 the trader shall declare turnover on which tax paid is at least twenty-five per cent more than the tax paid for the preceding tax year.

4. For the purpose of rule 3 of this Part, the following shall be tax rate on turnover:—

| Turnover (1) | Rate (2) |
|--|--|
| Where turnover does not exceed 50 million rupees | 0.2% |
| Where turnover exceeds 50 million rupees but does not exceeds 250 million rupees | Rs. 100,000 plus 0.15% of the amount exceeding 50 million rupees |
| Where turnover exceeds 250 million rupees | Rs. 400,000 plus 0.1% of the amount exceeding 250 million rupees |

5. Trader qualifying under this Part shall be entitled to take credit of imputable income as defined in clause (28A) of section 2, for tax years 2016 to 2018, in relation to tax paid under rule 3 of this Part for the purpose of section 111.

PART II

RULES FOR THE COMPUTATION OF THE TAX PAYABLE ON PROFITS AND GAINS OF A TRADER FALLING UNDER SUB-SECTION (2) OF SECTION 99A

1. The tax payable on profits and gains of a trader falling under sub-section (2) of section 99A in respect of trading activities chargeable under the head "income from business" shall be computed in the manner hereinafter provided.

2. For tax year 2015, the tax payable on profits and gains of a trader qualifying under this Part shall be higher of the following:

(a) 25% higher tax than paid for tax year 2014 or for the latest tax year for which return has been filed on the basis of taxable income;

(b) tax on turnover at the rates specified in rule 4 of Part I; or

(c) rupees thirty thousand.

3. For tax years 2016 to 2018, the tax payable on profits and gains of a trader qualifying under this Part shall be higher of the following:

(a) 25% higher tax on the basis of taxable income than tax paid for the preceding tax year; or

(b) tax on turnover at the rates specified in rule 4 of Part I.

4. Trader qualifying under this Part, who has filed return for tax year 2015 before the due date of filing of return under this Schedule, may file a revised return subject to the condition that the tax paid is higher of the following:

(a) tax as per rule 2 of this Part on the basis of revised return;
or

(b) 10% higher tax than the tax paid as per original return.

5. For tax year 2015, the provisions of clause (ba) of sub-section (6) of section 114 shall not apply to a trader who has revised the return under rule 4 of this Part before the due date of filing of return under this Schedule.

6. Where the imputable income as defined in clause (28A) of section 2 in relation to tax on turnover at the rates specified in rule 4 of Part I is higher than the taxable income declared, the trader qualifying under this Part may opt to take the credit for the purpose of section 111, of the difference between the said imputable income and taxable income, provided that tax at the rate of one per cent of the difference is paid along with the return.

PART III

GENERAL PROVISIONS FOR THE TRADERS UNDER PART I AND PART II

1. Traders deriving income other than from trading activities chargeable under the head "income from business" shall not qualify under this Schedule.

2. The provisions of sections 177 and 214C shall not apply to a trader qualifying under this Schedule, for tax years 2015 to 2018.

3. Trader qualifying under Part I of this Schedule shall file a return as specified in Form 'A' to rule 17 of this Part and trader qualifying under Part II of this Schedule shall file a return as prescribed under the Income Tax Rules, 2002.

4. A trader qualifying under this Schedule shall not be entitled to claim any adjustment of withholding tax collected or deducted under this Ordinance, against tax payable in respect of profits and gains relating to trading activity.

5. A trader qualifying under this Schedule shall not be entitled to claim any adjustment of refund due against tax payable under rule 2 or 3 of Part I or rule 1, 3, or 4 of Part II.

6. A trader qualifying under this Schedule shall not be entitled for any tax credit under this Ordinance.

7. If a trader fails to furnish a return for any of the tax years 2016, 2017 or 2018 after having furnished a return for tax year 2015 shall not qualify under this Schedule for any of the tax years 2015 to 2018 notwithstanding the fact that the return for tax year 2015 stood qualified under this Schedule at the time of furnishing of such return and all this provisions of this Ordinance shall apply.

8. Where it is subsequently discovered by the Commissioner that the trader was not eligible to be qualified under this Schedule or became ineligible to be qualified under this Schedule during any time between tax years 2015 to 2018 due to non-payment of tax or filing of return or otherwise, the trader shall be treated to have exercised the option to be assessed under the provisions of this Ordinance, other than this Schedule and all this provisions of this Ordinance shall apply accordingly.

9. Tax payable under rule 2 or 3 of Part I or rule 1, 3, or 4 of Part II shall be paid in the State Bank of Pakistan or authorized branches of National Bank of Pakistan and evidence in the form of a copy of computerized tax payment receipt (CPR) shall be provided along with the specified or prescribed return, as the case may be, by the due date.

10. A trader qualifying under this Schedule shall not be a prescribed person for the purpose of section 153.

11. For the income relating to trading activity and qualifying under this Schedule—

- (a) the Commissioner shall be deemed to have made an assessment of income for that tax year and the tax due thereon as equal to those respective amounts computed under rules 2 or 3 of Part I or rule 1, 3, or 4 of Part II; and
- (b) the specified or prescribed return, as the case may be, shall, for all purposes of this Ordinance, be deemed to be an assessment order including the application of section 120.

Explanation.—For removal of doubt and for the purpose of this rule, it is declared that income means taxable income or imputable income as the case may be.

12. The Federal Government may, from time to time, by notification in the official Gazette, amend the Schedule so as to add any rule therein or modify or omit any rule therefrom.

13. The provisions of sub-section (2) of section 116 shall not apply for the tax year 2015 to the trader qualifying under this Schedule if the declared income for the year is less than one million rupees.

14. Notwithstanding anything contained in aforesaid rules, a return qualifying under this Schedule may be subject to amendment under section 122 where definite information, as defined in sub-section (8) of section 122, comes into the knowledge or possession of the Commissioner in which case all the provisions of the Ordinance shall apply accordingly.

15. In this Schedule,—

- (a) ‘due date’ means the date as specified by the - Federal Government for tax year 2015 and for the tax years 2016, 2017 and 2018 the date specified in clause (b) of sub-section (2) of section 118.
- (b) ‘turnover’ means turnover as defined in clause (a) of sub-section (3) of section 113.

16. Persons convicted under Control of Narcotics Substances Act, 1997 (XXV of 1997), Anti-Terrorism Act, 1997 (XXVII of 1997) and Anti-Money Laundering Act, 2010 (VII of 2010) shall not be eligible to qualify under this Schedule.

17. Return for the trader qualifying under Part I of this Schedule shall be on Form A as specified below:—

Form A

**RETURN FOR TRADER QUALIFYING UNDER PART I OF THE
SCHEDULE FOR THE TAX YEARS 2015 TO 2018**

Name of proprietor/Managing Member of AOP _____

CNIC: (please attach copy of CNIC) _____

Business (es) Name and Address(es) _____

Phone: _____ Email: _____ Mobile: _____

Residential Address of the proprietor: _____

_____Name(s) and Residential address(es) of Members of AOP (if applicable)

(1) Amount of working capital _____

(2) Tax payable on (1) above (for tax year 2015 only) _____

(3) Total Turnover _____

(4) Tax payable on (3) above (for tax years 2016, 2017 and 2018 only) _____

(5) Amount of Tax [(2) or (4)] _____

(6) CPR No: _____ Dated: _____

Declaration:

I _____ CNIC No. _____
in my capacity as self /representative of taxpayer named above, do hereby solemnly
declare that to the best of my knowledge and belief the information given in simplified
return is correct and complete in accordance with the provisions of Part I of the
Ninth Schedule to Income Tax Ordinance, 2001 (XLIX of 2001).

Signature : _____

Date: _____ ”

ABDUL JABBAR ALI,
Acting Secretary.