

Sharif ud din Khilji  
Chief Executive  
Khilji & Co. Chartered Accountants

# BASICS ABOUT INCOME TAX LAWS

# Presentation Agenda

- SECTION 4 – CHARGING OF TAX
- DEFINITION OF PERSON - SECTION 80
- RESIDENTIAL STATUS - SECTION 81 TO 84
- TAXABLE INCOME, TOTAL INCOME SECTION 9, 10, 11
- TAX YEAR SECTION 74

# CHARGE OF TAX

- **SECTION 4**

- Subject to this Ordinance, income tax shall be imposed for each tax year, at the rate or rates specified in [Division I, IB or II] of Part I of the First Schedule, as the case may be, on every person who has taxable income for the year.

# PERSON

- **SECTION 80**

- **80. Person.** — (1) The following shall be treated as persons for the purposes of this Ordinance, namely: —
  - (a) An individual;
  - (b) a company or association of persons incorporated, formed, organised or established in Pakistan or elsewhere;
  - (c) the Federal Government, a foreign government, a political sub-Division of a foreign government, or public international organisation.
- (2) For the purposes of this Ordinance —
  - (a) “association of persons” includes a firm, a Hindu undivided family, any artificial juridical person and any body of persons formed under a foreign law, but does not include a company;

# Company

- **SECTION 80** (b) “company” means —
  - (i) a company as defined in the Companies Ordinance, 1984 (XLVII of 1984);
  - (ii) a body corporate formed by or under any law in force in Pakistan;
  - (iii) a modaraba;
  - (iv) a body incorporated by or under the law of a country outside Pakistan relating to incorporation of companies;
  - (v) a co-operative society, a finance society or any other society;
  - (va) a non-profit organization;
  - (vb) a trust, an entity or a body of persons established or constituted by or under any law for the time being in force;
  - (vi) a foreign association, whether incorporated or not, which the [Board] has, by general or special order, declared to be a company for the purposes of this Ordinance;
  - (vii) a Provincial Government;
  - (viii) a Local Government in Pakistan; or
  - [(ix) a Small Company as defined in section 2;

# Residential Status

- **81. Resident and non-resident persons.—** (1) A person shall be a resident person for a tax year if the person is —
  - (a) a resident individual, resident company or resident association of persons for the year; or
  - (b) the Federal Government.

# Resident Individual

- **82. Resident individual.** — An individual shall be a resident individual for a tax year if the individual —
  - (a) is present in Pakistan for a period of, or periods amounting in aggregate to, one hundred and [eighty-three] days or more in the tax year; [or]
  - (c) is an employee or official of the Federal Government or a Provincial Government posted abroad in the tax year.
- **Rule 14 of Income Tax Rules 2002:**
  - Part of a day that an individual is present in Pakistan (including the day of arrival in, and the day of departure from, Pakistan) counts as a whole day of such presence;
  - the following days in which an individual is wholly or partly present in Pakistan count as a whole day of such presence, namely: i. a public holiday; ii. a day of leave, including sick leave; iii. a day that the individual's activity in Pakistan is interrupted because of a strike, lock-out or delay in receipt of supplies; or iv. a holiday spent by the individual in Pakistan before, during or after any activity in Pakistan; and
  - A day or part of a day where an individual is in Pakistan solely by reason of being in transit between two different places outside Pakistan does not count as a day present in Pakistan.

# Resident Company & Resident AOP

- **83. Resident company.—**

- A company shall be a resident company for a tax year if —
  - (a) it is incorporated or formed by or under any law in force in Pakistan;
  - (b) the control and management of the affairs of the company is situated wholly in Pakistan at any time in the year; or
  - (c) it is a Provincial Government or [Local Government] in Pakistan.

- **84. Resident association of persons. —** An association of persons shall be a resident association of persons for a tax year if the control and management of the affairs of the association is situated wholly or partly in Pakistan at any time in the year.



# Taxable Income & Total Income

- **9. Taxable income.**— The taxable income of a person for a tax year shall be the total income [under clause (a) of section 10] of the person for the year reduced (but not below zero) by the total of any deductible allowances under Part IX of this Chapter of the person for the year.
- **10. Total Income.**— The total income of a person for a tax year shall be the sum of the [—]
  - (a) person's income under all heads of income for the year; and]
  - (b) person's income exempt from tax under any of the provisions of this Ordinance.

# Heads of Income

- **11. Heads of income.—** (1) For the purposes of the imposition of tax and the computation of total income, all income shall be classified under the following heads, namely: —
  - (a) Salary;
  - (b) Income from Property;]
  - (c) Income from Business;]
  - (d) Capital Gains; and]
  - (e) Income from Other Sources.]

# Heads of Income Cont..

- (2) Subject to this Ordinance, the income of a person under a head of income for a tax year shall be the total of the amounts derived by the person in that year that are chargeable to tax under the head as reduced by the total deductions, if any, allowed under this Ordinance to the person for the year under that head.
- (3) Subject to this Ordinance, where the total deductions allowed under this Ordinance to a person for a tax year under a head of income exceed the total of the amounts derived by the person in that year that are chargeable to tax under that head, the person shall be treated as sustaining a loss for that head for that year of an amount equal to the excess.
- (4) A loss for a head of income for a tax year shall be dealt with in accordance with Part VIII of this Chapter.
- (5) The income of a resident person under a head of income shall be computed by taking into account amounts that are Pakistan-source income and amounts that are foreign-source income.
- (6) The income of a non-resident person under a head of income shall be computed by taking into account only amounts that are Pakistan-source income.

# Tax Year

- **[74. Tax year.—** (1) For the purpose of this Ordinance and subject to this section, the tax year shall be a period of twelve months ending on the 30<sup>th</sup> day of June (hereinafter referred to as ‘normal tax year’) and shall, subject to sub-section (3), be denoted by the calendar year in which the said date falls.
- (2) Where a person’s income year, under the repealed Ordinance, is different from the normal tax year, or where a person is allowed, by an order under sub-section (3), to use a twelve months’ period different from normal tax year, such income year or such period shall be that person’s tax year (hereinafter referred to as ‘special tax year’) and shall, subject to sub-section (3), be denoted by the calendar year relevant to normal tax year in which the closing date of the special tax year falls.
- (5) The Commissioner shall grant permission under sub-section (3) or (4) only if the person has shown a compelling need to use special tax year or normal tax year, as the case may be, and the permission shall be subject to such conditions, if any, as the Commissioner may impose.
- (9) Where the tax year of a person changes as a result of an order under sub-section (3) or sub-section (4), the period between the end of the last tax year prior to change and the date on which the changed tax year commences shall be treated as a separate tax year, to be known as the “transitional tax year”.
- (11) A person dissatisfied with an order under sub-section (3), (4) or (7) may file a review application to the [Board], and the decision by the [Board] on such application shall be final.