

Brief Comments on the Voluntary Tax Compliance Scheme for Traders



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FBR has proposed to introduce special tax regime for certain traders (individuals and associations of persons only) by inserting a new section viz 99A and Ninth Schedule in the Income Tax Ordinance, 2001 (the Ordinance). The Primary purpose of the Scheme is to broaden the tax net of the Government and to facilitate non-filers and certain filers to come into the tax net and regularize their tax affairs by paying tax liability on turnover, working capital, etc. in a simplified manner in respect of Tax Years 2015 to 2018. Traders opting under the Scheme would be exempt for above referred tax years in respect of income tax audit and assessment under section 122(5A) of the Ordinance. Traders would also be exempt from the application of section 111(3) of the Ordinance with regard to undeclared source of income in any proceedings initiated against them subsequent to Tax Year 2018 to the extent of imputable income subjected to tax under the Scheme. It is pertinent to mention that no exemption is made available with regard to sales tax and federal excise duty.

Eligibility criteria for the Scheme

- Traders who had not filed any return of income upto December 31, 2015 in respect of any of the preceding ten tax years. Tax liability of such traders under the Scheme shall be computed as per Part I of the Ninth Schedule;
- Traders who are filers or NTN holders and non-filers but have filed return of income in any of the last ten preceding tax years. Tax liability of such traders shall be computed as per Part II of the Ninth Schedule;
- The term 'trader' has been defined to mean 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 service by doing repair jobs.
- The Scheme is applicable only for profits and gains of traders from trading activities. All other incomes of traders would continue to be taxable in normal manner.
- Persons engaged in providing services as defined under section 153(7)(ii) of the Ordinance and retailers falling under rule (5) of Chapter II of Sales Tax Special Procedures Rules, 2007 shall not be eligible for the Scheme viz:
 - a retailer operating as a unit of a national or international chain of stores;
 - a retailer operating in an air-conditioned shopping mall, plaza or centre, excluding kiosks;
 - a retailer whose cumulative electricity bill during the immediately preceding 12 consecutive months exceeds Rs. 600,000; and
 - a wholesaler-cum-retailer engaged in bulk import and supply of consumer goods on wholesale basis to the retailers as well as on retail basis to consumers.
- Members of Senate and National and Provincial assemblies;
- Persons convicted under Control of Narcotics Substances Act, 1997, Anti Terrorism Act, 1997 and Anti-Money Laundering Act, 2010 shall not be eligible to qualify under the Scheme;
- Scheme will be applicable for returns of income for Tax Years 2015 to 2018.

Taxability under the Scheme

Traders qualifying under the Scheme shall have option to be assessed either as per:

- the provisions of the Ordinance, other than the Ninth Schedule thereof; or

the provisions of the Ninth Schedule to the Ordinance.

Following table explains the taxability under the Scheme:

Taxability of traders under Part I of Ninth Schedule

Tax Year	Taxability
2015	1% of declared working capital provided working capital does not exceed Rs. 50M <i>(Thus where working capital exceeds the above limit then income in the hands of the Trader will be taxable in normal manner under the general provisions of the Ordinance.)</i>
2016	<p>Turnover tax</p> <p>Turnover upto Rs 50M: 0.2% of turnover</p> <p>Turnover Rs 50M to Rs 250M: Rs 100,000 plus 0.15% of turnover exceeding Rs 50M</p> <p>Turnover exceeding Rs 250M: Rs 400,000 plus 0.1% of turnover exceeding Rs 250M</p> <p>Condition</p> <p>Declared turnover is at least three times of working capital declared for Tax Year 2015</p>
2017 and 2018	<p>Turnover tax</p> <p>Turnover upto Rs 50M: 0.2% of turnover</p> <p>Turnover Rs 50M to Rs 250M: Rs 100,000 plus 0.15% of turnover exceeding Rs 50M</p> <p>Turnover exceeding Rs 250M: Rs 400,000 plus 0.1% of turnover exceeding Rs 250M</p> <p>Condition</p> <p>Tax paid on turnover basis is at least 25% higher than the tax paid for Tax Year 2016</p>

Section 111 of the Ordinance relating to taxability of undeclared source of income would not be applicable on traders to the extent of “imputable income” which term has been defined under section 2(28A) of the Ordinance in relation to income taxable under final tax regime as an income which would have resulted in the same amount of tax, had this amount not been subject to final tax regime.

Taxability of traders under Part II of Ninth Schedule

Tax Year	Taxability
2015	<p>Higher of the following:</p> <p>a) 25% higher tax than tax paid for Tax Year 2014 or for latest tax year in which return was filed</p> <p>b) Turnover tax:</p> <p>Turnover upto Rs 50M: 0.2% of turnover</p> <p>Turnover Rs 50M to Rs 250M: Rs 100,000 plus 0.15% of turnover exceeding Rs 50M</p> <p>Turnover exceeds Rs 250M: Rs 400,000 plus 0.1% of turnover exceeding Rs 250M</p> <p>c) Rs 30,000</p>
2016 to 2018	<p>Higher of the following:</p> <p>a) 25% higher tax than paid for Tax Year 2015</p> <p>b) Turnover tax:</p> <p>Turnover upto Rs. 50M: 0.2% of turnover</p> <p>Turnover Rs 50M to Rs 250M: Rs 100,000 plus 0.15% of turnover exceeding Rs 50M</p> <p>Turnover exceeds Rs 250M: Rs 400,000 plus 0.1% of turnover exceeding Rs 250M</p>

Section 111 of the Ordinance relating to taxability of undeclared source of income would not be applicable on the traders to the extent of imputable income in terms of section 2(28A) of the Ordinance taxed under the Scheme, provided 1% tax is paid on the excess of taxable income over imputable income.

Other salient features of the Scheme

- Tax refunds due to the traders and taxes withheld on the income of traders qualifying under the Scheme shall not be claimed against tax payable on profits and gains relating to trading activities.
- Provisions of tax audit under sections 177 (selection by Commissioner), 214C (selection by FBR) and 214D (automatic selection) of the Ordinance shall not apply to the traders qualifying for the Scheme in respect of Tax Years 2015 to 2018.
- Traders opting for the Scheme will not be considered as withholding agent under section 153 of the Ordinance.
- Return of income filed under the Scheme can be amended under section 122 of the Ordinance only where definite information has come into the knowledge or possession of the Commissioner in which case income would be taxable in normal manner instead of under the Scheme.
- Traders qualifying under the Scheme whose declared income for Tax Year 2015 is less than Rs. 1 million are not required to file Wealth Statement and Wealth Reconciliation Statement under section 116 of the Ordinance.

- In case the return of income for any of the Tax Years 2016, 2017 or 2018 is not filed by a qualifying trader, he shall stand as unqualified for the Scheme for any of the Tax Years 2015 to 2018, and all provisions of the Ordinance shall become applicable. Furthermore, where it is subsequently discovered by the Commissioner that a trader was not eligible to be qualified or become ineligible to be qualified under the Scheme during any time between Tax Years 2015 to 2018 due to non-payment of tax or filing of return of income or otherwise, the trader shall be treated to have exercised the option to be assessed under provisions of the Ordinance instead of the Ninth Schedule.
- Traders who have already filed return of income for Tax Year 2015 shall revise their return of income subject to the condition that tax paid as per the revised return is higher of tax payable under the Scheme and 10% higher than the tax liability as per return of income originally filed.
- Prescribed form is proposed for filing return of income of traders falling under Part I of the Ninth Schedule to the Ordinance. Traders falling under Part II of the Ninth Schedule would file the return of income in normal manner as done by all other taxpayers.

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