

## RELEVANT LAWS REGARDING MINIMUM TAX ON SERVICES

### SECTION 153 OF INCOME TAX ORDINANCE, 2001

153. Payments for goods, services and contracts.— (1) Every prescribed person making a payment in full or part including a payment by way of advance to a resident person or —

(a) for the sale of goods;

**(b) for the rendering of or providing of services;**

(c) on the execution of a contract, 2[including contract signed by a sports person] 3 [but not including] a contract for the sale of goods or the rendering of or providing services, shall, at the time of making the payment, deduct tax from the gross amount payable (including sales tax, if any) at the rate specified in Division III of Part III of the First Schedule.

(2) Every exporter or an export house making a payment in full or part including a payment by way of advance to a resident person or permanent establishment in Pakistan of a non-resident person for rendering of or providing services of stitching, dyeing, printing, embroidery, washing, sizing and weaving, shall at the time of making the payment, **deduct tax from the gross amount payable at the rate specified in Division IV of Part III of the First Schedule.**

(3) The tax 1[deductible] under clauses (a) and (c) of sub-section (1) and under sub-section (2) of this section, on the income of a resident person or 2[ ], shall be final tax.

Provided that,—

(a) tax deducted under clause (a) of sub-section (1) shall be adjustable where payments are received on sale or supply of goods, by a, —

(i) company being a manufacturer of such goods; or

(ii) public company listed on a registered stock exchange in Pakistan;

**(b) tax deductible] shall be a minimum tax on transactions referred to in clause (b) of sub-section (1); and**

(c) tax deducted under clause (c) of sub-section (1) shall be adjustable if payments are received by a public company listed on a registered stock exchange in Pakistan, on account of execution of contracts.

**(4) The Commissioner may, on application made by the recipient of a payment referred to in sub-section (1) and after making such inquiry as the Commissioner thinks fit, may allow in cases where tax deductible under sub-section (1) is adjustable, by an order in writing, any person to make the payment,—**

**(a) without deduction of tax; or**

**(b) deduction of tax at a reduced rate.**

(5) Sub-section (1) shall not apply to —

(a) a sale of goods where the sale is made by the importer of the goods and tax under section 148 in respect of such goods has been paid and the goods are sold in the same condition as they were when imported;

- (b) payments made to traders of yarn by the taxpayers specified in the zero-rated regime of sales tax (as provided under clause (45A) of Part-IV of the Second Schedule);
- (c) a refund of any security deposit;
- (d) a payment made by the Federal Government, a Provincial Government or a Local Government to a contractor for construction materials supplied to the contractor by the said Government or the authority;
- (e) a cotton ginner who deposits in the Government Treasury, an amount equal to the amount of tax deductible on the payment being made to him, and evidence to this effect is provided to the —prescribed personll;
- (f) the purchase of an asset under a lease and buy back agreement by a modaraba, leasing company, banking company or financial institution; or
- (g) any payment for securitization of receivables by a Special Purpose Vehicle to the Originator.

(6) Where any tax is deducted by a person making a payment for a Special Purpose Vehicle, on behalf of the Originator, the tax is credited to the Originator.

(7) In this section, —

(i) —prescribed personll means—

- (a) the Federal Government;
- (b) a company;
- (c) an association of persons constituted by, or under law;
- (d) a non-profit organization;
- (e) a foreign contractor or consultant;
- (f) a consortium or joint venture;
- (g) an exporter or an export house for the purpose of sub-section (2);
- (h) an association of persons, having turnover of fifty million rupees or above in tax year 2007 or in any subsequent tax year; 1[ ]
- (i) an individual, having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent year; 2[or]
- (j) a person registered under the Sales Tax Act, 1990;]

(ii) —servicesll includes the services of accountants, architects, dentists, doctors, engineers, interior decorators and lawyers, otherwise than as an employee;

(iii) —sale of goodsll includes a sale of goods for cash or on credit, whether under written contract or not;

(iv) —manufacturerll means a person who is engaged in production or manufacturing of goods, which includes—

- (a) any process in which an article singly or in combination with other articles, material, components, is either converted into another distinct article or product is so changed, transferred, or reshaped that it becomes capable of being put to use differently or distinctly; or
- (b) a process of assembling, mixing, cutting or preparation of goods in any other manner; and

(v) —turnoverll means—

- (a) the gross sales or gross receipts, inclusive of sales tax and federal excise duty or any trade discounts shown on invoices, or bills, derived from the sale of goods;

- (b) the gross fees for the rendering of services for giving benefits including commissions;
- (c) the gross receipts from the execution of contracts; and
- (d) the company's share of the amounts stated above of any association of persons of which the company is a member.]

## **Part III of the First Schedule of Income Tax Ordinance, 2001**

### **Division III**

#### **Payments for Goods or Services**

**(1)** The rate of tax to be deducted from a payment referred to in clause (a) of sub-section (1) of section 153 shall be –

(a) in the case of the sale of rice, <sup>2</sup>[ ], cotton seed or edible oils, <sup>3</sup>[1.5]% of the gross amount payable; or

(b) in the case of sale of goods,—

(i) 4% of the gross amount payable in the case of companies; and

(ii) 4.5% of the gross amount payable in the case of other other taxpayers.

**(2)** The rate of tax to be deducted from a payment referred to in clause (b) of sub-section (1) of section 153 shall be —

(i) in the case of transport services, two per cent of the gross amount payable; or

(ii) in the case of rendering of or providing of services, —

**(a) 8% of the gross amount payable in the case of companies; and**

(b) 10% of the gross amount payable in the case of other taxpayers.

**(3)** The rate of tax to be deducted from a payment referred to in clause (c) of sub-section (1) of section 153 shall be:

(i) 7% of the gross amount payable in the case of companies; and

(ii) 7.5% of the gross amount payable in the case of other taxpayers.

(iii) 10% of the gross amount payable in case of sportspersons.

## **PART-IV OF SECOND SCHEDULE OF INCOME TAX ORDINANCE, 2001**

**(79)** The provisions of clause (b) of proviso to sub-section (3) of section 153 shall not be applicable to the tax withheld on payments received by a company for providing or rendering of services.

***Added by S.R.O. 1003(I)/2011, dated 31.10.2011 AND Omitted by Finance Act, 2015***

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