

Technical issues in return filing, KTBA tells FBR

KARACHI: Karachi Tax Bar Association (KTBA) in a letter to the chairman of the Federal Board of Revenue (FBR) sent on Tuesday, highlighted technical issues in filing return of income for tax year 2021.

It is commendable that the FBR issued the return form for tax year 2021 on July 01, 2021. "It is however, return filers and tax consultants alike are not satisfied with the classification of income set in IRIS, and otherwise are experiencing various computational errors, glitches etc.," Muhammad Zeeshan Merchant, President, KTBA said in the letter.

The KTBA highlighted following technical issues:

1) COMPUTATION OF CAPITAL GAINS TAX ON DISPOSAL OF IMMOVABLE PROPERTY U/S. 37

The provisions of Section 37(1A) of the Income Tax Ordinance, 2001 (Ordinance) prescribes mode of taxation of gain on disposal of an immovable property on the basis of holding period of the property and the amount of taxable gain; whereas the amount of taxable gain is effectively reduced by 25% with each additional year of holding and finally taxable value is reduced to '0' if the holding period exceeds four years. Correspondingly a variable tax rates are prescribed in Division VIII of Part I of the First Schedule.

Although, law prescribes taxation of gain of immovable property on net amount (refer sub-section (3A) Section 3A) but conversely the return works out the tax liability on gross amount of gain.

2) LOSS ON DISPOSAL OF SECURITIES U/S. 37A

Similarly, in line with Section 37A, unadjusted loss on disposal of securities during the Tax Year 2019 and onwards shall be carried forward to subsequent three tax year or is adjustable only against the gain of the person's gain on disposal of securities in succeeding three years. Conversely, the web portal does not have any enabling/dedicated field / tab to declare the amount of loss sustained on disposal of securities and carried forward to future tax periods. Moreover, if such a loss on capital gain of securities is reported under the existing tab the same is resulting in a negative amount of tax that ultimately results in incorrect tax computation.

3) INCORRECT WORKING OF TAX DEPRECIATION U/S. 22

In order to restrict claim of depreciation upto 50% to first time return filers a proviso to Section 22(2) is inserted via Finance Act 2020 which to the exclusion of Special Tax Year 2021 is expressly applicable w.e.f. July 2020; however, IRIS portal is applying this restriction in cases of Special Tax Year.

4) INITIAL ALLOWANCE ON PLANT & MACHINERY U/S. 23

Subject to certain restrictions initial allowance @ 25% is allowed against plant and machinery on the strength of proviso to Section 23 (read with Part II of the Third Schedule). The IRIS web portal is presently not catering this scenario in line with law resulting in an incorrect computation of tax depreciation.

5) TAX ON FEE FOR TECHNICAL SERVICES / ROYALTY OF A NON-RESIDENT PERSON

Under the provisions of Section 152(1) read with Sections 6 and 8 of the Ordinance, the tax deducted on payment of Pakistan-sourced Royalty and Fee for Technical Services of a non-resident person is a Final Tax. The online return form is presently classifying it under 'minimum tax tab' resulting in a incorrect higher tax liability.

6) DISCREPANCIES IN DETAILS AVAILABLE ON FBR ONLINE PLATFORMS

For past few years, the FBR has started sharing information regarding WH/advance taxes through "FBR Maloomat" and recently via "MIS". It is, however, as of today the information at times is patchy and is not complete and correct either. Given that, it is suggested that unless the scheme is fully operational, tax deduction certificates will continue to be acceptable and no adverse inference should be taken for discrepancies on this score.

7) SIMPLIFIED RETURN FOR SMEs

A simplified scheme for manufacturing SMEs (having turnover upto 250 m) is introduced by adding Section 110E read with Fourteenth Schedule through Finance Act, 2021. It is however, in patent disregard for Section 237, no draft return for this purpose was notified and a return is uploaded on the portal without any notification as well as without following the conditions of Rule 34A putting validity of the return in jeopardy. A few anomalies in this return (though still not notified) are also experienced by us and is shared below for your appreciation:

The return is accepting turnover in excess of Rs. 250(M) in revenue tab which ought to be restricted to Rs. 250(M).

It is not applying correct rate of tax in case a person who opts not to avail FTR and creating incorrect tax liability. Screen shots from return is shared below for your understanding.

It has also been observed that an assignment for re-filing of SME return afresh is available to a person who already had filed its return; without any recourse for a revised return.

Although law requires dedicated registration SME at IRIS portal however, the portal sans this feature as yet; needless to add that selection from "attribute tab" is not an apt option for this purpose.

8) DISCLOSURE OF TAX COLLECTED UNDER SECTION 236D

Through the Finance Act, 2020, the advance tax on function and gatherings has been withdrawn which is practically applicable from July 1, 2020, it is however persons following Special Tax Year are yet to claim this collection/deduction whereas this filed has been removed from the return. It is therefore, suggested that field should be reinstated to claim tax deduction who are entitled for that.

9) WEALTH STATEMENT FOR NON-RESIDENT INDIVIDUALS

It has been observed that statement of wealth for tax year 2021 is pre-populated with opening balance of last year's closing balance without considering the tax residency of a person. Consequently, non-resident individuals who otherwise is not required to file a wealth statement cannot proceed to file a return of income in the presence of such unnecessary disclosure.

10) DISCREPANCIES IN TAX COMPUTATION OF A COMMERCIAL IMPORTER

Through Finance Act, 2019, the facility of FTR for commercial importers has been abolished. In order to cater the transition period, the FBR has made appropriate changes in the computation of tax liability of commercial importer like impact of closing and opening stocks. However, IRIS web portal is not catering the impact of closing / opening stock which is resulting in an incorrect tax computation.

11) INCOME ATTRIBUTION WITH RESPECT TO MINIMUM TAXATION U/S. 153 AND U/S. 234A

It has been observed that IRIS web portal is presently computing and attributing income of persons associated to Section 153 and Section 234A on certain predefined and programmed formula.

It is suggested that such persons should be allowed to compute and attribute their incomes based on facts instead of predefined or programmed formula and relevant field should be relaxed.

12) COMPUTATION OF FOREIGN INCOMES

Though tabs for various classification of incomes has now been catered in the return of income it has however, been observed that portal is computing tax for all streams of income on the basis of business income.

For the purpose of better appreciation of all issues in correct and true spirit and to create a harmonized approach, we suggest you that a joint meeting (physical or online) between the representatives of KTBA and FBR's Policy, Legal, IT/PRAL Divisions should be fixed (preferably in current week) at mutual convenience. The KTBA will be glad to assist the FBR's technical team and join hand for the earliest resolution of the issues.