



# TAX PAK

## NEWSLETTER BY TOLA ASSOCIATES



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# JUNE 2022



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## EDITORIAL NOTE

Asalam-o-alaikum everyone! Hope this monthly issue of TAXPAK finds you in good spirits and immaculate health! I welcome you to another edition of TAXPAK, our monthly publication the purpose of which is to provide a monthly update on the ongoing tax related developments in Pakistan. Alhumdulillah, so far, we have been successful in our mission to educate about, and keep the public-at-large updated of, these developments on a monthly basis.



Moving on to the contents of this letter, I would like to apprise the readers of what information you can expect in this document. This newsletter contains an elaboration of important notifications and circulars issued by the Federal Board of Revenue and its provincial counterparts. Moreover, notifications from the corporate regulatory body i.e. SECP are also discussed. Furthermore, keeping in mind the aforementioned stated purpose of this document, we usually discuss a (relatively) recent judgment passed by the courts of law. In this monthly edition, we have opted to discuss the judgment passed by the Appellate Tribunal Inland Revenue, Multan & Lahore discussing to waive the penalty for failure to integrate with the POS software on account of non establishment of men's rea.

Lastly, this newsletter is concluded with our Topic of the month that is titled "INCOME FROM PROPERTY". The said topic discusses about the taxation of income earned from renting of immovable properties.

We have also issued our comments on Finance Bill, 2022 and subsequent amendments therein: The same may be accessed through <https://bit.ly/3QZnfc9>.

All our readers are requested to visit our website [www.tolaassociates.com](http://www.tolaassociates.com), or download our mobile application from the links mentioned below, in order to access previously published editions of this TAXPAK along with other publications, and to stay updated of future notifications.

1. <https://goo.gl/QDM4ZM> (IOS)
2. <https://goo.gl/LFiWyx> (Android)

Lastly, we request our readers to circulate this e-copy within their circle, as our primary aim is to benefit the masses. Feedback is always welcomed.

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Editor in Chief

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## 1. NOTIFICATIONS/ CIRCULARS

### 1. ADJUSTMENT OF PREVIOUS YEARS TAX REFUNDS WITH TAX LIABILITY UNDER THE INCOME TAX ORDINANCE, 2001

The FBR issued a circular referenced CCIR/RTO-I/S.O-(Rev & Bud)/Khi/2021-22/8478 dated 10th June 2022, wherein two scenarios were elaborated, one being where notice had been issued Under Section 221 and the other where notices Under Section 221 was not issued. In the former, it was decided that the unit officers shall verify year-wise refunds after verification from ITMS/IRIS and pass an order Under Section 170 for the adjustment of refundable amount. Provided that all legal requirements have been completed. Furthermore, the unit officers will ensure that the adjusted refunds have not been paid earlier. Order Under Section 221 shall be passed upon production of evidence for unverified amounts reported by the taxpayers.

For cases where no notice has been issued, a desk audit for the admissibility and adjustability of refund will be conducted. If a taxpayer claims refund for more than one year, then, a year-wise verification and completion of legal requirement will be separately made using the IRIS and ITMS for adjustment the of verified amount. The officer concerned shall issue notice to the taxpayers identifying the unverified amounts and will provide them a reasonable opportunity to explain and provide documentary evidences. Refund orders Under Section 170 of the verified amounts for the adjustment of tax liability will be passed if all legal requirements are complete for the pending refunds in respective years. If unsatisfactory compliance has been made on part of the taxpayer, then the officer shall pass an order that the amount is not verified.

In the circular it was also conveyed that week-wise status report shall be shared within FBR.

### 2. AMENDMENTS IN THE INCOME TAX RULES, 2002

The FBR via SRO 820(I)/2022 issued an inclusion of Part-II-V in the Income Tax Rules, 2002 wherein the draft information for all persons for the submission of annual return had been made. The document bore the draft format for the returns filed under Return of Income filed Voluntarily (Section 114(1)) and Statement of Assets /

Liabilities (Section 116(2)). The aforementioned SRO was further amended vide SRO 978(I)/2022 dated 30th June 2022 and amended Income tax return for Salaried persons, AOPs, Business Individuals and Company, and the same has been inserted in the Income Tax Rules, 2002.

### 3. EXEMPTION FROM SALES TAX FOR SPECIFIED MEDICAL GOODS

The FBR vide SRO 729(I)/2022 provided a whole sales tax exemption on the import of the following goods which were used for medical purposes for the timeframe of 9/11/2022-30/06/2022 (both days inclusive):

- a. Oxygen Gas
- b. Cylinders (for oxygen gas)
- c. Cryogenic tanks (for oxygen gas)

### 4. EXTENSION IN DATE OF PAYMENT OF SALES TAX AND SUBMISSION OF RETURN FOR THE TAX PERIOD MAY, 2022

The KPRA vide its circular No. 03/2022 extended the date of payment of sales tax to 17th June 2022 from 15th June 2022 and extended the date of filing the return to 21 June 2022 instead of 18th June 2022.

### 5. STANDARD OPERATING PROCEDURE (SOP) FOR REVISION OF SALES TAX & FEDERAL EXCISE RETURN-ADDENDUM

The FBR vide C. No. 1(25)ST&FE/IP&E/Misc/2019/134020-R issued an addendum to para 2(ii) of SOP wherein it was notified that in case import/export GDs could not be uploaded in the respective month of the monthly sales tax return due to technical error, then the taxpayer shall approach the concerned Commissioner IR in writing within 180 days. The missing GD shall be made available after approval from the concerned Commissioner in the subsequent month. It was further mentioned that in case the statutory period of 180 days lapses then the taxpayer shall be entertained provided condonation of time limit has been duly filed.

### 6. TIER 1 RETAILERS- INTEGRATION WITH FBR'S POS SYSTEM

The FBR vide circular C. No.01/POS/IR/2021/131520-R issued a general order wherein the adjustable tax would be reduced by 60% vide Finance Act, 2021. A system-based

approach was adopted whereby all T-IR who were liable to integrate but haven't integrated from July-2021 will be dealt as per the procedure laid down in STGO No. 1 of 2022. The FBR also placed the list of identified T-IRs on their web portal. It was further mentioned that upon filing the sales tax return for May 2022, all notified T-IRs who have not integrated will have their input claim disallowed without any further notice, or proceeding, creating tax demand by the same amount.

## 7. IMPLEMENTATION OF TRACK & TRACE SYSTEM FOR CEMENT BAGS

The FBR vide General Order No 19 of 2022 has hereby notified that no Cement bags can be removed from the production site/ factory premises/ manufacturing/ import station without tax stamps or Unique Identification Markings (UIMs) from 1st October 2022. These UIMs/ tax stamps can be obtained from FBR's Licensee M/s AJCL/MITAS/Authentix Consortium.

## 8. SRB NOTIFICATIONS:

### 8.1 Vide SRO 3-4/17/2022:

- e-Filing of tax returns for Cable TV Operators has been extended to the 31st day of July 2022 for the tax periods July 2016 to June 2022 ;
- e-Deposits of tax liability for advertisement on Cable TV network has been extended to the 31st day of August 2022 for the return for tax periods July 2016 to June 2022
- Liability of Sindh Sales Tax under the Sindh Sales Tax Special Procedure (withholding) Rules 2014, for the tax year June 2022, if it was not paid earlier, shall be e-deposited by the stand-alone service provider on or before 31st August 2022.
- The rescindment of the above notification has been extended till 30th June 2024

### 8.2 Vide SRO SRB 3-4/18/2022:

- The benefit of Sales tax reduced rate of 5% on services provided by recruiting agents and for recruitment of persons/groups of persons for employment outside Pakistan has been extended till the financial year 2023-24.;
- e-Deposits of tax liability for the tax periods up to June 2022 has been extended to 15th July 2022.

- The said notification shall remain effective till 30th June 2024 (till 23:59 hours of that day).

### 8.3 vide SRO 3-4/19/2022:

Exemption period for Life Insurance and Health Insurance has been extended to 30th June 2023 and the notification shall stand valid till 30th June 2023.

### 8.4 vide SRO 3-4/20/2022:

Reduced rates were introduced for following services with specified conditions:

| Sr. No. | Description                                      | Rate of tax | Conditions  |
|---------|--|-------------|---|
| 1       | Software/IT based system development consultants | 3%          | 1. Registered person e-submits his election or Form "S" within the due date.<br>2. Input tax credit will not be adjustable  |
| 2       | Commission Agents                                | 8%          | 1. Reduced rate shall be applied in relation to the commission earned by food delivery channels and home chefs for the tax periods July 2022-June 2024<br>2. Input tax credit shall not be adjustable |
| 3       | Services provided by Call Centers                | 3%          | 1. Registered person e-submits his election or Form "L" within the due date.<br>2. Input tax credit will not be adjustable  |

### 8.5 Vide SRB SRO 3-4/21/2022:

Threshold for exemption for services provided by restaurants and caterers has been reduced to Rs 2.5 million from Rs 4 million. Furthermore, an entry was added wherein services provided for manufacturing / processing for others on toll basis shall be levied under Federal sales tax under the STA.

### 8.6 Vide SRO 3-4/22/2022:

SRB provided exemption from tax on services provided or rendered by GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit) subject to the following conditions:

- Services were provided by persons registered with the SRB;
- Registered persons raise invoices according to the rules of SRB indicating the description and tariff heading of the services and show the rate of sales tax as “exempt under notification No. SRB-3-4/22/2022 dated 28th June 2022; and
- Disclose transaction in his tax return (Form SST-03).

Types of services which will be provided have been mentioned in brief in the said SRO.

### 8.7 SRB SRO referenced SRB 3-4/23/2022:

Dated 28<sup>th</sup> June 2022 has introduced the following in its Second Schedule to the Sindh Sales Tax on Services, 2011:

- **42I- Services provided/ rendered by software/IT based system development consultants** wherein the standard rate of tax was set at 13% however benefit of reduced rate of 3% would be applicable if the service provider submitted Form “S” within 31 days from the commencement of the financial year 2022-23 ( by 31<sup>st</sup> July, 2022); and
- **42J- Services provided/ rendered by Call Centers** wherein the standard rate of tax was set at 13% however benefit of reduced rate of 3% would be applicable if the service provider submitted Form “L” within 31 days from the commencement of the financial year 2022-23 ( by 31<sup>st</sup> July, 2022);

The application to withdraw election or option for reduced rate is to be submitted electronically on the SRB e-filing portal at least 21 days before the financial year from which the person desires to revoke the option exercised. This rule shall be applicable to the following service providers:

- Franchise and intellectual property services;
- Hotels, Motels, Guest Houses, Clubs, Restaurants,
- Marriage Halls And Lawns, Caterers, etc.
- Healthcare Centres, Gyms or Physical Fitness Centres, etc;
- Construction services;
- Ready Mix Concrete services;

- Beauty Parlours, Beauty Clinics, Slimming Clinics, Body Massage Centers, Pedicure Centers, etc
- Persons or transport agencies providing inter-city transportation or carriage of goods by road or through pipeline or conduit; and
- Toll manufacturer or Processor

### 8.8 SRB SRO referenced SRB-3-4/24/2022

Dated 28<sup>th</sup> June 2022 has amended the said SRO wherein persons commencing inter province service shall submit their election to pay tax rates of 15% or higher in a prescribed Form within 10 days before such commencement, and validity of the said option which was till 30<sup>th</sup> June 2022 has been abolished.

## 2. CORPORATE NOTIFICATIONS / CIRCULARS

### 1. REQUIREMENTS FOR ASSESSING SUITABILITY AND RISK CATEGORIZATION OF COLLECTIVE INVESTMENT SCHEMES (CIS)

SECP vide its circular No. SCD/CIRCULAR/368/2022 dated 9<sup>th</sup> June 2022 issued a tabular Category of Collective Investment Schemes (CIS) with the impact on Risk Profile and Risk of principal erosion. It was further mentioned that this change shall be applicable within 60 days of issuance of the circular and previous circulars for the said mater shall stand unchanged.

### 2. STEWARDSHIP GUIDELINES FOR INSTITUTIONAL INVESTORS

The SECP issued a stewardship guideline for institutional investors (A company which invests on behalf its clients, for example mutual funds/ hedge funds). This guideline was issued u/s 40B of the SECP Act, 1997 to further groom and provide support to the institutional investors in order to facilitate compliance. In the document, (a) stewardship policy, (b) voting policy, (c) monitoring of investee companies, (d) policy on engagement with the investee companies, (e) managing conflict of interest and (f) incorporating sustainability considerations was discussed at long along with the outcome of the guidelines for each of the contents aforementioned above.

### 3. AMENDMENT IN DIVIDEND REGULATIONS FOR PO

Vide SRO 809(I)/2022 the SECP conveyed an amendment in the Companies Distribution of Dividend Regulations,



2017 wherein the definition of paying agent was changed and the now the company shall appoint a paying agent to distribute dividend in cash instead of the existing regulation wherein the share registrar was also empowered to do the same.

#### **4. AMENDMENT IN PUBLIC OFFERING REGULATED SECURITIES ACTIVITIES LICENSING REGULATIONS, 2017**

The SECP vide SRO 810(i)/2022 dated 15<sup>th</sup> June, 2022 issued an amendment in the second schedule of the Public Offering (Regulated Securities Activities Licensing) Regulations, 2017 wherein a consultant to an issue can be a licensed securities broker or a wholly owned subsidiary of the securities broker but not an “Online Only” broker.

#### **5. AMENDMENT IN SECURITIES BROKERS REGULATIONS REGARDING ONLINE ONLY BROKERS**

The SECP vide its SRO 808(i)/2022 dated 15<sup>th</sup> June 2022, issued an amendment to the Securities Brokers (Licensing and Operations) Regulations, 2016. In the notification, there were certain additions to include “Online Only” in relevant portions of the regulations, for example, definition, fee for registration, categories of securities broker etc. For further information- <https://www.secp.gov.pk/laws/notifications/>

#### **6. DELEGATION OF POWER REIT FUNCTION**

SECP vide its SRO 765(i)/2022 dated 6<sup>th</sup> June 2022, issued a comprehensive list of Powers of Commission delegated to Commissioner Securities Market Division by amending the (a) Companies Act, 2017, (b) Companies Ordinance, 1984, (c) Non-Banking Finance Companies (Establishment and Regulation) Rules 2003, (d) Listed Companies (Code of Corporate Governance) Regulations 2019 and (e) Real Estate Investment Trust Regulations, 2015. It was further clarified that the changes in delegation of powers was applicable to Real Estate Investment Trust Function only. For further guidance, visit <https://www.secp.gov.pk/laws/notifications/>

#### **7. AMENDMENTS TO NBFC NE REGULATIONS, 2008**

In the SECP SRO 807(i)/2022 dated 14<sup>th</sup> June 2022, there was an addition to the definitions of the said regulation for

“Data Processing”, “Lender” and a brief inclusion to the remainder regulation for Peer to Peer (P2P) Lending / Servicing. The said regulation can be read from <https://www.secp.gov.pk/laws/regulations/>

#### **3. THE APPELLATE TRIBUNAL INLAND REVENUE, MULTAN WAIVED THE PENALTY FOR FAILURE TO INTEGRATE WITH THE POS SOFTWARE ON ACCOUNT OF NON-ESTABLISHMENT OF MENS REA**

The Appellate Tribunal Inland Revenue, Multan (“ATIR”) was approached by the Appellant in the case of Ideal Mall Sweets & Bakes (Appellant) versus The CIR, RTO Multan (Respondent) to waive the penalty which was imposed by the Commissioner Inland Revenue (Appeals) (“CIRA”) for failure to integrate the Point of Sale (POS) software with the FBR.

##### **1. ARGUMENTS BY THE RESPONDENT**

The Respondents did not appear before the ATIR and therefore the ATIR decided the case on basis of merits.

##### **2. ARGUMENTS BY THE APPELLANT**

The learned AR had contended that they had been duly registered under the Sales Tax Act, 1990 (“STA”) and had e-filed the monthly sales tax returns regularly. They further stated that the learned CIRA had ignored all the grounds taken in the first appeal. Furthermore, the learned AR argued that the assessment was completed illegally without assessing that due to Covid-19 vendors were not available to install the integration system. It was further brought to light that the Inland Revenue Officer could not pass order to impose a penalty without proper permanent legislation.

##### **3. FINDINGS BY THE ATIR**

The ATIR observed that the Assessing Officer imposed a huge penalty without taking into account that sales tax had already been paid by the appellant and that there was no justification for imposing the penalty at a belated stage. The ATIR also found that the Assessing Officer imposed penalty without assessing whether mens’ rea was present. It was also observed that since there was no justification for imposing the penalty at a belated stage, the appeal was

thereby allowed, and the authorities were ordered to delete the imposed penalty.

## CONCLUSION

The above case's pattern was detected in another appeal filed in the ATIR (Lahore) by Pattan Mart versus The CIR RTO Faisalabad, wherein their first appeal had been rejected leading to confirmation of the ONO, hence they approached the tribunal for further appeal. A similar penalty was imposed on grounds of penalty for not integrating the POS software with the FBR, and during scrutiny it was found out that the appellant had, at a later stage, installed the POS System which was integrated with the FBR. It was also assessed that no men's rea was found against the registered person resulting which the appeal was subsequently accepted by the ATIR, and punitive action was dismissed on the grounds that the recovery of tax demanded was infructuous.

## 4. TOPIC OF THE MONTH

### INCOME FROM PROPERTY

The Income Tax Ordinance 2001 ("ITO") covers five broadly categorized incomes, namely; (i) Income from Salary; (b) Income from Business; (c) Income from Property; (d) Income from Capital Gains; and (e) Income from Other Sources. We will now discuss in detail what constitutes an Income from Property, its function(s) and the relevant subcategories recognized under it.

#### 1. DEFINITION-15(2) OF THE ITO:

Rental Income means consideration received or receivable for a tax year by the owner of land/ building:

- To use or occupy, the land or building; and
- Includes any forfeited deposit paid under a contract for the sale of land or a building.

#### 2. INTRODUCTION

The ITO makes it clear that if any amount received or is receivable (other than exempt rent) it shall be charged under this heading. However, the ITO also distinguished that if any amount received or receivable in respect of lease of a building or plant and machinery shall not fall under Income from Property. Similarly, if any amount is

included under Income from property on account of provision of amenities, utilities or other services connected with the rental of building it shall also not fall under this income.

#### 3. ACTUAL RENT LOWER THAN FAIR MARKET RENT

In case, rent received, or receivable, is less than the assessed fair market rent, it shall be deemed that rental income is equal to the fair market value (FMV). Fair Market Value means a value which can be readily achieved in a general market for the underlying item. For example, an apartment has a FMV rent of Rs 10,000/- and the person is collecting rent at Rs 5,000/-, it shall be implied that the person has obtained rent at Rs 10,000/- in light of the ITO.

However, this shall not apply if the fair market rent is included in the income of the lessee chargeable to tax under heading "Income from Salary". This concept is called Self-Hiring, for example, an employee owns a property and rents it out to his employer who already provides him rental perquisite, then, such rental income shall not be chargeable under income from property instead it shall be taxable under the head of Salary at higher of fair market rent or 45% of the basic salary.

#### 4. EXPENDITURES/ ALLOWANCES ALLOWED TO DEDUCT FROM INCOME FROM PROPERTY

The ITO has permitted, only to the extent mentioned below, the amount of expenditures or allowances which can be set off against rental income during a tax year:

- Repairs to a building – 1/5 of rent chargeable before any deduction is allowed;
- Any insurance premium paid against risk of damage or destruction;
- Any local rate, tax, charge or cess to any local authority or government;
- Any ground rent paid;
- Any profit paid on any money borrowed including by way of mortgage to acquire, construct, renovate, extend or reconstruct;
- Where property has been acquired, constructed, renovated, extended or reconstructed with capital from the House Building Finance Corporation/Scheduled Bank under the scheme of investment in property on the basis of sharing the



rent made by the Corporation / Bank, the share in rent and towards appreciation in value (excluding return of capital) shall be eligible provided that it has been paid by the person to the Corporation/ bank in the year under the scheme;

- Amount of profit or interest paid on mortgage / charge, if property is under mortgage or capital charge;
- Any expenditure not exceeding 4% of the rent chargeable before any deduction is allowed, including administration and collection charges.
- Any legal services acquired to defend title to property or suit connected with the property in a court;
- An allowance equal to the unpaid rent provided that there are reasonable grounds for believing that the unpaid rent is irrecoverable. Subject to the following conditions:
  - Tenancy was bona fide. {defaulting tenant vacated the property or is compelled to vacate and such defaulting tenant is not in occupation of any other property of the person}
  - All reasonable steps have been undertaken to initiate legal proceedings for recovery of unpaid rent, or has reasonable grounds to believe that legal proceedings are useless.
  - Unpaid rent has been included under the heading "Income from Property" in which it was **due** and tax was **paid** on that amount;

Furthermore, where any unpaid rent which previously allowed to be deducted, is wholly or partially recovered, then such amount shall be chargeable to tax in the year it was recovered.

Where a deduction has been allowed and the liability is unpaid within 3 years of the end of the tax year in which it was allowed, the unpaid amount shall become chargeable following immediately from the end of 3 years. Provided further that, if such person settles it in whole or partially, he shall be allowed a deduction for the amount paid in the tax year the payment was made.

Any expenditure allowed under this heading cannot be applied for computation under any other head of income.

It is also pertinent to mention that if the owner of the **building** receives an amount as deposit from the tenant which is nonadjustable from rent, such amount shall be treated as rent chargeable in the year it was received and for the following nine tax years in equal proportion. On the contrary, if the tenancy expires before ten years, and the amount is refunded, then no portion of the amount will be allocated to the tax year in which it was refunded or to any subsequent tax year except if the owner has a succeeding tenant and receives from this tenant any amount which is not adjustable, then it shall be reduced by such portion of the earlier amount as was chargeable to tax.

## 5. ADVANCE TAX

Advance tax rates for Companies shall be 15% and as per following table for individuals and associations of persons (AOP).

| S. No. | Gross amount of rent                                 | Rate of Tax   |
|--------|--|---|
| 1.     | Rental income does not exceed Rs. 300,000/-          | Nil   |
| 2.     | Exceeds Rs. 300,000/- but is less than Rs. 600,000/- | 5% of the gross amount exceeding Rs. 300,000            |
| 3.     | Exceeds Rs. 600,000/- but not Rs. 2,000,000/-        | Rs. 15,000 + 10% exceeding Rs. 600,000                  |
| 4.     | Exceeds Rs. 2,000,000/-                              | Rs. 155,000 + 25% of the amount exceeding Rs. 2,000,000 |

The tax on rental income, after deduction of allowable amounts, will be charged at 29% in case of Companies and at applicable normal slab rates in case of others.

## 6. DEEMED INCOME - SECTION 7E ADDED BY THE FINANCE ACT 2022

A new section 7E has been inserted by the Finance Act 2022, and shall be applicable to all capital Assets. We have briefly described about this addition in our "Comments on Finance Bill 2022-2023" and "Comments on Amended Finance Bill 2022-2023" edition. Nonetheless, a macro-overview is provided herein below:

As the heading itself states "Deemed", meaning that a resident person shall be treated to receive income equal to

5% of the Fair Market Value of the capital asset. Exceptions are listed below:

- One capital asset owned by the resident person;
- Self-owned business premises from where the business is carried out provided that his name appears on the Active Taxpayers List (ATL) anytime during the year.
- Self-owned agriculture land where agriculture activity is carried out (but not farmhouse/ land annexed to it), meaning that farmhouse and annexed land will be subject to Section 7E.
  - Farmhouse has been defined as a house constructed on a total minimum area of 2000 sqyds with a minimum covered area of 5000 sqft used as a single dwelling unit with or without an annex.
  - Provided that- where there are more than one dwelling units in a compound and the average compound area is more than 2000 sqyds for a dwelling unit with each one of such dwelling units shall be treated as a separate farmhouse.
- Capital assets allotted to following have been excluded from the section:
  - a Shaheed or dependents of a shaheed belonging to Pakistan Armed Forces;
  - a person or dependents of the person who dies while in the service of Pakistan armed forces or Federal or provincial government;
  - a war wounded person while in service of Pakistan armed forces or Federal or provincial government; or
  - an ex-serviceman and serving personnel of the armed forces/ ex-employees/ serving personnel of Federal and provincial governments, being original allottees of the capital asset duly certified by the allotment authority;
- Any property from which income is chargeable to tax under the Ordinance and tax leviable is paid thereon;
- Capital assets in the first year of acquisition where advance tax under section 236K has been paid.
- FMV of property in aggregate, excluding properties mentioned above, do not exceed Rs 25 million; (for example person Z owns three properties valuing Rs

5 million, Rs 3 million, and Rs 7 million in aggregate equal to Rs 15 million, in such a case this section shall not apply as it is below Rs 25 million)

- Capital assets owned by a Provincial / Local Government, Local/Development Authority;
- Capital assets owned by a local authority, development authority, builders and developers for land development and construction, subject to the condition that such persons as registered with DG of Designated Non-Financial Businesses and Professions of Board;

Rates for this section are specified in Division VIII C or Part-I of the First Schedule which is straight away 20%. This means that the effective tax rate will be 1% of the FMV of the immovable property. To further elaborate, consider example of a Person A who has three properties, a house in which he resides (FMV Rs. 30 million), an office where he runs his business having FMV Rs. 2 million and a vacant apartment having FMV of Rs. 33 million. It will therefore be deemed that he receives income from the vacant apartment and the deemed rental value shall be (Rs. 33 million x 5%=Rs 1.65m) on which tax would be Rs 330,000/- (the effective tax rate being 1% of Rs. 33 million). Please note that the office was not considered and/or aggregated for the purposes of Section 7E as it was where A's self-owned business was run, and his house was also not considered and/or aggregated as the aforesaid section provides for an exemption for one capital asset owned by the resident person.

Taking the same example, if we assume that the apartment's FMV is Rs. 24 million, Section 7E shall not apply as after applying the exceptions stated in Section 7E, the aggregate value will be below the threshold of Rs. 25 million.

## 7. CAPITAL ASSETS

There has been a new Section-specific definition for Capital Assets introduced in and for Section 7E. Capital Assets has been defined to as a "property of any kind which is held by a person whether it is connected with a business or not. Exceptions are as follows:

- any stock-in-trade, consumable stores or raw materials held for the purpose of business;

- any shares, stocks or securities;
- any property with respect to which the person is entitled to a depreciation deduction under section 22 or amortization deduction under section 24; or
- any movable asset not mentioned above.

The cutoff period for holding the capital assets has been provided to be the last day of the tax year.

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